

**ORDINANCE NO. 2018-28**

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, EXTENDING THE CITY LIMITS OF SAID CITY TO INCLUDE ALL OF THE TERRITORY WITHIN CERTAIN LIMITS AND BOUNDARIES AND ANNEXING TO THE CITY OF TOMBALL ALL OF THE TERRITORY WITHIN SUCH LIMITS AND BOUNDARIES; APPROVING A SERVICE PLAN FOR ALL OF THE AREA WITHIN SUCH LIMITS AND BOUNDARIES; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING A SAVINGS AND SEVERABILITY CLAUSE [TRACT ONE: BEING A 0.6123 ACRE PORTION OF BROWN ROAD, (60.00 FEET IN WIDTH), ACCORDING TO A DEED FILED FOR RECORD IN VOLUME 3194, PAGE 388 OF THE HARRIS COUNTY DEED RECORDS AND TRACT TWO: 3.0223 ACRES OF LAND FOR PROPOSED ANNEXATION SITUATED IN THE JOSEPH HOUSE SURVEY, A-34 IN HARRIS COUNTY, TEXAS, SAME BEING COMPRISED OF ALL OF LOT 1 IN BLOCK 1 OF FOURTEEN SIX HUNDRED BUSINESS PARK, A SUBDIVISION IN SAID HARRIS COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF FILED FOR RECORD UNDER FILM CODE NO. 680728 OF THE HARRIS COUNTY MAP RECORDS, LOCATED AT 14600 BROWN ROAD, TOMBALL, TEXAS; LOCATED WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS].

\* \* \* \* \*

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

**Section 1.** The boundaries and limits of the City of Tomball, Texas, are hereby extended to embrace and include all of the territory described in **Exhibit "A"** attached hereto and made a part hereof and such territory hereby annexed to and made a part of the city.

**Section 2.** The plan for extension of municipal services into the territory annexed to the City of Tomball by the provisions of this ordinance is set forth in the "Municipal Service Plan" attached hereto as **Exhibit "B"** and made a part hereof for all purposes. Such Municipal Service Plan is hereby approved.

**Section 3.** If any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application thereof ineffective or inapplicable as to any territory, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no

wise affect, impair, or invalidate the remaining portion or portions thereof, but as to such remaining portion or portions, the same shall be and remain in full force and effect; and should this Ordinance for any reason be ineffective as to any part of the territory hereby annexed to the City of Tomball, such ineffectiveness of this Ordinance as to any such part or parts of any such territory shall not affect the effectiveness of this ordinance as to all of the remainder of such territory or area, and the City Council hereby declares it to be its purpose to annex to the City of Tomball every part of the territory described in Section 1 of this ordinance, regardless of whether any other part of such described territory is hereby effectively annexed to the City. Provided, further, that if there is included in the general description of territory set out in Section 1 of this Ordinance to be hereby annexed to the City of Tomball any territory which is already a part of and included within the general limits of the City of Tomball, or which is presently part of and included in the limits or extraterritorial jurisdiction of any other city, town, or village, or which is not within the City of Tomball's jurisdiction to annex, the same is hereby excluded and excepted from the territory to be annexed hereby as fully as if such excluded and excepted territory were especially and specifically described herein.

**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.

**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 20TH DAY OF AUGUST 2018.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>ABSENT</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<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 4TH DAY OF SEPTEMBER 2018.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>

Gretchen Fagan  
GRETCHEN FAGAN, Mayor

**ATTEST:**

Doris Speer  
DORIS SPEER, City Secretary

## EXHIBIT "A" – Page 1



SURVEYING COMPANY

12345 Jones Road, Suite 270  
Houston, TX 77070  
281-955-2772 • Fax 281-955-6678  
www.eicsurveying.com • eic@eicsurveying.com

FIRM NO. 100334-00



All that certain tract or parcel containing 3.0223 acres of land for proposed annexation situated in the Joseph House Survey, A-34 in Harris County, Texas, same being comprised of all of Lot 1 in Block 1 of Fourteen Six Hundred Business Park, a subdivision in said Harris County, Texas according to the map or plat thereof filed for record under Film Code No. 680728 of the Harris County Map Records and a 0.6123 acre portion of Brown Road, (60.00 feet in width), according to a deed filed for record in Volume 3194, Page 388 of the Harris County Deed Records, said 3.0223 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod (found) marking the intersection of the South line of that certain call 1.0000 acre tract of land out of Tract 22 in Park Place Estates (unrecorded) as described in a deed filed for record under Harris County Clerk's File No. N097400 with the East right-of-way line of Park Place Drive, (60.00 feet in width), same point marking the Northwest corner of said Lot 1 and the Northwest corner of the herein described 3.0223 acre tract of land;

