

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



MONDAY, MAY 3, 2010

7:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, May 3, 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 Pastor Bobby Ferguson, Freewill Baptist Church

3.0 Pledges to U.S. and Texas Flags

- Led by members of the THS Student Council

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

accordance with law.]

5.0 Presentations:

- Proclamation for “National Emergency Medical Services Week”, May 16-22, and “Emergency Medical Services for Children (EMSC) Day”, May 19
- Proclamation for “National Public Works Week – Above, Below and All Around You”, May 16-22

6.0 Reports and Announcements

- April 26-May 4 – **Early Voting** at City Hall
- May 6, 2010 – **Mayor’s Coffee** – (New Location) **Bootsie’s** – 5:30 p.m-7:00 p.m.
- **May 8, 2010 – Election Day – General City Election at City Hall, 7:00 a.m.-7:00 p.m.**
- May 8, 2010 - **Farmers Market**
- May 8, 2010 - **2nd Saturday at the Depot**, 6:00 p.m.
- May 11, 2010 – Ceremony in Heritage Plaza, 9:00 a.m. to **“Honor the Standing and the Fallen”**, honoring Law Enforcement personnel
- May 17, 2010 – Tomball Economic Development Corporation Appointments
- May 17, 2010 – Planning and Zoning Commission Member Appointments
- Hurricane Preparedness Week – May 23-29, 2010
- June 12, 2010 - **2nd Saturday at the Depot**, 6:00 p.m.
- **Walk Tomball!** (Every Saturday at 9:00 a.m. at the Depot)
- Report by the Interim City Manager on the permitted use of Cross-linked Polyethylene (PEX) pipe and tubing in construction
- 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:

- Special City Council Meeting of April 19, 2010
- Regular City Council Meeting of April 19, 2010

8.0 Old Business:

- 8.1 Approve Request by the Owners of Pine Country Subdivision, Section One, for the Extension of City of Tomball's Water Main to Service Their Eight-Lot Subdivision
- 8.2 Adopt, on Second Reading, Ordinance No. 2010-07, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of approximately 5.006 Acres of land, Legally Described as Tract 281, Tomball Outlots, of the Map Records of Harris County, Texas, from the SF-20-E Single-Family Estate Residential-20 District to the LI - Light Industrial District; Said Property Being Located on the westerly side of South Persimmon Street, northerly of Agg Road; Providing for the Amendment

of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an amount not to exceed \$2,000 for each day of violation of any Provision Hereof, Making Findings of Fact; and Providing for other Related Matters.

- 8.3 Adopt, on Second Reading, Ordinance No. 2010-08, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of approximately 2.456 Acres of land, legally described as Block 16 and Lots 25 through 36, Block 23, Tomball Townsite, within the City of Tomball, Harris County, Texas, from the SF-6 Single-Family Residential-6 District to the OT&MU - Old Town and Mixed Use District, said property being generally located on the westerly side of South Cherry Street, southerly of Fannin Street; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an amount not to exceed \$2,000 for each day of violation of any Provision Hereof, Making Findings of Fact; and Providing for other Related Matters
- 8.4 Adopt on Second Reading, Ordinance No. 2010-09, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Amending Section 38, Use Regulations, to add "Temporary Real Estate Field Office" and "Model Home" as Listed Uses; Amending Section 43.8, Temporary Buildings, to Rename the Section "Temporary Structures and Uses" and add Development Regulations for Such; Amending Section 45, Definitions, to add a New Definition for "Temporary Real Estate Field Office;" 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 Consideration and Possible Action regarding a Development Agreement between the City of Tomball and Zion Road Properties, LLC.
- 9.2 Consideration and Possible Action to Direct the City Manager to Develop an Agreement with Klein Independent School District for the Extension of Utility Service
- 9.3 Approve Rudolph Road and Utilities Capital Improvement Plan Project Amended Design Contract with O'Malley Engineers, LLC for \$55,000.00
- 9.4 Approve Continued Funding for Professional Services on Existing Agreement with Lockwood, Andrews, and Newnam, Inc., in the Amount of \$449,974.00 and to Authorize Director of Engineering and Planning to Request that Harris County Flood Control District (HCFCD) Develop Interlocal Agreement for Further Council Consideration
- 9.5 Approval and Dedication of Easement from City of Tomball to CenterPoint Energy Houston Electric, LLC Associated with City of Tomball Water Well No.

5 and 6 Sites

- 9.6 Approve Proposal from Cobb, Fendley and Associates for Landman and Appraisal Services Associated with the Tomball Hufsmith Water and Gas Improvements Project, in an Amount Not to Exceed \$103,250.00
- 9.7 Discussion regarding Development Standards and Platting Requirements for Depot Area
- 9.8 **EXECUTIVE SESSION:** The City Council will meet in Executive Session, as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose:
- Section 551.074 – Personnel Matters – To Deliberate the Hiring/Employment, Duties and Responsibilities of a City Manager
- 9.9 Consideration and Possible Action regarding the Hiring/Employment, Duties and Responsibilities of a City Manager

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 30th day of April 2010 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Doris Speer

Doris Speer

City Secretary, TRMC

This facility is wheelchair accessible and accessible parking spaces are available

Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information.

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

Regular City Council Agenda Item Data Sheet

Meeting Date: May 3, 2010

Topic:

- Proclamation for “National Emergency Medical Services Week”, May 16-22, and “Emergency Medical Services for Children (EMSC) Day”, May 19
- Proclamation for “National Public Works Week – Above, Below and All Around You”, May 16-22

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:

National Emergency Medical Services Week
National Public Works Week

Office of the Mayor
Tomball, Texas

Proclamation



- WHEREAS,** the City of Tomball recognizes and honors the value of the vital role of **Northwest Emergency Medical Service** in providing a vital public service to the citizens of Tomball and in the surrounding community; and
- WHEREAS,** **Northwest EMS**, in concert with a well-developed network of designated trauma care hospitals across Texas, provides lifesaving care in and around Tomball 24 hours a day, seven days a week, dramatically improving the survival and recovery rates for those who experience sudden illness or injury; and
- WHEREAS,** **Northwest EMS**, one component of the Texas emergency medical response system, is organized to provide timely, appropriate access to quality emergency medical care for injured or ill persons; and
- WHEREAS,** **Northwest EMS** personnel also care for the community by teaching citizens first aid and the actions to take before emergency response personnel arrive; and
- WHEREAS,** **Northwest EMS** responders will be the first to respond to terrorist or natural events and are constantly training to respond to any possible occurrence; and
- WHEREAS,** the citizens of Tomball benefit daily from the knowledge and skills of these highly-trained individuals and from the availability of the Texas trauma system;

NOW, THEREFORE, I, GRETCHEN FAGAN, Mayor of the City of Tomball, Texas do hereby proclaim May 16-22, 2010 as:

"NATIONAL EMERGENCY MEDICAL SERVICES WEEK"

and May 19, 2010 as:

"EMERGENCY MEDICAL SERVICES FOR CHILDREN (EMSC) DAY."



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

ATTEST: _____

DATE: _____

Gretchen Fagan
April 29, 2010

Office of the Mayor
Tomball, Texas
Proclamation



WHEREAS, the public works services provided in Tomball are an integral part of our citizens' everyday lives; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs for the health, safety and comfort of this community, such as water, sewer, streets and highways, public buildings, and solid waste collection; and

WHEREAS, the quality and effectiveness of Tomball's facilities, as well as their planning, design and construction, is vitally dependent upon the efforts and skill of Public Works officials; and

WHEREAS, the efficiency of the qualified and dedicated personnel who staff Tomball's Public Works Department is materially influenced by the people's attitude and understanding of the importance of the work they perform; on a daily basis; and

WHEREAS, the Tomball City Council wishes to recognize the dedication, talents and contributions made by Public Works employees;

NOW THEREFORE, I, Gretchen Fagan, Mayor of the City of Tomball, Texas do hereby proclaim May 16-22, 2010 as

"NATIONAL PUBLIC WORKS WEEK – ABOVE, BELOW AND ALL AROUND YOU"

in the City of Tomball, Texas and I call upon all citizens and civic organizations to acquaint themselves with the issues involved in providing our Public Works services and to recognize the contributions that Public Works officials and employees make every day to our health, safety, comfort, and quality of life.



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

ATTEST:

DATE:

[Signature]
[Signature]
April 29, 2010

Regular City Council

Agenda Item

Data Sheet

Meeting Date: May 3, 2010

Topic:

- April 26-May 4 – **Early Voting** at City Hall
- May 6, 2010 – **Mayor's Coffee** – (New Location) **Bootsie's** – 5:30 p.m-7:00 p.m.
- **May 8, 2010 – Election Day – General City Election at City Hall, 7:00 a.m.-7:00 p.m.**
- May 8, 2010 - **Farmers Market**
- May 8, 2010 - **2nd Saturday at the Depot**, 6:00 p.m.
- May 11, 2010 – Ceremony in Heritage Plaza, 9:00 a.m. to ***"Honor the Standing and the Fallen"***, honoring Law Enforcement personnel
- May 17, 2010 – Tomball Economic Development Corporation Appointments
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- Report by the Interim City Manager on the permitted use of Cross-linked Polyethylene (PEX) pipe and tubing in construction
- 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:

Notice of General Election

Mayors Coffee

Farmers Market

2nd Saturday at the Depot

"Honor the Standing and the Fallen"

NOTICE OF GENERAL ELECTION
(AVISO DE ELECCIÓN GENERAL)
(THÔNG BÁO VỀ CUỘC TỔNG TUYỂN CỬ)

To the Registered Voters of the City of Tomball, Texas:

(A los votantes registrados de la Ciudad de Tomball, Texas:)

(Gửi các Cử Tri Ghi Danh Bỏ Phiếu của Thành Phố Tomball, Texas:)

Notice is hereby given that the polling places listed below will be open from 7:00 a.m. to 7:00 p.m. on May 8, 2010, for voting in a general election to elect Mayor and Council Position 3.

(Notifíquese, por el presente, que las casillas electorales citadas abajo abrirán desde las 7:00 a.m. hasta las 7:00 p.m. el 8 de mayo de 2010 para votar en una elección general para elegir un Alcalde y un Concejal para la Posición 3.)

(Theo đây, chúng tôi yêu cầu tổ chức một Cuộc Tổng Tuyển Cử vào ngày 8 tháng Năm, 2010 để bầu chọn Thị Trưởng và Thành viên hội đồng vị trí số 3.)

LOCATION OF POLLING PLACE: (DIRECCIÓN DEL LUGAR DE VOTACIÓN:) (ĐỊA ĐIỂM BỎ PHIẾU:)

401 Market Street, Tomball, Texas 77375.

Early voting by personal appearance will be conducted each weekday at: 401 Market Street, Tomball, Texas 77375, between the hours of 7:45 a.m. and 5:00 p.m., Monday, Wednesday, and Thursday, between the hours of 7:45 a.m. and 7:45 p.m. on Tuesday, and between the hours of 7:45 a.m. and 4:00 p.m. on Friday, beginning on April 26, 2010 and ending on May 4, 2010.

(La votación anticipada en persona se llevará a cabo de lunes a viernes en: 401 Market Street, Tomball, Texas 77375, entre las 7:45 a.m. y las 5:00 p.m. el lunes, miércoles y jueves, entre las 7:45 a.m. y las 7:45 p.m. el martes, y entre las 7:45 a.m. y 4:00 p.m. el viernes, comenzando el 26 de abril de 2010 y culminando el 4 de mayo de 2010.)

(Thủ tục đích thân tới bỏ phiếu sớm sẽ diễn ra vào tất cả các ngày thường tại 401 Market Street, Tomball, Texas 77375, từ 7 giờ 45 sáng tới 5 giờ chiều, thứ Hai, thứ Tư và thứ Năm, từ 7 giờ 45 sáng tới 7 giờ 45 tối thứ Ba, và từ 7 giờ 45 sáng tới 4 giờ chiều thứ Sáu, bắt đầu từ ngày 26 tháng Tư, 2010 tới ngày 4 tháng Năm, 2010.)

Applications for ballot by mail shall be mailed to: (Las solicitudes de boletas para votar por correo deben enviarse a:)

(Quý vị có thể gửi đơn xin lá phiếu bầu qua đường bưu điện tới cho:)

Doris Speer

(Name of Early Voting Clerk)

(Nombre de la Secretaria de Votación Anticipada)

(Tên của Thư Ký phụ trách Bỏ Phiếu Sớm)

401 Market Street

(Address) (Dirección) (Địa chỉ)

Tomball, TX

(City) (Ciudad) (Thành phố)

77375

(Zip Code) (Código Postal) (Số Zip Code)

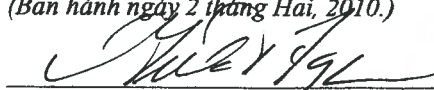
Applications for ballot by mail presented in person must be received no later than the close of business on April 23, 2010. (Las solicitudes de boletas para votar por correo hechas en persona deberán recibirse para el fin del horario de oficina el 23 de abril de 2010.)

(Đơn xin lá phiếu bầu qua thư đích thân đến nộp phải được nhận không trễ quá cuối giờ làm việc ngày 23 tháng Tư, 2010.)

Issued this the 2nd day of February 2010.

(Emitido este día 2 de febrero de 2010.)

(Ban hành ngày 2 tháng Hai, 2010.)



Signature of Mayor (Firma del Alcalde) (Chữ ký của Thị Trưởng)

Mayor's Coffee

Thursday, May 6, 2010

From **5:30—7:00 P.M.**

NEW LOCATION—

Bootsie's Heritage Café

112 Commerce Street

Come by to ask any questions, or address
any concerns you have regarding the City
of Tomball.

sponsored by

Farmers Insurance -

Gretchen & Mike Fagan Agency



Gretchen Fagan
Mayor



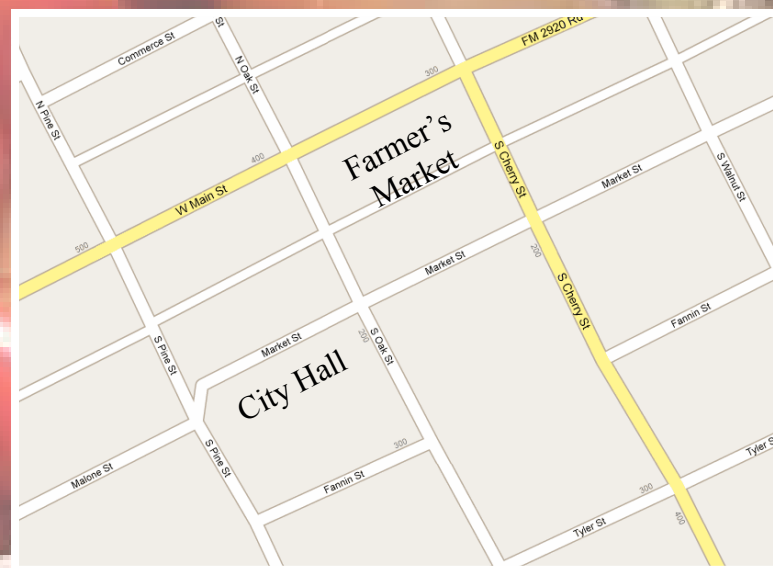
Bringing the farmers back to the community!

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**



A "CLASSIC" on the Big Screen 2nd Saturday at the Depot May 8—Tomball, TX

Children's Tea Party
Sponsored by:
The Whistle Stop



Sidewalk Chalk
Drawing
Contest!

Music by:
The Flute Player
Tudy Peek

Make your
"MOM"
A Card!

—Meet Miss Tomball 2010 and Mrs. Tomball

HISTORIC TOMBALL DEPOT PLAZA

201 South Elm ~ One block south of Main Street

Opens at 6:00 PM ~ Movie begins at dark

Free 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

~~CONFIDENTIAL~~

TUESDAY, MAY ELEVENTH

AT NINE O'CLOCK IN THE MORNING

CITY OF TOMBALL
401 MARKET STREET
TOMBALL, TEXAS

AT NINE O'CLOCK IN THE MORNING

CITY OF FOOTBALL

401 MARKET STREET

TOMBALL, TEXAS

HOSTED BY THE
TOMBALL POLICE DEPARTMENT
RECEPTION TO FOLLOW

FOR MORE INFORMATION PLEASE CONTACT

SERGEANT REBECCA CARLISLE AT 81-29-1312

Regular City Council Agenda Item Data Sheet

Meeting Date: May 3, 2010

Topic:

Approve the Minutes of the following Meetings:

- Special City Council Meeting of April 19, 2010
- Regular City Council Meeting of April 19, 2010

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:

Draft Minutes - Special City Council 4/19/2010

Draft Minutes - Regular City Council 4/19/2010

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



MONDAY, APRIL 19, 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 Stoll
Councilman Webb
Councilman Townsend
Councilman Driver
Councilman Quinn

Others present:

Interim City Manager – Christal Kliewer
City Secretary – Doris Speer

Draft

2.0 Workshop Session

2.1 **EXECUTIVE SESSION:** The City Council recessed, beginning at 8:01 a.m., to meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose:

- Section 551.074 – Personnel Matters – To Deliberate the Hiring/Employment, Duties and Responsibilities of a City Manager

Upon reconvening into public session at 5:00 p.m., no action was taken.

3.0 Mayor Fagan adjourned the meeting.

PASSED AND APPROVED this 3rd day of May 2010.

Doris Speer, TRMC
City Secretary

Gretchen Fagan
Mayor

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



MONDAY, APRIL 19, 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 Stoll
Councilman Webb
Councilman Townsend
Councilman Driver
Councilman Quinn

Others present:

Interim City Manager – Christal Kliwer
City Secretary – Doris Speer
City Attorney – Scott Bounds
Finance Director – Glenn Windsor
Police Chief – Robert Hauck
Fire Chief – Randy Parr
Director of Engineering & Planning – Mark McClure
City Planner – Kelly Violette
Assistant to City Manager – Shawn Cox
HR Director – Lisa Coe
Streets, Drainage & Parks Foreman – Mike Rowley
Streets and Drainage Serviceperson – Thomas Ollison

Draft

2.0 The invocation was led by Pastor Kay Johnson, Rosehill United Methodist Church

3.0 The pledges to U. S. and Texas Flags were led by Kayla Mundkowski and Karli Hill, members of the THS Student Council

4.0 The following public comments were received:

- | | |
|---|---|
| Cooper Cason
19302 Red Canyon Lane, 77377 | - Spoke about the Tomball High School “Shower for Shane” fundraiser and invited participation in the event. |
| James Liu & Cynthia Tirso
Tomball High School Student
Council Members | - Requested City sponsorship for the Tomball High School Homecoming Parade, to be held at the Tomball Depot in October. |

5.0 The following presentations were made by Mayor Fagan:

- Proclamation to Tomball Regional Medical Center Day – April 19, 2010
- Proclamation for Tomball Invocation Leaders Day – April 19, 2010
- Proclamation for Tomball High School Student Council Day – April 19, 2010
- Proclamation and Plaque for Thomas “T. Lee” Ollison Day – April 22, 2010
- Proclamation for Motorcycle Safety Awareness Month - May 2010

6.0 Reports and Announcements:

- Christal Kliwer provided an update regarding an error discovered in the contract between the City of Tomball and Sandra Van Zandt Art Sculptures, LLC for the Beckendorf Statue; the error was typographical and has been corrected.
- Grady Martin, president of the Tomball Sister City Organization, presented a report regarding the success of the **German Heritage Festival**.
- April 26-May 4 – **Early Voting** at City Hall
- Shawn Cox provided a report on the **2nd Annual City of Tomball Bunny Run 5K and Kids 1 Mile**.
- April 27, 2010 – Volunteer Firefighters and Reserve Police Officers Banquet
- May 6, 2010 – **Mayor’s Coffee** – (New Location) **Bootsie’s** – 5:30 p.m.-7:00 p.m.
- **May 8, 2010 – Election Day – General City Election at City Hall, 7:00 a.m.-7:00 p.m.**
- May 8, 2010 - **Farmers Market**
- May 8, 2010 - **2nd Saturday at the Depot**
- **Walk Tomball!** (Every Saturday at 8:00 a.m. at the Depot)
- Reports by City staff and members of council about items of community interest on which no action will be taken

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

- Special City Council Meeting of April 5, 2010
- Regular City Council Meeting of April 5, 2010
- Special City Council Meeting of April 14, 2010.

Motion carried unanimously.

8.0 New Business:

- 8.1 Betty Reinbeck presented information regarding the project proposed by TEDC. Motion was made by Councilman Townsend, second by Councilman Driver, to approve, as a Project of the Corporation, an agreement with FabCorp, Inc., to make direct incentives to, or expenditures for, the creation or retention of primary jobs and that are found by the Board of Directors to be required or suitable for the promotion of new or expanded business development, to wit: FabCorp, Inc. relocation of its light weldments line of machined fabrications to 27807 Red Fox Road in Tomball's extraterritorial jurisdiction (ETJ). The estimated amount of expenditure for such Project is \$156,000.00.

Motion carried unanimously.

- 8.2 Randy Parr and Robert Hauck presented information regarding the proposed amendment to the code of ordinances regarding false alarms. Motion was made by Councilman Driver, second by Councilman Stoll, to read Ordinance No. 2010-06 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Stoll, second by Councilman Townsend, to adopt, on First Reading, Ordinance No. 2010-06, an Ordinance of the City of Tomball, Texas, amending Chapter 26, "Emergency Services" of the Code of Ordinances of the City to Establish Policies, Procedures and Regulations as they relate to Alarms; Providing a Penalty in an Amount of not more than \$500 for Violation of any Provision Hereof; Providing for Savings and Severability; Providing for Publication; and Making other Provisions and Findings Related Thereto.

Motion was made by Councilman Townsend, second by Councilman Driver, to table consideration of Ordinance No. 2010-06 until City staff prepares and provides additional information and decision options for Council consideration.

Motion carried unanimously.

- 8.3 Kelly Violette presented the Staff Report for **ZONING CASE P10-206**: Request by Brian Matthews, on behalf of Crescent Directional Drilling, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5.006 acres of land, legally described as Tract 281 Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located on the westerly side of South Persimmon Street, northerly of Agg Road from the SF-20-E Single-Family Estate Residential-20 District to the LI - Light Industrial District.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P10-206** at 8:18 p.m.

The following public comments were received:

- | | |
|---|---|
| Mike O'Brien | - Expressed support for approval of rezoning request. |
| Brian Matthews
Crescent Directional Drilling | - Presented Crescent Directional Drilling's request for rezoning; expressed support for approval of rezoning request. |
| James E. Stubbs | - Representative for Crescent Directional Drilling, property owner; expressed support for approval of rezoning request. |
| Elizabeth Fowler, M.D. | - Expressed her support for approval of the rezoning request; owns land nearby and would benefit from rezoning. |
| John Ford | - Expressed his opposition to approval of the rezoning request. Historically, area has been residential; rezoned use does not align with 2030 comprehensive plan and is incompatible with existing use. |

Hearing no further comments, the public hearing was closed at 8:41 p.m.

- Motion was made by Councilman Townsend, second by Councilman Driver, to read Ordinance No. 2010-07 by caption only on first reading.

Motion carried unanimously.

- Motion was made by Councilman Stoll, second by Councilman Driver, to adopt on First Reading, Ordinance No. 2010-07, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of approximately 5.006 Acres of land, Legally Described as Tract 281, Tomball Outlots, of the Map Records of Harris County, Texas, from the SF-20-E Single-Family Estate Residential-20 District to the LI - Light Industrial District; Said Property Being Located on the westerly side of South Persimmon Street, northerly of Agg 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 Townsend

Aye

Councilman Driver	<u>Aye</u>
Councilman Quinn	<u>Nay</u>
Councilman Stoll	<u>Aye</u>
Councilman Webb	<u>Aye</u>

Motion carried, 4 Aye votes to 1 Nay vote.

Mayor Fagan called a recess at 8:52 p.m. Upon reconvening in regular session at 9:05 p.m., the following items were considered:

- 8.4 Kelly Violette presented the Staff Report for **ZONING CASE P10-208**: Request by the Tomball Independent School District to amend the Comprehensive Zoning Ordinance to rezone approximately 2.456 acres of land, legally described as Block 16 and Lots 25 through 36, Block 23, Tomball Townsite, within the City of Tomball, Harris County, Texas, from the SF-6 Single-Family Residential-6 District to the OT&MU - Old Town and Mixed Use District; said property being generally located on the westerly side of South Cherry Street, southerly of Fannin Street.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P10-208** at 9:10 p.m.

No public comments being received, the public hearing was closed at 9:10 p.m.

- Motion was made by Councilman Townsend, second by Councilman Driver, to read Ordinance No. 2010-08 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt on First Reading, Ordinance No. 2010-08, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of approximately 2.456 Acres of land, legally described as Block 16 and Lots 25 through 36, Block 23, Tomball Townsite, within the City of Tomball, Harris County, Texas, from the SF-6 Single-Family Residential-6 District to the OT&MU - Old Town and Mixed Use District, said property being generally located on the westerly side of South Cherry Street, southerly of Fannin Street; 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.

Councilman Driver	<u>Aye</u>
Councilman Quinn	<u>Aye</u>
Councilman Stoll	<u>Aye</u>

Councilman Webb
Councilman Townsend

Aye
Aye

Motion carried unanimously.

- 8.5 Kelly Violette presented the Staff Report for **ZONING CASE P10-218**: Request by Russ Brown, on behalf of PCOT Investments, Inc., to amend Section 38 (Use Regulations) of the City's Comprehensive Zoning Ordinance to establish a Model Home and Temporary Real Estate Sales Office use in all zoning districts that permit Residential Use either by right or conditionally, to amend Section 43 (Supplemental Regulations) to add standards for development related to model home and temporary real estate sales office use, and to amend Section 45 (Definitions) to amend and add the definitions related thereto.

Russ Brown, on behalf of PCOT Investments, Inc., presented information supporting PCOT's request for a text amendment to the zoning ordinance.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P10-218** at 9:30 p.m.

No public comments being received, the public hearing was closed at 9:30 p.m.

- Motion was made by Councilman Townsend, second by Councilman Driver, to read Ordinance No. 2010-09 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt on First Reading, Ordinance No. 2010-09, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Amending Section 38, Use Regulations, to add "Temporary Real Estate Field Office" and "Model Home" as Listed Uses; Amending Section 43.8, Temporary Buildings, to Rename the Section "Temporary Structures and Uses" and add Development Regulations for Such; Amending Section 45, Definitions, to add a New Definition for "Temporary Real Estate Field Office;" 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.

Consensus of Council was unanimous to amend the Ordinance by including an expiration period, after which a field office must be closed, of 12 months after the last certificate of occupancy has been issued and by including a prohibition against commercial floodlights. Vote was as follows:

Councilman Quinn
Councilman Stoll

Aye
Aye

Councilman Webb	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Driver	<u>Aye</u>

Motion, as amended, carried unanimously.

- 8.6 Shawn Cox presented information regarding the negotiated contract between the City of Tomball and TXU Energy for the purchase of electrical energy. Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the negotiated contract between the City of Tomball and TXU Energy for the purchase of electrical energy at a price of \$0.057849/kwh for 36 months with a possible additional 12-month extension

Motion carried unanimously.

- 8.7 Field Hudgens, attorney for Gary Smith, provided an update regarding a demand for City action by Gary Smith related to a slope failure at 31422 Rigel Court

- 8.8 **EXECUTIVE SESSION:** The City Council recessed at 9:45 p.m. to meet in Executive Session, as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purposes:

- Section 551.071 – Consultation with Attorney regarding a Demand for City Action by Gary Smith Related to a Slope Failure at 31422 Rigel Court
- Section 551.074 – Personnel Matters – To Deliberate the Hiring/Employment, Duties and Responsibilities of a City Manager

Upon reconvening into Regular session at 10:26 p.m., the following action was taken:

- 8.9 Motion was made by Councilman Townsend, second by Councilman Stoll, to authorize the City Manager to write an appropriate letter to the applicable parties regarding the City's drainageway.

Motion carried unanimously.

EXECUTIVE SESSION: The City Council recessed at 10:27 p.m. to meet in Executive Session, as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purposes:

- Section 551.074 – Personnel Matters – To Deliberate the Hiring/Employment, Duties and Responsibilities of a City Manager

Upon reconvening into Regular session at 10:51 p.m., no action was taken.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 3rd day of May 2010.

Doris Speer, TRMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council Agenda Item Data Sheet

Meeting Date: May 3, 2010

Topic:

Approve Request by the Owners of Pine Country Subdivision, Section One, for the Extension of City of Tomball's Water Main to Service Their Eight-Lot Subdivision

Background:

The Owners of the Pine Country Subdivision, Section One have requested the extension of the City water main to service their eight lot subdivision.

A complete review was prepared, reference attached memorandum, dated March 23, 2010, and presented to City Council during the April 5, 2010 Council meeting. Council tabled the item and requested that E&P determine the estimated revenues over 5 years based on the actual number of residents that will prepay the waterline tap and impact fees as a result of this request. E&P verified that there are currently six residential houses. Of the six residents five are requesting City water service. Gas service is not being requested. Cost analysis for the extension / payback in accordance to ordinance and policy is attached and summarized as follows:

1. The net difference (payback to City) providing 12" water line and 4" gas line for 8 lots is \$4,019.87.
2. The net difference (payback to City) providing 2" water line and 4" gas line for 5 lots is \$13,049.14
3. The net difference (payback to City) providing 2" water line and no gas service for 5 lots is \$1,837.14.
4. The net difference (payback to City) providing 2" water line and 4" gas line for 8 lots is \$32,964.88

Origination:

Engineering and Planning Department

Recommendation:

Engineering and Planning Department recommends approval to proceed with authorizing the City Manager to execute a professional services contract for engineering and surveying services required for design of a 12" water line and 4" gas line to service Section I of Pine Country of Tomball Subdivision. The extension is in accordance to the ordinance and policy. Public Works is authorized to install the improvements based on the final design. Tap and impact fees from the 5 owners are to be collected prior to construction.

Funding: Yes

Account Number: 600-613-6207(\$28,624.93); 100-156-6302(\$15,380)

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:

PCOT Request for Water & Gas Memo 03-23-10

PCOT Water Line & Gas Line Cost Estimates

CITY OF TOMBALL
MEMORANDUM

Date: March 23, 2010

To: City Council

From: Mark McClure, P.E., Director of Engineering & Planning 

Subject: Request for Water & Gas Extension to Service Pine Country Subdivision,
Section I

Cc: Christal Kliever, City Manager
Glen Windsor, Director of Finance

Request:

The Owners of the Pine Country Subdivision, Section I have requested the extension of the City water main to service their eight lot subdivision.

Background:

Section I includes eight lots that front on the westerly side Tomball Cemetery Road. The property was annexed and platted in 2002. At the time of platting, utilities were not available, therefore, the Owners installed water wells and septic systems. In approximately 2006-07 utilities were extended by the City to the intersection of FM 2920 and Tomball Cemetery Road. Recently, utilities were installed northerly from FM 2920 along Tomball Cemetery Road to service Sections II and III of the Pine Country Subdivision. The utilities and infrastructure in Section II and III have been installed with the subdivision substantially complete (February 2010). Sanitary sewer service is available to the rear of Section I and the Owners have present access to pay tap fees and connect to the City sewer collection system. A 12" water line and a 4" gas line have been stubbed out to the southeasterly of Lot 8 of Section I and to the northwesterly corner of Lot 1 of Section I. The subject request would require the construction of approximately 1100 linear feet of 12" waterline and 4" gas line extending along the easterly side of lots 1-8 and along the northerly side of Lot 1 in an existing 20' utility easement. Copies of plats depicting the various Sections of the overall Pine Country Subdivision are attached.

In June of 2009, the Engineering and Planning Department (E&P) received a request from one of the lot owners requesting water and wastewater connections. The request was formalized and submitted to the City Manager June 16, 2009 for consideration and further advisement (reference attached email). In early 2010, the Engineering and Planning Department was provided a copy of a fax dated December 11, 2009 from all of the Owners of lots 1-8, except lot 3, requesting City services (reference attached).

ORDINANCE REQUIREMENT: Chapter 82 of the City's Code of Ordinances reference two options, more or less (1) the Owner is responsible for the cost or (2) can request assistance from the City if funds are available. A brief discussion of both options is presented as follows:

(1) Owner Cost Option: This section will require a utility plan prepared by a licensed Professional Engineer. Specifically, Section 82-231 presents:

Sec. 82-231. When construction permitted.

All persons, including subdividers, property owners and developers, hereinafter referred to as "subdividers", who own or control property which is so situated with reference to any sewer or water line in the city as, in the opinion of the city council or such officer as may be designated for the purpose, to make it practical to connect with any sewer or water line, may, at their cost and expense, lay and construct water and sewer lines in and along the streets and ways of the city to connect with such water and sewer lines in accordance with the master plan of the city and such conditions as may be prescribed by the ordinances or the city council.

(Code 1978, § 5-61)

(2) City Cost Option: Specifically, Section 82-237 presents:

Sec. 82-237. Extension of city-owned utilities; requiring connections to city water, sewer and gas lines for service of new construction.

(a) Utility extensions by the city. It is the policy of the city to extend any or all municipally-owned utilities to unserved residences or businesses when budgeted and appropriated city funds for such extension are available, in accordance with the criteria below:

(1) Requests for extensions will be addressed in the order in which they are received. The availability of funds for that specific program will be the first requirement considered.

(2) Annual estimated revenue to the city over five years must equal or exceed the estimated cost of installation to be paid by the city, less applicable capital recovery fees. Revenue is estimated by the finance director, based on current average annual billings for the category of use. Construction cost is estimated by the public works director using current unit pricing for materials, equipment use and labor.

(3) Full payments of the required contribution to the city have all been received for the specific program.

(4) The city will extend water utility service if adequate service can be provided (i) in compliance with Texas Water Commission regulations and guidelines, and (ii) as necessary to supply fire protection services, including the sizing of lines as determined appropriate by the city to meet anticipated future service needs. Sewer service will be extended consistent with available capacity, including the sizing of lines as determined appropriate by the city to meet anticipated future service needs. Gas service will be extended in a similar manner.

(5) This policy does not impose any obligation on the city to extend city utilities when such extensions are the responsibility of the owner, builder or developer.

(b) Nondiscriminatory administration of policy. It is the policy and goal of the city to provide utilities, in accordance with the guidelines of this article, to all citizens on an

equal, nondiscriminatory basis. The city is committed to the furtherance of this policy and goal.

(c) Water, sewer and gas connections required for new construction. All new construction, residential or commercial, shall be connected to and use the city owned water, sewer and gas utilities if such utility service lines are located within 100 feet of any property lines of the subject lot, tract or parcel of land at the time of construction. New construction does not include remodeling or add-ons to existing residential or commercial improvements.

(d) Penalties. Any person, corporation or entity who or which violates the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00 per offense. Each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate offense.

(Ord. No. 93-08, §§ 3--6, 7-12-93)

E&P requested summary materials, equipment, and labor cost from the Public Water Department (PW) to install the water and gas lines. PW estimated the material cost at \$28,624.93 and the material/labor cost at \$12,083.84. E&P estimates Professional Services including Engineering and Surveying, totaling \$15,380.00.

Based on Section 82-237 (previously cited) and the City's Administrative Policies, Rules and Procedures, Policy No. 58, Subject: "*Extending Water, Sewer, and Gas Utilities to Existing Residences or Businesses Not Currently Served By Any or All of These Utilities*" (attached), the following table was prepared to break down the net cost and payback for extensions as prescribed by Ordinance:

Water & Gas Extension for Pine Country Subdivision Section One Residential Calculations

Total Number of Customers and Impact Fees

Number of Customers	8
Impact Fees (Before June 1, 2010)	\$1,162.98
Total Impact Fees	\$9,303.84

Total Cost of Installation

Engineering & Surveying	\$15,380.00
Material (12" Waterline and 4" Gas line)	\$28,624.93
Labor & Equipment	\$12,083.84
Total Estimated Cost	\$56,088.77

Net Cost

Total Estimated Cost	\$56,088.77
Capital Recovery (Total Impact Fees)	\$9,303.84
Net Cost	\$46,784.93

Water Usage Payback

Months	60
Average Month Rate (ref. attached determination)	\$38.46
Total Billed (Jan 1 - Dec 31, 2009)	\$1,146,027.04
Total Number of Meters (Jan 1 - Dec 31, 2009)	29,797
5 Years' Revenue	\$2,307.60
Water Usage Payback	\$18,460.80

Gas Usage Payback

Months	60
Average Month Rate (ref. attached determination)	\$52.80
Total Billed (Jan 1 - Dec 31, 2009)	\$1,322,099.32
Total Number of Meters (Jan 1 - Dec 31, 2009)	25,042
5 Years' Revenue	\$3,168.00
Gas Usage Payback	\$25,344.00

Net Difference

Net Cost	\$46,784.93
Water Usage Payback	\$18,460.80
Gas Usage Payback	\$25,344.00
Net Difference	-\$2,980.13

Section 82-237 (a)(2) states that the annual estimated revenues over five years must equal or exceed the estimated cost of installation to be paid by the City less applicable capital recovery fees. The analysis determined a negative difference in payback. However, based on the number of residents and in reference to the waterline sizing, based on Texas Administrative Code (TAC) requirements (i.e., 30 TAC 290.44, attached) only a 2" waterline would be required. The 12" waterline is required by the City consistent with the City's 10-Year Infrastructure Plan, allowing for system expansion and future connections. Historically, the City has contributed to infrastructure over sizing cost, consistent with the 10-Year Infrastructure Plan (reference attached). In addition, the waterline extension will also provide fire protection for these residences and adjacent area.

Summary:

Should Council agree to the extension of water and gas to service Pine Country Section I and based on the determination that funds are available for the design, materials, and equipment, E&P recommend the following course of action be approved by City Council:

1. Finance Department confirm/determine funding source for Professional Services totaling \$15,380.
2. Public Works Department confirm the available funding source for materials determined necessary for the installation by the Public Water Department totaling \$28,624.93.
3. Collect the required tap and water impact fees from each Owner.
4. E&P to negotiate and manage the Professional Services Agreement.
5. City Manager to execute Professional Services Agreement.
6. Public Works Department to complete installation per design plans.

Attn: David Kuffman

December 11, 2009

CITY OF TOMBALL

FROM THE HOME OWNERS ON TOMBALL CEMETERY RD OR
PINE COUNTRY OF TOMABLL

We are all requesting to see if we can tie into the city sewer and drill are own water
wells so that each ½ acre lot or property owner can have its own water supply. Inless some how
theres a way to get city water.

Below is each lot number and owners name

Vallie Harrison Lot 1 and 2

Vallie Harrison

Buster Teague Lot 4 and 5

Buster Teague

Justin Teague Lot 6

Justin Teague

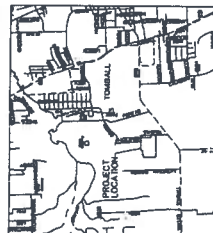
Brandon Teague Lot 7

Brandon Teague

Roy Teague Lot 8

Roy Teague

PHONE NUMBER TO BE REACH AT (832)256-3705



[Circular stamp: NOTARY PUBLIC STATE OF TEXAS]

I, the undersigned authority, on this 09 day of February, 2017, at DALLAS, Texas, do hereby certify that the foregoing instrument was duly executed by the person or persons whose name or names are subscribed to the foregoing instrument and acknowledged to me as such by said person or persons.

Russell E. Brown
Russell E. Brown, President
[Signature]

THE STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this 09 day of February, 2017, personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me as such by said person or persons, and s/he acknowledged to me that he executed the instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 09 day of February, 2017.

[Signature]
Notary Public in and for the State of Texas

My Commission Expires 2-28-19

**Projected Cost to Extend Water and Gas Along Tomball Cemetery Road (Based Upon
1,100 Linear Ft. Extension)**

Qty.	Description	Cost	Ext. Cost
1,100'	12" C-900 G/J Water Pipe	\$8.25	\$9,075.00
1	12" MJ 90 Deg. Ell With Accessories	\$191.29	\$191.29
1	12" MJ Long Sleeve With Accessories	\$139.24	\$139.24
10	Gallons of Pipe Lube	N/C	\$0.00
3	12" x 6" MJ Tee With Accessories	\$178.53	\$535.59
3	6" MJ Gate Valve With Accessories	\$427.49	\$1,282.47
1	12" MJ Valve With Accessories	\$1,299.65	\$1,299.65
150	Cubic Yards of Bank Sand	\$7.41	\$1,111.50
2	Cubic Yards of Concrete	\$150.00	\$300.00
3	5' Bury Fire Hydrants	\$1,365.73	\$4,097.19
3	500' Rolls #12 Tracing Wire	\$80.00	\$240.00
1,100'	4" Poly Gas Pipe	\$2.55	\$2,805.00
2	4" Full Port Poly Gas Valve	\$274.00	\$548.00
1	Estimated Engineering Cost for Plan and Profile And Control Survey Staking	\$7,000.00	\$7,000.00
		Total:	\$28,624.93

From Steve Purvis
03/17/10 mth

Quantity	Line Item Description	Unit Cost	Line Item Total
144	Total estimated hours for water and gas crew consisting of one crew chief and four man crew	\$65.31	\$9,404.64
144	Total estimated track excavator equipment hours	\$14.90	\$2,145.60
24	Total estimated boring machine equipment hours	\$14.90	\$357.60
50	Total estimated dump truck miles	\$.55	\$27.50
270	Total estimated crew truck miles	\$.55	\$148.50
	Total Estimated Labor and Equipment Cost:		\$12,083.84

CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES

SUBJECT EXTENDING WATER, SEWER AND GAS UTILITIES TO EXISTING RESIDENCES OR BUSINESSES NOT CURRENTLY SERVED BY ANY OR ALL OF THESE UTILITIES	NUMBER: 58	EFFECTIVE DATE: July 20, 1998	PAGE 1 OF 3
	REVISED:	APPROVED BY CITY MANAGER: July 20, 1998	
	SUPERSEDES:	APPROVED BY CITY COUNCIL: July 20, 1998	

INTENT

It is the intent of the City Council of the City of Tomball to appropriate a fixed amount of funds annually to extend water, sewer, and gas utilities to residences or business within the City.

EXPLANATION

In the normal course of building and development, the purchaser of a lot pays for the ready availability of utilities in the purchase price of the lot. For example, an 80-ft. by 120-ft. lot with all utilities available might cost \$10,000. A similar lot without the availability of water, sewer and gas might be available at \$4,000. If the City installed utilities to the \$4,000 lot from ratepayer revenue, it would mean the owner of the \$10,000 lot pays twice, once when he paid for the lot up front and again, through the utility rates, to pay for extending utilities to the \$4,000 lot.

The extension of utilities to unserved residences and businesses can be accomplished with mutual benefit for the ratepayer and the unserved business or resident, under certain controlled guidelines. With this explanation in hand, the following policy for extending municipally-owned utilities is adopted:

POLICY

It is the policy of the City of Tomball to extend any or all municipally-owned utilities to unserved residences or businesses on a 'first-come, first-served' basis and within the limits of appropriated funds for that specific program when the following criteria is met:

- * Annual estimated revenue to the City in 5 years must equal or exceed the estimated cost of installation to be paid by the City, less capital recovery fees. Revenue is estimated by the Finance Director, based on current average annual billings for the category of use. Construction cost is estimated by the Public Works Director using current unit pricing for materials, equipment use and labor.
- * Full payments of required contribution to the City have all been received for the specific program.

CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES

SUBJECT EXTENDING WATER, SEWER AND GAS UTILITIES TO EXISTING RESIDENCES OR BUSINESSES NOT CURRENTLY SERVED BY ANY OR ALL OF THESE UTILITIES	NUMBER: 58	EFFECTIVE DATE: July 20, 1998	PAGE 2 OF 3
	REVISED:	APPROVED BY CITY MANAGER: July 20, 1998	
	SUPERSEDES:	APPROVED BY CITY COUNCIL: July 20, 1998	

SAMPLE CALCULATION
WATER

Residential:

Total Cost to Construct:	\$4,000
Capital Recovery:	<u>-2,340</u> (5 customers)
Net Cost:	<u>\$1,660</u>

5 Years' Revenue:	60 months x \$17.44/month* = \$1,046.40
Payback:	\$1,046.40 x 5 Customers = \$5,232.00

* Based on previous fiscal year's average residential usage at current rates

Commercial: Same, except will need to be more consumer-specific on estimated revenue.

SAMPLE CALCULATION
SEWER

Residential:

Total Cost to Construct:	\$4,000
Capital Recovery:	<u>-2,755</u>
Net Cost:	<u>\$1,245</u>

5 Years' Revenue:	60 months x \$14.49/month = \$ 869.40
Payback:	\$869.40 x 5 Customers = \$4,347.00

* Based on previous winter months' average usage at current rates and assuming 85% factor for sewer to water customers.

Commercial: Same, except will need to be more consumer-specific on estimated revenue.

CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES

SUBJECT EXTENDING WATER, SEWER AND GAS UTILITIES TO EXISTING RESIDENCES OR BUSINESSES NOT CURRENTLY SERVED BY ANY OR ALL OF THESE UTILITIES	NUMBER: 58	EFFECTIVE DATE: July 20, 1998	PAGE 3 OF 3
	REVISED:	APPROVED BY CITY MANAGER: July 20, 1998	
	SUPERSEDES:	APPROVED BY CITY COUNCIL: July 20, 1998	

SAMPLE CALCULATION
SEWER (SEPTIC)

Total Cost to Construct:	\$4,000
Capital Recovery:	- 0
Net Cost:	<u>\$4,000</u>

5 Years' Revenue:	60 months x \$14.49/month = \$ 869.40
Payback:	\$869.40 x 5 Customers = \$4,347.00

SAMPLE CALCULATION
GAS

Total Cost to Construct:	\$4,000
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5 Years' Revenue:	60 months x \$15.00/month = \$ 900.00
Payback:	\$900.00 x 5 Customers = \$4,500.00

BOOK:

***** RATE TABLE TOTALS *****

** (CONTINUED) **

Water Rate Determination

CAT	CODE	TBL	DESCRIPTION	SCHED	NO#	METERS	TOTAL NET	FUEL-ADJ	TOTAL TAX	TAXABLE	CONSUMPTION	MLT.
SAN	050	41	30 YD COMPACTOR	41	15		14,085.88	0.00	487.26	5,905.99		
SAN	050	42	35 YD COMPACTOR	42	5		23,293.59	0.00	0.00	0.00		
SAN	050	43	40 YD COMPACTOR	43	18		22,983.46	0.00	1,896.12	22,983.46		
SAN	050	44	42 YD COMPACTOR	44	8		3,642.13	0.00	300.47	3,642.13		
SAN	050	45	4 YD - 1 PU (AS 2ND)	45	12		819.36	0.00	67.56	819.36		
SAN	050	47	6 YD - 1 PU (AS 2ND)	47	36		5,615.40	0.00	463.32	5,615.40	60.0000	
SAN	050	48	6 YD - 3 PU (AS 2ND)	48	35		13,164.18	0.00	972.68	11,790.60	58.0000	
SAN	050	49	4 YD - 2 PU (AS 2ND)	49	24		2,727.87	0.00	112.44	1,363.23	24.0000	
SAN	050	50	4 YD - 5 PU (AS 2ND)	50	9		8,834.97	0.00	644.48	7,811.61	36.0000	
SAN	050	52	3YD-6PU(AS 2ND DUMP)	52	12		2,754.99	0.00	227.34	2,754.99	12.0000	
SAN	050	53	8 YD-1PU (AS 2ND)	53	13		1,498.94	0.00	123.67	1,498.94	13.0000	
SAN	050	55	8 YD - 2 PU (AS 2ND)	55	36		7,151.13	0.00	196.65	2,383.71	36.0000	
SAN	050	56	6 YD - 2 PU (AS 2ND)	56	1		800.45	0.00	0.00	0.00	5.0000	
SAN	050	57	8 YD-5 PU(AS 2ND)	57	12		5,395.44	0.00	0.00	0.00		
SAN	050	58	3 YD 1 PU (AS A 2ND)	58	9		331.22	0.00	27.30	331.22	7.0000	
SC	060	01	SERV CHG-RESIDENTIAL	01	30541		30,531.00	0.00	0.00	0.00		
SC	060	03	SERV CHG-COMMERCIAL	03	10568		10,548.00	0.00	0.00	0.00		
SC	060	11	SERV CHG -NO CHARGE	11	3		0.00	0.00	0.00	0.00		
SWR	040	01	SEWER DO NOT USE	01	228		5,950.94	0.00	0.00	0.00	1,347.0000	
SWR	040	02	SEWER ON SEPTIC RES	02	220		7,682.36	0.00	0.00	0.00		
SWR	040	03	SEWER	03	6326		1,206,491.25	0.00	0.00	0.00	204,150.0000	6738
SWR	040	04	SEWER ON SEPTIC COM	04	60		3,495.60	0.00	0.00	0.00		
SWR	040	07	SWR-MULTI FAMILY	07	1170		486,090.70	0.00	0.00	0.00	83,996.0000	12
SWR	040	09	SWR-MUNICIPAL	09	219		0.00	0.00	0.00	0.00	3,909.0000	
SWR	040	10	SEWER AVERAGING	10	25374		636,497.14	0.00	0.00	0.00	141,572.0000	60
WTR	010	01	W-RESIDENTIAL	01	29797		1,146,027.04	0.00	0.00	0.00	281,846.0000	81
WTR	010	03	W-COMMERCIAL	03	7925		1,674,527.83	0.00	0.00	0.00	298,688.0000	39
WTR	010	04	W-MULTI FAMILY	04	1197		396,696.38	0.00	0.00	0.00	72,632.0000	12
WTR	010	05	W-COMPOUND METER	05	1109		0.00	0.00	0.00	0.00		
WTR	010	07	WATER -NO CHARGE	07	7		0.00	0.00	0.00	0.00	1,392.0000	
WTR	010	09	W-MUNICIPAL	09	558		0.00	0.00	0.00	0.00	7,309.0000	
WTR	010	11	WATER -NO CHARGE	11	6		0.00	0.00	0.00	0.00	138.0000	

TOTALS

12,964,050.31

0.00

253,780.82

3078,727.51

***** METER GROUP TOTALS *****

CODE	DESCRIPTION	BILLED CONSUMPTION	UNBILLED CONSUMPTION	TOTAL CONSUMPTION	DEMAND CONSUMPTION
W	WATER	662,005.0000	2.000	662,007.0000	
G	GAS	292,129.0000	1.000	292,130.0000	

Total Billed
No. of Meters

1,146,027.04
29797

= \$38.46 Average Monthly Rate

WATER

mm

----- RATE TABLE TOTALS -----

CAT CODE	TBL DESCRIPTION	SCHED	NO#	TOTAL NET	FUEL-ADJ	TOTAL TAX	TAXABLE	CONSUMPTION	MLT.
GAS 020 01	G-RESIDENTIAL	01	25042	1,322,099.32	0.00	0.00	0.00	88,522.0000	36
GAS 020 03	G-COMMERCIAL	03	3595	2,808,564.05	0.00	110,558.62	1325,263.20	189,488.0000	15
GAS 020 04	G-MULTI-FAMILY	04	135	164,168.75	0.00	2,354.46	26,108.00	11,126.0000	
GAS 020 05	MULTI FAMILY-SPECIAL	05	9	25,106.50	0.00	502.14	25,106.50	1,739.0000	
GAS 020 09	G-MUNICIPAL	09	108	0.00	0.00	0.00	0.00	1,254.0000	
HF 070 02	HCRWA	02	30861	498,887.10	0.00	0.00	0.00	332,588.0000	96
HF 070 03	HCRWA FEE	03	7985	477,188.70	0.00	0.00	0.00	318,045.0000	39
HF 070 09	HCRWA FEE-MUNICIPAL	09	341	0.00	0.00	0.00	0.00	5,950.0000	
HF 070 11	HCRWA FEE -NO CHARGE	11	1	0.00	0.00	0.00	0.00		
SAN 050 01	GARBAGE	01	27661	407,421.28	0.00	33,526.52	407,243.08		
SAN 050 02	GARBAGE - MULTI FAMI	02	200	5,944.00	0.00	461.42	5,587.60		
SAN 050 03	COMMERCIAL - 1 PU/WK	03	1280	31,953.85	0.00	2,502.48	30,334.96	1,426.0000	
SAN 050 04	COMMERCIAL - 2 PU/WK	04	585	24,977.96	0.00	1,909.57	23,126.69	888.0000	
SAN 050 05	3 YD - 1 PU	05	769	52,255.94	0.00	4,172.84	50,602.82	760.0000	
SAN 050 06	3 YD - 2 PU	06	174	22,367.03	0.00	1,611.64	19,537.85	198.0000	
SAN 050 07	3 YD - 3 PU	07	48	8,253.36	0.00	510.66	6,190.02	48.0000	
SAN 050 08	3 YD - 4 PU	08	48	23,973.81	0.00	1,602.84	19,428.48	132.0000	
SAN 050 09	3 YD - 5 PU	09	3	1,946.13	0.00	160.56	1,946.13	9.0000	
SAN 050 10	4 YD - 1 PU	10	358	28,424.83	0.00	2,319.56	28,105.41	356.0000	
SAN 050 11	4 YD - 2 PU	11	158	22,895.03	0.00	1,888.75	22,895.03	170.0000	
SAN 050 12	4 YD - 3 PU	12	66	17,037.78	0.00	1,240.21	15,030.47	90.0000	
SAN 050 13	4 YD - 4 PU	13	3	2,631.93	0.00	217.14	2,631.93	12.0000	
SAN 050 15	4 YD - 6 PU	15	11	4,172.15	0.00	344.16	4,172.15	11.0000	
SAN 050 16	6 YD - 1 PU	16	520	60,103.23	0.00	3,980.77	48,249.11	564.0000	
SAN 050 17	6 YD - 2 PU	17	392	81,275.65	0.00	5,280.71	64,019.80	457.0000	
SAN 050 18	6 YD - 3 PU	18	216	66,729.92	0.00	4,804.97	58,240.66	261.0000	
SAN 050 19	6 YD - 4 PU	19	49	20,053.34	0.00	1,654.52	20,053.34	61.0000	
SAN 050 20	6 YD - 5 PU	20	58	73,930.91	0.00	3,188.99	38,654.22	200.0000	
SAN 050 21	6 YD - 6 PU	21	36	17,889.81	0.00	1,433.20	17,372.12	36.0000	
SAN 050 22	8 YD - 1 PU	22	258	34,279.17	0.00	2,699.45	32,708.16	262.0000	
SAN 050 23	8 YD - 2 PU	23	479	133,871.39	0.00	9,629.35	116,719.70	608.0000	
SAN 050 24	8 YD - 3 PU	24	456	195,798.90	0.00	13,414.47	162,603.41	616.0000	
SAN 050 25	8 YD - 4 PU	25	47	24,560.84	0.00	2,026.20	24,560.84	59.0000	
SAN 050 26	8 YD - 5 PU	26	63	43,649.70	0.00	1,558.80	18,893.70	87.0000	
SAN 050 27	8 YD - 6 PU	27	63	52,528.57	0.00	2,554.26	30,960.49	87.0000	
SAN 050 28	ROLL OFFS	28	547	367,935.39	0.00	24,701.29	299,409.58		
SAN 050 29	OTHER GARBAGE	29	14	958.95	0.00	79.11	958.95		
SAN 050 30	LOCK SET UP	30	3	260.07	0.00	21.45	260.07	3.0000	
SAN 050 31	3 YD - 6 PU	31	24	7,745.16	0.00	639.06	7,745.16	24.0000	
SAN 050 32	3 YD EXTRA PICKUP	32	10	436.60	0.00	14.40	174.64		
SAN 050 33	3 YD - 5 PU (AS 2ND)	33	9	5,373.00	0.00	246.25	2,985.00	27.0000	
SAN 050 34	COMPACTORS	28	59	92,892.23	0.00	4,402.70	53,365.79		
SAN 050 35	8 YD-3PU (AS 2ND)	35	21	12,109.14	0.00	0.00	0.00	42.0000	
SAN 050 36	COMPACTOR RENTAL	28	12	790.86	0.00	0.00	0.00		
SAN 050 37	4 YD EXTRA PICKUP	37	2	100.20	0.00	8.26	100.20		
SAN 050 38	6 YD EXTRA PICKUP	38	15	751.27	0.00	23.85	288.95		
SAN 050 39	8 YD EXTRA PICKUP	39	33	2,119.26	0.00	15.90	192.66		

Total Billed
of Meters

1,322,099.32
25042

= \$52.80

Average Monthly

mm

30 TAC § 290.43

damage to the pumps. The service pump circuitry shall also resume pumping automatically once the minimum water level is reached in the tank.

Source: The provisions of this §290.43 adopted to be effective October 1, 1992, 17 TexReg 6455; amended to be effective November 3, 1995, 20 TexReg 8620; amended to be effective February 4, 1999, 24 TexReg 731; amended to be effective February 19, 2004, 29 TexReg 1373.

§ 290.44. Water Distribution

(a) Design and standards. All potable water distribution systems including pump stations, mains, and both ground and elevated storage tanks, shall be designed, installed, and constructed in accordance with current American Water Works Association (AWWA) standards with reference to materials to be used and construction procedures to be followed. In the absence of AWWA standards, commission review may be based upon the standards of the American Society for Testing and Materials (ASTM), commercial, and other recognized standards utilized by licensed professional engineers.

