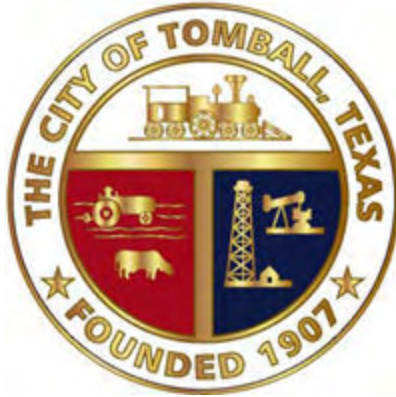


**NOTICE OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, OCTOBER 5, 2009

7:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, October 5, 2009 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 Mike Westbury, Lifebridge Fellowship Church

3.0 Pledges to U.S. and Texas Flags

- Led by René Morris and Kellen Cantrell

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 to Chamber of Commerce – “Chamber of Commerce Week”
- Proclamation to Planning and Zoning, Board of Adjustments, and Comprehensive Plan Advisory Committee members – “Community Planning Month”
- Certificates to Tomball Master Planners

6.0 Reports and Announcements

- **2009 City of Tomball Photo Contest** – “What You Love about Tomball and What Should be Preserved for the Future”
- October 10, 17, 24, and 31, 2009 – **Walk Tomball!** – Depot Plaza – 9:00 a.m. (Please note change in time)
- October 10, 2009 – **Farmers Market**, 8:00 a.m.
- October 10, 2009 - **2nd Saturday at the Depot**
- October 21-23, 2009 – Texas Municipal League Conference – Ft. Worth
- October 24, 2009 – **Farmers Market**, 8:00 a.m.
- October 27, 2009 – Joint City Council and Planning & Zoning Comprehensive Plan Meeting – City Hall at 5:00 p.m.
- October 28, 2009 – CPAC Meeting #7 – Community Center at 6:00 p.m.
- **Tomball Holiday Ice Rink at the Depot** - November 21, 2009 through January 10, 2010
- Comprehensive Plan website is now available online – <http://plantomball.com/index.html>
- Reports by City staff and members of council about items of community interest on which no action will be taken
- BNSF Railway Foundation Donation to Conductor Statue – We were notified that the BNSF Foundation approved a grant in the amount of \$8,500 toward the conductor statue, bringing total donations to \$16,500, and that representatives from BNSF Railroad will participate in the statue unveiling on December 12

7.0 Approve the Minutes of the Regular City Council Meeting of September 21, 2009

8.0 Old Business:

- 8.1 Adopt, on Second Reading, Ordinance No. 2009-26, An Ordinance of the City of Tomball, Texas, Setting the Tax Levy of \$0.251455/\$100 Value Assessed for the Year 2009 on All Taxable Real and Personal Property Located in the City of Tomball, Texas; Allowing for Homestead Exemptions for Property Owners Sixty-Five Years of Age and Over, and for Property Owners Who Qualify for Disability Benefits Under the Federal Old Age, Survivors, and Disability Insurance Program; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject.

- 8.2 Adopt, on Second Reading, Ordinance No. 2009-27; Establishing Rates and Charges for Potable Water, Sanitary Sewer, Natural Gas, and Garbage Collection and Disposal Services; Repealing Ordinance No. 2008-24 and all Other Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith; Providing for an Effective Date; Providing other Matters Relating to the Subject; and Providing for Severability
- 8.3 Adopt, on Second Reading, Ordinance No. 2009-28, an Ordinance of the City of Tomball, Texas, Adopting Amendment Number 4 to the Original Budget of the City of Tomball, Texas, for the Fiscal Year 2008-2009, as Adopted by Ordinance No. 2008-25; Providing for Appropriation of Funds from the Governmental Funds and the Proprietary Funds; Directing Publication of the Caption of this Ordinance; Finding that the Meetings at which this Ordinance is Considered are Open to the Public; Providing for Severability and the Repeal of Conflicting Ordinances; and Providing other Details Relating to the Passage of this Ordinance
- 8.4 Adopt, on Second Reading, Ordinance No. 2009-29, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 0.614 Acres of Land in the Ralph Hubbard Survey, Abstract 383, Harris County, Texas, from the SF-9- Single Family 9 Residential District to the C-Commercial District; Said Property also being known as a 0.614 acre tract of land out of and a part of a 1.3997 acre tract of land described in deed recorded under Clerk's File No. S487819 of the Official Public Records of Real Property of Harris County, Texas, generally located on the westerly side of Snook Lane, southerly of Crestview Subdivision; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an Amount not to Exceed \$2,000 for Each Day of Violation of any Provision Hereof, Making Findings Of Fact; and Providing for Other Related Matters
- 9.0 New Business:
- 9.1 Adopt, on First Reading, Ordinance No. 2009-30, an Ordinance Amending the Code of Ordinances of the City Council of the City of Tomball, Texas, by Adding a new Article IV to Chapter 38; Implementing and Enforcing Erosion and Sediment Control Management Guidelines; Providing a Penalty in an Amount Not to Exceed \$2000 for Each Day of Violation Hereof; and Providing for Severability; and Making other Provisions and Findings related Thereto.
- 9.2 Approve Resolution No. 2009-26, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 44th Annual Tomball Holiday Parade, "Holidays Around the World," to be held in Tomball on Saturday, November 21, 2009 and to Approve Requested Street Closures.
- 9.3 Approve Water Supply and Storage Facility Number 5 Scope of Services

Contract Amendment for the Design and Construction Phase Services for Water Supply and Storage Facility Number 5, Resulting from the Approved Addition of Water Well Number 6, Amending the Currently Approved Contract Amount of \$367,143.00 to include an Additional Amount of \$34,484.00, for a Total Contract Amount of \$401,627.00.

- 9.4 Approve Agreement with Raba-Kistner Consultants, Inc. for Proposal No. PSF09-463-00 for Environmental Service Associated with Installation, Maintenance, and Monitoring of a Solar-Powered Leachate Pumping System for a Cost Not to Exceed \$67,650.00
- 9.5 Approve **MATTHEWS DRYDEN SUBDIVISION ABBREVIATED FINAL PLAT**: Being a replat of Lots 7, 8, 9, and 10, in Block 59 of the Revised Map of Tomball, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 4, Page 25 of the Map Records of Harris County, Texas and Lot 11, in Block 59 of Texas Peach, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Film Code Number 626137 of said Map Records, said replat being situated in the William Hurd Survey, Abstract Number 371, of Harris County, Texas.
- 9.6 Approve Request by the Tomball Fire Department to Close School Street for the Evenings of October 30 and 31, 2009 in Conjunction with the Fire Department's Fall Festival at the Former School Administration Building on Main Street.
- 9.7 Approve a New Administrative Policy Number 14, entitled "City Communication Policy," Replacing the Current Administrative Policy Number 14, entitled "Media Communication Procedures," in its Entirety
- 9.8 Approve Amendment to Administrative Policy Number 15, entitled "Community Center Policies and Procedures"
- 9.9 Repeal Administrative Policy Number 8, entitled "Financial Accountability for Non-Profit Organizations Receiving Funds from the City" and Approve Amendment to Administrative Policy Number 22, entitled "Hotel Occupancy Tax Grant Process".
- 9.10 Rescind Approval of Resale Deed for Property acquired by Foreclosure Tax Sale in Cause No. 97-47251, City of Tomball, et al vs. Westby, Carole A., et al, said Property being described as: Lot 28, Block 68 in the City of Tomball, located in Harris County, Texas, according to a Special Warranty Deed filed under Clerk's File No. S315303 in the Deed Records of Harris County, Texas to Rovin Deleon, approved by City Council on August 4, 2008

10.0 Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 1st day of October 2009 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: October 5, 2009

Topic:

- Proclamation to Chamber of Commerce – “Chamber of Commerce Week”
- Proclamation to Planning and Zoning, Board of Adjustments, and Comprehensive Plan Advisory Committee members – “Community Planning Month”
- Certificates to Tomball Master Planners

Background:

Origination:

Recommendation:

Funding:

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

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

ATTACHMENTS:

- Proclamation - Chamber of Commerce Week
- Proclamation - Community Planning Month

Office of the Mayor
Tomball, Texas

Proclamation



- WHEREAS,** Texas has become an economic powerhouse, thanks to the ingenuity and hard work of its citizens; and
- WHEREAS,** entrepreneurs and innovators in the Lone Star State seek to create a better life for themselves, their families and their communities—often relying upon the assistance of their local chambers of commerce to realize those dreams; and
- WHEREAS,** local chambers of commerce have the welfare of their communities at heart, working diligently to promote their communities; and
- WHEREAS,** local chambers of commerce contribute to a better future for all Texans by mentoring valuable community leaders, fostering job creation and retention, encouraging educational opportunities, and seeking to positively influence legislation benefitting their communities; and
- WHEREAS,** during the month of October, Texas cities will highlight the achievements of local chambers of commerce, recognizing their importance as integral partners in the development of strong communities; and
- WHEREAS,** the **Greater Tomball Area Chamber of Commerce** has provided constant and distinguished service to the City of Tomball and the greater Tomball area; and
- WHEREAS,** the City of Tomball wishes to recognize the achievements and contributions of the **Greater Tomball Area Chamber of Commerce** in helping create the attractive and economically viable community we have today;

NOW, THEREFORE, I, Gretchen Fagan, Mayor of the City of Tomball, Texas, do hereby proclaim the week of October 19-23, 2009 as:

“CHAMBER OF COMMERCE WEEK”

and encourage our citizens and businesses to join the City of Tomball in honoring the **Greater Tomball Area Chamber of Commerce** for its valuable contributions to our community.



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

ATTEST: *Gretchen Fagan*

DATE: October 1, 2009

Office of the Mayor
Tomball, Texas

Proclamation



- WHEREAS,** change is constant, and affects all cities, towns, suburbs, counties, rural areas, and other places; and
- WHEREAS,** community planning and plans can help manage this change in a way that provides better choices for how people live, work and play; and
- WHEREAS,** community planning provides an opportunity for all residents to be meaningfully involved in making choices that determine the future of their community; and
- WHEREAS,** the full benefits of planning requires public officials and citizens who understand, support, and demand excellence in planning and plan implementation; and
- WHEREAS,** the month of October is designated as National Community Planning Month throughout the United States, and
- WHEREAS,** this year's theme, *Community Sustainability*, supports the planning of well-balanced communities that integrate economic development, community development and environmental protection; and
- WHEREAS,** the American Planning Association endorses National Community Planning Month as an opportunity to highlight the contributions sound planning and plan implementation make to the quality of our settlements and environment; and
- WHEREAS,** the celebration of National Community Planning Month gives us the opportunity to publicly recognize the participation and dedication of the members of Tomball's Planning and Zoning Commission, Board of Adjustments, planning staff and our citizen planners who have contributed their time and expertise to the improvement of the City of Tomball.

NOW, THEREFORE, I, Gretchen Fagan, Mayor of the City of Tomball, Texas, do hereby proclaim the month of October 2009 as:

“COMMUNITY PLANNING MONTH”

in the City of Tomball, Texas in conjunction with the celebration of National Community Planning Month.



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

Gretchen Fagan

ATTEST: *Doni Spier*

DATE: *October 1, 2009*

Regular City Council
 Agenda Item
 Data Sheet

Meeting Date: October 5, 2009

Topic:

- **2009 City of Tomball Photo Contest** – “What You Love about Tomball and What Should be Preserved for the Future”
- October 10, 17, 24, and 31, 2009 – **Walk Tomball!** – Depot Plaza – 9:00 a.m. (Please note change in time)
- October 10, 2009 – **Farmers Market**, 8:00 a.m.
- October 10, 2009 - **2nd Saturday at the Depot**
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Recommendation:

Funding:

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

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

ATTACHMENTS:

2009 COT Photo Contest
 Walk Tomball!

Farmers Market
2nd Saturday at the Depot
Tomball Holiday Ice Rink at the Depot

2009 City of Tomball Photo Contest



October is National Community Planning Month!

In celebration of National Community Planning Month, the City of Tomball is sponsoring a photo contest during the month of October! The theme of the contest is **“What you love about Tomball and what should be preserved for the future.”**

Selected photos will be included in Tomball’s first Comprehensive Plan to be presented to Council for adoption later this year. All photos will be displayed on the City’s website during the months of October and November.



All entries must be submitted by 3:00 p.m. on Friday, October 23, 2009. One photo entry per person. Email your digital photo and signed forms to rschmidt@ci.tomball.tx.us or deliver them to the Engineering & Planning Department, 501 James Street, Tomball, TX 77375.

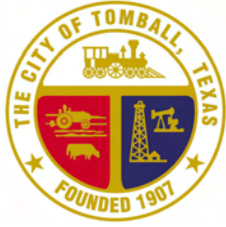
To be eligible, photos must :

- Be taken within the city limits of the City of Tomball
- Include an entry form and signed release form
- Be submitted in a TIFF (.tiff, .tif) or JPEG (.jpeg, .jpg) format



TOMBALL
COMPREHENSIVE PLAN
VISION • VALUES • COMMUNITY

For questions call 281-290-1410



2009 City of Tomball Photo Contest Official Entry Form

Deliver or email signed forms along with digital photo to:

City of Tomball
Engineering & Planning Department
Attn.: Rodney Schmidt
501 James Street, Tomball, TX 77375 or rschmidt@ci.tomball.tx.us

Photographer's Name _____

Address _____ **City** _____ **Zip** _____

Phone _____ **Email** _____ **Age** _____

Circle One:

Resident Business Owner Property Owner Other: _____

Photo Caption/Description:

Release by the Photographer

I certify that I ("Photographer") am the person who took the photograph submitted herewith, and I have not assigned any of my rights associated with the Photograph to any third party and have sole, complete and unrestricted authority to enter into the Release and to grant the rights described in this release.

I release the City of Tomball from any liability whatsoever that arises from their use of the photograph except for uses that violate the terms and conditions of this release.

I hereby grant the City of Tomball the royalty-free and non-exclusive right to distribute, publish and use the photograph and my name in publications to promote the City of Tomball or to use as they see fit.

Print (full name) _____

Signature _____ **Date** _____



2009 City of Tomball Photo Contest

The public is invited to submit photographs depicting **“What they love about Tomball and what should be preserved for the future.”**

Entry Requirements & Restrictions

- Contestants must submit their photographs digitally by e-mail or on a CD. (No prints please).
- Photographs must be taken within the city limits of the City of Tomball.
- A completed Contest Entry Form and photo release signed by the photographer must accompany all photographs to be considered for the contest.
- Minor digital enhancements for cropping, red-eye removal, filters, and corrective functions are permitted, but images that have been judged to be altered in any significant manner will be disqualified. Contestants are not permitted to place borders, frames or backgrounds around their images or to place watermarks, dates, signatures or copyright images on photos.
- Model/Portrait Release: Photographs of people (when recognizable in the photo) must have a written and signed consent form from all persons in photo before the photo will be accepted into the contest and displayed.
- Photos must be submitted in JPEG (.jpeg, .jpg) or TIFF (.tiff, .tif) format.
- Only one photo entry per person.
- Entries that fail to comply with the Contest Requirements & Restrictions will be disqualified.

Judging

Entries will be reviewed by a panel of City of Tomball staff and planning consultants. Photos will be evaluated on content, originality, and creativity. Selected photos will be included in Tomball’s first Comprehensive Plan. All photos will be displayed on the City’s website during the months of October and November.

Photo Rights of Ownership

All photography submitted will become property of the City of Tomball and may be used in publications promoting the City of Tomball such as on its website, in brochures, newspapers, magazines, activity guides, and other similar marketing and promotional uses. Whenever possible, the photographer will receive credit for photography. The City of Tomball reserves the right to alter or crop registered photographs for display purposes.

Deadlines

All entries must be received by 3:00 pm on Friday, October 23, 2009. Late entries will not be accepted.



2009 City of Tomball Photo Contest Model Release Form

I do hereby give _____(Photographer), the City of Tomball, their assigns, licensees, and legal representatives, the irrevocable right to use my picture, or photograph in all forms, media and manners, without restriction as to changes or alterations, for advertising, trade, promotion, exhibition, or any other lawful purposes that they see fit.

I do hereby waive any right to inspect or approve the photographs or electronic matter that may be used in conjunction with them now or in the future, whether that use known to me or unknown, and I waive any right to royalties or other compensation arising from or related to the use of the photographs.

I am 18 years of age (or parent/guardian of subject) and am competent to sign this release. I have read this release and waiver and am fully familiar with its contents.

Name of Person in Photo _____

Address _____

City _____ State _____ Zip _____

Printed Name _____

Signature _____ Date _____

Walk Tomball!

**Every Saturday—9 AM
Tomball Depot Plaza
201 S. Elm
1 Block South of Main**

**Door prizes every
Saturday!!!**



~ Fitness ~ Fun ~ Friendship ~ Food ~

10 AM Coffee Stops:

- **October 3, Main St. Crossing 111 W. Main**
Muffins, fruit and drink \$5
- **October 10, Infinity Fitness 100 Commerce**
Aleta Oesler will host Walkers.
- **October 17, Fagan Farmers Insurance 407 E. Main**
Gretchen & Mike will host Walkers
- **October 24, El Emperador 601 W. Main**
Breakfast Tacos and drink \$2-\$5
- **October 31, The Bath Hut, 115 Commerce** Halloween Costume contest
Lindsey Theiss will host Walkers



**For more information, please call 281-351-5484 or visit the
City of Tomball web site at www.ci.tomball.tx.us**





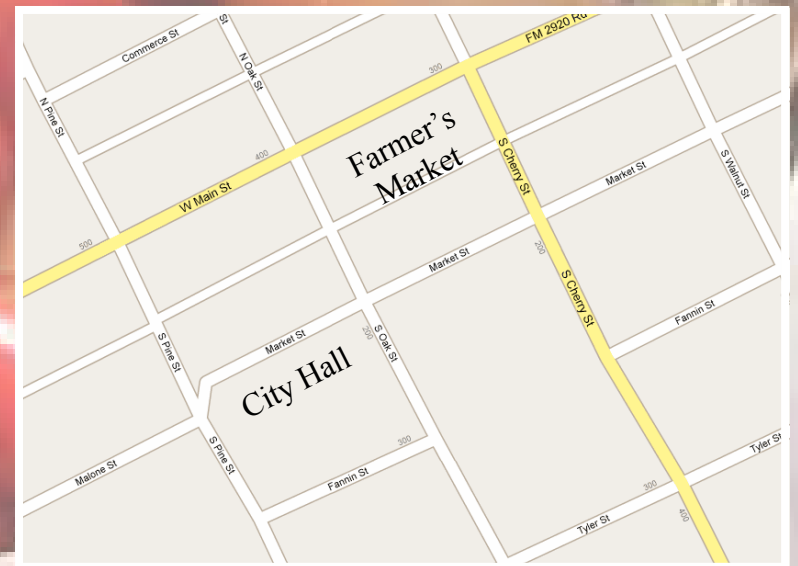
Bringing the farmers back to the community!

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

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

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

**Market opens
at 8 AM!**



2nd Saturday at the Depot October 10

Music

KARMA

Children's Activities

**Pumpkin
Decorating
Bounce Houses
Fall Festival
Games**

Concessions by

Chick-Fil-A

Demonstrations by

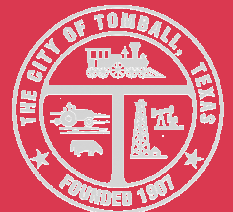
TBA



HISTORIC TOMBALL DEPOT PLAZA
201 South Elm ~ One block south of Main Street
Opens at 5:00 PM ~ Movie begins at dark

**Family entertainment for all ages
Bring your lawn chairs
Concessions available
No Glass Containers!**

**For more information, please call
Rosalie Dillon at 281-610-2595**



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



Where's the Party?

It's at the Tomball Holiday Ice Rink!



The Holiday Ice Rink opens at the Tomball Depot Plaza (201 S. Elm –one block south of Main St. adjacent to the railroad tracks) on November 21st and will be open daily through January 10th. The rink will be closed for Thanksgiving Day and Christmas Day.

Book your group of 20 or more before October 31st and get special pricing.

- Price at the Door - \$8.50 per person
(2 hr. session - includes skates)
- Special advance group rate - \$6.25
- Group rate after October 31st - \$7.50

For General Information, Information on Private Parties and Group Reservations – Contact Monica Kohlenberg
Phone: 281.290.1417 or Email: mkohlenberg@ci.tomball.tx.us

Concessions operated daily by Tomball Youth Booster Clubs - Come Out and Support Our Youth!

-  [Holiday Ice Rink Calendar](#)
-  [Click here for office party pricing information](#)



[| Return to top of this page](#) | [Return to the Home Page](#) | [Site Map](#) |

City of Tomball - 401 Market St., Tomball, TX 77375
 Phone: 281-351-5484 Fax: 281-351-6256
 Mon. – Thurs.: 7:45 AM to 5:00 PM - Friday: 7:45 AM to 4:00 PM

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 For Email Marketing you can trust

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 Information on this web site is for informational purposes only and should be independently verified

Regular City Council
Agenda Item
Data Sheet

Meeting Date: October 5, 2009

Topic:

Approve the Minutes of the Regular City Council Meeting of September 21, 2009

Background:

Origination:

Recommendation:

Funding:

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

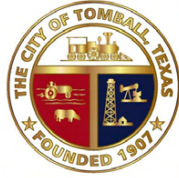
Doris Speer, City Secretary

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

ATTACHMENTS:

Draft Minutes - September 21, 2009 Council Meeting

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



MONDAY, SEPTEMBER 21, 2009

7:00 P.M.

1.0 Call to Order

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

Councilman Quinn
Councilman Stoll
Councilman Webb
Councilman Townsend
Councilman Driver

Others present:

City Manager – Jan Belcher
Assistant City Manager – Christal Klierer
City Secretary – Doris Speer
City Attorney – Scott Bounds
Director of Public Works – David Kauffman
Chief of Police – Robert Hauck
Fire Chief – Randy Parr
Director of Engineering & Planning – Mark McClure
Finance Director – Monica Kohlenberg
Assistant to City Manager – Shawn Cox
City Planner – Kelly Violette
Community Events Coordinator – Rosalie Dillon
Executive Director-TEDC – Betty Reinbeck
NWEMS – Brian Petrilla

2.0 Invocation

- Led by Pastor Mike Lindsey, Covenant Christian Center

3.0 Pledges to U. S. and Texas Flags

- Led by Betty Reinbeck, Executive Director-TEDC

4.0 No public comments were received.

5.0 Presentation:

- Mayor Fagan presented the “Mayor’s Challenge” Cup to Brian Petrilla, on behalf of Northwest EMS, Winner of the **3rd Annual Mayor’s Challenge Community Blood Drive Challenge**, and a plaque to Robert Hauck, winner of the 2nd Annual Mayor’s Challenge Community Blood Drive Challenge.

6.0 Reports and Announcements:

- September 23, 2009 – Elected and Appointed Officials/CPAC Meeting #6 – Public Works Training Room – 6:00 p.m.
- September 26, 2009 – **Walk Tomball!** – Depot Plaza – 8 a.m.
- September 26, 2009 – **Farmers Market**, 8:00 a.m.
- October 3, 10, 17, 24, and 31, 2009 – **Walk Tomball!** – Depot Plaza – 9:00 a.m. (**Please note change in time**)
- October 10, 2009 – **Farmers Market**, 8:00 a.m.
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- **Tomball Holiday Ice Rink at the Depot** - November 21, 2009 through January 10, 2010
- Comprehensive Plan website is now available online <http://plantomball.com/index.html>
- Reports by City staff and members of council about items of community interest on which no action will be taken

Councilman Webb announced that First Baptist will be celebrating its 100th Birthday and commended Betty Reinbeck and the TEDC staff for the excellent job they perform in improving the quality of life for the city.

7.0 Motion was made by Councilman Webb, second by Councilman Townsend, to approve the Minutes of the Regular City Council Meeting of September 8, 2009.

Motion carried unanimously.

8.0 Old Business

8.1 Betty Reinbeck provided an overview of the proposed project. Motion was made by Councilman Townsend, second by Councilman Webb to Approve, by Second Reading, Resolution No. 2009-20-TEDC, as a Project of the Corporation, an agreement with WireTel Services, L.P. to make direct incentives to, or expenditures for the promotion of

new or expanded business development, to wit: WireTel Services relocation and development of its corporate headquarters to be located at 1032 Lizzie Lane within the City of Tomball. The estimated amount of expenditures for such Project is \$225,000.00.

Motion carried unanimously.

- 8.2 Betty Reinbeck provided an overview of the proposed project. Councilman Quinn advised that he would abstain from consideration and vote, due to a conflict of interest, and that he had filed an Affidavit with the City Secretary. Motion was made by Councilman Driver, second by Councilman Stoll, to Approve, by First Reading, Resolution No. 2009-21-TEDC, as a Project of the Corporation, an agreement with Klein Financial Services, Inc. and David R. Quinn Architect, AIA to make direct incentives to, or expenditures for, the promotion of new or expanded business development, to wit: Klein Financial Services, Inc. and David R. Quinn Architect, AIA construction of an office building at 403 Baker Drive within the City of Tomball. The estimated amount of expenditures for such Project is \$50,000.00.

Merritt Spencer and Lori Klein Quinn provided additional information regarding the projects and expressed their support for the proposed project.

Vote was as follows:

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

Motion FAILED, 1 Aye to 3 Nay votes.

- 8.3 Mark McClure provided an overview of the proposed project. Motion was made by Councilman Webb, second by Councilman Driver, to Approve Change Order, in the Amount of \$688,800.00, with Schier Construction Company, Inc. (Contractor) for the City of Tomball Water Supply & Storage Facility No. 5 Project.

Motion carried unanimously.

9.0 New Business:

- 9.1 David Kauffman provided an overview of the proposed project. Motion was made by Councilman Townsend, second by Councilman Driver, to Approve Request from “Beautify Tomball” for City Assistance in Volunteer Effort to Pick Up Litter

Motion carried unanimously.

- 9.2 Shawn Cox presented an overview of the proposed project. Motion was made by Councilman Townsend, second by Councilman Stoll, to Approve Resolution No. 2009-22, a Resolution of the City Council of the City of Tomball, Texas, Supporting the Woodforest National Bank 5K Fun Run to be held on Saturday, November 14, 2009.

Motion carried unanimously.

- 9.3 Monica Kohlenberg provided an overview of the proposed contract. Motion was made by Councilman Driver, second by Councilman Townsend, to Award Contract for Janitorial Services for City of Tomball Facilities to Accent Maintenance Inc., in the amount of \$42,480.00, for Fiscal Year Beginning October 1, 2009.

Motion carried unanimously

- 9.4 Monica Kohlenberg presented an overview of the proposed tax rate. Motion was made by Councilman Driver, second by Councilman Stoll, to Ratify the FY 2010 Budget and Find that the Proposed Tax Rate of \$.251455/\$100 Generates Less Property Tax Revenue than the FY 2009 Budget.

Motion carried unanimously.

- 9.5 Monica Kohlenberg presented an overview of the proposed tax rate for the Interest and Sinking Fund. Motion was made by Councilman Townsend, second by Councilman Driver, to adopt \$0.130000 as the Portion of the Tax Rate for the Interest and Sinking (Debt Service) Fund for FY 2010.

Motion carried unanimously.

- 9.6 Monica Kohlenberg presented an overview of the proposed tax rate for Maintenance and Operations. Motion was made by Councilman Townsend, second by Councilman Driver, to adopt \$0.121455 as the Portion of the Tax Rate to Fund Maintenance and Operations (M&O) for FY 2010.

Motion carried unanimously.

- 9.7 Monica Kohlenberg presented an overview of proposed tax levy ordinance. Motion was made by Councilman Townsend, second by Councilman Webb, to read Ordinance No. 2009-26 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Driver, second by Councilman Stoll, to Adopt, on First Reading, Ordinance No. 2009-26, An Ordinance of the City of Tomball, Texas, Setting the Tax Levy of \$0.251455/\$100 Value Assessed for the Year 2009 on All Taxable Real and Personal Property Located in the City of Tomball, Texas; Allowing for Homestead

Exemptions for Property Owners Sixty-Five Years of Age and Over, and for Property Owners Who Qualify for Disability Benefits Under the Federal Old Age, Survivors, and Disability Insurance Program; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject. 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.

- 9.8 Monica Kohlenberg presented an overview of proposed ordinance establishing utility rates for FY 2010. Motion was made by Councilman Stoll, second by Councilman Webb, to read Ordinance No. 2009-27 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Driver, second by Councilman Townsend to Adopt, on First Reading, Ordinance No. 2009-27, Establishing Rates and Charges for Potable Water, Sanitary Sewer, Natural Gas, and Garbage Collection and Disposal Services; Repealing Ordinance No. 2008-24 and all Other Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith; Providing for an Effective Date; Providing other Matters Relating to the Subject; and Providing for Severability. Vote was as follows:

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

Motion carried unanimously.