THENCE N 88°01'12" E, a distance of 370.56 feet along the common line of said Tract 22 and said Lot 1 to a 5/8" iron rod with EIC cap (found) in the West line of that certain call 1.88 acre tract comprised of Tracts 10 and 11 in Park West, (unrecorded), as described in a deed filed for record under Harris County Clerk's File No. P88596 marking the Southeast corner of said 1.0000 acre tract of land, the Southeast corner of said Tract 22, the Northeast corner of said Lot 1 and the Northeast corner of the herein described 3.0223 acre tract of land;

THENCE S 01°59'31" E, along the common line of said Lot 1 and said 1.88 acre tract of land, passing at 245.90 feet a 5/8" iron rod with EIC cap (found) marking the Southeast corner of said Lot 1, and passing at 256.72 feet a 5/8" iron rod with EIC cap (found) in the North right-of-way line of said Brown Road marking the Northeast corner of said 0.6123 acre tract of land the Southwest corner of said Tract 11 and the Southwest corner of said 1.88 acre tract of land, a total distance of 320.99 feet to a 5/8" iron rod with EIC cap (set) in the South right-of-way line of said Brown Road and the North line of Block 1 in the Replat of Spring Creek Estates, a subdivision in said Harris County, Texas according to the map or plat thereof filed for record under Film Code No. 520108 of said Harris County Map Records marking the Southeast corner of said 0.6123 acre tract of land and the Southeast corner of the herein described 3.0223 acre tract of land, same point being in a curve to the right having a radius of 602.70 feet;

THENCE Southwesterly, along the South right-of-way line of said Brown Road, the South line of said 0.6123 acre tract of land and the North line of said Block 1, with said curve to the right through a central angle of 15°40'48", a chord bearing and distance of S 75°57'34" W, 164.43 feet, an arc distance of 164.94 feet to a 5/8" iron rod with EIC cap (set) marking a point of tangency;

THENCE S 83°45'54" W, a distance of 212.94 feet along the South right-of-way line of said Brown Road, the South line of said 0.6123 acre tract of land and the North line of said Block 1 to a 5/8" iron rod with EIC cap (set) in the North line of Tract 3 in Park Place estates South (unrecorded) as described in a deed filed for record under Harris County Clerk's File No. 20130602750 marking the Southwest corner of said 0.6123 acre tract of land and the Southwest corner of the herein described 3.0223 acre tract of land;