(1) All newly installed pipes and related products must conform to American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 61 and must be certified by an organization accredited by ANSI.

(2) All plastic pipe for use in public water systems must also bear the National Sanitation Foundation Seal of Approval (NSF-pw) and have an ASTM design pressure rating of at least 150 psi or a standard dimension ratio of 26 or less.

(3) No pipe which has been used for any purpose other than the conveyance of drinking water shall be accepted or relocated for use in any public drinking water supply.

(4) Water transmission and distribution lines must be installed in accordance with the manufacturer's instructions. However, the top of the waterline must be located below the frost line and in no case shall the top of the waterline be less than 24 inches below ground surface.

(5) The hydrostatic leakage rate shall not exceed the amount allowed or recommended by AWWA formulas.

(b) Lead ban. The following provisions apply to the use of lead in plumbing.

(1) The use of pipes and pipe fittings that contain more than 8.0% lead or solders and flux that contains more than 0.2% lead is prohibited in the following circumstances:

(A) for installation or repair of any public water supply; and

COMMISSION ON ENVIRONMENTAL QUALITY

(B) for installation or repair of any plumbing in a residential or nonresidential facility providing water for human consumption and connected to a public drinking water supply system.

(2) This requirement will be waived for lead joints that are necessary for repairs to cast iron pipe.

(c) Minimum waterline sizes. The minimum waterline sizes are for domestic flows only and do not consider fire flows. Larger pipe sizes shall be used when the licensed professional engineer deems it necessary. It should be noted that the required sizes are based strictly on the number of customers to be served and not on the distances between connections or differences in elevation or the type of pipe. No new waterline under two inches in diameter will be allowed to be installed in a public water system distribution system. These minimum line sizes do not apply to individual customer service lines.

T30S290.44(c)

Maximum Number of Connections	Minimum Line Size (inches)
10	2
25	2.5
50	3
100	4
150	5
250	6
>250	8 and larger

(d) Minimum pressure requirement. The system must be designed to maintain a minimum pressure of 35 psi at all points within the distribution network at flow rates of at least 1.5 gallons per minute per connection. When the system is intended to provide fire fighting capability, it must also be designed to maintain a minimum pressure of 20 psi under combined fire and drinking water flow conditions.

(1) Air release devices shall be installed in the distribution system at all points where topography or other factors may create air locks in the lines. Air release devices shall be installed in such a manner as to preclude the possibility of submergence or possible entrance of contaminants. In this respect, all openings to the atmosphere shall be covered with 16-mesh or finer, corrosion-resistant screening ma-

PUBLIC DRIN

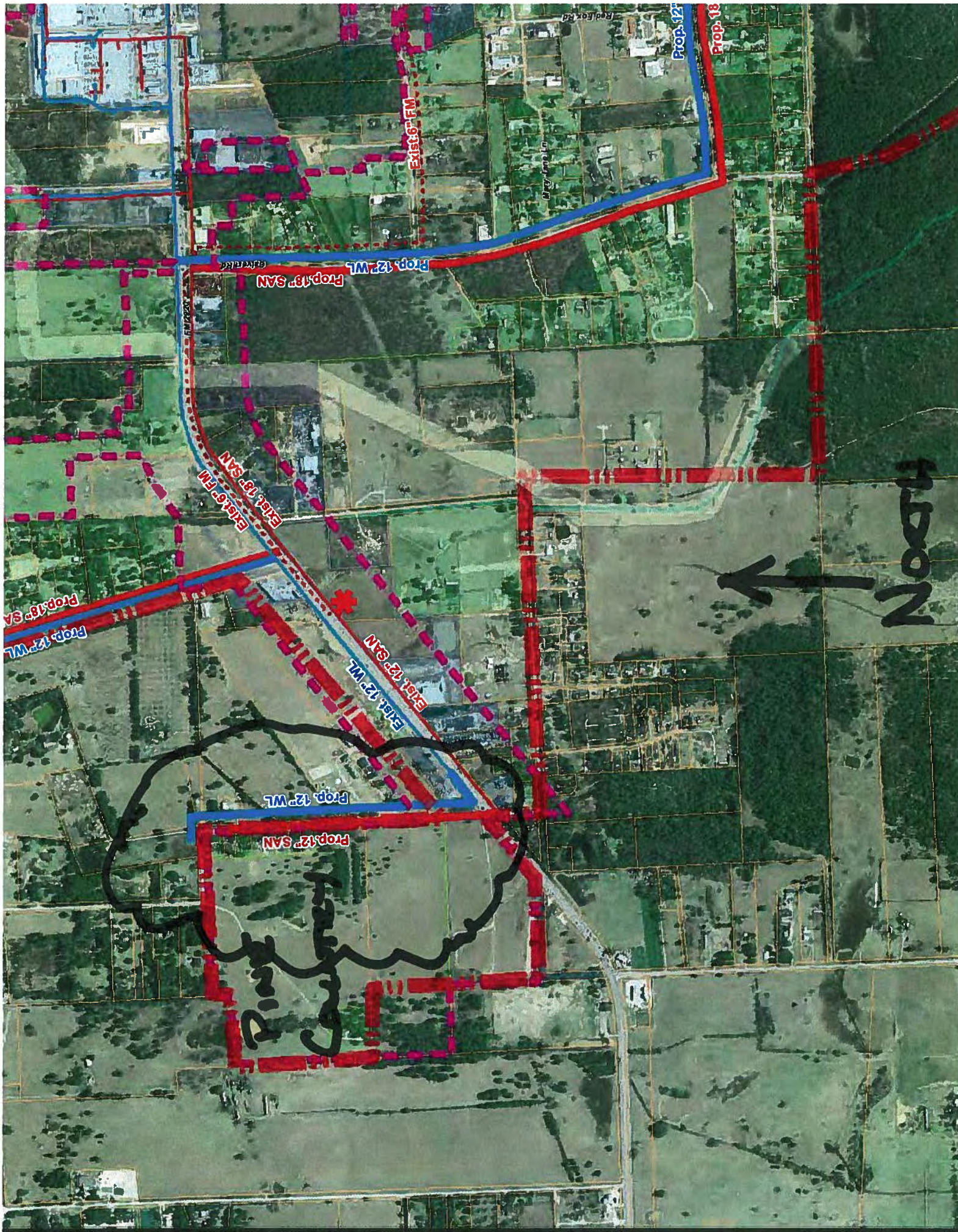
terial or an acce

(2) When serv one pressure pl conditions and develop, the met shall be by mea from storage har ment is desired, for the executive terial for booste than a storage contain a full de suction, maxim system, location trols, and other p pumps are instal distribution syst 20 psi must be r times. Such in automatic press ing units becom less than 20 psi recording devic mined suspecte tion line in orde in the line at a critical minimu equate storage booster pumps t Fire pumps use sprinkler syste are not conside

(3) Service co taking suction must be equipr devices so that tive at a suction these types of ferred method an air gapped subsequent rep

(4) Each cor provide accura tial, commerci for the accum system that, fu only to itself o commodity is exempt from th

(5) The syste valves and blov made without any consideral



Mark McClure

From: Mark McClure
Sent: Tuesday, December 08, 2009 6:01 PM
To: Christal Kliewer
Subject: FW: Request for Water and Sewer Extension to Lots 1 and 2 of Section One Pine Country

Christal, per a phone call reviewed my previous discussions with Vallie Harrison concerning water and sewer connections for his residence and others along Tomball Cemetery Road. Bottom line, I recommended he make his request with you, so you may be receiving a phone call.

Mark A. McClure, P.E.
 City of Tomball
 Director of Engineering & Planning
 501 James Street
 Tomball, Texas 77375
 (281) 290-1412
 Fax: (281) 351-4735
 mmcclure@ci.tomball.tx.us

From: Mark McClure
Sent: Thursday, December 03, 2009 2:21 PM
To: Christal Kliewer
Cc: David Kauffman; John Escamilla; Lori Lakatos; Bobby Sanders
Subject: RE: Request for Water and Sewer Extension to Lots 1 and 2 of Section One Pine Country

Fyi.....I am calculating roughly 1100 lineal feet for the 8 lots that front Tomball Cemetery Road. The waterline improvements will require plan and profile drawings. Assuming 50-70 dollars a foot, the project could range in cost from \$55K to \$70K. Fee assessments would be per my discussion below.

Mark A. McClure, P.E.
 City of Tomball
 Director of Engineering & Planning
 501 James Street
 Tomball, Texas 77375
 (281) 290-1412
 Fax: (281) 351-4735
 mmcclure@ci.tomball.tx.us

From: Mark McClure
Sent: Thursday, December 03, 2009 9:50 AM
To: Christal Kliewer
Cc: David Kauffman; John Escamilla; Lori Lakatos; Bobby Sanders
Subject: FW: Request for Water and Sewer Extension to Lots 1 and 2 of Section One Pine Country

I received a voice mail phone call from Vallie Harrison and it is my understanding that he is currently requesting water service. This issue was framed up previously, reference e-mail dated June 16, 2009 below.

Mark A. McClure, P.E.
 City of Tomball
 Director of Engineering & Planning
 501 James Street
 Tomball, Texas 77375
 (281) 290-1412
 Fax: (281) 351-4735
 mmcclure@ci.tomball.tx.us

From: Mark McClure
Sent: Tuesday, June 16, 2009 1:58 PM
To: 'info@hevasphaltpaving.com'
Cc: Jan Belcher; Lori Lakatos; Bobby Sanders

1/24/2010

Subject: Request for Water and Sewer Extension to Lots 1 and 2 of Section One Pine Country

REQUEST: I received a phone call from Vallie Harrison at (260) 740-1769, requesting water and wastewater connections associated with two lots identified above.

BACKGROUND: Vallie occupies a house and owns an adjacent lot (i.e., Lots 1 and 2) out of Section One of the Pine Country Subdivision, west of Tomball along Tomball Cemetery Road, reference attached plat. Section 2 of the Pine Country Subdivision is currently being constructed. The utilities have been extended along Tomball Cemetery Road to Lot 8 of Section 1 and utilities have been extended in Section 2 (reference attached plat), including a sanitary sewer along the rear of Lots 1-8. Lots 1 and 2 can be provided wastewater connections off of the rear of those lots and would be required to pay a tap fee, but would not be assessed an impact fee. A water line has been extended through Section 2 with an existing connection point located at the northwesterly corner of Lot 1. A 12" water line will need to be extended along the northerly side of Lot 1 and along the easterly side of Lot 1 and 2 to provide a water line connection point. (Section 2 overall water and gas layout sheet is attached for reference.) The requestor is subject to residential water impact fee and tap fees.

ORDINANCE REQUIREMENT: Chapter 82 of the City's Code of Ordinances reference two options, more or less the Owner is responsible for the cost or can request assistance from the City if funds are available.

Owner Cost Option: This section may require a utility plan prepared by licensed Professional Engineer. Specifically, Section 82-231 presents:

Sec. 82-231. When construction permitted.

All persons, including subdividers, property owners and developers, hereinafter referred to as "subdividers", who own or control property which is so situated with reference to any sewer or water line in the city as, in the opinion of the city council or such officer as may be designated for the purpose, to make it practical to connect with any sewer or water line, may, at their cost and expense, lay and construct water and sewer lines in and along the streets and ways of the city to connect with such water and sewer lines in accordance with the master plan of the city and such conditions as may be prescribed by the ordinances or the city council.

(Code 1978, § 5-61)

City Cost Option: Specifically, Section 82-237 presents:

Sec. 82-237. Extension of city-owned utilities; requiring connections to city water, sewer and gas lines for service of new construction.

(a) Utility extensions by the city. It is the policy of the city to extend any or all municipally-owned utilities to unserved residences or businesses when budgeted and appropriated city funds for such extension are available, in accordance with the criteria below:

(1) Requests for extensions will be addressed in the order in which they are received. The availability of funds for that specific program will be the first requirement considered.

(2) Annual estimated revenue to the city over five years must equal or exceed the estimated cost of installation to be paid by the city, less applicable capital recovery fees. Revenue is estimated by the finance director, based on current average annual billings for the category of use. Construction cost is estimated by the public works director using current unit pricing for materials, equipment use and labor.

(3) Full payments of the required contribution to the city have all been received for the specific program.

(4) The city will extend water utility service if adequate service can be provided (i) in compliance with Texas Water Commission regulations and guidelines, and (ii) as necessary to supply fire protection services, including the sizing of lines as determined appropriate by the city to meet anticipated future service needs. Sewer service will be extended consistent with available capacity, including the sizing of lines as determined appropriate by the city to meet anticipated future service needs. Gas service will be extended in a similar manner.

(5) This policy does not impose any obligation on the city to extend city utilities when such extensions are the responsibility of the owner, builder or developer.

(b) Nondiscriminatory administration of policy. It is the policy and goal of the city to provide utilities, in accordance with the guidelines of this article, to all citizens on an equal, nondiscriminatory basis. The city is committed to the furtherance of this policy and goal.

(c) Water, sewer and gas connections required for new construction. All new construction, residential or commercial, shall be connected to and use the city owned water, sewer and gas utilities if such utility service lines are located within 100 feet of any property lines of the subject lot, tract or parcel of land at the time of construction. New construction does not include remodeling or add-ons to existing residential or commercial improvements.

(d) Penalties. Any person, corporation or entity who or which violates the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00 per offense. Each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate offense.

(Ord. No. 93-08, §§ 3--6, 7-12-93)

ENGINEERING & PLANNING DEPARTMENT'S RECOMMENDATION:

The Owner was requested to review the alternatives list above. For City participation, the Owner was requested to contact the City Manager for utility consideration in accordance to Sec. 82-237 cited above.

1/24/2010

Mark A. McClure, P.E.
City of Tomball
Director of Engineering & Planning
501 James Street
Tomball, Texas 77375
(281) 290-1412
Fax: (281) 351-4735
mmcclure@ci.tomball.tx.us

**Water & Gas Extension for Pine Country Subdivision Section One
Residential Calculations**

Re: Extension/Payback Cost Analysis for 12" Water line and 4" Gas Line for 8 Lots

Total Number of Customers and Impact Fees

Number of Customers	8
Impact Fees (Before June 1, 2010)	\$1,162.98
Total Impact Fees	\$9,303.84

Total Cost of Installation (Installed by Public Works Department)

Engineering & Surveying	\$15,380.00
Material (12" Waterline and 4" Gas line)*	\$21,624.93
Labor & Equipment	\$12,083.84
Total Estimated Cost	\$49,088.77

Net Cost

Total Estimated Cost	\$49,088.77
Capital Recovery (Total Impact Fees)	\$9,303.84
Net Cost	\$39,784.93

Water Usage Payback

Months	60
Average Month Rate	\$38.46
Total Billed (Jan 1 - Dec 31, 2009)	\$1,146,027.04
Total Number of Meters (Jan 1 - Dec 31, 2009)	29797
5 Years' Revenue	\$2,307.60
Water Usage Payback	\$18,460.80

Gas Usage Payback

Months	60
Average Month Rate	\$52.80
Total Billed (Jan 1 - Dec 31, 2009)	\$1,322,099.32
Total Number of Meters (Jan 1 - Dec 31, 2009)	25042
5 Years' Revenue	\$3,168.00
Gas Usage Payback	\$25,344.00

Net Difference

Net Cost	\$39,784.93
Water Usage Payback	\$18,460.80
Gas Usage Payback	\$25,344.00
Net Difference	\$4,019.87

*Adjusted amount from April 5, 2010 presentation (material cost)
\$28,624.93 to \$21,624.63. Design costs were included in two locations,
therefore material costs were adjusted.

**Water & Gas Extension for Pine Country Subdivision Section One
Residential Calculations**

Re: Extension/Payback Cost Analysis for 2" Water line and 4" Gas Line for 5 Owners

*** Assumes no fire service capacity (i.e. fire hydrants)**

Total Number of Customers and Impact Fees

Number of Customers	5
Impact Fees (Before June 1, 2010)	\$1,162.98
Total Impact Fees	\$5,814.90

Total Cost of Installation (Installed by Public Works Department)

Engineering & Surveying	\$5,000.00
Material (2" Waterline and 4" Gas line)	\$6,143.76
Labor & Equipment	\$9,000.00
Total Estimated Cost	\$20,143.76

Net Cost

Total Estimated Cost	\$20,143.76
Capital Recovery (Total Impact Fees)	\$5,814.90
Net Cost	\$14,328.86

Water Usage Payback

Months	60
Average Month Rate	\$38.46
Total Billed (Jan 1 - Dec 31, 2009)	\$1,146,027.04
Total Number of Meters (Jan 1 - Dec 31, 2009)	29797
5 Years' Revenue	\$2,307.60
Water Usage Payback	\$11,538.00

Gas Usage Payback

Months	60
Average Month Rate	\$52.80
Total Billed (Jan 1 - Dec 31, 2009)	\$1,322,099.32
Total Number of Meters (Jan 1 - Dec 31, 2009)	25042
5 Years' Revenue	\$3,168.00
Gas Usage Payback	\$15,840.00

Net Difference

Net Cost	\$14,328.86
Water Usage Payback	\$11,538.00
Gas Usage Payback	\$15,840.00
Net Difference	\$13,049.14

**Water & Gas Extension for Pine Country Subdivision Section One
Residential Calculations**

Re: Extension/Payback Cost Analysis for 2" Water line for 5 Owners

*** Assumes no fire service capacity (i.e. fire hydrants)**

Total Number of Customers and Impact Fees

Number of Customers	5
Impact Fees (Before June 1, 2010)	\$1,162.98
Total Impact Fees	\$5,814.90

Total Cost of Installation (Installed by Public Works Department)

Engineering & Surveying	\$5,000.00
Material (2" Waterline)	\$1,515.76
Labor & Equipment	\$9,000.00
Total Estimated Cost	\$15,515.76

Net Cost

Total Estimated Cost	\$15,515.76
Capital Recovery (Total Impact Fees)	\$5,814.90
Net Cost	\$9,700.86

Water Usage Payback

Months	60
Average Month Rate	\$38.46
Total Billed (Jan 1 - Dec 31, 2009)	\$1,146,027.04
Total Number of Meters (Jan 1 - Dec 31, 2009)	29797
5 Years' Revenue	\$2,307.60
Water Usage Payback	\$11,538.00

Gas Usage Payback

Months	60
Average Month Rate	\$0.00
Total Billed (Jan 1 - Dec 31, 2009)	\$1,322,099.32
Total Number of Meters (Jan 1 - Dec 31, 2009)	25042
5 Years' Revenue	\$0.00
Gas Usage Payback	\$0.00

Net Difference

Net Cost	\$9,700.86
Water Usage Payback	\$11,538.00
Gas Usage Payback	\$0.00
Net Difference	\$1,837.14

**Water & Gas Extension for Pine Country Subdivision Section One
Residential Calculations**

Re: Extension/Payback Cost Analysis for 2" Water line and 4" Gas Line for 8 Lots

*** Assumes no fire service capacity (i.e. fire hydrants)**

Total Number of Customers and Impact Fees

Number of Customers	8
Impact Fees (Before June 1, 2010)	\$1,162.98
Total Impact Fees	\$9,303.84

Total Cost of Installation (Installed by Public Works Department)

Engineering & Surveying	\$5,000.00
Material (2" Waterline and 4" Gas line)	\$6,143.76
Labor & Equipment	\$9,000.00
Total Estimated Cost	\$20,143.76

Net Cost

Total Estimated Cost	\$20,143.76
Capital Recovery (Total Impact Fees)	\$9,303.84
Net Cost	\$10,839.92

Water Usage Payback

Months	60
Average Month Rate	\$38.46
Total Billed (Jan 1 - Dec 31, 2009)	\$1,146,027.04
Total Number of Meters (Jan 1 - Dec 31, 2009)	29797
5 Years' Revenue	\$2,307.60
Water Usage Payback	\$18,460.80

Gas Usage Payback

Months	60
Average Month Rate	\$52.80
Total Billed (Jan 1 - Dec 31, 2009)	\$1,322,099.32
Total Number of Meters (Jan 1 - Dec 31, 2009)	25042
5 Years' Revenue	\$3,168.00
Gas Usage Payback	\$25,344.00

Net Difference

Net Cost	\$10,839.92
Water Usage Payback	\$18,460.80
Gas Usage Payback	\$25,344.00
Net Difference	\$32,964.88

Regular City Council

Agenda Item

Meeting Date: May 3, 2010

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2010-07, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of approximately 5.006 Acres of land, Legally Described as Tract 281, Tomball Outlots, of the Map Records of Harris County, Texas, from the SF-20-E Single-Family Estate Residential-20 District to the LI - Light Industrial District; Said Property Being Located on the westerly side of South Persimmon Street, northerly of Agg 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 February 19, 2010, the City received a rezoning application from Brian Matthews of Protective Concepts, Inc., on behalf of the property owner, Crescent Directional Drilling, to rezone an approximately 5.006 acre vacant tract of land, legally described as Tract 281, Tomball Outlots, generally located on the westerly side of South Persimmon Street, northerly of Agg Road from the SF-20-E - Single-Family Estate Residential-20 District to the LI - Light Industrial District.

The applicant is requesting to rezone the property from the SF-20-E - Single-Family Estate Residential-20 District to the LI - Light Industrial District in order to facilitate the construction of a manufacturing facility for Protective Concepts, Inc. The applicant has indicated that the site will be used by Protective Concepts, Inc. as the company's headquarters for manufacturing "passive fire protection covers for equipment in the oil/gas/petrochemical industries."

After reviewing the request, staff prepared a report to the Planning and Zoning Commission recommending denial based on the fact that the proposed zoning and use is incompatible with the largely residential land uses in the vicinity, is inconsistent with the Comprehensive Plan's Future Land Use Plan Map designation of Low Density Residential and due to the lack of sufficient utilities in the area to service an industrial use on the site.

On April 12, 2010, the Planning and Zoning Commission, after conducting a public hearing on this request, voted 3-2 to recommend denial. This request was forwarded to City Council for consideration and possible action; on April 19, 2010 Council adopted Ordinance No. 2010-07 on first reading.

Should this rezoning be approved, staff requests that City Council provide direction on whether or not to propose an amendment to the Comprehensive Plan to reflect a change in vision for this area of Tomball during its annual review process in early 2011.

Origination:

Brian Matthews of Protective Concepts, Inc., on behalf of the property owner, Crescent Directional Drilling

Recommendation:

In its formal recommendation to City Council, the Planning and Zoning Commission voted 3-2 to deny Zoning Case P10-206, as recommended by staff, based on the following: (a) the proposed zoning of LI-Light

Industrial District will be incompatible with the existing and intended land uses in the vicinity; (b) the proposed zoning of LI-Light Industrial District is inconsistent with the Tomball Comprehensive Plan; and (c) there are insufficient utilities in the area to service an industrial use on this site.

Funding:

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

Kelly Violette, City Planner

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

ATTACHMENTS:

- Ordinance No. 2010-07
- P10-206 Staff Report
- Notice of Public Hearing
- Adjacent Property Owner Notification
- Applicant Submitted Packet (PZ 4/12/10)

ORDINANCE NO. 2010-07

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 5.006 ACRES OF LAND, LEGALLY DESCRIBED AS TRACT 281, TOMBALL OUTLOTS, OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS, FROM THE SF-20-E SINGLE-FAMILY ESTATE RESIDENTIAL-20 DISTRICT TO THE LI - LIGHT INDUSTRIAL DISTRICT; SAID PROPERTY BEING LOCATED ON THE WESTERLY SIDE OF SOUTH PERSIMMON STREET, NORTHERLY OF AGG 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 5.006 acres of land, legally described as Tract 281, Tomball Outlots, generally located on the westerly side of South Persimmon Street, northerly of Agg 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 SF-20-E Single-Family Estate Residential-20 District to the LI - Light Industrial District; and

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

Whereas, the Planning and Zoning Commission made a recommendation to the City Council in its final report regarding such proposed change in the zoning district classification of the Property; and

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

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

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

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

Section 2. The zoning classification of 5.006 acres of land, legally described as Tract 281 Tomball Outlots, generally located on the westerly side of South Persimmon Street, northerly of Agg Road, in the City of Tomball, Harris County, Texas, (the “Property”), is hereby changed from SF-20-E Single-Family Estate Residential-20 District to the LI - Light Industrial District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas-Ordinance 2008-01, (“Zoning District Map”), shall be revised and amended to show the designation of 5.006 acres of land, legally described as Tract 281 Tomball Outlots, generally located on the westerly side of South Persimmon Street, northerly of Agg Road, as LI - Light Industrial District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for 5.006 acres of land, legally described as Tract 281 Tomball Outlots, generally located on the westerly side of South Persimmon Street, northerly of Agg Road, to LI - Light Industrial District as described above.

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

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

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 19TH DAY OF APRIL 2010.

COUNCILMAN QUINN	<u>NAY</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN WEBB	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DRIVER	<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 3RD DAY OF MAY 2010.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN WEBB	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DRIVER	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Rezoning Staff Report

Planning and Zoning Commission Hearing Date: April 12, 2010

Rezoning Case: P10-206
Property Owner(s): Crescent Directional Drilling
Applicant(s): Brian Matthews, Protective Concepts, Inc.
Legal Description: Tract 281 (Tomball Outlots)
Location: Generally located on the westerly side of South Persimmon Street, northerly of Agg Road
Area: 5.006 acres
Present Zoning and Use: SF-20-E - Single-Family Estate Residential-20 District / Vacant
Comp Plan Designation: Low Density Residential
Proposed Zoning and Use: LI - Light Industrial District / Passive Fire Protection Jacket Manufacturing

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: Conditional Use Permit #2 MHP / Mobile Home Park
South: SF-20-E / Undeveloped and Metallic Warehouse
East: SF-20-E / South Persimmon Street ROW and Vacant
West: SF-20-E / Residential

BACKGROUND

The subject site is a 5.006 acre rectangular tract legally described as Tract 281 (Tomball Outlots), generally located on the westerly side of South Persimmon Street, northerly of Agg Road (Exhibit "B"). The site is currently vacant and is approximately 377.6 feet wide and 577.51 feet deep.

The applicant is requesting to rezone the property from the SF-20-E - Single-Family Estate Residential-20 District to the LI - Light Industrial District in order to facilitate the construction of a manufacturing facility for Protective Concepts, Inc. According to the applicant, the use proposed is a "Manufacturing Facility for Passive Fire Protection Jackets for Oil/Gas Industry" (Exhibit "E"). The conceptual site plan submitted by the applicant indicates that an approximately 9,375 square foot main building along with an accessory building and parking

area are being proposed for this site (Exhibit “F”). Two vehicular access points are proposed off of South Persimmon Street to service the site.

ANALYSIS

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

The applicant has indicated that the site will be used by Protective Concepts, Inc. as the company’s headquarters for manufacturing “passive fire protection covers for equipment in the oil/gas/petrochemical industries” (Exhibit “E”). According to the company’s website, the protective covers or “jackets” can be placed on wellheads, valves, actuators, riser tensioners, cable trays, bulkheads, and penetration seals to protect from flames and blast. The applicant states that “There is no noise or air pollution as a result of our operation that would negatively impact the surrounding area” (Exhibit “E”). The proposed use is considered “Textile Products Manufacturing” under the City’s Zoning Ordinance, which is a permitted use in the LI-Light Industrial District.

When reviewing a rezoning request and change in land use, staff looks at several criteria, including how the proposed use fits into the surrounding area, whether there are any constraints to development at the proposed site with regard to access and utilities, and if the proposed use is consistent with the City’s development regulations and long-range planning objectives. The existing land uses and zoning designations in the surrounding area are reviewed to determine the proposal’s compatibility and appropriateness at the proposed location. It is important that the proposed use, zoning district and Future Land Use Plan Map designation be compatible and appropriate so that future land use conflicts do not occur.

The subject site is not contiguous to any existing light industrial developments. The existing adjacent land use to the north is an existing manufactured home park, which serves as a buffer between the nonresidential uses to the north and the residential uses along the southerly portion of South Persimmon. To the east is vacant land, to the west is a single family residence, and to the south are vacant land and a tract developed with a metallic warehouse within the SF-20-E District. In March 2009, the owner of the metallic warehouse applied for a rezoning from the SF-20-E District to the C-Commercial District for a proposed concrete facility, but the request was denied by Council on May 18, 2009. There is a legally non-conforming commercial use two lots to the north of the subject site; however the majority of nonresidential uses in the area are along the east side of South Persimmon, northerly of Lizzie Lane.

With regard to utilities, the site is not currently serviced by water, gas, or sewer lines (Exhibit “H”). There is an existing 6 inch water line approximately 300 feet to the north of the site; however it does not have adequate capacity to serve additional uses within the area. In order to serve the site with water, the line down South Persimmon would need to be upgraded to a minimum 12 inch water line from FM 2920, which would require street right-of-way and easement dedications. Alternatively, the property owner could install an on-site water well system to service the site. With regard to sanitary sewer and gas, the closest lines are approximately 1,900 feet to the east of the subject site along Hufsmith-Kohrville. Development of this site would require the installation of a septic system or the extension of the sewer line

from Hufsmith-Kohrville. Without existing infrastructure to serve this site, staff feels that light industrial zoning is inappropriate for this area.

Additionally, the Comprehensive Plan's Future Land Use Plan Map identifies this area as Low Density Residential. The proposed rezoning is inconsistent with this designation and with the Comprehensive Plan's Planning Guidelines and Land Use and Development objectives which recommend appropriate buffer areas and transitional uses, access to major transportation corridors, and logical extensions of public infrastructure. It is staff's opinion that the use at the intensity proposed is not compatible with the surrounding area, nor consistent with the Comprehensive Plan.

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 existing adjacent land uses are primarily residential and undeveloped agricultural land with the only exception being a piece of property to the south that is owned by Joe Serna that Harris County Appraisal District has listed as a "Warehouse-Metallic." There is a commercial use two lots to the north of the subject site but the bulk of the light industrial activity along South Persimmon is north of the subject site between F.M. 2920 and Lizzie Lane. The proposed use of the site as a "Manufacturing Facility for Passive Fire Protection Jackets for Oil/Gas Industry" would be out of character with the area. Additionally, rezoning this land for a light industrial use could signal to others in the area to attempt a similar request which is not consistent with the long range vision for this area.

Should this rezoning request be approved, the applicant will be required to meet all of the City's screening, buffering and fencing requirements to protect any adjacent residential uses. The applicant will also be required to shield and position all on-site lighting such that lights do not adversely impact adjacent residential areas.

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.

Public utilities or roadway improvements are not proposed along South Persimmon within the City's five year capital improvements plan. Any approved development would be responsible for extending utilities to the site. Since there are no utilities with sufficient capacity within 1,000 feet of the site, the only alternative would be a well and septic system, which is not favorable for a light industrial use due to the potential for surface and groundwater degradation.

South Persimmon is a two lane road with a varying right-of-way width between 30 and 60 feet. It is designated as a Minor Arterial on the adopted Major Thoroughfare Plan, with an ultimate right-of-way width of 80 feet. This right-of-way has not been acquired

in the vicinity. Minor Arterials distribute traffic from state highway/farm-to-market roadways and major arterials to the collector system and to adjacent land uses and are found in areas of significant traffic movement.

A light industrial designation would not impact the public school system as the proposed use of the site for light industrial purposes would not increase attendance to the school system.

As a matter of information, the future development of the site will likely result in increased impermeable area, thereby altering absorption rates and increasing surface runoff. Drainage improvements shall comply with the requirements of the City's Engineering and Public Works Departments.

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 currently several tracts of land zoned for light industrial use to the north of the subject site along South Persimmon Street. Additionally, there are several undeveloped lots in Tomball Industrial Park that are already zoned for light industrial use.

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.

Commercial and light industrial uses have been increasingly developing on the south side of the City. The northern portion of South Persimmon Street from F.M. 2920 to Lizzie Lane has been developing steadily with a mixture of commercial/light industrial uses over the past several years. However, the land uses in the project vicinity have remained largely vacant, agricultural, and residential. Because of the "Low Density Residential" Comprehensive Plan designation of the site (Exhibit "B"), it is anticipated that the area will remain agricultural/residential.

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 intent and purpose of the Zoning Ordinance is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values. If light industrial development is allowed to occur in a primarily residential/agricultural area that currently does not have the infrastructure to service such a use, the nearby residential properties could be adversely impacted.

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.”

It is staff’s opinion that the request is not consistent with the Comprehensive Plan. The Comprehensive Plan’s land use designation for the subject site is “Low Density Residential” (Exhibit “B”) which generally allows for single family detached residential development on minimum 20,000 square foot lots or greater, not light industrial uses.

Should this request be approved, City staff requests the Planning & Zoning Commission and City Council to provide direction on whether or not to propose an amendment to the Comprehensive Plan to reflect a change in vision for this area of Tomball during its annual review process in early 2011.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on March 31, 2010 and four public comment forms were received regarding this request (Exhibit “J”):

In Favor:

- Crescent Directional Drilling, 1300 North Sam Houston Parkway, # 210, Houston, TX, 77032 (current property owner)
- Higinio Sanchez, 15202 River Park Drive, Houston, TX, 77070 (adjacent property owner to the south of the site)

Opposed:

- John Ford, 930 Agg Road, Tomball, TX, 77375 (property owner to the south of the site)
- Kimber Svetlik, 1333 Pitchford Road, Tomball, TX 77375 (adjacent property owner to the west of the site)

RECOMMENDATION

That the Planning and Zoning Commission recommend:

1. DENIAL of Zoning Case P10-206 based on the following:
 - a. The proposed zoning of LI-Light Industrial District will be incompatible with the existing and intended land uses in the vicinity.

- b. The proposed zoning of LI-Light Industrial District will be incompatible with the Tomball Comprehensive Plan.
 - c. There are insufficient utilities in the area to service an industrial use 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. Aerial Photo
- C. Comp Plan Future Land Use Map
- D. Rezoning Application
- E. Rezoning Request Letter
- F. Conceptual Site Plans
- G. Property Survey
- H. Utility Block Map
- I. Site Photos
- J. Public Comment Form(s)

Exhibit "A"
Location/Zoning Map

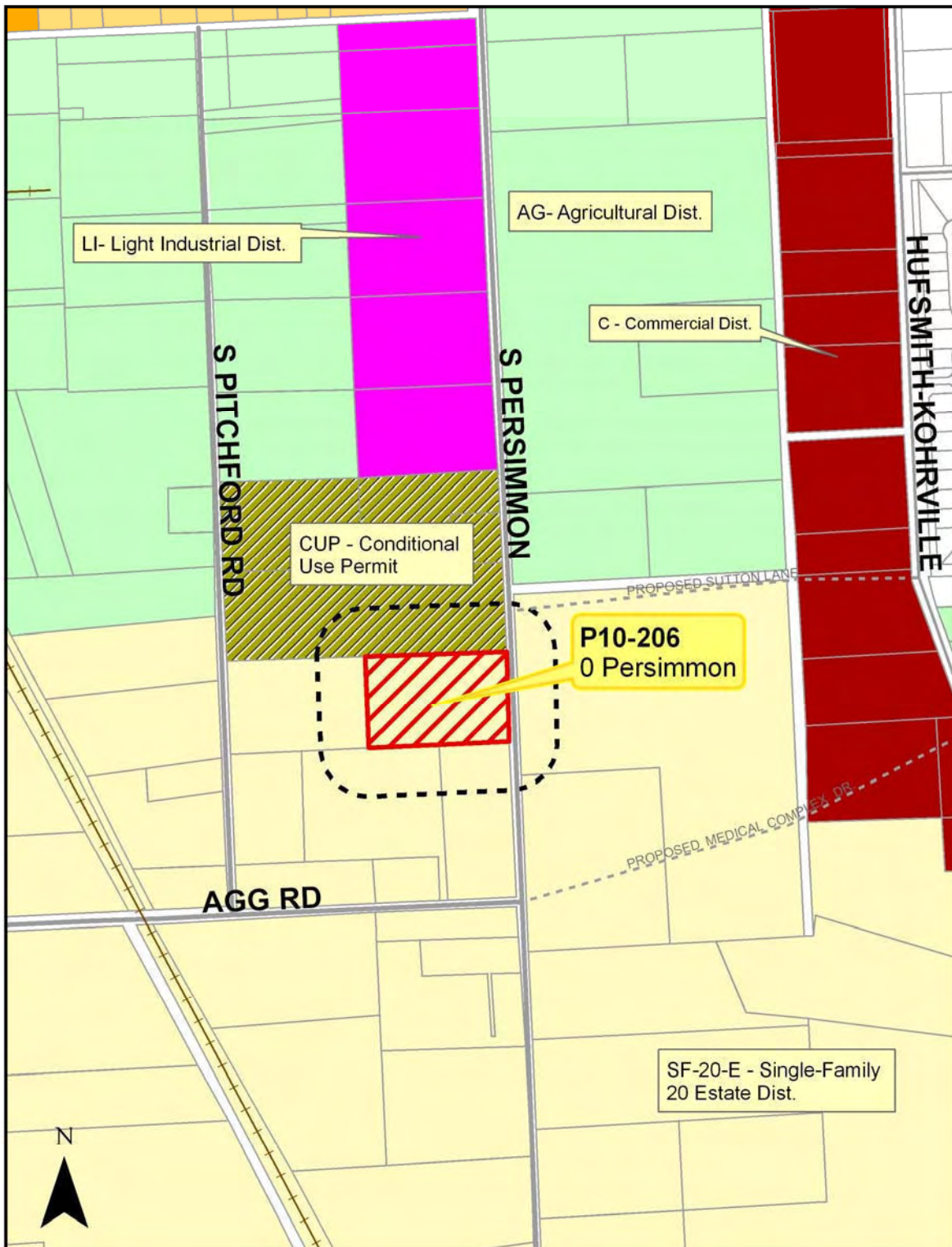


Exhibit "B"
Comp Plan Future Land Use Map

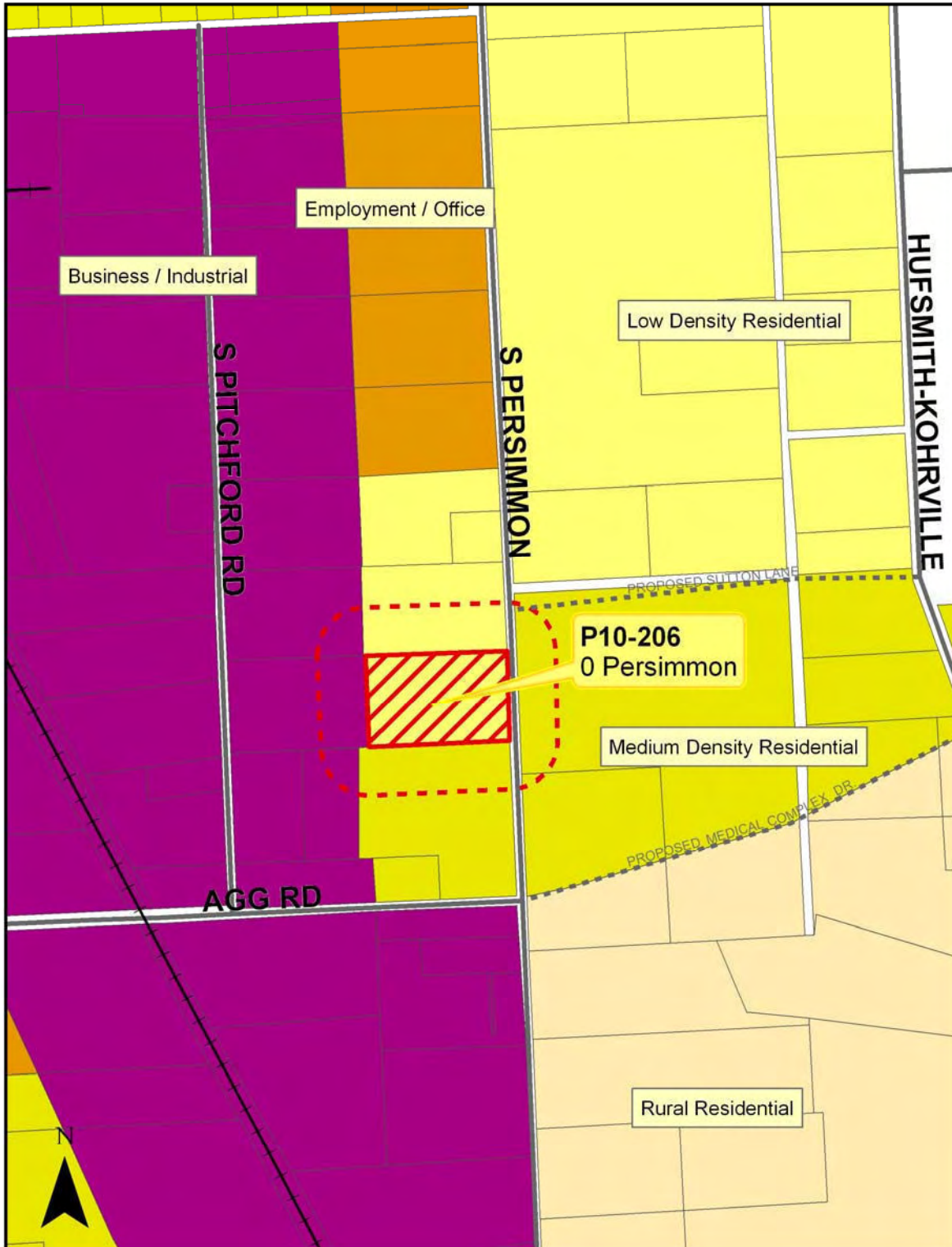


Exhibit "C"
Aerial Photo



Exhibit "D"
Rezoning Application

Revised 1/20/09



APPLICATION FOR REZONING
Engineering & Planning Department

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

Applicant

Name: Brian Matthews, Protective Concepts, Inc. Title: Manager
Mailing Address: PO Box 11407 City: Spring State: TX
Zip: 77391
Phone: (281) 351-9992 x102 Fax: (281) 351-4554 Email: brian.matthews@procon2000.co

Owner

Name: Crescent Directional Drilling Title: _____
Mailing Address: 1300 N. Sam Houston Pkwy E, Ste 210 City: Houston State: TX
Zip: 77032
Phone: (281) 668-9500 Fax: (281) 668-9539 Email: _____

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: TR 281 - S. Persimmon, Tomball, TX 77375
(5.006 Acres)

Physical Location of Property: 1035' North of Agg Rd on Persimmon in Tomball, TX
[General Location - approximate distance to nearest existing street corner]

Legal Description of Property: TR 281 Tomball Outlots
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: SF-20

Current Use of Property: Vacant / Empty Field

Proposed Zoning District: LI

Proposed Use of Property: Manufacturing Facility for Passive Fire Protection Jackets for Oil/Gas Industry (Sewn product; No Fumes or Noise Pollution)

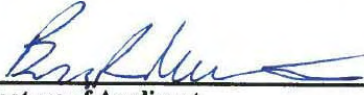
City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405

www.ci.tomball.tx.us

HCAD Identification Number: 035288000420 Acreage: 5.006

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  2/18/2010
Signature of Applicant Date

X  FEB 18, 2010
Signature of Owner Date

Exhibit "E"
Rezoning Request Letter

To Whom It May Concern:

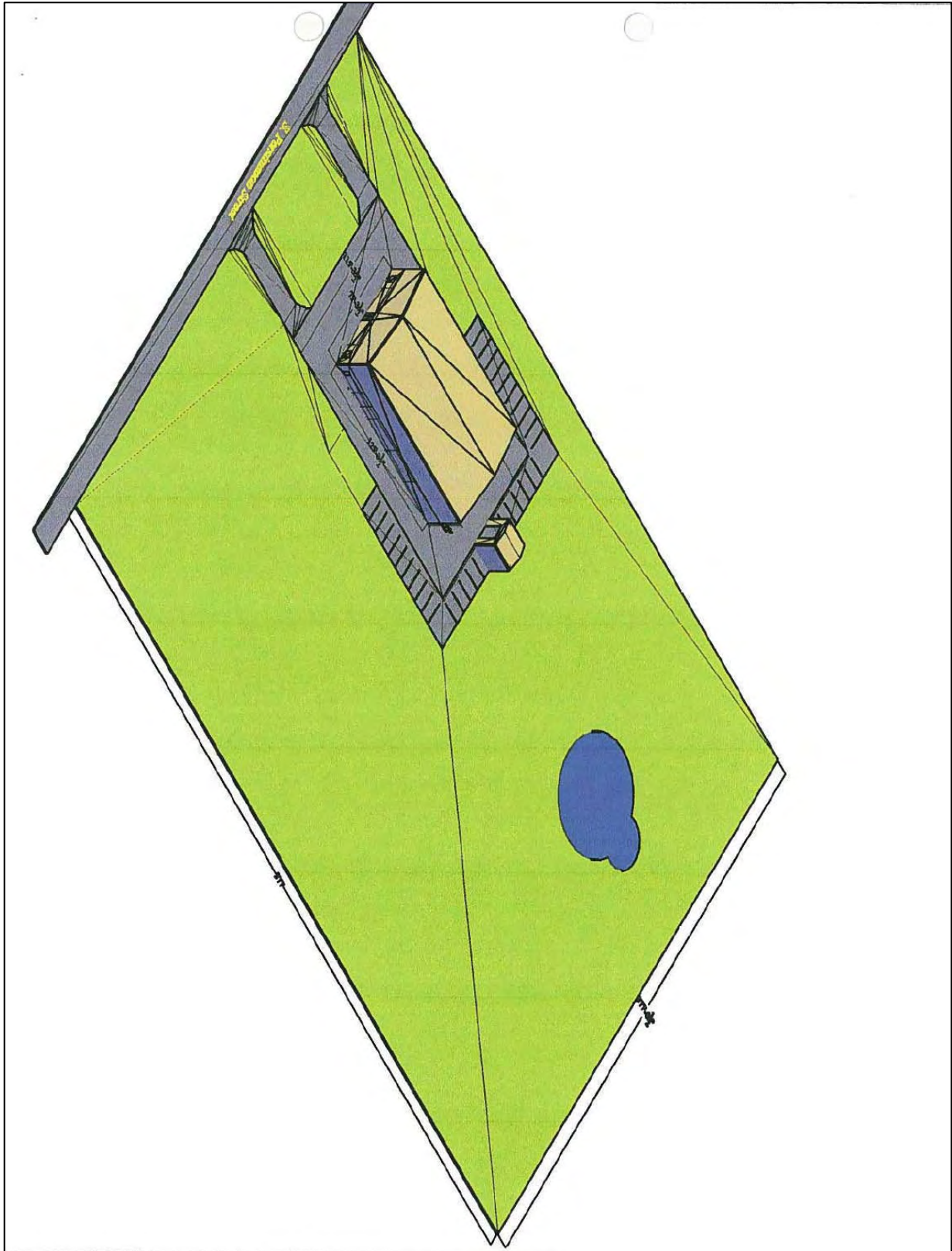
We are requesting that the property located at 1201 S. Persimmon St (Outlot 281) in Tomball, TX be rezoned for Light Industrial use. We are proposing to build our company headquarters and manufacturing facility on the 5 acre tract of land. We manufacture passive fire protection covers for equipment in the oil/gas/petrochemical industries. There is no noise or air pollution as a result of our operation that would negatively impact the surrounding area. Thank you for your consideration.

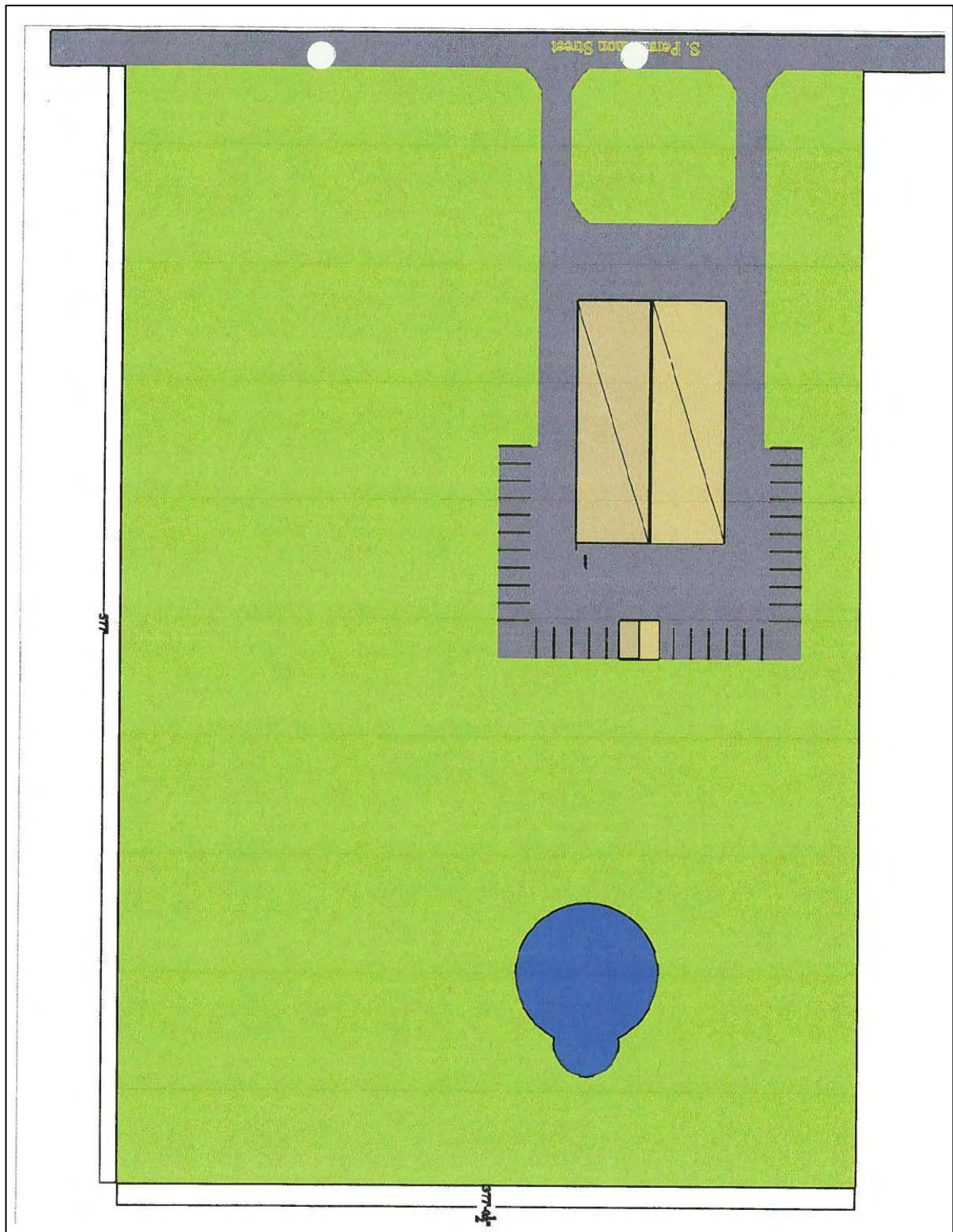
Sincerely,

A handwritten signature in black ink, appearing to read "Brian R. Matthews", with a long horizontal flourish extending to the right.

Brian R. Matthews
Manager
Protective Concepts, Inc.

Exhibit "F"
Conceptual Site Plans





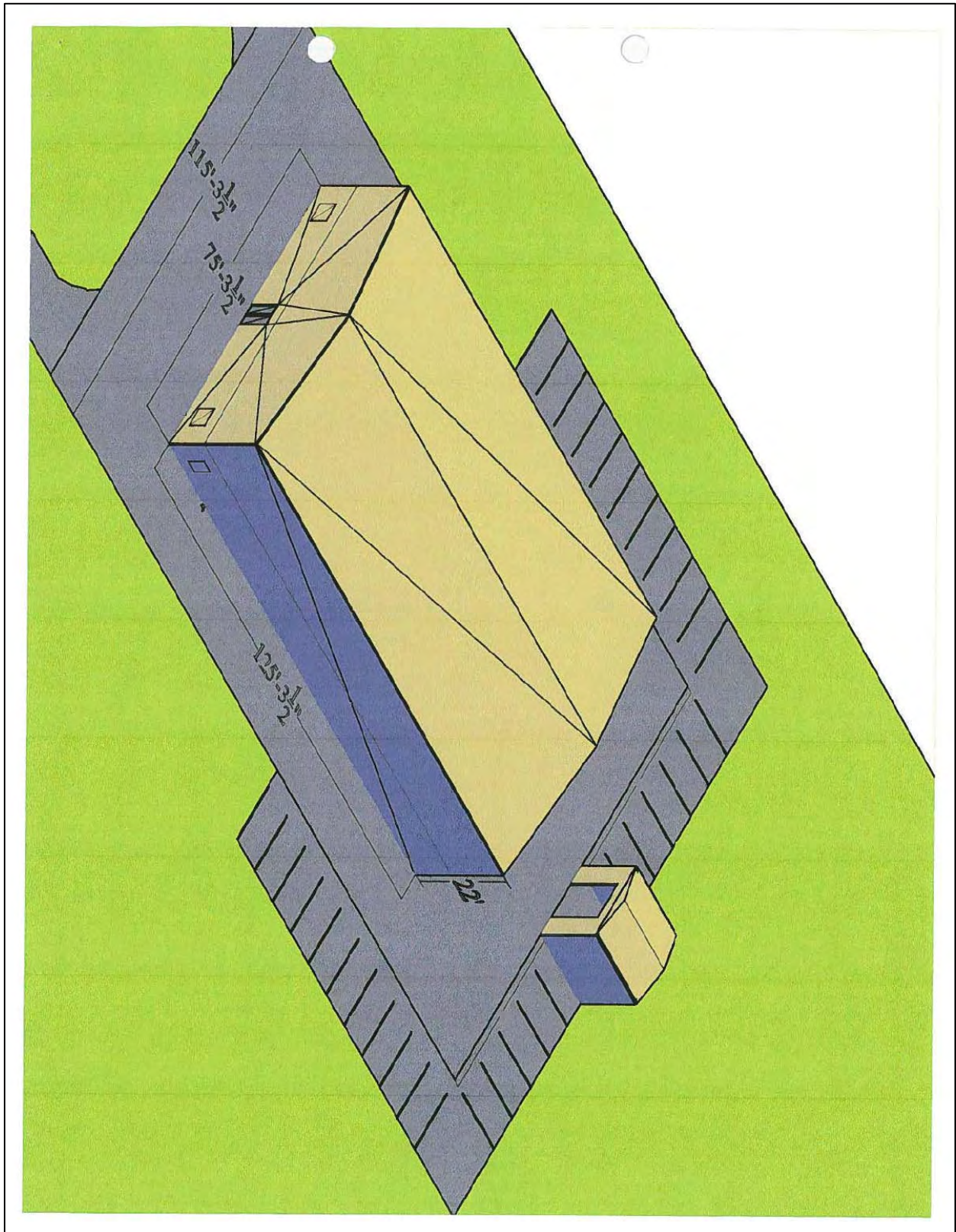
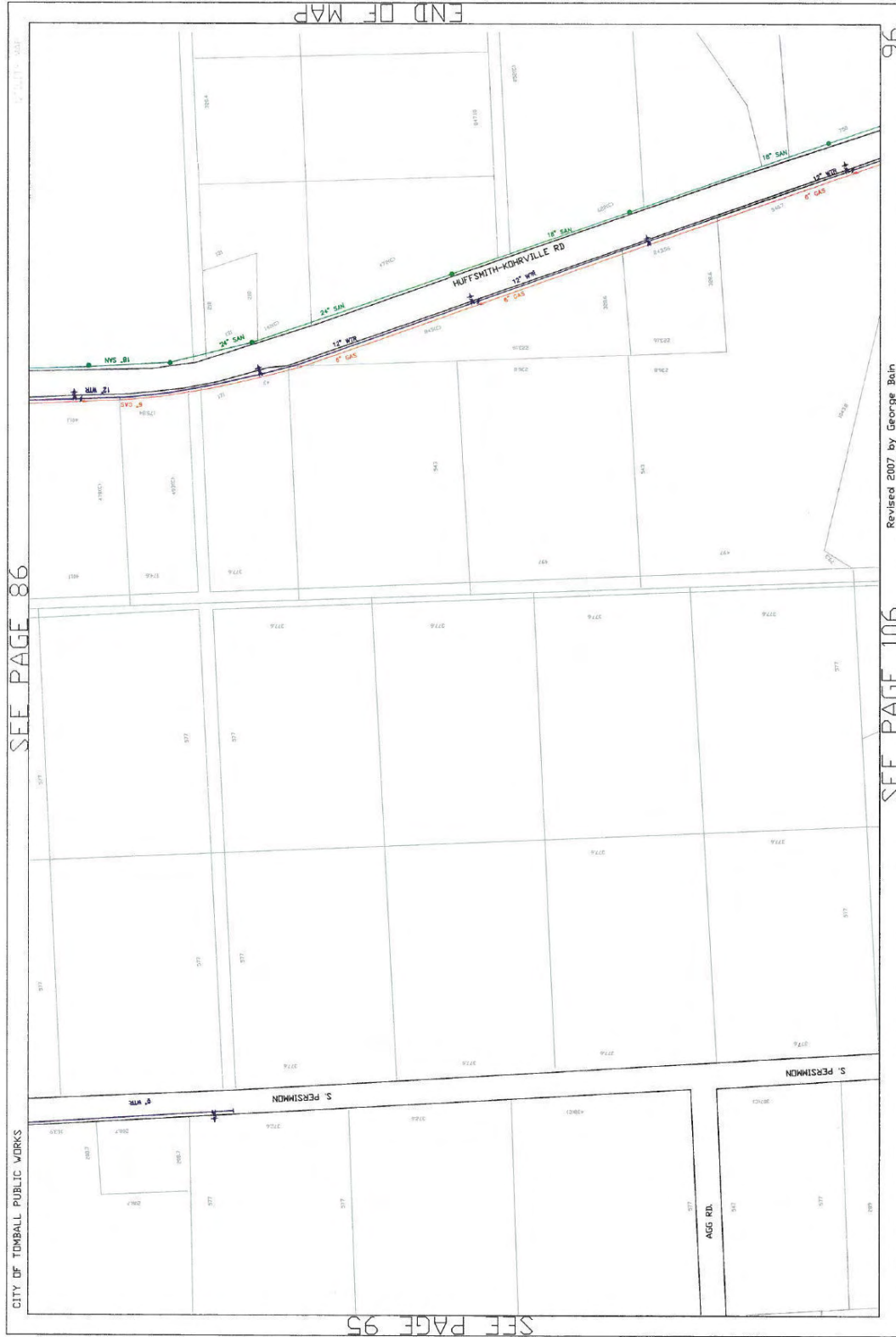


Exhibit "H" Utility Block Map



**Exhibit “I”
Site Photos**



Figure 1: Westerly view of subject site.



