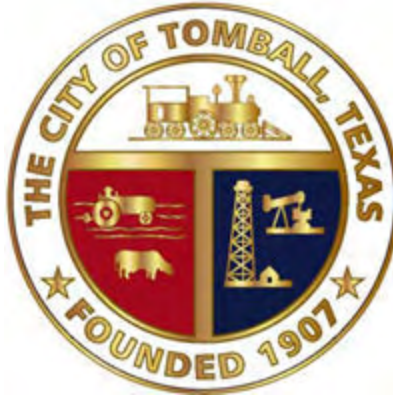


**NOTICE OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, NOVEMBER 1, 2010

7:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, November 1, 2010 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 Father Dan Dunlap, Episcopal Church of the Good Shepherd

3.0 Pledges to U.S. and Texas Flags

- Led by Eta Sigma Alpha Home School Honor Society - Gamma Chapter Students

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:

- Collage of the Coat of Arms – Telgte, Germany and Tomball, Texas
- Mike Darlow, Perdue Brandon & Mott, to Discuss Warrants and Delinquent Tax Collections

6.0 Reports and Announcements

- November 13, 2010 – **Farmers Market** – 8:00 a.m.
- November 13, 2010 – **Woodforest "Tomball Dash" 5K Run** – 8:00 a.m., Depot Plaza
- November 13, 2010 – **2nd Saturday at the Depot – “Give Thanks Tomball”, 5:00 p.m.**
- November 16, 2010 – **Mayor’s Coffee** – 5:30 p.m.-7:00 p.m., Main Street Crossing
- November 20, 2010 - **Special Walk Tomball** in the **Holiday Parade** behind the *Walk Tomball! It’s a Wonderful* Life banner – 10:00 a.m.
- **Walk Tomball!** (Every Saturday at 9:00 a.m. at the Depot)
- Reports by City staff and members of Council about items of community interest on which no action will be taken

7.0 Approve the Minutes of the Following Meetings:

- October 18, 2010 Regular City Council Meeting
- October 22, 2010 Special City Council Meeting

8.0 Old Business:

- 8.1 Adopt, on Second Reading, Ordinance No. 2010-21, an Ordinance Amending Chapter 74 of the Code of Ordinances of the City of Tomball, Texas, by Adding a New Section 74-32, Establishing Procedures for the Management and Administration of Revenue Generated by the Hotel Occupancy Tax, Determining that the City Council of the City of Tomball Shall Maintain Control Over Revenue Generated by the Hotel Occupancy Tax, and Establishing the Tourism Advisory Committee to Consider and Review all Requests for the Funding of Activities with Revenue Generated by the Hotel Occupancy Tax; Providing for Severability; and Providing an Effective Date
- 8.2 Adopt, on Second Reading, Ordinance No. 2010-22, an Ordinance of the City of Tomball, Texas, Adopting Amendment Number 1 to the Original Budget of the City of Tomball, Texas, for the Fiscal Year 2010-2011, as adopted by Ordinance 2010-17; Providing for Appropriation of Funds from the Governmental and Proprietary Funds; Directing Publication of the Caption of this Ordinance; finding that the Meetings at which this Ordinance is Considered are open to the Public; Providing for Severability and the Repeal of Conflicting Ordinances; and Providing Other Details Relating to the Passage of this Ordinance.
- 8.3 Adopt on Second Reading, Ordinance No. 2010-23, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 0.3436 acres of land, legally described as Tracts 16D-1 and 16D-2 out of the Joseph House Survey,

Abstract 34, within the City of Tomball, Harris County, Texas, from the O-Office District to the SF-20-E Single-Family Estate Residential-20 District; said Property being generally located on the westerly side of Quinn Road, northerly of Zion Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an Amount Not to Exceed \$2,000 for each Day of Violation of any Provision Hereof, Making Findings of Fact; and Providing for other Related Matters.

9.0 New Business:

- 9.1 Receive Update on Proposed MS 150 Bike Ride for the Multiple Sclerosis Association, April 16 and 17, 2011
- 9.2 Approve Resolution No. 2010-22, a Resolution of the City of Tomball, Texas, Authorizing the City Manager, Assistant City Manager, and Director of Public Works to Negotiate with Eagle Energy Partners, I.L.P., to Fix a Set Price, for a Specific Period of Time, for the City's Future Purchases of Natural Gas; and Providing other Matters Related to the Subject
- 9.3 Approve Final Replat called **TOMBALL ISD MAINTENANCE FACILITY:** Being a subdivision of 3.994 acres out of the W. Hurd Survey, Abstract No. 371, City of Tomball, Harris County, Texas. Also being a Replat of Lots 1-12 of Block 15, Lots 1-24 of Block 16 and Lots 25-36 of Block 23 and the Abandonment of Existing Right-of-Ways Between South Cherry Street and South Oak Street within this subdivision of Revised Map of Tomball, Recorded under Vol. 4, Pg. 25, H.C.M.R., 1 Block, 1 Lot.
- 9.4 Discussion regarding Sidewalks from:
 - a. Quinn Road to Country Meadows Drive (cost estimate: \$31,000+)
 - b. Country Meadows Drive to Spring Forest Estates (cost estimate: \$61,000+)
 - c. Country Meadows Drive to Ulrich Road (cost estimate: \$136,000+)

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 29th day of October 2010 by 4:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled

Doris Speer

Doris Speer

City Secretary, TRMC

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

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

Regular City Council

Agenda Item

Data Sheet

Meeting Date: November 1, 2010

Topic:

- Collage of the Coat of Arms – Telgte, Germany and Tomball, Texas
- Mike Darlow, Perdue Brandon & Mott, to Discuss Warrants and Delinquent Tax Collections

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

N/A

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

City Secretary

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

ATTACHMENTS:

Letter from the Mayor of Telgte, Germany

Postanschrift: Stadt Telgte · Der Bürgermeister · Postfach 2 20 · 48284 Telgte

**City of Tomball
Mayor Gretchen Fagan
401 W. Market Street**

**Tomball TEXAS 77375
USA**

Hausanschrift: Baßfeld 4 - 6, 48291 Telgte

Auskunft erteilt: Frau Schnur
Zimmer: 205

Tel. (Durchwahl): (0 25 04) 1 32 63

Tel. (Zentrale): (0 25 04) 1 30

Telefax: (0 25 04) 1 34 92

E-Mail: tanja.schnur@telgte.de

Datum und Zeichen Ihres Schreibens

Mein Zeichen (bitte angeben)

Datum

5. Oktober 2010

Dear Mayor Fagan,

A few days ago, the Tomball delegation with Mr and Mrs Quinn and Mr and Mrs Pfeiffer left Telgte. I hope they had a safe journey back to Tomball. It was a pleasure for me to welcome visitors from Tomball for the first time as mayor of Telgte. We met on various occasions and spent a very enjoyable time together in Telgte.

I hope that David and Lori Quinn's memories of their first visit to Germany and to Telgte are happy ones. The reunion with so many former exchange students at the barbecue must have been an enjoyable experience for Kit and Frank Pfeiffer.

I would like to express my thanks once again for the numerous gifts which David Quinn presented at the reception for the Mariä-Geburts-Markt. The Christmas ornaments will decorate our Christmas tree in the Town Hall beautifully.

To mark this festive occasion I would like to present you with a gift – a collage of the coat of arms of our cities. May it find an appropriate place in Tomball to record our ten year partnership.

I hope our partnership continues to be full of life and send you my best wishes.

Yours sincerely


Wolfgang Pieper
Mayor

Regular City Council

Agenda Item

Data Sheet

Meeting Date: November 1, 2010

Topic:

- November 13, 2010 – **Farmers Market** – 8:00 a.m.
- November 13, 2010 – **Woodforest "Tomball Dash" 5K Run** – 8:00 a.m., Depot Plaza
- November 13, 2010 – **2nd Saturday at the Depot – "Give Thanks Tomball", 5:00 p.m.**
- November 16, 2010 – **Mayor's Coffee** – 5:30 p.m.-7:00 p.m., Main Street Crossing
- November 20, 2010 - **Special Walk Tomball** in the **Holiday Parade** behind the **Walk Tomball! It's a Wonderful** Life banner – 10:00 a.m.
- **Walk Tomball!** (Every Saturday at 9:00 a.m. at the Depot)
- Reports by City staff and members of Council about items of community interest on which no action will be taken

Background:

Origination:

Recommendation:

Funding:

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

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

ATTACHMENTS:

Farmers Market

Woodforest "Tomball Dash" 5K Run

2nd Saturday at the Depot - "Give Thanks Tomball"

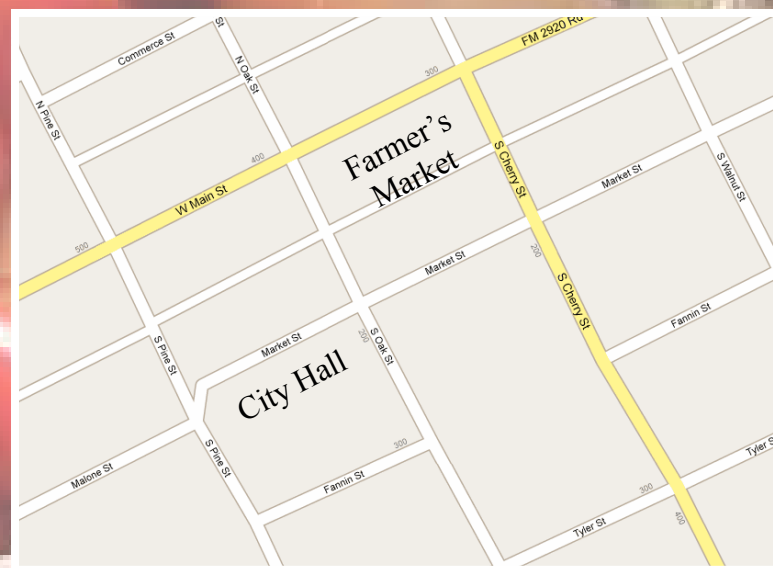


Bringing the farmers back to the community!

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!**
**Market opens
at 9 AM!**

**Located at the
corner of Cherry &
FM 2920**





When

NOVEMBER 13, 2010
8:00 AM

Where

DOWNTOWN
TOMBALL

What

CERTIFIED 5K RUN

Ask a retail banker for details



WOODFOREST®
NATIONAL BANK



MEMBER
FDIC

“GIVE THANKS TOMBALL” AT 2ND SATURDAY AT THE DEPOT NOVEMBER 13

Bring your family's favorite tasty dishes to our
2nd Community “Thanks” Giving Supper...

Or enjoy concessions from
The Tomball Children's Literacy Center
Inside H.E.B.

(Tasty Hamburgers, Popcorn, Etc...)

“Pilgrims” tables and chairs will be provided...

Activities:

Music:

**“BIG” Bounce
House**

Sponsored by:
USCANGA Party
Rentals

**Provided by
James the Music Man
with great
Memory Lane Songs
and more...**

**Crafts
Face Painting
Games**

**Help provide Thanksgiving for TEAM families by
bringing non-perishable food items to 2nd Saturday.**

HISTORIC TOMBALL DEPOT PLAZA

Special Showing! **201 South Elm ~ One block south of Main Street**
Opens at 5:00 PM ~ Movie begins at dark



**Family entertainment for all ages
Bring your lawn chairs
Concessions available
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

Regular City Council Agenda Item Data Sheet

Meeting Date: November 1, 2010

Topic:

Approve the Minutes of the Following Meetings:

- October 18, 2010 Regular City Council Meeting
- October 22, 2010 Special City Council Meeting

Background:**Origination:**

City Secretary

Recommendation:

N/A

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

City Secretary Doris Speer

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

ATTACHMENTS:

Draft Minutes - October 18, 2010 Regular Meeting

Draft Minutes - October 22, 2010 Special Meeting

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



MONDAY, OCTOBER 18, 2010

7:00 P.M.

1.0 Call to Order

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

Councilman Quinn
Councilman Brown
Councilman Townsend
Councilman Dodson

Member Absent:

Councilman Stoll - Excused Absence

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Kliewer
Assistant City Secretary – Betsy Gates
City Attorney – David Olson
City Attorney – Brian Begle
Finance Director – Glenn Windsor
Fire Chief – Randy Parr
Police Chief – Robert Hauck
Director of Engineering & Planning – Mark McClure
Assistant to City Manager – Shawn Cox
City Planner – Kelly Violette

Draft

2.0 The invocation was led by Kevin Pieper, Director Missions and Outreach, Salem Lutheran Church

3.0 The pledges to U. S. and Texas Flags were led by Led by the Members of Tomball High School Student Council – E. J. Jones, Cooper Cason, and Michelle Barrera

4.0 No public comments were received.

5.0 Presentations:

- Presentation was given by Mayor Fagan to Mark McClure and Kelly Violette from Engineering and Planning for winning the Vision 2030 State Award. The award was formally presented to the City of Tomball at the 2010 APA Texas Chapter Annual Conference on October 8, 2010 in San Antonio.

6.0 Reports and Announcements:

- October 23, 2010 – **Farmers Market** – 8:00 a.m.
- October 29-30, 2010 – **Fire Department Fall Festival** – 6:00 p.m.
- October 30, 2010 - **Special Walk Tomball** to support American Heart Association – 10:00 a.m.; Heart Walk routes (1, 2 or 3 mile options) begin at The Heart Center at Tomball Regional (north entrance; use free parking garage or adjacent lots)
- November 4, 2010 – **Mayor's Coffee** – 5:30 p.m. – 7:00 p.m.
- November 13, 2010 – **2nd Saturday at the Depot** – 6:00 p.m.
- **Walk Tomball!** (Every Saturday at **9:00 a.m.** at the Depot)
- Reports by City staff and members of Council about items of community interest

7.0 Motion was made by Councilman Townsend, second by Councilman Brown, to approve the minutes of the Regular City Council Meeting of October 4, 2010

Motion carried unanimously.

8.0 Old Business:

8.1 Mayor Fagan requested a Motion to Take from the Table consideration of the Quinn Road Sidewalk Change Order #1. Motion was made by Councilman Townsend, second by Councilman Dodson, to Take from the Table consideration of the Quinn Road Sidewalk Change Order # 1.

Motion carried unanimously.

8.2 Mark McClure presented the proposed Change Order information. Motion was made by Councilman Townsend, second by Councilman Dodson, to approve Change Order # 1 for \$59,320.00 for the Quinn Road Sidewalks and Utilities Project, Engineering and Planning Project No. 2007-10005, Project Bid No. 2010-01.

Motion carried unanimously.

9.0 New Business

- 9.1 George Shackelford presented a review of the proposed Ordinance. Motion was made by Councilman Brown, second by Councilman Quinn, to read Ordinance No. 2010-21 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Quinn, to adopt on First Reading Ordinance No. 2010-21, An Ordinance Establishing Procedures for the Management and Administration of Revenue Generated by the Hotel Occupancy Tax; Determining that the City Council of the City of Tomball Shall Maintain Control Over Revenue Generated by the Hotel Occupancy Tax; Establishing Hotel Occupancy Advisory Board to Consider and Review all Requests for the Funding of Activities with Revenue Generated by the Hotel Occupancy Tax, with changes to (1) better clarify the makeup of the membership and qualification categories and (2) review Section 74-32(d)(9) to better clarify the timeframe in which applications come to the City Council. Vote was as follows:

Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Quinn	<u>Aye</u>
Councilman Stoll	<u>Absent</u>

Motion carried unanimously.

- 9.2 Glenn Windsor presented an overview of the proposed Ordinance. Motion was made by Councilman Quinn, second by Councilman Brown, to read Ordinance No. 2010-22 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Brown, to adopt, on First Reading, Ordinance No. 2010-22, an Ordinance of the City of Tomball, Texas, Adopting **Amendment Number 1** to the Original Budget of the City of Tomball, Texas, for the Fiscal Year 2010-2011, as adopted by Ordinance 2010-17; Providing for Appropriation of Funds from the Governmental and Proprietary Funds; Directing Publication of the Caption of this Ordinance; finding that the Meetings at which this Ordinance is Considered are open to the Public; Providing for Severability and the Repeal of Conflicting Ordinances; and Providing Other Details Relating to the Passage of this Ordinance. Vote was as follows:

Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Quinn	<u>Aye</u>

Councilman Stoll
Councilman Brown

Absent
Aye

Motion carried unanimously.

- 9.3 Glenn Windsor presented an overview of the proposed Grant request. Motion was made by Councilman Dodson, second by Councilman Brown, to approve Grant for the Spring Creek County Historical Association (Tomball Museum) in the amount of \$14,000.00.

Motion carried unanimously.

- 9.4 Mayor Fagan and George Shackelford presented information regarding City support of the proposed MS 150 Bike Ride for the Multiple Sclerosis Association April 16 – 17, 2011.

No action taken.

- 9.5 Kelly Violette presented the staff report for **ZONING CASE P10-273**: Request by WDL Lumber, on behalf of William and Jean Adams, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 0.3436 acres of land, legally described as Tracts 16D-1 and 16D-2 out of the Joseph House Survey, Abstract 34, within the City of Tomball, Harris County, Texas, generally located on the westerly side of Quinn Road, northerly of Zion Road, from the O-Office District to the SF-20-E Single-Family Estate Residential-20 District.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P10-273** at 7:52 p.m.; no public comments being received, the public hearing was closed at 7:52 p.m.
- Motion was made by Councilman Townsend, second by Councilman Brown, to read Ordinance No. 2010-23 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Brown, to adopt on First Reading, Ordinance No. 2010-23, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District classification of approximately 0.3436 acres of land, legally described as Tracts 16D-1 and 16D-2 out of the Joseph House Survey, Abstract 34, within the City of Tomball, Harris County, Texas, from the O-Office District to the SF-20-E Single-Family Estate Residential-20 District; said property being generally located on the westerly side of Quinn Road, northerly of Zion Road; Providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for

each day of violation of any provision hereof, making findings of fact; and providing for other related matters. Vote was as follows:

Councilman Dodson	<u>Aye</u>
Councilman Quinn	<u>Aye</u>
Councilman Stoll	<u>Absent</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>

Motion carried unanimously.

9.11 Executive Session: The City Council recessed at 7:56 to meet in Executive Session, as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purposes:

- Sec. 551.072 – Deliberations Regarding Real Property
- Sec. 55.071 – Private Consultation with Attorney in Closed Meeting Regarding Contemplated Litigation and Attorney-Client Matters – Claim of Terrance Holiday

Upon reconvening into Regular session at 9:20 p.m., the following items were considered:

9.7 Possible Action Regarding Claim Filed by Terrance Holiday.

No action was taken.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this _____ day of _____ 2010.

Doris Speer, TRMC
City Secretary

Gretchen Fagan
Mayor

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



FRIDAY, OCTOBER 22, 2010

8:00 A.M.

1.0 Call to Order

The 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
City Secretary – Doris Speer
City Attorney – Brian Begle
Fire Chief – Randy Parr

2.0 New Business:

2.1 EXECUTIVE SESSION: The City Council entered into Executive Session at 8:01 a.m., as authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose:

- Section 551.071 – Private Consultation with Attorney in Closed Meeting Regarding Contemplated Litigation and Attorney-Client Matters – Claim of Terrance Holiday

Upon reconvening into Special Session at 8:05 a.m., the following action was taken:

2.2 Motion was made by Councilman Brown, second by Councilman Stoll, to accept the offer presented regarding Terrance Holiday.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this _____ day of _____ 2010.

Doris Speer, TRMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Data Sheet

Meeting Date: November 1, 2010

Topic:

Adopt, on Second Reading, Ordinance No. 2010-21, an Ordinance Amending Chapter 74 of the Code of Ordinances of the City of Tomball, Texas, by Adding a New Section 74-32, Establishing Procedures for the Management and Administration of Revenue Generated by the Hotel Occupancy Tax, Determining that the City Council of the City of Tomball Shall Maintain Control Over Revenue Generated by the Hotel Occupancy Tax, and Establishing the Tourism Advisory Committee to Consider and Review all Requests for the Funding of Activities with Revenue Generated by the Hotel Occupancy Tax; Providing for Severability; and Providing an Effective Date

Background:

At the October 4, 2010 City Council meeting, Council instructed staff to develop an ordinance that would create a board to review Hotel Occupancy Tax applications and bring their recommendations to Council for approval.

Council requested the board be made up of seven members who will serve staggered three year terms. Those eligible are residents, Tomball business owners or managers, Tomball hotel/motel managers, and individuals from tourism related businesses.

The board will be advisory in nature, bringing its recommendations to Council for approval of Hotel Occupancy Tax expenditures.

The changes and corrections requested by Council on October 18, 2010 have been incorporated into Ordinance No. 2010-21 and are presented for Council consideration.

Origination:

City Manager's Office

Recommendation:

N/A

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	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance no. 2010-21 - Tourism Advisory Committee
Draft Application for Tourism Advisory Committee

ORDINANCE NO. 2010-21

AN ORDINANCE AMENDING CHAPTER 74 OF THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY ADDING A NEW SECTION 74-32, ESTABLISHING PROCEDURES FOR THE MANAGEMENT AND ADMINISTRATION OF REVENUE GENERATED BY THE HOTEL OCCUPANCY TAX, DETERMINING THAT THE CITY COUNCIL OF THE CITY OF TOMBALL SHALL MAINTAIN CONTROL OVER REVENUE GENERATED BY THE HOTEL OCCUPANCY TAX, AND ESTABLISHING THE TOURISM ADVISORY COMMITTEE TO CONSIDER AND REVIEW ALL REQUESTS FOR THE FUNDING OF ACTIVITIES WITH REVENUE GENERATED BY THE HOTEL OCCUPANCY TAX; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, on April 7, 2003, the City of Tomball did adopt Ordinance No. 2003-04 levying a hotel occupancy tax to become effective on May 1, 2003, which was later amended on November 6, 2006 by the adoption of Ordinance No. 2006-16; and

WHEREAS, the City Council of the City of Tomball has determined that it is in the best interest of the City of Tomball to establish a procedure and plan for the management and administration of the revenue generated by the hotel occupancy tax; **NOW, THEREFORE,**

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

THAT:

Section 1. All of the matters heretofore set forth in the preamble are true and correct and are incorporated in this ordinance.

Section 2. Article II, “**HOTEL OCCUPANCY TAX**,” of Chapter 74 of the Code of Ordinances of the City of Tomball, Texas, is amended by adding a new Section 74-32, “Management and administration,” which shall read as follows:

“Section 74-32. Management and administration.

(a) All revenue generated by the hotel occupancy tax shall be held by the City in a separate account established for that purpose and shall not be co-mingled with any other money or maintained in any other account.

(b) Revenue derived from the hotel occupancy tax shall be expended in a manner that directly enhances and promotes tourism and the convention and hotel industry. Revenue generated by the hotel occupancy tax shall not be used for general revenue purposes or to pay for governmental expenses that are not directly related to increasing tourism or promoting the convention and hotel business.

(c) As authorized by Section 351.101(c) of the Texas Tax Code, the City Council by contract may delegate to a person, including another governmental entity or private organization, the management or supervision of programs and activities funded with revenue from the hotel occupancy tax; otherwise, the City Council retains administrative control over the revenue generated by the hotel occupancy tax and retains supervision of programs and activities funded with such revenue.

(d) The Tourism Advisory Committee (the “Committee”) is created. The Committee shall recommend to City Council those activities, programs, events and policies that will best promote tourism and the convention and hotel industry within the City of Tomball. Such activities, programs, events and policies, if approved by City Council, would be funded all or in part by revenue generated by the hotel occupancy tax adopted by the City of Tomball pursuant to the provisions of Chapter 351 of the Texas Tax Code. The Committee shall be organized under the following terms and conditions:

1. The Committee shall consist of seven members who shall be recommended by the Mayor and approved by City Council to serve three-year staggered terms. The initial term for positions 1 and 4 will be 1 year; positions 2, 5, and 7 will be 2 years; and positions 3 and 6 will be 3 years. Members serve at the will and pleasure of the City Council, and may be removed without cause at any time by a majority vote of Council. Members will become ineligible to serve if such member fails to meet one of the qualifications as described in item 7 below. Unless a member is removed, becomes ineligible, or resigns, such member will continue to serve until a new member has been recommended by the Mayor and approved by City Council. The Mayor shall designate a chairperson from among the appointees who shall preside over all meetings. Any vacancies shall be filled by recommendation of the Mayor with Council approval.
2. The Committee shall meet at least once quarterly during a fiscal year. The Committee may meet in special session upon call by the Chair, Vice Chair, or the City Manager. Meetings shall be held in Council Chambers, or such other public place as approved by the Committee. Notice of every meeting of the Committee shall be posted in accordance with the Texas Open Meetings Act

(Chapter 551 of the Government Code). The Committee shall elect a vice-chairman at its first meeting. The vice-chairman shall preside over meetings when the chairperson is unable to attend. The City Secretary, or the City Secretary's designee, shall review and maintain the minutes of Committee meetings and shall sign minutes of meetings with the chairperson or vice-chairperson once approved by the majority of the Committee.

3. The Committee may adopt other rules and regulations for the conduct of its meetings. The Chairman of the Committee shall present any recommendations from the Committee to the City Council.
4. The City Manager, or the City Manager's designee, is an ex-officio (non-voting) member of the Committee.
5. The Committee shall promulgate forms for use by persons or entities requesting hotel occupancy tax funds for use in qualifying events or projects. In addition to furnishing other information that may be required, such forms shall require the applicant to state in writing how the requested expenditure will enhance and promote tourism and the convention and hotel industry in the City of Tomball.
6. The Committee shall use its best efforts to study proposed use of funds generated by the hotel occupancy tax and shall recommend allocation of all funds as required by Texas Tax Code Section 351.103. From time to time, the Committee shall recommend activities, events, and programs to the City Council that will best promote the City of Tomball as a convention site and tourist destination. To assist it in achieving its goals, the Committee may communicate with other cities and examine their policies and practices regarding conventions and tourism. Members of the Committee may attend workshops and studies created for the purpose of assisting cities develop convention and visitor incentives.
7. Members of the Committee shall possess at least one of the following qualifications:
 - a. Positions 1, 2, and 3 must reside within the city limits of the City of Tomball, provided, however, that no more than three Committee members qualify solely under this subsection;
 - b. Positions 4, 5 and 6 must own or be an officer or director of a business, other than a hotel or motel, with offices within the city limits of the City of Tomball, provided, however, that no more than three Committee members qualify solely under this subsection;
 - c. Position 7 must work for or be an officer of a hotel or motel located in the city limits of the City of Tomball, who may either be a resident or non

resident of the City of Tomball, provided, however, that no more than one Committee member may qualify solely under this subsection

8. No member, or an organization or entity for which a member has an ownership interest or is serving on the board of such organization or entity, shall be eligible for hotel occupancy tax financial assistance for any activities, programs, or events, during the term of such member or for a period of two years after the end of that member's term. No person shall be eligible to serve on the Committee who has a spouse, child or step child who owns or is employed by or is serving on the board of any organization or entity which is applying for or may apply for hotel occupancy tax financial assistance for any activities, program, or events.
9. A majority of the Committee members shall constitute a quorum. Once a request for hotel occupancy tax financial assistance has been filed, the Committee shall indicate in a written report to City Council whether it does or does not recommend the request within sixty (60) days. The report shall also describe how the request complies with any one or more of the statutory categories for expenditures set out in Section 351.101 (a) (1) – (8) of the Texas Tax Code. A copy of the request accompanied by the report of the Committee shall be delivered to City Council for a determination on whether the project is related to the promotion of tourism and the convention and hotel industry within the city limits of the City of Tomball. City Council shall not be bound by the recommendation of the Committee in determining whether the project should be approved.

(e) Each budget year, City Council shall allocate funds for use by the Committee as a line item in the following fiscal year based upon anticipated administrative costs and estimated costs for Committee member education and other matters. Any expenditure of funds by members of the Committee must be authorized in writing in advance by the City Manager. Any member receiving funds under this paragraph shall keep records of any and all expenditures and shall deliver copies of such records supported by receipts or invoices to the City Manager.

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

the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 4. This Ordinance shall become effective immediately upon its adoption.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 18TH DAY OF OCTOBER, 2010.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 1ST DAY OF NOVEMBER 2010.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

GRETCHEN FAGAN, MAYOR
City of Tomball

ATTEST:

DORIS SPEER, City Secretary
City of Tomball



CITY OF TOMBALL

2010 APPLICATION FOR THE TOURISM ADVISORY COMMITTEE

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

Please Type or Print Clearly:

Date: _____

Name: _____

Phone: _____

(Home)

Address: _____

Phone: _____

(Work)

Email: _____

I have lived in Tomball ____ 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 Owner, Officer or Director of a business, other than a hotel or motel, with offices within the city limits of Tomball
- _____ an Employee or Officer of a hotel or motel located in the city limits of Tomball

Occupation: _____

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

Regular City Council

Agenda Item

Meeting Date: November 1, 2010

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2010-22, an Ordinance of the City of Tomball, Texas, Adopting Amendment Number 1 to the Original Budget of the City of Tomball, Texas, for the Fiscal Year 2010-2011, as adopted by Ordinance 2010-17; Providing for Appropriation of Funds from the Governmental and Proprietary Funds; Directing Publication of the Caption of this Ordinance; finding that the Meetings at which this Ordinance is Considered are open to the Public; Providing for Severability and the Repeal of Conflicting Ordinances; and Providing Other Details Relating to the Passage of this Ordinance.

Background:

Each year, the City of Tomball has previously amended its adopted budget to transfer previously approved funds for ongoing but uncompleted projects and expenditures from the prior fiscal year. These "carryovers" typically relate to budgeted capital projects that are in process or about to commence or to the purchase of goods and services that had been planned, ordered or contracted for prior to the end of the fiscal year, but have not been received or completed by year end.

This amendment specifically relates to a training item in the HR department, the Fire station addition which was budgeted in 2009-2010, an alarm system for the Fire Station that has not yet been installed, and several capital projects. The funds to be appropriated with this amendment are in both the General Fund and the Enterprise Fund. The details setting forth the amended appropriations are included in the attachment.

You may remember that I was asked by Councilmember Townsend at the February 1 meeting if we were ever going to get away from doing budget amendments. My response was, "Yes, if not this year, we will be able to next year." That is still the plan. As we move into next year, we plan to start the budget process early with the goal of changing our procedures so that we will know if previously approved funds are going to be utilized prior to the end of the budget year. If it is obvious that they will not, then they will either be eliminated or moved to the next year's budget. This process will eliminate the need for budget amendments except for those unforeseen circumstances such as those expenditures that are incurred during a disaster situation.

Origination:

Finance Department

Recommendation:

Staff recommends approval.

Funding: No

Funds will be transferred from Account: to Account:

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

Glenn Windsor, Finance Director, CPA, CGFO

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER

☐ YES ☐ NO

☐ 1ST ☐ 2ND

ATTACHMENTS:

Ordinance No. 2010-22_Amendment 1 to FY 2010-11 Budget

Budget Attachment

CIP Update

ORDINANCE NO. 2010-22

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, ADOPTING AMENDMENT NUMBER 1 TO THE ORIGINAL BUDGET OF THE CITY OF TOMBALL, TEXAS, FOR THE FISCAL YEAR 2010-2011, AS ADOPTED BY ORDINANCE NO. 2010-17; PROVIDING FOR APPROPRIATION OF FUNDS FROM THE GOVERNMENTAL FUNDS AND THE PROPRIETARY FUNDS; DIRECTING PUBLICATION OF THE CAPTION OF THIS ORDINANCE; FINDING THAT THE MEETINGS AT WHICH THIS ORDINANCE IS CONSIDERED ARE OPEN TO THE PUBLIC; PROVIDING FOR SEVERABILITY AND THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING OTHER DETAILS RELATING TO THE PASSAGE OF THIS ORDINANCE.

* * * * *

WHEREAS, the City of Tomball fiscal year 2010-2011 Budget was adopted by Ordinance No. 2010-17, with the time and in the manner required by State law; and

WHEREAS, the City Council finds it is necessary to amend the 2010-2011 Budget to provide for the appropriation of funds for certain events, and to allocate and reclassify funds as described in the Exhibits to this Ordinance; and

WHEREAS, the City Council finds that the significance of this matter is a matter of public necessity and a pressing need for the City of Tomball; now, therefore,

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

Section 1. The facts and matters set out above in the recitations are found to be true and correct.

Section 2. The City of Tomball, Texas, Fiscal Year 2010-2011 Budget is hereby amended to provide for the appropriation and reclassification of funds as reflected in the attached Exhibit A. This **Amendment Number 1 to the Original Budget of the City of Tomball, Texas, for the Fiscal Year 2010-2011** shall be attached to and made a part of the Original budget by the City Secretary and filed as required by State law and the City Charter

Section 3. Publication; Effective Date; Open Meetings. The City Secretary of the City of Tomball, Texas, is hereby directed to publish a descriptive caption of this Ordinance in the official newspaper of the City of Tomball, Texas. This Ordinance shall be effective after the publication requirement of the City Charter is satisfied. It is found and determined that the meetings at which this Ordinance was considered were open to the public, as required by Chapter 551 of the Texas Government Code, and that advance public notice of the time, place, and purpose of the meetings was given.

Section 4. Severability. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part of 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, or whether there be one or more parts.

Section 5. Repeal. All ordinances or parts of inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

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 18TH DAY OF OCTOBER, 2010.