- 9.9 Monica Kohlenberg presented an overview of proposed ordinance for the budget amendment. Motion was made by Councilman Townsend, second by Councilman Webb, to read Ordinance No. 2009-28 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Driver, second by Councilman Webb, to Adopt, on First Reading, Ordinance No. 2009-28, an Ordinance of the City of Tomball, Texas, Adopting Amendment Number 4 to the Original Budget of the City of Tomball, Texas, for the Fiscal Year 2008-2009, as Adopted by Ordinance No. 2008-25; Providing for Appropriation of

Funds from the Governmental Funds and the Proprietary Funds; Directing Publication of the Caption of this Ordinance; Finding that the Meetings at which this Ordinance is Considered are Open to the Public; Providing for Severability and the Repeal of Conflicting Ordinances; and Providing other Details Relating to the Passage of this Ordinance. Vote was as follows:

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

Motion carried unanimously.

- 9.10 Kelly Violette presented the staff report for **ZONING CASE P09-158**. The public hearing for **ZONING CASE P09-158**, as requested by Carl Kleimann to amend the Comprehensive Zoning Ordinance to rezone approximately 0.614 acres of land in the Ralph Hubbard Survey, Abstract 383, in Harris County, Texas, generally located on the westerly side of Snook Lane, southerly of Crestview subdivision, from the SF-9- Single Family 9 District to the C-Commercial District was opened by Mayor Fagan at 8:05 p.m.

No public comments being received, the Public Hearing was closed by Mayor Fagan at 8:06 p.m.

Motion was made by Councilman Webb, second by Councilman Townsend, to read Ordinance No. 2009-29 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Webb, second by Councilman Driver to Adopt, on First Reading, Ordinance No. 2009-29, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 0.614 Acres of Land in the Ralph Hubbard Survey, Abstract 383, Harris County, Texas, from the SF-9- Single Family 9 Residential District to the C-Commercial District; Said Property also being known as a 0.614 acre tract of land out of and a part of a 1.3997 acre tract of land described in deed recorded under Clerk's File No. S487819 of the Official Public Records of Real Property of Harris County, Texas, generally located on the westerly side of Snook Lane, southerly of Crestview Subdivision; 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	<u>Nay</u>
Councilman Driver	<u>Aye</u>

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

Motion carried, 4 Aye to 1 Nay votes.

- 9.11 Kelly Violette presented an overview of the Public Hearing on ZONING **CASE P09-156** Requested by Allen Land Management, on behalf of Zion Road Properties, L.L.C., for a text amendment to Section 14.4 (B.2) of the Comprehensive Zoning Ordinance to reduce the minimum side yard requirement from 30 feet to 15 feet for lots within the AG-Agricultural District.

Mayor Fagan advised that the applicant has requested a continuance to the October 12, 2009 Planning and Zoning Commission meeting; therefore, the City Council will not conduct a public hearing or review the subject case until a recommendation is forwarded to the City Council by the Planning and Zoning Commission.

- 9.12 Kelly Violette presented an overview of the Tomball Livable Centers Downtown Plan. Motion was made by Councilman Stoll, second by Councilman Webb, to Approve Resolution No. 2009-23, a Resolution of the City Council of the City of Tomball, Texas, Accepting and Approving the Tomball Livable Centers Downtown Plan.

Motion carried unanimously.

- 9.13 Doris Speer provided an overview of the request for appointments to the Houston-Galveston Area Council 2010 General Assembly. Motion was made by Councilman Driver, second by Councilman Stoll to Approve Resolution No. 2009-24, a Resolution of the City Council of the City of Tomball, Texas for the Designation of Representative and Alternate for the Houston-Galveston Area Council 2010 General Assembly, appointing Councilman Townsend as the Representative and Mayor Pro Tem Webb as the Alternate. Vote was as follows:

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>

Motion carried, 4 Aye to 1 Nay votes.

- 9.14 Doris Speer provided an overview regarding the nomination of an individual to the Harris County Appraisal District Board of Directors. Motion was made by Councilman Driver, second by Councilman Townsend to Approve Resolution No. 2009-25, a Resolution of the City Council of the City of Tomball, Texas, Nominating Ed Heathcott for a Position on the Board of Directors of the Harris County Appraisal District.

Motion carried unanimously.

- 9.15 Jan Belcher provided an overview of the proposed request to approve a resale deed. Motion was made by Councilman Driver, second by Councilman Stoll, to Approve Resale Deed for Property acquired by Foreclosure Tax Sale in Cause No. 2001-49949, styled City of Tomball, et al vs. Mathis, Travis, said Property being described as: Lot 33, Block 69 in the Town of Tomball, in Harris County, Texas, and being more particularly described in map of said addition recorded in Volume Two, Page Thirty-Six of the Map of Records of Harris County, Texas (Account No. 035-273-069-0033).

Motion carried unanimously.

- 9.16 Executive Session: The City Council recessed at 8:15 p.m. to meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose:

- Section 551.074 Personnel Matters – Evaluation of City Manager

Upon reconvening into Regular session at 9:38 p.m., the following action was taken:

- 9.17 Motion was made by Councilman Townsend, second by Councilman Quinn to postpone approving the amended Employment Agreement for Jan Belcher, City Manager; Extending the Contract to September 30, 2011; and Setting Compensation at \$130,000.00 per Year for 90 days and calling an executive session for October 5 to discuss goals and objectives for the City Manager. Vote was as follows:

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

Motion FAILED, 2 Aye to 3 Nay votes.

Motion was made by Councilman Quinn, second by Councilman Stoll, to adjourn. Vote was as follows:

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

Motion FAILED, 2 Aye to 3 Nay votes.

Motion was made by Councilman Webb, second by Councilman Driver, not to extend the contract for the City Manager. Vote was as follows:

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

Motion carried, 3 Aye to 1 Nay votes.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this _____ day of _____ 2009.

Doris Speer, TRMC
City Secretary

Gretchen Fagan
Mayor

**Regular City Council
Agenda Item
Data Sheet**

Meeting Date: October 5, 2009

Topic:

Adopt, on Second Reading, Ordinance No. 2009-26, An Ordinance of the City of Tomball, Texas, Setting the Tax Levy of \$.251455/\$100 Value Assessed for the Year 2009 on All Taxable Real and Personal Property Located in the City of Tomball, Texas; Allowing for Homestead Exemptions for Property Owners Sixty-Five Years of Age and Over, and for Property Owners Who Qualify for Disability Benefits Under the Federal Old Age, Survivors, and Disability Insurance Program; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject.

Background:

On September 21, 2009 the Council approved the allocation of the proposed tax rate for FY 2010 (Tax Year 2009) as \$.13000 for the Interest & Sinking Fund and \$.121455 to Maintenance and Operations for a total tax rate of \$.251455. This is the ordinance that adopts the tax rate and provides for the levying of the 2009 tax rate.

Origination:

Monica Kohlenberg, Director of Finance

Recommendation:

Staff recommends council approval of Ordinance No. 2009-26 and ordinance of the City of Tomball, Texas setting the tax levy of \$.251455 for the year 2009 on all taxable real and personal property in the City of Tomball.

Funding:

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

City Secretary

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

ATTACHMENTS:

Ordinance No. 2009-26_2009 Tax Levy

ORDINANCE NO. 2009-26

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, SETTING THE TAX LEVY OF \$0.251455 FOR THE YEAR 2009 ON ALL TAXABLE REAL AND PERSONAL PROPERTY LOCATED IN THE CITY OF TOMBALL, TEXAS; ALLOWING FOR HOMESTEAD EXEMPTIONS FOR PROPERTY OWNERS SIXTY-FIVE YEARS OF AGE AND OVER, AND FOR PROPERTY OWNERS WHO QUALIFY FOR DISABILITY BENEFITS UNDER THE FEDERAL OLD AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; PROVIDING FOR PENALTY, INTEREST, AND ADDITIONAL PENALTY ON TAXES NOT TIMELY PAID; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, pursuant to the provisions of the Constitution and Laws of the State of Texas, the City Council of the City of Tomball, Texas, is vested with the power to levy, assess and collect an annual tax upon all taxable real and personal property located within the City Limits, and said power allowing for the granting of homestead exemptions for all City of Tomball property owners sixty-five years of age and over or who are disabled; and

WHEREAS, pursuant to the Charter of the City of Tomball, this ordinance has been read two (2) times and considered at two (2) sessions of the City Council, and published in the City's official newspaper after the first reading; and

WHEREAS, the Council is required to set a tax rate, expressed as a rate per hundred-dollar valuation of said property, located in the City of Tomball, January 2, 2009; and

WHEREAS, Section 26.05 of the Texas Property Tax Code provides that before the later of September 30th or the 60th day after the date the certified appraisal roll is received by the taxing unit, the governing body of each taxing unit shall adopt a tax rate for the current tax year; and

WHEREAS, such Section further provides that where the tax rate consists of two components (one which will impose the amount of taxes needed to pay the unit's debt service and the other which will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year), each of the components must be approved separately; and

WHEREAS, the proposed tax rate for the current tax year of the City of Tomball, Texas, consists of two components, a tax rate of thirteen ten thousandths cents (\$0.13000) for the purpose of paying the accruing interest and to provide a sinking fund for payment of the indebtedness of the City, and a tax rate of twelve and one thousand four hundred fifty-five ten-thousandths cents (\$0.121455) for the purpose of funding the maintenance and operation expenditures of the City for the next fiscal year; and

WHEREAS, City Council has approved, by separate motions, the tax rates heretofore specified for each of said components; and

WHEREAS, all notices and hearings required by law as a prerequisite to the passage, approval, and adoption of this Ordinance have been timely and properly given and held;

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

Section 1. The facts and recitations set forth in the preamble of this Ordinance are found to be true and correct and are hereby adopted, ratified, and confirmed.

Section 2. That said tax levied as aforesaid, based upon valuations established by Harris County Appraisal District, will be sufficient to meet the requirements of the City for the Budget Year 2008-2009.

Section 3. There is hereby levied, for the tax year 2009, to fund the City's fiscal year 2009-2010 municipal budget, an ad valorem tax at the total rate of twenty-five and one thousand four hundred fifty-five ten-thousandths cents (\$0.251455) on each One Hundred Dollars (\$100) of assessed valuation on all property, real, personal, and mixed, within the corporate limits of the City, upon which an ad valorem tax is authorized by law to be levied by the City of Tomball, Texas. All such taxes shall be assessed and collected in current money of the United States of America.

Section 4. Of such total tax levied in Section 2 hereof, \$0.121455 is levied to fund maintenance and operation expenditures of the City for the fiscal year 2009-2010. Of the total tax levied in Section 2 hereof, \$0.13000 is levied for the purpose of paying the interest on bonds, warrants, certificates of obligation, or other lawfully authorized evidence of indebtedness issued by the City of Tomball, Texas, including the various installments of principal due on the serial bonds, warrants, certificates of obligation, or other lawfully authorized evidence of indebtedness issued by the City as such installments shall respectively mature, in the fiscal year 2009-2010. **THIS**

TAX RATE WILL LOWER TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$10.00

GENERAL FUND - TO FUND MAINTENANCE AND OPERATION EXPENDITURES OF THE CITY:	\$0.121455
INTEREST & SINKING - FOR DEBT SERVICE:	\$0.130000

With reference to the tax rate of \$0.130000 for the Interest and Sinking Fund for bonded indebtedness, this rate, representing 51.7% of the total \$0.251455 tax, shall apply to the gross amount of current taxes to be collected.

Section 5. All ad valorem taxes levied hereby, in the total amount of \$0.251455 on each One Hundred Dollars (\$100.00) of assessed valuation, as reflected by Sections 2 and 3 hereof, shall be due and payable on or before January 31, 2010. All ad valorem taxes due the City of Tomball, Texas, and not paid on or before January 31st following the year for which they were levied, shall bear penalty and interest, and if not paid before July 1st shall incur an additional penalty of twenty percent (20%), as prescribed in the Texas Property Tax Code. as prescribed in the Texas Tax Code.

Section 6. That said tax levied reflects an allowance of a \$90,000.00 homestead exemption for City of Tomball property owners sixty-five (65) years of age and over, and for those property owners (regardless of age) who qualify for disability benefits under the Federal Old Age, Survivors, and Disability Insurance Program administered by the Social Security Administration. An eligible disabled person who is sixty-five (65) years of age or over may not receive the homestead exemption for both qualifying as "65 or over" and "disabled", but may choose either. Each person desiring such exemption shall file an application with the Harris County Appraisal District, such application being in a form and filed at such time as shall be required by law.

Section 7. All ordinances and parts of ordinances inconsistent or in conflict herewith are hereby repealed to the extent of such conflict.

Section 8. If any provision of this Ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or impair the validity, force, or effect of any other provision of this Ordinance.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 21ST DAY OF SEPTEMBER, 2009.

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 A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 5TH DAY OF OCTOBER, 2009.

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

GRETCHEN FAGAN, MAYOR
City of Tomball

ATTEST:

DORIS SPEER, City Secretary
City of Tomball

Regular City Council

Agenda Item

Meeting Date: October 5, 2009

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2009-27; Establishing Rates and Charges for Potable Water, Sanitary Sewer, Natural Gas, and Garbage Collection and Disposal Services; Repealing Ordinance No. 2008-24 and all Other Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith; Providing for an Effective Date; Providing other Matters Relating to the Subject; and Providing for Severability

Background:

This Ordinance will set the rates for water, sewer, natural gas and garbage collection services for the service period beginning October 1, 2009. The rates included in this Ordinance are those shown to council in the budget workshops and those approved in the contract with WCA Waste Corporation. As discussed, the new water rate structure for residential customers does establish conservation rates as required by State Law. However, 70% of the City's residential customers fall into the first user tier and those customers will see no increase in water rates for this next fiscal year.

Origination:

Monica Kohlenberg, Director of Finance

Recommendation:

Staff recommends council approval of Ordinance No. 2009-27; an ordinance establishing rates and charges for potable water, sanitary sewer, natural gal and garbage collection and disposal services.

Funding:

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

City Secretary

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

ATTACHMENTS:

Ordinance No. 2009-27 - Utility Rates

ORDINANCE NO. 2009-27

AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR POTABLE WATER, SANITARY SEWER, NATURAL GAS, AND GARBAGE COLLECTION AND DISPOSAL SERVICES; REPEALING ORDINANCE NO. 2008-24 AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING OTHER MATTERS RELATING TO THE SUBJECT; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, pursuant to Section 82-50 of the Code of Ordinances of the City of Tomball, Texas, the City Council is to establish rates and charges for utility services provided by the City; and

WHEREAS, pursuant to Section 62-37 of the Code of Ordinances of the City of Tomball, Texas, the City Council is to establish rates and charges for garbage and trash collection and disposal services provided by the City; and

WHEREAS, the City Council now deems it necessary and appropriate to adjust such rates and charges heretofore established; now therefore

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

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

Section 2. Definitions. For the purposes of this Ordinance, the following words shall have the meanings ascribed thereto:

- a. Residential shall mean a residential dwelling unit receiving service for which metering and billing is on an individual basis.
- b. Commercial shall mean all non-residential units, and residential units which are provided service, and are billed, collectively with one (1) or more other residential units.

Section 3. The monthly rates and charges for potable water provided by the City shall be as follows:

- a. Small Residential. A base rate of \$10.90, plus a consumption charge of \$2.85 for each 1,000 gallons used. “Small Residential” shall mean residential customers using less than 10,000 gallons or less during the billing month.
- b. Medium Residential. A base rate of \$12.54, plus a consumption charge of \$3.56 for each 1,000 gallons used. “Medium Residential” shall mean residential customers using 11,000 gallons or more but less than 17,000 gallons during the billing month.

- c. Large Residential. A base rate of \$14.42, plus a consumption charge of \$4.45 for each 1,000 gallons used. “Large Residential” shall mean residential customers using 17,000 gallons or more during the billing month.
- d. Small Commercial. A base rate of \$18.45, plus a consumption charge of \$3.45 for each 1,000 gallons used. “Small Commercial” shall mean commercial customers using less than 5,000 gallons during the billing month.
- e. Medium Commercial. A base rate of \$29.70, plus a consumption charge of \$4.32 for each 1,000 gallons used. “Medium Commercial” shall mean commercial customers using 5,000 gallons or more but less than 51,000 gallons during a billing month.
- f. Large Commercial. A base rate of \$51.99, plus a consumption charge of \$5.40 for each 1,000 gallons used. “Large Commercial” shall mean commercial customers using 51,000 gallons or more during a billing month.

Bulk Sales. A base rate of \$87.05, plus a consumption charge of \$4.83 for each 1,000 gallons used. Additionally, if a meter is desired, the deposit will be \$1,000.00.

The City collects additional surcharges, based on rates established by the North Harris County Regional Water Authority, for each 1,000 gallons used on behalf of NHCRWA, which will be adjusted as the surcharge increases.

Section 4. The monthly rates and charges for sanitary sewer services provided by the City for customers who receive potable water services from the City shall be as follows:

- a. Residential - Winter Rates (November-February): A base rate of \$8.51, plus a charge of \$2.98 for each 1,000 gallons of potable water used.

Residential - Summer Rates (March-October): Rates for summer months are calculated at the same rate as winter rates and may be based upon the previous winter months' average monthly water consumption. The rate charged shall be the lesser of actual water consumption or the previous winter month's average consumption.

- b. Small Commercial. A base rate of \$13.69, plus a consumption charge of \$3.78 for each 1,000 gallons of potable water used. “Small Commercial” shall mean commercial customers using less than 5,000 gallons of potable water during the billing month.
- c. Medium Commercial. A base rate of \$20.76, plus a consumption charge of \$4.72 for each 1,000 gallons of potable water used. “Medium Commercial” shall mean commercial customers using 5,000 gallons or more but less than 51,000 gallons in the billing month.

- d. Large Commercial. A base rate \$43.06, plus a charge of \$5.90 for each 1,000 gallons of potable water used. "Large Commercial" shall mean commercial customers using 51,000 gallons or more of potable water during a billing month.

Section 5. The monthly rates and charges for sanitary sewer services provided by the City for customers who do not receive potable water services from the City shall be as follows:

- a. Residential. A base rate of \$35.01, plus a charge of \$2.29 for each drain in excess of ten (10) drains within such residence.
- b. Commercial. A base rate of \$58.26, plus a charge of \$2.32 for each drain in excess of fifteen (15) drains within such commercial unit.

Section 6. The monthly rates and charges for garbage and trash collection and disposal services provided by the City, excluding applicable sales tax, shall be as follows:

- a. Residential. \$14.55
- b. Commercial
- (1) Hand Loaded. For once a week pickup, \$23.10 for the first container, \$20.74 for each additional container. For twice a week pickup, \$28.44 for the first container, \$23.47 for each additional container. Each collection of excess garbage and refuse (i.e. - garbage and refuse in volume which exceeds the capacity of the approved container(s) for which the customer's regular billing is determined) shall be assessed a \$5.00 excess collection fee and can only be collected on Monday and Thursday collection days.
- (2) Roll-Off Container:

	Size Container, Cubic Yards		
	20	30	40
Delivery Fee	\$ 115.46	\$ 115.46	\$ 115.46
Monthly Rental	141.36	141.36	141.36
Daily Rental	4.71	4.71	4.71
Haul and Disposal Rate	266.00	307.77	348.87

The monthly rental rate for a permanent container used more than a year is \$0. In order for a container to qualify as permanent, it cannot have an end date. (i.e. if a business was being constructed and used the container for 18 months during build out, then it would not be considered a permanent container, so the monthly rental rate would apply).

(3) Compactor/Equipment:

Monthly Rental	(As quoted)
Haul Rate	\$247.69
Disposal Fee/Ton	24.77

(4) Monthly Rate for Dumpsters:

Size	Extra Pickup Rate	Services Per Week					
		1	2	3	4	5	6
3 Yd – 1 st Container	\$25.00	\$73.53	\$116.90	\$176.07	\$220.62	\$274.95	\$330.29
Each add'l container		38.58	83.18	116.53	154.37	186.88	218.13
4 Yd – 1 st Container	\$30.00	79.54	126.54	189.31	237.59	295.12	355.69
Each add'l container		71.13	113.25	171.20	213.24	266.42	292.42
6 Yd – 1 st Container	\$35.00	103.70	161.59	243.57	305.08	381.05	455.78
Each add'l container		91.61	145.77	219.45	274.76	332.00	410.86
8 Yd – 1 st Container	\$45.00	124.19	198.94	296.57	372.56	456.44	558.21
Each add'l container		112.16	179.60	267.63	334.89	389.02	502.42

(5) <u>Locking Dumpsters</u> - Gravity Lock System	\$55.00
Front Panel Padlock System	\$40.00

(6) Exchange Charge - \$45.00

Section 7. The monthly rates and charges for natural gas provided by the City shall be as follows:

- a. All Customers. A base rate of \$12.75, plus \$12.75 for each thousand cubic feet (MCF) after the first thousand cubic feet (MCF).

Section 8. The charges for connections and disconnections of utility services provided by the City, including those provided at customer request or convenience, or as a result of delinquent accounts, shall be as follows:

- a. During Normal Scheduled Service Periods (7:00 a.m.-4:45 p.m. weekdays), a Service Call-Out Fee of \$50.00, as a result of a delinquent account, or at a customer's request, excluding new service.
- b. During Unscheduled Service Periods (after hours and weekends), a Service Call-Out Fee of \$100.00, at a customer's request, including new service.

Section 9. The charge for damage to utility facilities from (i) customer's tampering with valves, or (ii) customer's damaging meter in any manner, shall be \$200.00.

Section 10. Delinquent Accounts.

- a. All utility bills, both residential and commercial, shall be due and payable on the close of the last business day of the month. If the month ends on a Saturday, Sunday, or holiday, the bill is due on the prior business day (the last workday of the City at closing time on that day).
- b. Residential customers who are age 65 and over or considered disabled by Social Security may be exempt from penalty fees for late payment upon application accompanied by verifying documentation to the Utilities Supervisor. This exemption may not exceed the final date of benefits designated by the Social Security Administration.
- c. Within two (2) work days following the "Due Date" a "Cut-off Notice" shall be mailed to customer giving notice that following the expiration of seven (7) days following such notice service will be discontinued unless the customer requests a hearing before the Utilities Supervisor regarding such proposed disconnection prior to the expiration of such seven (7) day period.
- d. Upon the showing of good cause and arrangement for prompt payment by a customer, the Utilities Supervisor shall be authorized to withdraw a disconnection order. Any such action by the Utilities Supervisor shall be evidence in writing, outlining the basis for the decision and, if applicable, the required payment schedule for the customer. The Utilities Supervisor shall cause a copy of such order to be delivered to the appropriate billing personnel of the City.

Section 11. Repealer. City of Tomball Ordinance 2008-24 passed and approved the 15th day of September, 2008 is hereby repealed. All other ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 12. Severability. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any

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

Section 13. Effective Date This ordinance shall be effective October 1, 2009.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 21st DAY OF SEPTEMBER, 2009.

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 5th DAY OF OCTOBER, 2009.

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

GRETCHEN FAGAN
Mayor

ATTEST:

DORIS SPEER
City Secretary

**Regular City Council
 Agenda Item
 Data Sheet**

Meeting Date: October 5, 2009

Topic:

Adopt, on Second Reading, Ordinance No. 2009-28, an Ordinance of the City of Tomball, Texas, Adopting Amendment Number 4 to the Original Budget of the City of Tomball, Texas, for the Fiscal Year 2008-2009, as Adopted by Ordinance No. 2008-25; Providing for Appropriation of Funds from the Governmental Funds and the Proprietary Funds; Directing Publication of the Caption of this Ordinance; Finding that the Meetings at which this Ordinance is Considered are Open to the Public; Providing for Severability and the Repeal of Conflicting Ordinances; and Providing other Details Relating to the Passage of this Ordinance

Background:

This Ordinance will serve as the final amendment to the FY 2009 Budget. Footnotes are shown on each page to explain the additional appropriation or reduction in departmental funds. Primarily, this amendment transfers the amounts budgeted for health insurance in the General Fund and Enterprise Fund to the Health Insurance Trust Fund where the premiums are now paid. The creation of the Health Insurance Trust Fund was approved by Council in March 2009. The amendment also covers the funds needed to pay for heavy equipment purchased but where the actual bid costs were more than the original cost estimates. The heavy equipment purchases were also approved by Council during the budget year.

Origination:

Monica Kohlenberg, Director of Finance

Recommendation:

Staff recommends council approval of Ordinance No. 2009-28 on Second Reading.

Funding:

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

City Secretary

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

ATTACHMENTS:

Ordinance No. 2009-28_Amendment No. 4 to 2008-2009 FY Budget
 Fund Statements of Revenues and Expenditures

ORDINANCE NO. 2009-28

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, ADOPTING AMENDMENT NUMBER 4 TO THE ORIGINAL BUDGET OF THE CITY OF TOMBALL, TEXAS, FOR THE FISCAL YEAR 2008-2009, AS ADOPTED BY ORDINANCE NO. 2008-25; PROVIDING FOR APPROPRIATION OF FUNDS FROM THE GOVERNMENTAL FUNDS AND THE PROPRIETARY FUNDS; DIRECTING PUBLICATION OF THE CAPTION OF THIS ORDINANCE; FINDING THAT THE MEETINGS AT WHICH THIS ORDINANCE IS CONSIDERED ARE OPEN TO THE PUBLIC; PROVIDING FOR SEVERABILITY AND THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING OTHER DETAILS RELATING TO THE PASSAGE OF THIS ORDINANCE.

* * * * *

WHEREAS, the City of Tomball fiscal year 2008-2009 Budget was adopted by Ordinance No. 2008-25, with the time and in the manner required by State law; and

WHEREAS, the City Council finds it is necessary to amend the 2008-2009 Budget to provide for the appropriation of funds for certain events, and to allocate and reclassify funds as described in the Exhibits to this Ordinance; and

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

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

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

Section 2. The City of Tomball, Texas, Fiscal Year 2008-2009 Budget is hereby amended to provide for the appropriation and reclassification of funds as reflected in the attached Exhibit A. This **Amendment Number 4 To The Original Budget of the City of Tomball, Texas, For The Fiscal Year 2008-2009** shall be attached to and made a part of the Original budget by the City Secretary and filed as required by State law and the City Charter

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

Section 4. Severability. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part of provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 21ST DAY OF SEPTEMBER 2009.

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 5TH DAY OF OCTOBER 2009.