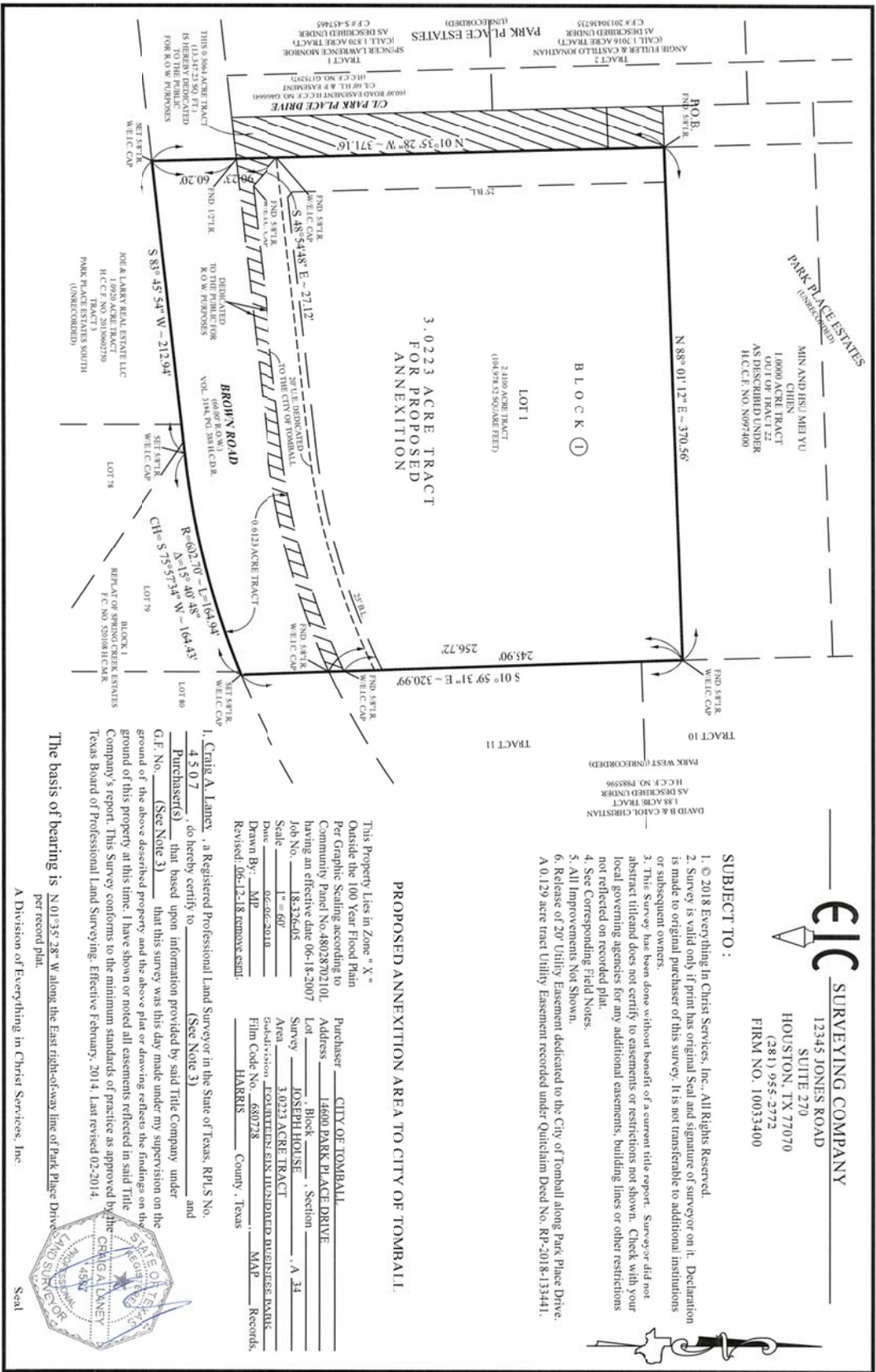
THENCE N 01°35'28" W, along the West line of said 0.6123 acre tract of land, passing at 60.20 feet a ½" iron rod (found) marking the intersection of the East right-of-way line of said Park Place Drive with the North right-of-way line of said Brown Road, and passing at 90.23 feet the Northwest corner of said 0.6123 acre tract of land and the Westerly-Southwest corner of said Lot 1, a total distance of 371.16 feet to the POINT OF BEGINNING and containing 3.0223 acres of land.

Surveyed on the ground June 6, 2018.

Job No. 18-326-05. (See corresponding plat)

The basis of bearing is N 01°35'28" W, along the East right-of-way line of Park Place Drive per record plat.

**EXHIBIT "A" – Page 2**



**EIC SURVEYING COMPANY**  
 12345 JONES ROAD  
 SUITE 270  
 HOUSTON, TX 77070  
 (281) 955-2772  
 FIRM NO. 10033400

**SUBJECT TO:**

- © 2018 Everything in Christ Services, Inc. All Rights Reserved.
- Survey is valid only if print has original Seal and signature of surveyor on it. Declaration is made to original purchaser of this survey; it is not transferable to additional institutions or subsequent owners.
- This Survey has been done without benefit of a current title report. Surveyor did not abstract title and does not certify to easements or restrictions not shown. Check with your local governing agencies for any additional easements, building lines or other restrictions not reflected on recorded plat.
- See Corresponding Field Notes.
- All Improvements Not Shown.
- Release of 20' Utility Easement dedicated to the City of Tomball along Park Place Drive.
- A 0.129 acre tract Utility Easement recorded under Quietclaim Deed No. RP-2018-133441.