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

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 1ST DAY OF NOVEMBER 2010.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

GRETCHEN FAGAN, Mayor

ATTEST:

DORIS SPEER, City Secretary

General Fund

**Fiscal Year 2011
Amendment # 1**

	FY2011 Total Budget	10/18/2010 Amendment	Total Amended Budget
Revenues:			
Property taxes	\$ 1,228,925		\$ 1,228,925
Sales taxes	6,500,000		6,500,000
Franchise taxes	1,230,000		1,230,000
Permits and licenses	243,100		243,100
Fines and warrants	885,000		885,000
Service fees	1,750,000		1,750,000
Transfers In	2,393,458		2,393,458
Contributions	70,000		70,000
Interest	350,000		350,000
Other	235,300		235,300
Total Revenues	\$ 14,885,783		\$ 14,885,783
Expenditures:			
City Manager's Office	\$ 411,055		\$ 411,055
Mayor and Council	73,156		73,156
City Secretary	320,682		320,682
Human Resources	531,421	25,000	556,421
Finance	493,342		493,342
Information Systems	300,122		300,122
Legal	153,425		153,425
Non-Departmental	256,382		256,382
Building Permits and Inspections	357,228		357,228
Police	4,430,565		4,430,565
Fire	1,175,780	351,116	1,526,896
Fire Marshal	177,350		177,350
Emergency Services	14,520		14,520
Municipal Court	470,460		470,460
Public Works Administration	48,254		48,254
Engineering and Planning	780,858		780,858
Facilities Maintenance	762,809		762,809
Garage	127,824		127,824
Streets	894,734		894,734
Sanitation	2,045,000		2,045,000
Parks	320,639		320,639
Community Center	140,089		140,089
			-
			-
Total Expenditures	\$ 14,285,695	\$ 376,116	\$ 14,661,811
Net Income from Operations	\$ 600,088		\$ 223,972
Other Sources/Uses:			
Vehicle Replacement	\$ -		
Capital Projects/Outlay	777,000	964,000	1,741,000
Transfers Out	1,846,468		1,846,468
Total Other Sources/(Uses)	\$ 2,623,468	\$ 964,000	\$ 3,587,468
Revenues Over/(Under) Expenditures	\$ (2,023,380)		\$ (3,363,496)
Beginning Fund Balance, 10/1/2010	\$ 7,600,600		\$ 8,940,716
Ending Fund Balance, 9/30/2011	\$ 5,577,220	\$ 1,340,116	\$ 5,577,220
25% of Operating Expenses - Target	39%		38%

Note- The projected ending fund balance remains unchanged because the funds for the amendment were projected to be spent by 10/1/2010 and were not.

**Enterprise Fund
Fiscal Year 2011
Amendment # 1**

	FY2011 Total Budget	10/18/2010 Amendment	Total Amended Budget
Operating Revenues:			
Water sales	\$ 4,149,510		\$ 4,149,510
Sewer sales	2,354,360		2,354,360
Gas sales	4,183,295		4,183,295
Tap fees	59,505		59,505
Reconnect fees	33,165		33,165
Investment income	115,275		115,275
Other	845,300		845,300
Total Revenues	<u>\$ 11,740,410</u>		<u>\$ 11,740,410</u>
Expenditures:			
Enterprise Administration	\$ 277,048		\$ 277,048
Utility Billing	286,308		286,308
Water	1,809,942		1,809,942
Wastewater	1,763,683		1,763,683
Gas	2,374,778		2,374,778
Administrative transfer to Gen. Fund	2,393,458		2,393,458
Total Operating Expenses	<u>\$ 8,905,217</u>		<u>\$ 8,905,217</u>
Net Revenue Available for Debt	\$ 2,835,193		\$ 2,835,193
Debt Service:			
Revenue Bonds	\$ 537,966		\$ 537,966
Certificates of Obligation	922,569		922,569
Fiscal Fees	10,000		10,000
Total Debt Service	<u>\$ 1,470,535</u>		<u>\$ 1,470,535</u>
Non-Operating Expenses:			
Vehicle replacement	\$ 43,827		\$ 43,827
Capital outlay	300,000	1,006,000	1,306,000
Total Non-Operating Expenses	<u>\$ 343,827</u>	<u>1,006,000</u>	<u>\$ 1,349,827</u>
Net Income (Excluding Depreciation)	\$ 1,020,831		\$ 14,831
Beginning Fund Balance, 10/1/2010	\$ 9,230,604		\$ 10,236,604
Ending Fund Balance, 9/30/2011	<u>\$ 10,251,435</u>		<u>\$ 10,251,435</u>
25% of Operating Expenses - Target	96%		87%

Note- The projected ending fund balance remains unchanged because the funds for the amendment were projected to be spent by 10/1/2010 and were not.

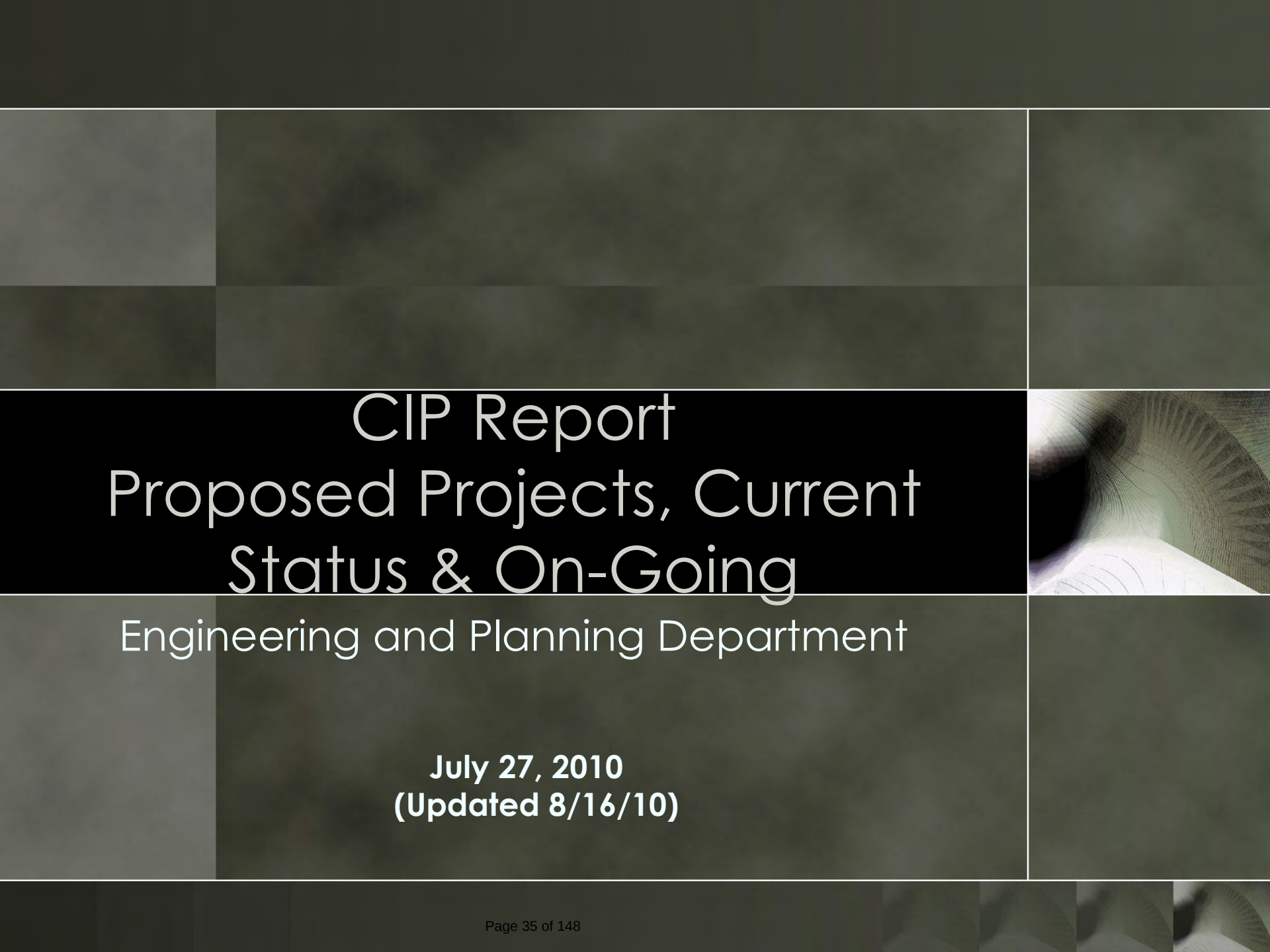
Detail Description of Budget Amendments

General Fund:

1. Human Resources Department- This is a carryover from the 2009-2010 budget for city-wide customer service training.			\$	25,000
2. Fire Department-				
	Addition to Fire Station (Approved at 10/4/2010 Council Meeting)	\$	335,000	
	Alarm System		15,612	
	Monthly monitoring		<u>504</u>	351,116
3. Capital Projects-				
	<u>Project Number</u>			
	079 Barbara Street Drainage	\$	400,000	
	146 Quinn Road Improvements		85,000	
	161 Rudolph Road		86,000	
	New Downtown Specific Plan		178,000	
	New Brown-Hufsmith Phase II		<u>215,000</u>	<u>\$ 964,000</u>
<u>Total General Fund</u>				<u><u>\$ 1,340,116</u></u>

Enterprise Fund:

1. Capital Projects-				
	142 Hufsmith Sanitary Sewer Imp.	\$	103,000	
	115 Hufsmith Water & Gas Imp.		583,000	
	145 Tomball Hills Lift Station		75,000	
	135 Water Well #5, # 6		100,000	
	New Brown-Hufsmith Phase II		<u>145,000</u>	<u>\$ 1,006,000</u>
<u>Total Enterprise Fund</u>				<u><u>\$ 1,006,000</u></u>



CIP Report Proposed Projects, Current Status & On-Going Engineering and Planning Department

**July 27, 2010
(Updated 8/16/10)**

FY 11-15 Capital Improvement Projects

10 YEAR MASTER PLAN

- M121 West Drainage Channel
- Medical Complex Drive (Segment 2)
- Brown Road & Utility Extension (Phase II)
- Hufsmith Water & Gas Improvements
- M118 Drainage Channel South of Holderrieth Rd
- Zion Road Sidewalk Reconstruction
- M121 East Drainage Channel
- M124 Drainage Channel
- M118 Drainage Channel North of Holderrieth Rd
- Medical Complex Drive (Segment 3)
- Relocation of SH 249 Utilities
- Medical Complex Drive (Segment 4)
- Medical Complex Drive (Segment 5)

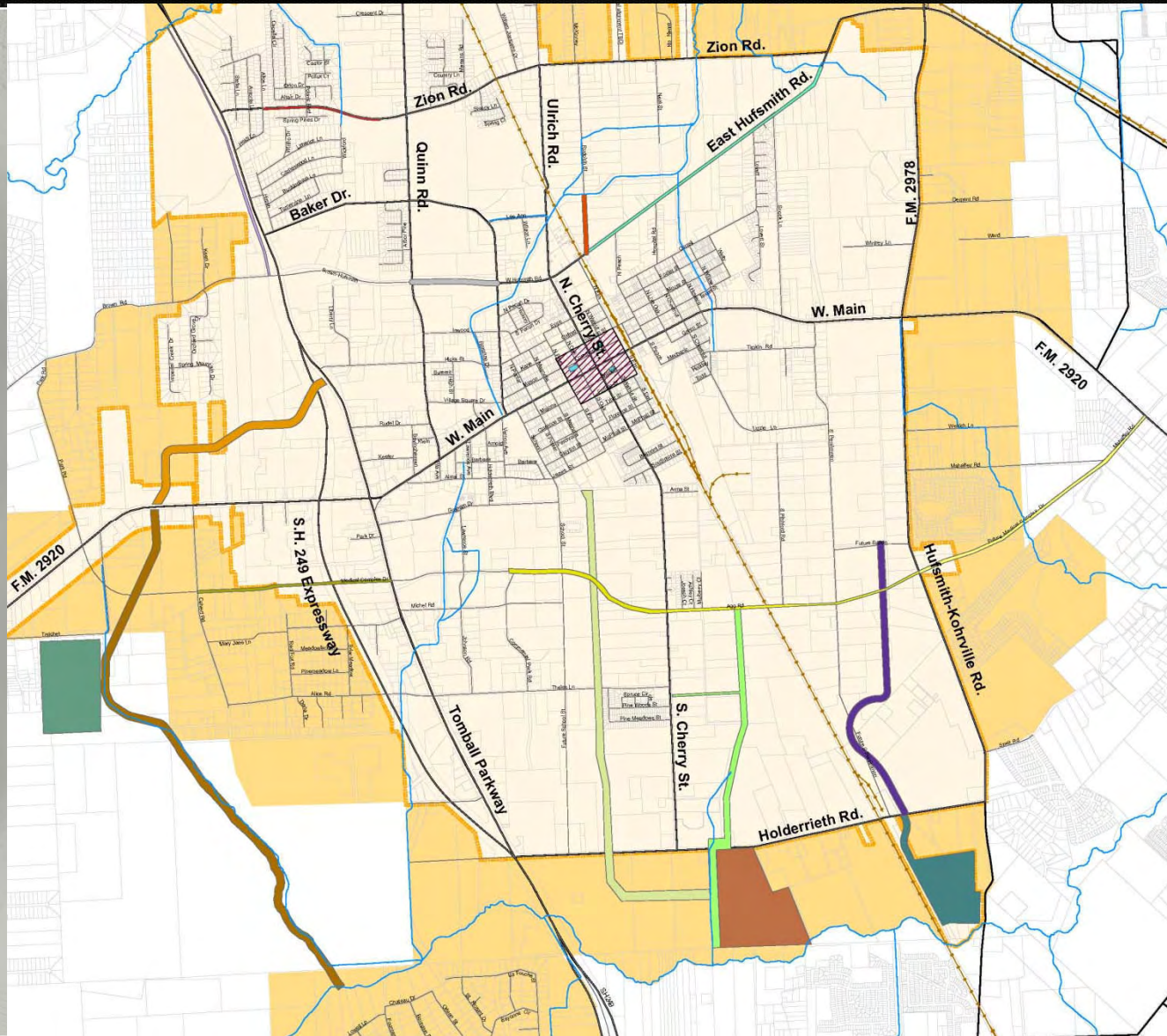
COMPREHENSIVE PLAN

- Medical District Specific Area Plan (TEDC Funded)
- Drainage Master Plan
- Downtown Plaza Master Plan (Depot & Linear Park)
- Four Corner Specific Area Plan (TEDC/Tomball Funded)
- Major Thoroughfare Plan/Context Sensitive Solution Policy
- Sidewalk, Pathway, Park, & Trails Master Plan
- Railroad Corridor Specific Area Plan (TEDC Funded)
- Medical Complex Specific Area Plan (TEDC/Tomball Funded)
- Wayfinding Sign Plan

LIVABLE CENTERS

- Parking – 3 Downtown Parking Lots (including Detention)
- Street Reconstruction Program (Commerce, Market, & Cherry) - Streetscape, Landscape, Detention, & Sidewalks)

CIP Projects FY11-FY15





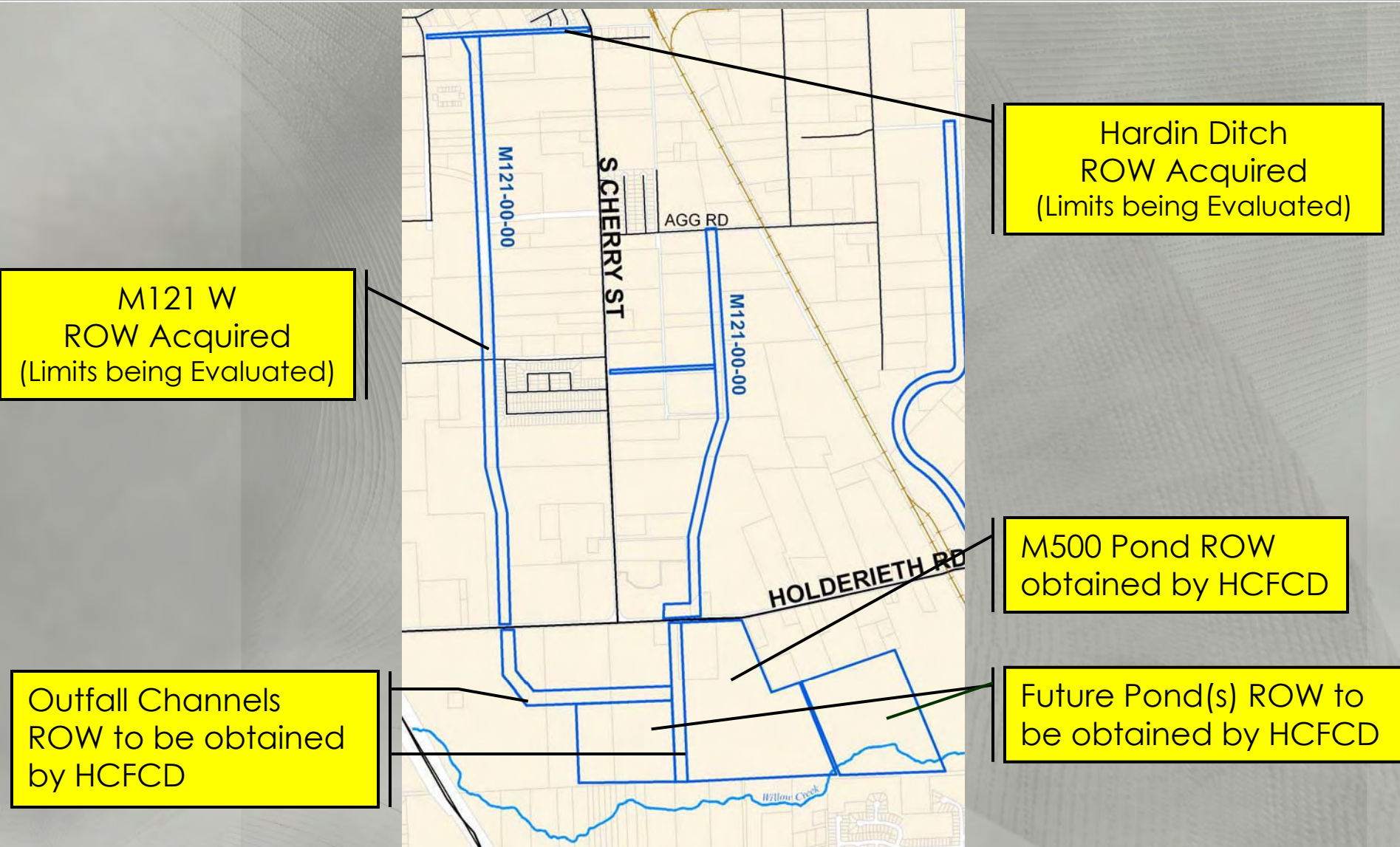
10 Year Master Plan FY 2011 – 2015 CIP Status Priority Ranking 1

M121 West Drainage Channels

- Description: The M121 basin consists of two drainage channels, i.e. 121W & 121E, and an associated detention pond, serving a central area of Tomball. Project to alleviate conditions that cause localized flooding and eliminate on-site detention.
- M121 West
FY 2011 Budget: \$4.4M FY 2012 Budget: \$6.4M
- Progress: A portion of the M121 East channel was constructed by a Private Developer (Hometowne at Tomball). Portions of the M121 West channel have been constructed by various Private Developers. Major portion of the M500 pond excavated by HCFCD is nearing completion. A portion of M121 East ROW was obtained through the development of Hometowne at Tomball. Additional ROW north of the development will have to be acquired. ROW required for outfall channels south of Holderrieth. All of the M121 West ROW north of Holderrieth has been obtained. ROW south of Holderrieth has to be acquired.

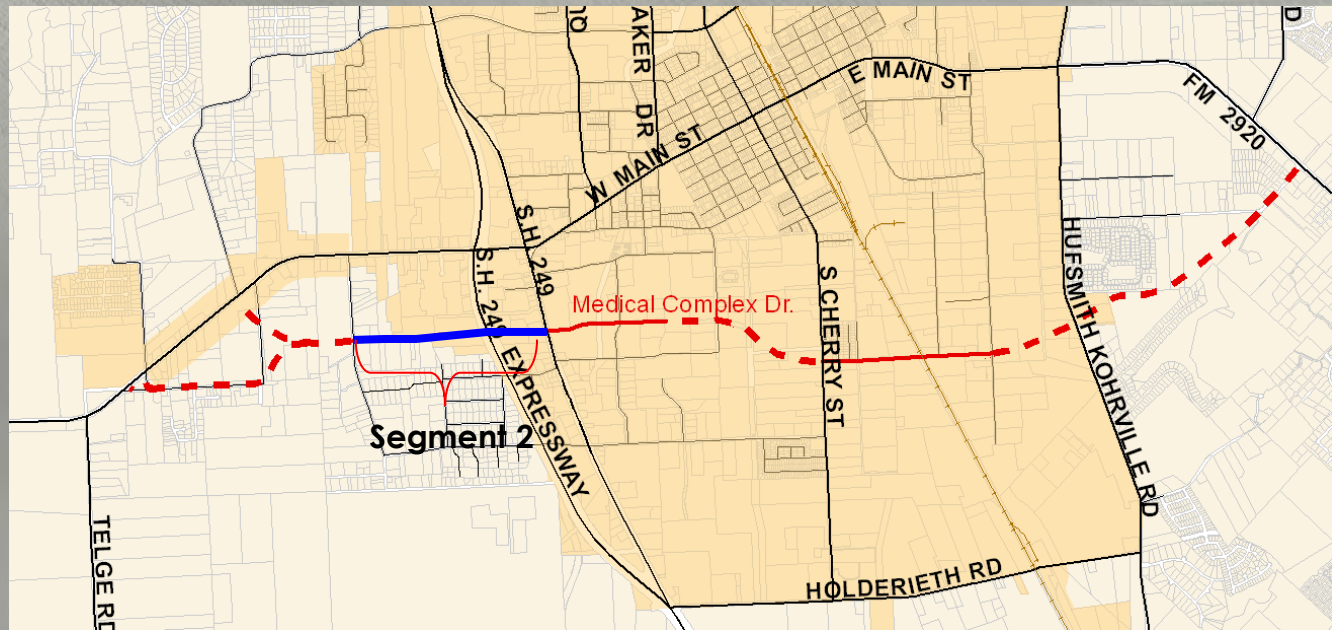
A contract was executed on September 30, 2008 with a Consultant to prepare the PER on the balance of the channels. The PER will establish the alignment south of Holderrieth for M121 West, the alignment north of Hometowne at Tomball for M121 East, the detention requirements, and the construction cost estimate. The PER was completed on November 6, 2009 with a cost estimate of \$12.9M. A contract with a consultant is being negotiated to complete the final design of M121 West. Design contract is on hold until funding is made available.

M121 West Drainage Channel



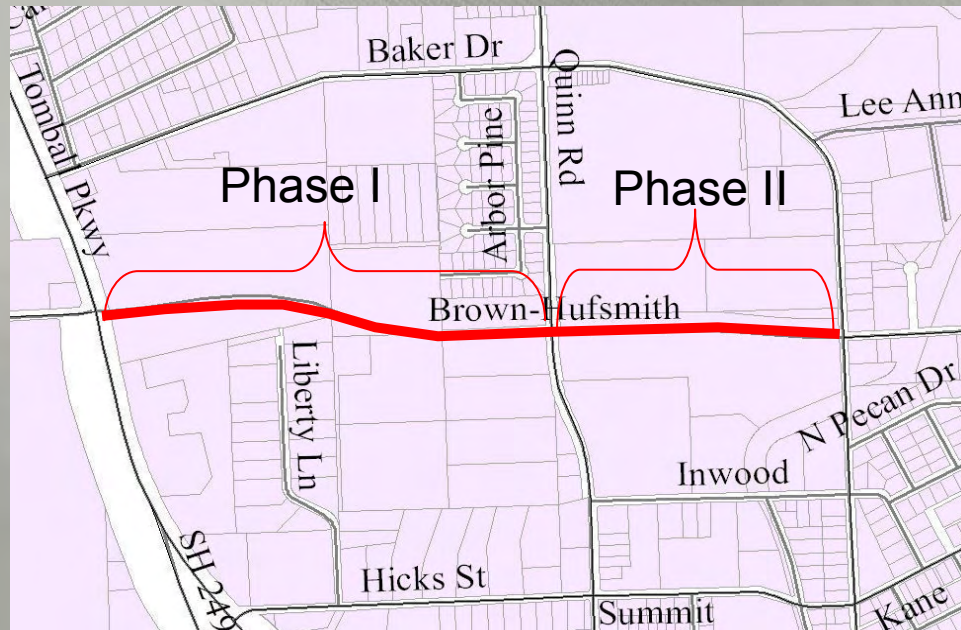
Medical Complex Dr. Extension

SEGMENT 2



- Description: Segment 2 of the proposed Medical Complex Corridor commences at Calvert Rd and continues easterly to SH 249 Business. Medical Complex Corridor is depicted on the COT's Major Thoroughfare Plan as a major east-west connector to FM 2920 (east & west of Tomball).
- FY 2011 Budget: \$1.025M
- Progress: The Preliminary Engineering Report (PER) was accepted by City Council July 6, 2009 with a cost estimate of \$9.8M for Segment 2. The PER established the corridor, set alignment, construction cost estimate, and ROW acquisition required. Land acquisition is on hold until funding is made available.

Brown Road Extension

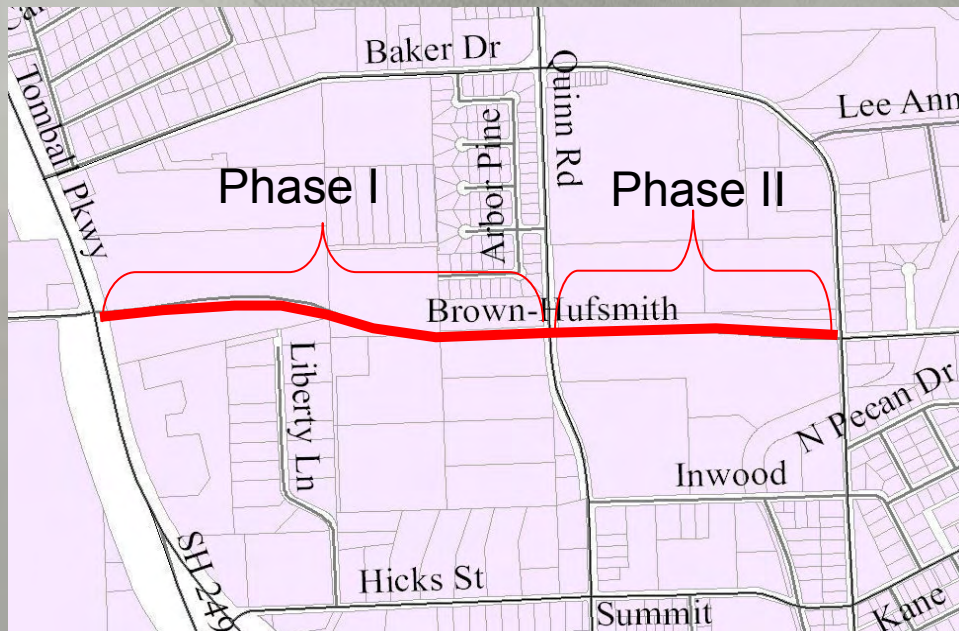


- Description: Brown Road extension includes street improvements from SH 249 to Baker. Phase I includes from SH 249 to Quinn, and Phase II includes from Quinn to Baker. Phase I is a joint project with TxDOT. Phase II will provide the City's major east-west corridor on the north side of FM 2920.
- FY 2011 Budget: \$1.2M

- Progress: Phase I was let by TxDOT on December 4, 2007 and awarded to Hassell Construction in the amount of \$1,833,442.16. Notice to proceed issued March 10, 2008, with an 84-working day schedule. In reference to construction costs, City has paid TxDOT \$1,086,890.87. Phase I was completed in November 2008 with the exception of the final traffic signal to be installed at SH 249 and the pipe runners at M124. The pipe runners have been installed. TxDOT installation of the traffic signal was completed December 2009.

Phase II design proposal, including utilities, was approved by City Council on April 20, 2009 for \$200,054.00. An additional service contract for \$32,171, was approved on June 25, 2009, for offsite detention design and analysis. The contract term is 180 calendar days. Design is 95% complete. ROW and detention pond property to be acquired. City Council approved land acquisition July 19, 2010. Land acquisition offer letters were sent out July 22, 2010.

Brown Road Utilities



- **Description:** Provides utility improvements along Brown Road, including water, sewer and gas. Phase I includes constructing 12" water, 10" sanitary and 4" gas. In addition, sidewalks and utility improvements along Quinn from Inwood to the north side of Brown Road were included.

- **Budget:** \$0 (Phase II) Included in Brown Road Extension
- **Progress:** Phase I improvements were let under a Developer Agreement with CCG and TEDC. The City has paid its share of the project (As part of the 380 agreement with CCG, \$471K for utilities & \$400K for ROW. Also paid \$169K for utility upgrades and sidewalks on Quinn.) Phase I was completed March 2008. Phase II is included in Brown Road Extension Contract.



Comprehensive Plan FY 2011 – 2015 CIP Status Priority Ranking 1

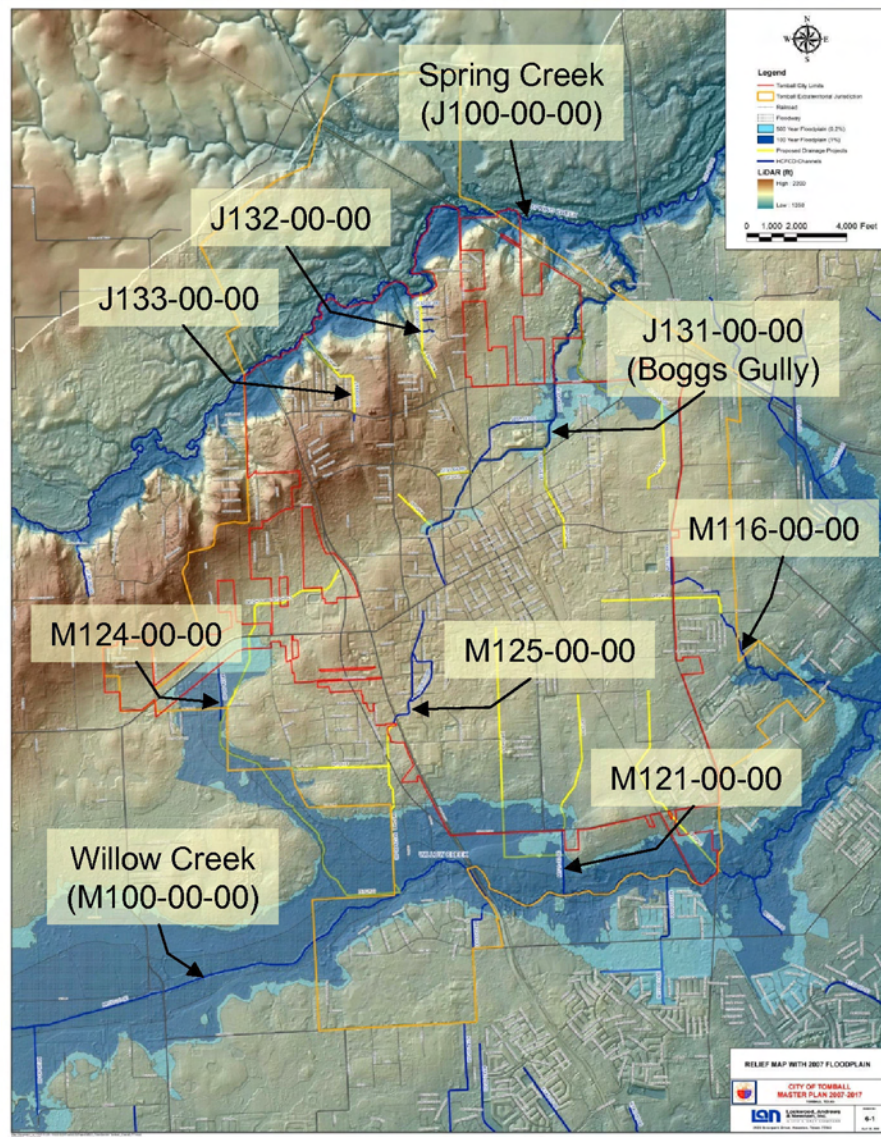
Medical District Specific Area Plan



- Description: This plan will establish a medical district zone for the area around Tomball's medical campus in order to support and maximize expansion opportunities for the City's medical facilities. The plan will include land use regulations and development standards that promote and protect Tomball's medical industry.

- FY 2011 Budget: \$175K (TEDC Funded)
- Progress: City Council approved the Comprehensive Plan (Ord. 2009-33) on December 7, 2009 and identified the Medical District Specific Area Plan as an item to be implemented within three years.

Drainage Master Plan



- Description: This plan will evaluate the city's existing storm drainage network, assess existing and proposed future drainage facility needs, and identify needed improvements based on projected future system demands. The plan will utilize the land use projections provided in the Comprehensive Plan to determine projected growth.
- FY 2011 Budget: \$125K
- Progress: City Council approved the Comprehensive Plan (Ord. 2009-33) on December 7, 2009 and identified the Drainage Master Plan as an item to be implemented within three years.

Downtown Plaza Master Plan

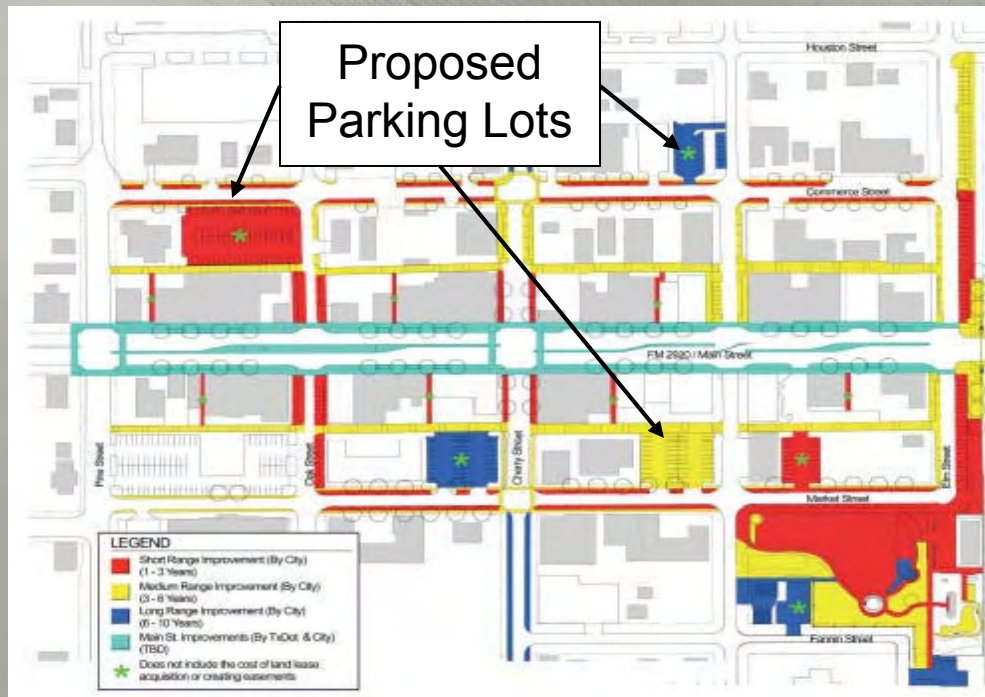


- Description: This plan will further refine the depot plaza concept created in the Livable Centers Downtown Plan and the Linear Park concept developed during the Comprehensive Plan to integrate the designs into an overall downtown civic space concept. The plan will designate project phases with Phase One being the development of the Depot Plaza and Phase Two being the development of the Linear Park (the area between Oak Street and Cherry Street, on the north side of Market Street).
- FY 2011 Budget: \$450K FY 2012 Budget: \$50K FY 2013 Budget: \$1.05M
- Progress: The City's Livable Centers Downtown Plan began the visioning process for the Downtown Plaza Area. City Council approved the Comprehensive Plan (Ord. 2009-33) on December 7, 2009 and identified the Downtown Plaza Master Plan as an item to be implemented within six years.