Figure 2: Northerly view up South Persimmon Street. Subject site on left, undeveloped lot to the right.



Figure 3: Sutton Place manufactured home park to the north of subject site.



Figure 4: “Residential Improved” (per HCAD) land use to the west of subject site.



Figure 5: Typical single-family residence to the south of subject site.



Figure 6: Undeveloped lot to the south of subject site.

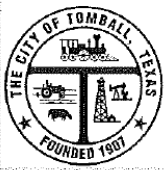


Figure 7: Rock processing facility to the north of subject site.



Figure 8: Typical commercial uses along South Persimmon Street between FM 2920 and Lizzie Lane.

Exhibit "J"
Public Comment Form(s)

	<i>Engineering and Planning Department</i>
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: CRESCENT DIRECTIONAL DRILLING
(please print)
Address: 1300 N. SAM HOUSTON PKWY E, # 210
HOUSTON, TX 77032
Signature: TAD PAVE
Date: APRIL 5, 2010

☒ I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P10-206**. (Please state reasons below)

☐ I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P10-206**. (Please state reasons below)

Date, Location & Time of **Planning & Zoning Commission** meeting:
Monday, April 12, 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, April 19, 2010, 7:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

CRESCENT DIRECTIONAL DRILLING WILL BE REPRESENTED BY THE FOLLOWING:
1) JAY STUBBS
2) BRIAN MATTHEWS

TAD PAVE
CEO
CRESCENT DIRECTIONAL DRILLING

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.



Engineering and Planning Department

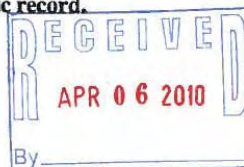
Public Comment Form

(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: HIGINIO SANCHEZ
(please print)
Address: 15202 RIVER PARK DR.
HOUSTON, TX 77070
Signature: Higinio Sanchez
Date: 4-2-10

☒ I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P10-206**. (Please state reasons below)

☐ I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P10-206**. (Please state reasons below)

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

Monday, April 12, 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, April 19, 2010, 7:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

For the future growth of Tomball. Light Industrial
Complexes would bring more Revenue + Jobs to Tomball.

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.

From: BrahmanJ@aol.com [mailto:BrahmanJ@aol.com]
Sent: Wednesday, April 07, 2010 7:40 PM
To: Kelly Violette
Subject: Zoning Change for Cresent drilling

April 7, 2010

Dear Kelly;

I am writing in opposition to the proposed zoning change requested by Cresent Directional Drilling of approximately 5 acres located westerly of persimmon and northerly of agg road. My opposition to this as a resident of the area is as follows:

1. Clearly this entire area south of the mobile home park including at least 25 tracts of land is currently zoned SF-20 and many people including myself have built 200K + properties and homes in this area.
2. The adjacent property to the south of this 5 acre property has petitioned for a zoning change from SF 20 to industrial or other odd use in the past and has been turned down.
3. Making this property light industrial would create an island of industrial use in the midst of a residential area. Light industrial does exist on the other side of the mobile home park, but changing this property would sandwich in the mobile home park between industrial areas and start closing-in on the huge block of SF 20 residences. This is why we have zoning to prevent this type of change.
4. The future land use map clearly indicates that this property is for residential and industrial areas are to the north and south of this property off persimmon.

In closing, I oppose this change because it imposes a completely different and potentially hazardous industrial area in a residential zone. This is exactly why zoning is in place. Please recommend a no vote for changing this parcel of land from SF-20 to industrial.

Thanks

John Ford

From: Kimber Svetlik [Kimber@TuffTiger.com]
Sent: Monday, April 12, 2010 4:51 PM
To: Kelly Violette
Subject: FW: P10-206

Ms Violette,

Pursuant to the notification we received in regards to P10-206 we are against the requested rezoning. We purchased the property at 1333 Pitchford Rd with the deed restrictions for homes and do not want a business out our back door. Our plans a home there.

Kimber Svetlik
713.494.7364

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
APRIL 12, 2010
&
CITY COUNCIL
APRIL 19, 2010**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, April 12, 2010, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, April 19, 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 P10-206: Request by Brian Matthews, on behalf of Crescent Directional Drilling, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5.006 acres of land, legally described as Tract 281 Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located on the westerly side of South Persimmon Street, northerly of Agg Road from the SF-20-E Single-Family Estate Residential-20 District to the LI - Light Industrial District.

ZONING CASE P10-208: Request by Tomball Independent School District to amend the Comprehensive Zoning Ordinance to rezone approximately 2.456 acres of land, legally described as all of Block 16, Tomball Townsite, from the SF-6 Single-Family Residential-6 and OT&MU Old Town and Mixed Use Districts to the OT&MU Old Town and Mixed Use District and Lots 25 through 36, Block 23, Tomball Townsite, from the SF-6 Single-Family Residential-6 District to the OT&MU Old Town and Mixed Use District within the City of Tomball, Harris County, Texas, both tracts of property being generally located on the westerly side of South Cherry Street, southerly of Fannin Street.

ZONING CASE P10-218: Request by Russ Brown, on behalf of PCOT Investments, Inc., to amend Section 38 (Use Regulations) of the City's Comprehensive Zoning Ordinance to establish a Model Home and Temporary Real Estate Sales Office use in all zoning districts that permit Residential Use either by right or conditionally, to amend Section 43 (Supplemental Regulations) to add standards for development related to model home and temporary real estate sales office use, and to amend Section 45 (Definitions) to amend and add the definitions related thereto.

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 **8th** day of **April** 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: P10-206

APPLICANT: Brian Matthews, on behalf of Crescent Directional Drilling

LOCATION: Westerly side of South Persimmon Street, northerly of Agg Road.

PROPOSAL: Request to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5.006 acres of land, legally described as Tract 281 Tomball Outlots, within the City of Tomball, Harris County, Texas, from the SF-20-E Single-Family Estate Residential-20 District to the LI - Light Industrial 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, April 12, 2010, 6:00 PM**

**City Council Public Hearing:
*Monday, April 19, 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.

Proposed Rezoning of:

Tomball Outlot 281

**1201 S. Persimmon St
Tomball, TX**

“DEVIATIONS FROM THE PLAN”

Taken from the *Tomball Comprehensive Plan*

At times, the City will likely encounter development proposals that do not directly reflect the purpose and intent of the Comprehensive Plan. The Planning & Zoning Commission and City Council may find that a request for a zoning amendment is not consistent with the Future Land Use Plan but should be approved due to changed circumstances or additional, relevant information affecting the appropriate use of the parcel. Review of such development proposals should include the following considerations:

- Will the proposed development enhance the City economically? Yes

- Employing approx. 25 people and growing
- Provides jobs to local residents
- No layoffs in 24 years
- Tax Revenue Generation

		Revenue		
Status	Value	City of Tomball (.25%)	Tomball ISD (1.36%)	Annual Revenue for Tomball
Undeveloped	\$54,494	\$136	\$741	\$877
Proposed Project	\$650,000	\$1,625	\$8,840	\$10,465

- Will the proposed development enhance the City aesthetically? Yes

- Image: Family-owned & operated business for 24 years
- Current property is 5 acres of undeveloped, unkempt land
- Proposed property will be a 75' wide x 125' long x 22' high metal building with a stone/stucco or stone/brick street-facing frontal view and relevant concrete driveway and parking areas

- Is the proposed development consistent with the City's Goals, Objectives, and Actions? Yes

- Many of the Goals, Objections, and Actions of the City focus on making Tomball a desirable place to work and live. The development of unkempt land and redevelopment of dilapidated areas serves this purpose well. The land will continue to sit vacant so long as it is required to be residential, so the current zoning is preventing anyone from making good use of the land (see answer to next question for list of reasons)
- By allowing the rezoning, we will improve the area by constructing an aesthetically appealing building and maintaining the land around us
- We will provide jobs to local residents, thereby improving the economic viability of Tomball
- Another focus of the Comprehensive Plan is to minimize the negative impact of one land use on adjacent property; With a mobile home park joining our northern boundary and the property on our western boundary slated for future industrial use, our proposed use of the land is a good fit for the numerous light industrial and commercial businesses along Persimmon St

• Is the proposed development a better use of land/property, both for the owner/developer and the City, than that recommended by the Plan? Yes

- The reasons against Residential & for Light-Industrial Development are:
 - Close proximity to the mobile home park (adjacent to us on the northern property line)
 - Numerous Industrial/Commercial/Business developments along Persimmon
 - Close proximity to active railroad system
 - Close proximity to the planned extension of Medical Complex Drive along Agg Rd as a Major traffic thorough-fare (approx 600 ft south of our property line)
 - Future use of land adjacent to our western border and the land 600 ft south of us as Light-Industrial
 - Future use of land north of the mobile home park is Employment/Office
 - High cost of soil stabilization work required to make the soil suitable for any type of construction
- Given the current residential zoning requirements, the land has and will continue to sit vacant. The current zoning is preventing anyone from making good use of the land. Our development of the land is a much better use than the current vacant state of the land, as it will be turned from an unkempt field to an aesthetically pleasing manufacturing facility for our growing business that provides tax revenue for the City

• Will the proposed development impact adjacent residential areas in a positive or negative manner? Yes

- The project will increase the aesthetic appeal of the area by converting an unkempt 5-acre tract of land with an aesthetically pleasing manufacturing building and company headquarters
- The closest residential area to us is the Mobile Home park which is adjacent to our property's northern border; we have a letter from the owner of the Mobile Home Park voicing his full support for our intended use of the property
- The next closest residence to us is the blue, metal house/barn to our southwest; we have a letter from the owner of this property as well voicing his full support for our intended use of the property

• Will the proposed development have adequate access; have considerations been made for roadway capacity, ingress and egress, traffic impact? Yes

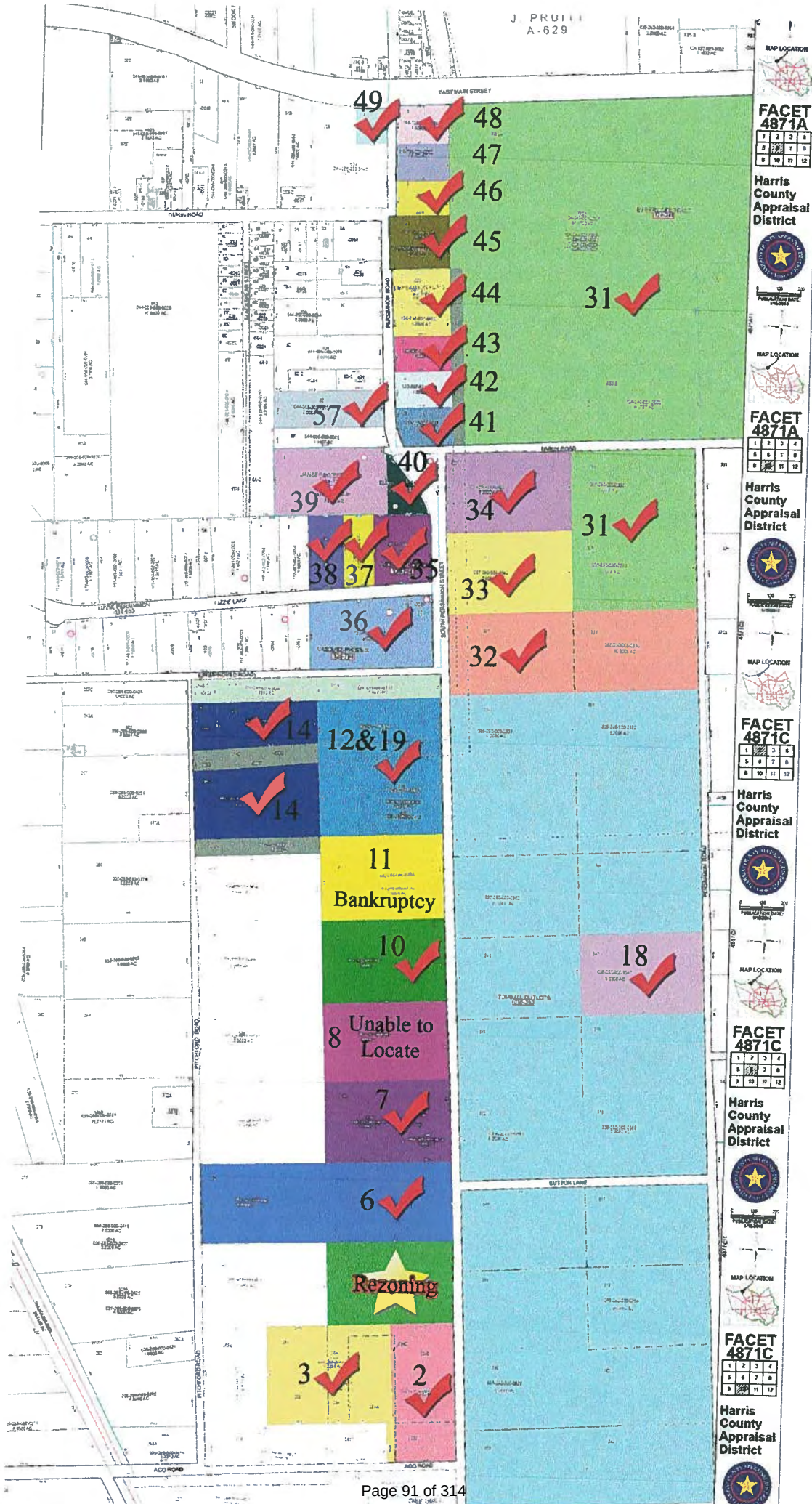
- There are several similar businesses up and down Persimmon St that require Semi-truck access, so the road does provide adequate access for our limited need for deliveries/pick-ups with little impact on traffic, as we average 1 truck every 1 ½ weeks

• Are uses adjacent to the proposed development similar in nature in terms of appearance, hours of operation, and other general aspects of compatibility? Yes

- Our operating hours are from 6am-4pm, Monday through Thursday; a typical business in this area might work from 7-4 or 8-5 M-F, so our hours would coincide with those other businesses
- Does the proposed development present a significant benefit to the public health, safety and welfare of the community? Yes
 - The proposed development does present a significant benefit to the welfare of the community because of the increase tax revenue to improve areas throughout Tomball as well as the increase in school tax revenue for Tomball ISD

Development proposals that are inconsistent with the Comprehensive Plan or that do not meet its general intent should be reviewed based upon the above questions. Such proposals should also be evaluated on their individual merit, on a case-by-case basis. It is important to note that it should be incumbent upon the applicant to provide evidence as to how the proposed development addresses the aforementioned questions.

It is also important to recognize that proposals contrary to the Comprehensive Plan could be an improvement over what is recommended within the Comprehensive Plan. This may be due to changing market, development, and/or economic trends that occur at some point in the future after this Comprehensive Plan is adopted. If such changes occur, and especially if there is a significant benefit to the City of Tomball, then these proposals may be approved, and the Comprehensive Plan should be amended accordingly.



3. 1330 S. Persimmon St. (Joe Serna) – Trs 283, 284, 284A, & 286A, Tomball Outlots



2. NW Corner of Agg Rd. & S. Persimmon St. (Sanchez) – Trs 284D, 284E, & 286, Tomball Outlots



6. 1019 Sutton Ln 23 (K E Jams Investments Inc – O'Brien) – Lts 276 & 277, Tomball Outlots



7. 1100 S. Persimmon St. (MCA Systems Inc - Fano) – Tr 274 A & B, Tomball Outlots



10. S. Persimmon St. (Clarence Ousley) – Lt 267, Tomball Outlots



18. 0 Persimmon Rd S. (Michael Ott) – Lt 347, Tomball Outlots



11. 906 S. Persimmon St. (Foster Investments LLC) – Lt 263, Tomball Outlots



12 & 19. 814 & 826 S. Persimmon St. (Johnson) – Lt 259, Tomball Outlots



32. S. Persimmon S. (Tower Steel Services Inc) – Lts 335 & 336, Tomball Outlots



36. Lizzie Ln. / S. Persimmon St. FM 2920, (Jose & Estela Vazquez)– Lt 1, Blk 1, Vazquez-Phoenix



33. 701 S. Persimmon St. (PDGL Partners LP - Mitchell) – Lt 332, Tomball Outlots



35. 702 S. Persimmon St. (Persimmon Development Partners Ltd - Pisano) – Lt 3 Blk 2, Vazquez-Phoenix



37. 1032 Lizzie Ln. (Wiretel Services / MFH Enterprises LLC – Hanks) – Lt 2 Blk 2, Vazquez-Phoenix



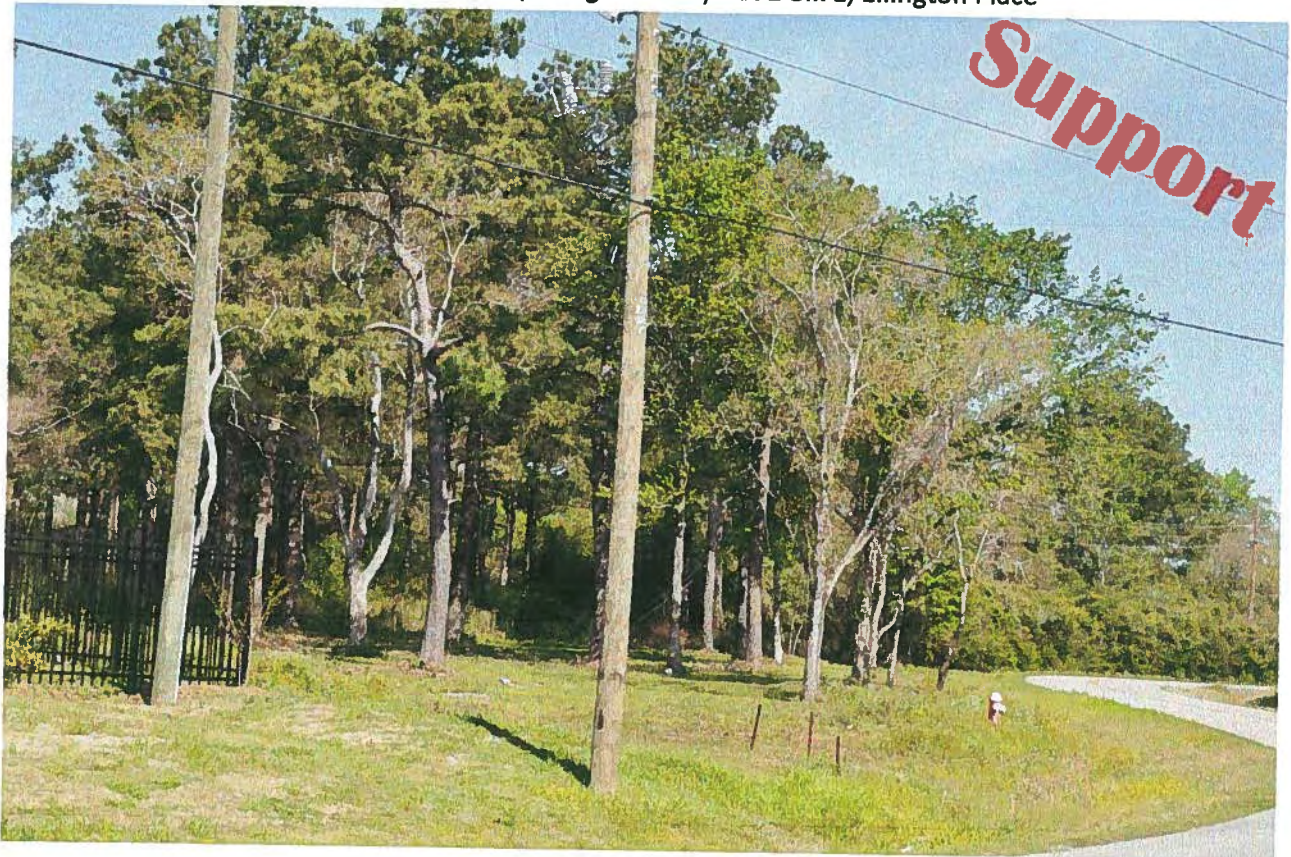
38. 1028 Lizzie Ln. (MICO Group - Smith) – Lt 1 Blk 2, Vazquez-Phoenix



34. 611 S. Persimmon St. (Centerfield Inc - Chaudhry) – Lt 329, Tomball Outlots



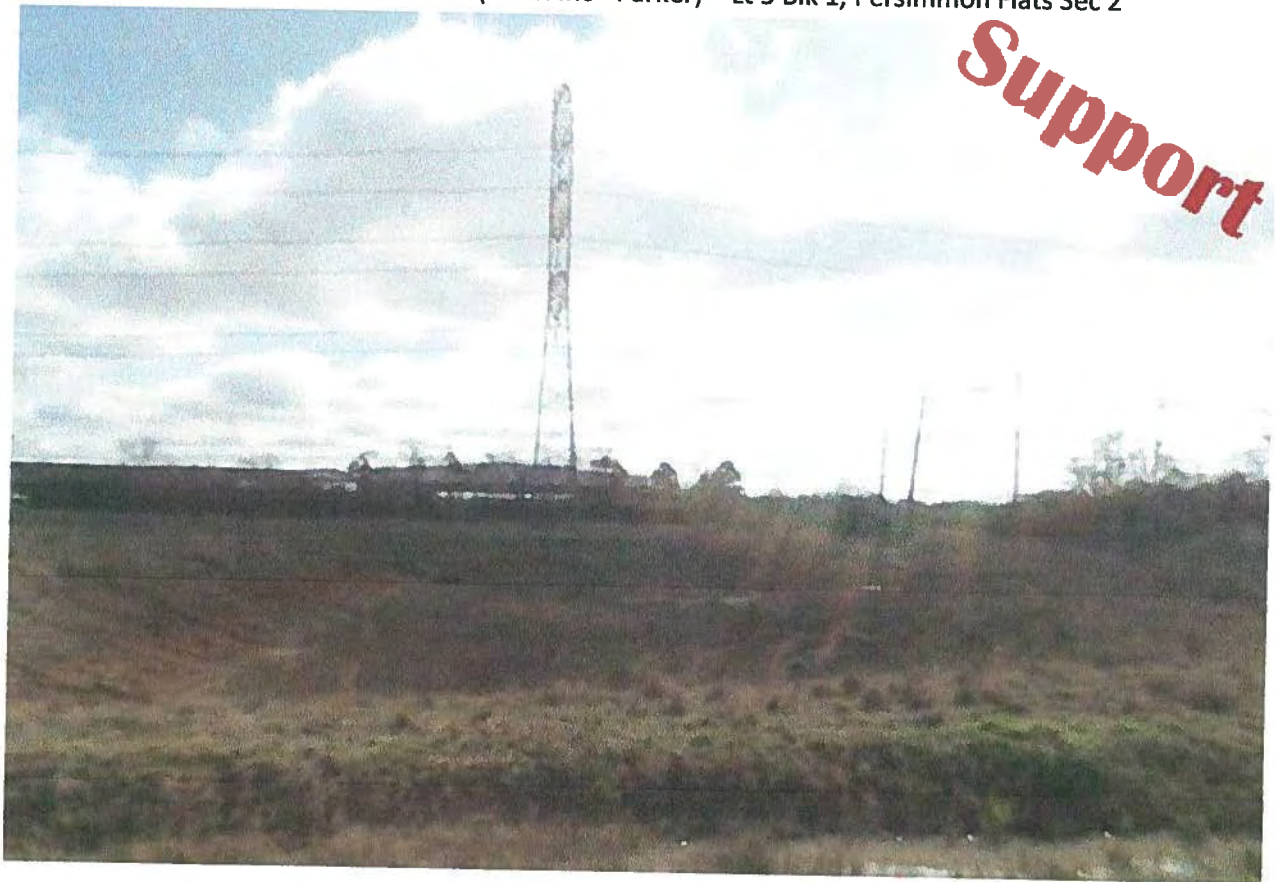
40. S. Persimmon St. (George Givens) – Lt 1 Blk 1, Ellington Place



39. S. Persimmon St. (Quick Turn Machining Inc – Khalaf) – Res A Blk 1, JANSEP Investments



41. 535 S. Persimmon St. (CPAR Inc - Parker) – Lt 5 Blk 1, Persimmon Flats Sec 2



57. S. Persimmon St. (James Juranek) – Tr 8E, Abst 629 J Pruitt



42. 407 S. Persimmon St. (Noram Texas Holdings - Peloski) – Lt 4 Blk 1, Persimmon Flats Sec 2



43. 403 S. Persimmon St. (Shadow Manufacturing - Janicki) – Lt 3 Blk 1, Persimmon Flats Sec 2



44. 325 S. Persimmon St. (Texson Office Park - Thompson) – Lt 1 Blk 1, Persimmon Flats Sec 2



45. 321 S. Persimmon St. (Champion Circuits – Hatfield) – Lt 4 Blk 1, Persimmon Flats



46. 215 S. Persimmon St. (Boardroom Environments Inc – Fulbright) – Lt 3 Blk 1, Persimmon Flats



48. 201 S. Persimmon St. (Elliott Electric Supply) – Lt 1, Blk 1, Persimmon Flats



49. 0 FM 2920 (Dominick & Linda Palermo) – Tr 11R-2, Abst 629 J Pruitt



31. 11211 FM 2920, Persimmon Rd S, Hufsmith-Kohrville Rd (BJ Services Co.)— Lt 327, 328, 333, etc, Tomball Outlots



14. 919 S. Persimmon St. (All About Color - Ruiz) – Tr 254A & B, 258A, Tomball Outlots



47. 211 S. Persimmon St. (Judy Wilson) – Lt 2 Blk 1, Persimmon Flats





Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 31, 2010

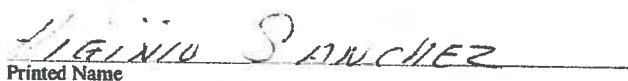
Dear City of Tomball P&Z Commission / City Council:

I am a property owner on/near Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,


Signature


Printed Name

Businesses Name


Property Address

Tomball, TX 77375
City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 31, 2010

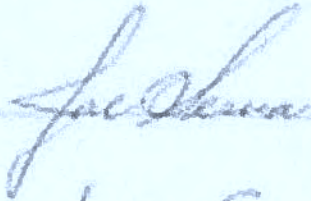
Dear City of Tomball P&Z Commission / City Council:

I am a property owner on/near Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,

Signature



Printed Name

Joe Serna

Business Name

1330 Persimmon

Property Address

Tomball, TX 77375

City, State Zip-Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 24, 2010

Dear City of Tomball P&Z Commission / City Council:

I am the owner of the Mobile Home Park at 1019 Sutton Ln 23 (Outlots 276 & 277), which borders the property in question to the north/northwest. I am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,


Signature

3-25-10

Mike O'Brien

Printed Name

K E Jams Investments Inc

Businesses Name

1019 Sutton Ln 23

Property Address

Tomball, TX 77375

City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

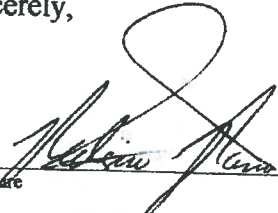
March 23, 2010

Dear City of Tomball P&Z Commission / City Council:

I am a property owner on Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,


Signature

FEDERICO FANO
Printed Name

MCA systems inc
Businesses Name

1100 S. PERSIMMON ST
Property Address

Tomball, TX 77375
City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 23, 2010

Dear City of Tomball P&Z Commission / City Council:

I am a property owner on Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,

Signature E. L. Presley

CLARENCE LYNN OUSLEY
Printed Name

Businesses Name _____

L+ 267, Tomball Outlots
Property Address

Tomball, TX 77375
City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

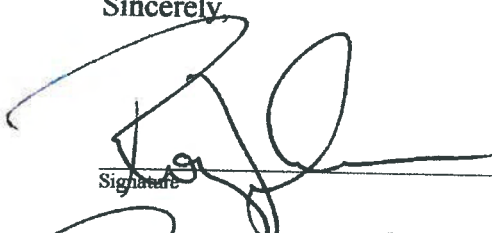
March 23, 2010

Dear City of Tomball P&Z Commission / City Council:

I am a property owner on Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,


Signature

Roy Johnson
Printed Name

B+C Coating
Businesses Name

826 S Persimmon
Property Address

Tomball, TX 77375

City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 30, 2010

Dear City of Tomball P&Z Commission / City Council:

I am a property owner on/near Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,

Signature



Printed Name

Adam Ruiz

Businesses Name

All About Color / ALPC

Property Address

OS Pitchford / 919 S Pitchford

Tomball, TX 77375

City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 30, 2010

Dear City of Tomball P&Z Commission / City Council:

I am a property owner on/near Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,


Signature


Printed Name

Business Name


Property Address

Tomball, TX 77375

City, State Zip Code

Re: Protective Concepts - Rezoning on Persimmon St (Outlot 281)

BJ Services Company
4601 Westway Park Blvd
Houston, TX 77041

March 31, 2010

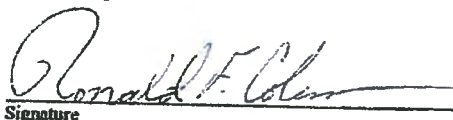
Dear City of Tomball:

BJ Services is a property owner on/near Persimmon Street and we fully support the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

Protective Concepts, Inc (PCI) is a family-owned business employing approximately 25 people and has been in business for 24 years. The proposed project includes a 75'x125' metal building to serve as the headquarters and manufacturing facility for Protective Concepts. As a manufacturer of passive fire protection jackets for oil/gas industry equipment, the manufacturing process is restricted to the inside of the facility, emitting no external noise or air pollution.

I urge you to approve this property for rezoning as it is in the best interest of the community, providing both jobs to local residents and tax revenue for the City of Tomball. Additionally, Persimmon Street has numerous Light Industrial/Commercial businesses located from FM 2920 down to Agg Rd, and the proposed use by PCI is in keeping with this trend.

Sincerely,


Signature

Ronald F. Coleman
Printed Name

VP North America Pressure Pumping Services
Title

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 31, 2010

Dear City of Tomball P&Z Commission / City Council:

I am a property owner on Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,

Signature



Printed Name

Jose M. Aguirre, Jr.

Businesses Name

Tower Steel Services, Inc.

Property Address

717 South Persimmons
Tomball, TX 77375

City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 23, 2010

Dear City of Tomball P&Z Commission / City Council:

I am a property owner on Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,



Signature

DAVID MITCHELL

Printed Name

PERSIMMON BUSINESS PARK

Businesses Name

701 S. PERSIMMON, STE. 85

Property Address

Tomball, TX 77375

City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

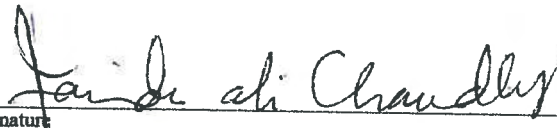
March 23, 2010

Dear City of Tomball P&Z Commission / City Council:

I am a property owner on Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,


Signature

FARIDA CHAUDHRY
Printed Name

CENTERFIELD, INC.
Businesses Name

611 SOUTH PERSIMMON
Property Address

Tomball, TX 77375
City, State Zip Code

PERSIMMON DEVELOPMENT PARTNERS, LLC
6719 Theall Rd. #D
Houston, Texas 77066

March 31, 2010

City of Tomball Planning Committee
501 James St.
Tomball, Texas 77375

RE: Rezoning of 1201 S. Persimmon St.

To Whom It May Concern:

We would like to express our support of Protective Concepts, Inc. goal of purchasing and developing Outlot 281, aka, 1201 S. Persimmon St., and have it rezoned from residential to commercial property. Tomball needs to bring new business to its city, as well as tax revenue. Bringing in good, clean businesses to the area are a good fit for Tomball, and the surrounding area to this piece of property in question has the potential of becoming light industrial/employment businesses according to the development plan the city has adopted for the future.

Sincerely,



Sam Pisano
Persimmon Development Partners, LLC

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

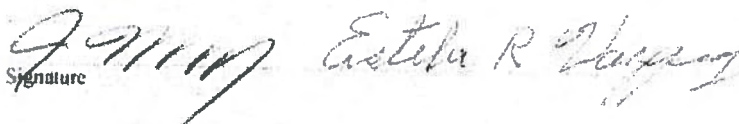
March 23, 2010

Dear City of Tomball P&Z Commission / City Council:

I am a property owner on Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,


Signature

Jose M. & Estela R. Vazquez
Printed Name

1442 Kingwood Dr. #172 Kingwood, Tx 77339
Businesses Name

Lot 1 Blk 1 Vazquez - Phoenix
Property Address

Tomball, TX 77375
City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

April 6, 2010

Dear City of Tomball P&Z Commission / City Council:

I am a property owner on Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,

Signature

Printed Name

Businesses Name

Property Address

Tomball, TX 77375

City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 31, 2010

Dear City of Tomball P&Z Commission / City Council:

I am a property owner on Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,

 3/31/2010
Signature

Gregory T. Smith
Printed Name

MICO GROUP LTD
Businesses Name

1028 LIZZIE LANE
Property Address

Tomball, TX 77375
City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

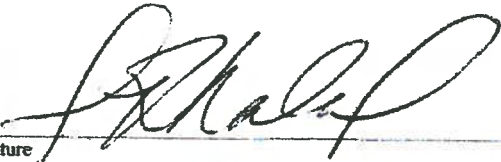
March 31, 2010

Dear City of Tomball P&Z Commission / City Council:

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The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,


Signature


Printed Name


Businesses Name

Property Address 

Tomball, TX 77375

City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

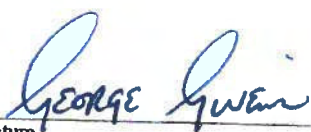
March 31, 2010

Dear City of Tomball P&Z Commission / City Council:

I am a property owner on/near Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,


Signature

GEORGE GIVENS
Printed Name

Businesses Name

600 S. PERSIMMON
Property Address

Tomball, TX 77375
City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 31, 2010

Dear City of Tomball P&Z Commission / City Council:

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The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,

 prcs
Signature

CLIFFORD PARKER
Printed Name

C'PAR, INC
Businesses Name

535 S PERSIMMON
Property Address

Tomball, TX 77375
City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 23, 2010

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The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,

Tom Peloski
Signature

TOM PELOSKI
Printed Name

NORAM TEXAS HOLDINGS
Businesses Name

407 S PERSIMMON
Property Address

Tomball, TX 77375
City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

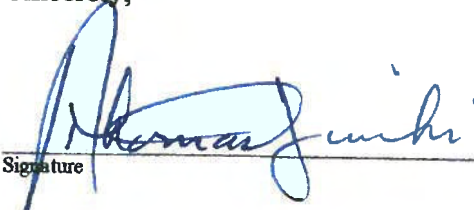
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Dear City of Tomball P&Z Commission / City Council:

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The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,


Signature

Thomas Janicki
Printed Name

Shadow Mfg
Businesses Name

483 S Persimmon
Property Address

Tomball, TX 77375
City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 23, 2010

Dear City of Tomball P&Z Commission / City Council:

I am a property owner on Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,


Signature

H. MARTIN THOMPSON
Printed Name

TEXSON
Businesses Name

325 S. PERSIMMON
Property Address

Tomball, TX 77375
City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

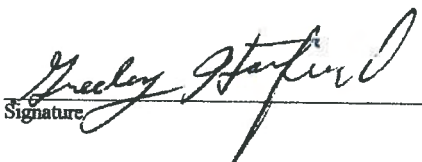
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The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,


Signature

GREELEY HATFIELD
Printed Name

CHAMPION CIRCUITS
Businesses Name

321 S PERSIMMON
Property Address

Tomball, TX 77375
City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 23, 2010

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The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,

Signature



Printed Name

Jeff Fulbright

Businesses Name

Fulbright + CO.

Property Address

215. S. Persimmon

Tomball, TX 77375

City, State Zip Code

ELLIOTT ELECTRIC SUPPLY

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 31, 2010

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The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,



Signature

Billy Elliott

Printed Name

Elliott Electric Supply, Inc.

Businesses Name

201 S. Persimmon Street

Property Address

Tomball, TX 77375

City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

April 1, 2010

Dear City of Tomball P&Z Commission / City Council:

I am a property owner on Persimmon Street and am writing to express my full support for the rezoning of 1201 S. Persimmon St (Outlot 281) from Residential to Light Industrial use.

The proposed use as the company headquarters and manufacturing facility for Protective Concepts, Inc is a good fit for the area, with numerous commercial and light industrial businesses already located along Persimmon St. I urge you to approve this property for rezoning.

Sincerely,


Signature

Dominick PALERMO
Printed Name

PALERMO Interests
Businesses Name

Corner lot of FM 2920 + Persimmon St.
Property Address

Tomball, TX 77375
City, State Zip Code

Re: Rezoning of 1201 S. Persimmon St (Outlot 281)

March 31, 2010

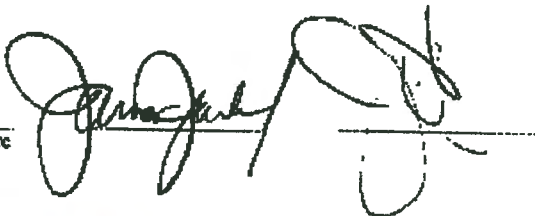
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Sincerely,

Signature



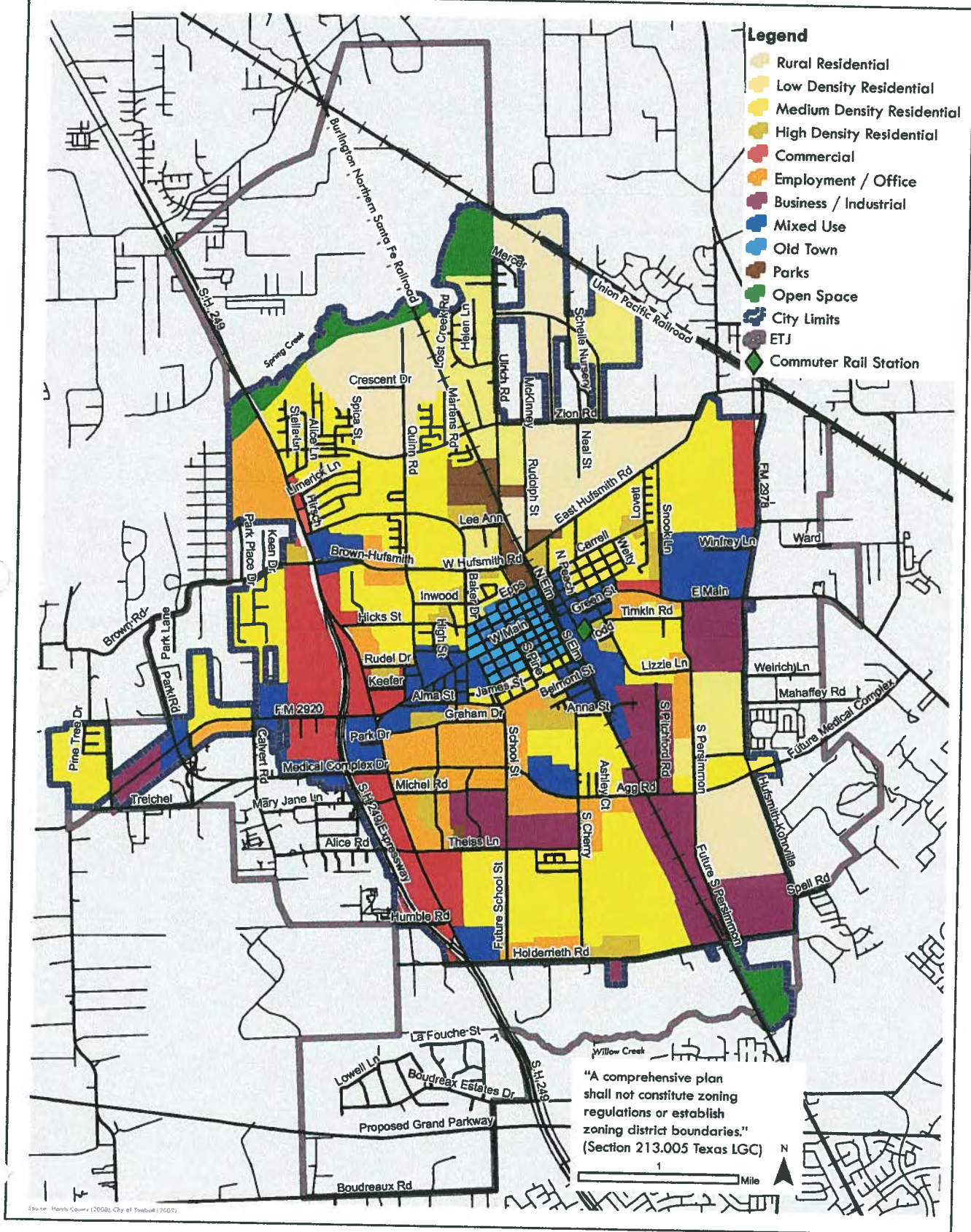
James Juranek/Jerome O. Ejeld (co-owners of tract)
Printed Name

Juranek Law Firm, PLLC
Business Name

0 Persimmon Street
Property Address

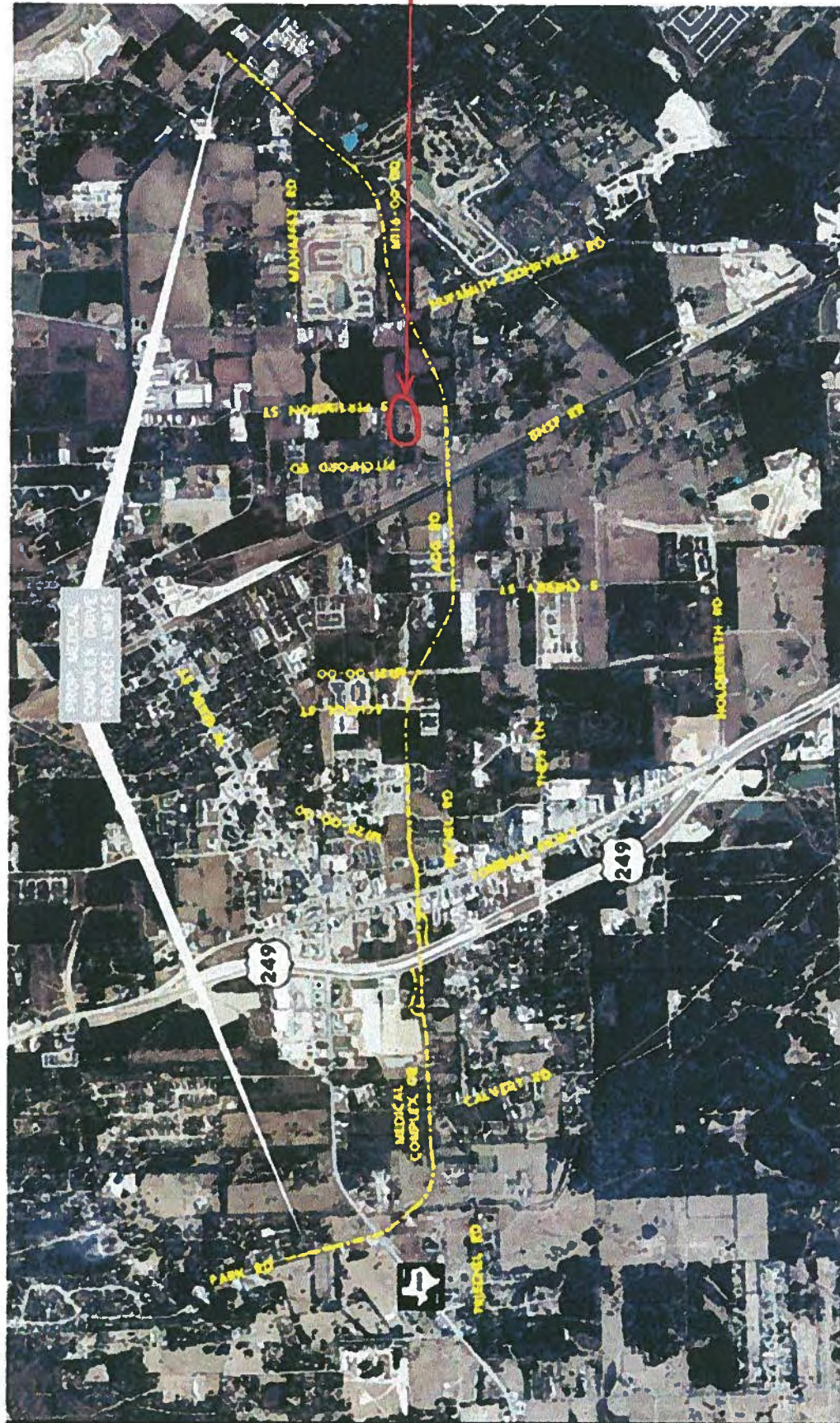
Tomball, TX 77375
City, State Zip Code

Figure 4-6: Future Land Use Plan Map



Adapted from the "Agg Road/Medical Complex Drive Expansion Preliminary Engineering Report"

- Unanimously Accepted by City Council on July 6, 2009



Outlot 281
Rezoning
638 ft North
of Agg Rd

- Discussion – Kelly Violette provided information regarding how the Comprehensive Plan would be applied to Zoning Cases P09-146 and P09-158. Under the Comprehensive Plan, Section G will be applied to rezoning requests.
- Next Steps – Peggy Fiandaca asked for any comments and additional questions.

Discussion was held by Council and P&Z board members regarding the possibility of changing South Persimmon and leaving Timkin as medium-density residential. Land use on Persimmon should be residential and north and south of Timkin should be medium-density residential, with retail on FM 2920. Kelly Violette advised that possible future commuter rail in this area could create a conflict in the area, creating problems for the residences along there.

Peggy Fiandaca advised that proposed developments must meet both the comprehensive plan and the zoning ordinance in order to gain approval to proceed. Kelly Violette advised that safeguards have been built into the comprehensive plan and the zoning ordinance to enable the City to consider projects in light of what is the best use of the property for both the property owner and the community as a whole.

Direction from Council was for PSA to revisit future land uses on both sides of South Persimmon as commercial and Timkin as medium-density residential.

Mayor Fagan called a recess at 6:26 p.m.

Upon reconvening into Special session at 6:36 p.m., the following items were discussed:

- Keeping the area south of Ag Road and east of the Railroad tracks as single-family residential;
- including the museum district in the Old Town District; and
- the area bordered by Moore, Live Oak and Peach Streets.

Direction from Council was for PSA to look at these areas and provide recommendations for future land use.

Consideration was given to Chapter 8, potential land use patterns, annexing property under the Comprehensive Plan, and an update on the 2920 access management study.

Making Findings of Fact; Providing for Severability; and Making Other Provisions Related Thereto. Vote was as follows:

Councilman Quinn	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Webb	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Driver	<u>Aye</u>

Motion carried unanimously.

9.0 New Business – Consent Agenda:

- 9.1 Doris Speer provided overview of the Greater Tomball Area Chamber of Commerce's requests for Tomball Night and Resolution No. 2009-17, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 37th Annual Tomball Night and Parade, to be Held in Tomball on Friday, August 7, 2009.
- 9.2 Doris Speer provided overview regarding the request by Windcrest Collision to return to the Emergency Wrecker Rotation List.

Request was made by Councilman Townsend to remove item 9.2 from the consent agenda.

Motion was made by Councilman Townsend, second by Councilman Driver, to approve Resolution No. 2009-17, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 37th Annual Tomball Night and Parade, to be Held in Tomball on Friday, August 7, 2009.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the request by Windcrest Collision to return to the Emergency Wrecker Rotation List.

Motion carried unanimously.

10.0 New Business:

- 10.1 Mark McClure and Dale Conger, Cobb, Fendley and Associates, provided overview. Motion was made by Councilman Stoll, second by Councilman Townsend to Accept the Agg Road/Medical Complex Drive Expansion Preliminary Engineering Report as prepared and presented by Cobb, Fendley and Associates.

Motion carried unanimously.

First step taken in Medical Complex Drive expansion

By KIM JACKSON CHRONICLE CORRESPONDENT

July 15, 2009, 1:38PM

The city of Tomball has breathed life into a \$49 million road project that could one day reduce the burden on the crowded east-west FM 2920 corridor that is one of the city's spinal roadways.

On July 13, Tomball City Councilmembers adopted a preliminary engineering report for the Medical Complex Drive project that will expand the existing road to the east and to the west so that it runs a full arc through the middle of Tomball.

Though it could be several years before the Medical Complex Drive expansion project is funded and ready to move forward, this is a crucial first step in the process, city officials said.

"One of the benefits of adopting the preliminary report is that it sets the project alignment, and we can communicate what that alignment is to property owners and future developers," said Jan Belcher, Tomball city manager.

That report shows a preferred pathway for the road that connects several existing road segments with the Medical Complex Drive off Texas 249.

The project would start on the west at a point west of the Park Road/FM 2920 intersection and a new road would be constructed across FM 2920 and undeveloped land to connect with the existing Medical Complex Drive, which starts at Calvert Road.

The existing road would be improved and widened to its dead-end near the Tomball Regional Medical Center complex, and along that route, an overpass would be constructed at Texas 249.

The project path then continues across undeveloped land to Agg Road and follows Agg Road until its dead-end, and then across undeveloped land to FM 2920, which is the eastern end point for the project. Along that segment, a railroad overpass will be constructed and the road will intersect with Huffsmith-Kohrville Road, Mahaffey Road, Brady Lane and Colby Lane.

Dale Conger, a member of the Cobb-Findley engineering team that worked on the new Medical Complex Drive report, said the team considered many scenarios when studying the road project. That included a "no-build" scenario.

"If the project is not built in the next 20 years, traffic through the city would be gridlocked," Conger said.

Because the project has such a large price tag, an estimated \$40 million for construction costs and \$9 million for right-of-way acquisition, it could be divided into five segments. Conger said the road width could range from 100-120 feet across and both could eventually accommodate three lanes in each direction.

As it is mapped out now, the city would need to buy about 60 acres for the road right-of-way, and another 34 acres for detention.

Mark McClure, the city's director of engineering and planning, said the city could explore various types of funding opportunities, including those with other governmental entities, but no money has been pledged toward the project yet. He said it does fall in line with the goals of the Texas Department of

Transportation's FM 2920 access management study, which calls for alternative east-west routes to take traffic off FM 2920.

Belcher said the next step in the process is setting aside funds in the city budget to buy property, conduct appraisals and perform final design work. She said City Council will have the opportunity to discuss those funding options at city budget planning meetings.

Councilmember Derek Townsend said he was impressed with the report and the proposed project.

"I see this as a good thing," Townsend said. "It has huge value for our city in the future. In my opinion, we should not sit back on our laurels and let this one get away from us."

Regular City Council

Agenda Item

Data Sheet

Meeting Date: May 3, 2010

Topic:

Adopt, on Second Reading, Ordinance No. 2010-08, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of approximately 2.456 Acres of land, legally described as Block 16 and Lots 25 through 36, Block 23, Tomball Townsite, within the City of Tomball, Harris County, Texas, from the SF-6 Single-Family Residential-6 District to the OT&MU - Old Town and Mixed Use District, said property being generally located on the westerly side of South Cherry Street, southerly of Fannin Street; 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 February 23, 2010, the City received a rezoning application from the Tomball Independent School District (TISD) to rezone approximately 2.456 acres of land, legally described as Block 16 and Lots 25 through 36, Block 23, Tomball Townsite, generally located on the westerly side of South Cherry Street, southerly of Fannin Street, from the SF-6 Single-Family Residential-6 District to the OT&MU - Old Town and Mixed Use District. The 2.456 acres is part of TISD's overall 3.994 acre facility along South Cherry Street. The northern portion of the site is located within the OT&MU - Old Town and Mixed Use District, while the southern portion lies within the SF-6 Single-Family Residential-6 District.

TISD is proposing to rezone the property in order to facilitate the construction of the new administration building on the site. The new administration building will house the staff currently located in the existing administration building at 221 West Main Street.

School facilities are permitted by right within all zoning districts and must comply with the development standards of the district in which the facility is located. The portions of the project in the SF-6 District would be required to develop according to the O-Office District standards. Tomball ISD is requesting to rezone the southern portion of the site to the OT&MU District in order to maintain consistent development standards and setbacks for the overall site.

After reviewing the request, staff prepared a report to the Planning and Zoning Commission, recommending approval based on the fact that the proposed zoning and use will be compatible with the land uses in the vicinity and is consistent with the Comprehensive Plan's Future Land Use Plan Map designation of Old Town, which encourages the location of government facility uses in Old Town to strengthen the civic center and diversify day-time activity.

On April 12, 2010, the Planning and Zoning Commission, after conducting a public hearing on this request, voted unanimously to recommend approval. This request was forwarded to City Council for consideration and possible action; on April 19, 2010, Council adopted Ordinance No. 2010-08 on first reading.

Origination:

Tomball Independent School District

Recommendation:

In its formal recommendation to City Council, the Planning and Zoning Commission voted unanimously to approve Zoning Case P10-208, as recommended by staff, based on the following: (a) the proposed zoning will be compatible with the land uses in the vicinity; (b) the proposed zoning is consistent with the Tomball Comprehensive Plan; (c) the proposed zoning will not negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area; and (d) there are sufficient existing utilities to service the proposed use on this site.

Funding:

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

Kelly Violette, City Planner

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

ATTACHMENTS:

- Ordinance No. 2010-08
- Staff Report P10-208
- Notice of Public Hearing
- Adjacent Property Owner Notification

ORDINANCE NO. 2010-08

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 2.456 ACRES OF LAND, LEGALLY DESCRIBED AS BLOCK 16 AND LOTS 25 THROUGH 36, BLOCK 23, TOMBALL TOWNSITE, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE SF-6-SINGLE-FAMILY RESIDENTIAL-6 DISTRICT TO THE OT&MU - OLD TOWN AND MIXED USE DISTRICT, SAID PROPERTY BEING GENERALLY LOCATED ON THE WESTERLY SIDE OF SOUTH CHERRY STREET, SOUTHERLY OF FANNIN STREET; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

Whereas, the owner(s) of 2.456 acres of land, legally described as Block 16 and Lots 25 through 36, Block 23, Tomball Townsite, generally located on the westerly side of South Cherry Street, southerly of Fannin Street, 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 SF-6- Single-Family Residential-6 District to the OT&MU - Old Town and Mixed Use District; and

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

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

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing on the proposal to change the zoning district classification for the Property from the SF-6- Single-Family Residential-6 District to the OT&MU - Old Town and Mixed Use District, the City Council held the public hearing on the proposal to change the zoning for the Property and the City Council considered the final report of the Planning & Zoning Commission regarding the change of zoning district classification, and,

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

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

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

Section 2. The zoning classification of 2.456 acres of land, legally described as Block 16 and Lots 25 through 36, Block 23, Tomball Townsite, generally located on the westerly side of South Cherry Street, southerly of Fannin Street, in the City of Tomball, Harris County, Texas, (the “Property”), is hereby changed from SF-6- Single-Family Residential-6 District to the OT&MU- Old Town and Mixed Use District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas-Ordinance 2008-01, (“Zoning District Map”), shall be revised and amended to show the designation of 2.456 acres of land, legally described as Block 16 and Lots 25 through 36, Block 23, Tomball Townsite, generally located on the westerly side of South Cherry Street, southerly of Fannin Street, as OT&MU- Old Town and Mixed Use District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for 2.456 acres of land, legally described as Block 16 and Lots 25 through 36, Block 23, Tomball Townsite, generally located on the westerly side of South Cherry Street, southerly of Fannin Street, to OT&MU- Old Town and Mixed Use District as described above.