**PROPOSED ANNEXATION AREA TO CITY OF TOMBALL.**

This Property Lies in Zone " X " Outside the 100 Year Flood Plain Per Graphic Scaling according to Community Panel No. 4802870210L having an effective date 06-18-2007  
 Job No. 18-32605  
 Scale 1" = 60'  
 Drawn By: MP  
 Revised: 06-12-18 remove ssd!

Purchaser: CITY OF TOMBALL  
 Address: 14600 PARK PLACE DRIVE  
 Lot: \_\_\_\_\_ Block: \_\_\_\_\_ Section: \_\_\_\_\_  
 Survey: JOSEPH HOUSE . A 34  
 Area: 3.0223 ACRE TRACT  
 Subdivision: EQUATORIAL SIX THUNDER MANSIONS PARK  
 Film Code No. 680728 MAP \_\_\_\_\_ Records, \_\_\_\_\_ County, Texas  
 HARRIS

I, Craig A. Laney, a Registered Professional Land Surveyor in the State of Texas, RPLS No. 4507, do hereby certify to \_\_\_\_\_ and \_\_\_\_\_ (See Note 3) that based upon information provided by said Title Company under G.F. No. \_\_\_\_\_ (See Note 3) that this survey was this day made under my supervision on the ground of the above described property and the above plat or drawing reflects the findings on the ground of this property at this time. I have shown or noted all easements reflected in said Title Company's report. This Survey conforms to the minimum standards of practice as approved by the Texas Board of Professional Land Surveying, Effective February, 2014, Last revised 02-2014.

The basis of bearing is N 01° 35' 28" W along the East right-of-way line of Park Place Drive per record plat.



Seal

A Division of Everything in Christ Services, Inc.

## **EXHIBIT "B"**

### **CITY OF TOMBALL, TEXAS**

### **MUNICIPAL SERVICE PLAN**

#### **I. INTRODUCTION**

This Municipal Service Plan (the "Plan") is made by the City of Tomball, Texas (the "City"), pursuant to Chapter 43 of the Texas Local Government Code. This Plan relates to the annexation by the City of the tract of land ("Tract") described by metes and bounds in "Exhibit A," which is attached to this Plan and to the annexation ordinance of which this Plan is a part.

#### **II. EFFECTIVE TERM**

This Plan shall be in effect for a period of ten (10) years commencing on the effective date of the annexation of the Tract, unless otherwise stated in this Plan. Renewal of the Plan shall be at the option of the City. Such option may be exercised by the adoption of an ordinance by the City Council, which refers to this Plan and specifically renews this Plan for a stated period of time.

#### **III. INTENT**

It is the intent of the City that services under this Plan shall equal the number of services and the level of services in existence within the Tract prior to annexation and which are available in other parts of the City with land uses and population densities similar to those reasonably contemplated or projected within the Tract. However, it is not the intent of this Plan to require that a uniform level of service be provided to all areas of the City, including the Tract, where differing characteristics of topography, land utilization, and population density are considered as a sufficient basis for providing differing service levels.

The City reserves the right, granted to it by Section 43.056(k), Texas Local Government Code, to amend this Plan, if the City Council determines that changed conditions or subsequent occurrences or any other legally sufficient circumstances exist under the Texas Local Government Code, or other Texas laws to make this Plan unworkable, obsolete, or unlawful.

#### **IV. SERVICE PROGRAMS**

##### **A. In General.**

1. This Plan includes the following service programs: A 60-Day Program and a Capital Improvement Program.

2. As used in this Plan, “providing services” shall include having services provided by any method or means by which the City may extend municipal services to any other area of the City. The City shall provide the area, or cause the area to be provided, with services in accordance with the Plan. This may include, but is not limited to, causing or allowing private utilities, governmental entities, and other public service organizations to provide such services, in whole or in part.

As used in this Plan, the phrase "standard policies and procedures" shall mean those policies and procedures of the City applicable to a particular service, which are in effect either at the time that the service is requested or at the time the service is made available or provided. Such policies and procedures may require a specific type of request be made, such as an application or a petition, may require that fees or charges be paid, and may include eligibility requirements or other similar provisions.

