

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



MONDAY, FEBRUARY 5, 2018

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, February 5, 2018 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 Randy Johnson, Carrell Street Baptist Church, Tomball

3.0 Pledges to U.S. and Texas Flags

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:

- Tracy Garcia – Completed Texas Registered Municipal Clerk Certification
- Doris Speer – Completed 3rd Texas Registered Municipal Clerk Re-Certification

6.0 Reports and Announcements

- February 10, 2018 – **2nd Saturday at the Depot**
- February 16, 2018 – Last date to file Application for Place on Ballot
- February 27, 2018 – ***Trailride Reception*** – 12 Noon at the Depot
- Tomball Police Department Annual Data Capture Report (SB 1074)
- March 10, 2018 – **2nd Saturday at the Depot**
- April 4-5, 2018 – **Shattered Lives Event** – Tomball High School
- April 14, 2018 – **2nd Saturday at the Depot**
- April 28, 2018 – **Lions Club Car Show 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 January 15, 2018 Regular Tomball City Council Meeting

8.0 Old Business:

- 8.1 Adopt, on Second Reading, Ordinance No. 2018-04, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Code of Ordinances by Amending Section 50-115(B)(2) by Requiring Refuse Areas to Have an Opaque Gate that Remains Closed At All Times Except When In Use and Adding Non-Conforming Language; Providing for Severability; Providing for a Penalty of an Amount Not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof, Making Findings of Fact; and Providing for Other Related Matters
- 8.2 Adopt, on Second Reading, Ordinance No. 2018-03R, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by Changing the Zoning District Classification of Approximately 5.8588 Acres of Land, Legally Described Lot 61 Block 1 Abandoned Animal Rescue Replat, within the City of Tomball, Harris County, Texas, from the Agricultural District to the General Retail District; Said Property being Generally Located on the North Side of East Hufsmith Road at Hospital Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an Amount Not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof, Making Findings of Fact; and Providing for Other Related Matters
- 8.3 Adopt, on Second Reading, Ordinance No. 2018-06, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by Granting a Conditional Use Permit (CUP) to Lance Langenhoven to Operate a “Mini-Warehouse/Self Storage” Facility at 419 East Hufsmith Road; Said Property being Approximately 5.8588 Acres, and being Legally Described as Lot 61 Block 1 Abandoned Animal Rescue Replat, within the City of Tomball, Harris County, Texas, Generally Located on the North Side of East Hufsmith Road at Hospital Road; Providing Requirements and Conditions for This CUP; Containing Findings and Other Provisions Relating to the Subject; Providing a Penalty in an Amount Not to Exceed \$2,000 for Violations Hereof; and Providing for Severability

9.0 New Business:

- 9.1 Consideration To Approve **Zoning Case P17-0115**; Request By Robert Allen

To Amend Chapter 50 (Zoning) Of The Tomball Code Of Ordinances By Rezoning Approximately 76.01 Acres Of Land Legally Described As A Portion Of Reserve "D" Reserve At Spring Lake-Section 2, Within The City Of Tomball, Harris County, Texas, Generally Located At The North End Of Spring Lake Boulevard, From the Agricultural District To The Single-Family 20 Estate District.

- Conduct Public Hearing on **Zoning Case P17-0115**
- Adopt, On First Reading, Ordinance No. 2017-36, An Ordinance Of The City Of Tomball, Texas, Amending Chapter 50 (Zoning) Of The Tomball Code Of Ordinances By Changing The Zoning District Classification Of Approximately 76.01 Acres Of Land, Legally Described Reserve "D" Reserve At Spring Lake-Section Two, Within The City Of Tomball, Harris County, Texas, From The Agricultural District To The Single-Family 20 Estate District; Said Property Being Generally Located At The North End Of Spring Lake Boulevard; Providing For The Amendment Of The Official Zoning Map Of The City; Providing For Severability; Providing For A Penalty Of An Amount Not To Exceed \$2,000 For Each Day Of Violation Of Any Provision Hereof, Making Findings Of Fact; And Providing For Other Related Matters.

- 9.2 Consider Abandonment of a City of Tomball Utility Easement and Adopt, on First Reading, Ordinance No. 2018-08, an Ordinance of the City of Tomball, Texas, Finding and Determining that the Public Convenience and Necessity No Longer Require the Continued Existence of a Certain Portion of a City of Tomball Utility Easement across a Certain 0.007 Acre Tract of Land Being Out of and a Part of the John M. Hooper Survey, A-375, Tomball, Harris County, Texas and Being out of the Partial Replat of Tomball Marketplace, Lot 2, the Map of Which is Recorded in Film Code No. 639076 of the Map Records of Harris County, Texas, Located in the City of Tomball, Texas; Vacating, Abandoning, and Closing Said Portion of Such City of Tomball Utility Easement; Authorizing the City Manager to Execute and the City Secretary to Attest a Quitclaim Deed Quitclaiming the City's Interest in Said Abandoned Easement; and Containing Other Provisions Relating to the Subject
- 9.3 Discussion and Possible Action regarding Request by Julia Blake for "Sundays in Tomball Arts & Crafts Market and Farmstand"
- 9.4 Approve Request by The Tomball Rotary Club for City Support and In-Kind Services for the 49th Annual Fish Fry at the Tomball Depot, to be Held on Saturday, April 21, 2018, from 4:00 p.m. to 8:00 p.m.
- 9.5 Award Bid for RFP No. 2018-07, Soliciting Requests for Proposal (RFP) from Qualified Firms or Individuals to Act as Primary Vendor for the Sales of Beer and Wine at City Signature Festivals to Cisco's Salsa Company
- 9.6 Award Contract for Project No. 2017-11 for the Installation of Steel Welded Water Line across the Bridge on Zion Road for the Water Line Extension Project 2017-10009 to WadeCon, LLC in the Amount of \$54,960.00
- 9.7 Award Contract for Project No. 2018-08 for Improvements to the M121-00-00 Drainage Channel and Installation of Culverts at Theis Road Project 2003-10005 to Rebel Contractors, Inc. in the Amount of \$1,307,551.50
- 9.8 Consideration and Possible Approval to Extend Agreement between the City of Tomball and Redflex Traffic Systems for the Red Light Photo Enforcement

Program

- 9.9 Discussion and Possible Action regarding Councilmembers Serving on the Tomball Economic Development Board
- 9.10 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(s):
- Sec. 551.074 - Personnel Matters: Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee – City Manager
- 10.0 Adjournment

C E R T I F I C A T I O N

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 1st day of February 2018 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: February 5, 2018

Topic:

- Led by Pastor Randy Johnson, Carrell Street Baptist Church, Tomball

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: February 5, 2018

Topic:

- Tracy Garcia – Completed Texas Registered Municipal Clerk Certification
- Doris Speer – Completed 3rd Texas Registered Municipal Clerk Re-Certification

Background:

Tracylynn Garcia, Assistant City Secretary, has completed her certification as a Texas Registered Municipal Clerk and Doris Speer, City Secretary, has completed her third recertification as a Texas Registered Municipal Clerk through the Texas Municipal Clerks Certification Program.

The Texas Municipal Clerks Certification Program is the only university-level professional education program for city clerks and city secretaries in Texas, and is the third oldest of such programs in the country. Administered by the Texas Municipal Clerks Certification Program located at the University of North Texas, and by the Texas Municipal Clerks Association, Inc., the certification program is recognized by the International Institute of Municipal Clerks. Through the years many changes have occurred, improving the program and increasing public recognition. The 69th Texas Legislature adopted H.B. 2092, which gives State sanction of the Program and provides that certification will be issued to each person who successfully completes the program. H.B. 2092 also requires persons who are Registered Municipal Clerks in Texas recertify every five years.

The Texas Municipal Clerks Certification Program provides current insight into such areas as public relations, interpersonal communications, and community organization which will improve on-the-job ability and enhance the clerk personally and individually. Increasing personal awareness, flexibility, knowledge, and innovations result in new professionalism. Successful completion of TMCCP requires approximately 200 hours of individual home study and written homework; examinations over each of the four courses; and attendance at eight two-day seminars. Recertification requires an additional 80 hours of professional development course work every five years, including attendance at six two-day seminars and a selection of educational opportunities to earn points towards recertification. Currently, hundreds of municipal clerks are enrolled in TMCCP and are working toward certification or recertification.

As of 2017, 801 enrollees have completed the extensive three-year certification program.

Origination:

City Secretary

Recommendation:

N/A

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

City Secretary

ACTION TAKEN		
Approval ☐ Yes ☐ No	Readings Passed	Other

ATTACHMENTS:

- Tracy Garcia – Completed Texas Registered Municipal Clerk Certification
- Doris Speer – Completed 3rd Texas Registered Municipal Clerk Re-Certification

Texas Municipal Clerks Certification Program
at the
University of North Texas
Awards this
Certificate of Graduation
to

Tracylynn Garcia

signifying satisfactory completion of the prescribed course of study

In testimony whereof we have hereunto set our hands and the official seal.

Presented this 25th day of January, 2018



Texas Registered
Municipal Clerk No. 854
Recertification Date: 12/31/2022

Marc Baethge
President, Texas Municipal Clerks Association, Inc.
Quayle
Chair, Certification Committee
Education Director, Texas Municipal Clerks Certification Program

Texas Municipal Clerks Certification Program
at the
University of North Texas
Awards this
Certificate of Recertification
to

Doris J. Speer

signifying satisfactory completion of the prescribed course of study

In testimony whereof we have hereunto set our hands and the official seal.

Presented this 25th day of January, 2018



Texas Registered
Municipal Clerk No. 433
Recertification Date: 12/31/2022

Marcie Baethrop
President, Texas Municipal Clerks Association, Inc.
Julie Holt
Chair, Certification Committee
Education Director, Texas Municipal Clerks Certification Program

Regular City Council
Agenda Item
Data Sheet

Meeting Date: February 5, 2018

Topic:

- February 10, 2018 – **2nd Saturday at the Depot**
- February 16, 2018 – Last date to file Application for Place on Ballot
- February 27, 2018 – ***Trailride Reception*** – 12 Noon at the Depot
- Tomball Police Department Annual Data Capture Report (SB 1074)
- March 10, 2018 – **2nd Saturday at the Depot**
- April 4-5, 2018 – **Shattered Lives Event** – Tomball High School
- April 14, 2018 – **2nd Saturday at the Depot**
- April 28, 2018 – **Lions Club Car Show 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:

Notice of First day to Apply for Place on Ballot for the May 5, 2018 City General Election
Tomball Police Department Annual Data Capture Report (SB 1074)

NOTICE OF DEADLINE TO FILE APPLICATIONS FOR PLACE ON THE BALLOT
(AVISO DE FECHA LÍMITE PARA PRESENTAR SOLICITUDES PARA UN LUGAR EN LA BOLETA)
(THÔNG BÁO VỀ THỜI HẠN NỘP ĐƠN XIN GHI DANH TRÊN LÁ PHIẾU)
(申請選票席位 截止日期通知)

Notice is hereby given that applications for a place on the May 5, 2018 City of Tomball, Texas General Election ballot may be filed during the following time:
(Se da aviso por la presente que las solicitudes para un lugar en la boleta de la Elección General de la Ciudad de Tomball, Tejas de 5 de mayo de 2018 se pueden presentar durante el siguiente horario:)
(Theo đây xin thông báo quý vị có thể nộp đơn xin ghi tên tranh cử trên lá phiếu cho Cuộc Tổng Tuyển Cử của Thành Phố Tomball, Texas ngày 5 tháng Năm, 2018 vào ngày giờ sau đây:)
(特此通知, 申請 2018 年 5 月 5 日 Texas 州 Tomball 市 普通選舉之選票席位可於以下期間辦理登記:)

Filing Dates and Times:

(Fechas y Horario para Entregar Presentaciones):

(Ngày giờ nộp đơn):

(登記日期和时间):

Start Date: January 17, 2018

(Fecha Inicio): 17 de enero de 2018

(Ngày bắt đầu: 17 tháng Một, 2018)

(開始日期): 2018 年 1 月 17 日

End Date: February 16, 2018

(Fecha Limite): 16 de febrero de 2018

(Ngày kết thúc): 16 tháng Hai, 2018

(截止日期): 2018 年 2 月 16 日

Office Hours: Monday-Thursday: 7:45 a.m.-5:00 p.m.; Friday: 7:45 a.m.-4:00 p.m.

Horario de la Oficina: Lunes-Jueves: 7:45 a.m.-5:00 p.m.; Viernes: 7:45 a.m.-4:00 p.m.

Giờ làm việc: Thứ Hai - thứ Năm, 7:45 a.m.-5:00 p.m.; thứ Sáu: 7:45 a.m.-4:00 p.m.

辦公時間: 週一至週四: 上午 7:45 - 下午 5:00; 週五: 上午 7:45 - 下午 4:00

Physical address for filing applications in person for place on the ballot:

(Dirección a física para presentar las solicitudes en persona para un lugar en la boleta):

(Địa chỉ tiếp nhận đơn xin nộp trực tiếp):

(親自辦理選票席位申請地址):

City Secretary	La Secretaria de la Ciudad	Thư Ký Thành Phố	市秘書
City of Tomball, Texas	La Ciudad de Tomball, Tejas	Thành phố Tomball, Texas	Texas 州 Tomball 市
401 Market Street	401 Market Street	401 Market Street	401 Market Street
Tomball, Texas 77375	Tomball, Texas 77375	Tomball, Texas 77375	Tomball, Texas 77375

Address to mail applications for place on the ballot (if filing by mail):

(Dirección a donde enviar las solicitudes para un lugar en la boleta (en caso de presentar por correo))

(Địa chỉ nhận đơn xin gửi qua thư bưu điện (nếu nộp qua thư)):

(郵寄辦理選票席位申請地址 (如郵寄申請)):

City Secretary	Secretaria de la Ciudad	Thư Ký Thành Phố	市秘書
City of Tomball, Texas	La Ciudad de Tomball, Tejas	Thành phố Tomball, Texas	Texas 州 Tomball 市
401 Market Street	401 Market Street	401 Market Street	401 Market Street
Tomball, Texas 77375	Tomball, Texas 77375	Tomball, Texas 77375	Tomball, Texas 77375

Doris Speer, City Secretary/Secretaria de la Ciudad/

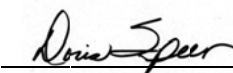
Thư Ký Thành Phố/市秘書

Printed Name of Filing Officer

(Nombre en letra de molde del Oficial de Archivos)

(Tên viết bằng chữ in của viên chức phụ trách thủ tục nộp đơn xin)

(登記官印刷體姓名)



Signature of Filing Officer

(Firma del Oficial de Archivos)

(Chữ ký của viên chức phụ trách thủ tục nộp đơn xin)

(登記官簽名)

December 4, 2017/4 de diciembre de 2017/

Ngày 4 tháng Mười Hai, 2017/2017 年 12 月 4 日

Date Posted (Fecha archivada) (Ngày đăng) (发布日期)

TOMBALL POLICE DEPARTMENT

ANNUAL CONTACT DATA REPORT



2017

POLICE CONTACT DATA

Tomball Police Department

Mission Statement

The mission of the Tomball Police Department is to protect and serve the citizens of Tomball. As members of the Tomball Police Department, we dedicate ourselves to providing fair impartial and ethical police service to all members of the community with the highest degree of integrity, professionalism and respect.

Oath of Honor

On my Honor I will never betray my Profession, my integrity, my Character, or the Public trust. I will always have the courage to hold myself and others accountable for our actions. I will always uphold the Constitution, my community, and the Agency I serve.



PRESS RELEASE
#010410
TOMBALL POLICE DEPARTMENT



400 Fannin, Tomball, Texas 77375
(281) 351-5451 Fax: (281) 351-2615

For Immediate Release

Date: January 16, 2018
Contact: Billy Tidwell, Chief of Police
Phone: (281) 351-5451, ext 1302

“Citizen Input: Senate Bill 1074 - Racial Profiling”

The 77th Texas Legislature enacted Senate Bill 1074, prohibiting the practice of racial profiling. This legislation went into effect in January of 2002, and in part requires law enforcement agencies to seek input from the community.

The Tomball Police Department has a long history of working in partnership with members of the community, and we continually strive to excel at our mission of delivering the highest quality police service to all – in a fair and impartial manner. To that end, and as a means of assessing our effectiveness in policy development and employee training, we are always eager to receive public feedback regarding our service delivery.

Anyone with questions or concerns related to Senate Bill 1074 should contact Chief Billy Tidwell, at 281-351-5451, ext.1302. General comments praising our officer's efforts or expressing concerns may be directed to any department supervisor in person, by telephone (281-351-5451), or via our website (tomballtx.gov).

The Tomball Police Department is very proud of the relationship we enjoy with our community and we value your perspective, comments, and support.

CHART I

2017 Activity

DEMOGRAPHICS:

	NUMBER	PERCENTAGE
HISPANIC	9,555	24.30%
WHITE	23,751	60.36%
BLACK	3,550	9.01%
ASIAN	1,583	4.01%
AMERICAN INDIAN	146	0.37%
MIDDLE EASTERN	0	0.00%
OTHER	766	1.95%
TOTAL	39,351	100%

** NUMBER OBTAINED FROM THE U.S. CENSUS 2010 Demographic Profile Data for 77375

CONTACTS:

	CITATIONS	PERCENTAGE
HISPANIC	900	20.60%
WHITE	2,749	62.90%
BLACK	630	14.40%
ASIAN	64	1.50%
AMERICAN INDIAN	1	0.02%
MIDDLE EASTERN	26	0.60%
OTHER	4	0.10%
TOTAL	4,374	100%

** CITATIONS COUNT OBTAINED FROM TOMBALL RACIAL PROFILING DATA AND TOMBALL MUNICIPAL COURTS

ARRESTS:

	ARREST/RESULT OF STOP	PERCENTAGE ARRESTED
HISPANIC	3	5%
WHITE	50	82%
BLACK	8	13%
ASIAN	0	0%
AMERICAN INDIAN	0	0%
MIDDLE EASTERN	0	0%
OTHER	0	0%
TOTAL	61	100%

**NUMBERS OBTAINED FROM TOMBALL RACIAL PROFILE DATA RECORDS

CHART II

2017 Activity

SEARCHED:

	NUMBER SEARCHED	PERCENTAGE OF TOTAL
HISPANIC	8	8.00%
WHITE	79	75.00%
BLACK	17	16.00%
ASIAN	1	1.00%
AMERICAN INDIAN	0	0.00%
MIDDLE EASTERN	0	0.00%
OTHER	0	0.00%
TOTAL	105	100%

**INFORMATION RECORDED ON CITATIONS, NUMBERS OBTAINED FROM TOMBALL RACIAL PROFILING DATA.

SEARCHED - COMPARISON:

	CONSENSUAL SEARCH		PC/SEARCH	
HISPANIC	7	11.00%	1	2.50%
WHITE	49	75.00%	30	75.00%
BLACK	9	14.00%	8	20.00%
ASIAN	0	0.00%	1	2.50%
AMERICAN INDIAN	0	0.00%	0	0.00%
MIDDLE EASTERN	0	0.00%	0	0.00%
OTHER	0	0.00%	0	0.00%
TOTAL	65	100%	40	100%

**INFORMATION OBTAINED FROM TOMBALL RACIAL PROFILE DATA RECORDS. *PC-PROBABLE CAUSE

	YES	NO
ETHNICITY KNOWN BEFORE STOP?	74	4300

TIER 1- PARTIAL EXEMPTION RACIAL PROFILING REPORT

Agency Name: TOMBALL POLICE DEPARTMENT

Reporting Date: 01/16/2018

**TCOLE Agency 201228
Number:**

Chief Administrator: BILLY TIDWELL

Agency Contact: Email: btidwell@tomballtx.gov

Information: TOMBALL POLICE DEPARTMENT
400 Fannin St
Tomball TX. 77375

This Agency claims partial racial profiling report exemption because:

Our vehicles that conduct motor vehicle stops are equipped with video and audio equipment and we maintain videos for 90 days

Certification to This Report 2.132 (Tier 1) - Partial Exemption

Article 2.132 (b) CCP Law Enforcement Policy on Racial Profiling

TOMBALL POLICE DEPARTMENT, has adopted a detailed written policy on racial profiling. Our Policy

- 1) Clearly defines acts constituting racial profiling;
- 2) Strictly prohibits peace officers employed by the TOMBALL POLICE DEPARTMENT. From engaging in racial profiling;
- 3) Implements a process by which an individual may file a complaint with the TOMBALL POLICE DEPARTMENT. If the individual believes that a peace officer employed by the TOMBALL POLICE DEPARTMENT. has engaged in racial profiling with respect to the individual;
- 4) Provides public education relating to the agency's complaint process: **PRESS RELEASE**
- 5) Requires appropriate corrective action to be taken against a peace officer employed by the TOMBALL POLICE DEPARTMENT. who after an investigation, is shown to have engaged in racial profiling in violation of the TOMBALL POLICE DEPARTMENT'S policy adopted under this article;

- 6) Requires collection of information relating to motor vehicle stops in which a citation is issued and to arrest made as a result of the individual detained.
 - a) (B) whether a search was conducted and if so, whether the individual detained consented to the search and
 - b) (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
- 7) require the Chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed , to submit an annual report of the information collected under Subdivision(6) to:
 - a) the commission on Law Enforcement Officer Standards and Education; and
 - b) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

I certify these policies are in effect.

Executed by: Billy Tedwell

Chief of Police

TOMBALL POLICE DEPARTMENT

Date: 1/16/2018

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 5, 2018

Topic:

Approve the Minutes of the January 15, 2018 Regular Tomball City Council Meeting

Background:

Origination:

City Secretary

Recommendation:

N/A

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

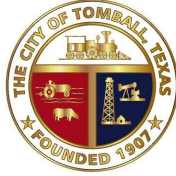
City Secretary

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

ATTACHMENTS:

Draft Minutes of the January 15, 2018 Regular Tomball City Council Meeting

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



**MONDAY, JANUARY 15, 2018
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 Ford
Councilman Stoll
Councilman Degges
Councilman Townsend

Members absent:

Councilman Klein Quinn - Excused

Others present:

City Manager – George Shackelford
Assistant City Manager – Rob Hauck
City Secretary – Doris Speer
City Attorney – Loren Smith
Fire Chief – Randy Parr
Assistant Fire Chief – Jonathon Fontenot
Fire Marshal – Joe Sykora
Marketing Director – Mike Baxter
HR Director – Lisa Coe
Director of Public Works – David Esquivel
Director of Community Development – Craig Meyers
City Engineer – Beth Jones
City Planner – Amelia Lindley
Assistant City Secretary – Tracy Garcia
Community Events Coordinator – Denise Fiore
Community Center Director – Rosalie Dillon
Warrant Officer/Bailiff – Ron McGullion

2.0 The invocation was led by Pastor Jason Nelson, Rose Hill United Methodist Church, Tomball.

3.0 The pledges to the U. S. and Texas flags were led by Rob Hauck.

4.0 No public comments were received.

5.0 Reports and Announcements:

- January 17, 2018– First day to apply for Place on Ballot for the May 5, 2018 City General Election
- February 10, 2018 – **2nd Saturday at the Depot**
- February 16, 2018 – Last date to file Application for Place on Ballot
- February 27, 2018 – **Trailride Reception** – 12 Noon at the Depot
- March 10, 2018 – **2nd Saturday at the Depot**
- TBA – **Shattered Lives Event** – Concordia Lutheran High School
- April 7, 2018 – **7th Annual 5K Bunny Run and 1 Mile Kids Walk**
- April 14, 2018 – **2nd Saturday at the Depot**
- April 28, 2018 – **Lions Club Car Show at the Depot**
- Reports by City staff and members of council about items of community interest on which no action will be taken:
 - Jonathan Fontenot presented a report on the success of the Fire Department **Holiday** Programs

6.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the Minutes of the January 2, 2018 Regular Tomball City Council Meeting and the January 8, 2018 Special Tomball City Council Meeting.

Motion carried unanimously.

7.0 Old Business:

7.1 Motion was made by Councilman Stoll, second by Councilman Townsend, to adopt, on Second Reading, Ordinance No. 2018-01, an Ordinance of the City of Tomball, Texas, Extending the City Limits of Said City to Include all of the Territory within Certain Limits and Boundaries and Annexing to the City of Tomball all of the Territory within Such Limits and Boundaries; Approving a Service Plan for all of the Area within Such Limits and Boundaries; Containing Other Provisions Relating to the Subject; and Providing a Savings and Severability Clause (Remaining Portion of Tract 1: 0.5968 Acre of Land Situated in the Chauncey Goodrich Survey, Abstract Number 311, City of Tomball, Harris County, Texas, Being a Portion of that Certain Called 9.4852 Acres of Land Described in Deed and Recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number RP-2016-317524; Located within the Extraterritorial Jurisdiction of the City of Tomball, Texas) [Majed, Inc.]. Vote was as follows:

Councilman Ford	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Degges	<u>Aye</u>

Councilman Townsend
Councilman Klein Quinn

Aye
Absent

Motion carried unanimously.

8.0 New Business:

- 8.1 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the request by the Spring/Woodlands-based Rumble Cats Classic Car Club for Use of the Depot Festival Area for Its Annual “Rally in the Alley” Car Show, to be held on Saturday, March 3, 2018, from 7 a.m. to 5 p.m.

Motion carried unanimously.

- 8.2 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the request by Tomball United Methodist Church for Use of the Tomball Depot Area to Host a Fee community Easter egg hunt on Saturday, March 31, 2018 from 2:00 p.m.–4:30 p.m. and Approve In-Kind Support by the City of Tomball for the Event.

Motion carried unanimously.

- 8.3 Motion was made by Councilman Townsend, second by Councilman Degges, to approve Resolution No. 2018-03, a Resolution of the City Council of the City of Tomball, Texas, Supporting the Annual Baseball Parade, to be held in Tomball on Saturday, March 3, 2018

- 8.4 Consideration and Possible Action regarding **Zoning Case P17-0145** Request by the City of Tomball to amend Sections 50-115 of the Tomball Code of Ordinances in regards to refuse areas.

- Mayor Pro Tem Klein Quinn called the Public Hearing to order at 6:12 p.m. for **Zoning Case P17-0145**.

Receiving no public comments, Mayor Pro Tem Klein Quinn closed the Public Hearing at 6:12 p.m.

- Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2018-04 by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Townsend, second by Councilman Ford, to adopt, on First Reading, Ordinance No. 2018-04, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Code of Ordinances by

Amending Section 50-115(B)(2) by Requiring Refuse Areas to have a Gate that remains Closed at all Times Except when in Use and Adding Non-Conforming Language; Providing for Severability; Providing for a Penalty of an Amount Not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof, Making Findings of Fact; and Providing for Other Related Matters.

Motion to AMEND was made by Councilman Townsend, second by Councilman Ford, to adopt, on First Reading, Ordinance No. 2018-04, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Code of Ordinances by Amending Section 50-115(B)(2) by Requiring Refuse Areas to have a Gate that remains Closed at all Times Except when in Use and Adding Non-Conforming Language; Providing for Severability; Providing for a Penalty of an Amount Not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof, Making Findings of Fact; and Providing for Other Related Matters by clarifying the term “in use” to include when being used for filling, emptying, cleaning or maintenance. Vote was as follows:

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

Motion, as AMENDED, carried unanimously.

- 8.5 Consideration and Possible Action regarding **Zoning Case P17-0137**: Request by Lance Langenhoven to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 5.8588 acres of land legally described as Lot 61 Block 1 Abandoned Animal Rescue Replat within the City of Tomball, Harris County, Texas, generally located on the north side of East Hufsmith at Hospital Road, from the Agricultural District to the General Retail District.

- Mayor Pro Tem Klein Quinn called the Public Hearing to order at 6:35 p.m. for **Zoning Case P17-0137**. The following public comments were received:

Denise Hammond 12123 Cathy Dr., 77065	-	Expressed her support for the proposed zoning change.
Carole Fisher 23010 Rosewood Tr, 77377	-	Did not wish to speak, but asked that her support for the proposed zoning change be read into the record.

- | | | |
|---|---|---|
| Debbie Allison
1303 Cambourne Cir, 77379 | - | Did not wish to speak, but asked that her support for the proposed zoning change be read into the record. |
| Karen Pitcock
8831 Vista Springs, 77379 | - | Expressed her support for the proposed zoning change. |
| Carrie Rand
18910 Winding Atwood, 77377 | - | Expressed her support for the proposed zoning change. |
| Lisa Daniels
403 Epps, 77375 | - | Expressed her support for the proposed zoning change. |
| Carol Sellers
14227 Orion, 77375 | - | Expressed her support for the proposed zoning change. |
| James Gordon
1100 Graham Drive, 77375 | - | Expressed his support for the proposed zoning change. |
| Mike Perez
17 Royal King, 77377 | - | Expressed his support for the proposed zoning change. |
| Cameo Bua-Clements
2 Rolling Glen, 77375 | - | Expressed her support for the proposed zoning change. |
| Toby Greenberg
10300 Cypresswood, 77070 | - | Expressed her support for the proposed zoning change. |
| Sandra Oliver
37842 Clubhouse, 77355 | - | Expressed her support for the proposed zoning change. |
| Yvonne Bosley
19 Ricegrass Pl, 77389 | - | Expressed her support for the proposed zoning change. |
| Marla McNeilly
28203 Hickory Ct., 77355 | - | Expressed her support for the proposed zoning change. |
| Billie Jouett
12211 Woody Hollow, 77375 | - | Expressed her support for the proposed zoning change. |
| Mary White
14723 Daubern Ct., 77429 | - | Expressed her support for the proposed zoning change. |

Denise Oliphant - Expressed her support for the proposed
202 Saddlebrook Ln, 77375 zoning change.

Receiving no additional public comments, Mayor Pro Tem Klein Quinn closed the Public Hearing at 6:47 p.m.

- Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2018-03R by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Stoll, second by Councilman Ford, to adopt, on First Reading, Ordinance No. 2018-03R, An Ordinance Of The City Of Tomball, Texas, Amending Chapter 50 (Zoning) Of The Tomball Code Of Ordinances By Changing The Zoning District Classification Of Approximately 5.8588 Acres Of Land, Legally Described Lot 61 Block 1 Abandoned Animal Rescue Replat, Within The City Of Tomball, Harris County, Texas, From The Agricultural District To The **General Retail** District; Said Property Being Generally Located On The North Side Of East Hufsmith Road At Hospital Road; Providing For The Amendment Of The Official Zoning Map Of The City; Providing For Severability; Providing For A Penalty Of An Amount Not To Exceed \$2,000 For Each Day Of Violation Of Any Provision Hereof, Making Findings Of Fact; And Providing For Other Related Matters. Vote was as follows:

Councilman Ford	<u>Aye</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.

- 8.6 Consideration and Possible Action regarding **Zoning Case P17-0166**: Request by Lance Langenhoven for a Conditional Use Permit to operate a mini-warehouse/self-storage facility at 419 E. Hufsmith Road. The property is approximately 5.8588 acres, legally described as Lot 61 Block 1 Abandoned Animal Rescue Replat within the City of Tomball, Harris County, Texas, generally located on the north side of East Hufsmith at Hospital Road, and is zoned Agricultural District.

- Mayor Pro Tem Klein Quinn called the Public Hearing to order at 6:58 p.m. for **Zoning Case P17-0166**.

Receiving no public comments, Mayor Pro Tem Klein Quinn closed the Public Hearing at 6:59 p.m.

- Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2018-06 by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on First Reading, Ordinance No. 2018-06, An Ordinance Of The City Of Tomball, Texas, Amending Chapter 50 (Zoning) Of The Tomball Code Of Ordinances By Granting A Conditional Use Permit (CUP) To Lance Langenhoven To Operate A “Mini-Warehouse/Self Storage” Facility At 419 East Hufsmith Road; Said Property Being Approximately 5.8588 Acres, And Being Legally Described As Lot 61 Block 1 Abandoned Animal Rescue Replat, Within The City Of Tomball, Harris County, Texas, Generally Located On The North Side Of East Hufsmith Road At Hospital Road; Providing Requirements And Conditions For This CUP; Containing Findings And Other Provisions Relating To The Subject; Providing A Penalty In An Amount Not To Exceed \$2,000 For Violations Hereof; And Providing For Severability. Vote was as follows:

Councilman Ford	<u>Aye</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.

- 8.7 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve Supplemental No. 1 to Gunda Corporation, LLC, in Reference to E&P Project 2014-10014 – Broussard Park Site Improvements, in the Amount of \$126,748.00.

Motion carried unanimously.

- 8.8 Motion was made by Councilman Townsend, second by Councilman Stoll, to reject Bids for Project No. 2018-03 and Award BuyBoard Contract to John Deere for the Purchase of One (1) Compact Track Loader with Breaker, Hydro-Axe, 6-Way Blade, Auger and Bucket Attachments, in the Amount of \$119,112.42.

Motion carried unanimously.

- 8.9 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve Supplemental No. 1 to Freese & Nichols in Reference to E&P Project 2017-10002 – Critical Needs Improvements for the North and South Wastewater Treatment Plants, in the Amount of \$125,206.00.

Motion carried unanimously.

- 8.10 Executive Session: The City Council recessed at 7:06 p.m. to meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.074 - Personnel Matters: Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee – City Manager

Upon reconvening into regular session at 7:32 p.m., no action was taken.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this the 5th day of February 2018.

Doris Speer, TRMC, MMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council
Agenda Item
Data Sheet

Meeting Date: February 5, 2018

Topic:

Adopt, on Second Reading, Ordinance No. 2018-04, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Code of Ordinances by Amending Section 50-115(B)(2) by Requiring Refuse Areas to Have an Opaque Gate that Remains Closed At All Times Except When In Use and Adding Non-Conforming Language; Providing for Severability; Providing for a Penalty of an Amount Not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof, Making Findings of Fact; and Providing for Other Related Matters

Background:

Origination:

Community Development Department

Recommendation:

Approval

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

Craig T. Meyers, Community Development Director

ACTION TAKEN

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

Ordinance No. 2018-04
P17-0145 Staff Report
Notice of Public Hearing

ORDINANCE NO. 2018-04

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE CODE OF ORDINANCES BY AMENDING SECTION 50-115(B)(2) BY REQUIRING REFUSE AREAS TO HAVE AN OPAQUE GATE THAT REMAINS CLOSED AT ALL TIMES EXCEPT WHEN IN USE AND ADDING NON-CONFORMING LANGUAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

WHEREAS, the City of Tomball has requested that Chapter 50 (Zoning) of the Code of Ordinances be amended;

WHEREAS, the Planning & Zoning Commission and the City Council of the City of Tomball, Texas, have published notice and conducted public hearings regarding the request to amend Chapter 50 (Zoning) of the Code of Ordinances;

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

Whereas, the Planning & Zoning Commission recommended in its final report that City Council approve amendments to Chapter 50 (Zoning) of the Code of Ordinances; and

Whereas, the City Council deems it appropriate to grant the amendments to Chapter 50 (Zoning) of the Code of Ordinances.

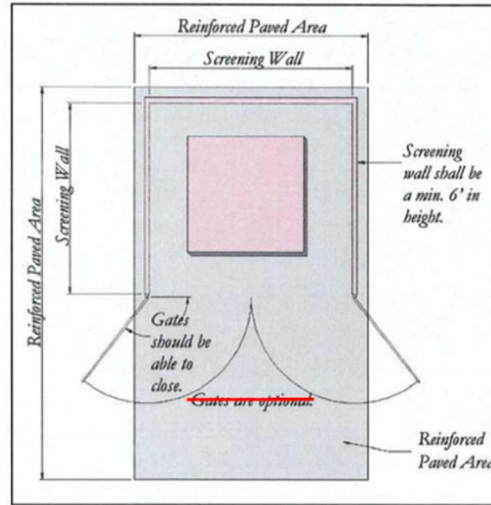
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, THAT:

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

Section 2. Section 50-115(b)(2) is hereby amended by the following:

Refuse areas which are not within a rear service area and which are visible from a public right-of-way for all nonresidential, multifamily and manufactured/mobile home park uses shall be visually screened by a minimum six-foot solid masonry wall on at least three sides (see Illustration 50-115-1 for refuse container enclosure diagrams). The fourth side, which is to be used for garbage pickup service, ~~may shall~~ provide an ~~opaque optional~~ gate to secure the refuse storage area **which shall remain closed at all times except when being used for filling, emptying, cleaning or maintenance**. Alternate equivalent screening methods may be approved by the city. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies. Adequate reinforced paved areas shall be provided for refuse facilities and their approaches for loading and unloading, as per Illustration 50-115-1. The standards within this section shall apply to **all new enclosures added to a site**, a waste/recycle dumpster or permanent roll-off added to a site and in the case of an addition

to a structure or site that alters such structure or site by greater than 25 percent in area. Any site that is deemed abandoned by Section 50-31 (c) shall comply with the provisions of this section.



Section 3. Chapter 50 (Zoning) of the Code of Ordinances shall be revised and amended as indicated above.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any other provision of Chapter 50 (Zoning) of the Code of Ordinances except as indicated above.

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

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

FIRST READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 15TH DAY OF JANUARY 2018.

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

SECOND READING:

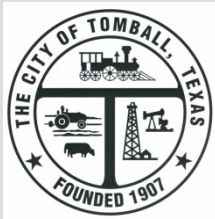
READ, PASSED, AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 5TH DAY OF FEBRUARY 2018.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN QUINN	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Text Amendment Staff Report

Planning and Zoning Commission Hearing Date: December 11, 2017
City Council Public Hearing Date: December 18, 2017

Zoning Case P17-0145: Request by the City of Tomball to amend Sections 50-115 of the Tomball Code of Ordinances in regards to refuse areas.

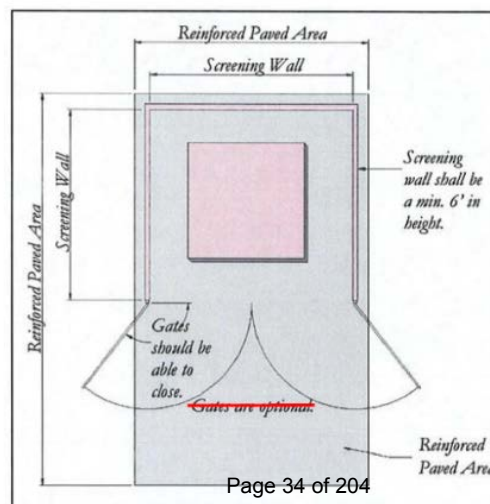
BACKGROUND

At the October 9, 2017 Planning and Zoning Commission Meeting, the Commission recommended approval a text amendment requiring all new dumpster enclosures be masonry with the recommendation that gates on all enclosures be mandatory, rather than optional.