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

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

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 19TH DAY OF APRIL 2010.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN WEBB	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DRIVER	<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 3RD DAY OF MAY 2010.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN WEBB	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DRIVER	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Rezoning Staff Report

Planning and Zoning Commission Hearing Date: April 12, 2010

Rezoning Case:	P10-208
Property Owner(s):	Tomball Independent School District
Applicant(s):	Gary Hutton, Tomball Independent School District
Legal Description:	All of Block 16 and Lots 25 through 36, Block 23, Tomball Townsite, within the City of Tomball, Harris County, Texas
Location:	Generally located on the westerly side of South Cherry Street, southerly of Fannin Street
Area:	2.456 acres
Present Zoning and Use:	SF-6 Single-Family Residential-6 and OT&MU Old Town and Mixed Use Districts / Vacant land, TISD Facility, and two single-family residences.
Comp Plan Designation:	Old Town
Proposed Zoning and Use:	Old Town & Mixed Use District (OT&MU) / TISD Administration Building

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:	OT&MU / Retail and residential
South:	SF-6 / Residential and day care facility
East:	OT&MU and SF-6 / Residential, offices, Christian counseling center, City of Tomball community center
West:	OT&MU and SF-6 / City of Tomball City Hall and Police Station, residential and undeveloped land

BACKGROUND

The overall subject site is a 3.994 acre tract of land legally described as Lots 1 through 12, Block 12, all of Block 16, and Lots 25 through 36, Block 23, Tomball Townsite, within the City of Tomball, Harris County, Texas. The site is generally located on the westerly side of South Cherry Street, southerly of Fannin Street and is bound on the west and east by Oak and Cherry Streets respectively (Exhibit "C"). The northern portion of the site is located within the OT&MU

District and the southern half of the site is currently within the Sf-6 District. The area to be rezoned is an approximately 2.456 acre section of the overall 3.994 acre tract and is legally described as all of Block 16 and Lots 25 through 36, Block 23, Tomball Townsite, within the City of Tomball, Harris County, Texas (Exhibit "A").

City staff met with Tomball Independent School District (TISD) representatives on February 17, 2010 to discuss the redevelopment of the site for the new TISD administration building. At this meeting, the dual zoning (SF-6 and OT&MU) was discussed and staff informed TISD that the portions of the project in the SF-6 zoning district would be required to develop according to the O-Office District development standards unless rezoned to the OT&MU District because Section 43.4.A.5 states, "Any nonresidential use which may be permitted in a residential zoning district shall conform to the O, Office district standards, unless otherwise stated in this Ordinance or in an ordinance establishing a PD." After consulting with their design team, TISD submitted a rezoning application on February 18, 2010 to rezone the property to the OT&MU District in order to maintain consistent setbacks for the new development.

The overall 3.994 acre site is owned by Tomball Independent School District and is currently used by the Facilities Department. TISD is proposing to rezone the property in order to facilitate the construction of the new administration building on the site. The overall site is approximately 300 feet wide and 580 feet deep. The conceptual site plan submitted with the rezoning application shows the administration building being located generally in the center of the property with vehicular access being taken from South Oak and South Cherry Streets (Exhibit "F"). Additionally, a detention pond is proposed in the approximate location of the two existing residences at the south east corner of the site. As a matter of information, the applicant indicated at the February 17, 2010 meeting that TISD will attempt to preserve and integrate the existing façade from the original Tomball School into the proposed two-story structure. Preserving this façade will help to maintain the historic look of the Old Town area.

ANALYSIS

Old Town Tomball is an area in which many diverse land uses currently exist. The nature of the area is a mixture of retail, commercial, and other nonresidential uses, along with single-family homes and multiple-family uses. The Old Town and Mixed Use District is intended to provide a zoning mechanism for a variety of uses in the original town site and those areas that have a diverse mixture of uses.

School facilities are permitted by right within all zoning districts and must comply with the development standards of the district in which the facility is located. Tomball ISD is requesting to rezone the entire subject site to the OT&MU District in order to maintain consistent development standards and setbacks for the overall site (Exhibit "F"). The administration building will house the staff currently located in the existing administration building at 221 West Main Street.

Currently, there are a number of existing land uses in the vicinity of the subject site. To the north of the subject site are retail and residential uses in the OT&MU district. To the south are residential uses and a day care facility located in the SF-6 district. To the east are residences, offices, a Christian counseling center, and the Tomball community center located in the OT&MU and SF-6 zoning district. To the west are Tomball City Hall and police station, residences, and vacant land located in the OT&MU and SF-6 zoning district. Although there are a number of residential uses in the vicinity of the subject site, staff feels the rezoning and

proposed land use would not be out of character with the existing mix of land uses in the vicinity and would provide for the revitalization of the existing facility on the site.

Additionally, the proposed rezoning to OT&MU is consistent with the “Old Town” Comprehensive Plan land use designation (Exhibit “B”). The Comprehensive Plan states that the “Old Town includes the historic hub and heart of the community. Old Town land uses include mature single family neighborhoods, dense commercial uses, a civic core, and high density residential.” Staff recognizes the importance of maintaining and enhancing the civic core in the Old Town area and feels the new TISD administration building would enhance the civic core and be an asset to the area. The Comprehensive Plan’s “Old Town Planning Guidelines” also “Encourage the assembly of land into parcels that meet minimum standards and are sufficient for development/redevelopment.” The redevelopment of this site and the platting process will create a unified parcel of land that is much more sufficient for future development and will strengthen the Old Town area.

Development of this site will require the applicant to comply with all platting requirements, including dedication of utility easements and ROW, abandonments of appropriate rights-of-way, as well as the use and area regulations outlined in the zoning ordinance. A Site Plan application, which will require civil drawings, including all proposed grading, drainage and utility plans, building elevations and landscape plans, will be required to be submitted and approved by the Engineering & Planning and Fire Departments prior to a building permit application submittal.

ZONING CONSIDERATIONS

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

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

There are a number of existing land uses in the vicinity of the subject site. To the north of the subject site are retail and residential uses in the OT&MU district. To the south are residential uses and a day care facility located in the SF-6 district. To the east are residences, offices, a Christian counseling center, and the Tomball community center located in the OT&MU and SF-6 zoning district. To the west are Tomball City Hall and police station, residences, and vacant land located in the OT&MU and SF-6 zoning district. Although there are a number of residential uses in the vicinity of the subject site, staff feels the rezoning and proposed land use would not be out of character with the eclectic mix of land uses in the immediate area.

The redevelopment of this site will require compliance with the City’s screening, buffering and fencing requirements to protect any adjacent residential uses. The applicant will also be required to shield and position all on-site lighting such that lights do not adversely impact adjacent residential areas.

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

There are currently sufficient utilities in the area to service this site (Exhibit “H”).

South Cherry Street is a two lane road and is designated as a Minor Arterial on the adopted Major Thoroughfare Plan (MTP), with an ultimate right-of-way width of 80 feet. This right-of-way has not been acquired in the vicinity and right-of-way dedication would be required when the property is replatted. Minor Arterials distribute traffic from state highway/farm-to-market roadways and major arterials to the collector system and to adjacent land uses and are found in areas of significant traffic movement. South Oak Street is a two lane road and is designated as a Minor Street on the adopted MTP. The City has no plans to widen South Oak Street and no right-of-way dedication would be required at the time of replatting.

The development of the new administration building would not impact the public school system as it would not increase attendance to the school system.

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

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.

Public school facilities are permitted by right within all zoning districts and thus would be permitted upon any property of sufficient size to support the proposed use. Because school facilities tend to require a large amount of property there is currently not sufficient vacant land elsewhere within the Old Town area that would support such a facility.

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 have been a number of nonresidential projects in the OT&MU district within the last several years including (but not limited to) the Tomball Intermediate School renovation, Tomball ISD Technology Center expansion, Northwest EMS facility expansion, and First Baptist Church outdoor pavilion construction. There has been little recent nonresidential development within the OT&MU district in the immediate vicinity of the subject, mainly because the area is fairly well built out.

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

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

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

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

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

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

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

The request is consistent with the Comprehensive Plan’s land use designation (Exhibit “B”). The Comprehensive Plan states that the “Old Town includes the historic hub and heart of the community. Old Town land uses include mature single family neighborhoods, dense commercial uses, a civic core, and high density residential.” The Old Town planning guidelines encourage the location of government facility uses in Old Town to strengthen the civic center and diversify day-time activity. Staff recognizes the importance of maintaining and enhancing the civic core in the Old Town area and feels the rezoning and redevelopment of this site would enhance the area’s long-term economic viability.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on March 31, 2010 and, as of the writing of this report, no public comment forms were received. During the public comment period, staff did receive two phone calls regarding the project; both callers indicated support of the proposed redevelopment of the site and did not indicate any opposition to the rezoning request.

RECOMMENDATION

That the Planning and Zoning Commission recommend:

1. APPROVAL of Zoning Case P10-208 based on the following:
 - a. The proposed zoning of OT&MU District will be compatible with the land uses in the vicinity.
 - b. The proposed zoning of OT&MU District is compatible with the Tomball Comprehensive Plan.
 - c. The proposed zoning of OT&MU District will not negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area.
 - d. There are sufficient existing utilities to service the proposed use 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. Comp Plan Future Land Use Map
- C. Aerial Photo
- D. Rezoning Application
- E. Rezoning Request Letter
- F. Conceptual Site Plans
- G. Legal Description of Property
- H. Utility Block Map
- I. Site Photos

Exhibit "A"
Location/Zoning Map

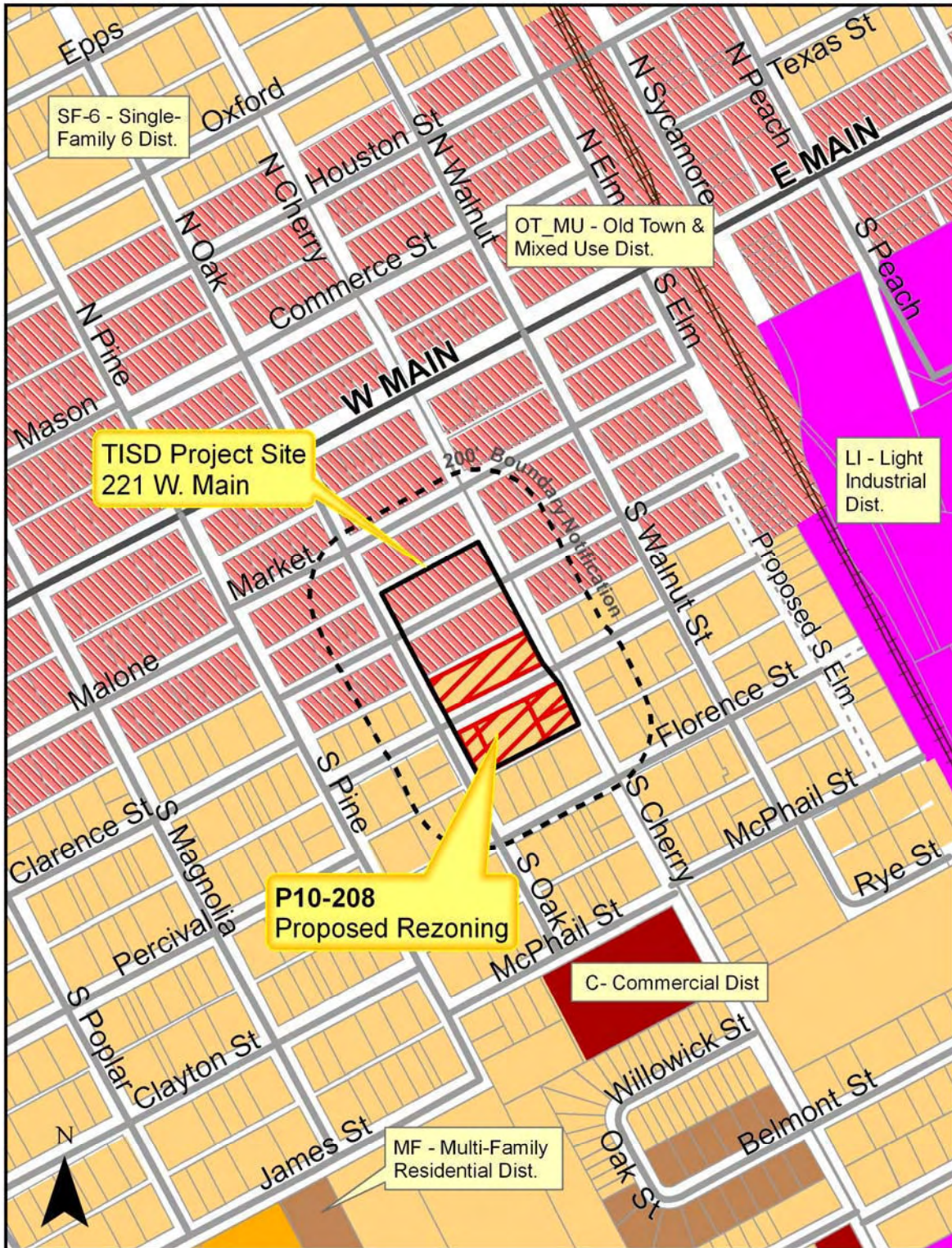


Exhibit "B"
Comp Plan Future Land Use Map



Exhibit "C"
Aerial Photo

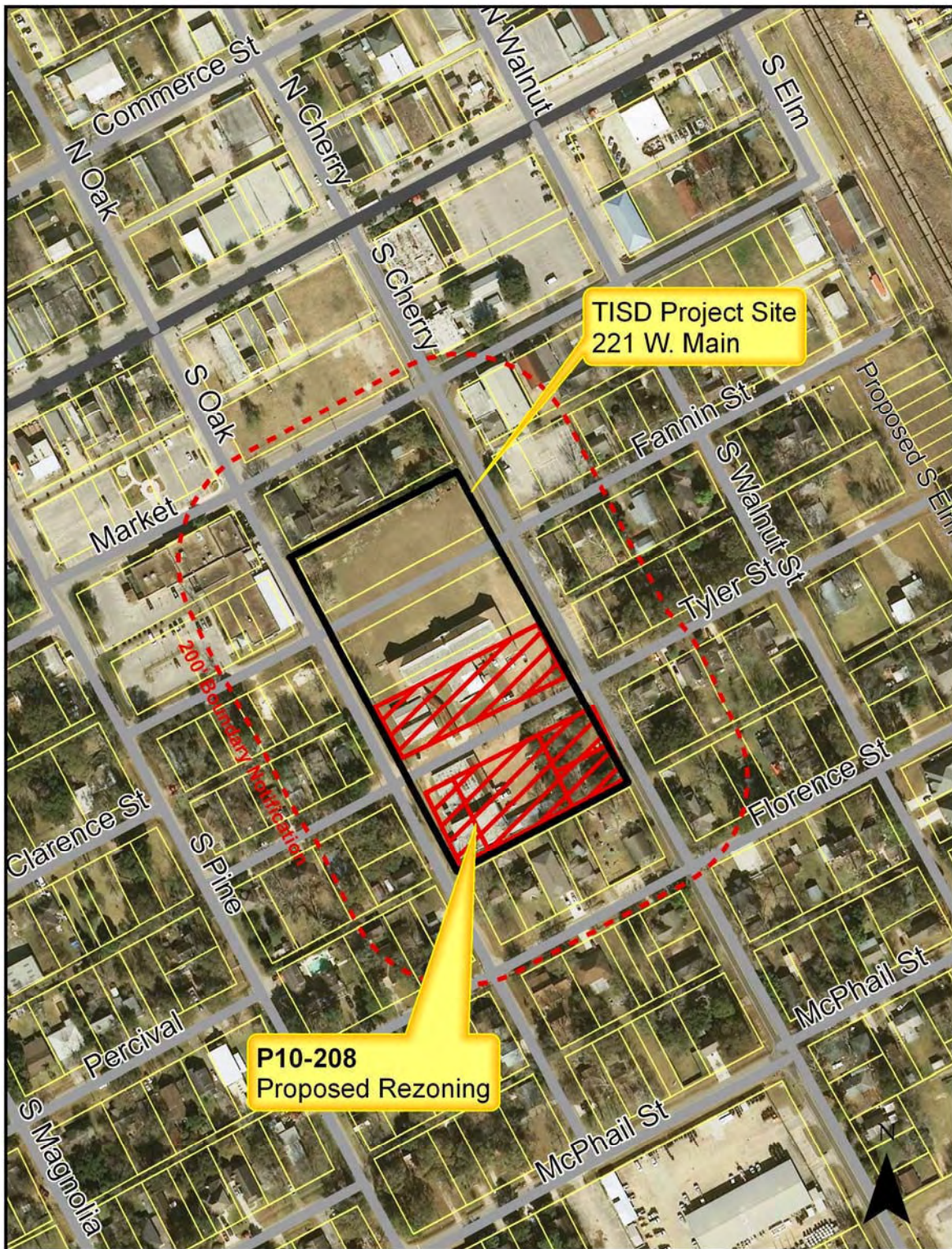


Exhibit "D"
Rezoning Application

Revised 1/20/09



APPLICATION FOR REZONING
Engineering & Planning Department

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

Applicant

Name: Gary Hutton Title: Director of Construction
Mailing Address: 310 S. Cherry Street City: Tomball State: TX
Zip: 77375
Phone: (281) 357-3170 Fax: (281) 357-3180 Email: garyhutton@tomballisd.net

Owner

Name: Tomball Independent School District Title: _____
Mailing Address: 221 Main Street W City: Tomball State: TX
Zip: 77375
Phone: (281) 357-3100 Fax: (281) 357-3128 Email: _____

Engineer/Surveyor (if applicable)

Name: Westbelt Surveying, Inc. Title: _____
Mailing Address: 21020 Park Row City: Katy State: TX
Zip: 77449
Phone: (281) 599-8288 Fax: (281) 492-6026 Email: _____

Description of Proposed Project: 40,000 sq.ft. Administration Building

Physical Location of Property: 310 S. Cherry Street; Tomball, TX 77375
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: W. Hudd Survey, Abstract Number 371
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: Dual Zoned - (Old Town Mixed Use & Single Family Residential)

Current Use of Property: Tomball ISD - Facilities Department

Proposed Zoning District: Old Town Mixed Use

Proposed Use of Property: Tomball ISD - Administration Building

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

www.ci.tomball.tx.us

0352590150029; 0352590160001
0352610230025; 0352610230045
0352610230033; 0352610230047
HCAD Identification Number: _____ Acreage: 3.994 acres

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

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

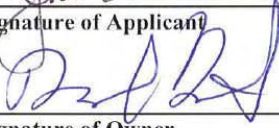
X		2/18/2010
	Signature of Applicant	Date
X		2/18/2010
	Signature of Owner	Date

Exhibit "E"

Rezoning Request Letter

11 Greenway Plaza, 22nd Floor
Houston, Texas 77046-1104
Phone: 713.965.0608
Fax: 713.961.4571



Architecture
Engineering
Planning
Roof Consulting

March 19, 2010

VIA: Email

City of Tomball
501 James Street
Tomball, TX 77375

RE: Application for Rezoning Letter
New Tomball Administration Building
Tomball Independent School District
PBK Project No.: 0989

On behalf of the Tomball Independent School District, we are submitting this letter to notify the City of Tomball, of the district's request to rezone their property located at 310 S. Cherry Street; Tomball, Texas 77375. Currently the property is zoned partly as Old Town Mixed Use, and partly as Single Family Residential. The district is planning to construct a new Administration Building on this existing site, and is asking the site be rezoned to Old Town Mixed Use. The legal description of the property is a 3.994 acre tract of land located in the W. Hudd Survey, Abstract Number 371, City of Tomball, Harris County, Texas and being out of the Revised Map of Tomball recorded under Volume 04, Page 25, Harris County Map Records (H.C.M.R.)

Please contact me if any additional information is required.

Sincerely,


Jesse Garcia
Project Executive

cc: David Schuelke, TISD
Gary Hutton, TISD
Irene Nigaglioni, PBK
Eric Smith, PBK

Houston • Dallas / Fort Worth • San Antonio • League City • Austin • McAllen

Exhibit "F"

Conceptual Site Plans

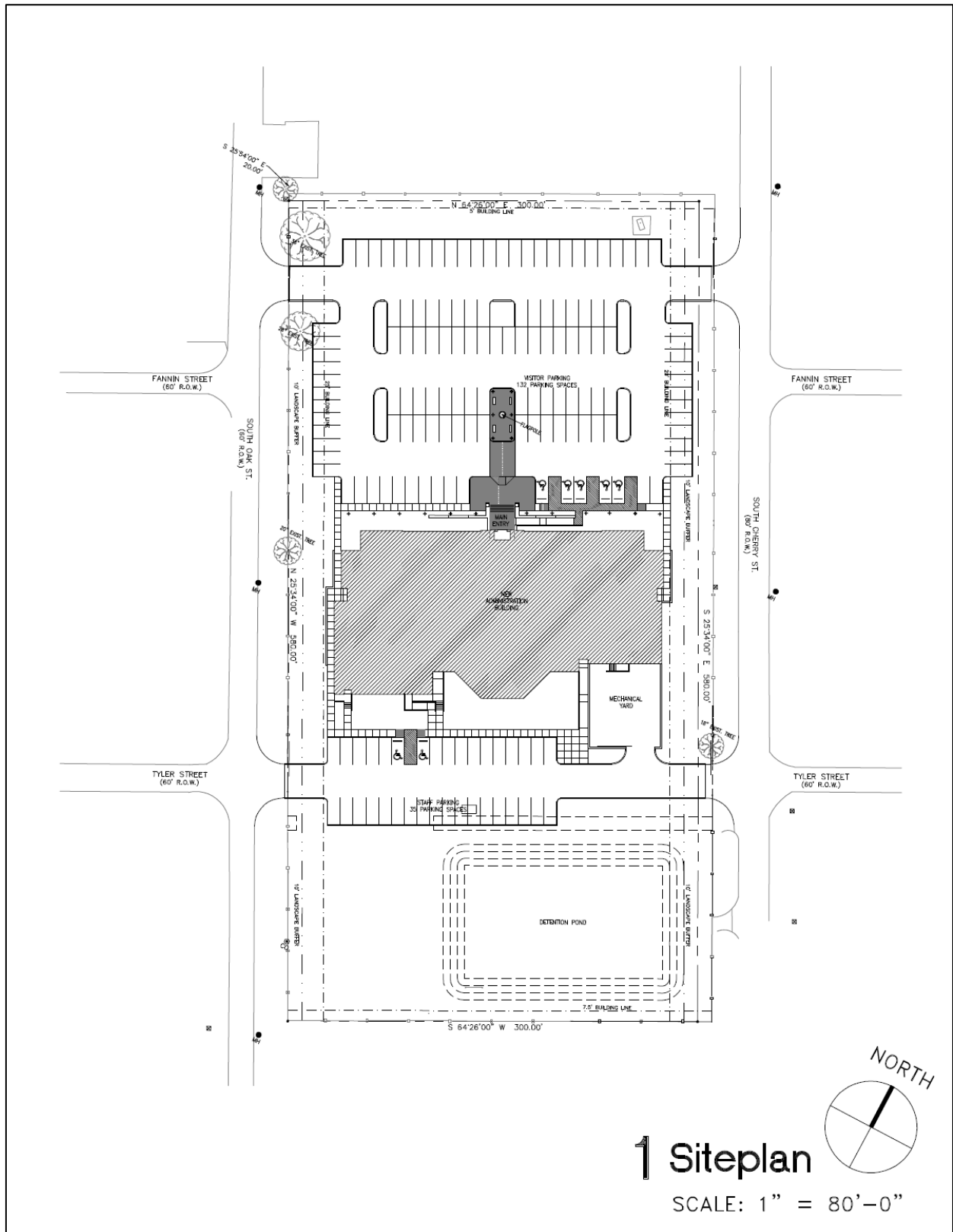


Exhibit "G"
Legal Description of Property

3.994 ACRES
174,000 SQUARE FEET
W. HUDD SURVEY
ABSTRACT No. 371
CITY OF TOMBALL
HARRIS COUNTY, TEXAS

FIELD NOTE DESCRIPTION of a 3.994 acre tract of land located in the W. Hudd Survey, Abstract Number 371, City of Tomball, Harris County, Texas and being out of the Revised Map of Tomball recorded under Volume 04, Page 25, Harris County Map Records (H.C.M.R.), said 3.994 acres tract being more particularly described by metes and bounds as follows: (The bearings described herein are oriented to the Texas State Plane Coordinate System, South Central Zone, NAD 1983.):

COMMENCING at the northwesterly corner of Lot 13, Block 15 of the subdivision plat of New Lot 19 recorded under Film Code No. 437069 of the H.C.M.R. being at the intersection of the southerly Right-of-Way (R.O.W.) line of Market Street (60 feet wide), and the easterly R.O.W. line of South Oak Street (60.00 feet wide), from which a 5/8-inch iron rod with cap stamped "EIC Surveying" found bears, North 64°26'00" East, 0.12 feet;

THENCE, South 25°30'00" East, departing the southerly R.O.W. line of said Market Street and along the easterly R.O.W. line of said South Oak Street, a distance of 100.00 feet, to the southwesterly corner of said Lot 13, Block 15 of the New Lot 19 and the northerly line of a 20 feet wide alley;

THENCE, South 25°54'00" East, departing the northerly line of said 20 feet wide alley and along the easterly R.O.W. line of said South Oak Street, a distance of 20.00 feet, to a 5/8-inch iron rod with orange plastic cap stamped "West Belt Surveying Inc" set marking the southerly line of said 20 feet wide alley the northwesterly corner of Lot 12, of said Block 15 of the Revised Map of Tomball, the POINT OF BEGINNING and northwesterly corner of the herein described tract;

THENCE, North 64°26'00" East, departing the easterly R.O.W. line of said South Oak Street and along the southerly line of said 20 feet wide alley, a distance of 300.00 feet, to a 5/8-inch iron rod with plastic cap stamped "West Belt Surveying Inc." set in the westerly line of South Cherry Street (60.00 feet wide) and marking the northeasterly corner of Lot 1, Block 15 of the Revised Map of Tomball, and the northeasterly corner of the herein described tract;

THENCE, South 25°34'00" East, along the westerly right-of-way line of said South Cherry Street, a distance of 580.00 feet, to a 5/8-inch iron rod with plastic cap stamped "West Belt Surveying inc" set at the southeasterly corner of Lot 36, Block 23 of the Revised Map of Tomball described in the deed to Ernest Grandinetti recorded under H.C.C.F. No. G674531, and the southeasterly corner of the herein described tract;

THENCE, South 64°26'00" West, along the northerly line of said 15 feet wide alley, a distance of 300.00 feet, to a 5/8-inch iron rod with orange plastic cap stamped "West Belt Surveying Inc" set in the easterly R.O.W. line of aforesaid South Oak Street and marking the southwesterly corner of Lot 25, Block 23 of the Revised Map of Tomball and the most southwesterly corner of the herein described tract;

THENCE, North 25°34'00" West, along the easterly R.O.W. line of said South Oak Street, a distance of 580.00 feet, to the POINT OF BEGINNING and containing a computed area of 3.994 acres (174,000 square feet) of land as depicted on the ALTA\ACSM Land Title Survey dated: June 16, 2009, prepared by West Belt Surveying, Inc., Project No. S8660020A.

West Belt Surveying, Inc.
21020 Park Row.
Katy, Texas 77449
(281) 599-8288

Hugh W. Clarkson Date: 03/19/10
Texas Registration No. 4113

Exhibit "H"
Utility Block Map



**Exhibit “I”
Site Photos**



Figure 1: Southeasterly view of TISD facilities departments.



Figure 2: Southeasterly view of TISD facilities departments.



Figure 3: Existing single-family residence on southeast corner of subject site.



Figure 4: Existing single-family residence on southeast corner of subject site.



Figure 5: Shops to the north of subject site. Single-family residence to the left of photo. Tomball City Hall/police station to the right of photo.



Figure 6: Offices and Christian counseling center to the east of subject site.



Figure 7: Typical single-family residence along South Cherry Street.



Figure 8: Day care facility to the south of subject site along Florence Street.



Figure 9: Typical single-family residence along Florence Street to the south of subject site.



Figure 10: Residence to the south of subject site. Existing TISD facilities department building on left of photo.



Figure 11: Single-family residence to the west of subject site along South Oak Street.



Figure 12: Tomball City Hall and Police Station buildings to the west of subject site. Vacant lot on left of photo.

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
APRIL 12, 2010
&
CITY COUNCIL
APRIL 19, 2010**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, April 12, 2010, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, April 19, 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 P10-206: Request by Brian Matthews, on behalf of Crescent Directional Drilling, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5.006 acres of land, legally described as Tract 281 Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located on the westerly side of South Persimmon Street, northerly of Agg Road from the SF-20-E Single-Family Estate Residential-20 District to the LI - Light Industrial District.

ZONING CASE P10-208: Request by Tomball Independent School District to amend the Comprehensive Zoning Ordinance to rezone approximately 2.456 acres of land, legally described as all of Block 16, Tomball Townsite, from the SF-6 Single-Family Residential-6 and OT&MU Old Town and Mixed Use Districts to the OT&MU Old Town and Mixed Use District and Lots 25 through 36, Block 23, Tomball Townsite, from the SF-6 Single-Family Residential-6 District to the OT&MU Old Town and Mixed Use District within the City of Tomball, Harris County, Texas, both tracts of property being generally located on the westerly side of South Cherry Street, southerly of Fannin Street.

ZONING CASE P10-218: Request by Russ Brown, on behalf of PCOT Investments, Inc., to amend Section 38 (Use Regulations) of the City's Comprehensive Zoning Ordinance to establish a Model Home and Temporary Real Estate Sales Office use in all zoning districts that permit Residential Use either by right or conditionally, to amend Section 43 (Supplemental Regulations) to add standards for development related to model home and temporary real estate sales office use, and to amend Section 45 (Definitions) to amend and add the definitions related thereto.

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 **8th** day of **April** 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: P10-208

APPLICANT: Tomball Independent School District

LOCATION: Westerly side of South Cherry Street, southerly of Fannin Street.

PROPOSAL: Request to amend the Comprehensive Zoning Ordinance to rezone approximately 2.456 acres of land, legally described as all of Block 16, Tomball Townsite, from the SF-6 Single-Family Residential-6 and OT&MU Old Town and Mixed Use Districts to the OT&MU Old Town and Mixed Use District and Lots 25 through 36, Block 23, Tomball Townsite, from the SF-6 Single-Family Residential-6 District to the OT&MU Old Town and Mixed Use District within the City of Tomball, Harris County, Texas.

* * *

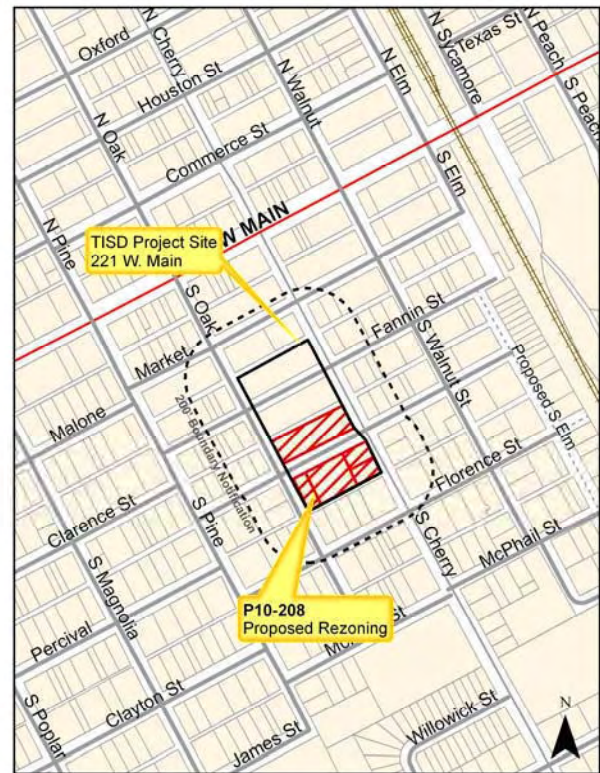
CONTACT PLANNER: Kelly Violette

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, April 12, 2010, 6:00 PM**

**City Council Public Hearing:
*Monday, April 19, 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: May 3, 2010

Topic:

Adopt on Second Reading, Ordinance No. 2010-09, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Amending Section 38, Use Regulations, to add "Temporary Real Estate Field Office" and "Model Home" as Listed Uses; Amending Section 43.8, Temporary Buildings, to Rename the Section "Temporary Structures and Uses" and add Development Regulations for Such; Amending Section 45, Definitions, to add a New Definition for "Temporary Real Estate Field Office;" 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 March 11, 2010, the City received a zoning ordinance text amendment application from Russ Brown, the property owner of the Pine Country Subdivision, located off Tomball Cemetery Road, to amend the Zoning Ordinance to allow a model home/sales office use.

The Zoning Ordinance does not currently provide for temporary sales office uses in residential districts where such a use would be needed as part of the construction and sales process for residential developments. Furthermore, the Ordinance does not provide for a model home/sales office use for residential developments.

After reviewing the applicant's request, staff prepared a report to the Planning and Zoning Commission recommending an amendment to the Zoning Ordinance to include a definition for "Temporary Real Estate Field Office" in Section 45, "Definitions," include "Temporary Real Estate Field Office" and "Model Home" uses in Section 38, "Use Regulations," and to amend and add development regulations for such uses in Section 43, "Supplemental Regulations."

On April 12, 2010, the Planning and Zoning Commission, after conducting a public hearing, voted unanimously to recommend approval of the request, as recommended by staff.

City Council adopted Ordinance No. 2010-09 on first reading, with the following additions: 1). Provide a time period for the removal of temporary real estate sales offices, including trailers and modular offices, after 12 months of no activity; and 2). Clarify that normal residential floodlights shall be permitted for model homes.

The revised Ordinance presented for adoption upon second reading addresses Council's comments in the following ways:

- Item "e" under "Temporary Real Estate Field Office" was revised to read: "All temporary real estate sales offices shall be removed within thirty (30) days after the sale of the last dwelling unit in the development, or within thirty (30) days after twelve (12) continuous months of no construction or sales activity."
- Item "d" under "Model Home (including Sales Office)" was revised to read: "All exterior lighting shall be limited to typical household exterior lighting. The use of commercial grade ground mounted

floodlights and search lights are prohibited;”

Additionally, staff proposes one final change to Ordinance No. 2010-09 with regard to parking requirements for “Contractor’s Temporary On-Site Construction Offices.” The current parking requirement is 1 space per 1,000 square feet of land area. Due to the fact that temporary construction offices (trailers) are permitted for one (1) year with a building permit from the City’s Building Official and are exempt from accessibility standards because they are associated with the actual process of construction and are not for public accommodation, staff proposes to delete the parking requirement for this use.

In order to meet the current ordinance, developers are required to provide the minimum number of parking spaces (1 space: 1,000 sf of land) on a paved (concrete or asphalt) surface and provide a paved driveway to the parking area. This requirement does not make sense for a temporary construction office while construction of the site is underway. As such, staff proposes that Section 38.2 “Use Charts” also be amended as shown below:

Types of Land Uses	Residential Zoning Districts								Non-Residential Zoning Districts				OT & MU	Parking Ratio
	AG	SF-20-E	SF-9	SF-6	D	MF	MHP		O	GR	C	LI		
Commercial & Wholesale Trade														
Contractor’s Temporary On-Site Construction Office (only with permit from B.O.)	P	P	P	P	P	P	P		P	P	P	P	P	1 space: 1,000 sf of land None

Origination:

Russ Brown, Property Owner, Pine Country Subdivision

Recommendation:

In its formal recommendation to City Council, the Planning and Zoning Commission voted unanimously to recommend approval. Staff recommends approval of Ordinance No. 2010-09 with the additional changes.

Funding:

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. 2010-09

P10-218 Staff Report

ORDINANCE NO. 2010-09

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY AMENDING SECTION 38, USE REGULATIONS, TO ADD “TEMPORARY REAL ESTATE FIELD OFFICE” AND “MODEL HOME” AS LISTED USES; AMENDING SECTION 43.8, TEMPORARY BUILDINGS, TO RENAME THE SECTION “TEMPORARY STRUCTURES AND USES” AND ADD DEVELOPMENT REGULATIONS FOR SUCH; AMENDING SECTION 45, DEFINITIONS, TO ADD A NEW DEFINITION FOR “TEMPORARY REAL ESTATE FIELD OFFICE;” 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, Russ Brown, on behalf of PCOT Investments, has requested that the City amend its Zoning Ordinance to permit model homes and temporary real estate field offices; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Tomball, Texas, have published notice and conducted hearings regarding the request to amend Section 38, Use Regulations, Section 43.8, Temporary Buildings, and Section 45, Definitions, of the City’s Comprehensive Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission recommended in its final report that the City Council approve the addition of model homes and temporary real estate field offices and definitions and development regulations to govern such; and

WHEREAS, all persons desiring to comment on the proposal were given a full and complete opportunity to be heard; and

WHEREAS, after consideration of all testimony given at the public hearing and after considering the input of the City staff, the Planning Commission recommended the changes set forth in this ordinance, and

WHEREAS, having considered the recommendation of the Planning and Zoning Commission, the City Council has determined to adopt their recommendation and to amend the City’s Comprehensive Zoning Ordinance as provided herein;

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 Comprehensive Zoning Ordinance of the City of Tomball, Texas, is hereby amended by amending Section 38 thereof to read as follows:

SECTION 38: USE REGULATIONS

38.2 USE CHARTS:

Types of Land Uses	Residential Zoning Districts								Non-Residential Zoning Districts				OT & MU	Parking Ratio
	AG	SF-20-E	SF-9	SF-6	D	MF	MHP		O	GR	C	LI		
Office														
Temporary Real Estate Field Office	P	P	P	P	P	P	P			P	P		P	4 spaces
Model Home (including Sales Office)	P	P	P	P	P	P	P			C	C		P	2 spaces per model
Commercial & Wholesale Trade														
Contractor's Temporary On-Site Construction Office (only with permit from B.O.)	P	P	P	P	P	P	P		P	P	P	P	P	1 space: 1,000-sf of land None

Section 3. The Comprehensive Zoning Ordinance of the City of Tomball, Texas, is hereby amended by amending Section 43.8 thereof to read as follows:

“SECTION 43: SUPPLEMENTAL REGULATIONS

43.8 TEMPORARY ~~BUILDINGS~~ STRUCTURES & USES:

~~A. — A temporary building for construction purposes shall be removed upon ——— completion or abandonment of construction work. A real estate field office shall ——— be removed upon sale of the last lot in the subdivision.~~

~~B. — There shall be no permanent use of temporary buildings or structures.~~

Any Temporary Use, Structure or Building permitted under this ordinance shall comply with all applicable Development Standards and Setback requirements in the District in which the Temporary Use, Structure or Building is located, unless otherwise specified herein.

1. Temporary Construction Office - Temporary construction offices, including trailers and modular offices, are permitted on or adjacent to any site during which construction is undertaken pursuant to a valid building permit. Temporary construction offices may be occupied for office or security purposes, or may be used for storage of equipment and material used during construction of the site. Upon completion or abandonment of construction or expiration of the building permit, the temporary construction office shall be removed at the owner's expense.

2. Temporary Real Estate Field Office - Temporary real estate sales offices, including trailers and modular offices, shall be permitted in accordance with Section 38 "Use Regulations" when incidental to a residential development. Temporary sales offices shall be located and developed in compliance with the following standards:

- a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold or leased; and on a property whereon a recorded plat exists and a valid permit for construction has been issued;
- b. Parking shall be permitted on the lot in which the office is located or on an adjacent lot;
- c. Permitted temporary real estate sales offices shall not be used as any type of dwelling;
- d. Use of the temporary real estate sales office for the sale or lease of residential sites or projects located off-site is prohibited; and
- e. All temporary real estate sales offices shall be removed within thirty (30) days after the sale of the last dwelling unit in the development, or within thirty (30) days after twelve (12) continuous months of no construction or sales activity.

3. Model Home (including Sales Office)- Model homes with or without a sales office shall be permitted in accordance with Section 38 "Use Regulations" when incidental to a residential development. Model Homes shall be located and developed in compliance with the following standards:

- a. The model home shall be located within the boundaries of the subdivision or tract of land where the real property to be sold or leased is situated;
 - b. Parking shall be permitted on the lot in which the model home is located or on an adjacent lot;
 - c. The model home shall be designed as a permanent structure and shall comply with the provisions of this Ordinance, all applicable Building Codes of the City of Tomball, and State law;
 - d. All exterior lighting shall be limited to typical household exterior lighting. The use of commercial grade ground mounted floodlights and search lights are prohibited; and.
 - e. The model home shall cease operation within thirty (30) days after the sale of the last dwelling unit in the development, at which time the model home shall be vacated and a building permit issued to return the model home to its intended residential use only.
4. There shall be no permanent use of temporary buildings or temporary structures.
5. Temporary signage and flagpoles advertising the sale of property within the residential development shall not be prohibited provided they comply with the sign ordinance, are permitted, and are maintained at least ten feet away from all lot lines.”

Section 4. The Comprehensive Zoning Ordinance of the City of Tomball, Texas, is hereby amended by amending Section 45 thereof to read as follows:

“SECTION 45: DEFINITIONS

45.2 DEFINITIONS:

TEMPORARY REAL ESTATE FIELD OFFICE: A building, structure, or portable trailer used temporarily for sales of residential units in a recorded subdivision or development with a residential use component and in which sales and construction of residential units is planned and underway.”

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance

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

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

Section 7. This Ordinance shall become effective fourteen days after the final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law. The City Secretary is directed to publish the caption of this Ordinance in the City's official newspaper within 14 days after the passage of the ordinance.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 19TH DAY OF APRIL 2010.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN WEBB	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DRIVER	_____

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 3RD DAY OF MAY
2010.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN WEBB	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DRIVER	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Text Amendment Staff Report

Planning and Zoning Commission Hearing Date: April 12, 2010

ZONING CASE P10-218: Request by Russ Brown, on behalf of PCOT Investments, Inc., to amend Section 38 (Use Regulations) of the City's Comprehensive Zoning Ordinance to establish a Model Home and Temporary Real Estate Sales Office use in all zoning districts that permit Residential Use either by right or conditionally, to amend Section 43 (Supplemental Regulations) to add standards for development related to model home and temporary real estate sales office use, and to amend Section 45 (Definitions) to amend and add the definitions related thereto.

BACKGROUND

The property owner of the Pine Country Subdivision, located off Tomball Cemetery Road, northerly of FM 2920, met with City staff on March 8, 2010 to discuss the development regulations for a proposed construction trailer/sales office for the subdivision (68 residential lots). At that meeting, the property owner indicated that the intent was to have a temporary construction trailer and sales office while construction of a model home was taking place. Upon review of the Zoning Ordinance staff observed that the ordinance does not provide for temporary sales office uses in residential districts where such a use would be needed as part of the construction and sales process for residential developments. Furthermore, the Ordinance does not provide for a model home/sales office use for residential developments.

Staff worked with the property owner to permit a temporary construction office in order to meet his time constraints and the property owner subsequently submitted a Zoning Text Amendment application requesting that the Zoning Ordinance be amended to allow a model home/sales office use. The letter submitted with the application requests the following: "1) a permitted sales office in the model home (Note: in the model itself and not in the rear detached garage), 2) street parking. 3) appropriate signage in the yard (to include two temporary flag poles) to advertise the new home products and 4) to insure that when the model home sales [sic] it will be converted in all ways to conform to a single family residence."

ANALYSIS

The ordinance currently allows for a Contractor's Temporary On-Site Construction Office, which is permitted in all districts for general construction purposes, but does not include the use of a temporary building or trailer for a residential sales office. Section 43 "Supplemental Regulations" includes standards for Temporary Buildings (Section 43.8) including temporary construction buildings and temporary real estate field offices;

however a temporary real estate field office is not included in either Section 38 “Use Regulations” or Section 45 “Definitions.”

Additionally, the Zoning Ordinance does not currently provide for a temporary sales office within a model home for residential developments. Ironically, the Ordinance includes a definition for model homes, which reads, “A dwelling in a developing subdivision, located on a legal lot of record, that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built within the same subdivision.” However, it is not listed in Section 38 “Use Regulations” as a permitted use. Model homes/sales offices are a basic necessity for any developer to market residential units when a residential project is approved by the City and the building process starts. This is the case throughout the region and the country.

Because the structural form used by developers to sell homes can include both temporary sales trailers and model homes with or without temporary sales offices, staff recommends that the Zoning Ordinance be amended to allow for both uses in all zoning districts with a residential use component. It is reasonable that all zoning districts that currently permit a “Residential Use,” as defined by the Zoning Ordinance, either by right or subject to the granting of a conditional use permit should also permit temporary sales in the types of structures that are most commonly used by builders and developers. It serves the City’s economic planning objectives to allow such uses on residential sites that facilitate sales in that project.

As such, staff recommends that the Zoning Ordinance be amended to include a definition for Temporary Real Estate Field Office in Section 45 “Definitions,” include Temporary Real Estate Field Office and Model Home uses in Section 38 “Use Regulations,” and amend and add development regulations for such uses in Section 43 “Supplemental Regulations.”

PROPOSED AMENDMENTS

- **Section 45 “Definitions”:** A new definition is proposed for the following:

Temporary Real Estate Field Office: A building, structure, or portable trailer used temporarily for sales of residential units in a recorded subdivision or development with a residential use component and in which sales and construction of residential units is planned and underway.

- **Section 38 “Use Regulations”:** The Use Chart is proposed to be amended to include provisions for Temporary Real Estate Field Office and Model Home uses as indicated below. “P” designates that the use is permitted in the zoning district indicated, blank indicates that the use is prohibited, and “C” designates that the use may be permitted in the zoning district subject to the granting of a conditional use permit.

Types of Land Uses	Residential Zoning Districts							Non-Residential Zoning Districts				OT & MU	Parking Ratio
	AG	SF-20-E	SF-9	SF-6	D	MF	MHP	O	GR	C	LI		
Office													
Temporary Real Estate Field Office	P	P	P	P	P	P	P		P	P		P	4 spaces
Model Home (including Sales Office)	P	P	P	P	P	P	P		C	C		P	2 spaces per model

- **Section 43 “Supplemental Regulations”:** staff proposes to amend Section 43.8 “Temporary Buildings” as indicated below:

43.8 ~~TEMPORARY BUILDINGS~~ **STRUCTURES & USES:**

- A. ~~A temporary building for construction purposes shall be removed upon completion or abandonment of construction work. A real estate field office shall be removed upon sale of the last lot in the subdivision.~~
- B. ~~There shall be no permanent use of temporary buildings or structures.~~

Any Temporary Use, Structure or Building permitted under this ordinance shall comply with all applicable Development Standards and Setback requirements in the District in which the Temporary Use, Structure or Building is located, unless otherwise specified herein.

1. Temporary Construction Office - Temporary construction offices, including trailers and modular offices, are permitted on or adjacent to any site during which construction is undertaken pursuant to a valid building permit. Temporary construction offices may be occupied for office or security purposes, or may be used for storage of equipment and material used during construction of the site. Upon completion or abandonment of construction or expiration of the building permit, the temporary construction office shall be removed at the owner's expense.
2. Temporary Real Estate Field Office - Temporary real estate sales offices, including trailers and modular offices, shall be permitted in accordance with Section 38 “Use Regulations” when incidental to a residential development. Temporary sales offices shall be located and developed in compliance with the following standards:
 - a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold or leased; and on a property whereon a recorded plat exists and a valid permit for construction has been issued;

- b. Parking shall be on the lot in which the office is located or on an adjacent lot;
 - c. Permitted temporary real estate sales offices shall not be used as any type of dwelling;
 - d. Use of the temporary real estate sales office for the sale or lease of residential sites or projects located off-site is prohibited; and
 - e. All temporary real estate sales offices shall be removed within thirty (30) days after the sale of the last dwelling unit in the development, even if the temporary use permit is still valid.
- 3. Model Home (including Sales Office)- Model homes with or without a sales office shall be permitted in accordance with Section 38 “Use Regulations” when incidental to a residential development. Model Homes shall be located and developed in compliance with the following standards:
 - a. The model home shall be located within the boundaries of the subdivision or tract of land where the real property to be sold or leased is situated;
 - b. Parking shall be on the lot in which the model home is located, on an adjacent lot, or on-street. For on-street parking, one parking space credit shall be allowed for every 22 feet of development frontage less five feet reserve on either side of driveways and ten-foot reserve on street intersections.
 - c. The model home shall be designed as a permanent structure and shall comply with the provisions of this Ordinance, all applicable Building Codes of the City of Tomball, and State law;
 - d. All exterior lighting shall be limited to typical household exterior lighting. The use of ground mounted floodlights and search lights are prohibited; and
 - e. The model home shall cease operation within thirty (30) days after the sale of the last dwelling unit in the development, at which time the model home shall be vacated and a building permit issued to return the model home to its intended residential use only.
- 4. There shall be no permanent use of temporary buildings or temporary structures.
- 5. Temporary signage and flagpoles advertising the sale of property within the residential development shall not be prohibited provided they comply with the sign ordinance, are permitted, and are maintained at least ten feet away from all lot lines.
- 6. Designated parking must comply with the Americans with Disabilities Act (ADA).

PUBLIC COMMENT

A public hearing notice was published in the Tomball Tribune on Wednesday, March 31, 2010 and, as of the writing of this staff report, no public comments were received regarding this request.

RECOMMENDATION

That the Planning and Zoning Commission:

1. Open the public hearing and receive comments, and
2. Recommend approval of the proposed amendments as recommended by staff.

EXHIBITS

- A. Zoning Text Amendment Application

Exhibit "A"
Zoning Text Amendment Application

Revised 1/20/09



Zoning Text Amendment
Engineering & Planning Department

APPLICATION REQUIREMENTS: 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 request may be delayed until corrections or additions are received. There is a \$500.00 application fee that must be paid at time of submission or the application will not be processed.

Applicant Russ Brown
Name: PCOT INVESTMENTS, INC Title: PRES.
Mailing Address: 22529 Tomball CEM. RD. City: Tomball State: TX
Zip: 77377
Phone: (830) 688-1659 Fax: (281) 255-3238 Email: REBrown43@hotmail.com

Property Owner
Name: PCOT INVESTMENTS, INC Title: OWNER
Mailing Address: SAME AS ABOVE City: _____ State: _____
Zip: _____
Phone: () SAME Fax: () SAME Email: _____

Statement of Purpose- Identify the existing section(s) of the Zoning Ordinance for which the Text Amendment is proposed, the proposed revised language and the reason(s) for the requested text Amendment (attach additional sheets as necessary):

General Description of Property Affected by Amendment (attach additional sheets as necessary):

Statement of Facts Which the Applicant Believes Justify the Amendment (attach additional sheets as necessary):

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 Russell E. Brown, Pres. 3/11/10
Signature of Applicant Date

X Russell E. Brown, Pres. 3/11/10
Signature of Owner Date

PCOT Investments, Inc.
Owner – Pine Country – Section II
22529 Tomball Cemetery Rd.
Tomball, Texas 77377

March 10, 2010

Mr. Mark McClure, P.E.
Director of Engineering and Planning
City of Tomball
501 James Street
Tomball, Texas 77377

Reference: Discussions in our meeting March 8, 2010 regarding City of
Tomball zoning ordinances and a model home sales office

Dear Mr. McClure,

In referenced meeting we discussed in detail my need, as owner of Pine Country of Tomball subdivision, for an **in the model home** sales office. Apparently, when Tomball zoning was instituted in February, 2008, this need was not addressed. Without a sales office authorization in the model home it will be very difficult to market new homes in this beautiful new subdivision.

This letter is being submitted to request, through the proper City authorities, a change to the City of Tomball zoning ordinances to allow 1) a permitted sales office in the model home (Note: **in the model home itself** and not the in the rear detached garage), 2) street parking, 3) appropriate signage in the yard (to include two temporary flag poles) to advertise the new home products and 4) to insure that when the model home sales it will be converted in all ways to conform to a single family residence.

This zoning ordinance change is needed as soon as possible to take advantage of the spring market potential. Thank you and your staff in advance for expeditious handling of this situation. If you require anything further from me, please call on my cell 830-688-1659.

Sincerely,



Russ Brown, President

Bo & Country model Home Detached Garage

COMPASS  POINTE
homes

The Navarro

Square Feet: 2826
Bedrooms: 4
Bathrooms: 3.5
of Stories: 2



Elevation A

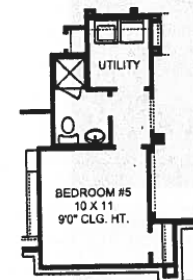
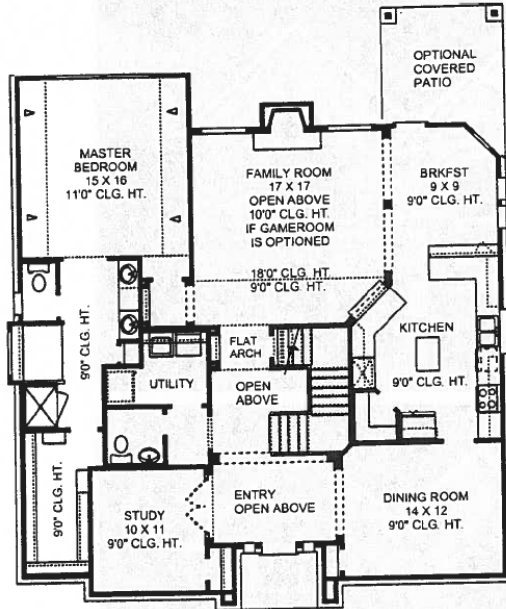


Elevation B

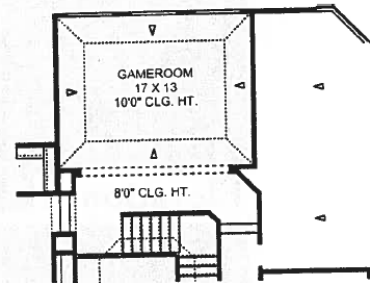


Elevation C

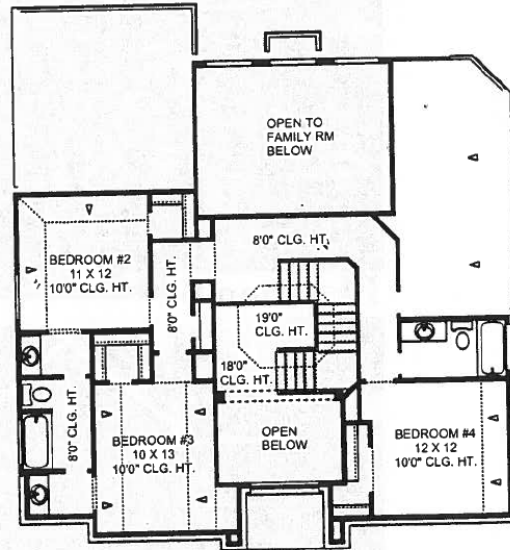
CompassPointeHomes.com



OPTIONAL BEDROOM #5
IN PLACE OF STUDY



OPTIONAL GAMEROOM
OVER FAMILY ROOM



Architectural dimensions shown are nominal exterior dimensions; room sizes, window placement and other dimensions may vary from these drawings. This brochure is for illustration purposes. It is not part of a legal contract. Compass Pointe Homes reserves the right to change product features, brand names, architectural design and details without notice. © 2009 Compass Pointe Homes. 6/9/09

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Regular City Council

Agenda Item

Data Sheet

Meeting Date: May 3, 2010

Topic:

Consideration and Possible Action regarding a Development Agreement between the City of Tomball and Zion Road Properties, LLC.

Background:

On September 16, 2009, Robert M. Allen, Manager, Zion Road Properties, LLC submitted a petition for the creation of a public improvement district on 232.8801 acres of land in the Joseph Miller League Abstract 50 and the WH Clemens Survey Abstract 1641. The proposed development associated with this property will be generally referred to as "Reserve at Spring Lakes".

On October 19, 2009, City Council created the requested district--PID 3 including an assessment fee level and term different than the standard outlined in Administrative Policy No. 18. The next step in the PID process is the creation of a Development Agreement between the City and the developer. This agreement outlines relationship, responsibilities, and default remedies for each party. It also allows the City to terminate the PID and the agreement if the developer does not begin construction on the improvements within 18 months. This agreement is standard with those previously approved by Council for PIDs 1&2.

The next document to come before Council for approval will be the Service and Assessment Plan (lists of specific projects, costs, debt, and assessment fee).

Origination:

Bob Allen, Zion Road Properties Scott Bean, PID Contract Administrator, Hawes Hill Calderon, LLP

Recommendation:

N/A

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

Christal Kliewer, Assistant City Manager

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

ATTACHMENTS:

PID Primer

PID Policy

PID #3 Development Agreement

Public Improvement District (PID) Primer

What is a PID?

A Public Improvement District (PID) is a public financing tool created under Chapter 372 of the Texas Local Government Code (TLGC). A PID allows a neighborhood or commercial area to apportion the cost of improvements and levy an assessment against property located in the PID, because that property is acquiring a special benefit because of the improvements. In other words, the property that will benefit the most from the improvement pays for the improvement--the burden is not shifted to the entire community. PIDs are intended to promote economic growth by providing the funding mechanism to construct necessary infrastructure or desired amenities that support new developments and encourage redevelopment.

PIDs are a component unit of the City and are governed by the City Council. The Council can create an advisory board for the PID if necessary, but final determinations on establishment, costs, assessments, and budgets must be made by the City Council.

What can a PID finance?

The PID can be designed to help finance the cost of a variety of development costs including:

- water, wastewater, health and sanitation, or drainage improvements;
- street and sidewalk improvements;
- mass transit improvements;
- parking improvements;
- library improvements;
- park, recreation and cultural;
- art installation;
- creation of pedestrian malls; or
- supplemental services. (advertising, extra public safety, etc.)

How does the PID finance the projects?

