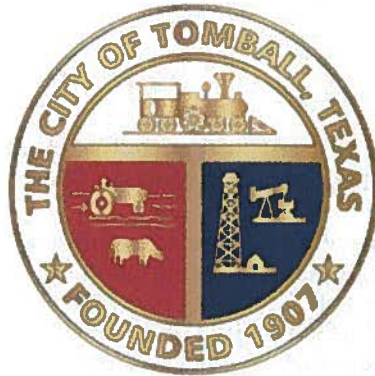


**NOTICE OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, JUNE 18, 2012

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, June 18, 2012 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 Reverend John Holiday, Powerhouse Church of God in Christ

3.0 Pledges to U.S. and Texas Flags

- Led by Members of JOY School – ChristBridge Summer Program

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:

- Ron Stewart, Tomball Police Department – 18 Years of Service
- Jimmie Reynolds, Public Works Department – 23 Years of Service

6.0 Reports and Announcements

- **June 25 through August 13, 2012 – Tomball Kids Club at MLK, Jr. Park – Hosted by HEB, in Partnership with Buffalo Wild Wings and Cisco's Salsa Company**
- **June 26, 2012 - 4th Annual Economic Development Breakfast**, hosted by the Tomball Economic Development Corporation, 8:00 - 10:30 a.m., Lone Star College-Tomball, Beckendorf Conference Center
- **July 2, 2012 – Budget Workshop** on FY 2012-2013 Budget – 4 p.m.
- **July 2, 2012 – Public Hearing** – 6 p.m., to Consider Proposed Assessments against Reserve at Spring Lakes Section One Properties in the City of Tomball Public Improvement District Number Three, Established by City Council Resolution No. 2009-28
- **July 4, 2012 – City of Tomball Fourth of July Celebration** – 2:00 p.m.-10:00 p.m.
- July 14, 2012 – **Second Saturday at the Depot** – 6:30 p.m.
- July 16, 2012 – **Budget Workshop** on FY 2012-2013 Budget – 4 p.m.
- July 16, 2012 – **Public Hearing** on FY 2012-2013 Budget – 6:00 p.m.
- **Walk Tomball!** – Every Saturday at 8:00 a.m. at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken:
 - Rob Hauck/David Kauffman – Update:
 - Traffic control at the intersection of Quinn and Brown Road
 - Left turn options on Main Street
 - Police Department Air Support Unit

7.0 Approve the Minutes of the Following Meetings:

- June 4, 2012 - Special Joint Tomball City Council, Planning and Zoning Commission, & Downtown Tomball Advisory Committee Meeting
- June 4, 2012 - Regular City Council Meeting
- June 11, 2012 Special Tomball City Council Meeting

8.0 Old Business:

- 8.1 Adopt, on Second Reading, Ordinance No. 2012-13, an Ordinance of the City Council of the City of Tomball, Texas, Amending Subsection (b)(1) of Section 30-159 of Article IV, Nuisances, of Chapter 30, Environment, of the City's Code of Ordinances relating to the Prohibition of Weeds; Providing a New Definition of "Weeds"; Providing a Penalty of up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions Related Thereto
- 8.2 Adopt, on Second Reading, Ordinance No. 2012-14, an Ordinance of the City of Tomball, Texas, Providing that the Portion of That Road Currently Known

as Brown-Hufsmith Road shall be Renamed to Brown Road; Providing for Notice to Utility Companies and the United States Postal Service of Such Name Change; Providing for Severability; and Repealing All Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith

9.0 New Business:

- 9.1 Adopt Resolution No. 2012-18, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 40th Annual Tomball Night and Parade, to be held in Tomball on Friday, August 3, 2012
- 9.2 Adopt, on First Reading, Ordinance No. 2012-15, an Ordinance of the City Council of Tomball, Texas, Approving the Service and Assessment Plan for the City of Tomball Public Improvement District Number Three
- 9.3 Consideration to approve **ZONING CASE P11-383**: Request by K.E. Jams Investments, Inc. to amend Conditional Use Permit #1 by expanding the "Recreational Vehicle Park" land use at Corral Recreational Vehicle Park. The property is an approximately 23.74 acre site, legally described as Lot 168, Amending Plat of Tomball Outlots, generally located on the westerly side of South Cherry Street, northerly of Agg Road. The site is located in the Manufactured Home Park District.
- Conduct a Public Hearing on **ZONING CASE P11-383**
 - Adopt, on First Reading, Ordinance No. 2012-16, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Granting a Conditional Use Permit Amendment to K. E. Jams Investments, Inc., to Expand a "Recreational Vehicle Park"; Being an Approximately 23.74 Acre Site, and Being Legally Described as Lot 168, Amending Plat of Tomball Outlots, generally located on the Westerly Side of South Cherry Street, Northerly of Agg Road at 1402 South Cherry Street, Tomball, Texas; Providing Requirements and Conditions for This Conditional Use Permit Amendment; Containing Findings and Other Provisions Relating to the Subject; Providing a Penalty in an Amount Not To Exceed Two Thousand Dollars for Violations Hereof; and Providing for Severability.
- 9.4 Consideration to approve **ZONING CASE P12-436**: Request by Bass Law Firm, PLLC, on behalf of High Heater, LLC, to amend the City's Comprehensive Zoning Ordinance by rezoning approximately 7.51 acres of land, legally described as part of Lot 69, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located easterly of Rudolph Road, northerly of Hufsmith Road, from the Agricultural District to the Commercial District.
- Conduct a Public Hearing on **ZONING CASE P12-436**
 - Adopt, on First Reading, Ordinance No. 2012-17, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 7.51 Acres of Land, Legally Described as Part Of Lot 69, Tomball Outlots, Within the City of Tomball, Harris County, Texas, from the Agricultural District to the Commercial District; Said Property Being generally located Easterly of Rudolph Road, Northerly of

Hufsmith 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

- 9.5 Consideration to approve **ZONING CASE P12-431**: Request by Bass Law Firm, PLLC, on behalf of Texas Prospects Baseball Academy, to amend Section 38.2 ("Use Charts") of the City's Comprehensive Zoning Ordinance (Ordinance No. 2008-01) by allowing a "Playfield or Stadium (Private)" land use in the Agricultural District with a conditional use permit.

- Conduct a Public Hearing on **ZONING CASE P12-431**
- Adopt, on First Reading, Ordinance No. 2012-18, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Amending Section 38.2 ("Use Charts") to Allow a "Playfield or Stadium (Private)" Land Use in the Agricultural District with a Conditional Use Permit; 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.

- 9.6 Approve **TOMBALL 2920 REPLAT NO. 1**: A Subdivision of 26.4208 Acres of Land; Being a Replat of Lot 1 of Tomball 2920 as Recorded at File Code Number 644123, Harris County Map Records, Located in the Joseph House Survey, Abstract Number 34, City of Tomball, Harris County, Texas.

- 9.7 Approve Initial One-Year Renewal of the Service Contract Between the City of Tomball and Waste Corporation of Texas, L.P.

- 9.8 Award Contract for Project No. 2012-06, Asphalt Overlay Improvements, to Forde Construction, Inc., in the Amount of \$116,384.00.

- 9.9 Approve Recommendations regarding Existing Buildings and Proposed Restroom Facilities, Located at 217 South Walnut Street (Depot Plaza).

- 9.10 Authorize City Staff to Remove Buildings Located on City Properties

- 10.0 Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 14th day of June 2012 by 6:00 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: June 18, 2012

Topic:

- Led by Reverend John Holiday, Powerhouse Church of God in Christ

Background:

Origination:

Recommendation:

Funding:

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

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council
Agenda Item
Data Sheet

Meeting Date: June 18, 2012

Topic:

- Led by Members of JOY School – ChristBridge Summer Program

Background:

Origination:

Recommendation:

Funding:

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

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council
Agenda Item
Data Sheet

Meeting Date: June 18, 2012

Topic:

- Ron Stewart, Tomball Police Department – 18 Years of Service
- Jimmie Reynolds, Public Works Department – 23 Years of Service

Background:

Origination:

HR, PD, and PW Departments

Recommendation:

N/A

Funding:

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

Meeting Date: June 18, 2012

Data Sheet

Topic:

- **June 25 through August 13, 2012 – Tomball Kids Club at MLK, Jr. Park – Hosted by HEB, in Partnership with Buffalo Wild Wings and Cisco's Salsa Company**
- **June 26, 2012 - 4th Annual Economic Development Breakfast**, hosted by the Tomball Economic Development Corporation, 8:00 - 10:30 a.m., Lone Star College-Tomball, Beckendorf Conference Center
- **July 2, 2012 – Budget Workshop** on FY 2012-2013 Budget – 4 p.m.
- **July 2, 2012 – Public Hearing** – 6 p.m., to Consider Proposed Assessments against Reserve at Spring Lakes Section One Properties in the City of Tomball Public Improvement District Number Three, Established by City Council Resolution No. 2009-28
- **July 4, 2012 – City of Tomball Fourth of July Celebration** – 2:00 p.m.-10:00 p.m.
- **July 14, 2012 – Second Saturday at the Depot** – 6:30 p.m.
- **July 16, 2012 – Budget Workshop** on FY 2012-2013 Budget – 4 p.m.
- **July 16, 2012 – Public Hearing** on FY 2012-2013 Budget – 6:00 p.m.
- **Walk Tomball!** – Every Saturday at 8:00 a.m. at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken:
 - Rob Hauck/David Kauffman – Update:
 - Traffic control at the intersection of Quinn and Brown Road
 - Left turn options on Main Street
 - Police Department Air Support Unit

Background:

Origination:

Various

Recommendation:

N/A

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Tomball Kids Club at MLK, Jr. Park

Second Saturday at the Depot



Hosted by H-E-B

Partnership with Buffalo Wild Wings & Cisco Salsa

Registration Form—June 25-August 13

_____, you may grant or deny any photography or video recording of your child. If you do not wish for your child's photograph to be taken for _____, please note below.

[illegible]

2nd Saturday

At the Depot in Tomball

July 14th starting at 6:30 p.m.



Rusty's Family Feature
"The Adventures
Of Tintin"

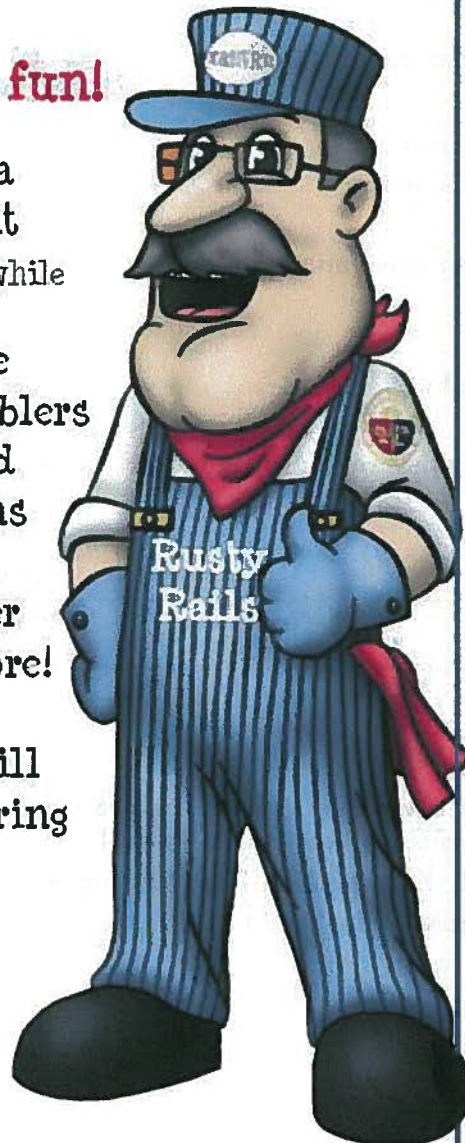
On the giant inflatable screen

TOMBALL
TEXAN FOR FUN!®

Fun, fun, fun!

- There'll be a Treasure Hunt with Prizes (while supplies last)
- Music by the Cypress Ramblers
- Sand Art and water balloons
- Concessions from Summer Snow and more!
- And, the Splash Pad will be open, so bring your towel!

*In case of rain the event will take place at the Tomball Community Center - Market and South Cherry Streets.



The Depot is at 201 S. Elm Street in historic downtown Tomball, Texas. Call 281-351-5484 for information.

Regular City Council Agenda Item Data Sheet

Meeting Date: June 18, 2012

Topic:

Approve the Minutes of the Following Meetings:

- June 4, 2012 - Special Joint Tomball City Council, Planning and Zoning Commission, & Downtown Tomball Advisory Committee Meeting
- June 4, 2012 - Regular City Council Meeting
- June 11, 2012 Special Tomball City Council Meeting

Background:**Origination:**

City Secretary

Recommendation:

N/A

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Draft Minutes - June 4, 2012 Special Joint Tomball City Council, Planning and Zoning Commission, & Downtown Tomball Advisory Committee Meeting

Draft Minutes - June 4, 2012 Regular City Council Meeting

Draft Minutes - June 11, 2012 Special Tomball City Council Meeting

**MINUTES OF SPECIAL JOINT TOMBALL CITY COUNCIL,
PLANNING AND ZONING COMMISSION, &
DOWNTOWN TOMBALL ADVISORY
COMMITTEE MEETING
CITY OF TOMBALL, TEXAS**



**MONDAY, JUNE 4, 2012
5:00 P.M.**

1.0 Call to Order

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

Councilman Stoll
Councilman Brown
Councilman Townsend
Councilman Dodson
Councilman Hudgens

The Planning and Zoning Commission meeting was called to order by Commissioner Wallace. Other members present were:

Commissioner Beauvais
Commissioner Torres-Chervenak
Commissioner Tague
Commissioner Kendler

A quorum of the Downtown Tomball Advisory Committee was established at 5:04 p.m. The Downtown Tomball Advisory Committee meeting was called to order by Chair Rodney Hutson. Other members present were:

Curtis Morris
Charles Hall
Jarmon Wolfe
Mary Harvey
John Ford
Mitchell Holderrieth
Sandy Glowski
Cindy Jaeger
Mike Ott

draft

DTAC members absent:

Rick Davis
Bill Barton
Karen Foxworthy
Aleata Oeser
Cindy Vincik
Vincent Falbo
Chris Nash

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Loren B. Smith
Assistant City Engineer – Lori Lakatos
Assistant City Planner – Rodney Schmidt
Engineering & Planning Senior Administrative Assistant – Brandy Pate
TEDC Executive Director – Kelly Violette
Partners for Strategic Action (PSA) – Peggy Fiandaca

draft

- 2.0 No public comments were received.
- 3.0 Motion was made by DTAC Member Mary Harvey, second by DTAC Member Mike Ott, to approve the Minutes of the following meetings:
- 3.1 Downtown Tomball Advisory Committee Meeting #3 - July 19, 2011.
- 3.2 Downtown Tomball Advisory Committee Meeting #4 - September 6, 2011

Motion carried unanimously.

4.0 New Business

Peggy Fiandaca, PSA, presented information and requested input from board members regarding the following:

- 4.1 DSP Planning Process Update and Proposed Changes to Current Document(s)
- 4.2 Overview of Draft DSP Comments Received to Date
- 4.3 Comprehensive Discussion and Input on Draft DSP Comment Matrix

Draft

4.4 Next Steps

- Revised Draft DSP and Notification: Peggy Fiandaca will provided a tracking change and a clean version of the Draft DSP, tentatively scheduled for June/July
- Upcoming Meetings:
 - City Council and Planning and Zoning Commission Public Hearings/Adoption: tentatively scheduled for August 2012
 - Final Document Produced: tentatively scheduled for September 2012

5.0 Motion was made by DTAC Chair Rodney Hutson, second by DTAC Member Mary Harvey, to adjourn the Downtown Tomball Advisory Committee meeting.

Motion carried unanimously.

Downtown Tomball Advisory Committee meeting adjourned.

Motion was made by Commissioner Kendler, second by Commissioner Tague, to adjourn the Planning and Zoning Commission meeting.

Motion carried unanimously.

Planning and Zoning Commission meeting adjourned.

Motion was made my Councilman Stoll, second by Councilman Hudgens, to adjourn the City Council meeting.

Motion carried unanimously.

City Council meeting adjourned.

PASSED AND APPROVED this 4th day of June 2012.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, JUNE 4, 2012
7:00 P.M.**

1.0 Call to Order

The Council meeting was called to order at 7:08 p.m. by Mayor Gretchen Fagan. Other members present were:

Councilman Stoll
Councilman Brown
Councilman Townsend
Councilman Dodson
Councilman Hudgens

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Loren B. Smith
Police Chief – Rob Hauck
Marketing Director – Mike Baxter
Assistant City Engineer – Lori Lakatos
Assistant City Planner – Rodney Schmidt
Community Events Coordinator – Rosalie Dillon
Chief-NWEMS – Brian Petrilla
Executive Director-TEDC – Kelly Violette

draft

2.0 Invocation

- Led by Chaplain Steve Allison, VFW Post #2427

3.0 Pledges to U. S. and Texas Flags

- Led by George Russell Lang, III, Eagle Scout

Draft

4.0 The following public comment was received:

Chad Degges - Expressed his wish to be appointed to the Tomball
29602 Imperial Creek Drive, 77377 Economic Development Corporation.