- B. 60-Day Program. The following services will be provided within the Tract within the period required by State law. State law requires the City to provide the following services within sixty (60) days after the effective date of the annexation: police protection, fire protection, solid waste collection, operation and maintenance of water, wastewater, and gas facilities, operation and maintenance of roads and streets, including lighting, operation and maintenance of parks, playgrounds, and swimming pools, and maintenance of any other publicly owned facility, building or service. The 60-Day Program plan is as follows:

1. Police Protection. The Police Department of the City will provide protection and law enforcement within the Tract. These activities will include routine patrols and responses, handling of complaints and incident reports, and, as appropriate, support by special units. In order to provide the above services, the Police Department will operate from a City facility.
2. Fire Protection. The Fire Department of the City currently provides fire protection to the Tract. Fire protection will be provided from either the southside or central fire stations. Fire protection will remain at the current level of service.
3. Solid Waste Collection. All eligible residences and businesses will be provided solid waste collection service, either by City personnel or by contract.
4. Maintenance of Water, Wastewater, and Gas Facilities. There are no City water, wastewater, or gas facilities currently located within the Tract. If any such facilities are constructed or acquired by the City within the Tract, the City’s Department of Public Works will operate and maintain such facilities at levels of service and maintenance comparable to those available for other such facilities in other parts of the City with similar topography, load use, and population density as those reasonably contemplated or projected within the Tract.

5. Operation and Maintenance of Roads and Streets (including lighting). The City's Department of Public Works will provide for the maintenance of roads and streets over which the City will have jurisdiction. Such Department will also provide services relating to traffic control devices and will provide street lighting for such roads and streets through an electric utility company or by other means. The operation and maintenance of roads and streets, including street lighting and traffic control devices, shall be provided at levels of service and maintenance comparable to those available for other roads and streets in other parts of the City with similar topography, load use, and population density as those reasonably contemplated or projected within the Tract.
6. Operation and Maintenance of Parks, Playground and Swimming Pools. There are no public parks, playgrounds, or swimming pools currently located within the Tract. If, as a result of acquisition of park land, any such facilities are constructed by the City within the Tract, the City's Department of Parks and Recreation will operate and maintain such facilities at levels of service and maintenance comparable to those available for other such facilities in other parts of the City with similar topography, load use, and population density as those reasonably contemplated or projected within the Tract.
7. Operation and Maintenance of Any Other Publicly-Owned Facility, Building, or Service. Those drainage facilities associated with City-maintained public streets will be maintained by the City's Department of Public Works, as needed. Any other facility, building, or service existing or which may be constructed or located by the City within the Tract, will be operated and maintained by an appropriate City department at levels of service and maintenance comparable to those available to other such facilities in other parts of the City with similar topography, load use, and population density as those reasonably contemplated or projected within the Tract.

- C. Capital Improvement Program. It is the intent of the City to provide full City services within the Tract not less than four and one-half (4-1/2) years after the effective date of annexation of the Tract, in accordance with the Texas Local Government Code, §43.056(e).

The City will initiate the acquisition and construction of the capital improvements necessary to provide municipal services adequate to serve the Tract. Any necessary construction or acquisition is indicated below, and any such construction or acquisition shall begin within two (2) years of the effective date of this Plan and shall be substantially completed within 4-1/2 years, except as otherwise indicated:

1. Police Protection. No capital improvements are necessary at this time to provide police protection services within the Tract. The Tract will be



included with other City territory in connection with planning for new, revised, or expanded police facilities.

