

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



MONDAY, MARCH 7, 2016

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, March 7, 2016 at 6:00 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 Scott Knight, The Pointe Fellowship Church

3.0 Pledges to U.S. and Texas Flags

- Led by Members of the Tomball High School Student Council

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

5.0 Presentations:

Presentations:

- Promotions and New Employees
 - New Assistant Fire Marshall
 - Charlie Hazlegrove - Administer Oath of Office
 - New Fire Department Lieutenants:
 - Ethan Grossman
 - Matt Hughes
 - Steven McHenry
 - New Fire Department Driver/Operators:
 - Dave Harrington
 - Lori Bradshaw
 - Matt Cappozelli
 - Andrew Heinson
 - Nathan Doe

6.0 Reports and Announcements

- March 1, 2016 – Open House - New Fire Station
- March 12, 2016 – **2nd Saturday at the Depot**
- March 21, 2016 – Public Hearing and review of the City's Juvenile Curfew Ordinance
- April 9, 2016 – **7th Annual 5K Bunny Run and 1 Mile Kids Walk**
- April 9, 2016 – **Lions Club Car Show** at Lone Star College-Tomball Campus
- April 9, 2016 – **2nd Saturday at the Depot**
- April 11, 2016 – **"2016 Ride 2 Recovery Texas Challenge"** Welcome and Reception – 10:30 a.m.
- April 16, 2016 – **Tomball Rotary Club Annual Fish Fry** at the Depot
- April 18-23, 2016 – Annual **Spring Clean-Up and Chipping Week**
- April 20-21, 2016 – **Shattered Lives** Event – **Tomball Memorial High School**
- April 23, 2016 – **Tomball Consolidated Recycling Day** – Lone Star College-Tomball Campus, 30555 Tomball Parkway, South Entrance – 10:00 a.m.-2:00 p.m.
- April 30-May 1, 2016 – **Rails & Tails Mudbug Festival** at the Depot
- Reports by City staff and members of Council about items of community interest on which no action will be taken

7.0 Approve the Minutes of the February 15, 2016 Regular City Council Meeting

8.0 New Business:

- 8.1 Approve Resolution No. 2016-05, Canceling the Regular City Officer's Election Scheduled to be held on the 7th Day of May, 2016, in Accordance with Section 2.053(a) of the Texas Election Code; Directing the Giving of Notice of Such Cancellation of Election; and Providing Details Relating to the Cancellation of Such Election

Aprobar la Resolución Nro. 2016-05 Cancelando la Elección Regular de Funcionarios Municipales programada para celebrarse el día 7 de mayo de 2016 de acuerdo con la Sección 2.053(a) del Código Electoral de Texas; instruyendo que se de aviso de tal cancelación de elección; y proveyendo detalles relativos a la cancelación de tal elección.

Chấp thuận Nghị Quyết số 2016-05, Hủy Bỏ Cuộc Bầu Cử Viên Chức Thành Phố Thường Kỳ Dự Kiến sẽ được tổ chức vào ngày 7 tháng Năm, 2016, Chiếu theo Mục 2.053(a) của Bộ Luật Tuyển Cử Texas; Chỉ thị việc đưa ra Thông Báo về

Hủy Bỏ Cuộc Bầu Cử đó; và Cung Cấp Thông Tin Chi Tiết Liên quan đến việc Hủy Bỏ Cuộc Bầu Cử đó.
通過決議案2016-05, 取消一般市府官員應於2016年5月7日的選舉計畫, 其是根據德克薩斯州選舉法2.053(a)節; 茲此通知該選舉取消; 以及提供關於取消該選舉的詳情。

- 8.2 Conduct a Public Hearing and Review of the City of Tomball's Juvenile Curfew Ordinance to Determine the Need to Re-adopt, Abolish, Continue or Modify the Ordinance
 - 8.3 Award Contract for Project Number 2016-11, Landscaping Service for City of Tomball Facilities, to B & C Constructors, LP.
 - 8.4 Approve Additional Services with GMS Home Inspection Service, LLC to Perform On-Call Residential and Commercial Plan Review and Inspection Services for an Amount Not to Exceed \$66,000.
 - 8.5 Approve Memorandum of Understanding between the City of Tomball, HCID 17, and Aqua Texas, Inc. regarding a Separate Interconnect Agreement to Purchase Water from Tomball during the Early Stages of Development in HCID 17, Until Such Time that HCID 17 Constructs a Stand-alone Water Plant to Serve Users in HCID 17, and Authorize the Mayor to Execute the Memorandum of Understanding on Behalf of the City of Tomball
 - 8.6 Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose:
 - Sec. 551.071 - Private Consultation with Attorney in Closed Meeting Regarding pending litigation, to wit: C.A. No. 4:14-CV-3572; David Kaufman v. City of Tomball; In the United States District Court for the Southern District of Texas, Houston Division
 - 8.7 Consideration and Possible Action regarding Settlement in C.A. No. 4:14-CV-3572; David Kauffman v. City of Tomball; in the United States District Court for the Southern District of Texas, Houston Division
- 9.0 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 2nd day of March 2016 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: March 7, 2016

Topic:

- Led by Pastor Scott Knight, The Pointe Fellowship Church

Background:

Origination:

Recommendation:

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

City Secretary

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other

Regular City Council
Agenda Item
Data Sheet

Meeting Date: March 7, 2016

Topic:

- Led by Members of the Tomball High School Student Council

Background:

Origination:

Recommendation:

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

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other

Regular City Council

Agenda Item

Data Sheet

Meeting Date: March 7, 2016

Topic:**Presentations:**

- Promotions and New Employees
 - New Assistant Fire Marshall
 - Charlie Hazlegrove - Administer Oath of Office
 - New Fire Department Lieutenants:
 - Ethan Grossman
 - Matt Hughes
 - Steven McHenry
 - New Fire Department Driver/Operators:
 - Dave Harrington
 - Lori Bradshaw
 - Matt Cappozelli
 - Andrew Heinson
 - Nathan Doe

Background:**Origination:**

Lance Wilson, Fire Marshal and Randy Parr, Fire Chief

Recommendation:

N/A

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

City Secretary

ACTION TAKEN		
Approval	Readings Passed	Other
☐ Yes ☐ No	☐ 1 st ☐ 2 nd	

Regular City Council

Agenda Item

Data Sheet

Meeting Date: March 7, 2016

Topic:

- March 1, 2016 – Open House - New Fire Station
- March 12, 2016 – **2nd Saturday at the Depot**
- March 21, 2016 – Public Hearing and review of the City's Juvenile Curfew Ordinance
- April 9, 2016 – **7th Annual 5K Bunny Run and 1 Mile Kids Walk**
- April 9, 2016 – **Lions Club Car Show** at Lone Star College-Tomball Campus
- April 9, 2016 – **2nd Saturday at the Depot**
- April 11, 2016 – **"2016 Ride 2 Recovery Texas Challenge"** Welcome and Reception – 10:30 a.m.
- April 16, 2016 – **Tomball Rotary Club Annual Fish Fry** at the Depot
- April 18-23, 2016 – Annual **Spring Clean-Up and Chipping Week**
- April 20-21, 2016 – **Shattered Lives** Event – **Tomball Memorial High School**
- April 23, 2016 – **Tomball Consolidated Recycling Day** – Lone Star College-Tomball Campus, 30555 Tomball Parkway, South Entrance – 10:00 a.m.-2:00 p.m.
- April 30-May 1, 2016 – **Rails & Tails Mudbug Festival** at the Depot
- Reports by City staff and members of Council about items of community interest on which no action will be taken

Background:

Origination:

Various

Recommendation:

N/A

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

City Secretary

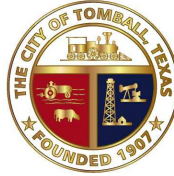
ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other

ATTACHMENTS:

Public Hearing regarding City of Tomball Juvenile Curfew Ordinance

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL, TEXAS**

**MONDAY, MARCH 7, 2016
AND
MONDAY, MARCH 21, 2016**



6:00 P.M.

Notice is hereby given that the Governing body of the City of Tomball, Texas, will hold Public Hearings during the Regular City Council Meetings to be held on Monday, MARCH 7, 2016, and Monday, MARCH 21, 2016, at City Hall, 401 Market Street, Tomball, Texas 77375 at 6:00 p.m. to consider the following:

**CONDUCT A PUBLIC HEARING AND REVIEW OF THE
CITY OF TOMBALL'S JUVENILE CURFEW ORDINANCE
TO DETERMINE THE NEED TO RE-ADOPT, ABOLISH,
CONTINUE OR MODIFY THE ORDINANCE.**

Any member of the public has the right to appear at these Public Hearings and will be given an opportunity to be heard.

Written comments should be received no later than February 29, 2016 for the March 7, 2016 Public Hearing and no later than March 14, 2016 for the March 21, 2016 Public Hearing. Please submit comments to the City Secretary, 401 Market Street, Tomball, Texas 77375.

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 15th day of February 2016 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meetings.

Doris Speer
Doris Speer
City Secretary, TRMC

Regular City Council
Agenda Item
Data Sheet

Meeting Date: March 7, 2016

Topic:

Approve the Minutes of the February 15, 2016 Regular City Council Meeting

Background:

Origination:

City Secretary

Recommendation:

N/A

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

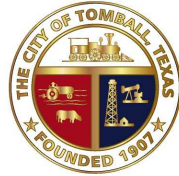
City Secretary

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other

ATTACHMENTS:

Draft Minutes - February 15, 2016 Regular City Council Meeting

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



MONDAY, FEBRUARY 15, 2016

6:00 P.M.

1.0 Call to Order

The Council meeting was called to order at 6:00 p.m. by Mayor Fagan. Other members present:

Councilman Hudgens
Councilman Stoll
Councilman Townsend
Councilman Degges

Members Absent:

Councilman Klein Quinn - Excused

Others present:

City Manager – George Shackelford
Assistant City Manager – Robert Hauck
City Secretary – Doris Speer
City Attorney – Loren Smith
Fire Chief – Randy Parr
Community Events Coordinator – Denise Fiore
Finance Director – Glenn Windsor
Public Works Director – David Esquivel
Director of Community Development – Craig Meyers
Community Center Manager – Rosalie Dillon
Detective – Kenneth Yoho
Chief-NWEMS – Brian Bayani

2.0 The invocation was led by Pastor Al Navarro, Puente para Cristo.

3.0 The pledges to U. S. and Texas Flags were led by Brian Bayani.

4.0 The following public comment was received:

Nancy Nygaard Editor, Tribune 517 West Main, 77375	-	Expressed her desire that the Tribune be designated as the Official Newspaper for the City of Tomball for 2016
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5.0 Reports and Announcements:

- Tomball Police Department Annual Data Capture Report (SB 1074)
- February 19, 2016 – Last day to apply for Place on Ballot for the May 7, 2016 City General Election – 5 p.m. deadline
- February 23, 2016 – **Trailride Reception** – 12 Noon at the Depot
- February 24-25, 2016 – **Shattered Lives** Event – **Tomball High School**
- March 7 and March 21, 2016 – Public Hearing and review of the City's Juvenile Curfew Ordinance
- March 12, 2016 – **2nd Saturday at the Depot**
- April 9, 2016 – **Lions Club Car Show** at Lone Star College-Tomball
- April 9, 2016 – **7th Annual 5K Bunny Run and 1 Mile Kids Walk**
- April 9, 2016 – **2nd Saturday at the Depot**
- April 11, 2016 (Monday) – **"2016 Ride 2 Recovery Texas Challenge"** Welcome and Reception at the Depot – 10:30 a.m.
- April 16, 2016 – **Tomball Rotary Club Annual Fish Fry** at the Depot
- April 20-21, 2016 – **Shattered Lives** Event – **Tomball Memorial High School**
- April 30-May 1, 2016 – **Rails & Tails Mudbug Festival** at the Depot
- Reports by City staff and members of Council about items of community interest on which no action will be taken:
 - Glenn Windsor presented the Quarterly Investment Report for Period Ending December 31, 2015. The Public Funds Investment Act requires that a report of the City's investments be presented to Council on a quarterly basis. The investment report includes a listing of all investments together with information relating to diversification, cost vs. market values, yield information, and weighted average maturities. On December 31, 2015, the City had total cash equivalents and investments totaling \$50,670,899. A copy of the report was attached for review.

6.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the Minutes of the February 1, 2016 Regular City Council Meeting.

Motion carried unanimously.

7.0 New Business:

7.1 Motion was made by Councilman Hudgens, second by Councilman Townsend, to approve Request by Tomball United Methodist Church for In-Kind Support of Tomball

United Methodist Church's 2nd Annual Easter Egg Hunt, to be Held at the Depot on Saturday, March 26, 2016 from 2:00 p.m.–4:30 p.m.

Motion carried unanimously.

- 7.2 Motion was made by Councilman Townsend, second by Councilman Degges, to approve Request by Tomball Rotary Club for In-Kind Support of Its Annual Fish Fry, to be Held on April 16, 2016. Vote was as follows:

Councilman Hudgens	<u>Abstain</u>
Councilman Stoll	<u>Aye</u>
Councilman Degges	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Klein Quinn	<u>Absent</u>

Motion carried unanimously.

- 7.3 Motion was made by Councilman Townsend, second by Councilman Hudgens, to approve a donation to the City by Mr. John LePage of Spring, Texas, of His Collection of “O” Gauge Lionel Trains to the City of Tomball for Use at the Depot and/or the Proposed Texas Heritage Railroading Museum – Tomball.

Motion to AMEND was made by Councilman Townsend, second by Councilman Hudgens, to approve a donation to the City by Mr. John LePage of Spring, Texas, of his collection of “O” Gauge Lionel Trains to the City of Tomball for use at the Depot and/or the proposed Texas Heritage Railroading Museum – Tomball and to retain the original boxes.

Motion, as AMENDED, carried unanimously.

- 7.4 Motion was made by Councilman Hudgens, second by Councilman Stoll, to approve Termination of the Tax Abatement Agreement between the City of Tomball, Texas and American National Carbide Company, Effective Retroactively as of December 31, 2015.

Motion carried unanimously.

- 7.5 Motion was made by Councilman Stoll, second by Councilman Townsend, to approve the request by Tomball Sister City Organization (TSCO) to Use All of Heritage Plaza Parking Lot during the Tomball German Festivals.

Motion to AMEND was made by Councilman Stoll, second by Councilman Townsend, to approve the request by Tomball Sister City Organization (TSCO) to Use All of Heritage Plaza Parking Lot during the 2016 Tomball German Festivals.

Motion, as AMENDED, carried unanimously.

- 7.6 Motion was made by Councilman Stoll, second by Councilman Townsend, to approve Tomball Sister City Organization Request for \$40,000 for Salary for Assistant Manager Position and Additional Paid Labor, as Recommended by the Tourism Advisory Committee.