5.0 Presentations:

Mayor Fagan made the following presentations:

- A Proclamation declaring June 8-9, 2012 as *"The Sons of the Republic of Texas" Days*
- A Proclamation declaring June 18, 2012 as the *"200th Anniversary of the Beginning of the War of 1812"*
- A Certificate recognizing *George Russell Lang, III, Eagle Scout*

6.0 Reports and Announcements:

- June 9, 2012 – **2nd Saturday at the Depot – 6:30 p.m.**
- July 4, 2012 – **City of Tomball Fourth of July Celebration – 2:00 p.m. to 10:00 p.m.**
- **Walk Tomball!** – Every Saturday at 8:00 a.m. at the Depot (**NEW time**)
- Reports by City staff and members of council about items of community interest on which no action will be taken
 - Mike Baxter provided a report on *Memorial Day Weekend Chili Challenge at the Depot* and the Oilfield Helping Hands Motorcycle Show and Rally rain-day event.
 - Councilman Townsend requested consideration regarding:
 - a. the possibility of creating a four-way stop at the intersection of Quinn and Brown Road, due to people not stopping, and
 - b. the possibility of removing left turn options on Main Street.

7.0 Motion was made by Councilman Dodson, second by Councilman Brown, to approve the Minutes of the May 21, 2012 Regular City Council Meeting.

Motion carried unanimously.

8.0 Old Business:

- 8.1 Motion was made by Councilman Dodson, second by Councilman Stoll, to adopt, on Second Reading, Ordinance No. 2012-09, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 1.36 acres of land, Legally described as Tract 10, Meadow Lark Hill (Unrecorded), Within the City of Tomball, Harris County, Texas, from the Duplex Residential District to the Commercial District; Said property being generally located easterly of Johnson Road, southerly of Michel 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 Townsend	<u>Nay</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>

Motion carried, 4 votes Aye, 1 vote Nay.

- 8.2 Motion was made by Councilman Brown, second by Councilman Stoll, to adopt, on Second Reading, Ordinance No. 2012-10, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 1.36 acres of land, Legally described as Tract 11, Meadow Lark Hill (Unrecorded), Within the City of Tomball, Harris County, Texas, from the Duplex Residential District to the Commercial District; Said property being generally located easterly of Johnson Road, southerly of Michel 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 Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Nay</u>

Motion carried, 4 votes Aye, 1 vote Nay.

- 8.3 Motion was made by Councilman Dodson, second by Councilman Hudgens, to adopt, on Second Reading, Ordinance No. 2012-11, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 1.36 acres of land, Legally described as Tract 7, Meadow Lark Hill (Unrecorded), Within the City of Tomball, Harris County, Texas, from the Duplex Residential District to the Commercial District; Said property being generally located easterly of Johnson Road, northerly of Theiss Lane; 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 Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>

Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Aye</u>

Motion carried, 4 votes Aye, 1 vote Nay.

9.0 New Business:

- 9.1 Nomination was made by Councilman Townsend to appoint Christine Roquemore to the unexpired vacancy left by Brad Hallmark's resignation. Nominations ceased. Motion was made by Councilman Dodson, second by Councilman Stoll, to reappoint Vincent O'Donnell, William Sumner, Richard Bruce, and Lori Klein Quinn to their respective positions on the Tomball Economic Development Board, with terms expiring May 31, 2014 and to appoint Chad Degges to the vacant position, with term expiring May 31, 2013. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Aye</u>

Motion carried, 4 votes Aye, 1 vote Nay.

- 9.2 Kelly Violette presented the Tomball Economic Development Corporation (TEDC) 2011-2012 Annual Report.

No action necessary.

- 9.3 Motion was made by Councilman Townsend, second by Councilman Brown, to approve the Tomball Economic Development Corporation (TEDC) 2012-2013 Strategic Work Plan.

Motion carried unanimously.

- 9.4 Motion was made by Councilman Dodson, second by Councilman Brown, to approve, on First Reading, Resolution No. 2012-17-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving a development and property exchange agreement between the Tomball Economic Development Corporation and 2978 Industrial Properties, LLC, (The "Company") related to the development of the Tomball Business and Technology Park Project; containing other provisions relating to the subject; and providing for severability, and to add language, requested by Councilman Dodson, to the development and property exchange agreement to contain an affirmative requirement "that the property exchange will be accomplished free and clear of all liens, claims, and encumbrances".

Motion carried unanimously.

- 9.5 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve Resolution No. 2012-15, a Resolution of the City Council of the City of Tomball, Texas, Approving Request by Iglesia de Dios Taller del Alfarero (Church of God Potter's House) to Conduct the annual March/Walk on FM 2920/Main Street on Saturday, July 7, 2012.

Motion carried unanimously.

- 9.6 Motion was made by Councilman Brown, second by Councilman Dodson, to approve Resolution No. 2012-16, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 4th Annual **5K Tomball Dash**, a Certified Run, Hosted by Woodforest National Bank, to be held in Tomball on Saturday, November 10, 2012.

Motion carried unanimously.

- 9.7 Motion was made by Councilman Dodson, second by Councilman Brown, to approve **SHEPHERD CENTER FINAL PLAT**: Being a Subdivision of 0.2871 Acre, being comprised of a 0.166 Acre Tract and a 0.121 Acre Tract situated in the Joseph House Survey, Abstract 34, City of Tomball, Harris County, Texas.

Motion carried unanimously.

- 9.8 Motion was made by Councilman Townsend, second by Councilman Dodson, to read Ordinance No. 2012-13 by caption only on First Reading.

Motion carried unanimously.

Motion was made by Councilman Hudgens, second by Councilman Brown, to adopt, on First Reading, Ordinance No. 2012-13, an Ordinance of the City Council of the City of Tomball, Texas, Amending Subsection (b)(1) of Section 30-159 of Article IV, Nuisances, of Chapter 30, Environment, of the City's Code of Ordinances relating to the Prohibition of Weeds; Providing a New Definition of "Weeds"; Providing a Penalty of up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions Related Thereto. Vote was as follows:

Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>

Motion carried unanimously.

- 9.9 Motion was made by Councilman Townsend, second by Councilman Dodson, to read Ordinance No. 2012-13 by caption only on First Reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Hudgens, to adopt, on First Reading, Ordinance No. 2012-14, an Ordinance of the City of Tomball, Texas, Providing that the Portion of That Road Currently Known as Brown-Hufsmith Road shall be Renamed to Brown Road; Providing for Notice to Utility Companies and the United States Postal Service of Such Name Change; Providing for Severability; and Repealing All Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith. Vote was as follows:

Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>

Motion carried unanimously.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 4th day of June 2012.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

MINUTES OF SPECIAL CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, JUNE 11, 2012
4:30 P.M.**

draft

1.0 Call to Order

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

Councilman Stoll
Councilman Brown
Councilman Dodson
Councilman Hudgens

Councilmembers absent:

Councilman Townsend – Excused Absence

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Scott Bounds
City Planner – Rebecca Guerra
Assistant City Engineer – Lori Lakatos

2.0 New Business:

Mayor Fagan provided opening comments regarding the procedures to be followed in the Special meeting and the notice given to the residents of Tomball Hills Subdivision. Mayor Fagan asked for comments from interested/concerned parties

The following public comments were accepted:

Dennis Bell
31215 Antonio Lane, 77375

- Copy of his email included in the agenda packet. Mr. Bell expressed his concerns and opposition to the proposed settlement.

John Black
31427 Stella Lane, 77375

- Expressed his concerns and opposition to the proposed agreed final judgment and the expansion of Mr. Hildreth's business.

draft

Rhonda Bolton
28111 Camille Drive, 77375

- Stated that she had sent Mayor and Council an email at 11:45 a.m. on June 11, 2012, expressing her opposition to the proposed settlement and requested that they read the email.

No further comments being received, Mayor Fagan announced that the City Council would begin the Executive Session.

Scott Bounds requested that the Council recess into Executive Session to discuss Items 2.2 and 2.3 under the Attorney-Client Privilege provided under the Texas Government Code 551, Section 551.071, regarding pending litigation.

Councilman Dodson advised Council that he would abstain from entering the Executive Session and would also abstain from deliberation and voting on Items 2.2 and 2.3, having previously filed a conflict of interest statement with the City Secretary.

2.1 Executive Session: The City Council entered into Executive Session at 4:39 p.m., as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.071 – Consultation with Attorney Regarding Litigation
(Attorney-Client Privilege)

Upon reconvening into Special session at 5:40 p.m., Mayor Fagan stated, for the record, that no action had been taken during Executive Session.

Scott Bounds addressed Mayor and Council and presented the followed recommendation regarding items 2.2 and 2.3:

"I (Scott Bounds) would ask that City Council approve the Judgment and Settlement documents in the two cases related to Peter Hildreth and Hilltop Rental, listed on the agenda as Items 2.2 and 2.3. With regard to the eminent domain item, the judgment would approve the purchase of a lot for \$40,000 for the City's lift station site. With regard to the second Judgment, it would approve judgment in the City's Chapter 54 litigation regarding Hilltop Rental.

In my opinion, the Judgments are fair to the City and represent the reasonably anticipated outcome of any additional litigation of these matters before the courts and will save the City the expense of that additional litigation.

In the first, the City acquires the lot for \$1,500 more, or 3.75% more, over the City's own appraised value of the property. We have already acquired the property and constructed a lift station site on it and are using it for public purposes.

With regard to the second suit, Mr. Hildreth started Hilltop Rentals about 1985, before the City of Tomball was a home-rule city and, shortly after, Tomball Hills was developed in 1978.

In 2001, Hildreth acquired Lots 44 and 45 and, starting in 2002, Hildreth has had disputes with his neighbors and with the City over the use of that property. In 2002, 2004, 2006, 2007, 2008, 2009 and 2010, Mr. Hildreth had various disputes with his neighbors and the City that we have documented and have in the file.

In December 2010, the City Council authorized me to file suit on behalf of the City to enforce the City's ordinances related to health/safety issues, with regard to Mr. Hildreth's property, as permitted by Chapter 54 of the Texas Local Government Code.

It was at that time that I researched the history of Hildreth's business; I made site visits to Hildreth's business, and I have periodically advised City Council of the status of this matter. Although I have encouraged Hildreth and the homeowners association to seek an agreement regarding the possible replatting or rezoning of the property, that has not happened. Moreover, it appears to me that, given the time constraints in the City's actions that would be necessary for replatting or rezoning, even if there were an agreement between the homeowners and Mr. Hildreth, it is unlikely to happen soon.

The proposed Judgments do not preclude or, in my opinion, hinder any future agreement between the homeowners association and Mr. Hildreth regarding the replat or rezoning of the property. Any future replatting or rezoning of the property would have to be approved by City Council. The proposed Chapter 54 agreement does resolve various issues between the City and Hildreth:

1. The Judgment makes clear the zoning uses permitted for Lots 36, 43, 44, and 45;
2. The Judgment requires the removal of the only unlawful, unpermitted structure on those lots;
3. The Judgment requires compliance with the City's laws;
4. The Judgment does not bar the City's future enforcements of any of its ordinances; and
5. The Judgment establishes some minimum guidelines for the future replatting, if any, of the property. But, as I indicated before, any future replatting or rezoning of the property is still subject to the discretionary approval of City Council.

I recommend City Council approve the agreed Judgments in both of these cases."

draft

- 2.2 Motion was made by Councilman Hudgens, second by Councilman Stoll, to approve Agreed Judgment with Regard to Cause #969752, City of Tomball v. Hildreth, County Court at Law #1, Harris County, Texas. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Absent</u>
Councilman Dodson	<u>Abstain</u>

Motion carried unanimously.

- 2.3 Motion was made by Councilman Brown, second by Councilman Hudgens, to approve Agreed Judgment with Regard to Cause #2011-10102, City of Tomball v. Hildreth et al, 270th Judicial District Court, Harris County, Texas. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Absent</u>
Councilman Dodson	<u>Abstain</u>

Motion carried unanimously.

- 3.0 Motion was made by Councilman Hudgens, second by Councilman Stoll, for adjournment.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 4th day of June 2012.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Meeting Date: June 18, 2012

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2012-13, an Ordinance of the City Council of the City of Tomball, Texas, Amending Subsection (b)(1) of Section 30-159 of Article IV, Nuisances, of Chapter 30, Environment, of the City's Code of Ordinances relating to the Prohibition of Weeds; Providing a New Definition of "Weeds"; Providing a Penalty of up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions Related Thereto

Background:

In April 2012, City Council adopted Ordinance No. 2012-03 to amend Chapter 30, Environment, of the City's Code of Ordinances relating to the prohibition of weeds. That particular ordinance reduced the height requirement for weeds from 18" to 12" and also eliminated the 40% coverage requirement. As part of those discussions, Council expressed a concern regarding the exemption of "wild flowers" and staff's ability to define what would be considered a wildflower.

Staff conducted research of various cities and determined that the recommended ordinance amendment would be the best approach in addressing Council's concerns. The recommended amendment establishes criteria based on the blooming cycle of specific wildflowers along with a percentage of lot coverage. Ultimately, wildflowers tend to grow during the Spring season usually with the final bloom occurring during late spring or early summer. Therefore, staff recommends establishing a date of August 1st of each calendar year as a cutoff for when wildflowers are then considered in the same category as weeds. Attached you will find list of common Texas wildflowers staff assembled.

Keep in mind that the intent of this ordinance is for those instances when you have uncultivated fields of wildflowers. Property owners who cultivate wildflowers are protected by the cultivated crops section of the ordinance.

Origination:

Council Request

Recommendation:

Adopt Ordinance No. 2012-13 on Second Reading

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2012-13

Texas Wildflower List

ORDINANCE NO. 2012-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AMENDING SUBSECTION (b)(1) OF SECTION 30-159 OF ARTICLE IV, NUISANCES, OF CHAPTER 30, ENVIRONMENT, OF THE CITY'S CODE OF ORDINANCES RELATING TO THE PROHIBITION OF WEEDS; PROVIDING A NEW DEFINITION OF "WEEDS"; PROVIDING A PENALTY OF UP TO \$2,000.00 FOR VIOLATIONS WITH EACH DAY CONSTITUTING A SEPARATE VIOLATION; PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED THERETO.

* * * * *

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

Section 1. Subsection (b)(1) of Section 30-159 of Article IV, Nuisances, of Chapter 30, Environment, of the Code of Ordinances of the City of Tomball, Texas is hereby deleted in its entirety and a new Subsection (b)(1), is hereby added to read as follows:

"Sec. 30-159. Owners required to keep lots free of weeds, etc., procedure for abatement.

* * *

(b) *Weeds prohibited.* Every owner shall keep his property free from weeds, in accordance with the following regulations:

(1) *Weeds defined.* "Weeds" shall mean uncultivated vegetable growth or matter, including grasses, which has grown to a height of more than 12 inches. Cultivated crops, plants, or grasses must be farmed or managed in accordance with customary area practices. Property or parcels which have an area coverage of 50 percent or more in wildflowers or wildflower seed heads are not included within this definition of weeds until such time as seeds have matured following the final blooming of the majority of the plants, but in no case later than August 1 of the calendar year."

Section 2. 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 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 3. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 4. This Ordinance shall become effective fourteen days after the final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law. The City Secretary is directed to publish the caption of this Ordinance in the City's official newspaper within 14 days after the passage of the ordinance.

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 4TH DAY OF JUNE 2012.

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

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 18TH DAY OF JUNE 2012.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Texas Wildflower List

Beach Morning Glory

Black-eyed Susan

Blackfoot Daisy

Bluebelle

Bluebonnet

Butterfly

Buttercups

Daisy

Dogwood

Idian Paint Brush

Indian Blanket

Lantana

Lemonmint

Mexican Hat

Mountain Pink

Pink Evening Primrose

Regular City Council

Agenda Item

Meeting Date: June 18, 2012

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2012-14, an Ordinance of the City of Tomball, Texas, Providing that the Portion of That Road Currently Known as Brown-Hufsmith Road shall be Renamed to Brown Road; Providing for Notice to Utility Companies and the United States Postal Service of Such Name Change; Providing for Severability; and Repealing All Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith

Background:

After reviewing various names of existing roads in the area, and the names for the new phases of Brown-Hufsmith, staff is recommending that both segments of the new road known as Brown-Hufsmith (Phase I & II) be renamed to Brown Road. After the change, the existing segments west of SH 249, and the new segments from SH 249 to Baker Drive will be known as Brown Road, and the existing segments east of Baker Dr. will remain as West Hufsmith Road, and then East Hufsmith Road beyond Elm Street and the railroad tracks.

Staff believes this will create less confusion for the public and for emergency responders, thereby making travel of these roads easier and safer for all.

Origination:

Director of Public Works

Recommendation:

Adopt Ordinance No. 2012-14 on Second Reading

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2012-14

ORDINANCE NO. 2012-14

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, PROVIDING THAT THE PORTION OF THAT ROAD CURRENTLY KNOWN AS BROWN-HUFSMITH ROAD SHALL BE RENAMED TO BROWN ROAD; PROVIDING FOR NOTICE TO UTILITY COMPANIES AND THE UNITED STATES POSTAL SERVICE OF SUCH NAME CHANGE; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH.