Project costs can be paid directly by the City or the developer can advance funds. The assessment fees levied on each property fund the project payments. Until the PID has accumulated adequate assessment fee revenue, the City can choose to issue bonds or use general tax revenues for initial payments or developer reimbursements.

Separate fund(s) are created by the City for the administration of the PID. The Council reviews and approves the assessments and district budget each year.

How is a PID created and dissolved?

PID Development Process (minimum steps required by Chapter 372, TLGC):

1. City, County, or affected property owner(s) initiates a petition for creation.
2. If needed, City Council appoints an advisory board to develop the PID improvement plan.
3. City Council holds a public hearing & passes a resolution on the need for the PID.
4. City Council authorizes the establishment of a PID by resolution.
5. Construction of improvements may begin 20-days after the PID's creation.
6. City Council adopts a Service and Assessment Plan (list of projects, costs, debt, & assessment fee) for at least five, ongoing years is developed.
7. City holds a public hearing on the assessment roll (lists each PID property's fee).
8. City Council adopts ordinance to levy the special assessment. (City will also create a special fund(s) for the PID).
9. If necessary, City Council holds public hearing and approves additional assessments to correct omissions or mistakes in the improvement costs.
10. If necessary, City Council holds public hearing & passes a resolution dissolving PID; however, the district remains in effect at least to meet its debt obligations.

Does the City have any additional requirements?

Yes. City of Tomball Administrative Policy No. 18 "Development Policy for Special Financing Districts" requires:

1. Residential Development Size—greater than 125 acres unless the average home value is greater than \$225, 000.
2. Annual Individual Assessment Limit—no more than the equivalent of a \$.50 tax rate on the assessed value of the property.
3. Assessment Term Limit—Not to exceed 10 years. First assessment due 3 years after levy or upon transfer of property from developer to home buyer whichever occurs first.
4. Developer Interest Limit—If bonds are sold, developer earned interest reimbursements will not exceed the net effective interest rate on bonds sold or 8% whichever is less. If bonds are not sold, reimbursement will be calculated according to an indexed-based formula (see Admin Policy 18) or 8% whichever is less.
5. Bidding Requirements—Developers must follow municipal bidding procedures (as outline in Chap 252 TLGC). All bids and awards of contracts must be approved by City Council.
6. District Administration—The City of Tomball will contract with an outside consultant to bill, collect, and track district assessments. This cost will be included in the Service & Assessment Plan and reimbursed from the district.

Other city policies, procedures, and good practices may also effect individual district creation or administration including approval of related contracts and agreements. For example, the City will usually need to enter into a Developer Agreement to detail the responsibilities & obligations of each party related to the Service and Assessment Plan.

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

DEVELOPMENT POLICY FOR SPECIAL FINANCING DISTRICTS	SUBJECT	NUMBER: 18	EFFECTIVE DATE: March 5, 2007	PAGE 1 OF 1
		REVISED:	APPROVED BY CITY MANAGER: March 5, 2007	
		SUPERSEDES:	APPROVED BY CITY COUNCIL: March 5, 2007	

The City of Tomball has established this policy as a guideline to those developers seeking incentives from the City for development projects utilizing tax increment financing (TIF/TIRZ) and/or public improvement districts (PID). This policy is not intended to address all aspects of development costs. Those costs not specifically addressed in this policy will be considered on an individual project basis.

Limitation on Size of Development

1. To receive consideration by and approval from the City for PID financing to facilitate a residential development, the proposed boundaries of the development shall be no less than 125 acres. If the proposed boundaries of the development are less than 125 acres, the average value of homes built in the district shall be no less than \$225,000. This home value will be adjusted each year by the Consumer Price Index (CPI) to convert the \$225K benchmark value to current year prices.
2. To receive consideration by and approval from the City for TIF financing to facilitate a mixed-use development, the proposed boundaries of the commercial component of the development shall be no less than 45% of the total acreage. If the commercial component is less than 45% of the total acreage, the City will consider granting approval of TIF financing if:
 - a. There is no issuance of debt in the tax increment zone
 - b. The development facilitates the completion of projects outlined in the City's Capital Improvement Plan for transportation, drainage, water, wastewater, and parks improvements.
 - c. The project facilitates the economic development desires of City Council.
3. Tax increment financing will not be extended to new residential development.

Limitation on PID Assessment

The annual assessment to property owners within the district shall be no more than the equivalent of a \$.50 tax rate on the assessed value of their property.

Limitation on Assessment Term

The maximum term of a PID assessment is not to exceed 10 years. The date the first assessment installment becomes due is either 3 years from the date of the levy or the date that the real property is transferred to the home buyer; whichever occurs first.

Zone/District Administration

The City of Tomball will contract with an outside consultant to administer the zone and to bill, collect, and track district assessments. This cost will be considered a reimbursable project cost and should be included in the zone/district Project Plan.

Limitation on Developer Interest

Developer earned interest will be reimbursed at an amount not to exceed the net effective interest rate on bonds sold or 8% whichever is less. If zone/district bonds are not sold, reimbursement will be calculated at 50 basis points over the average interest reported by the Bond Buyer in its "20 Bond Index" for general obligation bonds during the interest accrual period or 8% whichever is less.

Bidding of Project Improvements

Developers will be required to follow municipal bidding procedures on all project improvements as outlined in Chapter 252 of the Texas Local Government Code. Bid tabulations and a recommendation for award of contracts will be brought before City Council for approval. This process will be required of both TIRZs and PIDs.

DEVELOPMENT AGREEMENT

This Development Agreement (this “*Agreement*”) is made as of _____, 2010, by and between the **CITY OF TOMBALL**, a municipal corporation and a home-rule city in the State of Texas (the “*City*”), and **ZION ROAD PROPERTIES, LLC**, a Texas limited liability company (the “*Developer*”).

RECITALS

WHEREAS, in accordance with the provisions of Chapter 372, TEX. LOCAL GOV’T CODE, and Resolution 2009-28, the City Council of the City of Tomball created the Public Improvement District Number Three (the “*PID*”) pursuant to the petition for creation from the owner thereof; and

WHEREAS, the City Council of the City has determined that it is in the best interest of the City and the land within the PID to finance the construction of certain PID Improvements (defined below) and that an assessment against the benefited property within the PID should be made; and

WHEREAS, the Developer is the owner of certain property within the PID described in Exhibit A and B, and wishes to finance and construct certain PID projects; and

WHEREAS, the Developer intends to assist the City in the financing and construction of the PID Improvements, in exchange for the City’s agreement to reimburse the Developer in accordance with the terms of this Agreement; now, therefore,

AGREEMENT

For and in consideration of the mutual promises, covenants, obligations, and benefits of this Agreement, the Developer contract and agree as follows:

ARTICLE 1 GENERAL TERMS

1.01 Definitions. The terms “*Agreement*,” “*City*,” “*Developer*,” “*PID*,” and “*PID Agreement*” have the meanings set forth in the preamble hereof, and the following terms shall have the meanings provided below, unless otherwise defined or the context clearly requires otherwise. For purposes of this Agreement, the words “shall” and “will” are mandatory, and the word “may” is permissive.

Act shall mean the Public Improvement District Assessment Act, Chapter 372, TEX. LOCAL GOV’T CODE, as amended.

Assessments shall mean assessments levied and collected in connection with the PID pursuant to the Act and the Plan, and deposited by the City into a PID Revenue Fund.

Developer Advances shall mean any funds advanced by the Developer pursuant to **Section 5.01**, and shall include any interest payable thereon.

Net Assessments shall mean the annual deposits of the Assessments into the PID Revenue Fund, less amounts reasonably required or anticipated to be required for the administration and operation of the PID in carrying out its responsibilities hereunder, including a reasonable operating reserve.

Parties or *Party* shall mean the City, and the Developer as parties to this Agreement.

PID Improvements shall mean the improvements described in **Article 3** hereof.

PID Revenue Fund shall mean the special fund established by the City and funded with payments made to the City pursuant to the PID.

Plan shall mean the final Service and Assessment Plan for the PID as approved by City Council in accordance with the Act.

Project shall mean the residential development within the PID projected to be carried out by the Developer described on Exhibit B.

1.02 Singular and plural; gender. Words used herein in the singular, where the context so permits, also include the plural and vice versa. The definitions of words in the singular herein also apply to such words when used in the plural where the context so permits and vice versa. Likewise, any masculine references shall include the feminine, and vice versa.

ARTICLE 2 REPRESENTATIONS

2.01 Representations of the City. The City hereby represents that:

a. The City is duly authorized and is qualified to do business in the State of Texas and is duly qualified to do business wherever necessary to carry on the operations contemplated by this Agreement.

b. The City has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof, (i) have been duly authorized, (ii) will not, to the best of its knowledge, violate any judgment, order, law or regulation applicable to the City, and (iii) does not constitute a default under or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the City under any agreement or instrument to which the City is a party or by which the City or its assets may be bound or affected.

c. This Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of the City, enforceable in accordance with its terms.

2.02. Representations of the Developer. The Developer hereby represents that:

a. The Developer is duly authorized, created and existing under the laws of the State of Texas, is qualified to do business in the State of Texas and is duly qualified to do business wherever necessary to carry on the operations contemplated by this Agreement.

b. The Developer has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof, (i) have been duly authorized, (ii) will not, to the best of its knowledge, violate any judgment, order, law or regulation applicable to the Developer or any provisions of the Developer's organizational documents, and (iii) does not constitute a default under or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the Developer under any agreement or instrument to which the Developer is a party or by which the Developer or its assets may be bound or affected.

c. The Developer has sufficient capital to perform its obligations under this Agreement and will commence construction of the Project within eighteen (18) months of execution of this Agreement.

d. This Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of the Developer, enforceable in accordance with its terms.

ARTICLE 3 THE PLAN AND PID IMPROVEMENTS

3.01 The PID Improvements. The PID Improvements are intended to enhance the proposed implementation of a development within the PID constituting the Project, as more fully described in the Plan.

3.02 PID Improvements description. The PID Improvements consist of acquisition, construction and development of the public improvements within the portion of the PID comprising the Project, as more fully described in Exhibit C, and as described in the Plan. The PID Improvements will be developed pursuant to a schedule consistent with the pace of development of the Project that is mutually agreeable to the Parties. The PID Improvements shall include all engineering, legal and other consultant fees and expenses related to such PID Improvements. The Developer shall be entitled to reimbursement of up to 50% of the project costs described in Exhibit C subject to the limitations contained in Section 3.03 of this agreement.

3.03 General terms of the Plan. The Plan has not yet been adopted by the City. The Parties anticipate that the Plan, at a minimum, will include the PID Improvements described above to serve the land within the PID, and such other facilities as may be agreed upon by the Parties, and that the Assessments shall be assessed in phases to affect only the portions of the PID directly benefited by the PID improvements to be financed by each Assessment. The Assessments shall be based upon the agreed-upon percentage of estimated costs of the Public Improvements as reflected in Exhibit C, plus those related costs as deemed reimbursable by the City; however, the Assessments in the Plan shall be formulated in a manner that generally conforms to the equivalent of a \$0.90 tax rate for properties covered by the Plan on a project-

wide basis, and a maximum fifteen (15) year payment term for each property covered by the Plan.

3.04. Additional Projects. This Agreement does not apply to any projects not specifically included in the Plan and defined herein unless this Agreement is amended to provide for the design and construction of such additional projects.

ARTICLE 4 DUTIES AND RESPONSIBILITIES OF THE DEVELOPER

4.01 Construction manager. The Developer agrees to construct the PID Improvements and to provide and furnish, or cause to be provided and furnished, all materials and services as and when required in connection with the construction of the PID Improvements. The Developer will obtain all necessary permits and approvals from the City and all other governmental officials and agencies having jurisdiction, provide supervision of all phases of construction of the PID Improvements, provide periodic reports of such construction to the City upon request, and cause the construction to be performed in accordance with the Plan.

4.02 Design of the PID Improvements. The Developer shall prepare or cause to be prepared the plans and specifications for the PID Improvements. Prior to the commencement of construction or implementation of the PID Improvements, the plans and specifications must be approved by the City. The PID Improvements shall be designed in accordance with City standards applicable to similar public improvements within the City.

4.03 Construction contracts. The Developer shall prepare the PID Improvements construction contract documents to ensure that the contract documents are in accordance with the approved plans and specifications. The Developer shall comply with all laws and regulations regarding the bidding and construction of public improvements applicable to similar facilities constructed by the City, including without limitation any applicable requirement relating to payment, performance and maintenance bonds.

4.04. Construction and implementation of the PID Improvements. The Developer shall be responsible for the inspection and supervision of the construction and implementation of the PID Improvements.

a. The Developer shall commence construction of the PID Improvements in a timely fashion to coincide with the expected development of the Project.

b. Upon completion of a contract for the construction of the PID Improvements, the Developer shall provide the City with a final summary of all costs associated with such contract, and show that all amounts owing to contractors and subcontractors have been paid in full evidenced by customary affidavits executed by such contractors. Following completion of a construction contract, the Developer will call for inspection of the applicable PID Improvements by the City, and upon approval thereof as being in compliance with City standards relating thereto, the PID Improvements will be conveyed to the City, subject only to the right to reimbursement for Developer Advances with respect thereto.

ARTICLE 5 PROJECT FINANCING AND FUNDING

5.01. The Developer Advances.

a. In connection with the construction of the PID Improvements the Developer has determined are required to be constructed to serve the Project, the Developer agrees to provide sufficient funds as such become due for all costs thereof (the “Developer Advances”), such as costs of design, engineering, materials, labor, construction, and inspection fees arising in connection with the PID Improvements, including all payments arising under any contracts entered into pursuant to this Agreement.

b. Interest on each Developer Advance shall accrue at a rate one-half of one percent above the highest average interest rate reported by *The Bond Buyer* newspaper in a weekly bond index in the month before the date of this agreement, compounded annually, whether such costs, fees, or expenses are paid or incurred before or after the effective date of this Agreement. The interest rate shall not exceed eight percent (8%). Interest shall be calculated on the basis of a year of 360 days and the actual days elapsed (including the first day but excluding the last day) occurring in the period for which such interest is payable, unless such calculation would result in a usurious rate, in which case interest shall be calculated on the per annum basis of a year of 365 or 366 days, as applicable, and the actual days elapsed (including the first day but excluding the last day).

5.02. Repayment of Developer Advances.

a. In consideration of the development and construction of the PID Improvements, the City shall begin repaying the Developer Advances, and shall continue such repayment until repaid in full, on the earliest date that funds are available from the following source, and solely from such source:

(i) the Net Assessments, subject to the limitations set forth in **subsection (c)**.

b. the City shall reimburse the Developer for Developer Advances, plus interest, from Net Assessments from the Project accumulated in the PID Revenue Fund available in accordance with the priorities described in **Section 5.03** below.

c. At such time as funds are available to pay all or any portion of the Developer Advances made hereunder, the City shall hire a certified public accountant at the Developer’s expense to calculate the amount due the Developer and prepare and submit a report to the City certifying the amount due the Developer for the Developer Advances being repaid with interest calculated thereon. Such report shall be approved at the earliest practicable time, but not later than 90 days after submission by the Developer of the records required therefor. The City shall make payment to the Developer within 30 days of approval of the accountant’s report.

5.03. Priorities. Amounts deposited in the PID Revenue Fund shall be applied in the following order of priority (i) administrative and operating costs of the PID, (ii) payments to the Developer pursuant to **Section 5.02**, above.

ARTICLE 6 DEFAULT

6.01. Default.

a. If the City does not perform its obligations hereunder in substantial compliance with this Agreement, in addition to the other rights given the Developer under this Agreement, the Developer may enforce specific performance of this Agreement or seek actual damages incurred by the Developer for any such default.

b. If the Developer fails to commence or complete the PID Improvements or the Project in accordance with the terms of this Agreement, including the failure to fund Developer Advances or commence construction of the Project within eighteen (18) months, the City may terminate this Agreement with respect to its obligations to the Developer and shall be relieved of any obligation to reimburse the Developer for any Developer Advances or seek actual damages incurred for any such default.

c. The Party alleging default shall provide written notice to the other party of such default, and the defaulting party shall have 60 days to remedy the default prior to the declaration of any default hereunder.

ARTICLE 7 GENERAL

7.01. Inspections, audits. The Developer agrees to keep such operating records with respect to the PID Improvements and other activities contemplated by this Agreement and all costs associated therewith as may be required by the City, or by State and federal law or regulation. The Developer shall allow the City access to, and the City shall have a right at all reasonable times to audit, all documents and records in the Developer's possession, custody or control relating to the PID Improvements that the City deems necessary to assist the City in determining the Developer's compliance with this Agreement.

7.02 Developer operations and employees. All personnel supplied or used by the Developer in the performance of this Agreement shall be deemed contractors or subcontractors of the Developer and will not be considered employees, agents, contractors or subcontractors of the City for any purpose whatsoever. The Developer shall be solely responsible for the compensation of all such contractors and subcontractors.

7.03 Personal liability of public officials, legal relations. To the extent permitted by State law, no director, officer, employee or agent of the City shall be personally responsible for any liability arising under or growing out of the Agreement. THE DEVELOPER SHALL INDEMNIFY AND SAVE HARMLESS THE CITY AND ITS RESPECTIVE OFFICERS, REPRESENTATIVES, AND AGENTS FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER BROUGHT FOR OR ON ACCOUNT OF ANY

INJURIES OR DAMAGES RECEIVED BY ANY PERSON, PERSONS, OR PROPERTY RESULTING FROM THE NEGLIGENT ACTS OF THE DEVELOPER, OR ANY OF ITS AGENTS, OFFICERS, OR REPRESENTATIVES IN PERFORMING ANY OF THE SERVICES AND ACTIVITIES UNDER THIS AGREEMENT.

7.04 Notices. Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the receiving party at the following addresses:

City of Tomball
c/o City Manager
401 Market Street
Tomball, Texas 77375

PID Contract Administrator
Hawes Hill Calderon, LLP
P.O. Box 22167
Houston, Texas 77092
Attn: Scott Bean

Mr. Robert M. Allen
Zion Road Properties, LLC
9977 W. Sam Houston Parkway N.,#150
Tomball, Texas 77064

Each party may change its address by written notice in accordance with this section. Any communication addressed and mailed in accordance with this section shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person shall be deemed to be given when receipted for by, or actually received by the City, or the Developer, as the case may be.

7.05 Amendments and waivers. Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is signed by the City and the Developer. No course of dealing on the part of the Parties, nor any failure or delay by one or more of the Parties, with respect to exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, except as otherwise provided in this section.

7.06 Invalidity. In the event that any of the provisions contained in this Agreement shall be held unenforceable in any respect, such unenforceability shall not affect any other provision of this Agreement.

7.07 Successors and assigns. All covenants and agreements contained by or on behalf of a Party in this Agreement shall bind its successors and assigns and shall inure to the benefit of the other Parties, their successors and assigns. The Parties may assign their rights and obligations under this Agreement or any interest herein, only with the prior written consent of the other Parties, and any assignment without such prior written consent, including an assignment by

operation of law, is void and of no effect; provided that, the Developer may make a collateral assignment in favor of a lender without consent. This section shall not be construed to prevent the Developer from selling lots, parcels or other portions of the Project in the normal course of business. If such assignment of the obligations by the Developer hereunder is effective, the Developer shall be deemed released from such obligations. If any assignment of the obligations by the Developer hereunder is deemed ineffective or invalid, the Developer shall remain liable hereunder.

7.08 Exhibits; titles of articles, sections and subsections. The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail. All titles or headings are only for the convenience of the parties and shall not be construed to have any effect or meaning as to the agreement between the parties hereto. Any reference herein to a section or subsection shall be considered a reference to such section or subsection of this Agreement unless otherwise stated. Any reference herein to an exhibit shall be considered a reference to the applicable exhibit attached hereto unless otherwise stated.

7.09 Construction. This Agreement is a contract made under and shall be construed in accordance with and governed by the laws of the United States of America and the State of Texas, as such laws are now in effect.

7.10 Entire Agreement. **THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

7.11 Term. This Agreement shall be in force and effect from the date of execution hereof for a term expiring on the date that the Developer Advances have been repaid in full, or January 1 of the year following the date the last assessment payment has been made in accordance with the PID Service and Assessment Plan and Assessment Roll(s).

7.12 Time of the essence. Time is of the essence with respect to the obligations of the Parties to this Agreement.

7.13 Approval by the Parties. Whenever this Agreement requires or permits approval or consent to be hereafter given by any of the parties, the parties agree that such approval or consent shall not be unreasonably conditioned, withheld or delayed.

7.14 Counterparts. This Agreement may be executed in multiple counterparts, each of which when so executed and delivered shall be deemed an original, but such counterparts together shall constitute but one and the same instrument.

7.15 Legal costs. If any Party hereto is the prevailing party in any legal proceedings against another Party brought under or with relation to this Agreement, such prevailing Party shall additionally be entitled to recover court costs and reasonable attorneys' fees from the non-prevailing Party to such proceedings.

7.16 Further assurances. Each Party hereby agrees that it will take all actions and execute all documents necessary to fully carry out the purposes and intent of this Agreement.

[EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed as of _____, 2010.

CITY OF TOMBALL, TEXAS

By: _____
Name: _____
Title: _____

ZION ROAD PROPERTIES, LLC

Robert M. Allen
Title: Manager

EXHIBIT A

**METES AND BOUNDS DESCRIPTION
232.8801 ACRE (10,144,254 SQUARE FEET)
ALL OF A CALLED 164.7078 ACRES TRACT
AND ALL OF A CALLED 68.1723 ACRES TRACT
IN THE JOSEPH MILLER LEAGUE, A-50
AND THE W H CLEMENS SURVEY, A-1641
HARRIS COUNTY, TEXAS**

Being 232.8801 acre (10,144,254 square feet) of land, being all of a called 164.7078 acres tract, conveyed to Yaupon Ranch, Ltd. by deed recorded under County Clerk's File Number (CCF) 2007-0138375 of the Official Public Records of Real Property of Harris County, Texas (OPRRP HCT), and all of a called 68.1723 acres tract, conveyed to Yaupon Ranch, Ltd. by deed recorded under CCF Z236940 OPRRP HCT. Said 232.8801 acres tract lying in the Joseph Miller League, Abstract 50 and W H Clemens Survey, A-1641 and being more particularly described by metes and bounds, with bearings based on the North line of said 164.7078 acres tract, called "East", as follows:

BEGINNING at a found 1 inch iron pipe, next to a three inch iron pipe in the Southwest corner of a called 10 acres tract referenced in deed to Tomball ISD recorded under CCF X890598 OPRRP HCT, being the same as the remainder of a called 10 acres tract conveyed to Vilma Masterson et al by deed recorded under CCF 371361 DR HCT, said iron pipe also marking the Southeast corner of a called 13 acre tract conveyed to Neigdick Lester, record information not found;

THENCE East, basis of bearings, along the common South line of said 10 acre tract, a distance of 912.36 feet to a found 3 inch iron pipe in the South line of a called 10 acre tract conveyed to Vilma Masterson et al, by deed recorded under CCF 371361 DR HCT, being the same further conveyed under Tax Suite Sale to Tomball Independent School District, by deed recorded under CCF X890598 OPRRP HCT;

THENCE North 89°55'38" East, in part along the South line of said called 10-acre tract, a distance of 600.70 feet to a set 5/8 inch iron rod. Said iron rod set in a point from which a 5/8 inch iron rod with;

THENCE North 00°43'17" West, a distance of 87.16 feet, to a point in the centerline of Spring Creek (the dividing line between the Counties of Harris and Montgomery);

THENCE along said centerline of said Spring Creek, the following courses:

North 67°07'18" East, a distance of 154.67 feet;
North 80°22'28" East, a distance of 113.12 feet;
North 87°09'19" East, a distance of: 110.50 feet;
North 87°53'00" East, a distance of: 210.89 feet;
South 83°18'22" East, a distance of 202.76 feet;
South 42°35'23" East, a distance of 169.62 feet;

And South 56°06'19" East a distance of 15.97 feet, to a point in said centerline for the Northeast corner of the herein described tract, also being the Northwest corner of a called 26.5 acre tract conveyed to Tomball Gun Club by deed recorded under CCF B717054 OPRRP HCT;

THENCE South 00°26'02" East, along the West line of said 26.5 acre tract, pass at a distance of 91.93 feet a found 5/8 inch iron rod with cap, in said West line, on the High bank of said Spring creek and continuing to a total distance of 1271.15 feet, to a found 5/8 inch iron rod with cap in the North right-of-way line (ROW) of the G N R R Company (now Missouri Pacific RR Co.) 100 feet wide ROW;

THENCE North 56°52'59" West, along said North ROW, a distance of 896.47 feet, to a set 5/8 inch iron rod in the West line of said 21.118-acre tract, also being the East line of said 90.63 acre tract, for an internal corner of the herein described tract;

THENCE South 00°43'15" East, across said ROW, a distance of 120.38 feet to a set 5/8 inch iron rod with cap in the South ROW of said G N RR Company (now Missouri Pacific RR Co.) and an internal corner of the herein described tract;

THENCE South 56°52'15" East, along said South ROW, a distance of 852.06 feet, to a found 5/8 inch iron rod with cap, in the North line of said 68.1723 acres tract;

THENCE South 56°54'33" East, along said cutback and the Southwest line of said I. & G.N. Railroad, a distance of 44.05 feet to a found 5/8 inch iron with cap, marking the Northwest corner of a called 15.6463 acre tract conveyed to Tomball Gun Club, Inc. by deed recorded under CCF No. L547016 OPRRP HCT;

THENCE South 00°03'08" West, along the West line of said 15.6463 acres tract and a called 4.0000 acres tract to Pricila Brown Estate as shown in Harris County Appraisal District, Account No. 041-006-002-0022, a distance of 1759.27 feet to a found 1/2 inch iron rod in the Northeast corner of a called 2.7859 acre easement tract to Houston Lighting and Power Company recorded under CCF No. G985469 OPRRP HCT;

THENCE South 00°04'29" West, along the West line of said 4.0000 acres tract and the East line of said 2.7859 acre easement tract, a distance of 90.20 feet to a set 5/8 inch iron rod, marking the Southwest corner of said 4.0000 acre tract, and the Northwest corner of a called 155.696 acre tract conveyed to Hobby H. Mccall Living Trust, recorded under CCF No. P916725 OPRRP HCT;

THENCE South 00°47'42" East, along the West line of said 155.696 acre tract, a distance of 84.46 feet to a found 5/8 inch iron rod in the Southeast corner of said 2.7859 acre easement tract;

THENCE South 00°44'33" East, continuing along said 155.696 acre tract, a distance of 748.41 feet to a found 1/2 inch iron rod with cap, marking the Northeast corner of a called 22.8365 acre tract conveyed to Jack Frey Properties by deed recorded under CCF No. J585122 OPRRP HCT and the most Easterly Southeast corner of the herein described tract;

THENCE North 85°40'01" West, along the North line of said 22.8365 acre tract, a distance of 363.82 feet, to a set 5/8 inch iron rod for the Northwest corner of said 22.8365 acre tract and the internal corner of the herein described tract;

THENCE South 00°38'14" East, along the West line of said 22.8365 acre tract, a distance of 2775.27 feet to a found 1/2 inch iron rod, marking the Southwest corner of said 22.8365 acre tract and the most Southerly Southeast corner of the herein described tract, being in the North ROW line of said Zion Road;

THENCE South 89°29'18" West, along the North ROW line of said Zion Road, a distance of 351.35 feet to a found 1/2 inch pipe, marking the Southeast corner of said 164.7078 acres tract, said pipe being in the North right-of-way (ROW) line of Zion Road, 60' wide ROW);

THENCE South 87°13'11" West, along said ROW, a distance of 39.59 feet to a found 1 inch iron pipe for corner;

THENCE North 00°48'47" West a distance of 1402.26 to a set 5/8 inch iron rod, said point being the Southeast corner of a called 1.334 acre tract conveyed to Raymond L Ulrich by CCF C648757 OPRRP HCT, and now being part of said 19.496 acre tract;

THENCE North 00°53'58" West, along the East line of said 1.334 acre tract, a distance of 99.79 feet, to a found 3 inch iron pipe for corner;

THENCE South 89°12'11" West, along the North line of said 1.334 acre tract, a distance of 565.59 feet, to a found 1 1/2 inch iron pipe for corner;

THENCE South 01°15'42" East, along the West line of said 1.334 acre tract, a distance of 100.16 feet, to a found 1 1/2 inch iron pipe for corner marking the Northeast corner of McKinney PL Subdivision an

unrecorded Subdivision;

THENCE South 89°45'36" West, along the North line of said McKinney PL Subdivision, a distance of 134.11 feet to a found 5/8 inch iron rod marking the Southeast corner of a called 19.98 acre tract conveyed to Richard Kinsey by deed recorded under CCF No. S913430 OPRRP HCT;

THENCE North 00°51'43" West, along the East line of said 19.98 acre tract, a distance of 962.95 feet to a found 5/8 inch iron rod marking the Northeast corner of said 19.98 acre tract and an internal corner of the herein described tract;

THENCE South 88°35'00" West, along the North line of said 19.98 acre tract, a distance of 20.10 feet to a found 1 1/2 inch iron rod marking the Southeast corner of the remainder of a called 15.000 acre tract conveyed to Jimmy Adams by deed recorded under CCF No. S832826 OPRRP HCT;

THENCE North 01°29'11" West, along the East line of said 15.000 acre tract, pass at a distance of 2.81 feet a found 5/8 inch iron rod with cap, pass at a distance of 9.77 feet a found 5/8 inch iron rod with cap, and continuing to a total distance of 191.51 feet to a found 5/8 inch iron rod with cap for angle point;

THENCE North 01°01'18" West, along the East line of said 15.000 acre tract, a called 7.500 acre tract conveyed to Samuel Olivo by deed recorded under CCF No. V586304 OPRRP HCT, a called 5.47 acre tract conveyed to Rock Graham by deed recorded under CCF No(s). S971746 and S832827 OPRRP HCT, a called 9.470 acre tract conveyed to Mathew Klein by deed recorded under CCF No. S960728 OPRRP HCT, pass at a distance of 182.21 feet a found 5/8 inch iron with cap in the Southeast corner of said 7.500 acre tract, a distance of 1334.94 feet to a found 2 inch iron pipe marking the Southeast corner of a remainder of a called 10.452 acre tract conveyed to James Kirkman by deed recorded under CCF No. P763144 OPRRP HCT;

THENCE North 00°17'31" West, along the East line of said remainder of a called 10.452 acre tract and Red Oak Terrace an unrecorded subdivision, pass at a distance of 525.61 feet a found 2 inch pipe next to a 5/8 inch iron rod marking the Southeast corner of said Red Oak Terrace Subdivision, pass at a distance of 924.40 feet the Southwest corner of said 2.4546 acre tract, pass at a distance of 1061.61 feet the Northwest corner of said 2.4546 acre tract, and continuing along the West line of said 51.706 acre tract, to a total distance of 1549.51 feet to a found 2 inch iron pipe for the Northeast corner of said unrecorded subdivision, also being the Southeast corner of said 28.7386 acre tract;

THENCE North 89°35'33" West, along the North line of said Red Oak Terrace Subdivision and the South line of said 28.7386 acre tract, pass at a distance of 141.02 a found 1/2 inch iron rod marking the common North corner of tract 34 of said Red Oak Terrace conveyed to Mick Corporation by deed recorded under CCF J788626 OPRRP HCT and tract 35 conveyed to John W and Connie Page by deed recorded under CCF U436525 OPRRP HCT, pass at a distance of 439.22 a found 3/4 inch iron rod marking the Northwest corner of said tract 35 and a Centerpoint Energy tract, pass at a distance of 521.30 feet the Southeast corner of said 0.9722 acre tract, pass at a distance of 669.38 feet the Southwest corner of said 0.9722 acre tract, pass at a distance of 751.46 feet a found 5/8 inch iron rod marking the common North corner of said Centerpoint Energy tract and tract 40 conveyed to Howard Ellery Gene by deed recorded under CCF H821490 OPRRP HCT, pass at a distance of 870.00 feet a set 5/8 inch iron rod in the East right of way line of Ulrich Road, a 30.00 feet easement recorded in Volume 2379, Page 677 and Volume 2379, Page 657 of the Deed Records of Harris County, Texas, and continuing a total distance of 900.00 feet to a point in the centerline of said Ulrich Road for corner;

THENCE North 01°00'56" West, along the center line of said Ulrich Road a distance of 740.73 feet to a found 2 inch iron pipe for the Southeast corner of said 24.56 acre tract;

THENCE South 89°43'54" West, along the South line of said 24.56 acre tract, along the North line of a called 12 acres tract, conveyed to Lenoir M. Josey Inc., by deed recorded in Volume 5059, Page 234 DR HCT, and a called 12 acres recording information not found a distance of 1404.44 feet to a point from which a found 3 inch pipe bears South 89°43'54" West, 20.00 feet, being in the centerline of Spring Creek;

THENCE the following calls along the centerline of Spring Creek;

North 49°11'52" East, a distance of 64.65 feet to an angle point;

North 21°16'10" East, a distance of 220.98 feet to an angle point;

North 05°08'59" West, a distance of 119.99 feet to an angle point;

North 35°37'40" East, a distance of 75.85 feet to an angle point;

North 21°46'34" West, a distance of 157.84 feet to an angle point;

North 33°54'38" East, a distance of 63.77 feet to a point for corner, being in the South line of said 13 acre tract;

THENCE North 89°51'55" East, along the South line of said 13 acre tract, a distance of 1254.53 feet to the **POINT OF BEGINNING** and containing a computed 232.8801 acres (10,144,254 square feet) of land.

Prepared by:

Town and Country Surveyors

25307 North Freeway, IH 45 N

The Woodlands TX, 77380

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David J. Strauss, RPLS 4833

Job No. 0451-0001

September 21, 2007

EXHIBIT B

Description of Residential Development

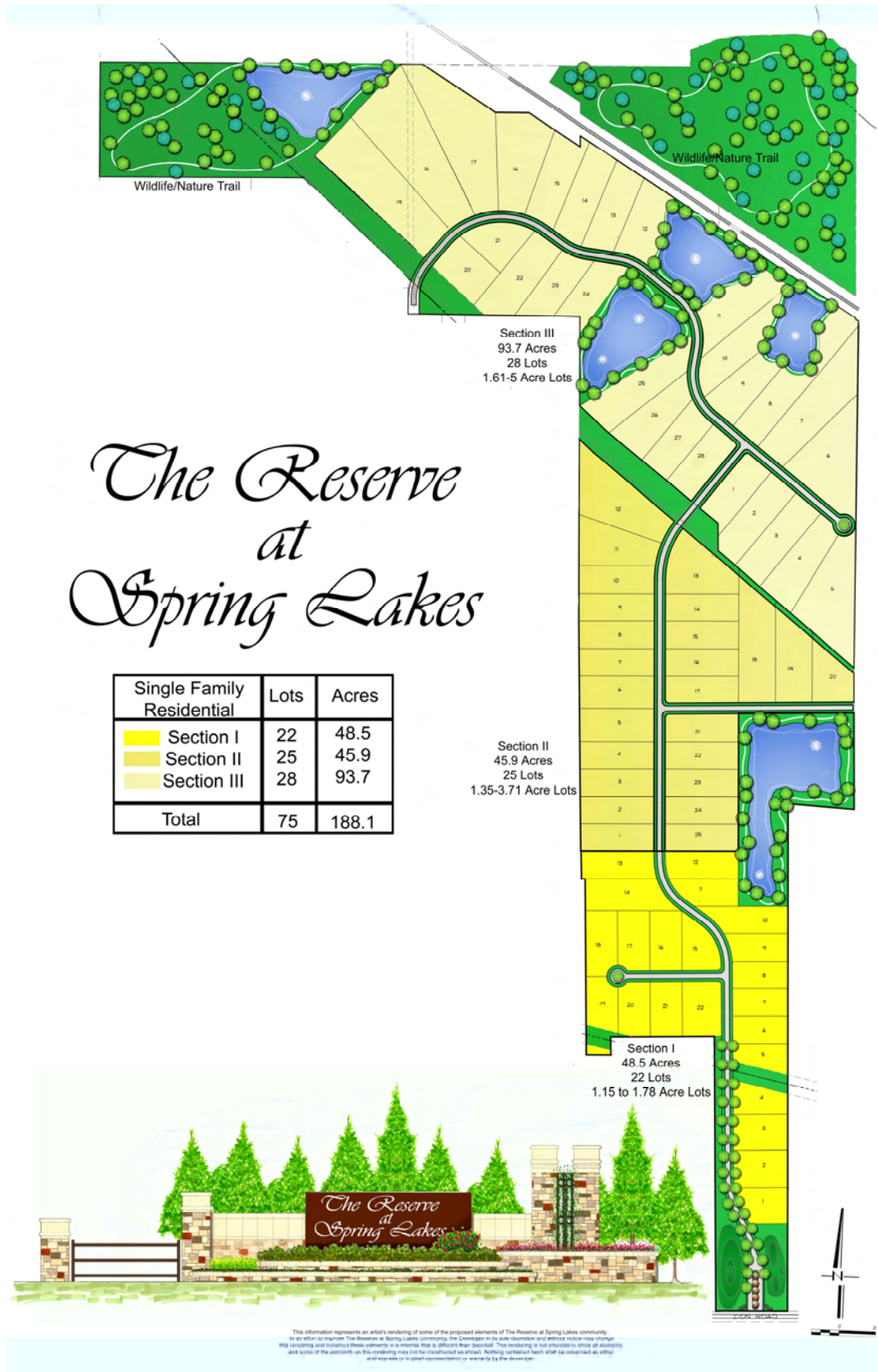


EXHIBIT C

The PID Improvements

Regular City Council Agenda Item Data Sheet

Meeting Date: May 3, 2010

Topic:

Consideration and Possible Action to Direct the City Manager to Develop an Agreement with Klein Independent School District for the Extension of Utility Service

Background:

This is the action item associated with the May 3, 2010 Council workshop.

Origination:

Klein ISD

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

Mark McClure, Director of Engineering and Planning

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

ATTACHMENTS:

Klein ISD Impact Study
KISD Annexation Memo

MEMORANDUM

DATE : March 30, 2010
TO : City Council
FROM : City Staff and Dale Conger, Cobb Fendley & Assoc, Inc.
SUBJECT : Klein ISD Site Development Considerations
CFA Project No. 1012-009-00-01

03-30-10

Man MCE

GENERAL PROJECT DESCRIPTION

Klein Independent School District (KISD) has purchased a 160 acre tract south of FM 2920 and east of Hufsmith-Kohrville Rd east of the corporate boundary of the City of Tomball (COT). The ISD has proposed an aggressive schedule for construction of the first school facility on the site and has requested that the City provide utility services. The City Council has been asked to decide this request and related matters of possible joint participation, and as a result, they need to evaluate the relevant data that can be developed.

The following sources of information have been utilized for this preparation of this letter report:

- Infrastructure Master Plan and Impact Fee Determination 2007-2017;
- Lewis Tract Utilities Agenda Klein ISD Presentation to COT February 15, 2010;
- Request for Realignment of the Houston/Tomball ETJ Boundary for Klein ISD; and Three – School Development February 9, 2010
- Request to Negotiate Utility Services January 7, 2010.

Project Size and Development Schedule

Klein ISD proposes a campus containing an elementary school, intermediate school, and high school. The elementary is scheduled for construction immediately and the others programmed for construction 5 and 10 years into the future

1. Elementary (850 students) – Open to Students – August 2011
 - Design to be completed by February 2010 - Initiate Construction by April 2010 - Complete Construction July 2011.
 - Needs water & wastewater service – 15,000 gallons/day (Peak Volume).
 - 31.6 Living Unit Equivalents (LUEs)
 - Sanitary sewer lift station required.
 - Needs gas service – 1,000 ccf/mo; peak volume of 2,500 ccf/mo.
2. Intermediate School – 1,300 students– Open to Students 2016
 - Currently in planning stage only - Estimated date to initiate construction Winter 2015.
 - Needs water & wastewater service – 35,000 gallons/day (Peak Volume).
 - 48.4 LUEs

- Waterline to be looped.
 - Sanitary sewer lift station required.
 - Needs gas service – 1,800 ccf/mo; peak volume 2,700 ccf/mo.
3. High School – 3,500 students– Open to Students 2019
- Currently in planning stage only - Estimated date to initiate design Spring 2016 - Estimated date to initiate construction – Fall 2017.
 - Needs water & wastewater service – 60,000 gallons/day Peak Volume).
 - 195.7 LUEs
 - Waterline to be looped.
 - Needs gas service – 8,000 ccf/mo; peak volume 18,100 ccf/mo.

Impact Considerations

Water service demand is expressed in LUEs, which forms the basis for establishing equivalency among and within various customer classes. Each single-family home is served by a three-quarters-inch meter, which serves as the basis of connection and establishes the LUEs. Presently, the City is operating under a 370 gallons per day (GPD) demand for each LUE (reference Infrastructure Master Plan and Impact Fee Determination 2007-2017). The Master Plan reviewed total capital costs, equating cost per LUE for water and wastewater. City of Tomball, Ordinance No. 2009-12, amending section 156 Schedule of Maximum Capital Recovery Fees of Chapter 82, establishes said fees per LUE.

The Master Plan determined a maximum allowable impact fee based on projected land use, projected population growth, and system improvements. Based on Ordinance 2009-12, impact fees were established at a rate less than the maximum capital recovery cost determined under the Master Plan. A summary of the maximum impact fee per LUE and the results of Ordinance 2009-12 are summarized as follows:

Facility	Maximum Allowable Fee (Per Master Plan)	Ordinance 2009-12			
		Effective: 6/1/2009	Effective: 6/1/2010	Effective: 6/1/2011	Effective: 6/1/2012
Water	\$2,000.54	\$1,162.98	\$1,218.36	\$1,273.74	\$1,329.12
Sanitary	\$4,523.54	\$1,446.57	\$1,515.46	\$1,584.34	\$1,653.23
Total	\$6,524.08	\$2,609.55	\$2,733.82	\$2,858.08	\$2,982.35

Texas Local Government Code (LGC) Section 395.022(b) demonstrated that the legislative intent was to exempt a school district from the payment of mandatory impact fees to a political subdivision under Chapter 395 unless the district's board of trustees enters into a contract with political subdivision to pay the fee. This issue has been cited in an effort to identify the cost differences and comparisons between the facilities (water and wastewater connection) cost, Master Plan maximum allowable fee, and the 2009-12 adopted impact fees. Calculations for each are provided for each of the three school facilities. It should be noted that should the City elect to provide utilities, there is very discernable infrastructure system impact that may not be available to the planned development community.

1. Utilities

a. Elementary School

Based on 850 students, the KISD elementary school will need approximately 13,000 gallons of wastewater and 17,000 gallons of water per day. It will cost

the City of Tomball \$2,158 per wastewater and \$1,195 per water connection in plant expansions to service this school, amounting to \$87,000 and \$48,000 for wastewater treatment facilities and water production facilities respectively by July 2011. Impacts to the operating costs of the plants are not included. In addition, KISD consultants have indicated that a sanitary sewer lift station will be required. Ownership, operation, and maintenance responsibility of the lift station should be a part of the final agreement between the City and KISD.

Based on the City's criteria and policy (attached, June 16, 2009 Living Unit Equivalent (LUE) Calculation for Development) for determining water service demand, the Elementary School was determined to require 31.6 LUEs. An Elementary School summary of the maximum impact fee for 31.6 LUEs based on the Master Plan and Ordinance 2009-12 is as follows:

Facility	Plant Expansion Cost (Only)	LUEs	Maximum Allowable Fee (Per Master Plan) LUEs x Fee	Ordinance 2009-12			
				Effective: 6/1/2009	Effective: 6/1/2010	Effective: 6/1/2011	Effective: 6/1/2012
Water	\$48,000	31.6	\$63,217.06	\$36,750.17	\$38,500.18	\$40,250.18	\$42,000.19
Sanitary	\$87,000	31.6	\$142,943.86	\$45,711.61	\$47,888.54	\$50,065.14	\$52,242.07
Total	\$135,000	31.6	\$206,160.93	\$82,461.78	\$86,388.71	\$90,315.33	\$94,242.26

b. Intermediate School

The proposed KISD intermediate school will house 1,300 students requiring 19,500 gallons of wastewater and 26,000 gallons of water per day. KISD requested a peak volume of 35,000 gallons per day for water and sanitary sewer service for this school, which is greater than our calculations. Our calculated amount shows that it will cost the City of Tomball \$134,000 for wastewater treatment facilities and \$74,000 for water production facilities by the year 2016. KISD consultants have indicated that a sanitary sewer lift station will be required. Ownership, operation, and maintenance responsibility of the lift station should be a part of the final agreement between the City and KISD.

The Intermediate School summary of the maximum impact fee for 48.4 LUEs based on the Master Plan and Ordinance 2009-12 is as follows:

Facility	Plant Expansion Cost (Only)	LUEs	Maximum Allowable Fee (Per Master Plan) LUEs x Fee	Ordinance 2009-12			
				Effective: 6/1/2009	Effective: 6/1/2010	Effective: 6/1/2011	Effective: 6/1/2012
Water	\$74,000	48.4	\$96,826.14	\$56,288.23	\$58,968.62	\$61,649.02	\$64,329.41
Sanitary	\$134,000	48.4	\$218,939.34	\$70,013.99	\$73,348.26	\$76,682.06	\$80,016.33
Total	\$208,000	48.4	\$315,765.47	\$126,302.22	\$132,316.89	\$138,331.07	\$144,345.74

c. High School

The estimated 3,500 students to attend the proposed KISD high school will generate the need for approximately 52,500 gallons of wastewater and 70,000 gallons of water per day. It will cost the City of Tomball \$360,000 for

wastewater treatment facilities and \$199,000 for future water production facilities by the year 2019.

The High School summary of the maximum impact fee for 195.7 LUEs based on the Master Plan and Ordinance 2009-12 is as follows:

Facility	Plant Expansion Cost (Only)	LUEs	Maximum Allowable Fee (Per Master Plan) LUEs x Fee	Ordinance 2009-12			
				Effective: 6/1/2009	Effective: 6/1/2010	Effective: 6/1/2011	Effective: 6/1/2012
Water	\$199,000	195.7	\$391,505.68	\$227,595.19	\$238,433.05	\$249,270.92	\$260,108.78
Sanitary	\$360,000	195.7	\$885,256.78	\$283,093.75	\$296,575.52	\$310,055.34	\$323,537.11
Total	\$559,000	195.7	\$1,276,762.46	\$510,688.94	\$535,008.57	\$559,326.26	\$583,645.90

d. Utilities Advantages/Disadvantages

Based on the City's Master Plan, population projects are expected to grow within the City Extraterritorial Jurisdiction (ETJ) from a 2007 population of approximately 14,000 to over 26,000 by the year 2017, which represents an 85% increase. However, Tomball's historical trend in population has been in the 2-3% range. Currently the City is comprised of approximately 7,400 acres and another 5,900 acres within the City's ETJ, for a total of over 13,000 acres. To meet the growth needs, capital cost will need to be expended by the City to expand the water and wastewater facilities.

The South Wastewater Treatment Plant is presently operating at approximately 54% capacity. Based on projected population growth and resulting wastewater demands, expansion of the plant is expected within the next two to three years. The Master Plan identifies a plant expansion cost of \$11.25 million. Plant design initiation is required when plant capacity reaches 75%, per Texas Commission on Environmental Quality (TCEQ). When plant flows reach 90% capacity, plant expansion construction must commence.

Based on present conditions and assuming the successful completion of Wells No. 5 and 6, currently under construction, the City's water system exceeds TCEQ requirements. Water plants have been located centrally and to the west of Tomball. Future development on the eastside of Tomball the system pressures may have to be addressed with a new well and/or elevated storage tank on the eastside of Tomball. Based on projected population growth and water demands through 2017 the following additional capacities are listed as follows:

Component	Additional Capacity Proposed	Cost
Wells (gpm)	5,000	\$6,250,000
Firm Booster Capacity (gpm)	7,000	\$700,000
Elevated Storage (Gallons)	500,000	\$1,250,000
Ground Storage (Gallons)	800,000	\$700,000
TOTAL		\$8,900,000

As noted system expansion costs are projected to be significant and orders of magnitude of facility cost were included along with projected timelines.

Should City Council agree to provide utilities to KISD, it is recommended that KISD be responsible for all facility expansion cost, including easement acquisition, engineering, and construction cost.

2. Traffic and Roadway Alignments

a. Previous Studies

The City has proposed and studied the completion of Medical Complex Drive as an east-west corridor to alleviate traffic on FM 2920. In the Preliminary Engineering Report for Medical Complex Drive Expansion, submitted to the City of Tomball in March of 2009, the east-west roadway was broken into five segments. Segment 5 is the most easterly segment, approximately 1.19 miles long. It extends from Hufsmith-Kohrville Road to FM 2920 running south of Mahaffey Road until aligning with Mahaffey at FM 2920. This alignment, called Alternative 1 in this report, was the recommended alignment for connecting to FM 2920 prior to presentation of KISD's construction plan. An alternate alignment, approximately 1.2 miles long for this same segment, was developed during the preliminary stage, but not included in the PER recommendations. It extends from Hufsmith-Kohrville Road to FM 2920, connecting to FM 2920 at Stuebner Airline Drive. This alternative, called Alternative 2, fronts the KISD property for 2,500 feet from where it crosses Mahaffey Road. Because of its proximity to the KISD schools, Alternative 2 should now be a considered alternative for Medical Complex Drive Segment 5 (See Exhibit 1).

b. Traffic

With the construction of the KISD schools, the surrounding area will experience a significant increase in traffic at peak hours. The facilities can be expected to generate the following trips per school day:

- Elementary 4,500 trips per school day
- Intermediate 1,800 trips per school day
- High School 6,000 trips per school day

Existing conditions present FM 2920 as the primary major thoroughfare approach to the school grounds, with Hufsmith-Kohrville being the secondary. All proposed elementary school traffic will have to access Mahaffey Road from one of two un-signalized intersections (at FM 2920 or Hufsmith-Kohrville). The proposed high school will also heavily utilize Hufsmith-Kohrville for access, and a future signal will likely be needed at the Mahaffey Road and Hufsmith-Kohrville intersection, aggravating the existing traffic situation on that roadway.

Providing an additional thoroughfare, a more direct route and direct entry points to the schools would enhance area mobility, and relieve traffic congestion. Constructing the 2,500 foot portion of Alternative 2 adjoining the school property would benefit the KISD schools by providing direct access from a cross-town major thoroughfare and full signalized access from FM 2920.

c. Right of Way (ROW) Considerations

Alternative 1's alignment was originally selected because it utilizes existing roadway ROW and minimizes owner disruption, as well as uses a route

already designated as a major thoroughfare on the Houston Major Thoroughfare Map. This alternative takes advantage of Mahaffey Road's existing ROW for a 1,400 ft long portion of the proposed alignment. Alternative 2's alignment was developed in order to connect to the existing signalized intersection of Stuebner Airline Drive and FM 2920. It was originally discounted due to the presence of an existing commercial business that would be impacted, but with the clear advantages this alignment presents to the school, alternatives for offsetting ROW costs should be addressed. To acquire this one property and compensate for relocation, it is estimated to cost \$4 million. To construct the segment of Alternative 2 from Mahaffey Road to FM 2920, three other acquisitions are needed; two are owned by KISD (see Exhibit 2). With Klein ISD contributing the sections on their site, and the purchase of the remaining parcel, the ROW for the segment from Mahaffey Road to FM 2920 would cost the \$4 million to acquire the business.

The County's design standards would be followed along either alignment. The City's proposed roadway was to use a 120 ft wide right of way. This feature would provide for fifteen feet of space behind the curb, instead of the usual ten feet, to allow for larger driveway radii to help traffic flow, to provide space for both sidewalks and some landscaping, and to also allow a slightly larger median area that would be very useful if the road were ever widened to six lanes. The County cannot purchase 100 foot rights of way without special designations. So, for the wider section to apply in this area, the City would need to do the acquisition. The County has also indicated in discussions that they are very interested in the revised Alternative 2 alignment, but they could not participate in relocating the business that is located at the current Stuebner-Airline intersection.

d. Roadway

Nearly half a mile of the Alternative 2 proposed roadway between Mahaffey Road and FM 2920 is adjacent to the KISD property. Because of the aggressive construction schedule for the schools, it would be advantageous to KISD if this segment were constructed at an earlier date than the rest of Alternative 2. An option for reducing roadway design and construction costs for Alternative 2 would be to share these costs with KISD for the approximate 2,500 linear foot of roadway fronting the school properties. If KISD undertakes or accelerates construction of this Alternative 2 portion by the beginning of the intermediate school construction, City funds could be directed to the right of way cost. In the Preliminary Study, the roadway costs (excluding drainage) were projected to be \$365 per linear foot. Thus, the approximate cost of roadway construction for this 2,500 ft segment of Alternative 2 is \$912,500. The total cost of the original Segment 5, including utilities was estimated to cost \$7.983 million.

The roadway in this section will at least initially be under the ownership and jurisdiction of Harris County, as the area is not within the limits of the City of Tomball. Were the City to annex this area, the ownership could transfer to the City, or it could remain with the County. It would be a matter to work out with the County at the time of annexation. The County currently owns and maintains a number of major roadways within the city limits.

3. Drainage

- a. The KISD school grounds require storm water detention as well as an offsite drainage outfall. Since these drainage facilities must be constructed anyway, the KISD offsite detention and outfalls should be designed and constructed to accommodate the future Medical Complex Drive. As mentioned for roadway construction, an option for funding drainage design and construction for Alternative 2 would be to share drainage cost with KISD for the approximate 2,500 foot of roadway fronting the school properties. The Preliminary Study presented total drainage costs for storm sewers, detention ponds, and outfalls equal to \$375 per linear foot of roadway. Therefore, the Alternative 2 segment from Mahaffey Road to FM 2920 would cost approximately \$937,500 for drainage facilities, design and construction. By taking the lead on this work, KISD would allow the City to provide more funds for right of way costs.

The design criteria for drainage facilities will be in the favor of KISD if the land is annexed into the City. The City is still using detention pond sizing criteria of 0.55 ac-ft per acre of development. Harris County has revised their criteria for many conditions to higher figures, ranging up to 1.0 ac-ft per acre in cases with less than ideal outfalls. Drainage design for the school tract will be challenging, and this factor could work to the school's advantage.

4. Additional Considerations

- a. ETJ Limits and Transfers

The existing Tomball-Houston ETJ line bisects the KISD property. Development complications arising from satisfying two jurisdictions with differing development rules may create a need to adjust ETJ limits. Houston has indicated a willingness to transfer the property to Tomball, not unexpected since the property is tax-exempt. To make the boundary more recognizable and to help compensate the City of Tomball for the large tax exempt entity, it would be desirable to propose that the boundary be shifted to follow the existing alignment of Mahaffey and FM 2920. To release the ETJ, to the City of Tomball, KISD will need to provide a petition requesting release of the ETJ from the City of Houston with a legal description of the portion of the tract that is located within the City of Houston's ETJ. If KISD voluntarily requests annexation, the City may proceed with annexation of the property.

Though doing so does not immediately benefit the City of Tomball since the properties will be ETJ, not annexed into the City, it does allow for eventual annexation and extension of city services into that area. Suggested expansion limits are shown in Exhibit 3. Mahaffey Road and FM 2920 produce a clearly defined ETJ limit.

- b. Zoning Considerations

According to the City's adopted Comprehensive Plan, the City should expand its corporate limits in a prudent manner while considering the long and short term impacts each annexation will have on the City's infrastructure. Annexing property within the City's ETJ, where appropriate, will ensure that the community's physical growth and development is managed in an effective

and fiscally responsible manner. The City's Comprehensive Plan identified the eastern corridor as a high priority annexation area because of the anticipated growth along the FM 2978/Hufsmith-Kohrville corridor. It identified this area as an opportunity for employment-generating land uses such as Commercial, Business/Industrial, and Mixed Use. Should the City determine that it is in its best interest to annex the subject property, it is recommended that a concurrent zoning of the property to a designation that is consistent with the Comprehensive Plan's Potential Future Land Use Pattern Map be considered. The map identifies the area within the general vicinity of the subject property as Business/Industrial which would indicate that the LI-Light Industrial zoning district may be appropriate for this site. Zoning the property in a manner consistent with the Comprehensive Plan would ensure that future uses of the site are compatible with the City's long range plan should the school district relocate at some point in the future. Public schools are permitted by right within any zoning district and are required to adhere to the development standards set forth in the Zoning Ordinance with regard to setbacks, height, parking, landscaping, lot coverage, etc.

c. Public Works – Solid Waste Considerations

- ETJ - If the site is serviced by the city while in the ETJ solid waste services may be required to be provided by the City contractor.
- Annexed - If the site is annexed the site will be required to have the solid waste services provided by the City of Tomball's contractor.

d. Building Department Considerations

If the new school development remains in the ETJ but receives services from the City of Tomball for water, sewer, and gas then the City Building Official shall require all plumbing work during and continuously after to be permitted through the City of Tomball and inspected by the City of Tomball. Also all sign permitting is required through the City of Tomball for the ETJ and within the City limits.

e. Fire Marshal Office Considerations

In regards to the request for the use of City of Tomball water for fire protection for the location of the proposed Klein ISD school building(s) at the southeast corner of Hufsmith-Kohrville at FM 2920, the following requirements will asked to be met. Although this property may remain in Harris County, the Tomball Fire Department is the primary responding fire department and continuity should be kept with other City standards.