Motion carried unanimously.

- 7.7 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve Resale Deed for Property acquired by Foreclosure Tax Sale in Cause No. 1998-28222, styled City of Tomball, vs. Campbell, James D., said Property being described as: Lot 50, Block 104, Tomball, Located in Harris County, Texas and being More Particularly Described in Volume 405, Page 70 of the Real Property Records of Harris County, Texas (Account No. 035-281-005-0050).

Motion carried unanimously.

- 7.8 Motion was made by Councilman Hudgens, second by Councilman Townsend, to approve Resolution No. 2016-04, a Resolution of the City Council of the City of Tomball, Texas, Designating the Official Newspaper for 2016 for Publication of Matters Pertaining to the City of Tomball and Designating the Tomball Magnolia Tribune as the Official Newspaper for 2016.

Motion carried unanimously.

- 7.9 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the Application by Northwest Rural Emergency Medical Services Association (NWEMS) to Operate Taxicab Services/Medical Transit Services in the City of Tomball.

Motion carried unanimously.

- 7.10 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve Proposed Amendments to Administrative Policy Number 15, entitled "*Tomball Community Center Policies and Operating Procedures*".

Motion carried unanimously.

- 7.11 Motion was made by Councilman Townsend, second by Councilman Stoll, to award the Contract for Project Number 2016-14 Purchase of a Cab Tractor with Batwing Rotary Cutter to Hlvanika Equipment Company.

Motion carried unanimously.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this the 7th day of March 2016.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Meeting Date: March 7, 2016

Data Sheet

Topic:

Approve Resolution No. 2016-05, Canceling the Regular City Officer's Election Scheduled to be held on the 7th Day of May, 2016, in Accordance with Section 2.053(a) of the Texas Election Code; Directing the Giving of Notice of Such Cancellation of Election; and Providing Details Relating to the Cancellation of Such Election

Aprobar la Resolución Nro. 2016-05 Cancelando la Elección Regular de Funcionarios Municipales programada para celebrarse el día 7 de mayo de 2016 de acuerdo con la Sección 2.053(a) del Código Electoral de Texas; instruyendo que se de aviso de tal cancelación de elección; y proveyendo detalles relativos a la cancelación de tal elección.

Chấp thuận Nghị Quyết số 2016-05, Hủy Bỏ Cuộc Bầu Cử Viên Chức Thành Phố Thường Kỳ Dự Kiến sẽ được tổ chức vào ngày 7 tháng Năm, 2016, Chiếu theo Mục 2.053(a) của Bộ Luật Tuyển Cử Texas; Chỉ thị việc đưa ra Thông Báo về Hủy Bỏ Cuộc Bầu Cử đó; và Cung Cấp Thông Tin Chi Tiết Liên quan đến việc Hủy Bỏ Cuộc Bầu Cử đó.

通過決議案2016-05, 取消一般市府官員應於2016年5月7日的選舉計畫, 其是根據德克薩斯州選舉法 2.053(a)節; 茲此通知該選舉取消; 以及提供關於取消該選舉的詳情。

Background:

All filing deadlines have passed and the incumbents, Gretchen Fagan and Chad Degges, are unopposed for the May 7, 2016 Regular City Officer's Election.

Section 2.052, Election Code, requires the City Secretary to deliver the Certification of Unopposed Candidates to City Council and request Council to accept the Certification and declare the election canceled.

Resolution No. 2016-05 cancels the election scheduled to be held on May 7, 2016 and includes the Order of Cancellation. A copy of the Order of Cancellation will be posted on Election Day at City Hall, the polling location for all City elections.

The oaths of office and election of Mayor Pro Tem will take place at the May 16, 2016 Council meeting. Candidates elected through cancellation shall be declared elected "in the same manner and at the same time as provided for a candidate elected at the election" (Election Code, Sec. 2.053(c)) and shall take the oaths of office the same as candidates elected at an election.

Origination:

City Secretary

Recommendation:

Approval of Resolution No. 2016-05 and the Order of Cancellation

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

City Secretary

ACTION TAKEN

Approval	Readings Passed	Other
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☐ Yes ☐ No	☐ 1 st ☐ 2 nd	
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ATTACHMENTS:

Certification of Unopposed Candidates
Resolution No. 2016-05 and Order of Cancellation

CERTIFICATION OF UNOPPOSED CANDIDATES
(CERTIFICACIÓN DE CANDIDATOS ÚNICOS)

To: Presiding Officer of Governing Body
Al: Presidente de la entidad gobernante

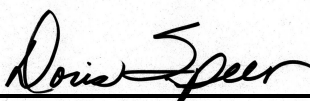
As the authority responsible for having the official ballot prepared, I hereby certify that the following candidates are unopposed for election to office for the election scheduled to be held on May 7, 2016.

(Como autoridad a cargo de la preparación de la boleta de votación oficial, por la presente certifico que los siguientes candidatos son condidatos únicos para elección para un cargo en la elección que se llevará a cabo el 7 de mayo de 2016.)

List offices and names of candidates:
(Lista de cargos y nombres de los candidatos:)

Offices (Cargos)
Mayor (Alcalde)
Council Position 3 (Concejal Posición 3)

Candidates (Candidatos)
Gretchen Fagan
Chad Degges



Signature (Firma)

Doris Speer
Printed Name (Nombre en letra de molde)

City Secretary
Title (Puesto)

March 7, 2016
Date of Signing (Fecha de firma)

(seal) (sello)

RESOLUTION NO. 2016-05

**A RESOLUTION OF THE CITY OF TOMBALL, TEXAS, CANCELING THE
REGULAR CITY OFFICER'S ELECTION SCHEDULED TO BE HELD ON
THE 7TH DAY OF MAY, 2016, IN ACCORDANCE WITH SECTION 2.053(a) OF
THE TEXAS ELECTION CODE; DIRECTING THE GIVING OF NOTICE OF
SUCH CANCELLATION OF ELECTION; AND PROVIDING DETAILS
RELATING TO THE CANCELLATION OF SUCH ELECTION**

* * * * *

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

Section 1: It is hereby ordered that the Regular Election, scheduled to be held in the City of Tomball on the 7th day of May, 2016, at which election the following officers were to be elected by the qualified voters of the City, is canceled in accordance with Section 2.053(a) of the Texas Election Code.

POSITION:	MAYOR
	COUNCIL POSITION 3

Section 2: The following candidates have been certified as unopposed and are hereby elected as follows:

<u>Candidate</u>	<u>Office Sought</u>
Gretchen Fagan	Mayor
Chad Degges	Council Position 3

Section 3: A copy of the Order of Cancellation, attached herein and made part of Resolution No. 2016-05, will be posted on Election Day at the following polling place, which would have been used in the election:

POLLING PLACE
Tomball City Hall
401 Market Street
Tomball, Texas 77375

PASSED, APPROVED and RESOLVED this 7th day of March, 2016.

Gretchen Fagan, Mayor
City of Tomball

ATTEST:

Doris Speer, City Secretary
City of Tomball

RESOLUCIÓN Nro. 2016-05

RESOLUCIÓN DE LA CIUDAD DE TOMBALL, TEXAS, CANCELANDO LA ELECCIÓN REGULAR DE FUNCIONARIOS MUNICIPALES PROGRAMADA PARA EL DÍA 7 DE MAYO DE 2016 DE ACUERDO CON LA SECCIÓN 2.053(A) DEL CÓDIGO ELECTORAL DE TEXAS; INSTRUYENDO QUE SE DE AVISO DE TAL CANCELACIÓN DE ELECCIÓN; Y PROVEYENDO DETALLES RELATIVOS A LA CANCELACIÓN DE TAL ELECCIÓN

* * * * *

EL CONSEJO MUNICIPAL DE LA CIUDAD DE TOMBALL, TEXAS, RESUELVE:

Sección 1: Por la presente se ordena que la Elección Regular, programada para celebrarse en la Ciudad de Tomball el 7 de mayo de 2016, en la cual los votantes calificados de la Ciudad habrían votado para elegir a los siguientes funcionarios, sea cancelada de acuerdo con la sección 2.053(a) del Código Electoral de Texas.

POSICIÓN:	ALCALDE
	POSICIÓN 3 EN EL CONSEJO

Sección 2: Los siguientes candidatos han sido certificados como candidatos únicos y por la presente son electos como sigue a continuación:

<u>Candidato</u>	<u>Cargo que aspira ocupar</u>
Gretchen Fagan	Alcalde
Chad Degges	Posición 3 del Consejo

Sección 3: Una copia de la Orden de Cancelación, adjunta al presente y hecha parte de la Resolución Nro. 2016-05, será colocada el Día de Elección en el siguiente lugar de votación que se hubiera utilizado en la elección:

LUGAR DE VOTACIÓN
Tomball City Hall
401 Market Street
Tomball, Texas 77375

PASADA, APROBADA y RESUELTA este día 7 de marzo de 2016.

Gretchen Fagan, Alcaldesa
City of Tomball

ATESTIGUA:

Doris Speer, Secretaria de la Ciudad
Ciudad de Tomball

NGHỊ QUYẾT SỐ 2016-05

MỘT NGHỊ QUYẾT CỦA THÀNH PHỐ TOMBALL, TIỂU BANG TEXAS, HỦY BỎ CUỘC BẦU CỬ VIÊN CHỨC THÀNH PHỐ THƯỜNG KỲ DỰ KIẾN SẼ ĐƯỢC TỔ CHỨC VÀO NGÀY 7 THÁNG NĂM, 2016, CHIẾU THEO MỤC 2.053(a) CỦA BỘ LUẬT TUYỂN CỬ TEXAS; CHỈ THỊ VIỆC ĐƯA RA THÔNG BÁO VỀ HỦY BỎ CUỘC BẦU CỬ ĐÓ; VÀ CUNG CẤP THÔNG TIN CHI TIẾT LIÊN QUAN ĐẾN VIỆC HỦY BỎ CUỘC BẦU CỬ ĐÓ.

* * * * *

HỘI ĐỒNG THÀNH PHỐ CỦA THÀNH PHỐ TOMBALL, TEXAS QUYẾT NGHỊ:

Mục 1: Theo đây ra lệnh rằng Cuộc Bầu Cử Thường Kỳ, dự kiến sẽ được tổ chức tại Thành Phố Tomball vào ngày 7 tháng Năm 2016, tại đó cuộc bầu cử các viên chức sau đây đã được lựa chọn bởi các cử tri hội đủ điều kiện của Thành Phố, bị hủy bỏ chiếu theo Mục 2.053(a) của Bộ Luật Tuyển Cử Texas.

VỊ TRÍ:	THỊ TRƯỞNG: ỦY VIÊN HỘI ĐỒNG VỊ TRÍ 3
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Mục 2: Các ứng cử viên sau đây đã được xác nhận là không có đối thủ và theo đây được đặc cử như sau:

<u>Ứng Cử Viên</u> Gretchen Fagan Chad Degges	<u>Vị Trí Đặc Cử</u> Thị Trưởng Ủy Viên Hội Đồng Vị Trí 3
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Mục 3: Một bản sao của Lệnh Hủy Bỏ, được đính kèm theo Nghị Quyết này và trở thành một phần của Nghị Quyết số 2016-05, sẽ được niêm yết vào Ngày Bầu Cử tại địa điểm bỏ phiếu sau đây, mà lẽ ra được sử dụng trong cuộc bầu cử:

ĐỊA ĐIỂM BỎ PHIẾU
Tomball City Hall
401 Market Street
Houston, Texas 77375

ĐƯỢC CHẤP THUẬN VÀ THÔNG QUA hôm nay ngày 7 tháng Ba, 2016.

Gretchen Fagan, Thị Trưởng
Thành Phố Tomball

CHỨNG THỰC:

Doris Speer, Bí Thư Thành Phố
Thành Phố Tomball

決議案編號2016-05

一德克薩斯州，TOMBALL市決議案，取消一般市府官員應於2016年5月7日的選舉計畫，其是根據德克薩斯州選舉法2.053(a)節；茲此通知該選舉取消；以及提供關於取消該選舉的詳情

* * * * *

特此由德克薩斯州，TOMBALL市決議:

第1條: 茲此命令計畫在德克薩斯州，TOMBALL市2016年5月7日舉行的選舉，在該選舉應由本市合乎資格選民選出下列官職，根據德克薩斯州選舉法2.053(a)節該選舉已取消。

席位:	市長
	委員席位 3

第2條: 下列候選人已被證實為無競爭對手當選候選人:

<u>候選人</u>	<u>當選職位</u>
Gretchen Fagan	市長
Chad Degges	委員席位 3

第3條: 本取消令命令副本，在此附上以及成為決議案編號2016-05的一部分，將於選舉日張貼在在下列可能啟用的投票場所。

投票場所
Tomball市政廳
401 Market Street
Tomball, Texas 77375

在2016年3月7日通過，批准及決議。

Gretchen Fagan市長
Tomall市

此證:

Doris Speer, 市秘書
Tomall市

ORDER OF CANCELLATION
(ORDEN DE CANCELACIÓN)
(LỆNH HỦY BỎ)
(取消命令)

The City of Tomball, Texas hereby cancels the election scheduled to be held on May 7, 2016 in accordance with Section 2.053(a) of the Texas Election Code. The following candidates have been certified as unopposed and are hereby elected as follows:

(En conformidad con la Sección 2.053(a) del Código de Elecciones de Texas, por la presente la Ciudad de Tomball, Texas, cancela la elección programada para el 7 de mayo 2016. Los siguientes candidatos han sido certificados como candidatos únicos y por la presente son electos como sigue a continuación:)

(Thành Phố Tomball, Texas theo đây hủy bỏ cuộc bầu cử dự kiến sẽ được tổ chức vào ngày 7 tháng Năm, 2016 chiếu theo Mục 2.053(a) của Bộ Luật Tuyển Cử Texas. Các ứng cử viên sau đây đã được xác nhận là không có đối thủ và theo đây được đắc cử như sau:)

(茲依照德州選舉法 2.053(a) 款的規定，德克薩斯州，Tomball市在此取消計畫在 2016 年5月 7 日舉辦的選舉。以下候選人業經證實為無競選對手的候選人，並已當選以下職位：)

Candidate
(Candidato)
(Ứng Cử Viên)
(候選人)

Office Sought
(Cargo que aspira ocupar)
(Vị Trí Đắc Cử)
(當選職位)

Gretchen Fagan
Chad Degges

Mayor (Alcalde) (Thị Trưởng) (市長)
Council Position 3 (Posición 3 del Consejo)
(Ủy Viên Hội Đồng Vị Trí 3)(委員席位3)

A copy of this order will be posted on Election Day at each polling place that would have been used in the election.