Livable Centers FY 2011 – 2015 CIP Status Priority Ranking 1

Parking – 3 Downtown Parking Lots



- Description: The plan recommends the creation of three surface parking lots within a six year timeframe to account for the future removal of the on-street parking on FM 2920. E&P proposes to phase this project over a three year period beginning with design and feasibility analysis in FY 2010 - 2011.

- FY 2011 Budget: \$50K FY 2012 Budget: \$60K FY 2013 Budget: \$445K
- Progress: City Council approved the Livable Centers Downtown Plan (Res. #2009-23) on September 21, 2009 which identifies the construction of these three surface parking lots within six years.



10 Year Master Plan FY 2011 – 2015 CIP Status Priority Ranking 2

Hufsmith Water & Gas Improvements

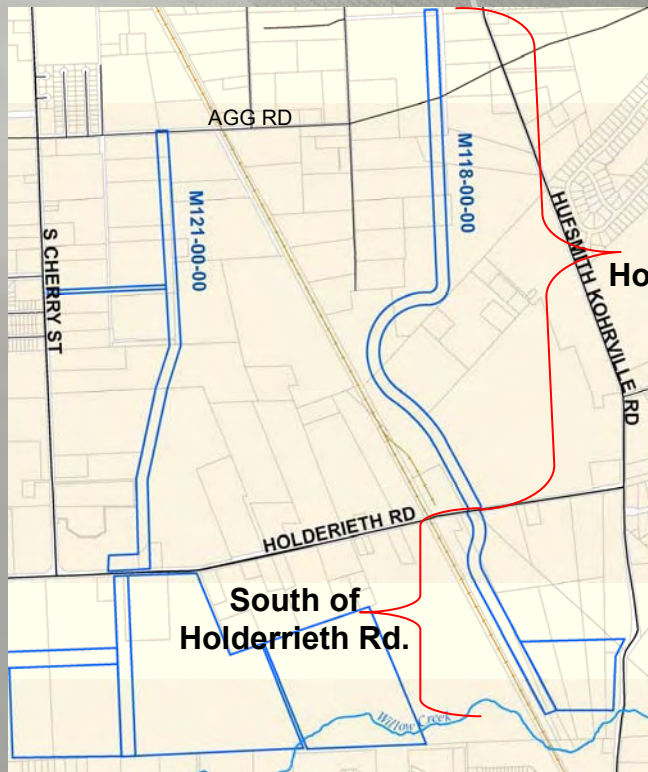


- Description: The Hufsmith water and gas improvements include 12" water line and 4" gas lines from Rudolph to Snook.

- FY 2012 Budget: \$880K

- Progress: A contract was executed with a Consultant to complete the final design and develop the metes and bounds descriptions for easement acquisition. The project design is expected to be completed by May 2010. E&P recognizes this project as a critical needs project. The Engineer's opinion of cost is \$850K. There are an estimated 18 easements to be acquired. Design is 95% complete. Consultant completed metes and bounds for 19 easements and 27 ROW acquisition by January 2010. A contract for land acquisition services and appraisals was approved by City Council April 5, 2010. City Council approved land acquisition July 19, 2010. Land acquisitions offer letters are being issued.

M118 Drainage & Detention Basin (South of Holderrieth Rd)



North of
Holderrieth Rd.

South of
Holderrieth Rd.

- Description: The M118 drainage basin occupies the southeasterly area of Tomball, south of the M116 basin, east of the railroad tracks, west of Hufsmith-Kohrville, to Willow Creek. Project to provide relief drainage system and reduce or eliminate on-site detention.

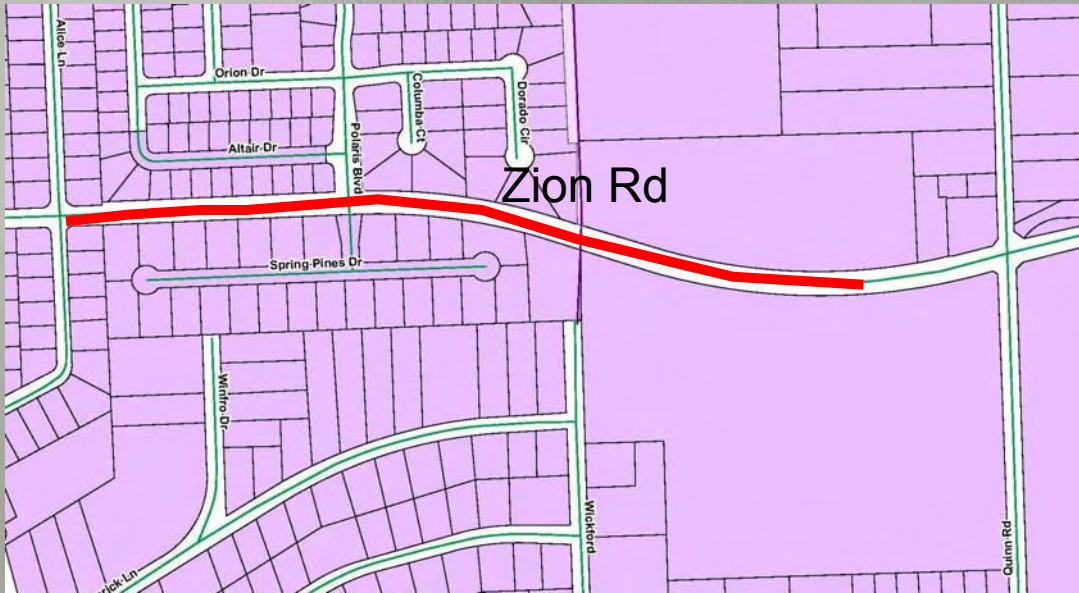
- FY 2011 Budget: \$3.6M

Progress: The M118-00-00 Channel Outfall Project from Willow Creek north 365' includes 300 LF of drainage channel and the detention outfall improvements for Ditch M118-00-00 to Willow Creek. It also includes 180 LF of 36" pipe connecting the partially complete M118 Pond to the drainage channel. This construction project was completed January 2009 for \$210K.

A contract was executed on September 30, 2008 with a Consultant to prepare the PER on the balance of channel & pond. A significant portion of pond has been excavated in prior years. All ROW has been acquired south of Holderrieth. No ROW has been acquired north of Holderrieth Rd.

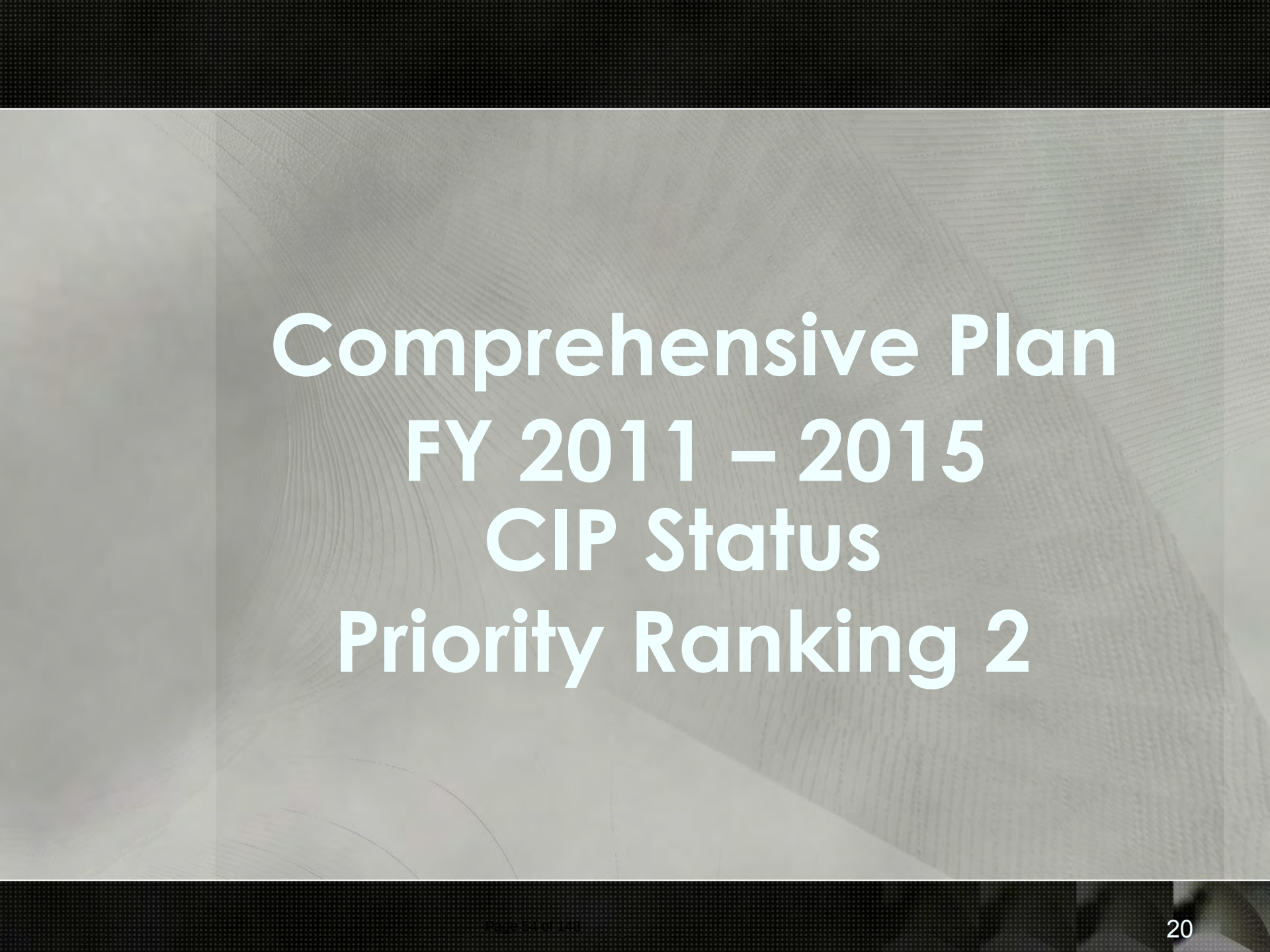
The PER established alignment, construction cost estimate, and ROW acquisition required. The PER was completed November 6, 2009 with a cost estimate of \$8.1M for the entire project. Design contract on hold until funding is made available.

Zion Rd Sidewalk Reconstruction



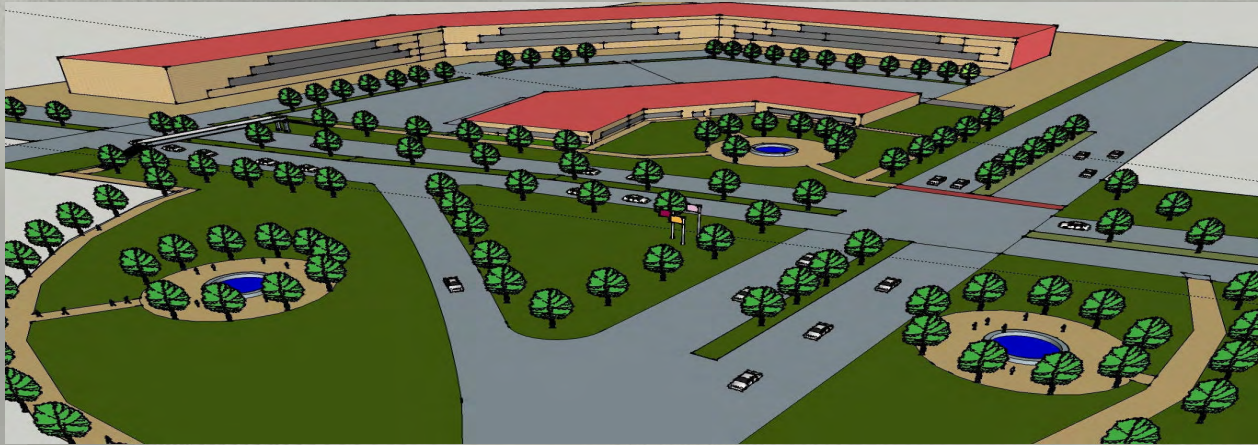
- Description: The 4' sidewalk located along Zion Rd. between Alice Ln. and Quinn Rd. being undermined by erosion around the sidewalk. This project is to engineer and reconstruct a 5' sidewalk to stop the erosion and stabilize the area. Approximate 2,700 ft of 5' sidewalk is proposed.

- FY 2011 Budget: \$240K
- Progress: Proposed Project



Comprehensive Plan FY 2011 – 2015 CIP Status Priority Ranking 2

Four Corner Specific Area Plan

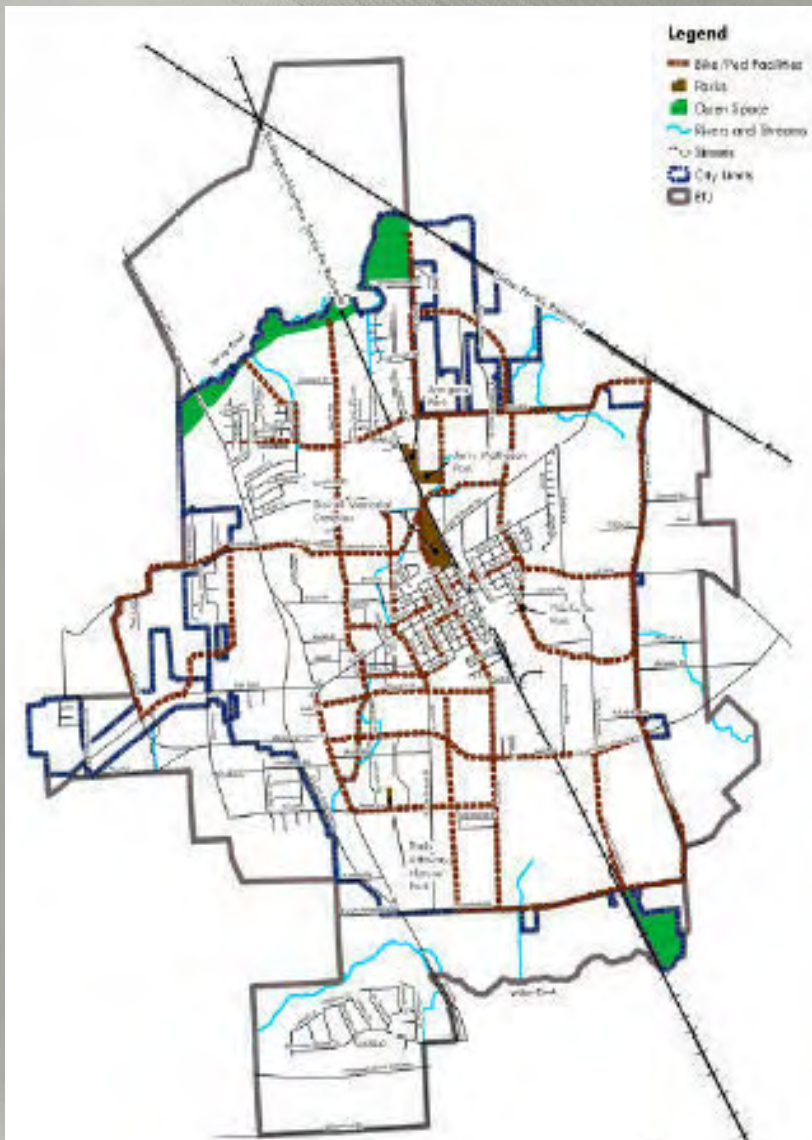


- Description: This plan will establish specific zoning standards for the properties located near the intersection of State Highway 249 Business and F.M. 2920, known as Four Corners. The plan will create unique land use and design regulations for the area to encourage its redevelopment as a major mixed use activity center. The plan will focus on its location as an important entry point to Tomball and will include regulations for pedestrian-orientation, integrated land uses, and enhanced landscaping.
- FY 2012 Budget: \$175K (TEDC Funded)
- Progress: City Council approved the Comprehensive Plan (Ord. 2009-33) on December 7, 2009 and identified the Four Corners Specific Area Plan as an item to be implemented within six years.

Major Thoroughfare Plan / Context Sensitive Solutions Policy

- Description: The MTP must be annually reviewed and regularly updated to reflect changing transportation needs both within Tomball and in neighboring jurisdictions. At the time of the next MTP update, a context sensitive solutions policy for street design will be incorporated to ensure that roadway improvement projects are compatible with their physical settings, provide multi-modal mobility, and enhance the activities of adjacent land uses. Context Sensitive Solutions balance the need of vehicles to travel safely and efficiently with desirable community outcomes, including maintaining and enhancing aesthetic, historic, and environmental resources.
- FY 2012 Budget: \$25K
- Progress: The City last updated the MTP in February 2009. City Council approved the Comprehensive Plan (Ord. 2009-33) on December 7, 2009 and identified the update of the MTP and the drafting of a CSS policy to be implemented within three and six years, respectively.

Sidewalk, Pathway, Park, & Trails Master Plan



- Description: This plan will further develop the vision outlined in the Comprehensive Plan for a well connected system of trails, sidewalks, pedestrian ways and amenities. It will provide the regulatory framework for ensuring the extension of the network in conjunction with public and private development. The plan will identify existing conditions/needs and propose implementation steps to create a comprehensive and interconnected circulation system in Tomball.
- FY 2012 Budget: \$75K
- Progress: City Council approved the Comprehensive Plan (Ord. 2009-33) on December 7, 2009 and identified the Sidewalk, Pathway, Park, & Trails Master Plan as an item to be implemented within six years.



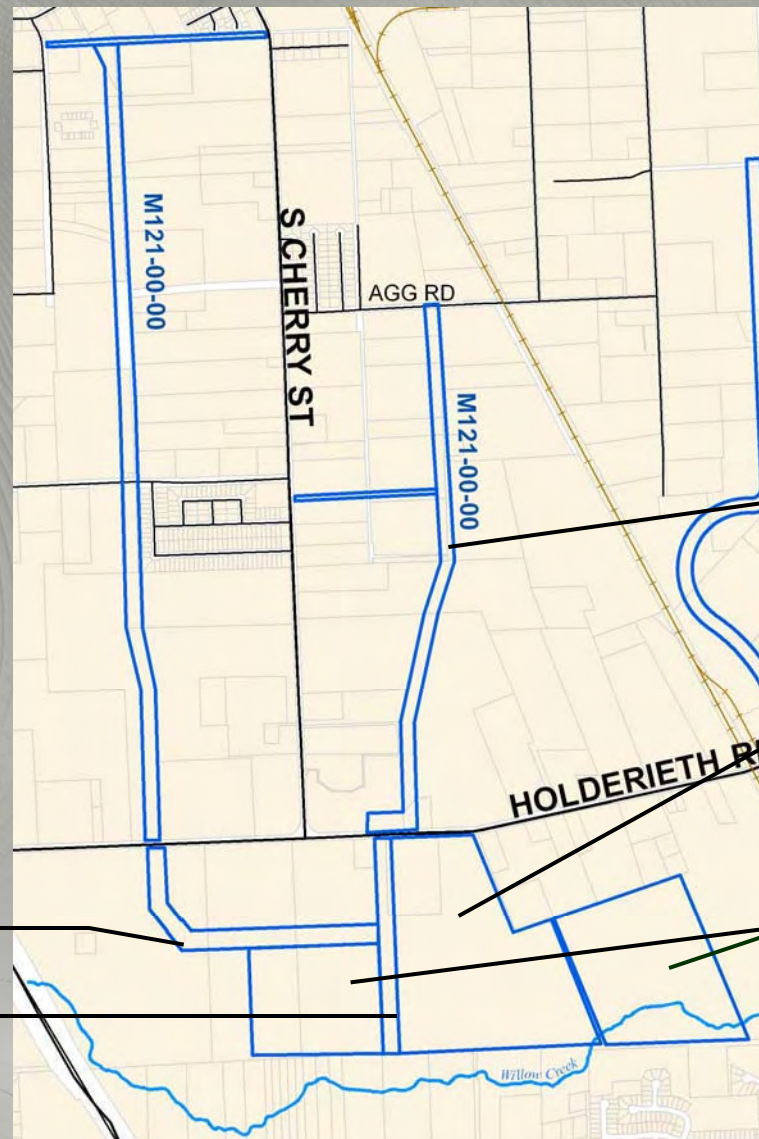
10 Year Master Plan FY 2011 – 2015 CIP Status Priority Ranking 3

M121 East Drainage Channels

- Description: The M121 basin consists of two drainage channels, i.e. 121W & 121E, and an associated detention pond, serving a central area of Tomball. Project to alleviate conditions that cause localized flooding and eliminate on-site detention.
- M121 East
FY 2011 Budget: \$580K FY 2012 Budget: \$580K
- Progress: A portion of the M121 East channel was constructed by a Private Developer (Hometowne at Tomball). Portions of the M121 West channel have been constructed by various Private Developers. Major portion of the M500 pond excavated by HCFCF is nearing completion. A portion of M121 East ROW was obtained through the development of Hometowne at Tomball. Additional ROW north of the development will have to be acquired. ROW required for outfall channels south of Holderrieth. All of the M121 West ROW north of Holderrieth has been obtained. ROW south of Holderrieth has to be acquired.

A contract was executed on September 30, 2008 with a Consultant to prepare the PER on the balance of the channels. The PER will establish the alignment south of Holderrieth for M121 West, the alignment north of Hometowne at Tomball for M121 East, the detention requirements, and the construction cost estimate. The PER was completed on November 6, 2009 with a cost estimate of \$12.9M. A contract with a consultant is being negotiated to complete the final design of M121 West. Design contract is on hold until funding is made available.

M121 East Drainage Channel



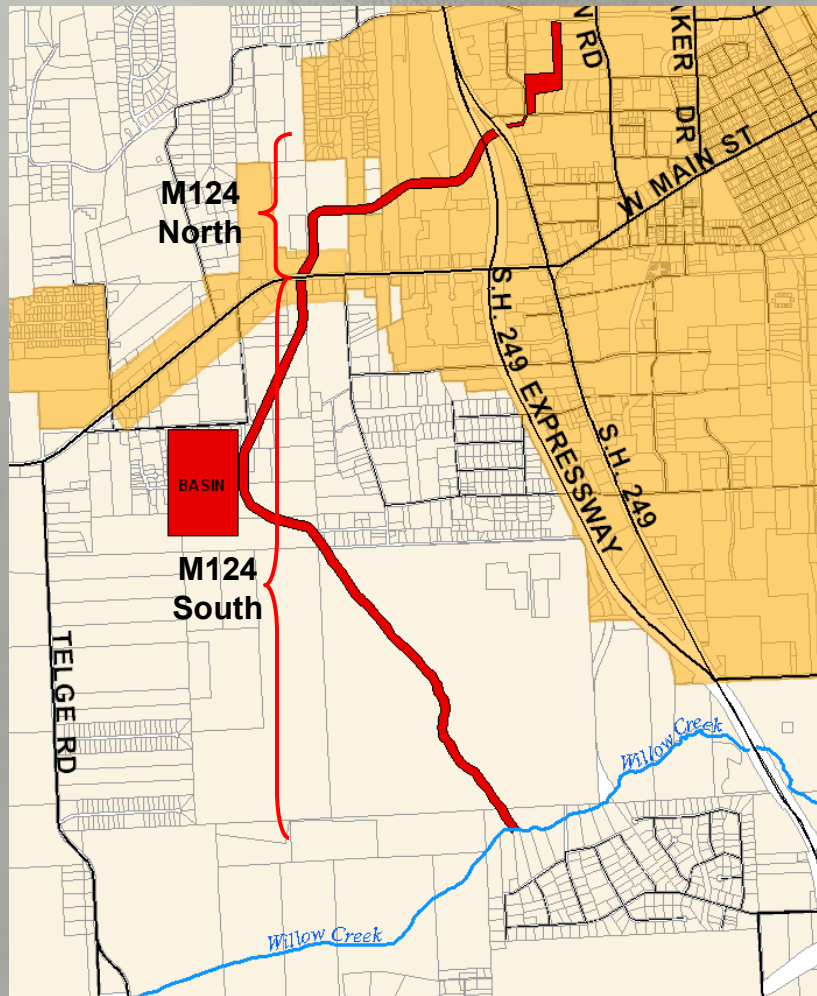
Outfall Channels
ROW to be obtained
by HCFCD

M121 E ROW to be
Acquired
(Limits being Evaluated)

M500 Pond ROW
obtained by HCFCD

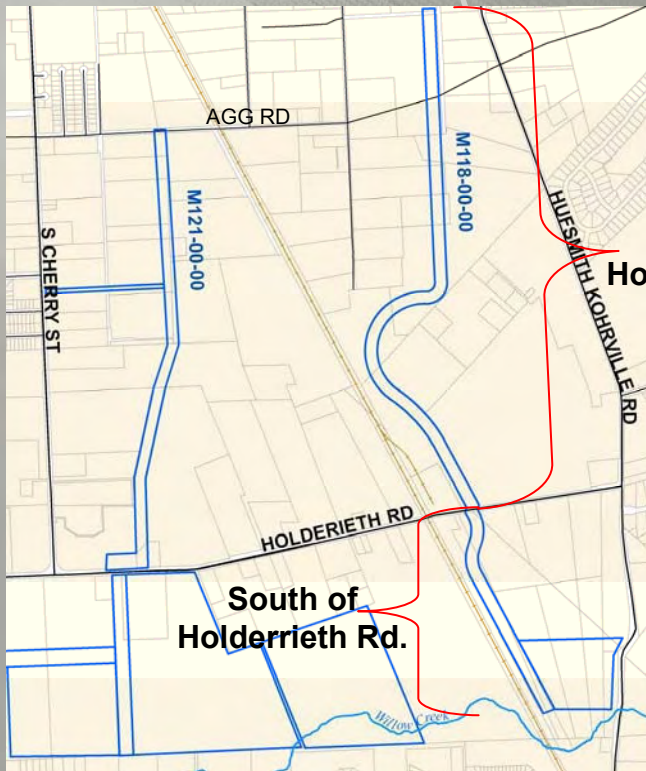
Future Pond(s) ROW to
be obtained by HCFCD

M124 Channel



- **Description:** The M124 basin occupies a major portion of the westerly area of Tomball, outfalling to Willow Creek. Project to mitigate channel and loss of existing floodplain storage. The project has been divided into M124 North, described as area north of FM 2920 to SH 249, and M124 South, described as area south of FM 2920.
- **FY 2011 Budget:** \$1.7M
- **FY 2012 Budget:** \$1.2M
- **Progress:** The PER with alternative analysis and recommendations was approved November 5, 2008. Additional funding was approved by City Council to establish alignment and channel cross-section to be completed in 270 calendar days. The additional services include preliminary survey, geotechnical report, project scheduling, phasing, cost estimates, preliminary plan & profile drawings, and project management and coordination. No ROW has been acquired. The final design contract will have to be negotiated with the consultant and ROW acquired for 67 acre detention pond and is on hold until funding is made available.

M118 Drainage & Detention Basin (North of Holderrieth Rd)



North of
Holderrieth Rd.

South of
Holderrieth Rd.

- Description: The M118 drainage basin occupies the southeasterly area of Tomball, south of the M116 basin, east of the railroad tracks, west of Hufsmith-Kohrville, to Willow Creek. Project to provide relief drainage system and reduce or eliminate on-site detention.

- FY 2012 Budget: \$1.1M

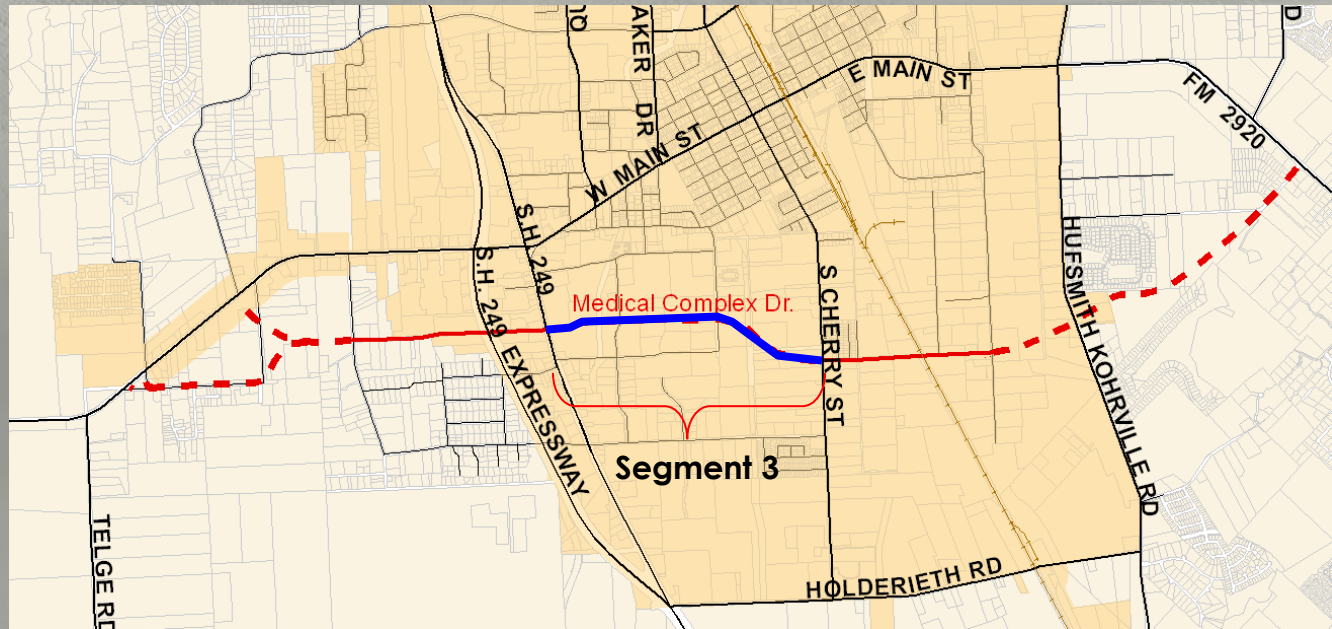
Progress: The M118-00-00 Channel Outfall Project from Willow Creek north 365' includes 300 LF of drainage channel and the detention outfall improvements for Ditch M118-00-00 to Willow Creek. It also includes 180 LF of 36" pipe connecting the partially complete M118 Pond to the drainage channel. This construction project was completed January 2009 for \$210K.

A contract was executed on September 30, 2008 with a Consultant to prepare the PER on the balance of channel & pond. A significant portion of pond has been excavated in prior years. All ROW has been acquired south of Holderrieth. No ROW has been acquired north of Holderrieth Rd.

The PER established alignment, construction cost estimate, and ROW acquisition required. The PER was completed November 6, 2009 with a cost estimate of \$8.1M for the entire project. 12 parcels need to be acquired north of Holderrieth Rd. Design contract on hold until funding is made available.

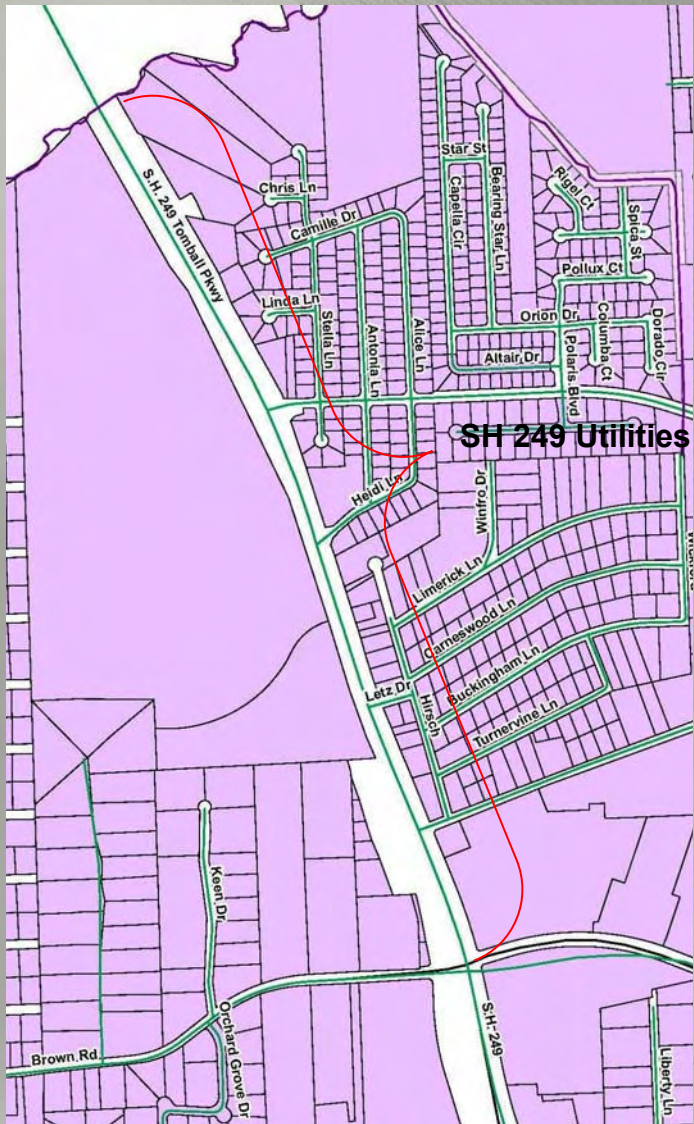
Medical Complex Dr. Extension

SEGMENT 3



- Description: Segment 3 of the proposed Medical Complex Corridor commences at SH 249 Business and continues easterly to South Cherry St. Medical Complex Corridor is depicted on the COT's Major Thoroughfare Plan as a major east-west connector to FM 2920 (east & west of Tomball).
- FY 2011 Budget: \$1.6M FY 2012 Budget: \$4.8M
- Progress: The Preliminary Engineering Report (PER) was accepted by City Council July 6, 2009 with a cost estimate of \$4.6M for Segment 3. The PER established the corridor, set alignment, construction cost estimate, and ROW acquisition required. Design contract is on hold until funding is made available.