At the October 16, 2017 City Council Meeting, City Council postponed the First Reading and directed City Staff to add language to the ordinance specifying thresholds for when expanding sites need to provide masonry trash enclosures. At the November 6, 2017 City Council Meeting, City Council approved the amended First Reading of the text amendment and directed City Staff to bring another text amendment requiring all new enclosures have gates that remain closed except when in use and add non-conforming language.

PROPOSED AMENDMENTS

Refuse areas which are not within a rear service area and which are visible from a public right-of-way for all nonresidential, multifamily and manufactured/mobile home park uses shall be visually screened by a minimum six-foot solid masonry wall on at least three sides (see Illustration 50-115-1 for refuse container enclosure diagrams). The fourth side, which is to be used for garbage pickup service, ~~may shall~~ provide an ~~opaque optional~~ gate to secure the refuse storage area ~~which shall remain closed at all times except when in use~~. Alternate equivalent screening methods may be approved by the city. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies. Adequate reinforced paved areas shall be provided for refuse facilities and their approaches for loading and unloading, as per Illustration 50-115-1. The standards within this section shall apply to ~~all new enclosures added to a site~~, a waste/recycle dumpster or permanent roll-off added to a site and in the case of an addition to a structure or site that alters such structure or site by greater than 25 percent in area. ~~Any site that is deemed abandoned by Section 50-31 (c) shall comply with the provisions of this section.~~



PUBLIC COMMENT

A public hearing notice was published in the Potpourri on November 29, 2017. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
CITY COUNCIL
JANUARY 15, 2018**



Notice is Hereby Given that a Public Hearing will be held by the City Council of the City of Tomball on **Monday, January 15, 2018, at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the City Council will consider the following:

Zoning Case P17-0145: Request by the City of Tomball to amend Sections 50-115 of the Tomball Code of Ordinances in regards to refuse areas.

At the public hearings, parties of interest and citizens will have the opportunity to be heard. All citizens of the City of Tomball, and any other interested parties, are invited to attend. Applications are available for public inspection Monday through Friday, except holidays, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Planner, Amelia Lindley, at (281) 290-1410 or at alindley@tomballtx.gov.

C E R T I F I C A T I O N

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the **11th** day of **January 2018** by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Elizabeth Jones

Elizabeth Jones
Administrative Assistant

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.tomballtx.gov.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 5, 2018

Topic:

Adopt, on Second Reading, Ordinance No. 2018-03R, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by Changing the Zoning District Classification of Approximately 5.8588 Acres of Land, Legally Described Lot 61 Block 1 Abandoned Animal Rescue Replat, within the City of Tomball, Harris County, Texas, from the Agricultural District to the General Retail District; Said Property being Generally Located on the North Side of East Hufsmith Road at Hospital Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an Amount Not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof, Making Findings of Fact; and Providing for Other Related Matters

Background:

On Monday, January 8, 2018, after conducting a Public Hearing, the Planning and Zoning Commission voted to recommend denial on Zoning Case P17-0137 with 2 votes aye and two votes nay.

Origination:

Lance Langenhoven

Recommendation:

Approval

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

Craig T. Meyers, Community Development Director

ACTION TAKEN

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

Ordinance No. 2018-03R
P17-0137 Staff Report
Notice of Public Hearing
Property Owner Notification
Response Forms

ORDINANCE NO. 2018-03R

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 5.8588 ACRES OF LAND, LEGALLY DESCRIBED LOT 61 BLOCK 1 ABANDONED ANIMAL RESCUE REPLAT, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE AGRICULTURAL DISTRICT TO THE GENERAL RETAIL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED ON THE NORTH SIDE OF EAST HUFSMITH ROAD AT HOSPITAL ROAD; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

Whereas, Lance Langenhoven has requested that approximately 5.8588 acres of land, legally described as Lot 61 Block 1 Abandoned Animal Rescue Replat, City of Tomball, Harris County, Texas, generally located on the north side of East Hufsmith Road at Hospital Road, in the City of Tomball, Harris County, Texas, (the "Property"), be rezoned; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the requested rezoning; and

Whereas, the public hearing was held before the Planning & Zoning Commission at least forty (40) calendar days after the City's receipt of the requested rezoning; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council deny the requested rezoning of General Retail District; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing for the requested rezoning, the City Council held the public hearing for the requested rezoning and the City Council considered the final report of the Planning & Zoning Commission; and

Whereas, the City Council deems it appropriate to grant the requested rezoning.

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

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

Section 2. The zoning classification of the Property is hereby changed from the Agricultural District to the General Retail District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas shall be revised and amended to show the designation of the Property as General Retail District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for the Property to the General Retail District as described above.

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

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

FIRST READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 15TH DAY OF JANUARY 2018.

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

SECOND READING:

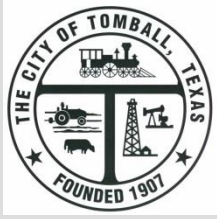
READ, PASSED, AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 5TH DAY OF FEBRUARY 2018.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN QUINN	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: December 11, 2017
City Council Public Hearing Date: December 18, 2017

Rezoning Case: P17-0137
Property Owner(s): Abandoned Animal Rescue
Applicant(s): Lance Langenhoven
Legal Description: Lot 61 Block 1 Abandoned Animal Rescue R/P
Location: 419 East Hufsmith Road, north side of East Hufsmith Road at Hospital Road (Exhibit "A")
Area: 5.8588 acres
Comp Plan Designation: Rural Residential (Exhibit "B")
Present Zoning and Use: Agricultural (Exhibit "C") / Abandoned Animal Rescue (Exhibit "D")
Request: Rezone from the Agricultural District to the Commercial District
Adjacent Zoning & Land Uses:
 North: Single-Family 20 Estate / Undeveloped land
 South: Agricultural District and Single-Family 9 / Undeveloped land and single-family residence
 West: Single-Family 20 Estate / Single-family residence
 East: Single-Family 20 Estate / Single-family residence

BACKGROUND

City Staff met with the applicant in October to discuss options for the property. The applicant expressed his desire to use the property for offices and boat and recreational vehicle storage. City Staff explained that a rezoning would be required for the proposed development. The applicant submitted a Rezoning Application on October 30, 2017.

ANALYSIS

The property is currently zoned Agricultural. Abandoned Animal Rescue operates on the front portion of the property while the majority of the property is undeveloped. Surrounding zoning districts include Agricultural to the west and south, Single-Family 20 Estate to the north and east and Single-Family 9 across East Hufsmith. There are mostly single-family residences in the area.

The Comprehensive Plan Future Land Use Map designates the property as Rural Residential which is meant for minimum one acre single-family lots. The intent of the Rural Residential designation is to provide for a rural lifestyle with no commercial or industrial development. The

proposed rezoning is not in conformance with the Future Land Use Map. The Comprehensive Plan also outlines goals to protect the existing residential areas from encroachment of uses that are incompatible to the area and to preserve the rural land.

ZONING CONSIDERATIONS

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

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

The uses permitted in the Commercial District do not appear to be appropriate for the immediate area. The established land uses in the area are mostly single-family residences.

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

Utilities are available to serve this property, however they may need to be upsized to accommodate a commercial facility. The existing arterial street adjacent to the property can accommodate traffic generated by a Commercial District development.

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

There is vacant land in the City zoned Commercial. There does not appear to be any special circumstances which may make a substantial part of any vacant land unavailable for development.

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

There has been steady development in the Commercial District in the City.

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

City Staff does not anticipate any adverse impacts on other areas designated for similar development.

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

If a commercial development is constructed on the subject site, Chapter 50 (Zoning) has regulations in place to protect the adjacent residential development.

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

The Future Land Use Map designates the property as Rural Residential. The request does not appear to be consistent with the Future Land Use Map. As mentioned, the Comprehensive Plan outlines goals for protecting and preserving rural residential areas in the City.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on November 22, 2017. The Notice of Public Hearing was published in the paper on November 29, 2017. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff is unable to recommend approval of Zoning Case P17-0137 for the following reasons:

1. The request does not meet the goals of City's Comprehensive Plan;
2. The request is not in conformance with the Future Land Use Map;
3. The request is not appropriate with the surrounding land uses in the area;
4. The request is not appropriate with the surrounding zoning districts.

EXHIBITS

- A. Aerial Photo
- B. Comprehensive Plan
- C. Zoning Map
- D. Site Photo
- E. Application

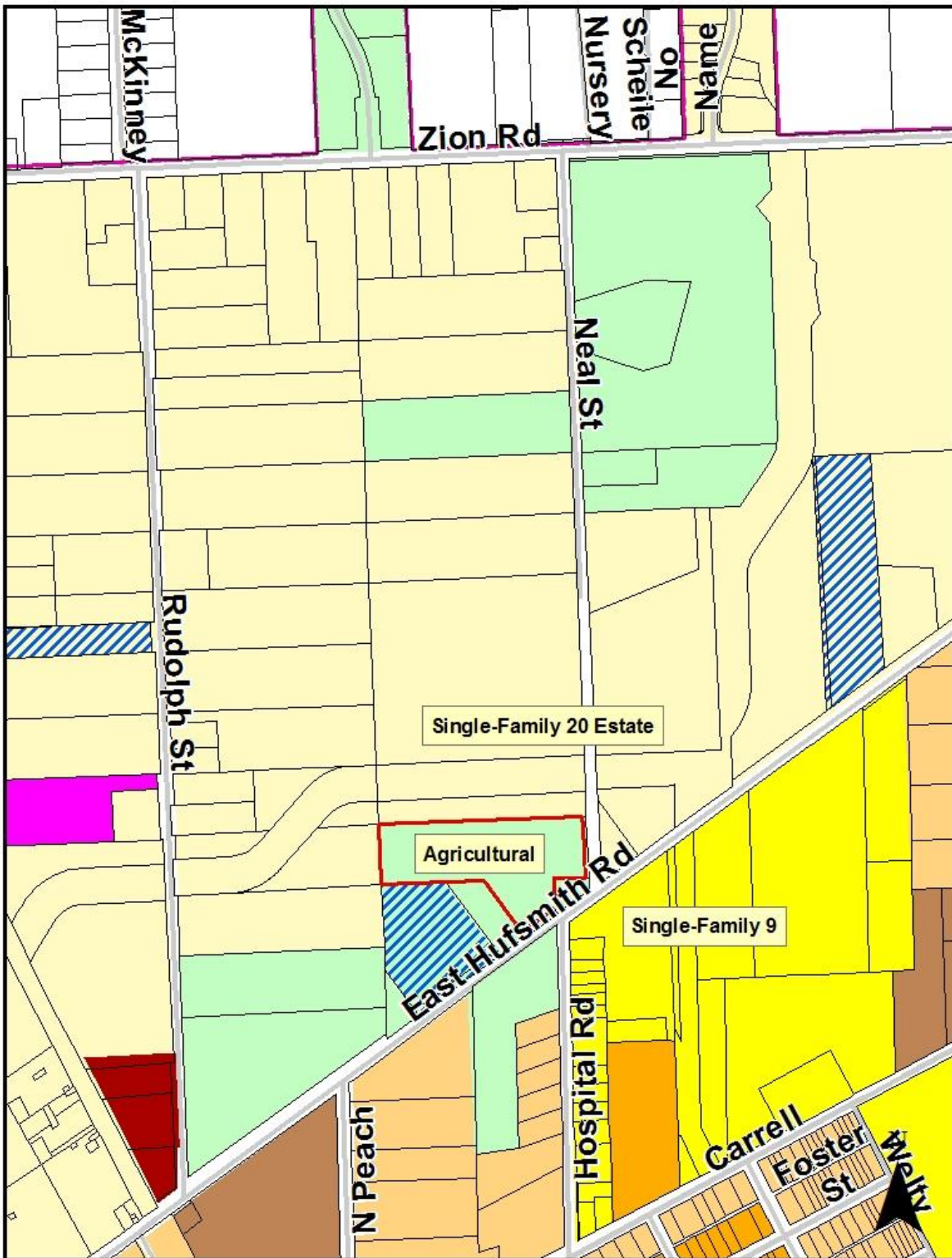
Exhibit "A"
Aerial Photo



Exhibit "B"
Comprehensive Plan



Exhibit "C"
Zoning Map



**Exhibit “D”
Site Photo**



Exhibit "E" Application

Revised 5/19/15



APPLICATION FOR REZONING Community Development Department Planning Division

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

Applicant

Name: Lance Langenhoven Title: Buyer of 419 E. Hufsmith
Mailing Address: 8505 Technology Forest Pl.# 501 City: The Woodlands State: TX
Zip: 77381
Phone: (832) 483 8655 Fax: (1.866) 438 7611 Email: Lance.Glynis@gmail.com

Owner

Name: Abandoned Animal Rescue Title: Owner of 419 E. Hufsmith
Mailing Address: 32632 Wright Road (future address) City: Magnolia State: TX
Zip: 77355 please use: 419 E. Hufsmith, Tomball, tx, 77375 for now
Phone: (281) 802 8540 Fax: () Email: shelter@aatexas.org

Engineer/Surveyor (if applicable)

Name: Briana Winget - Texas Professional Surveying, LLC Title: Marketing Director
Mailing Address: 3032 N. Frazier City: Conroe State: TX
Zip: 77303
Phone: (936) 756 7447 Fax: (936) 756 7448 Email: briana@surveyingtexas.com

Description of Proposed Project: Boat & RV Storage on the back 5 Acres of the property.

Physical Location of Property: 419 E. Hufsmith, Tomball, TX, 77355
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: LT 61 BLK 1 ABANDONED ANIMAL RESCUE R/P
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: AG - Agricultural District

Current Use of Property: Approx. 1 Acres is being used commercially by AAR. Remainder is vacant land.

Proposed Zoning District: C - Commercial District.

Proposed Use of Property: 1 Acre in front remains light commercial use, no change. Vacant land - Boat & RV Storage.

HCAD Identification Number: 1269440020001 Acreage: 5.8588 Acres

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 www.tomballtx.gov

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

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

DocuSigned by:	
<i>Lance Langenhoven</i>	
X	6A7AB78E85DE448...
Signature of Applicant	Date
X	<i>Debbie Allison</i>
Signature of Owner	Date
<i>10/29/17</i>	
Debbie Allison, AAR representative.	

Request for re-zoning of 419 E. Hufsmith

Date: 30th October 2017

Applicant: Lance Langenhoven; Owner: Abandoned Animal Shelter (AAR)

I am purchasing the 5.858 Acres property currently owned by AAR and would like to request a rezoning for the property to be in line with the zoning / use of the AAR buildings.

1. AAR buildings.

I plan on leaving the existing AAR offices where they are and plan to lease them out to a small commercial company. Something like a plumber, electrician, painting company, lawn-care maintenance or equivalent. Nothing automotive repair or related type of business.

Prior to any leasing we plan a major remodel of the entire building but no expansion. It will retain the existing footprint.

We plan on putting an 8-foot picket fence around the AAR area to leave it with approx.. 0.93 Acres of land. This will provide a small commercial business with enough space for parking their service vehicles and the offices and small warehouse will be perfect for a business like that.

The shed to the East of the building will be removed to provide vehicular access to the area to the North of the building for the future tenant. See image below.



The two layouts below show the proposed new floor plan on the top and the old floor plan below it.

The new floor plan is MUCH more efficient and secure and will be just perfect for a small but fast-growing neighborhood services company.

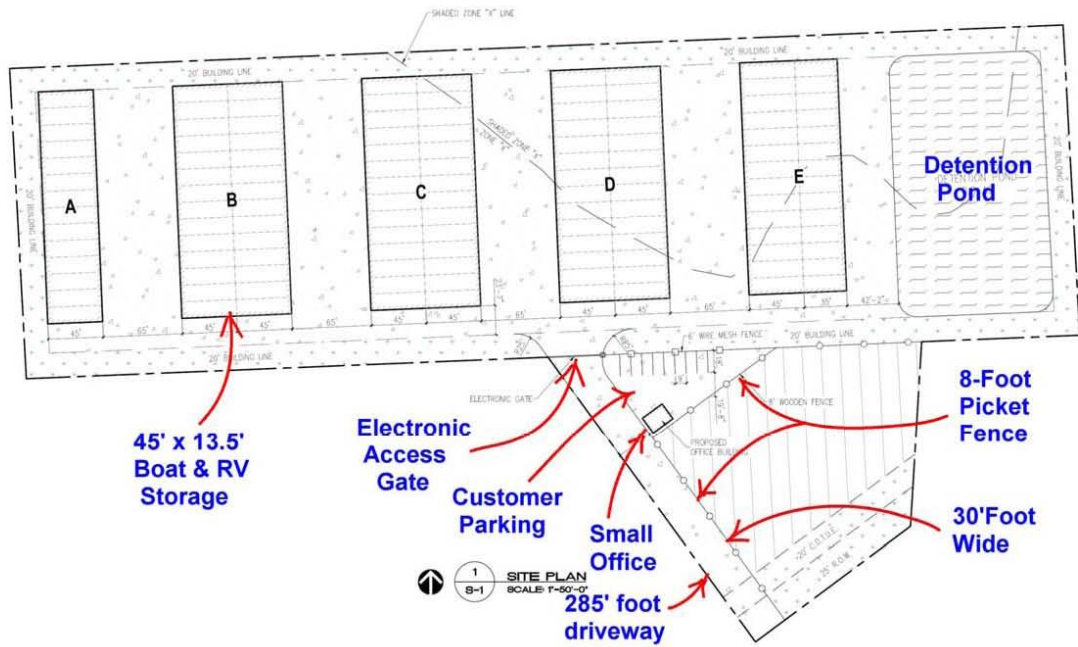


2. Approx. 5 Acres of land at the back

I plan on putting an 8-foot picket fence on the West side of the AAR office which would provide an approx. 30-foot wide driveway to the back +- 5 Acres of land.

The plan is to create a very low-key access driveway from E. Hufsmith with flowers & shrubs at the entrance to ensure the rural neighborhood ambience is not disturbed.

A small office will be located behind the current AAR building (approx. 400 to 500 SF) and will not be visible from the E. Hufsmith. A small client parking area will be next to the small office and this also will not be visible from E. Hufsmith. An electronic access gate will be at the end of the approx.. 285 feet driveway and it's unlikely that it would be very visible due to the distance and the trees along the driveway.



The above image shows the access driveway to our current Boat & RV Storage facility at 14912 Capitol Hill Road, Montgomery, TX, 77316. This driveway is about 235 feet long so it's

about 50 feet shorter than what the driveway at E. Hufsmith will be. As you can see the entrance is beautiful and green with trees on either side and a well-maintained look. This is what we plan to re-create at 419 E. Hufsmith except you will not be able to see a small building. Just a leafy driveway.

3. Possible Objections

- Noise?

The sound of barking of dogs from the AAR property will be eliminated by our intended use for their building. Also, the Boat & RV Storage usage creates almost no noise as people are simply parking vehicles. So, our project will be much nicer for the neighbors and our property appearance would be professionally maintained bringing value to the neighbors.

- What if I sold the Boat & RV Storage business? What would happen to the land?

Firstly, once I've established the Boat & RV Storage business I don't plan on selling it any time soon. However, if I did happen to sell it, a future buyer would buy it for the income stream and would keep the use the same. It would make no sense for a buyer to spend that amount of money to buy a business like this and to then remove it to develop something else... it would be much cheaper to buy vacant land and start from scratch. In fact, I don't know of a single boat & rv storage business in the region that has been sold and then scrapped.

- Competence?

This is not our first business of this type. We own Capitol Hill Boat & RV Storage in Montgomery County and since we purchased it we improved the property and business significantly. The address is 14912 Capitol Hill Road, Montgomery, TX, 77316.

We will be a good neighbor for our new neighbors and also the area in general.

I look forward to working to joining the Tomball community.

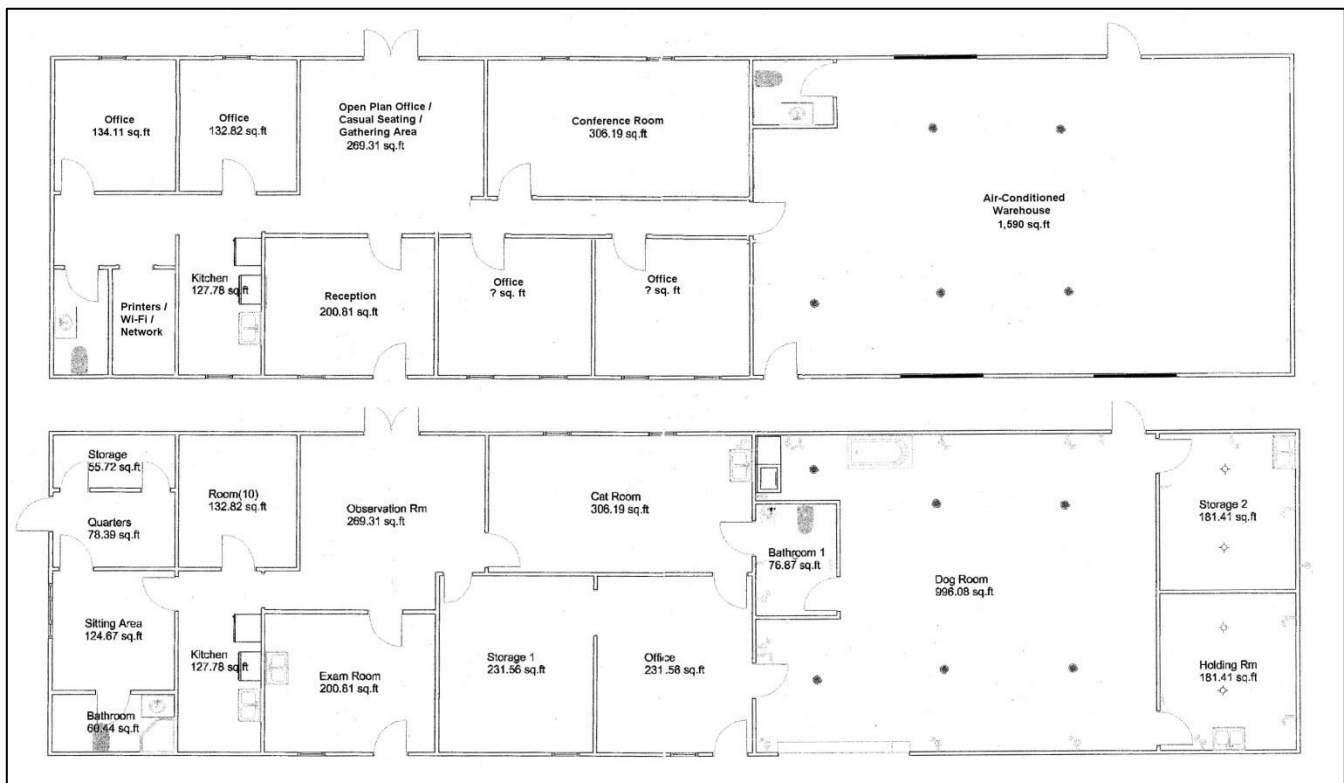
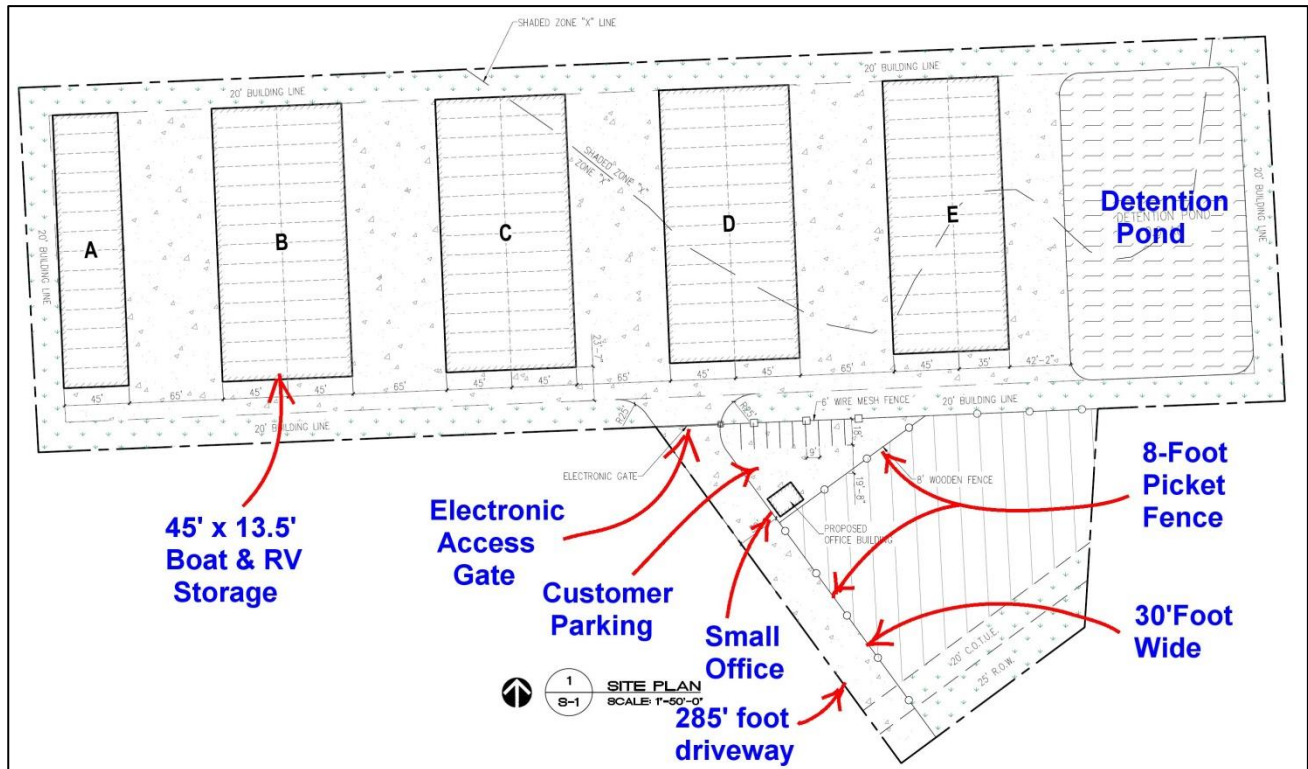
B. Regards,



Lance Langenhoven

30th October 2017





**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
JANUARY 8, 2018
&
CITY COUNCIL
JANUARY 15, 2018**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, January 8, 2018, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, January 15, 2018, at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

Zoning Case P17-0137: Request by Lance Langenhoven to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 5.8588 acres of land legally described as Lot 61 Block 1 Abandoned Animal Rescue Replat within the City of Tomball, Harris County, Texas, generally located on the north side of East Hufsmith at Hospital Road, from the Agricultural District to the General Retail District.

Zoning Case P17-0166: Request by Lance Langenhoven for a Conditional Use Permit to operate a *mini-warehouse / self-storage* facility at 419 E. Hufsmith Road. The property is approximately 5.8588 acres, legally described as Lot 61 Block 1 Abandoned Animal Rescue Replat within the City of Tomball, Harris County, Texas, generally located on the north side of East Hufsmith at Hospital Road, and is zoned Agricultural District.

At the public hearings, parties of interest and citizens will have the opportunity to be heard. All citizens of the City of Tomball, and any other interested parties, are invited to attend. Applications are available for public inspection Monday through Friday, except holidays, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Planner, Amelia Lindley, at (281) 290-1410 or at alindley@tomballtx.gov.

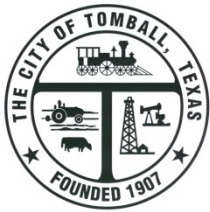
C E R T I F I C A T I O N

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the **4th** day of **January 2018** by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Elizabeth Jones

Elizabeth Jones
Administrative Assistant

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.tomballtx.gov.



Notice of Public Hearing

YOU ARE INVITED TO ATTEND the Public Hearing before the **PLANNING & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P17-0137

APPLICANT/OWNER: Lance Langenhoven

LOCATION: Generally located on the north side of East Hufsmith at Hospital Road

PROPOSAL: To amend Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 5.8588 acres of land legally described as Lot 61 Block 1 Abandoned Animal Rescue Replat within the City of Tomball, Harris County, Texas, from the Agricultural District to the General Retail District.

CONTACT: Amelia Lindley, Planner

PHONE: (281) 290-1410

E-MAIL: alindley@tomballtx.gov

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The application is available for public review Monday through Friday, except holidays, between the hours of 8:00 a.m. and 5:00 p.m. in the Community Development Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 200 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll.



**Planning & Zoning Commission
Public Hearing:
Monday, January 8, 2018, 6:00 PM**

**City Council Public Hearing:
*Monday, January 15, 2018, 6:00 PM**

**The Public Hearings will be held in the
City Council Chambers, City Hall
401 Market Street, Tomball, Texas**

*Should the Planning & Zoning Commission vote to table the recommendation on the case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a recommendation is forwarded to the City Council by the Planning & Zoning Commission.



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball
Attn: Amelia Lindley
501 James Street
Tomball, TX 77375

Name:

(please print)

Address:

Signature:

Date:



Tennis Venture LLC
43 Golden Orchard Pl
Maggall, TX 77354
12-29-17

I am **FOR** the requested Rezoning as explained on the attached public notice for Zoning Case P17-0137. (Please state reasons below)

I am **AGAINST** the requested Rezoning as explained on the attached public notice for Zoning Case P17-0137. (Please state reasons below)

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

Monday, January 8, 2018 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:

Monday, January 15, 2018, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

You may also comment via email to ALindley@tomballtx.gov.

Please reference the case number in the subject line.

For questions regarding this request please call Amelia Lindley @ 281-290-1410.



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball
Attn: Amelia Lindley
501 James Street
Tomball, TX 77375

Name:

(please print)

Address:

Signature:

Date:

A. Tennis Venture LLC
43 Golden Orchard Pl
The Woodlands, TX 77354
1/29/18

I am **FOR** the requested Rezoning as explained on the attached public notice for Zoning Case P17-0166. (Please state reasons below)

I am **AGAINST** the requested Rezoning as explained on the attached public notice for Zoning Case P17-0166. (Please state reasons below)

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

Monday, January 8, 2018, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:

Monday, January 15, 2018, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

You may also comment via email to ALindley@tomballtx.gov.

Please reference the case number in the subject line.

For questions regarding this request please call Amelia Lindley @ 281-290-1410.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 5, 2018

Topic:

Adopt, on Second Reading, Ordinance No. 2018-06, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by Granting a Conditional Use Permit (CUP) to Lance Langenhoven to Operate a “Mini-Warehouse/Self Storage” Facility at 419 East Hufsmith Road; Said Property being Approximately 5.8588 Acres, and being Legally Described as Lot 61 Block 1 Abandoned Animal Rescue Replat, within the City of Tomball, Harris County, Texas, Generally Located on the North Side of East Hufsmith Road at Hospital Road; Providing Requirements and Conditions for This CUP; Containing Findings and Other Provisions Relating to the Subject; Providing a Penalty in an Amount Not to Exceed \$2,000 for Violations Hereof; and Providing for Severability

Background:

On Monday, January 8, after conducting a Public Hearing, the Planning and Zoning Commission voted to deny Zoning Case P17-0161 with three votes nay and one vote aye.

Origination:

Lance Langenhoven

Recommendation:

Approval

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

Craig T. Meyers, Community Development Director

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

ATTACHMENTS:

Ordinance No. 2018-06
P17-0161 Staff Report
Notice of Public Hearing
Property Owner Notification
Response Forms

ORDINANCE NO. 2018-06

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY GRANTING A CONDITIONAL USE PERMIT (CUP) TO LANCE LANGENHOVEN TO OPERATE A “MINI-WAREHOUSE / SELF STORAGE” FACILITY AT 419 EAST HUFSMITH ROAD; SAID PROPERTY BEING APPROXIMATELY 5.8588 ACRES, AND BEING LEGALLY DESCRIBED AS LOT 61 BLOCK 1 ABANDONED ANIMAL RESCUE REPLAT, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, GENERALLY LOCATED ON THE NORTH SIDE OF EAST HUFSMITH ROAD AT HOSPITAL ROAD; PROVIDING REQUIREMENTS AND CONDITIONS FOR THIS CUP; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR VIOLATIONS HEREOF; AND PROVIDING FOR SEVERABILITY.

* * * * *

Whereas, Lance Langenhoven has requested a CUP to operate a “mini-warehouse / self-storage” facility on approximately 5.8588 acres of land, legally described Lot 61 Block 1 Abandoned Animal Rescue Replat, generally located on the north side of East Hufsmith Road at Hospital Road, in the City of Tomball, Harris County, Texas, (the "Property"), and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the requested CUP; and

Whereas, the public hearing was held before the Planning & Zoning Commission at least forty (40) calendar days after the City’s receipt of the requested CUP; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council deny the requested CUP; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing for the requested CUP, the City Council held the public hearing for the requested CUP and the City Council considered the final report of the Planning & Zoning Commission; and

Whereas, the City Council deems it appropriate to grant the requested CUP.

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

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

Section 2. A CUP to operate a “mini-warehouse / self-storage” facility at the Property, in accordance with the concept plan, attached hereto as Exhibit “A”, and subject to the terms and conditions set forth below is hereby granted to Lance Langenhoven.

Section 3. The Official Zoning District Map of the City shall be revised and amended to show the CUP authorized for the Property, with the appropriate references thereon to the number and effective date of this Ordinance and a brief description of the nature of the CUP authorized.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City, save and except the granting of the CUP as herein provided.

Section 5. The CUP granted hereby shall be null and void after the expiration of two (2) years from the date of adoption hereof unless the Property is being used in accordance with the CUP herein authorized within said two-year period, or unless an extension of time is approved by City Council.

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

Section 8. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 15TH DAY OF JANUARY 2018.

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

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 5TH DAY OF FEBRUARY 2018.

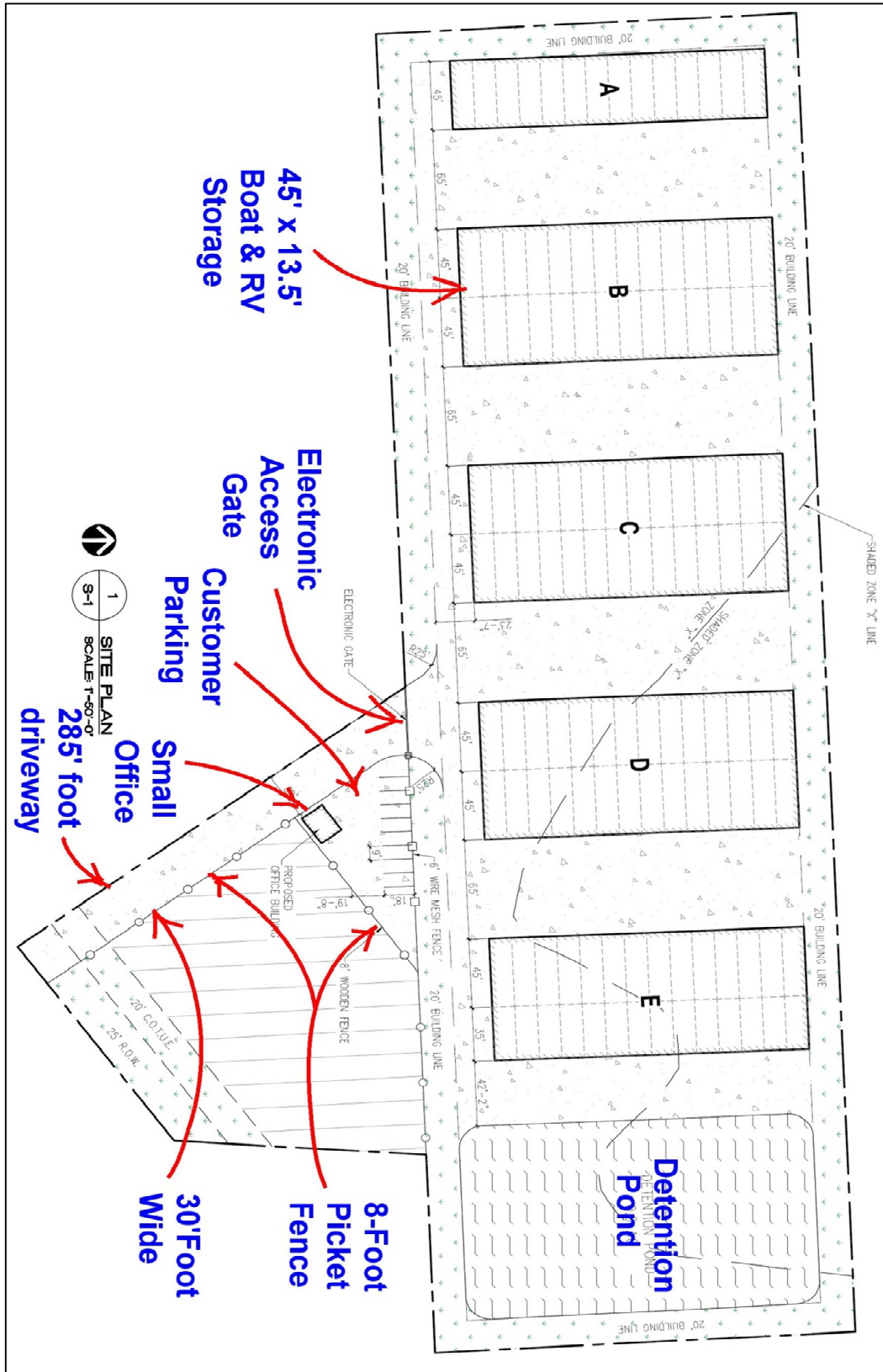
COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN QUINN	_____

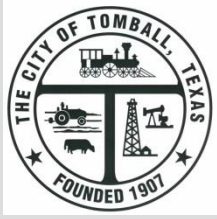
Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Exhibit "A"





Conditional Use Permit (CUP) Staff Report

Planning & Zoning Commission Public Hearing Date: January 8, 2018

City Council Public Hearing Date: January 15, 2018

Rezoning Case: P17-0166

Property Owner(s): Abandoned Animal Rescue

Applicant(s): Lance Langenhoven

Legal Description: Lot 61 Block 1 Abandoned Animal Rescue Replat

Location: 419 East Hufsmith Road - North side of East Hufsmith at Hospital Road (Exhibit "A")

Area: 5.8588 acres

Comp Plan Designation: Rural Residential (Exhibit "B")

Present Zoning and Use: Agricultural District (Currently in the process of being rezoned to General Retail District) (Exhibit "C") / Abandoned Animal Rescue (Exhibit "D")

Proposed Use(s): Boat and RV Storage

Request: Conditional Use Permit (CUP) to allow the operation of a *mini warehouse/self-storage* facility

Adjacent Zoning & Land Uses:

- North:** Single-Family 20 Estate / Undeveloped land
- South:** Agricultural and Single-Family 9 / Undeveloped land and single-family residence
- West:** Single-Family 20 Estate / Single-family residence
- East:** Single-Family 20 Estate / Single-family residence

BACKGROUND

City Staff met with the applicant in October to discuss options for the property. The applicant expressed his desire to use the property for offices and boat and recreational vehicle storage. City Staff explained that a rezoning would be required for the proposed development. The applicant submitted a Rezoning Application on October 30, 2017 for the Commercial District.