(El Día de Elección se colocará una copia de esta orden en cada lugar de votación que se hubieran utilizado en la elección.)

(Một bản sao của Lệnh này sẽ được niêm yết vào Ngày Bầu Cử tại mỗi địa điểm bỏ phiếu mà lẽ ra được sử dụng trong cuộc bầu cử.)

(本取消令副本將於選舉日張貼在每個可能啟用的投票所。)

Mayor (Alcalde) (Thị Trưởng) (市長)

Secretary (Secretaria) (Thư Ký) (秘書)

(seal) (sello) (con dấu) (印鑑)

Date of Adoption (Fecha de Adopción) (Ngày Chấp Thuận) (正式通過日期)

Regular City Council

Agenda Item

Data Sheet

Meeting Date: March 7, 2016

Topic:

Conduct a Public Hearing and Review of the City of Tomball's Juvenile Curfew Ordinance to Determine the Need to Re-adopt, Abolish, Continue or Modify the Ordinance

Background:

The curfew ordinance must be readopted every three (3) years. The City is required to hold public hearings before adopting a new ordinance [L.G.C., Section 370.002(2)]:

“§ 370.002. REVIEW OF JUVENILE CURFEW ORDER OR ORDINANCE.

- (a) Before the third anniversary of the date of adoption of a juvenile curfew ordinance by a general-law municipality or a home-rule municipality or an order of a county commissioners court, and every third year hereafter, the governing body of the general-law municipality or home-rule municipality or the commissioners court of the county shall:
 - (1) review the ordinance or order's effects on the community and on problems the ordinance or order was intended to remedy;
 - (2) conduct public hearings on the need to continue the ordinance or order; and
 - (3) abolish, continue, or modify the ordinance or order.
- (b) Failure to act in accordance with Subsections (a)(1)-(3) shall cause the ordinance or order to expire."

Public hearings will be held on March 7 and March 21, 2016 regarding the effectiveness and the need to continue the ordinance, with the first reading of the ordinance on March 21, 2016 and the second reading on April 4, 2016 in order to satisfy the state-required timeframe for readoption.

Origination:

[L.G.C., Section 370.002(2)]

Recommendation:

N/A

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

City Secretary

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed	Other

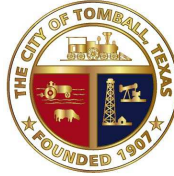
ATTACHMENTS:

Notice of Public Hearings - March 7 and 21, 2016

Current Ordinance No. 2013-02

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL, TEXAS**

**MONDAY, MARCH 7, 2016
AND
MONDAY, MARCH 21, 2016**



6:00 P.M.

Notice is hereby given that the Governing body of the City of Tomball, Texas, will hold Public Hearings during the Regular City Council Meetings to be held on Monday, MARCH 7, 2016, and Monday, MARCH 21, 2016, at City Hall, 401 Market Street, Tomball, Texas 77375 at 6:00 p.m. to consider the following:

**CONDUCT A PUBLIC HEARING AND REVIEW OF THE
CITY OF TOMBALL'S JUVENILE CURFEW ORDINANCE
TO DETERMINE THE NEED TO RE-ADOPT, ABOLISH,
CONTINUE OR MODIFY THE ORDINANCE.**

Any member of the public has the right to appear at these Public Hearings and will be given an opportunity to be heard.

Written comments should be received no later than February 29, 2016 for the March 7, 2016 Public Hearing and no later than March 14, 2016 for the March 21, 2016 Public Hearing. Please submit comments to the City Secretary, 401 Market Street, Tomball, Texas 77375.

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 15th day of February 2016 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meetings.

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.

ORDINANCE NO. 2013-02

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, CONTINUING
THE CITY'S JUVENILE CURFEW ORDINANCE; AND MAKING
OTHER FINDINGS AND PROVISIONS RELATED THERETO.**

* * * * *

WHEREAS, the City of Tomball adopted a curfew ordinance that is codified as Article II of Chapter 50 of the Tomball Code of Ordinances; and

WHEREAS, the City reviewed and continued the juvenile curfew ordinance by Ordinance No. 2010-04 adopted on April 5, 2010; and

WHEREAS, Section 370.002 of the Texas Local Government Code requires that the City Council of a city that adopts a juvenile curfew ordinance at least every three years review the ordinance's effects on the community and on problems the ordinance was intended to remedy; and

WHEREAS, the City Council conducted public hearings on March 4, 2013 and March 18, 2013 on the ordinance's effects on the community and on the problems the ordinance was intended to remedy; and

WHEREAS, the City Council finds that as a direct result of implementing a juvenile curfew the incidents of juvenile crime and victimization has been reduced; and

WHEREAS, the City Council finds the continuance of the juvenile curfew ordinance is necessary to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile violence and criminal activity; and

WHEREAS, a curfew applicable to persons under the age of 17 years will be in the interest of public health, safety, and general welfare, and will diminish the undesirable impact of such conduct on the citizens of the City of Tomball; now therefore

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

Section 1. That in accordance with Section 370.002 of the Texas Local Government Code the City Council has reviewed the City's juvenile curfew ordinance, and its effects on the community and on the problems the ordinance was intended to remedy, and that the findings in the preamble of this ordinance are adopted and incorporated herein.

Section 2. The City's curfew ordinance, codified as Article II of Chapter 50 of the Tomball Code of Ordinances, is hereby continued and shall continue in full force and effect.

FIRST READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 18TH DAY OF MARCH 2013.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN BROWN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DODSON	<u>AYE</u>

SECOND READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 1ST DAY OF APRIL 2013.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN BROWN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DODSON	<u>AYE</u>

Gretchen Fagan
GRETCHEN FAGAN, Mayor
City of Tomball

ATTEST:

Doris Speer
DORIS SPEER, City Secretary
City of Tomball

Regular City Council

Agenda Item

Data Sheet

Meeting Date: March 7, 2016

Topic:

Award Contract for Project Number 2016-11, Landscaping Service for City of Tomball Facilities, to B & C Constructors, LP.

Background:

In an effort to obtain the most favorable pricing, sealed bids were solicited for landscaping services for the City of Tomball Public Works Streets Administration Building, City Hall, Police Department and Community Center. Bid packets were available for pickup at the Public Works Administration Building or could be electronically delivered by request.

With the growing responsibilities of additional areas to mow and edge (Medical Complex Dr ROW) and working of special events the work load will be distributed among the current parks and streets crews without adding additional personnel. By supplementing with this contract the existing crews will be able to focus on the maintenance and repair to the parks.

A total of nine vendors received information on the bid specifications and upon submission five qualified bids were received. The lowest bid received was submitted by B & C Constructors, LP in the amount of \$14,400.00.

Origination:

Public Works Department

Recommendation:

Public Works staff recommends awarding contract for bid number 2016-11 Landscaping Service for City of Tomball Facilities to B & C Constructors, LP.

Funding:

Yes

Account Number:100-153-6321

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

Meagan Mageo

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other

ATTACHMENTS:

Bid Tabulation

Bid Specs

Bid Number 2016-11 - Landscaping Service for City of Tomball Facilities**Bid Tabulation****B & C Constructors**

Addendum No 1 Acknowledged	Service	Cost per Location - 36 times approx
YES	Scheduled Services for City Hall	\$3,456.00
	Scheduled Services for Police Department	\$2,880.00
	Scheduled Services for Public Works Admin. Bldg	\$5,760.00
	Scheduled Services for Community Center	\$2,304.00
SUBTOTAL		\$14,400.00

NCC Services

Addendum No 1 Acknowledged	Service	Cost per Location
YES	Scheduled Services for City Hall	\$3,960.00
	Scheduled Services for Police Department	\$3,960.00
	Scheduled Services for Public Works Admin. Bldg	\$10,440.00
	Scheduled Services for Community Center	\$3,240.00
SUBTOTAL		\$21,600.00

Growth Services, Inc

Addendum No 1 Acknowledged	Service	Cost per Location
YES	Scheduled Services for City Hall	\$4,500.00
	Scheduled Services for Police Department	\$4,500.00
	Scheduled Services for Public Works Admin. Bldg	\$13,500.00
	Scheduled Services for Community Center	\$1,620.00
SUBTOTAL		\$24,120.00

Yellowstone Landscape

Addendum No 1 Acknowledged	Service	Cost per Location	
YES	Scheduled Services for City Hall	\$3,384.00	
	Scheduled Services for Police Department	\$3,384.00	
	Scheduled Services for Public Works Admin. Bldg	\$18,432.00	
	Scheduled Services for Community Center	\$3,384.00	
SUBTOTAL			\$28,584.00

Yes America Enterprises

Addendum No 1 Acknowledged	Service	Cost per Location	
YES	Scheduled Services for City Hall	\$6,480.00	
	Scheduled Services for Police Department	\$4,320.00	
	Scheduled Services for Public Works Admin. Bldg	\$14,040.00	
	Scheduled Services for Community Center	\$4,320.00	
SUBTOTAL			\$29,160.00



City of Tomball

General Instructions &
Specifications

Landscaping Service for City of Tomball Facilities

Bid Number: 2016 – 11

Bid Opening February 9, 2016

Gretchen Fagan
MAYOR

George Shackelford
Robert Hauck
Doris Speer
Glenn Windsor
David Esquivel

City Manager
Assistant City Manager
City Secretary
Finance Director
Public Works Director

TABLE OF CONTENTS

CITY OF TOMBALL
General Instructions &
Specifications

**Landscaping
Maintenance for City
of Tomball Facilities**

**BID NUMBER:
2016 - 11**

• Section A	Official Notice to Bidders
• Section B	General Instructions to Bidders
• Section C	Minimum Specifications
• Section D	Bid Form
• Section E	Bidders Disclaimer Statement
• Section F	Child Support Statement

**PLEASE RETURN SECTIONS D – F ONLY TO THE
CITY OF TOMBALL IN A SEALED ENVELOPE**



City of Tomball

NOTICE TO BIDDERS

The City of Tomball, Harris County, Texas is accepting sealed bids for landscaping service and service for three City of Tomball facilities.

Sealed bids should be addressed to the Project Coordinator, City of Tomball, 501 James Street, Tomball, Texas 77375 and shall be labeled **"Bid Number 2016 - 11 – Landscaping Service", "DO NOT OPEN"**. Bids will be accepted until **2:00 PM CST on February 9, 2016** at which time all bids shall be opened and read aloud.

A pre-bid conference will be on February 4, 2016 at 2:00 PM CST at the City of Tomball, Public Works Administration Building Training Room, 501 James Street, Tomball, Texas 77375; to familiarize bidders with the City facilities site visits will be performed after the meeting to those interested. The pre-bid conference is not mandatory.

The City of Tomball reserves the right to accept or to reject any bids, to waive technicalities and to make any investigation deemed necessary concerning the bidder's ability to provide the product(s) required, and to accept what in its judgment is the most advantageous bid.

Information and specifications may be obtained from the Public Works Administration Building, City of Tomball, 501 James Street, Tomball, Texas 77375.

GENERAL INSTRUCTIONS FOR BIDDERS

The City of Tomball, Harris County, Texas is accepting sealed bids for:

Landscaping Service for City of Tomball Facilities, Bid Number 2016-11

1. QUESTIONS

Questions shall be directed to the Project Coordinator

Meagan Mageo
501 James St
Tomball, Texas
281-290-1400
mmageo@tomballtx.gov

Bidders are cautioned that any statements made by the contact person that materially changes any portion of the bid document shall not be relied upon unless subsequently ratified by a formal written addendum to the bid document. To find out whether the City of Tomball, Harris County, Texas intends to issue an addendum reflecting a statement made by the contact person, contact the Project Coordinator.

2. ANTITRUST

By entering into a contract for goods or services with the City of Tomball, the successful bidder conveys, sells, assigns, and transfers to the City of Tomball, Texas, all rights, titles, and interest it may now have or hereafter acquire under the antitrust laws of the United States and the State of Texas that relate to the particular good or service purchased or acquired by the City of Tomball under said contract.

3. APPLICABLE LAW

The contract shall be governed in all respects by the laws of the State of Texas, and any litigation with respect thereto shall be brought in the courts of the State of Texas. The successful bidder shall comply with applicable federal, state, and local laws and regulations.

4. ASSIGNMENT

The successful bidder shall not assign, transfer, convey, sublet, or otherwise dispose of any award or any or all of its rights, title, or interest therein, without the prior written consent of the City of Tomball.

5. DOCUMENTATION

Bidder shall provide, with this bid package, all documentation required in the specifications. Failure to provide this information may result in rejection of bid.

6. ADDENDA

Any interpretations, corrections or changes to this Request for Bid package will be made by addenda. Sole issuing authority of addenda shall be the City of Tomball,

Harris County, Texas, Project Coordinator. Addenda will be mailed to all vendors known to have received a copy of this bid package.

Bidders who submit a bid on this project shall be presumed to have received all addenda and to have included any cost thereof in their bids, regardless of whether they acknowledge the addenda or not.

No addendum will be issued later than noon on Monday before the Bid Date, except Addenda with minor clarifications, withdrawing request for Bids, or postponing Bid Dates.

7. PREPARATION OF BID

Each bid must be submitted on the prescribed form. All blanks must be completed, in ink or typewritten, in both word and figures. Bidder shall initial all pages except signature page of the Bid Form.

No rider or condition shall be placed on the bid, the language of which cannot be interpreted as a firm bid and which is not clear as to the meaning.

- In the event of an error in extending a Unit Price or total of extended Unit Prices, Unit Price shall govern.
- Bidder may not adjust preprinted price on line items stating "Fixed Unit Price" in the description on the Bid Form.
- Bidder may increase preprinted price on line items stating "Minimum Bid Price" in the description on the Bid Form by crossing out the minimum and inserting revised price on the line above.
- Bidder may decrease preprinted price on line items stating "Maximum Bid Price" in the description on the Bid Form by crossing out the maximum and inserting the revised price on the line above.
- Bidder shall insert a price no greater than the maximum preprinted range and no less than the preprinted range for line items stating "Fixed Range Unit Price" in the description on the Bid Form by crossing out prices noted and inserting revised prices on the line above.
- Bidder may not adjust Cash Allowance amounts.
- In the event of an error in totaling Alternates, price for each Alternate shall govern.

8. EXPENSES INCURRED IN BID PREPARATION

The City of Tomball accepts no responsibility for any expense incurred by the bidder in the preparation and presentation of a bid. Such expenses shall be borne exclusively by the bidder.

