

ORDINANCE NO. 2018-08

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, FINDING AND DETERMINING THAT THE PUBLIC CONVENIENCE AND NECESSITY NO LONGER REQUIRE THE CONTINUED EXISTENCE OF A CERTAIN PORTION OF A CITY OF TOMBALL UTILITY EASEMENT ACROSS A CERTAIN 0.007 ACRE TRACT OF LAND BEING OUT OF AND A PART OF THE JOHN M. HOOPER SURVEY, A-375, TOMBALL, HARRIS COUNTY, TEXAS AND BEING OUT OF THE PARTIAL REPLAT OF TOMBALL MARKETPLACE, LOT 2, THE MAP OF WHICH IS RECORDED IN FILM CODE NO. 639076 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS, LOCATED IN THE CITY OF TOMBALL, TEXAS; VACATING, ABANDONING, AND CLOSING SAID PORTION OF SUCH CITY OF TOMBALL UTILITY EASEMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE AND THE CITY SECRETARY TO ATTEST A QUITCLAIM DEED QUITCLAIMING THE CITY'S INTEREST IN SAID ABANDONED EASEMENT; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, the City of Tomball, Texas (“City”) owns a ten-foot (10’) wide City of Tomball Utility Easement containing 0.007 acres of land being out of and a part of the John M. Hooper Survey, A-375, Tomball, Harris County, Texas and being out of and a part of the Partial Replat of Tomball Marketplace, Lot 2, the map of which is recorded under Film Code No. 639076 of the Map Records of Harris County, Texas and is more particularly described in Exhibit “A” attached hereto and incorporated herein for all purposes (“Easement”); and

WHEREAS, the City Council of the City has determined that public necessity and convenience no longer require the existence of the Easement; and

WHEREAS, the City Council has determined that the Easement should be vacated, abandoned, and closed for the reason that it is no longer needed by the City; and

WHEREAS, the City Council desires to convey the Easement to the owner of the property on which the Easement exists; now, therefore,

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

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

Section 2. That the City Council of the City of Tomball, Texas, hereby finds and determines that the public convenience and necessity no longer require the continued existence of the Easement described in Section 3 hereof.

Section 3. That the portion of that certain City of Tomball Utility Easement dedicated to the public and containing 0.007 acres of land being out of and a part of the John M. Hooper Survey, A-375, Tomball, Harris County, Texas and being out of and a part of the Partial Replat of Tomball Marketplace, Lot 2, the map of which is recorded under Film Code No. 639076 of the Map Records of Harris County, Texas and is more particularly described in Exhibit "A", is hereby vacated, abandoned, and closed.

Section 4. That the City Manager is authorized to execute a quitclaim deed quitclaiming Easement described in Section 3 hereof to the owners of the property on which the Easement is located in exchange for the receipt of fair market value for the Easement.

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 5TH DAY OF FEBRUARY 2018.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN 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 19TH DAY OF FEBRUARY 2018.

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

Gretchen Fagan
Gretchen Fagan, Mayor

ATTEST:

Doris Speer
Doris Speer, City Secretary

QUITCLAIM DEED

Date: February __, 2018

Grantor: City of Tomball

Grantor’s Mailing Address (including County):

401 Market Street
Tomball, Harris County, Texas 77375

Grantee: Weingarten Realty

Grantee’s Address (including County):

14257 Farm Rd
Tomball, Harris County, Texas 77375

Consideration:

Ten and No/100 Dollars (\$10.00) and other good and valuable consideration.

Property:

A certain tract or parcel containing 0.007 acre tract of land being out of and a part of the John M. Hooper Survey, A-375, Tomball, Harris County, Texas and being out of the Partial Replat of Tomball Marketplace, Lot 2, the map of which is recorded in film Code No. 639076 of the map records of Harris County, Texas, located In the City of Tomball, Texas, more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference.

For the consideration, Grantor quitclaims to Grantee all of Grantor’s right, title and interest in and to the property, to have and to hold it to Grantee and Grantee’s successors or assigns forever. Neither Grantor nor Grantor’s heirs, executors, administrators, successors, or assigns shall have, claim, or demand any right or title to the property or any part of it.

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. When the context requires, singular nouns and pronouns include the plural.

EXECUTED this the ____ day _____ 2018.

GRANTOR:

CITY OF TOMBALL, TEXAS

Gretchen Fagan, Mayor

ATTEST:

By: _____
Doris Speer, City Secretary

ACKNOWLEDGMENT

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, and as the act and deed of said City.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____day of _____, 2018.

NOTARY PUBLIC, in and for the
STATE OF TEXAS

(SEAL)

My Commission Expires: _____

After Recording, Return To:
Doris Speer
City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375

Exhibit "A"

Property Description for Abandonment of 0.007-Acre of Utility Easement

Being a description of a 0.007-acre (308 Square Foot) tract of land situated in the John M. Hooper Survey, A-375, Harris County, Texas. Said 0.007-acre tract being out of the Partial Replat of Tomball Marketplace, Lot 2, as recorded under Film Code No. 639076 in the Harris County Map Records and being out of a called 10-foot wide City of Tomball Utility Easement (C.T.U.E.) as shown on the recorded partial replat of said Lot 2. Said 0.007-acre tract being more particularly described as follows, with the basis of bearings being Texas State Plane Coordinate System, South Central Zone 4204, all coordinates shown are grid coordinates and may be brought to surface by applying the combined scale factor of 1.000054535, all distances shown are surface:

COMMENCING (N = **13,958,717.65**, E = **3,031,648.58**) at a 5/8-inch iron rod found in the north line of said Lot 2, and being in the south line of Replat of Woodforest Bank, Reserve "A", as recorded under Film Code No. 551084 in the Harris County Map Records;

THENCE South 03 deg. 24 min. 48 sec. East, over and across said Lot 2, a distance of 58.17 feet to the **POINT OF BEGINNING** (N = **13,958,659.58**, E = **3,031,652.04**) and being the northeast comer of said tract herein described;

THENCE South 02 deg. 42 min. 17 sec. East, with the east line of said 10-foot C.T.U.E., and with the east line of said tract herein described, a distance of 30.81 feet to the southeast comer of said tract herein described;

THENCE South 87 deg. 17 min. 43 sec. West, over and across said 10-foot C.T.U.E., and with the south line of said tract herein described, a distance of 10.00 feet to the southwest comer of said tract herein described;

THENCE North 02 deg. 42 min. 17 sec. West, with the west line of said 10-foot C.T.U.E., and with the west line of said tract herein described, a distance of 30.88 feet to the northwest comer of said tract herein described;

THENCE North 87 deg. 42 min. 12 sec. East, over and across said 10-foot C.T.U.E., and with the north line of said tract herein described, a distance of 10.00 feet to the **POINT OF BEGINNING** and containing 0.007-acre (308 Sq. Ft.) of land.