* * * * *

WHEREAS, the City Council of the City of Tomball believes that retaining the name of the portion of that road currently known as Brown-Hufsmith Road, located between State Highway 249 and Quinn Road will create unnecessary confusion to motorists and the citizens of Tomball upon the completion of the section of Brown-Hufsmith Road, located between Quinn Road and Baker Drive, and desires to rename the entire portion of Brown-Hufsmith Road, a public street located within the City, running from State Highway 249 to Baker Drive, to Brown Road; and

WHEREAS, the City Council further finds that public interest and public convenience and necessity will be served by renaming the entire portion of Brown-Hufsmith Road, a public street located within the City, running from State Highway 249 to Baker Drive, to Brown Road; now therefore

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

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

Section 2. The name of that certain public street within the City known as “Brown-Hufsmith Road”, is hereby changed to “Brown Road.” The change in the name of such street as

herein provided shall apply only to that specific portion of such street located within the corporate limits of the City of Tomball.

Section 3. The City Secretary is hereby authorized and directed to cause a true and correct copy of this Ordinance to be served upon all public utilities authorized to do business within the City and to the local Postmaster of the United States Postal Service.

Section 4. The City Manager and the Director of Public Works, or their designees, are hereby authorized and directed to place appropriate street signs and markers which shall reflect the change in street name as provided in this Ordinance.

Section 5. 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 of provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 4TH DAY OF JUNE 2012.

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

SECOND READING:

**READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 18TH DAY OF JUNE
2012.**

COUNCILMAN HUDGENS

COUNCILMAN STOLL

COUNCILMAN BROWN

COUNCILMAN TOWNSEND

COUNCILMAN DODSON

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council

Agenda Item

Meeting Date: June 18, 2012

Data Sheet

Topic:

Adopt Resolution No. 2012-18, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 40th Annual Tomball Night and Parade, to be held in Tomball on Friday, August 3, 2012

Background:

The Greater Tomball Area Chamber of Commerce requests the support and endorsement of the City of Tomball for the Chamber's 40th Annual Tomball Night and Parade.

The Chamber requests the assistance of the Tomball Fire, Police, and Public Works Department personnel; furnishing of electric service from the Tax office on Walnut Street, the Depot, at the 100 and 200 blocks of Market Street, the alley on the south side of Main between Cherry and Oak, and at 200 South Walnut, and closure of the following streets on Friday night only:

- from 2:00 p.m. until 11:00 p.m. – the 100, 200, and 300 blocks of Market Street and the 100 block of South Elm;
- from 3:00 p.m. until 11:00 p.m. – the 100 block of North Walnut, between Commerce and Main Streets, and the 100 and 200 blocks of Commerce Street; and
- from 5:00 p.m. until 11:00 p.m. – South Walnut, between Market and Main Streets, and Sycamore, from Main Street south.

Tomball Night will begin at 2:00 p.m. on Friday with a night parade, fireworks, and other festivities on Friday night and extended shopping sales events through Sunday.

The Chamber also requests permission from the City of Tomball to ignite fireworks out of season, under the insurance and guidance of Pyrotecnico of Louisiana, LLC, Registration number FWD-0071.

The Chamber's request and a map of the requested street closures are presented, along with Resolution No.2012-18.

Fire Department expenses are minimal, approximately \$75 in fuel and support provided by volunteer firefighters. Public Works expenses to support Tomball Night include personnel time, refuse management, and fuel, approximately \$1,200. Waiver of the rental fee and personnel expenses for the use of the Community Center as a "cool zone" after hours is approximately \$450-\$550, depending on the number of hours the Chambers uses the facility. Police Department expenses should also be minimal.

Origination:

Greater Tomball Area Chamber of Commerce

Recommendation:

Approval of Resolution No. 2012-18

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Resolution No. 2012-18

GTACC Request Letter - Tomball Night

Tomball Night Downtown Map

Pyrotecnico of Louisiana - 2013 Texas License

RESOLUTION NO. 2012-18

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TOMBALL, TEXAS, SUPPORTING THE 40TH ANNUAL TOMBALL
NIGHT AND PARADE, TO BE HELD IN TOMBALL ON FRIDAY,
AUGUST 3, 2012.**

* * * * *

WHEREAS the Greater Tomball Area Chamber of Commerce will present the 40th *Annual Tomball Night* on Friday, August 3, 2012, beginning at 2 p.m., with a night parade and a fireworks display under the direction of Pyrotecnico's highly trained and licensed pyrotechnicians; and

WHEREAS *Tomball Night* is a unique way to showcase Tomball's many attractions and an opportune time to encourage citizens to shop Tomball throughout the rest of the year; and

WHEREAS *Tomball Night* has become Tomball's biggest shopping night, drawing shoppers from surrounding areas including Magnolia, Spring, Houston and The Woodlands to enjoy the sales, discounts, other great values and many planned activities sponsored by Tomball's retail community; and

WHEREAS *Tomball Night* includes many cash and merchandise prizes from participating Tomball businesses for *Tomball Night* shoppers; and

WHEREAS the Greater Tomball Area Chamber of Commerce desires and requests the support and endorsement of the City of Tomball in this city-wide effort, through the assistance of the Tomball Fire, Tomball Police, and Tomball Public Works Department personnel; furnishing of electrical service from the Harris County Tax Assessor-Collector's office on Walnut Street, by the Depot, at the 100 and 200 blocks of Market Street, the alley on the south side of Main between Cherry and Oak, and at 200 South Walnut; and the closure of the following streets on Friday night only:

- * from 2:00 p.m. until 11:00 p.m. – the 100, 200, and 300 blocks of Market Street and the 100 block of South Elm;
- * from 3:00 p.m. until 11:00 p.m. – the 100 block of North Walnut, between Commerce and Main Streets, and the 100 and 200 blocks of Commerce Street; and
- * from 5:00 p.m. until 11:00 p.m. – South Walnut, between Market and Main Streets, and Sycamore Street, from Main Street south; and

WHEREAS The Chamber also requests permission from the City of Tomball to ignite fireworks out of season, under the insurance and guidance of Pyrotecnico of Louisiana, LLC, Registration number FWD-0071;and

WHEREAS to offset some of the heat-related issues of past years, the Chamber requests the use of the Tomball Community Center as a “cool zone” and requests waiver of the rental fee.

NOW, THEREFORE, BE IT RESOLVED that the City of Tomball and its governing body endorses and supports the efforts of the Greater Tomball Area Chamber of Commerce in promoting and undertaking the *40th Annual Tomball Night* and pledges to encourage this effort to showcase Tomball;

PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL HELD ON THE _____ DAY OF _____, 2012.

GRETCHEN FAGAN, Mayor

ATTEST:

Doris Speer, City Secretary

Greater
Tomball Area



Chamber of Commerce

www.tomballchamber.org

June 14, 2012

City of Tomball
401 Market Street
Tomball, Texas 77375

RE: Tomball Night Street Closures, Electricity and Community Center Usage

Dear George,

We are anticipating a fabulous 40th Annual **Tomball Night**, Friday, August 3, 2012 with help from our city, police and fire departments, as well as from numerous volunteers. The popular attraction of a night parade with a fireworks display ending the night's festivities has been met with overwhelming enthusiasm over the past six years. We are looking forward again to the expertise of the Tomball Police Department for crowd control and as visual deterrents from any negative activity.

The Greater Tomball Area Chamber of Commerce is requesting permission from the City of Tomball to ignite fireworks out of season, under the insurance and guidance of Pyrotechnico, a highly trained and licensed pyrotechnician.

To insure the safety of the many visitors that will be in Tomball on Friday, August 3, 2012 and the multiple number of vendors we are expecting, we are asking for street closures for the following streets on Friday night only from
2:00 p.m. until 11:00 p.m.

- Market St. – 100, 200 and 300 blocks
- S. Elm – 100 Block

From 3:00 p.m. until 11:00 p.m.

- 100 N. Walnut – between Commerce and Main St.
- 100 & 200 blocks Commerce St.

And from 5:00 p.m. until 11:00 p.m.

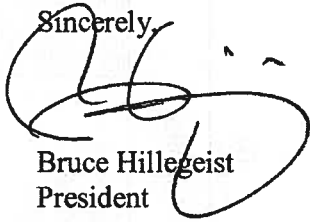
- S. Walnut – between Market and Main
- Sycamore from Main St. South

Enclosed is a map for your review. We are also requesting permission for the use of electricity from the Harris County Tax Assessor Collector's office on Walnut Street, by the Depot, 100 & 200 blocks of Market Street, the alley on south side of Main between Cherry and Oak and at 200 S. Walnut.

Finally, to offset some of the heat related issues of the past, we are requesting the use of the Tomball Community Center as a "cool zone."

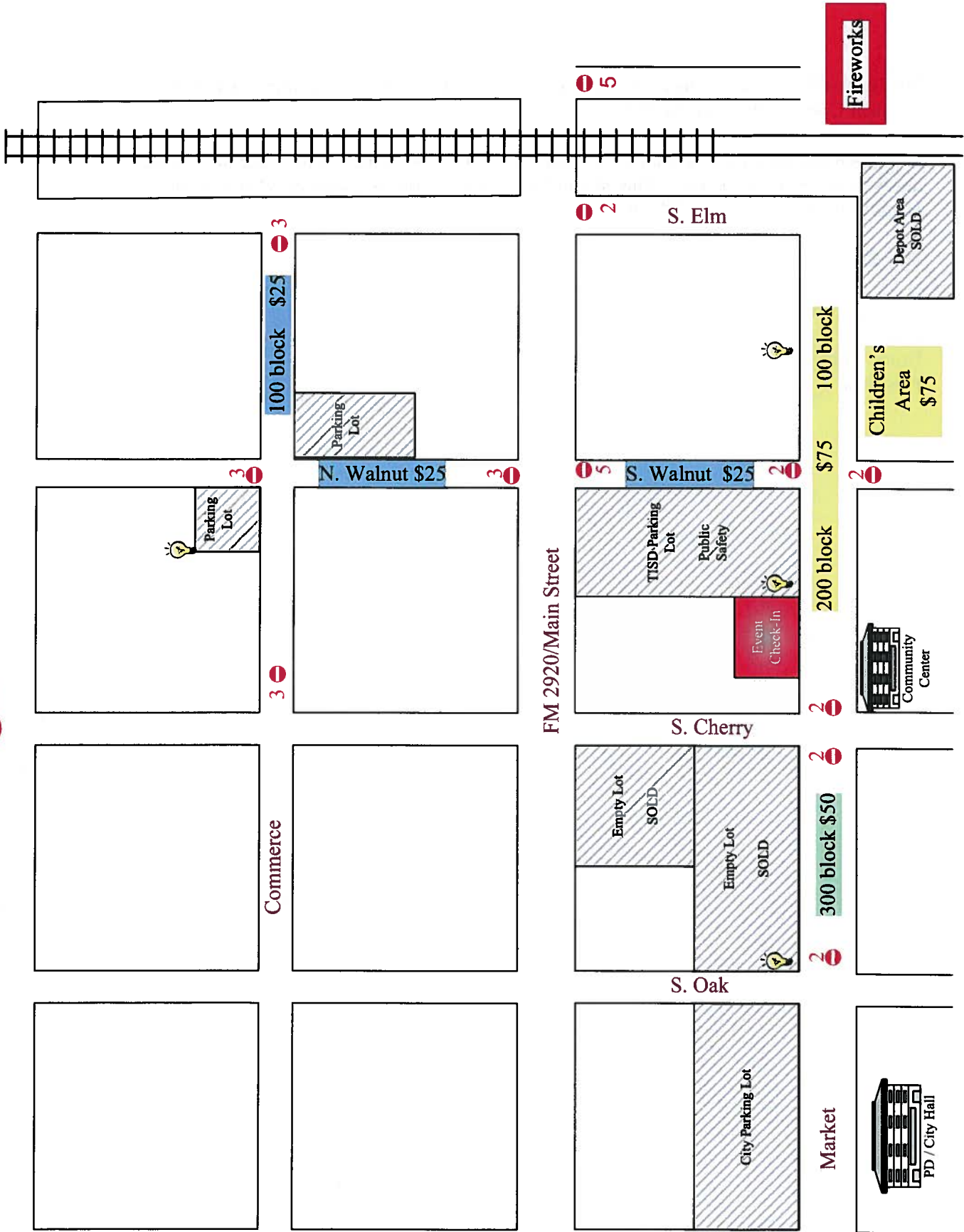
We appreciate the City of Tomball, its special partnership with the chamber and the assistance always offered for our events. Should you have any questions or concerns, please contact Brandy Beyer or myself at 281-351-7222.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Hillegeist", written over the word "Sincerely,".

Bruce Hillegeist
President

Tomball Night Downtown



Registered Location(s):
299 WILSON RD
NEW CASTLE PA 16101

Registration Number
FWD-0071
Expiration Date: 04-19-2013

FIREWORKS DISTRIBUTOR'S LICENSE

TEXAS DEPARTMENT OF INSURANCE
STATE FIRE MARSHAL'S OFFICE

Issued To:
PYROTECNICO OF LOUISIANA, LLC

DATE ISSUED: February 16, 2012


MARK LOCKERMAN, ACTING STATE FIRE MARSHAL

50081 Rev.1201



PYROTECNICO OF LOUISIANA, LLC
PO BOX 310
NEW CASTLE PA 16103

Regular City Council

Agenda Item

Meeting Date: June 18, 2012

Data Sheet

Topic:

Adopt, on First Reading, Ordinance No. 2012-15, an Ordinance of the City Council of Tomball, Texas, Approving the Service and Assessment Plan for the City of Tomball Public Improvement District Number Three

Background:

Public infrastructure improvements are underway for the Reserve at Spring Lakes Subdivision within Public Improvement District Number Three created by the City in 2009. Per Chapter 372 of the Local Government Code, a Service and Assessment Plan must be approved by City Council prior to levying the assessments. The Plan shows the estimated total costs for public improvements in the PID and the assessments to be levied against residential property in the PID. Each property (lot) will pay a portion of the public improvement costs based on the size of the property. The Plan also specifies how the assessments are to be collected.

The assessments prescribed in the Plan are by lot category. The total, one-time assessment per lot category is specified in the plan as well as the annual installment (financed assessment rate at 5.25% annual interest), per the attached information sheet.

The annual payment, principal, and interest are demonstrated on the attached example amortization schedule which will be kept for each property covered by the assessment. The principal amount of the assessment is payable at any time by each homeowner which would terminate the assessment.

The assessments are formulated to reimburse the developer for 50% of the public infrastructure costs of the development plus interest while staying at or below the equivalent of a \$0.90 tax rate on a project wide basis. For illustration, the attached amortization schedule details the amortization for a Lot Category 1 property. It is estimated that the average price of the homes to be constructed on Lot Category 1 properties will be \$500,000. The annual assessment payment for the Lot Category 1 is \$4,500, or the equivalent of a \$0.90 tax rate on a \$500,000 home.

Proper disclosure notices detailing the assessment will be presented to potential homebuyers by the homebuilders, and for acknowledgement at closing in the same manner as disclosure notices used in MUDs and other special districts with an ad valorem tax rate.

Future Actions

The District Administrator will work with City staff on the collection of the assessments. The PID assessments will be collected on an annual basis in the same manner as property taxes and transferred to a City-established PID revenue fund. A reimbursement report will be performed by an independent CPA firm prior to reimbursement to the developer. The revenues will be disbursed to the developer once a year after administrative costs have been deducted.

Origination:

Scott Bean, Hawes Hill Calderon, LLP

Recommendation:

Adopt Ordinance No. 2012-15 on First Reading

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2012-15

Ordinance No. 2012-15 - Exhibit A-Service and Assessment Plan

Information Sheet and Amortization Schedule

ORDINANCE NO. 2012-15

**AN ORDINANCE OF THE CITY COUNCIL OF TOMBALL,
TEXAS, APPROVING THE SERVICE AND ASSESSMENT
PLAN FOR THE CITY OF TOMBALL PUBLIC
IMPROVEMENT DISTRICT NUMBER THREE**

* * * * *

WHEREAS, the City of Tomball (the "City") is authorized pursuant to TEX. LOCAL GOV'T CODE, ch. 372, as amended ("Chapter 372") to create public improvement districts for the purposes described therein; and

WHEREAS, the City has received a petition (the "Petition") requesting the creation of the City of Tomball Public Improvement District Number Three (the "PID"), held a public hearing, and created the PID in accordance with the applicable provisions of Chapter 372; and

WHEREAS, the City passed and adopted Resolution No. 2009-28 on October 19, 2009 establishing the City of Tomball Public Improvement District Number Three; and

WHEREAS, the City Council wishes to adopt the Service and Assessment Plan with respect to the PID; **NOW THEREFORE**,

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

Section 1. The facts recited in the preamble hereto are found to be true and correct.