9. ALTERNATE BIDS

Bidders, who desire to offer products or services not meeting or exceeding the minimum specifications of this bid package, may submit a bid in a separate envelope clearly marked "ALTERNATE BID." Alternate bids will be deemed non-responsive and will not be considered for award unless such alternate bids are specifically called for in the bid package. All such non-responsive bids will, however, be examined prior to award. Such examination may result in cancellation of all bids received to permit rewriting the minimum specifications to include the alternate, or the alternate may be considered for inclusion in future bid packages.

10. SUBSTITUTION OF PRODUCTS

No substitutions of Products will be considered during the bidding period.

11. BID SUBMISSION

The original and one copy of the bid package shall be signed and submitted in a sealed envelope to the **Project Coordinator**. Timely submission of the bid is the responsibility of the bidder. Absolutely no telegraphic, telephone or fax bids will be accepted.

All bids must be in the possession of the **Project Coordinator** at or before the date and time specified. Bids received by mail after that time, whether postmarked prior, will not be accepted. It is the bidder's responsibility to allow sufficient time for the delivery of the bid by whatever means selected by the bidder. The only acceptable evidence to establish the time of receipt at the Public Works Administrative Building is the time and date stamp of that office on the bid wrapper or other documentary evidence of receipt used by that office.

Failure to submit a Bid on the Bid Form provided shall be considered just cause for rejection of the Bid. Modifications or additions to any original wording of any portion of the bid document may be just cause for rejection of the bid. The City of Tomball reserves the right to decide, on a case-by-case basis, whether to reject a bid with modifications or additions as non-responsive.

Bidder is to submit bid in a **SEALED** envelope with the bid number and description, closing date and time, and company name clearly printed on the outside of the bid envelope. Otherwise label the envelope as follows:

Mailing Address

City of Tomball
Attn: Meagan Mageo
501 James Street
Tomball, Texas 77375

Hand Delivery or Delivery Service

City of Tomball
Attn: Meagan Mageo
501 James Street
Tomball, Texas 77375

EXAMPLE OF PROPERLY IDENTIFIED ENVELOPE

(Company Name)
(Return Address)

City of Tomball
Attn: Meagan Mageo
501 James Street
Tomball, Texas 77375

Bid Number: 2016-11, Lawn Service for City of Tomball Facilities
Bid Opening Date: 2:00 PM CST February 9, 2016

12. BID OPENING MEETING

The meeting to open bids is opened to the public. All bidders are invited to attend. Bid tabulations will be mailed to each bidder making such request and enclosing a self-stamped, self-addressed envelope for that purpose in the bid package.

Place and date of the Bid opening may be changed by the City.

13. EVALUATION AND CONSIDERATION OF BIDS

Project Coordinator will tabulate, record, and evaluate Bids.

The City may reject all Bids or may reject any defective Bid.

14. ACCEPTANCE OF THE BID

The City will send to the Low Bidder a Notice of Intent to Execute an Agreement. Acceptance by the City is conditioned upon Bidder's timely and proper submittal of all required documents listed in the Post-Bid Procedures.

The Bid remains open to acceptance and is irrevocable for the period of time stated in the Bid Form.

15. BID ACCEPTANCE PERIOD

Any bid submitted as a result of the solicitation shall be binding on the bidder for forty-five (45) calendar days following the bid opening date. Any bid for which the bidder specifies a shorter acceptance period may be rejected.

16. BID CORRECTIONS

Corrections or modifications to bidder supplied information (i.e. product information, pricing, etc.) may be made prior to bid opening date and time by an authorized representative of the bidding firm. Corrections shall be initialed in ink adjacent to each correction by the person signing the bid.

Corrections or modifications received after the closing time specified on the bid form will not be accepted.

17. BID WITHDRAWAL

After bids are opened, bidders shall not withdraw or cancel such bids and all sums deposited with such bid or proposal will be held by the City of Tomball until all proposals or bids, timely submitted, have been canvassed and award of contract made, signed and, if a performance bond is required, furnished and approved. All sums deposited with bids or proposals will then be returned to the respective bidders.

A bidder may withdraw a bid, if the City of Tomball fails to award or issue a notice of intent to award the bid, within forty-five (45) calendar days after the date fixed for the opening of bids.

No partial withdrawals are permitted. Only complete bid withdrawals are permitted.

18. BID DISQUALIFICATION

The City may disqualify a Bid if the Bidder:

- fails to provide required Security Deposit in the proper amount;
- improperly or illegibly completes information required by the Bid Documents;
- fails to sign Bid or improperly signs Bid;
- qualifies its Bid; or
- improperly submits its Bid

When requested, Low Bidder shall present satisfactory evidence that Bidder has regularly engaged in performing construction work as proposed, and has the capital, labor, equipment, and material to perform the Work.

19. BIDDER CERTIFICATION

The bidder agrees that submission of a signed bid form is certification that the bidder will accept an award made to it as a result of the submission.

20. BRAND NAMES

Bidder shall indicate make, brand, series or other identifying nomenclature of the product(s) being offered.

Only solicitations on items conforming exactly to these specifications will be considered in determining an award. "Conforming exactly to these specifications" includes bidding only the brand name(s) specified in this solicitation.

21. ITEM CONDITION

Unless otherwise specified, items shall be new and unused and of current production.

22. CASH DISCOUNTS

In connection with any cash discount specified in this bid, time will be computed from the date of complete delivery of the supplies or equipment as specified, or from the date of correct invoice received by the Finance Department of the City of Tomball, if the latter date is later than the date of delivery. For the purpose of earning the

discount, payment is deemed to be made on the date of mailing of the city warrant or check.

23. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

The bidder certifies that the prices submitted in response to this solicitation have been arrived at independently and without- for the purpose of restricting competition - any consultation, communication, or agreement with any other bidder or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices bid.

24. COLLUSION AMONG BIDDERS

Each bidder, by submitting a bid, certifies that it is not a party to any collusive action or any action that may be in violation of the Sherman Antitrust Act. Any or all bids shall be rejected if there is any reason for believing that collusion exists among the bidders.

25. CONFLICT OF INTEREST

No City of Tomball employee or elected official of the City shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, material, supplies or services, in accordance with V.T.C.S., Local Government Code, Title 5, Subtitle C, Chapter 171.

In accordance with Local Government Code Section 1, Subtitle C, Title 5, Chapter 176, all current and potential city vendors must complete the Conflict of Interest Questionnaire. This form **must** be returned with the submitted bid. Failure to submit this form is a Class C Misdemeanor.

26. ASSIGNMENT OF CONTRACT

The Contractor shall not assign, transfer, sublet, convey, or otherwise dispose of the contract or his rights, title, or interest in or to the same or any part thereof without the previous consent of the Owner expressed by resolution of the City Council and concurred in the Sureties.

If the Contractor does, without such previous consent, assign, transfer, sublet, convey, or otherwise dispose of the contract or his right, title, or interest therein or any part thereof, to any person or persons, partnership, company, firm, or corporation, or does by bankruptcy, voluntary or involuntary, or by assignment under the insolvency laws of any state, attempt to dispose of the contract may, at the option of the Owner be revoked and annulled, unless the Sureties shall successfully complete said contract, and in the event of any such revocation or annulment, any monies due or to become due under or by virtue of said contract shall be retained by the Owner as liquidated damages for the reason that it would be impracticable and extremely difficult to fix the actual damages.

27. COOPERATIVE PURCHASING

The City of Tomball participates in the State of Texas Cooperative Purchasing Program administered by the Texas Building and Procurement Commission. Where applicable the City of Tomball will compare bid prices from Cooperative Purchasing Programs and award to the bidder providing the lowest or best value.

Subject to Section 271.102, Texas Local Government Code, governmental entities utilizing Inter-Local Cooperative Purchasing agreements with the City of Tomball will be eligible, but not obligated, to purchase materials or services under this contract awarded as a result of this solicitation. All purchases for materials and services by Governmental Entities other than the City of Tomball will be ordered by and billed directly to that Governmental Entity and paid by that Governmental Entity. The City of Tomball will not be responsible for another Governmental Entity's debts. Should other Governmental Entities decide to participate in this contract, the Vendor agrees that all terms, conditions, specifications, and pricing would apply.

28. VENDOR PROTEST

If a vendor would like to issue a formal protest with the City of Tomball concerning this solicitation, the protest must be tendered to the Finance Department within 48 hours after the Award by the City Council. The protest must be typed, include the bid or proposal number, date and time of the Bid Opening Conference, statement of the aggrieved situation, and the protest must be signed by an authorized party of the vendor company.

Within 24 hours of receipt of the protest, the City will invoke a peer panel review consisting of the City Manager, Director of Finance, and a staff member appointed by the City Manager. This panel will review the protest and all relevant documentation provided by the vendor and the Finance Department. After reviewing all evidence and supporting documentation the panel will render a decision on the validity of the protest and any findings and recommendations that could be so warranted. The recommendation will be forwarded to the Finance Department and the Vendor.

29. ELIGIBLE BIDDER

Bidders are limited to those persons or firms qualified and engaged in a full time business and can assume liabilities for any performance or warranty service required.

The bidder may be required before the award of any bid to show to the complete satisfaction of the City that it has the necessary facilities, ability, and financial resources to provide the product or service specified therein in a satisfactory manner. The bidder may be required to give a past history and references in order to satisfy the City in regard to the bidder's qualifications. The City may make reasonable investigations deemed necessary and proper to determine the ability of the bidder to provide the product or service, and the bidder shall furnish the City all information for this purpose that may be requested. The City reserves the right to reject any bid if the evidence submitted by, or investigation of, the bidder fails to satisfy the City that the bidder is properly qualified to carry out the obligations of the bid.

All bids will be signed by an authorized officer or agent of the bidding company or person. Bidder shall not bid as an agent for another person or company unless the Bidder specifies on the bid that they are bidding as an agent. The bidder shall specify that they are an agent by following this example format:

XYZ Company as agent for ABC Company, or
John Smith as agent for ABC Company

30. ERRORS OF EXTENSION

If the unit price and the extension price are at variance, the unit price shall prevail.

31. EXCEPTIONS

Bidders taking exception to any part or section of this solicitation shall indicate such exception on the bid form or on an attached page. Failure to indicate any exception will be interpreted as the bidder's intent to comply fully with the requirements as written. Conditional, qualified, or alternate bids, unless specifically allowed, shall be subject to rejection in whole or in part.

32. F.O.B. POINT

All prices of item(s) bid shall be quoted FOB City of Tomball, Texas, destination, unless otherwise stipulated in the specifications.

33. TIME OF DELIVERY

Time of delivery shall be stated as specified in attached specifications.

34. PRICES

All delivery and freight charges are to be included in the bid price.

Prices will be considered as net if no cash discount is indicated on the bid. The bidder should show in the bid package both the unit price and total amount, where required, of each item listed.

The City of Tomball, Harris County, Texas is exempt from State of Texas Sales and a Tax Exemption Certificate shall be furnished by the City of Tomball, Harris County, Texas, to the successful bidder upon request.

35. INFORMALITIES AND IRREGULARITIES

The City of Tomball has the right to waive minor defects or variations of a bid from the exact requirements of the specifications that do not affect the price, quality, quantity, delivery, or performance time of the service or product being procured. If insufficient information is submitted by a bidder with the bid for the City to properly evaluate the bid, the City has the right to require such additional information as it may deem necessary after the time set for receipt of bids, provided that the information requested does not change the price, quality, quantity, delivery, or performance time of the product or service being procured.

36. NONCONFORMING TERMS AND CONDITIONS

A bid response that includes terms and conditions that do not conform to the terms and conditions in the bid document is subject to rejection as non-responsive. The City of Tomball reserves the right to permit the bidder to withdraw nonconforming terms and conditions from its bid response prior to a determination by the City of non-responsiveness based on the submission of nonconforming terms and conditions.

37. LIABILITIES

The vendor shall hold the City of Tomball, its officers, agents, servants and employees harmless from liability of any nature or kind because of the use of any copyrighted, or un-copyrighted composition, secret process, patented or unpatented invention, articles or appliances furnished or used under this bid and agrees to defend, at vendor's own expense, any and all actions brought against the City of Tomball or the bidder because of the unauthorized use of such articles.

38. LIQUIDATED DAMAGES

In the event delivery is not made within the stated time period (without acceptable reasons of delay and written consent from the City), the City reserves the right to place the order with the next available vendor and the awardee shall be liable for any increase in price as liquidated damages, it being agreed that said sum is a fair and reasonable estimate of actual damages the City will incur. Bidder will not be held liable for failure to make delivery because of strikes, conscription of property, governmental regulations, acts of God, or other causes beyond his control; provided an extension of time is obtained from the Project Coordinator.

39. ORAL STATEMENTS

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this bid document. All modifications to this bid document shall be made by the official issuance of an addendum by the Project Coordinator of the City of Tomball.

40. PAYMENTS

All payments will be made within thirty (30) days after receipt and acceptance by the receiving Department of all materials ordered and the receipt of an accurate invoice from the vendor.

41. PURCHASE AUTHORIZATION REQUIREMENTS

Purchases of more than \$50,000 require a signed Purchase Order and must be approved by the City Council.

Bidders providing products or services without a signed Purchase Order do so at their own risk. The City of Tomball, Harris County, Texas will not be liable for payment for any product or service provided under this bid unless a valid Purchase Order has been issued to the successful bidder.

42. REFERENCES

The City of Tomball may request the bidder to supply, with this bid package, a list of at least three (3) references where like services or products have been supplied by their firm. If requested, include the name of the firm, mailing address, telephone number and contact person.

43. REJECTED ITEM(S)

Item(s) that are rejected for failure to meet prescribed minimum specifications shall be returned to the supplier at no cost to the City of Tomball.

44. RIGHTS RESERVED

This bid must comply with all federal, state and local laws concerning this product or service.

The City of Tomball reserves the right to accept or reject any or all bids, to accept a bid in part or in whole, to waive informalities or irregularities and to award bid to the lowest responsible bidder.

45. SAMPLES

Samples of products, when required, shall be furnished free of cost of any sort to the City. Samples of products may be retained for future comparison.

Samples which are not destroyed by testing, or which are not retained for future comparison will be returned to bidder upon request received by the City within 10 days after bid opening and at bidder's expense.

46. SILENCE OF SPECIFICATION

The apparent silence of these specifications as to any detail or to the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.

47. INSURANCE REQUIREMENTS

Successful firm shall provide a certificate of insurance executed by an insurance company authorized to do business in Texas, and shall contain the amounts specified herein, and shall be executed prior to award of bid.

- (a) Workman's Compensation Insurance as required by laws and regulations applicable to and covering employees of Contract engaged in the performance of the work under this agreement;
- (b) Employers Liability Insurance protecting contractor against common law liability, in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with a limit of not less than \$100,000.
- (c) Comprehensive General Liability Insurance including products/completed operation with limits of liability of not less than: Bodily Injury \$100,000 per each person, \$300,000 per each occurrence/ aggregate; Property Damage \$100,000 per each occurrence;
- (d) Excess Liability Insurance, Comprehensive General Liability, Comprehensive Automobile Liability and coverages afforded by the policies above, with the minimum limits of \$500,000 excess of specified limits.