At the December 18, 2017 City Council Meeting, the applicant requested the Councilmembers consider a rezoning to General Retail, with an associated Conditional Use Permit request, instead of the Commercial rezoning. No action was taken on the rezoning request.

ANALYSIS

According to Section 50-81 (f) of the Chapter 50 (Zoning), when considering applications for a CUP, the City shall, on the basis of the concept plan and other information submitted, evaluate the impact of the conditional use on and the compatibility of the use with surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. Specific considerations shall include the extent to which:

- 1. The proposed use at the specified location is consistent with the goals, objectives, and policies contained in the adopted Comprehensive Plan;**

The Comprehensive Plan identifies the subject site as Rural Residential. It does not appear that the request is consistent with the goals of the Future Land Use Map of the Comprehensive Plan.

- 2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;**

According to the Zoning Ordinance, “a conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions.”

According to Section 50-76, the purpose of the General Retail District is “to provide areas for local neighborhood shopping and service facilities for the retail sales of goods and services. The General Retail District should be located along or at the intersection of major collects or thoroughfares to accommodate higher traffic volumes.” The proposed use would provide a service to the area. East Hufsmith is considered a major arterial by the City’s Major Thoroughfare Plan and could accommodate the traffic generated by the proposed use. The request appears to be consistent with the intent of the General Retail District.

- 3. The proposed use meets all supplemental standards specifically applicable to the use as set forth in the Zoning Ordinance;**

Should the CUP application be approved by City Council, the applicant will be required to submit site and building plan applications and supporting documents to the City for review and approval. Specific details of site modifications will be shown at the time of plan review.

- 4. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts;**

The proposed use appears to be compatible with the adjacent developments. There are a few single-family residences in the area. The other land uses in the area include baseball fields, a Harris County Flood Control ditch and undeveloped land. The proposed land use should not generate substantial traffic or noise.

5. **The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.**

Staff does not anticipate any adverse effects on surrounding properties. The property does abut single-family residential district, and will therefore be subject to additional screening requirements to protect the adjacent residences.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on December 22, 2017. A Notice of Public Hearing was published in the paper on December 27, 2017. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends approval of Zoning Case P17-0166.

EXHIBITS

- A. Aerial Photo
- B. Comprehensive Plan
- C. Zoning Map
- D. Site Photo
- E. CUP Application
- F. Concept Plan

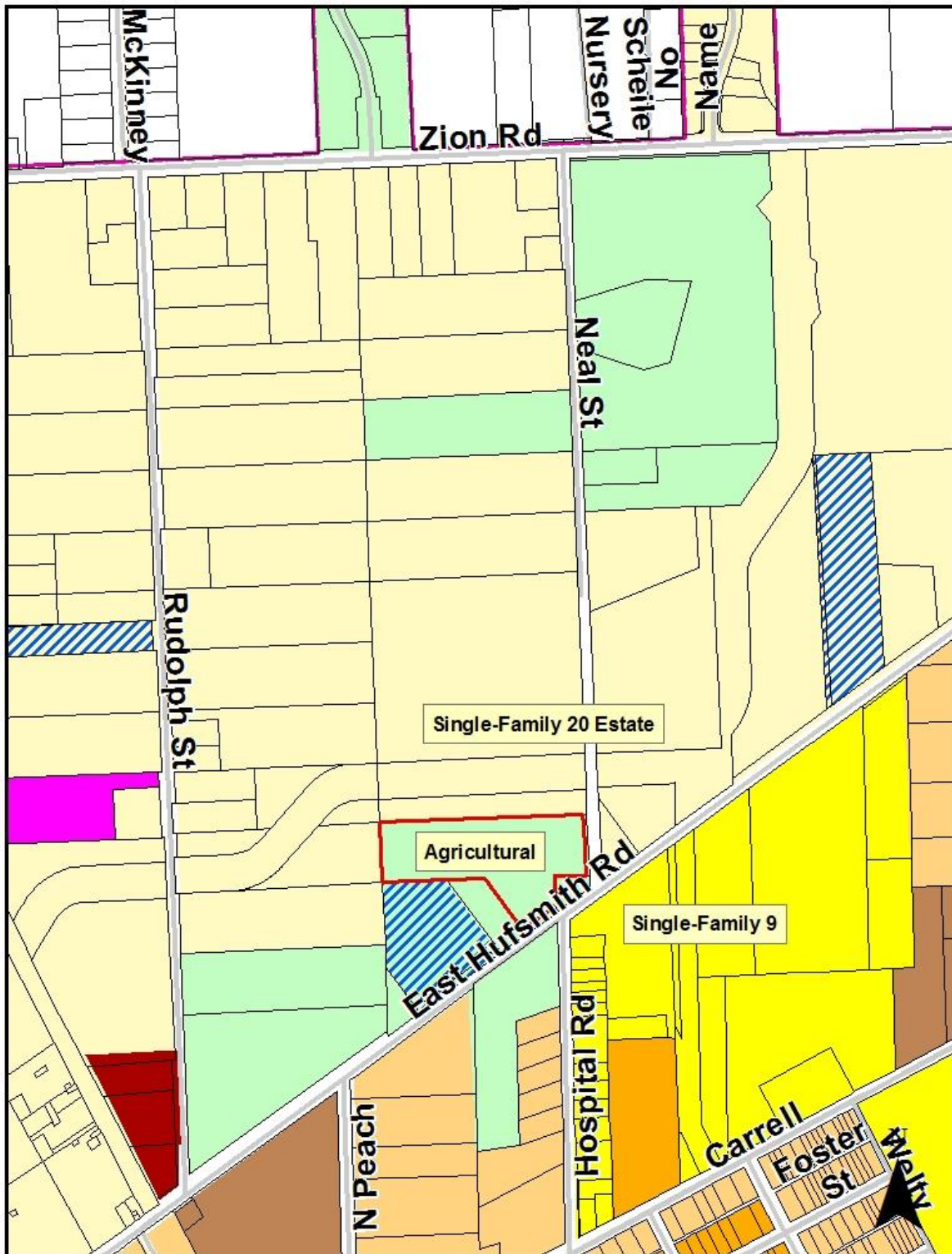
Exhibit "A"
Aerial Photo



Exhibit "B"
Comprehensive Plan



Exhibit "C"
Zoning Map



**Exhibit “D”
Site Photo**



Exhibit "E"
CUP Application

666

Revised 5/19/15



P17-0166

APPLICATION FOR
CONDITIONAL USE PERMIT
Community Development Department
Planning Division



A conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions.

No conditional use shall be established and no building permit shall be issued for any use designated as a conditional use within any zoning district until a conditional use permit (CUP) is approved and issued in accordance with the provisions of Section 50-34 of the Code of Ordinances.

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

Applicant

Name: Lance Langenhoven Title: Buyer of 419 E. Hufsmith
Mailing Address: 8505 Technology Forest Pl. # 501 City: The Woodlands State: TX
Zip: 77381
Phone: (832) 483 8655 Fax: (1.866) 438 7611 Email: Lance.Glynis@Gmail.com

Owner

Name: Abandoned Animal Shelter Title: Owner of 419 E. Hufsmith
Mailing Address: 32632 Wright Road (future address) City: Magnolia State: TX
Zip: 77355 please use: 419 E. Hufsmith, Tomball, tx, 77375 for now
Phone: (281) 802 8540 Fax: () Email: shelter@aatexas.org

Engineer/Surveyor (if applicable)

Name: Briana Winger - Texas Professional Surveying, LLC Title: Marketing Director
Mailing Address: 3032 N. Frazier City: Conroe State: TX
Zip: 77303
Phone: (936) 756 7447 Fax: (936) 756 7448 Email: briana@surveyingtexas.com

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 www.tomballtx.gov

Description of Proposed Project: Boat & RV Storage on the back 5 Acres of the property.

Physical Location of Property: 419 E. Hufsmith, Tomball, TX, 77355

[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: LT 61 BLK 1 ABANDONED ANIMAL RESCUE R/P

[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

HCAD Identification Number: 1269440020001 **Acreage:** 5.8588 Acres

Current Use of Property: Approx. 1 Acre is being used commercially by AAR. Remainder if vacant land.

Proposed Use of Property: 1 Acre in front remains light commercial use, no change. Vacant land = Boat & RV Storage

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

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

DocuSigned by:
Lance Langenhoven
6A7AB78F64DE448

10/29/2017

X **Signature of Applicant**

Date

X Debbie Allison
Signature of Owner
Debbie Allison, AAR

10/29/17

CITY OF TOMBALL
281-351-5484

REC#: 01003212 10/30/2017 11:58 AM
OPER: RP TERM: 005
REF#: W 1074

TRAN: 130.0000 PLANNING AND ZONING
419 E HUFSMITH
LANCE LANGEHOVEN
100-5442

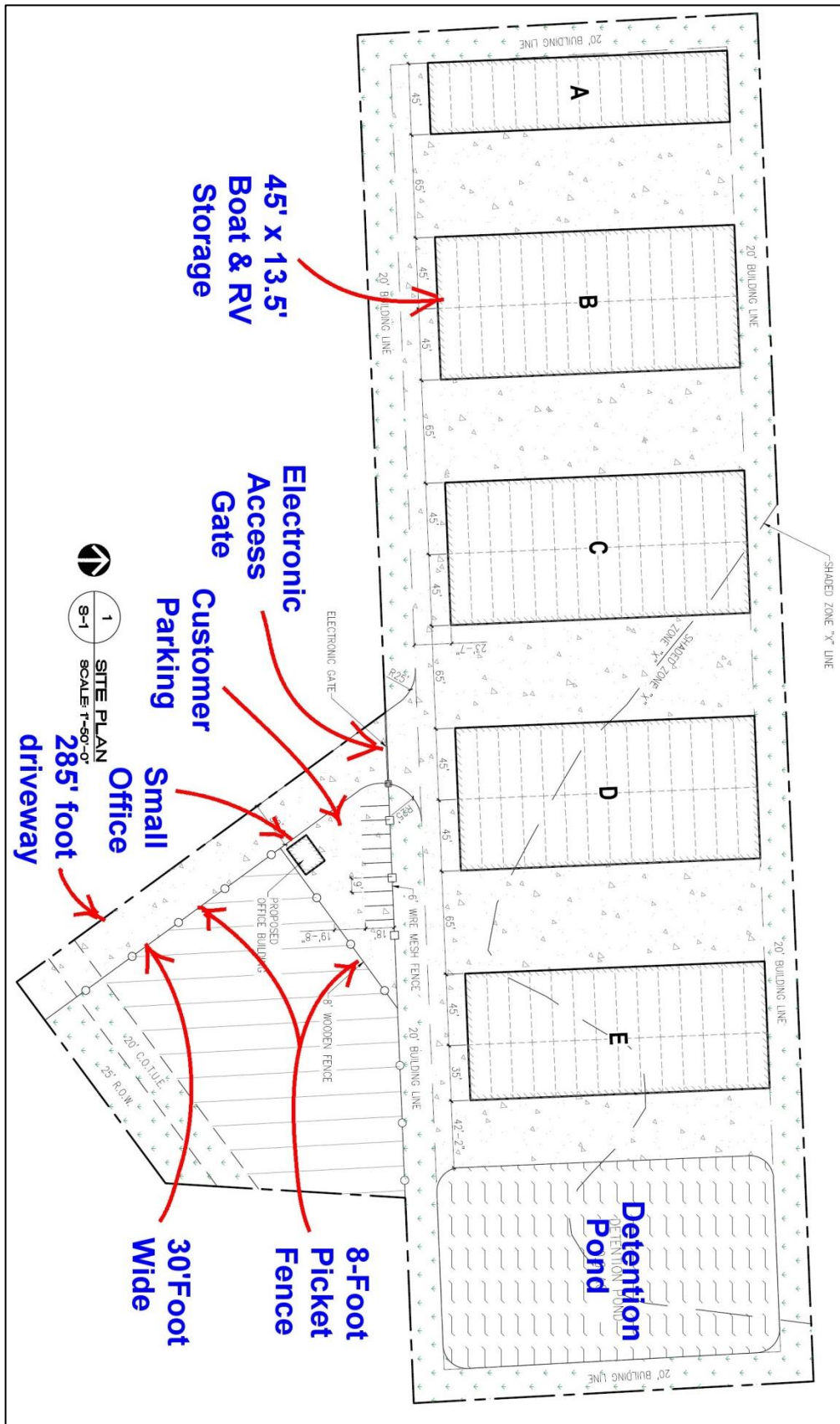
City of Tomball, Texas 5 **CONDITIONAL USE PER** 600.00CR

www.tomballtx.gov

TENDERED: 600.00 CHECK
APPLIED: 600.00-

CHAIR

Figure “F” Concept Plan



**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
JANUARY 8, 2018
&
CITY COUNCIL
JANUARY 15, 2018**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, January 8, 2018, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, January 15, 2018, at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

Zoning Case P17-0137: Request by Lance Langenhoven to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 5.8588 acres of land legally described as Lot 61 Block 1 Abandoned Animal Rescue Replat within the City of Tomball, Harris County, Texas, generally located on the north side of East Hufsmith at Hospital Road, from the Agricultural District to the General Retail District.

Zoning Case P17-0166: Request by Lance Langenhoven for a Conditional Use Permit to operate a *mini-warehouse / self-storage* facility at 419 E. Hufsmith Road. The property is approximately 5.8588 acres, legally described as Lot 61 Block 1 Abandoned Animal Rescue Replat within the City of Tomball, Harris County, Texas, generally located on the north side of East Hufsmith at Hospital Road, and is zoned Agricultural District.

At the public hearings, parties of interest and citizens will have the opportunity to be heard. All citizens of the City of Tomball, and any other interested parties, are invited to attend. Applications are available for public inspection Monday through Friday, except holidays, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Planner, Amelia Lindley, at (281) 290-1410 or at alindley@tomballtx.gov.

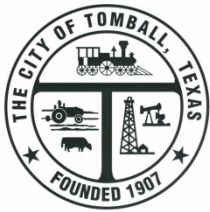
C E R T I F I C A T I O N

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the **4th** day of **January 2018** by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Elizabeth Jones

Elizabeth Jones
Administrative Assistant

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.tomballtx.gov.



Notice of Public Hearing

YOU ARE INVITED TO ATTEND the Public Hearing before the **PLANNING & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P17-0166

APPLICANT/OWNER: Lance Langenhoven

LOCATION: Generally located on the north side of East Hufsmith at Hospital Road

PROPOSAL: A Conditional Use Permit to operate a *mini-warehouse / self-storage* facility at 419 E. Hufsmith Road. The property is approximately 5.8588 acres, legally described as Lot 61 Block 1 Abandoned Animal Rescue Replat within the City of Tomball, Harris County, Texas, and is zoned Agricultural District.

CONTACT: Amelia Lindley, Planner

PHONE: (281) 290-1410

E-MAIL: alindley@tomballtx.gov

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The application is available for public review Monday through Friday, except holidays, between the hours of 8:00 a.m. and 5:00 p.m. in the Community Development Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 200 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll.



**Planning & Zoning Commission
Public Hearing:
Monday, January 8 2018, 6:00 PM**

**City Council Public Hearing:
*Monday, January 15, 2018, 6:00 PM**

**The Public Hearings will be held in the
City Council Chambers, City Hall
401 Market Street, Tomball, Texas**

*Should the Planning & Zoning Commission vote to table the recommendation on the case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a recommendation is forwarded to the City Council by the Planning & Zoning Commission.



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball
Attn: Amelia Lindley
501 James Street
Tomball, TX 77375

Name:

(please print)

Address:

Signature:

Date:

A. Tennis Venture LLC
43 Golden Orchard Pl
The Woodlands, TX 77354
1/29/18

I am **FOR** the requested Rezoning as explained on the attached public notice for **Zoning Case P17-0166. (Please state reasons below)**

I am **AGAINST** the requested Rezoning as explained on the attached public notice for **Zoning Case P17-0166. (Please state reasons below)**

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

Monday, January 8, 2018, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:

Monday, January 15, 2018, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

You may also comment via email to ALindley@tomballtx.gov.

Please reference the case number in the subject line.

For questions regarding this request please call Amelia Lindley @ 281-290-1410.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 5, 2018

Topic:

Consideration To Approve **Zoning Case P17-0115**: Request By Robert Allen To Amend Chapter 50 (Zoning) Of The Tomball Code Of Ordinances By Rezoning Approximately 76.01 Acres Of Land Legally Described As A Portion Of Reserve "D" Reserve At Spring Lake-Section 2, Within The City Of Tomball, Harris County, Texas, Generally Located At The North End Of Spring Lake Boulevard, From the Agricultural District To The Single-Family 20 Estate District.

- Conduct Public Hearing on **Zoning Case P17-0115**
- Adopt, On First Reading, Ordinance No. 2017-36, An Ordinance Of The City Of Tomball, Texas, Amending Chapter 50 (Zoning) Of The Tomball Code Of Ordinances By Changing The Zoning District Classification Of Approximately 76.01 Acres Of Land, Legally Described Reserve "D" Reserve At Spring Lake-Section Two, Within The City Of Tomball, Harris County, Texas, From The Agricultural District To The Single-Family 20 Estate District; Said Property Being Generally Located At The North End Of Spring Lake Boulevard; Providing For The Amendment Of The Official Zoning Map Of The City; Providing For Severability; Providing For A Penalty Of An Amount Not To Exceed \$2,000 For Each Day Of Violation Of Any Provision Hereof, Making Findings Of Fact; And Providing For Other Related Matters.

Background:

On Monday October 9, 2017, after conducting a public hearing, the Planning and Zoning Commission recommended approval of the rezoning request with a 3-2 vote.

Origination:

Robert Allen, Zion Road Properties, LLC

Recommendation:

Approval

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

Craig T. Meyers, Community Development Director

ACTION TAKEN

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

ATTACHMENTS:

Ordinance No. 2017-36
Notice of Public Hearing
Property Owner Notification
Public Comment Forms
Staff Report

ORDINANCE NO. 2017-36

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 76.01 ACRES OF LAND, LEGALLY DESCRIBED RESERVE "D" RESERVE AT SPRING LAKE – SECTION TWO, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE AGRICULTURAL DISTRICT TO THE SINGLE-FAMILY 20 ESTATE DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED AT THE NORTH END OF SPRING LAKE BOULEVARD; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

Whereas, Robert Allen has requested that approximately 76.01 acres of land, legally described as Reserve "D" Reserve at Spring Lake – Section 2, City of Tomball, Harris County, Texas, generally located north end of Spring Lake Boulevard, in the City of Tomball, Harris County, Texas, (the "Property"), be rezoned; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the requested rezoning; and

Whereas, the public hearing was held before the Planning & Zoning Commission at least forty (40) calendar days after the City's receipt of the requested rezoning; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council approve the requested rezoning of Single-Family 20 Estate District; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing for the requested rezoning, the City Council held the public hearing for the requested rezoning and the City Council considered the final report of the Planning & Zoning Commission; and

Whereas, the City Council deems it appropriate to grant the requested rezoning.

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

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

Section 2. The zoning classification of the Property is hereby changed from the Agricultural District to the Single-Family 20 Estate District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas shall be revised and amended to show the designation of the Property as Single-Family 20 Estate District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for the Property to the Single-Family 20 Estate District as described above.

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

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

FIRST READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 5TH DAY OF FEBRUARY 2018.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN QUINN	_____

SECOND READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 19TH DAY OF FEBRUARY 2018.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____

COUNCILMAN DEGGES _____
COUNCILMAN TOWNSEND _____
COUNCILMAN QUINN _____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
CITY COUNCIL
FEBRUARY 5, 2018**



Notice is Hereby Given that a Public Hearing will be held by the City Council of the City of Tomball on **Monday, February 5, 2018, at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, City Council will consider the following:

Zoning Case P17-0115: Request by Robert Allen to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 76.01 acres of land legally described as a portion of Reserve “D” Reserve at Spring Lake – Section 2, within the City of Tomball, Harris County, Texas, generally located at the north end of Spring Lake Blvd., from the Agricultural District to the Single-Family 20 Estate District.

At the public hearings, parties of interest and citizens will have the opportunity to be heard. All citizens of the City of Tomball, and any other interested parties, are invited to attend. Applications are available for public inspection Monday through Friday, except holidays, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Planner, Amelia Lindley, at (281) 290-1410 or at alindley@tomballtx.gov.

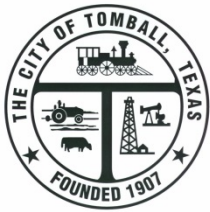
C E R T I F I C A T I O N

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the **1st** day of **February 2018** by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Elizabeth Jones

Elizabeth Jones
Administrative Assistant

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.tomballtx.gov.



Notice of Public Hearing

YOU ARE INVITED TO ATTEND the Public Hearing before the **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P17-0115

APPLICANT/OWNER: Robert Allen

LOCATION: Generally located at the north end of Spring Lake Blvd.

PROPOSAL: To amend Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 76.01 acres of land legally described as Reserve "D" Reserve at Spring Lake – Section 2, within the City of Tomball, Harris County, Texas, from the Agricultural District to the Single-Family 20 Estate District.

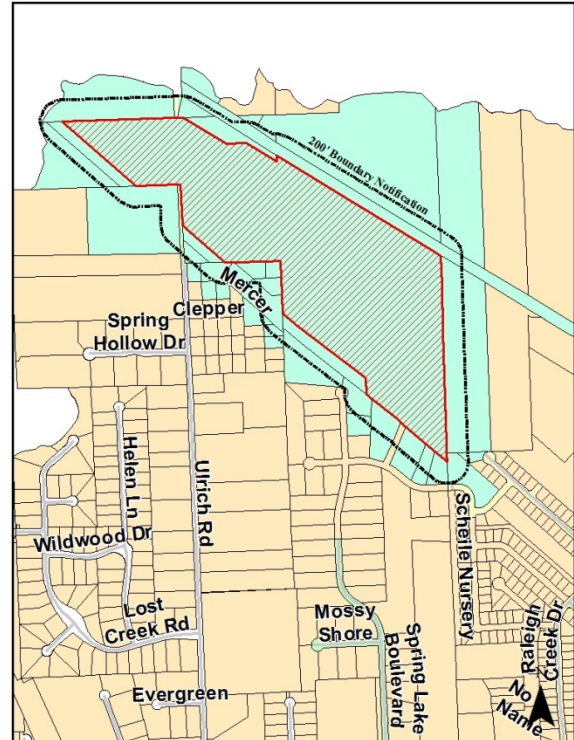
CONTACT: Amelia Lindley, Planner

PHONE: (281) 290-1410

E-MAIL: alindley@tomballtx.gov

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The application is available for public review Monday through Friday, except holidays, between the hours of 8:00 a.m. and 5:00 p.m. in the Community Development Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 200 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll.



**City Council Public Hearing:
Monday, February 5, 2018, 6:00 PM**

**The Public Hearing will be held in the
City Council Chambers, City Hall
401 Market Street, Tomball, Texas**



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball
Attn: Amelia Lindley
501 James Street
Tomball, TX 77375

Name:

(please print)

Address:

Carl Ritchie

13006 Mercer Dr.

Signature:

Date:

Carl Ritchie

October 13 - 2017

I am **FOR** the requested Rezoning as explained on the attached public notice for **Zoning Case P17-0115. (Please state reasons below)**

~~X~~

I am **AGAINST** the requested Rezoning as explained on the attached public notice for **Zoning Case P17-0115. (Please state reasons below)**

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

Monday, October 9, 2017 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:

Monday, October 16, 2017, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

You may also comment via email to ALindley@tomballtx.gov.

Please reference the case number in the subject line.

For questions regarding this request please call Amelia Lindley @ 281-290-1410.

Amelia Lindley

From: Dave DiCamillo <ddicamillo@sbcglobal.net>
Sent: Sunday, October 15, 2017 4:07 PM
To: Amelia Lindley
Subject: Case Number P17-0115 Proposed Zoning Change Scheduled for a City Council Public Hearing on Monday October 16, 2017

Dear Ms. Lindley,

I am David DiCamillo the owner of 31215 Ulrich Rd, Tomball TX since 1993 and the owner of 13210 Clepper Dr., Tomball, TX since 2011 which is across the street from my Ulrich Rd house. I am opposed to granting the proposed zoning change. Due to the short notice and my being out of town, I am unable to attend the Oct. 16, 2017 meeting in person. I would appreciate if you would take my comments below into consideration.

Past History about this and Similar Proposals - I am currently away from Tomball so I was surprised to learn of Case # P17-0115, the proposed zoning change request of Mr. Allen. If history serves me correctly, the proposed development is the same as or similar to a previous request by Mr. Allen during earlier proposals for the development of the land known as The Reserve at Spring Lakes. I believe that the original The Reserve proposal was for all large lots. This was followed by two subsequent proposals that decreased the lot sizes. The final proposal had typical 100x200 lots which is similar to the current proposal. That proposal also included a proposed access off of Ulrich Rd. I do not remember the fate of that earlier proposal, that is, was it denied or was it approved but never built due to unfavorable economic conditions or other circumstances. I suspect that it was denied due to the small lot sizes. Am I correct in also assuming that subsequent to those previous proposals that the land in question was rezoned from residential back to agricultural use? The Reserve at Shadow Lakes has been on the books for several years and has not progressed very far since its inception.

My chief concerns about this proposal deal with flood control, sewage treatment and public safety.

Flood Control – this property adjoins the Spring Creek flood plain. During periods of heavy rainfall, the flood plain is under water. At those times, water typically expands several hundred yards beyond the creek to the point where the elevation begins to increase. I have noticed that the retention ponds built on the north side of the creek and which are close to the creek flood with overflow creek water during periods of heavy rainfall which renders them useless as retention ponds for that sub-development. Since I moved here in 1993, the permanent effects of tree loss due to Hurricanes Rita and Ike, the 3 year drought and the buildout of the Hunterwood sub-development have already noticeably increased the storm runoff toward both Spring Creek and the dead end section of Ulrich Rd.

Sewage Treatment – the existing houses in the vicinity of The Reserve have individual septic systems. How would the septic waste from the proposed development be handled? During the recent storm Harvey, the ground at my Clepper Dr house was so saturated with the heavy rainfall that the septic systems either stopped or noticeably slowed for a few days until the groundwater was re-adsorbed. If this were to duplicate for 99 lots, the owners would have to somehow deal with the consequences – for instance, find temporary housing until their systems resumed proper operation. Additionally, there could be the possibility of raw sewage draining and being flushed into the Spring Creek watershed.

Public Safety – when the previous proposals were discussed, the adjoining land had a Mobil Oil pipeline easement and an utility (overhead power lines) easement. Since that time, a 2' crude pipeline has been added on the east side of the utility easement. If one of the pipelines were to rupture or the high voltage wires were damaged, there would be the potential for air quality to deteriorate, or an explosion and subsequent fire to develop adjacent to the proposed development. These could be sudden events with possible loss of lives and property. The proposed access near the

dead end of Ulrich Rd would significantly increase the traffic volume on Ulrich and adversely affect the current residents and existing side streets along the roughly one mile stretch from the intersection at Zion Rd to the proposed access road.

For these reasons, I do not think that the proposed zoning change would be in the best interests of the existing neighborhoods and sub-developments and should be denied.

Thank you for your consideration,

David J. DiCamillo
31215 Ulrich Rd
Tomball, TX 77375
(c) 281-755-3308

Amelia Lindley

From: Ed White <edmwhite47@gmail.com>
Sent: Sunday, October 15, 2017 9:52 PM
To: Amelia Lindley
Subject: Case Number: P17-0115

Case Number: P17-0115 (road access to Ulrich Rd.)



Amelia Lindley, Planner,

Thank you for taking this time and consideration for hearing our concerns for the proposed development of The Reserve at Spring Lakes requesting road access to Ulrich Rd.

We are Ed and Kitty White. We live in Red Oak Terrace Subdivision at 13211 Clepper Dr. We have concerns about having this proposed subdivision, The Reserve at Spring Lakes, wanting to bring road access into our subdivision for the additional homes they are wanting to build.

First, flooding is a REAL ISSUE. This last flood from the hurricane Harvey brought flood waters 2 feet from the Steffie's home at the end of Ulrich Rd. And other neighbors in our subdivision have seen flood waters over the train tracks to the NW of Ulrich Rd. And bringing in more houses and building back there will only put more homes and families at risk of flooding.

Second, one of the biggest reasons people have bought homes all up and down Ulrich Rd. is because of the ability to walk, run, ride a bike, walk their dogs, up and down Ulrich Rd without lots of traffic. Opening this road up to MORE TRAFFIC will take away that environment especially since we don't have shoulders on the road.

Third, we feel we weren't even considered in this impact study. We just found out about this proposed subdivision phase 2 & 3 yesterday. It will have an impact on our community!

We oppose this road access for the reasons above.

Thank You for hearing our concerns and consideration,
Ed and Kitty White



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball
Attn: Amelia Lindley
501 James Street
Tomball, TX 77375

Name: Ellery Gene Howard
(please print)
Address: 13214 Mercer Dr., Tomball, Tx. 77375

Signature: 
Date: September 28, 2017

 I am **FOR** the requested Rezoning as explained on the attached public notice for Zoning Case P17-0115. (Please state reasons below)

 X I am **AGAINST** the requested Rezoning as explained on the attached public notice for Zoning Case P17-0115. (Please state reasons below)

Date, Location & Time of Planning & Zoning Commission meeting:
Monday, October 9, 2017 6:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of City Council meeting:
Monday, October 16, 2017, 6:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

I feel that development of this section of the floodplain/watershed will be detrimental to the ALL Government entities as they will be required to provide relief and assistance WHEN, not IF, they flood.

This section of land has flooded three times in the last two years, the "Memorial Day Floods", The "Tax Day Floods" and Hurricane Harvey. I have witnessed many other floods of this area in the 35 years that I have lived here. Development will exacerbate the current flooding problems. Thank you for your time.

You may also comment via email to ALindley@tomballtx.gov.

Please reference the case number in the subject line.

For questions regarding this request please call Amelia Lindley @ 281-290-1410.



Michael Wren ▸ **Magnolia and Tomball
Flooding Information**

Yesterday at 11:32 PM · 🌐

Is spring creek done rising? In tomball on ulrich



Write a comment...



Post



Amelia Lindley

From: Farr, Joe <jfarr@itwproap.com>
Sent: Saturday, October 14, 2017 3:33 PM
To: Bob Allen; esansom1228@gmail.com; Amelia Lindley; Deana Jouett
Cc: Farr, Joe
Subject: Objection to Revised Proposed Development of The Reserve at Springs Lake. Case Number P17-0115

Importance: High

To whom it may concern,

My name is Joe Farr. My Wife is Deana LeMaster. We are the property and home owners in the neighborhood The Reserve at Spring Lakes. Our address is 30919 Spring Lake Blvd., Tomball Texas 77375.

Today, it was brought to my attention by fellow citizen Eddie Sansom that Bob Allen the Developer of The Reserve at Spring Lakes is proposing a change of the development from an Agriculture development to a single-family 20 estate district so that he can subdivide larger home lots into smaller lots and build smaller homes that will devalue our property.

The first question I have as a home owner in this neighborhood is; Why have existing home/property owners not been notified of this proposed change by the developer? We have made significant capital investment in our properties and the action proposed by Bob Allen will devalue our property values. This action alone is unethical and underhanded! And apparently there has already been one secret hearing held on 10/9/17 that we were not aware of and another pending on October 16th? And of course, many cannot attend with one day notice!

When we purchased our lot in this neighborhood, it was under the commitment by the developer that the community would be comprised of a minimum 1 acre lots. Were we lied to? Were we sold property under a false premise? Now, a change is being proposed that does not honor the basis on which we initially purchased our lot and the proposed change is being attempted to be passed in secrecy, our using a lupeol by not notifying existing home owners because we would obviously object.

Furthermore, the proposed change will increase traffic on Spring Lake Blvd and create additional flooding problems. During Hurricane Harvey, the properties located behind me on Ulrich and their ponds drained and overflowed onto my property. Other residence in the area had drainage and flooding problems as well. Who is liable for the changes to drainage easements that cause flooding? The City of Tomball or The Developer of The Reserve at Spring Lakes? Perhaps both?

I strongly encourage The Tomball City Council to decline this rezoning request and avoid future litigation.

Sincerely,

Joe Farr
30919 Spring Lake Blvd.
Tomball TX 77375

Amelia Lindley

From: John Moss <jmoss32@att.net>
Sent: Monday, October 16, 2017 12:20 PM
To: Amelia Lindley
Subject: Re: Bob Allen's email dated 10/15/17

Dear Amelia,

Can you please confirm that discussion of Zoning Case P17-0115 has been scratched from the agenda of tonight's Council meeting?

As you're no doubt aware, there is strong & growing opposition to the case being approved by Council from residents of the Reserve at Spring Lakes and many surrounding neighbors. If Mr. Allen decides to go ahead with the case, we all want to be given the chance to voice our opposition & in many cases anger in the public forum.

Thanks,

John

John Moss

jmoss32@att.net

Cell: 713-805-8846

30718 Spring Lake Blvd.

Tomball, TX 77375



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball
Attn: Amelia Lindley
501 James Street
Tomball, TX 77375

Name:

KENNETH COFFMAN

(please print)

Address:

13211 MERCER DR

TOMBALL, TX 77375

Signature:

Kenn Coffman

Date:

9/28/17

I am **FOR** the requested Rezoning as explained on the attached public notice for Zoning Case P17-0115. (Please state reasons below)

☒

I am **AGAINST** the requested Rezoning as explained on the attached public notice for Zoning Case P17-0115. (Please state reasons below)

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

Monday, October 9, 2017 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:

Monday, October 16, 2017, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

NORTHERN 3RD OF AREA FLOODS, PROPERTY VALUES WILL DECLINE IF LOW COST HOUSING IS BUILT "NOBODY WANTS TO LIVE UNDER ELECTRICAL TOWERS, RUN OFF COULD FLOOD NEAR BY HOMES. LIMITED ACCESS TO AREA, MERCER DR IS A PRIVATE ROAD.

You may also comment via email to ALindley@tomballtx.gov.

Please reference the case number in the subject line.

For questions regarding this request please call Amelia Lindley @ 281-290-1410.

Amelia Lindley

From: Ken Coffman <Ken.Coffman@tfwarren.com>
Sent: Thursday, September 28, 2017 1:32 PM
To: Amelia Lindley
Cc: Ken Coffman; Ken Coffman
Subject: Case Number: P17-0115
Attachments: IMG_1169.png

My email is in regards to a notification letter regarding the hearing concerning the possible rezoning mentioned in Case number P17-0115.

Frankly, to even consider rezoning this property is ridiculous. I've enclosed a photo the northern 3rd of the property. It is under 20 to 30 feet of water. This occurred during the recent Hurricane Harvey and the photo was taken 20 feet from my driveway. Enclosed are some of the reasons I'm against this.

1. Since 2000, the northern 3rd of this property has had major flooding events. (During Allison and Harvey). If you build homes on the location, it is guaranteed it will flood. Since I've lived in this area, I've witnessed numerous heavy rain events flood this area. 3 times with in the past year. If spring creek floods, then so does this property. That is why it listed are Agricultural.
2. When it rains, water runs from the south through the property to spring creek. If you walk the property, you can see the water erosion caused by the rain waters.
3. If homes are built on the property, it will limit the surrounding area ability to drain and cause water to be retained in already inhabited areas.
4. Access to this property is limited. The main road leading to the property is Ulrich. It is a 2 lane road which is used by the Tomball track team to run on. It is my understanding that the eastern half of the northern half of this road is owned by the home owners. In addition, Mercer drive, which branches off of the end of Ulrich, will be used by the new home owners for access. This road is owned by the home owners and is not maintained by the county or Tomball. Opening up this land to homes will increase traffic on the road and further degrade this substandard road.
5. The land is a right of way for large electrical tower. I'm assuming if homes are built on the property, they will be inexpensive since NOBODY wants to live under those towers.

Best regards,

Ken Coffman CSP | Corp. Health & Safety Director | TF Warren Group

O: 832-299-3201 | **C:** 832-980-7817

1400 Woodloch Forest Drive, Ste. 500 | The Woodlands, TX 77380



WARREN GROUP

Your Single Source Solution

www.tfwarren.com

October 6, 2017

To: The City of Tomball TX
Attn: Amelia Lindley; alindley@tomballtx.gov
501 James Street
Tomball, TX 77375

From: Michael L Young President
Tomball Gun Club Inc.
P.O. Box 317
Tomball Texas 77377-0317

Subject: Against Zoning Case P17-0115 (Agricultural District to Single-Family 20 Estate District)

Good day Amelia Lindley,

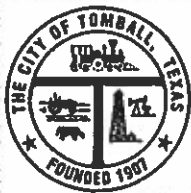
Please find the attached PDF, which contains the official City of Tomball, TX response form for the above referenced Zoning Case.

In addition to the form, as the President of and representative of The Tomball Gun Club Inc. I wish to state that we stand against Zoning Case P17-0115 (Agricultural District to Single-Family 20 Estate District), as portions of the 76.01-acre tract are adjacent to the Tomball Gun Club Inc., a sport shooting range established and continuously operated since 1963. Tomball Gun Club Inc. is a sport shooting range as defined and assigned by Section 250.001, Local Government Code. We have additional concerns about increased flooding across our property, as the club property is downstream from the purposed rezoning. The proposed developer's web site (<http://thereservetomball.com/master-plan>) obscures the fact that the rezoning and proposed residential building is adjacent to an existing sport shooting range with a preeminence dating back to 1963. The developer has published a proposal, which places the green barrier and detention ponds in the upper bounds of the watershed exasperating the increased water flow across our property and ignoring any benefit of noise abatement gained by a detention structure and green buffer, which could be located along the eastern property boundary.

Respectfully submitted,

Michael L Young

Michael Young – President Tomball Gun Club Inc.