Section 2. The Service and Assessment Plan attached to this Ordinance as Exhibit A is hereby approved and adopted on behalf of the PID, and the Mayor, City Secretary and any other appropriate officials of the City are hereby authorized to take all necessary actions on behalf of the City to implement the terms thereof in accordance therewith.

Section 3. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

PASSED first reading the ____ day of _____, 2012.

PASSED second reading the ____ day of _____, 2012.

PASSED AND ADOPTED the ____ day of _____, 2012.

GRETCHEN FAGAN, Mayor

Approved as to form:

Attest:

SCOTT BOUNDS, City Attorney

DORIS SPEER, City Secretary

EXHIBIT A

Service and Assessment Plan Public Improvement District Number Three City of Tomball, Harris County, Texas

1. Introduction

This Service and Assessment Plan (the "Plan") is prepared and adopted in conformance with the Public Improvement District Assessment Act, codified as Chapter 372, Texas Local Government Code (the "Act"), and pursuant to Resolution No. 2009-28 creating the Public Improvement District Number Three (the "PID" or the "District"), City of Tomball (the "City"), Harris County, Texas. The creation of the PID was initiated by a petition (the "Creation Petition") submitted by property owners within the PID boundaries in compliance with the requirements of Section 372.005 of the Act.

2. Boundaries

The boundaries of the PID are as indicated in Exhibit A and Exhibit B.

3. Administration of the District

Administration of the District is the responsibility of the City Council of the City of Tomball, Texas but to the extent allowed by law, the City may contract with a private sector company to carry out all or part of the City responsibilities as well as day-to-day operations and administration of the District.

4. Public Improvements

The Public Improvements to be financed and constructed hereby (the "Public Improvements") serve to promote the construction of single-family units ("SFU"). The Public Improvements included in the Plan will confer a special benefit to properties within the Public Improvement District and will consist of the construction of detention, water lines, sanitary sewer lines, storm sewers, gas lines, open space and amenities, paving, erosion control, contingency provisions, engineering services, financing costs, and administrative and legal services for the PID. The Public Improvements will be pre-funded by the developer of the residential subdivision within the PID (the "Developer") under an approved development agreement. Under the Development Agreement executed between the Developer and the City, the Developer will be entitled to receive reimbursement of up to 50% of the Public Improvement costs subject to the limitations contained in the Agreement.

A. Reserve at Spring Lakes

The Reserve at Spring Lakes Subdivision is being developed by Zion Road Properties, LLC and will ultimately contain approximately 95 single-family residential lots within the Public Improvement District. The Public Improvements authorized under this

Plan for The Reserve at Spring Lakes, and the estimated costs thereof, are described below:

**Reserve at Spring Lakes
PID COSTS**

PUBLIC IMPROVEMENT	ESTIMATED COST	PID COSTS (50%)
Water Distribution Facilities	\$673,400	\$336,700
Sanitary Sewer Facilities	\$796,050	\$398,025
Storm Sewer Facilities	\$49,500	\$24,750
Gas Distribution Facilities	\$339,930	\$169,965
Roadway Paving	\$1,399,960	\$699,980
Land Reserved for Green	\$1,759,560	\$879,780
Space/Amenities	\$340,000	\$170,000
Clearing	\$1,640,408	\$820,204
Detention Pond and Facilities	\$150,000	\$75,000
Pipeline Conflicts		
Contingency (10%)	\$714,880	\$357,440
Engineering, Surveying (15%)	\$1,179,553	\$589,776
Subtotal	\$9,043,241	\$4,521,621
Financing Cost		\$2,296,597
PID Administration Expenses		\$358,850
TOTAL		\$7,177,068

The estimated total costs above will be used to set the assessments for residential properties in the PID as detailed later in this document.

5. Construction of Public Improvements

The Plan will be reviewed annually in accordance with the provisions of Chapter 372 of the Local Government Code and will include a review of the expenditures and revenues of the District. Additionally, the Plan will be reviewed for the purpose of establishing the installments for assessments based upon the costs for Public Improvements and the financial needs of the District.

6. Conveyance of Improvements to the City

Upon completion of the improvements, and final inspection and acceptance of the Public Improvements by the City, the Developers will convey all rights to the improvements to the City or homeowner's association as applicable, subject to the Developer's rights of reimbursement described in the Development Agreement executed between the Developer and the City.

7. Authorized Improvements

The area within the PID that is covered by this Service and Assessment Plan will be developed as single family residential. This Plan designates the Public Improvements required for the growth and development of the land within the PID. The goal of this Plan is to provide sufficient certainty for the owners of land within the PID to proceed with the financing and construction of the necessary Public Improvements, while allowing for sufficient flexibility to meet the needs of the PID over the life of the development of residential properties within the PID.

The construction of the Public Improvements authorized herein began in calendar year 2012. The actual costs of the Public Improvements will be determined by an independent accountant report of the developer's costs.

8. Advance Financing by Developer

The Developer will advance the funds for construction of the Public Improvements and will be entitled to repayment pursuant to the Development Agreement executed between the City and the Developer.

9. Apportionment of Costs

Payment of assessments, if any, on property owned by exempt jurisdictions other than the City shall be established by contract.

10. Levy of Assessments

The assessment year shall be concurrent with the City's tax year. The assessments against property may be paid in annual installments based on an amortization of not more than fifteen (15) years plus the period between the effective date of the assessment ordinance and the date of the first installment. The interest rate on financed assessments is five and ¼ percent (5.25%) per annum.

The assessments shall be based upon the actual cost of the Public Improvements plus those related costs as deemed reimbursable by the City. The cost of the Public Improvements will consist of the costs to construct detention, storm sewers, water lines, sanitary sewers, gas, open space and amenities, erosion control, and paving for each development phase, related professional design and engineering fees, administrative and legal services and interest payable to the Developer pursuant to the Development Agreement.

A. Reserve at Spring Lakes

The Plan estimates the following assessments for residential properties in the PID according to the cost of the Public Improvements. The total assessment can be paid upfront at the time the residential property is purchased or at any time thereafter. The

assessment can also be financed and paid in equal annual installments over fifteen (15) years as prescribed below.

<u>Reserve at Spring Lakes Lot Categories (By Size)</u>	<u>Total Assessment (Principal)</u>	<u>Financed Assessment (Annual Payment)</u>
1.) Up to 1.5 Acres	\$45,929.08	\$4,500.00
2.) 1.5 Acres to 2.0 Acres	\$68,893.62	\$6,750.00
3.) 2.0 Acres to 3.0 Acres	\$91,858.15	\$9,000.00
4.) 3.0 Acres and Larger	\$114,822.69	\$11,250.00

B. Levy and collection.

The assessment will be levied by the City upon commencement of the construction of the improvements (or a portion of the improvements) and the platting and subdividing of property into residential lots. The first installment of an assessment against a particular lot shall be due with respect to the calendar year following the earlier of: (i) the date such residential lot has been improved with a habitable structure and conveyed to a home purchaser as evidenced by Harris County Appraisal District records, or (ii) the second anniversary of the date the residential lot was conveyed from the Developer to a home purchaser regardless of any improvements on the property. Lots improved with homes used for marketing purposes (e.g. "model homes") will be exempt from the assessment until the calendar year following the date the home is conveyed to home purchaser. The City will invoice each owner of property for the installment payment in conjunction with the City's annual property tax bill, and the installments shall be due and payable, and incur penalty and interest for unpaid installments in the same manner as provided for the City's property taxes. Thereafter, subsequent installments shall be due in the same manner in each succeeding calendar year until the assessment together with interest as provided herein has been paid in full. The owner of assessed property may pay at any time the entire assessment then due on each property, with interest accrued on the assessment through the date of payment. Financed assessments shall bear interest at five and ¼ percent (5.25%) per annum. Failure of an owner to receive an invoice shall not relieve the owner of the responsibility of for the assessment.

A lien will be established against the property assessed effective as of the date of the ordinance levying the assessment, privileged above all other liens, including prior mortgage liens, to the extent allowed by Section 372.018(b) of the Local Government Code. Assessment installments shall be considered delinquent on the same date as the City's property taxes. Delinquent assessments or installments shall incur the costs of collection. If practicable, the assessment shall be included on the City property tax statement. Notwithstanding the above, the assessment lien shall be perfected immediately as to the entire assessment, but may be executed only with respect to the amounts then due or past due for current or prior installments or final payment. Assessments are personal obligations of the person owning the property assessed in the

year an installment payment becomes due, and only to the extent of such installment(s).

The owner of assessed property may pay at any time the entire assessment then due on each property, with interest accrued on the assessment through the date of payment.

EXHIBIT A

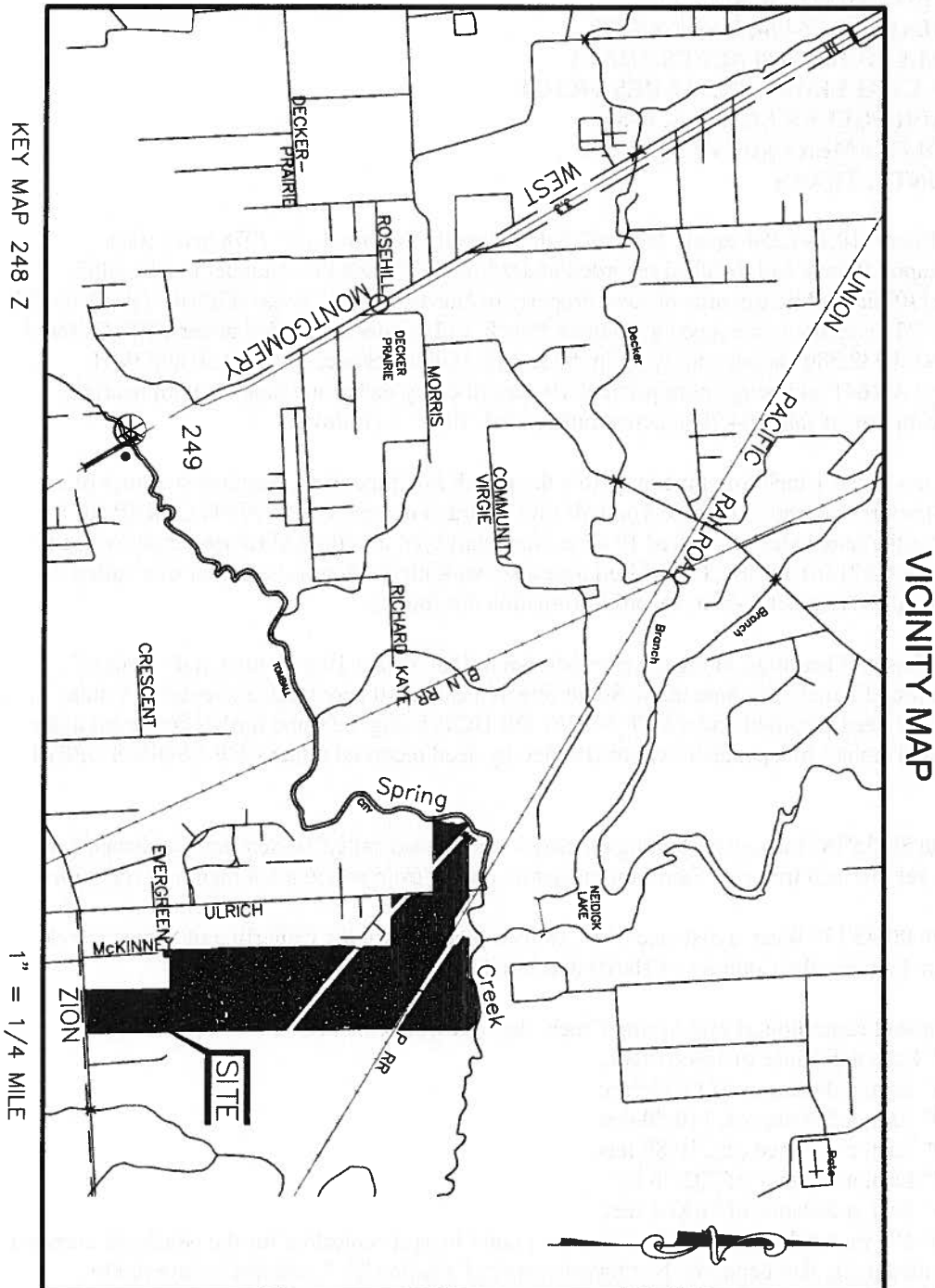


EXHIBIT B

**METES AND BOUNDS DESCRIPTION
232.8801 ACRE (10,144,254 SQUARE FEET)
ALL OF A CALLED 164.7078 ACRES TRACT
AND ALL OF A CALLED 68.1723 ACRES TRACT
IN THE JOSEPH MILLER LEAGUE, A-50
AND THE W H CLEMENS SURVEY, A-1641
HARRIS COUNTY, TEXAS**

Being 232.8801 acre (10,144,254 square feet) of land, being all of a called 164.7078 acres tract, conveyed to Yaupon Ranch, Ltd. by deed recorded under County Clerk's File Number (CCF) 2007-0138375 of the Official Public Records of Real Property of Harris County, Texas (OPRRP HCT), and all of a called 68.1723 acres tract, conveyed to Yaupon Ranch, Ltd. by deed recorded under CCF Z236940 OPRRP HCT. Said 232.8801 acres tract lying in the Joseph Miller League, Abstract 50 and W H Clemens Survey, A-1641 and being more particularly described by metes and bounds, with bearings based on the North line of said 164.7078 acres tract, called "East", as follows:

BEGINNING at a found 1 inch iron pipe, next to a three inch iron pipe in the Southwest corner of a called 10 acres tract referenced in deed to Tomball ISD recorded under CCF X890598 OPRRP HCT, being the same as the remainder of a called 10 acres tract conveyed to Vilma Masterson et al by deed recorded under CCF 371361 DR HCT, said iron pipe also marking the Southeast corner of a called 13 acre tract conveyed to Neigdick Lester, record information not found;

THENCE East, basis of bearings, along the common South line of said 10 acre tract, a distance of 912.36 feet to a found 3 inch iron pipe in the South line of a called 10 acre tract conveyed to Vilma Masterson et al, by deed recorded under CCF 371361 DR HCT, being the same further conveyed under Tax Suite Sale to Tomball Independent School District, by deed recorded under CCF X890598 OPRRP HCT;

THENCE North 89°55'38" East, in part along the South line of said called 10-acre tract, a distance of 600.70 feet to a set 5/8 inch iron rod. Said iron rod set in a point from which a 5/8 inch iron rod with;

THENCE North 00°43'17" West, a distance of 87.16 feet, to a point in the centerline of Spring Creek (the dividing line between the Counties of Harris and Montgomery);

THENCE along said centerline of said Spring Creek, the following courses:

North 67°07'18" East, a distance of 154.67 feet;

North 80°22'28" East, a distance of 113.12 feet;

North 87°09'19" East, a distance of: 110.50 feet;

North 87°53'00" East, a distance of: 210.89 feet;

South 83°18'22" East, a distance of 202.76 feet;

South 42°35'23" East, a distance of 169.62 feet;

And South 56°06'19" East a distance of 15.97 feet, to a point in said centerline for the Northeast corner of the herein described tract, also being the Northwest corner of a called 26.5 acre tract conveyed to Tomball Gun Club by deed recorded under CCF B717054 OPRRP HCT;

THENCE South 00°26'02" East, along the West line of said 26.5 acre tract, pass at a distance of 91.93 feet a found 5/8 inch iron rod with cap, in said West line, on the High bank of said Spring creek and

City of Tomball Public Improvement District Number THREE

continuing to a total distance of 1271.15 feet, to a found 5/8 inch iron rod with cap in the North right-of-way line (ROW) of the G N R R Company (now Missouri Pacific RR Co.) 100 feet wide ROW;

THENCE North 56°52'59" West, along said North ROW, a distance of 896.47 feet, to a set 5/8 inch iron rod in the West line of said 21.118-acre tract, also being the East line of said 90.63 acre tract, for an internal corner of the herein described tract;

THENCE South 00°43'15" East, across said ROW, a distance of 120.38 feet to a set 5/8 inch iron rod with cap in the South ROW of said G N R R Company (now Missouri Pacific RR Co.) and an internal corner of the herein described tract;

THENCE South 56°52'15" East, along said South ROW, a distance of 852.06 feet, to a found 5/8 inch iron rod with cap, in the North line of said 68.1723 acres tract;

THENCE South 56°54'33" East, along said cutback and the Southwest line of said I. & G.N. Railroad, a distance of 44.05 feet to a found 5/8 inch iron with cap, marking the Northwest corner of a called 15.6463 acre tract conveyed to Tomball Gun Club, Inc. by deed recorded under CCF No. L547016 OPRRP HCT;

THENCE South 00°03'08" West, along the West line of said 15.6463 acres tract and a called 4.0000 acres tract to Pricila Brown Estate as shown in Harris County Appraisal District, Account No. 041-006-002-0022, a distance of 1759.27 feet to a found 1/2 inch iron rod in the Northeast corner of a called 2.7859 acre easement tract to Houston Lighting and Power Company recorded under CCF No. G985469 OPRRP HCT;