48. CONTRACT TERMS

Successful vendor(s) will be awarded the contract, effective from the date of the award as determined by the City of Tomball. The Contract will expire twenty four (24)

months from the date of award. All Prices will be held firm for the length of the contract. At the City of Tomball's option and approval by the vendor, the contract may be renewed for three (3) additional one (1) year periods, as further explained in the Renewal Options.

49. RENEWAL OPTIONS

The City of Tomball reserves the right to exercise an option to renew the contract with the vendor for three (3) additional one (1) year periods, provided such option is agreed upon by both parties. Price increases and/or decreases, agreed upon by both parties, would be limited to the lesser of the average change over the prior twelve (12) months in Consumer Price Index -All Urban Consumers - Houston Area, or in the Consumer Price Index-All Urban Consumers-US City Average.

50. FUNDING

Funds for payment have been provided through the City of Tomball budget approved by the City Council for this fiscal year only. State of Texas statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. Therefore, anticipated orders or other obligations that may arise past the end of the current City of Tomball fiscal year shall be subject to budget approval.

SEE ATTACHED MINIMUM SPECIFICATIONS

MINIMUM SPECIFICATIONS

Landscaping Service for City of Tomball Facilities

**BID NUMBER
2016-11**

The City of Tomball is accepting sealed bids for Landscaping Service for three (3) City of Tomball Facilities as herein specified. The City of Tomball reserves the right to accept or reject any bid or item included.

It is the intention of the City of Tomball to obtain professional Landscaping Services for three (3) City owned facilities, beginning March 1, 2016 and ending February 28, 2017. The City of Tomball will have the right and option to extend the term for three (3) additional one (1) year periods with the same terms and conditions. The City of Tomball will also have the right and option to terminate the Contract upon thirty (30) days written notice.

Unless otherwise stipulated herein, the contractor shall furnish all materials, tools, equipment and labor necessary to complete the work described in this contract; further, it shall be the contractor's sole responsibility to make arrangements for all required material procurement, transportation, off-site storage and preparation.

- **Services to be provided:**
 - o **City Hall, 401 Market Street:** to be mowed every two weeks, including:
 - Line Trimming
 - Blowing affected concrete walkways/ sidewalks, streets, and parking areas
 - Trim hedges as needed
 - o **Police Department, 400 Fannin Street:** to be mowed every two weeks, including:
 - Line Trimming
 - Blowing affected concrete walkways/ sidewalks, streets, and parking areas
 - Trim hedges as needed
 - o **Community Center, 221 Market Street:** to be mowed every two weeks, including:
 - Line Trimming
 - Blowing affected concrete walkways/ sidewalks, streets, and parking areas
 - o **Public Works Administrative Building, 501 James Street:** to be mowed every two weeks, including:
 - Line trimming

- Blowing affected concrete walkways/ sidewalks, streets, and parking areas
- Trim hedges as needed

- **General Requirements:**

- 1.) The contractor shall be familiar with the project premises and how the existing conditions will affect his work during the service term of the agreement.
- 2.) The contractor agrees to indemnify and hold harmless the City of Tomball, its officers, agents and employees, from loss, damage, liability or expense on account of damage to property and injuries, including death, to all persons, including the contractor's employees, arising or in any manner growing out of the performance of any work or supplying of any material under this contract, regardless of whether or not it caused in any part by the act of or omission, whether negligent or not, of a party indemnified hereunder, and shall defend at its own expense any suits or other proceedings brought against the owner, its officers, agents or employees, or any of them, on account thereof and pay all expenses and satisfy all judgements which may be insured by or rendered against them or any of them connection therewith.
- 3.) Contractor shall submit itemized bills to the project coordinator, referencing all work completed for payment by the 25th of each month for payment by the 15th.
- 4.) All material and hardware needed are to be supplied by the contractor and shall be of suitable composition and quality to achieve their intended function within the landscape scope of work.
- 5.) All personnel of contractor shall be properly trained and shall conduct their work in a professional manner at all times, while on City property.

- **Insurance Requirements:**

Successful firm shall provide a certificate of insurance executed by an insurance company authorized to do business in Texas, and shall contain the amounts specified herein, and shall be executed prior to award of bid.

- 1.) Workman's Compensation Insurance as required by laws and regulations applicable to and covering employees of Contract engaged in the performance of the work under this agreement;
- 2.) Employers Liability Insurance protecting contractor against common law liability, in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with a limit of not less than \$100,000;
- 3.) Comprehensive General Liability Insurance including products/completed operation with limits of liability of not less than: Bodily Injury \$100,000 per each person, \$300,000 per each occurrence/aggregate; Property Damage \$100,000 per each occurrence;
- 4.) Excess Liability Insurance, Comprehensive General Liability, Comprehensive Automobile Liability and coverages afforded by the policies above, with the minimum limits of \$500,000 excess of specified limits.

- **Transportation Vehicle(s):**

Transportation Vehicle(s) must be currently licensed and must meet all state, federal, county, and Department of Transportation requirements. Vehicle(s) must be of sound quality and in good working order.

- **Scope of Work:**

Furnish all labor, equipment and material necessary to complete the maintenance as specified herein. The work to be completed, but not limited to, shall include:

- o **Scheduled Services:** mowing, trimming, edging, blowing (**These services are meant to be automatic**)
- o **Optional Services:** spring and fall clean-ups, bed maintenance, weed control (pre-emergent and post-emergent), fertilization, pest control/grub control, mulching, thatching, aerating, overseeding, gutter cleaning, debris removal and lime application. (These services are not automatic services and are NOT to be performed unless requested in writing by an authorized agent for the City of Tomball, which will be specified to the awarded bidder.) **Copies of the written request for service are to accompany any bill for that service in order to have payment rendered).**

- **Scheduled Services**

1. Mowing

- a. All lawn areas shall be mowed every other week or shall be adjusted, by prior consultation between the Contractor and authorized agent for the City of Tomball, to make necessary schedule changes due to seasonal changes. The cutting height will be on average two and one-half (2-1/2) inches to three (3) inches.
- b. Mowing will be performed without disturbing bed areas, shrubbery or structures. No weed whacker is to be used within six (6) inches of any tree, shrub or bed. Any tree, shrub or bed that is damaged due to the use of a weed-whacker will be the sole responsibility of the contractors to replace or repair any damaged caused.
- c. Grass clippings, leaves or other debris will be blown and removed from all walkways/ sidewalks, curbs, streets, driveways, walls, air conditioner/ heater units, beds, and fences.
- d. Litter, debris and loose stone/ rocks on lawn areas will be removed **prior** to mowing.
- e. During December, January and February when mowing is not as necessary due to lack of growth from seasonal changes and temperatures, time may be spent on other landscaping issues such as weeding, trimming, bed maintenance, refreshing mulch, etc. The Streets and Parks Superintendent or other authorized agent for the City of Tomball will schedule these activities as needed, if required.

2. Trimming
 - a. All lawn areas adjacent, but not limited to buildings, walkways/ sidewalks, curbs, lights, signs, streets, trees, beds and fences shall be trimmed to approximately two (2) inches. Weed whackers or equal shall not be used adjacent to ornamental shrubs, wooden post, or any building façade.
 - b. All planting around air conditioning/ heating units shall be trimmed so as not to obstruct the operation of the unit.
 - c. Hedges/ shrubs are to be trimmed at each facility on an as needed basis.
3. Edging
 - a. Edging walkways/ sidewalks, and curbs to be done with mowing; this should not create a trenched area or canal for water to undermine the integrity of the walkway, sidewalk, or curb structures.
 - b. All debris shall be blown off the walkways/ sidewalks, and streets.
 - c. All voluntary growth in cracks in walkways/ sidewalks, and curbs shall be cleared of all growing vegetation. The walkways/ sidewalks may be sprayed with vegetation kill as long as it does not discolor the walkways/ sidewalks.
4. Blowing
 - a. After all mowing, trimming and edging is completed at all City facilities the affected areas (walkways/ sidewalks, streets, parking areas, etc.) must be blown and left free of debris.

- **Optional Services**

The Parks and Street Supervisor or authorized agent for the City of Tomball is to schedule these activities with the contractor before commencement.

1. Spring Clean Up
 - General Areas
 - a. All lawn areas shall be raked and rakings shall be removed from the property.
 - b. All debris, including but not limited to, branches, stones and litter shall be picked up and removed from the property.
 - c. All driveways and parking areas shall be swept clean. All debris shall be removed from the property.
 - Planting Bed
 - a. Soil (mulch) shall be loosened and reshaped.
 - b. All weeds will be removed; existing planting will be cleared of debris, dead branches, stones, etc.
 - c. Mulch will not be left against building foundations, walls, air conditioning/ heating units or fences.
 - d. An application of pre-emergent herbicide is to be applied to all beds to control weeds.
 - e. All foundation beds and tree wells will be mechanically edged.
2. Fall Clean Up
 - a. All lawn areas, beds and parking areas will be cleaned of leaves, branches, litter, stones and other debris.
 - b. All debris is to be removed from the property.
3. Bed Maintenance

- a. All planting beds, including any around ornamental trees shall be maintained.
 - b. All weeds, not controlled by herbicide program shall be removed by hand. Any plant damage caused by chemicals, applied by contractor, will be the sole responsibility of the contractor.
 - c. Post-emergent herbicides shall be applied in accordance with manufacturer's recommendations and specific requirements to control weeds not controlled by pre-emergent programs. Any plant damage caused by chemicals, applied by contractor, will be the sole responsibility of the contractor.
 - d. All mulched areas are to be loosened and reshaped.
4. Weed Control
- a. Pre-emergent herbicide will be applied to all areas in accordance with manufacturer's recommendations to control weeds prior to germination. Chemical control shall be selected for the broadest spectrum control as possible. The contractor may elect to use combination chemical applications. Should this maintenance approach be taken, it will be made in the strict observation of the manufacturer's recommendations.
 - b. Post-emergent herbicides shall be applied in accordance with the manufacturer's recommendations to control weeds, which are not controlled by the pre-emergent program. All applications shall be made in accordance with the manufacturer's recommendations.
 - c. All herbicides shall be used by a licensed applicator and shall be used in accordance with the standards and regulations set forth by the Environmental Protection Agency and the appropriate state and local regulatory agencies.
5. Fertilization
- a. All established lawn areas shall be fertilized three (3) times per year in accordance with the following schedule:
 - First application in early Spring to stimulate growth
 - Second application in the Summer to sustain growth
 - Third application in late fall to establish a hearty root system for the dormant period
 - b. Lawn areas shall be top-dressed with fertilizer according to standard horticultural practices.
6. Disease Control
- a. All lawn areas shall be inspected monthly for signs of development of any pathogen, which might adversely affect the growth, and normal development of the grass areas. Immediately upon finding such problem, the contract shall take steps to control to the problem(s) as they exist and notify the Streets and Parks Superintendent.
 - b. No pesticides shall be applied needlessly.
 - c. All pesticides shall be used under the direct supervision of a licensed pesticide applicator and shall be used in accordance with the standards and regulations set forth by the Environmental Protection Agency and appropriate state and local regulatory agencies.
7. Mulching

- a. An application of a sufficient amount of double shredded bark mulch is to be made on all beds to provide approximately two (2) inches of total mulch.
 - b. Mulching material is to have the prior approval of the City of Tomball. The mulch should be termite free and not contain any chemical or material, which might cause the grass to turn colors or become diseased if exposed.
 - c. Mulch is not to be left against the building foundations, air conditioning/heating units or fences.
 - d. Mulch is to be applied around trees in such a way as to not suffocate the trees.
- 8. Thatching
 - a. All lawn areas shall be thatched in accordance with good horticultural practices.
 - b. All that shall be raked and removed from the facilities property.
- 9. Aerating
 - a. All lawn areas shall be aerated in accordance with good horticultural practices.
 - b. All aeration plugs shall be raked and removed from the facilities property.
- 10. Overseeding
 - a. All lawn areas shall be overseeded in accordance with good horticultural practices.
 - b. If overseeding is required, seeds will be supplied by the City of Tomball.
- 11. Gutter and Downspout Cleaning
 - a. All debris from gutters shall be removed so as to provide an uninterrupted flow of water.
 - b. If necessary, downspouts shall be removed, dismantled, cleaned of debris, reassembled and reinstalled to their proper position.
- 12. Debris Removal
 - a. Contractor shall quote removal of debris, beyond the scope of this specification, on an as needed basis.
 - b. Contractor is to bid on price per cubic foot basis.
- 13. Lime Application
 - a. The contractor shall quote to apply lime to all lawn areas. The contractor shall conduct a soil test to determine the amount of lime required. Lime will be applied with good horticultural practices.
 - b. All lime shall be of the highest quality and shall be of such type so as to perform the purpose for which it is intended.
 - c. The contractors shall quote on a per application basis.
- 14. Grub Control
 - a. All lawn areas shall be controlled for Grubs in accordance with good horticultural practices.
 - b. The contractor will use Oftanol 5G or equivalent.
 - c. The contractor shall quote on a per application basis.