Relocation of SH 249 Utilities



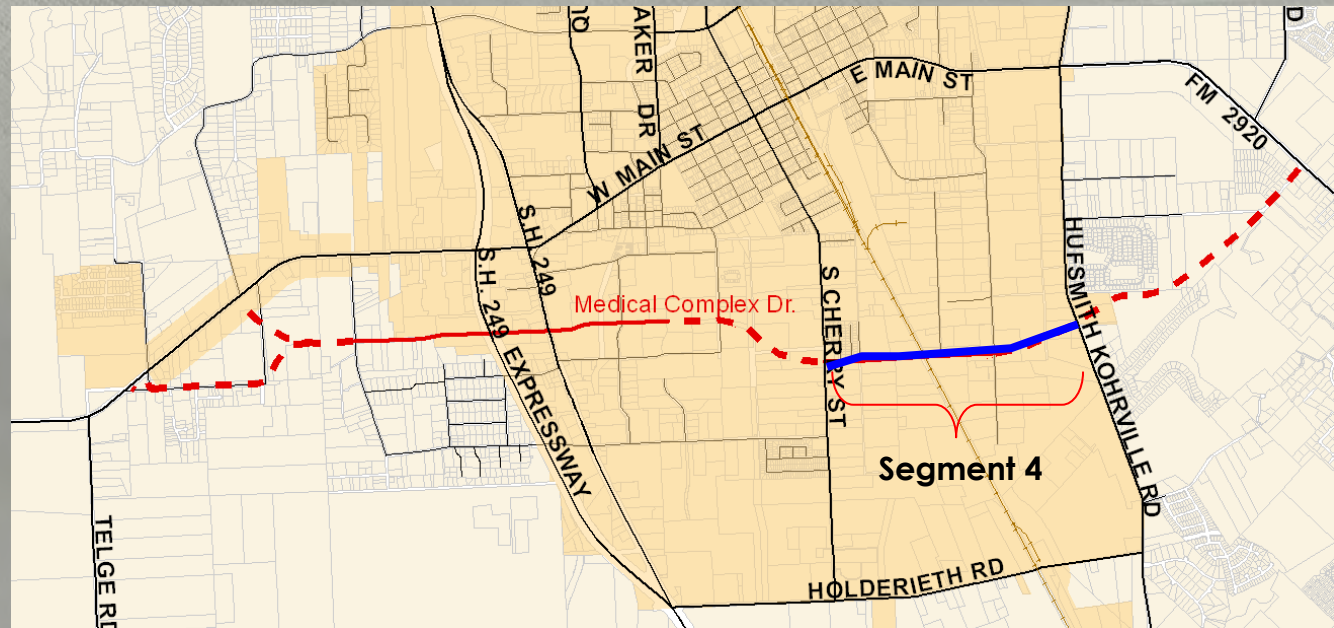
- Description: Relocate utilities along SH 249 due to the widening of SH 249 between Brown Road and Spring Creek. This includes the relocation of 6", 8", & 12" waterline, 4" & 6" sanitary force main, 6", & two 8" sanitary lines, and 4" gas.

- FY 2011 Budget: \$50K

- Progress: Proposed Project

Medical Complex Dr. Extension

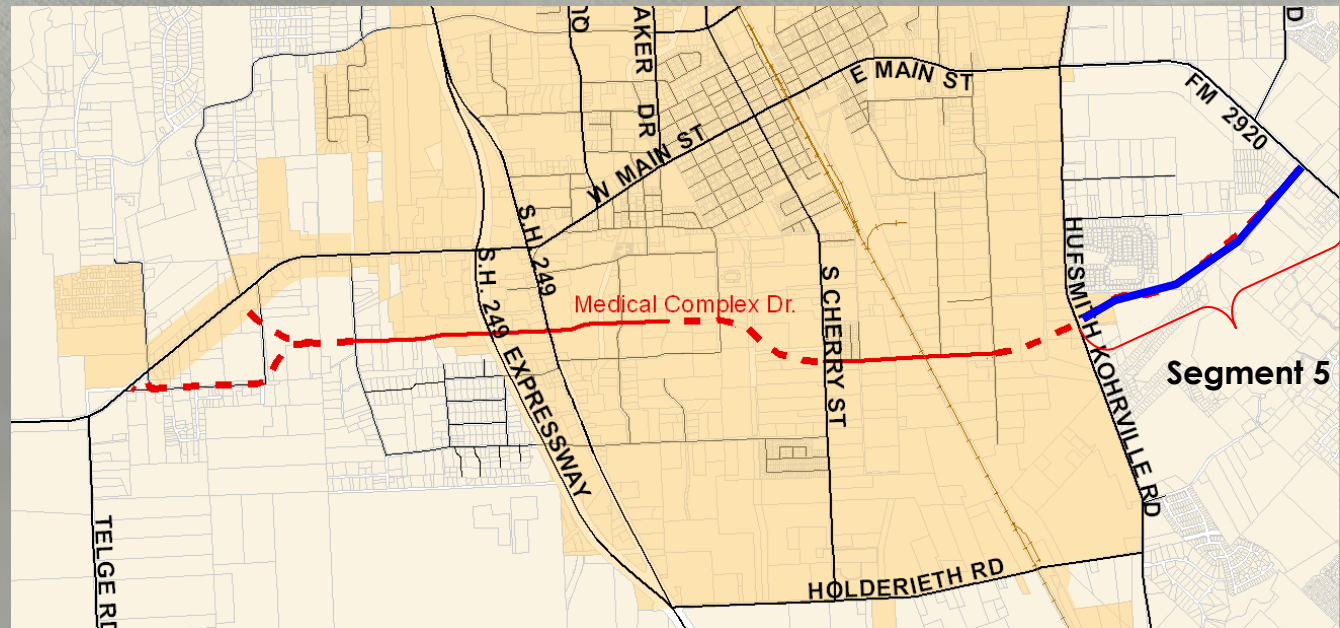
SEGMENT 4



- Description: Segment 4 of the proposed Medical Complex Corridor commences at Cherry St and continues easterly to South Persimmon. Medical Complex Corridor is depicted on the COT's Major Thoroughfare Plan as a major east-west connector to FM 2920 (east & west of Tomball).
- FY 2011 Budget: \$75K FY 2012 Budget: \$1.3M
- Progress: The Preliminary Engineering Report (PER) was accepted by City Council July 6, 2009 with a cost estimate of \$11.3 for Segment 4. The PER established the corridor, set alignment, construction cost estimate, and ROW acquisition required.

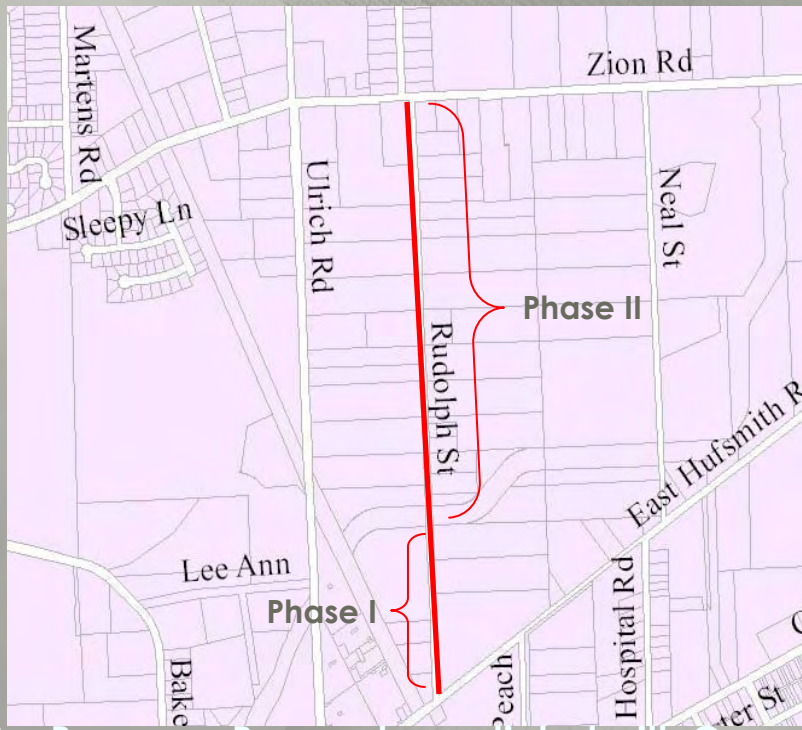
Medical Complex Dr. Extension

SEGMENT 5



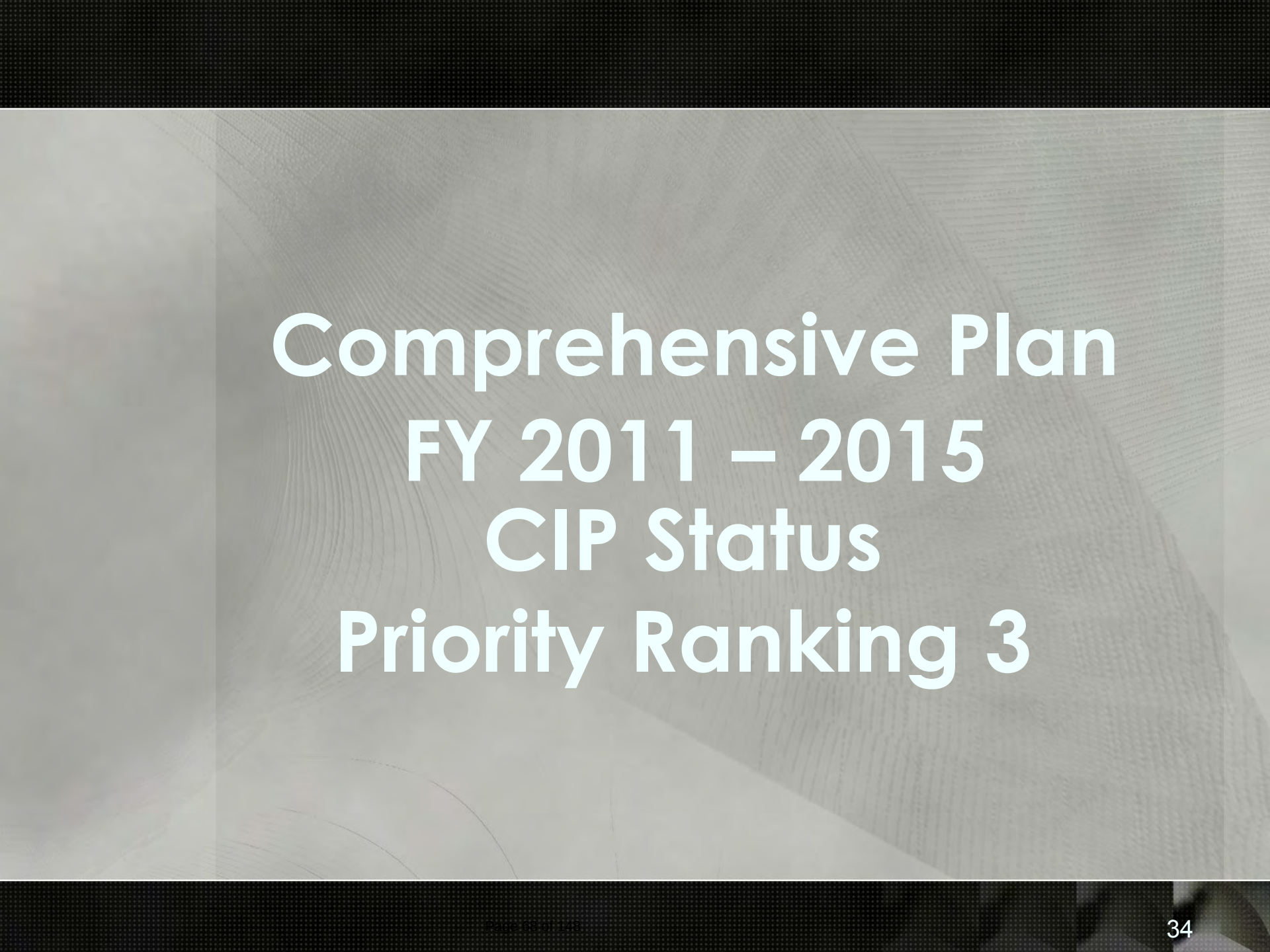
- Description: Segment 5 of the proposed Medical Complex Corridor commences at South Persimmon and continues easterly to FM 2920. Medical Complex Corridor is depicted on the COT's Major Thoroughfare Plan as a major east-west connector to FM 2920 (east & west of Tomball).
- FY 2011 Budget: \$75K FY 2012 Budget: \$4.4M
- Progress: The Preliminary Engineering Report (PER) was accepted by City Council July 6, 2009 with a cost estimate of \$7.9M for Segment 5. The PER established the corridor, set alignment, construction cost estimate, and ROW acquisition required.

Rudolph Road & Utilities (Phase I)



- Description: The Rudolph Rd. Utilities improvements project includes land acquisition and providing street and utility improvements to current standards as a collector street. The majority of the street is substandard with limited to no utilities within a 30' ROW.
- FY 2011 Budget: \$1.9M

● Progress: Proposal negotiated with Consultant for PER for Rudolph (both Phases). A Professional Services contract was executed in 12/07 to perform the necessary surveying and prepare the individual metes and bounds descriptions for utility easements and ROW dedications. All Phase I parcels have been acquired. The PER was completed February 2, 2010 with Phase I cost estimate of \$1.642M. Based on the approved PER, the Consultant will perform the final design of Phase I. An agreement was executed between COT and TEDC for \$300K to aid in the construction of Phase I. Additionally, an agreement between the COT and a developer was executed under which the developer has agreed to contribute \$30K for the construction of Phase I. Phase I design scheduled for completion June 2010. Anticipated construction letting date of August 2010. Construction is on hold until funding is made available.



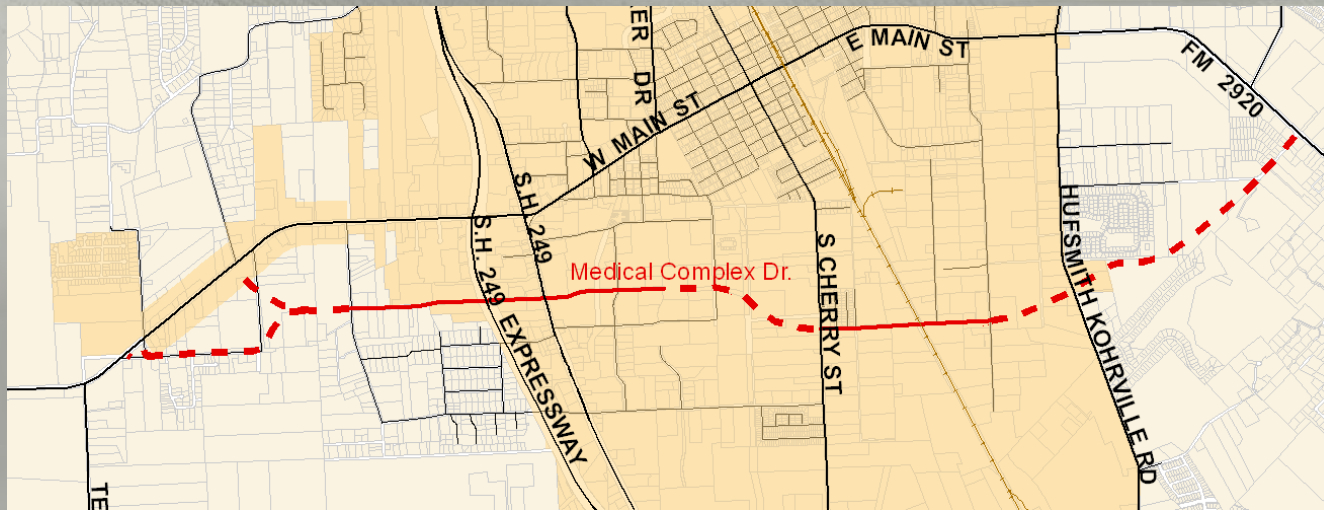
Comprehensive Plan FY 2011 – 2015 CIP Status Priority Ranking 3

Railroad Corridor Specific Area Plan



- Description: This plan will establish a railroad corridor zone along portions of the BNSF rail line south of FM 2920 to maximize the economic potential of the corridor as a key employment area. It will also support the planning of a future commuter rail station near Downtown. The plan will regulate land uses and development standards along the corridor to facilitate new development that will enhance the quality of life for residents and strengthen the economic base of the community.
- FY 2011 Budget: \$1M (TEDC Funded)
- FY 2013 Budget: \$175K (TEDC Funded)
- Progress: City Council approved the Comprehensive Plan (Ord. 2009-33) on December 7, 2009 and identified the Railroad Corridor Specific Area Plan as an item to be implemented within three years.

Medical Complex Specific Area Plan



- Description: This plan will establish specific zoning standards for the properties adjacent to the existing and future Medical Complex Corridor to regulate land use and development standards along this major thoroughfare. A focus will be on clustering commercial activity at major intersections to encourage an appropriate mix of land uses and cohesive design along the corridor. The plan will create unique land use and design regulations to ensure appropriate transitions along the corridor and enhance its aesthetic and economic potential.
- FY 2013 Budget: \$175K (TEDC Funded)
- Progress: City Council approved the Comprehensive Plan (Ord. 2009-33) on December 7, 2009 and identified the Medical Complex Specific Area Plan as an item to be implemented within six years.

Wayfinding Sign Plan

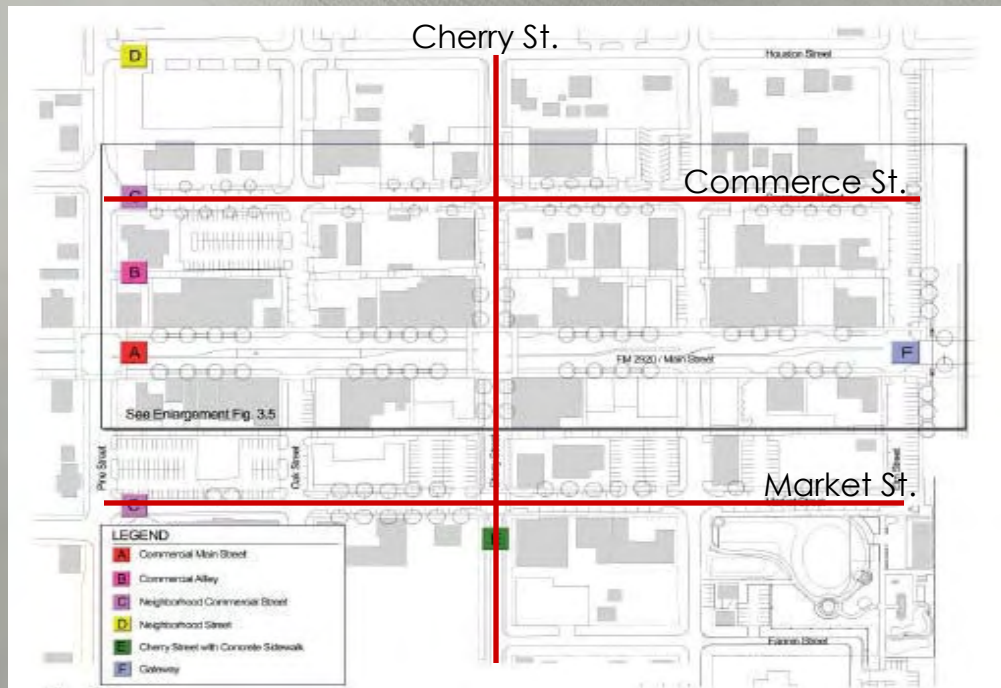


- Description: The purpose of the wayfinding plan is to develop a comprehensive citywide signage system designed to identify and direct residents and visitors to destinations throughout the city as well as promote a sense of arrival at key city gateways. The plan will consist of two elements: downtown Tomball signage as defined in the Livable Centers Downtown Plan and a larger citywide signage program, including gateways, streets, & directional signs.

- FY 2013 Budget: \$50K (TDEC Funded)
- Progress: The City's 2009 Livable Centers Downtown Plan has already identified signage themes for the Downtown area. City Council approved the Comprehensive Plan (Ord. 2009-33) on December 7, 2009 and identified the Wayfinding Sign Plan as an item to be implemented within three years.

**Livable Centers
FY 2011 – 2015
CIP Status
Priority Ranking 3**

Street Reconstruction Program



- Description: The plan recommends a number of street reconstruction projects on Commerce, Market, and Cherry Streets to be completed within the next six years. These projects include streetscape enhancements, landscaping, detention, and sidewalk improvements in the study area. E&P proposes to begin this project in FY 2013 - 2014.

- FY 2014 Budget: \$1.0M FY 2015 Budget: \$4.0M
- Progress: City Council approved the Livable Centers Downtown Plan (Res. #2009-23) on September 21, 2009 which identifies this program to be constructed within six years.

FY 10-14 Capital Improvement Projects

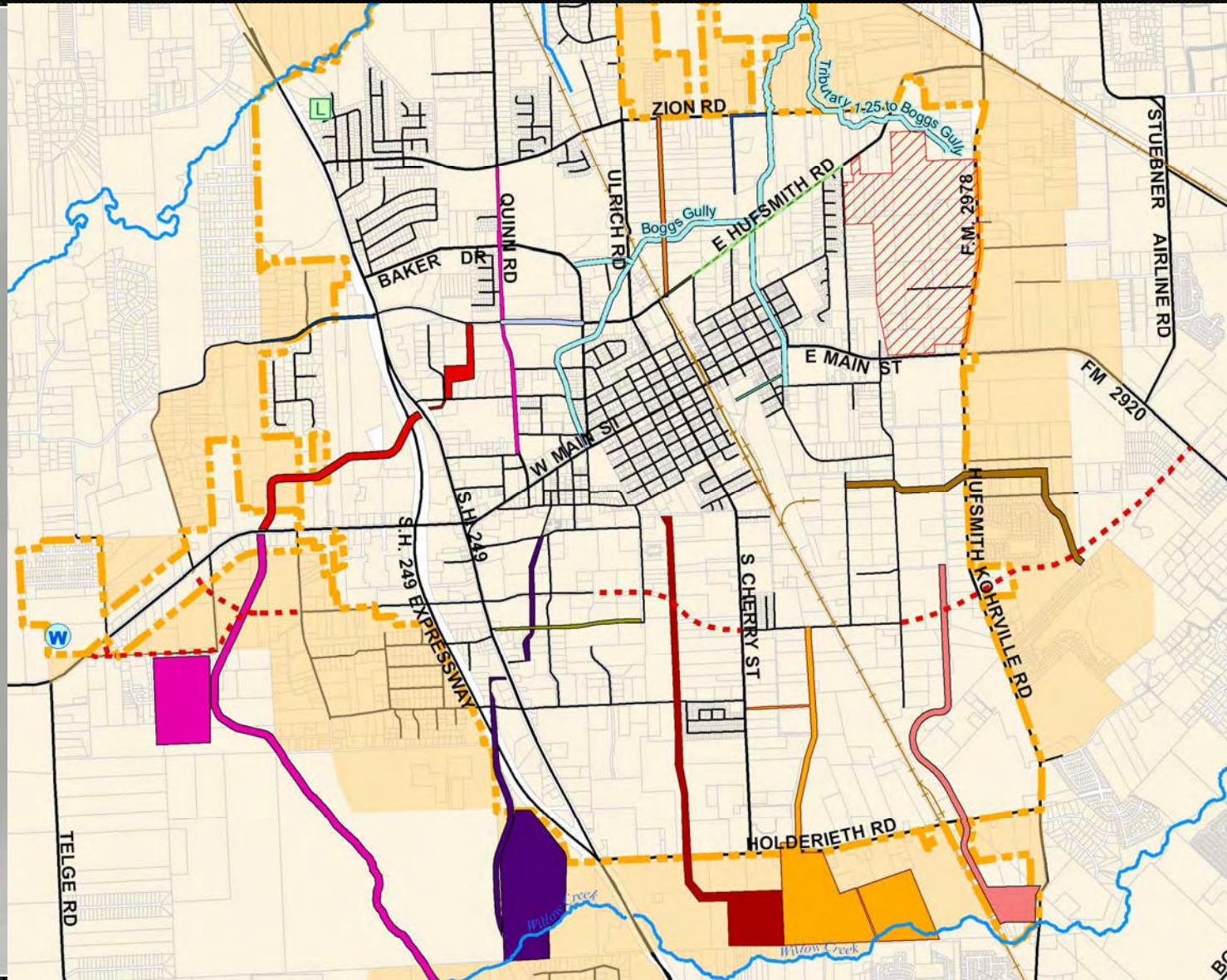
- Tomball Hills Lift Station
- Quinn Road Sidewalk and Utilities Improvements
- M121 West Drainage Channel
- M121 East Drainage Channel
- Medical Complex Drive (Segment 3)
- Medical Complex Drive (Segment 2)
- Rudolph Road & Utilities (Phase 1)
- Hufsmith Sanitary Sewer Improvements
- Brown Road & Utility Extension (Phase II)
- Hufsmith Water & Gas Improvements
- M118 Drainage Channel South of Holderrieth Rd
- M118 Drainage Channel North of Holderrieth Rd
- M124 Drainage Channel

Capital Improvement Projects

Initiated Prior to FY 10-14 Budgets

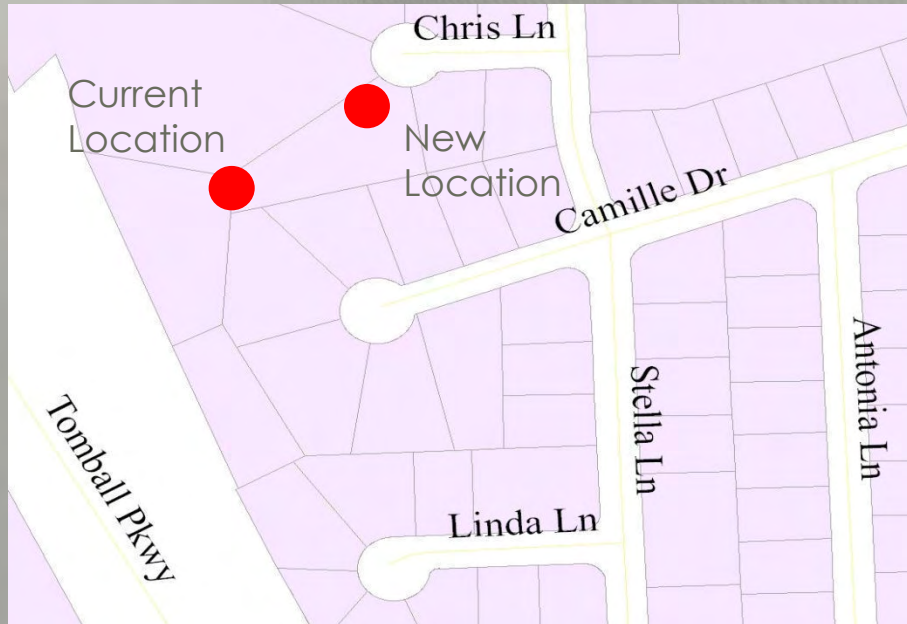
- Medical Complex Corridor
- M118 Drainage & Detention Basin
- M121 Drainage & Detention Basin
- Barbara Street Drainage (M125)
- Quinn Road Sidewalks & Utilities Improvements
- M124 Channel
- Comprehensive Plan
- M116 Drainage Channel
- J131-00-01
- Hufsmith Sewer Improvements
- Hufsmith Water & Gas Improvements
- Neal Street Utilities
- Rudolph Road & Utilities
- Tomball Hills Lift Station
- Water Well No. 5

Capital Improvement Projects



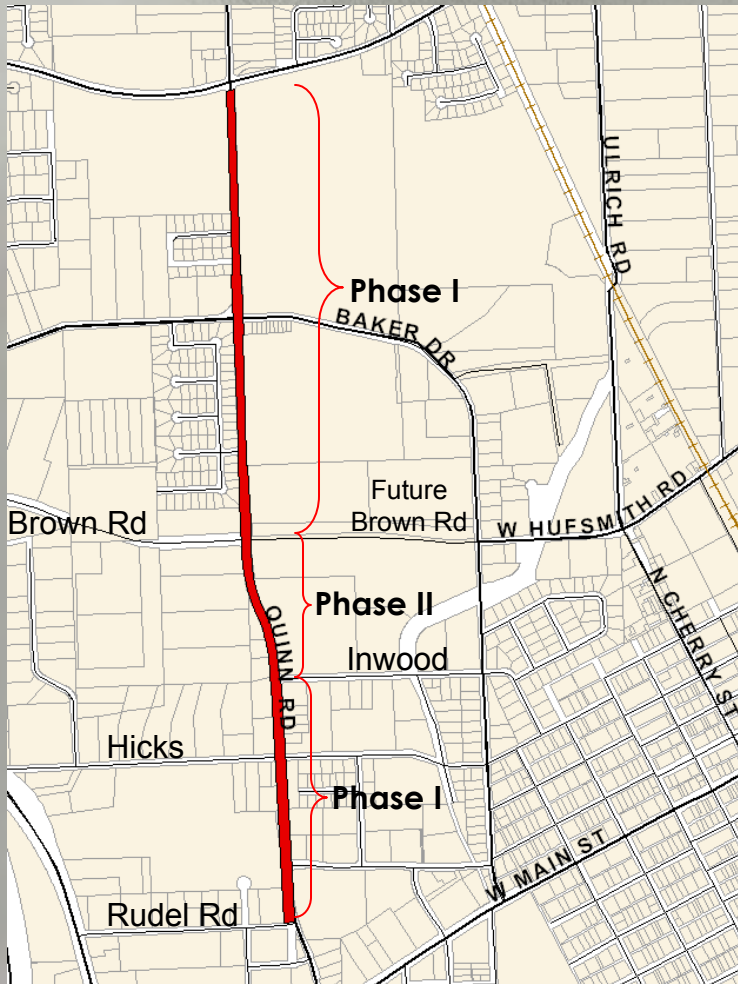
FY 2010 – 2014 CIP Status

Tomball Hills Lift Station



- Description: The Tomball Hills sanitary sewer lift station was constructed in the mid 1970's to collect sanitary sewer for all of the adjacent subdivision and Lonestar Community College. The lift station was constructed within the floodplain and during increased storm water events is submerged. The lift station requires redesign and relocation consideration to meet TCEQ requirements.
- FY 2010 Budget: \$648K
- Progress: A contract was executed with a Consultant to prepare the PER. The PER was completed in April 2009. The Engineer's opinion of cost is \$300K. The PER identified the property to be acquired and recommended alternatives. Final design was initiated May 27, 2009. The contract term is 120 calendar days. Design is 95% complete. Project requires acquisition of one vacant residential lot. Appraisal was completed October 26, 2009. An offer letter was extended March 18, 2010, waiting on owners response. Construction on hold until funding is made available.

Quinn Road Improvements



- Description: The Quinn Rd. improvements project includes utility and sidewalk improvements. The project limits extend from Rudel Rd. north to Zion Rd. Quinn is a major north – south collector roadway for the City and provides access to three Tomball ISD campuses.
- FY 2010 Budget: \$1.01M
- Progress: Phase II was completed by the developer as part of the Brown Road Utility Project. A PER on Phase I was completed and accepted by the City May 29, 2008. A contract was executed with a Consultant to complete the final design. The design is 100% complete. The Engineer's opinion of cost is \$565K. The project was advertised for bid November 18, 2009. The bid opening was held December 10, 2009. Bid was awarded by City Council January 4, 2010 for \$461K. Construction is 50% complete. Estimated completion date is Early July 2010.

M121 Drainage Channels

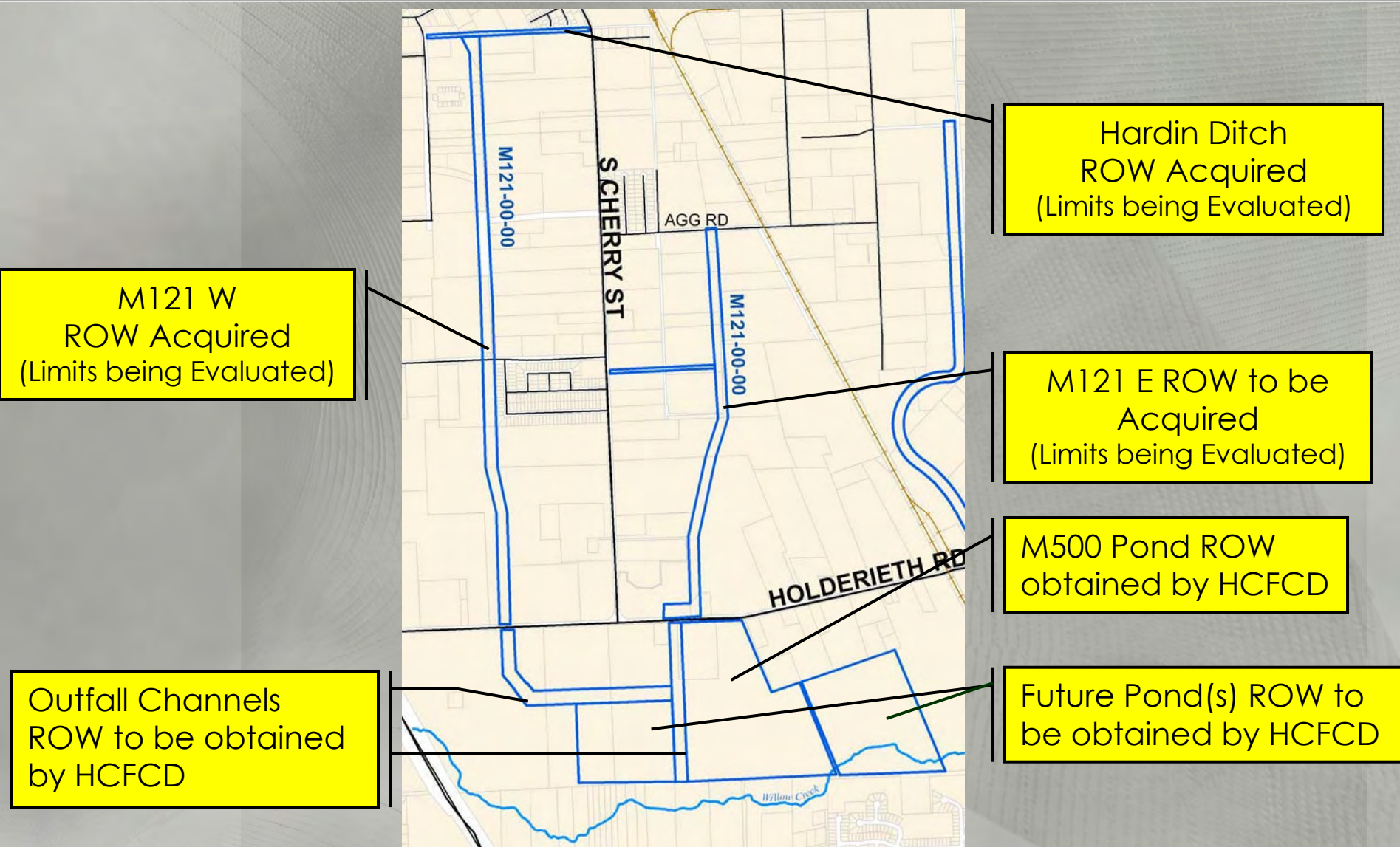
- Description: The M121 basin consists of two drainage channels, i.e. 121W & 121E, and an associated detention pond, serving a central area of Tomball. Project to alleviate conditions that cause localized flooding and eliminate on-site detention.
- M121 West

<u>FY 2010 Budget:</u> \$1.27M	<u>FY 2011 Budget:</u> \$1.432M
<u>FY 2012 Budget:</u> \$8.7M	
- M121 East

<u>FY 2010 Budget:</u> \$300K	<u>FY 2011 Budget:</u> \$580K
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- Progress: A portion of the M121 East channel was constructed by a Private Developer (Hometowne at Tomball). Portions of the M121 West channel have been constructed by various Private Developers. Major portion of the M500 pond excavated by HCFCFCD is nearing completion. A portion of M121 East ROW was obtained through the development of Hometowne at Tomball. Additional ROW north of the development will have to be acquired. ROW required for outfall channels south of Holderrieth. All of the M121 West ROW north of Holderrieth has been obtained. ROW south of Holderrieth has to be acquired.