THENCE South 00°04'29" West, along the West line of said 4.0000 acres tract and the East line of said 2.7859 acre easement tract, a distance of 90.20 feet to a set 5/8 inch iron rod, marking the Southwest corner of said 4.0000 acre tract, and the Northwest corner of a called 155.696 acre tract conveyed to Hobby H. McCall Living Trust, recorded under CCF No. P916725 OPRRP HCT;

THENCE South 00°47'42" East, along the West line of said 155.696 acre tract, a distance of 84.46 feet to a found 5/8 inch iron rod in the Southeast corner of said 2.7859 acre easement tract;

THENCE South 00°44'33" East, continuing along said 155.696 acre tract, a distance of 748.41 feet to a found 1/2 inch iron rod with cap, marking the Northeast corner of a called 22.8365 acre tract conveyed to Jack Frey Properties by deed recorded under CCF No. J585122 OPRRP HCT and the most Easterly Southeast corner of the herein described tract;

THENCE North 85°40'01" West, along the North line of said 22.8365 acre tract, a distance of 363.82 feet, to a set 5/8 inch iron rod for the Northwest corner of said 22.8365 acre tract and the internal corner of the herein described tract;

THENCE South 00°38'14" East, along the West line of said 22.8365 acre tract, a distance of 2775.27 feet to a found 1/2 inch iron rod, marking the Southwest corner of said 22.8365 acre tract and the most Southerly Southeast corner of the herein described tract, being in the North ROW line of said Zion Road;

THENCE South 89°29'18" West, along the North ROW line of said Zion Road, a distance of 351.35 feet to a found 1/2 inch pipe, marking the Southeast corner of said 164.7078 acres tract, said pipe being in the North right-of-way (ROW) line of Zion Road, 60' wide ROW);

THENCE South 87°13'11" West, along said ROW, a distance of 39.59 feet to a found 1 inch iron pipe for corner;

THENCE North 00°48'47" West a distance of 1402.26 to a set 5/8 inch iron rod, said point being the Southeast corner of a called 1.334 acre tract conveyed to Raymond L Ulrich by CCF C648757 OPRRP HCT, and now being part of said 19.496 acre tract;

THENCE North 00°53'58" West, along the East line of said 1.334 acre tract, a distance of 99.79 feet, to a found 3 inch iron pipe for corner;

THENCE South 89°12'11" West, along the North line of said 1.334 acre tract, a distance of 565.59 feet, to a found 1 1/2 inch iron pipe for corner;

THENCE South 01°15'42" East, along the West line of said 1.334 acre tract, a distance of 100.16 feet, to a found 1 1/2 inch iron pipe for corner marking the Northeast corner of McKinney PL Subdivision an unrecorded Subdivision;

THENCE South 89°45'36" West, along the North line of said McKinney PL Subdivision, a distance of 134.11 feet to a found 5/8 inch iron rod marking the Southeast corner of a called 19.98 acre tract conveyed to Richard Kinsey by deed recorded under CCF No. S913430 OPRRP HCT;

THENCE North 00°51'43" West, along the East line of said 19.98 acre tract, a distance of 962.95 feet to a found 5/8 inch iron rod marking the Northeast corner of said 19.98 acre tract and an internal corner of the herein described tract;

THENCE South 88°35'00" West, along the North line of said 19.98 acre tract, a distance of 20.10 feet to a found 1 1/2 inch iron rod marking the Southeast corner of the remainder of a called 15.000 acre tract conveyed to Jimmy Adams by deed recorded under CCF No. S832826 OPRRP HCT;

THENCE North 01°29'11" West, along the East line of said 15.000 acre tract, pass at a distance of 2.81 feet a found 5/8 inch iron rod with cap, pass at a distance of 9.77 feet a found 5/8 inch iron rod with cap, and continuing to a total distance of 191.51 feet to a found 5/8 inch iron rod with cap for angle point;

THENCE North 01°01'18" West, along the East line of said 15.000 acre tract, a called 7.500 acre tract conveyed to Samuel Olivo by deed recorded under CCF No. V586304 OPRRP HCT, a called 5.47 acre tract conveyed to Rock Graham by deed recorded under CCF No(s). S971746 and S832827 OPRRP HCT, a called 9.470 acre tract conveyed to Mathew Klein by deed recorded under CCF No. S960728 OPRRP HCT, pass at a distance of 182.21 feet a found 5/8 inch iron with cap in the Southeast corner of said 7.500 acre tract, a distance of 1334.94 feet to a found 2 inch iron pipe marking the Southeast corner of a remainder of a called 10.452 acre tract conveyed to James Kirkman by deed recorded under CCF No. P763144 OPRRP HCT;

THENCE North 00°17'31" West, along the East line of said remainder of a called 10.452 acre tract and Red Oak Terrace an unrecorded subdivision, pass at a distance of 525.61 feet a found 2 inch pipe next to a 5/8 inch iron rod marking the Southeast corner of said Red Oak Terrace Subdivision, pass at a distance of 924.40 feet the Southwest corner of said 2.4546 acre tract, pass at a distance of 1061.61 feet the Northwest corner of said 2.4546 acre tract, and continuing along the West line of said 51.706 acre tract,

to a total distance of 1549.51 feet to a found 2 inch iron pipe for the Northeast corner of said unrecorded subdivision, also being the Southeast corner of said 28.7386 acre tract;

THENCE North 89°35'33" West, along the North line of said Red Oak Terrace Subdivision and the South line of said 28.7386 acre tract, pass at a distance of 141.02 a found 1/2 inch iron rod marking the common North corner of tract 34 of said Red Oak Terrace conveyed to Mick Corporation by deed recorded under CCF J788626 OPRRP HCT and tract 35 conveyed to John W and Connie Page by deed recorded under CCF U436525 OPRRP HCT, pass at a distance of 439.22 a found 3/4 inch iron rod marking the Northwest corner of said tract 35 and a Centerpoint Energy tract, pass at a distance of 521.30 feet the Southeast corner of said 0.9722 acre tract, pass at a distance of 669.38 feet the Southwest corner of said 0.9722 acre tract, pass at a distance of 751.46 feet a found 5/8 inch iron rod marking the common North corner of said Centerpoint Energy tract and tract 40 conveyed to Howard Ellery Gene by deed recorded under CCF H821490 OPRRP HCT, pass at a distance of 870.00 feet a set 5/8 inch iron rod in the East right of way line of Ulrich Road, a 30.00 feet easement recorded in Volume 2379, Page 677 and Volume 2379, Page 657 of the Deed Records of Harris County, Texas, and continuing a total distance of 900.00 feet to a point in the centerline of said Ulrich Road for corner;

THENCE North 01°00'56" West, along the center line of said Ulrich Road a distance of 740.73 feet to a found 2 inch iron pipe for the Southeast corner of said 24.56 acre tract;

THENCE South 89°43'54" West, along the South line of said 24.56 acre tract, along the North line of a called 12 acres tract, conveyed to Lenoir M. Josey Inc., by deed recorded in Volume 5059, Page 234 DR HCT, and a called 12 acres recording information not found a distance of 1404.44 feet to a point from which a found 3 inch pipe bears South 89°43'54" West, 20.00 feet, being in the centerline of Spring Creek;

THENCE the following calls along the centerline of Spring Creek;

North 49°11'52" East, a distance of 64.65 feet to an angle point;

North 21°16'10" East, a distance of 220.98 feet to an angle point;

North 05°08'59" West, a distance of 119.99 feet to an angle point;

North 35°37'40" East, a distance of 75.85 feet to an angle point;

North 21°46'34" West, a distance of 157.84 feet to an angle point;

North 33°54'38" East, a distance of 63.77 feet to a point for corner, being in the South line of said 13 acre tract;

THENCE North 89°51'55" East, along the South line of said 13 acre tract, a distance of 1254.53 feet to the **POINT OF BEGINNING** and containing a computed 232.8801 acres (10,144,254 square feet) of land.

Prepared by:
Town and Country Surveyors
25307 North Freeway, IH 45 N
The Woodlands TX, 77380
Phone (281) 465-8730
Fax (281) 465-8731

David J. Strauss, RPLS 4833
Job No. 0451-0001
September 21, 2007

Council Item Information Sheet – Service and Assessment Plan/Section One Assessment Roll for Public Improvement District Number Three (Reserve at Spring Lakes Subdivision)

Action Requested

Approval of the Service and Assessment Plan for Public Improvement District Number Three and approval of the Section One Assessment Roll.

Information

Public infrastructure improvements are underway for the Reserve at Spring Lakes Subdivision within Public Improvement District Number Three created by the City in 2009. Per Chapter 372 of the Local Government Code, a Service and Assessment Plan must be approved by City Council prior to levying the assessments. The Plan shows the estimated total costs for public improvements in the PID and the assessments to be levied against residential property in the PID. Each property (lot) will pay a portion of the public improvement costs based on the size of the property. The Plan also specifies how the assessments are to be collected.

The assessments prescribed in the Plan are by lot category. The total, one-time assessment per lot category is specified in the plan as well as the annual installment (financed assessment rate at 5.25% annual interest) as follows:

<u>Reserve at Spring Lakes Lot Categories (By Size)</u>	<u>Total Assessment (Principal)</u>	<u>Financed Assessment (Annual Payment)</u>
1.) Up to 1.5 Acres	\$45,929.08	\$4,500.00
2.) 1.5 Acres to 2.0 Acres	\$68,893.62	\$6,750.00
3.) 2.0 Acres to 3.0 Acres	\$91,858.15	\$9,000.00
4.) 3.0 Acres and Larger	\$114,822.69	\$11,250.00

The annual payment, principal, and interest are demonstrated on the attached example amortization schedule which will be kept for each property covered by the assessment. The principal amount of the assessment is payable at any time by each homeowner which would terminate the assessment.

The assessments are formulated to reimburse the developer for 50% of the public infrastructure costs of the development plus interest while staying at or below the equivalent of a \$0.90 tax rate on a project wide basis. For illustration, the attached amortization schedule details the amortization for a Lot Category 1 property. It is estimated that the average price of the homes to be constructed on Lot Category 1 properties will be \$500,000. The annual assessment payment for the Lot Category 1 is \$4,500, or the equivalent of a \$0.90 tax rate on a \$500,000 home.

Proper disclosure notices detailing the assessment will be presented to potential homebuyers by the homebuilders, and for acknowledgement at closing in the same manner as disclosure notices used in MUDs and other special districts with an ad valorem tax rate.

Future Actions

The District Administrator will work with City staff on the collection of the assessments. The PID assessments will be collected on an annual basis in the same manner as property taxes and transferred to a City-established PID revenue fund. A reimbursement report will be performed by an independent CPA firm prior to reimbursement to the developer. The revenues will be disbursed to the developer once a year after administrative costs have been deducted.

TOMBALL PID THREE EXAMPLE AMORTIZATION SCHEDULE

AMORTIZATION SCHEDULE BY LOT CATEGORY

LOT	
CATEGORY	1
Duration (in years)	15
Interest Rate	5.25%
Annual Payment	
Amount	\$4,500.00
Total Lifetime Payments	\$67,500.00
Total	
Principal	\$45,929.08
Total Interest	\$21,570.92

	Payment	Principal	Interest	Payment	Principal Balance
					\$45,929.08
1		\$2,088.72	\$2,411.28	\$4,500.00	\$43,840.36
2		\$2,198.38	\$2,301.62	\$4,500.00	\$41,641.97
3		\$2,313.80	\$2,186.20	\$4,500.00	\$39,328.18
4		\$2,435.27	\$2,064.73	\$4,500.00	\$36,892.91
5		\$2,563.12	\$1,936.88	\$4,500.00	\$34,329.78
6		\$2,697.69	\$1,802.31	\$4,500.00	\$31,632.10
7		\$2,839.32	\$1,660.69	\$4,500.00	\$28,792.78
8		\$2,988.38	\$1,511.62	\$4,500.00	\$25,804.40
9		\$3,145.27	\$1,354.73	\$4,500.00	\$22,659.13
10		\$3,310.40	\$1,189.60	\$4,500.00	\$19,348.74
11		\$3,484.19	\$1,015.81	\$4,500.00	\$15,864.55
12		\$3,667.11	\$832.89	\$4,500.00	\$12,197.44
13		\$3,859.63	\$640.37	\$4,500.00	\$8,337.80
14		\$4,062.27	\$437.73	\$4,500.00	\$4,275.53
15		\$4,275.53	\$224.47	\$4,500.00	\$0.00
TOTAL		\$45,929.08	\$21,570.92	\$67,500.00	

Regular City Council

Agenda Item

Meeting Date: June 18, 2012

Data Sheet

Topic:

Consideration to approve **ZONING CASE P11-383**: Request by K.E. Jams Investments, Inc. to amend Conditional Use Permit #1 by expanding the "Recreational Vehicle Park" land use at Corral Recreational Vehicle Park. The property is an approximately 23.74 acre site, legally described as Lot 168, Amending Plat of Tomball Outlots, generally located on the westerly side of South Cherry Street, northerly of Agg Road. The site is located in the Manufactured Home Park District.

- Conduct a Public Hearing on **ZONING CASE P11-383**
- Adopt, on First Reading, Ordinance No. 2012-16, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Granting a Conditional Use Permit Amendment to K. E. Jams Investments, Inc., to Expand a "Recreational Vehicle Park"; Being an Approximately 23.74 Acre Site, and Being Legally Described as Lot 168, Amending Plat of Tomball Outlots, generally located on the Westerly Side of South Cherry Street, Northerly of Agg Road at 1402 South Cherry Street, Tomball, Texas; Providing Requirements and Conditions for This Conditional Use Permit Amendment; Containing Findings and Other Provisions Relating to the Subject; Providing a Penalty in an Amount Not To Exceed Two Thousand Dollars for Violations Hereof; and Providing for Severability.

Background:

On November 29, 2011, the City of Tomball received a CUP application and request letter from Mike O'Brien on behalf of K.E. Jams Investments, Inc. requesting an amendment to CUP # 1 to expand Corral R.V. Park. The concept plan submitted on May 11, 2012 proposes 50 additional R.V. pads being constructed on the northern portion of the site, 24 foot drive aisles to service the new R.V. pads, landscaping, a designated 21,200 square foot recreational area, and a 6 foot wooden fences around the property.

On June 11, 2012, the Planning & Zoning Commission, after conducting a public hearing on this request, voted to recommend approval of Zoning Case P11-383. This case is now being forwarded to City Council for consideration and possible action.

Origination:

K.E. Jams Investments, Inc.

Recommendation:

In its formal recommendation to City Council, the Planning and Zoning Commission voted to recommend approval of Zoning Case P11-383 with the following conditions of approval: ☐ CUP #1 shall not be enlarged or extended beyond what is shown on the approved concept plan without the approval of the City of Tomball of a revised concept plan or new CUP; ☐ The new R.V. pads shall not be utilized until all the proposed site improvements are completed as shown on the concept plan; ☐ The trees proposed on the concept plan for the new R.V. pads shall be 4 inches in caliper and 7 feet tall at time of planting per Section 40 of the Tomball Zoning Ordinance; and ☐ The site will be required to adhere to Section 42 ("Screening, Buffering and Fencing Requirements") of the Tomball Zoning Ordinance.

Funding:

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

Community Development Department

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Notice of Public Hearing

Ordinance 2012-16

Property Owner Notification Letter

P11-383 Staff Report

P11-383 Public Comment Forms

**NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
JUNE 11, 2012
&
CITY COUNCIL
JUNE 18, 2012**



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, June 11, 2012, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, June 18, 2012, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P11-383: Request by K.E. Jams Investments, Inc. to amend Conditional Use Permit #1 by expanding the "Recreational Vehicle Park" land use at Corral Recreational Vehicle Park. The property is an approximately 23.74 acre site, legally described as Lot 168, Amending Plat of Tomball Outlots, generally located on the westerly side of South Cherry Street, northerly of Agg Road. The site is located in the Manufactured Home Park District.

ZONING CASE P12-431: Request by Bass Law Firm, PLLC, on behalf of Texas Prospects Baseball Academy, to amend Section 38.2 ("Use Charts") of the City's Comprehensive Zoning Ordinance (Ordinance No. 2008-01) by allowing a "Playfield or Stadium (Private)" land use in the Agricultural District with a conditional use permit.