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball
Attn: Amelia Lindley
501 James Street
Tomball, TX 77375

Name: MICHAEL L YOUNG PRESIDENT
(please print)
Address: TOMBALL GUN CLUB INC.
PO BOX 317, Tomball, TX 77377-0317
Signature: [Signature]
Date: 10-6-2017

☐ I am FOR the requested Rezoning as explained on the attached public notice for Zoning Case P17-0115. (Please state reasons below)

☒ I am AGAINST the requested Rezoning as explained on the attached public notice for Zoning Case P17-0115. (Please state reasons below)

Date, Location & Time of Planning & Zoning Commission meeting:
Monday, October 9, 2017 6:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of City Council meeting:
Monday, October 16, 2017, 6:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

Against Zoning Case P17-0115 (Agricultural District to Single-Family 20 Estate District) as portions of the 76.01-acre tract are adjacent to the Tomball Gun Club Inc. a sport shooting range established and continuously operated since 1963. Sport shooting range meaning assigned by Section 250.001, Local Government Code. Additional concerns about flooding, as the club property is downstream from the purposed rezoning.

You may also comment via email to ALindley@tomballtx.gov.
Please reference the case number in the subject line.
For questions regarding this request please call Amelia Lindley @ 281-290-1410.

Amelia Lindley

From: Michael and Lesa Young <mlybudo@sbcglobal.net>
Sent: Friday, October 06, 2017 9:23 AM
To: Amelia Lindley
Subject: Against Zoning Case P17-0115
Attachments: Against Zoning Case P17-0115 (1).pdf

October 6, 2017

To: The City of Tomball TX
Attn: Amelia Lindley; alindley@tomballtx.gov
501 James Street
Tomball, TX 77375

From: Michael L Young President
Tomball Gun Club Inc.
P.O. Box 317
Tomball Texas 77377-0317

Subject: Against Zoning Case P17-0115 (Agricultural District to Single-Family 20 Estate District)

Good day Amelia Lindley,

Please find the attached PDF, which contains the official City of Tomball, TX response form for the above referenced Zoning Case.

In addition to the form, as the President of and representative of The Tomball Gun Club Inc. I wish to state that we stand against Zoning Case P17-0115 (Agricultural District to Single-Family 20 Estate District), as portions of the 76.01-acre tract are adjacent to the Tomball Gun Club Inc., a sport shooting range established and continuously operated since 1963. Tomball Gun Club Inc. is a sport shooting range as defined and assigned by Section 250.001, Local Government Code. We have additional concerns about increased flooding across our property, as the club property is downstream from the purposed rezoning. The proposed developer's web site (<http://thereservetomball.com/master-plan>) obscures the fact that the rezoning and proposed residential building is adjacent to an existing sport shooting range with a preeminence dating back to 1963. The developer has published a proposal, which places the green barrier and detention ponds in the upper bounds of the watershed exasperating the increased water flow across our property and ignoring any benefit of noise abatement gained by a detention structure and green buffer, which could be located along the eastern property boundary.

Respectfully submitted,

Michael L Young

Michael Young – President Tomball Gun Club Inc.

October 9, 2017

VIA EMAIL ONLY: alindley@tomballtx.gov

City of Tomball
Planning and Community Development
Attn: Amelia Lindley, Planner
501 James Street
Tomball, Texas 77375

Re: Comments to proposed rezoning of 76.01 acres from Agricultural to Single-Family at Reserve "D" Reserve at Spring Lake, Section 2, by Applicant: Robert Allen (the "Project")

Dear Ms. Lindley:

Thank you for allowing Union Pacific Railroad Company ("UP") the opportunity to submit the following comments on the above-referenced Project. UP is a Delaware corporation that owns and operates a common carrier railroad network in the western half of the United States, including the State of Texas. UP's rail network is vital to the economic health of Texas and the nation as a whole and its rail service to customers in the Tomball Area is crucial to the future success and growth of those customers.

The proposed Project location is adjacent to UP's Navasota Subdivision. Additionally, there may be at-grade rail crossings over these tracks in nearby locations. Any land planning decisions should consider that train volumes near the Project area may increase in the future. UP also asks that the City and the applicant keep in mind that this is a vital rail corridor and nearby land uses should be compatible with this continuing rail use.

At-Grade Rail Crossing and Sight Line Safety

The safety of UP's employees, customers, adjoining land owners, and the communities we operate through is our top priority. At-grade rail crossings are areas where railroad operations and the public come into close contact. Appropriate modifications to the street and warning devices on any nearby rail crossings may need to be included as part of the Project. Development at the Project location may result in poor site lines for vehicular

traffic approaching the at-grade crossings. Should this Project continue, UP requests that the City require appropriate setbacks to mitigate any safety risks resulting from reduced visibility. UP also suggests the City consider holding railroad and crossing safety presentations, such as Operation Lifesaver, for the public on an appropriate basis.

Increased Traffic Impact

Rail crossing safety is critical to the public and to UP. Any increase in traffic from the Project may render inadequate the current safety devices in place on any nearby at-grade crossings. Additionally, an increase of pedestrian and vehicular traffic may conflict with train operations causing trains to proceed more slowly through the City, and/or make more frequent emergency stops, which would make rail service less effective and efficient. Should this Project be approved, UP requests that the Project developer and the City examine any increase in vehicular and pedestrian traffic and the impacts on any nearby at-grade road crossings to see if any additional mitigation measures should be included in the Project.

Trespassing

Any increase in pedestrian traffic will increase the likelihood of trespassing onto the railroad right-of-way. UP requests that the developer and the City examine the Project impacts associated with the increased likelihood of trespassing and set forth appropriate mitigation measures. The developer should install vandal resistant fencing at least 8 feet or taller (without impairing visibility), pavement markings and “no trespassing” signs designed to prevent individuals from trespassing onto the railroad tracks. Buffers and setbacks (minimum 100 feet from active track) should also be required adjacent to the right-of-way.

Noise and Vibration Impact

UP’s 24-hour rail operations generate the noise and vibration one would expect from an active railway. Any increase in pedestrian and vehicular traffic over and around at-grade crossings may result in additional horn use by railroad employees. As a mitigation measure, the developer should disclose to the general public, including residents of the proposed development, the daytime and nighttime noise levels naturally occurring with rail service, including sounding horns at vehicle crossings where required, as well as the pre-existing and predictably-occurring vibration. These disclosures should note that train volume may increase in the future. The Project’s development plans should also include appropriate mitigation measures, such as construction of sound barrier walls or landscape buffers, and/or use of sound-proofing materials and techniques.

Drainage and Project Construction

UP requests the City ensure that the drainage plan relating to the Project does not shift storm water drainage toward UP property and infrastructure. Any runoff onto UP’s property may cause damage to its facilities resulting in a potential public safety issue. If the Project is approved, we ask that the City require the applicant to mitigate all safety risks and the impacts of the railroad’s 24-hour operations during the construction of the Project, including contacting UP to arrange for flaggers for work performed within twenty-five feet (25’) of the nearest track.

City of Tomball
October 9, 2017

UP appreciates the developer and the City giving due consideration to the above concerns, as this proposed Project may result in impacts to land use and public safety. Please give notice to UP of all future hearings and other matters with respect to the Project as follows:

Colby Rinker, Manager - Real Estate
Union Pacific Railroad Company
1400 Douglas Street - STOP 1690 Omaha, NE 68179
(402) 544-6041
cwrinker@up.com

Please do not hesitate to contact Colby Rinker if you have any questions or concerns.

Sincerely,



Madeline E. Roebke
Senior General Counsel
Union Pacific Railroad Company

cc: Colby Rinker

Amelia Lindley

From: Rachel Contreras <rachelcontreras86@yahoo.com>
Sent: Wednesday, October 18, 2017 10:28 AM
To: Amelia Lindley
Subject: Case Number P17-0115 (road access to Ulrich Rd.)

Good morning Amelia,

My name is Rachel Contreras and I live on Clepper Dr. in Red Oak Terrace Subdivision.

I would like to oppose the 90+ homes in The Reserve Spring Lakes.

My concern is flooding and higher traffic. It's evident that Tomball will continue to grow, but we would like to maintain the small town country atmosphere in our area (Zion and Ulrich). Our area is beautiful, peaceful and for the most part, safe.

Thank you for listening to my concerns and I appreciate you considering what this change would mean for all the families in our area.

Have a good day,
Rachel

Sent from my iPhone

Amelia Lindley

From: Rusty Mohle <dmohle@comcast.net>
Sent: Sunday, October 15, 2017 5:19 PM
To: Amelia Lindley
Cc: Rusty Mohle
Subject: RE: Case P17-0115 Info Request

Amelia,

Thanks for your response.

I can understand that a zoning request for a lot or two that do not require significant drainage could defer the details of a drainage plan to after zoning. For a major housing development in property zoned AG and located in and adjacent to flood zone, that approach is irresponsible.

I am opposed to rezoning this property in Cast P17-0115. I have signed up to speak at the hearing Monday evening.

The proposed plan:

- Is poorly sited IN and ADJACENT to Spring Creek flood plains
- Shows disregard for public safety in proximity to RR line and Tomball Gun Club.
- Threatens the quality of life for adjacent neighborhoods - including existing Sections I & II

Dwight (Rusty) Mohle
13203 Spring Hollow Dr

-----Original Message-----

From: Amelia Lindley [<mailto:alindley@tomballtx.gov>]
Sent: Thursday, October 12, 2017 1:15 PM
To: Rusty Mohle
Subject: RE: Case P17-0115 Info Request

Typically this information is not part of the Zoning process. When construction plans are submitted for approval, these details will be examined.

Thank you,

Amelia Lindley
Planner
Community Development Department
(281) 290-1410
www.tomballtx.gov/cd

-----Original Message-----

From: Rusty Mohle [mailto:dmohle@comcast.net]
Sent: Thursday, October 12, 2017 1:05 PM
To: Amelia Lindley
Subject: Re: Case P17-0115 Info Request

Thank you for the information.

Was is there any more information regarding review of site flood management and impact on areas outside of the property?

Thank you,
DM

Sent from my iPhone

> On Oct 12, 2017, at 11:24 AM, Amelia Lindley <alindley@tomballtx.gov> wrote:

>

> Mr. Mohle,

>

> I have attached the application, proposed site layout and proposed plat for the development. Please let me know if there is anything else you need.

>

>

> Thank you,

>

> Amelia Lindley

> Planner

> Community Development Department

> (281) 290-1410

> www.tomballtx.gov/cd

>

>

>

>

>

>

> -----Original Message-----

> From: Rusty Mohle [mailto:dmohle@comcast.net]

> Sent: Thursday, October 12, 2017 10:24 AM

> To: Amelia Lindley

> Subject: Case P17-0115 Info Request

>

> Ms Lindley,

>

> I am inquiring about the subject case scheduled for hearing Monday evening of 10/16/2017.

>

> I would like to obtain a copy of the information provided by the owner regarding the change proposed in case P17-0115.

>

> I have also left a voice mail regarding this request as well.

>
> Thank you for your assistance,
>
> Dwight Mohle
> 281-450-5968
> Sent from my iPhone
>
> <Application for Rezoning (Rev. 051915)_201506120859486542[1]_Page_1.jpg>
> <Application for Rezoning (Rev. 051915)_201506120859486542[1]_Page_2.jpg>
> <Site Plan.jpg>
> <Proposed Plat.jpg>

Amelia Lindley

From: Samantha <camdenandsam@aol.com>
Sent: Monday, October 16, 2017 1:50 PM
To: Amelia Lindley
Subject: P17-0115 (road access to Ulrich Rd.)

Amelia Lindley, Planner,

Thank you for taking this time and consideration for hearing our concerns for the proposed development of The Reserve at Spring Lakes requesting road access to Ulrich Rd.

We are Samantha and Michael Wren. We live in Red Oak Terrace Subdivision at 13215 Clepper Dr. We have concerns about having this proposed subdivision, The Reserve at Spring Lakes, wanting to bring road access into our subdivision for the additional homes they are wanting to build.

First, flooding is a REAL ISSUE. Hurricane Harvey had water standing in my yard and only an inch from entering my home. Building these additional homes will greatly effect my family as well as my neighbors and will put all of us at risk of flooding and danger to our lives!! Considering I have 4 SMALL children in this community we are very concerned!

Second, a huge reason we purchased the corner lot we did was for our small kids that love to ride bikes on Ulrich Rd. To the parks as well as our ability to walk, run, walk dogs, up and down Ulrich Rd without lots of traffic. Opening this road up to MORE TRAFFIC will take away that environment especially since we don't have shoulders on the road. (We also personally have to pay for our roads up keep out of pocket, without any help from city or state.) Adding traffic to Ulrich will definitely effect our roads and the safety of our children!

Third, we feel we weren't even considered in this impact study. We just found out about this proposed subdivision phase 2 & 3 yesterday. It will have an impact on our children amd community!

We OPPOSE this road access for the reasons above.

Thank You for hearing our concerns and consideration,

Samantha and Michael Wren

Sent from AOL Mobi

Amelia Lindley

From: steve mercer <steve Mercer@att.net>
Sent: Saturday, October 14, 2017 9:20 PM
To: Amelia Lindley
Subject: Case Number P17-0115

To All Concerned;

I regret that a previous commitment will not let me attend the October 16, 2017 city council public hearing.

I am writing to voice my concern with the new development that proposes to connect an entrance with the Reserve at Spring Lakes subdivision with Ulrich Road. Currently, there are already three subdivisions that feed into this thoroughfare. This will increase the traffic to a level that will change the nature of this part of Tomball and negatively impact the people that live along this road.

Currently, the traffic is currently manageable for school pickup, trash pickup and use by neighbors and kids. If this subdivision is connected with Ulrich it will cause danger to pedestrians. In addition, it will make the four way stop at Ulrich and Zion a nightmare for traffic flowing to the High School. The city would be quickly petitioned for sidewalks and a light at Zion and Ulrich to handle the back up at this four way stop.

It will also create a greater risk of crime activity for that subdivision and the homes on Ulrich as now there will be multiple exit points when alarms sound. Currently, there is one way out of Ulrich and one way out of The Reserve at Spring Lakes

I strongly recommend for the best interest of the current community along Ulrich and to maintain the uniqueness of Tomball in this area that you not allow this connection.

Respectfully submitted;

Steve & Kelli Mercer
31015 Ulrich Rd.
Tomball, Tx 77375
steve Mercer@att.net
ph. 346-932-6419

Amelia Lindley

From: Suzanne Reynolds <suzanne.s.reynolds@gmail.com>
Sent: Friday, October 13, 2017 4:41 PM
To: Amelia Lindley
Subject: Case P17-0115

Dear Amelia,

I understand there is a meeting Monday evening reference Case P17-0115. I am out of town, and I will not be back in time to make that meeting. Please make note that I am OPPOSED to the proposed change in zoning.

Our area is very fortunate that we did not experience the devastation of flooding caused from torrential rains in Spring 2016 (There were two floods only one month apart) and during the recent Hurricane Harvey / Rain. The water from Spring Creek did, however, cover the railroad tracks just northwest of Ulrich putting homes on the north end of Ulrich at risk. This risk would increase greatly with the addition of 90 plus homes being developed on this flood land. The water runoff from these homes during torrential rain would raise Spring Creek even higher putting homes just south of Spring Creek on the north end of Ulrich in even greater danger of flooding.

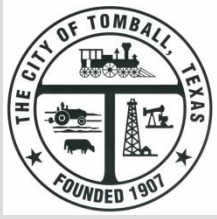
In addition, Ulrich is a two lane road with no shoulders, street lights, or sidewalks, and there are many driveways tied directly to Ulrich. For the past 25 years, we have used Ulrich to walk, ride bikes, and connect with our neighbors. Currently, many of us ride bikes and walk to the shops and restaurants on Main St. from our homes. The proposed development would connect not only this new development with Ulrich, but also, give access to Ulrich to residents of Reserve at Spring Lakes and Raleigh Creek Subdivisions. The increased traffic would be devastating to the neighborhoods that branch off the north end of Ulrich (from Spring Creek to Zion Rd), i.e. Spring Creek Hollow; Hunterwood and others. It would be hazardous to use Ulrich for any type of recreation. Our hometown/country ambiance would be completely destroyed.

We have been residents of the City of Tomball for more than 25 years and love our little town. Please turn down this proposal and protect our hometown from unnecessary development.

Thank you for your consideration of our concerns.

Respectfully yours,

Suzanne S. Reynolds
13302 Spring Hollow Dr.
Tomball, TX 77375
281-468-2346



Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: October 9, 2017

City Council Public Hearing Date: February 5, 2018

Rezoning Case: P17-0115
Property Owner(s): Zion Road Properties, LLC
Applicant(s): Robert (Bob) Allen
Legal Description: Reserve “D” Reserve at Spring Lake – Section 2
Location: North end of Spring Lake Boulevard (Exhibit “A”)
Area: 76.01 acres
Comp Plan Designation: Rural Residential (Exhibit “B”)
Present Zoning and Use: Agricultural District (Exhibit “C”) / Undeveloped land (Exhibit “D”)
Request: Rezone 76.01 acres from the Agricultural District to the Single-Family 20 Estate District

Adjacent Zoning & Land Uses:

North: Agricultural District / Undeveloped

South: Agricultural District / Single-family residences

West: Agricultural District / Undeveloped

East: Outside City Limits / Undeveloped

BACKGROUND

City Staff met with the applicant regarding a potential rezoning of the northern portion of the Reserve at Spring Lake subdivision.

ANALYSIS

The entire site is approximately 91 acres. The property owner, who is the developer of the subdivision Reserve at Spring Lake, is requesting approximately 76 acres be rezoned from Agricultural to Single-Family 20 Estate District to allow for a minimum of half acre lots, rather than a minimum of one acre lots.

All surrounding properties are zoned Agricultural or Single-Family 20 Estate District. The property owner has developed the existing subdivision as a minimum of one acre lots with the desire to develop Section 3 as a minimum of half acre lots.

The Future Land Use Map designates the property as Rural Residential. According to the Comprehensive Plan, Rural Residential includes “single family detached residential development on minimum 1 acre lots allowing up to one house per acre”.

ZONING CONSIDERATIONS

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

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

The uses permitted in the Single-Family 20 Estate District appear to be appropriate for the immediate area and the City as a whole. This area of the City has many larger lot subdivisions.

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

Adequate utilities are available to serve this property and the existing arterial street to the south of the property can accommodate traffic generated by a Single-Family 20 Estate District development.

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

There is vacant land in the City zoned Single-Family 20 Estate. There does not appear to be any special circumstances which may make a substantial part of any vacant land unavailable for development.

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

There has not been recent development in the Single-Family 20 Estate District. The neighborhood just to the east of the subject site, Raleigh Creek, is zoned Single-Family 20 Estate, however it is vested Single-Family 9 District, meaning the lots are building to the Single-Family 9 District standards. Most other new subdivisions are zoned Single-Family 9 or Single-Family 6 District.

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

City Staff does not anticipate any adverse impacts on other areas designated for similar development.

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

Generally, the proposed rezoning does not appear to negatively affect the public health, safety, morals, or general welfare.

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

The Future Land Use Map designates the property as Rural Residential. The request does not appear to be consistent with the Future Land Use Map; however the Comprehensive Plan also discusses on various occasions the need for a wide variety of housing styles, densities, and price ranges located in the appropriate locations.

PUBLIC COMMENT

Property owners within 200 feet of the project site were first mailed notification of this proposal on September 22, 2017. The Notice of Public Hearing was published in the paper on September 27, 2017.

Notice of Public Hearing for the February 5, 2018 agenda was published in the paper on January 17, 2018 and property owners were mailed notification on January 26, 2018.

Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends APPROVAL of Zoning Case P17-0115 for the following reasons:

1. While the proposed rezoning is not consistent with the Future Land Use Map, the request will meet the goals of City's Comprehensive Plan;
2. The request is generally appropriate with the surrounding land uses in the area;
3. The request is generally appropriate with the surrounding zoning districts.

EXHIBITS

- A. Aerial Photo
- B. Comprehensive Plan
- C. Zoning Map
- D. Site Photo
- E. Application

Exhibit "A"
Aerial Photo

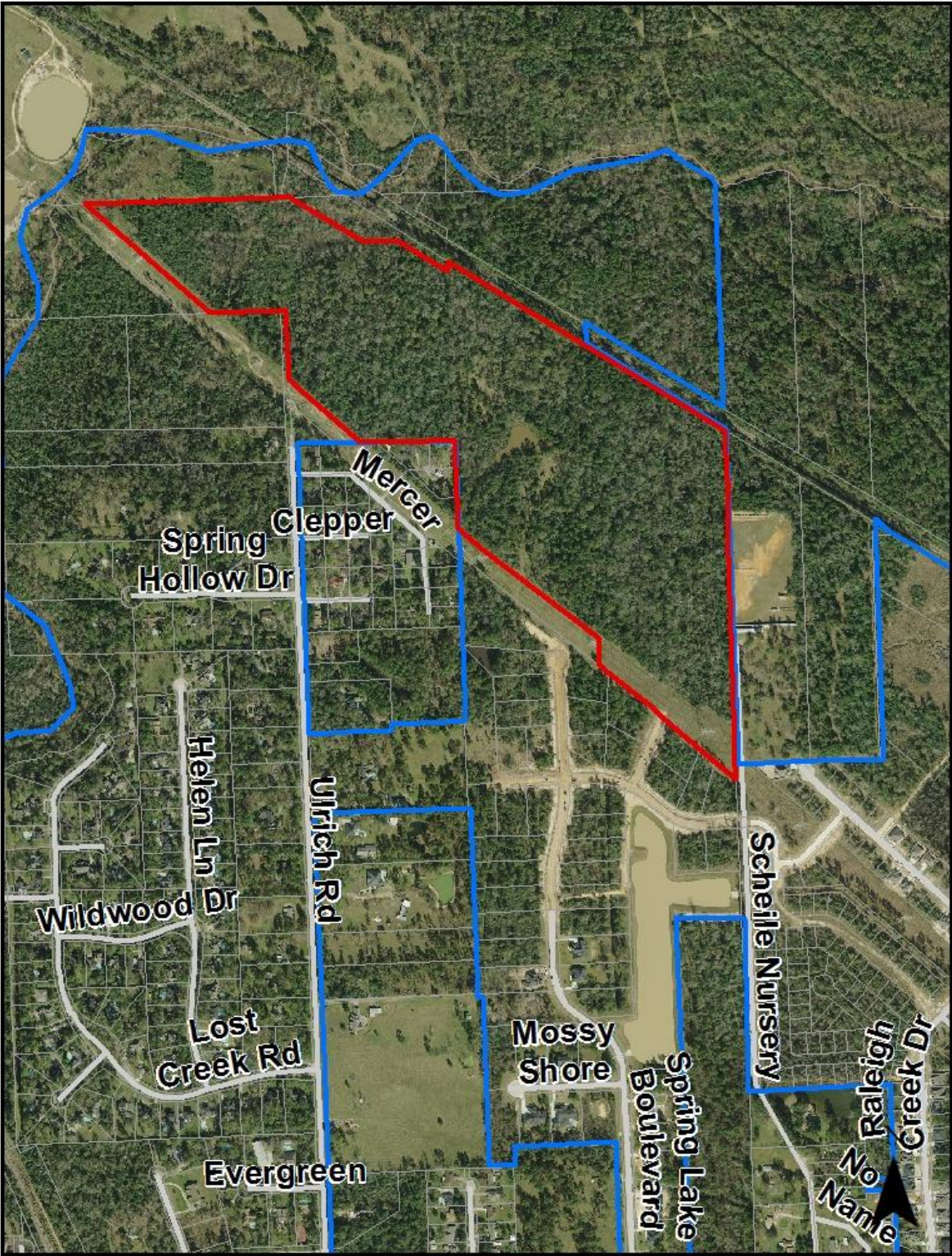


Exhibit "B"
Comprehensive Plan

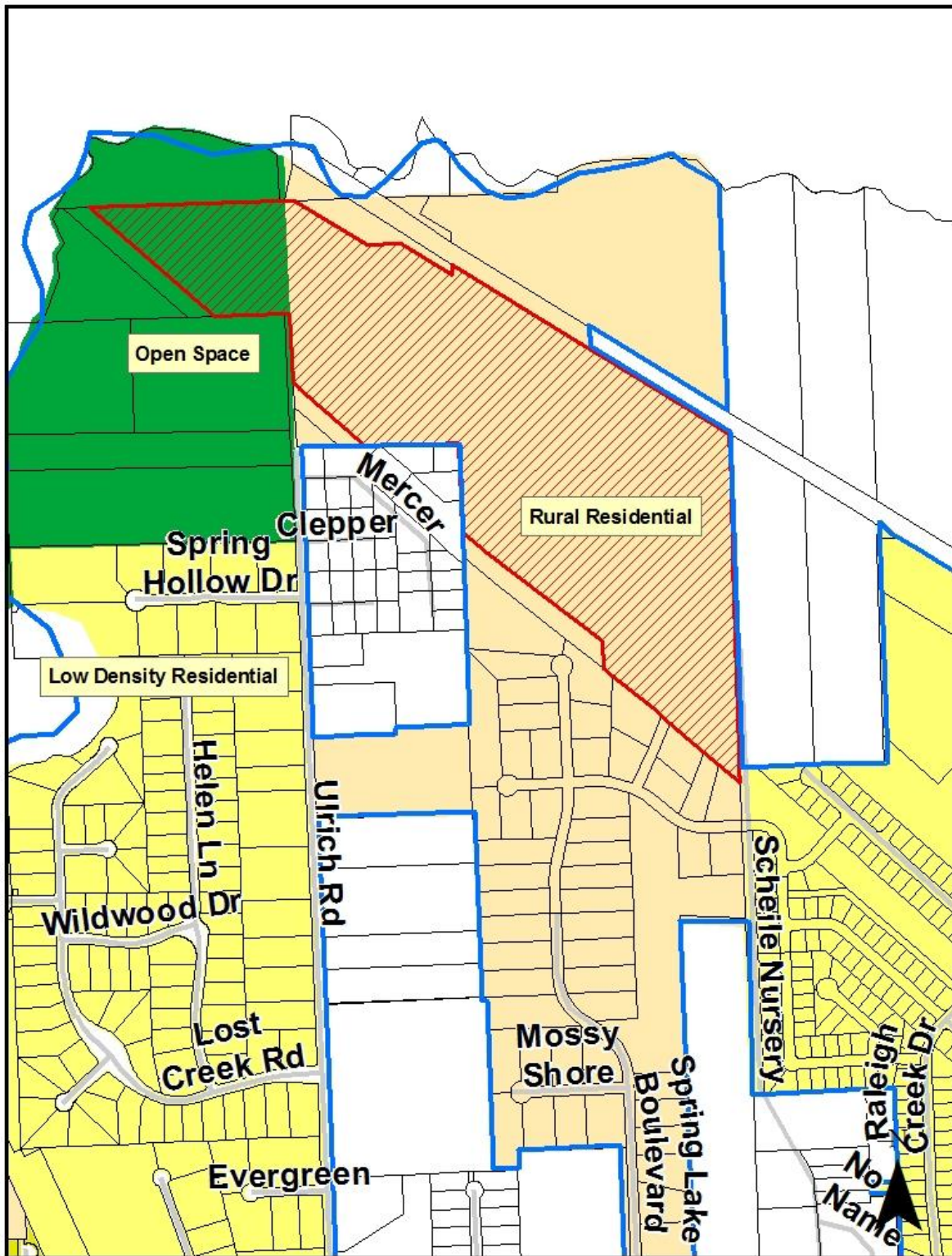
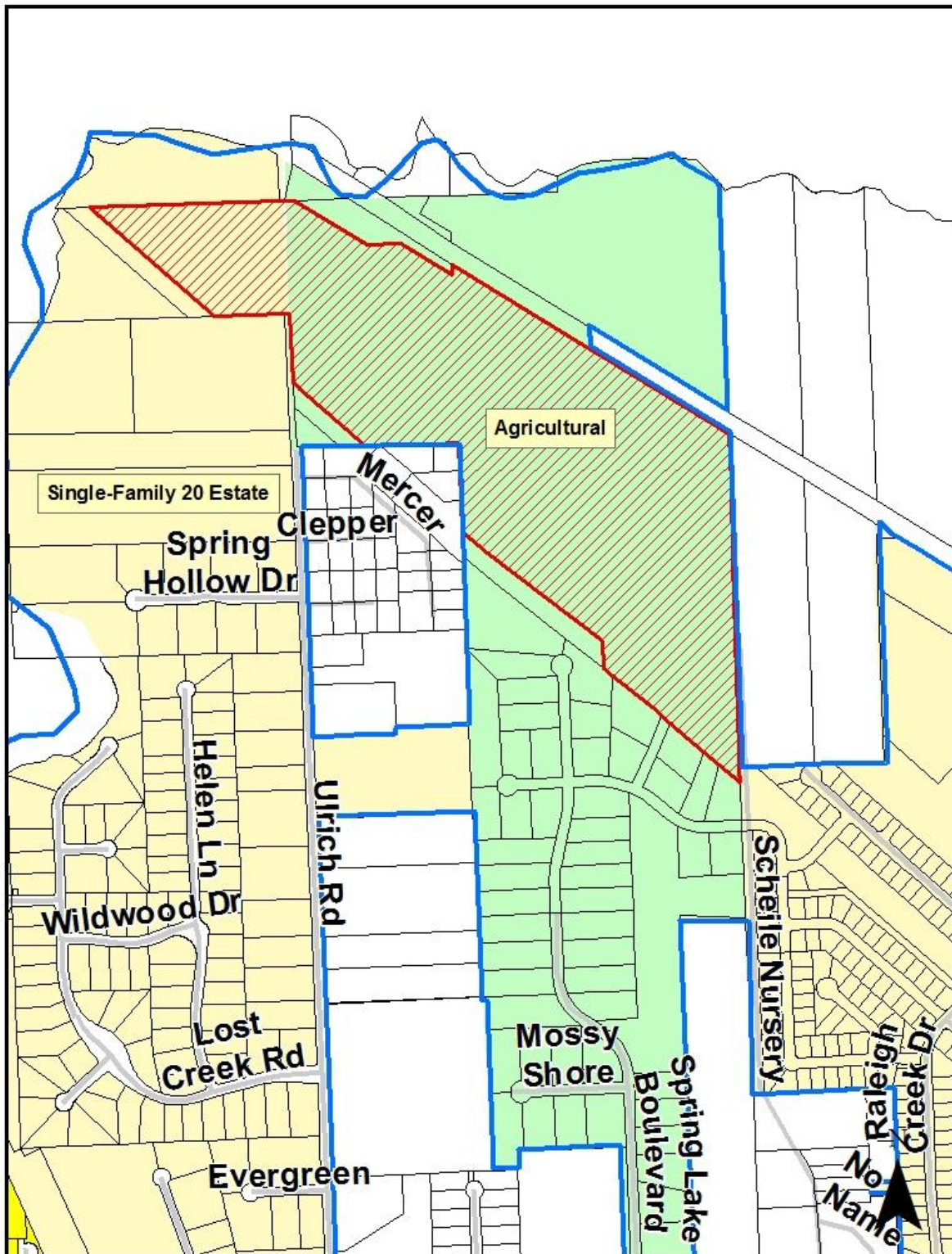


Exhibit "C"
Zoning Map



**Exhibit “D”
Site Photo**



Exhibit "E" Application

Revised 5/19/15



APPLICATION FOR REZONING Community Development Department Planning Division

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

Applicant

Name: Robert (Bob) Allen Title: Vice President
Mailing Address: 9977 W. Sam Houston Pkwy N. #150 City: Houston State: TX
Zip: 77064
Phone: (281) 477-8688 Fax: (281) 477-9191 Email: bob@thereservetomball.com

Owner

Name: Zion Road Properties, LLC Title: _____
Mailing Address: 9977 W. Sam Houston Pkwy, N. #150 City: Houston State: TX
Zip: 77064
Phone: (____) _____ Fax: (____) _____ Email: _____

Engineer/Surveyor (if applicable)

Name: DPK Engineering - David Kelly Title: Principal
Mailing Address: P.O. Box 823 City: Fulshear State: TX
Zip: 77441
Phone: (281) 346-2616 Fax: (____) _____ Email: david.kelly@dpkengineering.com

Description of Proposed Project: The Reserve at Spring Lake - Section 3

Physical Location of Property: Zion Road and Spring Lake Blvd
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: The Reserve at Spring Lake Section 1 and 2
[Survey/Abstract No. and Tracts, or platted Subdivision Name with Lots/Block]

Current Zoning District: AG

Current Use of Property: AG

Proposed Zoning District: SF 20E

Proposed Use of Property: SF 20E

HCAD Identification Number: 1368250040005 Acreage: 76.01

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 www.tomballtx.gov

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

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

<u>X</u>	Robert M. Allen	Digitally signed by Robert M. Allen DN: cn=Robert M. Allen, o, ou, email=rob@allenlandmgt.com, c=US Date: 2017.08.22 13:48:35 -05'00'	8/22/17
	Signature of Applicant		Date
<u>X</u>	Robert M. Allen	Digitally signed by Robert M. Allen DN: cn=Robert M. Allen, o, ou, email=rob@allenlandmgt.com, c=US Date: 2017.08.22 13:48:47 -05'00'	8/22/17
	Signature of Owner		Date



Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 5, 2018

Topic:

Consider Abandonment of a City of Tomball Utility Easement and Adopt, on First Reading, Ordinance No. 2018-08, an Ordinance of the City of Tomball, Texas, Finding and Determining that the Public Convenience and Necessity No Longer Require the Continued Existence of a Certain Portion of a City of Tomball Utility Easement across a Certain 0.007 Acre Tract of Land Being Out of and a Part of the John M. Hooper Survey, A-375, Tomball, Harris County, Texas and Being out of the Partial Replat of Tomball Marketplace, Lot 2, the Map of Which is Recorded in Film Code No. 639076 of the Map Records of Harris County, Texas, Located in the City of Tomball, Texas; Vacating, Abandoning, and Closing Said Portion of Such City of Tomball Utility Easement; Authorizing the City Manager to Execute and the City Secretary to Attest a Quitclaim Deed Quitclaiming the City's Interest in Said Abandoned Easement; and Containing Other Provisions Relating to the Subject

Background:

With the proposed construction of new retail space at Tomball Marketplace, it is necessary to abandon a portion of an existing 10' wide City of Tomball Utility Easement where the new building will be located. Community Development has no concerns with the proposed abandonment.

Origination:

Weingarten Realty

Recommendation:

Approval

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

Craig T. Meyers, Community Development Director

ACTION TAKEN

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

ATTACHMENTS:

Ordinance 2018-08

Map

ORDINANCE NO. 2018-08

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

* * * * *

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

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

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

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

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

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

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

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

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 5TH DAY OF
FEBRUARY 2018.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN KLEIN QUINN	_____

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 19TH DAY OF
FEBRUARY 2018.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN KLEIN QUINN	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

 This instrument was acknowledged before me on this ____ day of _____,
2018, by Gretchen Fagan, Mayor of the City of Tomball, Texas, a municipal corporation, on
behalf of said corporation.

Notary Public In and For the State of Texas

My Commission Expires: _____

(SEAL)

After Recording Return To:

City Secretary
City of Tomball, Texas
401 Market Street
Tomball, Texas 77375

EXHIBIT A

County: Harris County
Project Location: F.M. 2920 at
State Highway 249

Property Description for Abandonment of 0.007-Acre of Utility Easement

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

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

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

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

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

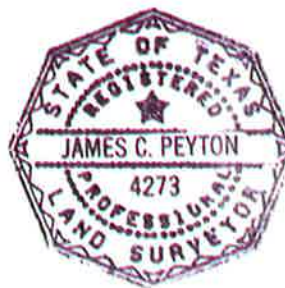
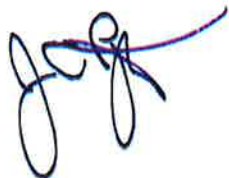
THENCE North 02 deg. 42 min. 17 sec. West, with the west line of said 10-foot C.T.U.E., and with the west line of said tract herein described, a distance of 30.88 feet to the northwest corner of said tract herein described;

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

This description is accompanied by a plat of even survey date.

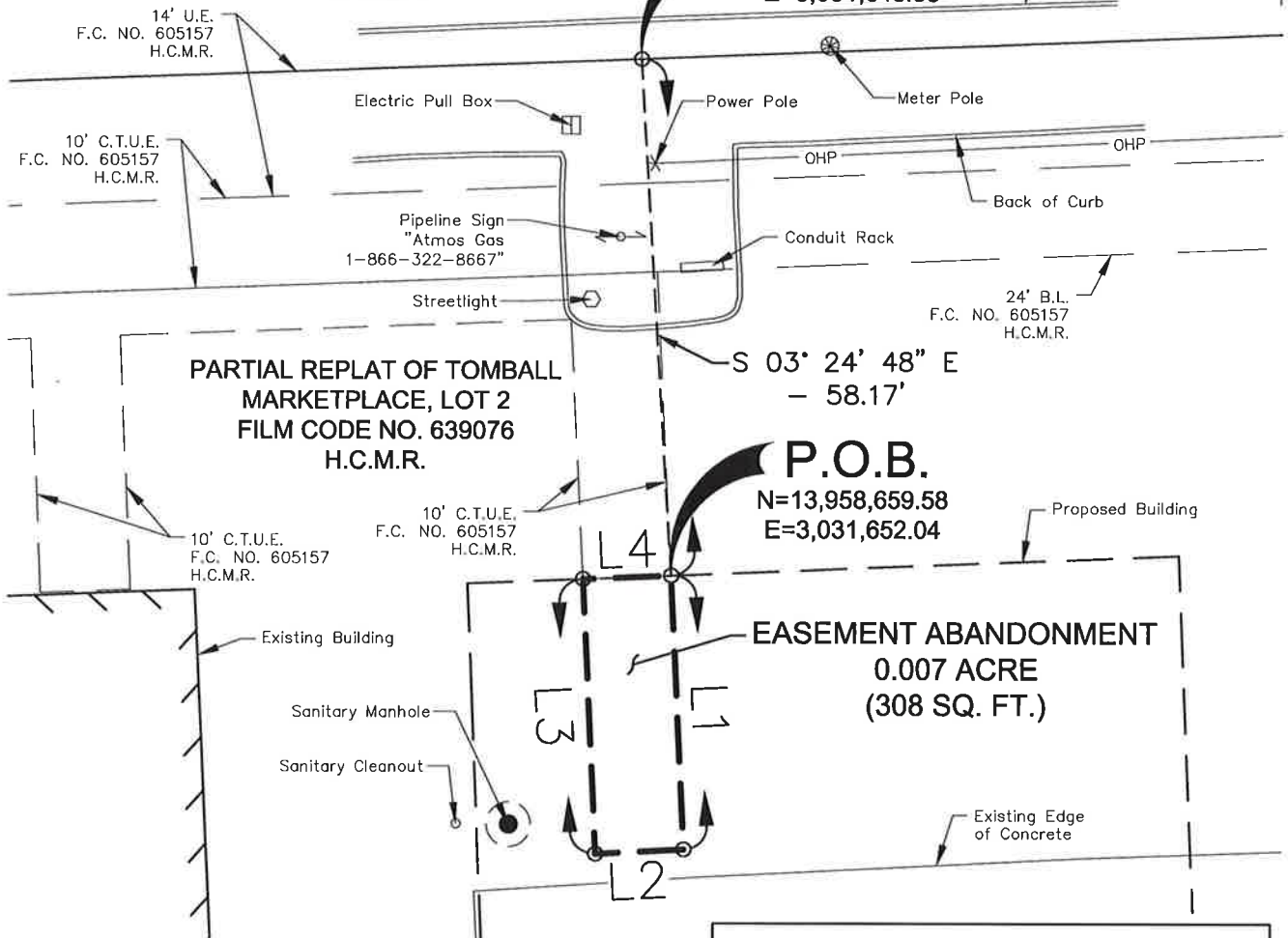
Compiled By:
Weisser Engineering & Surveying
19500 Park Row, Suite 100
Houston, Texas 77084
TBPLS Reg. No. 10194324
TBPE Reg. No. F-68

Job No.: RR164
Date: 01/05/18



REPLAT OF WOODFOREST BANK
RESERVE "A"
FILM CODE NO. 551084
H.C.M.R.