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

GRETCHEN FAGAN, Mayor

ATTEST:

DORIS SPEER, City Secretary

Amendment Number 4 To The Original Budget of the City of Tomball, Texas, For The Fiscal Year 2008-2009

General Fund Fiscal Year 2009 Budget Amendment

	FY2009 Adopted Budget	10/24/08 Amendment	11/17/08 Amendment	2/2/09 Amendment	9/21/09 Amendment	Total Amended Budget
Revenues:						
Property taxes	\$ 1,772,115	\$ (204,878)	\$	\$	\$	\$ 1,567,237
Sales taxes	7,278,200	(1,078,200)				6,200,000
Franchise taxes	1,213,480	(34,260)				1,179,220
Permits and licenses	329,660	(11,000)				318,660
Fines and warrants	398,700	245,000				643,700
Service fees	2,100,000					2,100,000
Transfer from Enterprise	1,778,313					1,778,313
Contributions	283,700	(151,800)				131,900
Interest	800,000	(220,000)				580,000
Other	241,880					241,880
Total Revenues	16,196,048	(1,455,138)	0	0		14,740,910
Expenditures:						
City Manager's Office	479,913		21,000	(600)	(17,047) 1	483,266
Mayor and Council	127,561	(34,000)		600		94,161
City Secretary	359,028	(8,309)			(24,441) 1	326,278
Human Resources	335,651		4,500		(16,817) 1	323,334
Finance	538,940	(17,654)			(25,023) 1	496,263
Information Systems	344,466	(36,284)				308,182
Legal	244,700					244,700
Non-Departmental	253,751				1,758 2	255,509
Building Permits and Inspections	400,812	(2,736)		6,450	(26,144) 1	378,382
Police	5,178,472	(183,309)		134,813	(319,696) 1	4,810,280
Fire	1,435,496	(281,705)	22,000		(30,109) 1	1,145,682
Fire Marshal	223,850	(24,657)			(7,099) 1	192,094
Emergency Services	17,600					17,600
Municipal Court	445,136	(2,183)			(21,259) 1	421,694
Public Works Administration	63,323				(7,370) 1	55,953
Engineering and Planning	1,105,072	(153,673)	1,462	(6,450)	(38,916) 1	907,495
Facilities Maintenance	459,212	(8,931)			(3,812) 1	446,469
Garage	201,370	(111,283)		12,552	(11,589) 1	91,050
Streets	1,028,402	(4,400)	70,000		(34,481) 1	1,059,521
Sanitation	2,350,100		16,500			2,366,600
Parks	552,968	(156,099)			(30,429) 1	366,440
Community Center	159,571				(10,957) 1	148,614
Operating Transfer	0				625,191 1	625,191
Total Expenditures	16,305,394	(1,025,223)	135,462	147,365	1,758	15,564,756
Net Income from Operations	(109,346)	(429,915)	(135,462)	(147,365)	(1,758)	(823,846)
Other Sources/(Uses):						
Proceeds from debt						
Vehicle Replacement	716,662					716,662
Capital Projects/Outlay	2,341,519	(1,499,519)	7,481,023			8,323,023
Total Other Sources/(Uses)	3,058,181	(1,499,519)	7,481,023	0	0	9,039,685
Revenues Over/(Under) Expenditures	(3,167,527)	(1,929,434)	7,345,561	(147,365)	(1,758)	(9,863,531)
Beginning Fund Balance	16,676,502					16,676,502
Ending Fund Balance	\$ 13,508,975	\$ (1,929,434)	\$ 7,345,561	\$ (147,365)	\$ (1,758)	\$ 6,812,971

44%

Footnotes:

- 1 - Move budget for health insurance expenses to the newly established Health Insurance Fund created in March 2009
- 2 - Copy charges exceeded the original amount budgeted

Enterprise Fund

Fiscal Year 2009

Budget Amendment

	FY2009			Total
	Total	11/17/08	9/21/09	Amended
	Budget	Amendment	Amendment	Budget
Operating Revenues:				
Water sales	\$ 2,830,163	\$	\$	\$ 2,830,163
Sewer sales	2,355,403			2,355,403
Gas sales	4,185,000			4,185,000
Tap fees	119,000			119,000
Reconnect fees	28,000			28,000
Interest	350,000			350,000
Other	842,400			842,400
Transfers	-			0
Total Operating Revenues	10,709,966	0	0	10,709,966
Expenses:				
Enterprise Administration	446,001		(19,270) 1	426,731
Utility Billing	417,316		(33,763) 1	383,553
Water	1,947,015		(35,501) 1	1,911,514
Wastewater	1,555,759		(59,517) 1	1,496,242
Gas	2,868,887		(32,905) 1	2,835,982
Operating Transfer	1,749,561		180,955 1	1,930,516
Total Operating Expenses	8,984,539	0	(0)	8,984,539
Net Revenue Available for Debt	1,725,427	0	0	1,725,427
Debt Service*				
Revenue Bonds	1,032,415			1,032,415
Certificates of Obligation	973,901			973,901
Fiscal Fees	5,000		6,789 2	11,789
Total Debt Service	2,011,316	0	6,789	2,018,105
Non-Operating Revenues (expenses)				
Proceeds from debt				
Transfers	-			
Vehicle replacement	121,510			121,510
Capital projects/outlay	715,000	2,622,101		3,337,101
Total Non-Operating Revenue	836,510	2,622,101	0	3,458,611
Net Income (Excluding Depr.)	(1,122,399)	(2,622,101)	(6,789)	(3,751,289)
Beginning Fund Balance	10,104,464			10,104,464
Ending Fund Balance	\$ 8,982,065	\$ (2,622,101)	\$ (6,789)	\$ 6,353,175
Reserve Requirement (18% of Op.)	\$1,558,717			\$1,617,217
Reserve Level	103.7%			70.7%

Footnotes:

1 - Move budget for health insurance expenses to the newly established Health Insurance Fund created in March 2009

2 - Enterprise Fund Debt arbitrage charges

Fleet Replacement Fund - General Fund
 Fiscal Year 2009
 Budget Amendment

	FY 2009 Adopted Budget	11/17/08 Amendment	9/21/09 Amendment	Total Amended Budget
Revenues:				
Transfers	\$ 735,984	\$	\$	\$ 735,984
Interest	20,000			20,000
Total	755,984	-	-	755,984
Expenditures:				
Capital Outlay	372,530	96,264	29,200 ¹	497,994
Total	372,530	96,264	29,200	497,994
Revenues Over (Under)				
Expenditures	383,454	(96,264)	(29,200)	257,990
Beginning Fund Balance	761,477			761,477
Ending Fund Balance	\$ 1,144,931	\$ (96,264)	\$ (29,200)	\$ 1,019,467

Footnotes:

1 - Appropriate money to cover the cost of the new gradall and the front mower both of which exceeded the original budgeted amount. This additional appropriation was approved by council when the gradall was approved but is now being shown to reflect the total amended budget for this fund.

Health Insurance Trust Fund
 Fiscal Year 2009
 Budget Amendment

	FY 2009 Adopted Budget	9/21/2009 Amendment	Total Amended Budget
Revenues:			
Transfers	\$ -	\$ 806,146 ¹	\$ 806,146
Interest	-	-	-
Total	-	806,146	806,146
Expenditures:			
Health Insurance Costs	-	806,146 ¹	806,146
Total	-	806,146	806,146
Revenues Over (Under)			
Expenditures	-	-	-
Beginning Fund Balance	-	-	-
Ending Fund Balance	\$ -	\$ -	\$ -

Footnotes:

1 - Move budget for health insurance expenses to the newly established Health Insurance Fund created in March 2009.

Regular City Council

Agenda Item

Meeting Date: October 5, 2009

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2009-29, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 0.614 Acres of Land in the Ralph Hubbard Survey, Abstract 383, Harris County, Texas, from the SF-9-Single Family 9 Residential District to the C-Commercial District; Said Property also being known as a 0.614 acre tract of land out of and a part of a 1.3997 acre tract of land described in deed recorded under Clerk's File No. S487819 of the Official Public Records of Real Property of Harris County, Texas, generally located on the westerly side of Snook Lane, southerly of Crestview Subdivision; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an Amount not to Exceed \$2,000 for Each Day of Violation of any Provision Hereof, Making Findings Of Fact; and Providing for Other Related Matters

Background:

On August 5, 2009, the Engineering and Planning Department received a rezoning application from Carl Kleimann to rezone one vacant tract totaling approximately 0.614 acres of land from the SF-9-Single-Family Residential-9 District to the C-Commercial District in order to develop the property with an oilfield service office/warehouse facility.

On September 14, 2009, after conducting a public hearing on the case, the Planning and Zoning Commission voted 3-1 to recommend approval of ZONING CASE P09-158. Commissioner O'Donnell was absent. This request is now being forwarded to City Council for consideration and possible action. The staff report recommending denial, notice of public hearing and adjacent property owner notification are included for reference.

Origination:

Carl Kleimann, Property Owner

Recommendation:

In its formal recommendation to City Council the Planning and Zoning Commission voted 3-1 to recommend approval.

Funding:

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

Engineering and Planning

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

ATTACHMENTS:

Ordinance No. 2009-29 - Zoning Case P09-158

P09-158 Staff Report

Public Comment Form

Notice of Public Hearing

Property Owner Notification

ORDINANCE NO. 2009-29

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 0.614 ACRES OF LAND IN THE RALPH HUBBARD SURVEY, ABSTRACT 383, HARRIS COUNTY, TEXAS, FROM THE SF-9- SINGLE FAMILY 9 RESIDENTIAL DISTRICT TO THE C-COMMERCIAL DISTRICT; SAID PROPERTY ALSO BEING KNOWN AS A 0.614 ACRE TRACT OF LAND OUT OF AND A PART OF A 1.3997 ACRE TRACT OF LAND DESCRIBED IN DEED RECORDED UNDER CLERK'S FILE NO. S487819 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF HARRIS COUNTY, TEXAS, GENERALLY LOCATED ON THE WESTERLY SIDE OF SNOOK LANE, SOUTHERLY OF CRESTVIEW SUBDIVISION; 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 a 0.614 acre tract of land out of and a part of a 1.3997 acre tract of land described in deed recorded under Clerk's File No. S487819 of the Official Public Records of Real Property of Harris County, Texas, situated in the Ralph Hubbard Survey, Abstract 383, generally located on the westerly side of Snook Lane, southerly of Crestview subdivision, 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-9- Single Family 9 Residential District to C-Commercial District; and

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

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

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing on the proposal to change the zoning district classification for the Property from SF-9- Single Family 9 Residential District to C-Commercial District, the City Council held the public hearing on the proposal to change the zoning for the Property and the City Council considered the final report of the Planning & Zoning Commission regarding the change of zoning district classification, and,

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

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

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

Section 2. The zoning classification of a 0.614 acre tract of land out of and a part of a 1.3997 acre tract of land described in deed recorded under Clerk's File No. S487819 of the Official Public Records of Real Property of Harris County, Texas, situated in the Ralph Hubbard Survey, Abstract 383, generally located on the westerly side of Snook Lane, southerly of Crestview subdivision, in the City of Tomball, Harris County, Texas, (the "Property"), is hereby changed from SF-9- Single Family 9 Residential District to C-Commercial District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas-Ordinance 2008-01, ("Zoning District Map"), shall be revised and amended to show the designation of a 0.614 acre tract of land out of and a part of a 1.3997 acre tract of land described in deed recorded under Clerk's File No. S487819 of the Official Public Records of Real Property of Harris County, Texas, situated in the Ralph Hubbard Survey, Abstract 383, generally located on the westerly side of Snook Lane, southerly of Crestview subdivision, as C-Commercial District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for a 0.614 acre tract of land out of and a part of a 1.3997 acre tract of land described in deed recorded under Clerk's File No. S487819 of the Official Public Records of Real Property of Harris County, Texas, situated in the Ralph Hubbard Survey, Abstract 383, generally located on the westerly side of Snook Lane, southerly of Crestview subdivision, to C-Commercial District as described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a

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

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

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 21ST DAY OF SEPTEMBER 2009.

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 5TH DAY OF OCTOBER 2009.

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: September 14, 2009

Rezoning Case: P09-158

Property Owner(s): Carl Kleimann

Applicant(s): Carl Kleimann

Legal Description: A 0.614 acre tract of land in the Ralph Hubbard Survey, Abstract Number 383, in Harris County, Texas, out of and a part of a 1.3997 acre tract of land described in deed recorded under Clerk's File No. S487819 of the Official Public Records of Real Property of Harris County, Texas.

Location: Generally located on the westerly side of Snook Lane, southerly of Crestview subdivision.

Area: 0.614 acres (26,725 square feet)

Present Zoning and Use: SF-9-Single-Family Residential-9 District / Vacant

Proposed Zoning and Use: C-Commercial District / Oilfield Service Office/Warehouse Facility

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

Adjacent Zoning & Land Uses:

North: SF-9-Single-Family Residential-9 District / Single-family residences

South: PD-2 Planned Development District (Townhomes) / Vacant

East: SF-9-Single-Family Residential-9 District & C-Commercial District / Single-family residences & hydraulic manufacturing office/warehouse (Century Hydraulics)

West: SF-9-Single-Family Residential-9 District / Single-family residences

BACKGROUND

The subject site is an unplatted 0.614 acre tract of land located on the westerly side of Snook Lane, southerly of the Crestview subdivision. The property is generally rectangular in shape and is currently vacant. The lot has approximately 152.75 feet of frontage on Snook Road, is approximately 175 feet deep (Exhibit "E"). It is unknown when the property was first

subdivided, however the current owner, Mr. Kleimann, provided a warranty deed dated December 31, 2008.

The applicant is requesting to rezone the property from the SF-9-Single-Family Residential-9 District to the C-Commercial District in order to use the property as an oilfield service office/warehouse facility (Exhibit "D"). According to the rezoning request letter received on August 5, 2009, a 60' by 140' metal building is being proposed on the site (Exhibit "D"). However, no conceptual site plan has been submitted for this rezoning request showing the location of the proposed structure, access, or parking configurations.

ANALYSIS

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

The minimum lot size requirements of the district are as follows:

Minimum Lot Area: Ten thousand (10,000) square feet;

Minimum Lot Width: Sixty feet (60');

Minimum Lot Depth: One hundred feet (100');

This unplatted lot currently meets the minimum lot size and area requirements for the C-Commercial District. However, the lot and parent tract would need to be platted before a building permit could be issued. The property owner has indicated that the proposed use will be for oilfield service office/warehouse facility which would be permitted by right in the C-Commercial District. It should be noted, that any use permitted in the C-Commercial District would be allowed at this location if the zoning designation is changed.

Should the rezoning request be approved, the applicant will be required to comply with all platting requirements, including dedication of utility easements and right-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.

Within the vicinity of the subject site, the predominant land use is residential in nature, with the exception of the Century Hydraulics facility located across Snook Lane to the southeast of the subject site. To the north of the site are single-family residences within the Crestview Subdivision located in the SF-9-Single-Family

Residential-9 District. To the east of the site are single-family residences and vacant lots located in the SF-9-Single-Family Residential-9 District. To the southeast of the site is Century Hydraulics which is located in the C-Commercial District. To the south of the site is an undeveloped tract zoned Planned Development District #2 (PD-2). The use permitted within the PD-2 District is townhomes. To the west of the site are single-family homes along Lovett Street and a multi-family development at the southwest corner of Lovett Street and Carrell Street.

Staff believes that the proposed Commercial District designation of the approximately 0.614 acre site would be out of character with the existing and permitted land uses near and/or adjacent the subject site. As identified above, the majority of the sites adjacent to this property are existing or proposed residences with the exception being Century Hydraulics on the east side of Snook Lane. The zoning ordinance states that, “The uses envisioned for the [Commercial] district will typically utilize smaller sites and have operation characteristics which are generally not compatible with residential uses...” If the property to the south is developed with townhomes as permitted in the PD-2 District, the subject site would not be contiguous to any commercial development. It does not appear that Snook Lane is in transition from a residential area to a commercial area in the immediate vicinity. However, it should be noted that property along the east side of Snook Lane is sparsely developed with commercial uses including the Century Hydraulics facility, a mini-storage facility and a heavy equipment operating company (at the intersection of Snook Lane and FM 2920). Staff believes that neither the west side of Snook Lane nor the east side north of Century Hydraulics is in transition to commercial and therefore this rezoning would not be appropriate at this particular location.

Additionally, if the Commercial District rezoning was approved and the proposed project was no longer pursued, all uses permitted by right in the Commercial District would be allowed to locate on the property subject to applicable permits. These uses, include, but are not limited to ambulance service, hotel/motel, tattoo or body piercing studio, convenience store, auto parts sale (new or rebuilt; with outside storage or display), penal or correctional institutions, and drinking establishments that could pose significant compatibility issues with the neighboring existing and proposed residential areas. Staff recognizes this reality and believes that the proposed use and a number of the potential uses permitted by right in the Commercial District would be incompatible at this location.

- 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.

Changing the zoning designation of this property to the C-Commercial District is not expected to negatively impact public facilities. Snook Lane is a Minor Arterial on the City’s Major Thoroughfare Plan, which calls for an ultimate right-of-way of 80 feet. Snook Lane has an existing 60 foot right-of-way. At the time of platting, a 10 foot right-of-way dedication would be required for the future expansion of Snook Lane. According to the City’s Utility Block Map, Snook Lane currently has a 6 inch water line, 10 inch sanitary sewer line and a 4 inch gas line in the vicinity of the site. At the

time of platting, the property owner will be required to dedicate a 15' utility easement to the City of Tomball.

The future development of the site may result in increased impermeable area, thereby altering absorption rates and increasing surface runoff. Given the relatively small size of the property and proposed development, staff does not anticipate any major impacts to the area. Drainage, utilities, and improvements shall comply with the requirements of the City's Engineering and Planning and Public Works Departments.

A C-Commercial designation would not impact the public school system as the proposed use of the site as an oilfield service office/warehouse facility would not increase attendance to the school system.

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

There is a large amount of vacant land within the City of Tomball that is zoned C-Commercial District and would support the development of the proposed project. These areas include the intersection of F.M. 2978/F.M. 2920, Holderrieth Road, South Persimmon, south Hufsmith-Kohrville, and along the southern portion of Snook Lane.

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

Commercial uses have developed sporadically along Snook Lane with the construction of Century Hydraulics being the most recent in November 2008. However, commercial uses have been developing more rapidly on the south side of the City. In particular, South Cherry Street has been developing steadily with a mixture of commercial/light industrial uses over the past several years.

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

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

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

None known.

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

The Planning and Zoning Commission will need to determine if the request is consistent with the anticipated long range land uses for the area.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on September 4, 2009 and as of the writing of this report, no public comment forms were received regarding the rezoning request.

RECOMMENDATION

That the Planning and Zoning Commission recommend:

1. DENIAL of Zoning Case P09-158 based on the following:
 - a. The proposed zoning of C-Commercial District is incompatible with the land uses in the vicinity.
 - b. The area within the vicinity of the proposed change is not currently in transition to commercial.

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. Rezoning Application
- D. Rezoning Request Letter
- E. Property Survey
- F. Metes & Bounds Description
- G. Site Photos

Exhibit "A"
Location/Zoning Map

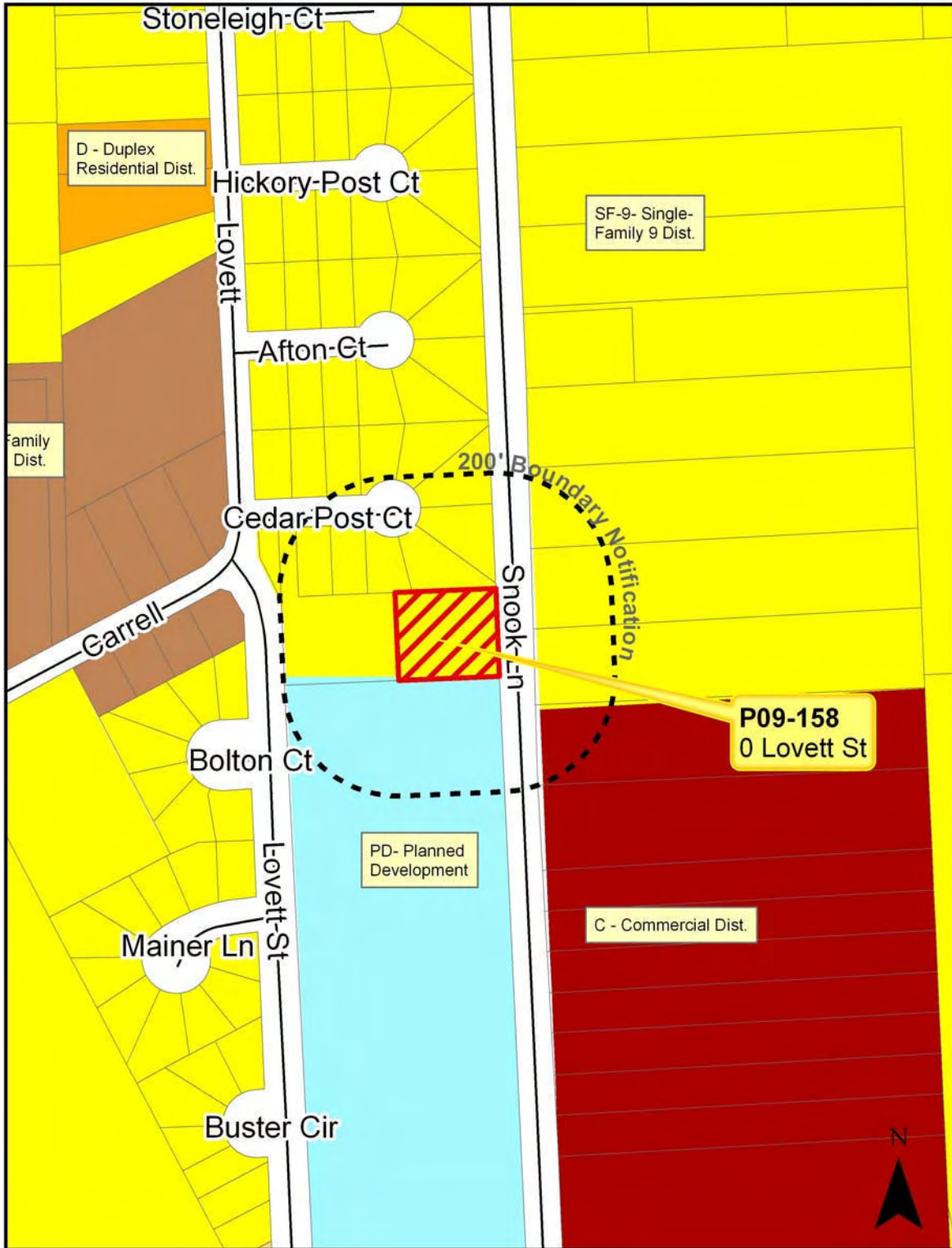
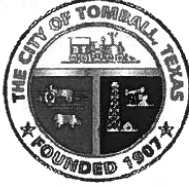


Exhibit "B"
Aerial Photo



Exhibit "C"
Rezoning Application

Revised 1/20/09



APPLICATION FOR REZONING
Engineering & Planning Department

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

Applicant

Name: CARL H. KLEIMANN Title: OWNER
Mailing Address: P.O. Box 385 City: TOMBALL State: TX
Zip: 77377-0385
Phone: (713) 826-3747 Fax: (281) 885-4351 Email: ckleimann@odysseyonesource.com

Owner

Name: CARL H. KLEIMANN Title: OWNER
Mailing Address: P.O. Box 385 City: TOMBALL State: TX
Zip: 77377-0385
Phone: (713) 826-3747 Fax: (281) 885-4351 Email: ckleimann@odysseyonesource.com

Engineer/Surveyor (if applicable)

Name: TONY SWONICK Title: OWNER
Mailing Address: 700 KANE STREET City: TOMBALL State: TX
Zip: 77375
Phone: (281) 351-7789 Fax: () Email: _____

Description of Proposed Project: OFFICE / WAREHOUSE, METAL BUILDING 60' x 140'

Physical Location of Property: WEST SIDE OF SNOOK LANE, APPROXIMATELY 2,000 FT. NORTH
[General Location - approximate distance to nearest existing street corner] of FM 2920.

Legal Description of Property: A.614 acre tract of land in the Ralph Hubbard Survey, Abstract No. 383 in
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]
Harris County, Texas.

Current Zoning District: SF 9

Current Use of Property: VACANT LAND

Proposed Zoning District: C

Proposed Use of Property: OFFICE / WAREHOUSE FOR LOCAL OILFIELD SERVICE Co.

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

www.ci.tomball.tx.us

HCAD Identification Number: 035283000098 Acreage: 0.614 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.

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

www.ci.tomball.tx.us

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 Carl Allen August 4, 2009
Signature of Applicant Date

X Carl Allen August 4, 2009
Signature of Owner Date

Exhibit "D"
Rezoning Request Letter

Carl H. Kleimann
P. O. Box 385
Tomball, Texas 77377-0385

August 4, 2009

Rodney D. Schmidt
Assistant City Planner
City of Tomball
501 James Street
Tomball, Texas 77375



Re: Application for Rezoning

Dear Mr. Schmidt:

I spoke with Brandy Pate earlier this week concerning a request for rezoning a .614 acre tract of land on the west side of Snook Lane, approximately 2,000 feet north of FM 2920. This tract is currently zoned as SF 9 and I am seeking a Commercial zoning for the tract. Brandy suggested that I forward my request to your attention and indicated that Wednesday, August 5th, was the deadline for consideration at the next available meeting of the body that considers such requests.

Brandy advised me to go to the City's website in order to secure the enclosed application. I have completed the application and will elaborate a bit on the purpose of this request. I acquired this tract of land on December 31st of 2008 and it is currently zoned as SF 9. The tract across the street was just developed as an office/warehouse and the adjoining tract to the south of mine is currently zoned as PD. The property to the immediate north of mine is zoned SF 9. I have been approached by a party that is interested in building an office/warehouse, much like the one across the street, to house a local oilfield service business that is currently located in Tomball at 9421 FM 2920. This business is currently leasing office/warehouse space and would like to acquire this tract in order to build a new facility. They are proposing a 60' by 140' metal building on the site. If granted, they will develop this facility in accordance with all city codes and ordinances and no other exceptions or variances are being requested.

In completing the application, I see that the submittal requirements include a plat. This property is not currently platted although I would be happy to have it platted if requested or required. Brandy mentioned that the earliest timeframe for which I could expect rezoning would be October 5th. If the property must be platted prior to the consideration of my rezoning request, please let me know.

Should you have questions about my application, please do not hesitate to contact me. I can be reached on my cell phone at 713-826-3747 or at home at 281-351-0300. Thank you for your consideration of my request.

E-Mail: carlklmn@ix.netcom.com

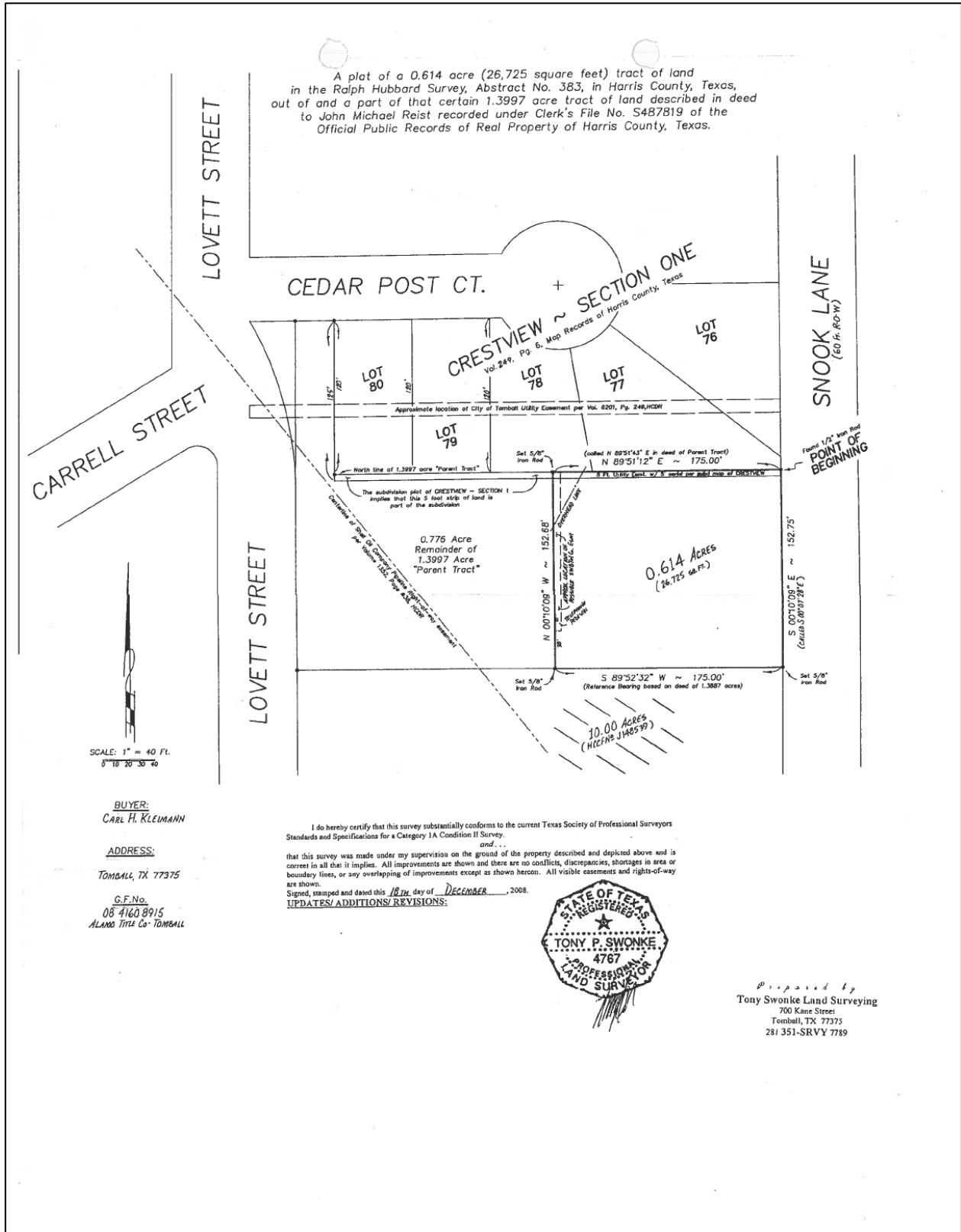
Best Regards,



Carl H. Kleimann

Exhibit "E" Property Survey

A plot of a 0.614 acre (26,725 square feet) tract of land in the Ralph Hubbard Survey, Abstract No. 383, in Harris County, Texas, out of and a part of that certain 1.3997 acre tract of land described in deed to John Michael Reist recorded under Clerk's File No. S487819 of the Official Public Records of Real Property of Harris County, Texas.



SCALE: 1" = 40 FT.
0 10 20 30 40

BUYER:
CARL H. KLEIMANN

ADDRESS:
TOMBALL, TX 77375

G.F.No.
08 4160 8915
ALAMO TITLE Co.·TOMBALL

I do hereby certify that this survey substantially conforms to the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1A Condition II Survey.

and . . .

that this survey was made under my supervision on the ground of the property described and depicted above and is correct in all that it implies. All improvements are shown and there are no conflicts, discrepancies, shortages in area or boundary lines, or any overlapping of improvements except as shown hereon. All visible easements and rights-of-way are shown.

Signed, stamped and dated this 18th day of DECEMBER, 2008.