ZONING CASE P12-436: Request by Bass Law Firm, PLLC, on behalf of High Heater, LLC, to amend the City's Comprehensive Zoning Ordinance by rezoning approximately 7.51 acres of land, legally described as part of Lot 69, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located easterly of Rudolph Road, northerly of Hufsmith Road, from the Agricultural District to the Commercial District.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday

through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact Assistant City Planner** Rodney Schmidt, (281) 290-1410, rschmidt@ci.tomball.tx.us

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 7th day of June 2012 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate
Senior Administrative Assistant

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

ORDINANCE NO. 2012-16

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY GRANTING A CONDITIONAL USE PERMIT AMENDMENT TO K.E. JAMS INVESTMENTS, INC., TO EXPAND A "RECREATIONAL VEHICLE PARK"; BEING AN APPROXIMATELY 23.74 ACRE SITE, AND BEING LEGALLY DESCRIBED AS LOT 168, AMENDING PLAT OF TOMBALL OUTLOTS, GENERALLY LOCATED ON THE WESTERLY SIDE OF SOUTH CHERRY STREET, NORTHERLY OF AGG ROAD AT 1402 SOUTH CHERRY STREET, TOMBALL, TEXAS; PROVIDING REQUIREMENTS AND CONDITIONS FOR THIS CONDITIONAL USE PERMIT AMENDMENT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS FOR VIOLATIONS HEREOF; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, K.E. Jams Investments, Inc. has made application for a Conditional Use Permit amendment to allow the expansion of a "Recreational Vehicle Park" land use at Corral Recreational Vehicle Park. The property is an approximately 23.74 acre site located at 1402 South Cherry Street, legally described as Lot 168, Amending Plat of Tomball Outlots, and generally located on the westerly side of South Cherry Street, northerly of Agg Road; and

WHEREAS, the Property presently has a zoning classification of Manufactured Home Park District and Conditional Use Permit #1, pursuant to the Comprehensive Zoning Ordinance of the City; and

WHEREAS, the Owner of the Property has presented an application to the City to amend Conditional Use Permit #1 to allow the expansion of a "Recreational Vehicle Park" land use at Corral Recreational Vehicle Park; and

WHEREAS, the Planning & Zoning Commission of the City, after notice and hearing as required by law, has recommended that the City Council grant the amendment to Conditional Use Permit #1 subject to the terms and conditions contained in the final report of said Commission; and,

WHEREAS, the City Council, following notice and hearing as required by law, concurs with the recommendation of the Planning & Zoning Commission that such conditional use permit amendment should be granted subject to the terms and conditions contained herein; now, therefore,

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 Conditional Use Permit amendment to allow the expansion of a "Recreational Vehicle Park" land use at Corral Recreational Vehicle Park to K.E. Jams Investments, Inc. at 1402 South Cherry Street, Tomball, Texas, in accordance with the application and concept plan (Exhibit "A") submitted to the Planning & Zoning Commission on June 11, 2012 and subject to the terms and conditions set forth below, is hereby granted to K.E. Jams Investments, Inc.

Section 3. The Official Zoning District Map of the City shall be revised and amended to show the amendment to Conditional Use Permit #1 authorized hereby for the Property as provided in Section 2 hereof, with the appropriate references thereon to the number and effective date of this Ordinance and a brief description of the nature of the Conditional Use Permit amendment 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 amendment to Conditional Use Permit #1 as herein provided.

Section 5. The amendment to Conditional Use Permit #1 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 Conditional Use Permit amendment herein authorized within said two-year period, or unless an extension of time is approved by City Council.

Section 6. The Conditional Use Permit amendment authorized and permitted hereby shall be, and is, subject to the following additional limitations, restrictions, and conditions:

1. CUP #1 shall not be enlarged or extended beyond what is shown on the approved concept plan without the approval of a revised concept plan or new CUP.
2. The new R.V. pads shall not be utilized until all the proposed site improvements are completed as shown on the concept plan.
3. The trees proposed on the concept plan for the new R.V. pads shall be 4 inches in caliper and 7 feet tall at time of planting per Section 40 of the Tomball Zoning Ordinance.
4. The site will be required to adhere to Section 42 ("Screening, Buffering and Fencing Requirements") of the Tomball Zoning Ordinance.

Section 7. 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 18TH DAY OF JUNE 2012.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

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 2ND DAY OF JULY 2012.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

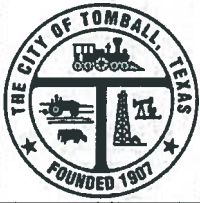
Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Exhibit A Concept Plan





Community Development Department

Notice of Public Hearing

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

CASE NUMBER: P11-383

APPLICANT: K.E. Jams Investments, Inc.

LOCATION: Westerly of South Cherry Street,
northerly of Agg Road

PROPOSAL: Request by K.E. Jams Investments, Inc. to amend Conditional Use Permit #1 by expanding the "Recreational Vehicle Park" land use at Corral Recreational Vehicle Park.

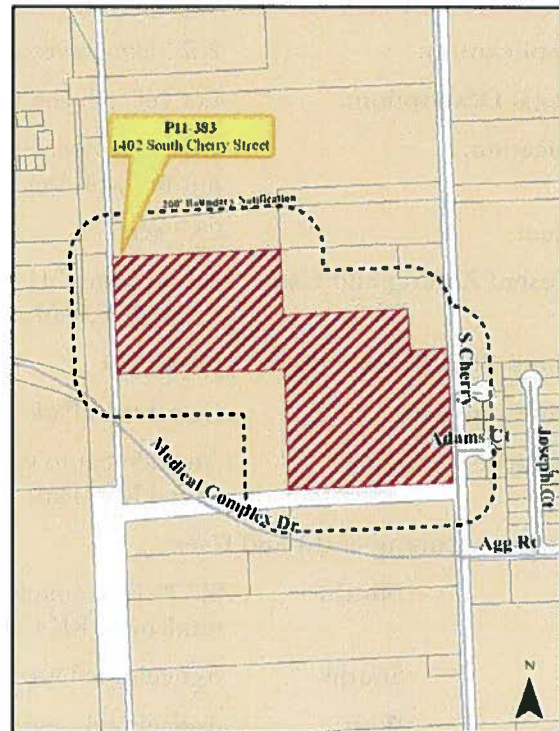
CONTACT: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@ci.tomball.tx.us

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 rezoning application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the 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. Interested parties may appear and speak on the project or the staff recommendation at the meeting. Written comments may also be submitted for consideration.



**Planning & Zoning Commission
Public Hearing:**

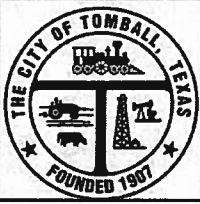
Monday, June 11, 2012, 6:00 PM

City Council Public Hearing:

***Monday, June 18, 2012, 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 and Zoning Commission.



Community Development Department

Conditional Use Permit Staff Report

Planning & Zoning Commission Hearing Date: June 11, 2012

Rezoning Case: P11-383

Property Owner(s): K.E. Jams Investments, Inc.

Applicant(s): K.E. Jams Investments, Inc.

Legal Description: Lot 168, Amending Plat of Tomball Outlots

Location: Generally located on the westerly side of South Cherry Street, northerly of Agg Road

Area: 23.7 acres

Present Zoning and Use: Manufactured Home Park District and Conditional Use Permit #1 / Corral R.V. Park

Comp Plan Designation: Mixed Use

Proposed Use: Corral R.V. Park

Request: Amendment to Conditional Use Permit #1 to allow the expansion of Corral R.V. Park

Adjacent Zoning and Land Uses:

North:	SF-20-E, Commercial, and Light Industrial Districts / Single-family residences, RK Cable (commercial), and DICAR (industrial)
South:	Agricultural District / Undeveloped
West:	Agricultural and Commercial Districts / M-121 West drainage channel, undeveloped, and medical offices
East:	SF-6, SF-20-E, and General Retail Districts / South Cherry Street, single-family residences, undeveloped land, gasoline station

BACKGROUND

The subject site is legally described as Lot 168, Amending Plat of Tomball Outlots totaling approximately 23.7 acres. The site is located on the westerly side of South Cherry Street, northerly of Agg Road, is developed with an R.V. park (Exhibit "A"), and is zoned Manufactured Home Park District and Conditional Use Permit #1 (Exhibit "B").

On November 29, 2011, the City of Tomball received a CUP application (Exhibit "C") and request letter (Exhibit "D"), from Mike O'Brien on behalf of K.E. Jams Investments, Inc. requesting an amendment to CUP #1 to expand Corral R.V. Park. The applicant stated in the CUP request letter, "In order to keep up with the growth of City of Tomball I am reviewing to add an additional 30+/- RV Pads to Corral RV Park. This will help City of Tomball to handle family emergencies from hurricanes to the most recent wild fires from people being evacuated/losing their homes plus in

helping families with RV's for a place to stay for medical treatment from the growth of the new medical facilities we now have."

The concept plan submitted on May 11, 2012 proposes 50 additional R.V. pads being constructed on the northern portion of the site, 24 foot drive aisles to service the new R.V. pads, landscaping, a designated 21,200 square foot recreational area, and a 6 foot wooden fences around the property (Exhibit "E").

With the 50 additional R.V. pads, the total number of pads will total 209 or 8.8 pads/acre. Section 46-64 ("Technical and Physical Requirements") of the Tomball Code of Ordinances states, "The total number of units within a recreational vehicle park shall not exceed 15 per acre."

ANALYSIS

According to the Tomball 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." Additionally, the Ordinance requires all CUP applications include a concept plan.

When considering applications for a conditional use permit, 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 "Mixed Use" (Exhibit "F"). It states "Mixed Use is intended to include a mix of office, retail/commercial, and high density residential uses in a master planned, integrated manner. These uses may be located within a development, either horizontally or vertically in form. This may be accomplished on single or multiple parcels of land as long as the site is planned and developed as one integrated project. It is envisioned that Mixed Use designations will ultimately be located in areas with multimodal transportation access to support the intensity of development."

The R.V. park land use is not consistent with the Comprehensive Plan's future land use map designation of "Mixed Use." However, the applicant is not requesting a change in land use, but rather an expansion of the conditional use permit granted by the City of Tomball with the adoption of the Tomball Zoning Ordinance (Ord. 2008-01) in February 2008.

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

The proposed use and concept plan are generally consistent with the Tomball Zoning Ordinance and Chapter 46 ("Manufactured Homes, Mobile Dwelling Structures, and Recreational Vehicles") of the Tomball Code of Ordinances.

- 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, the applicant will be required to submit a full set of civil plans to the City of Tomball for review and approval. The plans must exhibit compliance with all applicable ordinances, including but not limited to paving, detention, curbing, landscaping, fire access, etc.

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;**

To the north of the subject site are single-family residences, RK Cable (commercial), and DICAR (industrial) in the SF-20-E, Commercial, and Light Industrial Districts, respectively; to the south is undeveloped land in the Agricultural District; to the west is the City of Tomball's M121 West drainage channel, undeveloped land, and medical offices in the Agricultural and Commercial Districts; and to the east is South Cherry Street, single-family residences, undeveloped land, and a gasoline station in the SF-6, SF-20-E, and General Retail Districts. See site photos below (Exhibit "G").

Given the proposed R.V pads/acre density, setbacks, and 6 foot fence shown on the concept plan, the proposed expansion of Corral R.V. Park is not anticipated to harm the character or integrity of the adjacent developments.

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.**

The proposed amendment to CUP #1 is not anticipated to be detrimental to the public health, safety, convenience, and welfare, or result in material damage or prejudice to other properties in the vicinity.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on May 30, 2012 and, as of the writing of this report, no public comments were received.

RECOMMENDATION

That the Planning & Zoning Commission recommend:

1. APPROVAL of Zoning Case P11-383, with conditions, based on the following:
 - a. The proposed use and concept plan are generally consistent with the Tomball Zoning Ordinance and Chapter 46 ("Manufactured Homes, Mobile Dwelling Structures, and Recreational Vehicles") of the Tomball Code of Ordinances.
 - b. The proposed amendment to CUP #1 is not anticipated to be detrimental to the public health, safety, convenience, and welfare, or result in material damage or prejudice to other properties in the vicinity.
2. APPROVAL of the staff report as the Planning & Zoning Commission's final recommendation to the City Council.

RECOMMENDED CONDITIONS OF APPROVAL

Section 37.1.A of the Zoning Ordinance allows the City to impose certain conditions on a CUP request in order to mitigate “external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood.” As such, the following conditions of approval are recommended:

1. CUP #1 shall not be enlarged or extended beyond what is shown on the approved concept plan without the approval of the City of Tomball of a revised concept plan or new CUP.
2. The new R.V. pads shall not be utilized until all the proposed site improvements are completed as shown on the concept plan.
3. The trees proposed on the concept plan for the new R.V. pads shall be 4 inches in caliper and 7 feet tall at time of planting per Section 40 of the Tomball Zoning Ordinance.
4. The site will be required to adhere to Section 42 (“Screening, Buffering and Fencing Requirements”) of the Tomball Zoning Ordinance.

EXHIBITS

- A. Aerial Photo
- B. Zoning Map
- C. CUP Application
- D. CUP Request Letter
- E. Concept Plan
- F. Comprehensive Plan Future Land Use Map
- G. Site Photos

Exhibit "A"
Aerial Photo



Exhibit "B"
Zoning Map

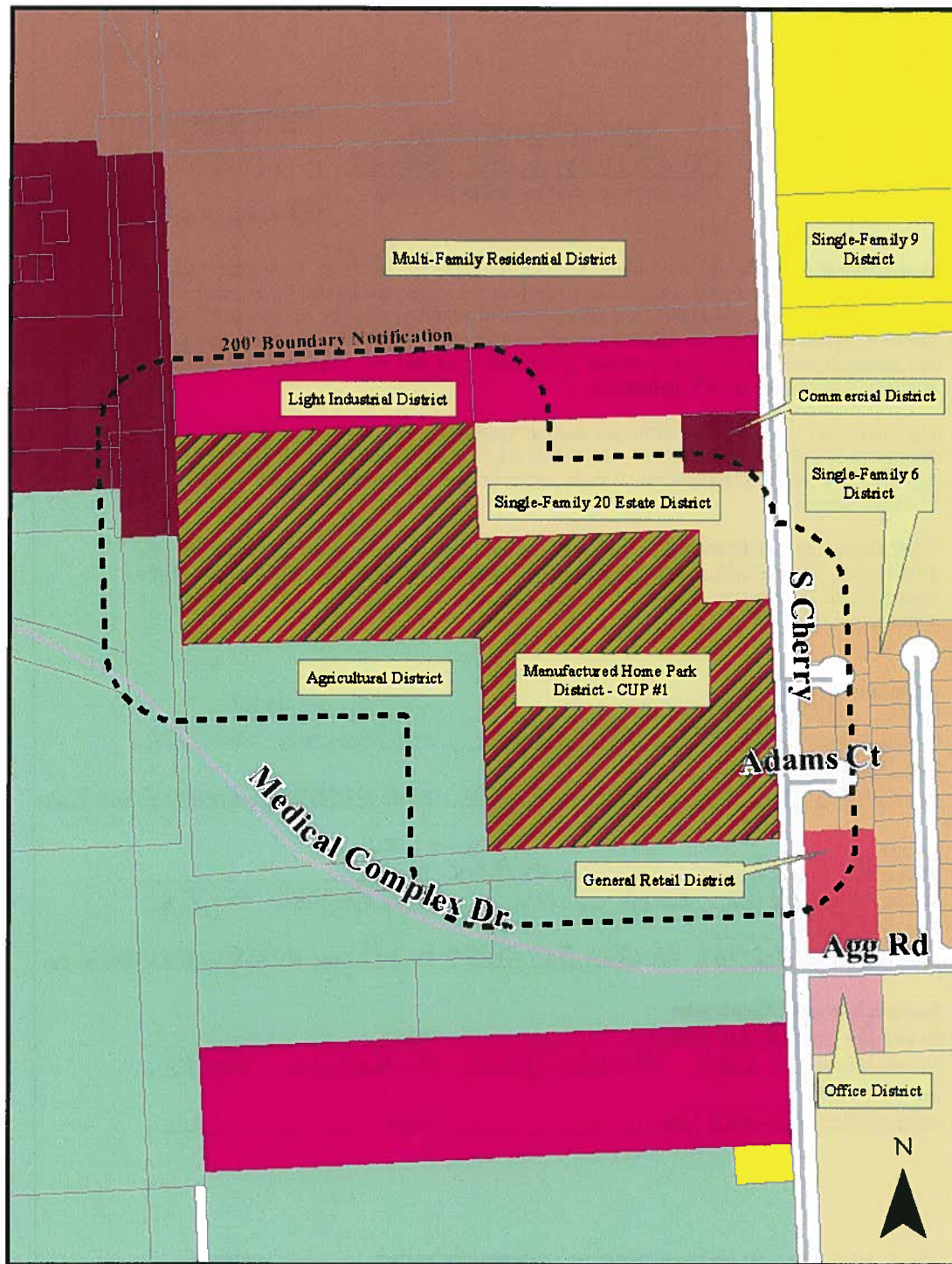


Exhibit "C"
CUP Application

Revised 1/20/09



**APPLICATION FOR
CONDITIONAL USE PERMIT**
Engineering & Planning Department



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. This Section sets forth the standards used to evaluate proposed conditional uses and the procedures for approving conditional use permit (CUP) applications.

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 this Section and Section 10 of The Zoning Ordinance.

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: Mike O'Brien Title: President
Mailing Address: 11767 Quail Creek City: Houston State: TX
Zip: 77070
Phone: (713) 557-1821 Fax: (281) 205-1130 Email: mob@houstonrvpark.com

Owner
Name: K. E. Jams Investments / CORRAL RV Title: _____
Mailing Address: 1402 South Cherry City: Tomball State: TX
Zip: 77375
Phone: (281) 351-2761 Fax: (281) 351-2764 Email: CORRAL RV @ CORRALRV PARK.COM

Engineer/Surveyor (if applicable)
Name: David Broussard Title: _____
Mailing Address: 17527 Hawkins Lane City: Tomball State: TX
Zip: 77375
Phone: (281) 732-0464 Fax: () Email: _____

Description of Proposed Project: COVIAL RV PARK (EXPANSION)

Physical Location of Property: 1402 South Cherry Tomball TX.
(General Location - approximate distance to nearest existing street corner)

Legal Description of Property: LT 168 Tomball Outlots Amend
(Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block)

HCAD Identification Number: 035 286 0000168 Acreage: 24 Acres

Current Use of Property: RV. PARK

Proposed Use of Property: RV PARK (EXPANSION)

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.