P.O.C.
FND. 5/8" I.R.
N=13,958,717.65
E=3,031,648.58



PARTIAL REPLAT OF TOMBALL
MARKETPLACE, LOT 2
FILM CODE NO. 639076
H.C.M.R.

P.O.B.
N=13,958,659.58
E=3,031,652.04

EASEMENT ABANDONMENT
0.007 ACRE
(308 SQ. FT.)



[Handwritten Signature]

Line Table		
Line #	Length	Direction
L1	30.81'	S02° 42' 17"E
L2	10.00'	S87° 17' 43"W
L3	30.88'	N02° 42' 17"W
L4	10.00'	N87° 42' 12"E



**WEISSER
Engineering Co.**

19500 Park Row, Suite 100
Houston, Texas 77084
(281) 579 - 7300

www.WeisserEng.com
T.B.P.E.R. #F-58 T.B.P.L.S. #100518-00

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**PROPOSED EASEMENT
ABANDONMENT
JOHN M. HOOPER SURVEY, A-375
HARRIS COUNTY, TEXAS**

DRAWN BY:	S.P.	CALC'D. BY:	J.G.
F.B. NO:	3391	CHECKED BY:	J.P.
CREW CHIEF:	E.W.	SCALE:	1" = 20'
DATE:	12/26/2017	JOB No.:	RR164



Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 5, 2018

Topic:

Discussion and Possible Action regarding Request by Julia Blake for “Sundays in Tomball Arts & Crafts Market and Farmstand”

Background:

On November 20, 2017, we received a proposal from Jim & Julia Blake regarding the beginning of a Sunday afternoon Tomball Arts and Crafts Market and Farmstand (copy attached).

On November 30, 2017, Mike Baxter, Denise Fiore, Rob Hauck, and I met with Jim and Julia Blake regarding their proposal. This would be a market similar to that of the Tomball Farmer’s Market held every Saturday on city-owned property on Main Street.

I asked Mrs. Blake to prepare a short presentation to give to the City Council and provided her with a list of questions to answer for the Council to review.

Currently, the organization is a for-profit entity; attached is Administrative Policy No. 12, setting forth the requirements for rental of city-owner properties. The Craft Market would fall under this policy and use of city-owned property would require a separate contract and rental fees.

Origination:

Jim and Julia Blake

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:

Request by Jim and Julia Blake

George Shackelford Memo to Council

Blakes Response to Questions

Sundays in Tomball Arts & Crafts and Farmstand - Council Presentation

Administrative Policy No. 12

Mr. George Shackelford
City Manager, City of Tomball
401 Market Street
Tomball, Texas 77375

Dear Mr. Shackelford,

The purpose of this letter is to submit a proposal for a weekly event to take place in the City of Tomball, Texas. The event would be similar to the Tomball Farmers' Market that already takes place in the City on Saturdays, but it would take place on Sundays and it would not be a farmers' market. We propose:

Sundays in Tomball
Arts & Crafts Outdoor Market and Farmstand
Sundays from 10 am to 5 pm

As you may know, farmers' markets can only accept so many arts and crafts, cottage food, or food vendors in relation to the number of actual farm vendors. For this reason, there is usually a long waiting list for artist, artisans, cottage food and food vendors.

We are artists, artisans, cottage food and food vendors that think Tomball would be the perfect venue for the event we are proposing. Being that on Sundays Old Town Tomball is practically empty, we believe our event would cause no disruption, but on the contrary, would benefit the businesses that do stay open on Sundays and the businesses that don't open because of lack of customers, would maybe decide to open on Sundays after all. We are proposing the City allow us to use one of its parking lots for the event. We would handle the event permits with Harris County, the Fire Marshall, and whichever other entity the City requires. In addition, having a foodstand permit would allow cottage food vendors to be part of the event, as well as give any farmers who were not able to sell all their produce at the Farmers' Market on Saturday a second chance to sell it.

We are aware there would be details to be discussed; we would like the opportunity to present you our plan in detail and discuss all the details.

Our ultimate goal is to provide families the opportunity to supplement their income with their craft. Vendors would be required to obtain a Sales and Use Tax, additional insurance for food vendors would also be required, in addition to any insurance you were to require from us. Vendor fees would be fair and the City of Tomball would benefit from exposure to the men, women, and families that follow this type of event.

Please let us know what the next step would be.

Sincerely,

Jim and Julia Blake

owners of "Fashion Revisited" and "The Chest of Treasures"
Page 2 of 20

407 and 409 West Main Street, Tomball, Texas 77375

(832) 967-1721 / (281) 690-1636

TO: Honorable Mayor and City Council

FROM: George T. Shackelford, City Manager

SUBJECT: Proposal for Tomball Arts and Crafts Market and Farmstand

Mayor and Council

On November 20, 2017, we received a proposal from Jim & Julia Blake regarding the beginning of a Sunday afternoon Tomball Arts and Crafts Market and Farmstand. (Attachment)

On November 30, 2017, Mike Baxter, Denise Fiore, Rob Hauck, and I met with Jim & Julia Blake regarding their proposal. This is a market similar to that of the Tomball Farmer's Market held every Saturday on city owned property on Main Street.

I asked Mrs. Blake to prepare a short presentation to give to the City Council and provided her with a list of questions to answer for the Council to review. (Presentation and questions/answers attached)

George Shackelford response to her question:

On question #9, the Tomball Farmer's Market does provide one officer every weekend.

E-mail sent from George to Julia regarding the non-profit status:

As far as the non-profit status is concerned. I checked with our City Attorney and he concurs with me that if you are not a non-profit, then you would be a for profit organization. A for profit organization falls into another policy area. Attached is Council adopted Administrative Policy #12 which deals with rental of city properties. The Craft Market would fall under this policy and the Council could do a separate contract with the group; however there would be rental fees involved. At this time, I don't know what the fees would be. (Attached is Administrative Policy #12 regarding rental of city property)

E-mail sent from Julia to George requesting to go ahead and make presentation:

Yes, we definitely would like to proceed, but we are reading and re-reading the policy you sent and I'm not sure we would be able to do a weekly market based on it. If there is still a chance of doing this a weekly event even if we are a for profit, sure.

In regards to having security during the event, we wouldn't have a problem with that.

Jim & Julia Blake will be at the February 5, 2018 Council to provide a short presentation and answer any questions the Council might have.

Tomball Arts and Crafts Market and Farmstand

1. How will organization be set up?

Initially, when informed that it was not a requirement to be a nonprofit organization, but that it would probably make the process smoother, we made the decision to create a nonprofit corporation for the market. After consulting with our accountant, we have to agree with him that it would be a taxing headache to do so. We already run two for profit businesses on Main Street where we offer products and services similar to those that will be offered at the market and we plan to use the garage from one of our businesses to store market equipment and the businesses to promote the Sunday market during the week as well as showcase samples of some of the market vendors. Running the market as a non profit would be more costly for us, not so much in money, but also in time. So the organization to run the market would be set up as a for profit entity. If being a nonprofit is a requirement after all, then, unfortunately we would not be able to go ahead with the project.

2. Will there be an elected/appointed Board of Directors with officers?

We plan to have committees of mostly local volunteers that will help develop and organize the different components of the market (vendor selection, entertainment, classes and demonstrations, community, government, and school liaisons for theme events and other projects).

3. Will there be a budget prepared to handle expenditures of the market.

Yes.

4. Proposal indicates that artist products would be sold, but I remember in the conversation that you would allow resell of various items—will it be a resell market or a true artist market selling craft products or a combination of the two?

We do not want to compete with the town's well known vintage and antique resale markets. It will be a true arts and crafts market. With that said, we will have a section of the market reserved for local businesses to showcase and sell their products and services. We would also have a section reserved for students and young artists and crafters to display and sell their products. We would also have a section for produce vendors that were not able to sell all their produce on Saturday and would like to take advantage of selling it on Sunday.

5. Do you have any written commitments from local or other vendors that come to the Sunday market?

We have a database of almost 200 artists and crafters from all over Houston that we have worked with in the past who would not hesitate in becoming part of this market once the opportunity is offered to them. We would prefer to initially offer vendor spaces to local Tomball artists and crafters. Having vendors will not be a problem; our problem will be having to turn vendors down for lack of space. We have approached some local artists and some local artists have approached us and everyone we have talked about the plans for the market is excited about the project.

6. How would you deal with trash and other merchandise left on-site at the end of the day?

There would not be any trash or merchandise left on-site at the end of the day. Vendors are required to remove any trash they or their customers may produce. If they don't, they risk not being allowed to be part of the market in the future. We would provide enough trash cans for the event and have a small crew that would make sure the venue is in impeccable condition by the end of the day.

7. How would you advertise and promote the event to the public?

Most of the promoting would be done in social media, Facebook, Pinterest, Instagram, Twitter, LinkedIn, Youtube, Flickr, and using local listing services, Google Places, Yahoo Local, Bing. There will be an artists' blog and website with links to artists. Flyers will be printed and handed out to local businesses in Tomball, Magnolia, Spring, the Woodlands, Willowbrook and other nearby areas, as well

as in pertinent businesses and galleries in Houston. We plan to work closely with the Tomball Farmer's Market to promote with them and have them promote with us.

8. How would this activity benefit downtown merchants who traditionally are closed on weekends?

Any downtown merchant who does open on Sunday, will definitely benefit from additional foot traffic. Those who do not open on Sundays because there is little foot traffic, may decide to open on Sundays after all when they see the movement. Those who do not open because they do not want to open on Sundays no matter how many customers they could have, will not be affected at all.

9. Would you provide on-site security during operating hours?

We do not foresee the need for hired security services. We understand the farmer's market on Saturdays has not needed any. Later on, if this topic has to be revisited and we assess that on-site security were needed, we would get it.

10. City would need a copy of your insurance policy and name the City as additional insured?

We have no problem with whatever insurance requirements the City may have.

11. Vendor selection process and requirements?

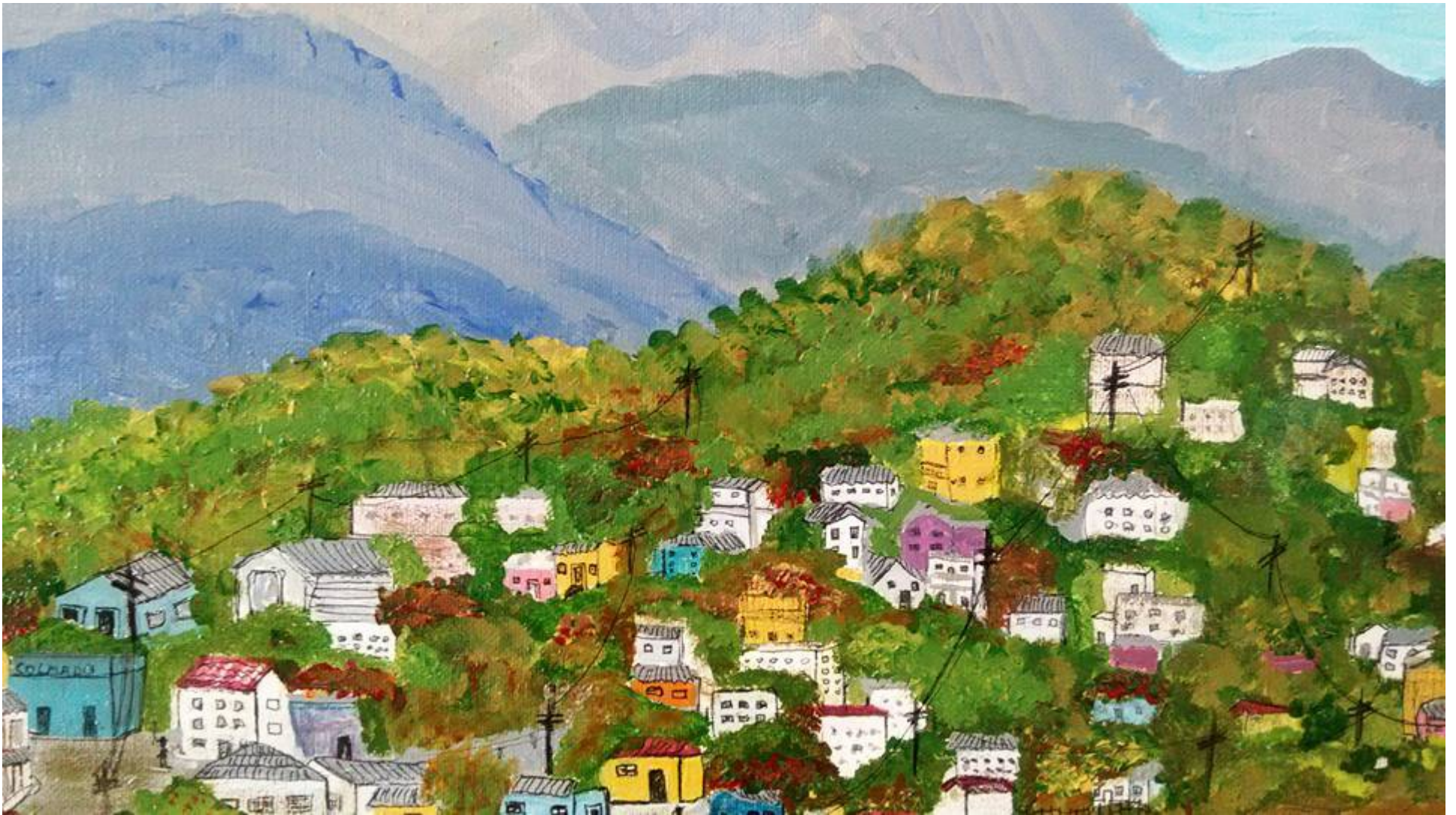
The market will be curated to keep a balanced inventory of artists, artisans, food, cottage, and produce vendors, as well as local businesses. There will be a volunteer committee that will handle vendor applications and the curating process.



Council Presentation / City of Tomball, Texas / February 5, 2018

Proposal

Sundays in Tomball
Arts & Crafts Market and Farmstand
Outdoor Recurring Event
every Sunday from 10 am to 4 pm
at the City Parking Lot
located at 105-A Cherry Street
Tomball, Texas



Oil on Canvas by Mabel Torres, full time artist, Houston, Texas

Why support an Arts & Crafts Market?

According to the National Governors' Association, in their guide, Using Arts and Culture to Stimulate State Economic Development, creative industries...

- create jobs
- attract investments
- generate tax revenues
- stimulate local economies through tourism and consumer purchases
- infuse other industries with creative insight
- prepare workers to participate in today's creative workforce
- complement community development
- attract young professionals to an area



Katy Sanchez Maiz

full time
Handmade Jewelry Designer

Houston, Texas

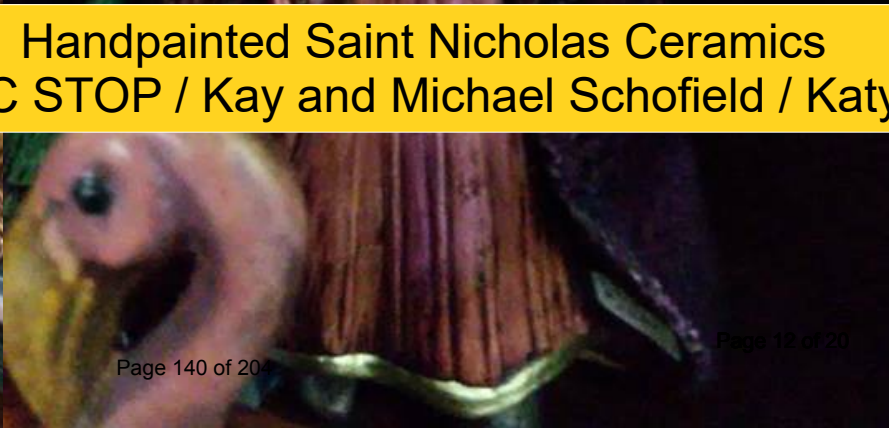


PURPOSE

- Establish a venue for artists to showcase and sell their work
- Preserve and promote the Creative Arts
- Provide the community with entertainment and the opportunity to enhance their appreciation for Arts and Crafts
- Promote education in the Arts and Crafts with demonstrations and classes
- Contribute to Economic Development



Handpainted Saint Nicholas Ceramics
CERAMIC STOP / Kay and Michael Schofield / Katy, Texas



WHAT TO EXPECT

- A curated market. Priority given to arts and crafts vendors, no resale. Produce vendors, food, and cottage food vendor spaces.
- Setup similar to the Tomball Farmer's Market.
- 10 x 10 ft. vendor spaces. (In order to accommodate as many vendors as possible, only one booth per vendor; two vendors can share a booth.)
- Arts and Crafts demonstrations and classes.
- Community and school involvement through partnerships and shared projects, like street theater and talent show presentations, art exhibits, and product and service showcase, for example.
- Family friendly buskers are welcome to contact us, like singers, dancers, clowns, balloon artists, face painters.
- Lots of FUN!



WHO WE ARE

Jim Blake and Julia Bellaflores Blake

(Sundays in Tomball would be established as a non profit Texas corporation.)

Jim was born and raised in Texas. He served in the Air Force for twenty years, graduated Cum Laude from the University of Houston Downtown, and is a mosaic artist and writer.

Julia was born and raised in Puerto Rico. She is a certified Texas teacher with a degree in English Literature. She worked as a fashion designer and a corporate chef for many years. She designs jewelry, sews, knits, works with paper and wood, and loves teaching her craft.

They have worked in the Arts and Crafts industry for almost a decade. They owned the Houston Outdoor Market in North and South Houston, and Little Shops of Spring and Sundays in Spring in Spring. They own two businesses in Tomball, Fashion Revisited and The Chest of Treasures on Main Street.

The Blakes are Tomball residents. Tomorrow, February 6th, they celebrate their ten year wedding anniversary. They have two sons, Frank and Jimmy.

Houston Outdoor Market

an Earth friendly place



17016 Bamwood Drive - Houston, Texas 77090



www.HoustonOutdoorMarket.com

(about one mile west of I-45 off FM 1960)

for vendor and sponsor information call (281) 690-1636
or email info@HoustonOutdoorMarket.com

Houston Outdoor Market



an Earth friendly place

735 Crenshaw Road
Pasadena, Texas 77504

(281) 690-1636



FOR MORE INFORMATION

PLEASE CONTACT US

Bellaflares Blake, Inc.

409 West Main Street

Tomball, Texas 77375

James Blake

jtblake58@gmail.com

(832) 967-1721

Julia Bellaflares Blake

bmjulia@yahoo.com

(281) 690-1636



THANK YOU

FOR YOUR TIME

WE HOPE TO SEE YOU
SUNDAYS AT THE MARKET

mosaic made with broken plates
MOSAICS BY JAMES

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

SUBJECT COMMUNITY USE OF CITY-OWNED FACILITIES	NUMBER: 12	EFFECTIVE DATE: February 6, 2006	PAGE 1 OF 1
	REVISED: February 6, 2006	APPROVED BY CITY MANAGER: February 6, 2006	
	SUPERSEDES: July 20, 1998	APPROVED BY CITY COUNCIL: February 6, 2006	

Scope

This policy pertains to buildings and facilities owned by the City of Tomball. It does not include the Community Center, which is covered by a separate written policy and procedure.

Policy Guidelines

We, the City officials and officers, are the custodians of the publicly-owned buildings and facilities committed to our care. Therefore, we are to take care to properly care for and maintain them and not misuse, abuse, or damage them in any way, nor should we permit them to be used by any individual or group who would misuse, abuse, or damage our buildings or facilities. The City's needs and use are the first priority.

Any person or group renting or using a building or location owned or controlled by the City of Tomball for a public function shall not prohibit, dissuade, prevent, or exclude any member of the public based upon or regarding an individual's race, color, religion, sex, sexual orientation, age, national origin, or disability.

This policy recognizes three categories of community-based users:

1. Governmental organizations
2. Private, non-profit organizations
3. For-profit organizations.

Government Organizations

Government organizations are permitted to use City-owned facilities under policy guidelines above for holding short-term meetings and voting, with approval of the City Manager. Any continuing occupancy of a City building by other government staffs will require City Council approval.

Private, Non-Profit Organizations

Private, Non-profit organizations will be permitted to use City-owned buildings and facilities only when performing governmental-type functions which benefit a large segment of the City population, with approval of the City Manager. For example, providing immunizations or counseling related to threats to health, safety or welfare of large segments of the City population. No continuing occupancy by private, non-profit staff will be permitted without approval of the City Council.

For-Profit Organizations

For-profit organizations will not be permitted the use of City-owned buildings. Exceptions may be permitted when the for-profit organization is operating under a City contract and the contract price is offset (reduced) by the value of the use of the City building(s) and facilities.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 5, 2018

Topic:

Approve Request by The Tomball Rotary Club for City Support and In-Kind Services for the 49th Annual Fish Fry at the Tomball Depot, to be Held on Saturday, April 21, 2018, from 4:00 p.m. to 8:00 p.m.

Background:

The Rotary would like to ask for in kind services and waiving of the normal rental fee for the Depot for their annual fish fry that benefits the Tomball area on Saturday, April 21, 2018.

The money raised will benefit the following:

TOMAGWA
Families Feeding Families
Tomball Pregnancy Center
Love 146.

Costs of City resources for this event are approximately \$675: Public Works, \$375, and Fire Department, \$300.

Origination:

Doris Speer

Recommendation:

Approve

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

City Secretary

ACTION TAKEN

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

Rotary Request



ROTARY CLUB OF TOMBALL

January 17, 2018

Tomball City Council
Tomball, Texas

Re: Tomball Rotary Club Annual Fish Fry

Dear City Council Members,

The Rotary Club of Tomball is planning its 49th annual Fish Fry to be held on Saturday April 21, 2018 from 4:00 to 8:00 PM. Proceeds from the event will benefit the Tomball community in several areas. These include:

Scholarships to local high school students as part of our Student of the Month program

Various Charities in the area such as: TOMAGWA, Families Feeding Families, Tomball Pregnancy Center, and Love 146

Endowment to sustain scholarship programs and support future community projects

The Rotary Club of Tomball is requesting the following support from the City of Tomball:

1. To use The Depot as our location for the event
2. Provide barricades for Elm, Walnut, Market, and Fannin Streets in and around The Depot area
3. Provide trash receptacles and trash pick-up during and after the event
4. Allow use of available electrical outlets in the area during the event
5. Waive the normal rental fee for The Depot

The Rotary Club of Tomball will have four tents on location for the event. We will establish a sanitizing area for the cookers. We will obtain the appropriate food service licenses. We will provide tables and chairs for the event. We will secure and pay for two Tomball Police Officers for security. We will also address any other needs as necessary by The Rotary Club of Tomball.

We appreciate the City of Tomball allowing The Rotary Club of Tomball the opportunity to use The Depot for this year's event. Last year we had a very successful fund raiser. We hope to be able to continue to use this fantastic venue in the future.

Thank You for all your support!

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Greening".

Rob Greening, President

Rotary Club of Tomball

"The Friendliest Club ON the Universe!"

P. O. Box 594 • Tomball, Texas • 77377

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 5, 2018

Topic:

Award Bid for RFP No. 2018-07, Soliciting Requests for Proposal (RFP) from Qualified Firms or Individuals to Act as Primary Vendor for the Sales of Beer and Wine at City Signature Festivals to Cisco's Salsa Company

Background:

The City of Tomball advertised for vendors to sell beer at city events at the Depot Plaza. Copies of the specification sheet were sent to the following vendors:

- The Empty Glass
- Cisco's Salsa Company
- Travis Adair (Tomball German Fest vendor)
- Tejas Chocolate + Barbecue
- Tomball Rotary Club (Rob Greening)
- Food & Vine Time Productions (our food truck festival producer)
- Main Street Crossing

Only one vendor returned the bid sheet. Attached is the bid sheet submitted by Cisco's Salsa Company in Tomball.

The city did not have a formal contract with the last vendor (The Empty Glass), but just had Council approval. This time, we will prepare a contract identifying and clarifying in more detail the responsibilities of both parties.

In Cisco's proposal, they asked for the cities' assistance with enforcement and signage to restrict outside alcohol. The enforcement of outside alcohol will be the responsibility of the vendor alone and not the City of Tomball.

Origination:

Mike Baxter

Recommendation:

approve

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

Mike Baxter

ACTION TAKEN

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

ATTACHMENTS:

11/7/2017

To: City of Tomball

From: Cscabo LLC dba Cisco's Salsa Company

209 Commerce St

Tomball, TX 77375

281-351-7572

Re: Proposal for Vendor to sell Beer and Wine at Festivals

Dear Sir/Madam,

Outlined below is our vendor proposal to sell Beer and Wine at City Sanctioned Festivals.

Cisco's Salsa Company has multiple years of offsite/festival experience. Our company provides quality/creative booth(s) staffed with energetic and enthusiastic TABC certified bartenders. Our staff is appropriately dressed for the event and trained to be attentive to the customer while implementing strong alcohol safety standards. We have and will provide the required \$1,000,000 in liquor liability insurance per event naming City of Tomball as additional insured. We currently have in place a MB offsite catering permit with TABC which streamlines permitting processes. We have the ability to provide multiple booths during larger events to reduce lines and keep customer service a top priority. We also will provide at no additional charge a lemonade booth with profits going to City of Tomball Kids Club., we only ask that city organizes two volunteers (students?) to help set up/work the booth. We are excited for the opportunity to work with the city once again and look forward to teaming up to make City of Tomball's already amazing festivals better than ever!

Financial Considerations;

25% payable to City after first \$1000.00.

The startup costs associated with each festival can be significant and can add up to thousands of dollars prior to selling the first beer. Costs incurred are insurance, permitting, set up labor, booth improvements, supplies/disposables, ice, nonalcoholic beverages, and non-returnable alcohol purchases. To help diminish the potential for large losses due to weather or light turn-out we propose that the first \$1000.00 of sales be paid first/directly to Cisco's and 25% after the initial \$1000.00 payable to City of Tomball. Check for City contribution will be made available within 5 business days from end of event.

Accountability:

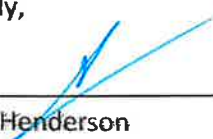
Revenues are collected at the booth(s) by Cisco's. Off-site purchase invoices for beer and wine along with the purchased inventory are presented to City festival manger prior to start. At finish a Final inventory is presented and calculated giving an approximate number of items sold and approximate gross revenue. Please keep in mind that kegs can only be measured by lift (approximate), there is waste and spillage (i.e beers spilled, waste from kegs floated/replaced, etc).

Legality and alcohol safety:

We will work within the laws outlined by TABC. An emphasis on alcohol safety will be in place to keep the festivals a family friendly environment. Outside alcohol will not be allowed and assistance with signage and enforcement from the city is needed and appreciated. We can discuss ways to work with craft beer vendors to stay within the guidelines of the law. Keeping everyone safe while enjoying the festivals during and after is our top priority.

Once again thank you for this opportunity please let us know if you have questions or need clarification.

Sincerely,



Dennis Henderson
Cisco's Salsa Company



Laura Wilson

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 5, 2018

Topic:

Award Contract for Project No. 2017-11 for the Installation of Steel Welded Water Line across the Bridge on Zion Road for the Water Line Extension Project 2017-10009 to WadeCon, LLC in the Amount of \$54,960.00

Background:

A water and sewer line extension has been designed by Jones and Carter to extend the lines along Zion Road, from Raleigh Creek Drive, and along Hufsmith Road, from Snook Lane. The extension will also provide water and sewer to the City's new park that is under construction, Broussard Community Park. The installation of the lines will mostly be completed by City staff with the exception of the steel welded water line to be attached to the Zion Road bridge over Harris County Flood Control District channel which will be done with this contract. In an effort to obtain the most favorable pricing, sealed bids were solicited and available for download from CivCast; a total of eight (8) bids were submitted. Based on review of all submitted bids, WadeCon, LLC has been determined to be the lowest responsive bidder. Staff recommends awarding a contract to WadeCon, LLC for the total amount of \$54,960.00, for the installation of steel welded pipe to the bridge on Zion Road.

Origination:

Public Works Department

Recommendation:

Staff recommends awarding the contract to WadeCon, LLC in the amount of \$54,960.00, for the installation of steel welded pipe to the bridge on Zion Road.

Funding:

Yes

Account Number:400-613-6409

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

Meagan Mageo, Project Coordinator

ACTION TAKEN

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

Bid Tabulation

Bid Tab																		
Average of 3 low bidders	BIDDER No. 1		BIDDER No. 2		BIDDER No. 3		BIDDER No. 4		BIDDER No. 5		BIDDER No. 6		BIDDER No. 7		BIDDER No. 8			
Base Unit Prices	\$62,601.33		\$ 54,960.00		\$ 57,872.00		\$ 74,972.00		\$ 83,540.00		\$ 88,640.00		\$ 95,319.00		\$ 97,170.00		\$ 145,170.00	
TOTAL SUBMITTED BID PRICE:	\$ 62,601.33		\$ 54,960.00		\$ 57,872.00		\$ 74,972.00		\$ 83,540.00		\$ 88,640.00		\$ 95,319.00		\$ 97,170.00		\$ 145,170.00	

Base Unit Prices				Average of 3 low bidders		WadeCon, LLC		CZ Construction, LLC		Quadvest Construction, LP		AR TurnKee Construction Company, Inc		Reliance Construction		RAC Industries, LLC		Innovated Construction, LLC		T Construction, LLC	
Item No.	Item Description	Unit Measure	Unit Quantity	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures
1	Mobilization including: start-up, Performance and Payment Bonds for 100% of contract amount and all permitting Fees	LS	1	\$ 8,550.00	\$ 8,550.00	\$ 5,000.00	\$ 5,000.00	\$ 10,650.00	\$ 10,650.00	\$ 10,000.00	\$ 10,000.00	\$ 7,000.00	\$ 7,000.00	\$ 10,000.00	\$ 10,000.00	\$ 13,275.00	\$ 13,275.00	\$ 10,000.00	\$ 10,000.00	\$ 13,500.00	\$ 13,500.00
2	12-inch (12") Welded Steel AWWA C-200 eaterline (including coating, dresser coupling, valves, hangers, bedding, backfill, traffic control, and testing), complete in place	LF	156	\$ 299.67	\$ 46,748.00	\$ 285.00	\$ 44,460.00	\$ 277.00	\$ 43,212.00	\$ 337.00	\$ 52,572.00	\$ 415.00	\$ 64,740.00	\$ 490.00	\$ 76,440.00	\$ 494.00	\$ 77,064.00	\$ 507.50	\$ 79,170.00	\$ 775.00	\$ 120,900.00
3	2-inch (2") APCO Combination Air & Vacuum Release Valve w/ 20inch (2") Orifice Diameter, No. 145-C (including tap, fittings, and bracing)	Ea	1	\$ 3,200.00	\$ 3,200.00	\$ 3,000.00	\$ 3,000.00	\$ 2,100.00	\$ 2,100.00	\$ 4,500.00	\$ 4,500.00	\$ 9,000.00	\$ 9,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,450.00	\$ 2,450.00	\$ 2,000.00	\$ 2,000.00	\$ 6,000.00	\$ 6,000.00
4	Placement of reinforced filter fabric barrier as per Sotrmwater Pullution Prevention Plan (including installation, maintenance, and removal after construction)	LS	1	\$ 2,480.00	\$ 2,480.00	\$ 500.00	\$ 500.00	\$ 440.00	\$ 440.00	\$ 6,500.00	\$ 6,500.00	\$ 1,200.00	\$ 1,200.00	\$ 100.00	\$ 100.00	\$ 230.00	\$ 230.00	\$ 3,500.00	\$ 3,500.00	\$ 3,470.00	\$ 3,470.00
5	Hydro-mulch seeding and sit restoration of right-of-way and adjacent easement (less pavement area). Contractor to ensure growth of vegetation by whatever means necessary, including re-seeding, over-seeding or watering at no separate pay.	LS	1	\$ 1,623.33	\$ 1,623.33	\$ 2,000.00	\$ 2,000.00	\$ 1,470.00	\$ 1,470.00	\$ 1,400.00	\$ 1,400.00	\$ 1,600.00	\$ 1,600.00	\$ 100.00	\$ 100.00	\$ 2,300.00	\$ 2,300.00	\$ 2,500.00	\$ 2,500.00	\$ 1,300.00	\$ 1,300.00
TOTAL C. BASE UNIT PRICES					\$62,601.33		\$ 54,960.00		\$ 57,872.00		\$ 74,972.00		\$ 83,540.00		\$ 88,640.00		\$ 95,319.00		\$ 97,170.00		\$ 145,170.00

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		Average of 3 low bidders	BIDDER No. 1	BIDDER No. 2	BID TAB BIDDER No. 3	BIDDER No. 4	BIDDER No. 5	BIDDER No. 6	BIDDER No. 7	BIDDER No. 8
Base Unit Prices		\$62,601.33	\$ 54,960.00	\$ 57,872.00	\$ 74,972.00	\$ 83,540.00	\$ 88,640.00	\$ 95,319.00	\$ 97,170.00	\$ 145,170.00
TOTAL SUBMITTED BID PRICE:		\$ 62,601.33	\$ 54,960.00	\$ 57,872.00	\$ 74,972.00	\$ 83,540.00	\$ 88,640.00	\$ 95,319.00	\$ 97,170.00	\$ 145,170.00

		Average of 3 low bidders	WadeCon, LLC	CZ Construction, LLC	Quadvest Construction, LP	AR TurnKee Construction Company, Inc	Reliance Construction	RAC Industries, LLC	Innovated Construction, LLC	T Construction, LLC
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	Average of 3 low bidders	BIDDER No. 1	BIDDER No. 2	Bid Tab BIDDER No. 3	BIDDER No. 4	BIDDER No. 5	BIDDER No. 6	BIDDER No. 7	BIDDER No. 8
Base Unit Prices	\$62,601.33	\$ 54,960.00	\$ 57,872.00	\$ 74,972.00	\$ 83,540.00	\$ 88,640.00	\$ 95,319.00	\$ 97,170.00	\$ 145,170.00
TOTAL SUBMITTED BID PRICE:	\$ 62,601.33	\$ 54,960.00	\$ 57,872.00	\$ 74,972.00	\$ 83,540.00	\$ 88,640.00	\$ 95,319.00	\$ 97,170.00	\$ 145,170.00

Base Unit Prices	Average of 3 low bidders	WadeCon, LLC	CZ Construction, LLC	Quadvest Construction, LP	AR TurnKee Construction Company, Inc	Reliance Construction	RAC Industries, LLC	Innovated Construction, LLC	T Construction, LLC
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NOTE: Red text indicates math error

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 5, 2018

Topic:

Award Contract for Project No. 2018-08 for Improvements to the M121-00-00 Drainage Channel and Installation of Culverts at Theis Road Project 2003-10005 to Rebel Contractors, Inc. in the Amount of \$1,307,551.50

Background:

Improvements to the M121 Drainage Channel have been identified and designed by Gunda Corporation. The proposed project will construct M121W beginning approximately 300 feet north of Theis Lane at the existing M121W channel and continue approximately 350 feet south to Holderrieth Road as well as the installation of box culverts along on Theis Road. In an effort to obtain the most favorable pricing, sealed bids were solicited and available for download from CivCast; a total of seven (7) bids were submitted. Based on review of all submitted bids, Rebel Contractors, Inc. has been determined to be the lowest responsive bidder. Staff recommends awarding a contract to Rebel Contractors, Inc. for the total amount of \$1,307,551.50.

Origination:

Public Works Department

Recommendation:

Staff recommends awarding the contract to Rebel Contractors, Inc. for the total amount of \$1,307,551.50.