- **Upon submittal of completed bid contractor must submit three references**

BID FORM

Bid Number: **2016-11**

Opening Date: **February 9, 2016**

Opening Time: **2:00 PM CST**

THIS BID IS SUBMITTED TO:

City of Tomball
Attn: Meagan Mageo, Project Coordinator
501 James Street
Tomball, Texas 77375

(hereinafter called OWNER)

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid Price and within the Bid Times in accordance with the other terms and conditions of the Contract Documents.
2. Bidder accepts all of the terms and conditions of the Official Notice to Bidders and Instructions to Bidders, including without limitation those dealing with the dispositions of Bid Security. This Bid will remain open for the period of time specified in the Official Notice to Bidders after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds, evidence of insurance coverage, and other documents required by the Bidding Requirements within 15 days after the date of OWNER'S Notice of Award.
3. In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:
 - a. Bidder has examined and carefully studied all the Bidding Documents and the following Addenda receipt of all which is hereby acknowledged:

Addendum
Date

Addendum
Number

Signature

- b. Bidder is familiar with and has satisfied itself as to all federal, state, and local laws and regulations that may affect cost, progress, performance, and finishing of the Work.
 - c. Bidder is aware of the general nature of Work to be performed by OWNER and others at the site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
 - d. Bidder has given the Project Coordinator written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents and the written resolution thereof by the Project Coordinator is acceptable to Bidder, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which the Bid is submitted.
 - e. This Bid is genuine and not made in the interest or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any person, firm or a corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over OWNER.
- 4. Bidder will complete the Work in accordance with the Contract Documents for the prices submitted.
 - 5. Bidder agrees that the Work will be substantially completed and completed and ready for final payment on or before the dates or within the number of calendar days indicated in the Agreement.
 - 6. Bidder accepts the provisions of the Agreement as to liquidate damages in the event of failure to complete the Work within the times specified in the Agreement.
 - 7. The following documents are attached to and made a condition of this Bid:
 - a. Required Bid Security in the form of _____ (Certified Check or Bid Bond) in the amount of _____ (Dollars or Percent).
 - 8. Communications concerning this Bid shall be addressed to the Bidder as indicated below:
 - a. Name: _____
 - b. Address: _____
 - c. State: _____
 - d. Telephone Number: _____
-

BID NUMBER 2016-11 : Landscape Services for City of Tomball Facilities

BASE BID: COST FOR SCHEDULED SERVICES

ITEM	LOCATION/ DESCRIPTION	Cost for Scheduled Services (Each Occurrence)	Approximate Quantity per Year	Subtotal
1	City Hall - 401 Market St. Includes all related work to the scheduled services per each individual occurrence of service		18	
2	Tomball Police Department - 400 Fannin St. Includes all related work to the scheduled service per each individual occurrence of service		18	
3	Public Works Administrative Building - 501 James St. Includes all related work to the scheduled service per each individual occurrence of service		18	
5	Community Center - 221 Market St. Includes all related work to the scheduled service per each individual occurrence of service		18	

TOTAL BID FOR SCHEDULE SERVICES: \$_____

ADDITIVE BID: OPTIONAL SERVICES (To be requested by City of Tomball)

ITEM	DESCRIPTION	Cost for Optional Services (Each Occurrence)	Approximate Quantity per Year	Subtotal
1	Spring Clean Up - performed 1 time per year		1	
2	Fall Clean Up (performed 2-3 times per year)		3	
3	Bed Maintenance (performed approximately 6 times per year)		6	
4	Weed Control - Pre-Emergent (performed 1 time per year)		1	
5	Weed Control - Post-Emergent (performed 1 time per year)		1	
6	Fertilization (performed 3 times per year)		3	
7	Pest Control/ Grub Control (quoted per application basis)		1	
8	Mulching (to be quoted per occurrence)		2	
9	Thatching (to be quoted per occurrence)		1	
10	Aerating (to be quoted per occurrence)		1	
11	Overseeding (to be quoted per occurrence)		1	
12	Gutter Cleaning (to be quoted per occurrence)		1	
13	Debris Removal (to be quoted per occurrence)		1	
14	Lime Application (if needed)		1	

TOTAL ADDITIVE BID: \$ _____

TOTAL BASE BID & ADDITIVE BID \$ _____

D - 3

BID NUMBER 2016-11 – Landscape Service for City of Tomball Facilities

In compliance with the conditions for bidding, the undersigned certifies that the product bid meets or exceeds all minimum specifications.

All quantities are for estimating purposes only so that a price can be established for each item bid. Actual quantities will vary. A Purchase Order will be issued for each Bid Item. The successful vendor will receive a Purchase Order, effective from the date of the award or notice to proceed as determined by the City of Tomball. The Purchase Order number must be included on every invoice, and will expire twelve (12) months from the award of the bid.

Each bid item will be awarded separately for the best value for the City of Tomball. Materials must be delivered per the minimum specifications.

Bidder agrees to hold bid price firm for a minimum of two (2) years from the date of the bid award and purchase order.

The City of Tomball reserves the right to accept or reject any, all or any part of any bid or to accept the lowest responsible bid.

NOTICE: Submit one (1) original and **one (1) copy** of this total bid package. Also, please keep one (1) complete copy of bid package for your records.

I hereby certify that as a Bidder I/we have examined and carefully prepared this Bid from the Bidding Documents and have checked the same in detail before submitting this Bid, and that all statements herein are made on behalf of:

An Individual:

By _____ (Individual's Name) doing business as

_____ (Firm Name)

Business address: _____

Phone Number: _____

A Partnership:

By _____ (Firm Name)

By _____ (General Partner)

Business Address _____

Phone Number: _____

A Corporation:

By _____ (Firm Name)

_____ (State of Incorporation)

By _____ (Name of Person Authorized to Sign)

_____ (Title)

Attest _____ (Secretary)

Business Address: _____

Phone Number: _____

(Corporate Seal)

A Joint Venture:

By _____ (Name)

_____ (Address)

By _____ (Name)

_____ (Address)

Phone Number and address for receipt of official communications:

Authorized Signature

Typed Name

Title

Date

IMPORTANT NOTE: Only an AUTHORIZED EMPLOYEE of the company shall prepare and sign this page.

(Each Joint Venture must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above).

(BIDDERS SHALL NOT ADD ANY CONDITIONS OR QUALIFYING STATEMENTS TO THIS BID AS OTHERWISE THE BID MAY BE DECLARED IRREGULAR AS BEING NOT RESPONSIVE TO THE ADVERTISEMENT.)

(BIDDERS SHALL USE THIS BID FORM IN SUBMITTING THEIR BIDS.)

***** END OF SECTION *****

**BIDDER'S DISCLAIMER
STATEMENT**

**Landscape Service for City of Tomball
Facilities
BID NUMBER 2016-11**

The undersigned Bidder, by signing and executing this bid, certifies and represents to the City of Tomball, Texas that Bidder has not offered, conferred or agreed to confer any pecuniary benefit, as defined by TEXAS PENAL CODE ANN. S36.02(a), or any other thing of value, as consideration for the receipt of information or any special treatment or advantage relating to this bid; the Bidder also certifies and represents that Bidder has not offered, conferred or agreed to confer any pecuniary benefit or other thing of value as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion concerning this bid; the Bidder certifies and represents that Bidder has neither coerced nor attempted to influence the exercise of discretion by any officer, elected official, agent or employee of the City of Tomball, Texas concerning this bid on the basis of any consideration not authorized by law; the Bidder also certifies and represents that Bidder has not received any information not available to other bidders so as to give the undersigned a preferential advantage with respect to this bid; the Bidder further certifies and represents that Bidder has not violated any state, federal, or local law, regulation or ordinance relating to bribery, improper influence, collusion or the like, and that Bidder will not in the future offer, confer, or agree to confer any pecuniary benefit or other thing of value to any officer, elected official, agent or employee of the City of Tomball, Texas in return for the person having exercised the person's official discretion, power or duty with respect to this bid; the Bidder certifies and represents that it has not now and will not in the future offer, confer, or agree to confer a pecuniary benefit or other thing of value to any officer, elected official, agent or employee of the City of Tomball, Texas in connection with information regarding this bid, the submission of this bid, the award of this bid or the performance, delivery or sale pursuant to this bid.

Company Name: _____

Address (Line 1): _____

Address (Line 2): _____

City: _____ State: _____ Zip: _____

Telephone: _____

Date: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

**CHILD SUPPORT STATEMENT
FOR CONTRACTS AND GRANTS**

**Landscape Service for City of Tomball Facilities
BID NUMBER 2016-11**

The undersigned hereby swears and affirms under penalty of perjury under the laws of the State of Texas, that neither the sole proprietor, partner, majority shareholder, or substantial owner of an entity making an offer to enter into a City of Tomball contract, is a delinquent obligor who is 30 or more days delinquent in paying child support under a court order or a written repayment agreement. A substantial owner is one who has at least ten percent interest in the firm.

Pursuant to the provisions of Section 2.01, Subchapter 14, Family Code, any sole proprietor, partner, majority shareholder, or substantial owner who is a delinquent obligor is ineligible to submit an offer for a City of Tomball contract until (1) all arrearages have been paid; or (2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency.

This sworn statement is a material representation of fact upon which reliance is placed to determine the offeror's eligibility to receive a grant or to enter into a contract. Submission of this sworn statement is a prerequisite for the making or entering into a contract.

If at any time it is determined that the representations made herein by the undersigned are false and in error, the contract or grant becomes null and void, and the City of Tomball shall avail itself of remedies existing in equity and in law.

Signed _____ Date: _____

On behalf of _____ (Name of Company)

Before me, the undersigned authority, on this day personally appeared

_____, who, being duly sworn, upon oath says that

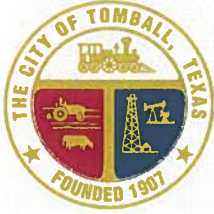
he or she is qualified and authorized to make this affidavit for and on behalf of

_____ (Name of Company) and is

fully cognizant of the facts herein set out.

Notary Public for the State of Texas

My Commission Expires: _____



City of Tomball

Bid Number 2016-11:
Landscaping Services for City of Tomball Facilities

Addendum No. 1

February 5, 2016

The attention of all prospective Bidders is directed to the following modifications to drawings, specifications and contract documents for the above referenced project. The information contained in this Addendum supersedes information contained in the drawings, specifications and contract documents to the extent indicated. All information contained in the drawings, specifications and contract documents remains in full force and effect unless specifically modified herein.

Addendum includes additional specifications and clarifies the delivery specifications in relation to the storage and amounts to be delivered for the Liquid Polyphosphate.

Contract Documents:

1. None

Specifications:

1. The bid form has been updated, please see attached.

Clarification:

1. Weed whackers, as stated on page C-3, are permitted to be used in all areas.

Issued By:

Name: David Esquivel

Title: Public Works Director

Signature: *David Esquivel*

Date: 02/04/16

Acknowledged By:

Name: _____

Title: _____

Signature: _____

Date: _____

BID FORM

Bid Number: **2016-11**

Opening Date: **February 9, 2016**

Opening Time: **2:00 PM CST**

THIS BID IS SUBMITTED TO:

City of Tomball
Attn: Meagan Mageo, Project Coordinator
501 James Street
Tomball, Texas 77375

(hereinafter called OWNER)

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid Price and within the Bid Times in accordance with the other terms and conditions of the Contract Documents.
2. Bidder accepts all of the terms and conditions of the Official Notice to Bidders and Instructions to Bidders, including without limitation those dealing with the dispositions of Bid Security. This Bid will remain open for the period of time specified in the Official Notice to Bidders after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds, evidence of insurance coverage, and other documents required by the Bidding Requirements within 15 days after the date of OWNER'S Notice of Award.
3. In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:
 - a. Bidder has examined and carefully studied all the Bidding Documents and the following Addenda receipt of all which is hereby acknowledged:

Addendum
Date

Addendum
Number

Signature

- b. Bidder is familiar with and has satisfied itself as to all federal, state, and local laws and regulations that may affect cost, progress, performance, and finishing of the Work.
 - c. Bidder is aware of the general nature of Work to be performed by OWNER and others at the site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
 - d. Bidder has given the Project Coordinator written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents and the written resolution thereof by the Project Coordinator is acceptable to Bidder, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which the Bid is submitted.
 - e. This Bid is genuine and not made in the interest or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any person, firm or a corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over OWNER.
- 4. Bidder will complete the Work in accordance with the Contract Documents for the prices submitted.
 - 5. Bidder agrees that the Work will be substantially completed and completed and ready for final payment on or before the dates or within the number of calendar days indicated in the Agreement.
 - 6. The following documents are attached to and made a condition of this Bid:
 - a. Required Bid Security in the form of N/A (Certified Check or Bid Bond) in the amount of N/A (Dollars or Percent).
 - 7. Communications concerning this Bid shall be addressed to the Bidder as indicated below:
 - a. Name: _____
 - b. Address: _____
 - c. State: _____
 - d. Telephone Number: _____
-

BID NUMBER 2016-11 : Landscape Services for City of Tomball Facilities

BASE BID: COST FOR SCHEDULED SERVICES

ITEM	LOCATION/ DESCRIPTION	Cost for Scheduled Services (Each Occurrence)	Approximate Quantity per Year	Subtotal
1	City Hall - 401 Market St. Includes all related work to the scheduled services per each individual occurrence of service		24 - 36	
2	Tomball Police Department - 400 Fannin St. Includes all related work to the scheduled service per each individual occurrence of service		24 - 36	
3	Public Works Administrative Building - 501 James St. Includes all related work to the scheduled service per each individual occurrence of service		24 - 36	
5	Community Center - 221 Market St. Includes all related work to the scheduled service per each individual occurrence of service		24 - 36	

TOTAL BID FOR SCHEDULE SERVICES: \$_____

D - 3 (revised)

BID NUMBER 2016-11 – Landscape Service for City of Tomball Facilities

In compliance with the conditions for bidding, the undersigned certifies that the product bid meets or exceeds all minimum specifications.

All quantities are for estimating purposes only so that a price can be established for each item bid. Actual quantities will vary. A Purchase Order will be issued for each Bid Item. The successful vendor will receive a Purchase Order, effective from the date of the award or notice to proceed as determined by the City of Tomball. The Purchase Order number must be included on every invoice, and will expire twelve (12) months from the award of the bid.

Each bid item will be awarded separately for the best value for the City of Tomball. Materials must be delivered per the minimum specifications.

Bidder agrees to hold bid price firm for a minimum of two (2) years from the date of the bid award and purchase order.

The City of Tomball reserves the right to accept or reject any, all or any part of any bid or to accept the lowest responsible bid.

NOTICE: Submit one (1) original and **one (1) copy** of this total bid package. Also, please keep one (1) complete copy of bid package for your records.

I hereby certify that as a Bidder I/we have examined and carefully prepared this Bid from the Bidding Documents and have checked the same in detail before submitting this Bid, and that all statements herein are made on behalf of:

An Individual:

By _____ (Individual's Name) doing business as

_____ (Firm Name)

Business address: _____

Phone Number: _____

A Partnership:

By _____ (Firm Name)

By _____ (General Partner)

Business Address _____

Phone Number: _____

A Corporation:

By _____ (Firm Name)

_____ (State of Incorporation)

By _____ (Name of Person Authorized to Sign)

_____ (Title)

Attest _____ (Secretary)

Business Address: _____

Phone Number: _____

(Corporate Seal)

A Joint Venture:

By _____ (Name)

_____ (Address)

By _____ (Name)

_____ (Address)

Phone Number and address for receipt of official communications:

Authorized Signature

Typed Name

Title

Date

IMPORTANT NOTE: Only an AUTHORIZED EMPLOYEE of the company shall prepare and sign this page.

(Each Joint Venture must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above).

(BIDDERS SHALL NOT ADD ANY CONDITIONS OR QUALIFYING STATEMENTS TO THIS BID AS OTHERWISE THE BID MAY BE DECLARED IRREGULAR AS BEING NOT RESPONSIVE TO THE ADVERTISEMENT.)

(BIDDERS SHALL USE THIS BID FORM IN SUBMITTING THEIR BIDS.)