- All fire water lines are to be metered with an appropriate size meter.
- All underground water lines shall be permitted to the Tomball Fire Marshal's Office for approval.
- All underground fire water lines shall be inspected and tested according to TFMO standards.
- On-site fire hydrants shall be installed in accordance to City of Tomball specifications.
- All ground-based fire protection appurtenances; such as FDC, control valves, vaults, backflow preventers, shall be installed according to TFMO specifications.

If it is the decision that annexation of this property is allowed then the underground fire water lines shall not need to be metered. All permits for this project shall be obtained prior to the commencement of any construction of underground fire water lines. All installations shall be in accordance with NFPA and local standards.

f. Important Cost Considerations

Table 1: Summary of Cost

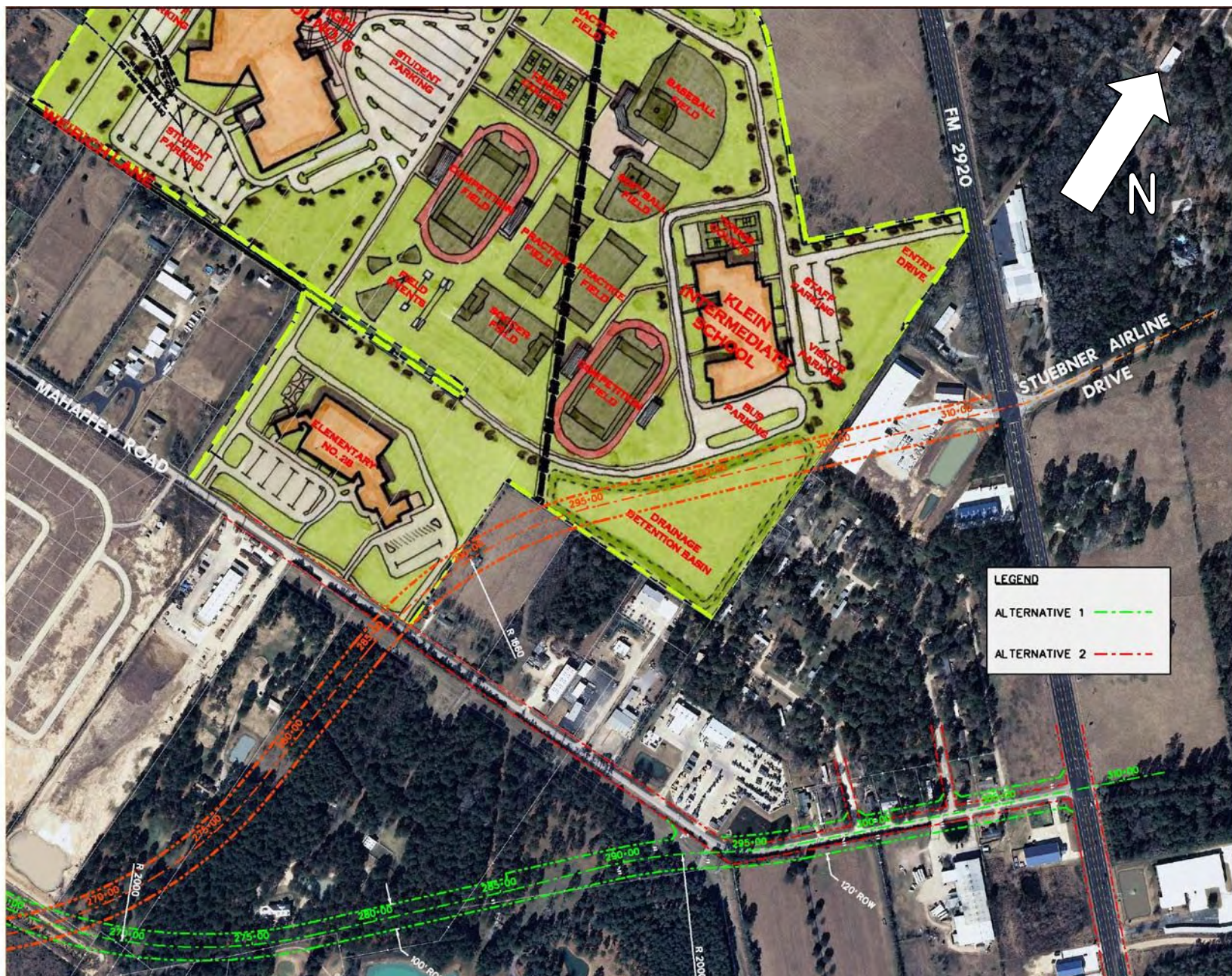
ITEM	UNIT COST	QUANTITY	COST		
			ALTERNATIVE 1	ALTERNATIVE 2	CONTRIBUTION FROM KISD
ROADWAY	\$365 PER LINEAR FOOT	2500 LF	\$ 912,500.00	\$ 912,500.00	\$ 912,500.00
DRAINAGE	\$375 PER LINEAR FOOT	2500 LF	\$ 937,500.00	\$ 937,500.00	\$ 937,500.00
WATER	\$1,195 PER ESFC	269 ESFC	\$ 199,087.00	\$ 199,087.00	N/A
WASTEWATER	\$2,158 PER ESFC	270 ESFC	\$ 359,522.80	\$ 359,522.80	N/A
RIGHT OF WAY	\$2.25 PER SQUARE FOOT	300,000 SQ FT	\$ 475,305.00	\$4,557,172.70	\$ 557,172.70
TOTAL COST			\$ 2,883,914.80	\$ 6,965,782.50	\$ 2,407,172.70

Table 2: Cost Comparison

COMPARISON OF ALTERNATIVE 1 & 2		
	ALTERNATIVE 1	ALTERNATIVE 2
	\$ 2,883,914.80	\$6,965,782.50
SAVINGS FROM KISD CONTRIBUTION	\$0.00	\$2,407,172.70
TOTAL	\$ 2,883,914.80	\$ 4,558,609.80

Memo prepared in conjunction with:



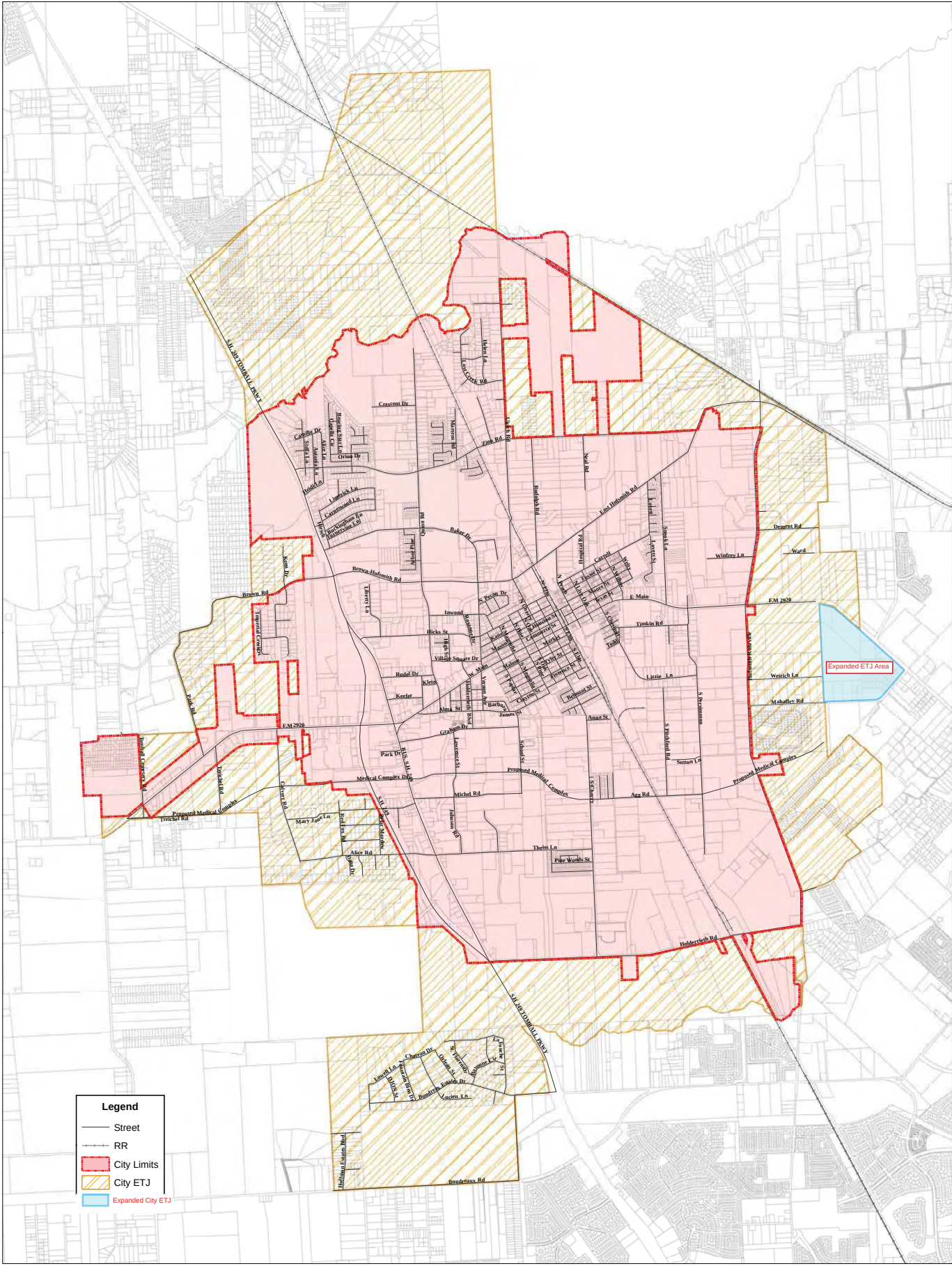


EXHIBT 1: ALIGNMENTS FOR ALTERNATIVE 1 AND 2 IN VICINITY OF KISD SCHOOLS
Klein ISD Site Development Considerations
CFA Project No. 1012-009-00-01



EXHIBT 2: ROW ACQUISITION FOR ALTERNATIVE 2
Klein ISD Site Development Considerations
CFA Project No. 1012-009-00-01

City of Tomball



Engineering & Planning
501 James St.
Tomball, Tx. 77375

Disclaimer:
The City of Tomball assumes no responsibility
for any errors which might have occurred.
Any use made thereof is the responsibility of the user.

Sources: Layers contains data from HCAD, Harris Co.,

Sources: Layers contains data from HCAD, Harris Co.,
Data Compiled by: Delia McDonald 1/19/09

Page 225 of 314



A horizontal number line is shown with tick marks at 0, 1,000, 2,000, 4,000, 6,000, and 8,000. The word "Feet" is written at the right end of the line. A rectangular region is shaded between the 4,000 and 6,000 tick marks.

1 in = 1,400 ft

Lewis Tract Utilities Agenda
Klein ISD
Presentation to City of Tomball
February 15, 2010

1. Introduction

- Klein ISD
- Jones & Carter, Inc.
- American Engineering Surveys

2. Lewis Tract Master Plan (Exhibit “C”)

- Location
- School District Boundary
- Tract Size – 160 acres +/-
- Site Development Phases:
 - a. Elementary (850 students) – opens 2011.
 - b. Intermediate (1,300 students) – opens 2016
 - c. High School (3,500 students) – opens 2019

3. Elementary School – 850 students

- Matrix/Spencer Architects/Brooks & Sparks Engineers
- Development in district requiring accelerated school development.
- In Design – design to be completed by February 2010.
- Initiate Construction – April 2010
- Complete Construction – July 2011
- Open to Students – August 2011
- Access from Mahaffey Road; access is part of master plan
- Onsite stormwater detention
- Turn lanes on Mahaffey Road added w/elementary school construction.
- Needs water & sanitary sewer service – 15,000 gallons/day (Peak Volume).
- Sanitary sewer lift station required to serve school.
- Needs gas service – 1,000 ccf/mo; peak volume of 2,500 ccf/mo.

4. Intermediate School – 1,300 students

- Planning stage only.
- Estimated date to initiate design – Summer 2014
- Estimated date to initiate construction – Winter 2015
- Open to students – August 2016
- Combined access from FM 2920 & Mahaffey Road; access is part of master plan.
- Needs water & sanitary sewer service – 35,000 gallons/day (Peak Volume). Waterline to be looped.
- Sanitary sewer lift station required to serve school.
- Needs gas service – 1,800 ccf/mo; peak volume 2,700 ccf/mo.

5. High School – 3,500 students

- Planning stage only.
- Estimated date to initiate design – Spring 2016
- Estimated date to initiate construction – Fall 2017
- Open to students – August 2019
- Combined access from Hufsmith-Kohrville, FM 2920 & Mahaffey Road; access is part of master plan
- Needs water & sanitary sewer service – 60,000 gallons/day Peak Volume). Waterline to be looped.
- Needs gas service – 8,000 ccf/mo; peak volume 18,100 ccf/mo.

6. Outfall Drainage

- Offsite drainage outfall required.
- Stormwater detention – onsite/offsite
- KISD willing to consider combining drainage efforts w/HC & Tomball for offsite improvements.

7. Streets & Thoroughfares

- Hufsmith-Kohrville Road – comply w/HC/Tomball requirements as part of high school development.
- Weirich Road – comply w/HC/Tomball requirements as part of high school development.

8. Request for Water, Sanitary Sewer & Gas Service

- KISD - designs/constructs public utility extensions at their cost in phases to serve schools.
- KISD - acquires public utility easements to place the utilities.
- KISD - designs/constructs to Tomball utility standards.
- KISD - requests Tomball accepts public utilities for operation, maintenance & ownership.
- KISD – building & utility plans to be reviewed/approved by Tomball.
- KISD contractor – permit/inspect utilities through Tomball.
- KISD – complies with fire code requirements.

9. Assistance Requested.

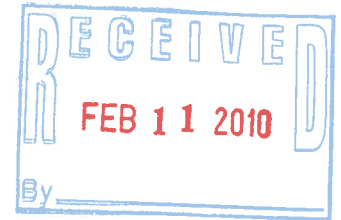
- Expedited evaluation/discussion/decision regarding utility commitment.
- Expedited decision regarding whether site must be annexed or discussion regarding adjustment of ETJ line.
- Assistance with Zoning Commission as the site may require a zoning change.
- Expedited assistance for construction plan approval and issuance of permits. Possibly allow phased plan approval & permit issuance.
- Expedited discussion/decision regarding possible joint financial assistance in funding offsite drainage outfall south of Mahaffey Road.



Klein Independent School District

Facility & School Services
7200 Spring-Cypress Road
Klein, Texas 77379-3215

February 9, 2010



Mr. Mark McClure, P.E.
Director of Engineering & Planning
City of Tomball
501 James Street
Tomball, Texas 77375

Re: Request for Realignment of the Houston/Tomball ETJ Boundary
For Klein ISD Three-School Development

Dear Mr. McClure:

Klein Independent School District (Klein ISD) is the owner of a 157.9509 acre tract currently situated in both the City of Tomball and the City of Houston Extraterritorial Jurisdictions (ETJ). The area split between the two ETJs is approximately 64% Tomball and 36% Houston. Klein ISD plans to develop said 157.9509 acre tract for the installation of a high school, an intermediate school, and an elementary school, together with various shared athletic facilities. To help facilitate and expedite the initial development of the property, Klein ISD is requesting that the City of Houston release its portion of the Klein ISD 157.9509 acre tract. Said City of Houston ETJ portion proposed for release is 57.5563 acres. From preliminary contact with the City of Houston Department of Planning & Development, Klein ISD has been advised that the City of Houston would be agreeable to said contingent release, providing that the City of Tomball be agreeable in accepting said 57.5563 acres into the City of Tomball ETJ, and provide a letter from the City of Tomball to the City of Houston acknowledging said contingent acceptance. In reliance upon said advice from the City of Houston, the Klein Independent School District hereby requests that the City of Tomball consider and approve this request to accept 57.5563 acres into its Extraterritorial Jurisdiction, upon release of same by the City of Houston.

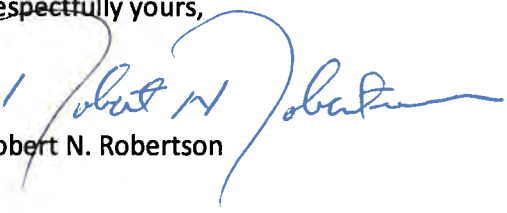
Please be advised that Klein ISD is currently in final stages of design for said initial development of 19.0042 acres as Klein ISD Elementary School No. 28. Klein ISD has urgent need for this school to be open for the Fall 2011 Semester (August 2011). We request your co-operation in the expedition of this project for approval.

*Robert N. Robertson • Associate Superintendent • rrobertson1@kleinisd.net
832.249.4520 • <http://www.kleinisd.net> • Fax: 832.249.4028*

Mr. Mark McClure
February 9, 2010
Page 2

Attached is a map of proposed area for ETJ acceptance, together with a real property description of same, and of the overall Klein ISD 157.9509 acres. Also attached is a copy of a City of Houston Department of Planning & Development email transmission in response to request at a preliminary meeting of January 20, 2010. If you need additional information in support of this request, please advise.

Respectfully yours,



Robert N. Robertson

Enclosures

Trigg Lupher

From: Ostlind, Jennifer - PD [Jennifer.Ostlind@cityofhouston.net]
Sent: Thursday, January 21, 2010 8:54 AM
To: 'tlupher@american-lupher.com'; 'Blue, Don'; 'Ed Shackelford'; 'William Park'; 'Robertson, Robert 1'; radamchak@matixspencer.com; 'Lee G. Lupher, RPLS'
Cc: Ramagos, Landell - PD
Subject: Klein ISD New School Tract in Houston AND Tomball ETJs

Trigg,

Regarding the Tomball/Houston ETJ boundary, we would likely be ok with moving the line to the eastern edges of the Klein property. The process for doing this is...

1. Submit a request in writing to Marlene Gaftrick, Planning and Development Department Director
2. Include a map of the parcel and current boundary lines with street names (for orientation purposes)
3. Include letter from City of Tomball confirming their willingness to accept the additional acreage into their ETJ.
4. Letter should include acreage of the site, state that the entire parcel is under one ownership and that the City of Tomball is willing to accept the parcel into it's ETJ
5. Copy letter to Nicole Smothers in the Planning and Development Department

Nicole Smothers will review/process your request. She says it would take a couple months. You may contact her directly with questions at 713-837-7856 or nicole.smothers@cityofhouston.net

In the mean time, our GIS folks should be able resolve the inconsistent boundary line in a couple days.

Jennifer Ostlind
713-837-7871

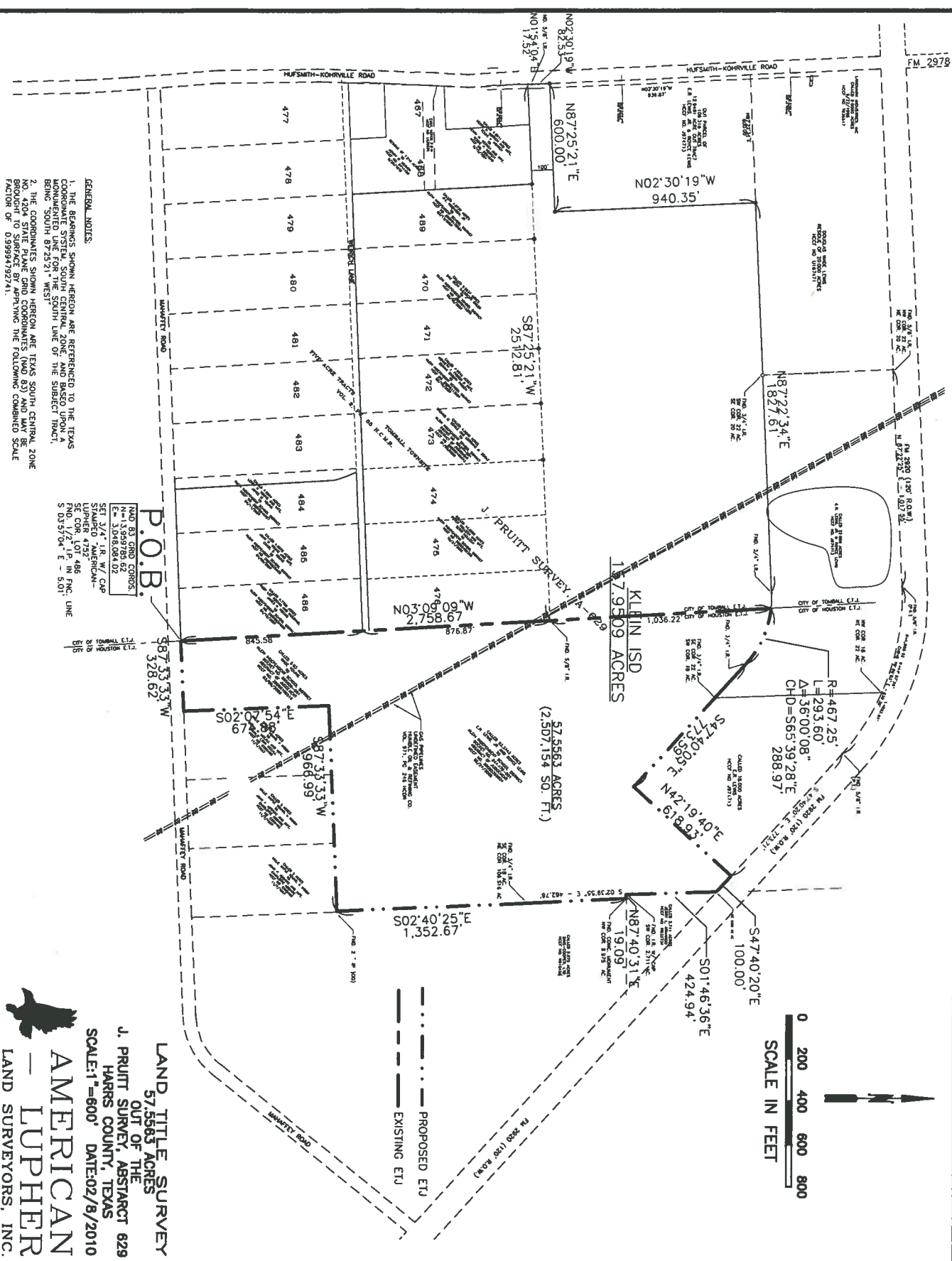
I COUNT. YOU COUNT. WE ALL COUNT. HoustonCounts.org

GENERAL NOTES:
 1. THE BEARINGS SHOWN HEREON ARE REFERENCED TO THE TEXAS
 COORDINATE SYSTEM, BEING SOUTH 87°25'21" WEST,
 MONUMENTED LINE FOR THE SOUTH LINE OF THE SUBJECT TRACT,
 BEING SOUTH 87°25'21" WEST.
 2. THE COORDINATES SHOWN HEREON ARE TEXAS SOUTH CENTRAL ZONE
 NO. 4204 STATE PLANE GRID COORDINATES (NAD 83) AND MAY BE
 USED FOR ANY PURPOSES INVOLVED IN APPLYING THE FOLLOWING COMBINED SCALE
 FACTOR OF 0.9999472741.
 3. ALL DISTANCES SHOWN HEREON ARE SURFACE DISTANCES.

NO. 83 GRID COORDS:
 N=13,959,785.62
 E=3,048,084.02
 SET 3/4" I.R. W/ CAP
 STAMPED "AMERICAN"
 S. COR. LOT 486
 FND. 1/2" I.P. IN FNC. LINE
 S 03°57'04" E - 5.01'



LAND TITLE SURVEY
 57.5563 ACRES
 OUT OF THE
 J. PRUITT SURVEY, ABSTRACT 629
 HARRIS COUNTY, TEXAS
 SCALE: 1"=600' DATE: 02/8/2010
AMERICAN LUPER
 LAND SURVEYORS, INC.
 8803 WILLOW PLACE SOUTH, SUITE 600 HOUSTON, TEXAS 77059
 OFFICE: (281) 917-0600 FAX: (281) 917-0708



REAL PROPERTY DESCRIPTION

A tract of land containing **157.9509 Acres** situated in the Jesse Pruitt Survey, Abstract 629, Harris County, Texas, and out of that 4.9722 acre tract from M.E. Robinson, JR. to Klein Independent School District by deed recorded under HCCF No. 20070170534, that called 9.9537 acre tract from Erie Beth Gjerdevig Greer to Klein Independent School District by deed recorded under HCCF No. 20070113205, that called 4.9816 acre tract from Kenneth J. Tyssen and wife, Bonnie Brown Tyssen to Klein Independent School District by deed recorded under HCCF No. 20070113204, that called 14.6952 acre tract from Peter Hollech and wife, Terri Hollech to Klein Independent School District by deed recorded under HCCF No. 20060169396, that called 4.0594 acre tract from Leroy W. Young and wife, Joyce M. Young to Klein Independent School District by deed recorded under HCCF No. 20070248797, that called 4.9878 acre tract from John W. Young and wife, Carol D. Young to Klein Independent School District by deed recorded under HCCF No. 20070225568, that called 4.7726 acre tract from Ruby Leigh Koenig and husband, James A. Koenig to Klein Independent School District by deed recorded under HCCF No. 20070234990, that called 5.03 acre tract to Klein Independent School District by Abstract of Judgment recorded under HCCF No. 20090109516, that called 4.9848 acre tract to Klein Independent School District by Abstract of Judgment recorded under HCCF No. 20090015673, that called 93.3743 acre tract to Klein Independent School District by Abstract of Judgment recorded under HCCF No. 20080355024 and that that called 5.9162 acre tract to Klein Independent School District by Abstract of Judgment recorded under HCCF No. 20070588696, said 157. 9509 acre tract being more particularly described by metes and bounds as follows with all bearings being referenced to the Texas Coordinate System, South Central Zone, the coordinates shown hereon are Texas South Central Zone No. 4204 State Plane Coordinates (NAD 83) and may be brought to surface by applying the following Combined Scale Factor of 0.99994792741:

BEGINNING (X= 3,045,479.17, Y= 13,961,392.39) at a 5/8-inch iron rod found for the most westerly southwest corner of said 93.3743 acre tract, same point being situated in the north line of Lot 467 of the Five Acre Tracts Tomball Townsite, Volume 2, Page 65 of the Harris County Map Records and the east line of Hufsmith-Kohrville Road, width varies;

THENCE North 01° 54' 04" East, departing the south line of said 93.3743 acre tract, along the east line of said Hufsmith-Kohrville Road and west line of said 93.3743 acre tract, a distance of 17.52 feet to a 5/8-inch iron rod found for an angle point in the east line of said Hufsmith-Kohrville Road;

THENCE North 2° 30' 19" West, continuing along the east line of said Hufsmith-Kohrville Road, a distance of 82.53 feet to a 3/4-inch iron rod with "AMERICAN-LUPHER 4752" cap set for the southwest corner of a 12.9491 acre out parcel from said 93.3743 acre tract;

THENCE North 87° 25' 21" East, departing the east line of said Hufsmith-Kohrville Road, along the south line of said 12.9491 acre out parcel, a distance of 600.00 feet to a 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER 4752" set for an interior corner in the subject tract, same point being the southeast corner of said 12.9491 acre out parcel;

THENCE North 02° 30' 19" West, along the east line of said 12.9491 acre out parcel, a distance of 940.35 feet to a 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER 4752" set for the northwest corner of the subject tract, same point being situated in the common line between said 93.3743 acre tract and that called

20.000 acre tract conveyed to Douglas Wade Lewis, recorded by deed under HCCF No. U167471, same point also being the northeast corner of said 12.9491 acre out parcel;

THENCE North 87°22'34" East, departing the east line of said 12.9491 acre out parcel, along said common line between said 93.3743 acre tract and said 20.000 acre tract, at 808.10 feet passing a 3/4-inch iron rod found for the southwest corner of that called 22.000 acre tract conveyed to E. R. Lewis, Jr. & Royce Lewis, recorded by deed under HCCF No. J974713, and continuing for a total overall distance of 1,827.61 feet to a 3/4-inch iron rod found for the point of curvature of a curve to the right;

THENCE in a southeast direction along the arc of said curve to the right, same being the common line between said 93.3743 acres and said 22.000 acre tract, having a radius of 467.45 feet, a central angle of 44°51'54", whose chord bears S 70°05'50" E – 356.75 feet, an arc length of 366.03 feet to a 3/4-inch iron rod found for the point of tangency;

THENCE South 47°40'05" East, continuing along the common line between said 93.3743 acres and said 22.000 acre tract, at 210.31 feet passing a 3/4-inch iron rod found for the southwest corner of that called 18.000 acre tract conveyed to E.R. Lewis by deed recorded under HCCF No. J974713, and continuing for a total overall distance of 773.59 feet to 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER" set for the southwest corner of said 5.9162 acre tract;

THENCE North 42°19'40" East, along the west line of said 5.9162 acre tract, a distance of 618.93 feet to a 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER" set for the northwest corner of said 5.9162 acre tract, same point being situated in the southwest line of FM 2920, 120 feet wide;

THENCE South 47°40'20" East, departing the west line of said 5.9162 acre tract, along the common line between said 5.9162 acres and said FM 2920, a distance of 100.00 feet to a fence post found for the northeast corner of said 5.9162 acre tract;

THENCE South 01°46'36" East, departing the southwesterly line of said FM 2920, along the east line of 5.9162 acre tract, a distance of 424.94 feet to an iron rod with cap found for a jog in the east line of said 5.9162 acre tract;

THENCE North 87°40'31" East, along said jog in the east line of said 5.9162 acres, a distance of 19.09 feet to a concrete monument found for the east end of said jog;

THENCE South 02°40'25" East, continuing along the east line of said 5.9162, at 462.67 feet passing a 3/4-inch iron rod found for the common east corner between said 5.9162 acre tract and said 18.000 acre tract, and continuing for a total overall distance of 1,352.67 feet to a 2-inch iron pipe (OD) for the southeast corner of said 93.3743 acre tract, same point being the northeast corner of that called 20 acre tract conveyed to V.F. Young and recorded by deed in Vol. 915, PG. 566 of the Harris County Deed Records (HCDR);

THENCE South 87°33'33" West, along the common line between said 93.3743 acre tract and said 20 acre tract, a distance of 966.99 feet to a 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER 4752" set for an interior corner of the subject tract, same point being the common north corner between said 5.03 acres to Klein Independent School District and that called 5 acre tract from Willie Maple Young a widow, to Ortha R. McCall and wife, Charlie Lynn McCall by deed recorded under HCCF No. C609490;

THENCE South 02°27'57" East, departing the south line of said 93.3743 acre tract, along the common line between said 5.03 acres and said Ortha R. McCall and wife, Charlie Lynn McCall 5 acres, a distance of 674.88 feet to a 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER" set for the southern most southeast corner of the subject tract, said point being situated in the north line of Mahaffey Road, 60-feet wide;

THENCE South 87°33'33" West, departing the common line between said 5.03 acres and said Ortha R. McCall and wife, Charlie Lynn McCall 5 acres, along the common line between said 5.03 acres and said Mahaffey Road, a distance of 1,038.77 feet to a 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER" set for the southern most southwest corner of the subject tract, same point being the common south corner between that said 4.0594 acre tract and that called 0.930 acre tract from Leroy W. Young and wife, Joyce M. Young to Harris County Flood Control recorded by deed under HCCF No. L648807, said point also being situated in the north line of said Mahaffey Road;

THENCE North 03°09'09" West, departing the north line of said Mahaffey Road, along the common line between said 4.0594 acre tract and said 0.930 acre tract, a distance of 725.27 feet to a 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER" set for the point of curvature of a curve to the left;

THENCE in a northwesterly direction, along the common line between said 4.0594 acre tract and said 0.930 acre tract, along the arc of said curve to the left having a radius of 125.00 feet, a central angle of 18°09'53", whose chord bears N 11°24'24" W – 39.46 feet, an arc length of 39.63 feet to a 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER" set for the point of tangency;

THENCE North 21°31'22" West, continuing along the common line between said 4.0594 acre tract and said 0.930 acre tract, a distance of 85.81 feet to a wood fence post at the common north corner between said 4.0594 acre tract and said 0.930 acre tract, same point also being situated in the south line of Weirich Lane, 30 feet wide, Five Acre Tract Tomball Townsite, Vol. 2, Pg. 65 H.C.M.R.;

THANCE North 87°32'31" East, departing the common line between said 4.0594 acre tract and said 0.930 acre tract, along the south line of Weirich Lane, a distance of 742.86 feet to a point for the southeast corner of Weirich Lane, same point being situated in the west line of said 93.3743 acre tract, the east line of said Five acre Tract Tomball Townsite and also being the north east corner of said 4.7726 acre tract, from same point a 1-inch iron pipe was found bearing S 84°43'34" E – 6.03 feet;

THENCE North 03°09'09" West, along the common line between said 93.3743 acre tract and said Weirich Lane, a distance of 30.07 feet to a point for the northeast corner of said Weirich Lane, same point being situated in the west line of said 93.3743 acre tract and also being the southeast corner of said 14.6952 acre tract, from same point a 5/8-inch iron rod was found bearing N 87°27'06" E – 4.61 feet;

THENCE South 87°32'31" West, departing the common line between said 93.3743 acre tract and said Weirich Lane, same being the east line of said Five Acre Tract Tomball Townsite, along the north line of said Weirich Lane, a distance of 2,045.18 feet to a point for the common south corner between said 4.9722 acre tract and that called 7.218 acre tract conveyed to Henry H. Weirich, recorded by deed under HCCF No. D714150, same point being situated in the north line of Weirich Lane, from same point a 1/2-inch iron rod was found bearing N 14°23'59" E – 1.93 feet;

THENCE North 03°09'10" West, departing the north line of said Weirich Lane, along the common line between said 4.9722 acre tract and said 7.218 acre tract, a distance of 842.54 feet to a 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER" set for the northwest corner of said 4.9722 acre tract, same point being situated in the common line between said 93.3743 acre tract and said Five Acre Tract Tomball Townsite, from same point a 1/2-inch iron rod (bent) was found bearing N 07°06'52" W – 3.07 feet;

THENCE South 87°25'22" West, departing the common line between said 4.9722 acre tract and said 7.218 acre tract, along the common line between said 93.3743 acre tract and said Five Acre Tracts Tomball Townsite, a distance of 467.67 feet to the **POINT OF BEGINNING** and containing 157.9505 Acres (6,880,342 Sq. Ft.) of land, more or less.

This Real Property Description and separate drawing is based upon a Texas Society of Professional Surveyors Category 1A Condition II Land Title Survey performed under the direction of T. Trigg Lupher, RPLS, Texas Registration No. 4752 in January 2010.

AMERICAN-LUPHER LAND SURVEYORS, INC.

Klein ISD 157.9509 Acres

Total Tract

February 8, 2010

REAL PROPERTY DESCRIPTION

A tract of land containing **57.5563 Acres** situated in the Jesse Pruitt Survey, Abstract 629, Harris County, Texas, out of that certain 157.9509 acres comprised of that 4.9722 acre tract from M.E. Robinson, JR. to Klein Independent School District by deed recorded under HCCF No. 20070170534, that called 9.9537 acre tract from Erie Beth Gjerdevig Greer to Klein Independent School District by deed recorded under HCCF No. 20070113205, that called 4.9816 acre tract from Kenneth J. Tyssen and wife, Bonnie Brown Tyssen to Klein Independent School District by deed recorded under HCCF No. 20070113204, that called 14.6952 acre tract from Peter Hollech and wife, Terri Hollech to Klein Independent School District by deed recorded under HCCF No. 20060169396, that called 4.0594 acre tract from Leroy W. Young and wife, Joyce M. Young to Klein Independent School District by deed recorded under HCCF No. 20070248797, that called 4.9878 acre tract from John W. Young and wife, Carol D. Young to Klein Independent School District by deed recorded under HCCF No. 20070225568, that called 4.7726 acre tract from Ruby Leigh Koenig and husband, James A. Koenig to Klein Independent School District by deed recorded under HCCF No. 20070234990, that called 5.03 acre tract to Klein Independent School District by Abstract of Judgment recorded under HCCF No. 20090109516, that called 4.9848 acre tract to Klein Independent School District by Abstract of Judgment recorded under HCCF No. 20090015673, that called 93.3743 acre tract to Klein Independent School District by Abstract of Judgment recorded under HCCF No. 20080355024 and that that called 5.9162 acre tract to Klein Independent School District by Abstract of Judgment recorded under HCCF No. 20070588696, said 57.5563 acre tract being more particularly described by metes and bounds as follows with all bearings being referenced to the Texas Coordinate System, South Central Zone, the coordinates shown hereon are Texas South Central Zone No. 4204 State Plane Coordinates (NAD 83) and may be brought to surface by applying the following Combined Scale Factor of 0.99994792741:

BEGINNING (X= 3,048,084.02, Y= 13,959,785.62) at a 3/4-inch iron rod with "AMERICAN-LUPHER 4752" cap found for the southeast corner of Lot 486 of the Five Acre Tracts Tomball Townsite, Volume 2, Page 65 of the Harris County Map Records, same point being situated in the north line of Mahaffey Road, 60 feet wide, same point also being situated in the common Extraterritorial Jurisdiction (ETJ) Boundary of the City of Houston and the City of Tomball;

THENCE North 03°09'09" West, departing the north line of said Mahaffey Road and along said common ETJ Boundary, at 845.58 feet pass a 3/4-inch iron rod with "AMERICAN-LUPHER 4752" cap found for the northeast corner of said Lot 486 in the south line of Weirich Lane, 30 feet wide, at 875.56 feet pass a 5/8-inch iron rod found, in the north line of said Weirich Lane, for the southeast corner of Lot 476 of said Five Acre Tracts Tomball Townsite, at 1,722.45 feet pass a 5/8-inch iron rod found for the northeast corner of said Lot 476, and continuing for a total distance of 2,758.67 feet to a 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER" set for a point on a non-tangent curve to the right in the north line of said 157.9509 acre tract;

THENCE, departing said common ETJ Boundary and in a southeast direction along north line of said 157.9509 acre tract and the arc of said non-tangent curve to the right, having a radius of 467.25 feet, a central angle of 36°00'08", whose chord bears S 65°39'28" E – 288.97 feet, a distance of 293.60 feet to a 3/4-inch iron rod found for the point of tangency;

THENCE South 47°40'05" East, continuing along the north line of said 157.9509 acres, a distance of 773.59 feet to 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER" set for the southwest corner of said 5.9162 acre tract;

THENCE North 42°19'40" East, along the west line of said 5.9162 acre tract, a distance of 618.93 feet to a 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER" set for the northwest corner of said 5.9162 acre tract, same point being situated in the southwest line of FM 2920, 120 feet wide;

THENCE South 47°40'20" East, departing the west line of said 5.9162 acre tract, along the common line between said 5.9162 acres and said FM 2920, a distance of 100.00 feet to a fence post found for the northeast corner of said 5.9162 acre tract and said 157.9509 acre tract;

THENCE South 01°46'36" East, departing the southwesterly line of said FM 2920, along the east line of 5.9162 acre tract, a distance of 424.94 feet to an iron rod with cap found for a jog in the east line of said 5.9162 acre tract and said 157.9509 acre tract;

THENCE North 87°40'31" East, along said jog in the east line of said 5.9162 acres and said 157.9509 acre tract, a distance of 19.09 feet to a concrete monument found for the east end of said jog;

THENCE South 02°40'25" East, continuing along the east line of said 5.9162 and said 157.9509 acre tract, at 462.67 feet passing a 3/4-inch iron rod found for the southeast corner of said 5.9162 acre tract, and continuing for a total overall distance of 1,352.67 feet to a 2-inch iron pipe (OD) for the most easterly southeast corner of said 157.9509 acre tract, same point being the northeast corner of that called 20 acre tract conveyed to V.F. Young and recorded by deed in Vol. 915, PG. 566 of the Harris County Deed Records (HCDR);

THENCE South 87°33'33" West, along the common line between said 157.9509 acre tract and said 20 acre tract, a distance of 966.99 feet to a 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER 4752" set for an interior corner of the subject tract, same point being the common north corner between said called 5.03 acres to Klein Independent School District and that called 5 acre tract from Willie Maple Young a widow, to Ortha R. McCall and wife, Charlie Lynn McCall by deed recorded under HCCF No. C609490;

THENCE South 02°27'57" East, along the common line between said 157.9509 acres and said Ortha R. McCall and wife, Charlie Lynn McCall 5 acres, a distance of 674.88 feet to a 3/4-inch iron rod with cap stamped "AMERICAN-LUPHER" set for the southern most southeast corner of the subject tract, said point being situated in the north line of Mahaffey Road, 60-feet wide;

THENCE South 87°33'33" West, departing the common line between said 157.9509 acres and said Ortha R. McCall and wife, Charlie Lynn McCall 5 acres, along the north line of said Mahaffey Road, a distance of 328.62 feet to the POINT OF BEGINNING, and containing 57.5563 acres (2,507,154 square feet) of land, more or less.

This Real Property Description and separate drawing is based upon a Texas Society of Professional Surveyors Category 1A Condition II Land Title Survey performed under the direction of T. Trigg Lupher, RPLS, Texas Registration No. 4752 in January 2010.

AMERICAN-LUPHER LAND SURVEYORS, INC.
Houston/Tomball ETJ Boundary Realignment
57.5563 Acres
February 8, 2010



Klein Independent School District

Facility & School Services
7200 Spring-Cypress Road
Klein, Texas 77379-3215

01/11/10 Brandy,
Distribute & set up Dec
for Week. 20, 2010

January 7, 2010

Mr. Mark McClure, P.E.
City Engineer
Department of Engineering and Planning
501 James Street
Tomball, Texas 77375



Re: Request to Negotiate Utility Service for 157.58-Acres
Klein Independent School District

Dear Mr. McClure:

The Klein Independent School District ("Klein") acquired 157.58- acres (the "Tract") in the vicinity of the southeast corner of FM 2920 and Hufsmith-Khorville Road for the purpose of constructing an elementary school, an intermediate school and a high school between now and 2019. Klein is currently designing the elementary school for a scheduled opening of August 2011. It is the intention of Klein to seek water and sanitary sewer service and garbage collection from the City of Tomball. Klein requests the opportunity to initiate negotiations for service including discussion of potential Capital Recovery fees and tap fees associated with constructing an elementary, intermediate and high school.

The Tract is partially located within the City of Houston and the City of Tomball Extra Territorial Jurisdiction (ETJ) in Harris County. The Tract is partially platted as Tomball Outlots, Film Code Number 002065 of the Harris County Map Records. The remainder of the Tract is not platted and consists of Tracts 2D-1, 3B, 3D-1, 4, and 5 of the J. Pruitt Survey, Abstract 629. The Tract is bounded by Farm-to-Market 2920 (FM 2920), Hufsmith-Kohrville Road, Weirich Lane, and Mahaffey Road (Key Map Page 289-E, F, K).

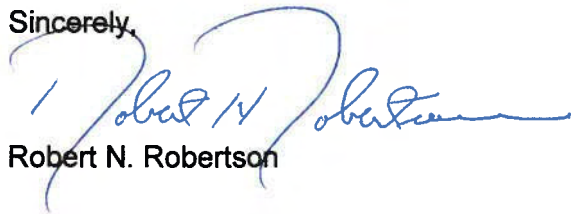
Klein is designing an elementary school with a capacity of 850 students for a scheduled opening of August, 2011. Subsequent plans call for an intermediate school with a capacity of 1,300 students in 2016 and a high school with a capacity of 3,500 students in 2019. In accordance with the City of Tomball's Discharge Criteria Sheet, the discharge coefficient for a high school is 0.047600 service-unit equivalents (SUE) per seat and 0.031700 SUE's per seat for a non-residential school. This is equivalent to 0.055911 living-unit-equivalents (LUE) per high school seat and 0.037235 LUE's per seat for a non-residential school. Based on this criterion, the City of Tomball can anticipate 31.6 LUE's for the elementary school, 48.4 LUE's for the intermediate school, and 195.7 LUE's for the high school.

Robert N. Robertson • Associate Superintendent • rrobertson1@kleinisd.net
832.249.4520 • <http://www.kleinisd.net> • Fax: 832.249.4028

Mr. Mark McClure
January 7, 2010
Page 2

Please contact Ed Shackelford or Bill Park of Jones-Carter, Inc. at (281) 363-4039 for additional details as necessary or you may contact me directly. Thank you for your assistance in this matter.

Sincerely,

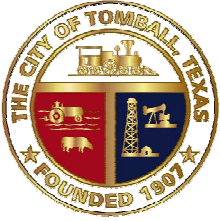


Robert N. Robertson

cc: Don Blue
Ed Shackelford

*Robert N. Robertson • Associate Superintendent • rrobertson1@kleinisd.net
832.249.4520 • <http://www.kleinisd.net> • Fax: 832.249.4028*





CITY OF TOMBALL

Office of the City Manager

Gretchen Fagan
Mayor

April 28, 2010

To: Mayor and City Council
City Staff

From: Shawn Cox, Assistant to the City Manager

Re: Consideration of Possible Annexation of KISD Property

The KISD Site Development Considerations memo provided by Mark McClure provides Council with the possible impacts this development will have on the City of Tomball. While the impact of annexation was mentioned in the memo, it was done so in regards to the impact on the City's infrastructure. The development of this site by KISD will impact not only the City's infrastructure, but also its departments and services. Provided below are the possible impacts staff is able to recognize.

Police:

The impact to the Police Department will be virtually the same whether we annex or not. The primary impact will be an increase in traffic.

Fire:

There is no severe impact difference for Fire if we annex or not. The area is in our service area. However, depending on the development schedule of campuses, the anticipated timeline for the building of Fire Station #3 could be pushed up. Also, Fire would ask that KISD provide traffic signals at Mahaffey and 2920 and Mahaffey and Hufsmith-Kohrville.

Building Official:

If annexed, the Building Official expects to be able to handle the additional work load with current staff and budgeted funds for the use of outside inspectors. This would include all building, electrical, plumbing, and mechanical inspections. However, if the property is not annexed, the Building Department will only be handling plumbing inspections, if the request for water is approved.

Zoning:

If annexed, the KISD property could be zoned LI-Light Industrial (as recommended in the report form Cobb-Fendley.) This would be consistent with the Comprehensive plan. The property could undergo the zoning process at the same time as the annexation process, as long as the annexation begins first. If the property is not considered for annexation the City would have control over the platting and signage requirements for the property.

If Klein ISD does seek to be annexed, the approximate timeline, once all of the required information has been submitted, is 45 to 60 days. By State law, the City has up to 90 days to complete the annexation process. If annexed, properties along KISD's boundaries, along FM 2920 and FM 2978 would become contiguous and eligible to be annexed. At this time, none of these properties are under development, or have expressed an interest in being annexed.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: May 3, 2010

Topic:

Approve Rudolph Road and Utilities Capital Improvement Plan Project Amended Design Contract with O'Malley Engineers, LLC for \$55,000.00

Background:

The City executed a contract on August 25, 2008 with O'Malley Engineers, LLC for Professional Engineering Services associated with the City's Capital Improvement Project described as the Rudolph Road and Utilities Extension. Phase I services have been completed and approved by City as referenced in a Summary of Technical Review Committee (TRC) Meeting conducted January 7, 2010 and resulting final Preliminary Engineering Report (PER). The results were presented to Council during the February 1, 2010 regular Council meeting. The TRC and PER have been posted to the City's web page under the Engineering and Planning tab, reference Capital Improvements.

As a result of completion of the PER and a more complete understanding of the project limits and scope of work, the Consultant has provided an amendment to the said Contract, increasing the basic services design cost \$55,000.00, reference attached correspondence dated April 13, 2010. The additional funding will increase the total contract amount from \$153,700 to \$208,700.

\$ 29,700 of the \$ 55,000 is available from the Gen. Fund leaving a remainder of \$ 25,300 to be funded from the Enterprise Fund. However, the Enterprise Fund only has \$ 14,742 funds available for this particular project. Therefore, the remaining \$ 10,558 will have to be funded from the Brown-Hufsmith Road Utilities project which has \$ 282,681 available.

Origination:

Engineering and Planning Department

Recommendation:

Engineering and Planning Department recommends approval. Funding is available for the project per the March 2010 CIP Report attached.

Funding: No

Funds will be transferred from Account: 613-6409,614-6409,615-6409 (Project # 153) to Account: 613-6409,614-6409,615-6409 Prj # 161

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

Mark McClure, Director of Engineering and Planning Department

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER

☐ YES ☐ NO

☐ 1ST ☐ 2ND

ATTACHMENTS:

O'Malley Amendment - \$55,000

March 2010 CIP Report

O'Malley Professional Services Agreement 08.25.08



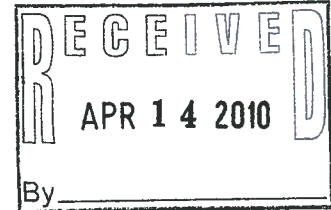
O'Malley Engineers, L.L.P.

TBPE No. F-3244

Craig Kankel, P.E.
Robert C. Schmidt, P.E.
Ed Addicks, P.E.

April 13, 2010

Mr. Mark McClure, Director of Engineering and Planning
City of Tomball
501 James St.
Tomball, Texas 77375



Re: City of Tomball
Rudolph Road and Utilities
Extension, COT E&P Project No. 2007-10014

Dear Mark:

Now that the Phase I-Preliminary Design has been completed and the scope and cost of the project are better defined, we would appreciate your consideration of an adjustment to the fee for the Phase II and Phase III engineering services in our August 25, 2008 agreement. At the time we negotiated the original agreement with you, the project cost was estimated to be \$800,000. Based on preliminary design, the total construction cost of the project is now estimated to be \$1,642,000. In light of this, we respectfully request that our agreement be amended to increase the lump sum fees for Phase II-Final Design and Phase III-Construction Phase Services.

Additionally, the Phase I Environmental Site Assessment did not identify conditions requiring a Phase 2 Environmental Site Assessment, but it did identify the need for a visual inspection of the site to determine if wetlands exist, and if so, a mitigation plan and permit will be required. In light of this, we propose to reallocate the \$25,000 fee from the Phase 2 Environmental Site Assessment to the wetland visual inspection, mitigation plan and permit. The following tabulation shows the current contract fees, the proposed changes and the proposed contract fees.

	Current Contract Fees 08-25-08	Requested Change Amount	Proposed Contract Fees
BASIC SERVICES			
Phase I (PER)	\$18,000.00	\$0.00	\$18,000.00
Phase II (Design)	\$47,400.00	\$41,250.00	\$88,650.00
Phase III (Constr. Phase Services)	\$15,800.00	\$13,750.00	\$29,550.00
Total Basic Services	\$81,200.00	\$55,000.00	\$136,200.00
% of Construction Cost Estimate	10.15%		8.29%

Mr. Mark McClure
City of Tomball
Page 2 – 4/13/10

	Current Contract Fees 08-25-08	Requested Change Amount	Proposed Contract Fees
ADDITIONAL SERVICES			
Topographic Services	\$15,750.00	\$0.00	\$15,750.00
Geotechnical Investigation	\$5,750.00	\$0.00	\$5,750.00
Phase I ESA	\$2,500.00	\$0.00	\$2,500.00
Phase II ESA	\$25,000.00	-\$25,000.00	\$0.00
Wetlands Evaluation	\$0.00	\$25,000.00	\$25,000.00
Traffic Control Plan (TCP)	\$6,500.00	\$0.00	\$6,500.00
SWPPP	\$4,500.00	\$0.00	\$4,500.00
Street Lighting Plan	\$2,500.00	\$0.00	\$2,500.00
Reproduction Services	\$10,000.00	\$0.00	\$10,000.00
Total Additional Services	\$72,500.00	\$0.00	\$72,500.00
% of Construction Cost Estimate	9.06%		4.42%
Total Contract Amount	\$153,700.00		
Total Contract Change		\$55,000.00	
Total Revised Contract Amount			\$208,700.00
% of Construction Cost Estimate	19.21%		12.71%

Finally, we request that the Schedule of Charges included in the agreement be replaced with the attached Schedule of Charges, which has been updated since our original agreement.

With regard to the time for performance, we propose to complete Phase II - Final Design by September 1, 2010 and we anticipate that Phase III – Construction Phase will be completed by July 22, 2011, resulting in addition of 540 days to the total time for performance.

If you have any questions regarding this request, please don't hesitate to call. We look forward to successful completion of this project.

Sincerely,

Robert C. Schmidt

Robert C. Schmidt, P.E.
Vice President
RCS:kl
Enclosure

City Manager

Date

SCHEDULE OF CHARGES

Compensation for engineering services shall be on an hourly basis at the rates below which include employment taxes, fringe benefits, overhead, transportation, supplies, materials, taxes and profit.

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Project Manager	\$140.00
Senior Engineer	125.00
Engineer	95.00
Engineering Graduate	80.00
Engineering Technician	70.00
Project Representative	60.00
CADD Operator	55.00
Secretary	55.00

Compensation for surveying services shall be on an hourly basis at the rates set forth below which include employment taxes, fringe benefits, overhead, transportation, supplies, materials, taxes and profit.

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Registered Professional Land Surveyor	\$115.00
Surveying Technician	65.00
CADD Operator	55.00
Secretary	55.00
4-Man Field Party	160.00
3-Man Field Party	135.00
2-Man Field Party	95.00
Global Positioning System (GPS) Equipment	80.00

Subcontract costs shall be billed at invoice cost plus fifteen percent (15%) for handling.

March 2010 CAPITAL IMPROVEMENT PROJECT REPORT

Project Name	Prior Year Expenditures in All Funds	Fund	FY 2009-2010 Budget by Fund*	Amount Spent This FY 2009-2010 by Fund	Current Year Budget Remaining by Fund	Budget Remaining Minus Outstanding Contracts	Total Spent to Date in All Funds	% of FY 2010 Budget Spent
Agg Road Extension (Medical Complex)	\$ 498,361	GF EF	\$ 27,168 211,896	\$ 7,802 -	\$ 19,366 211,896	\$ 8,255 211,896	\$ 506,163 -	28.72% 0.00%
Barbara Street Drainage	9,663	GF	398,737	2,638	396,099	396,121	12,301	0.66%
Brown-Hufsmith Road Utilities	939,876	GF EF	2,414 311,256	- -	2,414 311,256	2,414 282,681	939,876	0.00% 0.00%
Brown-Hufsmith Road Phase 2	94,428	GF EF	382,797 15,000	29,482 -	353,315 15,000	245,000 15,000	123,910 -	7.70% 0.00%
Central Fire Station Renovation	102,144	GF	346,878	-	346,878	346,728	102,144	0.00%
Comprehensive Plan	206,344	GF EF	71,828 21,828	70,443 21,828	1,385 -	1,385 -	298,615	98.07% 100.00%
Hufsmith Sanitary Sewer Improvements	75,775	EF	331,251	24,507	306,744	299,002	100,282	7.40%
Hufsmith Water and Gas Improvements	102,718	EF	352,840	12,151	340,689	302,769	114,869	3.44%
Liberty Lane/Hicks Street Drainage	2,183,465	GF	200,180	3,752	196,428	154,876	2,187,217	1.87%
M118 Drainage Ditch	1,836,053	GF	43,735	6,936	36,799	17,274	1,842,989	15.86%
M124 Drainage Ditch	593,095	GF	549,937	130,145	419,792	338,628	723,240	23.67%
Mechanic Street	975,866	GF	2,246	-	2,246	-	975,866	0.00%
Michel Road Improvements and Ext.	1,638,773	GF	673,815	69,857	603,958	538,909	1,708,630	10.37%
Neal Road Utilities	21,600	EF	45,200	-	45,200	37,300	21,600	0.00%
Old Town Tomball Revitalization (Depot)	2,225,151	GF	280,289	884	279,405	279,405	2,226,035	0.32%
Quinn Road Improvements	120,515	GF EF	315,654 126,885	65,866 74,160	249,788 52,725	300,235 118,900	260,541	20.87% 58.45%

March 2010 CAPITAL IMPROVEMENT PROJECT REPORT

Project Name	Prior Year Expenditures in All Funds	Fund	FY 2009-2010 Budget by Fund*	Amount Spent This FY 2009-2010 by Fund	Current Year Budget Remaining by Fund	Budget Remaining Minus Outstanding Contracts	Total Spent to Date in All Funds	% of FY 2010 Budget Spent
Rudolph Road and Utilities	334,712	GF	364,030	15,804	348,226	278,409	354,341	4.34%
		EF	78,007	3,791	74,216	14,742		4.86%
TEDC Grant		Grant	251,056	34	251,022	247,001		0.01%
School Street Sidewalks	22,423	GF	7,577	-	7,577	7,577	22,423	0.00%
Tomball Hills Lift Station	46,125	EF	219,625	3,620	216,005	197,900	49,745	1.65%
Water Well #5	1,016,963	EF	2,447,845	2,104,864	342,981	-1,021,389	3,121,827	85.99%
TOTAL	\$ 13,044,050		\$ 8,079,974	\$ 2,648,564	\$ 5,431,410	\$ 3,621,018	\$ 15,692,614	32.7794%

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
RUDOLPH ROAD & UTILITIES EXTENSION
E&P Project Number: 2007-10014**

THE STATE OF TEXAS

§

COUNTY OF HARRIS

§

§

THIS AGREEMENT made on the 25th day of August, 2008 entered into, and executed by and between the City of Tomball, Texas (the "City"), a municipal corporation of the State of Texas, and O'Malley Engineers, LLP. ("Engineer").