2. Fire Protection. No capital improvements are necessary at this time to provide fire protection services within the Tract. The Tract will be included with other City territory in connection with planning for new, revised, or expanded fire facilities.
3. Solid Waste Collection. No capital improvements are necessary at this time to provide solid waste collection services within the Tract. The Tract will be included with other City territory in connection with planning for new, revised, or expanded solid waste facilities and/or services.
4. Wastewater Facilities. The Tract will be included with other City territory in connection with planning for new, revised, or expanded public wastewater facilities. Wastewater services will be provided according to the standard policies and procedures of the City's Department of Public Works. A summary of the City's policies with regard to the extension of wastewater services is attached to and made a part of this Plan.
5. Water Distribution. The Tract will be included with other City territory in connection with planning for new, revised, or expanded public water facilities. Water services will be provided according to the standard policies and procedures of the City's Department of Public Works. A summary of the City's policies with regard to the extension of water services is attached to and made a part of this Plan.
6. Gas Distribution. The Tract will be included with other City territory in connection with planning for new, revised, or expanded public gas facilities. Gas services will be provided according to the standard policies and procedures of the City's Department of Public Works. A summary of the City's policies with regard to the extension of gas services is attached to and made a part of this Plan.
7. Roads and Streets (including lighting). The City will acquire jurisdiction in and over all public roads and streets within the Tract upon annexation, pursuant to Section 311.001 of the Texas Transportation Code and other similar provisions, except for public roads and streets subject to the jurisdiction of other governmental entities. Additional roads, streets, or related facilities are not necessary at this time to service the Tract. Future extensions of roads or streets and future installation of related facilities, such as traffic control devices or street lights, within the Tract will be governed by standard policies and procedures of the City. The Tract will be included with other City territory in connection with planning for new, improved, revised, widened, or enlarged roads, streets, or related facilities.
8. Parks, Playgrounds, and Swimming Pools. No capital improvements are necessary at this time to provide park and recreational services to the

Tract. The Tract will be included with other City territory in connection with planning for new, revised, or expanded parks, playgrounds, and/or swimming pools.

9. Other Publicly-Owned Facilities, Buildings or Services: Additional Services. In general, other City functions and services can be provided to the Tract by using existing capital improvements. At this time, additional capital improvements are not necessary to provide City services. However, the Tract will be included with other City territory in connection with planning for new, revised, or expanded facilities, functions, and services.

#### **V. AMENDMENT: GOVERNING LAW**

This Plan may not be amended or repealed, except as provided by the Texas Local Government Code or other controlling law. Neither changes in the methods or means of implementing any part of the service programs nor changes in the responsibilities of the various departments of the City shall constitute amendments to this Plan, and the City reserves the right to make such changes at any time. This Plan is subject to, and shall be interpreted in accordance with, the Constitution and laws of the United States of America and the State of Texas, the Texas Local Government Code, and any orders, rules, or regulations of any other governmental body having jurisdiction.

#### **VI. FORCE MAJEURE**

In the event the City is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Plan, notice shall be given with full particulars of such force majeure, in writing, as soon as reasonably possible after the occurrence of the cause relied on, and the City's obligations, so far as effected by such force majeure, shall be suspended during the continuance of such inability so caused but for no longer period, and such cause shall, so far as possible, be remedied with all reasonable dispatch; provided, however, City shall not be required to settle a strike or dispute with workmen when such settlement is against the will of the City. The term "force majeure" shall mean acts of God, strikes, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraints of rulers and people, explosions, breakage or accident to machinery or lines of pipe, droughts, hurricanes and tornadoes, and any other inability of either party, whether similar to those enumerated or otherwise, not within the control of the City, which, by the exercise of reasonable diligence, the City shall not have been able to avoid.

#### **VIII. ENTIRE PLAN**

This document contains the entire and integrated Plan relating to the Tract and supersedes all other negotiations, representations, plans, and agreements, whether written or oral.

If one or more provisions of this Plan is held to be invalid, unenforceable, or illegal in any respect, the remainder the Plan shall remain valid and in full force and effect.

## **SUMMARY OF EXTENSION POLICY FOR WATER, WASTEWATER, AND GAS SERVICE**

The following information is a summary of the City of Tomball's ("City") policies respecting water, wastewater and gas service extensions. This summary is made in compliance with the Texas Local Government Code, which requires that each annexation plan include a summary of the service extension policy. Nothing herein shall repeal any provision of the Code of Ordinances of the City of Tomball, as amended, or any of the uncodified ordinances that contain the City's policies and procedures.

The City extends water, wastewater, and gas services to existing unserved development as follows:

Construction of such service lines is based on a priority schedule that considers potential health hazards, population density, the number of existing buildings, the reasonable cost of providing service, and the desires of the residents of the unserved areas.

Extensions built by the City at its cost are included in its Capital Improvements Plan, which is updated annually. Placement of an extension or enlargement of any water and/or wastewater lines into the Capital Improvement Plan is based primarily on the following requirements: (1) to provide service to unserved areas, (2) and to provide adequate capacity for projected service requirements.

Persons or entities desiring to develop land within unserved areas must construct water, wastewater, and gas service lines and extensions to connect to City trunk lines to serve the new development.