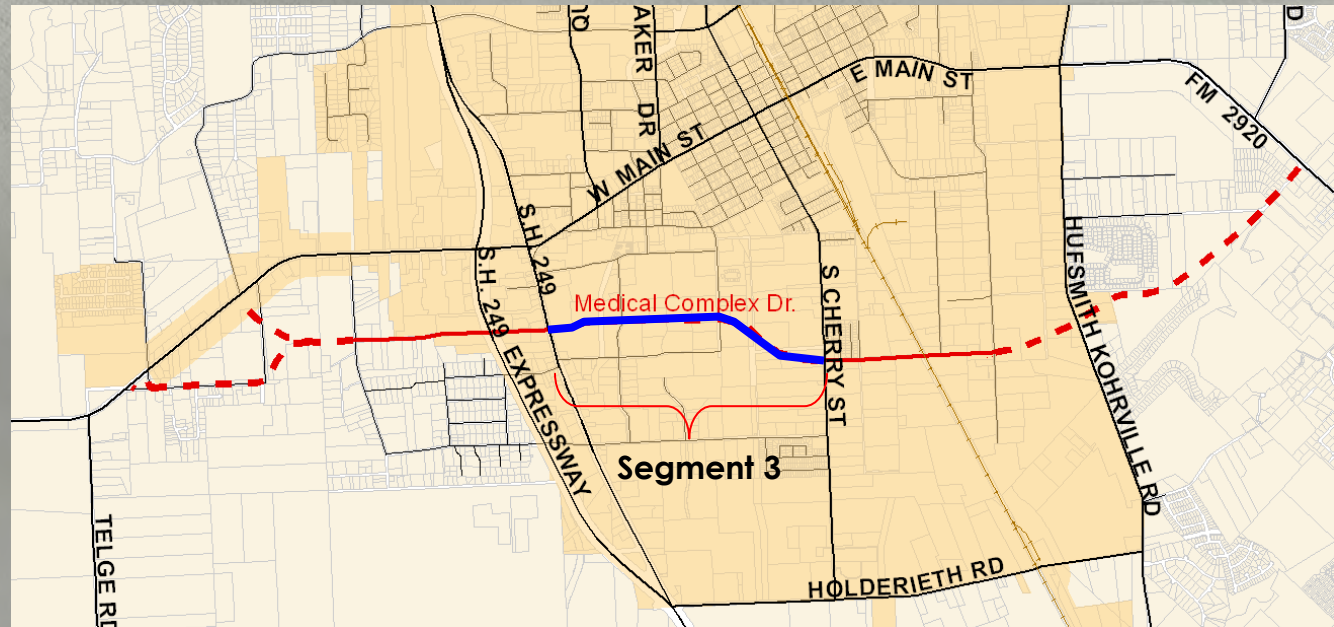
A contract was executed on September 30, 2008 with a Consultant to prepare the PER on the balance of the channels. The PER will establish the alignment south of Holdderrieth for M121 West, the alignment north of Hometowne at Tomball for M121 East, the detention requirements, and the construction cost estimate. The PER was completed on November 6, 2009 with a cost estimate of \$12.9M. A contract with a consultant is being negotiated to complete the final design of M121 West. Design contract is on hold until funding is made available.

M121 East & West Drainage Channel



Medical Complex Dr. Extension

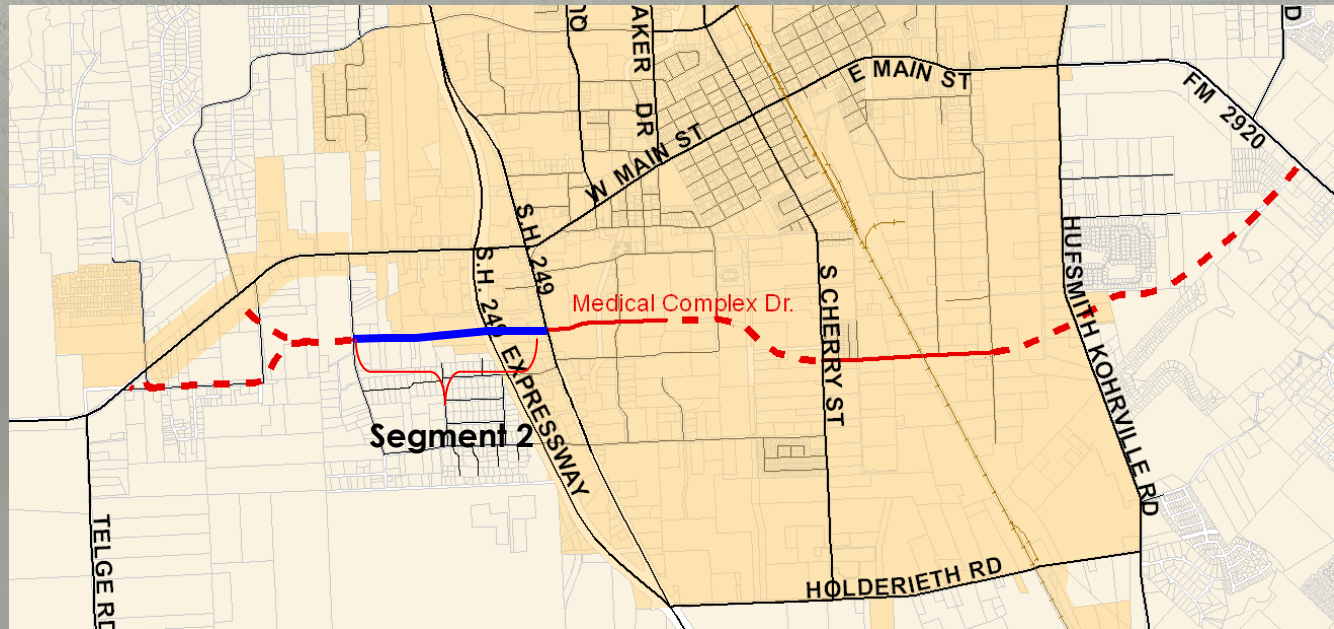
SEGMENT 3



- Description: Segment 3 of the proposed Medical Complex Corridor commences at SH 249 Business and continues easterly to South Cherry St. Medical Complex Corridor is depicted on the COT's Major Thoroughfare Plan as a major east-west connector to FM 2920 (east & west of Tomball).
- FY 2010 Budget: \$1.9M FY 2012 Budget: \$3.7M FY 2013 Budget: \$1.1M
- Progress: The Preliminary Engineering Report (PER) was accepted by City Council July 6, 2009 with a cost estimate of \$4.6M for Segment 3. The PER established the corridor, set alignment, construction cost estimate, and ROW acquisition required. Design contract is on hold until funding is made available.

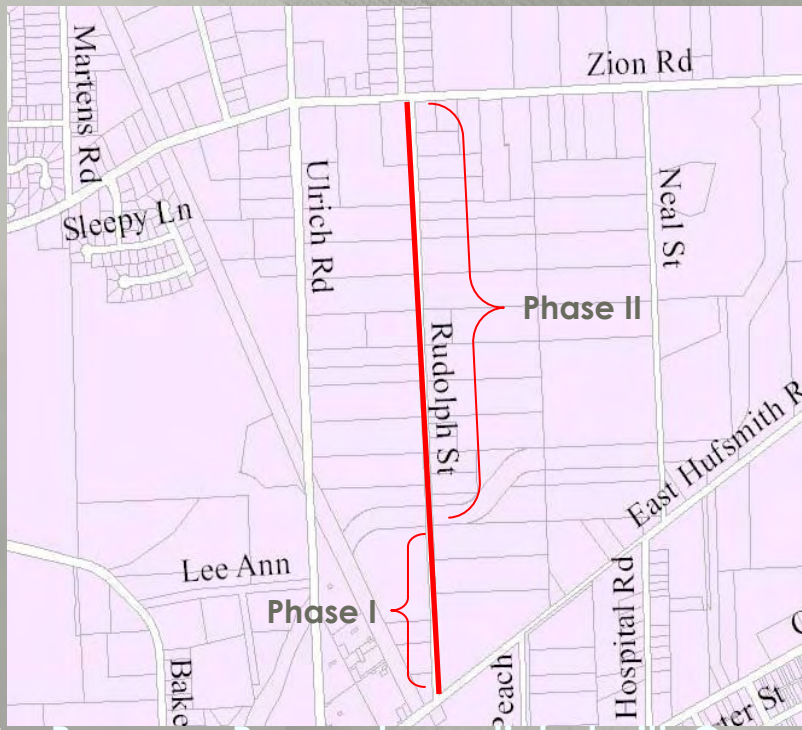
Medical Complex Dr. Extension

SEGMENT 2



- Description: Segment 2 of the proposed Medical Complex Corridor commences at Calvert Rd and continues easterly to SH 249 Business. Medical Complex Corridor is depicted on the COT's Major Thoroughfare Plan as a major east-west connector to FM 2920 (east & west of Tomball).
- FY 09-10 Budget: Land - \$950K
- Progress: The Preliminary Engineering Report (PER) was accepted by City Council July 6, 2009 with a cost estimate of \$9.8M for Segment 2. The PER established the corridor, set alignment, construction cost estimate, and ROW acquisition required. Land acquisition is on hold until funding is made available.

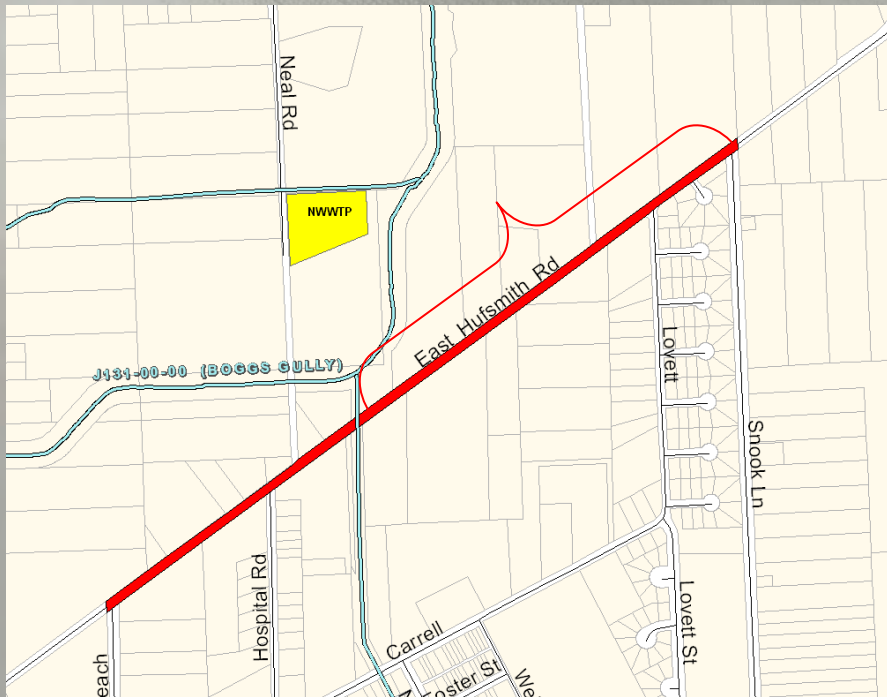
Rudolph Road & Utilities (Phase I)



- Description: The Rudolph Rd. Utilities improvements project includes land acquisition and providing street and utility improvements to current standards as a collector street. The majority of the street is substandard with limited to no utilities within a 30' ROW.
- FY 2010 Budget: \$2.2M

● Progress: Proposal negotiated with Consultant for PER for Rudolph (both Phases). A Professional Services contract was executed in 12/07 to perform the necessary surveying and prepare the individual metes and bounds descriptions for utility easements and ROW dedications. All Phase I parcels have been acquired. The PER was completed February 2, 2010 with Phase I cost estimate of \$1.642M. Based on the approved PER, the Consultant will perform the final design of Phase I. An agreement was executed between COT and TEDC for \$300K to aid in the construction of Phase I. Additionally, an agreement between the COT and a developer was executed under which the developer has agreed to contribute \$30K for the construction of Phase I. Phase I design scheduled for completion June 2010. Anticipated construction letting date of August 2010. Construction is on hold until funding is made available.

Hufsmith Sewer Improvements



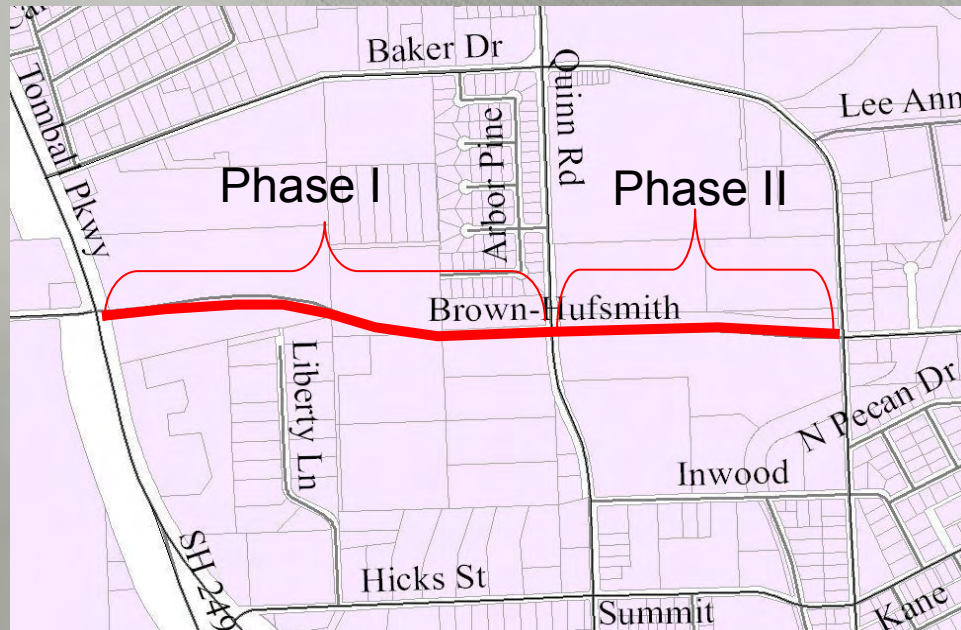
- Description: Provides sanitary sewer improvements along East Hufsmith from J-131 to Snook.

- FY 2010 Budget: \$409K

- FY 2012 Budget: \$880K

- Progress: The project was to be a joint effort with Developer (TIRZ). City is responsible for easement preparation and acquisition. Metes and bounds have been completed. Consultant completed appraisals by August 2009 for seven (7) parcels on the north side of East Hufsmith. City has acquired 2 of 7 parcels. Developer to provide design plans (preliminary plans were previously submitted and comments delivered in November 2007). This project is Developer driven and associated with TIRZ. No progress has been noted by Developer.

Brown Road Extension

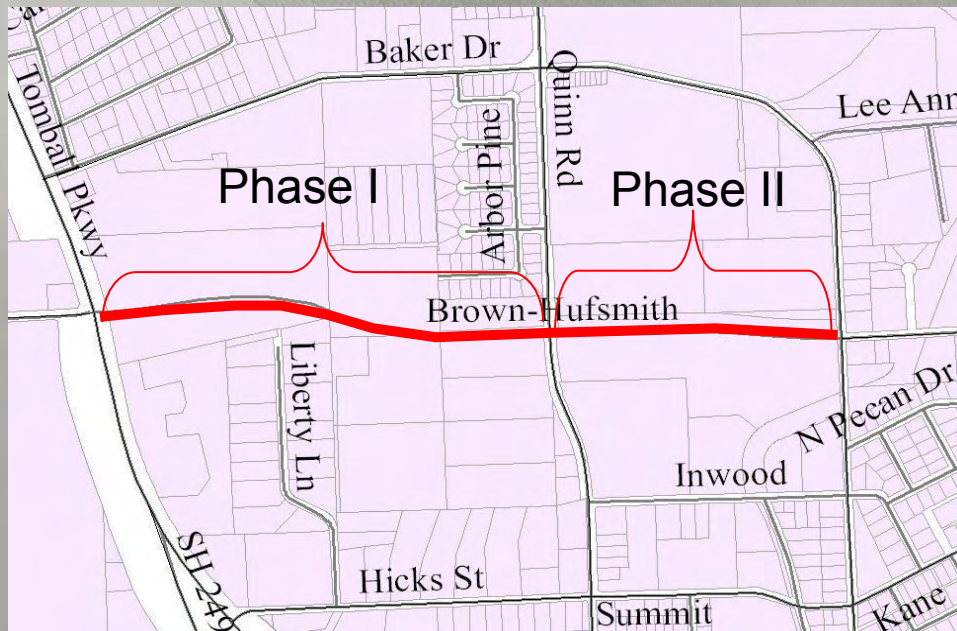


- Description: Brown Road extension includes street improvements from SH 249 to Baker. Phase I includes from SH 249 to Quinn, and Phase II includes from Quinn to Baker. Phase I is a joint project with TxDOT. Phase II will provide the City's major east-west corridor on the north side of FM 2920.
- FY 2010 Budget: \$1.0M
- FY 2011 Budget: \$1.2M

- Progress: Phase I was let by TxDOT on December 4, 2007 and awarded to Hassell Construction in the amount of \$1,833,442.16. Notice to proceed issued March 10, 2008, with an 84-working day schedule. In reference to construction costs, City has paid TxDOT \$1,086,890.87. Phase I was completed in November 2008 with the exception of the final traffic signal to be installed at SH 249 and the pipe runners at M124. The pipe runners have been installed. TxDOT installation of the traffic signal was completed December 2009.

Phase II design proposal, including utilities, was approved by City Council on April 20, 2009 for \$200,054.00. An additional service contract for \$32,171, was approved on June 25, 2009, for offsite detention design and analysis. The contract term is 180 calendar days. Design is 95% complete. ROW and detention pond property to be acquired.

Brown Road Utilities



- Description: Provides utility improvements along Brown Road, including water, sewer and gas. Phase I includes constructing 12" water, 10" sanitary and 4" gas. In addition, sidewalks and utility improvements along Quinn from Inwood to the north side of Brown Road were included.

- Budget: \$0 (Phase II) Included in Brown Road Extension
- Progress: Phase I improvements were let under a Developer Agreement with CCG and TEDC. The City has paid its share of the project (As part of the 380 agreement with CCG, \$471K for utilities & \$400K for ROW. Also paid \$169K for utility upgrades and sidewalks on Quinn.) Phase I was completed March 2008. Phase II is included in Brown Road Extension Contract.

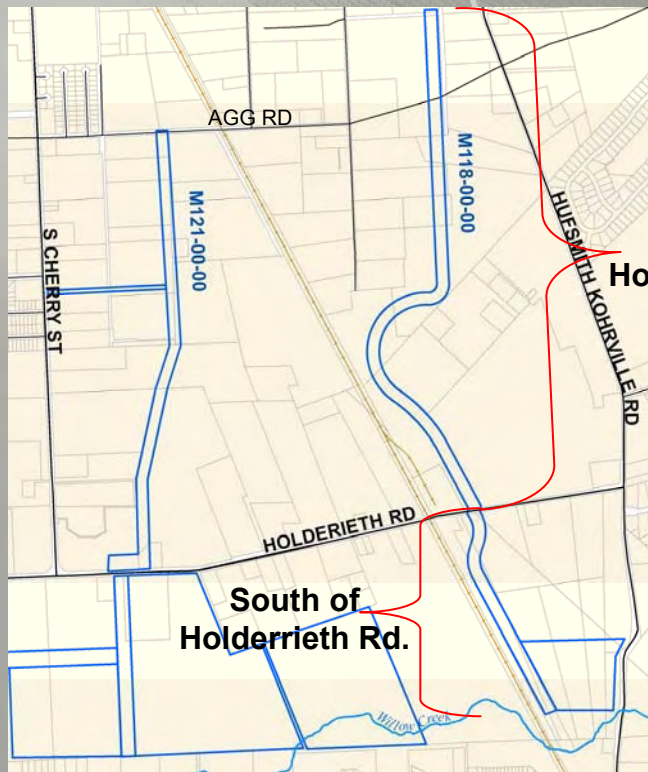
Hufsmith Water & Gas Improvements



- Description: The Hufsmith water and gas improvements include 12" water line and 4" gas lines from Rudolph to Snook.
- FY 2010 Budget: \$303K
(rolled over from previous budgets)
- FY 2011 Budget: \$590K
(Land Acquisition)

- Progress: A contract was executed with a Consultant to complete the final design and develop the metes and bounds descriptions for easement acquisition. The project design is expected to be completed by May 2010. E&P recognizes this project as a critical needs project. The Engineer's opinion of cost is \$840K. There are an estimated 18 easements to be acquired. Design is 95% complete. Consultant completed metes and bounds for 19 easements and 27 ROW acquisition by January 2010. A contract for land acquisition services and appraisals was approved by council April 5, 2010.

M118 Drainage & Detention Basin (South of Holderrieth Rd)



North of
Holderrieth Rd.

South of
Holderrieth Rd.

- Description: The M118 drainage basin occupies the southeasterly area of Tomball, south of the M116 basin, east of the railroad tracks, west of Hufsmith-Kohrville, to Willow Creek. Project to provide relief drainage system and reduce or eliminate on-site detention.

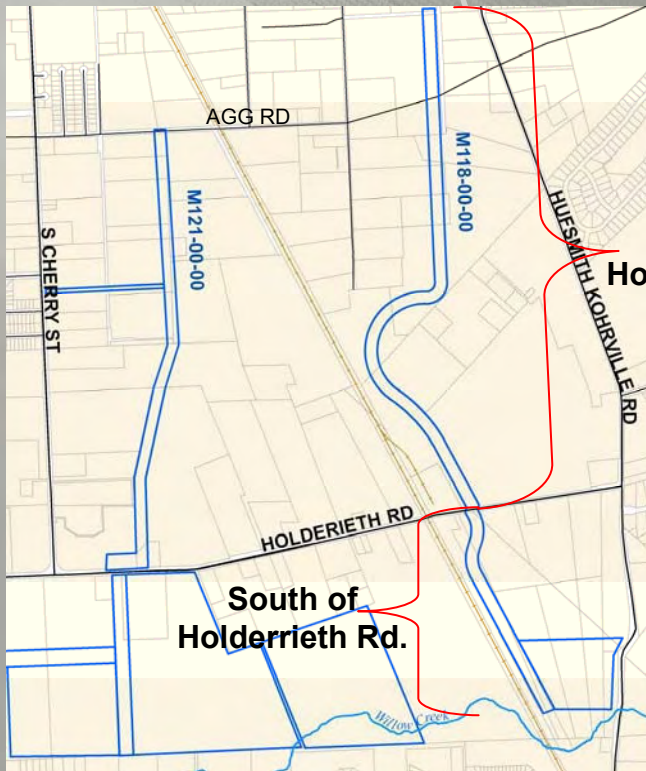
- FY 2010 Budget: \$3.7M

Progress: The M118-00-00 Channel Outfall Project from Willow Creek north 365' includes 300 LF of drainage channel and the detention outfall improvements for Ditch M118-00-00 to Willow Creek. It also includes 180 LF of 36" pipe connecting the partially complete M118 Pond to the drainage channel. This construction project was completed January 2009 for \$210K.

A contract was executed on September 30, 2008 with a Consultant to prepare the PER on the balance of channel & pond. A significant portion of pond has been excavated in prior years. All ROW has been acquired south of Holderrieth. No ROW has been acquired north of Holderrieth Rd.

The PER established alignment, construction cost estimate, and ROW acquisition required. The PER was completed November 6, 2009 with a cost estimate of \$8.1M for the entire project. Design contract on hold until funding is made available.

M118 Drainage & Detention Basin (North of Holderrieth Rd)



- **Description:** The M118 drainage basin occupies the southeasterly area of Tomball, south of the M116 basin, east of the railroad tracks, west of Hufsmith-Kohrville, to Willow Creek. Project to provide relief drainage system and reduce or eliminate on-site detention.

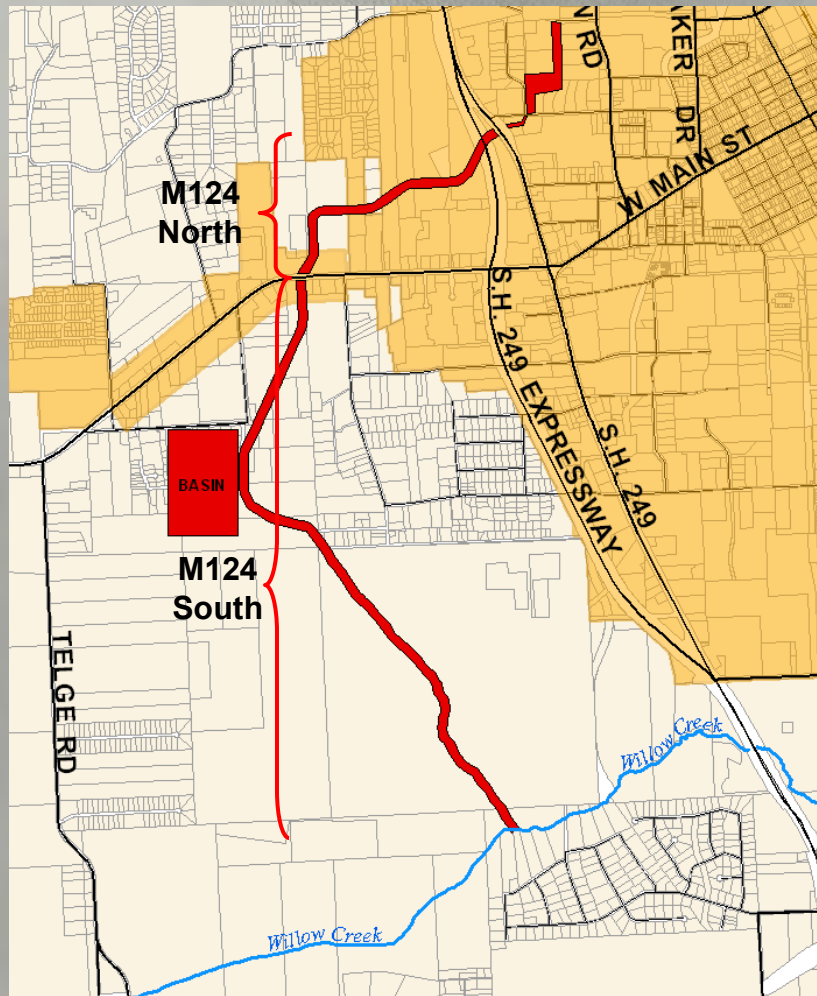
- **FY 2011 Budget:** \$1.2M

Progress: The M118-00-00 Channel Outfall Project from Willow Creek north 365' includes 300 LF of drainage channel and the detention outfall improvements for Ditch M118-00-00 to Willow Creek. It also includes 180 LF of 36" pipe connecting the partially complete M118 Pond to the drainage channel. This construction project was completed January 2009 for \$210K.

A contract was executed on September 30, 2008 with a Consultant to prepare the PER on the balance of channel & pond. A significant portion of pond has been excavated in prior years. All ROW has been acquired south of Holderrieth. No ROW has been acquired north of Holderrieth Rd.

The PER established alignment, construction cost estimate, and ROW acquisition required. The PER was completed November 6, 2009 with a cost estimate of \$8.1M for the entire project. 12 parcels need to be acquired north of Holderrieth Rd. Design contract on hold until funding is made available.

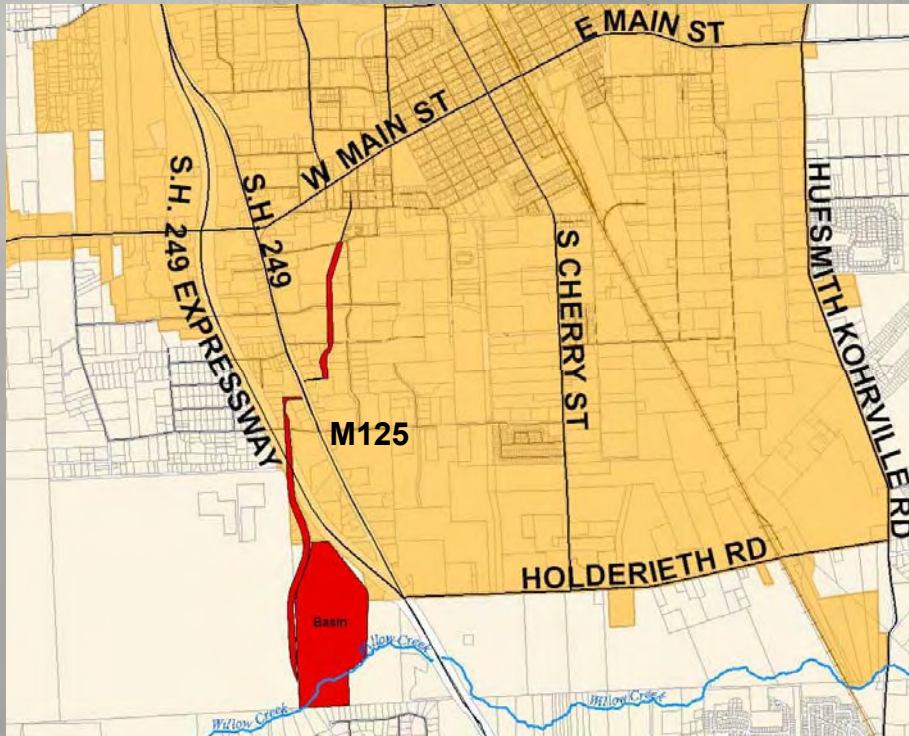
M124 Channel



- **Description:** The M124 basin occupies a major portion of the westerly area of Tomball, outfalling to Willow Creek. Project to mitigate channel and loss of existing floodplain storage. The project has been divided into M124 North, described as area north of FM 2920 to SH 249, and M124 South, described as area south of FM 2920.
- **FY 2010 Budget:** \$1.6M
- **FY 2011 Budget:** \$1.0M
- **FY 2012 Budget:** \$1.2M
- **Progress:** The PER with alternative analysis and recommendations was approved November 5, 2008. Additional funding was approved by City Council to establish alignment and channel cross-section to be completed in 270 calendar days. The additional services include preliminary survey, geotechnical report, project scheduling, phasing, cost estimates, preliminary plan & profile drawings, and project management and coordination. No ROW has been acquired. The final design contract will have to be negotiated with the consultant and ROW acquired for 67 acre detention pond and is on hold until funding is made available.

On-Going Project Status

Barbara St. Drainage (M125)



- Description: M-125 channel improvements between Barbara Street and Willow Creek. Joint participation with Harris County and Harris County Flood Control.
- FY 2010 Budget: \$400K (rolled over from previous budgets)

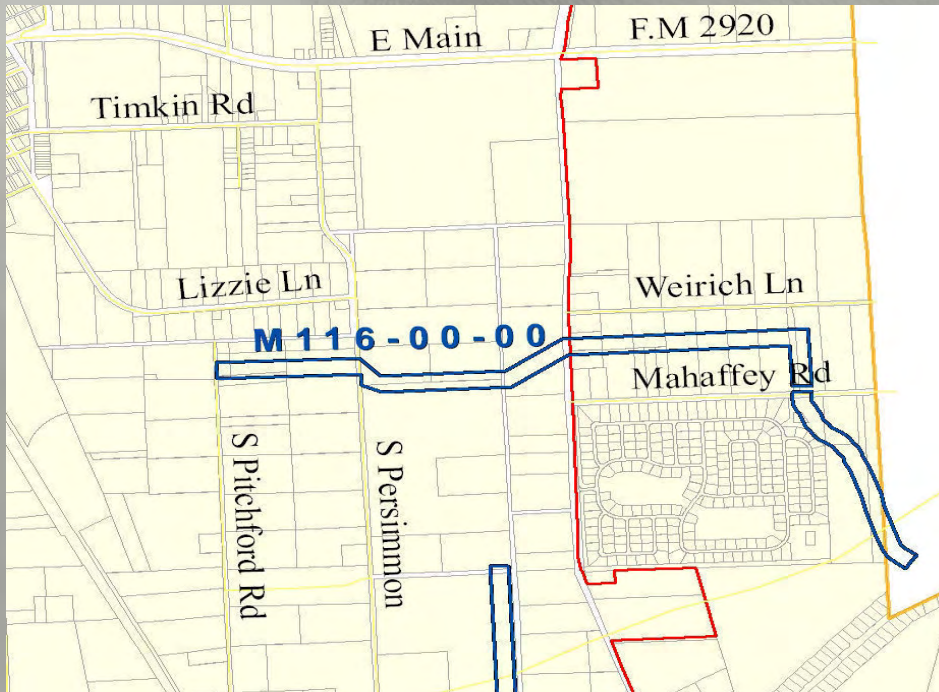
- Progress: A revised joint interlocal agreement has been executed by COT and HCFCFCD/HC February 19, 2008. HCFCFCD let the project in June 2009 with a contract term is 250 working days for \$4,031,977.00. City's revised cost participation is \$765K. The City has paid \$369K, and still owes \$396K.