UPDATES/ADDITIONS/REVISIONS:



Prepared by
Tony Swonke Land Surveying
700 Kane Street
Tomball, TX 77375
281-351-SRVY 7789

Exhibit "F"
Metes & Bounds Description

FIELD NOTES

Being a 0.614 acre (26,725 square feet) tract of land in the Ralph Hubbard Survey, Abstract No. 383, in Harris County, Texas, out of and a part of that certain 1.3997 acre tract of land described in deed recorded under Clerk's File No. S487819 of the Official Public Records of Real Property of Harris County, Texas, said 0.614 acres is hereafter referred to as "the subject tract" and is more particularly described as follows:

BEGINNING at a 1/4 inch iron rod found at cedar-board fence corner post lying in the West right-of-way line of Snook Lane (60 foot R-O-W) and marking the lower Northeast corner of the said 1.3997 acre tract (hereafter referred to as "the parent tract"). Said point marks the Northeast corner of the subject tract, and the Southeast corner of Lot 77 of **CRESTVIEW ~ SECTION ONE (1)**, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 249, Page 6, of the Map Records of Harris County, Texas;

THENCE South 00°10'09" East (called S 00°07'28" E in deed of parent tract), with the West line of Snook Lane, a distance of 152.75 feet to a 5/8 inch iron rod set to mark the Southeast corner of the subject tract and the parent tract, and the Northeast corner of that certain 10.00 acre tract of land described under Clerk's File No. J148539;

THENCE South 89°52'32" West (Reference Bearing based on deed of parent tract), departing the West line of Snook Lane and with the South line of the parent tract and the North line of the said 10.00 acre tract, a distance of 175.00 feet to a 5/8 inch iron rod set to mark the Southwest corner of the subject tract;


THENCE North 00°10'09" West, departing the South line of the parent tract and the North line of the said 10.00 acre tract, a distance of 152.68 feet to a 5/8 inch iron rod set in the South line of Lot 78 of said **CRESTVIEW ~ SECTION ONE**, and marking the Northwest corner of the subject tract;

THENCE North 89°51'12" E (called N 89°51'43" E in deed of parent tract), with the South line of Lots 78 and 77 of said **CRESTVIEW ~ SECTION ONE**, a distance of 175.00 feet to the **POINT OF BEGINNING** and containing 0.614 acres of land.

NOTE #1: These field notes are submitted in conjunction with a plat by Tony Swonke Land Surveying originally dated December 18, 2008, reference to which is here made.

NOTE #2: The recorded subdivision plat of **CRESTVIEW ~ SECTION ONE** shows a five-foot-wide utility easement lying South of and adjoining the above-referenced Lots 78 and 77, that is part of the subdivision, which creates a five foot overlap along the North line of the parent tract and the subject tract;




Tony P. Swonke
RPLS No. 4767
December 30, 2008

ER 010 - 06 - 1309

**Exhibit “G”
Site Photos**



Figure 1: Westerly view of subject site.



Figure 2: Single-family residences to the north of subject site.



Figure 3: Multi-family residences to the west of subject site.



Figure 4: Single-family residences to the west and southwest of subject site.



Figure 5: Single-family residences directly to the west of subject site.



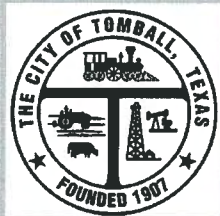
Figure 6: Single-family residence to the east of subject site.



Figure 7: Century Hydraulics to the southeast of subject site.



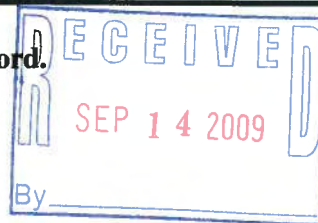
Figure 8: Self-storage facility to the south of subject site.



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 Planning
Attn: Kelly Violette
501 James Street
Tomball, TX 77375

Name: Leslie Ward - Century Hydraulics
(please print)
Address: 23706 Snook Lane
Tomball TX 77375
Signature: [Handwritten Signature]
Date: 9-8-09

I am **FOR** the requested rezoning as explained on the attached public notice for **Zoning Case P09-158. (Please state reasons below)**

I am **AGAINST** the requested rezoning as explained on the attached public notice for **Zoning Case P09-158. (Please state reasons below)**

Date, Location & Time of **Planning & Zoning Commission** meeting:
Monday, September 14, 6:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:
Monday, September 21, 2009, 7:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:
We are very happy to see this
turn Commercial / Industrial!!

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

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 14, 2009
&
CITY COUNCIL
SEPTEMBER 21, 2009**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 14, 2009, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 21, 2009, 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 P09-156: Request by Allen Land Management, on behalf of Zion Road Properties, L.L.C., for a text amendment to Section 14.4 (B.2) of the Comprehensive Zoning Ordinance to reduce the minimum side yard requirement from 30 feet to 15 feet for lots within the AG-Agricultural District.

ZONING CASE P09-158: Request by Carl Kleimann to amend the Comprehensive Zoning Ordinance to rezone approximately 0.614 acres of land in the Ralph Hubbard Survey, Abstract 383, in Harris County, Texas, generally located on the westerly side of Snook Lane, southerly of Crestview subdivision, from the SF-9- Single Family 9 District to the C-Commercial District.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact 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 10th day of September 2009 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

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: P09-158

APPLICANT: Carl Kleimann

LOCATION: Westerly side of Snook Lane, southerly of Crestview subdivision

PROPOSAL: Request to amend the Comprehensive Zoning Ordinance to rezone approximately 0.614 acres of land in the Ralph Hubbard Survey, Abstract 383, in Harris County, Texas, from the SF-9- Single Family 9 District to the C-Commercial District.

* * *

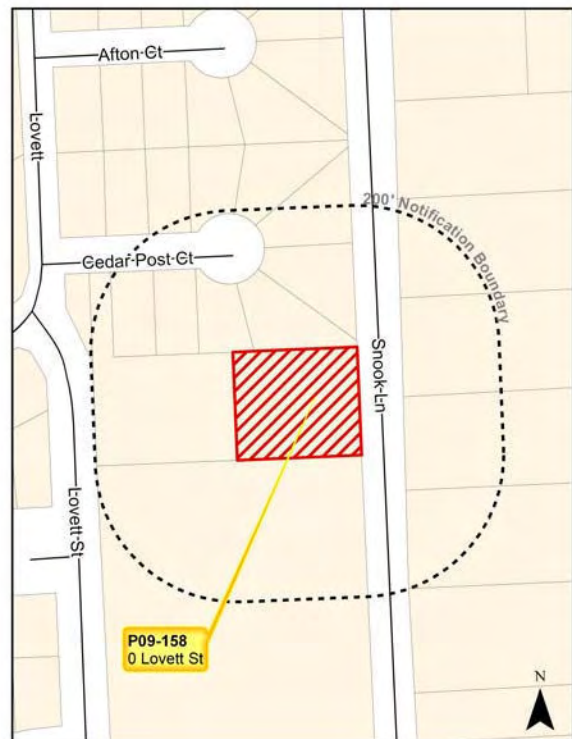
CONTACT PLANNER: Kelly Violette

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 city tax roll. Interested parties may appear and speak in opposition to or support of the project or the staff recommendation at the meeting. Written comments may also be submitted for consideration.



**Planning and Zoning Commission
Public Hearing:
Monday, September 14, 2009, 6:00 PM**

**City Council Public Hearing:
*Monday, September 21, 2009, 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: October 5, 2009

Topic:

Adopt, on First Reading, Ordinance No. 2009-30, an Ordinance Amending the Code of Ordinances of the City Council of the City of Tomball, Texas, by Adding a new Article IV to Chapter 38; Implementing and Enforcing Erosion and Sediment Control Management Guidelines; Providing a Penalty in an Amount Not to Exceed \$2000 for Each Day of Violation Hereof; and Providing for Severability; and Making other Provisions and Findings related Thereto.

Background:

The purpose of this ordinance is to reduce erosion during the construction process by implementing and enforcing erosion and sediment control management guidelines applicable to development of property. No person shall be granted a site development permit for land disturbing activity, including tree removal and clearing, that would require the uncovering of 5,000 or more square feet without the approval of an Erosion and Sediment Control Plan.

Exceptions to the permit requirement are listed in Sec. 38-52(b). Erosion and Sediment Control Plan requirements are listed in Sec. 38-54 and are consistent with the design criteria set forth in the City of Houston, Harris County, and HCFCD, 2006 Edition for the Storm Water Management Handbook for Construction Activities. The Engineering and Planning Department worked closely with the City Attorney to develop the ordinance and guidelines.

Origination:

City Council

Recommendation:

The Engineering and Planning Department recommends approval.

Funding:

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

Mark McClure, Director of Engineering and Planning

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

ATTACHMENTS:

Ordinance No. 2009-30

ORDINANCE NO. 2009-30

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, BY ADDING A NEW ARTICLE IV TO CHAPTER 38; IMPLEMENTING AND ENFORCING EROSION AND SEDIMENT CONTROL MANAGEMENT GUIDELINES; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2000 FOR EACH DAY OF VIOLATION HEREOF; AND PROVIDING FOR SEVERABILITY; AND MAKING OTHER PROVISIONS AND FINDINGS RELATED THERETO.

* * * *

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

Section 1. The Code of Ordinances of the City of Tomball, Texas, is hereby amended by adding a new Article, IV, Erosion and Sediment Control, to provide as follows:

“ARTICLE IV. EROSION AND SEDIMENT CONTROL

Sec. 38-50. Purpose.

The purpose of this Article is to reduce erosion during the construction process by implementing and enforcing erosion and sediment control management guidelines. The provisions of this Article are cumulative and in addition to other regulations or rules of the City that may be applicable to the development of property.

Sec. 38-51. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Clearing means any activity which removes the vegetative surface cover.

Drainage Way means any channel that conveys stormwater runoff throughout the site.

Erosion Control means measures that prevent erosion.

Erosion and Sediment Control Plan means a set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and

sequencing to be used controlling sediment and erosion on a development site including, before, during and after construction.

Grading means excavation or fill of material, including the resulting conditions thereof.

Perimeter means the area of a lot or tract of land that is 30 feet wide and parallel to and adjacent to the property lines of the lot or tract of land.

Perimeter Control means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

Phasing means clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Sediment Control means measures that prevent eroded sediment from leaving the site.

Site means a parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

Site Development Permit means a permit issued by the municipality for which the construction or alteration of ground improvements and structures for the control of erosion, runoff and grading.

Stabilization means the use of practices that prevent exposed soil from eroding.

Start of Construction means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Watercourse means any natural or artificial body of surface water, including, but not limited to bayous, channels, creeks, lakes, ponds, rivers, sloughs and streams defined by a bed and banks.

Waterway means a channel that directs stormwater runoff to a watercourse, or to the public storm drain.

Sec. 38-52. Permit Required.

(a) No person shall be granted a site development permit for land-disturbing activity that would require the uncovering of 5,000 or more square feet without the approval of an Erosion and Sediment Control Plan by the City Engineer.

(b) No site development permit is required however for the following activities:

- (1) Any emergency activity that is immediately necessary for the protection of life, property or natural resources.
- (2) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- (3) Any activities on a lot less than one acre in area and used for single family or two family residential purposes only.

(c) Each application shall bear the name(s), address(es) and contact number(s) of the owners and developers of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee.

(d) Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan.

(e) The applicant shall file with City a faithful performance bond or bonds, letter of credit, or other improvement security in an amount deemed sufficient by the City Engineer to cover all costs of improvements, landscaping, and maintenance of improvements for such period as specified by the City, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

Sec. 38-53. Review and Approval

(a) The City Engineer will review each application for a site development permit to determine its conformance with the provisions of this Article. Within 30 days after receiving an application, the City Engineer shall, in writing:

- (1) Approve the permit application;
- (2) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
- (3) Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

(b) Failure of the City Engineer to act on original or revised applications within 30 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City Engineer. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the City Engineer.

(c) Any permit issued under this Article shall expire six months following its issuance; provided, however, that the City Engineer may extend a permit to complete work substantially completed under that permit.

Sec. 38-54. Erosion and Sediment Control Plan

- (a) The Erosion and Sediment Control Plan shall include:
- (1) A natural resources map identifying soils, forest cover, and resources protected under other chapters of this code.
 - (2) The map shall be at a scale no smaller than 1"=100'.
 - (3) The map of the perimeter of the trees to remain, including a tree survey showing the location, diameter, and name of all trees with 8 inch caliper or more measured three feet from the ground.
 - (4) A sequence of construction of the development site, including stripping and clearing, rough grading, construction of utilities, infrastructure, and buildings, and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, and the sequence of clearing, installation of temporary erosion and sediment measures, and establishment of permanent vegetation.
 - (5) All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and permanently, after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
 - (6) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
 - (7) Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.
 - (8) Identification of the representative for site activities.
- (b) Modifications to the plan shall include
- (1) Major amendments of the Erosion and Sediment Control Plan shall be submitted to the City Engineer and shall be processed and approved, or disapproved, in the same manner as the original plans.
 - (2) Field modifications of a minor nature may be authorized by the City Engineer by written authorization to the permittee.

Sec. 38-55. Design Requirements

(a) Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the Storm Water Management Handbook for Construction Activities, City of Houston, Harris County, and HCFCD, 2006 Edition and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the City Engineer.

(b) Clearing and Grading

- (1) Clearing and grading of natural resources, such as forests and wetlands, floodplain, shall not be permitted, except when in compliance all other chapters of this Code. These standards are cumulative of other Federal, State, and local jurisdictional requirements.
- (2) Clearing techniques that retain natural vegetation and retain natural drainage patterns, as described in the Storm Water Management Handbook for Construction Activities, City of Houston, Harris County, and HCFCD, 2006 Edition, shall be used to the satisfaction of City Engineer.
- (3) Phasing shall be required on all sites disturbing greater than *thirty* acres, with the size of each phase to be established at plan review and as approved by City Engineer.
- (4) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- (5) Cut and fill slopes shall be *no greater than 2:1*, except as approved by City Engineer to meet other community or environmental objectives.

(c) Erosion Control

- (1) Soil must be stabilized within *five days* of clearing or inactivity in construction.
- (2) If vegetative erosion control methods, such as seeding, have not become established within *two weeks*, the City Engineer may require that the site be reseeded, or that a non-vegetative option be employed.
- (3) On steep slopes or in drainage ways, special techniques that meet the design criteria outlined in the Storm Water Management Handbook for Construction Activities, City of Houston, Harris County, and HCFCD, 2006 Edition, shall be used to ensure stabilization.
- (4) Soil stockpiles must be stabilized or covered at the end of each work day.

- (5) At the close of the construction season, the entire site must be stabilized, using a heavy mulch layer, or another method that does not require germination to control erosion.
 - (6) Techniques shall be employed to prevent the blowing of dust or sediment from the site.
 - (7) Techniques that divert upland runoff past disturbed slopes shall be employed.
- (d) Sediment Controls
- (1) Sediment controls shall be provided in the form of settling basins or sediment traps or tanks, and perimeter controls.
 - (2) Where possible, settling basins shall be designed in a manner that allows adaptation to provide long term stormwater management.
 - (3) Adjacent properties shall be protected by the use of a vegetated buffer strip, in combination with perimeter controls.
- (e) Waterways and Watercourses
- (1) When a wet watercourse must be crossed regularly during construction, a temporary stream crossing shall be provided.
 - (2) When in-channel work is conducted, the channel shall be stabilized before, during and after work.
 - (3) All on-site stormwater conveyance channels shall be designed according to the criteria outlined in the Storm Water Management Handbook for Construction Activities, City of Houston, Harris County, and HCFCFCD, 2006 Edition.
 - (4) Stabilization adequate to prevent erosion shall be provided at the outlets of all pipes and paved channels.
- (f) Construction Site Access
- (1) A temporary access road shall be provided at all sites.
 - (2) Other measures may be required at the discretion of City Engineer in order to ensure that sediment is not tracked onto public streets by construction vehicles, or washed into storm drains.

Sec. 38-56. Inspection

- (a) City Engineer or designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and

filling work bearing the stamp of approval of the City Engineer shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify City Engineer at least two (2) working days before the following:

- (1) Start of Construction;
- (2) Erosion and Sediment Control Measures are in place and stabilized;
- (3) Site Clearing has been completed;
- (4) Rough Grading has been completed;
- (5) Final Grading has been completed;
- (6) Close of the Construction Season; and
- (7) Final Landscaping.

(b) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for additional control measures. All inspections shall be documented in written form and submitted to City Engineer at the time interval specified in the approved permit.

(c) The City Engineer or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under Section b.

Sec. 38-57. Enforcement

(a) Stop-Work Order; Revocation of Permit.

- (1) The City Engineer may issue a stop-work order for any clearing or tree removal activity being conducted without a permit required by this Article.
- (2) In the event that any person holding a site development permit pursuant to this ordinance violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City Engineer may suspend or revoke the site development permit.

(b) Violation and Penalties

- (1) No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be

done, contrary to or in violation of any terms of this ordinance.

- (2) A person commits an offense if the person intentionally or knowingly clears land or removes trees, or causes the clearing of land or removal of trees, without a permit for such clearing of land or removal of trees required by this Article.
- (3) A person commits an offense if the person intentionally or knowingly clears land or removes trees, or cause the clearing of land or removal of trees, in violation of the terms of a permit issued under this Article.
- (4) Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor.”

Section 2. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 3. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, 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 \$2000. Each day of violation shall constitute a separate offense.

Section 4. It is the intent of the City that this Ordinance shall comply in all respects with the applicable provisions of the United States Constitution, the Texas Constitution, and the Charter of the City of Tomball. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 5. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City’s Home Rule Charter.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE _____ DAY OF _____ 2009.

COUNCILMAN WEBB _____
COUNCILMAN QUINN _____
COUNCILMAN STOLL _____
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 _____ DAY OF _____ 2009.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council

Agenda Item

Meeting Date: October 5, 2009

Data Sheet

Topic:

Approve Resolution No. 2009-26, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 44th Annual Tomball Holiday Parade, "Holidays Around the World," to be held in Tomball on Saturday, November 21, 2009 and to Approve Requested Street Closures.

Background:

The Chamber of Commerce must request approval from TxDOT to close FM 2920 for the annual Holiday Parade; the request must include a Resolution from the City of Tomball supporting the parade.

This is our customary resolution supporting and endorsing the annual Chamber-sponsored Tomball Holiday Parade, scheduled to take place on Saturday, November 21, at 10:00 a.m.

In addition to closing FM 2920 from FM 2978 to Business 249 from 9:15 a.m. until 12:30 p.m. for the parade, the Chamber is requesting closure of the following streets on Saturday, November 21, from 7:00 a.m. until noon:

- North Elm between Main Street and Hufsmith Road
- North Walnut between Main Street and Epps
- 100 and 200 Block of Commerce
- 100 and 200 Block of Houston
- 100 and 200 Block of Oxford
- South Elm between Main and Market Streets
- South Walnut between Main and Fannin Streets
- 100 and 200 Block of Market Street.

The annual Holiday Parade is extremely popular with the local community and brings visitors from the surrounding areas who often remain to shop and enjoy our city.

Origination:

Greater Tomball Area Chamber of Commerce

Recommendation:

Staff recommends approval.

Funding:

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

City Secretary

ACTION TAKEN

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APPROVAL <input type="checkbox"/> YES <input type="checkbox"/> NO	READINGS PASSED <input type="checkbox"/> 1 ST <input type="checkbox"/> 2 ND	OTHER
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ATTACHMENTS:

Resolution No. 2009-26

GTACC Request for Support

RESOLUTION NO. 2009-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, SUPPORTING THE 44TH ANNUAL TOMBALL HOLIDAY PARADE, “*HOLIDAYS AROUND THE WORLD*”, TO BE HELD IN TOMBALL ON SATURDAY, NOVEMBER 21, 2009.

* * * * *

WHEREAS the Greater Tomball Area Chamber of Commerce will undertake the 44th Annual Tomball Holiday Parade, to be held in the City of Tomball at 10:00 a.m. on Saturday, November 21, 2009; and

WHEREAS the theme of the 44th Annual Tomball Holiday Parade is “**Holidays Around the World**” and the purpose of the 44th Annual Tomball Holiday is to celebrate our quality of life and to create an avenue for others outside to come to our fair City to enjoy fun, food and good cheer; and

WHEREAS it is a chance for Tomball area merchants and business people to gain a new customer base through monies spent by those attending the 43rd Annual Tomball Holiday Parade; and

WHEREAS activities celebrating the 43rd Annual Tomball Holiday Parade forward will include the annual parade, food, crafts, and hometown merchants selling from their businesses; and

WHEREAS the Greater Tomball Area Chamber of Commerce desires and requests the support and endorsement of the City of Tomball in this community-wide effort;

NOW, THEREFORE, BE IT RESOLVED that the City of Tomball and its governing body endorses and supports the efforts of the Greater Tomball Area Chamber of Commerce in promoting and undertaking the 44th Annual Tomball Holiday Parade and pledge to encourage this effort to celebrate our heritage and promote our future betterment.

PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL HELD ON THE 5th DAY OF October, 2009.

GRETCHEN FAGAN, Mayor

ATTEST:

DORIS SPEER, City Secretary

Greater
Tomball Area



Chamber of Commerce

www.tomballchamber.org
September 22, 2009

City of Tomball
Ms. Jan Belcher
401 Market Street
Tomball, Texas 77375

RE: Tomball Holiday Parade

Dear Ms. Belcher,

We are anticipating a fabulous Tomball Holiday Parade at 10 a.m. on Saturday, November 21, 2009 with help from our city, police and fire departments, as well as from numerous volunteers. The popular attraction is a Tomball tradition that has continued for over 40 years. We are looking forward again to the expertise of the Tomball Police Department for crowd control and as visual deterrents from any negative activity.

To insure the safety of the many visitors and Parade participants who will be in Tomball on November 21, we are asking for street closures for the following streets on Saturday morning only from 7:00 a.m. until noon:

- North Elm between Main Street and Hufsmith Rd.
- North Walnut between Main Street and Epps
- 100 & 200 block of Commerce
- 100 & 200 block of Houston
- 100 & 200 block of Oxford
- South Elm between Main Street and Market Street
- South Walnut between Main Street and Fannin
- 100 & 200 block of Market Street

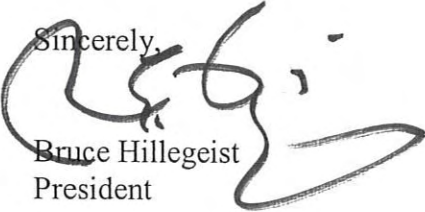
From 9:15 a.m. until 12:30 p.m.

- FM 2920 from FM 2978 to Business 249

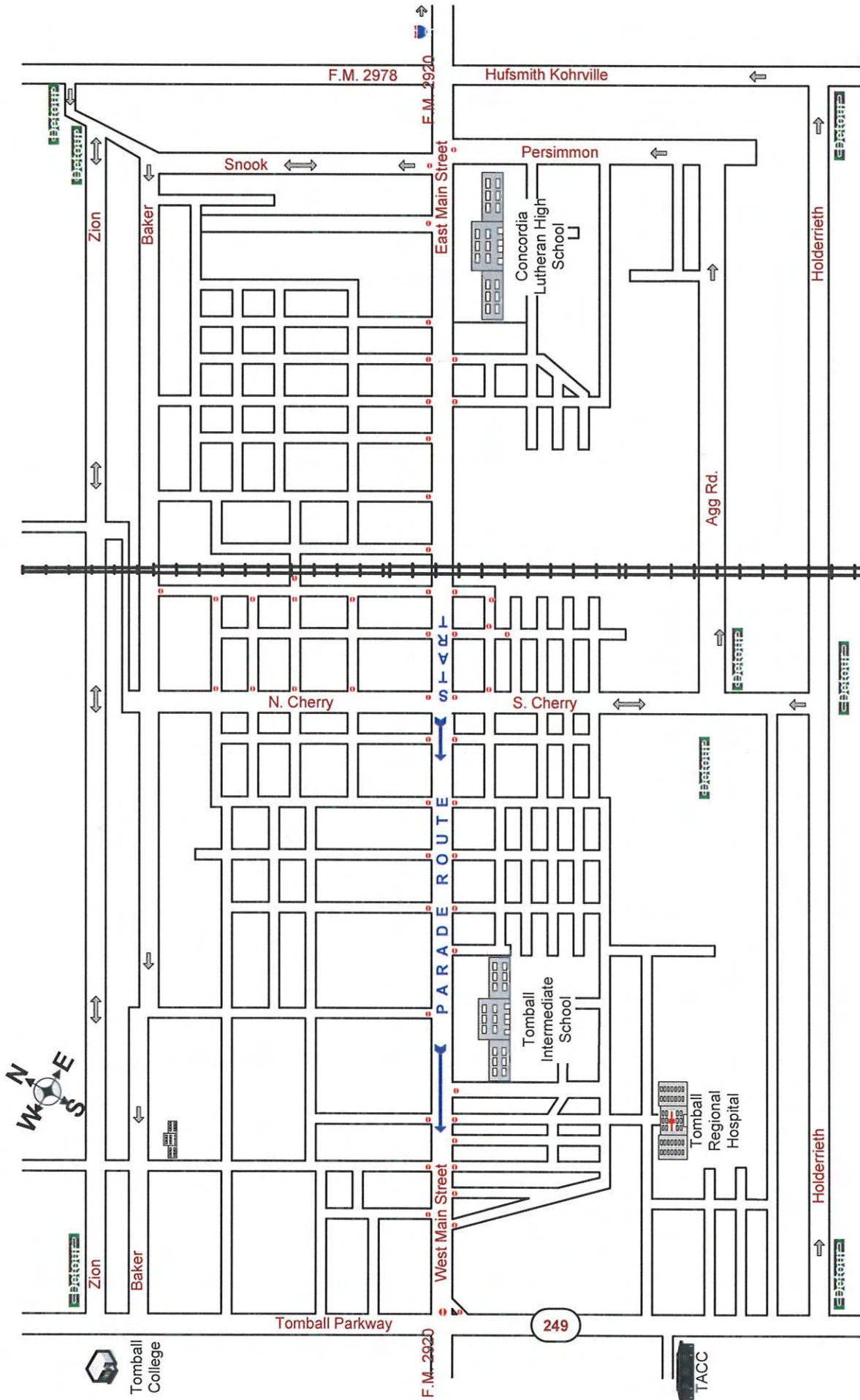
Enclosed is a map for your review. Residents of these streets will still have access to and from their homes.

We appreciate the City of Tomball, its special partnership with the chamber and the assistance always offered for our events. Should you have any questions or concerns, please contact Brandy Beyer or myself at 281-351-7222.

Sincerely,


Bruce Hillegeist
President

Encl: Map



Regular City Council

Agenda Item

Meeting Date: October 5, 2009

Data Sheet

Topic:

Approve Water Supply and Storage Facility Number 5 Scope of Services Contract Amendment for the Design and Construction Phase Services for Water Supply and Storage Facility Number 5, Resulting from the Approved Addition of Water Well Number 6, Amending the Currently Approved Contract Amount of \$367,143.00 to include an Additional Amount of \$34,484.00, for a Total Contract Amount of \$401,627.00.

Background:

On September 21, 2009, Council approved the construction of a second well (Water Well #6) in conjunction with the Water Well #5. Cobb, Fendley & Associates, Inc. is the Engineer of Record for the Water Well #5 project. The attached proposal dated September 24, 2009 describes the proposed professional services associated with the design of Water Well #6.

The Consultant proposes to provide the additional services for a fee of \$64,185 to be invoiced on a combination of lump-sum and time-and-material basis. Remaining budgeted funds from the original scope of services will be utilized along with the proposed increased contract amount for a net contract increase of \$34,484.00 for a total contract amount of \$401,627.00.

Additional Professional Services include providing engineering services for the design of Water Well #6, including revisions to the drawings and engineering report, preparing a submittal to the Texas Commission on Environmental Quality (TCEQ) for construction approval, applying for a Harris Galveston Coastal Subsidence District permit, reviewing pilot hole data and well construction materials, limited field observation of well drilling/development operations, electrical design changes, and final TCEQ submittal for public use of the well. In addition providing surveying services for the property acquisition of the water plant and necessary easements.

Funding remaining in the Brown-Hufsmith Rd - Phase 1 project may be used to fund this contract.

Origination:

Engineering and Planning Department

Recommendation:

Engineering and Planning Department recommend approval.

Funding: No

Funds will be transferred from Account: 600-613-6409 Project 153 to Account: 600-613-6409 Project 135

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

Engineering and Planning

ACTION TAKEN

APPROVAL <input type="checkbox"/> YES <input type="checkbox"/> NO	READINGS PASSED <input type="checkbox"/> 1 ST <input type="checkbox"/> 2 ND	OTHER
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ATTACHMENTS:

Amended Scope of Services

September 24, 2009



Mr. Mark McClure, P.E.
Director of Engineering and Planning
City of Tomball
501 James Street
Tomball, TX 77375

AUTHORIZATION FOR ADDITIONAL SERVICES

Re: **Amendment to Scope of Services,
Construction and Design of Water Wells #5 and #6**
Water Supply & Storage Facility No. 5, Bid No. 2009-06
Proposal for Professional Engineering and Surveying
CFA #0512-015-00

Dear Mr. McClure:

Cobb, Fendley & Associates, Inc. ("CobbFendley") proposes to provide additional professional engineering services in connection with the construction of the City's proposed Water Supply and Storage Facility No. 5 and engineering services for proposed Water Well #6. This authorization is an amendment for services.