WITNESSETH:

WHEREAS, the City desires to complete Phase I – Preliminary Design Phase, Phase II – Final Design and Phase III – Construction Phase Services associated with Rudolph Road & Utilities Extension (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to complete Phase I – Preliminary Design Phase, Phase II – Final Design and Phase III – Construction Phase Services, and

WHEREAS, the Engineer represents that it is fully capable and qualified to provide professional services to the City related to design and construction phases services associated with Rudolph Road and Utility Extension;

NOW, THEREFORE, the City and Engineer, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**SECTION I
SCOPE OF AGREEMENT**

Engineer agrees to perform certain professional engineering services as defined in Attachment "A" attached hereto and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Work," and for having rendered such services, the City agrees to pay Engineer compensation as stated in Section VII.

**SECTION II
CHARACTER AND EXTENT OF SERVICES**

Engineer shall do all things necessary to render the engineering services and perform the Scope of Work in a professional and workmanlike manner. It is expressly

SECTION VII ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the City shall pay Engineer only for the actual work performed under the Scope of Work, on the basis set forth in Attachment "A," up to an amount not to exceed \$153,700.00, including reimbursable expenses as identified in Attachment "A."

SECTION VIII TERMINATION

The City may terminate this Agreement at any time by giving written notice to Engineer. Upon receipt of such notice, Engineer shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, Engineer shall submit a sworn statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay Engineer performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed designs, maps, studies, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

SECTION IX ADDRESSES, NOTICES AND COMMUNICATIONS

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to Engineer at the following address:

O'Malley Engineers, LLP
203 South Jackson
Brenham, TX 77833
Attn: Craig Kankel, P.E.

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City of Tomball
501 W. Market Street
Tomball, Texas 77375
Attn: Director of Engineering and Planning

SECTION XIV CONFLICTS OF INTEREST

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, Engineer shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

SECTION XV PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the City by Engineer at least monthly. Invoices are due and payable thirty (30) days after receipt by the City.

SECTION XVI INSURANCE

Engineer shall procure and maintain insurance in accordance with the terms and conditions set forth in Attachment "B," for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness or disease or death, claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and claims of errors and omissions.

SECTION XVII MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2250 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the City of the work covered by such invoice.

B. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Harris County, Texas.

C. This Agreement is for sole benefit of the City and Engineer, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

IN WITNESS WHEREOF, the City of Tomball has lawfully caused this Agreement to be executed by the City Manager of said City and attested by the City Secretary and O'MALLEY ENGINEERS, LLP, acting by and through its duly authorized officer/representative, does now sign, execute, and deliver this instrument.

ATTACHMENT "A"
SCOPE OF SERVICES
AND
BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES

EXHIBIT A

SCOPE OF SERVICES AND DELIVERABLE DOCUMENTS CITY OF TOMBALL CONTRACT FOR ENGINEERING SERVICES

RUDOLPH ROAD & UTILITIES EXTENSION

File No. 2007-10014

1.0 GENERAL

The Engineer shall provide professional engineering services as described in the Contract, and as further defined by this Exhibit A, Scope of Services. Reference to Director throughout Exhibit A refers to the Director of Engineering & Planning.

1.1 Description of Project

The Project generally is described as follows:

The Rudolph Road & Utilities Extension Project includes Rudolph Road from Hufsmith to Zion. The Project has been divided into two sections. The first section extends from Rudolph to the Harris County Flood Control District Channel designated as J131. The second section extends from the Channel to Zion Road. This project scope includes preparing the Phase I Preliminary Engineering Report (PER) for the both sections, but only includes the Phase II Final Design and the Phase III Construction Phase Services for the first section. The Additional Services identified are the necessary services to complete the Phase I and Phase II Services identified. The City is preparing under separate contract the metes and bounds descriptions for easement and right-of-way acquisitions that are necessary, as well as property acquisition.

Improvements to be considered include a concrete street and the necessary infrastructure, including sidewalks, water, sewer, gas, and storm drainage in accordance the City of Tomball's Minimum Design Criteria. Phase II and III Services (i.e., Final Design and Construction Phase Services) for the second section is not part of this contract.

1.2 Reference Standards and Criteria

- A. "City of Tomball Engineering & Planning Department, Infrastructure Design Manual," hereinafter referred to as "City Design Manual." If manual has not been published at the time of contracting, the Engineer shall identify applicable standards and criteria to be utilized for City concurrence.

2.2 Phase I – Preliminary Design

During the Phase I – Preliminary Design, and after written authorization from the Director of Engineering & Planning shall perform the following Phase I services during the Project:

- A. Prepare a Preliminary Engineering Report (PER) which contains the findings and recommendations resulting from this Phase of work. Include the following minimum items:

1. EXECUTIVE SUMMARY

- a. Project Location – Describe project boundaries and locations within City of Tomball limits with Key Map reference. Include location and lay-out maps.
- b. Statement of Problem – Describe deficiencies of the system.
- c. Project Base Solution – Describe the base solution if offered in the City's Project Description/Scope of Services.
- d. Evaluation of Alternative Solutions – Provide summary of principal findings and conclusions from the evaluation of alternatives, based on specific cost and non-cost criteria
- e. Findings from Phase I Design Activities – Summarize the findings that may impact the alternative solutions. Also, summarize other issues associated with:
 - 1) Geotechnical Investigation (not required)
 - 2) Environmental Site Assessment (not required)
 - 3) Real Estate Acquisition
 - 4) Traffic Control Analysis/Requirements
 - 5) Permits
 - 6) Other items constructed in Right of Way including sidewalks, driveways, encroachments, additions or replacements.
 - 7) Other potential conflicts and special issues, such as inter-agency coordination and tree impacts.
- f. Recommended Project – Describe the recommended alternative, how it solves the described system deficiencies, and tabulate the design criteria.
- g. Estimated Construction Costs – Include Construction Costs for each alternative evaluated.

2. INTRODUCTION

3. FINDINGS FROM PHASE I DESIGN ACTIVITIES

a. Utilities Research

- 1) The Engineer shall research all available information and show on schematic layouts of the project all existing water mains and appurtenances, well collection lines, sanitary sewer and storm water lines and facilities (house services lines, manholes, etc.), and lot lines from subdivision plats, telephone, power, gas, cable TV, and other private utilities.
- 2) On major transmission pipelines, the Engineer shall contact the various pipeline companies for their assistance to determine the product material, type of pipe material, depth, and routing of pipelines.
- 3) Summarize coordination efforts with other utilities. Indicate problem locations, describe deficiencies/conflicts and program for resolution.

b. Proposed Right-of-way or Real Estate Acquisitions - Indicate right-of-way and easement needs, and/or other required real estate acquisitions (identification of number, location and sizes of necessary parcels based upon readily available information).

c. Phase I Environmental Site Assessment – Summarize findings and recommendations, when authorized.

d. Geotechnical Investigation – Summarize findings and recommendations, when authorized.

e. Inter-agency Coordination – Identify potential conflicts in time and space with projects from other City departments and other agencies; and offer recommended solutions.

f. Floodplain/Floodway Analysis- Findings and recommendations, if applicable.

g. Permits and Licenses – Describe permits or licenses required from governmental agencies, public or private utilities, railroads, HC, HCFCD, TXDOT, NPDES, wetlands, etc.

h. Tree/Landscaping Impacts – Describe the potential impact on existing trees/landscaping. Delineate between protected and non-protected trees under the City's ordinance and measure to protect those trees covered by the ordinance.

4. EVALUATIONS AND RECOMMENDATIONS

5. EXHIBITS:

- a. Project location maps – Prepare a color map of Project Area(s). Include a separate vicinity map of general Project Area(s)
- b. Typical cross-sections – Show horizontal dimensions, pavement structure makeup and thickness, typical locations of existing and proposed buried utilities right-of-way and easements, sidewalks, shoulders, and drainage ditches.
- c. Plan Sheets – Show proposed water mains, sanitary sewers, storm sewers and pavement footprint with alternate(s), where applicable, in plan view.
- d. Right-of-way maps – Show dimensions and locations of existing and proposed right-of-way and easement locations.

6. ESTIMATED CONSTRUCTION COST

- a. Provide the estimated Construction Cost of the recommended Project and all viable alternatives or options.

7. APPENDICES

- a. Deliver to Director of Engineering & Planning a Preliminary Engineering Report including applicable exhibits and recommended construction packaging for the Project.
- b. Prepare and participate in the Technical Review Committee (TRC) meeting. The purpose of the TRC meeting is for the Engineer to present the recommended projects to the TRC for approval. As part of the TRC, the Engineer shall prepare a Microsoft Power Point presentation, a TRC agenda, and an executive summary of the project showing the alternative, recommendations, and estimated construction costs. The Engineer will provide equipment for preparation and presentation of the TRC meeting. Prepare minutes of the TRC meeting and record of decision and action items.
- c. At the conclusion of the TRC, submit a revised estimate of probable construction cost, based on the outcome of the TRC. Revise the PER in response to the Technical Review Committee's record of decisions and action items and furnish 3 final copies of the PER. Submit final PER in pdf Format on a CD in a single file with Table of Contents.
- d. Upon acceptance by the TRC of the need to acquire additional right-of-way or easements for the project, the Director shall issue to the Engineer a

documents. Such additional services may include, but not be limited to, survey, geotechnical, environmental, traffic control, storm water pollution prevention plans, street lighting plans, tree mitigation/planting plans and special studies.

4. The Engineer shall incorporate the City Standard Details as applicable. The Engineer shall review each Standard Details and edit as necessary to suit Project-specific requirements and to meet the design intent of the Project. Revisions to the Standard Details shall not be incorporated based solely on Engineer's preference, but are subject to review and acceptance by the Director. The Engineer shall notify the Director of all proposed changes to Standard Details and provide reasons for such proposed changes. The Engineer shall prepare additional nonstandard details necessary for bidding and construction of the Project.
5. The Engineer shall prepare specifications in accordance with the Construction Specification Institute (CSI) standard format adopted by the City. The Engineer shall use the City Standard Specifications Table of Contents for Construction Documents as a guide for organization of the Contract Documents. The City Standard Specifications are prepared to include the requirements, features, construction materials, and related items desired by the City based on the City's experience and needs. The Engineer shall review each Standard Specification and supplement as necessary to suit Project-specific requirements and to meet the design intent of the Project. Supplements to the Standard Specifications shall not be incorporated based solely on the Engineer's preference. Supplements are subject to review and acceptance by the Director. The Engineer shall prepare additional nonstandard specifications necessary for bidding and construction of the Project. Incorporate Guide Specifications necessary for bidding and construction of the Project.
6. The Engineer shall incorporate the front-end documents provided by the City into the Project specifications and will complete those front-end documents as necessary to complete the specification.
7. The Engineer shall verify findings from Utility Plan Review with the results of the Route and Site Topographical Survey Services (see Additional Services) and identify potential conflicts during construction. Proposed designs shall strive to avoid conflicts where physically and financially feasible. Relocations of private utilities shall be coordinated with the City of Tomball as early in design process as possible.

D. Application and Approval of Building Permit

1. The Engineer shall secure approval for the Building Permit Application, which provides the Director with documents necessary for obtaining a City Building Permit.

- D. The Engineer shall submit the as-built record drawings within 30 days after receipt of contractor red-lined as-builts.

3.0 ADDITIONAL SERVICES

Unless otherwise authorized or modified by the Director, the Engineer shall perform Additional Services in accordance with the following:

3.1 Survey

- A. Perform in accordance with the City Design Manual, if not available at the time of contracting the Engineer will propose design guidelines to be utilized.
- B. All projects must be tied to the Texas State Plane Coordinate System; all coordinates shown or displayed on any drawings must be true State plane coordinates.
- C. Route Topographical Survey - Record all topographic features and improvements within the public right-of-way, permanent right-of-way, any contiguous easements to the right-of-way, and any construction right-of-way of the Project, and on all intersecting streets for a distance of 20 feet beyond the intersection of the right-of-way lines. For paving projects, extend the topographic survey at intersecting streets to 150 feet beyond the end of new pavement. Locate sufficient monumentation to determine lot lines, lot street address (unless instructed otherwise by the City), tract lines, and rights-of-way. Identify visible underground structures (by type, type of service, size, invert elevations, and depth) including manholes, inlets, and junction boxes. In general, do not open SWBT, HL&P, and other private utility manholes and junction boxes.”
- D. Deliverables shall be submitted no later than when the 70% drawings are submitted for review. Deliverables for route topographical survey services to the City include the following:
 - 1. Electronic file.
 - 2. Survey Control Map - A survey control map sheet drawn to scale of 1 inch = 100 feet shall show location and give a description of the vertical and horizontal City of Tomball survey control monuments used for the Project. The sheet shall show both the survey base line and the Project alignment and give bearings and distances of all control lines. The beginning point, all P.I. points, and end point of both the Project alignment and the survey base line shall list the City of Tomball survey control system coordinates and be tied into existing topography. The map shall contain the following: street names, centerline bearings, street intersection station equations, P.C.'s, P.T.'s, P.I.'s and curve data. All found property monuments shall be shown on the map with station-offset references made to the Project alignment. Those property monuments used as control monuments in setting the Project alignment shall be indicated. Project benchmarks, swing-tie (three-point tie) sketches,

3.2 Geotechnical Investigation

- A. Perform in accordance with the City Design Manual.
- B. Provide geotechnical engineering report, signed and sealed by Professional Engineer, registered in the State of Texas along with executed Geotechnical Investigative Report Checklist.
- C. A boring location map and individual boring logs shall be incorporated into the geotechnical engineering report. All boring locations shall be clearly identified in the field to permit compliance with the Survey Requirements of the City Design Manual.
- D. Boring logs shall include as a minimum the following information:
 - 1. City Project File Number.
 - 2. Boring number.
 - 3. Boring location-station and either offset or distance from curb, and one other semi-permanent feature and boring elevation.
 - 4. Date of field work.
 - 5. Depth to groundwater (both at end of drilling and at 24-hour readings).
 - 6. Depth to caving.
 - 7. Completion depth.
 - 8. Soil and sample symbology.
 - 9. Soil description - soil type identifications in accordance with the Unified Soil Classification System.
 - 10. Geotechnical analytical data.
- E. Provide a soil type report, in compliance with the City Design Manual, signed and sealed by a Professional Engineer, registered in the State of Texas. This should consist of a letter report addressing the OSHA soil types and required trench safety system to be included in the construction specifications.
- F. The Engineer shall obtain and review boring logs by others. While the Engineer is not responsible for the accuracy of these borings, this information, along with boring logs gathered during the records review, are to be included in the Geotechnical Engineering Recommendations section of the geotechnical report. Include these logs in the appendix.
- G. At each boring location take surface and subsurface roadway core within the existing pavement area to determine the existing pavement section, including the thickness of the pavement, base and sub grade, and material types.
- H. If the potential for contamination exists, or if contamination is encountered at a bore hole location, the Engineer shall immediately notify the Director before proceeding. Comply with all applicable local, state, and federal environmental guidelines.

B. Standards and Guidelines:

Construction Sequencing and TCP shall be in accordance with general traffic engineering principles and practices governing traffic control during construction as prescribed by the guidelines of the "Texas Manual on Uniform Traffic Control Devices" (TMUTCD), and City of Tomball requirements.

1. The construction of the Project should be scheduled or sequenced to minimize the down time for the contractor and to maximize the utilization of space for the travelways. Sequencing is accomplished by partitioning the Project into construction phases, which may be further segmented into steps. A "*phase*" is a major portion of the construction, scheduled in a logical progression toward Project completion. A "*step*" is a minor portion of the construction, subordinate to a particular phase.
2. The TCP should clearly distinguish areas of construction with areas of traffic for each phase. The work zone is also to be distinguished from the actual construction limits.
3. Maintain minimum emergency travel lane width of 10 feet at all times. If space is not available within the existing roadway, temporary widening of the pavement section may be necessary to provide a minimum 10-foot emergency travel lane.
4. The TCP should contain the following basic elements:
 - a. Project approach signing.
 - b. Phasing overview (as applicable).
 - c. Detailed plans for each phase of construction and any designated steps.
 - d. Necessary TCP details, including appropriate City standards (Barricade & Construction, etc.), typical lane closures, and intersection details.

C. Drawings:

1. Engineer shall verify and show existing field conditions of roadways and access to adjacent properties.
2. Engineer shall show traffic control devices and location of traffic flow, indicated by direction arrows, for each phase of the Project.
3. Engineer shall define construction areas by appropriate identifications, such as cross-hatching. Show all barricades, traffic signing, traffic signal changes, detour routing, and special intersection treatment details.

- A. Refer to City of Tomball Standard Details and Standard Specifications.
- B. Refer to City of Tomball "Storm Water Management Handbook for Construction Activities." If the City hasn't adopted a plan at contracting point in time, Consultant to identify alternative guideline for approval.
- C. The Engineer shall prepare the following documents in accordance with the above referenced standards and as described below:
 - 1. Pollution Prevention Plan Report, as required.
 - 2. Pollution Prevention Plan drawings having a minimum scale of 1 inch equals to 100 feet and showing all existing and proposed streets, Project alignments, applicable notes, proposed storm water conveyance systems, overland flow arrows, and pollution prevention measures.
 - 3. Pollution Prevention Plan specifications.
 - 4. Pollution Prevention Plan construction quantities and estimate of Construction Cost.
 - 5. The EPA Notice of Intent form (if required).

3.7 Existing Conditions Survey and Analysis - *NOT USED*

3.8 Street Lighting Plans

- A. For new roadway construction or complete roadway reconstruction, It is the City of Tomball's practice to upgrade street lighting along all roadways to current recommended levels as part of the Capital Improvement Projects.
- B. Street Lighting plans shall be provided at 1"=40' scale (minimum) consistent with project overall layouts.
- C. Design consultant will prepare the lighting layout, spacing the streetlights at a distance of approximately 200 feet $\pm$ 10% for driveway/utility conflicts. For roadway sections less than four lanes, stagger the streetlights along both sides of the roadway, maintaining the 200 foot $\pm$ 10% spacing. The design should include any existing street lighting and generally begin layouts at intersections working away from them..
- D. Street Lighting plans shall show the proposed street lighting locations, electrical conduits, pull boxes and power feed locations prepared in accordance with published CenterPoint Energy specifications.
- E. The lighting layout will be submitted to the City for review and approval. Upon approval, the approved layout will be submitted to CenterPoint Energy for review and

- A. Engineer submits set of plan drawings showing results of topographic survey and location of existing public and private utilities.

4.3 50% Drawings

- A. Engineer submits sets of construction drawings including, as a minimum:
 - 1. Cover Sheet
 - 2. Overall Layout Sheet
 - 3. Survey Control Map
 - 4. Plan and profile drawings of existing conditions and existing utilities
 - 5. Plan drawings of proposed improvements
 - 6. Profile drawings of proposed improvements at critical locations and potential conflicts
 - 7. Locations of crossings (RR, HCFCD, TXDOT, etc.), potentially contaminated areas, and proposed real estate acquisitions
 - 8. For Facilities Projects – process flow diagrams; piping and instrumentation diagrams, as applicable
 - 9. For Water & Wastewater Projects – design calculations for the proposed improvements and system head curves for pumps
- B. Engineer submits table of contents for construction specifications.
- C. Engineer submits design review checklists (as available).
- D. Engineer makes initial coordination effort with private utilities regarding potential conflicts for the project.

4.4 70% Drawings and Draft Specifications

- A. Engineer submits sets of completed construction drawings including as a minimum:
 - 1. Cover Sheet
 - 2. Index Sheet (list of drawings)
 - 3. Overall Layout Sheet
 - 4. Survey Control Map
 - 5. General Notes Sheets (as required)
 - 6. Plan and profile drawings of existing conditions, existing utilities and proposed improvements
 - 7. Details of crossings (RR, HCFCD, TXDOT, etc.), potentially contaminated areas, and proposed real estate acquisitions
 - 8. Standard Details
 - 9. Traffic Control Plan and Detour Plans (if required)
 - 10. Storm Water Pollution Prevention Plan (if required)

4.6 Bid-ready Drawings and Specifications

- A. Engineer submits bid-ready construction documents (signed and sealed construction drawings with all required signatures; and completed construction specifications).
- B. Engineer documents that application for City Building Permit is approved, if applicable.

4.7 Bidding Services

- A. Engineer completes services as per requirements of the Contract and the Scope of Services.



O'Malley Engineers, L.L.P.

Craig Kankel, P.E.
Robert C. Schmidt, P.E.
Ed Addicks, P.E.

July 24, 2008

Mr. Mark A. McClure, P.E., Director of Engineering & Planning
City of Tomball
401 W. Market St., Suite C
Tomball, Texas 77375

Re: Fee Proposal For City of Tomball
Rudolph Road Utility Relocation and
Paving & Drainage Reconstruction Project

Dear Mark:

O'Malley Engineers is pleased to present this fee proposal for the referenced project. We very much appreciate the opportunity to again work with the City of Tomball.

We have reviewed the City's "Exhibit A, Scope of Services and Deliverable Documents, City of Tomball Contract for Engineering Services" and have crossed out the items we feel do not apply for this project. The proposed revisions to "Exhibit A" are attached to this letter.

As previously discussed, our assignment will consist of Phase I – Preliminary Design for the entire Rudolph Road segment between Huffsmith Road and Zion Road including utility relocations/upgrades storm sewer and street lighting. Our proposed lump sum fee for the Phase I basic services portion of the entire project is \$18,000.00. In addition, our project scope will include preparation of plans and specifications along with construction phase services for the initial phase of improvements to Rudolph Road outlined in the PER from Huffsmith Road to just across the HCFCD drainage ditch. Based on a very rough construction cost estimate of \$800,000, we propose a lump sum fee of \$47,400.00 for Phase II – Final Design and \$15,800.00 for Phase III – Construction Phase Services for the first segment of improvements to Rudolph Road.

The additional services we anticipate to be required for this project are listed below with the proposed method of compensation for each:

1. Topographic Surveys for Design (Additional Service for Preliminary Report Phase) – performed by our subconsultant, Cobb, Fendley & Associates, Inc., for a lump sum fee of \$15,750.00.
2. Geotechnical Investigations (Additional Service for Preliminary Report Phase) – performed by our subconsultant, LFC, Inc., for a lump sum fee of \$5,750.00.
3. Phase I Environmental Site Assessment (Additional Service for Preliminary Report Phase) – performed by our subconsultant, LFC, Inc., for a lump sum fee of \$2,500.00.

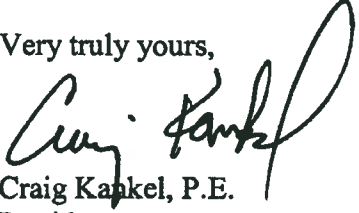
Mr. Mark A. McClure, P.E.
City of Tomball
Page 2 – 7/24/08

4. Phase II Environmental Site Assessment (Additional Service for Preliminary Report Phase) – performed by our subconsultant, LFC, Inc., for an estimated fee of \$25,000.00.
5. Traffic Control Plan (Additional Service for Segment One Only) – lump sum fee of \$6,500.00.
6. Storm Water Pollution Prevention Plan (Additional Service for Segment One Only) – lump sum fee of \$4,500.00.
7. Street Lighting Plans (Additional Service for Segment One Only) – lump sum fee of \$2,500.00.
8. Document reproduction - ~~lump~~ estimated fee of \$10,000.00

Also enclosed with this letter are copies of our insurance certificates, an executed "Conflict of Interest Questionnaire" and our "Schedule of Charges" for hourly services.

Should this proposal meet your approval, please have the engineering contracts prepared and forwarded to us for signature. If you have any comments or questions, please contact me.

Very truly yours,


Craig Kappel, P.E.
President

CK:kl

Enclosures

Change requested by Mark
McClure on 9/22/08



Regular City Council

Agenda Item

Meeting Date: May 3, 2010

Data Sheet

Topic:

Approve Continued Funding for Professional Services on Existing Agreement with Lockwood, Andrews, and Newnam, Inc., in the Amount of \$449,974.00 and to Authorize Director of Engineering and Planning to Request that Harris County Flood Control District (HCFCD) Develop Interlocal Agreement for Further Council Consideration

Background:

Lockwood, Andrews, & Newnam, Inc. (LAN) submitted the Willow Creek Tributary M124-00-00 Feasibility Study for Extension Improvements report in April 2008 to the City of Tomball. LAN identified several feasible options pertaining to channel alignments, mitigation, and channel design frequencies. The City of Tomball has selected a design frequency for the channel, channel alignment, and mitigation options: Channel Alignment A, 1% storm frequency design, regional detention basin location 1, and mitigation option 3. Mitigation option 3 provides regional detention facilities for lost floodplain storage and channel mitigation only. Developers will be required to provide their own mitigation for increased impervious cover. The City accepted alternative was approved as a result of a Technical Review Committee (TRC) Meeting, conducted October 14, 2008 and summarized in a Record of Decisions and Action Items (RDAI), issued on November 5, 2008. The report and RDAI can be viewed on the City web page under the Eng/Planning tab, reference Capital Improvement, report titled "Willow Creek Tributary M124-00-00 Feasibility Study for Extension Improvements".

The results of the project to-date have been summarized in 30% preliminary plan and profile drawings and typical sections of the recommended improvements (sample sheets attached for reference).

Payment for Basic Services of the Engineer is proposed as a lump sum (LS) amount. Payment for Additional Services of the Engineer is proposed on a reimbursable basis with a maximum not-to-exceed (NTE). Payment for Additional Services performed by a consultant will be determined on a contract by contract basis. This lump sum and NTE amounts are calculated based on the level of effort quantified per correspondence dated April 12, 2010 (attached), which is summarized below.

The basic services for this phase of the work amount to a lump sum of \$188,149. Additional services include not to exceed amounts and include \$184,996 - Utility Assessment and Identification, \$18,700 - Utility Testing Specialist, \$36,130 - Identify Environmental Assessments, \$22,000 - Surveying, for a total Additional Services amount of \$261,825. Therefore, the requested addition to the existing contract in the amount of \$449,974.00 will complete this phase of the work. The additional phases to complete the design have been preliminarily scoped in the attached summary information dated April 26, 2010. Engineering and Planning Department proposed utilizing funding based on the March 2010 CIP Report. The original contract titled "Work Authorization Based Upon Master Agreement Between Owner and Engineer for Professional Services" was executed June 28, 2007.

Based on previous project review meetings and staff request for HCFCD project funding potential participation, HCFCD representatives requested that City staff confirm with governing body and if determined that Council will consider a funding agreement, HCFCD representatives will start the process of their possible participation codified in an Interlocal Agreement.

The current available balance of the M124 project is \$ 338,628, therefore additional funding in the amount of

\$ 111,346 is to be transferred from the Michel Rd project.

Origination:

Engineering and Planning Department

Recommendation:

Engineering and Planning Department recommends Council approval of the contract amendment and Council agreement to request HCFCD prepare a draft Interlocal Agreement for further consideration.

Funding: No

Funds will be transferred from Account: 154-6409 Project # 74 Michel Rd Improvements and Ext. to Account: 154-6409 Project # 103 M124 Drainage Ditch Project

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:

LANProposal05-03-10BackupMaterialSummary
March 2020 CIP Report
30PercentSamplePlans05-03-10

April 12, 2010

Attention: Mr. Mark McClure, Director of Engineering and Planning
City of Tomball
501 James St.
Tomball, TX 77375

**Re: Proposal for Engineering Services
Extension of Channel M124-00-00
Preliminary Engineering Report Phase 2**

Dear Mr. McClure,

Lockwood, Andrews, & Newnam, Inc. (LAN) is pleased to submit this proposal for Preliminary Engineering, Phase 2, associated with the planned improvements to M124-00-000. The proposed improvements will increase the capacity and improve the level of service of the channel as well as provide adequate outfall for existing and future development. A detailed description of the scope of services is included as **Attachment "A"**. The scope of services generally includes the following tasks:

1. Identify and assess utility crossings along alignment and basins.
2. Identify environmental impact along the alignment and basins.
3. Updates for additional culvert crossings and detention basins.
4. Coordination with other agencies.
5. Preliminary engineering report.
6. Prepare CLOMR.

The findings of the investigations and design modifications of the project will be updated in the preliminary engineering report (PER). The goal of the PER effort will be to identify critical design components including necessary right-of-way, environmental impacts and utility conflicts. The development of the preliminary engineering report will build upon the feasibility study completed in April of 2008 and the on-going Preliminary Engineering Report –Phase 1.

We propose to perform these tasks including Basic and Additional Services for an amount of \$449,974. **Attachment "B"** provides a detailed man hour estimate of the fees associated with each of the project tasks. We are prepared to begin Phase 2 immediately and anticipate completing this phase of the project within 12 months of receiving the Notice to Proceed.

Please feel free to contact me at 713-821-0380 or 713-269-7782 if you have any additional questions.

Sincerely,



Derek St. John, P.E.
Project Manager

DSJ: pwp

Attachments

**ATTACHMENT A
CITY OF TOMBALL
M124-00-00 Preliminary Engineering Report Phase 2**

PROJECT OVERVIEW

This scope is the second (2nd) phase of the Preliminary Engineering Report (PER) for the proposed M124 channel improvements. Phase 1 established a channel alignment, established survey controls, performed a geotechnical analysis for the channel design, prepared 30% plan and profile drawings, and prepared an initial cost analyses with construction options for project phasing.

The work performed in the two PER phases is guided by the April 2008 report, **Willow Creek Tributary M124-00-00 Feasibility Study for Extension Improvements** in which LAN identified several feasible options pertaining to channel alignments, mitigation, and channel design frequencies. The City of Tomball selected from the Report the Channel Alignment A, 1% storm frequency design, regional detention basin location 1, and mitigation option 3. Mitigation option 3 provides regional detention facilities for lost floodplain storage and channel mitigation only. Developers will be required to provide their own mitigation for increased impervious cover.

The following scope details the services to be provided for **Phase 2** of the Preliminary Engineering Report. The goal of the project is to increase the channel capacity of M124 and to alleviate the drainage problems in the area. The project limits extend north (upstream) from Treichel Road, across FM 2920, and terminate at FM 249.

LAN's quality assurance and quality control procedures will be followed throughout the preliminary engineering phase. Progress reports will be submitted with the invoice documenting the work accomplished. Progress meetings will be scheduled on an as-needed basis with a minimum two-month frequency.

SCOPE OF SERVICES

The scope of services consists of basic and additional services as identified.

Scope of Basic Services

1. Identify and Assess Utility Crossings Along Alignment and Basins

Quantify and locate the utilities that cross the proposed channel alignment and detention basin locations. LAN will coordinate the utility investigation process with So-Deep, Inc., a specialist in this field. A report will be developed showing the location, status, and characteristics of each utility crossing of the project alignment.

The report will provide the information necessary to contact each of the utility owners to begin negotiations to determine who is responsible for the costs of relocation, adjustment or structural support of the utility. The limitations of this task are not known and an estimate is **not** included in the fee estimate. An additional service can be negotiated when the effort to complete the task has been determined. See Task 5 in the Additional Services section of this proposal.

2. Identify Environmental Impact along the Alignment and Basins

LAN will coordinate the services of an environmental consultant that will identify the wetland areas along the route. A report will be produced that will identify issues and make recommendations regarding any required changes to the project alignment.

3. Updates for Additional Culvert Crossings and Detention Basins

The following tasks will be performed to update hydrology, hydraulics, and the plan and profile drawings to add the four channel crossing structures added to the project:

- Design of new structures
- Modeling for new structures
- Update drawings with information for new structures
- Update the detention basin weir calculations with HCFCD's new Side Discharge Weir Requirements.
- Analyze additional alternative detention basin location east of the proposed channel and provide cost estimates for comparison of least expensive location.

4. Coordination with other Agencies

Several coordination meetings are anticipated with HCFCD, Harris County and TxDOT. The project is intended to serve as an outfall for ongoing TxDOT improvements and it crosses the TxDOT highway FM 2920. Discussions will be held with TxDOT pertaining to the Advanced Funding Agreement for the project.

LAN will assist the City with formalizing agreements with:

- HCFCD
- Harris County
- TxDOT

5. Preliminary Engineering Report

Prepare a Preliminary Engineering Report (PER) for the project to identify the utility conflicts and environmental issues, show the latest alignment and ROW, prepare cost estimates and schedule. The report will include the following:

- Document utility conflicts with the alignment and detention basins.
- Document environmental impacts along the alignment and detention basins.
- Analyze feasibility of alternative detention basin east of the channel and provide cost estimates of both basins to aid selection of proposed detention location.
- Update configuration of the channel and detention basin and 30% plan & profile drawings.
- Prepare cost estimates

- Update project phasing plan
- Update schedule

LAN will provide 4 copies of the PER report with a PDF. The 30% plan and profile drawings will be an appendix in the report.

6. Prepare CLOMR

The Phase 1 Preliminary Engineering Report (PER) - Phase 1 Task 7.0, was not submitted per City request to consolidate the PER effort at the end of Phase 2. The compensation for Phase 1 PER Task 7.0 of \$26,694 will be utilized for the preparation of a CLOMR to FEMA. This CLOMR will be a separate hydraulic report submitted at the end of Phase 2 that will obtain preliminary FEMA approval of the project.

LAN will provide 4 copies of the CLOMR report with a PDF.

7. Project Management and Coordination

Throughout the project, coordination meetings will be organized as necessary with City Staff to discuss project issues and track overall progress. Project status reports will accompany each invoice documenting progress and defining outstanding issues.

Scope of Additional Services

1. Utility Assessment and Identification

The sub consultant So-Deep, Inc. will be used to identify and research the utilities along the route. The operational status, location and other characteristics will be obtained by So Deep. This information will provide the basis for the design of utility adjustments or channel adjustments as required. So Deep will also determine status of unknown and inactive pipelines.

2. Utility Testing Specialist

If So-Deep cannot ascertain the needed characteristics of certain utility lines, then the services of a company that performs specialty testing and investigation may be required. The number of locations that may need this service will not be discovered until So-Deep's investigation is in progress. A budgetary number is provided.

3. Environmental Study:

The Environmental Consultant will identify the wetland areas along the route and perform additional analysis for the reaches of the proposed channel that will not qualify for the Nationwide Permit. This will allow judgments to be made regarding alignment modifications that may need to be considered due to wetland areas.

The consultant will need to access private property along the channel route. It is assumed that the City will mail letters out to the residents requesting permission to perform the investigation.

4. Additional Topographic Survey Data

Surveying services will be provided on an as needed basis and the fee shown is a budgetary number that will not be exceeded without approval by the City. The surveyor will need to stake the ROW for the environmental and utility investigations. In addition, the surveyor will need to survey the limits of the wetlands, if any, and utility bore hole locations.

5. Tasks Identified but not Scoped

Negotiation with Utility Owners

Since the limitations of this scope item cannot be predicted at this time, this service will be provided on a reimbursable basis. The owners of each utility conflict along the project route will have to be contacted to discuss if relocation or adjustment of the utility is necessary and who will be responsible for the cost. The cost of the utility relocation or adjustment will have to be estimated. A significant level of effort could be expended on this service but cannot be estimated at this time. An additional service should be scoped at the time when the number of conflict negotiations has been identified.

Design and Modeling Revisions Required for Alignment Changes

Depending on the results of the Utility and Environmental investigations, the project alignment may be required to follow a new route. The following tasks will have to be performed as a result:

- Redefine the alignment geometry
- Revise the hydraulic models for the channel and the pond
- Revise the pond geometry
- Revise the plan and profile drawings

The hours and fee for these changes will vary depending on the degree of change.

BASIS OF COMPENSATION:

Payment for Basic Services of the Engineer is proposed as a lump sum (LS) amount. Payment for Additional Services of the Engineer is proposed on a reimbursable basis with a maximum not-to-exceed (NTE). Payment for Additional Services performed by a subcontractor will be determined on a contract by contract basis. These lump sum and NTE amounts are calculated based on the level of effort quantified in **Attachment B**, which is summarized below.

Total Basic Services	Lump Sum Fee	\$188,149
Total Additional Services	Reimbursable NTE	\$261,825
Total for all Services		\$449,974
*Additional Services may be required for Negotiations with Utility		

Owners and for Project Alignment Changes and are not reflected in the fees above.

SCHEDULE FOR COMPLETION:

We estimate the project will take approximately 12 months to secure permissions for property access, perform the Utility and Wetland investigations, and perform the Engineering work.

Attachment B
Preliminary Engineering Report Phase 2 - M124 Extension
Fee Calculation for Basic and Additional Services

Basic Services for Phase 2										
		Labor Type						Hours Total	Fee Total	
		Project Director \$185	Project Manager \$178	Project Engineer \$130	Engineer \$105	CAD Designer \$100	Clerical Staff \$55			
1.0	Identify and Assess Utility Crossings along Alignment and Basins									
	1.1	Coordination of utility evaluation						50	\$6,595	
	1.2	Update drawings with information collected						88	\$9,959	
	1.3	Field reconnaissance (3 trips)						48	\$6,608	
	1.4	Evaluation of Results						48	\$7,008	
		0	50	88	91	0	5	234	\$30,170	
2.0	Identify Environmental Impact along the Alignment and Basins									
	2.1	Coordination of environmental investigations						20	\$3,176	
	2.2	Meetings to discuss impacts of findings						16	\$2,464	
	2.3	Evaluation of Results						24	\$3,696	
		0	32	28	0	0	0	60	\$9,336	
3.0	Updates for Additional Culvert Crossings and Detention Basins									
	3.1	Modeling for new structures						80	\$10,380	
	3.2	Design of new structures						80	\$10,380	
	3.3	Update 30% Plan & Profile drawings with information for new structures						100	\$10,225	
	3.4	Additional Modeling for HCFCD's new Side Discharge Weir Requirements						112	\$14,344	
	3.5	Analyze alternative detention basin site						96	\$12,264	
		0	36	249	103	80	0	468	\$57,593	
4.0	Coordination with Other Agencies									
	4.1	Preparation and Meetings with HCFCD						20	\$3,080	
	4.2	Preparation and Meetings with Harris County						10	\$1,540	
	4.3	Preparation and Meetings with TxDOT						20	\$3,080	
		0	25	25	0	0	0	50	\$7,700	
5.0	Preliminary Engineering Report									
	5.1	Prepare and update cost estimates						70	\$9,080	
	5.2	Update project phasing plan						40	\$6,160	
	5.3	Update schedule						30	\$4,380	
	5.4	Prepare Preliminary Engineering Report and CLOMR						240	\$30,920	
	5.5	QA/QC						95	\$12,070	
		0	95	240	100	40	0	475	\$62,610	

Preliminary Engineering Report Phase 2 - M1/24 Extension						
	Fee Calculation for Basic and Additional Services					
6.0	Prepare CLOMR					
	6.1 Prepare CLOMR report					Paid under Phase 1 Task 7.0
	6.2 Generate GIS support exhibits					Paid under Phase 1 Task 7.0
	6.3 Address comments					Paid under Phase 1 Task 7.0
	6.4 QA/QC					Paid under Phase 1 Task 7.0
	Task 5 Subtotal	0	0	0	0	0 \$0
7.0	Project Management / Coordination					
	6.1 Project Management - Contract Agmt., Prj. Acctnt, Prj. Scheduling etc.	40				40 \$7,120
	6.2 City of Tomball Meetings (8)	40	40			80 \$12,320
	Task 6 Subtotal	0	80	40	0	120 \$19,440
8.0	Expenses - Mileage, Reproduction and Delivery					\$1,300
	Subtotal for Basic Services - Fixed Fee	0	318	670	294	5 1,407 \$188,149

Additional Services for Phase 2

Additional Services for Phase 2										Total Estimated Fee		
								Fee	Mult			
1.0	Utility Assessment and Identification - So Deep, Inc											
1.1	Quality Level A (Test Hole) Services									\$18,260.72	1.1	\$20,087
1.2	Quality Level B & Utility Characterization Services									\$102,530.32	1.1	\$12,783
1.3	Alternative Basin Quality Utility Services									\$47,386.98	1.1	\$52,126
	Task 1 Subtotal											\$184,996
2.0	Utility Testing Specialist - Unspecified											
2.1	Specialty Testing for Unknown number of utilities - Budget Estimate Only									\$17,000.00	1.1	\$18,700
	Task 2 Subtotal											\$18,700
3.0	Identify Environmental Issues with the Alignment - Corrigan Consulting											
3.1	Task 1: Phase 1 ESA									\$11,560.00	1.1	\$12,716
3.2	Task 2: Wetlands, JD & T&E									\$21,285.00	1.1	\$23,414
	Task 3 Subtotal											\$36,130
4.0	Additional Survey Data as Required											
4.1	Task 1: Staking for Environmental, Additional Data for Design etc.									\$20,000.00	1.1	\$22,000
	Task 4 Subtotal											\$22,000
	Subtotal for Additional Services for Phase 2- Reimbursable - Not to Exceed											\$261,825
	Total for All Services for Phase 2											\$449,974

Willow Creek Tributary M124-00-00 Project Phasing Outline
Prepared for the City of Tomball

LAN submitted a draft Feasibility Study for Willow Creek Tributary M124-00-00 in April 2008. LAN identified several options that were available; pertaining to channel alignments, mitigation options, and channel design frequencies. The City of Tomball was tasked with selecting a design frequency for the channel, channel alignment, and mitigation options. The City has selected: Channel Alignment A, 1% storm frequency design, regional detention basin location 1, and mitigation option 3. Mitigation option 3 provides regional detention facilities for lost floodplain storage and channel mitigation only. Developers will have to provide their own mitigation for increased impervious cover.

After the channel alignment and options were finalized in the Feasibility Study, LAN and the City of Tomball have developed a design plan to construct the channel and basin. LAN has identified that the project will be long term and a phasing plan will have to be implemented to allow engineering design, survey, utility conflict resolution, construction, and developers to seamlessly work together.

The next phase is to develop a preliminary engineering report documenting the environmental and utility impacts of the channel alignment to develop a plan of action for final design and right of way needs and acquisition. The preliminary engineering report has been divided into two stages: Phase 1 PER and Phase 2 PER. Phase 1 PER has been completed as of May 2010. Phase 1 PER included survey, geotechnical engineering to determine side slope stability of the basin and channel, prepared 30% plan and profile drawings of the channel and basin with culverts structures under proposed roadway crossings, and finalized the right of way needs and channel alignment. Phase 2 PER will document any impacts to the channel alignment and detention basin from the environmental and utility studies. The pipelines will be identified crossing the channel and basin and will be determined as either active or inactive with the size, depth, and material transported in the line. The Phase 2 PER will document the findings of Phases 1 and 2 with a preliminary engineering report complete with cost estimates to construct the project and final right of way needs.

The design phase will prepare final plan and profile drawings ready for bidding for the construction of the channel and basin complete with the utility and environmental impacts resolved. The design phase will also acquire the right of way recommended in the Phase 2 PER.

The following table summarizes the estimated costs for the project:

Service	PER Stage 1	PER Stage 2	Design Phase	Construction Phase	Totals
Survey	\$27,786				\$27,786
LAN Design	\$166,501	\$188,149	\$628,513		\$983,163
Geotech	\$31,350				\$31,350
So-Deep Pipeline Study		\$203,696			\$203,696
Phase 1 Environmental		\$12,716			\$12,716
Wetland Delineation		\$23,414			\$23,414
Additional Survey		\$22,000	\$24,420	\$12,100	\$58,520
Metes & Bounds Survey			\$95,700		\$95,700
Right of Way Acquisition Services			\$263,175		\$263,175
Right of Way Acquisition			\$10,900,000		\$10,900,000
Pipeline Relocation (Estimated)				\$5,000,000	\$5,000,000
Construction Costs (no right- of-way)				\$16,040,200	\$16,040,200
Construction Phase Services				\$320,000	\$320,000
Totals	\$225,637	\$449,974	\$11,911,808	\$21,372,300	\$33,959,719

Engineering & Construction Phasing Outline

1. Phase 1: Preliminary Engineering Report (PER) Phase 1

a. Subconsultant Coordination:

- i. Preliminary survey
 1. Reposition prior topographic surveys in correct coordinate system and datum to match TSARP datum.
 2. Supplement prior survey with new survey data.
 3. Verify property lines and update.
- ii. Coordinate with So-Deep, Inc. to get proposal for the pipeline study along the corridor for phase 2.
- iii. Coordinate with Environmental consultant to determine permitting requirements, wetland assessments, and impact report. Get proposal for phase 2.
- iv. Coordinate with geotechnical engineer to determine the maximum slopes for right-of-way estimates for project limits and soil conditions.

b. Prepare phasing plan for the project for all phases.

c. Preliminary 30% Plan & Profile Drawings:

- i. Develop preliminary plan and profile drawings from survey of channel and basin for the final channel configuration for cost estimate and planning purposes.
 1. Place alignment in best location in relation to property lines.
 2. 2 Reviews
- ii. Obtain HCFCFCD & Tomball approval of cross section and basin width and features.
 1. Have meetings with HCFCFCD & Tomball to discuss channel cross section features.
- iii. Coordinate with HCFCFCD about any matching funds or final maintenance of channel and basin.

d. Zoning Map

- i. Coordinate with the City of Tomball and Harris County to restrict development along channel alignment and regional detention basin location.
 1. Develop Project Phasing Plan.
 2. Develop Schedule.

2. Phase 2: Preliminary Engineering Report (PER) Phase 2

a. Have Pipeline and Environmental studies completed:

- i. Get So-Deep utility study completed.
 1. Determine status of unknown and inactive pipelines.
 2. Obtain cost estimates for pipeline removals or relocations.
 - a. Hire third party engineer to check costs with owners estimate for relocation.

- ii. Get Environmental study completed.
- b. **Have Environmental consultant complete permitting requirements, wetland assessments, and impact report.**
- c. **Revised 30% Preliminary Plan & Profile Drawings:**
 - i. Advance preliminary plan and profile drawings from survey of channel and basin for both interim and final channel configurations.
 - 1. Place alignment in best location in relation to property lines.
 - 2. Finalize hydrology & hydraulics for channel and basin.
 - 3. Finalize right of way needs.
 - ii. Coordinate with other utility agencies for utility conflicts and resolution.
- d. **Coordination:** Coordinate efforts with HCFCD, Harris County and TXDOT.
 - i. Formalize agreements between the City and HCFCD.
 - ii. Formalize agreements between the City and Harris County.
 - iii. Formalize agreements between the City and TXDOT.
- e. **Preliminary Engineering Report (PER)**
 - i. Complete preliminary engineering report (PER) for the project that documents the width of right-of-way needed for final channel/basin configurations, cost estimates, additional survey needed, and scheduling. Include the environmental and pipeline costs and studies in the PER.
 - 1. Final configuration channel and basin
 - 2. Develop Project Phasing Plan.
 - 3. Develop Schedule.
 - 4. Develop environmental and pipeline costs and studies in the PER.
- f. **Preliminary FEMA CLOMR**

3. Design Phase – 50% and 100% submittals.

- a. Obtain Final Survey of FM 249, TXDOT basins, existing channel, utility crossing horizontal and vertical locations, and wetland areas.
- b. Develop final plan and profile drawings from survey of channel and basin including culvert design and cost estimates. (Estimated at \$ \$410,000).
- c. Develop plan and profile drawings for pipeline relocation or removals (estimated at \$150,000).
- d. Coordinate with other utility agencies for utility relocations (i.e., Centerpoint & SBC).
- e. Prepare and obtain approval of hydrology & hydraulics impact analysis report (estimated at \$30,000).
- f. Prepare Corps Nationwide Permits and have them approved (estimated at \$20,000).

- g. Coordinate with environmental permitting as needed.
- h. Start and finish right of way acquisition services.
- i. Prepare metes and bounds for row acquisition.

4. Construction Phase: Construct final channel, basin, and bridge over FM 2920

- a. Surveyor to establish control.
- b. Construct bridge or culverts at FM 2920, and other crossings.
- c. Construct final channel configuration downstream to upstream.
- d. Construct final basin.
- e. Prepare LOMR.

Summary of Contracts for City of Tomball

To summarize the contracts to between Tomball and LAN to date, the following table has been prepared:

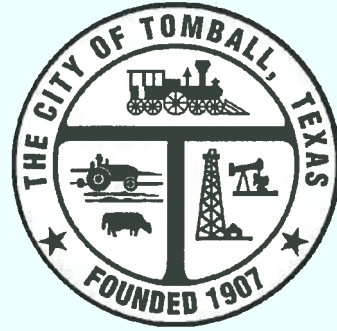
Item No.	Description	Amount
Feasibility Study		
1	Feasibility Study Original Authorization	\$ 339,065.00
2	Feasibility Study Amendment 1 - (Additional Survey)	\$ 13,139.50
3	Feasibility Study Amendment 2 - (Lowe's Detention Pond Analysis & Review of Drainage Report for Spring Creek Commons)	\$ 41,320.00
4	Feasibility Study Amendment 3 - (Surveying and Temporary Drainage Solution) - Transferred from Feasibility Study Funds	\$ -
5	Total Feasibility Study Authorization	\$ 393,524.50
6	Total Feasibility Study Amount Invoiced	\$ 263,148.05
7	Remainder applied to PER Phase I	\$ 130,376.45
PER Phase 1		
8	Total PER Phase I Contract Amount	\$ 225,637.00
9	Feasibility Study Amount Applied to PER Phase 1	\$ (130,376.45)
10	Additional Authorization for PER Phase I	\$ 95,260.55
11	Total PER Phase I Amount Invoiced	\$ 198,943.00
12	Remainder applied to PER Phase 2	\$ 26,694.00
PER Phase 2		
13	Total PER Phase 2 Contract Amount	\$ 449,974.00
14	PER Phase 1 Applied to PER Phase 2 (Applied to CLOMR preparation, Task 6.0)	\$ (26,694.00)
15	Additional Authorization for PER Phase 2 (Added PER Phase 2 remainder to CLOMR Task 6.0)	\$ 449,974.00

March 2010 CAPITAL IMPROVEMENT PROJECT REPORT

Project Name	Prior Year Expenditures in All Funds	Fund	FY 2009-2010 Budget by Fund*	Amount Spent This FY 2009-2010 by Fund	Current Year Budget Remaining by Fund	Budget Remaining Minus Outstanding Contracts	Total Spent to Date in All Funds	% of FY 2010 Budget Spent
Agg Road Extension (Medical Complex)	\$ 498,361	GF EF	\$ 27,168 211,896	\$ 7,802 -	\$ 19,366 211,896	\$ 8,255 211,896	\$ 506,163 -	28.72% 0.00%
Barbara Street Drainage	9,663	GF	398,737	2,638	396,099	396,121	12,301	0.66%
Brown-Hufsmith Road Utilities	939,876	GF EF	2,414 311,256	- -	2,414 311,256	2,414 282,681	939,876	0.00% 0.00%
Brown-Hufsmith Road Phase 2	94,428	GF EF	382,797 15,000	29,482 -	353,315 15,000	245,000 15,000	123,910 -	7.70% 0.00%
Central Fire Station Renovation	102,144	GF	346,878	-	346,878	346,728	102,144	0.00%
Comprehensive Plan	206,344	GF EF	71,828 21,828	70,443 21,828	1,385 -	1,385 -	298,615	98.07% 100.00%
Hufsmith Sanitary Sewer Improvements	75,775	EF	331,251	24,507	306,744	299,002	100,282	7.40%
Hufsmith Water and Gas Improvements	102,718	EF	352,840	12,151	340,689	302,769	114,869	3.44%
Liberty Lane/Hicks Street Drainage	2,183,465	GF	200,180	3,752	196,428	154,876	2,187,217	1.87%
M118 Drainage Ditch	1,836,053	GF	43,735	6,936	36,799	17,274	1,842,989	15.86%
M124 Drainage Ditch	593,095	GF	549,937	130,145	419,792	338,628	723,240	23.67%
Mechanic Street	975,866	GF	2,246	-	2,246	-	975,866	0.00%
Michel Road Improvements and Ext.	1,638,773	GF	673,815	69,857	603,958	538,909	1,708,630	10.37%
Neal Road Utilities	21,600	EF	45,200	-	45,200	37,300	21,600	0.00%
Old Town Tomball Revitalization (Depot)	2,225,151	GF	280,289	884	279,405	279,405	2,226,035	0.32%
Quinn Road Improvements	120,515	GF EF	315,654 126,885	65,866 74,160	249,788 52,725	300,235 118,900	260,541	20.87% 58.45%

March 2010 CAPITAL IMPROVEMENT PROJECT REPORT

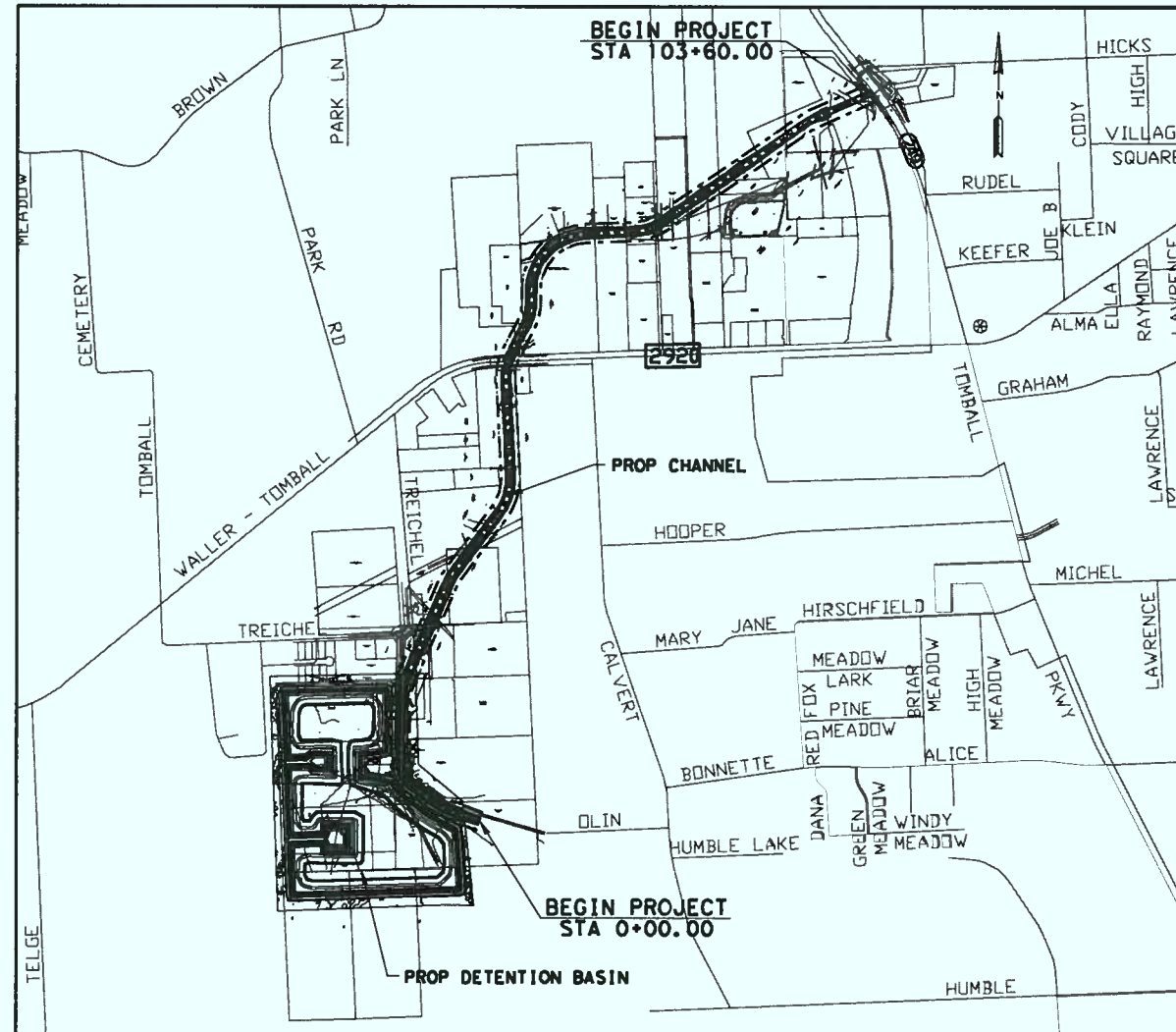
Project Name	Prior Year Expenditures in All Funds	Fund	FY 2009-2010 Budget by Fund*	Amount Spent This FY 2009-2010 by Fund	Current Year Budget Remaining by Fund	Budget Remaining Minus Outstanding Contracts	Total Spent to Date in All Funds	% of FY 2010 Budget Spent
Rudolph Road and Utilities	334,712	GF	364,030	15,804	348,226	278,409	354,341	4.34%
		EF	78,007	3,791	74,216	14,742		4.86%
TEDC Grant		Grant	251,056	34	251,022	247,001		0.01%
School Street Sidewalks	22,423	GF	7,577	-	7,577	7,577	22,423	0.00%
Tomball Hills Lift Station	46,125	EF	219,625	3,620	216,005	197,900	49,745	1.65%
Water Well #5	1,016,963	EF	2,447,845	2,104,864	342,981	-1,021,389	3,121,827	85.99%
TOTAL	\$ 13,044,050		\$ 8,079,974	\$ 2,648,564	\$ 5,431,410	\$ 3,621,018	\$ 15,692,614	32.7794%



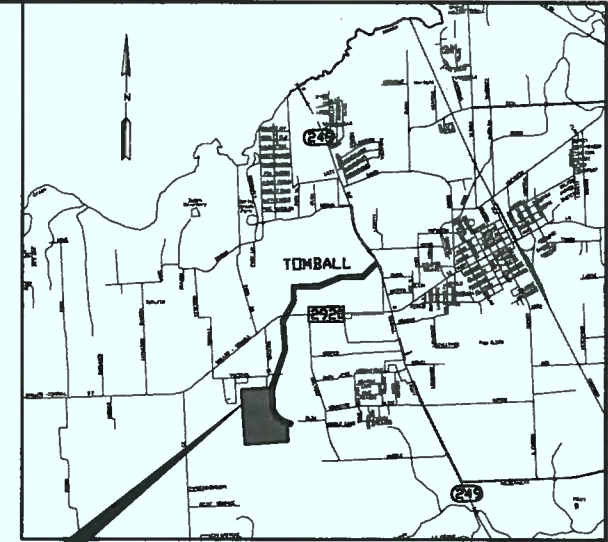
CITY OF TOMBALL

TOMBALL, TEXAS

M124-00-00 CHANNEL AND DETENTION BASIN



LOCATION MAP
1" = 1000'



PROJECT
LOCATION

VICINITY MAP
NOT TO SCALE
KEY MAP NO. 000

CITY OF TOMBALL

Ms. Gretchen Fagan - Mayor

Ms. Christal Kliever - Asst. City Manager

Mr. David Quinn - Councilman, Pos. 1

Mr. Mark Stoll - Councilman, Pos. 2

Mr. Bill Webb - Councilman, Pos. 3

Mr. Derek Townsend Sr. - Councilman, Pos. 4

Mr. Warren Driver - Councilman, Pos. 5

30% SUBMITTAL
APRIL 16, 2010

INTERIM REVIEW ONLY
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for permit, bidding or construction.