***** END OF SECTION *****

Regular City Council

Agenda Item

Data Sheet

Meeting Date: March 7, 2016

Topic:

Approve Additional Services with GMS Home Inspection Service, LLC to Perform On-Call Residential and Commercial Plan Review and Inspection Services for an Amount Not to Exceed \$66,000.

Background:

GMS Home Inspection Service, LLC was contracted to provide on-call plan review and inspection services in October 2015 with an original contract amount of \$48,000. With the pace of development and inspections, it is necessary to amend the original contract with an additional services request of \$66,000. \$47,426 has been spent to date and the additional services request, along with the original contract, falls within the professional services allocation in the Permit and Inspections adopted budget.

Because of the large number of plan reviews and inspections this fiscal year, to date, the Department has collected \$300,606 in Building Permit and Plan Review Fees. Also, the vacant Combination Building Inspector position has provided the Department's budget a salary savings of approximately \$31,327 to date. We've advertised for the position and have not been able to find the right employee for the position yet.

Origination:

Community Development Department

Recommendation:

Approval

Funding:

Yes

Account Number:100-112-6304

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

Community Development Director

ACTION TAKEN

Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other
---	---	--------------

ATTACHMENTS:

Request for Additional Services

February 23, 2016

Mr. Craig T. Meyers, PE, CFM
Community Development Director/City Engineer
City of Tomball
501 James Street
Tomball, Texas 77375

Re: Request for Authorization of Additional Services

Dear Mr. Meyers:

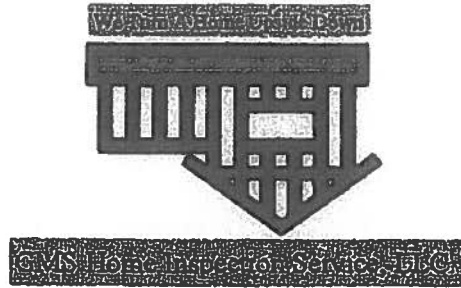
GMS Home Inspection Service, LLC hereby requests additional services authorization for residential and commercial plan review and inspection services for the City of Tomball. The scope of services will continue to be in accordance with the proposal dated September 29, 2015 (attached). Additional services will not exceed \$66,000.00 without further authorization.

If you have any questions, please do not hesitate to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "George M. Sanders". The signature is fluid and cursive, with the first name "George" and last name "Sanders" clearly distinguishable.

George M. Sanders
President
GMS Home Inspection Service, LLC



Page 1 of 2

GMS Home Inspection Service, LLC
George M. Sanders
1122 High Meadow Ranch Dr.
Magnolia TX 77355
Phone: 281-413-1511
Email: george.sanders@att.net
Web: gmshomeinspection.com

9/29/15

Proposal for City of Tomball
Attn: Craig Meyers

The following proposed pricing for Inspection services:

-Residential plan review services to include code compliance with electrical, plumbing, mechanical, structural and energy as per current City adopted ICC codes and amendments.
The proposed cost would be based on .10 per sq. ft.

-Commercial plan review services to include code compliance with electrical, plumbing, mechanical, structural and energy as per current City adopted ICC codes and amendments.
An approximate price basis to be .20 per sq. ft. for building compliance and additional cost for ADA, parking, medical requirements, occupancy and any associated cost with outside consultation if necessary, etc. The TBD proposed cost would be based on a per job basis.

-Building shell only (building space considered warehouse) @ .10 Per Sq. Ft., building interior space to include all areas not considered warehouse @ .20 Per Sq. Ft.

-Inspection services proposal at \$45.00 per inspection.

-Additional cost TBD for ADA, parking, medical requirements, Fire Systems, occupancy and any associated cost with outside consultation if necessary, etc. The TBD cost would be based on a per job basis.

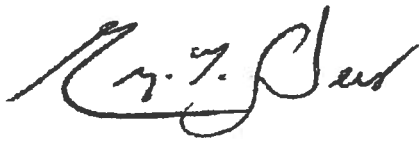
-Additional office consultation, meetings, small plan reviews ETC are too be billed at an agreed upon price of \$75.00 Per Hour or per job TBD.

Our pricing will include General liability Insurance.
Payment Terms: 30 days

Contract and Pricing to be thru 9/29/16.

If you any further questions please do not hesitate to call me.

Thank You
George M. Sanders



Contract acceptance:

GMS Home Inspection Service LLC

Signature: 

By: George M. Sanders, President

Date: 9/29/15

City of Tomball

Signature:

By:

Date:

Regular City Council

Agenda Item

Meeting Date: March 7, 2016

Data Sheet

Topic:

Approve Memorandum of Understanding between the City of Tomball, HCID 17, and Aqua Texas, Inc. regarding a Separate Interconnect Agreement to Purchase Water from Tomball during the Early Stages of Development in HCID 17, Until Such Time that HCID 17 Constructs a Stand-alone Water Plant to Serve Users in HCID 17, and Authorize the Mayor to Execute the Memorandum of Understanding on Behalf of the City of Tomball

Background:

BACKGROUND SUMMARY FOR MOU BETWEEN TOMBALL, HCID 17 AND AQUA

Harris County Improvement District #17 (HCID17) is a 642+ acre management district with municipal utility district powers, created in 2009 by the Texas Legislature. The district was created to facilitate and assist with the development of raw land just south of the City of Tomball. At the time of creation, about 70% of the land in HCID 17 was located in the City of Houston (Houston) Extra Territorial Jurisdiction (ETJ) and about 30% was in the City of Tomball (Tomball) ETJ. Approximately 150 acres of land in the District has been purchased by Harris County for development of a satellite campus to serve county residents in the northwestern portion of the County. Another significant portion of the land in HCID 17 is under contract or owned by affiliates of Nabors Industries.

Utility Service and CCN Background

No significant activity occurred in HCID 17 from its 2009 creation until 2014; and in late 2014, HCID 17 entered into a contract with Aqua Texas, Inc. (Aqua) to provide water and sewer services to land within HCID 17. As part of this contract, Aqua must apply for and receive a Certificate of Convenience and Necessity (CCN) from the Texas Public Utility Commission (PUC). Aqua applied for a CCN for the HCID 17 land area in March, 2015. In July, 2015, Tomball filed an objection to Aqua's CCN application, noting that the CCN area (HCID 17) was at least partially in Tomball's ETJ.

Shortly thereafter, Aqua, Tomball, and HCID 17 began discussing Aqua's CCN application and its impact on Tomball. Aqua's CCN application was voluntarily abated by agreement between Aqua and Tomball while these discussions were occurring. During the abatement period, discussions about Aqua's CCN application continued between Tomball, HCID 17, and Aqua.

In August, 2015, Aqua and HCID 17 met with representatives of Houston to discuss HCID 17's ETJ boundary and Aqua's CCN application. Following that meeting, Houston staff informally related its preference not to have Aqua's CCN within Houston's ETJ. However, Houston has not objected to Aqua's pending CCN application, nor has Houston consented to it.

In the fall of 2015, Aqua, Tomball, and HCID 17 mutually concluded that all parties would benefit from the Aqua CCN in HCID 17 if Aqua agreed to temporarily purchase water from Tomball, which Aqua is willing to do. The parties intended to enter into a MOU to memorialize their mutual agreement, but that MOU was temporarily tabled while discussions on Aqua's CCN application continued between HCID 17, Aqua, and Houston.

ETJ Background

Because HCID 17 is located with the ETJ of both Houston and Tomball, one of the two cities needs to be designated as the city with the responsibility to give certain consents, like approvals of bond sales. Representatives of Houston have noted that the HCID 17 area is not included in Houston's current short term or long term annexation or planning schedule, informally expressing reluctance to serve in that role.

Additionally, Commissioner Cagle, whose commissioner precinct serves this area, has expressed his preference that the county facility be in the Tomball ETJ. HCID 17 desires to accommodate that preference. In August of 2015, HCID 17 informally approached Tomball and Houston asking both entities to consider approval of an adjustment to the ETJ boundary line shared by both jurisdictions, in order to fulfill Commissioner Cagle's request. The request was favorably received by Tomball staff. Houston considered the ETJ adjustment, and Houston's legal department concluded that an adjustment was moot because HCID 17 had already elected to be in Houston's ETJ. Houston referenced HCID 17's Board of Directors meeting held on January 17, 2014, at which the board adopted a resolution designating Houston as its ETJ supervising entity pursuant to Sec. 54.0163 of the Texas Water Code, which is a statutory provision that allows special purpose districts like HCID17, whose boundaries include territory in more than one jurisdiction, to "designate" a jurisdiction from whom to seek certain statutorily required "consents" as needed. Houston's lawyers concluded that this 2014 action by the HCID 17 Board 2014 removed the HCID 17 land area from Tomball's ETJ and placed it all in Houston's ETJ.

In addition to the ETJ adjustment concerns, HCID 17 has been considering several annexation requests. In July, 2015, HCID 17 accepted nine annexation petitions for various parcels of land. Four of those parcels are partially located in Houston's ETJ, and five are not in any city's ETJ. HCID 17's counsel previously thought that all of these annexations needed to be approved by Houston, since it was the supervising entity; but Houston was reluctant to approve annexations outside of its ETJ and outside of its anticipated annexation or service area. Therefore, none of the annexation petitions were formally approved by the HCID 17 Board. However, recent research conducted by HCID 17 counsel has led to the conclusion that HCID 17 does not need Houston approval for annexations outside of Houston's ETJ. On Monday, February 1, 2016, HCID 17 formally approved the annexation of the parcels not in Houston's ETJ, thereby adding them to the District.

Current Status

It appears that it will be some time before the ETJ discussions between Houston, Tomball, and HCID 17 are completed. Technical, operational, and business considerations associated with the land development and planning within HCID 17 (including the annexed tracts) compels Aqua to move forward with its CCN application. Tomball's objection to the pending CCN application must be dealt with in order to move forward, including a contested hearing on Tomball's objection, if required. However, contested hearings can be avoided by entering into the MOU. Moreover, given that the HCID 17 land area is in the Houston ETJ pursuant to statute and the 2014 HCID 17 board action, Tomball's currently pending objection to Aqua's CCN application would likely be dismissed as moot. Therefore, a prudent course of action for Aqua, HCID 17, and Tomball is to enter into the MOU.

The MOU fundamentally provides that Aqua and/or HCID 17 (depending on who ultimately provides the utility service to the area) will enter into a separate interconnect agreement to purchase water from Tomball during the early stages of development in HCID 17. At such point in time that development and water usage by customers in HCID 17 warrants construction of a stand alone water plant within HCID 17 capable of serving all of the users in HCID 17, the plant will be built by HCID 17 and/or Aqua; and the interconnect agreement may become an emergency interconnect agreement providing Tomball, Aqua, and HCID 17 with back up water sources. Further, the MOU provides that Tomball will withdraw its objection to Aqua's CCN application, enabling Aqua to move forward with that application process, without the need for contested hearings with Tomball. Because of the mutually beneficial nature of the MOU, approval is recommended.

Origination:

HCID 17 and Aqua Texas, Inc.

Recommendation:

N/A

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

City Secretary

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other

ATTACHMENTS:

Memorandum of Understanding

HCID 17 ETJ Maps

City of Tomball Protest Letter

Tomball HCID 17 MOU Background Memo

**MEMORANDUM OF UNDERSTANDING FOR
THE ESTABLISHMENT OF A WATER AND SEWER CCN
FOR AQUA TEXAS, INC. IN HCID #17**

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF HARRIS §

This memorandum of understanding (MOU) is agreed upon as of the ____ day of _____, 2016, by and between the City of Tomball, a home rule municipal corporation located in Harris County, Texas ("Tomball"); Harris County Improvement District #17 (HCID #17), an improvement district consisting of 642 acres, more or less, located south of Alice Road and west of State Highway 249 in Tomball, Texas; and Aqua Texas, Inc., a Texas corporation with an office in Harris County, Texas ("Aqua").

WITNESSETH:

WHEREAS, HCID #17 is governmental entity with both management district and municipal utility district powers created in 2009 by the Texas Legislature to facilitate and assist with the development of raw land near Tomball by offering, providing, and financing roads, drainage, water, and wastewater, among other things; and

WHEREAS, HCID #17 is in contract with Aqua to own, install and operate the water distribution and supply, and wastewater collection and treatment systems for HCID #17, and in order for Aqua to fulfill the obligations of the contract must apply for a CCN (certificate of convenience and necessity) with the PUC (Public Utility Commission) to establish the service areas for water and sewer; and

WHEREAS, Aqua has filed an application with the PUC to amend Aqua's existing CCN to include HCID #17 in Aqua's service areas for water and sewer (the "Current CCN Application") and intends to file future CCN amendment applications for additional land annexed into HCID #17 and

WHEREAS, the water and sewer service areas included in the Current CCN Application were believed in good faith to be located in the extraterritorial jurisdiction of Tomball, and Tomball's staff submitted a letter objecting to the Current CCN Application based upon that good faith belief; and

WHEREAS, to facilitate the provision of water and wastewater service in HCID #17, and to enable Aqua to establish its CCN for HCID #17, the parties (Tomball, Aqua, and HCID #17) mutually agree in general to the following terms, some of which will be further detailed in future agreements:

1. HCID #17 and Aqua will present Tomball with a capital improvement plan regarding the development of HCID #17 along with the anticipated phased installation of roads, drainage, and utilities for the area covered by the Current CCN Application. Tomball shall review and comment on such plan; and Tomball, HCID #17, and Aqua shall jointly discuss Tomball's review and comments regarding such plan.
2. Tomball will withdraw its objection to the Current CCN Application.
3. After the PUC approves the Current CCN Application and after Aqua receives the required CCN, Aqua will negotiate in good faith with Tomball toward a contract wherein Aqua will purchase water on an interim basis from Tomball, such water to be used in the 642 +/- acre area constituting the initial portion of HCID #17. The take point of the water shall be through an air gap connection to Tomball's distribution system. The design and construction of the connection will be the responsibility of Aqua with review and approval of Tomball. Aqua may develop its own water supply once demand for this initial area makes construction of a system feasible or desirable to Aqua.
4. Prior to the date in which the PUC approves the Current CCN Application and Aqua receives the required CCN, HCID #17 will negotiate in good faith with Tomball toward a contract wherein HCID #17 will purchase water on an interim basis from Tomball, such water to be used in the 642 +/- acre area constituting the initial portion of HCID #17. The take point of the water shall be through an air gap connection to Tomball's distribution system. The design and construction of the connection will be the responsibility of HCID #17 with review and approval of Tomball. If a CCN is not granted to Aqua, HCID #17 may develop its own water supply once demand for this initial area makes construction of a system feasible or desirable to HCID #17.
5. After the interim period and after either Aqua or HCID #17 have developed and constructed its own water system, Aqua and/or HCID #17, and Tomball shall enter into an emergency interconnect agreement which enables the parties to purchase water from each other as needed, if such emergency interconnect is determined to be beneficial to Tomball, HCID #17, and/or Aqua. At such time, the ownership of the connection site and facilities of the air gap connection will transfer to Tomball for maintenance and operation.