Funding:

Account Number:400-154-6409

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

Meagan Mageo, Project Coordinator

ACTION TAKEN

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

Bid Tabulation

Engineer's Recommendation

Bid Tab

B.1 Site Preparation and Earthwork Items:	\$	121,838.00	\$	107,550.67	\$	118,745.00	\$	93,432.00	\$	110,475.00	\$	102,205.00	\$	132,082.90	\$	124,428.00	\$	196,846.00
B.2 Channel Items:	\$	494,036.00	\$	459,280.50	\$	428,905.50	\$	440,123.00	\$	508,813.00	\$	486,577.00	\$	508,418.78	\$	573,298.00	\$	437,548.00
B.3 Drainage & Utility Items:	\$	603,487.00	\$	749,192.67	\$	617,382.00	\$	818,906.00	\$	811,290.00	\$	850,057.00	\$	858,367.80	\$	845,252.00	\$	957,770.00
B.4 Roadway Items:	\$	70,540.00	\$	60,001.83	\$	61,287.00	\$	58,478.50	\$	60,240.00	\$	60,755.00	\$	65,441.20	\$	83,697.00	\$	72,340.00
B.5 Traffic Control Plan:	\$	29,000.00	\$	9,877.33	\$	7,632.00	\$	15,000.00	\$	7,000.00	\$	8,000.00	\$	10,113.50	\$	6,000.00	\$	7,000.00
B.2 SWPPP Items:	\$	27,000.00	\$	20,177.33	\$	19,850.00	\$	34,922.00	\$	5,760.00	\$	14,656.00	\$	11,984.60	\$	13,080.00	\$	10,367.00
C. Extra Work Items:	\$	48,750.00	\$	49,200.00	\$	48,750.00	\$	48,750.00	\$	50,100.00	\$	48,750.00	\$	54,790.00	\$	48,750.00	\$	48,750.00
D. Cash Allowance:	\$	5,000.00	\$	5,000.00	\$	5,000.00	\$	5,000.00	\$	5,000.00	\$	5,000.00	\$	5,000.00	\$	5,000.00	\$	5,000.00
TOTAL SUBMITTED BID PRICE:	\$	1,399,651.00	\$	1,460,280.33	\$	1,302,551.50	\$	1,514,611.50	\$	1,553,678.00	\$	1,571,000.00	\$	1,591,198.78	\$	1,695,365.00	\$	1,730,621.00
CORRECTED BID PRICE:					\$	1,307,551.50			\$	1,558,678.00	\$	1,576,000.00	\$	1,596,198.78	\$	1,699,505.00	\$	1,735,621.00

B.1 Site Preparation and Earthwork Items:				
Item No.	Control No.	Item Description	Unit Measure	Unit Quantity
1	01502	MOBILIZATION INCLUDING PERFORMANCE AND PAYMENT BONDS, INSURANCE AND PERMITS (MAXIMUM OF 2% OF TOTAL BASE BID)	LS	1
2	02221	REMOVE AND DISPOSE OF DRIVEWAY CULVERTS (APPROX. 90 LF)	LS	1
3	02221	REMOVE AND DISPOSE OF ASPHALTIC CONCRETE PAVEMENT	SY	462
4	02221	REMOVE AND DISPOSE OF 80 LF EXISTING 12" SANITARY SEWER INCLUDING MANHOLE	LS	1
5	02221	REMOVE AND DISPOSE OF EXISTING 12" WATERLINE	LF	217
6	02221	REMOVE AND DISPOSE OF EXISTING 4" GAS LINE	LF	167
7	02221	REMOVE AND DISPOSE OF EXISTING TANDEM ENERGY PIPELINES INCLUDING CUT AND PLUG, COMPLETE IN PLACE	LF	600
8	02221	REMOVE AND DISPOSE OF EXISTING ABANDONED PIPELINES INCLUDING CUT AND PLUG, COMPLETE IN PLACE	LF	300
9	02260	TRENCH SAFETY	LF	835
10	02314	SWALE GRADING FOR ROADSIDE SWALES AND SUBDIVISION DRAINAGE EASEMENT, COMPLETE IN PLACE	LF	1930
11	DWGS	3FT MOW STRIP AT PROPOSED CHAINLINK FENCE (4-INCH THICK), COMPLETE IN PLACE	SY	195
12	DWGS	6FT CHAINLINK FENCE, COMPLETE IN PLACE	LF	576
TOTAL B.1 BASE UNIT PRICES				
B.2 Channel Items:				
Item No.	Control No.	Item Description	Unit Measure	Unit Quantity
13	02314	CHANNEL EXCAVATION AND FINE GRADING; INCLUDING BACKSLOPE SWALES, BOTTOM AND OUTFLOW, COMPLETE IN PLACE	CY	15031
14	HCFC02376	BACKSLOPE INTERCEPTOR W/ 24" CMP OUTFALL, COMPLETE IN PLACE	EA	4
15	HCFC02376	COMBINATION BACKSLOPE & OFFSITE DITCH INTERCEPTOR STRUCTURE WITHOUT OUTFALL, COMPLETE IN PLACE	EA	1
16	02378	RIP RAP (18" THICK), COMPLETE IN PLACE	SY	495
17	02751	5" CONCRETE SLOPE PAVING, COMPLETE IN PLACE	SY	2115
18	02921	HYDROMULCH SEEDING, COMPLETE IN PLACE	AC	0.84
19	02330	CHANNEL EMBANKMENT / ROADWAY FILL (144 CY) , COMPLETE IN PLACE	CY	1603
20	02922	SODDING INCLUDING CHANNEL, DRAINAGE EASEMENT, & ROADSIDE SWALES, COMPLETE IN PLACE	SY	19100
TOTAL B.3 BASE UNIT PRICES				

Engineer's Estimate		Average of 3 low bidders		Rebel Contractors, Inc.		Hassell Construction Co., Inc.		WadeCon, LLC		Triple B Services, LLP		Mar-Con Services, LLC		Cooley Construction, LLC		L. N. McKean, Inc.	
Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures
\$ 27,000.00	\$ 27,000.00	\$ 35,666.67	\$ 35,666.67	\$ 52,000.00	\$ 52,000.00	\$ 25,000.00	\$ 25,000.00	\$ 30,000.00	\$ 30,000.00	\$ 27,000.00	\$ 27,000.00	\$ 31,000.00	\$ 31,000.00	\$ 70,000.00	\$ 70,000.00	\$ 130,000.00	\$ 130,000.00
\$ 1,600.00	\$ 1,600.00	\$ 3,933.33	\$ 3,933.33	\$ 1,800.00	\$ 1,800.00	\$ 4,000.00	\$ 4,000.00	\$ 6,000.00	\$ 6,000.00	\$ 2,607.75	\$ 2,607.75	\$ 1,189.90	\$ 1,189.90	\$ 1,000.00	\$ 1,000.00	\$ 900.00	\$ 900.00
\$ 14.00	\$ 6,468.00	\$ 9.00	\$ 4,158.00	\$ 5.00	\$ 2,310.00	\$ 7.00	\$ 3,234.00	\$ 15.00	\$ 6,930.00	\$ 10.00	\$ 4,620.00	\$ 12.80	\$ 5,913.60	\$ 9.00	\$ 4,158.00	\$ 12.00	\$ 5,544.00
\$ 2,000.00	\$ 2,000.00	\$ 3,833.33	\$ 3,833.33	\$ 2,000.00	\$ 2,000.00	\$ 6,500.00	\$ 6,500.00	\$ 3,000.00	\$ 3,000.00	\$ 2,400.00	\$ 2,400.00	\$ 1,057.70	\$ 1,057.70	\$ 12,500.00	\$ 12,500.00	\$ 2,000.00	\$ 2,000.00
\$ 10.00	\$ 2,170.00	\$ 11.67	\$ 2,531.67	\$ 10.00	\$ 2,170.00	\$ 15.00	\$ 3,255.00	\$ 10.00	\$ 2,170.00	\$ 15.00	\$ 3,255.00	\$ 13.20	\$ 2,864.40	\$ 5.00	\$ 1,085.00	\$ 16.00	\$ 3,472.00
\$ 15.00	\$ 2,505.00	\$ 15.00	\$ 2,505.00	\$ 25.00	\$ 4,175.00	\$ 10.00	\$ 1,670.00	\$ 10.00	\$ 1,670.00	\$ 15.00	\$ 2,505.00	\$ 56.50	\$ 9,435.50	\$ 10.00	\$ 1,670.00	\$ 10.00	\$ 1,670.00
\$ 50.00	\$ 30,000.00	\$ 20.00	\$ 12,000.00	\$ 20.00	\$ 12,000.00	\$ 25.00	\$ 15,000.00	\$ 15.00	\$ 9,000.00	\$ 21.00	\$ 12,600.00	\$ 41.80	\$ 25,080.00	\$ 10.00	\$ 6,000.00	\$ 20.00	\$ 12,000.00
\$ 25.00	\$ 7,500.00	\$ 20.00	\$ 6,000.00	\$ 20.00	\$ 6,000.00	\$ 25.00	\$ 7,500.00	\$ 15.00	\$ 4,500.00	\$ 21.00	\$ 6,300.00	\$ 56.50	\$ 16,950.00	\$ 10.00	\$ 3,000.00	\$ 20.00	\$ 6,000.00
\$ 3.00	\$ 2,505.00	\$ 3.33	\$ 2,783.33	\$ 3.00	\$ 2,505.00	\$ 6.00	\$ 5,010.00	\$ 1.00	\$ 835.00	\$ 0.15	\$ 125.25	\$ 1.60	\$ 1,336.00	\$ 1.00	\$ 835.00	\$ 4.00	\$ 3,340.00
\$ 10.00	\$ 19,300.00	\$ 4.43	\$ 8,556.33	\$ 3.50	\$ 6,755.00	\$ 1.80	\$ 3,474.00	\$ 8.00	\$ 15,440.00	\$ 10.00	\$ 19,300.00	\$ 9.90	\$ 19,107.00	\$ 3.00	\$ 5,790.00	\$ 6.00	\$ 11,580.00
\$ 18.00	\$ 3,510.00	\$ 58.33	\$ 11,375.00	\$ 50.00	\$ 9,750.00	\$ 55.00	\$ 10,725.00	\$ 70.00	\$ 13,650.00	\$ 60.00	\$ 11,700.00	\$ 46.40	\$ 9,048.00	\$ 50.00	\$ 9,750.00	\$ 60.00	\$ 11,700.00
\$ 30.00	\$ 17,280.00	\$ 24.67	\$ 14,208.00	\$ 30.00	\$ 17,280.00	\$ 14.00	\$ 8,064.00	\$ 30.00	\$ 17,280.00	\$ 17.00	\$ 9,792.00	\$ 15.80	\$ 9,100.80	\$ 15.00	\$ 8,640.00	\$ 15.00	\$ 8,640.00
	\$ 121,838.00		\$ 107,550.67		\$ 118,745.00		\$ 93,432.00		\$ 110,475.00		\$ 102,205.00		\$ 132,082.90		\$ 124,428.00		\$ 196,846.00
Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures
\$ 15.00	\$ 225,465.00	\$ 10.83	\$ 162,835.83	\$ 11.00	\$ 165,341.00	\$ 7.50	\$ 112,732.50	\$ 14.00	\$ 210,434.00	\$ 15.00	\$ 225,465.00	\$ 11.90	\$ 178,868.90	\$ 18.00	\$ 270,558.00	\$ 6.00	\$ 90,186.00
\$ 2,750.00	\$ 11,000.00	\$ 6,000.00	\$ 24,000.00	\$ 5,500.00	\$ 22,000.00	\$ 7,500.00	\$ 30,000.00	\$ 5,000.00	\$ 20,000.00	\$ 7,200.00	\$ 28,800.00	\$ 5,169.10	\$ 20,676.40	\$ 5,600.00	\$ 22,400.00	\$ 9,900.00	\$ 39,600.00
\$ 2,500.00	\$ 2,500.00	\$ 5,000.00	\$ 5,000.00	\$ 2,000.00	\$ 2,000.00	\$ 6,000.00	\$ 6,000.00	\$ 7,000.00	\$ 7,000.00	\$ 2,100.00	\$ 2,100.00	\$ 1,639.10	\$ 1,639.10	\$ 4,000.00	\$ 4,000.00	\$ 3,500.00	\$ 3,500.00
\$ 75.00	\$ 37,125.00	\$ 73.33	\$ 36,300.00	\$ 45.00	\$ 22,275.00	\$ 95.00	\$ 47,025.00	\$ 80.00	\$ 39,600.00	\$ 81.00	\$ 40,095.00	\$ 63.70	\$ 31,531.50	\$ 75.00	\$ 37,125.00	\$ 75.00	\$ 37,125.00
\$ 55.00	\$ 116,325.00	\$ 68.33	\$ 144,525.00	\$ 50.00	\$ 105,750.00	\$ 85.00	\$ 179,775.00	\$ 70.00	\$ 148,050.00	\$ 52.00	\$ 109,980.00	\$ 56.60	\$ 119,709.00	\$ 72.00	\$ 152,280.00	\$ 85.00	\$ 179,775.00
\$ 1,400.00	\$ 1,176.00	\$ 2,300.00	\$ 1,932.00	\$ 1,900.00	\$ 1,596.00	\$ 2,000.00	\$ 1,680.00	\$ 3,000.00	\$ 2,520.00	\$ 2,500.00	\$ 2,100.00	\$ 1,547.00	\$ 1,299.48	\$ 3,000.00	\$ 2,520.00	\$ 1,600.00	\$ 1,344.00
\$ 15.00	\$ 24,045.00	\$ 10.33	\$ 16,564.33	\$ 24.50	\$ 39,273.50	\$ 3.50	\$ 5,610.50	\$ 3.00	\$ 4,809.00	\$ 4.00	\$ 6,412.00	\$ 24.80	\$ 39,754.40	\$ 5.00	\$ 8,015.00	\$ 6.00	\$ 9,618.00
\$ 4.00	\$ 76,400.00	\$ 3.57	\$ 68,123.33	\$ 3.70	\$ 70,670.00	\$ 3.00	\$ 57,300.00	\$ 4.00	\$ 76,400.00	\$ 3.75	\$ 71,625.00	\$ 3.40	\$ 64,940.00	\$ 4.00	\$ 76,400.00	\$ 4.00	\$ 76,400.00
	\$ 494,036.00		\$ 459,280.50		\$ 428,905.50		\$ 440,123.00		\$ 508,813.00		\$ 486,577.00		\$ 458,418.78		\$ 573,298.00		\$ 437,548.00

Bid Tab

B.3 Drainage & Utility Items:				
Item No.	Control No.	Item Description	Unit Measure	Unit Quantity
21	02082; 02631	PRECAST TYPE-C MANHOLE, COMPLETE IN PLACE	EA	1
22	02082; 02631	PRECAST TYPE-C MANHOLE WITH E-INLET TOP, COMPLETE IN PLACE	EA	2
23	02611; 02631	24" RCP STORM, COMPLETE IN PLACE	LF	31
24	02611; 02631	42" RCP STORM, COMPLETE IN PLACE	LF	162
25	02611; 02631	48" RCP STORM, COMPLETE IN PLACE	LF	28
26	02611; 02631	8' x 8' RCB STORM, COMPLETE IN PLACE	LF	165
27	02612; 02631	10' X 8' RCB CULVERT, COMPLETE IN PLACE	LF	432
28	DWGS	4" HP GAS, COMPLETE IN PLACE	LF	188
29	DWGS	4" GAS VALVE, COMPLETE IN PLACE	EA	2
30	02448	18" STEEL CASING (0.375 INCH THICKNESS) ON PROPOSED SAN, COMPLETE IN PLACE	LF	60
31	02581.1	12" PVC WATER LINES INCLUDING RESTRAINED JOINTS, COMPLETE IN PLACE	LF	225
32	02513	12" WET CONNECTION, COMPLETE IN PLACE	EA	2
33	02521	12" WATERLINE GATE VALVE, COMPLETE IN PLACE	EA	2
34	02524	12" W/ AIR RELEASE AND VACUUM RELIEF VALVES INCLUDING MANHOLE OR SERVICE BOX, FITTINGS, VENT PIPING AND BOLLARD(S) AND APPURTENANCES, COMPLETE IN PLACE	EA	2
35	02531	12" DUCTILE IRON SANITARY SEWER , COMPLETE IN PLACE	LF	80
36	02531; 02082	SANITARY SEWER MANHOLE, COMPLETE IN PLACE	EA	2
37	02632	HEADWALL FOR RCB (15" HEIGHT), COMPLETE IN PLACE	EA	2
38	02632	WINGWALLS W/ TOEWALL, COMPLETE IN PLACE	EA	4
39	02633; 02631	TYPE-E INLET, COMPLETE IN PLACE	EA	1
40	02633; 02631	TYPE-E INLET ON RCB, COMPLETE IN PLACE	EA	1
41	02633; 02631	PRECAST 13'x13' JUNCTION BOX WITH MH, COMPLETE IN PLACE	EA	1
TOTAL B.4 BASE UNIT PRICES				
B.4 Roadway Items:				
Item No.	Control No.	Item Description	Unit Measure	Unit Quantity
42	02221	ASPHALT SURFACE MILLING (2"), COMPLETE IN PLACE	SY	635
43	02711	FURNISH AND INSTALL HOT MIX ASPHALTIC CONCRETE BASE COURSE (BLACK BASE, UP TO 12"), COMPLETE IN PLACE	TON	412
44	02741	FURNISH AND INSTALL 2" HOT MIX ASPHALTIC CONCRETE SURFACING, COMPLETE IN PLACE	TON	118
45	02742	FURNISH AND INSTALL PRIME COAT (0.1 GAL/SY), COMPLETE IN PLACE	GAL	110
46	02743	FURNISH AND INSTALL TACK COAT (0.1 GAL/SY), COMPLETE IN PLACE	GAL	110
47	02767	REFLECTORIZED PAVEMENT MARKINGS TYPE I (THERMOPLASTIC) 4" WHITE/SOLID - FURNISH & APPLIED	LF	700
48	02767	REFLECTORIZED PAVEMENT MARKINGS TYPE I (THERMOPLASTIC) 4" YELLOW/SOLID - FURNISH & APPLIED	LF	700
TOTAL B.5 BASE UNIT PRICES				

Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures
\$ 3,750.00	\$ 3,750.00	\$ 5,633.33	\$ 5,633.33	\$ 5,900.00	\$ 5,900.00	\$ 6,000.00	\$ 6,000.00	\$ 5,000.00	\$ 5,000.00	\$ 4,500.00	\$ 4,500.00	\$ 6,416.50	\$ 6,416.50	\$ 3,750.00	\$ 3,750.00	\$ 8,200.00	\$ 8,200.00		
\$ 4,500.00	\$ 9,000.00	\$ 5,100.00	\$ 10,200.00	\$ 5,300.00	\$ 10,600.00	\$ 5,500.00	\$ 11,000.00	\$ 4,500.00	\$ 9,000.00	\$ 4,500.00	\$ 9,000.00	\$ 5,857.20	\$ 11,714.40	\$ 5,000.00	\$ 10,000.00	\$ 8,500.00	\$ 17,000.00		
\$ 85.00	\$ 2,635.00	\$ 99.00	\$ 3,069.00	\$ 77.00	\$ 2,387.00	\$ 120.00	\$ 3,720.00	\$ 100.00	\$ 3,100.00	\$ 125.00	\$ 3,875.00	\$ 86.80	\$ 2,690.80	\$ 70.00	\$ 2,170.00	\$ 85.00	\$ 2,635.00		
\$ 135.00	\$ 21,870.00	\$ 175.67	\$ 28,458.00	\$ 147.00	\$ 23,814.00	\$ 180.00	\$ 29,160.00	\$ 200.00	\$ 32,400.00	\$ 230.00	\$ 37,260.00	\$ 164.20	\$ 26,600.40	\$ 130.00	\$ 21,060.00	\$ 250.00	\$ 40,500.00		
\$ 155.00	\$ 4,340.00	\$ 223.00	\$ 6,244.00	\$ 179.00	\$ 5,012.00	\$ 240.00	\$ 6,720.00	\$ 250.00	\$ 7,000.00	\$ 270.00	\$ 7,560.00	\$ 222.80	\$ 6,238.40	\$ 292.00	\$ 8,176.00	\$ 265.00	\$ 7,420.00		
\$ 450.00	\$ 74,250.00	\$ 587.33	\$ 96,910.00	\$ 537.00	\$ 88,605.00	\$ 525.00	\$ 86,625.00	\$ 700.00	\$ 115,500.00	\$ 780.00	\$ 128,700.00	\$ 625.10	\$ 103,141.50	\$ 1,082.00	\$ 178,530.00	\$ 820.00	\$ 135,300.00		
\$ 576.00	\$ 248,832.00	\$ 772.67	\$ 333,792.00	\$ 758.00	\$ 327,456.00	\$ 700.00	\$ 302,400.00	\$ 860.00	\$ 371,520.00	\$ 1,100.00	\$ 475,200.00	\$ 1,154.40	\$ 498,700.80	\$ 1,100.00	\$ 475,200.00	\$ 1,050.00	\$ 453,600.00		
\$ 45.00	\$ 8,460.00	\$ 36.33	\$ 6,830.67	\$ 32.00	\$ 6,016.00	\$ 37.00	\$ 6,956.00	\$ 40.00	\$ 7,520.00	\$ 64.00	\$ 12,032.00	\$ 152.60	\$ 28,688.80	\$ 55.00	\$ 10,340.00	\$ 50.00	\$ 9,400.00		
\$ 500.00	\$ 1,000.00	\$ 2,700.00	\$ 5,400.00	\$ 1,600.00	\$ 3,200.00	\$ 3,000.00	\$ 6,000.00	\$ 3,500.00	\$ 7,000.00	\$ 1,100.00	\$ 2,200.00	\$ 678.00	\$ 1,356.00	\$ 200.00	\$ 400.00	\$ 980.00	\$ 1,960.00		
\$ 150.00	\$ 9,000.00	\$ 150.00	\$ 9,000.00	\$ 170.00	\$ 10,200.00	\$ 180.00	\$ 10,800.00	\$ 100.00	\$ 6,000.00	\$ 73.00	\$ 4,380.00	\$ 101.70	\$ 6,102.00	\$ 100.00	\$ 6,000.00	\$ 133.00	\$ 7,980.00		
\$ 90.00	\$ 20,250.00	\$ 85.00	\$ 19,125.00	\$ 80.00	\$ 18,000.00	\$ 85.00	\$ 19,125.00	\$ 90.00	\$ 20,250.00	\$ 90.00	\$ 20,250.00	\$ 96.00	\$ 21,600.00	\$ 90.00	\$ 20,250.00	\$ 135.00	\$ 30,375.00		
\$ 3,500.00	\$ 7,000.00	\$ 2,672.00	\$ 5,344.00	\$ 616.00	\$ 1,232.00	\$ 4,900.00	\$ 9,800.00	\$ 2,500.00	\$ 5,000.00	\$ 1,000.00	\$ 2,000.00	\$ 934.90	\$ 1,869.80	\$ 1,000.00	\$ 2,000.00	\$ 1,450.00	\$ 2,900.00		
\$ 1,250.00	\$ 2,500.00	\$ 3,166.67	\$ 6,333.33	\$ 2,500.00	\$ 5,000.00	\$ 3,500.00	\$ 7,000.00	\$ 3,500.00	\$ 7,000.00	\$ 2,500.00	\$ 5,000.00	\$ 2,465.30	\$ 4,930.60	\$ 2,800.00	\$ 5,600.00	\$ 3,500.00	\$ 7,000.00		
\$ 2,500.00	\$ 5,000.00	\$ 6,966.67	\$ 13,933.33	\$ 5,400.00	\$ 10,800.00	\$ 12,000.00	\$ 24,000.00	\$ 3,500.00	\$ 7,000.00	\$ 2,500.00	\$ 5,000.00	\$ 6,770.10	\$ 13,540.20	\$ 4,800.00	\$ 9,600.00	\$ 4,800.00	\$ 9,600.00		
\$ 170.00	\$ 13,600.00	\$ 123.00	\$ 9,840.00	\$ 124.00	\$ 9,920.00	\$ 145.00	\$ 11,600.00	\$ 100.00	\$ 8,000.00	\$ 150.00	\$ 12,000.00	\$ 119.50	\$ 9,560.00	\$ 140.00	\$ 11,200.00	\$ 230.00	\$ 18,400.00		
\$ 4,500.00	\$ 9,000.00	\$ 12,806.67	\$ 25,613.33	\$ 8,420.00	\$ 16,840.00	\$ 25,000.00	\$ 50,000.00	\$ 5,000.00	\$ 10,000.00	\$ 3,300.00	\$ 6,600.00	\$ 3,382.30	\$ 6,764.60	\$ 2,050.00	\$ 4,100.00	\$ 8,000.00	\$ 16,000.00		
\$ 2,500.00	\$ 5,000.00	\$ 32,500.00	\$ 65,000.00	\$ 17,500.00	\$ 35,000.00	\$ 40,000.00	\$ 80,000.00	\$ 40,000.00	\$ 80,000.00	\$ 6,000.00	\$ 12,000.00	\$ 20,292.80	\$ 40,585.60	\$ 5,000.00	\$ 10,000.00	\$ 7,500.00	\$ 15,000.00		
\$ 30,000.00	\$ 120,000.00	\$ 14,166.67	\$ 56,666.67	\$ 2,500.00	\$ 10,000.00	\$ 20,000.00	\$ 80,000.00	\$ 20,000.00	\$ 80,000.00	\$ 15,000.00	\$ 60,000.00	\$ 8,524.90	\$ 34,099.60	\$ 9,100.00	\$ 36,400.00	\$ 30,000.00	\$ 120,000.00		
\$ 3,500.00	\$ 3,500.00	\$ 3,733.33	\$ 3,733.33	\$ 4,200.00	\$ 4,200.00	\$ 4,000.00	\$ 4,000.00	\$ 3,000.00	\$ 3,000.00	\$ 4,500.00	\$ 4,500.00	\$ 3,206.10	\$ 3,206.10	\$ 3,269.00	\$ 3,269.00	\$ 5,300.00	\$ 5,300.00		
\$ 4,500.00	\$ 4,500.00	\$ 2,733.33	\$ 2,733.33	\$ 2,200.00	\$ 2,200.00	\$ 4,000.00	\$ 4,000.00	\$ 2,000.00	\$ 2,000.00	\$ 3,000.00	\$ 3,000.00	\$ 1,812.80	\$ 1,812.80	\$ 1,670.00	\$ 1,670.00	\$ 3,200.00	\$ 3,200.00		
\$ 30,000.00	\$ 30,000.00	\$ 35,333.33	\$ 35,333.33	\$ 21,000.00	\$ 21,000.00	\$ 60,000.00	\$ 60,000.00	\$ 25,000.00	\$ 25,000.00	\$ 35,000.00	\$ 35,000.00	\$ 28,748.90	\$ 28,748.90	\$ 25,537.00	\$ 25,537.00	\$ 46,000.00	\$ 46,000.00		
	\$ 603,487.00		\$ 749,192.67		\$ 617,382.00		\$ 818,906.00		\$ 811,290.00		\$ 850,057.00		\$ 858,367.80		\$ 845,252.00		\$ 957,770.00		
Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures
\$ 10.00	\$ 6,350.00	\$ 9.00	\$ 5,715.00	\$ 5.00	\$ 3,175.00	\$ 12.00	\$ 7,620.00	\$ 10.00	\$ 6,350.00	\$ 9.00	\$ 5,715.00	\$ 10.20	\$ 6,477.00	\$ 9.00	\$ 5,715.00	\$ 12.00	\$ 7,620.00		
\$ 115.00	\$ 47,380.00	\$ 87.75	\$ 36,153.00	\$ 90.00	\$ 37,080.00	\$ 83.25	\$ 34,299.00	\$ 90.00	\$ 37,080.00	\$ 90.00	\$ 37,080.00	\$ 99.00	\$ 40,788.00	\$ 135.00	\$ 55,620.00	\$ 110.00	\$ 45,320.00		
\$ 125.00	\$ 14,750.00	\$ 123.08	\$ 14,523.83	\$ 124.00	\$ 14,632.00	\$ 120.25	\$ 14,189.50	\$ 125.00	\$ 14,750.00	\$ 130.00	\$ 15,340.00	\$ 129.90	\$ 15,328.20	\$ 139.00	\$ 16,402.00	\$ 150.00	\$ 17,700.00		
\$ 3.00	\$ 330.00	\$ 4.50	\$ 495.00	\$ 10.00	\$ 1,100.00	\$ 2.50	\$ 275.00	\$ 1.00	\$ 110.00	\$ 3.00	\$ 330.00	\$ 3.40	\$ 374.00	\$ 8.00	\$ 880.00	\$ 2.00	\$ 220.00		
\$ 3.00	\$ 330.00	\$ 5.83	\$ 641.67	\$ 10.00	\$ 1,100.00	\$ 2.50	\$ 275.00	\$ 5.00	\$ 550.00	\$ 3.00	\$ 330.00	\$ 3.40	\$ 374.00	\$ 8.00	\$ 880.00	\$ 2.00	\$ 220.00		
\$ 1.00	\$ 700.00	\$ 1.77	\$ 1,236.67	\$ 3.00	\$ 2,100.00	\$ 1.30	\$ 910.00	\$ 1.00	\$ 700.00	\$ 1.40	\$ 980.00	\$ 1.50	\$ 1,050.00	\$ 3.00	\$ 2,100.00	\$ 0.90	\$ 630.00		
\$ 1.00	\$ 700.00	\$ 1.77	\$ 1,236.67	\$ 3.00	\$ 2,100.00	\$ 1.30	\$ 910.00	\$ 1.00	\$ 700.00	\$ 1.40	\$ 980.00	\$ 1.50	\$ 1,050.00	\$ 3.00	\$ 2,100.00	\$ 0.90	\$ 630.00		
	\$ 70,540.00		\$ 60,001.83		\$ 61,287.00		\$ 58,478.50		\$ 60,240.00		\$ 60,755.00		\$ 65,441.20		\$ 83,697.00		\$ 72,340.00		

Bid Tab

B.5 Traffic Control Plan:				
Item No.	Control No.	Item Description	Unit Measure	Unit Quantity
49	01555	TRAFFIC CONTROL PLAN	LS	1
TOTAL B.5 BASE UNIT PRICES				
B.2 SWPPP Items:				
Item No.	Control No.	Item Description	Unit Measure	Unit Quantity
50	01570 01410	STORM WATER POLLUTION PREVENTION (MAINTENANCE)	LS	1
51	01570	INLET PROTECTION BARRIER	LF	12
52	01573	FILTER FABRIC FENCE	LF	1220
53	01573	REINFORCED FILTER FABRIC BARRIER	LF	40
54	1574	TEMPORARY TYPE I FILTER DAM (PLACEMENT AND REMOVAL)	EA	2
55	1575	STABILIZED CONSTRUCTION ACCESS	SY	222
TOTAL B.2 BASE UNIT PRICES				
C.*Extra Work Items:				
Item No.	Control No.	Item Description	Unit Measure	Unit Quantity
56	02318	EXTRA HAND EXCAVATION	CY	450
57	02318	EXTRA MACHINE EXCAVATION	CY	450
58	02318	EXTRA BANK SAND BACKFILL	CY	400
59	02321	EXTRA CEMENT STABILIZED SAND	CY	400
60	02319	EXTRA BORROW	CY	1000
61	02922	EXTRA SODDING	SY	1000
TOTAL C. BASE UNIT PRICES				
D. Cash Allowance Table:				
Cash Allowance				
No.	Cash Allowance Short Title			
1	Centerpoint Energy Pole Relocation			
TOTAL D. CASH ALLOWANCES				

Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures
\$ 29,000.00	\$ 29,000.00	\$ 9,877.33	\$ 9,877.33	\$ 7,632.00	\$ 7,632.00	\$ 15,000.00	\$ 15,000.00	\$ 7,000.00	\$ 7,000.00	\$ 8,000.00	\$ 8,000.00	\$ 10,113.50	\$ 10,113.50	\$ 6,000.00	\$ 6,000.00	\$ 7,000.00	\$ 7,000.00
	\$ 29,000.00		\$ 9,877.33		\$ 7,632.00		\$ 15,000.00		\$ 7,000.00		\$ 8,000.00		\$ 10,113.50		\$ 6,000.00		\$ 7,000.00
Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures
\$ 10,000.00	\$ 10,000.00	\$ 5,833.33	\$ 5,833.33	\$ 2,000.00	\$ 2,000.00	\$ 15,000.00	\$ 15,000.00	\$ 500.00	\$ 500.00	\$ 1,500.00	\$ 1,500.00	\$ 3,051.00	\$ 3,051.00	\$ 3,000.00	\$ 3,000.00	\$ 700.00	\$ 700.00
\$ 5.00	\$ 60.00	\$ 145.00	\$ 1,740.00	\$ 250.00	\$ 3,000.00	\$ 175.00	\$ 2,100.00	\$ 10.00	\$ 120.00	\$ 50.00	\$ 600.00	\$ 5.70	\$ 68.40	\$ 50.00	\$ 600.00	\$ 7.00	\$ 84.00
\$ 4.00	\$ 4,880.00	\$ 2.67	\$ 3,253.33	\$ 3.50	\$ 4,270.00	\$ 3.00	\$ 3,660.00	\$ 1.50	\$ 1,830.00	\$ 1.30	\$ 1,586.00	\$ 1.60	\$ 1,952.00	\$ 2.50	\$ 3,050.00	\$ 1.75	\$ 2,135.00
\$ 10.00	\$ 400.00	\$ 4.00	\$ 160.00	\$ 3.50	\$ 140.00	\$ 3.50	\$ 140.00	\$ 5.00	\$ 200.00	\$ 5.00	\$ 200.00	\$ 2.00	\$ 80.00	\$ 2.50	\$ 100.00	\$ 2.45	\$ 98.00
\$ 2,500.00	\$ 5,000.00	\$ 3,633.33	\$ 7,266.67	\$ 3,000.00	\$ 6,000.00	\$ 6,900.00	\$ 13,800.00	\$ 1,000.00	\$ 2,000.00	\$ 1,500.00	\$ 3,000.00	\$ 1,130.00	\$ 2,260.00	\$ 1,500.00	\$ 3,000.00	\$ 900.00	\$ 1,800.00
\$ 30.00	\$ 6,660.00	\$ 8.67	\$ 1,924.00	\$ 20.00	\$ 4,440.00	\$ 1.00	\$ 222.00	\$ 5.00	\$ 1,110.00	\$ 35.00	\$ 7,770.00	\$ 20.60	\$ 4,573.20	\$ 15.00	\$ 3,330.00	\$ 25.00	\$ 5,550.00
	\$ 27,000.00		\$ 20,177.33		\$ 19,850.00		\$ 34,922.00		\$ 5,760.00		\$ 14,656.00		\$ 11,984.60		\$ 13,080.00		\$ 10,367.00
Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures	Unit Price	Total in figures
	\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -
\$ 25.00	\$ 11,250.00	\$ 26.00	\$ 11,700.00	\$ 25.00	\$ 11,250.00	\$ 25.00	\$ 11,250.00	\$ 28.00	\$ 12,600.00	\$ 25.00	\$ 11,250.00	\$ 25.00	\$ 11,250.00	\$ 25.00	\$ 11,250.00	\$ 25.00	\$ 11,250.00
	\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -
\$ 30.00	\$ 13,500.00	\$ 30.00	\$ 13,500.00	\$ 30.00	\$ 13,500.00	\$ 30.00	\$ 13,500.00	\$ 30.00	\$ 13,500.00	\$ 30.00	\$ 13,500.00	\$ 30.00	\$ 13,500.00	\$ 30.00	\$ 13,500.00	\$ 30.00	\$ 13,500.00
	\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -
\$ 18.00	\$ 7,200.00	\$ 18.00	\$ 7,200.00	\$ 18.00	\$ 7,200.00	\$ 18.00	\$ 7,200.00	\$ 18.00	\$ 7,200.00	\$ 18.00	\$ 7,200.00	\$ 18.00	\$ 7,200.00	\$ 18.00	\$ 7,200.00	\$ 18.00	\$ 7,200.00
	\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -
\$ 22.00	\$ 8,800.00	\$ 22.00	\$ 8,800.00	\$ 22.00	\$ 8,800.00	\$ 22.00	\$ 8,800.00	\$ 22.00	\$ 8,800.00	\$ 22.00	\$ 8,800.00	\$ 36.10	\$ 14,440.00	\$ 22.00	\$ 8,800.00	\$ 22.00	\$ 8,800.00
	\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -
\$ 5.00	\$ 5,000.00	\$ 5.00	\$ 5,000.00	\$ 5.00	\$ 5,000.00	\$ 5.00	\$ 5,000.00	\$ 5.00	\$ 5,000.00	\$ 5.00	\$ 5,000.00	\$ 5.00	\$ 5,000.00	\$ 5.00	\$ 5,000.00	\$ 5.00	\$ 5,000.00
	\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -
\$ 3.00	\$ 3,000.00	\$ 3.00	\$ 3,000.00	\$ 3.00	\$ 3,000.00	\$ 3.00	\$ 3,000.00	\$ 3.00	\$ 3,000.00	\$ 3.00	\$ 3,000.00	\$ 3.40	\$ 3,400.00	\$ 3.00	\$ 3,000.00	\$ 3.00	\$ 3,000.00
	\$ 48,750.00		\$ 49,200.00		\$ 48,750.00		\$ 50,100.00		\$ 48,750.00		\$ 54,790.00		\$ 48,750.00		\$ 48,750.00		\$ 48,750.00
	Cash Allowance in figures		Cash Allowance in figures		Cash Allowance in figures		Cash Allowance in figures		Cash Allowance in figures		Cash Allowance in figures		Cash Allowance in figures		Cash Allowance in figures		Cash Allowance in figures
	\$5,000.00		\$5,000.00	**	\$5,000.00	**	\$5,000.00	**	\$5,000.00	**	\$5,000.00	**	\$5,000.00	**	\$5,000.00		\$5,000.00
	\$5,000.00		\$5,000.00		\$5,000.00		\$5,000.00		\$5,000.00		\$5,000.00		\$5,000.00		\$5,000.00		\$5,000.00

NOTE: Red text indicates math error



GUNDA CORPORATION

Engineers, Planners & Managers

January 2, 2018

City of Tomball
Public Works Building
501 James Street
Tomball, TX 77375

Attn: David Esquivel, P.E., Director of Public Works

Re: City of Tomball
M121-00-00 Channel – Theis Road Culvert & Ditch Improvements
Project Bid No. 2018-08, E&P Project No. 2003-10005
GUNDA Project No. 17001-01

Tabulation of Bids Received and Recommendation

Dear Mr. Esquivel:

We have reviewed the bid tabulation for bids received for the above referenced project. The bids were tabulated and the bid tab is attached for your review. Based on the unit bid prices, Rebel Contractors, Inc.'s is the responsive low bidder in the amount \$1,307,551.50. The bid submitted by Rebel Contractors, Inc. shows no signs of imbalance. Therefore, we pose no objection to the recommendation of awarding the construction contract for M121-00-00 Channel – Theis Road Culvert & Ditch Improvements, Project Bid No. 2018-08, to Rebel Contractors, Inc. as the low bidder.

Below is a summary of our full review of the bids received for the project.

On December 21, 2017, a total of Seven (7) bids were received and opened for the proposed project in accordance with the Notice to Bidders. The Total Bid was utilized to establish the order of the bids and identification of apparent low bidder.