X Mike O'Brien 10/23/11
Signature of Applicant Date

X Mike O'Brien 10/23/11
Signature of Owner Date
Mike O'Brien

Exhibit "D"
CUP Request Letter

To: City Of Tomball

Date: Sept. 16, 2011

Att: City Manager

Att: George Shackelford

From: Corral RV Park

1402 South Cherry

Tomball TX

RE: Expansion of Corral RV Park

In order to keep up with the growth of City of Tomball I am reviewing to add an additional 30+/- RV Pads to Corral RV Park. This will help City of Tomball to handle family emergencies from hurricanes to the most recent wild fires from people being evacuated/losing their homes..... plus in helping families with RV's for a place to stay for medical treatment from the growth of the new medical facilities we now have.

I am asking to review the city ordinances for the expansion of Corral RV Park located at 1402 South Cherry Street. I have met with the city engineering group and they requested for me to meet with the city manager to review the points below to see what type of action we should/could take.

- 1) Re: to ordnances: chapter 46 Manufacture Homes mobile dwellings, Rec. Vehicles : Rec. vic. Parks and expansions Sec.46-64 Technical and physical requirements parg. J line 1 Distance to adjacent Unit Boundary. No portion of a pad shall be located nearer than 20 feet from a unit boundary.

Request to change this line to: no portion of a RV designated parking pad shall be located nearer than 20 feet from each adjacent RV designated parking pad. Additional concrete pad space for vehicle parking and or outdoor tables will not be considered as part of the RV designated parking pad. This includes but no limited If the concrete pad is continuous.

The interpretation of the ordinance now above states that the RV must be minimum 40 feet apart plus the 9 foot width RV parking area of the pad. If you add the additional parking and the picnic tables to the concrete pad then the RV's would be 50 to 60 feet apart(a house requires only 10 feet apart) Making less available pads and making it cost prohibiting.

- 2) Re: to ordinance: chapter 46 Manufacture Homes mobile dwellings, Rec. Vehicles : Rec. vic. Parks and expansions Sec.46-64 Technical and physical requirements parg. (a) Unit size. No unit shall be less than 2500 square feet in area. Each unit shall include a concrete pad, which shall have a minimum size of nine feet by 40 feet, or 360 square feet, for the placement of each recreational vehicle.

Request to change /a . "each unit shall include a designated area on the concrete pad for the parking/location of the RV incase the pad is a continuous concrete pad,"

- 3) page 168: Sec. 45 DEFINITIONS: 45.2 definitions: Recreational vehicle (RV) park/Campground restricting the stay of a RV to only 90 days. But to remove the length of time to make it unlimited. There are two groups of people I have found that stay longer than the 90 days. The older generation but young at heart (our motto)....that has left their house and live permanently in RV'sPlus as we call them "Winter Texans" who come to Tomball in the Oct. time and leave March time to go back north.

As of now these are the main points I have found that need to be review to move forward. I do have engineered expansion drawings I had completed a few years ago for your review. The City of Tomball engineering group had stated about using CUP; Text amendments; and possible other vehicles for the changes if they meet City of Tomball approvals. If additional information is required or if I can be of any help please call me on my cell phone at 713-557-1821 or the Corral RV Park office at 281-351-2761

Regards



Mike O'Brien

President

KE JAMS Inv.

Corral RV Park

1402 South Cherry

Tomball TX. 77375

Off.281-351-2761 fax 281-351-2764

E-mail: mob@houstonrvpark.com

Exhibit "E" Concept Plan

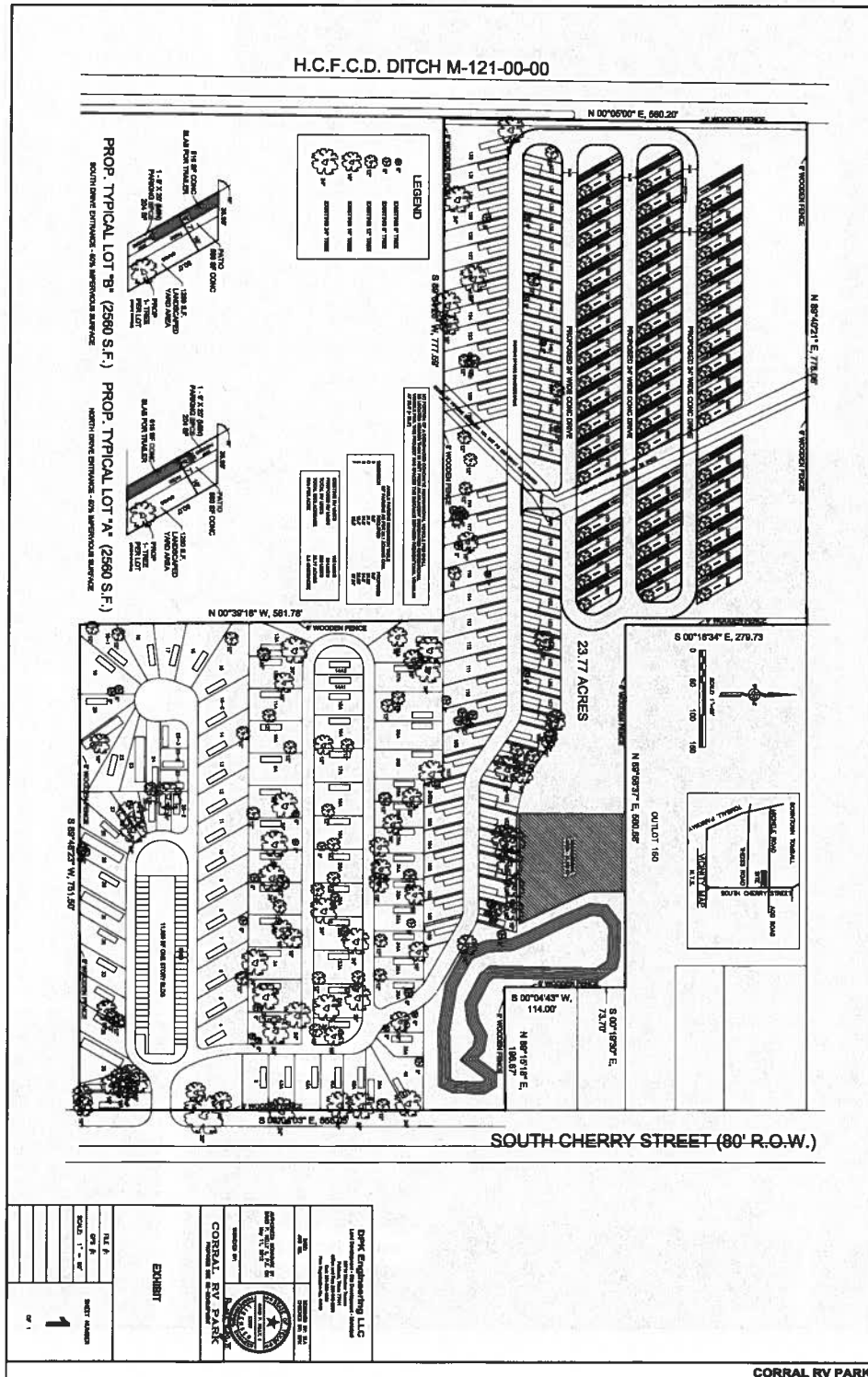


Exhibit "F"
Comprehensive Plan Future Land Use Map

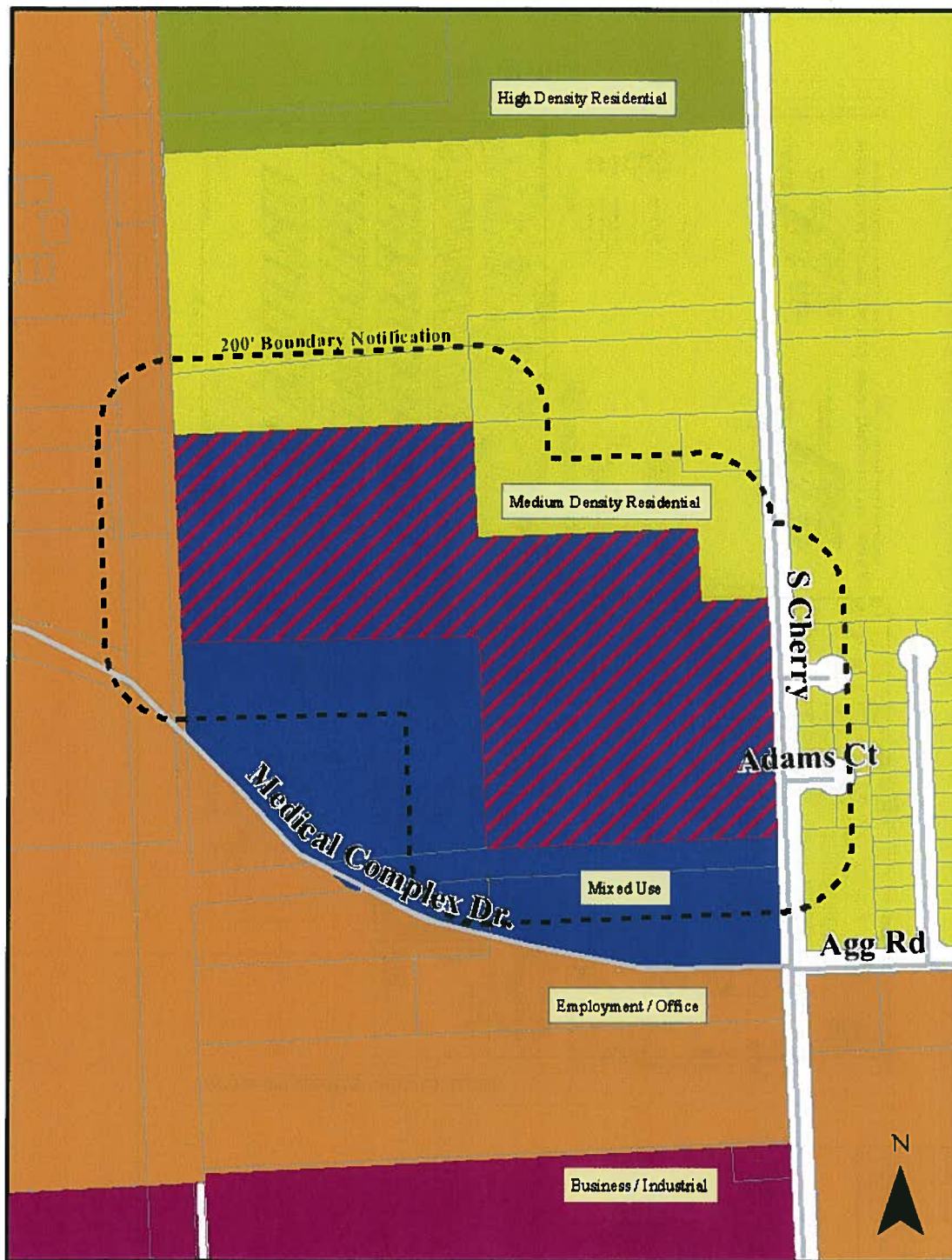


Exhibit "G"
Site Photos



Figure 1: Subject site.
Source: maps.google.com



Figure 2: Single-family residences to the north.
Source: maps.google.com



Figure 3: RK Cable (left) and DICAR (right) to the north.
Source: maps.google.com



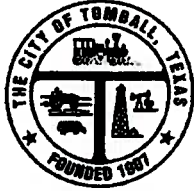
Figure 4: Medical offices and undeveloped land to the west.
Source: maps.google.com



Figure 5: Single-family residences to the east.
Source: maps.google.com



Figure 6: Gasoline station to the east.
Source: maps.google.com



Community Development Department

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
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:
(please print)

Address:

Signature:

Date:

Tasha Lopez and Christopher Lopez
1402 South Street
#130
Tasha Lopez
6/19/12

☒ I am **FOR** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below) |

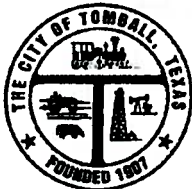
☐ I am **AGAINST** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

Date, Location & Time of **Planning & Zoning Commission** meeting:
Monday, June 11, 2012, 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, June 18, 2012, 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 rschmidt@ci.tomball.tx.us.
Please reference the Zoning Case number in the subject line.
For questions regarding this request please call 281-290-1410.



Community Development Department

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
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

(please print)

Address:

BRYAN LITTLETON

1402 S. CHERRY ST.

26-1

Signature:

Date:

[Signature]

6-9-2012

☒

I am **FOR** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

☐

I am **AGAINST** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

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

Monday, June 11, 2012, 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:

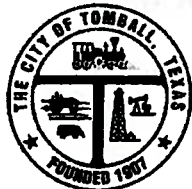
Monday, June 18, 2012, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

COMMENTS:

You may also comment via email to rschmidt@ci.tomball.tx.us.
Please reference the Zoning Case number in the subject line.
For questions regarding this request please call 281-290-1410.



Community Development Department

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
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

THOMAS J. YETMAN

(please print)

Address:

1462 SCHWARTZ ST #31A

TOMBALL, TX 77375

Signature:

[Handwritten Signature]

Date:

6-8-2012

☒

I am **FOR** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

☐

I am **AGAINST** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

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

Monday, June 11, 2012, 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, June 18, 2012, 6:00 PM

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

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Community Development Department

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Please return to:

City of Tomball
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

(please print)

Address:

Signature:

Date:

Bill Prendergast
13542 Montlepointe Lane
Cypress, TX - 77429
Bill Prendergast
6-9-2012

☒

I am **FOR** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

☐

I am **AGAINST** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

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

Monday, June 11, 2012, 6:00 PM

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

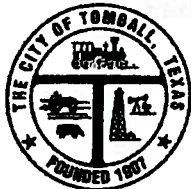
Date, Location & Time of City Council meeting:

Monday, June 18, 2012, 6:00 PM

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

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



Community Development Department

Public Comment Form

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Please return to:

City of Tomball
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

Billie So Makofski

(please print)

Address:

29611 Inverness Dr.

Magnolia Tx 77354

Signature:

Billie So Makofski

Date:

6/9/12

☒ I am **FOR** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

☐ I am **AGAINST** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

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

Monday, June 11, 2012, 6:00 PM

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

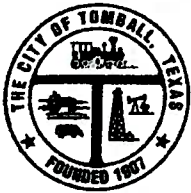
Date, Location & Time of **City Council** meeting:

Monday, June 18, 2012, 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 rschmidt@ci.tomball.tx.us.
Please reference the Zoning Case number in the subject line.
For questions regarding this request please call 281-290-1410.



Community Development Department

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(Please type or use black ink)

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

Please return to:

City of Tomball
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

JAMES T POTTER

(please print)

Address:

1402 SOUTH CHERRY ST TRLR 164

TOMBALL TEXAS 77375

Signature:

James T. Potter

Date:

6-17-2012

☒ I am **FOR** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

☐ I am **AGAINST** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

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

Monday, June 11, 2012, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

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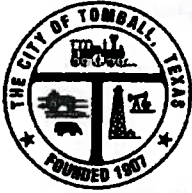
Monday, June 18, 2012, 6:00 PM

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401 Market Street, Tomball, Texas

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Community Development Department

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Please return to:

City of Tomball
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

(please print)

Address:

Signature:

Date:

Todi Fish
1402 S. Cherry St #16
Tomball, TX 77375
Todi Fish
6-7-12



I am **FOR** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)



I am **AGAINST** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

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

Monday, June 11, 2012, 6:00 PM

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

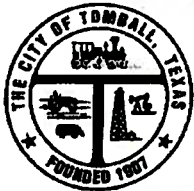
Date, Location & Time of **City Council** meeting:

Monday, June 18, 2012, 6:00 PM

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

COMMENTS:

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Please reference the Zoning Case number in the subject line.
For questions regarding this request please call 281-290-1410.



Community Development Department

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(Please type or use black ink)

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Please return to:

City of Tomball
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

(please print)

Address:

Signature:

Date:

KATHIN O'BRIEN
11767 Quail Creek Drive
Houston, TX
Kathin O'Brien
6/16/12

I am **FOR** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

I am **AGAINST** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

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

Monday, June 11, 2012, 6:00 PM

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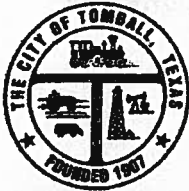
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401 Market Street, Tomball, Texas

COMMENTS:

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Please reference the Zoning Case number in the subject line.
For questions regarding this request please call 281-290-1410.