SCOPE OF SERVICES

The specific **Services** to be performed by CobbFendley in conjunction with this project are limited to the following:

CobbFendley has provided additional engineering services related to Water Well #5 pilot hole analysis as requested by the City. This work included meetings and conference calls with a hydrogeologist consultant to review pilot hole logs and gas samples. CobbFendley prepared a technical memorandum on the pilot hole which included an analysis of the City's current water use and attended a council meeting to discuss the project.

CobbFendley is proposing to provide engineering services for the design of Water Well #6. This will include revisions to the drawings and engineering report, preparing a submittal to the Texas Commission on Environmental Quality (TCEQ) for construction approval, applying for a Harris Galveston Coastal Subsidence District permit, reviewing pilot hole data and well construction materials, limited field observation of well drilling/development operations, electrical design changes, and final TCEQ submittal for public use of the well.

CobbFendley is proposing to provide surveying services for the property acquisition of Water Plant No. 5 site. Field work is required to verify the information on the title report. The updated information will be incorporated into the survey control map which will be sealed by a Registered Professional Land Surveyor. A new sanitary control easement document and exhibit will be prepared for Water Well #6, as required by TCEQ.

BASIS OF COMPENSATION

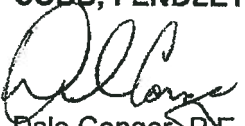
We propose to provide the described Additional Services for a fee of \$64,185 to be invoiced on a combination of lump sum and time and material basis. Attached is the proposed fee breakdown per task item. We propose to use surplus funds from the Construction Phase, Field Observation task, which has a budget of \$9,185 and from Phase II Site Assessment task, which has a remaining budget of \$20,516. We propose to increase the contract by \$34,484.00 for a total of \$401,627.00. An updated Compensation Schedule is attached for approval. Reimbursable Expenses will be charged according to the rate schedule in the prime contract. A markup of 10% is included in subconsultant fees.

PROPOSAL ACCEPTANCE

If this proposal is agreeable to you, please indicate your acceptance by signing in the space provided below and return one copy to us for our file. This proposal is void if not accepted within thirty days of the date hereon. The opportunity to propose professional engineering services to your organization is appreciated and we look forward to continue working on this project with you.

Sincerely,

COBB, FENDLEY & ASSOCIATES, INC.


Dale Conger, P.E.
Vice President

This proposal accepted by:

CITY OF TOMBALL

Signature Date

Print Name Title

COMPENSATION

The Compensation to be paid to Cobb Fendley for services rendered under this agreement shall be as described below. As far as practical, the fees are defined as lump sum amounts. Lump Sum fee amounts cover all charges against the project for that element of the work, except for reimbursable items. Due to the indefinite nature of the work scope for some items, those have estimated amounts for hourly fees that will be invoiced at direct personnel expense times a multiplier of 2.4, plus reimbursable direct expenses. Reimbursable items and subconsultant invoices will be subject to a 10% administration charge. Further clarifications on hourly charges:

- Services will be charged according to those personnel directly involved in providing the service.
- Charges will be rounded to the nearest half hour.

Direct Personnel Expense means salaries and wages paid to Cobb Fendley's employees plus payroll related costs and benefits such as payroll taxes, worker's compensation, health and retirement benefits, bonuses, sick leave, vacation, and holiday pay applicable hereto. Reimbursable Direct Expenses shall be those costs incurred on or directory for the CLIENT'S project, including but not limited to necessary transportation costs including mileage at the current IRS rate, meals and lodging, laboratory tests and analyses, and printing and binding charges.

The compensation to be paid to Cobb Fendley for providing the described engineering services for the project is as follows:

Task Description	Firm	Original Fee	Approved Revision 4	Proposed Revision 5	LS or T&M
BASIC SERVICES					
Preliminary Engineering Phase					
Well Siting	CFA	\$2,480	\$11,000	\$11,000	LS
Hydrogeologist Subconsultant	LBG	\$6,500	\$14,950	\$14,950	T&M
Preliminary Design	CFA	\$10,440	\$10,440	\$10,440	LS
Cost Evaluation	CFA	\$3,720	\$3,720	\$3,720	LS
Preliminary Report	CFA	\$6,076	\$6,076	\$6,076	LS
Site Acquisition Coordination (not real estate services)	CFA	\$2,780	\$3,500	\$3,500	LS
T&M ITEM BUDGET		\$6,500	\$14,950	\$14,950	
LUMP SUM ITEM SUBTOTAL		\$25,116	\$34,736	\$34,736	
Design Phase					
Design, prep. Of plans & specs for well and accessories – <i>complete new plant and connecting line</i>	CFA	\$35,230	\$140,000	\$157,500	LS
Design, prep. Of plans & specs for	CFA	\$7,230	0	0	LS

offsite waterline or plant					
Design Phase Services, electrical & controls	GW	\$17,910	\$17,910	\$17,910	LS
T&M ITEM BUDGET		0	0	0	
LUMP SUM ITEM SUBTOTAL		\$60,370	\$157,910	\$175,410	
Bidding Phase					
Attend the pre-bid meeting	CFA	\$1,050	\$1,050	\$1,050	LS
Respond to bidder's questions during the bid period.	CFA	\$860	\$3,500	\$3,500	LS
Prepare & distribute project addenda during bid period	CFA	\$1,172	\$3,000	\$3,000	LS
Analyze bids, bid tab, check references, recom for award	CFA	\$1,100	\$1,100	\$1,100	LS
Furnish construction documents to awarded contractor.	CFA	\$826	\$1,000	\$1,000	LS
Attend the pre-construction conference.	CFA	\$903	\$900	\$900	LS
T&M ITEM BUDGET		0	0	0	
LUMP SUM ITEM SUBTOTAL		\$5,911	\$10,550	\$10,550	
Construction Phase					
Construction Phase Services	CFA	\$10,480	\$40,000	\$65,500	LS
Field Observation of well performance tests	CFA	\$3,000	\$3,000	\$6,000	T&M
Construction Phase Electrical and Controls	GW	\$3,230	\$3,230	\$5,230	LS
T&M ITEM BUDGET		\$3,000	0	\$6,000	
LUMP SUM ITEM SUBTOTAL		\$13,710	\$43,230	\$70,730	
ADDITIONAL SERVICES					
Services related to TWDB financing					
Finance Application Assistance	CFA	\$3,040	\$3,110	\$3,110	T&M
Engineering Feasibility Report	CFA	\$6,064	0	0	LS
Environmental Assessment range of \$6,000 to \$15,000	BO	\$15,000	0	0	T&M
Project Management Conference	CFA	\$1,326	0	0	T&M
Plan & Specification modifications	CFA	\$928	0	0	T&M
Sufficiency of Funds Statement	CFA	\$803	0	0	T&M
Management of Preliminary Reviews to gain approval for Land Purchase	CFA	\$1,480	0	0	T&M
Site Certificate	CFA	\$523	0	0	T&M
Design Phase interim and final reviews	CFA	\$4,940	0	0	T&M
Bid Phase documentation & reviews	CFA	\$1,512	0	0	LS
Additional Construction Phase meetings, monthly 10 months	CFA	\$5,660	0	0	T&M

TWDB project closeout	CFA	\$1,892	0	0	LS
T&M ITEM BUDGET		\$25,026	\$3,110	\$3,110	
LUMP SUM ITEM SUBTOTAL		\$9,468	0	0	
Other Services					
Boundary & Topo Survey Services, site & easement	CFA	\$3,450	\$10,000	\$12,400	LS
Topographic survey services	CFA	\$28,990	0	0	LS
Abstracting & Title Research	PPS	0	\$1,500	\$1,500	T&M
HGSD Permit	CFA	\$1,510	\$2,000	\$4,000	LS
Construction Phase – Field Observation ¹	CFA		\$9,185	\$0	T&M
Phase I Site Assessment	BO		\$3,180	\$3,180	T&M
Phase II Site Assessment	BO		\$29,870	\$18,139	T&M
Property Appraisal	INT		\$3,000	\$3,000	T&M
Geotechnical Engineering/Material Testing	LFC		\$3,630	\$24,445	T&M
Control Staking	CFA		\$2,500	\$2,500	T&M
T&M ITEM BUDGET		\$0	\$70,050	\$52,764	
LUMP SUM ITEM SUBTOTAL		\$33,950	\$15,630	\$16,400	
Direct Expenses					
Plotting & Reproduction		\$2,500	\$2,500	\$2,500	
Document Printing		\$500	\$500	\$500	
Mileage		\$1,200	\$5,000	\$5,000	
Materials/Courier		\$1,000	\$1,000	\$1,000	
Admin fee on subconsultants		\$4,264	\$7,977	\$7,977	
TOTAL EXPENSE ALLOWANCE		\$9,464	\$16,977	\$16,977	T&M
TOTAL of LUMP SUM ITEMS					
		\$148,525	\$262,056	\$307,826	
TOTAL of T&M ITEMS					
		\$43,990	\$105,087	\$93,801	
PROJECT TOTAL					
		\$192,515	\$367,143	\$401,627	

The total requested Lump Sum fee for the professional engineering services described above is \$307,826.00. Additionally, a budget of \$93,801 should be established for an allowance to cover items to be charged on an hourly and expense basis. If any other services are requested that are not included in the table above, we propose to perform those services on an hourly and expense basis with prior City approval.

¹ The Item "Construction Phase - Field Observation" is for field personnel to attend and observe construction activities (inspection). The budget shown will provide for observation of the well construction, but a limited portion of the plant construction.

City of Tomball
Water Supply Storage Facility No. 5
Contract Amendment to Construct Well No. 6

Water Well #5 Evaluation - Construction Phase Services			
Description	Company	Fee Type	Fee Amount
Meetings and conference calls regarding gas issues	CFA	LS	\$ 3,000.00
Review of logs, water analysis, and material settings	LBG Guyton	T&M	\$ 2,500.00
Water use analysis	CFA	LS	\$ 700.00
Technical Memo for Pilot Hole Evaluation	CFA	LS	\$ 6,000.00
City Council meeting	CFA	LS	\$ 800.00
Subtotal			\$ 13,000.00

Water Well #6 Engineering Services			
Description	Company	Fee Type	Fee Amount
Revising Drawings (Site plan and Water Well Details)	CFA	LS	\$ 10,000.00
Revise Final Engineering Report	CFA	LS	\$ 2,000.00
Prepare construction submittal to TCEQ	CFA	LS	\$ 2,500.00
HGCSD permit and application fee	CFA	LS	\$ 2,000.00
Design of gas control equipment	CFA	LS	\$ 3,000.00
Subtotal			\$ 19,500.00

Water Well #6 Surveying Services			
Description	Company	Fee Type	Fee Amount
Verify Title Report and revise survey control map	CFA	LS	\$ 1,600.00
Well #6 sanitary control easement	CFA	LS	\$ 800.00
Subtotal			\$ 2,400.00

Water Well #6 Construction Phase Services			
Description	Company	Fee Type	Fee Amount
Review pilot hole logs	CFA/LBG	LS	\$ 2,000.00
Approve material settings	CFA/LBG	LS	\$ 2,000.00
Review development tests	CFA/LBG	LS	\$ 3,000.00
Approve pump selection	CFA/LBG	LS	\$ 3,000.00
Prepare and submit final water well package to TCEQ	CFA	LS	\$ 2,500.00
Electrical review of submittals	Coastal Bend	LS	\$ 1,000.00
Electrical drawing as-builts	Coastal Bend	LS	\$ 1,000.00
Field Observation of well construction	CFA	T&M	\$ 3,000.00
Subtotal			\$ 17,500.00

Subtotal Fee Increase	\$ 52,400.00
Contingency Fund	\$ 11,785.00
Total Fee Increase	\$ 64,185.00

Notes:

1. Construction Cost of Well #6 is approximately \$718,300
2. Markup of 10% included in subconsultant fees

Contract Revision of Task Items		
Description	Approved Fee	Proposed Fee
Design, prep. Of plans & specs for well and accessories	\$ 140,000.00	\$ 157,500.00
Construction Phase Services	\$ 40,000.00	\$ 65,500.00
Field Observation of Well Performance Tests	\$ 3,000.00	\$ 6,000.00
Construction Phase Electrical and Controls	\$ 3,230.00	\$ 5,230.00
Boundary & Topo Survey Services, site & easement	\$ 10,000.00	\$ 12,400.00
HGCSD Permit	\$ 2,000.00	\$ 4,000.00
Construction Phase - Field Observation	\$ 9,185.00	\$ -
Phase II Site Assessment	\$ 29,870.00	\$ 18,139.00

Regular City Council

Agenda Item

Meeting Date: October 5, 2009

Data Sheet

Topic:

Approve Agreement with Raba-Kistner Consultants, Inc. for Proposal No. PSF09-463-00 for Environmental Service Associated with Installation, Maintenance, and Monitoring of a Solar-Powered Leachate Pumping System for a Cost Not to Exceed \$67,650.00

Background:

Texas Commission on Environmental Quality (TCEQ) requires the city to vent methane gas from the closed landfill. Part of the process of insuring proper venting includes leachate (infiltrating water) removal. This agreement provides that necessary service to fulfill State law. Additional background information is as follows:

During July and August 2008, Raba-Kistner Consultants, Inc. (R-K) conducted leachate (infiltrating water) removal activities from the 43 existing landfill gas vents at the City of Tomball closed landfill site as required by the TCEQ. The leachate purging system used in 2008 was effective in reducing leachate levels within the landfill gas vents. With the exception of eight (8) landfill gas vents that could not be pumped dry, the remaining 35 vents were pumped free of leachate which promoted venting of landfill gas. Associated methane field measurements conducted by R-K during leachate removal confirmed that once the screened intervals of the landfill gas vents were free of leachate, landfill gas venting increased. However, significant rain events that occurred in the Tomball area immediately following leachate removal caused the leachate levels to rise back to their initial levels saturating once again the screened intervals within the vents.

At the time of the leachate removal events, the final cover within the eastern and southern waste disposal areas where the eight (8) landfill gas vents that could not be pumped dry are located was relatively flat with several depression areas and consisted of permeable materials that readily allowed the infiltration of storm water into the waste mass, thus recharging the leachate levels within the landfill gas vents. During April and May 2009, the City of Tomball installed additional clayey soil over a the eastern waste disposal area and at low sections within the southern disposal area, thereby improving the final cover gradients and reducing its permeability to promote drainage offsite and minimize infiltration of storm water into the waste disposal areas. Nevertheless, the existing leachate within the waste disposal areas needs to be removed to promote methane venting and additional leachate being generated (via waste decomposition or residual storm water infiltration) would also need to be removed.

The purpose of this proposal is to outline the scope of work and costs associated with installation and monitoring of a leachate pumping system at four landfill gas vents, and with routine weekly maintenance of the system and pumping of leachate from 35 methane vents currently existing at the Closed City of Tomball Landfill.

Specifically, R-K proposes to install a leachate pumping system powered with solar energy and associated batteries and pumps within four existing methane vents (MV-16, MV-23, MV-40 and MV-43). These four methane vents were selected based on information derived from the 2008 leachate removal events and deemed to have the highest leachate volume, concentration of methane, and area of influence. Furthermore, the four vents were also selected on the basis of their respective location relative to the other four vents that could not be pumped dry in 2008 in such way that pumping from one vent would reduce leachate levels in nearby vents, thus eliminating the need to install eight individual leachate pumping systems.

Specific activities that will be conducted by R-K are described in the attached proposal.

Raba-Kistner Consultants, Inc. has been utilized by the City of Tomball as the professional services consultant for the City of Tomball landfill closure process since October 2006. It is anticipated that the final closure process for the City of Tomball landfill can be achieved within a 5-year period provided that methane is effectively vented to levels below thresholds established by TCEQ by conducting aggressive leachate removal activities. Leachate removal is required to promote landfill gas venting and minimize the infiltration of landfill gas into groundwater. The recommended required steps to achieve final landfill closure are;

- Continue extracting leachate from existing gas vents as needed to maintain leachate levels below vent screened intervals and promote landfill gas venting.
- Conduct quarterly groundwater monitoring and reporting in accordance with TCEQ requirements until volatile organic compound (VOC) levels are measured below regulatory requirements during four to six consecutive quarterly sampling events.
- Once VOC levels are detected below regulatory requirements, a Voluntary Permit Revocation will be submitted to TCEQ.
- As part of the permit revocation process, the eleven existing on-site groundwater monitoring wells must be plugged and abandoned.
- TCEQ must conduct a site visit to confirm that the facility meets regulatory final closure requirements.
- Upon TCEQ approval of the Voluntary Permit Revocation request an “affidavit to the public” by TCEQ, including an updated metes and bounds description of disposal areas, and a certified notation of the deed must be generated and filed with TCEQ and Harris County property deed records.

This estimated project cost has been anticipated and planned for, and is included in the sanitation department budget professional services line item.

In accordance with Local Government Code, section 2254.003, a governmental entity may not select a provider of professional services or award a contract for the services on the basis of competitive bids, but shall make the selection on the basis of demonstrated competence and qualifications to perform the services, and for a fair and reasonable price.

R-K has provided exceptional professional services at reasonable costs for the City since being selected in 2006, and has made significant progress toward achieving final closure of the City’s landfill. In order to sustain the current progress realized, attain the objectives outlined above, and maintain compliance with TCEQ, staff recommends approval of Raba-Kistner Consultants, Inc. Proposal No. PSF09-463-00 for Environmental Service Associated with Installation, Maintenance, and Monitoring of a Solar-Powered Leachate Pumping System for a Not to Exceed Cost of \$67,650.00.

Proposal No. PSF09-463-00 is attached for your review.

Origination:

David Kauffman, Director of Public Works

Recommendation:

Staff recommends approval of Raba-Kistner Consultants, Inc. Proposal No. PSF09-463-00 for Environmental Service Associated with Installation, Maintenance, and Monitoring of a Solar-Powered Leachate Pumping System for a Not to Exceed Cost of \$67,650.00.

Funding: Yes

Account Number: 100-155-6304

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

David Kauffman, Director of Public Works

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

ATTACHMENTS:

R-K Proposal No. PSF09-463-00



Raba-Kistner Consultants, Inc.
3602 Westchase
Houston, TX 77042
(713) 996-8990 • FAX (713) 996-8993
www.rkci.com

Proposal No. PSF09-463-00
September 02, 2009

(SUBMITTED VIA ELECTRONIC MAIL)

Mr. David Kauffman
Director of Public Works
City of Tomball
501 James Street
Tomball, Texas 77375

**Re: Leachate Pumping System and Monitoring
Closed City of Tomball Landfill – MSW Permit No. 1140A
Harris County, Texas**

Dear Mr. Kauffman:

In accordance with your request, **Raba-Kistner Consultants, Inc. (R-K)** is pleased to submit this proposal to the City of Tomball (CLIENT) for environmental services associated with installation of a solar-powered leachate pumping system at four existing on-site landfill gas vents and weekly system maintenance and leachate pumping from 35 landfill gas vents located at the Closed City of Tomball Landfill (SITE). The services described herein will be performed with the main objective of reducing the leachate levels within the waste disposal areas to facilitate venting of methane gas (which would minimize methane infiltration into groundwater) in compliance with permit conditions established for the SITE by the Texas Commission on Environmental Quality (TCEQ).

INTRODUCTION

R-K conducted leachate removal activities from the 43 existing landfill gas vents during July and August 2008 (see report for **R-K** Project No. ASF06-456-06 dated March 6, 2009). The leachate purging system used in 2008 was effective in reducing leachate levels within the landfill gas vents. With the exception of eight (8) landfill gas vents that could not be pumped dry, the remaining 35 vents were pumped free of leachate which promoted venting of landfill gas. Associated methane field measurements conducted during leachate removal confirmed that once the screened intervals of the landfill gas vents were free of leachate, landfill gas venting increased. However, significant rain events that occurred in the Tomball area immediately following leachate removal caused the leachate levels to rise back to their initial levels saturating once again the screened intervals within the vents.

At the time of the leachate removal events, the final cover within the eastern and southern waste disposal areas where the eight (8) landfill gas vents that could not be pumped dry are located was relatively flat with several depression areas (conducive to water ponding) and consisted of permeable materials that readily allowed the infiltration of storm water into the waste mass, thus recharging the leachate levels within the landfill gas vents. During April and May 2009, the City of Tomball installed additional clayey soil over a majority of the eastern waste disposal area and at low sections within the southern disposal area, thereby improving the final cover gradients and reducing its permeability to promote drainage offsite and minimize infiltration of storm water into the waste disposal areas. Nevertheless, the existing leachate within the waste disposal areas needs to be removed to promote methane venting and additional leachate being generated (via waste decomposition or residual storm water infiltration) would also need to be removed.

SCOPE OF WORK

The purpose of this proposal is to outline the scope of work and costs associated with installation and monitoring of a leachate pumping system at four landfill gas vents, and with routine weekly maintenance of the system and pumping of leachate from 35 methane vents currently existing at the Closed City of Tomball Landfill.

Specifically, R-K proposes to install a leachate pumping system powered with solar energy and associated batteries and pumps within four existing methane vents (MV-16, MV-23, MV-40 and MV-43). These four methane vents were selected based on information derived from the 2008 leachate removal events and deemed to have the highest leachate volume, concentration of methane, and area of influence. Furthermore, the four vents were also selected on the basis of their respective location relative to the other four vents that could not be pumped dry in 2008 in such way that pumping from one vent would reduce leachate levels in nearby vents, thus eliminating the need to install eight individual leachate pumping systems.

Specific activities that will be conducted by R-K are described in the following paragraphs.

Task 1 – System Setup

Representatives from R-K will install a solar powered leachate pumping system within four (4) existing methane vents. Each pumping system will include:

- down-hole engineered plastic pump with flexible PVC discharge tubing,
- pole mounted 125-watt solar panel,
- battery box containing two 12-volt batteries, and
- dedicated flow meter and control panel.

As discussed with CLIENT via telephone on August 20, 2009, the flexible PVC discharge tubing (3/8-in. diameter) will be ran above ground from the pump to the leachate discharge point. Also as indicated during previous discussions, the discharge point will be the man-way located near the main entrance to the City of Tomball Waste Water Treatment Plant (WWTP) situated immediately to the north of the SITE. As previously indicated by CLIENT, the selected man-way discharges directly into the adjacent WWTP and prior analytical results performed on leachate samples collected from the SITE exhibited BOD and COD concentrations acceptable by the WWTP for disposal of the leachate. Thus, the costs presented in this proposal assume that leachate pumped from the four (4) methane vents will be discharged directly into the City of Tomball WWTP for disposal without the need for additional analytical testing. Should CLIENT require additional analytical results prior to disposal of leachate pumped from the vents, a proposal including costs for leachate sample collection and analysis will be submitted to CLIENT for approval prior to proceeding with the additional services.

It is anticipated that installation of the leachate pumping system associated with each of the four (4) vents will require a maximum of five (5) working days.

Task 2 – System Start-up and Initial Monitoring

Subsequent to installation of the leachate pumping system, R-K will monitor the system twice a week for a period of four weeks (i.e., total of eight [8] site visits) to monitor its proper operation. System monitoring will include the following main components:

1. System start-up and operation
2. Initial system calibration
3. Leachate level monitoring
4. Confirm proper discharge of leachate
5. Monitor for potential system failures
6. Pumping rate modifications (if needed)
7. Landfill gas (methane) monitoring (once every two weeks [2 events])

Task 3 – 3-Month Weekly System Maintenance and Leachate Pumping

Subsequent to the first month of operation, R-K will inspect the system for proper operation and replace pumps and calibrate the system as needed. It is anticipated that system maintenance will be conducted with a frequency of once a week for 3 months (i.e., total of twelve [12] site visits). Concurrently during the scheduled (weekly) leachate pumping system maintenance events, R-K will also inspect all 43 on-site methane vents and record leachate levels within each vent. Additionally, field personnel will remove accumulated leachate from the 35 vents not fitted with a pumping system and excluding the remaining four of the original eight vents that could not be pumped dry during the 2008 leachate removal events. Leachate from these 35 vents will be pumped into a 65-gallon truck-mounted polypropylene holding tank. Once the holding tank is full, the tank will be mobilized to the adjacent WWTP for disposal of the leachate.

Furthermore, R-K will monitor methane concentration at each of the 43 on-site landfill gas vents once every two weeks (i.e., total of 6 methane monitoring events). A properly calibrated landfill gas meter will be used to monitor methane at the on-site vents.

According to data provided by the respective manufacturers, it is anticipated that the leachate pumping system components will need to be replaced in accordance with the following schedule:

- down-hole plastic pump: every 400 hours of operation (estimated 30-40 calendar days)
- 12-volt batteries: approximately 9-12 months
- pole mounted 125-watt solar panel: 25-year limited warranty

Task 4 – TCEQ Reporting

Subsequent to completion of the leachate pumping system installation (see *Task 1*), system start-up and initial monitoring (twice a week for four weeks, see *Task 2*), R-K will prepare a report documenting activities for submittal to TCEQ. It is anticipated that the report will consist of the following main sections:

1. Introduction, background and purpose of the project
2. Description of the installed leachate pumping system
3. Documentation of initial leachate pumping and disposal activities
4. Summary of initial methane concentrations

It is anticipated that the leachate pumping system installation report will be submitted to TCEQ within three to four weeks from completion of the initial 4-week monitoring period. In addition, leachate pumping and methane monitoring data collected during the 3-month weekly maintenance events will be summarized and included in the semi-annual groundwater monitoring report corresponding to the fourth quarter of 2009 submitted to TCEQ for the subject SITE.

R-K will submit three (3) copies of each report to TCEQ on behalf of CLIENT and two (2) copies will be provided to CLIENT.

COST

The time and materials, not to exceed costs for each task required to complete the work outlined herein is detailed below.

Tas	Task Description	Labor	Expenses	Total Cost
1	System Setup	\$ 6,490	\$ 18,160	\$ 24,650
2	System Start-Up and Initial Monitoring	\$ 13,100	\$ 1,500	\$ 14,600
3	3-Month Weekly System Maintenance and Leachate Pumping	\$ 16,830	\$ 3,840	\$ 20,670
4	TCEQ Reporting	\$ 7,040	\$ 690	\$ 7,730
	TOTAL	\$ 43,460	\$ 24,190	\$ 67,650

Should additional services be required in excess of those described herein, costs for said services will be billed in accordance with our standard fees for professional services, as indicated on the attached Schedule of Fees for Professional Services, and the unit rates for drilling, equipment, and laboratory services shown on our latest fee schedules for those services.

ACCEPTANCE

We appreciate the opportunity to work with you on this important assignment, which will be carried out in accordance with this letter and the following attachments:

<u>Attachment</u>	<u>Description</u>
I	Standard Terms and Conditions
II	Schedule of Fees for Professional Services

Our invoices are due and payable upon receipt at P.O. Box 971037, Dallas, Texas 75397-1037. All parties hereby agree that this contract upon acceptance will be performable in Harris County, Texas.

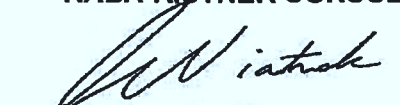
Please return one signed copy of this letter proposal to provide written authorization for our firm to commence work on the services outlined herein. Again, we appreciate the opportunity to be of service to you and look forward to beginning work on this project.

R-K considers the data and information contained in this proposal to be proprietary. This statement of qualifications and any information contained herein shall not be disclosed and shall not be duplicated or used in whole or in part for any purpose other than to evaluate this proposal.

Very truly yours,

RABA-KISTNER CONSULTANTS, INC.

Accepted by _____
(Signature)


James J. Wiatrek
Environmental Professional

(Typed or Printed Name)



(Title)

FOR

Eduardo D. Choquis, P.E.
Associate

Date: _____

JJW/EDC/da

Attachments: I - Standard Terms and Conditions
II - Schedule of Fees for Professional Services

Copies Submitted: Above (1, via electronic mail only)

ATTACHMENT I

RABA-KISTNER COMPANIES

STANDARD TERMS AND CONDITIONS

1. RABA-KISTNER (Raba-Kistner Consultants, Inc.; Raba-Kistner Consultants (SW), Inc.; Raba-Kistner-Brytest, Inc.; Raba-Kistner Infrastructure, Inc.) is being engaged by the CLIENT to render professional services involving various aspects of design, construction observation, or the condition of various building, site, and/or environmental materials, which may contain or be contaminated by hazardous materials and asbestos containing materials (ACM).

Raba-Kistner (hereafter referred to as R-K) provides a wide variety of services. Services provided by different R-K companies or different departments therein, to the same Client, occasionally overlap. CLIENT acknowledges that R-K has no obligation to research prior work by R-K for CLIENT or others, or work performed by R-K or others at the proposed project site, regardless of the specific R-K companies, departments or office locations that will be involved in the proposed work.