Bidders and their Total Bids were:

	Contractor	Bid Submitted
1)	Rebel Contractors, Inc.	\$ 1,307,551.50
2)	Hassell Construction Co., Inc.	\$ 1,514,611.50
3)	WadeCon, LLC	\$ 1,558,678.00
4)	Triple B Services, LLP	\$ 1,576,000.00
5)	Mar-Con Services, LLC	\$ 1,596,198.78
6)	Cooley Construction, LLC	\$ 1,699,505.00**
7)	L. N. McKean, Inc.	\$ 1,735,621.00

* Bid Correction – Total Bid addition error

** Bid Correction – Unit Bid Price & addition error

David Esquivel, P.E.
January 2, 2018
Page 2 of 2

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

Sincerely,

A handwritten signature in black ink that reads "David Castellano". The signature is fluid and cursive, with a long horizontal stroke at the end.

David Castellano, PE
Project Engineer

Enclosure: Project Bid Tabulation

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 5, 2018

Topic:

Consideration and Possible Approval to Extend Agreement between the City of Tomball and Redflex Traffic Systems for the Red Light Photo Enforcement Program

Background:

The current contract with Redflex for the Red Light Photo Enforcement Program will expire April 30, 2018. The attachments include the history of the program as well as future options.

The City of Tomball has been involved in the Red Light Photo Enforcement Program since 2008. The original contract was amended and renewed in 2012. Upon completion of the initial study it was determined to place cameras at 2920 WB at 249 Business, 2920 EB at 249 Business, and 249 NB at Zion. Those continue to be the only locations, although the Zion location has been removed temporarily due to the tollway construction.

Origination:

Recommendation:

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

Billy Tidwell, Chief of Police

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

ATTACHMENTS:

Red Light Photo Enforcement Information
Red Light Camera Project Summary
Redflex Contract - Amended
Redflex Contract - Original

Redflex Red Light Enforcement Program Information

Background and Statistical Data

The Red Light Photo Program began in 2008, when the City of Tomball partnered with Redflex Technology to implement an automated red light enforcement program. The goal of this program was to increase public safety at high risk intersections.

In order to identify high-risk intersections, a comprehensive crash data analysis was conducted utilizing accident data collected over five years to determine key locations in which accidents most frequently occur. As a result of the study, automated red light cameras were placed at the following intersections approaches:

- 1) FM-2920 and SH-249 East Bound, identified as TOM-2924-01
- 2) FM-2920 and SH-249 West Bound, identified as TOM -2924-02
- 3) SH-249 and Zion Road North Bound, identified as TOM-TOZI-01

These are the three intersections that currently have red light photo cameras, although the camera at Zion and 249 has been temporarily removed due to the tollway construction.

Accident information is accumulated annually for each of the Red Light Photo Enforcement locations and for the City of Tomball as a whole in order to determine annual trends. The following table illustrates the number of accidents at each intersection and in the City. Also shown is the percentage of accidents that happen at the photo enforcement locations.

Year	249 & 2920	249 & Zion	% of Total Accidents	City of Tomball
2008	48	4	11.5%	450
2009	37	1	9.3%	408
2010	50	0	15.3%	325
2011	44	0	12.0%	364
2012	39	1	10.5%	380
2013	51	2	13.1%	403
2014	44	1	9.8%	457
2015	84	1	16.2%	524
2016	79	7	17.7%	484
2017	36	2	16.8%	225
Total	512	19	13.2%	4020

Since the inception of the program, a total of 115,407 chargeable violations were captured from the three red light photo locations. The following report provided by Redflex indicates the

number of chargeable violations recorded by year since the inception of the program. They reference them as Notices Printed.

Notices Printed by Approach by Year

Year	TOM-2924-01	TOM-2924-02	TOM-TOZI-01	Grand Total
2008	2,766	3,272	2,193	8,231
2009	2,473	6,325	3,233	12,031
2010	1,990	5,666	3,513	11,169
2011	2,469	5,508	3,300	11,277
2012	2,437	5,055	5,164	12,656
2013	2,374	3,278	3,106	8,758
2014	2,834	3,398	3,830	10,062
2015	5,957	3,123	4,902	13,982
2016	5,417	3,465	6,045	14,927
2017	4,758	3,023	3,076	10,857
Total	33,475	42,113	38,362	113,950

In addition, Redflex has provided information on the volume of traffic that has travelled through each photo enforcement intersection annually since 2011. The following report reflects that data. These are not red light violators but simply the number of vehicles that travelled through each intersection. There is a substantial reduction in vehicles travelling through the 249/Zion intersection in 2017. This is a result of the Zion photo enforcement camera being removed on August 17, 2017, for tollway construction.

Approaches	2011	2012	2013	2014	2015	2016	2017	Grand total
TOM-2924-01		3,643,539	4,267,635	4,972,870	5,137,513	5,222,169	3,425,974	26,669,700
TOM-2924-02		3,098,497	3,647,483	4,053,964	4,013,183	4,443,769	3,913,323	23,170,219
TOM-TOZI-01	613,038	5,610,064	6,196,828	7,026,850	7,370,841	7,720,301	4,698,532	39,236,454
Grand total	613,038	12,354,112	14,113,959	16,055,698	16,523,552	17,388,255	12,037,829	89,076,373

through November 2017

Comparing the volume of annual traffic at the 249/2920 intersection with the number of accidents annually demonstrates the frequency of accidents at this specific intersection.

Year	Total Traffic Volume	Number of Accidents	Frequency of Accidents
2012	6,742,036	39	.00057%
2013	7,914,918	51	.00064%
2014	9,026,834	44	.00048%
2015	9,150,196	84	.00091%
2016	9,665,938	79	.00081%
2017	7,339,297	36	.00049%

Information provided by Redflex also reflects that 90% of notices sent to those with chargeable violations were sent to non-Tomball residents. In addition, Redflex maintains and has provided statistical data on repeat offenders. In the history of the Tomball Red Light Photo Enforcement program 77% of the violators only received one notice, 15% received two notices, and 8% received 3 notices.

Tomball, TX Zip Code Statistics

Notices Sent to Tomball Addresses (77375)	Notices Sent to Other Texas Addresses	Notices Sent to Out-of-State Addresses
12,206	99,662	5,909
10%	85%	5%
90% of all issued citations are non-Tomball residents		

Tomball Repeat Offender Statistics

1 - Citation	2 - Citations	3+ - citations
81,199	15,482	8,193
77%	15%	8%

as of 10/31/2016

Violator equals a unique license plate/vehicle

Revenue, Expenditures, Outstanding

Redflex leases the photo equipment to the City of Tomball. This invoice is paid monthly. At the end of the budget year the City deducts all allowable costs for the photo enforcement program such as administrative costs, credit card fees, returned checks, refunds, failed credit cards, and convenience fees. One half of the revenues left after allowable expenses are then sent to the State of Texas. Following is a summary of the assignment of photo enforcement revenues. The Tomball total reflected is after allowable fees have been deducted.

Year	Total Revenue	Redflex Fees	State of Texas	City of Tomball
2008	\$207,358	\$47,787	\$70,624	\$88,947
2009	\$719,077	\$209,023	\$233,968	\$276,086
2010	\$657,662	\$194,666	\$190,501	\$272,495
2011	\$581,157	\$193,506	\$176,941	\$210,710
2012	\$739,109	\$199,733	\$245,032	\$294,344
2013	\$525,213	\$195,364	\$144,334	\$185,515
2014	\$517,621	\$197,308	\$138,861	\$181,452
2015	\$751,564	\$202,188	\$249,741	\$299,635
2016	\$804,771	\$202,945	\$274,398	\$327,428
2017	\$718,900	\$192,510	\$240,685	\$285,705
Total	\$6,222,432	\$1,835,030	\$1,965,085	\$2,422,317

Since the inception of the program the City of Tomball has received approximately \$2.4 million in fines. Approximately \$2 million of those revenues have been spent on various projects, training, personnel and capital.

Expenditures for various programs have been provided from the revenues derived from the Red Light Photo Enforcement program. They are as follows:

- Automated License Plate Readers: \$149,766
- Youth Traffic Safety Materials: \$33,993
- Ballistic vests for the protection of officers: \$17,103
- Traffic Control Equipment- Speed Trailers: \$35,680
- Traffic Control Equipment- Segway: \$8,900
- Traffic Message Boards: \$69,925
- School Zone Flashers: \$46,788
- Body Cameras: \$35,500
- Barricades for events traffic control: \$14,920
- Firearms simulator: \$19,750
- Radar Units: \$14,567
- Dispatching software: \$45,483
- Gyro-plane: \$85,076, including maintenance and training for pilots. City has also transferred \$130,000 into Fleet Maintenance Fund for Gyro replacement.
- Two motorcycle units for traffic control and safety: \$51,562
- Overtime for various traffic initiatives including DWI enforcement, holiday speeding enforcement and seat belt enforcement
- Sidewalk construction:
 - Medical District \$ 265,367
 - Quinn and Holderrieth \$ 240,082
 - Market and Walnut \$ 83,459
 - Johnson and Theis Lane \$ 310,000
 - Other Downtown \$ 134,633
 - Total \$1,033,541

In addition to these items the program has financed two part time personnel in the police department who are responsible for red light appeal hearings, court bailiff, as well as placement and movement of message boards, radar trailers and Skywatch towers. Their use of radar trailers helps provide data for accident prevention and placement of traffic officers.

Scofflaw Options

As of October 2017, the City of Tomball had \$3,249,857 in outstanding Red Light fines. The Scofflaw Act of Texas, when applied, prevents the re-registration of vehicles until applicable fines are paid or dismissed. Information was presented to City Council in the July 20, 2015, meeting that Harris County does not participate in the Scofflaw program with other entities in the county, and therefore could not be used in the collection of Red Light Photo Enforcement fines. However, several years ago the State of Texas initiated the two step process for vehicle registration. A vehicle owner must obtain an inspection prior to registering their vehicle. The inspection is a state process while the registration is a county process. Reflex has initiated a

new Scofflaw enforcement program in which they utilize the Texas Department of Motor Vehicles, rather than county tax assessor services to enforce the Scofflaw Act. Should the City of Tomball choose to utilize this option, those offenders who have not paid their fines would not be allowed to re-register their vehicle until the fine has been satisfied. This entire process is handled by Redflex and not by the City of Tomball. In addition, should the City choose not to extend the current contract with Redflex, the Scofflaw option would still be available for the outstanding fines that have been accumulated.

Contract Options

The amendment to the contract signed December 2012 will expire April 30, 2018. There are three options available to the City

- If no action is taken by the City, the contract will automatically renew at the end of each year for 3 years. The City can terminate the agreement at the end of any one of the one year contracts.
- The contract can be amended for another 5 year term.
- The contract can be terminated. In this option a written notice of non-renewal must be provided to Redflex by the City of Tomball no later than March 29, 2018.
- If the contract is terminated the City of Tomball has the option to execute a stand alone contract with Redflex to address the outstanding fines through the Scofflaw Act.

Photo Red Light Fund													
Fund 250													
Actual Expenditures (except as noted)													
	Fiscal Year	Fiscal Year	Fiscal Year	Fiscal Year	Fiscal Year	Fiscal Year	Fiscal Year	Fiscal Year	Fiscal Year	Fiscal Year	Fiscal Year		Fiscal Year
	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2017-2018		2007-2018
													Total
Supplies													
Automated License Plate Reader (ALPR)			52,150			39,995		57,621					149,766
Youth Traffic Safety Materials		9,021	11,180		11,262	2,530							33,993
Vest Replacement			3,405	11,448	2,250								17,103
Traffic Control Equipment (Speed Trailer)	6,930	28,750											35,680
Traffic Control Equipment (Segway)						8,900							8,900
Traffic Control Message Board					41,595			28,330					69,925
School Zone Flashers			34,194						12,594				46,788
Body Cameras							35,500						35,500
Barricades						6,213		4,728		3,979			14,920
Fire Arms Simulator		19,750											19,750
Radar	1,737	5,700			7,130								14,567
Services & Charges													
Priority Dispatch Software				45,483									45,483
Capital - Fleet													
Gyro - purchased			85,076										85,076
Gyro (Allocation to Fleet Replacement)**						50,000	20,000	20,000	20,000	20,000			130,000
Traffic Enforcement/Accident Investigation Motorcycle Units						51,562							51,562
Capital - Capital Projects													
Sidewalks - Medical District					265,367								265,367
Sidewalks - Quinn and Holderrieth*									240,082				240,082
Sidewalks - Market and Walnut									83,459				83,459
Sidewalks - Theis Lane & Johnson Road*										310,000			310,000
Sidewalks - Downtown*						134,633							134,633
Total	8,667	63,221	186,005	56,931	327,603	293,833	55,500	110,679	356,135	333,979			1,792,554
*Budgeted amount--not actual expenditure													
**\$35,000 paid to Somerset, KY for purchase of additional Gyro													

AMENDMENT TO THE EXCLUSIVE AGREEMENT
BETWEEN
THE CITY OF TOMBALL, TX
AND
REDFLEX TRAFFIC SYSTEMS, INC.
FOR
PHOTO RED LIGHT ENFORCEMENT PROGRAM

This Amendment ("Amendment") is made as of the date of the last signature contained herein to the Agreement for Photo Red Light Enforcement Program (the "Agreement") executed on or about December 19, 2012 between Redflex Traffic Systems, Inc. ("Redflex"), a Delaware Corporation with offices located at 23751 N. 23rd Avenue, Suite 150, Phoenix Arizona 85085 and Tomball, Texas, a municipal corporation with offices at 401 Market St., Tomball, Texas 77375, individually the "Party" and collectively referred to as the "Parties".

RECITALS

WHEREAS, Redflex has exclusive knowledge, possession and ownership of certain equipment, licenses, applications, and citation processes related to digital photo red light enforcement systems; and

WHEREAS, the Customer desires to continue to engage the services of Redflex to provide certain equipment, processes and back office services so that Authorized Employees of the Customer are able to monitor, identify and enforce photo red light violations; and

WHEREAS, it is a mutual objective of both Redflex and the Customer to reduce the incidence of vehicle collisions on municipal streets that will be monitored pursuant to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other valuable consideration received, the receipt and sufficiency of which are hereby acknowledged, the Parties amend the Agreement as follows:

AMENDED TERMS AND CONDITIONS

1. Extension of Initial Term. The term of the Agreement shall be extended for an additional five (5) years ("Extended Term") commencing on the last day of the Initial Term as set forth in the provision entitled "2. TERM" of Agreement and continuing through April, 30 2018. Thereafter, the Agreement shall automatically renew for up to three (3) additional one (1) year terms unless the Customer provides Redflex written notice of non-renewal at least thirty (30) days prior to expiration of the then current term.

2. "Intersection Approach" means a conduit of travel with up to four (4) contiguous lanes from the curb (e.g., northbound, southbound, eastbound or westbound) on which at least

one (1) system has been installed by Redflex for the purposes of facilitating Redlight Photo Enforcement by the Customer.

3. Modification to Exhibit "B" of the Agreement, entitled "Construction and Installation Obligations" is hereby amended by adding the language as follows:

Redflex shall, at Reflex' sole expense, retro-fit an existing Designated Intersection Approach from the current video detection system with inductive loops or other preferred detection devices as mutually agreed upon by both parties for each new Designated Intersection Approach approved and installed.

4. Enforceability of Non-Amended Terms and Conditions. Except as expressly amended in writing in this Amendment, the terms and conditions of the Agreement and any and all amendments, attachments and exhibits attached thereto and incorporated herewith by reference shall be unchanged and shall remain enforceable and in full force and effect.

5. Relationship Between Redflex and the City. Nothing in this Amendment or the Agreement shall create, or be deemed to create, a partnership, joint venture and/or the relationship of principal and agent and/or employer and employee between the Parties. The relationship between the Parties shall be that of independent contractors, and nothing contained herein shall permit, authorize, sanction and/or allow, at any time, either Party to incur any debts and/or liabilities on behalf of the other Party.

6. Headings. The captions, titles, paragraph headings used in this Amendment are for convenience only, and are not a part of this Amendment, and shall not be deemed relevant in construing and/or interpreting this Amendment.

7. Execution And Counterparts. This Amendment may be signed in counterparts, and each counterpart shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties agree that such counterpart shall be effective and enforceable on or about the date of the last required signature.

8. Covenant of Further Assurances. All Parties to this Amendment shall take, undertake, approve, sanction, and perform, in full, any and all acts and activities and execute and deliver any and all certificates, documents, permits, licenses, agreements, contracts, written instruments and other papers deemed necessary and appropriate for successful and complete compliance with each and every term and condition of this Amendment.

9. Authority to Execute. The undersigned individuals hereby warrant and represent that they have full authority to execute this Amendment on behalf of the entities for which they have signed.

10. Legal Competence. The Parties hereto expressly represent and warrant that they are legally competent to execute this Amendment and that they do so of their own free will and accord without reliance on any representations of any kind or character not expressly set forth herein.

11. No Duress. The Parties expressly represent and warrant that this Amendment has been freely and voluntarily entered into and that the Parties did not execute this Amendment under duress of any kind, from any Party or person, regardless of whether they are a signatory hereto.

12. Joint Efforts. This Amendment has been prepared by the joint efforts of the respective attorneys for the Parties and each Party acknowledges and agrees that the general rule of contract construction providing that the provisions of a contract are to be strictly construed against the drafter of the agreement is hereby waived.

13. No Waiver. No waiver of any of the terms of this Amendment shall be binding unless in writing and signed by all Parties hereto. No waiver of any term of this Amendment shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

14. Severability. The invalidity or unenforceability of any paragraph or provision of this Amendment shall not affect the validity or enforceability of the remainder of this Amendment, or the remainder of any paragraph or provision. This Amendment shall be construed in all respects to the fullest extent permitted by law, and as if any invalid or unenforceable paragraph or provision was omitted.

15. Understanding. The Parties to this Amendment represent that they have received independent advice of counsel concerning the meaning and legal effect of the terms of this Amendment. After such counseling, the Parties represent that they fully understand this Amendment and its terms, and, with this full understanding, voluntarily enter into this Amendment as evidenced by signing it below. The Parties have read and understand all terms and conditions of this Amendment.

16. Binding Effect. This Amendment and Exhibit "D" attached hereto shall inure to the benefit of and be binding upon the assigns and successors of the respective Parties.

(The remainder of this page is left blank intentionally)

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as set forth below.

Approved as to form, content and legality:

THE TOMBALL:

Date: 12-19-2012

By: [Signature]

Name: George Shackelford

Title: City Manager

REDFLEX TRAFFIC SYSTEMS, INC.:

Date: 1-8-13

By: [Signature]

Name: Karen Finley

Title: CEO

End of Document.

**AGREEMENT BETWEEN THE CITY OF TOMBALL
AND REDFLEX TRAFFIC SYSTEMS, INC. FOR
PHOTO RED LIGHT ENFORCEMENT PROGRAM**

This Agreement (this "Agreement") is made as of this 20th day of August, 2007 by and between Redflex Traffic Systems, Inc. with offices at 15020 N. 74th Street, Scottsdale, Arizona 85260 ("Redflex"), and The City of Tomball, a municipal corporation, with offices at 401 Market St, Tomball, Texas, 77375 (the "Customer").

RECITALS

WHEREAS, Redflex has exclusive knowledge, possession and ownership of certain equipment, licenses, applications, and Notice of Violation processes related to digital photo red light enforcement systems; and

WHEREAS, the Customer desires to engage the services of Redflex to provide certain equipment, processes and back office services so that sworn police officers of the Customer are able to monitor, identify and enforce red light running violations as prescribed under Ordinance No. 2007-08, providing for Automated Traffic Signal Enforcement (herein referred as the Photo Red Light Enforcement Program); and

WHEREAS, it is a mutual objective of both Redflex and the Customer to reduce the incidence of vehicle collisions at the traffic intersections and city streets that will be monitored pursuant to the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other valuable consideration received, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. **DEFINITIONS.** In this Agreement, the words and phrases below shall have the following meanings:

- 1.1. "Authorized Officer" means the Police Project Manager or such other individual(s) as the Customer shall designate to review Potential Violations and to authorize the Issuance of Notice of Violations in respect thereto, and in any event, a sworn police officer of the City of Tomball, appointed by the Chief of Police.
- 1.2. "Authorized Violation" means each Potential Violation in the Violation Data for which authorization to issue a Notice of Violation in the form of an Electronic Signature is given by the Authorized Officer by using the Redflex System.
- 1.3. "Notice of Violation" means the notice of a Violation, which is mailed or otherwise delivered by Redflex to the violator on the appropriate Enforcement Documentation in respect of each Authorized Violation.
- 1.4. "Confidential or Private Information" means, with respect to any Person, any information, matter or thing of a secret, confidential or private nature, whether or not so labeled, which is connected with such Person's business or methods of

operation or concerning any of such Person's suppliers, licensors, licensees, customers or others with whom such Person has a business relationship, and which has current or potential value to such Person or the unauthorized disclosure of which could be detrimental to such Person, including but not limited to:

- 1.4.1. Matters of a business nature, including but not limited to information relating to development plans, costs, finances, marketing plans, data, procedures, business opportunities, marketing methods, plans and strategies, the costs of construction, installation, materials or components, the prices such Person obtains or has obtained from its clients or customers, or at which such Person sells or has sold its services; and
- 1.4.2. Matters of a technical nature, including but not limited to product information, trade secrets, know-how, formulae, innovations, inventions, devices, discoveries, techniques, formats, processes, methods, specifications, designs, patterns, schematics, data, access or security codes, compilations of information, test results and research and development projects. For purposes of this Agreement, the term "trade secrets" shall mean the broadest and most inclusive interpretation of trade secrets.
- 1.4.3. Notwithstanding the foregoing, Confidential Information will not include information that: (i) was generally available to the public or otherwise part of the public domain at the time of its disclosure, (ii) became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission by any party hereto in breach of this Agreement, (iii) was subsequently lawfully disclosed to the disclosing party by a person other than a party hereto, (iv) was required by a court of competent jurisdiction to be disclosed, or (v) was required by applicable state law to be disclosed.
- 1.5. "Designated Intersection Approaches" means the Intersection Approaches set forth on Exhibit "A" attached hereto, and such additional Intersection Approaches as Redflex and the Customer shall mutually agree upon from time to time.
- 1.6. "Electronic Signature" means the method through which the Authorized Officer indicates his or her approval of the issuance of a Notice of Violation in respect of a Potential Violation using the Redflex System.
- 1.7. "Enforcement Documentation" means the necessary and appropriate documentation related to the Photo Red Light Enforcement Program, including but not limited to warning letters, violation notices (using City specifications), a numbering sequence for use on all Notice of Violation, instructions to accompany each issued Notice of Violation (including in such instructions a description of basic adjudication procedures, payment options and information regarding the viewing of images and data collected by the Redflex System), chain of custody records, criteria regarding operational policies for processing Notices of Violation (including with respect to coordinating with the Department of Motor Vehicles), and technical support documentation for adjudication personnel.
- 1.8. "Equipment" means any and all cameras, sensors, equipment, components, products, software and other tangible and intangible property relating to the

Redflex Photo Red Light System(s), including but not limited to all camera systems, housings, radar units, severs and poles.

- 1.9. **“Fine”** means a monetary sum in the form of a civil penalty assessed for each Notice of Violation.
- 1.10. **“Governmental Authority”** means any domestic or foreign government, governmental authority, court, tribunal, agency or other regulatory, administrative or judicial agency, commission or organization, and any subdivision, branch or department of any of the foregoing.
- 1.11. **“Installation Date of the Photo Red Light Program”** means the date on which Redflex completes the construction and installation of at least one (1) Intersection Approach in accordance with the terms of this Agreement so that such Intersection Approach is operational for the purposes of functioning with the Redlight Photo Enforcement Program.
- 1.12. **“Intellectual Property”** means, with respect to any Person, any and all now known or hereafter known tangible and intangible (a) rights associated with works of authorship throughout the world, including but not limited to copyrights, moral rights and mask-works, (b) trademark and trade name rights and similar rights, (c) trade secrets rights, (d) patents, designs, algorithms and other industrial property rights, (e) all other intellectual and industrial property rights (of every kind and nature throughout the universe and however designated), whether arising by operation of law, contract, license, or otherwise, and (f) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing), of such Person.
- 1.13. **“Intersection Approach”** means a conduit of travel with up to four (4) contiguous lanes from the curb (e.g., northbound, southbound, eastbound or westbound) on which at least one (1) system has been installed by Redflex for the purposes of facilitating Red Light Photo Enforcement by the Customer.
- 1.14. **“Operational Period”** means the period of time during the Term, commencing on the Installation Date, during which the Photo Red Light Enforcement Program is functional in order to permit the identification and prosecution of Violations at the Designated City Streets and Intersection Approaches by a sworn police officer of the Customer and the issuance of Notices of Violation for such approved Violations using the Redflex System.
- 1.15. **“Person”** means a natural individual, company, Governmental Authority, partnership, firm, corporation, legal entity or other business association.
- 1.16. **“Police Project Manager”** means the project manager appointed by the Customer in accordance with this Agreement, who shall be a sworn police officer and shall be responsible for overseeing the installation of the Intersection Approaches and the implementation of the Redlight Photo Enforcement Program.
- 1.17. **“Potential Violation”** means, with respect to any motor vehicle passing through a Designated City Street and/or Intersection Approach, the data collected by the Redflex System with respect to such motor vehicle, which data shall be processed by the Redflex System for the purposes of allowing the Authorized Officer to review such data and determine whether a Red Light Violation has occurred.
- 1.18. **“Proprietary Property”** means, with respect to any Person, any written or tangible property owned or used by such Person in connection with such Person’s

business, whether or not such property is copyrightable or also qualifies as Confidential Information, including without limitation products, samples, equipment, files, lists, books, notebooks, records, documents, memoranda, reports, patterns, schematics, compilations, designs, drawings, data, test results, contracts, agreements, literature, correspondence, spread sheets, computer programs and software, computer print outs, other written and graphic records and the like, whether originals, copies, duplicates or summaries thereof, affecting or relating to the business of such Person, financial statements, budgets, projections and invoices.

- 1.19. **"Redflex Marks"** means all trademarks registered in the name of Redflex or any of its affiliates, such other trademarks as are used by Redflex or any of its affiliates on or in relation to Photo Red Light Enforcement at any time during the Term this Agreement, service marks, trade names, logos, brands and other marks owned by Redflex, and all modifications or adaptations of any of the foregoing.
- 1.20. **"Redflex Project Manager"** means the project manager appointed by Redflex in accordance with this Agreement, or such other person as Redflex shall designate by providing written notice thereof to the Customer from time to time, who shall be responsible for overseeing the construction and installation of the Designated Intersection Approaches and the implementation the Photo Red Light Enforcement Program, and who shall have the power and authority to make management decisions relating to Redflex's obligations pursuant to this Agreement, including but not limited to change-order authorizations.
- 1.21. **"Redflex Photo Red Light System"** means, collectively, the SmartCam™ System, the SmartOps™ System, the Redlight Photo Enforcement Program, and all of the other equipment, applications, back office processes and digital red light traffic enforcement cameras, sensors, components, products, software and other tangible and intangible property relating thereto.
- 1.22. **"Photo Red Light Enforcement Program"** means the process by which the monitoring, identification and enforcement of Violations is facilitated by the use of certain equipment, applications and back office processes of Redflex, including but not limited to cameras, flashes, central processing units, signal controller interfaces and detectors (whether loop, radar or video loop) which, collectively, are capable of measuring Violations and recording such Violation data in the form of photographic images of motor vehicles.
- 1.23. **"Photo Red Light Violation Criteria"** means the standards and criteria by which Potential Violations will be evaluated by sworn police officers of the Customer, which standards and criteria shall include, but are not limited to, the duration of time that a traffic light must remain red prior to a Violation being deemed to have occurred, and the location(s) in an intersection which a motor vehicle must pass during a red light signal prior to being deemed to have committed a Violation, all of which shall be in compliance with all applicable laws, rules and regulations of Governmental Authorities.
- 1.24. **"SmartCam™ System"** means the proprietary digital redlight photo enforcement system of Redflex relating to the Photo Red Light Enforcement Program.
- 1.25. **"SmartOps™ System"** means the proprietary back-office processes of Redflex relating to the Photo Red Light Enforcement Program.

- 1.27. "Traffic Signal Controller Boxes" means the signal controller interface detector, including but not limited to the radar or video loop, as the case may be.
 - 1.28. "Violation" means any traffic violation contrary to the terms of the Texas Transportation Code or any applicable rule, regulation or law of any Governmental Authority, including but not limited to operating a motor vehicle contrary to traffic signals, and operating a motor vehicle without displaying a valid license plate or registration.
 - 1.29. "Violations Data" means the images and other Violations data gathered by the Redflex System at the Designated City Streets and/or Intersection Approaches.
 - 1.30. "Warning Period" means the period that only warning notices and not Notice of Violation shall be sent during the 30 day period commencing with the installation of a traffic-control signal monitoring device.
2. **TERM.** The term of this Agreement shall commence as of the date hereof and shall continue for a period of five (5) years after the Installation Date (the "Initial Term"). The Customer shall have the right, but not the obligation, to extend the term of this Agreement. Customer shall have the right, but not the obligation, to extend the term of this Agreement for up to two (2) additional consecutive and automatic two (2) year periods following the expiration of the Initial Term or may exercise the right to extend the term of this Agreement for a Renewal Term by providing written notice to Redflex not less than thirty (30) days prior to the last day of the Initial Term or the Renewal Term, as the case may be.
 3. **SERVICES.** Redflex shall provide the Photo Red Light Enforcement Program to the Customer, in each case in accordance with the terms and provisions set forth in this Agreement.
 - 3.1. **INSTALLATION.** With respect to the construction and installation of Designated Intersection Approaches and the installation of the Redflex System at such Designated Intersection Approaches, the Customer and Redflex shall have the respective rights and obligations set forth on Exhibit "B" attached hereto.
 - 3.2. **MAINTENANCE.** With respect to the maintenance of the Redflex System at Designated Intersection Approaches the Customer and Redflex shall have the respective rights and obligations set forth on Exhibit "C" attached hereto.
 - 3.3. **VIOLATION PROCESSING.** During the Operational Period, Violations shall be processed as follows:
 - 3.3.1. All Violations Data shall be stored on the Redflex System;
 - 3.3.2. The Redflex System shall process Violations Data gathered from Designated City Streets and/or Intersection Approaches into a format capable of review by the Authorized Officer via the Redflex System;
 - 3.3.3. The Redflex System shall be accessible by the Authorized Officer through a virtual private network in encrypted format by use of a confidential password on any computer equipped with a high-speed internet connection and a web browser;

- 3.3.4. Redflex shall provide the Authorized Officer with access to the Redflex System for the purposes of reviewing the pre-processed Violations Data within an average of four (4) days of the gathering of the Violation Data from the applicable Designated City Streets and/or Intersection Approaches
- 3.3.5. The Customer shall cause the Authorized Officer to review the Violations Data and to determine whether a Notice of Violation shall be issued with respect to each Potential Violation captured within such Violation Data, and transmit each such determination in the form of an Electronic Signature to Redflex using the software or other applications or procedures provided by Redflex on the Redflex System for such purpose, and REDFLEX HEREBY ACKNOWLEDGES AND AGREES THAT THE DECISION TO ISSUE A NOTICE OF VIOLATION SHALL BE THE SOLE, UNILATERAL AND EXCLUSIVE DECISION OF THE AUTHORIZED OFFICER AND SHALL BE MADE IN SUCH AUTHORIZED OFFICER'S SOLE DISCRETION (A "NOTICE OF VIOLATION DECISION"), AND IN NO EVENT SHALL REDFLEX HAVE THE ABILITY OR AUTHORIZATION TO MAKE A NOTICE OF VIOLATION DECISION;
- 3.3.6. With respect to each Authorized Violation, Redflex shall print and mail a Notice of Violation within two (2) days after Redflex's receipt of such authorization; provided, however, during the Warning Period, warning violation notices shall be issued in respect of all Authorized Violations;
- 3.3.7. Redflex shall provide a toll-free telephone number for the purposes of answering citizen enquiries.
- 3.3.8. Redflex shall permit the Authorized Officer to generate reports as needed using the Redflex Standard Report System.
- 3.3.9. Upon Redflex's receipt of a written request from the Customer and in addition to the Standard Reports, Redflex shall provide, without cost to the Customer, reports regarding the processing and issuance of Notices of Violation, the maintenance and downtime records of the Designated Intersection Approaches and the functionality of the Redflex System with respect thereto to the Customer in such format and for such periods as the Customer may reasonably request; provided, however, Redflex shall not be obligated to provide in excess of six (6) such reports in any given twelve (12) month period without cost to the Customer;
- 3.3.10. Upon the Customer's receipt of a written request from Redflex, the Customer shall provide, without cost to Redflex, reports regarding the prosecution of Notices of Violation and the collection of fines, fees and other monies in respect thereof in such format and for such periods as Redflex may reasonably request; provided, however, the Customer shall not be obligated to provide in excess of six (6) such reports in any given twelve (12) month period without cost to Redflex;
- 3.3.11. Upon Redflex's receipt of a written request from the Customer at least fourteen (14) calendar days in advance of the adjudication proceeding, Redflex shall provide, at Redflex's sole expense, expert witnesses for use

by the Customer in prosecuting Violations; provided, however, the Customer shall use reasonable best efforts to seek judicial notice in lieu of requiring Redflex to provide such expert witnesses; and

3.3.12. During the three (3) month period following the Installation Date, Redflex shall provide such training to police personnel as shall be reasonably necessary in order to allow such personnel to act as expert witnesses on behalf of the Customer with respect to the Redlight Enforcement Program.

3.4. PROSECUTION AND COLLECTION; COMPENSATION. The Customer shall diligently prosecute all contested Notices of Violation before the hearing officer and any appeal to Customer's municipal court. Redflex shall diligently prosecute the collection of all Fines, contested or uncontested. All payments will be collected and deposited into a Customer specified account and will be in direct accordance with the Customer's guidelines. Redflex will employ a collection service to collect delinquent payments with a goal of achieving a 70-80% collection rate. Redflex shall have the right to receive, and the Customer shall be obligated to pay, the compensation set forth on Exhibit "D" attached hereto.

3.5. OTHER RIGHTS AND OBLIGATIONS. During the Term, in addition to all of the other rights and obligations set forth in this Agreement, Redflex and the Customer shall have the respective rights and obligations set forth on Exhibit "E" attached hereto.

3.6. CHANGE ORDERS. The Customer may from time to time request changes to the work required to be performed or the addition of products or services to those required pursuant to the terms of this Agreement by providing written notice thereof to Redflex, setting forth in reasonable detail the proposed changes (a "Change Order Notice"). Upon Redflex's receipt of a Change Order Notice, Redflex shall deliver a written statement describing the effect, if any, the proposed changes would have on the pricing terms set forth in Exhibit "D" (the "Change Order Proposal"), which Change Order Proposal shall include (i) a detailed breakdown of the charge and schedule effects, (ii) a description of any resulting changes to the specifications and obligations of the parties, (iii) a schedule for the delivery and other performance obligations, and (iv) any other information relating to the proposed changes reasonably requested by the Customer. Following the Customer's receipt of the Change Order Proposal, the parties shall negotiate in good faith and agree to a plan and schedule for implementation of the proposed changes, the time, manner and amount of payment or price increases or decreases, as the case may be, and any other matters relating to the proposed changes; provided, however, in the event that any proposed change involves only the addition of equipment or services to the existing Designated Intersection Approaches, Designated City Vehicles, or the addition of Intersection Approaches to be covered by the terms of this Agreement, to the maximum extent applicable, the pricing terms set forth in Exhibit "D" shall govern. Any failure of the parties to reach agreement with respect to any of the foregoing as a result of any proposed changes shall not be deemed to be a breach of this Agreement, and any disagreement shall be resolved in accordance with Section 10.

4. License; Reservation of Rights.

- 4.1. **License.** Subject to the terms and conditions of this Agreement, Redflex hereby grants the Customer, and the Customer hereby accepts from Redflex upon the terms and conditions herein specified, a non-exclusive, non-transferable license during the Term of this Agreement to: (a) solely within the City of Tomball, access and use the Redflex System for the sole purpose of reviewing Potential Violations and authorizing the issuance of Notice of Violations pursuant to the terms of this Agreement, and to print copies of any content posted on the Redflex System in connection therewith, (b) disclose to the public (including outside of the City of Tomball) that Redflex is providing services to the Customer in connection with Photo Red Light Enforcement Program pursuant to the terms of this Agreement, and (c) use and display the Redflex Marks on or in marketing, public awareness or education, or other publications or materials relating to the Photo Red Light Enforcement Program, so long as any and all such publications or materials are approved in advance by Redflex.
- 4.2. **RESERVATION OF RIGHTS.** The Customer hereby acknowledges and agrees that: (a) Redflex is the sole and exclusive owner of the Redflex System, the Redflex Marks, all Intellectual Property arising from or relating to the Redflex System, and any and all related Equipment, (b) the Customer neither has nor makes any claim to any right, title or interest in any of the foregoing, except as specifically granted or authorized under this Agreement, and (c) by reason of the exercise of any such rights or interests of Customer pursuant to this Agreement, the Customer shall gain no additional right, title or interest therein.
- 4.3. **RESTRICTED USE.** The Customer hereby covenants and agrees that it shall not (a) make any modifications to the Redflex System, including but not limited to any Equipment, (b) alter, remove or tamper with any Redflex Marks, (c) use any of the Redflex Marks in any way which might prejudice their distinctiveness, validity or the goodwill of Redflex therein, (d) use any trademarks or other marks other than the Redflex Marks in connection with the Customer's use of the Redflex System pursuant to the terms of this Agreement without first obtaining the prior consent of Redflex, or (e) disassemble, de-compile or otherwise perform any type of reverse engineering to the Redflex System, the Redflex System, including but not limited to any Equipment, or to any, Intellectual Property or Proprietary Property of Redflex, or cause any other Person to do any of the foregoing.
- 4.4. **PROTECTION OF RIGHTS.** Redflex shall have the right to take whatever action it deems necessary or desirable to remedy or prevent the infringement of any Intellectual Property of Redflex, including without limitation the filing of applications to register as trademarks in any jurisdiction any of the Redflex Marks, the filing of patent application for any of the Intellectual Property of Redflex, and making any other applications or filings with appropriate Governmental Authorities. The Customer shall not take any action to remedy or prevent such infringing activities, and shall not in its own name make any registrations or filings with respect to any of the Redflex Marks or the Intellectual Property of Redflex without the prior written consent of Redflex.