Engineer: PATRICK W. PHILLIPS
P.E. Serial No. 92917
Firm: LOCKWOOD, ANDREWS & NEWNAM, INC.
Firm No.: F-2614
Date: 4/16/2010

**Lockwood, Andrews
& Newnam, Inc.**
A LEO A DALY COMPANY
2825 Briarpark Drive, Houston, TX 77042

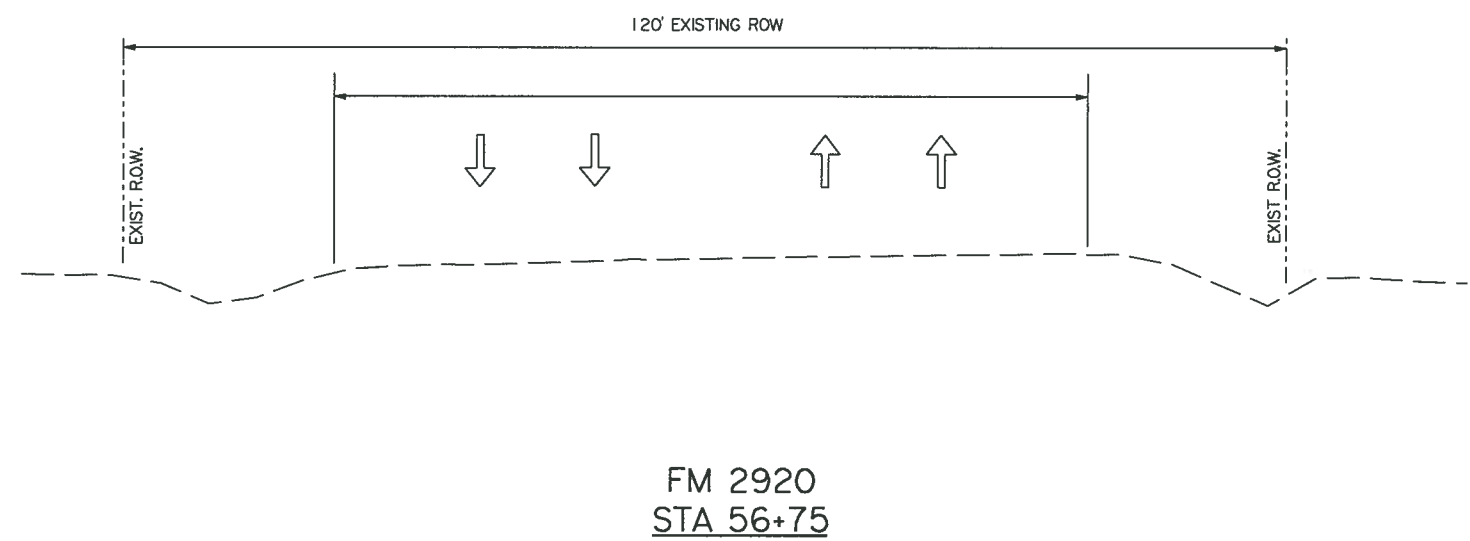
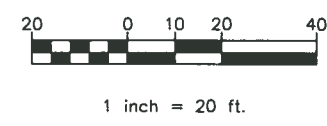
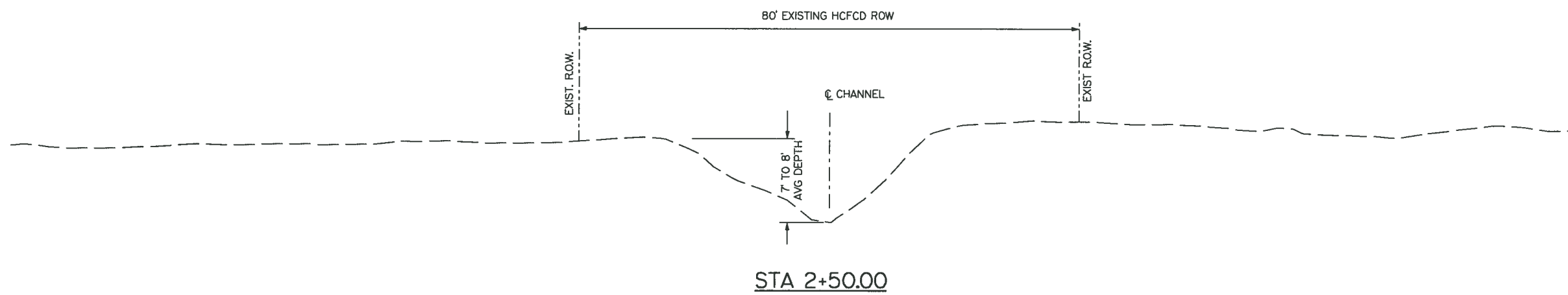
SHEET NO.	DESCRIPTION
1	TITLE SHEET
2	INDEX OF DRAWINGS
3	EXISTING TYPICAL SECTIONS
4	PROPOSED TYPICAL SECTIONS
5	PROPOSED TYPICAL SECTIONS
6	DETENTION BASIN TYPICAL SECTIONS
7	SHEET LAYOUT
8	CHANNEL PLAN & PROFILE SHEETS (SHEET 1 OF 37)
9	CHANNEL PLAN & PROFILE SHEETS (SHEET 2 OF 37)
10	CHANNEL PLAN & PROFILE SHEETS (SHEET 3 OF 37)
11	CHANNEL PLAN & PROFILE SHEETS (SHEET 4 OF 37)
12	CHANNEL PLAN & PROFILE SHEETS (SHEET 5 OF 37)
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15	CHANNEL PLAN & PROFILE SHEETS (SHEET 8 OF 37)
16	CHANNEL PLAN & PROFILE SHEETS (SHEET 9 OF 37)
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18	CHANNEL PLAN & PROFILE SHEETS (SHEET 11 OF 37)
19	CHANNEL PLAN & PROFILE SHEETS (SHEET 12 OF 37)
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21	CHANNEL PLAN & PROFILE SHEETS (SHEET 14 OF 37)
22	CHANNEL PLAN & PROFILE SHEETS (SHEET 15 OF 37)
23	CHANNEL PLAN & PROFILE SHEETS (SHEET 16 OF 37)
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25	CHANNEL PLAN & PROFILE SHEETS (SHEET 18 OF 37)
26	CHANNEL PLAN & PROFILE SHEETS (SHEET 19 OF 37)
27	CHANNEL PLAN & PROFILE SHEETS (SHEET 20 OF 37)
28	CHANNEL PLAN & PROFILE SHEETS (SHEET 21 OF 37)
29	CHANNEL PLAN & PROFILE SHEETS (SHEET 22 OF 37)
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40	CHANNEL PLAN & PROFILE SHEETS (SHEET 33 OF 37)
41	CHANNEL PLAN & PROFILE SHEETS (SHEET 34 OF 37)
42	CHANNEL PLAN & PROFILE SHEETS (SHEET 35 OF 37)
43	CHANNEL PLAN & PROFILE SHEETS (SHEET 36 OF 37)

SHEET NO.	DESCRIPTION
45	CHANNEL CROSS SECTIONS (SHEET 1 OF 12)
46	CHANNEL CROSS SECTIONS (SHEET 2 OF 12)
47	CHANNEL CROSS SECTIONS (SHEET 3 OF 12)
48	CHANNEL CROSS SECTIONS (SHEET 4 OF 12)
49	CHANNEL CROSS SECTIONS (SHEET 5 OF 12)
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54	CHANNEL CROSS SECTIONS (SHEET 10 OF 12)
55	CHANNEL CROSS SECTIONS (SHEET 11 OF 12)
56	CHANNEL CROSS SECTIONS (SHEET 12 OF 12)
66	DETENTION BASIN TYPICAL LAYOUT
67	DETENTION BASIN CROSS SECTIONS
68	DETENTION BASIN CROSS SECTIONS
69	DETENTION BASIN CROSS SECTIONS

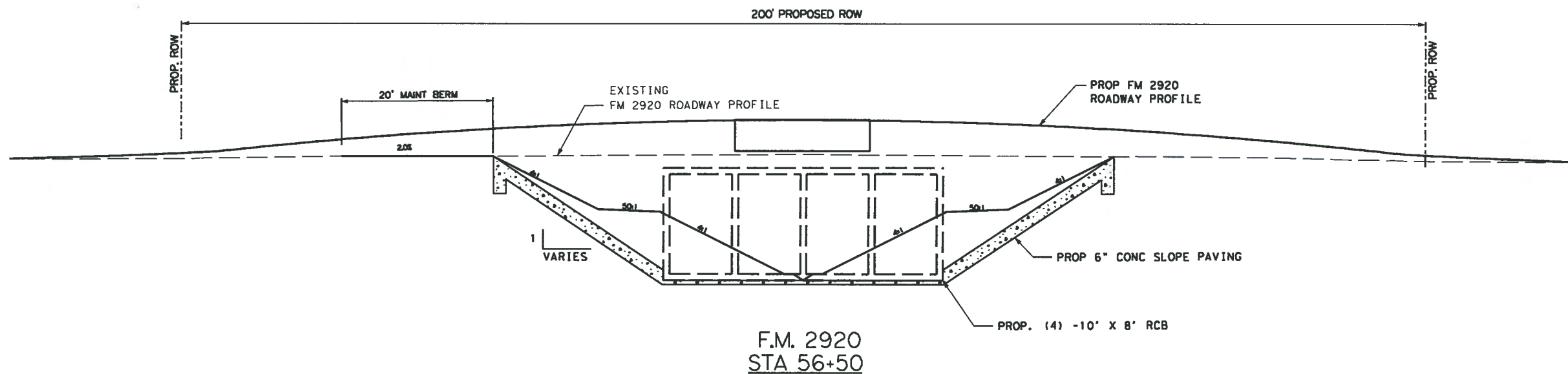
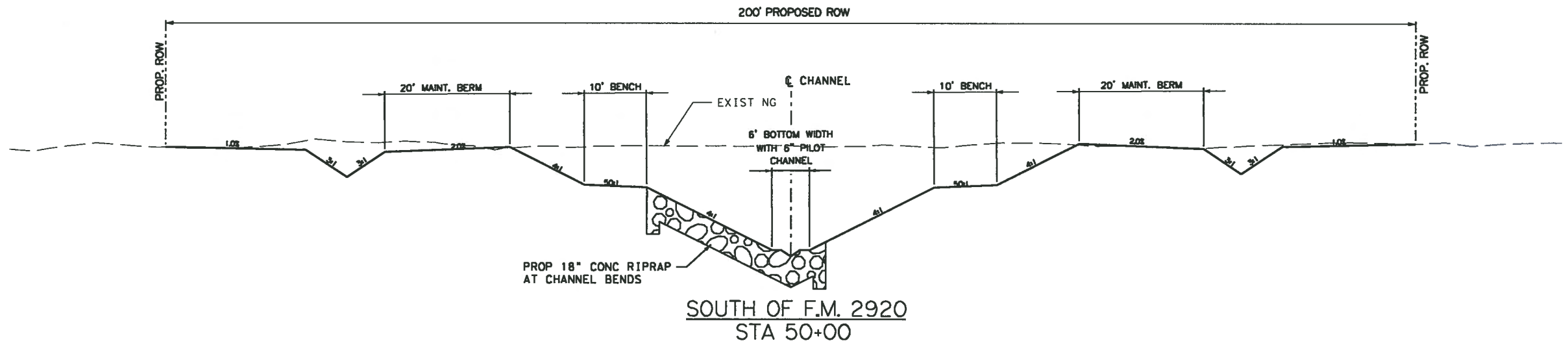
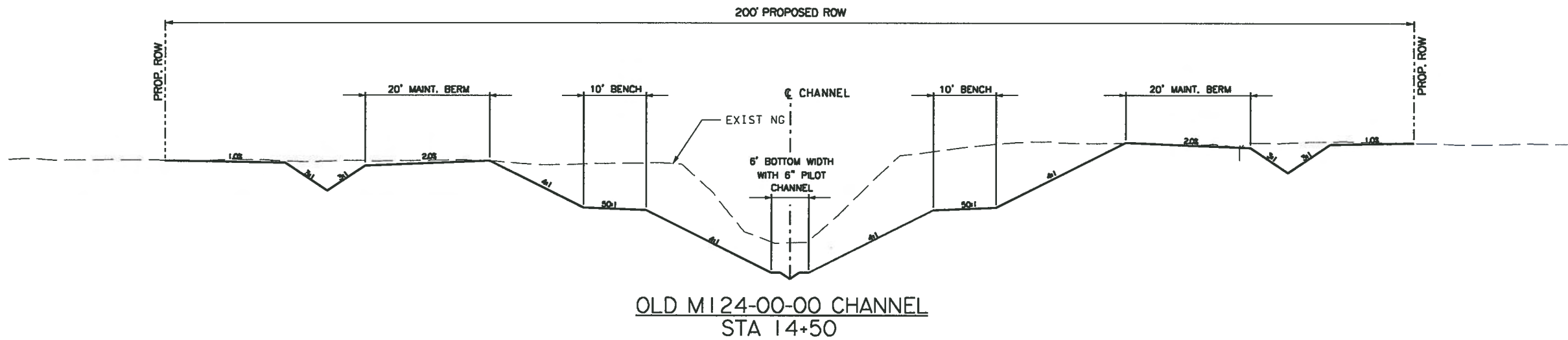


1 inch = 20 ft.

PRIVATE UTILITY LINES SHOWN									
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CABLE COMPANY	DATE								
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 Lockwood, Andrews & Newnam, Inc. A LEO A DALY COMPANY 2825 Briarpark Drive Houston, TX 77042	INTERIM REVIEW ONLY Document incomplete: not intended for permit, bidding or construction. Engineer: <u>PATRICK B. PHILLIPS</u> P.E. Serial No. <u>92817</u> Firm: <u>LOCKWOOD, ANDREWS & NEWNAM, INC.</u> Form No.: <u>E-2814</u> Date: <u>4/16/2010</u>								
 CITY OF TOMBALL TOMBALL, TEXAS ENGINEERING & PLANNING DEPT.									
DIRECTOR, ENGINEERING & PLANNING DATE									
M124-00-00 CHANNEL AND DETENTION BASIN DESIGN									
INDEX OF DRAWINGS									
DESIGNED BY: <u>PWP</u>	SURVEY BY: <u>TERRA SURVEYING CO., INC.</u>								
DRAWN BY: <u>BJC</u>	SUBMITTED BY:								
APPROVED BY: <u>DSJ</u>	DATE: <u>4/16/2010</u>								
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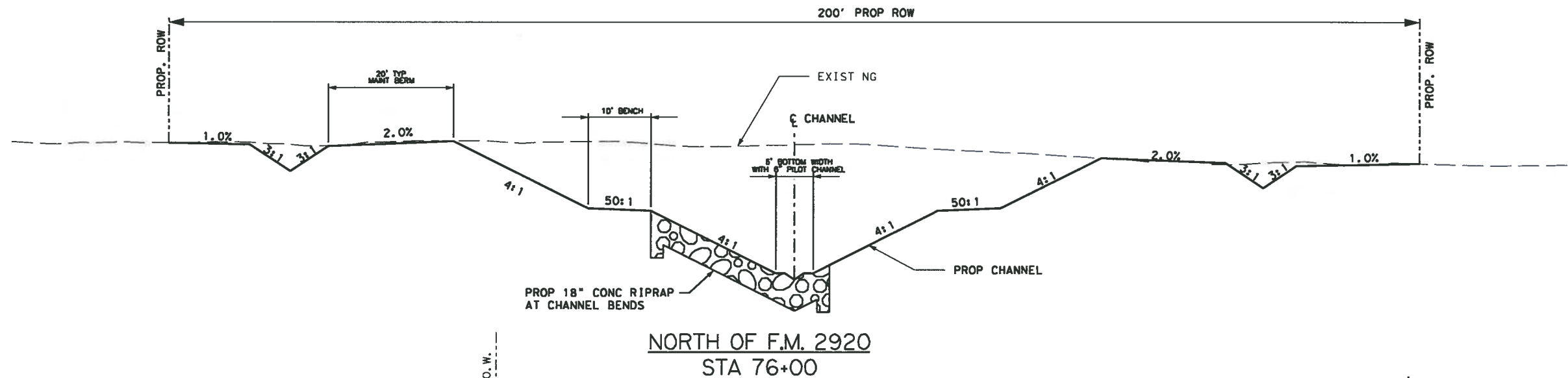


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CITY OF TOMBALL TOMBALL, TEXAS ENGINEERING & PLANNING DEPT.		DIRECTOR, ENGINEERING & PLANNING DATE	
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EXISTING TYPICAL SECTIONS			
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DRAWN BY: <u>BJC</u>	SUBMITTED BY:		
APPROVED BY: <u>DSJ</u>	DATE: <u>4/16/2010</u>		
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1 inch = 20 ft.

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DIRECTOR, ENGINEERING & PLANNING DATE	
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PROPOSED TYPICAL SECTIONS	
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DESIGNED BY: PWP	SURVEY BY: TERRA SURVEYING CO., INC.
DRAWN BY: BJC	SUBMITTED BY:
APPROVED BY: DSJ	DATE: 4/16/2010
SCALE: H: 1"=20' V: 1"=2'	F.B. NO:
DWG. NO: PTS-01	DWG 4 OF 70



LEGEND



1 inch = 20 ft.

PRIVATE UTILITY LINES SHOWN

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No. Date Revisions App.

Lockwood, Andrews & Newnam, Inc.
A LEAD A DALY COMPANY
2825 Briarpark Drive Houston, TX 77042

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Engineer: PATRICK R. PHILLIPS
P.E. Serial No. 92817
Firm: LOCKWOOD, ANDREWS & NEWNAM, INC.
Firm No. T-2814
Date: 4/16/2010

CITY OF TOMBALL
TOMBALL, TEXAS
ENGINEERING & PLANNING DEPT.

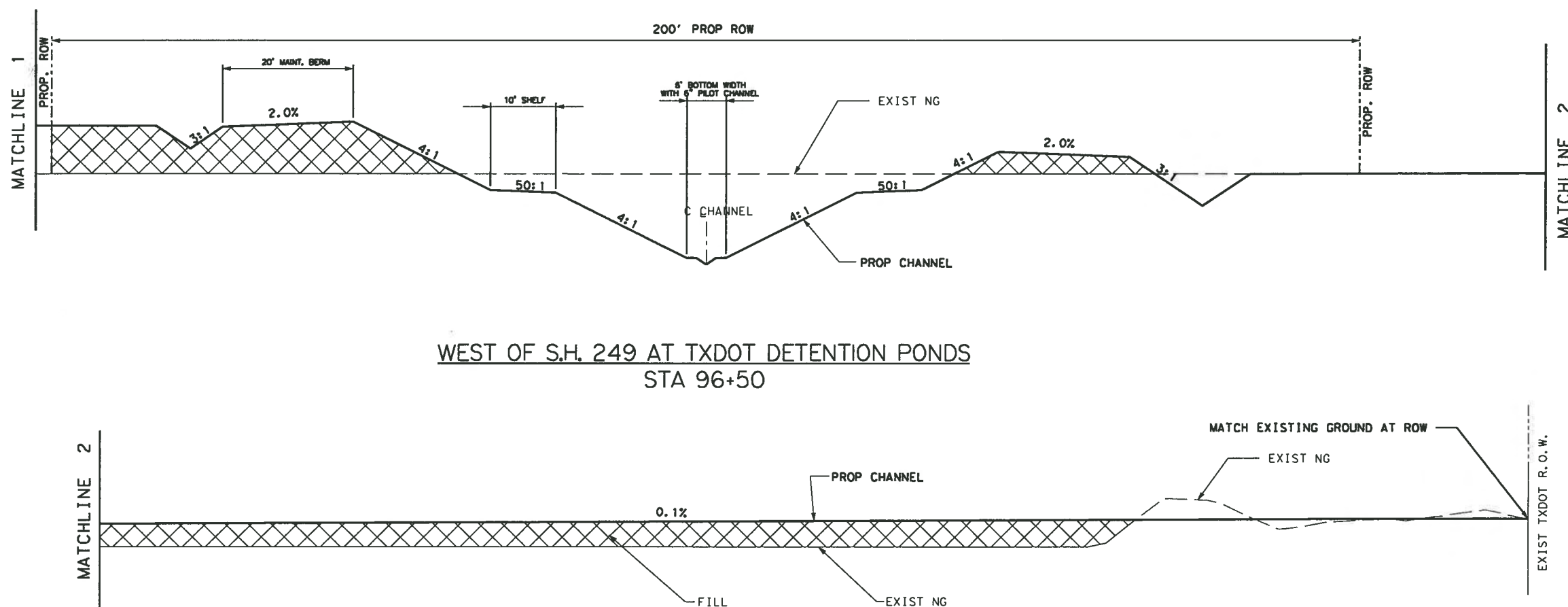
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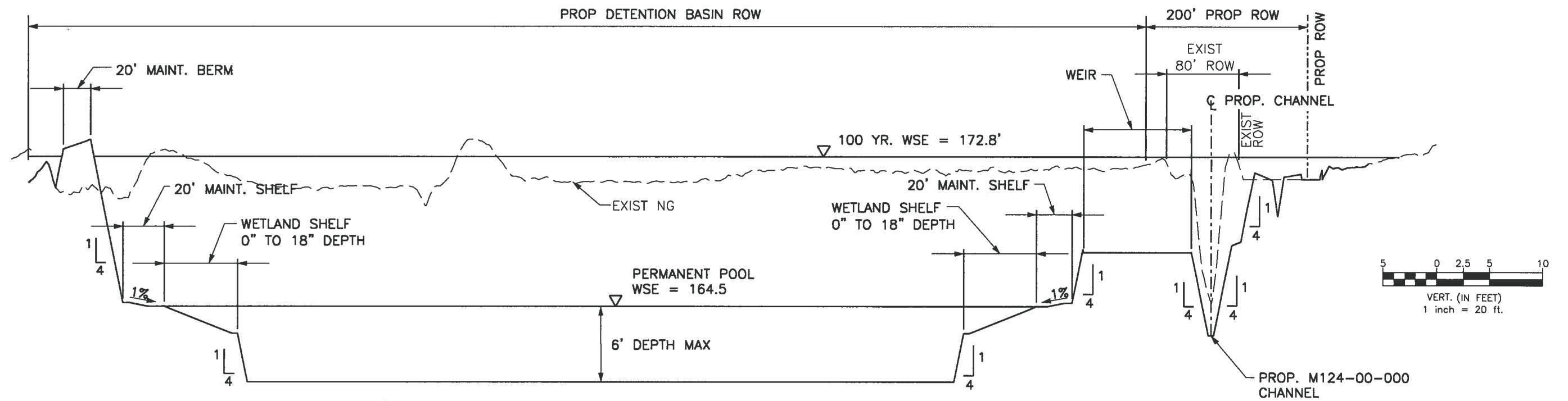
M124-00-00 CHANNEL
AND DETENTION BASIN DESIGN

PROPOSED
TYPICAL SECTIONS

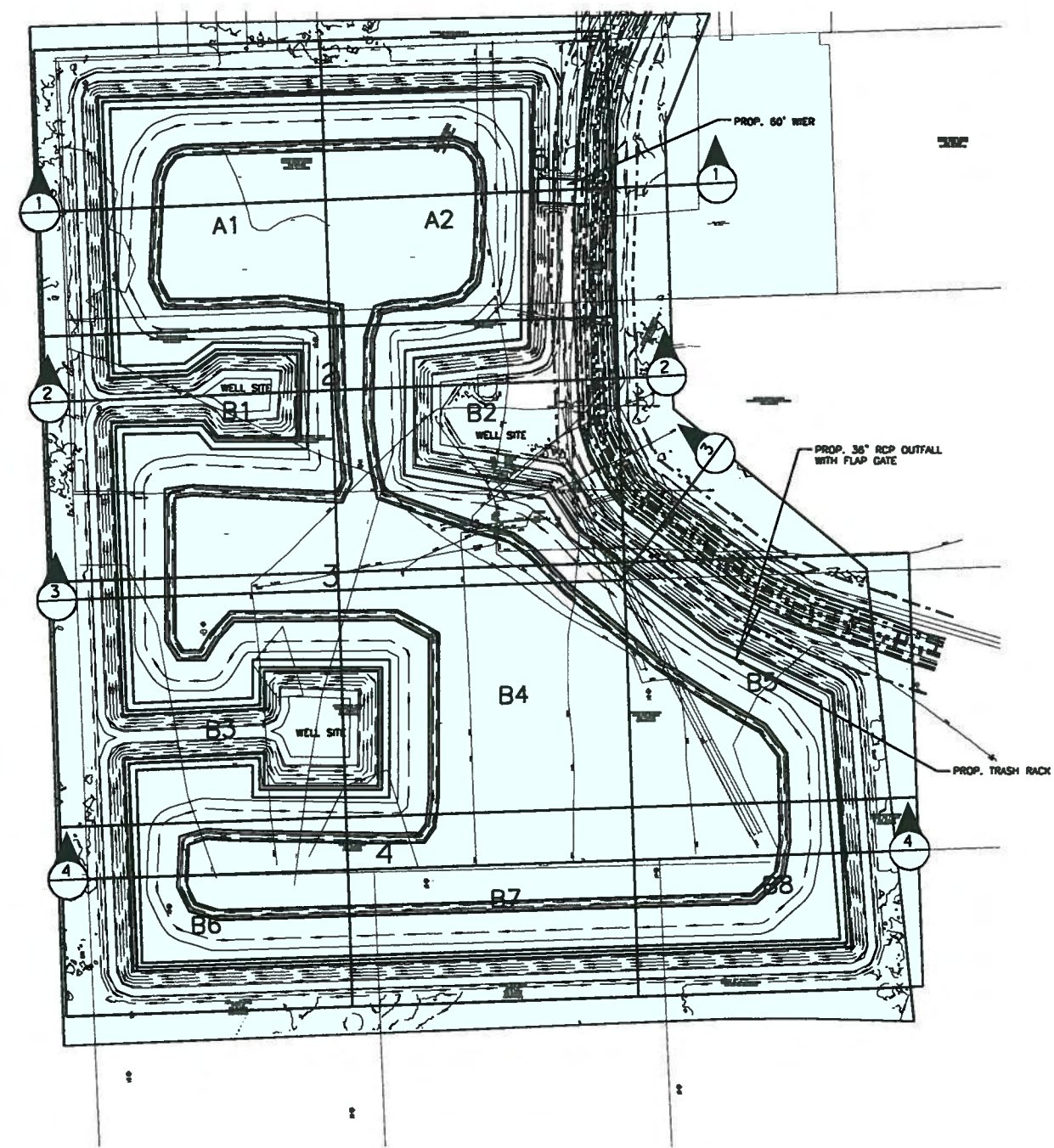
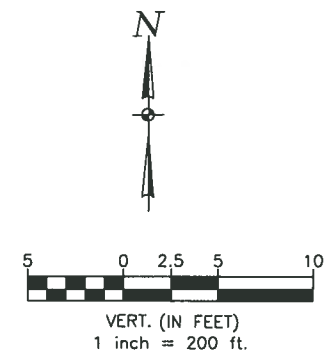
SHEET 2 OF 2

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DRAWN BY: BJC	SUBMITTED BY:
APPROVED BY: DSJ	DATE: 4/16/2010
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DWG. NO: PTS-02	DWG 5 OF 70





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CITY OF TOMBALL TOMBALL, TEXAS ENGINEERING & PLANNING DEPT.	
DIRECTOR, ENGINEERING & PLANNING	
DATE	
M124-00-00 CHANNEL AND DETENTION BASIN DESIGN	
PROPOSED TYPICAL SECTION DETENTION BASIN	
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DRAWN BY: <u>BJC</u>	SUBMITTED BY:
APPROVED BY: <u>DSJ</u>	DATE: <u>4/16/2010</u>
SCALE: <u>H: 1"=20' V: 1"=2'</u>	F.S. NO:
DWG. NO: <u>DTS-01</u>	DWG. OF:



NOTES

1. SEE DETENTION BASIN CROSS SECTION SHEETS FOR CROSS SECTIONS

PRIVATE UTILITY LINES SHOWN			
CENTERPOINT ENERGY, GAS FACILITIES	DATE		
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 CITY OF TOMBALL TOMBALL, TEXAS ENGINEERING & PLANNING DEPT.			
DIRECTOR, ENGINEERING & PLANNING		DATE	
M124-00-00 CHANNEL AND DETENTION BASIN DESIGN			
DETENTION BASIN OVERALL LAYOUT			
DESIGNED BY: <u>PWP</u>	SURVEY BY: <u>TERRA SURVEYING CO., INC.</u>		
DRAWN BY: <u>BJC</u>	SUBMITTED BY:		
APPROVED BY: <u>DSJ</u>	DATE: <u>4/16/2010</u>		
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DWG. NO: <u>DBL-01</u>	DWG <u>66</u> OF <u>70</u>		

Regular City Council Agenda Item Data Sheet

Meeting Date: May 3, 2010

Topic:

Approval and Dedication of Easement from City of Tomball to CenterPoint Energy Houston Electric, LLC
Associated with City of Tomball Water Well No. 5 and 6 Sites

Background:

Easement required to be dedicated to CenterPoint Energy Houston Electric, LLC to provide electrical service
to the City's on-going Water Well No. 5 and 6 Site.

Origination:

Engineering and Planning Department

Recommendation:

Engineering and Planning Department recommends approval.

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

Mark McClure, Director of Engineering

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

ATTACHMENTS:

CenterPoint Energy Memo and Easement
Easement Sketch

CENTERPOINT ENERGY

OFFICE MEMORANDUM

TO: Jeffery Ledet

DATE: March 25, 2010

FROM: R. Town

JOB: 53239671

CUSTOMER: City of Tomball

COUNTY: Harris

LOCATION: 15902 F.M. 2920

S/C: Cypress

ENGINEERING: N/A

ZONE: Western

CUSTOMER RELATIONS: Jeffery Ledet

MAP: 4670B

YOU ARE REQUESTED TO SECURE EXECUTED EASEMENTS FOR:

GRANTOR:

PARCEL #:

Fritz Strayer & Jack Dicke

53239671-1

City of Tomball

53239671-2

() Short Form Easement Only (No Long Form Easement to follow)

() This is a Short Form Easement to be followed by a Long Form Easement. Please remember to send in the recorded plat or the final plat signed by the engineer, surveyor and owner, along with the recording receipt, as soon as they become available.

() This is a Long Form Easement taken in addition to the Short Form Easement acquired under Job on . Said Short Form Easement will be released upon the timely receipt of this executed instrument.

(✓) Long Form Easement Only

() Townhome Project

Please return properly executed original to S. K. Goodall at CNP Tower, Room 733, for recordation.

Please remind all parties (including notaries) to type or print their names under their respective signatures.

Attachment:
rmt

Job 53239671-2
Map 4670B
S/C Cypress

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

E A S E M E N T

STATE OF TEXAS }
COUNTY OF HARRIS } KNOW ALL PERSONS BY THESE PRESENTS:

THAT, City of Tomball, Texas, a municipal corporation, herein called Grantor, whether one or more, for and in consideration of the sum of ONE DOLLAR (\$1.00) CASH to Grantor paid by CenterPoint Energy Houston Electric, LLC, herein called Grantee, whose principal address is P. O. Box 1700, Houston, Texas 77251-1700, has **GRANTED, SOLD AND CONVEYED** and by these presents, does **GRANT, SELL AND CONVEY** unto said Grantee, its successors and assigns, all or in part, an exclusive, unobstructed, perpetual easement (hereinafter referred to as the "Easement Area", whether one or more), for electric distribution and communication facilities (hereinafter referred to as "Facilities") consisting of a variable number of wires and cables and all necessary and desirable equipment and appurtenances, including, but not limited to, towers or poles made of wood, metal or other materials, props and guys, located within the following described lands owned by Grantor, to wit:

That certain 2.952-acre tract or parcel of land out of the Chancey Goodrich Survey, Abstract 311, in Harris County, Texas, being the same property described as Tract One in a deed from Fritz Strayer, et al. to City of Tomball, Texas, dated September 23, 2009 and filed of record under County Clerk's

Job 53239671-2
Map 4670B
S/C Cypress

File 20090443955 and Film Code 013-75-0476 in the Official Public Records of Real Property of Harris County, Texas.

The Easement Area herein granted is described as follows:

- 1) An easement ten (10) feet wide, the location of the centerline of which is shown by the dot-dash symbol on Sketch No. 10-0114, hereto attached and made a part hereof, together with unobstructed aerial easements ten (10) feet wide, beginning at a plane sixteen (16) feet above the ground and extending upward, located on both sides of and adjoining said ten (10) foot wide easement.
- 2) An easement ten (10) feet wide, the location of which is shown by the hatched area on said attached Sketch No. 10-0114, together with an unobstructed aerial easement eleven (11) feet six (6) inches wide, beginning at a plane sixteen (16) feet above the ground and extending upward, located westerly of and adjoining said ten (10) foot wide easement.

Grantor or its successors or assigns shall observe and exercise all notification laws as per the Underground Facility Damage Prevention and Safety Act, also known as "ONE CALL" & "CALL BEFORE YOU DIG", when working in or near the Easement Area.

To the extent that such Laws and Codes apply to Grantor, its successors or assigns, Grantor or its successors or assigns shall observe all safety codes and laws which apply to working along, within and or near the Easement Area and Facilities during construction activities and safe clearance from such Facilities, including O.S.H.A., Chapter 752 of the Texas Health and Safety Code, the National Electric Code, and the National Electrical Safety Code. Grantor, its successors or assigns, is hereby obligated to place National Electrical Safety Code notices into Community Deed Restrictions when Easement Area falls within Residential Developments.

Job 53239671-2
Map 4670B
S/C Cypress

Notwithstanding the description of the Easement Area set forth in the exhibits, the parties intend that the Easement Area granted herein shall run to the edge of Grantor's property so that the exteriors of all ground or aerial easements herein granted are to intersect with the exteriors of all adjoining easements and/or property lines without any gaps in the property granted.

Grantee shall also have reasonable rights of ingress and egress to and from said Easement Area, together with reasonable working space, for the purposes of erecting, installing, operating, maintaining, replacing, inspecting, and removing said Facilities, together with the additional right to remove from said Easement Area and land immediately adjoining thereto, all bushes, trees and parts thereof, or other structures or improvements which are within, protrude, bisect, encroach or overhang into said Easement Area and which, in the sole opinion of Grantee, endanger or may interfere with the efficient, safe and proper operation, and maintenance of said Facilities.

TO HAVE AND TO HOLD the above described Easement Area, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its successors or assigns, forever, and Grantor does hereby bind itself and its successors, heirs, assigns, and legal representatives, to fully warrant and forever defend all and singular the above described Easement Area and rights unto said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise. In the event of a deficiency in title or actions taken by others which results in the relocation of Grantee's Facilities, the Grantor herein, its successors and assigns, will be responsible for all costs

Job 53239671-2
Map 4670B
S/C Cypress

associated with the relocation and/or removal of Grantee's Facilities.

EXECUTED this _____ day of _____, 2010.

City of Tomball, Texas

BY: _____
Signature

Name typed or printed

Title

STATE OF TEXAS }

COUNTY OF }

This instrument was acknowledged before me on _____, 2010, by
_____, _____ of City of Tomball, Texas, a
municipal corporation, on behalf of said corporation.

Notary's Signature

Name typed or printed

Commission Expires

AFTER RECORDING RETURN TO:
SURVEYING & RIGHT OF WAY
CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC
P. O. BOX 1700
HOUSTON, TX 77251-1700

CHANCEY GOODRICH SURVEY A-311

CITY OF TOMBALL, TEXAS
20090443955 O.P.R.R.P.
F.C. 013-75-0476
2.952 ACRES
TRACT ONE

30' WIDE TEMPORARY ACCESS EASEMENT (TRACT THREE)

FRITZ STRAYER AND
JACK DICKE
U682638 O.P.R.R.P.
F.C. 535-25-1273
RESIDUE OF 21.00 ACRES
REF.: T469927 O.P.R.R.P.
F.C. 523-13-1968

20090443955 O.P.R.R.P.
F.C. 013-75-0476

CALL & FND I.R.
W/CAP MARKED
"TONY P. SWONKE
RPLS 4767"

ABANDONED PORTION OF
OLD TOMBALL-WALLER ROAD
U805602 O.P.R.R.P.
F.C. 536-53-3298

20' WIDE UTILITY EASEMENT
20090443955 O.P.R.R.P.
F.C. 013-75-0476
(TRACT TWO)

LINE TABLE

LINE	LENGTH	BEARING
L1	6.33	N50°43'57"E
L2	74.07	N72°20'02"W
L3	40.00	S86°08'20"E
L4	46.99	N86°08'20"W
L5	22.11	N01°52'04"W

LEGEND

● = Call & Fnd. I.R. w/cap Marked
"COBB, FENDLEY & ASSOCIATES"
Unless Otherwise Noted.

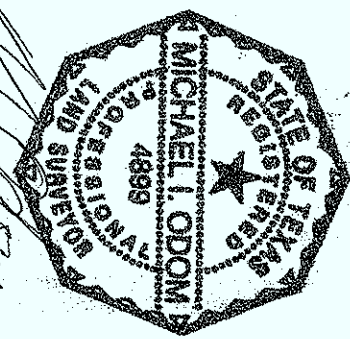
SCALE IN FEET

0 50 100 150

F.M. 2920
(TOMBALL-WALLER ROAD)

CALL & FND I.R. W/CAP
MARKED "EIC ENGINEERING"

±77' TO TOMBALL
CEMETERY ROAD



Bearing Basis:
Texas Coordinate System of
1983, South Central Zone
(TXSC Zone 4204); NAD 83

REV.1: JOB NO.	BY:	DATE:	REV.2: JOB NO.	BY:	DATE:
EASEMENT - UNOBSTRUCTED					
COUNTY: HARRIS					
DATE: 03-23-10					
SCALE: 1" = 100'					
FILE NO. - BOOK: B2010					
CHECKED BY: MIO					
CenterPoint Energy					
SURVEYING & RIGHT OF WAY					
P.O. Box 1700 Houston, TX 77251-1700					
SKETCH NO. 10-0114					

Regular City Council Agenda Item Data Sheet

Meeting Date: May 3, 2010

Topic:

Approve Proposal from Cobb, Fendley and Associates for Landman and Appraisal Services Associated with the Tomball Hufsmith Water and Gas Improvements Project, in an Amount Not to Exceed \$103,250.00

Background:

The Hufsmith Water and Gas Improvements Project is a currently listed budgeted project. The final design and the proposed water and gas line improvements are nearing completion. The necessary metes and bounds descriptions have been completed. The proposal dated March 26, 2010 (attached) addresses verifying updated ownership research, appraisal services, and acquisition services. Engineering and Planning Department request approval of the contract and authorizing the Mayor and City Secretary to execute the attached City of Tomball standard Professional Services Agreement. A map depicting the locations of the easements is attached for reference.

Origination:

Engineering and Planning Department

Recommendation:

Engineering and Planning Department recommend approval.

Funding: Yes

Account Number: 600-613-6409;600-615-6409

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

Mark McClure, Director of Engineering and Planning

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

ATTACHMENTS:

Cobb Fendley Proposal
Professional Services Agreement
Property Owners Map
Control Map

March 26, 2010

Mark A. McClure
City of Tomball
Director of Engineering & Planning
501 James Street
Tomball, Texas 77375

Re: Tomball Huffsmith Road ROW and Proposed Sewer Line Easement

Dear Mr. McClure:

Cobb, Fendley & Associates, Inc. is pleased to provide you with this proposal for services associated with the above-referenced project. These services will include updated ownership research and acquisition of easements. The proposed Scope of Services, Basis of Compensation and Schedule of Work are outlined below and on the following pages.

SCOPE OF SERVICES

- Order Appraisals from certified appraiser on parcels where no donation was offered. Review appraisals and send to City of Tomball for final review and approval before offer is made
- Meet with property owners to negotiate the acquisition and inquire as to any liens or existing encumbrances
- Prepare all documentation necessary for acquisition, to include cover letters, easements and title curative instruments as needed, e.g. release of lien, under the direction of the City of Tomball attorney.
- Meet with property owners to obtain executed easement instruments.
- Record documents in public records.
- Furnish closed file to City of Tomball.
- Prepare paper work and work with City Attorney if Condemnation is necessary.

Mr. McClure
March 24, 2010
Page 2

BASIS OF COMPENSATION

The work outlined in the Scope of Services can be provided on an hourly basis at the following rates:

Appraisals \$2,250 - \$2,750 per parcel for 18 parcels depending on land type. Twelve parcels @ \$2,750.00, Five parcels @ \$2,250.00 and One parcel @ \$2,500.00. The total not to exceed for appraisal's is \$46,750.00.

The Appraisals will be prepared by Michael J. Urban Real Estate Appraisers

Acquisition \$2,500.00 per parcel 18 parcels. The total not to exceed price for acquisition is \$45,000.00.

Reimbursable expenses (e.g. copies of public records, recording fees, etc.) associated with the work will be invoiced at cost. Mileage will be reimbursed at the standard IRS rate. The total not to exceed for reimbursables is \$2,500.00.

If the Relocation of 3 Home owners and or tenants is required on this project. The relocation per parcel will be \$3,000.00. The total not to exceed price for Relocation is \$9,000.00.

Total Not to Exceed authorization is \$103,250.00

SCHEDULE OF WORK

Cobb, Fendley & Associates, Inc. can begin work on this project upon receiving written authorization to proceed. Four to Eight months will be required to complete the acquisition. In the event of circumstances which may cause unusual delay, the City of Tomball will provide specific instructions on a property by property basis.

If the Scope of Services, Basis of Compensation and Schedule of Work are acceptable, please execute below to authorize commencement of the work. Thank you for the opportunity to submit this proposal. We are looking forward to proceeding with this project.

Respectfully yours,
COBB, FENDLEY & ASSOCIATES, INC.



Arthur D. West
Right of Way Manager

PROFESSIONAL SERVICES AGREEMENT
(Not Including Architectural or Engineering Services)
(Current as of 07-07-09)

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

THIS AGREEMENT is made, entered into, and executed by and between the CITY OF TOMBALL, TEXAS (the "City"), a municipal corporation of the State of Texas, and _____ ("_____").

WITNESSETH:

WHEREAS, _____ represents that it is capable of providing and qualified to provide professional services to the City and _____ desires to perform the same;

NOW, THEREFORE, the City and _____ in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

1.

SCOPE OF AGREEMENT

_____ agrees to perform certain professional services as outlined and defined in the Proposal attached hereto as Exhibit A, and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Work," and for having rendered such services, the City agrees to pay _____ compensation as stated in the sections to follow.

2.

CHARACTER AND EXTENT OF SERVICES

_____ shall do all things necessary to render the services and perform the Scope of Work in a professional and workmanlike manner. It is expressly understood and agreed that _____ is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that _____ shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior approval of the City. The City shall be under no obligation to pay for services rendered not identified in Exhibit "A" without prior written authorization from the City.

3.

OWNERSHIP OF WORK PRODUCT

_____ agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by

_____ pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same.

4.

TIME FOR PERFORMANCE

The time for performance is as estimated in Exhibit A attached hereto. Upon written request of _____, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the work must be coordinated and over which _____ has no control.

5.

COMPLIANCE AND STANDARDS

_____ agrees to perform the work hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the work to be performed hereunder and _____'s performance.

6.

INDEMNIFICATION

_____ shall and does hereby agree to indemnify, defend, and hold harmless the City, its officers, agents, and employees from any and all damages, loss or liability of any kind whatsoever, by reason of death or injury to property or third persons caused by the negligent act or omission of _____, its officers, agents, employees, invitees or other persons for whom it is legally liable, with regard to the performance of this Agreement, and _____ will, at its cost and expense, defend, pay on behalf of, and protect the City and its officers, agents, and employees against any and all such claims and demands. Such indemnity shall apply where the suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorney fees arise in whole or in part from the negligence of _____.

7.

COMPENSATION

For and in consideration of the services rendered by _____ pursuant to this Agreement, the City shall pay _____ only for the actual work performed under the Scope of Work, on the basis set forth in Exhibit "A," up to an amount not to exceed \$_____, plus reimbursable expenses.

8.
INSURANCE

_____ shall procure and maintain insurance in accordance with the terms and conditions set forth in Exhibit "B," for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness, disease, or death, claims or damages because of injury to or destruction of property, including loss of use resulting therefrom, and claims of errors and omissions.

9.
TERMINATION

The City may terminate this Agreement at any time by giving seven (7) days prior written notice to _____. Upon receipt of such notice, _____ shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, _____ shall submit a statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay _____ that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed maps, studies, reports, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

10.
ADDRESSES, NOTICES AND COMMUNICATIONS

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to _____ at the following address:

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City Manager
City of Tomball
401 W. Market Street
Tomball, Texas 77375

11.
LIMIT OF APPROPRIATION

Prior to the execution of this Agreement, _____ has been advised by the City and _____ clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the City shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the City and that the total compensation that _____ may become entitled to hereunder and the total sum that the City shall become liable to pay to _____ hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

12.
SUCCESSORS AND ASSIGNS

The City and _____ bind themselves and their successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the City nor _____ shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

13.
DISCLOSURE OF INFORMATION

_____ shall under no circumstances release any material or information developed in the performance of its services hereunder without the express written permission of the City.

14.
MODIFICATIONS

This instrument, including Exhibits A and B, contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

15.
ADDITIONAL SERVICES

If authorized in writing by the City, _____ shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the Scope of Work, as defined in Exhibit "A." These

Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Exhibit "A," up to the amount authorized in writing by the City.

16.
CONFLICTS OF INTEREST

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, _____ shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

17.
PAYMENT FOR SERVICES AND REIMBURSABLE EXPENSES

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with _____'s standard invoicing practices and will be submitted to the City by _____ at least monthly. Invoices are due and payable thirty (30) days after receipt by the City.

18.
MISCELLANEOUS PROVISIONS

A. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Harris County, Texas.

B. This Agreement is for sole benefit of the City and _____, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

IN WITNESS WHEREOF, the City of Tomball, Texas, has lawfully caused this Agreement to be executed by its Mayor; and _____, acting by its duly authorized officer/representative does now sign, execute and deliver this instrument.

EXECUTED on the _____ day of _____ 200__.

ATTEST:

CITY OF TOMBALL, TEXAS

Doris Speer, City Secretary

Gretchen Fagan, Mayor

By: _____
Name: _____
Title: _____

EXHIBIT "A"
SCOPE OF WORK
AND
BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES

EXHIBIT "B"
INSURANCE

This document is released for the purpose of review under the authority of Timothy W. Robertson, P.E. 25295 on November 16, 2006. It is not to be used for construction, bidding, or permit purposes.



O'Malley Engineers
TDRS No. F-9244
203 S. Jackson
Brenham, Texas 77833
(979) 636-7997

CITY OF TOMBALL
E. HURF SMITH WATER LINE
AND GAS LINE

PARCEL NUMBER	PROPERTY OWNER	PLAN SHEET #	EASEMENT REQUIRED/EXISTING	R.O.W. REQUIRED/EXISTING
1	NOT USED	-	-	-
2	ALTA FAYE STOKLEY & MELVIN LEE STOKLEY	18	REQUIRED	REQUIRED
3	FRANK RHANE & DEANNA KRZENSKI	18	REQUIRED	REQUIRED
4	CENTERPOINT ENERGY	18	REQUIRED	REQUIRED
5	RUSS & JERI BROWN	15,18	REQUIRED	REQUIRED
6	FRANK J. HIEDEN	15	REQUIRED	REQUIRED
7	DOROTHY JOHNSON	14,15	REQUIRED	REQUIRED
8	BOBBY L. GUNTER	14	REQUIRED	REQUIRED
9	PABLO SALAZAR & MARIA D. YEPES	14	REQUIRED	REQUIRED
10	AARON MATTHEWS	13,14,17	REQUIRED	REQUIRED
11	OLIVER SUHONEN	13	REQUIRED	REQUIRED
12	DAVID NOEL SMITH	11,12,13	REQUIRED	REQUIRED
13	FRANK METZLER, ET UX	11,12	REQUIRED	REQUIRED
14	JAYANTI K. PATEL	9,10,11	REQUIRED	REQUIRED
15	AMADEO & MARINELA VALADEZ	8,9	REQUIRED	REQUIRED
16	CITY OF TOMBALL	8,7	REQUIRED	REQUIRED
17	DANNETTE Y. DIETZ	13,17	-	-
18	BILLY GALE & VIRGIE H. WILLIAMS	17	-	-
19	JONATHAN L. & JENNY M. NOLEN	17	-	-
20	ROBERT G. SMITH	7,8	REQUIRED	REQUIRED
21	DISTRICT & URBAN (TEXAS), INC.	5,6	REQUIRED	REQUIRED
22	LUCRETIA LOPEZ	5,6	REQUIRED	REQUIRED
23	BRIGYN HOLDINGS, LLC	5	-	EXISTING
24	HIGH HEATER LLC	5,6,7	-	EXISTING
25	GUSSIE ASHLEY RUDEL	7	-	REQUIRED
26	RAYFORD L. STOKES, TRUSTEE	7,8	-	REQUIRED
27	THOMAS & DANA WADE	8	-	REQUIRED
28	ABANDONED ANIMAL RESCUE INC.	8	-	REQUIRED
29	PIERCE OWENS	8,9	-	REQUIRED
30	JAMES K. BABB	9	-	EXISTING
31	DEAN & LAURA POPIEL	9	-	EXISTING
32	HARRIS COUNTY FLOOD CONTROL	9,10	-	-
33	DEBORAH LYNNIE WATSON	10,11	-	EXISTING
34	ADAM RUIZ, JR.	11	-	EXISTING
35	ARCHIE F. & DORIS MAYWALD	11,12	-	EXISTING
36	JAMES D. & MARILYN DUNAGIN	12,13	-	EXISTING
37	DANIEL G. RODANO	13	-	EXISTING
38	DANIEL & CHERYL RODANO	13,14	-	EXISTING
39	PERRY & DEBRA POGUE	14,15	-	REQUIRED
40	TROY W. & BARBARA LANGDON	15,16	-	REQUIRED
41	SAMMIE JEAN COLE	16	-	EXISTING
42	SNM PROPERTIES, LLC	16	-	EXISTING
43	COUNTY OF HARRIS	15	-	REQUIRED
44	LOWELL L. COX & ALYNE KEEFER COX	9,10	REQUIRED	REQUIRED

LEGEND FOR PLAN SHEETS

PARCEL NUMBER
NAME OF PROPERTY OWNER

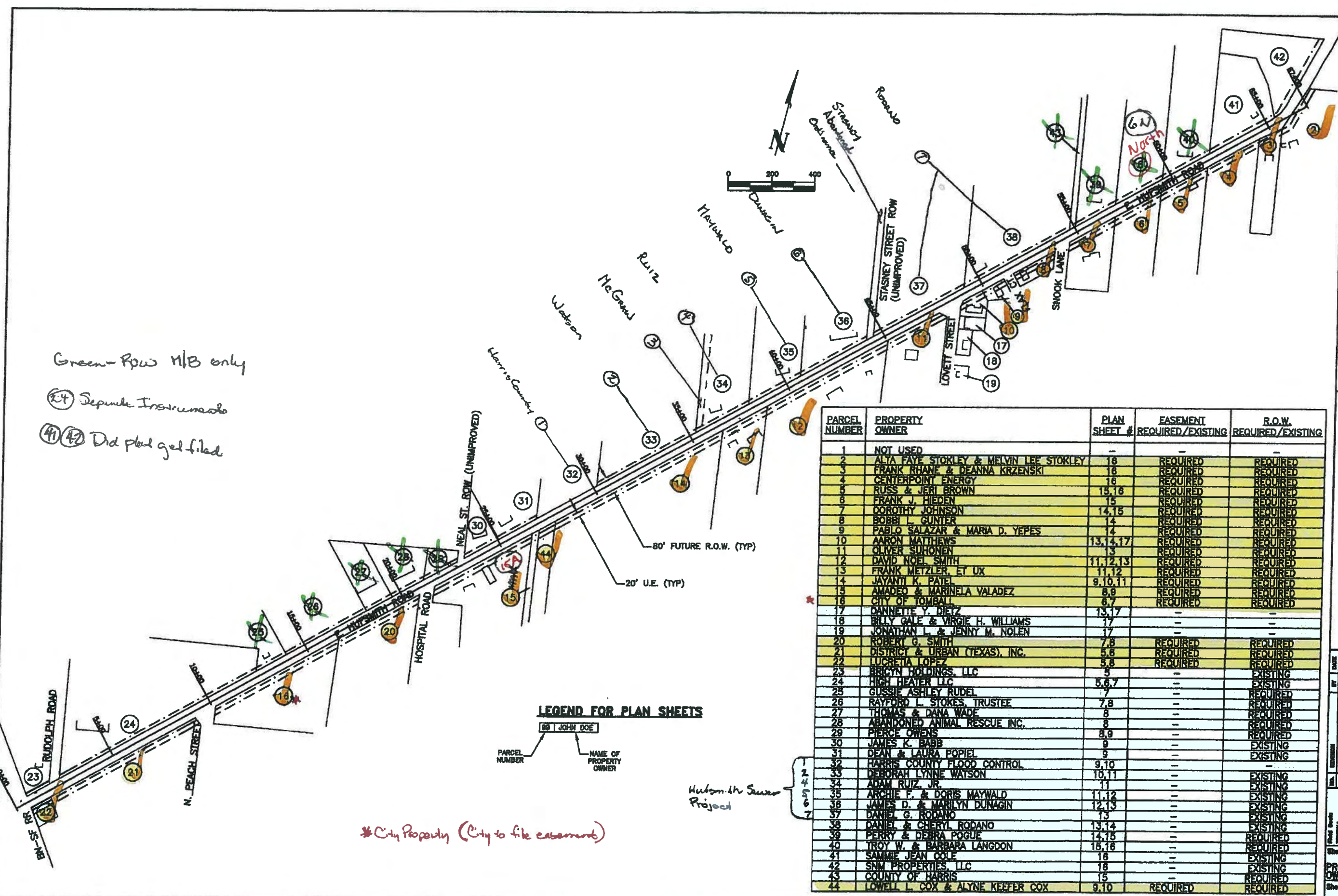
Huffman & Sons Project

* City Property (City to file easement)

Green - R/W N/B only

(24) Separate Instruments

(41)(42) Did plat get filed



Regular City Council Agenda Item Data Sheet

Meeting Date: May 3, 2010

Topic:

Discussion regarding Development Standards and Platting Requirements for Depot Area

Background:

Councilman Webb requested that an item be placed on the agenda to discuss the development standards and platting requirement for the Depot area.

Origination:

Councilman Webb

Recommendation:

N/A

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

Doris Speer, City Secretary

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

Regular City Council Agenda Item Data Sheet

Meeting Date: May 3, 2010

Topic:

EXECUTIVE SESSION: The City Council will meet in Executive Session, as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose:

- Section 551.074 – Personnel Matters – To Deliberate the Hiring/Employment, Duties and Responsibilities of a City Manager

Background:

Origination:

Recommendation:

Funding:

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

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

Regular City Council Agenda Item Data Sheet

Meeting Date: May 3, 2010

Topic:

Consideration and Possible Action regarding the Hiring/Employment, Duties and Responsibilities of a City Manager

Background:

Origination:

Interim City Manager

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	