2. R-K will perform its services in accordance with the standard of care and diligence normally practiced by recognized professional firms in performing services of a similar nature, in the same locality, under similar circumstances. CLIENT expressly acknowledges that R-K makes no other warranties or guarantees, expressed or implied, regarding the services set forth herein. CLIENT expressly acknowledges that all of the services provided to it by R-K pursuant to this Agreement are professional services involving only R-K's advice, judgment and opinion. R-K will apply professional judgment in determining the extent to which R-K will comply with any given standard identified in R-K's instruments of professional services. Unless otherwise stated in writing, such compliance, referred to as "general compliance", specifically excludes consideration of any standard listed as a reference in the text of those standards cited by R-K.
3. CLIENT will provide right-of-entry to the buildings and sites which are the subjects of R-K's services. CLIENT represents that it possesses authority for such right-of-entry and that the building/site operator(s) possess the necessary permits and licenses for current activities at the site.
4. The CLIENT will be responsible for providing the location of all underground utilities and other structures in the vicinity of our borings. R-K cannot accept responsibility and will not be liable for penetrating any underground utility, underground storage tank, or other subsurface condition not previously identified and located, or improperly located, by the CLIENT or a utility agency.
5. If materials are encountered in the field which are judged to be potentially hazardous or a danger to our personnel, all field work will cease and the CLIENT will be notified. Subsequent work on the project will then be conducted only with specific additional authorization from the CLIENT and will be charged at appropriate revised unit rates. The scope of work and cost estimate does not include the cost of containerizing any waste or cuttings or their removal from the site. Such materials will be containerized and left at the site.

The results of sample analyses or other information will be used to render a professional opinion regarding the nature of materials left on site. If this information indicates the materials are hazardous or potentially hazardous, and if CLIENT does not wish the waste or drill cuttings to be left on site, R-K will have such materials transported to a licensed facility for final disposal using a manifest signed by the CLIENT as generator. CLIENT agrees to pay all costs associated with management, analyses, storage,

transportation, and disposal of materials. CLIENT recognizes and agrees that R-K at no time assumes ownership to said materials.

6. The scope of work and cost estimate does not include costs incurred to provide access to sites which are inaccessible to our truck-mounted drill rigs and support vehicles. They also do not include costs incurred due to delays caused by inclement weather.
 7. All samples obtained at the site will be managed by R-K. R-K will retain preservable samples and the residues from testing of all samples that, in R-K's professional opinion, do not contain materials that are hazardous or potentially hazardous, for 30 days after submission of its report. The samples and residues will be disposed of at the end of the 30 day period.
- In the event that in R-K's professional opinion, the samples contain potential constituents of concern, R-K will return such samples and residues to CLIENT, or, using a manifest signed by CLIENT as generator, R-K will have such samples transported to a licensed facility for final disposal. CLIENT agrees to pay all costs associated with management, analyses, storage, transportation, and disposal of materials. CLIENT recognizes and agrees that R-K at no time assumes ownership of said samples.
8. R-K will be compensated largely on the basis of the time required in rendering these professional services – not on the basis of potential legal liabilities created by any risks associated from the hazardous materials and ACM.

During its prime, asbestos was used in over 3,000 different products and can still be found in some products today. Consequently, attempts to locate and identify "all" asbestos in a survey would be both impractical and cost prohibitive. If retained to conduct an asbestos survey, R-K will direct its efforts at locating accessible, friable asbestos and non-friable asbestos which, in R-K's professional opinion, might become friable as a result of remodeling activities.

Likewise, several thousand chemicals, wastes, and other materials have been designated as hazardous or toxic by various laws and regulations. If retained to conduct a site assessment with respect to such materials, R-K will direct its efforts at locating the most significant sources, or potential sources, of such materials which, in R-K's professional opinion, have the potential for causing the most significant impact.

9. R-K may provide CLIENT with a written report in connection with the services performed. The report will present such findings and conclusions as R-K may reasonably make with the information gathered while performing its services. In preparing the report, R-K may review and interpret certain information provided to it by the CLIENT or by third parties. R-K will not conduct an independent evaluation of the accuracy or completeness of such information and shall not be responsible for any errors or omissions contained in such information. The report and other instruments of service are prepared for, and made available for the sole use of the CLIENT, and the contents thereof may not be used or relied upon by any other person without the express written authorization of R-K. Any unauthorized use or distribution shall be at the CLIENT's sole risk and without liability to R-K.

R-K's reports, drawings, plans, specifications, and other project related documents and deliverables are instruments of professional service ("instruments") developed by R-K in

contemplation of a wide array of project-specific variables, including how the documents will be used and by whom. R-K shall be the owner and custodian of the Instruments, and shall take appropriate measures to help prevent unauthorized use of them. Accordingly, during development of the scope of service, CLIENT and R-K shall together identify those who, in addition to CLIENT, may use the various Instruments and for what purposes, and R-K shall copyright the Instruments to make illegal any unauthorized duplication, other reproduction or copying, quotation, or excerption of them.

Parties other than those identified by CLIENT and R-K may apply to use an Instrument, using a form prepared by R-K for that purpose. Others' use of an Instrument shall be permitted only when CLIENT and R-K both so agree; either shall have the right to forbid use by others. In addition, R-K shall make its permission contingent upon the satisfaction of certain conditions when, in R-K's professional judgment, such a contingency is necessary.

10. CLIENT will indemnify R-K against any claims or costs which exceed the limitation on R-K's liability provided for in this document, or result from acts or omissions of CLIENT. If litigation or threat of litigation ensues not involving R-K, CLIENT agrees to bear the full cost for R-K to comply with applicable State law and any court orders to provide access to R-K's files, personnel, facilities and equipment.
11. The person or entity responsible for performing the Work under the contract for Construction shall be defined as the Contractor. R-K's site safety responsibilities are solely limited to the activities of R-K and R-K's employees on the site. These responsibilities shall not be inferred by any party to mean that R-K has responsibility for site safety for any reason. Safety in, on or about the site is the sole and exclusive responsibility of the Contractor alone. The Contractor's methods of work performance, supervision of the Contractor's employees, and sequencing of construction are also the sole and exclusive responsibility of the Contractor alone. CLIENT warrants that these responsibilities will be made clear in CLIENT'S agreement with the Contractor; CLIENT'S agreement with the Contractor shall require the Contractor, to the extent of Contractor's negligence, to indemnify, defend and hold CLIENT and R-K harmless from any fine, penalty, claim, or liability for injury or loss arising from CLIENT'S and R-K's alleged failure to exercise site safety responsibility; and CLIENT'S agreement with Contractor and all Subcontractors shall require the Contractor and Subcontractors to make CLIENT and R-K additional insureds under the Contractor's and all Subcontractor's general liability insurance policy, which insurance protection shall be primary protection for CLIENT and R-K, and shall hold CLIENT and R-K harmless from claims, losses, and defense arising from the negligence of Contractor or Subcontractor on any tier.
12. For any damage on account of any error, omission, or other professional negligence, R-K's liability to CLIENT, or to any third party, will be limited to a sum not to exceed \$50,000 or R-K's project fee for that portion of R-K's work found to be defective, whichever is greater. R-K's liability to CLIENT, or to any third party, for injury or damage to persons or property arising out of work performed for CLIENT and for which legal liability may be found to rest upon R-K, other than for professional errors and omissions, will be limited to R-K's available general liability insurance coverage of \$1,000,000.
13. Cancellation of the Agreement to which these terms and conditions apply may be made by either party for just cause after 30 days' written notification of intent of cancellation is provided to the other party. In the event the CLIENT elects to terminate the Agreement, R-K will be compensated in full for all services, materials, supplies, and expenses incurred prior to the actual cancellation date of the Agreement. The CLIENT shall in any event pay all amounts invoiced that the CLIENT does not dispute as provided herein.
14. If the Client fails to make payments when due or otherwise is in breach of this Agreement, R-K may suspend performance of services upon 7 calendar days' notice to the Client. R-K shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client. Upon payment in full by the Client, R-K shall resume services under this Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for R-K to resume performance. If the Client fails to make payment to R-K in accordance with the payment terms herein, this shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by R-K. Payment of invoices shall not be subject to any discounts or set-offs by the Client unless agreed to in writing by R-K. Payment to R-K for services rendered and expenses incurred shall be due and payable regardless of any subsequent suspension or termination of this Agreement by either party.
15. All claims, disputes, and other controversy between R-K and CLIENT arising out of or in any way related to the services provided by R-K will be submitted to "alternative dispute resolution" (ADR) such as mediation, before and as a condition precedent to other remedies provided by law. If a dispute at law arises related to these services and that dispute requires litigation as provided above, then; CLIENT assents to personal jurisdiction in the State of R-K's principal place of business; The claim will be brought and tried in judicial jurisdiction of the court of the county where R-K's principal place of business is located, and CLIENT waives the right to remove action to any other county or jurisdiction; and the prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' and expert witness fees, and other claim-related expenses.
16. Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control ("Force Majeure") including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, Insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected. Force Majeure may not be claimed as a cause for delay in payment of money due and payable hereunder.
17. Each provision of this Agreement is intended to be several. If any terms or provisions of this agreement shall be held to be invalid, illegal, or unenforceable of any reason whatsoever, the validity, legality, and enforceability of the remaining provisions hereof shall remain in full force and effect and shall not in any way be affected or impaired thereby. Moreover, to the maximum extent allowed by law, the Parties hereto stipulate that any offending provisions will be modified or altered, as necessary, so as to give such provision the maximum permissible effect and application intended.
18. This Agreement, and all of its attachments, constitutes the entire, integrated Agreement between the Parties to it, and this Agreement supersedes all other Agreements, oral or written between the Parties, concerning the subject set forth in this Agreement. This Agreement may not be amended except in writing, with that amendment being signed by both Parties.

Project No. PSF09-463-00
September 02, 2009

ATTACHMENT II

RABA-KISTNER CONSULTANTS, INC.

SCHEDULE OF FEES FOR PROFESSIONAL SERVICES

PERSONNEL: Principal.....\$135 to \$250/hour
Professional\$70 to \$200/hour
Auto Cad Operator.....\$65 to \$110/hour
Technical/Clerical/Administrative\$40 to \$80/hour

The specific hourly rate within each classification listed above depends on the experience, special training, and qualifications of the personnel needed for the project. For projects requiring work at any hazardous waste site, there will be a \$10 per hour surcharge added to the normal billing rate for all personnel. Consultants to Raba-Kistner (R-K) will be charged according to their professional classification.

EXPENSES: Use of company automobiles will be charged at \$1.00 per mile. Automobiles and light trucks assigned to field sites will be charged at \$70.00 per day, plus \$1.00 per mile over 50 miles per day. Copies will be charged at \$0.25 per page.

Other project specific charges for use of R-K equipment or for R-K testing will be in accordance with established fee schedules. All other project specific, third-party costs will be charged at cost plus 15 percent.

Invoices will be submitted monthly for work in progress in our standard format. They are due and payable upon receipt and become past due 30 days after the billing date. Past due invoices may be subject to late charges at the rate of 1-1/2 percent per month (18 percent per annum). In the event that the State of Texas legislates a sales tax on Professional Services, the amount of the tax will be PAYMENT added to the appropriate service rate charged. Our invoices are due and payable upon receipt at P.O. Box 971037, Dallas, Texas 75397-1037.

Preparation of non-standard invoice will be charged on a time and materials basis in accordance with the rates in this fee schedule.

CONDITIONS: Services will be performed in accordance with our Standard Terms and Conditions.

The proposal to which this schedule is an attachment is valid for 90 days from the date of the proposal.

Regular City Council
 Agenda Item
 Data Sheet

Meeting Date: October 5, 2009

Topic:

Approve **MATTHEWS DRYDEN SUBDIVISION ABBREVIATED FINAL PLAT:** Being a replat of Lots 7, 8, 9, and 10, in Block 59 of the Revised Map of Tomball, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 4, Page 25 of the Map Records of Harris County, Texas and Lot 11, in Block 59 of Texas Peach, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Film Code Number 626137 of said Map Records, said replat being situated in the William Hurd Survey, Abstract Number 371, of Harris County, Texas.

Background:

The Planning and Zoning Commission approved the Matthews Dryden Subdivision Abbreviated Final Plat with contingencies on September 14, 2009. Corrections have been made and the plat is now being forwarded to City Council for final approval.

Origination:

Engineering and Planning Department

Recommendation:

Engineering and Planning Department recommend approval.

Funding:

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

Engineering and Planning

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

ATTACHMENTS:

Matthews Dryden Subdivision Abbreviated Plat

We, **TERRI DRYDEN, CORY MATTHEWS and ANGELA O'NEIL MATTHEWS**, acting by and through **TERRI DRYDEN, CORY MATTHEWS and ANGELA O'NEIL MATTHEWS**, owners hereinafter referred to as owners of the 0.2870 and 0.3214 acre tracts described in the above and foregoing plat of **MATTHEWS DRYDEN SUBDIVISION**, do hereby make and establish said subdivision of said property according to all liens, dedications, restrictions and notations on said plat and hereby dedicate to the use of the public forever, all streets (except those streets designated as private streets, or permanent access easements), alleys, parks, water courses, drains, easements and public places shown thereon for the purposes and considerations therein expressed; and do hereby bind ourselves, our heirs, successors and assigns to warrant and forever defend the title to the land so dedicated.

FURTHER, owners have dedicated and by these presents do dedicate to the use of the public for public utility purposes forever an unobstructed aerial easement five feet (5') in width from a plane twenty feet (20') above the ground level upward, located adjacent to all public utility easements shown hereon.

FURTHER, owners do hereby dedicate to the public a strip of land fifteen feet (15') wide on each side of the center line of any and all bayous, creeks, gullies, ravines, draws, sloughs, or other natural drainage courses located and depicted upon in said plat, as easements for drainage purposes, giving the City of Tomball, Harris County, or any other governmental agency, the right to enter upon said easement at any and all times for the purpose of construction and maintenance of drainage facilities and structures.

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

WITNESS our hands in the City of Tomball, Texas, this 22 day of September, 2009.

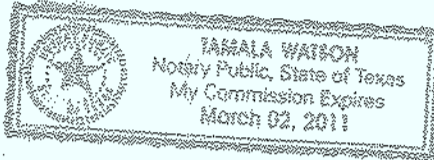
Terri Dryden
TERRI DRYDEN
Cory Matthews
CORY MATTHEWS
Angela O'Neil Matthews
ANGELA O'NEIL MATTHEWS

THE STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Terri Dryden, Cory Matthews and Angela O'Neil Matthews, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 22 day of September, 2009.

Sabala Watson
Notary Public in and for the State of Texas
My Commission Expires: March 02, 2011



ABBREVIATED FINAL PLAT OF MATTHEWS DRYDEN SUBDIVISION

Being a replat of Lots 7, 8, 9 and 10, in Block 59, of the REVISED MAP OF TOMBALL, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 4, Page 25 of the Map Records of Harris County, Texas and Lot 11, in Block 59 of TEXAS PEACH, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Film Code Number 626137 of said Map Records, said replat being situated in the William Hurd Survey, Abstract Number 371, of Harris County, Texas.



Scale: 1" = 40'

3 LOTS, 1 BLOCK

This is to certify that the Planning and Zoning Commission of the City of Tomball, Texas, has approved this plat and subdivision of **MATTHEWS DRYDEN SUBDIVISION** in conformance with the laws of the State of Texas and the ordinances of the City of Tomball as shown hereon and authorized the recording of this plat this day of , 2009.

By: _____
Tom Crofoot
Chairman

By: _____
Lori Wallace
Vice Chairman

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

Jan Belcher
Jan Belcher, City Manager

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

This is to certify that the City accepts the Planning Commission's authorized approval and acceptance of all dedicated public easements in conformance with the laws of the State of Texas the ordinance of the City of Tomball as shown hereon and authorized the recording of this plat this day of , 2009.

By: _____
Gretchen Fagan, Mayor

By: _____
Dorris Speer, City Secretary

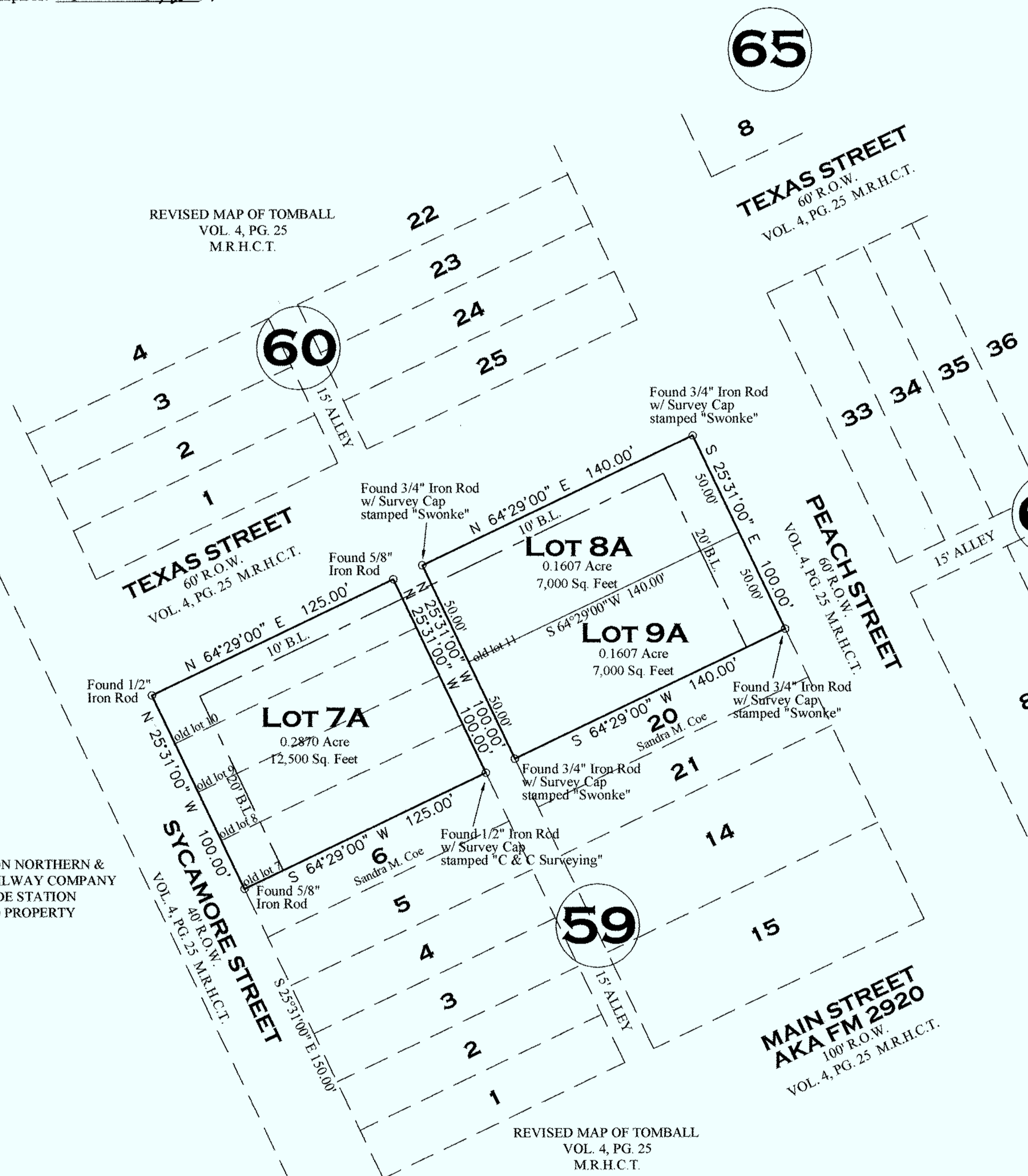
Harris County Clerk Certificate of Filing:

I, Beverly B. Kaufman, County Clerk of Harris County, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on , 2009, at o'clock M., and duly recorded on , 2009, at o'clock M., and at Film Code No. of the Map Records of Harris County for said County.

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

Beverly B. Kaufman
Beverly B. Kaufman
County Clerk
of Harris County, Texas

By: _____
Deputy



BURLINGTON NORTHERN & SANTA FE RAILWAY COMPANY
200' WIDE STATION
GROUND PROPERTY

We, Colorado Valley Bank, owner and holder of a lien against the property described in the plat known as **MATTHEWS DRYDEN SUBDIVISION**, said lien being evidenced by instrument of record in the Clerk's File Numbers 20080618170, 20090064648, 20090064649, 20090323227 and 20090323228 of the O.P.R.O.R.P. of Harris County, Texas, do hereby in all things subordinate our interest in said property to the purposes and effects of said plat and the dedications and restrictions shown herein to said subdivision plat and we hereby confirm that Colorado Valley Bank are the present owners of said lien and have not assigned the same nor any part thereof.

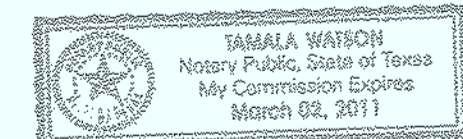
Joe Mihatsch
By: _____
Joe Mihatsch President
Colorado Valley Bank

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared _____ President, Colorado Valley Bank, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein and herein stated, and as the act and deed of Colorado Valley Bank.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 22 day of September, 2009.

Sabala Watson
Notary Public in and for the State of Texas



My Commission Expires: March 02, 2011

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

Steven L. Crews
Steven L. Crews
Texas Registration Number 4141

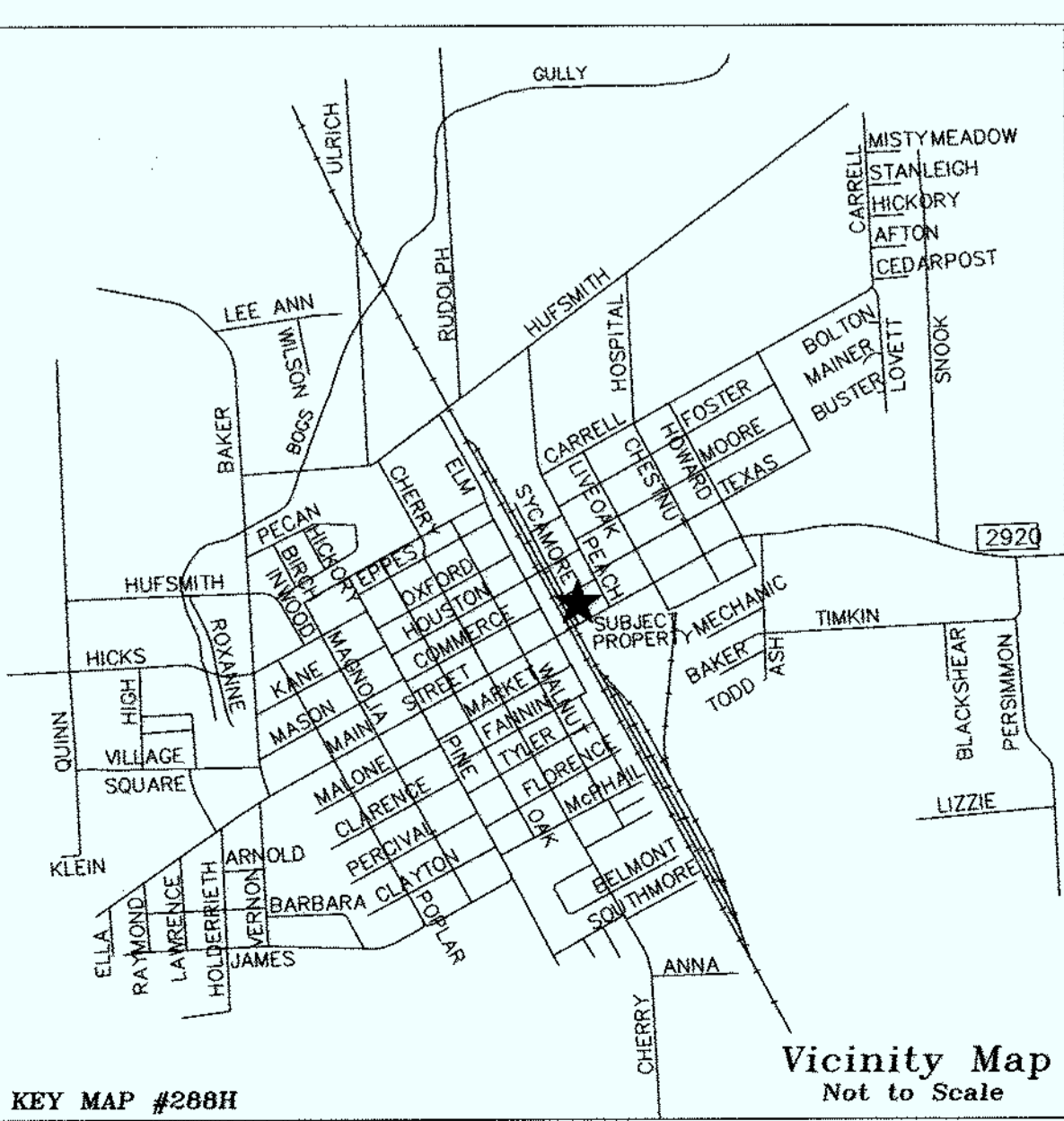


Surveyor:
C & C SURVEYING INC.
7424 FM 1488, Suite A Magnolia, Texas 77354
Office: 281-356-5172 Fax: 281-356-1935

Owner:
Terri Dryden
681 County Road 2018
Daisetta, Texas 77533
Phone 281-290-8383

Owner:
Cory & Angela O'Neil Matthews
18930 Brighton Trail Lane
Tomball, Texas 77377
Phone 281-290-8383

September 2009
Sheet 1 of 1



Notes:
Public Easements:
Public easements denoted on this plat are hereby dedicated to the public forever. Any public utility, including the City of Tomball, shall have the right at all times, of ingress and egress to and from and upon said easements for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing oil or part of its respective systems without the necessity of any time of procuring the permission of the property owner. Any public utility, including the City of Tomball, shall have the right to move and keep moved all or part of any building, fences, trees, shrubs, other growths or improvements that in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems on any of the easements shown on this plat. Neither the City of Tomball or any public utility shall be responsible for the replacing or reimbursing the property owner due to removal or relocation of any obstruction on the public easements.
Flood Information:
According to FEMA Firm Panel No. 46201C0230-L (Effective Date June 18, 2007), this property is in Zone "X" and is not in the 0.2% Annual Chance Flood Plain.
Note #1:
All oil/gas pipelines or pipeline easements with ownership through the subdivision have been shown.
Note #2:
All oil/gas wells with ownership (plugged, abandoned, and/or active) through the subdivision have been shown.
Note #3:
No building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setbacks at a minimum should be 15 feet off centerline of low pressure gas lines, and 30 feet off centerline of high pressure gas lines.
Note #4:
This plat does not attempt to amend or remove any valid restrictions or covenants.
Note #5:
The Basis of Bearings for this plat is the Recorded Plat for TEXAS PEACH recorded in Film Code Number 626137 of the M.R.H.C.T.
Note #6:
Building Lines shall be in accordance with the current City of Tomball Zoning Ordinance.
Note #7:
Subject to Zoning Ordinances of the City of Tomball now in effect.
Note #8:
The reason for this replat is to combine Lots 7, 8, 9 and 10 of the REVISED PLAT OF TOMBALL into one lot, and to divide Lot 11 of TEXAS PEACH into two lots.
M.R.H.C.T. = MAP RECORDS OF HARRIS COUNTY TEXAS
E.L.L. = BUILDING LINE
VOL. = VOLUME
PC. = PAGE

**Regular City Council
 Agenda Item
 Data Sheet**

Meeting Date: October 5, 2009

Topic:

Approve Request by the Tomball Fire Department to Close School Street for the Evenings of October 30 and 31, 2009 in Conjunction with the Fire Department's Fall Festival at the Former School Administration Building on Main Street.

Background:

The Tomball Fire Department holds a Fall Festival each year. For the past three years, the event has been held in the former Tomball Independent School District Administration building that is now owned by the City.

The Fall Festival provides a safe alternative to traditional "trick-of-treating". Festival activities will include a haunted house, moonwalk, games, and other family fun. The event is free and open to the public. School Street will be closed only Friday and Saturday evenings, beginning at 6pm, in order to create a safe walking environment for the event.

Origination:

Randy Parr, Fire Chief

Recommendation:

Staff recommends approval of the request for closure of School Street.

Funding:

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

Randy Parr, Fire Chief

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

ATTACHMENTS:

Tomball Fire Department Request



Tomball Fire Department
Chief Randy Parr
1200 Rudel
Tomball, Texas 77375
(281) 351-7101
(Fax) 281-357-4714



October 1, 2009

Mayor and City Council
City of Tomball
401 Market
Tomball, TX 77375

Re: Tomball Fire Department Fall Festival

Honorable Mayor and City Council:

The Tomball Fire Department is hosting the Fall Festival on the evenings of October 30-31, 2009. The event is being held in the old TISD Administration Building at 709 West Main St. We are requesting the Mayor and Council to consider allowing the Tomball Fire Department to close School Street from Main to one block south of Main, due to the location of this event.

The Fall Festival will include a moonwalk, hay ride, participation from Tomball PD and NW EMS, and our feature attraction of the haunted house. We anticipate a very large turnout and are concerned that the pedestrian traffic crossing School Street would be at risk if we do not close the street.