- 4.5. **INFRINGEMENT.** The Customer shall use its reasonable best efforts to give Redflex prompt notice of any activities or threatened activities of any Person of which it becomes aware that infringes or violates the Redflex Marks or any of Redflex's Intellectual Property or that constitute a misappropriation of trade secrets or act of unfair competition that might dilute, damage or destroy any of the Redflex Marks or any other Intellectual Property of Redflex. Redflex shall have the exclusive right, but not the obligation, to take action to enforce such rights and to make settlements with respect thereto. In the event that Redflex commences any enforcement action under this Section 4.5, then the Customer shall render to Redflex such reasonable cooperation and assistance as is reasonably requested by Redflex, and Redflex shall be entitled to any damages or other monetary amount that might be awarded after deduction of actual costs; provided, that Redflex shall reimburse the Customer for any reasonable costs incurred in providing such cooperation and assistance.
- 4.6. **INFRINGING USE.** The Customer shall give Redflex prompt written notice of any action or claim action or claim, whether threatened or pending, against the Customer alleging that the Redflex Marks, or any other Intellectual Property of Redflex, infringes or violates any patent, trademark, copyright, trade secret or other Intellectual Property of any other Person, and the Customer shall render to Redflex such reasonable cooperation and assistance as is reasonably requested by Redflex in the defense thereof; provided, that Redflex shall reimburse the Customer for any reasonable costs incurred in providing such cooperation and assistance. If such a claim is made and Redflex determines, in the exercise of its sole discretion, that an infringement may exist, Redflex shall have the right, but not the obligation, to procure for the Customer the right to keep using the allegedly infringing items, modify them to avoid the alleged infringement or replace them with non-infringing items.

5. Representations and Warranties.

5.1. Redflex Representations and Warranties.

- 5.1.1. **Authority.** Redflex hereby warrants and represents that it has all right, power and authority to execute and deliver this Agreement and perform its obligations hereunder.
- 5.1.2. **Professional Services.** Redflex hereby warrants and represents that any and all services provided by Redflex pursuant to this Agreement shall be performed in a professional and workmanlike manner and, with respect to the installation of the Redflex System, subject to applicable law, in compliance with all specifications provided to Redflex by the Customer.

5.2. Customer Representations and Warranties.

- 5.2.1. **Authority.** The Customer hereby warrants and represents that it has all right, power and authority to execute and deliver this Agreement and perform its obligations hereunder.
- 5.2.2. **Professional Services.** The Customer hereby warrants and represents that any and all services provided by the Customer pursuant to this Agreement shall be performed in a professional and workmanlike manner.

- 5.3. **LIMITED WARRANTIES.** EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, REDFLEX MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE REDFLEX SYSTEM OR ANY RELATED EQUIPMENT OR WITH RESPECT TO THE RESULTS OF THE CUSTOMER'S USE OF ANY OF THE FOREGOING. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, REDFLEX DOES NOT WARRANT THAT ANY OF THE DESIGNATED INTERSECTION APPROACHES OR THE REDFLEX SYSTEM WILL OPERATE IN THE WAY THE CUSTOMER SELECTS FOR USE, OR THAT THE OPERATION OR USE THEREOF WILL BE UNINTERRUPTED. THE CUSTOMER HEREBY ACKNOWLEDGES THAT THE REDFLEX SYSTEM MAY MALFUNCTION FROM TIME TO TIME, AND SUBJECT TO THE TERMS OF THIS AGREEMENT, REDFLEX SHALL DILIGENTLY ENDEAVOR TO CORRECT ANY SUCH MALFUNCTION IN A TIMELY MANNER.

6. Termination.

- 6.1. **TERMINATION FOR CAUSE:** Either party shall have the right to terminate this Agreement immediately by written notice to the other if (i) state statutes are amended to prohibit or substantially change the operation of photo red light enforcement systems; (ii) any court having jurisdiction over the Customer rules, or a state or federal statute or judicial decision declares, that results from the Redflex System of photo red light enforcement are inadmissible in evidence; or (iii) the other party commits any material breach of any of the provisions of this Agreement (iv) Texas Legislature enact any laws regarding photo red light enforcement systems that negatively impacts the Customer. In the event of a termination due to Section 6.1(i) or 6.1(ii) or 6.1(iv) above, Customer shall be relieved of any further obligations for payment to Redflex other than as specified in Exhibit "D." Either party shall have the right to remedy the cause for termination (Sec 6.1) within forty-five (45) calendar days (or within such other time period as the Customer and Redflex shall mutually agree, which agreement shall not be unreasonably withheld or delayed) after written notice from the non-causing party setting forth in reasonable detail the events of the cause for termination.
- 6.2. The rights to terminate this Agreement given in this Section 6.1 shall be without prejudice to any other right or remedy of either party in respect of the breach concerned (if any) or any other breach of this Agreement.
- 6.3. **PROCEDURES UPON TERMINATION.** The termination of this Agreement shall not relieve either party of any liability that accrued prior to such termination. Except as set forth in Section 6.3, upon the termination of this Agreement, all of the provisions of this Agreement shall terminate and:

- 6.3.1. Redflex shall (i) immediately cease to provide services, including but not limited to work in connection with the construction or installation activities and services in connection with the Photo Red Light Enforcement Program, (ii) promptly deliver to the Customer any and all Proprietary Property of the Customer provided to Redflex pursuant to this Agreement, (iii) promptly deliver to the Customer a final report to the Customer regarding the collection of data and the issuance of Notice of Violations in such format and for such periods as the Customer may reasonably request, and which final report Redflex shall update or supplement from time to time when and if additional data or information becomes available, (iv) promptly deliver to Customer a final invoice stating all fees and charges properly owed by Customer to Redflex for work performed and Notice of Violations issued by Redflex prior to the termination, and (v) provide such assistance as the Customer may reasonably request from time to time in connection with prosecuting and enforcing Notice of Violations issued prior to the termination of this Agreement.
- 6.3.2. The Customer shall (i) immediately cease using the Photo Red Light Enforcement Program, accessing the Redflex System and using any other Intellectual Property of Redflex, (ii) promptly deliver to Redflex any and all Proprietary Property of Redflex provided to the Customer pursuant to this Agreement, and (iii) promptly pay any and all fees, charges and amounts properly owed by Customer to Redflex for work performed and Notice of Violations issued by Redflex prior to the termination.
- 6.3.3. Unless the Customer and Redflex have agreed to enter into a new agreement relating to the Photo Red Light Enforcement Program or have agreed to extend the Term of this Agreement, Redflex shall remove any and all Equipment or other materials of Redflex installed in connection with Redflex's performance of its obligations under this Agreement, including but not limited to housings, poles and camera systems, and Redflex shall restore the Designated City Vehicles and Designated Intersection Approaches to substantially the same condition such Designated Intersection Approaches were in immediately prior to this Agreement.
- 6.4. **SURVIVAL.** Notwithstanding the foregoing, the definitions and each of the following shall survive the termination of this Agreement: (x) Sections 4.2 (Reservation of Rights), 5.1 (Redflex Representations and Warranties), 5.2 (Customer Representations and Warranties), 5.3 (Limited Warranty), 7 (Confidentiality), 8 (Indemnification and Liability), 9 (Notices), 10 (Dispute Resolution), 11.1 (Assignment), 11.17 (Applicable Law), 11.16 (Injunctive Relief; Specific Performance) and 11.18 (Jurisdiction and Venue), and (y) those provisions, and the rights and obligations therein, set forth in this Agreement which either by their terms state, or evidence the intent of the parties, that the provisions survive the expiration or termination of the Agreement, or must survive to give effect to the provisions of this Agreement.

7. **CONFIDENTIALITY.** During the term of this Agreement and for a period of three (3) years thereafter, neither party shall disclose to any third person, or use for itself in any way for pecuniary gain, any Confidential Information learned from the other party during the course of the negotiations for this Agreement or during the Term of this Agreement. Upon termination of this Agreement, to the extent permitted by law, each party shall return to the other all tangible Confidential Information of such party. Each party shall retain in confidence and not disclose to any third party any Confidential Information without the other party's express written consent, except (a) to its employees who are reasonably required to have the Confidential Information, (b) to its agents, representatives, attorneys and other professional advisors that have a need to know such Confidential Information, provided that such parties undertake in writing (or are otherwise bound by rules of professional conduct) to keep such information strictly confidential, and (c) pursuant to, and to the extent of, a request or order by any Governmental Authority, including laws relating to public records.

8. **Indemnification and Liability.**

8.1. **Indemnification by Redflex.** Subject to Section 8.3, Redflex hereby agrees to defend and indemnify the Customer and its affiliates, shareholders or other interest holders, managers, officers, directors, employees, agents, representatives and successors, permitted assignees and each of their affiliates, and all persons acting by, through, under or in concert with them, or any of them (individually a "Customer Party" and collectively, the "Customer Parties") against, and to protect, save and keep harmless the Customer Parties from, and to pay on behalf of or reimburse the Customer Parties as and when incurred for, any and all liabilities, obligations, losses, damages, penalties, demands, claims, actions, suits, judgments, settlements, costs, expenses and disbursements (including reasonable attorneys', accountants' and expert witnesses' fees) of whatever kind and nature (collectively, "Losses"), which may be imposed on or incurred by any Customer Party arising out of or related to (a) any material misrepresentation, inaccuracy or breach of any covenant, warranty or representation of Redflex contained in this Agreement, or (b) the negligence or willful misconduct of Redflex, its employees or agents which result in death or bodily injury to any natural person (including third parties) or any damage to any real or tangible personal property (including the personal property of third parties), except to the extent caused by the negligence or willful misconduct of any Customer Party.

8.2. **Indemnification by Customer.** Subject to Section 8.3, the Customer, to the extent allowed by law and without waiving any rights, defenses or immunities provided to it by its sovereign, official, or qualified immunity or under the Texas Tort Claims Act, hereby agrees to defend and indemnify Redflex and its affiliates, shareholders or other interest holders, managers, officers, directors, employees, agents, representatives and successors, permitted assignees and all persons acting by, through, under or in concert with them, or any of them (individually a "Redflex Party" and collectively, the "Redflex Parties") against, and to protect, save and keep harmless the Redflex Parties from, and to pay on behalf of or reimburse the Redflex Parties as and when incurred for, any and all Losses which may be imposed on or incurred by any Redflex Party arising out of or in any way related to (a) any material misrepresentation, inaccuracy or breach of any

covenant, warranty or representation of the Customer contained in this Agreement, (b) the negligence or willful misconduct of the Customer, its employees, contractors or agents which result in death or bodily injury to any natural person (including third parties) or any damage to any real or tangible personal property (including the personal property of third parties), except to the extent caused by the negligence or willful misconduct of any Redflex Party, or (c) any claim, action, or demand not caused by Redflex's failure to perform its obligations under this Agreement, or (d) any claim, action, or demand challenging the Customer's use of the Redflex System or any portion thereof, the validity of the results of the Customer's use of the Redflex System or any portion thereof, or the validity of the Citations issued, prosecuted, and collected as a result of the Customer's use of the Redflex System or any portion thereof.

8.3. **Indemnification Procedures.** In the event any claim, action or demand (a "Claim") in respect of which any party hereto seeks indemnification from the other, the party seeking indemnification (the "Indemnified Party") shall give the party from whom indemnification is sought (the "Indemnifying Party") written notice of such Claim promptly after the Indemnified Party first becomes aware thereof; provided, however, that failure so to give such notice shall not preclude indemnification with respect to such Claim except to the extent of any additional or increased Losses or other actual prejudice directly caused by such failure. The Indemnifying Party shall have the right to choose counsel to defend such Claim (subject to the approval of such counsel by the Indemnified Party, which approval shall not be unreasonably withheld, conditioned or delayed), and to control, compromise and settle such Claim, and the Indemnified Party shall have the right to participate in the defense at its sole expense; provided, however, the Indemnified Party shall have the right to take over the control of the defense or settlement of such Claim at any time if the Indemnified Party irrevocably waives all rights to indemnification from and by the Indemnifying Party. The Indemnifying Party and the Indemnified Party shall cooperate in the defense or settlement of any Claim, and no party shall have the right enter into any settlement agreement that materially affects the other party's material rights or material interests without such party's prior written consent, which consent will not be unreasonably withheld or delayed.

8.4. **LIMITED LIABILITY.** Notwithstanding anything to the contrary in this Agreement, neither party shall be liable to the other, by reason of any representation or express or implied warranty, condition or other term or any duty at common or civil law, for any indirect, incidental, special, lost profits or consequential damages, however caused and on any theory of liability arising out of or relating to this Agreement.

9. **NOTICES.** Any notices to be given hereunder shall be in writing, and shall be deemed to have been given (a) upon delivery, if delivered by hand, (b) three (3) days after being mailed first class, certified mail, return receipt requested, postage and registry fees prepaid, or (c) one Business Day after being delivered to a reputable overnight courier service, excluding the U.S. Postal Service, prepaid, marked for next day delivery, if the courier service obtains a signature acknowledging receipt, in each case addressed or sent to such party as follows:

9.1. Notices to Redflex:

Redflex Traffic Systems, Inc.
15020 North 74th Street
Scottsdale, AZ 85260
Attention: Ms. Karen Finley
Facsimile: (480) 607-5552

9.2. Notices to the Customer:

City of Tomball
Attention: City Manager
Re: Official Notification
401 Market St.
Tomball, Texas 77375
(281)351-5484
Facsimile: (281)351-6256

10. **DISPUTE RESOLUTION.** Upon the occurrence of any dispute or disagreement between the parties hereto arising out of or in connection with any term or provision of this Agreement, the subject matter hereof, or the interpretation or enforcement hereof (the "Dispute"), the parties shall engage in informal, good faith discussions and attempt to resolve the Dispute. In connection therewith, upon written notice of either party, each of the parties will appoint a designated officer whose task it shall be to meet for the purpose of attempting to resolve such Dispute. The designated officers shall meet as often as the parties shall deem to be reasonably necessary. Such officers will discuss the Dispute. If the parties are unable to resolve the Dispute in accordance with this Section 10, and in the event that either of the parties concludes in good faith that amicable resolution through continued negotiation with respect to the Dispute is not reasonably likely, then the parties may mutually agree to submit to binding or nonbinding arbitration or mediation.

11. **Miscellaneous.**

11.1. **ASSIGNMENT.** Neither party may assign all or any portion of this Agreement without the prior written consent of the other. However, the Customer hereby acknowledges and agrees that the execution (as outlined in Exhibit "F"), delivery and performance of Redflex's rights pursuant to this Agreement shall require a significant investment by Redflex, and that in order to finance such investment, Redflex may be required to enter into certain agreements or arrangements ("Financing Transactions") with equipment lessors, banks, financial institutions or other similar persons or entities (each, a "Financial Institution" and collectively, "Financial Institutions"). The Customer hereby agrees that Redflex shall have the right to assign, pledge, hypothecate or otherwise transfer ("Transfer") its rights, or any of them, under this Agreement to any Financial Institution in connection with any Financing Transaction between Redflex and any such Financial Institution, subject to the Customer's prior written approval, which approval shall not be unreasonably withheld or delayed. The Customer further acknowledges and

agrees that in the event that Redflex provides written notice to the Customer that it intends to Transfer all or any of Redflex's rights pursuant to this Agreement, and in the event that the Customer fails to provide such approval or fails to object to such Transfer within forty-five (45) business days after its receipt of such notice from Redflex, for the purposes of this Agreement, the Customer shall be deemed to have consented to and approved such Transfer by Redflex. Notwithstanding the above, this Agreement shall inure to the benefit of, and be binding upon, the parties hereto, and their respective successors or assigns.

- 11.2. **RELATIONSHIP BETWEEN REDFLEX AND THE CUSTOMER.** Nothing in this Agreement shall create, or be deemed to create, a partnership, joint venture or the relationship of principal and agent or employer and employee between the parties. The relationship between the parties shall be that of independent contractors, and nothing contained in this Agreement shall create the relationship of principal and agent or otherwise permit either party to incur any debts or liabilities or obligations on behalf of the other party (except as specifically provided herein).
- 11.3. **AUDIT RIGHTS.** Each of parties hereto shall have the right to audit the books and records of the other party hereto (the "**Audited Party**") solely for the purpose of verifying the payments, if any, payable pursuant to this Agreement. Any such audit shall be conducted upon not less than forty-eight (48) hours' prior notice to the Audited Party, at mutually convenient times and during the Audited Party's normal business hours. Except as otherwise provided in this Agreement, the cost of any such audit shall be borne by the non-Audited Party. In the event any such audit establishes any underpayment of any payment payable by the Audited Party to the non-Audited Party pursuant to this Agreement, the Audited Party shall promptly pay the amount of the shortfall, and in the event that any such audit establishes that the Audited Party has underpaid any payment by more than twenty-five percent (25%) of the amount of actually owing, the cost of such audit shall be borne by the Audited Party. In the event any such audit establishes any overpayment by the Audited Party of any payment made pursuant to this Agreement, non-Audited Party shall promptly refund to the Audited Party the amount of the excess.
- 11.4. **FORCE MAJEURE.** Neither party will be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, any change in State or Federal law that requires remittance of any and/or all of the Revenue that Customer is required to pay to Redflex, or Governmental Authorities approval delays which are not caused by any act or omission by Redflex, and unusually severe weather. The party whose performance is affected agrees to notify the other promptly of the existence and nature of any delay.
- 11.5. **ENTIRE AGREEMENT.** This Agreement represents the entire Agreement between the parties, and there are no other agreements (other than invoices and purchase orders), whether written or oral, which affect its terms. This Agreement may be amended only by a subsequent written agreement signed by both parties.

- 11.6. SEVERABILITY. If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or part, this Agreement shall continue to be valid as to the other provisions thereof and the remainder of the affected provision.
- 11.7. WAIVER. Any waiver by either party of a breach of any provision of this Agreement shall not be considered as a waiver of any subsequent breach of the same or any other provision thereof.
- 11.8. CONSTRUCTION Except as expressly otherwise provided in this Agreement, this Agreement shall be construed as having been fully and completely negotiated and neither the Agreement nor any provision thereof shall be construed more strictly against either party.
- 11.9. HEADINGS. The headings of the sections contained in this Agreement are included herein for reference purposes only, solely for the convenience of the parties hereto, and shall not in any way be deemed to affect the meaning, interpretation or applicability of this Agreement or any term, condition or provision hereof.
- 11.10. EXECUTION AND COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and such counterparts together shall constitute only one instrument. Any one of such counterparts shall be sufficient for the purpose of proving the existence and terms of this Agreement and no party shall be required to produce an original or all of such counterparts in making such proof.
- 11.11. COVENANT OF FURTHER ASSURANCES. All parties to this Agreement shall, upon request, perform any and all acts and execute and deliver any and all certificates, instruments and other documents that may be necessary or appropriate to carry out any of the terms, conditions and provisions hereof or to carry out the intent of this Agreement.
- 11.12. REMEDIES CUMULATIVE. Each and all of the several rights and remedies provided for in this Agreement shall be construed as being cumulative and no one of them shall be deemed to be exclusive of the others or of any right or remedy allowed by law or equity, and pursuit of any one remedy shall not be deemed to be an election of such remedy, or a waiver of any other remedy.
- 11.13. BINDING EFFECT. This Agreement shall inure to the benefit of and be binding upon all of the parties hereto and their respective executors, administrators, successors and permitted assigns.
- 11.14. COMPLIANCE WITH LAWS. Nothing contained in this Agreement shall be construed to require the commission of any act contrary to law, and whenever there is a conflict between any term, condition or provision of this Agreement and any present or future statute, law, ordinance or regulation contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the term, condition or provision of this Agreement affected shall be curtailed and limited only to the extent necessary to bring it within the requirement of the law, provided that such construction is consistent with the intent of the Parties as expressed in this Agreement.

- 11.15. NO THIRD PARTY BENEFIT. Nothing contained in this Agreement shall be deemed to confer any right or benefit on any Person who is not a party to this Agreement.
- 11.16. INJUNCTIVE RELIEF; SPECIFIC PERFORMANCE. The parties hereby agree and acknowledge that a breach of Sections 4.1 (License), 4.3 (Restricted Use) or 7 (Confidentiality) of this Agreement would result in severe and irreparable injury to the other party, which injury could not be adequately compensated by an award of money damages, and the parties therefore agree and acknowledge that they shall be entitled to injunctive relief in the event of any breach of any material term, condition or provision of this Agreement, or to enjoin or prevent such a breach, including without limitation an action for specific performance hereof.
- 11.17. APPLICABLE LAW. This Agreement shall be governed by and construed in all respects solely in accordance with the laws of the State of Texas and of the United States.
- 11.18. JURISDICTION AND VENUE. Any dispute arising out of or in connection with this Agreement shall be submitted to the exclusive jurisdiction and venue of the courts located in the County of Harris, Texas, and both parties specifically agree to be bound by the jurisdiction and venue thereof.

(The remainder of this page is left intentionally blank)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first set forth above.

"Customer"

CITY OF TOMBALL, TEXAS

Mary Cohen
CITY MANAGER

ATTEST:

Doni Spivey
CITY SECRETARY

APPROVED AS TO FORM:

CITY ATTORNEY

"Redflex"

REDFLEX TRAFFIC SYSTEMS, INC.,

By: Karen Finley
Name: Karen Finley
Title: President + CEO

EXHIBIT "A"
Designated Intersection Approaches

The contract is for the implementation of up to 20 intersections. Identification of enforced intersection will be based on mutual agreement between Redflex and the Customer as warranted by community safety and traffic needs.

EXHIBIT "B"
Construction and Installation Obligations

Timeframe for Installation: Fixed Photo Red Light System

Redflex will have each specified intersection installed and activated in phases in accordance with an implementation plan to be mutually agreed to by Redflex Traffic Systems and the Municipality.

Redflex will use reasonable commercial efforts to install the system in accordance with the schedule set forth in the implementation plan that will be formalized upon project commencement.

Redflex will use reasonable commercial efforts to install and activate the first four specified intersections within the first ninety (90) days subsequent to formal project kick-off. Any additional intersections will be added within thirty (30) days of receipt of a notice to proceed. The Municipality agrees that the estimated timeframe for installation and activation are subject to conditions beyond the control of Redflex and are not guaranteed.

In order to provide the client with timely completion of the photo enforcement project Redflex Traffic Systems requires that the Customer assist with providing timely approval of Customer permit requests. The Customer acknowledges the importance of the safety program and undertakes that in order to keep the project on schedule the customer is to provide Customer engineers review of Redflex permit requests and all documentation within two (2) business days. Redflex will also review and correct if necessary any redlines within two (2) business days. Permits need to be received within five (5) business days of first submittal in order to implement the program in a timely manner.

1. **Redflex Obligations.** Redflex shall do or cause to be done each of the following (in each case, unless otherwise stated below, at Redflex's sole expense):
 - 1.1. Appoint the Redflex Project Manager and a project implementation team consisting of between one (1) and four (4) people to assist the Redflex Project Manager;
 - 1.2. Request current "as-built" electronic engineering drawings for the Designated Intersection Approaches (the "Drawings") from the Customer's traffic engineer, if available;
 - 1.3. Develop and submit to the Customer for approval construction and installation specifications in reasonable detail for the Designated Intersection Approaches, including but not limited to specifications for all radar sensors, pavement loops, electrical connections and traffic controller connections, as required; and
 - 1.4. Seek approval from the relevant Governmental Authorities having authority or jurisdiction over the construction and installation specifications for the Designated Intersection Approaches (collectively, the "Approvals"), which will include compliance with Customer permit applications.
 - 1.5. Finalize the acquisition of the Approvals;

- 1.6. Submit to the Customer a public awareness strategy for the Customer's consideration and approval, which strategy shall include media and educational materials for the Customer's approval or amendment (the "Awareness Strategy");
- 1.7. Develop the Redlight Violation Criteria in consultation with the Customer;
- 1.8. Develop the Enforcement Documentation for approval by the Customer, which approval shall not be unreasonably withheld;
- 1.9. Complete the installation and testing of all necessary Equipment, including hardware and software, at the Designated Intersection Approaches (under the supervision of the Customer);
- 1.10. Cause an electrical sub-contractor to complete all reasonably necessary electrical work at the Designated Intersection Approaches, including but not limited to the installation of all related Equipment and other detection sensors, poles, cabling, telecommunications equipment and wiring, which work shall be performed in compliance with all applicable local, state and federal laws and regulations;
- 1.11. Install and test the functionality of the Designated Intersection Approaches with the Redflex System and establish fully operational Violation processing capability with the Redflex System;
- 1.12. Implement the use of the Redflex System at each of the Designated Intersection Approaches;
- 1.13. Deliver the Materials to the Customer; and
- 1.14. Issue Notice of Violation notices for Authorized Violations;
- 1.15. Redflex shall provide training (i) for up to fifteen (15) personnel of the Customer, including but not limited to the persons who Customer shall appoint as Authorized Officers and other persons involved in the administration of the Redlight Photo Enforcement Program, (ii) for at least sixteen (16) hours in the aggregate, (iii) regarding the operation of the Redflex System and the Redlight Photo Enforcement Program, which training shall include training with respect to the Redflex System and its operations, strategies for presenting Violations Data in administrative adjudication hearing proceedings and a review of the Enforcement Documentation;
- 1.16. Interact with administrative adjudication hearing personnel to address issues regarding the implementation of the Redflex System, the development of a subpoena processing timeline that will permit the offering of Violations Data in adjudication proceedings, and coordination between Redflex, the Customer and adjudication personnel; and
- 1.17. Redflex will work with the Customer to develop a comprehensive Public Awareness/Education Campaign that will be based on research and public polling to ensure tailored messaging for the community. Redflex will organize a press conference at the project's commencement and coordinate all logistics, including preparing a media packet which will include: a news release; an overview of the Customer's photo enforcement program; a project fact sheet; a project question and answer sheet; a photo enforcement "Facts & Myths" handout; a map showing photo enforcement intersections and thoroughfares; background on similar successful projects elsewhere; an explanation of photo enforcement technology; an explanation of how the program will be administered; and a spokesperson

- contact list. The Police Department's Public Information Officer will be their primary point of contact, and will have final approval on all media materials
- 1.18. Notice of Violation processing and Notice of Violation re-issuance
 - 1.19. Employ a collection agency to collect delinquent accounts. To offset the cost of collecting each delinquent account, Redflex will receive reimbursement for the cost of delinquent collection up to the amount of the late fee penalty of \$25 associated with that account, for each account and associated late fee successfully collected.
2. **CUSTOMER OBLIGATIONS.** The Customer shall do or cause to be done each of the following (in each case, unless otherwise stated below, at Customer's sole expense):
- 2.1.1. Appoint the Police Project Manager; Provide an Administrative Hearing Officer to preside over Appeals Hearing for the Customer.
 - 2.1.2. Assist Redflex in obtaining the Drawings from the relevant Governmental Authorities;
 - 2.1.3. Notify Redflex of any specific requirements relating to the construction and installation of any Intersection Approaches or the implementation of the Redlight Photo Enforcement Program;
 - 2.1.4. Provide assistance to Redflex in obtaining access to the records data of the Texas Department of Transportation in Redflex's capacity as an independent contractor to the Customer; and
 - 2.1.5. Assist Redflex in seeking the Approvals for permits.
 - 2.1.6. Provide reasonable access to the Customer's properties and facilities in order to permit Redflex to install and test the functionality of the Designated Intersection Approaches and the Redlight Photo Enforcement Program;
 - 2.1.7. Provide reasonable access to the personnel of the Customer and reasonable information about the specific operational requirements of such personnel for the purposes of performing training;
 - 2.1.8. Seek approval or amendment of Awareness Strategy, as described in Section 1.17 above, and provide written notice to Redflex with respect to the quantity of media and program materials (the "Materials") that the Customer will require in order to implement the Awareness Strategy during the period commencing on the date on which Redflex begins the installation of any of the Designated Intersection Approaches and ending one (1) month after the Installation Date;
 - 2.1.9. Assist Redflex in developing the Redlight Violation Criteria; and
 - 2.1.10. Seek approval of the Enforcement Documentation.

EXHIBIT "C"
Maintenance

1. All repair and maintenance of Photo Red Light Enforcement systems and related equipment will be the sole responsibility of Redflex, including but not limited to maintaining the casings of the cameras included in the Redflex System and all other Equipment in reasonably clean and graffiti-free condition.
2. Redflex shall not open the Traffic Signal Controller Boxes without a representative of the Customer's Traffic Engineering being present.
3. The provision of all necessary communication, broadband and telephone services to the Designated Intersection Approaches will be the sole responsibility of Redflex.
4. The provision of all necessary electrical services to the Designated Intersection Approaches will be the sole responsibility of the Customer at non-TX DOT rights-of-way.
5. In the event that images of a quality suitable for the Authorized Officer to identify Violations cannot be reasonably obtained without the use of flash units, Redflex shall provide and install such flash units.
6. The Redflex Project Manager (or a reasonable alternate) shall be available to the Police Project Manager each day, on a reasonable best efforts basis.

EXHIBIT "D"
COMPENSATION & PRICING

Commencing on the expiration of the Warning Period, Customer shall be obligated to pay Redflex a fixed fee of \$4,870 per month for each Designated Intersection Approach ("Fixed Fee") as full remuneration for performing all of the services contemplated in this Agreement.

Cost Neutrality

Cost neutrality is assured to Customer. The maximum compensation that Customer shall be obligated to pay to Redflex each month is the Fixed Fee. Customer and Redflex shall compare the aggregate revenue received from all Notice of Violations ("Total Revenue") to the total amount invoiced by Redflex for the Fixed Fee ("Total Invoiced"). The Customer shall be obligated to pay the cumulative balance invoiced by Redflex, in accordance with terms set forth above, only to the extent of gross cash received by the Customer from automated red light violations. Any excess of the Total Invoiced over the Total Revenue (the "Deficit Amount") shall not be payable, but carried forward to be offset by future surpluses should they occur. Upon contract termination for cause under section 6.1 or expiration of this Agreement any such outstanding Deficit Amounts will be paid for to the extent that Total Revenues are received that are applied to the outstanding Deficit Amounts.

BUSINESS ASSUMPTIONS FOR ALL PRICING OPTIONS:

1. Redflex construction will be able to utilize existing conduit for installation where space is available.
2. The Customer agrees to pay Redflex within thirty (30) days after the invoice is received. A monthly late fee of 1.5% is payable for amounts remaining unpaid sixty (60) days from date of invoice.
3. Each year, the pricing will increase by the CPI. CPI will be derived from the publication of the U.S. Department of Labor Consumer Price Index for U.S. City average and shall not exceed 3% annually.

Exhibit "E"
Additional Rights and Obligations

Redflex and the Customer shall respectively have the additional rights and obligations set forth below:

1. Redflex shall assist the Customer in public information and education efforts, including but not limited to the development of artwork for utility bill inserts, press releases and schedules for any public launch of the Redlight Photo Enforcement Program (actual print and production costs are the sole responsibility of the Customer).
2. The Customer shall be solely responsible for the fabrication of any signage, notices or other postings required pursuant to any law, rule or regulation of any Governmental Authority ("Signage"), including but not limited to the Vehicle Code, and shall assist in determining the placement of such Signage. Redflex shall be solely responsible for installing such Signage.
3. The Redflex Project Manager and the Police Project Manager shall meet on a weekly basis during the period commencing as of the date of execution hereof and ending on the Installation Date, and on a monthly basis for the remainder of the Term, at such times and places as the Redflex Manager and the Customer Manager shall mutually agree.
4. The Customer shall not access the Redflex System or use the Redlight Photo Enforcement Program in any manner other than prescribe by law and which restricts or inhibits any other Person from using the Redflex System or the Redflex Photo Enforcement Program with respect to any Intersection Approaches constructed or maintained by Redflex for such Person, or which could damage, disable, impair or overburden the Redflex System or the Redflex Photo Enforcement Program, and the Customer shall not attempt to gain unauthorized access to (i) any account of any other Person, (ii) any computer systems or networks connected to the Redflex System, or (iii) any materials or information not intentionally made available by Redflex to the Customer by means of hacking, password mining or any other method whatsoever, nor shall the Customer cause any other Person to do any of the foregoing.
5. The Customer shall maintain the confidentiality of any username, password or other process or device for accessing the Redflex System or using the Redlight Photo Enforcement Program.
6. Each of Redflex and the Customer shall advise each other in writing with respect to any applicable rules or regulations governing the conduct of the other on or with respect to the property of such other party, including but not limited to rules and regulations relating to the safeguarding of confidential or proprietary information, and when so advised, each of Redflex and the Customer shall obey any and all such rules and regulations.
7. The Customer shall promptly reimburse Redflex for the cost of repairing or replacing any portion of the Redflex System, or any property or equipment related thereto, damaged directly or indirectly by the Customer, or any of its employees, contractors or agents.

Insurance

1. During the Term, Redflex shall procure and maintain at Redflex's sole cost and expense the following insurance coverage with respect to claims for injuries to persons or damages to property which may arise from or in connection with the performance of work or services pursuant to this Agreement by Redflex, and each of Redflex's subcontractors, agents, representatives and employees:
2. Commercial General Liability Insurance. Commercial General Liability Insurance with coverage of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury and property damage;
3. Commercial Automobile Liability Insurance. Commercial Automobile Liability Insurance with coverage of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury or property damage, including but not limited to coverage for all automobiles owned by Redflex, hired by Redflex, and owned by third parties;
4. Professional Liability (Errors and Omissions) Insurance. Redflex will use its commercial best efforts to procure and maintain Professional Liability (Errors and Omissions) Insurance with coverage of not less than One Million Dollars (\$1,000,000) per occurrence and in the aggregate.
5. Workers' Compensation and Employer's Liability Insurance. Workers' Compensation Insurance with coverage of not less than the limits required by the Labor Code of the State of Texas, Employer's Liability Insurance with coverage of not less than One Million Dollars (\$1,000,000) per occurrence.
6. With respect to the insurance described in the foregoing Section of this Exhibit "E", any deductibles or self-insured retentions must be declared to and approved by the Customer and any changes to such deductibles or self-insured retentions during the Term must be approved in advance in writing by the Customer.
7. With respect to the Commercial General Liability Insurance the following additional provisions shall apply:
8. The Customer Parties shall be covered as additional insureds with respect to any liability arising from any act or omission of any Redflex Parties on the premises upon which any such Redflex Parties may perform services pursuant to this Agreement, and such coverage shall contain no special limitations on the scope of protection afforded to such additional insureds.
9. The insurance coverage procured by Redflex and described above shall be the primary insurance with respect to the Customer in connection with this Agreement, and any insurance or self-insurance maintained by the Customer shall be in excess of, and not in contribution to, such insurance.
10. Any failure to comply with the reporting provisions of the various insurance policies described above shall not affect the coverage provided to the Customer, and such insurance policies shall state that such insurance coverage shall apply separately with respect to each additional insured against whom any claim is made or suit is brought, except with respect to the limits set forth in such insurance policies.
11. With respect to the insurance described in the foregoing Section of this Exhibit "E", each such insurance policy shall be endorsed to state that the coverage provided thereby shall not be cancelled except after thirty (30) calendar days prior written notice to the Customer. If any of the Redflex Parties are notified by any insurer that any insurance

coverage will be cancelled, Redflex shall immediately provide written notice thereof to the Customer and shall take all necessary actions to correct such cancellation in coverage limits, and shall provide written notice to the Customer of the date and nature of such correction. If Redflex, for any reason, fails to maintain the insurance coverage required pursuant to this Agreement, such failure shall be deemed a material breach of this Agreement, and the Customer shall have the right, but not the obligation and exercisable in its sole discretion, to either (i) terminate this Agreement and seek damages from Redflex for such breach, or (ii) purchase such required insurance, and without further notice to Redflex, deduct from any amounts due to Redflex pursuant to this Agreement, any premium costs advanced by the Customer for such insurance. If the premium costs advanced by the Customer for such insurance exceed any amounts due to Redflex pursuant to this Agreement, Redflex shall promptly remit such excess amount to the Customer upon receipt of written notice thereof.

12. Redflex shall provide certificates of insurance evidencing the insurance required pursuant to the terms of this Agreement, which certificates shall be executed by an authorized representative of the applicable insurer, and which certificates shall be delivered to the Customer prior to Redflex commencing any work pursuant to the terms of this Agreement.

Exhibit F
FORM OF ACKNOWLEDGMENT AND CONSENT

This Acknowledgement and Consent, dated as of August 20, 2007, is entered into by and between the City of Tomball, Texas (the "City") and Redflex Traffic Systems, Inc., ("Redflex"), with reference to the Agreement for Photo Red Light Enforcement Program, dated as of August 20, 2007, by and between the City and Redflex (the "Agreement").

1. Redflex has entered into a Credit Agreement, dated as of August 3, 2004 (the "Harris-Redflex Credit Agreement"), with Harris Trust and Savings Bank (the "Bank"), pursuant to which the Bank has provided certain working capital credit facilities to Redflex. Such credit facilities will provide Redflex the working capital that it needs to perform its obligations to the City under the Agreement.

2. Pursuant to the Harris-Redflex Credit Agreement, Redflex has granted Harris a security interest in all of Redflex's personal property as collateral for the payment and performance of Redflex's obligations to the Bank under the Harris-Redflex Credit Agreement. Such security interest applies to and covers all of Redflex's contract rights, including, without limitation, all of Redflex's rights and interests under the Agreement.

3. Redflex will not, by virtue of the Harris-Redflex Credit Agreement, be relieved of any liability or obligation under the Agreement, and the Bank has not assumed any liability or obligation of Redflex under the Agreement.

4. The City hereby acknowledges notice of, and consents to, Redflex's grant of such security interest in favor of the Bank in all of Redflex's rights and interests under the Agreement pursuant to the Harris-Redflex Credit Agreement.

5. The City further acknowledges and agrees that this Acknowledgement and Consent shall be binding upon the City and shall inure to the benefit of the successors and assigns of the Bank and to any replacement lender which refinances Redflex's obligations to the Bank under the Harris-Redflex Credit Agreement.

IN WITNESS WHEREOF, the City and Redflex have caused this Acknowledgement and Consent to be executed by their respective duly authorized and elected officers as of the date first above written.

City of Tomball, Texas:	Redflex:
By: <u>Mary Coker</u>	REDFLEX TRAFFIC SYSTEMS, INC.
Name: <u>Mary Coker</u>	By: <u>Karen Finley</u>
Title: <u>Interim City Manager</u>	Name: <u>Karen Finley</u>
	Title: <u>President + CEO</u>

Regular City Council
Agenda Item
Data Sheet

Meeting Date: February 5, 2018

Topic:
Discussion and Possible Action regarding Councilmembers Serving on the Tomball Economic Development Board

Background:
This item was requested by Councilmember Townsend for discussion and possible action.

Origination:
Councilmember Townsend

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: February 5, 2018

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(s):

- Sec. 551.074 - Personnel Matters: Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee – City Manager

Background:

Origination:

Annual

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
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