Comprehensive Plan



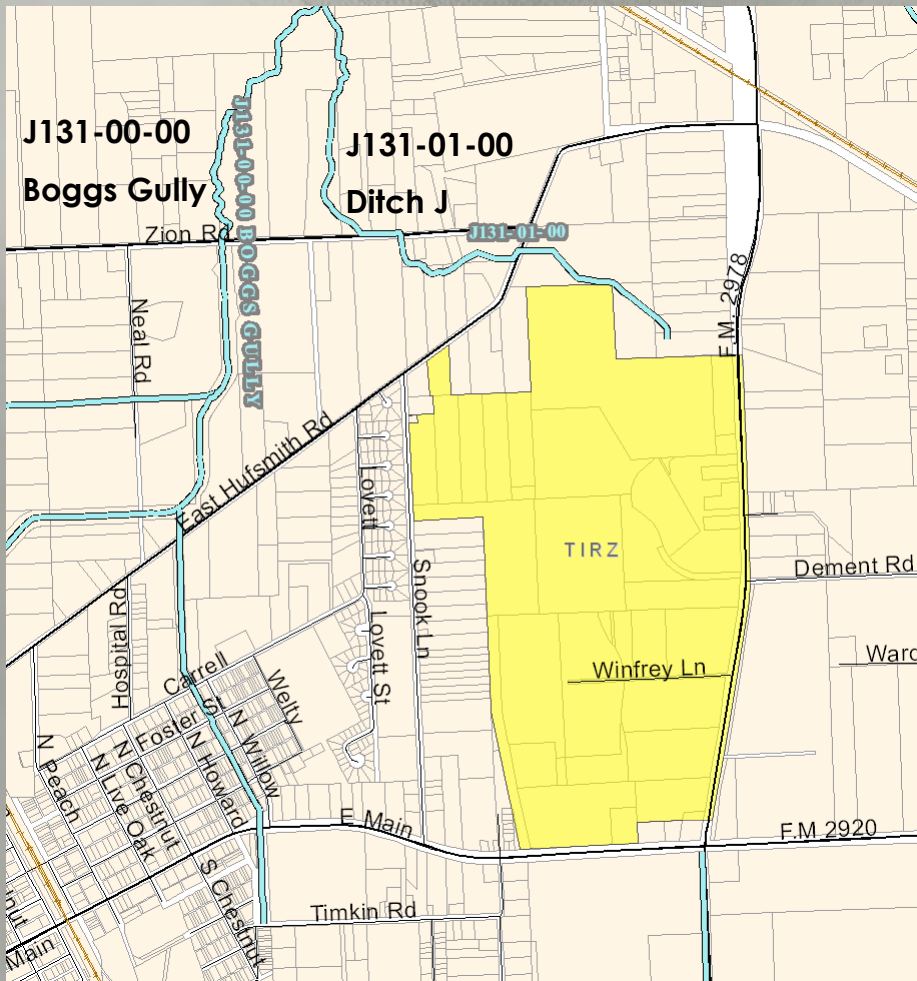
- **Description:** Develop a long-range plan to be utilized as a policy guide for the future growth and development of Tomball. The Plan will address land use, transportation, infrastructure, open space, etc. and develop goals, objectives and criteria for growth.
- **FY 2010 Budget:** \$1.4K (rolled over from previous budgets)
- **Progress:** Project consultant retained 10/20/08. Project initiation and framework assessment has been completed. Visioning Process began in January 2009. The plan was adopted December 7, 2009. For additional information visit the website, <http://www.plantomball.com/index.html>.

M116 Drainage Channel



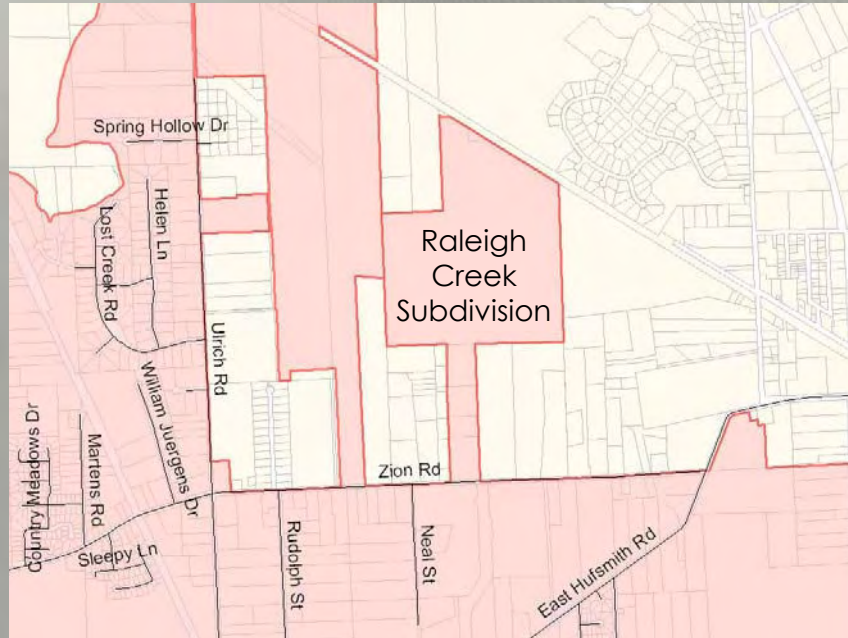
- Description: The M116-00-00 basin generally occupies an easterly section of Tomball and an area south of FM 2920, east of the Railroad tracks and north of M118 basin. Project to provide recommendations for channel improvements that may reduce/eliminate the need for on-site detention.
- FY 10-14 Budget: No funds have been allocated
- Progress: None

J131-01-00 Drainage Channel



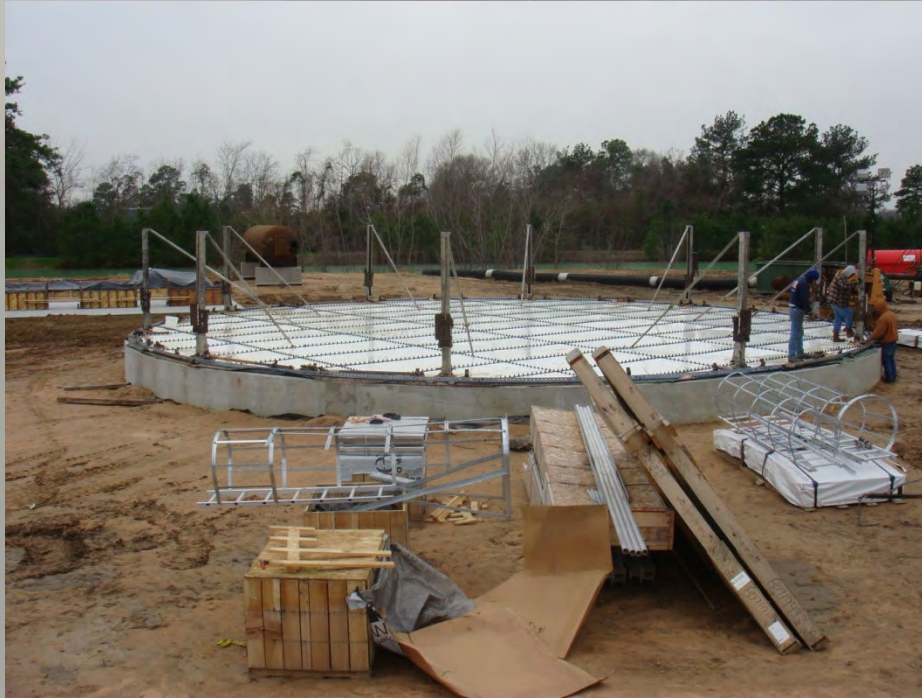
- Description: Project provides the design recommendations for J131-01-00 (Ditch J) from Winfrey Lane to Boggs Gully (8,000'+) to alleviate conditions that create localized flooding.
- FY 10-14 Budget: No funds have been allocated
- Progress: None

Neal Street Utilities



- Description: Neal St. Utilities improvements include water and sewer extensions to service the future Raleigh Creek Subdivision. A waterline is to be extended along Zion Rd. A larger sanitary sewer line will be extended from the NWTP, along Neal St. and Zion Rd. to the proposed Raleigh Creek Subdivision. ROW and easements need to be acquired on Neal St. and Zion Rd.
- FY 2010: \$45K (rolled over from previous budgets)
- FY 10-14 Budget: No funds have been allocated
- Progress: A preliminary progress meeting occurred with the Developer's Consultant on 11/07. A timeline schedule for design completion has been requested. The project is Developer driven and funded. The engineer of record opinion of cost for utility extension is \$610K. In addition the utility extension will require 8 easements appraisal and acquisition, bringing the estimated project cost to \$968,405.24. The developer has not moved forward with this project.

Water Well #5 & #6



- Description: City of Tomball needs to secure additional public water supply and distribution capacity. The City's 2002-12 Infrastructure Master Plan identifies providing a large capacity water source prior to 2012, to satisfy TCEQ's minimum water system capacity requirements for the projected population growth.
- FY 2010 Budget: \$0 (Accounting Department to utilize carry over and cash available funding)
- Progress: PER was completed 02/08. A 2.952 acre site appraisal was completed and the site acquired, along with a 10' wide water line easement, and a 20' wide utility easement. Final design was completed March 2009. Notice to Proceed was issued June 29, 2009. Project was bid and awarded to Schier Construction Co., Inc. for \$3,150,600, with a timeline of 306 calendar days. The current contract is for \$3,877,175, due to change orders. (Added Water Well #6.)

Council Approved CIP Projects (FY11-15)

- Tomball Hills Lift Station
- Master Drainage Plan
- 3 Downtown Parking Lots

Regular City Council

Agenda Item

Meeting Date: November 1, 2010

Data Sheet

Topic:

Adopt on Second Reading, Ordinance No. 2010-23, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 0.3436 acres of land, legally described as Tracts 16D-1 and 16D-2 out of the Joseph House Survey, Abstract 34, within the City of Tomball, Harris County, Texas, from the O-Office District to the SF-20-E Single-Family Estate Residential-20 District; said Property being generally located on the westerly side of Quinn Road, northerly of Zion Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an Amount Not to Exceed \$2,000 for each Day of Violation of any Provision Hereof, Making Findings of Fact; and Providing for other Related Matters.

Background:

On September 1, 2010, the Engineering & Planning Department received a rezoning application to rezone approximately 0.3436 acres of land located at 30507 Quinn Road, on the westerly side of Quinn Road, northerly of Zion Road, from the O-Office District to the SF-20-E District.

The applicant requests the rezoning to bring the property's zoning classification in line with the single-family residential use already established on the site and to facilitate the construction of a 20' x 20' detached residential garage.

The uses in the general vicinity of the site are primarily residential and institutional (school facilities) in nature with the exception of an insurance office located to the south of the subject property, at the intersection of Quinn Road and Zion Road, within the O-Office District.

The proposed rezoning to the SF-20-E District is generally consistent with the "Rural Residential" Comprehensive Plan land use designation shown on the Future Land Use Plan Map.

On October 11, 2010, the Planning and Zoning Commission, after conducting a public hearing on the request, voted unanimously to recommend approval of ZONING CASE P10-273, as recommended by staff. On October 18, 2010, Council adopted Ordinance No. 2010-23 on first reading.

Origination:

WDL Lumber, on behalf of William and Jean Adams

Recommendation:

In its formal recommendation to City Council, the Planning and Zoning Commission voted unanimously to recommend approval of Zoning Case P10-273 based on the following: a. The proposed zoning of SF-20-E District is compatible with the existing and intended future land uses in the vicinity. b. The proposed zoning of SF-20-E District is generally consistent with the Tomball Comprehensive Plan. c. The proposed zoning of SF-20-E District will not negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area. d. There is sufficient utility capacity to service residential uses on this site.

Funding: No

Funds will be transferred from Account: to Account:

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

Kelly Violette, City Planner

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

ATTACHMENTS:

- Ordinance No. 2010-23 - Zoning Case P10-273
- P10-273 Staff Report
- Notice of Public Hearing
- Notification of Adjacent Property Owners

ORDINANCE NO. 2010-23

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 0.3436 ACRES OF LAND, LEGALLY DESCRIBED AS TRACTS 16D-1 AND 16D-2 OUT OF THE JOSEPH HOUSE SURVEY, ABSTRACT 34, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE O-OFFICE DISTRICT TO THE SF-20-E SINGLE-FAMILY ESTATE RESIDENTIAL-20 DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED ON THE WESTERLY SIDE OF QUINN ROAD, NORTHERLY OF ZION ROAD; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS

* * * * *

Whereas, the owner(s) of 0.3436 acres of land, legally described as Tracts 16D-1 and 16D-2 out of the Joseph House Survey, Abstract 34, generally located on the westerly side of Quinn Road, northerly of Zion Road, in the City of Tomball, Harris County, Texas, (the "Property"), have requested that the Property be rezoned; and

Whereas, at least eight (8) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days written notice of that hearing to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to change the zoning for the Property from O-Office District to the SF-20-E Single-Family Estate Residential-20 District; and

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

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

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing on the proposal to change the zoning district classification for the Property from O-Office District to the SF-20-E Single-Family Estate Residential-20 District, the City Council held the public hearing on the proposal to change the zoning for the Property and the City Council considered the final report of the Planning & Zoning Commission regarding the change of zoning district classification, and,

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

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

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

Section 2. The zoning classification of 0.3436 acres of land, legally described as Tracts 16D-1 and 16D-2 out of the Joseph House Survey, Abstract 34, within the City of Tomball, Harris County, Texas, (the "Property"), is hereby changed from the O-Office District to the SF-20-E Single-Family Estate Residential-20 District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas-Ordinance 2008-01, ("Zoning District Map"), shall be revised and amended to show the designation of 0.3436 acres of land, legally described as Tracts 16D-1 and 16D-2 out of the Joseph House Survey, Abstract 34, generally located on the westerly side of Quinn Road, northerly of Zion Road, as SF-20-E Single-Family Estate Residential-20 District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for 0.3436 acres of land, legally described as Tracts 16D-1 and 16D-2 out of the Joseph House Survey, Abstract 34, generally located on the westerly side of Quinn Road, northerly of Zion Road, to SF-20-E Single-Family Estate Residential-20 District as described above.

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

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

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 18TH DAY OF OCTOBER 2010.

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

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 1ST DAY OF NOVEMBER 2010.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Rezoning Staff Report

Planning and Zoning Commission Hearing Date: October 11, 2010

Rezoning Case: P10-273
Property Owner(s): William and Jean Adams
Applicant(s): WDL Lumber
Legal Description: Tracts 16D-1 and 16D-2 out of the Joseph House Survey, Abstract 34, within the City of Tomball, Harris County, Texas
Location: 30507 Quinn Road (Generally located on the westerly side of Quinn Road, northerly of Zion Road)
Area: 0.3436 acres
Present Zoning and Use: O-Office District / Single-family residence
Comp Plan Designation: Rural Residential
Proposed Zoning and Use: Single-Family Estate Residential-20 District / Residential

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

Adjacent Zoning & Land Uses:

North: SF-20-E Single-Family Estate Residential-20 District / Single-family residences
South: O-Office District / Insurance office and single-family residence
East: SF-20-E Single-Family Estate Residential-20 District / Single-family residences
West: O-Office and SF-20-E Single-Family Estate Residential-20 Districts / Single-family residence and TISD natatorium

BACKGROUND

The subject site is legally described as Tracts 16D-1 and 16D-2 out of the Joseph House Survey, Abstract 34, within the City of Tomball, Harris County, Texas totaling approximately 0.3436 acres. The site's physical address 30507 Quinn Road and is generally located on the westerly side of Quinn Road, northerly of Zion Road (Exhibit ""). The property is currently developed with an approximately 1,000 square foot single-family residence, a 445 square foot wood storage building and an approximately 200 square foot accessory building (Exhibit "F").

On June 3, 2010, the Engineering & Planning Department received a site plan application for the construction of a 20' x 20' detached residential garage at the subject site. During the review of the application, City staff identified that the property was zoned O-Office District, which does not permit residential accessory buildings or structures. On June 10, 2010, the Engineering & Planning Department issued a letter to the applicant, WDL Lumber, informing them that the proposed garage could not be approved because the request constitutes an expansion of a legal nonconforming use and residential accessory buildings or structures are not a permitted use in the O-Office District (Exhibit "G"). The letter also informed the applicant that they could pursue a rezoning of the property to a zoning district classification that permitted such a use.

On August 18, 2010, City staff met with the applicant and property owners, Jean and William Adams, to discuss the steps needed to construct the proposed 20' x 20' garage addition. City staff informed the applicant that the property was zoned O-Office District on the official Zoning Map adopted February 4, 2008, and as a result the existing residential use could not be expanded unless the property was rezoned to a zoning district that permitted residential uses. Staff also informed the applicants that the properties within the vicinity of the subject site were zoned SF-20-E and if they wished to pursue a rezoning to the SF-20-E District, they would be required to meet the 25' minimum side yard setback of the SF-20-E District for the proposed garage. Because the proposed site plan showed a 3' side yard setback for the garage, staff informed the property owners that they would need to request a variance from the Board of Adjustments (BOA) to construct the garage as proposed if the site was rezoned. Additionally, staff discussed the lot area and width requirements of the SF-20-E District and indicated that the subject lots do not meet the minimum requirements as specified in Section 15.4 of the Zoning Ordinance, which requires a minimum lot area of 20,000 square feet and lot width of 100 feet. The combined lot area of the two tracts is 14,906 square feet and the lot width is 75 feet.

As a matter of information, City staff would not be supportive of the 3' side yard setback for the garage as shown on the conceptual site plan. It is staff's opinion that reducing the setback from 25' to 3' could create a negative precedence for the area. Additionally, because a finding of hardship is required by ordinance to grant a variance and a variance application has not been submitted by the applicant identifying such a hardship, staff has been unable to identify a true hardship to warrant the reduction in side yard setback from 25' to 3'. From the conceptual site plan, it appears that there is sufficient room behind the residence to construct the proposed garage without a side yard setback variance. It will be the responsibility of the property owner and/or applicant to establish the facts that may justify a variance.

On September 1, 2010, the Engineering & Planning Department received a rezoning application to rezone the subject site from the O-Office District to the SF-20-E District.

ANALYSIS

According to the Tomball Zoning Ordinance, "The SF-20-E, Single-Family Residential-20 district is intended to provide for development of primarily very low-density detached, single-family residences on lots of not less than 20,000 square feet in size, churches, schools and public parks. It is intended for large lot subdivisions and also for the more rural type residential areas that don't meet the AG district requirements but may want to have additional accessory buildings and animals."

The applicant is requesting the rezoning to bring the property's zoning classification in line with the single-family residential use already established on the site and to facilitate the construction of a 20' x 20' detached garage (Exhibit "E").

The uses in the general vicinity of the site are primarily residential and institutional (school facilities) in nature with the exception of an insurance office located to the south of the subject property, at the intersection of Quinn Road and Zion Road, within the O-Office District (Exhibit "C").

The proposed rezoning to the SF-20-E District is generally consistent with the "Rural Residential" Comprehensive Plan land use designation. The Comprehensive Plan's land use designations are intended to provide direction in determining current and future growth patterns and development intensities. The Comprehensive Plan states that the Rural Residential land use designation "includes residential developments on minimum 1 acre lots that allows up to one house per acre lot. The intent is to provide for a rural lifestyle as well as to encourage appropriate development due to environmental constraints such as waterways, floodplains, and other features." The property owners have indicated that they intend to maintain a residential use on the property; however, the site does not meet the minimum one acre lot size. Staff does not believe that the reduced lot size of the subject site will have a negative impact on the area as a whole. The corresponding zoning district that requires a minimum one acre lot size is the AG-Agricultural District; however staff would not be supportive of a rezoning to the AG-Agricultural District in this location because of the nonresidential land uses permitted by right within the AG-District that could result in land use incompatibilities in the established residential area. Although the site does not meet the minimum one acre lot size of the Future Land Use designation, a SF-20E zoning classification is most compatible with the properties in the area and provides for consistency in land uses.

Because the requested rezoning is generally consistent with the Comprehensive Plan's Future Land Use Plan Map, will aid in realizing the long-term vision of residential land uses in this area of the City, will make the zoning classification of the subject site consistent with the other residences in the vicinity, and will maximize the residential use of the property, staff is supportive of the rezoning request.

ZONING CONSIDERATIONS

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

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

The uses in the general vicinity of the site are primarily residential and institutional (school facilities) in nature. As such, the rezoning and permitted land uses in the SF-20-E District would be in keeping with the existing and intended land uses in the vicinity. Any future development/redevelopment of this site will require compliance with the City's land use and development regulations.

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

The site is currently developed with an existing single family residence; as such the proposed rezoning is not anticipated to negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area.

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

There are a limited number of undeveloped properties zoned SF-20-E District in the immediate vicinity, with most being north of the subject site near Spring Creek. However, there are a number of vacant SF-20-E lots available along Rudolph, Hicks, Agg, and South Persimmon Roads.

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

There has been limited development in the SF-20-E District city-wide and within the vicinity in the last two years.

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

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

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

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

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

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

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

The proposed rezoning to the SF-20-E District is generally consistent with the “Rural Residential” Comprehensive Plan land use designation. The Comprehensive Plan states that the Rural Residential land use designation “includes residential developments on minimum 1 acre lots that allows up to one house per acre lot. The intent is to provide for a rural lifestyle as well as to encourage appropriate development due to environmental constraints such as waterways, floodplains, and other features.” The property owners intend to maintain a residential use on the property, however, the site does not meet the minimum one acre lot size. Staff does not believe that the reduced lot size of the subject site will have a negative impact on the area as a whole. Additionally, the “Rural Density Residential Planning Guidelines” of the Comprehensive Plan provides flexibility for the Planning & Zoning Commission and City Council in determining land density by stating that, “Project density will be subject to review and recommendation by the Planning & Zoning Commission and approval by the City Council.”

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on September 30, 2010 and, as of the writing of this report, one public comment form was received from the property owners, William and Jean Adams, in support of the request (Exhibit “I”).

RECOMMENDATION

That the Planning and Zoning Commission recommend:

1. APPROVAL of Zoning Case P10-273 based on the following:
 - a. The proposed zoning of SF-20-E District will be compatible with the land uses in the vicinity.
 - b. The proposed zoning of SF-20-E District is generally compatible with the Tomball Comprehensive Plan.
 - c. The proposed zoning of SF-20-E District will not negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area.
 - d. There is sufficient utility capacity to service residential uses on this site.
2. APPROVAL of the staff report as the Planning and Zoning Commission’s final recommendation to the City Council.

EXHIBITS

- A. Location/Zoning Map
- B. Comprehensive Plan Future Land Use Map
- C. Aerial Photo
- D. Rezoning Application
- E. Rezoning Request Letter
- F. Site Plan
- G. 6-10-10 Site Plan Rejection Letter
- H. Site Photos

I. Public Comment Form(s)

Exhibit "A"
Location/Zoning Map

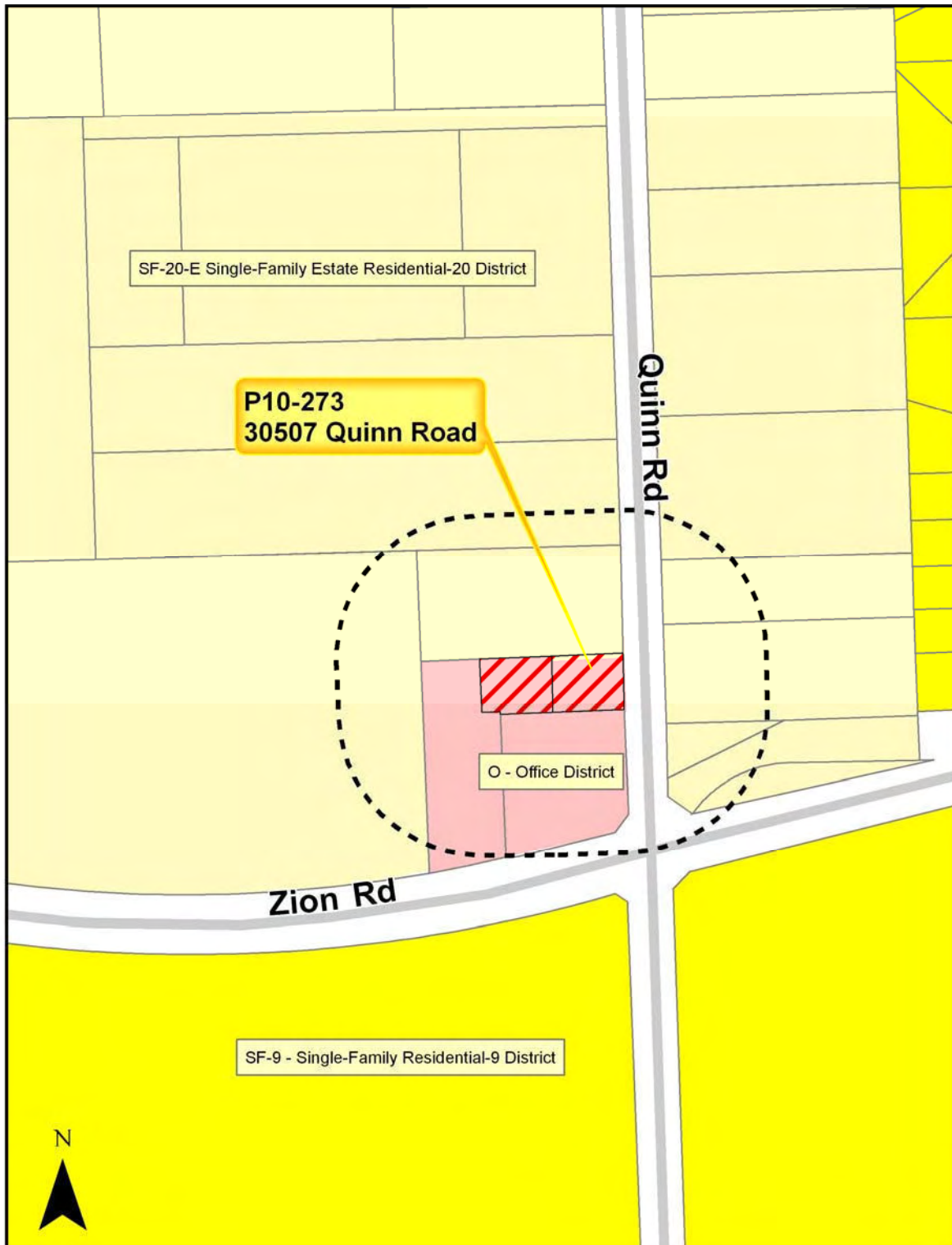


Exhibit “B”
Comprehensive Plan Future Land Use Map



Exhibit “C”
Aerial Photo

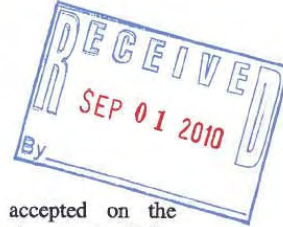


Exhibit "D"
Rezoning Application



APPLICATION FOR REZONING
Engineering & Planning Department

Revised 1/20/09



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

Applicant

Name: WDL LUMBER Title: _____
Mailing Address: 1133 MOORE RD. City: STAFFORD State: TX
Zip: 77477
Phone: (713) 728-5830 Fax: (281) 261-8927 Email: WDLUMBER@verizon.net

Owner

Name: WILLIAM + JEAN ADAMS Title: _____
Mailing Address: 31104 QUINN RD. City: TOMBALL State: TX
Zip: 77375
Phone: (281) 295-2638 Fax: () _____ Email: _____

Engineer/Surveyor (if applicable)

Name: F.G. HUFFMAN Title: LAND SURVEYOR
Mailing Address: 8302 CHESWICK DR City: HOUSTON State: TX
Zip: 77037
Phone: (281) 447-7802 Fax: (281) 847-4504 Email: FGHUFFMAN@sbcglobal.net

Description of Proposed Project: DET. RES. GARAGE, 20'x20'

Physical Location of Property: 30907 QUINN RD., TOMBALL, TX 77375
[General Location - approximate distance to nearest existing street corner]

Legal Description of Property: ABST. 34 JOSEPH HOUSE SURVEY, TR 16D-1
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block] 16D-2

Current Zoning District: OFFICE DISTRICT

Current Use of Property: RESIDENTIAL

Proposed Zoning District: RESIDENTIAL SF 20

Proposed Use of Property: RESIDENTIAL SF 20

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

www.ci.tomball.tx.us

HCAD Identification Number: 0402700010341 Acreage: 0.3436
0402700010445

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

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

X  8-31-2010
Signature of Applicant Date

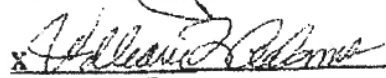
X  Jean Adams 8-31-2010
Signature of Owner Date

Exhibit "E"
Rezoning Request Letter

Aug 31 10:02:52p

Jean Adams

281-255-2638

p.1

P. 1

William & Jean Adams
31104 Quinn Road
Tomball, TX 77375

City of Tomball
501 James Street
Tomball, TX 77375

August 30, 2010

30507 Quinn Road, Tomball, TX 77375
Application for REZONING

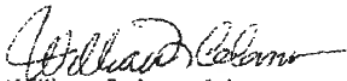
We herewith request our property to be rezoned back to RESIDENTIAL status.

This property is currently zoned "office" even though there is no business at 30507 Quinn Road.

In order to proceed with our plans for a residential, detached garage we need to have residential status restored as soon as possible.

Thank you for your support.

Sincerely,

 8/31/10
William & Jean Adams

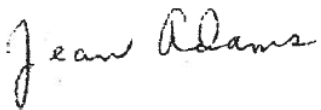
 8-31-10

Exhibit "F" Site Plan

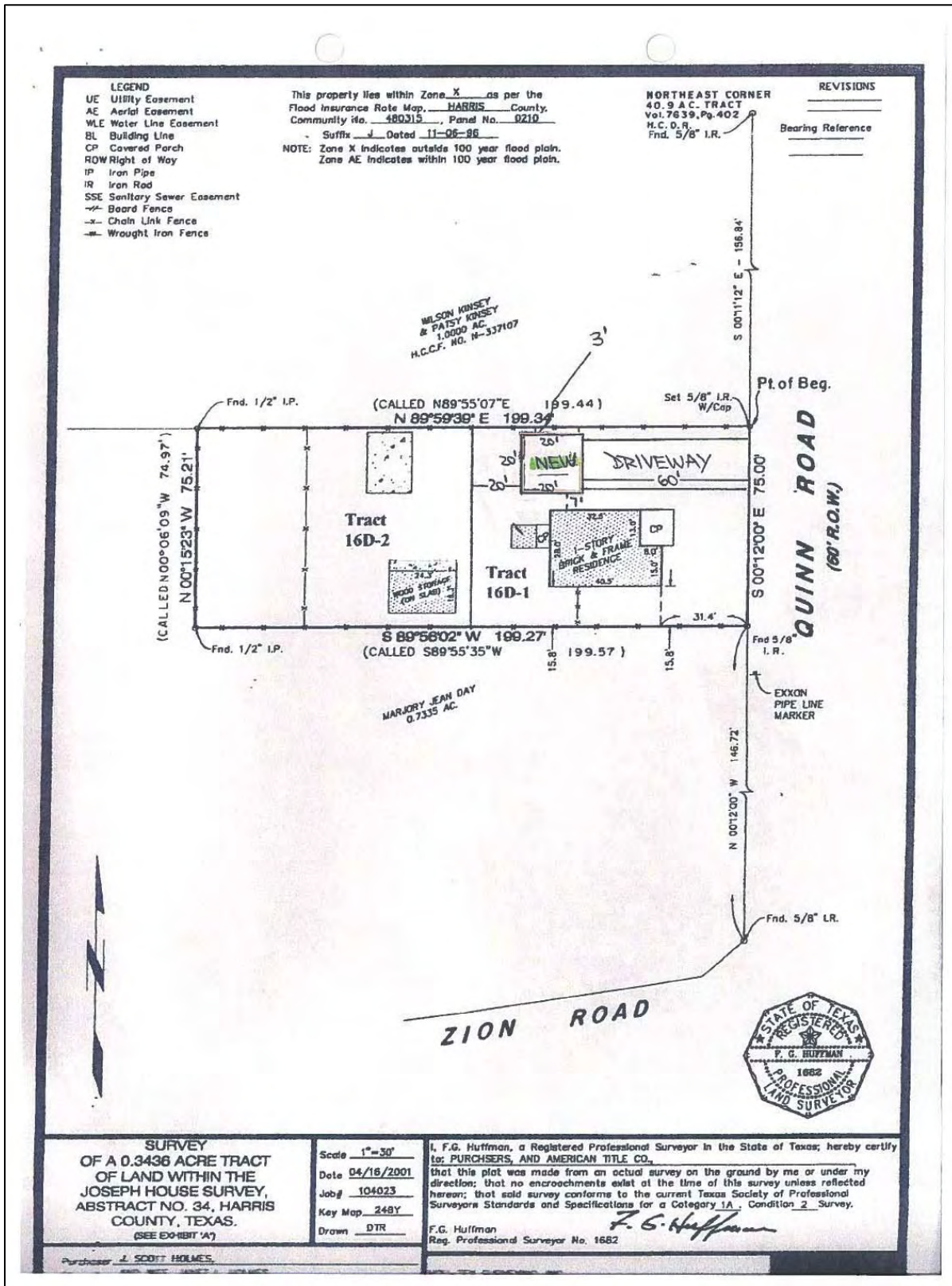




Exhibit "G"
6-10-10 Site Plan Rejection Letter



City of Tomball

GRETCHEN FAGAN
MAYOR

June 10, 2010

WDL Lumber
1133 Moore Rd.
Stafford, TX 77477

**RE: Planning Case P10-252: Residential Detached 20' x 20' Garage (30507 Quinn Road)
Site Plan Rejection Letter**

WDL Lumber:

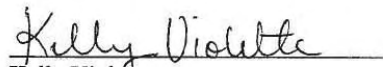
The Engineering & Planning Department has reviewed the site plan application related to the proposed residential detached 20' x 20' garage located at the above referenced address. At this time, we are rejecting the request for site plan approval.

The above referenced property is located in the City's O-Office zoning district which was established to create an appropriate setting for low intensity office and professional uses. Per Section 38 of the Zoning Ordinance, single-family residential uses are not permitted in the Office District. Because the existing residential use of the property was established before the passage of the Zoning Ordinance in February 2008, it is considered a "legal nonconforming use." The Zoning Ordinance states that "Any lawful use of property existing at the time of passage of this Ordinance that does not conform to the regulations prescribed in the preceding sections of this Ordinance shall be deemed a legal nonconforming use."