Thank you for your consideration.

Sincerely,

Randall F. Parr

Randall F. Parr, Fire Chief
Tomball Fire Department

Regular City Council

Agenda Item

Data Sheet

Meeting Date: October 5, 2009

Topic:

Approve a New Administrative Policy Number 14, entitled "City Communication Policy," Replacing the Current Administrative Policy Number 14, entitled "Media Communication Procedures," in its Entirety

Background:

As a part of the City Council’s Strategic Plan 2009-2013, 2009 goals, Council tasked the City Manager with preparing a comprehensive citizen communications policy to enhance citizen communications. Administrative Policy 14 – City Communication Policy arose from those goals. The policy outlines the City’s key stakeholders and communication outlets. When addressing a topic, staff will be able to turn to this policy to ensure that the information is presented to the public in the most effective way.

As a part of the same goal, Council also requested information on the cost implications of this policy. All current, budgeted expenditures for general city public information are as follows:

1. Weekly e-newsletter - \$541.88 annually
2. Quarterly newsletter - \$14,400 annually
3. City website maintenance - \$5,315.40 annually

In the FY 2009-10 budget, Council approved an additional \$5,000 for City Council advertising. Upon approval of the policy, staff can develop options for a focused plan for Council expenditure of these budgeted funds.

The current Administrative Policy Number 14, "Media Communication Procedures," adopted in 1998, has been incorporated into the proposed Administrative Policy Number 14, "City Communication Policy."

Origination:

City Council

Recommendation:

Staff recommends approval.

Funding:

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

Shawn Cox, Assistant to the City Manager

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

ATTACHMENTS:

Administrative Policy Number 14 - City Communications Policy

Current Administrative Policy Number 14 - Media Communication Procedures

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

SUBJECT CITY COMMUNICATION POLICY	NUMBER: 14	EFFECTIVE DATE:	PAGE 1 OF 2
	REVISED:	APPROVED BY CITY MANAGER:	
	SUPERSEDES:	APPROVED BY CITY COUNCIL:	

Purpose

The purpose of this communications policy is to support the strategic objectives of the City of Tomball and provide for public information. This policy serves as a guide for all external communication with stakeholders. It will outline key audiences and outlets of communication.

Scope of Policy

This policy will allow the City of Tomball to effectively reach the diverse demographics located in the City. Currently the City’s population is primarily made up of individual in the 24-34, 35-44, and 45-54 age ranges. Based on the national trend, within these ranges, between 65% and 70% of households have the internet in their home. With this policy, we will be able to target our communication efforts to maximize their effectiveness.

Stakeholders and Target Audiences

- Citizens
- Business Owners
- Developers
- Civic Organizations
- Chamber of Commerce
- Tomball Economic Development Corporation
- Media
- Community Leaders

Communication Outlets/Tools

To get information to the public, the City will need to use a wide variety of outlets and tools to reach its target audiences.

<p>Media Includes traditional forms of communication that have the capability of reaching a large audience.</p> <ul style="list-style-type: none"> - Media Contact Database - Relationships with local media - Press Releases 	<p>Web Based With web based communications, the City is able to get the latest information out to the public quickly.</p> <ul style="list-style-type: none"> - Facebook - Twitter - City website - Weekly e-newsletters - Nixel (Police/Fire) - Code Red
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**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

SUBJECT CITY COMMUNICATION POLICY	NUMBER: 14	EFFECTIVE DATE:	PAGE 2 OF 2
	REVISED:	APPROVED BY CITY MANAGER:	
	SUPERSEDES:	APPROVED BY CITY COUNCIL:	

Print These are publications printed in house or in mass by an outside company that the City mails to each resident or has available for pick up. <ul style="list-style-type: none"> - Ads - Quarterly newsletters - Information flyers/brochures - Utility Bills - Community Center Newsletter 	Other <ul style="list-style-type: none"> - Citizen academies - Public meeting announcements - Door to door - Event PowerPoint presentations - Public facility bulletin boards - Lobby PowerPoint Presentations - Yard Signage - Meetings and Events
---	---

Updates and Improvements

Staff will continue to look for new public information opportunities and communication media outlets and will utilize those that show to be effective and cost effective. Staff will continue to update its tools and outlets to ensure that the correct information is always available. Staff will work to develop programs and methods that encourage two-way communication.

Roles and Responsibilities

The Mayor and/or the City Manager are the primary spokespersons for the City in matters pertaining to the City generally and from an overall perspective. The City Manager may appoint Public Information Officers (PIOs) to speak on behalf of the City in general or on a specific department, program or event.

Further, it is the policy/procedure of the City of Tomball that the individual official, officer or employee of the City who has the most extensive knowledge and understanding of the matter being inquired about respond to inquiries from the press or others. Officials, officers and employees should not attempt to respond to inquiries or represent the City's positions on a matter when others are more qualified by virtue of their background, knowledge, overview or understanding.

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

SUBJECT MEDIA COMMUNICATION PROCEDURES	NUMBER: 14	EFFECTIVE DATE: July 20, 1998	PAGE 1 OF 1
	REVISED:	APPROVED BY CITY MANAGER: July 20, 1998	
	SUPERSEDES:	APPROVED BY CITY COUNCIL: July 20, 1998	

Policy

It is the policy of the City of Tomball to have open government, consistent with state and federal laws. It is our belief that the City's business is the public's business. Officers, officials and employees of the City should conduct their relations with the press consistent with the foregoing policy and philosophy.

Procedure

The Mayor and/or the City Manager are the primary spokespersons for the City in matters pertaining to the City generally and from an overall perspective. Further, it is the policy/procedure of the City of Tomball that the individual official, officer or employee of the City who has the most extensive knowledge and understanding of the matter being inquired about respond to inquiries from the press or others. Officials, officers and employees should not attempt to respond to inquiries or represent the City's position on a matter when others are more qualified by virtue of their background, knowledge, overview or understanding.

**Regular City Council
 Agenda Item
 Data Sheet**

Meeting Date: October 5, 2009

Topic:

Approve Amendment to Administrative Policy Number 15, entitled "Community Center Policies and Procedures"

Background:

At the September 8, 2009, City Council Meeting, Council asked staff to amend the recently updated Community Center policy. Council requested that the policy allow staff to approve requests for waivers of Community Center fees.

Included in the updated policy are guidelines for staff to follow when considering requests for fee waivers. These guidelines are as follows:

1. Applicant generates sales tax dollars for Tomball
2. Applicant supports City functions, events or programs
3. Applicant is a non-profit group or organization

Groups or organizations seeking a waiver of fees are required to prove that they meet one or more of these guidelines.

Origination:

City Council

Recommendation:

Funding:

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

Shawn Cox, Assistant to the City Manager

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

ATTACHMENTS:
Amended Policy 15

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

SUBJECT TOMBALL COMMUNITY CENTER POLICIES AND OPERATING PROCEDURES	NUMBER: 15	EFFECTIVE DATE:	PAGE 1 OF 12
	REVISED: July 6, 2009	APPROVED BY CITY MANAGER:	
	SUPERSEDES: February 6, 2006	APPROVED BY CITY COUNCIL:	

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Section II - Priority Guidelines

Section III - Reservation/Fees Guidelines

Section IV - Other Requirements

Section V – Reservation Forms

Guidelines for Use

Cancellation Procedure

Organization/Non-Profit Reservation Form

Private Function Reservation Form

Guidelines for Use of Alcohol

Section VI - Building Layout

* * * * *

Mission Statement

The Tomball Community Center will serve everyone in a fair and equitable manner, so that in serving, the Center will enhance the quality of life for each individual, group, or organization being served.

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

TOMBALL COMMUNITY CENTER POLICIES AND OPERATING PROCEDURES	NUMBER: 15	EFFECTIVE DATE:	PAGE 2 OF 12
	REVISED: July 6, 2009	APPROVED BY CITY MANAGER:	
	SUPERSEDES: February 6, 2006	APPROVED BY CITY COUNCIL:	

Goals

The following goals shall serve as the vehicle through which the staff and the administration of the Tomball Community Center (hereinafter to be called *Center*) shall work in fulfilling the spirit and letter of the Center's **MISSION STATEMENT**.

- GOAL 1:** Provide an atmosphere which is vibrant and attractive to a broad range of age groups.
- GOAL 2:** Provide a staff, both paid and volunteer, who, through their individual and corporate efforts, give positive leadership to the development and administration of programs and activities, which will attract to the Center participants of all age.
- GOAL 3:** Provide a variety of programs and activities which will be attractive to the broad spectrum of age ranges of the residents.
- GOAL 4:** Provide a monthly calendar of activities to facilitate advance planning by citizens participating in scheduled programs and activities.
- GOAL 5:** Provide *User Fees* and *Guidelines* which will encourage the use of the Center.
- GOAL 6:** Provide in the administration of the Center an attitude which encourages utilization of the Center and which is fair and equitable to all.

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

SUBJECT TOMBALL COMMUNITY CENTER POLICIES AND OPERATING PROCEDURES	NUMBER: <p style="text-align: center;">15</p>	EFFECTIVE DATE:	PAGE 3 OF 12
	REVISED: <p style="text-align: center;">July 6, 2009</p>	APPROVED BY CITY MANAGER:	
	SUPERSEDES: <p style="text-align: center;">February 6, 2006</p>	APPROVED BY CITY COUNCIL:	

Policies & Procedures

Section I - User Qualifications

The following guidelines and policies have been developed and adopted to provide for the fair and orderly use of the Center.

- A. User fees will be determined by the qualification status of each applicant. Users are categorized as follows:
 - 1. Individuals (Citizens of Tomball)
 - 2. Individuals (Non-Citizens of Tomball)
 - 3. For-profit businesses
 - 4. Non-profit organizations which charge for services
 - 5. Non-profit clubs and organizations
 - 6. Tomball-based Non-profit youth organizations

- B. Proof of Qualification
 - 1. Individuals (Citizens of Tomball)
 - a. Driver's License
 - b. City of Tomball utility bill
 - 2. Individuals (Non-Citizens of Tomball)
 - a. Drivers License
 - 3. For-profit businesses
 - a. Sales Tax Certificate
 - b. Certified statement of applicant
 - 4. Non-profit organizations which charge for services
 - a. Sales Tax Certificate
 - b. Copy of Charter or Articles of Incorporation
 - c. Certified statement of applicant
 - 5. Non-profit clubs or organizations
 - a. Sales Tax Exemption Certificate
 - b. Copy of Charter or Articles of Incorporation
 - c. Certified statement of applicant

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

SUBJECT TOMBALL COMMUNITY CENTER POLICIES AND OPERATING PROCEDURES	NUMBER: 15	EFFECTIVE DATE:	PAGE 4 OF 12
	REVISED: July 6, 2009	APPROVED BY CITY MANAGER:	
	SUPERSEDES: February 6, 2006	APPROVED BY CITY COUNCIL:	

Section II - Priority Use Guidelines

- A. Assignment of Lease - To facilitate the fair and equitable use of the Community Center, consideration will be given to the following factors in the assignment or lease of space:
1. Qualifying status - Priority will be given in the following order:
 - a. Non-profit clubs and organizations (Contract or non-contract)
 - b. Individuals (Citizens of Tomball)
 - c. Non-profit organizations which charge for services
 - d. Individuals (Non-Citizens of Tomball)
 - e. For-profit businesses

 2. Contracts for use of facility
 - a. Activity Contracts with the Center will be honored in keeping with the provisions of the Contract.
 - b. All Contracts will be reviewed on an annual basis.
 - c. Failure of the Contracting Party to meet the provisions of the Contract will result in the Contract being canceled in the following procedure:
 - 1). Written notice outlining deficiencies to be given to the Contracting Party by the Center Manager.
 - 2). Contracting Party to be given a minimum of two (2) weeks to correct deficiencies.
 - 3). Failure to correct the deficiencies within the specified time frame will result in cancellation of Contract and forfeiture of any deposits. A minimum of thirty (30) days to be given between notification of Contract being canceled and the date the Contracting Party must vacate the facility.

 3. Scheduled events on Activities Calendar
 - a. In order to maximize space, rooms will be assigned on the basis of:
 - 1). Size of group
 - 2). Availability of space
 - b. The Manager has the authority to reassign space if the number of participants falls below the parameters of the assigned room and if reassignment would facilitate a more efficient use of the facility.
 - 1). Contracting Party will be given 24 hours notice of any change.
 - 2). Any change of assignment will result in an appropriate adjustment in fee charge.

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

SUBJECT TOMBALL COMMUNITY CENTER POLICIES AND OPERATING PROCEDURES	NUMBER: 15	EFFECTIVE DATE:	PAGE 5 OF 12
	REVISED: July 6, 2009	APPROVED BY CITY MANAGER:	
	SUPERSEDES: February 6, 2006	APPROVED BY CITY COUNCIL:	

**Section II - Priority Use Guidelines
(Continued)**

4. Size of group shall be the primary factor in the assignment of meeting rooms. The following schedule is applicable: (See Building Layout, Section VII)
 - a. Banquet Room A - 40 or more people (181 Max)
 - b. Meeting Room B - 15 to 40 people
 - c. Meeting Room C - One (1) to ten (10) people

B. Facility Assignment

1. Basic assignment of rooms will be made in accordance with the group size to maximize the use of the Center. Assignments to facilitate that use may be adjusted, with a minimum of 24 hours notice to the Contracting Party, by the Center Manager.
2. The Center and the parking lot may be used only for the time period and the purpose for which it was reserved, unless prior approval for a change is granted by the Center Manager.
3. Religious activities may be scheduled on a temporary basis only, not to exceed three (3) months, except in cases of emergency with Council approval.
4. Political fund-raising activities are not permitted in the facility.
5. Non-political fund-raising activities of a humanitarian nature may be scheduled in the Center in accordance with the appropriate fee guidelines.

C. Hours of Operation

1. Office Hours
 - a. Monday to Friday: 8:00 AM – 4:00 PM
 - b. The Center will be closed on City-observed holidays.
 - c. The Center will be open on weekends only if rented.
2. Times available for reservations
 - a. Monday to Thursday & Sunday: 8:00 AM – 10:00 PM
 - b. Friday & Saturday: 8:00 AM – 1:00 AM

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

SUBJECT TOMBALL COMMUNITY CENTER POLICIES AND OPERATING PROCEDURES	NUMBER: <p style="text-align: right;">15</p>	EFFECTIVE DATE:	PAGE 6 OF 12
	REVISED: <p style="text-align: right;">July 6, 2009</p>	APPROVED BY CITY MANAGER:	
	SUPERSEDES: <p style="text-align: right;">February 6, 2006</p>	APPROVED BY CITY COUNCIL:	

Section III - Reservation Fee Guidelines

A. Meeting Room Fee Schedule (Based on availability)

		Tomball Residents: Individuals, For-profit Businesses/ Non-profit Organizations which charge for service	Non Tomball Residents: Individuals, For-profit Businesses, Non-profit Organizations which charge for service
1.	Monday thru 3:00 pm Friday (2 Hour Minimum)		
	Room A	\$50.00/hr.	\$75.00/hr.
	Room B	\$30.00/hr.	\$50.00/hr.
	Room C	\$15.00/hr.	\$20.00/hr.
2.	After 3:00 pm Friday (2 Hour Minimum)		
	Room A	\$75.00/hr.	\$100.00/hr.
	Room B	\$50.00/hr.	\$75.00/hr.
	Room C	\$15.00/hr.	\$50.00/hr.

B. Kitchen Fee Schedule

1. The rental fee for Banquet Room A includes the use of the kitchen.
2. No other room is allowed the use of the kitchen with a rental.

Special Notes

1. A refundable deposit will be paid by each applicant prior to the confirmation of a reservation. Refund of this deposit is contingent upon satisfying any payment for damages to the facility by the Contracting Party.

~~2. Upon providing proof of qualification as a Tomball-based Non-profit youth organization, the rental fees may be waived. If the organization does not qualify as a Tomball-based Non-profit youth organization, a request may be made to City Council for Consideration to waive fees.~~

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

SUBJECT TOMBALL COMMUNITY CENTER POLICIES AND OPERATING PROCEDURES	NUMBER: 15	EFFECTIVE DATE:	PAGE 7 OF 12
	REVISED: July 6, 2009	APPROVED BY CITY MANAGER:	
	SUPERSEDES: February 6, 2006	APPROVED BY CITY COUNCIL:	

Waiver of Fees

1. The following groups shall have their fees waived:
 - a. Tomball-based Non-profit youth organizations who provide proof of qualification

2. Tomball based groups and organizations may request a waiver of fees from City staff. The guidelines for staff to follow when considering requests for waivers are as follows:
 - a. Applicant generates sales tax dollars for Tomball
 - b. Applicant supports City functions, events or programs
 - c. Applicant is a non-profit group or organization

Section IV - Other Requirements

- A. Storage Space
 1. Use of storage space will determined by the existing Contract, and
 2. Available space

- B. Displaying Items on Walls
 1. Items may be temporarily displayed and must be removed at the conclusion of the reservation time period, using the Center’s Walker Display Center.
 2. Items must be displayed by use of the available wall hangers and may not be affixed directly to the walls by any other means, (i.e. tape, tacks, pins, nails, glue, paste, etc.)

- C. Failure to adhere to requirements of Requirements A and/or B may result in the forfeiture of the privileges.

- D. Use of Alcohol will be allowed as outlined under Use of Alcohol Guidelines.

Section V - Reservation Forms

- A. Copy of Guidelines for Use
- B. Copy of Guidelines for Use of Alcohol
- C. Copy of Civic and Non-profit Organization Reservation Form
- D. Copy of Individual Reservation Form
- E. Copy of Building Layout



Guidelines for Use

Tomball Community Center
221 Market Street Tomball, TX 77375
281-255-6221

1. Reservations must be made through the office of the Manager of the Tomball Community Center, 221 Market Street, Tomball, Texas 77375. No reservations or cancellations will be confirmed until written request is received in person, or by fax or email.
2. All rental fees must be paid a minimum of two weeks in advance for all organizations meeting on a recurring basis as stated in your contract. Rental fees must be paid at the time of reservation for confirmation. NO reservations will be taken without rental fee payment. The refundable security deposit must be posted at least two weeks prior to reservation date, but no earlier than 3 months prior to rental. Refundable deposit check will only be held until after rental to insure against damages. Refunds will be returned to the applicant within two (2) weeks.
3. Any person or group renting the Center for a Public Function shall not prohibit, dissuade, prevent, or exclude any member of the public based upon or regarding an individual's race, color, religion, sex, sexual orientation, age, national origin, or disability.
4. All public notices, advertisements and announcements of any Public Function must state "This event is not endorsed or sponsored by the City of Tomball."
5. Private Functions cannot be advertised, promoted, announced, or opened to the public in any manner. The rules regarding a Public Function must be adhered to if such event is determined to be open to the public by City staff.
6. For additional security purposes, some functions may require uniformed officers. The Center staff will instruct users as to additional requirements and fees.
7. No person or group shall use any area or facility of the Center, including the parking lot, for any purpose other than for the purpose for which it was designed, designated, or assigned.
8. Patrons attending functions at the Center may not remain in the building or the parking area at any time other than the hours reserved for the function when Center is open to the public. **A Center employee will be on duty during the entire rental time, arriving 15 minutes prior to reservation and staying 15 minutes after end of reservation.**
9. All displays, lecture materials, equipment, supplies, etc., must be removed at the conclusion of each meeting, unless prior arrangements were made.
10. Fund-raising activities of a humanitarian nature will require written permission, with an explanation of product.
11. No pets are allowed in Center, with exception of Service Dogs (as defined by the Americans with Disabilities Act.).
12. Children must be supervised at all times and must remain in designated room assigned for that group's use.
13. Nothing is to be taped, stapled, nailed, glued, or attached to the walls, doors, windows, blinds, tables or chairs in any manner. The Center has a Walker Display System and we will work with you to display your decorations according to our guidelines.
15. Foods and/or beverages must be removed from the facility at the conclusion of the reservation.
16. A garbage can with plastic liner will be provided upon request. When vacating the facility, user **must** remove all trash and place in dumpster provided. Also, tables should be wiped with a damp cloth if food was served and floor **must** be swept. No mopping is required unless there is a spill. Dishpan, cloth, broom, and dustpan are available upon request.
17. The Center employees assign rooms to maximize Center capacity each day; therefore, the Center reserves the right to change room assignments to accommodate other groups.
18. All groups must be considerate of others using the Center and may not interfere with other group activities.
19. No tobacco products are allowed to be used inside the Center per Ordinance 96-21, passed December 16, 1996. A designated smoking area is provided outside.
20. The serving of alcohol will be done in compliance with the **Guidelines for Use of Alcohol.**
21. Contact person is responsible for conveying rules of Center use to anyone taking charge of the group, as well as all participants attending meetings or functions.
22. All religious activities may be scheduled on a temporary basis only, not to exceed (3) months, except in case of emergency with Council approval.
23. In order to assure refund of deposit, before vacating building, contact Center attendant on duty to verify that condition of room and responsibilities have been met.

Guidelines for Use of Alcohol

1. Alcohol or alcoholic beverages will not be allowed without the consent of the Center Manager.
2. At any function where alcohol or alcoholic beverages will be served, it will be necessary for the Contracting Party to pay for the services of two off-duty Tomball Police Officers, or licensed Peace Officers approved by the Tomball Police Department, during the *entire time* the Center is being reserved or used. If two Tomball Police Department Officers are not available, officers from another law enforcement agency will be employed.
3. The Security Guards, whose entire fee will be paid by the Contracting Party, will be scheduled by the Center Manager.
4. No alcohol or alcoholic beverages may be sold in the Center.
5. No alcohol or alcoholic beverages may be carried outside the Center.
6. No alcohol or alcoholic beverages may be consumed outside the Center.
7. Alcohol or alcoholic beverages may not be served to minors at any time.
8. At the discretion of the Security Guards or the Center employee, anyone deemed intoxicated may be asked to vacate the Center. Failure on anyone’s part to do so will result in immediate cancellation of the event at that time and forfeiture of all fees and/or deposits.

Cancellation Procedure

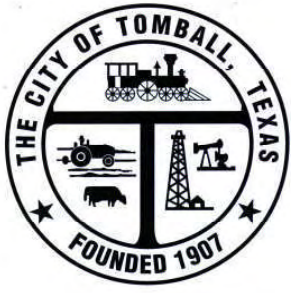
1. Reservations may be canceled by calling or writing the Center Manager., but **No** reservations or cancellations will be confirmed until written request is received in person, or by fax or email.
2. All fees and/or deposits will be refunded provided the cancellation is received 14 days prior to the scheduled event.
3. In the case of organizations with a one-year Contract, the Center Manager should be advised of any change in the use of reserved room/rooms as a courtesy to others who might desire use of the facility at that time.
4. Failure to give the specified cancellation of reservation notice to the Center Manager will result in forfeiture of fees and/or deposits.

I have read the rules concerning the usage of the Tomball Community Center and agree to abide by those rules.

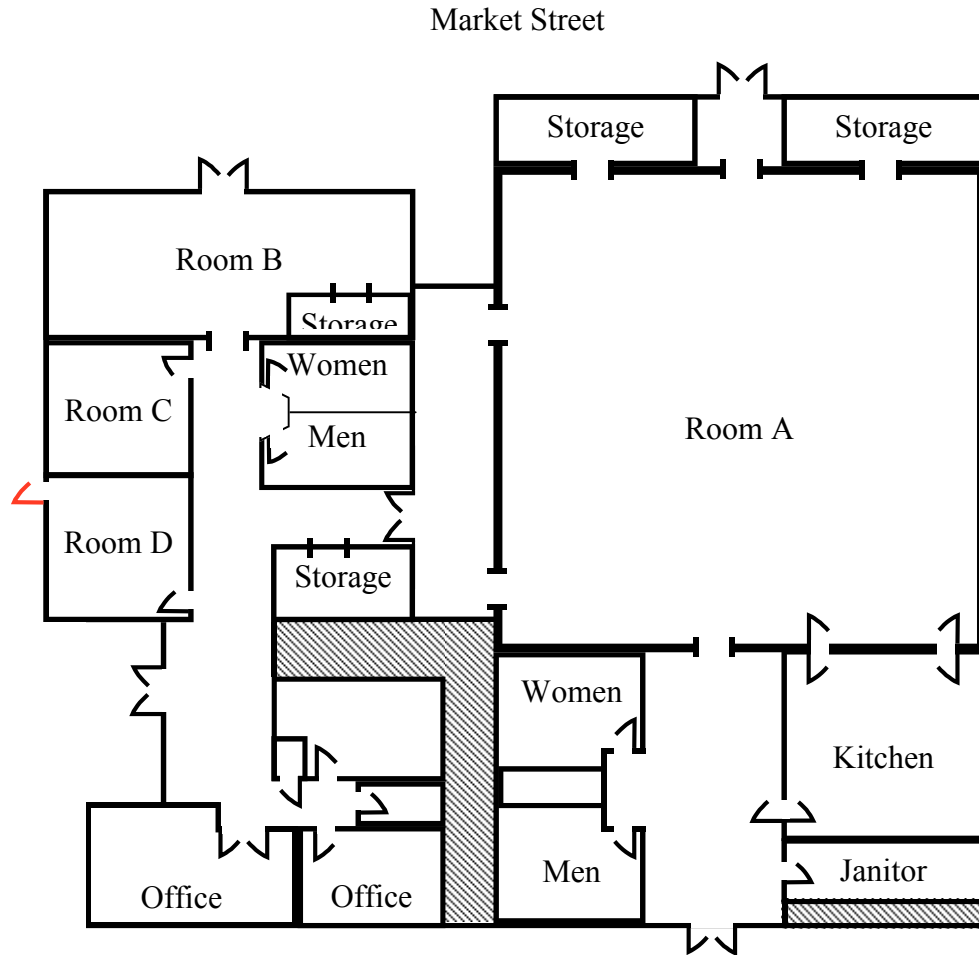
Name of Organization

Date

Representative Signature



Section VI - Building Layout
Tomball Community Center
221 Market Street Tomball, TX 77375
281-255-6221



CITY OF TOMBALL COMMUNITY CENTER

NON-PROFIT ORGANIZATION RESERVATION FORM

Rates: (2 Hour Minimum)	Weekdays	After 3:00 pm Friday
Banquet Room A	\$50.00/hr.	\$75.00/hr.
Room B	\$30.00/hr.	\$50.00/hr.
Room C	\$15.00/hr.	\$15.00/hr.
Kitchen: No charge in conjunction with rental of Room A.		
Refundable deposit:	\$250.00 for Room A	
	\$100.00 for Rooms B or C	

Organization _____

Contact person _____

Address _____ City _____ Zip _____

Telephone – Daytime () _____ Evening () _____

Alternate contact _____ Phone _____

Date requested _____ Time _____ to _____

Estimated attendance _____ Type of Function _____

Do you require chairs? _____ if yes, how many? _____ Tables? _____ if yes, how many? _____

Will you be bringing additional equipment? _____ If yes, please explain _____

Food will be served _____ Yes _____ No

Food will be catered _____ Yes _____ No

Alcohol or alcoholic beverages will be served _____ Yes _____ No (Please explain _____)

If yes, I received the Guidelines for Use of Alcohol and I understand that two (2) licensed officers will be required as security guards.

Quoted rate \$ _____ each officer per hour

Room fee	_____
Food fee	_____
Police fee	_____

The above information is true to the best of my knowledge.

Total	_____
-------	-------

Representative Signature _____	Date _____	Effective Date _____
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THIS AREA FOR CENTER USE ONLY

Room Assigned _____ Date of Reservation _____

Rental Fee Paid \$ _____ Check# _____ Date _____

Deposit fee paid \$ _____ Check# _____ Date _____

Security paid \$ _____ Check # _____ Date arranged _____

Refund amount \$ _____ Check # _____ Reason _____

The area reserved was left in satisfactory _____ unsatisfactory _____ condition.

Center Representative

CITY OF TOMBALL COMMUNITY CENTER

PRIVATE/FOR PROFIT FUNCTION RESERVATION FORM

Rates: (2 Hour Minimum)	Weekdays		After 3:00 pm Friday	
	Residents	Non-Residents	Residents	Non-Residents
Room A	\$75.00/hr.	\$100.00/hr.	\$100.00/hr.	\$125.00/hr.
Room B	\$50.00/hr.	\$75.00/hr.	\$75.00/hr.	\$100.00/hr.
Room C	\$20.00/hr.	\$30.00/hr.	\$ 50.00/hr.	\$75.00/hr.

Kitchen: No charge in conjunction with rental of Room A.
 Refundable deposit: \$250.00 for Banquet Room
 \$100.00 for Rooms B or C

Organization _____

Contact person _____

Address _____ City _____ Zip _____

Telephone – Daytime () _____ Evening () _____

Alternate contact _____ Phone _____

Date requested _____ Time _____ to _____

Estimated attendance _____ Type of Function _____

Do you require chairs? _____ if yes, how many? _____ Tables? _____ if yes, how many? _____

Will you be bringing additional equipment? _____ If yes, please explain _____

Food will be served _____ Yes _____ No

Food will be catered _____ Yes _____ No

Alcohol or alcoholic beverages will be served _____ Yes _____ No (Please explain _____)
 If yes, I received the Guidelines for Use of Alcohol and I understand that two (2) licensed officers will be required as security guards.