City of Tomball

By: _____

Gretchen Fagan

Mayor

ATTEST:

Doris Speer
City Secretary

EXECUTED IN DUPLICATE ORIGINALS this _____ day of _____ 2016.

Harris County Improvement District #17

By: _____

ATTEST:

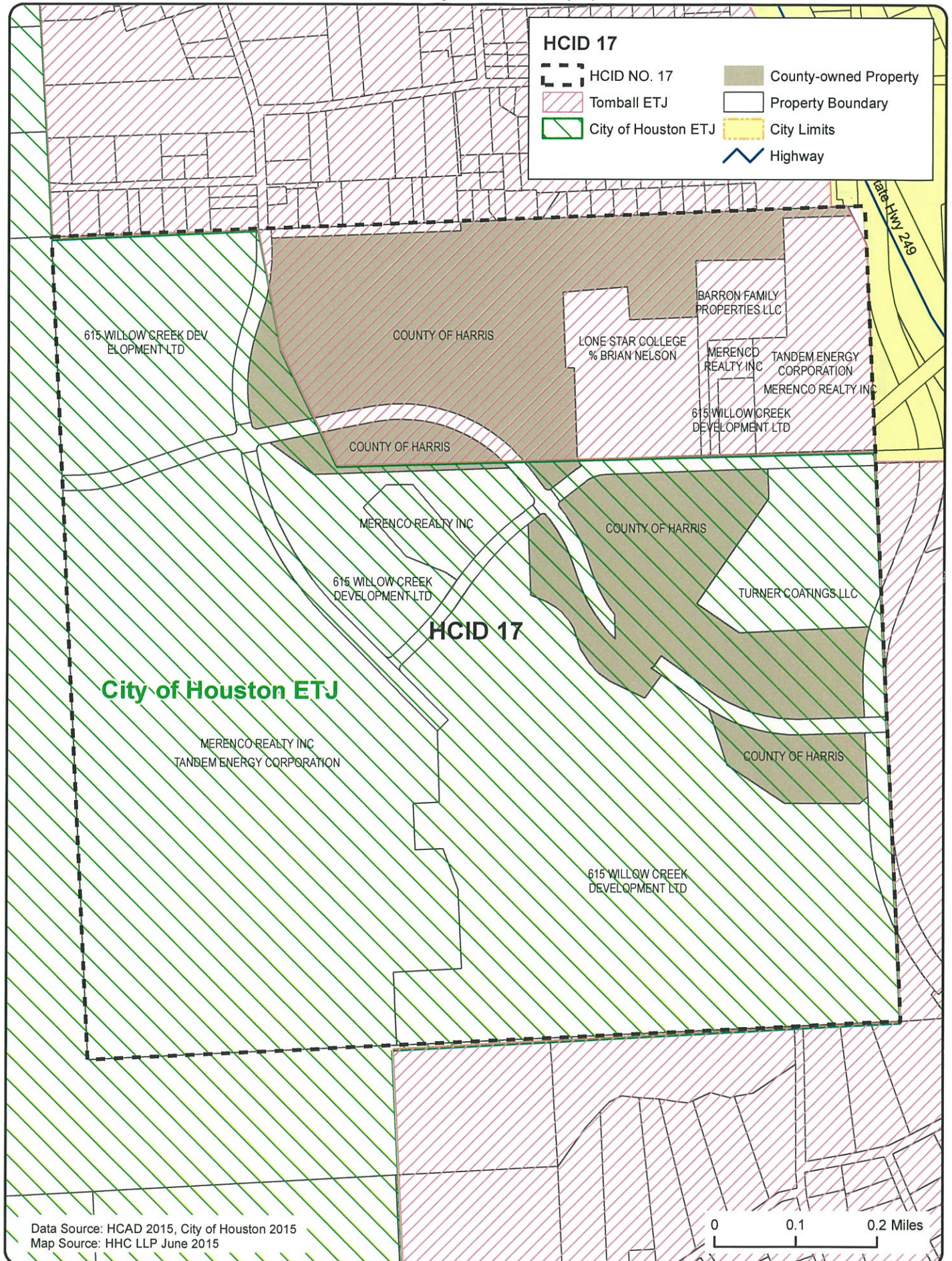
EXECUTED IN DUPLICATE ORIGINALS this _____ day of _____ 2016.

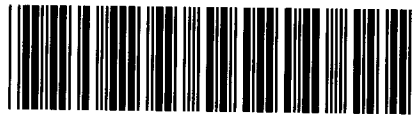
Aqua Texas, Inc.

By: Robert L. Laughman, President

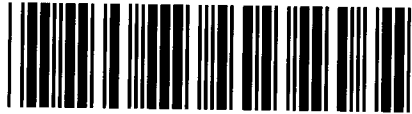
EXECUTED IN DUPLICATE ORIGINALS this _____ day of _____ 2016.

CURRENT 2/10/16



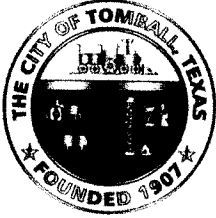


Control Number: 44534



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City of Tomball

Gretchen Fagan
Mayor

George Shackelford
City Manager

2015 JUL 27 AM 9:23

July 16, 2015

Public Utility Commission of Texas
Attention: Filing Clerk
1701 North Congress Avenue
Austin, Texas 78711-3326

Public Utility Commission of Texas
Attention: Filing Clerk
P.O. Box 13326
Austin, Texas 78711-3326

RE: Protest and Request for Public Hearing
CCN application No. 13203 and 21065 – water and sewer service

Protestor / Requestor of Public Hearing:

City of Tomball
David Esquivel, PE – Director of Public Works
501 James Street
Tomball, Texas 77375
281-290-1415 office
817-774-6313 cell
desquivel@tomballtx.gov

CCN Applicant:

Aqua Texas, Inc.
CCN Application – 13203 & 21065
Docket No. - 44534
Located in Harris County, Texas

I, David Esquivel, on behalf of the City of Tomball request a public hearing regarding the application for CCN (Certificate of Convenience and Necessity) by Aqua Texas, Inc. (CCN Numbers 13203 and 21065). The City of Tomball and its rate payers will be adversely affected with the approval of this application as presented. Approximately 126 acres of the proposed CCN permit numbers 13203 and 21065 encompass area within the City of Tomball's ETJ (extraterritorial jurisdiction). The City of Tomball provides utilities including water, sewer and natural gas; our rates as well as our impact fee structure are based and guided by the current and projected areas served. The City's master plans and projections must take into account the areas that are undeveloped within the City limits and the areas that lie within the ETJ. Projections for population growth, development, and the type of development including how to get the utilities to these areas are critical in setting the financial strategies in order to properly construct them. Requirements on developers to dedicate Right-of-Way (ROW) and follow infrastructure sizing guidelines are predicated by the long range Master Plan of the City based on service area. Changes within the service area will dramatically change the priority and selection of projects within the Capital Improvement Program (CIP) therefore changes the funds allotted for these facilities.

The approval and issuance of these CCN's will change and alter many years of the City's planning and capital expenditures that are spent which include these areas for service. The City of Tomball respectfully requests these applications to be tabled and a public hearing be held. The City of Tomball will withdraw the request for a public hearing if the CCN area is reduced and exclude areas located within the City of Tomball ETJ.

If you have any questions please do not hesitate to contact me at (281) 290-1415 or (817) 774-6313.

Sincerely,

David Esquivel, PE
Director of Public Works
City of Tomball

Attachment: CCN encroachment map, copy of notice letter & map

501 JAMES STREET • TOMBALL, TEXAS 77375 • 281-290-1491

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BACKGROUND SUMMARY FOR MOU BETWEEN TOMBALL, HCID 17 AND AQUA

Harris County Improvement District #17 (HCID17) is a 642+ acre management district with municipal utility district powers, created in 2009 by the Texas Legislature. The district was created to facilitate and assist with the development of raw land just south of the City of Tomball. At the time of creation, about 70% of the land in HCID 17 was located in the City of Houston (Houston) Extra Territorial Jurisdiction (ETJ) and about 30% was in the City of Tomball (Tomball) ETJ. Approximately 150 acres of land in the District has been purchased by Harris County for development of a satellite campus to serve county residents in the northwestern portion of the County. Another significant portion of the land in HCID 17 is under contract or owned by affiliates of Nabors Industries.

Utility Service and CCN Background

No significant activity occurred in HCID 17 from its 2009 creation until 2014; and in late 2014, HCID 17 entered into a contract with Aqua Texas, Inc. (Aqua) to provide water and sewer services to land within HCID 17. As part of this contract, Aqua must apply for and receive a Certificate of Convenience and Necessity (CCN) from the Texas Public Utility Commission (PUC). Aqua applied for a CCN for the HCID 17 land area in March, 2015. In July, 2015, Tomball filed an objection to Aqua's CCN application, noting that the CCN area (HCID 17) was at least partially in Tomball's ETJ.

Shortly thereafter, Aqua, Tomball, and HCID 17 began discussing Aqua's CCN application and its impact on Tomball. Aqua's CCN application was voluntarily abated by agreement between Aqua and Tomball while these discussions were occurring. During the abatement period, discussions about Aqua's CCN application continued between Tomball, HCID 17, and Aqua.

In August, 2015, Aqua and HCID 17 met with representatives of Houston to discuss HCID 17's ETJ boundary and Aqua's CCN application. Following that meeting, Houston staff informally related its preference not to have Aqua's CCN within Houston's ETJ. However, Houston has not objected to Aqua's pending CCN application, nor has Houston consented to it.

In the fall of 2015, Aqua, Tomball, and HCID 17 mutually concluded that all parties would benefit from the Aqua CCN in HCID 17 if Aqua agreed to temporarily purchase water from Tomball, which Aqua is willing to do. The parties intended to enter into a MOU to memorialize their mutual agreement, but that MOU was temporarily tabled while discussions on Aqua's CCN application continued between HCID 17, Aqua, and Houston.

ETJ Background

Because HCID 17 is located with the ETJ of both Houston and Tomball, one of the two cities needs to be designated as the city with the responsibility to give certain consents, like approvals

of bond sales. Representatives of Houston have noted that the HCID 17 area is not included in Houston's current short term or long term annexation or planning schedule, informally expressing reluctance to serve in that role. Additionally, Commissioner Cagle, whose commissioner precinct serves this area, has expressed his preference that the county facility be in the Tomball ETJ. HCID 17 desires to accommodate that preference.

In August of 2015, HCID 17 informally approached Tomball and Houston asking both entities to consider approval of an adjustment to the ETJ boundary line shared by both jurisdictions, in order to fulfill Commissioner Cagle's request. The request was favorably received by Tomball staff. Houston considered the ETJ adjustment, and Houston's legal department concluded that an adjustment was moot because HCID 17 had already elected to be in Houston's ETJ. Houston referenced HCID 17's Board of Directors meeting held on January 17, 2014, at which the board adopted a resolution designating Houston as its ETJ supervising entity pursuant to Sec. 54.0163 of the Texas Water Code, which is a statutory provision that allows special purpose districts like HCID17, whose boundaries include territory in more than one jurisdiction, to "designate" a jurisdiction from whom to seek certain statutorily required "consents" as needed. Houston's lawyers concluded that this 2014 action by the HCID 17 Board 2014 removed the HCID 17 land area from Tomball's ETJ and placed it all in Houston's ETJ.

In addition to the ETJ adjustment concerns, HCID 17 has been considering several annexation requests. In July, 2015, HCID 17 accepted nine annexation petitions for various parcels of land. Four of those parcels are partially located in Houston's ETJ, and five are not in any city's ETJ. HCID 17's counsel previously thought that all of these annexations needed to be approved by Houston, since it was the supervising entity; but Houston was reluctant to approve annexations outside of its ETJ and outside of its anticipated annexation or service area. Therefore, none of the annexation petitions were formally approved by the HCID 17 Board. However, recent research conducted by HCID 17 counsel has led to the conclusion that HCID 17 does not need Houston approval for annexations outside of Houston's ETJ. On Monday, February 1, 2016, HCID 17 formally approved the annexation of the parcels not in Houston's ETJ, thereby adding them to the District.

Current Status

It appears that it will be some time before the ETJ discussions between Houston, Tomball, and HCID 17 are completed. Technical, operational, and business considerations associated with the land development and planning within HCID 17 (including the annexed tracts) compels Aqua to move forward with its CCN application. Tomball's objection to the pending CCN application must be dealt with in order to move forward, including a contested hearing on Tomball's objection, if required. However, contested hearings can be avoided by entering into the MOU. Moreover, given that the HCID 17 land area is in the Houston ETJ pursuant to statute and the 2014 HCID 17 board action, Tomball's currently pending objection to Aqua's CCN application would likely be dismissed as moot. Therefore, a prudent course of action for Aqua, HCID 17, and Tomball is to enter into the MOU.

The MOU fundamentally provides that Aqua and/or HCID 17 (depending on who ultimately provides the utility service to the area) will enter into a separate interconnect agreement to purchase water from Tomball during the early stages of development in HCID 17. At such point in time that development and water usage by customers in HCID 17 warrants construction of a stand alone water plant within HCID 17 capable of serving all of the users in HCID 17, the plant will be built by HCID 17 and/or Aqua; and the interconnect agreement may become an emergency interconnect agreement providing Tomball, Aqua, and HCID 17 with back up water sources. Further, the MOU provides that Tomball will withdraw its objection to Aqua's CCN application, enabling Aqua to move forward with that application process, without the need for contested hearings with Tomball. Because of the mutually beneficial nature of the MOU, approval is recommended.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: March 7, 2016

Topic:

Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose:

- Sec. 551.071 - Private Consultation with Attorney in Closed Meeting Regarding pending litigation, to wit: C.A. No. 4:14-CV-3572; David Kaufman v. City of Tomball; In the United States District Court for the Southern District of Texas, Houston Division

Background:**Origination:**

City Manager

Recommendation:

N/A

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

City Secretary

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other

Regular City Council
Agenda Item
Data Sheet

Meeting Date: March 7, 2016

Topic:
Consideration and Possible Action regarding Settlement in C.A. No. 4:14-CV-3572; David Kauffman v. City of Tomball; in the United States District Court for the Southern District of Texas, Houston Division

Background:

Origination:
City Manager

Recommendation:
N/A

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

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed ☐ 1 st ☐ 2 nd	Other