Because the residential use is considered legally nonconforming, it would not be permitted to expand and the proposed 20' x 20' garage would not be allowed. An option you may consider is to rezone the property to a residential district which would permit this type of use. I've attached a copy of the rezoning application if you wish to pursue this.

If you have any questions, feel free to contact me at 281-290-1491.

Thank you,


Kelly Violette
City Planner

Attached: Rezoning application

401 MARKET STREET • TOMBALL, TEXAS 77375 • 281-351-5484

**Exhibit “H”
Site Photos**



Figure 1: Westerly view of subject site.



Figure 2: Northerly view up Quinn Road from subject site. Subject site on left. Single-family residences on left and right side.



Figure 3: Single-family residence to the north of subject site.



Figure 4: Single-family residence to the east of subject site.



Figure 5: Southerly view down Quinn Road from subject site. Subject site on right. Tomball High School on left and insurance office on right.



Figure 6: Insurance office to the south of subject site.

Exhibit "I"
Public Comment Form(s)

	Engineering and Planning Department Public Comment Form (Please type or use black ink)
---	--

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

Please return to:
City of Tomball
Department of Engineering & Planning
Attn: Kelly Violette
501 James Street
Tomball, TX 77375



Name: _____
(please print) _____
Address: _____

WILLIAM M ADAMS
JEAN ADAMS
31104 QUINN RD
TOMBALL, TX 77375

Signature: William Adams Jean Adams
Date: 10-2-10

☒ I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P10-273. (Please state reasons below)**

☐ I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P10-273. (Please state reasons below)**

Date, Location & Time of **Planning & Zoning Commission** meeting:
Monday, October 11, 2010, 6:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:
Monday, October 18, 2010, 7:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS: This property should be residential + allowed
to be improved.

You may also comment via email to kviolette@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.
For questions regarding this request please call 281-290-1491.

**NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
OCTOBER 11, 2010
&
CITY COUNCIL
OCTOBER 18, 2010**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, October 11, 2010, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, October 18, 2010, at 7:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P10-273: Request by WDL Lumber, on behalf of William and Jean Adams, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 0.3436 acres of land, legally described as Tracts 16D-1 and 16D-2 out of the Joseph House Survey, Abstract 34, within the City of Tomball, Harris County, Texas, generally located on the westerly side of Quinn Road, northerly of Zion Road, from the O-Office District to the SF-20-E Single-Family Estate Residential-20 District.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact City Planner** Kelly Violette, (281) 290-1491, kviolette@ci.tomball.tx.us

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the **5th** day of **October** 2010 by **5:00** p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate

Senior Administrative Assistant

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



Notice of Public Hearing

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

CASE NUMBER: P10-273

APPLICANT: WDL Lumber, on behalf of William and Jean Adams

LOCATION: 30507 Quinn Rd., Westerly side of Quinn Road, northerly of Zion Road

PROPOSAL: Request to amend the City's Comprehensive Zoning Ordinance to rezone approximately 0.3436 acres of land, legally described as Tracts 16D-1 and 16D-2 out of the Joseph House Survey, Abstract 34, within the City of Tomball, Harris County, Texas, from the O-Office District to the SF-20-E Single-Family Estate Residential-20 District.

* * *

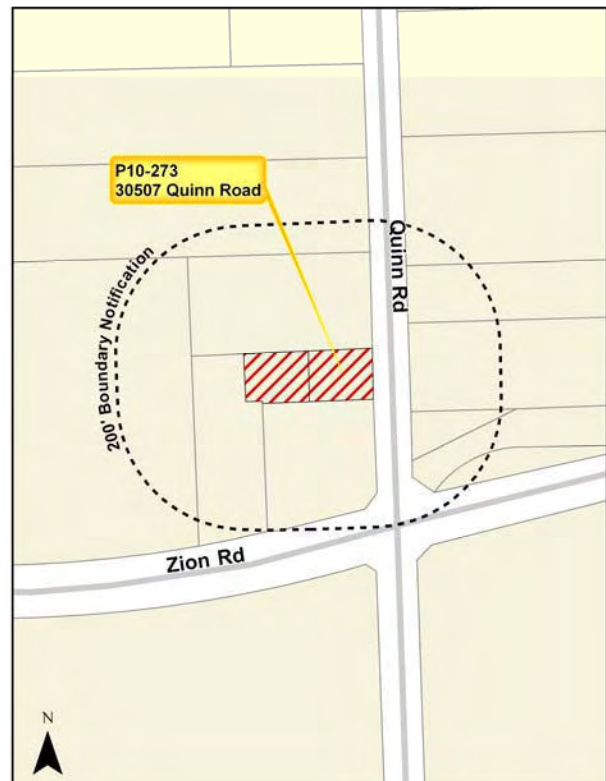
CONTACT PLANNER: Kelly Violette

PHONE: (281) 290-1491

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

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

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



**Planning and Zoning Commission
Public Hearing:
Monday, October 11, 2010, 6:00 PM**

**City Council Public Hearing:
*Monday, October 18, 2010, 7:00 PM**

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

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

Regular City Council

Agenda Item

Data Sheet

Meeting Date: November 1, 2010

Topic:

Receive Update on Proposed MS 150 Bike Ride for the Multiple Sclerosis Association, April 16 and 17, 2011

Background:

Origination:

City Manager

Recommendation:

Funding:

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

City Manager

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

Regular City Council

Agenda Item

Meeting Date: November 1, 2010

Data Sheet

Topic:

Approve Resolution No. 2010-22, a Resolution of the City of Tomball, Texas, Authorizing the City Manager, Assistant City Manager, and Director of Public Works to Negotiate with Eagle Energy Partners, I.L.P., to Fix a Set Price, for a Specific Period of Time, for the City's Future Purchases of Natural Gas; and Providing other Matters Related to the Subject

Background:

On June 19, 2006, a gas purchasing contract was executed between the City of Tomball and Eagle Energy Partners for the City's purchase of natural gas. The agreement provides that the parties may agree to price certain quantities of gas to be delivered to the City at fixed and/or "locked in" pricing for a specific period of time. Since contract execution, the City has, from time to time, opted to invoke this provision in order to obtain a fixed and/or "locked in" price. The advantage of locking in a rate for a set period of time, rather than purchasing at the "going rate", is that the City will ensure a set amount to charge our customers rather than having their price and bill fluctuate each month. While it is possible that the City could lock in a rate and then have prices fall below our contract, given recent gas pricing volatility, staff believes that it is in the City's best interest to lock in a contract price.

Origination:

Director of Public Works

Recommendation:

Funding: Yes

Account Number: 600-615-6129

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

Director of Public Works

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

ATTACHMENTS:

Resolution No. 2010-22

Base Contract

RESOLUTION NO. 2010-22

**A RESOLUTION OF THE CITY OF TOMBALL, TEXAS,
AUTHORIZING THE CITY MANAGER, ASSISTANT CITY
MANAGER, AND DIRECTOR OF PUBLIC WORKS TO
NEGOTIATE WITH EAGLE ENERGY PARTNERS, I.L.P., TO FIX
A SET PRICE, FOR A SPECIFIC PERIOD OF TIME, FOR THE
CITY'S FUTURE PURCHASES OF NATURAL GAS; AND
PROVIDING OTHER MATTERS RELATED TO THE SUBJECT.**

* * * * *

WHEREAS, on June 19, 2006, the City of Tomball, Texas (the "City"), entered into an agreement with Eagle Energy Partners, I.L.P ("Eagle Energy") for the purchase and supply of natural gas; and

WHEREAS, this agreement provides that the parties may agree to price certain quantities of natural gas to be delivered to the City at a fixed and/or "locked in" price for a specific period of time; and

WHEREAS, the City Council now desires to invoke this provision and to authorize the City Manager, Assistant City Manager and Director of Public Works to negotiate with Eagle Energy to obtain a fixed and/or "locked in" price; now, therefore;

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

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

Section 2. That the City Manager, Assistant City Manager and Director of Public Works are, and they are hereby, authorized and directed to negotiate with Eagle Energy to obtain a fixed and/or "locked in" price, for a specific period of time, for the City's future purchases of natural gas.

PASSED, APPROVED, AND RESOLVED this 1st day of November 2010.

Gretchen Fagan
Mayor

ATTEST:

Doris Speer
City Secretary

Base Contract for Sale and Purchase of Natural Gas

This Base Contract is entered into as of the following date: 6-19-2006. The parties to this Base Contract are the following:

Eagle Energy Partners I, L.P.

7904 N. Sam Houston Pkwy. W., Ste. 200, Houston, TX 77064

Duns Number: 130385763

Contract Number: _____

U.S. Federal Tax ID Number: 86-1065045

and

City of Tomball

401 Market Street, Tomball, TX 77375

Duns Number: _____

Contract Number: _____

U.S. Federal Tax ID Number: 74-6003588

Notices:

Eagle Energy Partners

Attn: Contracts

Phone: 281-781-0333 Fax: 281-781-0360

City of Tomball

Attn: City Manager

Phone: 281-290-1006 Fax: 281-351-6256

Confirmations:

Eagle Energy Partners

Attn: Gas Physical Confirmations

Phone: 281-781-0333 Fax: 281-781-0360

City of Tomball

Attn: Finance Director

Phone: 281-290-1417 Fax: 281-351-6256

Invoices and Payments:

Eagle Energy Partners

Attn: Gas Accounting

Phone: 281-781-0333 Fax: 281-781-0360

City of Tomball

Attn: Finance Director

401 Market Street, Tomball, TX 77375

Phone: 281-290-1417 Fax: 281-351-6256

Wire Transfer or ACH Numbers (if applicable):

BANK: BNP Paribas, New York Branch

ABA: 026007689

ACCT: 200-604057-001-39

Other Details: For Further Credit to Eagle Energy Partners I, L.P.

BANK: Amegy Bank

ABA: 113011258

ACCT: 0051578529

Other Details: City of Tomball - Consolidated Operation

This Base Contract incorporates by reference for all purposes the General Terms and Conditions for Sale and Purchase of Natural Gas published by the North American Energy Standards Board. The parties hereby agree to the following provisions offered in said General Terms and Conditions. In the event the parties fail to check a box, the specified default provision shall apply. Select only one box from each section:

Section 1.2 Transaction Procedure	☒ Oral (default) ☐ Written	Section 7.2 Payment Date	☒ 25 th Day of Month following Month of delivery (default) ☐ _____ Day of Month following Month of delivery
Section 2.5 Confirm Deadline	☒ 2 Business Days after receipt (default) ☐ _____ Business Days after receipt	Section 7.2 Method of Payment	☒ Wire transfer (default) ☐ Automated Clearinghouse Credit (ACH) ☐ Check
Section 2.6 Confirming Party	☒ Seller (default) ☐ Buyer ☐ Other	Section 7.7 Netting	☒ Netting applies (default) ☐ Netting does not apply
Section 3.2 Performance Obligation	☒ Cover Standard (default) ☐ Spot Price Standard	Section 10.3.1 Early Termination Damages	☒ Early Termination Damages Apply (default) ☐ Early Termination Damages Do Not Apply
Note: The following Spot Price Publication applies to both of the immediately preceding.		Section 10.3.2 Other Agreement Setoffs	☒ Other Agreement Setoffs Apply (default) ☐ Other Agreement Setoffs Do Not Apply
Section 2.26 Spot Price Publication	☒ Gas Daily Midpoint (default) ☐ _____	Section 14.5 Choice Of Law	<u>Texas</u>
Section 6 Taxes	☒ Buyer Pays At and After Delivery Point (default) ☐ Seller Pays Before and At Delivery Point	Section 14.10 Confidentiality	☒ Confidentiality applies (default) ☐ Confidentiality does not apply
☐ Special Provisions Number of sheets attached 0			
☐ Addendum(s): _____			

IN WITNESS WHEREOF, the parties hereto have executed this Base Contract in duplicate.

EAGLE ENERGY PARTNERS I, L.P.

By Eagle Energy Management, LLC, its sole General Partner

By _____

Name: _____

Title: _____

By _____

Name: H. G. Harrington

Title: Mayor, City of Tomball, Texas

General Terms and Conditions

Base Contract for Sale and Purchase of Natural Gas

SECTION 1. PURPOSE AND PROCEDURES

1.1. These General Terms and Conditions are intended to facilitate purchase and sale transactions of Gas on a Firm or Interruptible basis. "Buyer" refers to the party receiving Gas and "Seller" refers to the party delivering Gas. The entire agreement between the parties shall be the Contract as defined in Section 2.7.

The parties have selected either the "Oral Transaction Procedure" or the "Written Transaction Procedure" as indicated on the Base Contract.

Oral Transaction Procedure:

1.2. The parties will use the following Transaction Confirmation procedure. Any Gas purchase and sale transaction may be effectuated in an EDI transmission or telephone conversation with the offer and acceptance constituting the agreement of the parties. The parties shall be legally bound from the time they so agree to transaction terms and may each rely thereon. Any such transaction shall be considered a "writing" and to have been "signed". Notwithstanding the foregoing sentence, the parties agree that Confirming Party shall, and the other party may, confirm a telephonic transaction by sending the other party a Transaction Confirmation by facsimile, EDI or mutually agreeable electronic means within three Business Days of a transaction covered by this Section 1.2 (Oral Transaction Procedure) provided that the failure to send a Transaction Confirmation shall not invalidate the oral agreement of the parties. Confirming Party adopts its confirming letterhead, or the like, as its signature on any Transaction Confirmation as the identification and authentication of Confirming Party. If the Transaction Confirmation contains any provisions other than those relating to the commercial terms of the transaction (i.e., price, quantity, performance obligation, delivery point, period of delivery and/or transportation conditions), which modify or supplement the Base Contract or General Terms and Conditions of this Contract (e.g., arbitration or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 1.3 but must be expressly agreed to by both parties; provided that the foregoing shall not invalidate any transaction agreed to by the parties.

Written Transaction Procedure:

1.2. The parties will use the following Transaction Confirmation procedure. Should the parties come to an agreement regarding a Gas purchase and sale transaction for a particular Delivery Period, the Confirming Party shall, and the other party may, record that agreement on a Transaction Confirmation and communicate such Transaction Confirmation by facsimile, EDI or mutually agreeable electronic means, to the other party by the close of the Business Day following the date of agreement. The parties acknowledge that their agreement will not be binding until the exchange of nonconflicting Transaction Confirmations or the passage of the Confirm Deadline without objection from the receiving party, as provided in Section 1.3.

1.3. If a sending party's Transaction Confirmation is materially different from the receiving party's understanding of the agreement referred to in Section 1.2, such receiving party shall notify the sending party via facsimile, EDI or mutually agreeable electronic means by the Confirm Deadline, unless such receiving party has previously sent a Transaction Confirmation to the sending party. The failure of the receiving party to so notify the sending party in writing by the Confirm Deadline constitutes the receiving party's agreement to the terms of the transaction described in the sending party's Transaction Confirmation. If there are any material differences between timely sent Transaction Confirmations governing the same transaction, then neither Transaction Confirmation shall be binding until or unless such differences are resolved including the use of any evidence that clearly resolves the differences in the Transaction Confirmations. In the event of a conflict among the terms of (i) a binding Transaction Confirmation pursuant to Section 1.2, (ii) the oral agreement of the parties which may be evidenced by a recorded conversation, where the parties have selected the Oral Transaction Procedure of the Base Contract, (iii) the Base Contract, and (iv) these General Terms and Conditions, the terms of the documents shall govern in the priority listed in this sentence.

1.4. The parties agree that each party may electronically record all telephone conversations with respect to this Contract between their respective employees, without any special or further notice to the other party. Each party shall obtain any necessary consent of its agents and employees to such recording. Where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, the parties agree not to contest the validity or enforceability of telephonic recordings entered into in accordance with the requirements of this Base Contract. However, nothing herein shall be construed as a waiver of any objection to the admissibility of such evidence.

SECTION 2. DEFINITIONS

The terms set forth below shall have the meaning ascribed to them below. Other terms are also defined elsewhere in the Contract and shall have the meanings ascribed to them herein.

2.1. "Alternative Damages" shall mean such damages, expressed in dollars or dollars per MMBtu, as the parties shall agree upon in the Transaction Confirmation, in the event either Seller or Buyer fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer.

2.2. "Base Contract" shall mean a contract executed by the parties that incorporates these General Terms and Conditions by reference; that specifies the agreed selections of provisions contained herein; and that sets forth other information required herein and any Special Provisions and addendum(s) as identified on page one.

2.3. "British thermal unit" or "Btu" shall mean the International BTU, which is also called the Btu (IT).

- 2.4. "Business Day" shall mean any day except Saturday, Sunday or Federal Reserve Bank holidays.
- 2.5. "Confirm Deadline" shall mean 5:00 p.m. in the receiving party's time zone on the second Business Day following the Day a Transaction Confirmation is received or, if applicable, on the Business Day agreed to by the parties in the Base Contract; provided, if the Transaction Confirmation is time stamped after 5:00 p.m. in the receiving party's time zone, it shall be deemed received at the opening of the next Business Day.
- 2.6. "Confirming Party" shall mean the party designated in the Base Contract to prepare and forward Transaction Confirmations to the other party.
- 2.7. "Contract" shall mean the legally-binding relationship established by (i) the Base Contract, (ii) any and all binding Transaction Confirmations and (iii) where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, any and all transactions that the parties have entered into through an EDI transmission or by telephone, but that have not been confirmed in a binding Transaction Confirmation.
- 2.8. "Contract Price" shall mean the amount expressed in U.S. Dollars per MMBtu to be paid by Buyer to Seller for the purchase of Gas as agreed to by the parties in a transaction.
- 2.9. "Contract Quantity" shall mean the quantity of Gas to be delivered and taken as agreed to by the parties in a transaction.
- 2.10. "Cover Standard", as referred to in Section 3.2, shall mean that if there is an unexcused failure to take or deliver any quantity of Gas pursuant to this Contract, then the performing party shall use commercially reasonable efforts to (i) if Buyer is the performing party, obtain Gas, (or an alternate fuel if elected by Buyer and replacement Gas is not available), or (ii) if Seller is the performing party, sell Gas, in either case, at a price reasonable for the delivery or production area, as applicable, consistent with: the amount of notice provided by the nonperforming party; the immediacy of the Buyer's Gas consumption needs or Seller's Gas sales requirements, as applicable; the quantities involved; and the anticipated length of failure by the nonperforming party.
- 2.11. "Credit Support Obligation(s)" shall mean any obligation(s) to provide or establish credit support for, or on behalf of, a party to this Contract such as an irrevocable standby letter of credit, a margin agreement, a prepayment, a security interest in an asset, a performance bond, guaranty, or other good and sufficient security of a continuing nature.
- 2.12. "Day" shall mean a period of 24 consecutive hours, coextensive with a "day" as defined by the Receiving Transporter in a particular transaction.
- 2.13. "Delivery Period" shall be the period during which deliveries are to be made as agreed to by the parties in a transaction.
- 2.14. "Delivery Point(s)" shall mean such point(s) as are agreed to by the parties in a transaction.
- 2.15. "EDI" shall mean an electronic data interchange pursuant to an agreement entered into by the parties, specifically relating to the communication of Transaction Confirmations under this Contract.
- 2.16. "EFP" shall mean the purchase, sale or exchange of natural Gas as the "physical" side of an exchange for physical transaction involving gas futures contracts. EFP shall incorporate the meaning and remedies of "Firm", provided that a party's excuse for nonperformance of its obligations to deliver or receive Gas will be governed by the rules of the relevant futures exchange regulated under the Commodity Exchange Act.
- 2.17. "Firm" shall mean that either party may interrupt its performance without liability only to the extent that such performance is prevented for reasons of Force Majeure; provided, however, that during Force Majeure interruptions, the party invoking Force Majeure may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by the Transporter.
- 2.18. "Gas" shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.
- 2.19. "Imbalance Charges" shall mean any fees, penalties, costs or charges (in cash or in kind) assessed by a Transporter for failure to satisfy the Transporter's balance and/or nomination requirements.
- 2.20. "Interruptible" shall mean that either party may interrupt its performance at any time for any reason, whether or not caused by an event of Force Majeure, with no liability, except such interrupting party may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by Transporter.
- 2.21. "MMBtu" shall mean one million British thermal units, which is equivalent to one dekatherm.
- 2.22. "Month" shall mean the period beginning on the first Day of the calendar month and ending immediately prior to the commencement of the first Day of the next calendar month.
- 2.23. "Payment Date" shall mean a date, as indicated on the Base Contract, on or before which payment is due Seller for Gas received by Buyer in the previous Month.
- 2.24. "Receiving Transporter" shall mean the Transporter receiving Gas at a Delivery Point, or absent such receiving Transporter, the Transporter delivering Gas at a Delivery Point.
- 2.25. "Scheduled Gas" shall mean the quantity of Gas confirmed by Transporter(s) for movement, transportation or management.
- 2.26. "Spot Price" as referred to in Section 3.2 shall mean the price listed in the publication indicated on the Base Contract, under the listing applicable to the geographic location closest in proximity to the Delivery Point(s) for the relevant Day; provided, if there is no single price published for such location for such Day, but there is published a range of prices, then the Spot Price shall be the average

of such high and low prices. If no price or range of prices is published for such Day, then the Spot Price shall be the average of the following: (i) the price (determined as stated above) for the first Day for which a price or range of prices is published that next precedes the relevant Day; and (ii) the price (determined as stated above) for the first Day for which a price or range of prices is published that next follows the relevant Day.

2.27. "Transaction Confirmation" shall mean a document, similar to the form of Exhibit A, setting forth the terms of a transaction formed pursuant to Section 1 for a particular Delivery Period.

2.28. "Termination Option" shall mean the option of either party to terminate a transaction in the event that the other party fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer for a designated number of days during a period as specified on the applicable Transaction Confirmation.

2.29. "Transporter(s)" shall mean all Gas gathering or pipeline companies, or local distribution companies, acting in the capacity of a transporter, transporting Gas for Seller or Buyer upstream or downstream, respectively, of the Delivery Point pursuant to a particular transaction.

SECTION 3. PERFORMANCE OBLIGATION

3.1. Seller agrees to sell and deliver, and Buyer agrees to receive and purchase, the Contract Quantity for a particular transaction in accordance with the terms of the Contract. Sales and purchases will be on a Firm or Interruptible basis, as agreed to by the parties in a transaction.

The parties have selected either the "Cover Standard" or the "Spot Price Standard" as indicated on the Base Contract.

Cover Standard:

3.2. The sole and exclusive remedy of the parties in the event of a breach of a Firm obligation to deliver or receive Gas shall be recovery of the following: (i) in the event of a breach by Seller on any Day(s), payment by Seller to Buyer in an amount equal to the positive difference, if any, between the purchase price paid by Buyer utilizing the Cover Standard and the Contract Price, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually delivered by Seller for such Day(s); or (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in the amount equal to the positive difference, if any, between the Contract Price and the price received by Seller utilizing the Cover Standard for the resale of such Gas, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually taken by Buyer for such Day(s); or (iii) in the event that Buyer has used commercially reasonable efforts to replace the Gas or Seller has used commercially reasonable efforts to sell the Gas to a third party, and no such replacement or sale is available, then the sole and exclusive remedy of the performing party shall be any unfavorable difference between the Contract Price and the Spot Price, adjusted for such transportation to the applicable Delivery Point, multiplied by the difference between the Contract Quantity and the quantity actually delivered by Seller and received by Buyer for such Day(s). Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The amount of such unfavorable difference shall be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.

Spot Price Standard:

3.2. The sole and exclusive remedy of the parties in the event of a breach of a Firm obligation to deliver or receive Gas shall be recovery of the following: (i) in the event of a breach by Seller on any Day(s), payment by Seller to Buyer in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the Contract Price from the Spot Price; or (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the applicable Spot Price from the Contract Price. Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The amount of such unfavorable difference shall be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.

3.3. Notwithstanding Section 3.2, the parties may agree to Alternative Damages in a Transaction Confirmation executed in writing by both parties.

3.4. In addition to Sections 3.2 and 3.3, the parties may provide for a Termination Option in a Transaction Confirmation executed in writing by both parties. The Transaction Confirmation containing the Termination Option will designate the length of nonperformance triggering the Termination Option and the procedures for exercise thereof, how damages for nonperformance will be compensated, and how liquidation costs will be calculated.

SECTION 4. TRANSPORTATION, NOMINATIONS, AND IMBALANCES

4.1. Seller shall have the sole responsibility for transporting the Gas to the Delivery Point(s). Buyer shall have the sole responsibility for transporting the Gas from the Delivery Point(s).

4.2. The parties shall coordinate their nomination activities, giving sufficient time to meet the deadlines of the affected Transporter(s). Each party shall give the other party timely prior Notice, sufficient to meet the requirements of all Transporter(s) involved in the transaction, of the quantities of Gas to be delivered and purchased each Day. Should either party become aware that actual deliveries at the Delivery Point(s) are greater or lesser than the Scheduled Gas, such party shall promptly notify the other party.

4.3. The parties shall use commercially reasonable efforts to avoid imposition of any Imbalance Charges. If Buyer or Seller receives an invoice from a Transporter that includes Imbalance Charges, the parties shall determine the validity as well as the cause of such Imbalance Charges. If the Imbalance Charges were incurred as a result of Buyer's receipt of quantities of Gas greater than or less than the Scheduled Gas, then Buyer shall pay for such Imbalance Charges or reimburse Seller for such Imbalance Charges paid by Seller. If the Imbalance Charges were incurred as a result of Seller's delivery of quantities of Gas greater than or less than the Scheduled Gas, then Seller shall pay for such Imbalance Charges or reimburse Buyer for such Imbalance Charges paid by Buyer.

SECTION 5. QUALITY AND MEASUREMENT

All Gas delivered by Seller shall meet the pressure, quality and heat content requirements of the Receiving Transporter. The unit of quantity measurement for purposes of this Contract shall be one MMBtu dry. Measurement of Gas quantities hereunder shall be in accordance with the established procedures of the Receiving Transporter.

SECTION 6. TAXES

The parties have selected either "Buyer Pays At and After Delivery Point" or "Seller Pays Before and At Delivery Point" as indicated on the Base Contract.

Buyer Pays At and After Delivery Point:

Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas at the Delivery Point(s) and all Taxes after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.

Seller Pays Before and At Delivery Point:

Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s) and all Taxes at the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.

SECTION 7. BILLING, PAYMENT, AND AUDIT

7.1. Seller shall invoice Buyer for Gas delivered and received in the preceding Month and for any other applicable charges, providing supporting documentation acceptable in industry practice to support the amount charged. If the actual quantity delivered is not known by the billing date, billing will be prepared based on the quantity of Scheduled Gas. The invoiced quantity will then be adjusted to the actual quantity on the following Month's billing or as soon thereafter as actual delivery information is available.

7.2. Buyer shall remit the amount due under Section 7.1 in the manner specified in the Base Contract, in immediately available funds, on or before the later of the Payment Date or 10 Days after receipt of the invoice by Buyer; provided that if the Payment Date is not a Business Day, payment is due on the next Business Day following that date. In the event any payments are due Buyer hereunder, payment to Buyer shall be made in accordance with this Section 7.2.

7.3. In the event payments become due pursuant to Sections 3.2 or 3.3, the performing party may submit an invoice to the nonperforming party for an accelerated payment setting forth the basis upon which the invoiced amount was calculated. Payment from the nonperforming party will be due five Business Days after receipt of invoice.

7.4. If the invoiced party, in good faith, disputes the amount of any such invoice or any part thereof, such invoiced party will pay such amount as it concedes to be correct; provided, however, if the invoiced party disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed. In the event the parties are unable to resolve such dispute, either party may pursue any remedy available at law or in equity to enforce its rights pursuant to this Section.

7.5. If the invoiced party fails to remit the full amount payable when due, interest on the unpaid portion shall accrue from the date due until the date of payment at a rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum; or (ii) the maximum applicable lawful interest rate.

7.6. A party shall have the right, at its own expense, upon reasonable Notice and at reasonable times, to examine and audit and to obtain copies of the relevant portion of the books, records, and telephone recordings of the other party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment, or computation made under the Contract. This right to examine, audit, and to obtain copies shall not be available with respect to proprietary information not directly relevant to transactions under this Contract. All invoices and billings shall be conclusively presumed final and accurate and all associated claims for under- or overpayments shall be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or documentation, within two years after the Month of Gas delivery. All retroactive adjustments under Section 7 shall be paid in full by the party owing payment within 30 Days of Notice and substantiation of such inaccuracy.

7.7. Unless the parties have elected on the Base Contract not to make this Section 7.7 applicable to this Contract, the parties shall net all undisputed amounts due and owing, and/or past due, arising under the Contract such that the party owing the greater amount shall make a single payment of the net amount to the other party in accordance with Section 7; provided that no payment required to be made pursuant to the terms of any Credit Support Obligation or pursuant to Section 7.3 shall be subject to netting under this Section. If the parties have executed a separate netting agreement, the terms and conditions therein shall prevail to the extent inconsistent herewith.

SECTION 8. TITLE, WARRANTY, AND INDEMNITY

8.1. Unless otherwise specifically agreed, title to the Gas shall pass from Seller to Buyer at the Delivery Point(s). Seller shall have responsibility for and assume any liability with respect to the Gas prior to its delivery to Buyer at the specified Delivery Point(s). Buyer shall have responsibility for and any liability with respect to said Gas after its delivery to Buyer at the Delivery Point(s).

8.2. Seller warrants that it will have the right to convey and will transfer good and merchantable title to all Gas sold hereunder and delivered by it to Buyer, free and clear of all liens, encumbrances, and claims. EXCEPT AS PROVIDED IN THIS SECTION 8.2 AND IN SECTION 14.8, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED.

8.3. Seller agrees to indemnify Buyer and save it harmless from all losses, liabilities or claims including reasonable attorneys' fees and costs of court ("Claims"), from any and all persons, arising from or out of claims of title, personal injury or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save it harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

8.4. Notwithstanding the other provisions of this Section 8, as between Seller and Buyer, Seller will be liable for all Claims to the extent that such arise from the failure of Gas delivered by Seller to meet the quality requirements of Section 5.

SECTION 9. NOTICES

9.1. All Transaction Confirmations, invoices, payments and other communications made pursuant to the Base Contract ("Notices") shall be made to the addresses specified in writing by the respective parties from time to time.

9.2. All Notices required hereunder may be sent by facsimile or mutually acceptable electronic means, a nationally recognized overnight courier service, first class mail or hand delivered.

9.3. Notice shall be given when received on a Business Day by the addressee. In the absence of proof of the actual receipt date, the following presumptions will apply. Notices sent by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of successful transmission. If the day on which such facsimile is received is not a Business Day or is after five p.m. on a Business Day, then such facsimile shall be deemed to have been received on the next following Business Day. Notice by overnight mail or courier shall be deemed to have been received on the next Business Day after it was sent or such earlier time as is confirmed by the receiving party. Notice via first class mail shall be considered delivered five Business Days after mailing.

SECTION 10. FINANCIAL RESPONSIBILITY

10.1. If either party ("X") has reasonable grounds for insecurity regarding the performance of any obligation under this Contract (whether or not then due) by the other party ("Y") (including, without limitation, the occurrence of a material change in the creditworthiness of Y), X may demand Adequate Assurance of Performance. "Adequate Assurance of Performance" shall mean sufficient security in the form, amount and for the term reasonably acceptable to X, including, but not limited to, a standby irrevocable letter of credit, a prepayment, a security interest in an asset or a performance bond or guaranty (including the issuer of any such security).

10.2. In the event (each an "Event of Default") either party (the "Defaulting Party") or its guarantor shall: (i) make an assignment or any general arrangement for the benefit of creditors; (ii) file a petition or otherwise commence, authorize, or acquiesce in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it; (iii) otherwise become bankrupt or insolvent (however evidenced); (iv) be unable to pay its debts as they fall due; (v) have a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets; (vi) fail to perform any obligation to the other party with respect to any Credit Support Obligations relating to the Contract; (vii) fail to give Adequate Assurance of Performance under Section 10.1 within 48 hours but at least one Business Day of a written request by the other party; or (viii) not have paid any amount due the other party hereunder on or before the second Business Day following written Notice that such payment is due; then the other party (the "Non-Defaulting Party") shall have the right, at its sole election, to immediately withhold and/or suspend deliveries or payments upon Notice and/or to terminate and liquidate the transactions under the Contract, in the manner provided in Section 10.3, in addition to any and all other remedies available hereunder.

10.3. If an Event of Default has occurred and is continuing, the Non-Defaulting Party shall have the right, by Notice to the Defaulting Party, to designate a Day, no earlier than the Day such Notice is given and no later than 20 Days after such Notice is given, as an early termination date (the "Early Termination Date") for the liquidation and termination pursuant to Section 10.3.1 of all transactions under the Contract, each a "Terminated Transaction". On the Early Termination Date, all transactions will terminate, other than those transactions, if any, that may not be liquidated and terminated under applicable law or that are, in the reasonable opinion of the Non-Defaulting Party, commercially impracticable to liquidate and terminate ("Excluded Transactions"), which Excluded Transactions must be liquidated and terminated as soon thereafter as is reasonably practicable, and upon termination shall be a Terminated Transaction and be valued consistent with Section 10.3.1 below. With respect to each Excluded Transaction, its actual termination date shall be the Early Termination Date for purposes of Section 10.3.1.

The parties have selected either "Early Termination Damages Apply" or "Early Termination Damages Do Not Apply" as indicated on the Base Contract.

Early Termination Damages Apply:

10.3.1. As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, (i) the amount owed (whether or not then due) by each party with respect to all Gas delivered and received between the parties under Terminated Transactions and Excluded Transactions on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Section 3.2), for which payment has not yet been made by the party that owes such payment under this Contract and (ii) the Market Value, as defined below, of each Terminated Transaction. The Non-Defaulting Party shall (x) liquidate and accelerate each Terminated Transaction at its Market Value, so that each amount equal to the difference between such Market Value and the Contract Value, as defined below, of such Terminated Transaction(s) shall be due to the Buyer under the Terminated Transaction(s) if such Market Value exceeds the Contract Value and to the Seller if the opposite is the case; and (y) where appropriate, discount each amount then due under clause (x) above to present value in a commercially reasonable manner as of the Early Termination Date (to take account of the period between the date of liquidation and the date on which such amount would have otherwise been due pursuant to the relevant Terminated Transactions).