Quoted rate \$ _____ each officer per hour

Room fee	_____
Food fee	_____
Police fee	_____

The above information is true to the best of my knowledge.

Total	_____
-------	-------

	Representative Signature	Date	Effective Date
--	--------------------------	------	----------------

THIS AREA FOR CENTER USE ONLY

Room Assigned _____ Date of Reservation _____

Rental Fee Paid \$ _____ Check# _____ Date _____

Deposit fee paid \$ _____ Check# _____ Date _____

Security paid \$ _____ Check # _____ Date arranged _____

Refund amount \$ _____ Check # _____ Reason _____

The area reserved was left in satisfactory _____ unsatisfactory _____ condition.

Center Representative

Regular City Council Agenda Item Data Sheet

Meeting Date: October 5, 2009

Topic:

Repeal Administrative Policy Number 8, entitled “Financial Accountability for Non-Profit Organizations Receiving Funds from the City” and Approve Amendment to Administrative Policy Number 22, entitled “Hotel Occupancy Tax Grant Process”.

Background:

Chapter 351 of the Government Code sets forth specific guidelines for the collection and expenditure of municipal Hotel Occupancy Tax (HOT) funds as well as the procedures to be used to track and report on the use of those funds. Council previously adopted Administrative Policy Number 8, setting forth financial accountability standards for non-profit organizations receiving HOT funds from the City. On January 19, 2009, Council adopted Administrative Policy Number 22, establishing a formal policy regarding the specific authorized uses of HOT funds, the reporting requirements for compliance with the law, and an application process through which organizations can apply for a grant of City HOT funds.

As Administrative Policy Number 22 should have replaced Administrative Policy Number 8, City staff requests that Council repeal Policy Number 8. Additionally, City staff requests Council approval to amend Policy Number 22 to remove the specific name designation of the Finance Director for the reporting and grant application processes.

Copies of the current policies and the proposed policies are attached.

Origination:

City Secretary

Recommendation:

Staff recommends repeal of Administrative Policy Number 8 and approval of proposed amendment to Administrative Policy Number 22.

Funding:

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

City Secretary

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

ATTACHMENTS:

Current Administrative Policy Number 8
Administrative Policy Number 8 with Proposed Repeal
Current Administrative Policy Number 22 and Application
Administrative Policy Number 22 with Proposed Amendments

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

SUBJECT FINANCIAL ACCOUNTABILITY FOR NON-PROFIT ORGANIZATIONS RECEIVING FUNDS FROM THE CITY	NUMBER: 8	EFFECTIVE DATE: December 5, 1995	PAGE 1 OF 1
	REVISED: April 17, 2006	APPROVED BY CITY MANAGER: April 17, 2006	
	SUPERSEDES: 12/7/1995	APPROVED BY CITY COUNCIL: April 17, 2006	

The City hereby adopts a policy to provide better accountability to the City from the non-profit organizations that the City supports by providing funds. Those organizations which receive less than \$25,000 annually will be required to submit the following as of March 1st of each year:

1. A list of the current Board of Directors
2. A brief statement as to the goal of the organization and the intended use of the funds to be received from the City
3. Financial Statement which includes a Balance Sheet and Statement of Revenues and Expenses for the most recent fiscal year of the organization
4. The Financial Statement should contain a statement "certified as true and correct" and be signed by each Board member or the Executive Board Members.

Organizations which receive directly more than \$25,000 in funds will be referred to the City's outside auditors for a suggestion of additional reporting requirements. These entities would likely be audited by the outside auditors under one of the following procedures:

1. A review of Financial Statements
2. An audit of cash receipts and disbursements
3. A full audit of the entity's books.

The actual procedure will be agreed on by the outside auditors and the City collectively.

As of April 17, 2006, the City supports the following organizations:

Under \$25,000

Spring Creek Historical Association
The Regional Arts Council
Tomball Community Chorus
Chaparral Genealogical Library
Tomball Sports Association
Tomball Sister City Organization

Over \$25,000

Tomball EDC
Tomball Area Chamber of Commerce
Tomball Volunteer Fire Dept.
Tomball Centennial Commission

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

SUBJECT FINANCIAL ACCOUNTABILITY FOR NON-PROFIT ORGANIZATIONS RECEIVING FUNDS FROM THE CITY <i>(REPEALED 10/5/2009)</i>	NUMBER: 8	EFFECTIVE DATE: December 5, 1995	PAGE 1 OF 1
	REVISED: April 17, 2006	APPROVED BY CITY MANAGER: April 17, 2006	
	SUPERSEDES: 12/7/1995	APPROVED BY CITY COUNCIL: April 17, 2006	

THIS POLICY WAS REPEALED BY CITY COUNCIL ON OCTOBER 5, 2009. ACCOUNTABILITY REQUIREMENTS FOR ORGANIZATIONS REQUESTING CITY OF TOMBALL HOTEL OCCUPANCY TAX FUNDS IS COVERED IN ADMINISTRATIVE POLICY NUMBER 22, ENTITLED “HOTEL OCCUPANCY TAX GRANT PROCESS”.

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

SUBJECT HOTEL OCCUPANCY TAX GRANT PROCESS	NUMBER: 22	EFFECTIVE DATE: January 19, 2009	PAGE 1 OF 2
	REVISED:	APPROVED BY CITY MANAGER: January 19, 2009	
	SUPERSEDES:	APPROVED BY CITY COUNCIL: January 19, 2009	

Guidelines for Expenditures, Requests for Funding, and Reporting

Hotel Occupancy Tax

Chapter 351.002 of the Local Government Code authorizes a municipality, by ordinance, to impose a tax on a person who pays for the right to use or temporarily take possession of a room located in a hotel/motel that is ordinarily used for sleeping. The tax is imposed on the cost of the room itself and is not imposed on the cost of any food served or on any other services provided by the hotel/motel.

The revenue derived from the municipal occupancy tax may only be used to promote tourism and the convention and hotel industry in the community. For a city the size of Tomball and located in a county the size of Harris County, that use is limited to the following:

1. the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers or both;
2. the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
3. advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;
4. the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;
5. historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:
 - a. at or in the immediate vicinity of convention center facilities or visitor information centers; or
 - b. located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;
6. day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing of those authorized expenditures listed in 1-5 above.

Tourists are defined in Chapter 351 as an individual who travels from the individual's residence to a different municipality, county, state, or country for pleasure, recreation, education, or culture. *Tourism* is defined as the guidance or management of tourists.

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

SUBJECT HOTEL OCCUPANCY TAX GRANT PROCESS	NUMBER: 22	EFFECTIVE DATE: January 19, 2009	PAGE 2 OF 2
	REVISED:	APPROVED BY CITY MANAGER: January 19, 2009	
	SUPERSEDES:	APPROVED BY CITY COUNCIL: January 19, 2009	

Requests for Hotel Occupancy Tax Funding

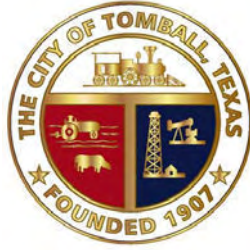
Any organization requesting the use of City of Tomball Municipal Hotel Occupancy Tax funds for an event that qualifies as an authorized use of funds as listed above must complete the “**Application for Use of Hotel Occupancy Tax**” a minimum of 30 days prior to the date of the event. All requests for funding must be approved by the City of Tomball City Council. Only one project may be requested per application. Applications for annual events must be submitted each year. Funding approved in one year does not guarantee funding in subsequent years.

Approved funding will be paid to the requesting organization on a reimbursement basis and will not be paid in advance. The reimbursement paid to the organization will be based on the lesser of the actual costs or the amount originally approved.

Reporting

Subsequent to the event/purpose for which occupancy tax funding was approved, the organization receiving the funds shall submit a full accounting of the event/purpose and specifically highlight the costs to be reimbursed by the hotel occupancy tax. In addition to the financial accounting of the event/purpose, the report shall also include a narrative describing how the event/purpose directly enhanced or promoted tourism and the convention and hotel industry in Tomball as well as the projected number of tourists or convention delegates coming to Tomball as a result of the event/purpose and the basis for the projection. If the event/purpose is one that is ongoing throughout the year, the financial and narrative report shall be updated and submitted on a quarterly basis. Reports shall be submitted to:

Monica Kohlenberg
Director of Finance
City of Tomball
501 James Street
Tomball, TX 77375
281.290.1417
mkohlenberg@ci.tomball.tx.us



CITY OF TOMBALL
APPLICATION FOR USE OF HOTEL OCCUPANCY TAX
(Must be submitted no less than 45 days prior to the event)

Applications may be mailed or hand delivered to:

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

Applicant Organization: _____

Organization Director: _____

Project or Event for which funding is requested: _____

Date of Event: _____

Description of project or event for which funding is requested: _____

Location of project or event: _____

Fees

Admissions _____
Applications _____
Vendors _____
Tuition _____

Concessions _____

Memberships _____

Subscriptions _____

Other _____

Total \$ _____

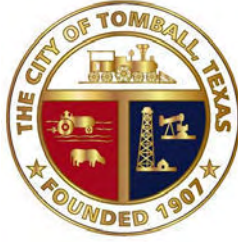
How many people do you expect will visit Tomball from out-of-town as a result of this project or event? _____ Explain the basis for your answer to the preceding question: _____

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

Organization Contact Name, Title, Address and Phone Number: _____

Contact's Signature: _____

Date: _____



VALIDATION OF APPLICATION

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

Signature of Authorizing Official

Date

Typed Name

Title within Organization

Telephone

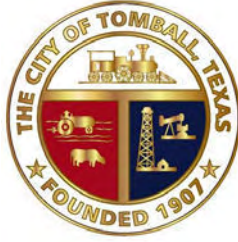
Email address



NARRATIVE QUESTIONS

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

1. Describe the history and purpose of the organization.
2. Describe how any grant funds will be used.
3. List the programs and activities for the grant year.
4. Show evidence of growth in community support prior to the grant year. Include the number of performances, exhibitions, audience sizes, services or enrollment. Be sure to include specific information as to the percent of activities taking place within the City of Tomball.
5. How does your project/event qualify for use of Municipal Hotel Occupancy Tax funds as defined in the Hotel Occupancy Tax Guidelines?
6. How do you publicize your activities? How do you evaluate these efforts and what have you done to increase the effectiveness of your marketing efforts?
7. Explain the public benefits to the City of Tomball that will result from your organization's efforts.
8. What is your organization doing to bring visitors to Tomball, to stay in local hotels and otherwise support the hospitality industry?



OTHER REQUIRED DOCUMENTATION

The following information is required to process the grant application:

1. Articles of Incorporation, if applicable
2. Constitution and/or By-Laws
3. If your organization's budget exceeds \$100,000 (exclusive of in-kind) attach a copy of the last independent audit of financial records. If no audit was completed, explain why.
4. Schedule of Board of Directors meetings for the period of October 1, 2008 through September 30, 2009. Board of Directors meetings must occur at least once per quarter.
5. Resumes of principal staff and artists or relevant job descriptions.
6. **Depending on the nature of the project or event for which grant funding is requested, the organization will obtain a Certificate of Insurance for liability coverage as outlined in the attached Exhibit A. The City of Tomball requires each grantee having an event in the City aimed to attract both residents and tourists to have liability insurance to protect the public for acts by the grantee.** This mandated coverage does not cover the grantee or any of its members. We encourage the grantee to acquire insurance to cover itself and its members as it deems fit. Please see your insurance agent for the local government endorsement. The cost of the local government endorsement may be included as part of your budget to be considered for a grant.

OPTIONAL SUPPORTING DOCUMENTATION

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

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



EXHIBIT A

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

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

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

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

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

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

SUBJECT HOTEL OCCUPANCY TAX GRANT PROCESS	NUMBER: 22	EFFECTIVE DATE: January 19, 2009	PAGE 1 OF 2
	REVISED:	APPROVED BY CITY MANAGER: January 19, 2009	
	SUPERSEDES:	APPROVED BY CITY COUNCIL: January 19, 2009	

Guidelines for Expenditures, Requests for Funding, and Reporting

Hotel Occupancy Tax

Chapter 351.002 of the Local Government Code authorizes a municipality, by ordinance, to impose a tax on a person who pays for the right to use or temporarily take possession of a room located in a hotel/motel that is ordinarily used for sleeping. The tax is imposed on the cost of the room itself and is not imposed on the cost of any food served or on any other services provided by the hotel/motel.

The revenue derived from the municipal occupancy tax may only be used to promote tourism and the convention and hotel industry in the community. For a city the size of Tomball and located in a county the size of Harris County, that use is limited to the following:

1. the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers or both;
2. the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
3. advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;
4. the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;
5. historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:
 - a. at or in the immediate vicinity of convention center facilities or visitor information centers; or
 - b. located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;
6. day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing of those authorized expenditures listed in 1-5 above.

Tourists are defined in Chapter 351 as an individual who travels from the individual's residence to a different municipality, county, state, or country for pleasure, recreation, education, or culture. *Tourism* is defined as the guidance or management of tourists.

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

SUBJECT HOTEL OCCUPANCY TAX GRANT PROCESS	NUMBER: 22	EFFECTIVE DATE: January 19, 2009	PAGE 2 OF 2
	REVISED:	APPROVED BY CITY MANAGER: January 19, 2009	
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Requests for Hotel Occupancy Tax Funding

Any organization requesting the use of City of Tomball Municipal Hotel Occupancy Tax funds for an event that qualifies as an authorized use of funds as listed above must complete the “**Application for Use of Hotel Occupancy Tax**” a minimum of 30 days prior to the date of the event. All requests for funding must be approved by the City of Tomball City Council. Only one project may be requested per application. Applications for annual events must be submitted each year. Funding approved in one year does not guarantee funding in subsequent years.

Approved funding will be paid to the requesting organization on a reimbursement basis and will not be paid in advance. The reimbursement paid to the organization will be based on the lesser of the actual costs or the amount originally approved.

Reporting

Subsequent to the event/purpose for which occupancy tax funding was approved, the organization receiving the funds shall submit a full accounting of the event/purpose and specifically highlight the costs to be reimbursed by the hotel occupancy tax. In addition to the financial accounting of the event/purpose, the report shall also include a narrative describing how the event/purpose directly enhanced or promoted tourism and the convention and hotel industry in Tomball as well as the projected number of tourists or convention delegates coming to Tomball as a result of the event/purpose and the basis for the projection. If the event/purpose is one that is ongoing throughout the year, the financial and narrative report shall be updated and submitted on a quarterly basis. Reports shall be submitted to:

~~Monica Kohlenberg~~

Director of Finance

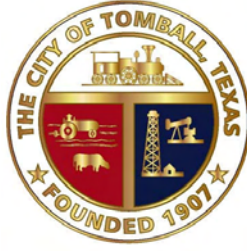
City of Tomball

501 James Street

Tomball, TX 77375

281.290.1417

~~mkohlenberg@ci.tomball.tx.us~~



CITY OF TOMBALL
APPLICATION FOR USE OF HOTEL OCCUPANCY TAX
(Must be submitted no less than 45 days prior to the event)

Applications may be mailed or hand delivered to:

~~Monica Kohlenberg~~
Director of Finance
City of Tomball
501 James Street
Tomball, TX 77375

Applicant Organization: _____

Organization Director: _____

Project or Event for which funding is requested: _____

Date of Event: _____

Description of project or event for which funding is requested: _____

Location of project or event: _____

GRANT AMOUNTS:

Amount Requested for 2008-09 \$ _____

Amount Received for 2007-08 \$ _____

% increase requested over last year's grant _____%

2008-09 Organization Budget Summary

	City Funds	Other Funds	Total
Personnel			
Contracted Services			
Travel			
Rental Expense			
Depreciation/Mortgage	N/A		
Advertising			
Insurance			
Other Expenses			
Volunteer Time	N/A		
Donated Goods/Services	N/A		
Total			

Grants to an organization will not exceed 25% of the organization's adopted budget for 2008-09.

FUNDS FROM SOURCES OTHER THAN THE CITY OF TOMBALL

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

<u>Concessions</u>	_____
<u>Memberships</u>	_____
<u>Subscriptions</u>	_____
<u>Other</u>	_____
Total	\$ _____

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

_____ Explain the basis for your answer to the preceding question: _____

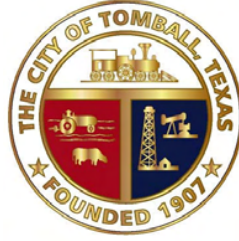
Are attendees for this event or users of this project expected to stay overnight in Tomball hotels or motels?

_____ If you answer to this question is Yes, state the basis for your answer: _____

Organization Contact Name, Title, Address and Phone Number: _____

Contact's Signature: _____

Date: _____



VALIDATION OF APPLICATION

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

Signature of Authorizing Official

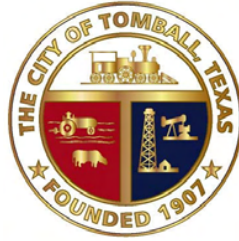
Date

Typed Name

Title within Organization

Telephone

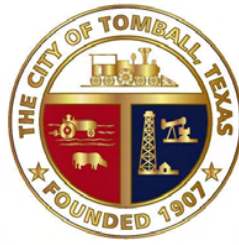
Email address



NARRATIVE QUESTIONS

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

1. Describe the history and purpose of the organization.
2. Describe how any grant funds will be used.
3. List the programs and activities for the grant year.
4. Show evidence of growth in community support prior to the grant year. Include the number of performances, exhibitions, audience sizes, services or enrollment. Be sure to include specific information as to the percent of activities taking place within the City of Tomball.
5. How does your project/event qualify for use of Municipal Hotel Occupancy Tax funds as defined in the Hotel Occupancy Tax Guidelines?
6. How do you publicize your activities? How do you evaluate these efforts and what have you done to increase the effectiveness of your marketing efforts?
7. Explain the public benefits to the City of Tomball that will result from your organization's efforts.
8. What is your organization doing to bring visitors to Tomball, to stay in local hotels and otherwise support the hospitality industry?



OTHER REQUIRED DOCUMENTATION

The following information is required to process the grant application:

1. Articles of Incorporation, if applicable
2. Constitution and/or By-Laws
3. If your organization's budget exceeds \$100,000 (exclusive of in-kind) attach a copy of the last independent audit of financial records. If no audit was completed, explain why.
4. Schedule of Board of Directors meetings for the period of October 1, 2008 through September 30, 2009. Board of Directors meetings must occur at least once per quarter.
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Regular City Council

Agenda Item

Meeting Date: October 5, 2009

Data Sheet

Topic:

Rescind Approval of Resale Deed for Property acquired by Foreclosure Tax Sale in Cause No. 97-47251, City of Tomball, et al vs. Westby, Carole A., et al, said Property being described as: Lot 28, Block 68 in the City of Tomball, located in Harris County, Texas, according to a Special Warranty Deed filed under Clerk's File No. S315303 in the Deed Records of Harris County, Texas to Rovin Deleon, approved by City Council on August 4, 2008

Background:

When taxes are owed on a property resulting in a foreclosure, those properties may be sold through a bid process with proceeds paid to the taxing entities for back taxes. The subject property, located at 0 Todd Street in Tomball as shown on the attached map, has no useful value to the City for any purpose so it was recommended for sale.

On August 4, 2008, Council approved the Resale Deed to sell Lot 28 to Rovin Deleon. The sale was never completed and Mike Darlow, our attorney with Perdue, Brandon, Fielder, Collins & Mott, requests that Council rescind its approval of the Resale Deed to Rovin Deleon. This will make the property available for resale once more.

Origination:

Perdue, Brandon, Fielder, Collins & Mott, LLP, Attorneys at Law

Recommendation:

Staff recommends rescinding approval of the Resale Deed.

Funding:

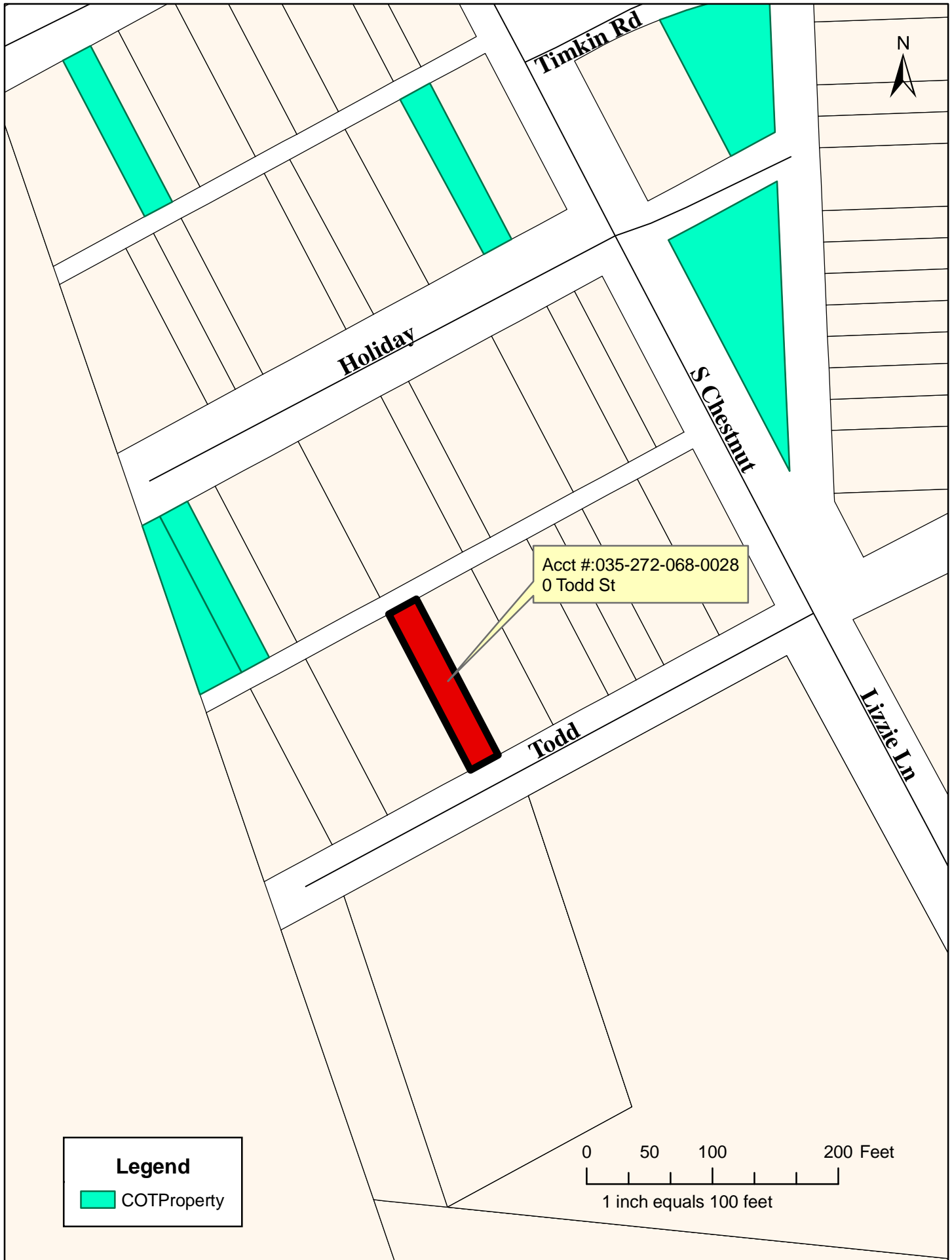
Party(ies) responsible for placing this item on agenda:

City Secretary

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

ATTACHMENTS:

Lot 28 Block 68 Resale Documentation



Howard Perdue
(1933-2005)
Larry Brandon
C. David Fielder
James O. Collins
Terry Ann White
Gregg M. McLaughlin
R. Bruce Medley
Robert Mott
Kevin Brennen
Harold Lerew
Jeanmarie Baer
David A. Ellison
Laura J. Monroe
Tab Beall
B. Lynn Stavinoha
Michael J. Darlow
Joseph T. Longoria
David S. Crawford
Donald B. Roseman

Terry G. Wiseman
Carl O. Sandin
Jason Bailey
Owen M. Sonik
Elke L. Daniel
David Hudson
R. Gregory East
Elizabeth Banda
W. Tracy Crites Jr.
Karen Evertson
Yolanda M. Humphrey
John T. Banks
Sandra Griffin
Sergio E. Garcia
E. Stephen Lee
Eboney Cobb
D'Layne Peebles
Jason Poe
George Dowlen*
*Retired

July 30, 2008

Jan Belcher
City Manager
City of Tomball

RE: Resale Offer- Cause No. 97-47251; City of Tomball vs. Westby, Carole; Acct # 035-272-068-0028

This letter is to confirm that I have reviewed the resale bid, the bid analysis and our tax suit file and do not have any objection to the resale of the property.

If you have any questions or need anything else, do not hesitate to contact me.

Sincerely,

Michael J. Darlow

BID ANALYSIS

Cause #: 97-47251
 Bid Amount: \$875.41
 Bidders Name: Rovin Deleon
 Strike Off Date: 11-09-2000

City of T Acct. #: 035-272-068-0028
 Judgment Value: \$5,100.00
 Minimum Bid at first sale: \$1,775.20
 Redemption Expires: 05-09-2001

JUDGMENT INFORMATION

<u>Tax Entity</u>	<u>Tax Years</u>	<u>Amount Due</u>	
TOMBALL ISD (inc. CED)	1989-1997	<u>\$406.23</u>	
City Of Tomball	1989-1997	<u>\$121.50</u>	
Harris County	1989-1996	<u>\$117.81</u>	
			<u>Total: \$645.53</u>

COSTS

Resale Deed Fee (Payable to PBFCM) \$35.00
 (all other costs previously paid) **Total: \$35.00**

POST JUDGMENT TAXES

<u>Entity</u>	<u>Tax Year</u>	<u>Amount due July 2008</u>
Tomball ISD	1998	\$160.33
City of Tomball	1998	\$34.55

PROPOSED DISTRIBUTION

Bid Amount: \$ 875.41 Costs: \$ 35.00
 Net to Distribute: \$ 645.53 Post Judgment: \$ 194.88

Disburse checks as follows:

City of Tomball	\$156.05	Judgment amount for years 1989-1997 (\$121.50) plus p/j year 1998 (\$34.55)
Tomball ISD	\$566.55	Judgment amount for years 1989-1997 (\$406.23) plus p/j year 1998 (\$160.32)
Harris County	\$117.81	Judgment amount for years 1989-1996 (\$117.81)
PBFCM	\$35.00	Costs for lawsuit
Total:	\$875.42	

**Post judgment taxes paid to PBFCM clients by purchaser at the time of offer and are included in purchase price.

DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT AND HARRIS COUNTY HOSPITAL DISTRICT AND NORTH HARRIS MONTGOMERY COLLEGE DISTRICT, and any person claiming under it shall at any time hereafter have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part thereof.

Grantee accepts the property in "AS IS" condition, subject to any environmental conditions that might have or still exist on said property and subject to the rights of any parties in possession of the property.

Grantee further agrees that the use of the property is limited to single family residence.

Post judgment taxes and taxes for the current year are assumed by Grantee.

IN TESTIMONY WHEREOF, CITY OF TOMBALL, FOR ITSELF AND AS TRUSTEE FOR TOMBALL INDEPENDENT SCHOOL DISTRICT, HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT AND HARRIS COUNTY HOSPITAL DISTRICT AND NORTH HARRIS MONTGOMERY COLLEGE DISTRICT have caused these presents to be executed this _____ day of _____ 2008.

CITY OF TOMBALL, FOR ITSELF AND AS TRUSTEE
FOR TOMBALL INDEPENDENT SCHOOL DISTRICT,
HARRIS COUNTY EDUCATION DISTRICT, HARRIS
COUNTY, HARRIS COUNTY EDUCATION
DEPARTMENT, PORT OF HOUSTON OF HARRIS
COUNTY AUTHORITY, HARRIS COUNTY FLOOD
CONTROL DISTRICT AND HARRIS COUNTY
HOSPITAL DISTRICT AND NORTH HARRIS
MONTGOMERY COLLEGE DISTRICT

GRETCHEN FAGAN, MAYOR

Resale Deed; Cause No. 97-47251; Tract 2
City of Tomball, et al vs. Westby, Carole

THE STATE OF TEXAS

§

COUNTY OF HARRIS

§

§

BEFORE ME, the undersigned authority, on this day personally appeared Gretchen Fagan, Mayor, City of Tomball, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____ 2008.

NOTARY PUBLIC, in and for the
STATE OF TEXAS

My Commission Expires: _____

Grantee: **ROVIN DELEON**
 5608 TAPPAN STREET
 COLUMBUS, GA 31907

After Recording, Return To:
Perdue, Brandon, Fielder, Collins & Mott, L.L.P.
1235 North Loop West, Suite 600
Houston, Texas 77008

Resale Deed; Cause No. 97-47251; Tract 2
City of Tomball, et al vs. Westby, Carole