For purposes of this Section 10.3.1, "Contract Value" means the amount of Gas remaining to be delivered or purchased under a transaction multiplied by the Contract Price; and "Market Value" means the amount of Gas remaining to be delivered or purchased under a transaction multiplied by the market price for a similar transaction at the Delivery Point determined by the Non-Defaulting Party in a commercially reasonable manner. To ascertain the Market Value, the Non-Defaulting Party may consider, among other valuations, any or all of the settlement prices of NYMEX Gas futures contracts, quotations from leading dealers in energy swap contracts or physical gas trading markets, similar sales or purchases and any other bona fide third-party offers, all adjusted for the length of the term and differences in transportation costs. A party shall not be required to enter into a replacement transaction(s) in order to determine the Market Value. Any extension(s) of the term of a transaction to which parties are not bound as of the Early Termination Date (including but not limited to "evergreen provisions") shall not be considered in determining Contract Values and Market Values. For the avoidance of doubt, any option pursuant to which one party has the right to extend the term of a transaction shall be considered in determining Contract Values and Market Values. The rate of interest used in calculating net present value shall be determined by the Non-Defaulting Party in a commercially reasonable manner.

Early Termination Damages Do Not Apply:

10.3.1. As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, the amount owed (whether or not then due) by each party with respect to all Gas delivered and received between the parties under Terminated Transactions and Excluded Transactions on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Section 3.2), for which payment has not yet been made by the party that owes such payment under this Contract.

The parties have selected either "Other Agreement Setoffs Apply" or "Other Agreement Setoffs Do Not Apply" as indicated on the Base Contract.

Other Agreement Setoffs Apply:

10.3. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party may setoff (i) any Net Settlement Amount owed to the Non-Defaulting Party against any margin or other collateral held by it in connection with any Credit Support Obligation relating to the Contract; or (ii) any Net Settlement Amount payable to the Defaulting Party against any amount(s) payable by the Defaulting Party to the Non-Defaulting Party under any other agreement, arrangement between the parties.

Other Agreement Setoffs Do Not Apply:

10.3.2. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party may setoff any Net Settlement Amount owed to the Non-Defaulting Party against any margin or other collateral held by it in connection with any Credit Support Obligation relating to the Contract.

10.3.3. If any obligation that is to be included in any netting, aggregation or setoff pursuant to Section 10.3.2 is unascertained, the Non-Defaulting Party may in good faith estimate that obligation and net, aggregate or setoff, as applicable, in respect of the estimate, subject to the Non-Defaulting Party accounting to the Defaulting Party when the obligation is ascertained. Any amount not then due which is included in any netting, aggregation or setoff pursuant to Section 10.3.2 shall be discounted to net present value in a commercially reasonable manner determined by the Non-Defaulting Party.

10.4. As soon as practicable after a liquidation, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the Net Settlement Amount, and whether the Net Settlement Amount is due to or due from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount, provided that failure to give such Notice shall not affect the validity or enforceability of the liquidation or give rise to any claim by the Defaulting Party against the Non-Defaulting Party. The Net Settlement Amount shall be paid by the close of business on the second Business Day following such Notice, which date shall not be earlier than the Early Termination Date. Interest on any unpaid portion of the Net Settlement Amount shall accrue from the date due until the

date of payment at a rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum; or (ii) the maximum applicable lawful interest rate.

10.5. The parties agree that the transactions hereunder constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that Buyer and Seller are each "forward contract merchants" within the meaning of the United States Bankruptcy Code.

10.6. The Non-Defaulting Party's remedies under this Section 10 are the sole and exclusive remedies of the Non-Defaulting Party with respect to the occurrence of any Early Termination Date. Each party reserves to itself all other rights, setoffs, counterclaims and other defenses that it is or may be entitled to arising from the Contract.

10.7. With respect to this Section 10, if the parties have executed a separate netting agreement with close-out netting provisions, the terms and conditions therein shall prevail to the extent inconsistent herewith.

SECTION 11. FORCE MAJEURE

11.1. Except with regard to a party's obligation to make payment(s) due under Section 7, Section 10.4, and Imbalance Charges under Section 4, neither party shall be liable to the other for failure to perform a Firm obligation, to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension, as further defined in Section 11.2.

11.2. Force Majeure shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption and/or curtailment of Firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having jurisdiction. Seller and Buyer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

11.3. Neither party shall be entitled to the benefit of the provisions of Force Majeure to the extent performance is affected by any or all of the following circumstances: (i) the curtailment of interruptible or secondary Firm transportation unless primary, in-path, Firm transportation is also curtailed; (ii) the party claiming excuse failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; or (iii) economic hardship, to include, without limitation, Seller's ability to sell Gas at a higher or more advantageous price than the Contract Price, Buyer's ability to purchase Gas at a lower or more advantageous price than the Contract Price, or a regulatory agency disallowing, in whole or in part, the pass through of costs resulting from this Agreement; (iv) the loss of Buyer's market(s) or Buyer's inability to use or resell Gas purchased hereunder, except, in either case, as provided in Section 11.2; or (v) the loss or failure of Seller's gas supply or depletion of reserves, except, in either case, as provided in Section 11.2. The party claiming Force Majeure shall not be excused from its responsibility for Imbalance Charges.

11.4. Notwithstanding anything to the contrary herein, the parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be within the sole discretion of the party experiencing such disturbance.

11.5. The party whose performance is prevented by Force Majeure must provide Notice to the other party. Initial Notice may be given orally; however, written Notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written Notice of Force Majeure to the other party, the affected party will be relieved of its obligation, from the onset of the Force Majeure event, to make or accept delivery of Gas, as applicable, to the extent and for the duration of Force Majeure, and neither party shall be deemed to have failed in such obligations to the other during such occurrence or event.

11.6. Notwithstanding Sections 11.2 and 11.3, the parties may agree to alternative Force Majeure provisions in a Transaction Confirmation executed in writing by both parties.

SECTION 12. TERM

This Contract may be terminated on 30 Days written Notice, but shall remain in effect until the expiration of the latest Delivery Period of any transaction(s). The rights of either party pursuant to Section 7.6 and Section 10, the obligations to make payment hereunder, and the obligation of either party to indemnify the other, pursuant hereto shall survive the termination of the Base Contract or any transaction.

SECTION 13. LIMITATIONS

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY. A PARTY'S LIABILITY HEREUNDER SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

SECTION 14. MISCELLANEOUS

14.1. This Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective parties hereto, and the covenants, conditions, rights and obligations of this Contract shall run for the full term of this Contract. No assignment of this Contract, in whole or in part, will be made without the prior written consent of the non-assigning party (and shall not relieve the assigning party from liability hereunder), which consent will not be unreasonably withheld or delayed; provided, either party may (i) transfer, sell, pledge, encumber, or assign this Contract or the accounts, revenues, or proceeds hereof in connection with any financing or other financial arrangements, or (ii) transfer its interest to any parent or affiliate by assignment, merger or otherwise without the prior approval of the other party. Upon any such assignment, transfer and assumption, the transferor shall remain principally liable for and shall not be relieved of or discharged from any obligations hereunder.

14.2. If any provision in this Contract is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Contract.

14.3. No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach.

14.4. This Contract sets forth all understandings between the parties respecting each transaction subject hereto, and any prior contracts, understandings and representations, whether oral or written, relating to such transactions are merged into and superseded by this Contract and any effective transaction(s). This Contract may be amended only by a writing executed by both parties.

14.5. The interpretation and performance of this Contract shall be governed by the laws of the jurisdiction as indicated on the Base Contract, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction.

14.6. This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders and regulations of any governmental authority having jurisdiction over the parties, their facilities, or Gas supply, this Contract or transaction or any provisions thereof.

14.7. There is no third party beneficiary to this Contract.

14.8. Each party to this Contract represents and warrants that it has full and complete authority to enter into and perform this Contract. Each person who executes this Contract on behalf of either party represents and warrants that it has full and complete authority to do so and that such party will be bound thereby.

14.9. The headings and subheadings contained in this Contract are used solely for convenience and do not constitute a part of this Contract between the parties and shall not be used to construe or interpret the provisions of this Contract.

14.10. Unless the parties have elected on the Base Contract not to make this Section 14.10 applicable to this Contract, neither party shall disclose directly or indirectly without the prior written consent of the other party, the terms of any transaction to a third party (other than the employees, lenders, royalty owners, counsel, accountants and other agents of the party, or prospective purchasers of all or substantially all of a party's assets or of any rights under this Contract, provided such persons shall have agreed to keep such terms confidential) except (i) in order to comply with any applicable law, order, regulation, or exchange rule, (ii) to the extent necessary for the enforcement of this Contract, (iii) to the extent necessary to implement any transaction, or (iv) to the extent such information is delivered to such third party for the sole purpose of calculating a published index. Each party shall notify the other party of any proceeding of which it is aware which may result in disclosure of the terms of any transaction (other than as permitted hereunder) and use reasonable efforts to prevent or limit the disclosure. The existence of this Contract is not subject to this confidentiality obligation. Subject to Section 13, the parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation. The terms of any transaction hereunder shall be kept confidential by the parties hereto for one year from the expiration of the transaction.

In the event that disclosure is required by a governmental body or applicable law, the party subject to such requirement may disclose the material terms of this Contract to the extent so required, but shall promptly notify the other party, prior to disclosure, and shall cooperate (consistent with the disclosing party's legal obligations) with the other party's efforts to obtain protective orders or similar restraints with respect to such disclosure at the expense of the other party.

14.11. The parties may agree to dispute resolution procedures in Special Provisions attached to the Base Contract or in a Transaction Confirmation executed in writing by both parties.

DISCLAIMER: The purposes of this Contract are to facilitate trade, avoid misunderstandings and make more definite the terms of contracts of purchase and sale of natural gas. Further, NAESB does not mandate the use of this Contract by any party. NAESB DISCLAIMS AND EXCLUDES, AND ANY USER OF THIS CONTRACT ACKNOWLEDGES AND AGREES TO NAESB'S DISCLAIMER OF, ANY AND ALL WARRANTIES, CONDITIONS OR REPRESENTATIONS, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THIS CONTRACT OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE (WHETHER OR NOT NAESB KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. EACH USER OF THIS CONTRACT ALSO AGREES THAT UNDER NO CIRCUMSTANCES WILL NAESB BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY USE OF THIS CONTRACT.

**TRANSACTION CONFIRMATION
FOR IMMEDIATE DELIVERY**

EXHIBIT A

Letterhead/Logo	Date: _____ Transaction Confirmation #: _____			
This Transaction Confirmation is subject to the Base Contract between Seller and Buyer dated _____. The terms of this Transaction Confirmation are binding unless disputed in writing within 2 Business Days of receipt unless otherwise specified in the Base Contract.				
SELLER: _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____	BUYER: _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____			
Contract Price: \$ _____ /MMBtu or _____				
Delivery Period: Begin: _____ End: _____				
Performance Obligation and Contract Quantity: (Select One) <table style="width:100%;"> <tr> <td style="width:33%; vertical-align: top;"> Firm (Fixed Quantity): _____ MMBtus/day ☐ EFP </td> <td style="width:33%; vertical-align: top;"> Firm (Variable Quantity): _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2 at election of ☐ Buyer or ☐ Seller </td> <td style="width:33%; vertical-align: top;"> interruptible: Up to _____ MMBtus/day </td> </tr> </table>		Firm (Fixed Quantity): _____ MMBtus/day ☐ EFP	Firm (Variable Quantity): _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2 at election of ☐ Buyer or ☐ Seller	interruptible: Up to _____ MMBtus/day
Firm (Fixed Quantity): _____ MMBtus/day ☐ EFP	Firm (Variable Quantity): _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2 at election of ☐ Buyer or ☐ Seller	interruptible: Up to _____ MMBtus/day		
Delivery Point(s): _____ (If a pooling point is used, list a specific geographic and pipeline location):				
Special Conditions:				
Seller: _____ By: _____ Title: _____ Date: _____	Buyer: _____ By: _____ Title: _____ Date: _____			



EAGLE ENERGY PARTNERS

7904 N. Sam Houston W, Suite 200
Houston, TX 77064

Ph: 281-781-0345 Fax: 281-781-0360

June 9, 2006

Mr. Ben Griffin

City of Tomball, Texas

401 Market Street

Tomball, Texas 77375

Phone: (281) 351-5484 Fax : (281) 351-6256

bgriffin@ci.tomball.tx.us

Dear Mr. Griffin,

Eagle Energy Partners is pleased to provide you with this proposal for City of Tomball.

Eagle is recognized for its capabilities in natural gas, electricity and energy risk management. Eagle can use these capabilities to craft comprehensive energy services packages to meet specific customer needs.

The details of our proposal are shown on the attached pages. Pricing assumes the market conditions at the close of business on Friday, June 9, 2006. Please understand that prices quoted may change as the prevailing market conditions change and that gas volumes are subject to availability at the time of acceptance. This proposal is for negotiation purposes only and is subject to the execution of a more definitive agreement. We look forward to hearing your favorable response. Please direct your comments or questions to me at (281) 781-0345.

Sincerely,

Todd Moore

Director, Natural Gas Marketing

Business Reference Sheet

Alabama Gas Corporation (Alagasco)
605 Richard Arrington Jr. Boulevard North
Birmingham, Alabama 35203-2707
Contact: Sidney Quick
Wk: 205-326-8489

Tampa Electric Company (TECO)
Po Box 111
Tampa FL 33601-0111
Contact: Jude Campbell
Wk: 813-228-1581

Southern Company
270 Peachtree Street
Atlanta Georgia 30303
Contact: Vickie Gaston
Wk: 205-257-7194

Baltimore Gas & Electric (BGE)
1699 Leadenhall Street
Baltimore MD 21230-4855

Marion Natural Gas System
138 Ceder Avenue
South Pittsburg, TN 37380
Contact: Don Blansett
Wk: 423-837-7184

Natural Gas District of Hawkins County
202 Park Blvd.
Rogersville , TN 37857
Contact: Tom Young
Wk: 423-272-8841

Bridgeport Utilities
513 Alabama Avenue.
Bridgeport , AL 35740
Contact: Jim Hughs
Wk: 256-495-2471

EAGLE – Bidder Qualifications

Eagle is comprised of eight former managers of Dynegy Marketing & Trade, each of whom were directly involved in the oversight of physical portfolios. Eagle consists of 40 employees, including gas and power traders, schedulers, a risk manager, marketers, and a 24-hour real-time power desk.

Cobb Electric Membership Corporation (Cobb EMC)

Eagle currently manages the load and resources of Cobb EMC, a group of 8 of the largest co-ops in the country, including the second largest. With over 2000 mw of load and generation, Cobb is one of the largest outsourced portfolios in the country. Due to the excellent performance of several of Eagle's managers, Cobb followed them to Eagle from Dynegy in June of 2003. Eagle manages gas, oil and hydroelectric resources for Cobb, along with covering Cobb's entire residential and commercial load. As Cobb owns a significant amount of transportation, much of Eagle's activity centers on capturing the value of this triangle of generation, load and transmission.

Guardian Pipeline

Eagle currently acts as hub operator for Guardian Pipeline. Guardian Pipeline, which is owned by WPS Investment, LLC, Viking Gas Transmission Company, and WICOR, Inc, provides competitive transportation from the Chicago Hub (near Joliet) to Southeastern Wisconsin. Eagle's Midwest pipeline and storage expertise was a perfect fit for Guardian's management who needed a hub operator. Eagle's hub activities include pricing and marketing parking services, loan services, interruptible transportation services, and wheeling services through the Joliet Hub and on the Guardian Pipeline.

Chesapeake Energy

Chesapeake Energy is the 2nd largest independent producer in the country. Eagle markets a majority of their production in locations strategic to our market base on 9 different pipelines. We specialize in moving natural gas from the wellhead to the burner-tip and finding the best value for the production. By utilizing our expertise in financial hedging, Eagle converts pricing between fixed price, index, and physical basis to match the producer's pricing needs with the needs of our markets. Eagle also manages wellhead and production swings in the daily market to mitigate imbalance fees and penalties.

End-user Business

Eagle markets to multiple End-users, LDC's, and Municipals east of the Rockies. Eagle's service ranges from a basic base load pool sale to a full requirements asset management transaction.

Regular City Council

Agenda Item

Meeting Date: November 1, 2010

Data Sheet

Topic:

Approve Final Replat called **TOMBALL ISD MAINTENANCE FACILITY:** Being a subdivision of 3.994 acres out of the W. Hurd Survey, Abstract No. 371, City of Tomball, Harris County, Texas. Also being a Replat of Lots 1-12 of Block 15, Lots 1-24 of Block 16 and Lots 25-36 of Block 23 and the Abandonment of Existing Right-of-Ways Between South Cherry Street and South Oak Street within this subdivision of Revised Map of Tomball, Recorded under Vol. 4, Pg. 25, H.C.M.R., 1 Block, 1 Lot.

Background:

The Planning and Zoning Commission voted to recommend approval of the Tomball ISD Maintenance Facility Replat, with contingencies on June 14, 2010. The comments have been addressed and the Replat is being forwarded to Council for final approval consideration.

Origination:

Engineering and Planning Department

Recommendation:

Engineering and Planning Department recommend approval.

Funding:

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

Engineering and Planning Department

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

ATTACHMENTS:

TISD Maintenance Facility Replat

STATE OF TEXAS §

COUNTY OF HARRIS §

We, Tomball Independent School District, acting by and through Ken Odom, President and John E. McStravick, Secretary, being officers of Tomball Independent School District Board of Trustees, owner, hereinafter referred to as Owners of the 3.9944 acre tract described in the above and foregoing plat of TOMBALL ISD MAINTENANCE FACILITY, do hereby make and establish said subdivision and of said property according to all lines, dedications, restrictions and notations on said map or plat and hereby dedicate to the use of the public forever, all streets (except those streets designated as private streets), alleys, parks, water courses, drains, easements and public places shown thereon for the purposes and considerations therein expressed; and do hereby bind ourselves, our heirs, successors and assigns to warrant and forever defend the title to the land so dedicated.

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

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

IN TESTIMONY WHEREOF, Tomball Independent School District has caused these presents to be signed by Ken Odom, President thereunto authorized, attested by John E. McStravick, Secretary, and its common seal affixed this 11th day of October 2010.

Tomball Independent School District

By: *Ken Odom*
Ken Odom
President

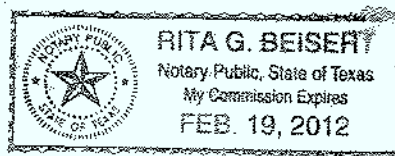
Attest: *John E. McStravick*
John E. McStravick
Secretary

STATE OF TEXAS §

COUNTY OF HARRIS §

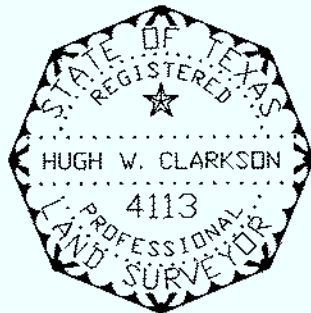
BEFORE ME, the undersigned authority, on this day personally appeared Ken Odom, President and John E. McStravick, Secretary known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein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

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 11th day of October 2010.



Rita G. Beisert
Rita G. Beisert
(Print Name)
2/19/2012
My Commission Expires:

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



Hugh W. Clarkson
Hugh W. Clarkson
Texas Registration No. 4113
Date 9/20/10

This is to certify that the Planning & Zoning Commission of the City of Tomball, Texas has approved this plat and subdivision of TOMBALL ISD MAINTENANCE FACILITY in conformance with the laws of the State of Texas and the ordinances of the City of Tomball as shown hereon and authorized the

recording of this plat this _____ day of _____, 2010.

Lori Wallace
Chair

Tom Crofoot
Vice Chairman

We, the City Manager and the Director of Engineering and Planning for the City of Tomball, do hereby certify that this plat complies with the City of Tomball ordinances.

George Shackelford
City Manager

Mark A. McClure
Mark A. McClure, P.E.
Director of Engineering and Planning

This is to certify that the City accepts the Planning & Zoning Commission's authorized approval and acceptance of all dedicated easements in conformance with the laws of the State of Texas and the ordinances of the City of Tomball as shown hereon and authorized the recording of this plat this _____ day of _____, 2010.

Gretchen Fagan
Mayor

Doris Speer
City Secretary

I, Beverly B. Kaufman, County Clerk of Harris County, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on _____, 2010, at _____ o'clock _____ M., and duly recorded on _____, 2010, at _____ o'clock _____ M., and at Film Code Number _____ of the Map Records of Harris County for said county.

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

Beverly B. Kaufman
County Clerk
of Harris County, Texas

By: _____
Deputy

SURVEYOR'S NOTES:

- ABBREVIATIONS:
B.L. - INDICATES BUILDING LINE
F.C. - INDICATES FILM CODE
END. - INDICATES END
FT. - INDICATES FEET
H.C.C.F. - INDICATES HARRIS COUNTY CLERK'S FILE
H.C.M.R. - INDICATES HARRIS COUNTY MAP RECORD
H.L.&P. - INDICATES HOUSTON LIGHTING AND POWER
No. - INDICATES NUMBER
PS. - INDICATES PAGE
SQ. - INDICATES SQUARE
VOL. - INDICATES VOLUME
- Bearings depicted hereon are based on Texas State Plane Coordinate System, South Central Zone (NAD83).
- All oil/gas pipelines or pipeline easement with ownership through the subdivision have been shown.
- All oil/gas wells with ownership (plugged, abandoned and/or active) through the subdivision have been shown.
- The Building Lines shown on this plat shall be in addition to, and shall not limit or replace, any building lines required by the City of Tomball Code of Ordinances at the time of the development of the property.

- According to F.I.R.M. Map No. 48201C0230L (Community-Panel No. 4803150230L), map revised date: June 18, 2007. The subject property lies within the area designated as Zone "X" unshaded determined to be outside the 0.2% annual chance floodplain.
- This plat does not attempt to amend or remove any valid restrictions or covenants.
- No building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setback at a minimum of fifteen (15) feet off centerline of the low pressure gas lines and thirty (30) feet of centerline of high pressure gas lines.
- Public easements denoted on this plat are hereby dedicated to the public forever. Any public utility, including the City of Tomball, shall have the right at all times, of ingress and egress to and from and upon said easement for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity of any time of procuring the permission of the property owner. Any public utility, including the City of Tomball, shall have the right to move and keep moved all or part of any building, fences, trees, shrubs, and other growths or improvements that in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems on any of the easements shown on this plat. Neither the City of Tomball or any public utility shall be responsible for the replacing or reimbursing the property owner due to removal or relocation of any obstruction in the public easements.

BENCHMARK NOTES:

REFERENCE BENCHMARK:

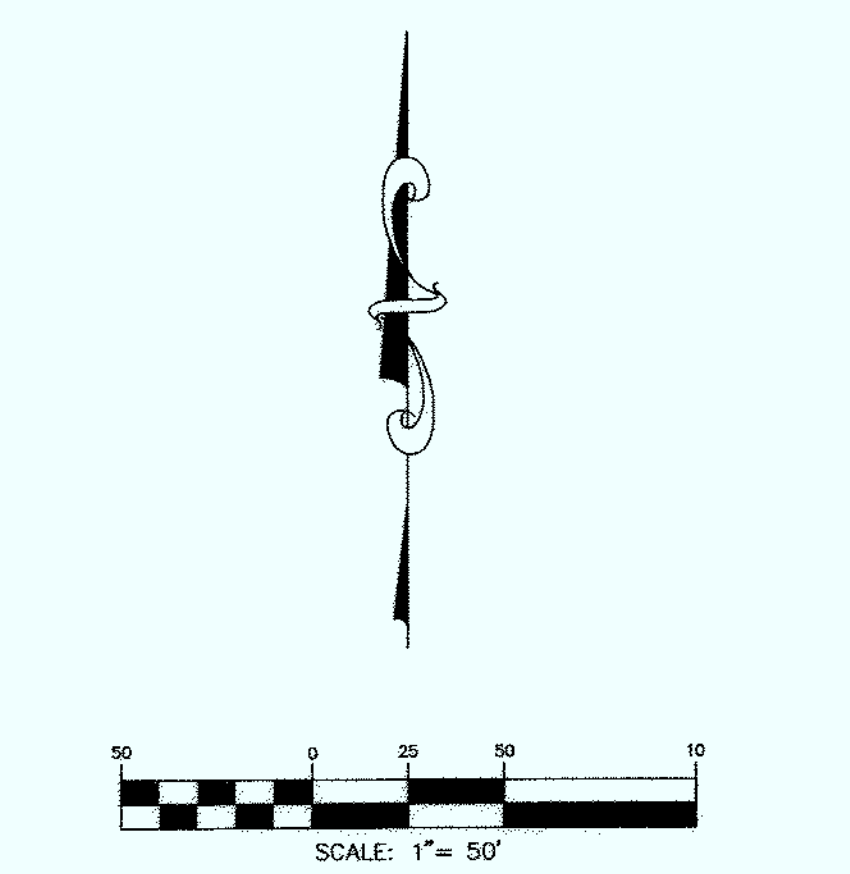
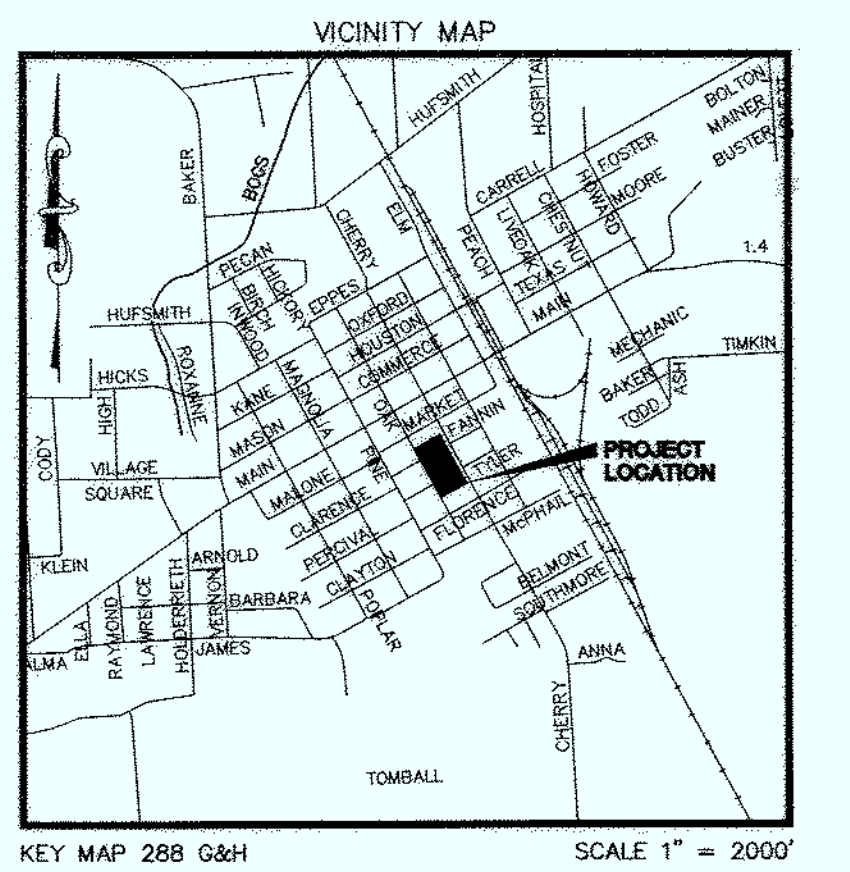
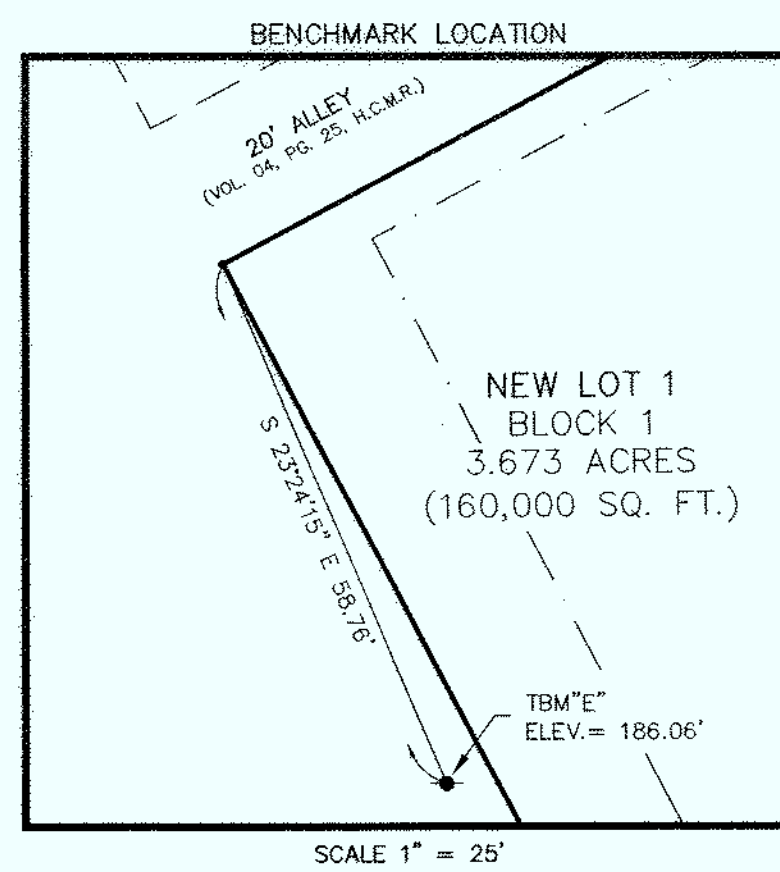
RM100370 - FLOODPLAIN REFERENCE MARK NUMBER 100370 IS A BRASS DISK STAMPED 100370 ON CONCRETE HEADWALL AT INTERSECTION OF ROXANNE AND INWOOD LOCATED ON DOWNSLOPE CONCRETE HEADWALL, NORTH OF INTERSECTION, SOUTH OF STREAM CENTERLINE IN KEY MAP 288G IN THE SPRING WATERSHED NEAR STREAM J131-00-00. ELEVATION = 181.93'

TEMPORARY BENCHMARKS:

TBM"E" - COTTON SPINDLE WITH SHINER STAMPED "WEST BELT SURVEYING" SET IN POWER POLE LOCATED IN THE EAST RIGHT-OF-WAY OF SOUTH OAK STREET ±200' SOUTH OF THE INTERSECTION OF MARKET STREET AND SOUTH OAK STREET. ELEVATION = 186.06'

LEGEND:

- INDICATES A 3/4" IRON ROD FOUND WITH A ORANGE PLASTIC CAP STAMPED "WEST BELT SURVEYING, INC."
- INDICATES A 3/4" IRON ROD FOUND
- INDICATES A 5/8" IRON ROD FOUND



TOMBALL ISD MAINTENANCE FACILITY

BEING A SUBDIVISION OF 3.9944 ACRES OUT OF THE W. HURD SURVEY, ABSTRACT NO. 371, CITY OF TOMBALL, HARRIS COUNTY, TEXAS

ALSO BEING REPLAT OF LOTS 1-12 OF BLOCK 15, LOTS 1-24 OF BLOCK 16 AND LOTS 25-36 OF BLOCK 23 AND THE ABANDONMENT OF EXISTING RIGHT-OF-WAYS BETWEEN SOUTH CHERRY STREET AND SOUTH OAK STREET WITHIN THIS SUBDIVISION OF REVISED MAP OF TOMBALL, RECORDED UNDER VOL. 4, PG. 25, H.C.M.R.

REASON FOR REPLAT: CREATE A SINGLE LOT ABANDONMENT OF ROWS INCLUDES FANNIN STREET, 20' ALLEY AND TYLER STREET WITHIN THE SUBDIVISION

1 BLOCK 1 LOT
SEPTEMBER, 2010

WEST BELT
SURVEYING, INC.

21020 PARK ROW
KATY, TEXAS 77449

PHONE: (281) 599-8388
FAX: (281) 492-0026



11 Greenway Plaza
Suite 2210
Houston, Texas
77046
Telephone: (713) 965-0808
Fax: (713) 961-4571

OWNER:
TOMBALL INDEPENDENT SCHOOL DISTRICT
301 SOUTH CHERRY STREET
TOMBALL, TEXAS 77375
PHONE: (281) 357-3170 FAX: (281) 825-7180

Regular City Council

Agenda Item

Data Sheet

Meeting Date: November 1, 2010

Topic:

Discussion regarding Sidewalks from:

- a. Quinn Road to Country Meadows Drive (cost estimate: \$31,000+)
- b. Country Meadows Drive to Spring Forest Estates (cost estimate: \$61,000+)
- c. Country Meadows Drive to Ulrich Road (cost estimate: \$136,000+)

Background:

Council had requested an item to be placed on the agenda, for discussion only, regarding construction of sidewalks from Quinn Road to Country Meadows Drive, from Country Meadows Drive to Spring Forest Estates, and from Country Meadows Drive to Ulrich Road.

Mark McClure has provided the attached estimate of costs, based on the cost assumption of \$270,000 per mile of completed sidewalk. Quinn Road to Country Meadows Drive is approximately 606 feet in length, Country Meadows Drive to Spring Forest Estates is approximately 1,193 feet in length, and Country Meadows Drive to Ulrich Road is approximately 2,659 feet in length.

The cost estimates do not include additional considerations, such as the probability that construction of the sidewalks will require easement dedication or acquisition, possible conflicts with private pipelines, required permitting with Harris County due to construction along a County road, and railroad crossing considerations in connection with the section of sidewalk east of Spring Creek Estates. Additionally, construction of small sections of sidewalk will likely result in higher mobilization/demobilization costs unless construction of these small sections are combined with a larger project.

Origination:

City Council

Recommendation:

N/A; discussion only.

Funding:

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

City Secretary

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

ATTACHMENTS:

Estimated Costs for Additional Sidewalks

**ESTIMATED COSTS FOR ADDITIONAL
SIDEWALKS AT THE FOLLOWING LOCATIONS**

<u>ZION ROAD REQUESTED LOCATION</u>	<u>ESTIMATED COST</u>
From/To: Quinn Road to Country Meadows Drive	Estimated Cost: \$31K (does not include other considerations)
From/To: Country Meadows Drive to Spring Forest Estates	Estimated Cost: \$61K (does not include other considerations)
From/To: Country Meadows Drive to Ulrich Road	Estimated Cost: \$136K (does not include other considerations)

Other Considerations:

- 1.) Most likely will require easement dedication or acquisition and cost
- 2.) Unknown if private pipelines are a conflict
- 3.) Small section of sidewalk construction will result in higher mobilization/demobilization cost unless grouped with a larger project
- 4.) Harris County permit will be required associated with County Road
- 5.) Proposed section of sidewalk easterly of Spring Forest Estates will include railroad crossing considerations.