Community Development Department

Public Comment Form

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Please return to:

City of Tomball
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

(please print)

Address:

Signature:

Date:

Richards Rice
1404 S Cherry St
Tomball, TX 77375
6-5-12



I am **FOR** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)



I am **AGAINST** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

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

Monday, June 11, 2012, 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, June 18, 2012, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

COMMENTS:

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Please reference the Zoning Case number in the subject line.
For questions regarding this request please call 281-290-1410.



Community Development Department

Public Comment Form

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Please return to:

City of Tomball
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

SHARON Lyn Koschel

(please print)

Address:

1402 S. Cherry St #24

Tomball Tx 77375

Signature:

Date:

6-5-12

☒ I am **FOR** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

☐ I am **AGAINST** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

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

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City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

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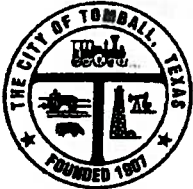
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401 Market Street, Tomball, Texas

COMMENTS:

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Please reference the Zoning Case number in the subject line.
For questions regarding this request please call 281-290-1410.



Community Development Department

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Please return to:

City of Tomball
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

(please print)

Address:

Signature:

Date:

DAVIDE Koschel
1402 S Cherry St #24
Tomball, TX 77375
D. Koschel
June 5, 2012

☒ I am **FOR** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

☐ I am **AGAINST** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

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

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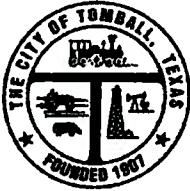
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For questions regarding this request please call 281-290-1410.



Community Development Department

Public Comment Form

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Please return to:

City of Tomball
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

Susan Cannon

(please print)

Address:

1402 S. Cherry St #35A

Tomball Tx 77375

Signature:

Susan A. Cannon

Date:

06-04-12



I am **FOR** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

I am **AGAINST** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-383. (Please state reasons below)

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

Monday, June 11, 2012, 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, June 18, 2012, 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 rschmidt@ci.tomball.tx.us.
Please reference the Zoning Case number in the subject line.
For questions regarding this request please call 281-290-1410.

Regular City Council

Agenda Item

Meeting Date: June 18, 2012

Data Sheet

Topic:

Consideration to approve **ZONING CASE P12-436**: Request by Bass Law Firm, PLLC, on behalf of High Heater, LLC, to amend the City's Comprehensive Zoning Ordinance by rezoning approximately 7.51 acres of land, legally described as part of Lot 69, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located easterly of Rudolph Road, northerly of Hufsmith Road, from the Agricultural District to the Commercial District.

- Conduct a Public Hearing on **ZONING CASE P12-436**
- Adopt, on First Reading, Ordinance No. 2012-17, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 7.51 Acres of Land, Legally Described as Part Of Lot 69, Tomball Outlots, Within the City of Tomball, Harris County, Texas, from the Agricultural District to the Commercial District; Said Property Being generally located Easterly of Rudolph Road, Northerly of Hufsmith 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 May 13, 2011, the City of Tomball received a site plan application for the construction of a press box and storage building at Tomball Prospects Baseball Academy at 201 East Hufsmith Road. On May 17, 2011, the property owner was notified by the City of Tomball that the site plan could not be approved because the property was zoned Agricultural District and the "Playfield or Stadium (Private)" land use was not permitted in the Agricultural District.

On May 7, 2012, the City of Tomball received a rezoning application from the applicant, The Bass Law Firm, requesting the subject site be rezoned from the Agricultural District to the Commercial District.

The applicant has also submitted a Zoning Ordinance text amendment application (P12-431) requesting Section 38.2 ("Use Charts") be amended to allow a "Playfield or Stadium (Private)" land use be permitted in the Agricultural District with a conditional use permit. If P12-436 is denied, the applicant is requesting P12-431 be approved.

On June 11, 2012, the Planning & Zoning Commission, after conducting a public hearing on this request, failed to recommend approval of Zoning Case P12-436 by a vote of 0-4. This case is now being forwarded to City Council for consideration and possible action.

Origination:

Request by Bass Law Firm, PLLC, on behalf of High Heater, LLC

Recommendation:

The Planning & Zoning Commission failed to recommend approval of Zoning Case P12-436 by a vote of 0-4.

Funding:

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

Engineering and Planning

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Notice of Public Hearing

Ordinance 2012-17

Property Owner Notification Letter

P12-436 Staff Report

P12-436 Public Comments

NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
JUNE 11, 2012
&
CITY COUNCIL
JUNE 18, 2012



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, June 11, 2012, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, June 18, 2012, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P11-383: Request by K.E. Jams Investments, Inc. to amend Conditional Use Permit #1 by expanding the "Recreational Vehicle Park" land use at Corral Recreational Vehicle Park. The property is an approximately 23.74 acre site, legally described as Lot 168, Amending Plat of Tomball Outlots, generally located on the westerly side of South Cherry Street, northerly of Agg Road. The site is located in the Manufactured Home Park District.

ZONING CASE P12-431: Request by Bass Law Firm, PLLC, on behalf of Texas Prospects Baseball Academy, to amend Section 38.2 ("Use Charts") of the City's Comprehensive Zoning Ordinance (Ordinance No. 2008-01) by allowing a "Playfield or Stadium (Private)" land use in the Agricultural District with a conditional use permit.

ZONING CASE P12-436: Request by Bass Law Firm, PLLC, on behalf of High Heater, LLC, to amend the City's Comprehensive Zoning Ordinance by rezoning approximately 7.51 acres of land, legally described as part of Lot 69, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located easterly of Rudolph Road, northerly of Hufsmith Road, from the Agricultural District to the Commercial District.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday

through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact Assistant City Planner** Rodney Schmidt, (281) 290-1410, rschmidt@ci.tomball.tx.us

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 7th day of June 2012 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate
Senior Administrative Assistant

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

ORDINANCE NO. 2012-17

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 7.51 ACRES OF LAND, LEGALLY DESCRIBED AS PART OF LOT 69, TOMBALL OUTLOTS, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE AGRICULTURAL DISTRICT TO THE COMMERCIAL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED EASTERLY OF RUDOLPH ROAD, NORTHERLY OF HUFSMITH 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, the owner(s) of approximately 7.51 acres of land, legally described as part of Lot 69, Tomball Outlots, generally located easterly of Rudolph Road, northerly of Hufsmith Road, in the City of Tomball, Harris County, Texas, (the "Property"), have requested that 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 written notice of that hearing to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to change the zoning for the Property from the Agricultural District to the Commercial District; and

Whereas, the public hearing was held at least forty (40) calendar days after the City's receipt of the request for rezoning; and

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

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

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

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

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

Section 2. The zoning classification of 7.51 acres of land, legally described as part of Lot 69, Tomball Outlots, within the City of Tomball, Harris County, Texas, is hereby changed from the Agricultural District to the Commercial District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas-Ordinance 2008-01, ("Zoning District Map"), shall be revised and amended to show the designation of 7.51 acres of land, legally described as part of Lot 69, Tomball Outlots, generally located easterly of Rudolph Road, northerly of Hufsmith Road, as Commercial District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for 7.51 acres of land, legally described as part of Lot 69, Tomball Outlots, generally located easterly of Rudolph Road, northerly of Hufsmith Road, to the Commercial District as described above.

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

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

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

FIRST READING:

**READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 18TH DAY OF JUNE
2012.**

**COUNCILMAN HUDGENS
COUNCILMAN STOLL
COUNCILMAN BROWN
COUNCILMAN TOWNSEND
COUNCILMAN DODSON**

SECOND READING:

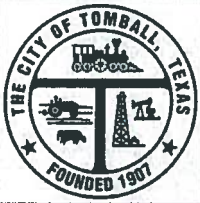
**READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 2ND DAY OF JULY
2012.**

**COUNCILMAN HUDGENS
COUNCILMAN STOLL
COUNCILMAN BROWN
COUNCILMAN TOWNSEND
COUNCILMAN DODSON**

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Community Development Department

Notice of Public Hearing

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

CASE NUMBER: P12-436

APPLICANT: Bass Law Firm, PLLC, on behalf of High Heater, LLC

LOCATION: Easterly of Rudolph Road, northerly of Hufsmith Road

PROPOSAL: Request to rezone approximately 7.51 acres of land from the Agricultural District to the Commercial District.

CONTACT: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@ci.tomball.tx.us

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 rezoning application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the 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. Interested parties may appear and speak on the project or the staff recommendation at the meeting. Written comments may also be submitted for consideration.



Planning & Zoning Commission Public Hearing:

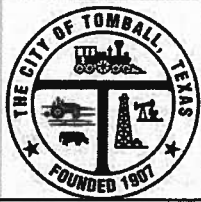
Monday, June 11, 2012, 6:00 PM

City Council Public Hearing:

***Monday, June 18, 2012, 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 and Zoning Commission.



Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: June 11, 2012

Rezoning Case: P12-436
Property Owner(s): High Heater, LLC
Applicant(s): The Bass Law Firm, PLLC
Legal Description: Part of Lot 69, Tomball Outlots
Location: Generally located easterly of Rudolph Road, northerly of Hufsmith Road
Area: 7.51 acres
Present Zoning and Use: Agricultural District / Playfield or Stadium (Private)
Comp Plan Designation: Parks
Proposed Zoning and Use: Commercial District / Playfield or Stadium (Private)

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

Adjacent Zoning & Land Uses:

North: Agricultural District / Undeveloped
South: Multi-Family and SF-6 Districts / Hufsmith Road, Undeveloped, and Nursing Home
West: Commercial and SF-20-E Districts / Rudolph Road, Office, and Undeveloped
East: Agricultural District / Single-Family Residence and Undeveloped

BACKGROUND

The subject site is legally described as a part of Lot 69, Tomball Outlots totaling approximately 7.51 acres. The site is generally located easterly of Rudolph Road, northerly of Hufsmith Road, is developed with a multi-field baseball academy (Exhibit "A"), and is currently zoned Agricultural District (Exhibit "B").

On May 13, 2011, the City of Tomball received a site plan application from the property owner to construct a press box and storage building towards the southern portion of the site. On May 17, 2011, the property owner was notified by the City of Tomball that the site plan could not be approved because the property was zoned Agricultural District and the "Playfield or Stadium (Private)" land use was not permitted in the Agricultural District (Exhibit "C").

On May 7, 2012, the City of Tomball received a rezoning application and letter for the site (Exhibits "D" and "E") from the applicant, The Bass Law Firm. According to their application:

"The owner desires to add a scoring booth and stand covers on an existing field; however, as the property is currently zoned, the Zoning Ordinance does not provide a mechanism for the application of building permits for additional structures due to the legal nonconforming use. The zoning classification of C-Commercial allows for use by right of Playfield-Stadium-Private. Rezoning the property to C-Commercial will allow the owner to properly submit applications for building permits for the above-mentioned structures.

The owner and the facility currently provide valuable services to Tomball residents, particularly area youth. It provides expert baseball training to children ranging from 6 to 18 years old and routinely provides field and facility use to members of the Tomball School District, including the High School baseball program. In addition, the facility draws college coaches and major league baseball scouts from all over the United States to observe and scout area players. To date, this exposure has resulted in hundreds of area and regional players receiving college scholarship assistance."

The applicant has also submitted a Zoning Ordinance text amendment application (P12-431) requesting Section 38.2 ("Use Charts") be amended to allow a "Playfield or Stadium (Private)" land use be permitted in the Agricultural District with a conditional use permit. If P12-436 is denied, the applicant is requesting P12-431 be approved.

ANALYSIS

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

There is a mixture of land uses in the vicinity. To the north of the site is undeveloped land in the Agricultural District; to the south is Hufsmith Road, undeveloped land, and a nursing home in the Multi-Family and SF-6 Districts; to the west is Rudolph Road, an architectural office, and undeveloped land in the Commercial and SF-20-E Districts; and to the east is a single-family residence and undeveloped land in the Agricultural District.

The Comprehensive Plan's future land use map identifies the site as "Parks" (Exhibit "F"). It states, "Parks includes mini, neighborhood, community, or regional parks that are both active and passive recreational areas. This can include both publicly and privately owned parks, open spaces, and recreation areas. Park and open space uses are also appropriate in all residential land use designations."

The proposed rezoning to the Commercial District would facilitate the further development of this privately owned baseball academy which would advance the Comp Plan's "Park" land use. However, City staff recommends denial of this request in favor of the applicant's alternate Zoning Ordinance text amendment request to allow a "Playfield or Stadium (Private)" land use be permitted in the Agricultural District with a conditional use permit. The text amendment would keep the

property zoned Agricultural District which is consistent with the adjacent "Rural Residential" Comp Plan land use designation and Agricultural District, allow the Planning & Zoning Commission and City Council oversight of the proposed conditional use permit to ensure its compatibility with the existing and future residences in the area, and would allow for notification of adjacent property owners and a public hearing to have their opinions heard.

It should also be noted that any use permitted in the Commercial District would be allowed at this location if the zoning is changed.

As a matter of information, the future development of this site will require the applicant to comply with the City's platting requirements as well as the use and area regulations outlined in the Zoning Ordinance. A site plan application, which requires civil drawings, including all proposed grading, paving, drainage, and utility plans, building elevations, and landscape plans are required to be submitted and approved by the City of Tomball prior to a building permit application submittal.

ZONING CONSIDERATIONS

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

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

There is a mixture of land uses in the vicinity. To the north of the site is undeveloped land in the Agricultural District; to the south is Hufsmith Road, undeveloped land, and a nursing home in the Multi-Family and SF-6 Districts; to the west is Rudolph Road, an architectural office, and undeveloped land in the Commercial and SF-20-E Districts; and to the east is a single-family residence and undeveloped land in the Agricultural District. See the attached site photos (Exhibit "G").

Per the Tomball Zoning Ordinance, "The uses envisioned for the [Commercial] district will typically utilize smaller sites and have operation characteristics which are generally not compatible with residential uses and some nonresidential uses." Because the adjacent properties are either currently used for residential purposes or are intended for residential uses per the Zoning Ordinance and Comp Plan, the Commercial District is not appropriate for this site.

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

The proposed rezoning is not anticipated to negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area.

- 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 undeveloped land zoned Commercial District across Rudolph Road from the site. There are numerous undeveloped tracts zoned Commercial Districts across the City.

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 city-wide and within the vicinity in the Commercial District.

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

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

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

Per the Tomball Zoning Ordinance, "The uses envisioned for the [Commercial] district...are generally not compatible with residential uses and some nonresidential uses." Because the adjacent properties are either currently used for residential purposes or are intended for residential uses per the Zoning Ordinance and Comp Plan, the Commercial District is not appropriate for this site and could affect public health, safety, morals, or general welfare.

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

According to the Comprehensive Plan, rezonings are "to conform to the intended future land use pattern shown on the Future Land Use Plan and should occur only when economic, physical, social, and other factors will allow the proposed land use to be developed:

- Within the capacities of existing or funded infrastructure and public facilities and services;
- In a compatible manner with surrounding land uses;
- To standards specified for and appropriate to the proposed land use; and
- In a way that furthers or helps achieve the goals of the Plan."

The Comprehensive Plan's future land use map identifies the site as "Parks" (Exhibit "F"). It states, "Parks includes mini, neighborhood, community, or regional parks that are both active and passive recreational areas. This can include both publicly and privately owned parks, open spaces, and recreation areas. Park and open space uses are also appropriate in all residential land use designations."

The proposed rezoning to the Commercial District would facilitate the further development of this privately owned baseball academy which would advance the Comp Plan's "Park" land use. However, City staff recommends denial of this request in favor of the applicant's alternate Zoning Ordinance text amendment request to allow a "Playfield or Stadium (Private)" land use be permitted in the Agricultural District with a conditional use permit. The text amendment would keep the property zoned Agricultural District which is consistent with the adjacent "Rural Residential" Comp Plan land use designation and Agricultural District, allow the Planning & Zoning Commission and City Council oversight of the proposed conditional use permit to ensure its compatibility with the existing and

future residences in the area, and would allow for notification of adjacent property owners and a public hearing to have their opinions heard.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on March 29, 2012 and, as of the writing of this report, one public comment form was received from Lucretia Lopez (1229 Kinley Lane, Houston, Texas) in opposition to the request and one public comment form was received from Jared Ashmore (262 N. Sam Houston Parkway East #440, Houston, Texas) in favor of the request (Exhibit "H").

RECOMMENDATION

That the Planning & Zoning Commission recommend:

1. DENIAL of Zoning Case P12-436 based on the following:
 - a. The proposed zoning of Commercial District is generally not compatible with the current or intended adjacent residential uses in this area as established in the Tomball Zoning Ordinance and Comprehensive Plan.
 - b. The Commercial District is not appropriate for this site and could affect the public health, safety, morals, or general welfare.
2. APPROVAL of the staff report as the Planning & Zoning Commission's final recommendation to the City Council.

EXHIBITS

- A. Aerial Photo
- B. Zoning Map
- C. May 17, 2011 Site Plan Response Letter
- D. Rezoning Application
- E. Rezoning Request Letter
- F. Comprehensive Plan Future Land Use Map
- G. Site Photos
- H. Public Comment Form

Exhibit "A"
Aerial Photo



Exhibit "B"
Zoning Map

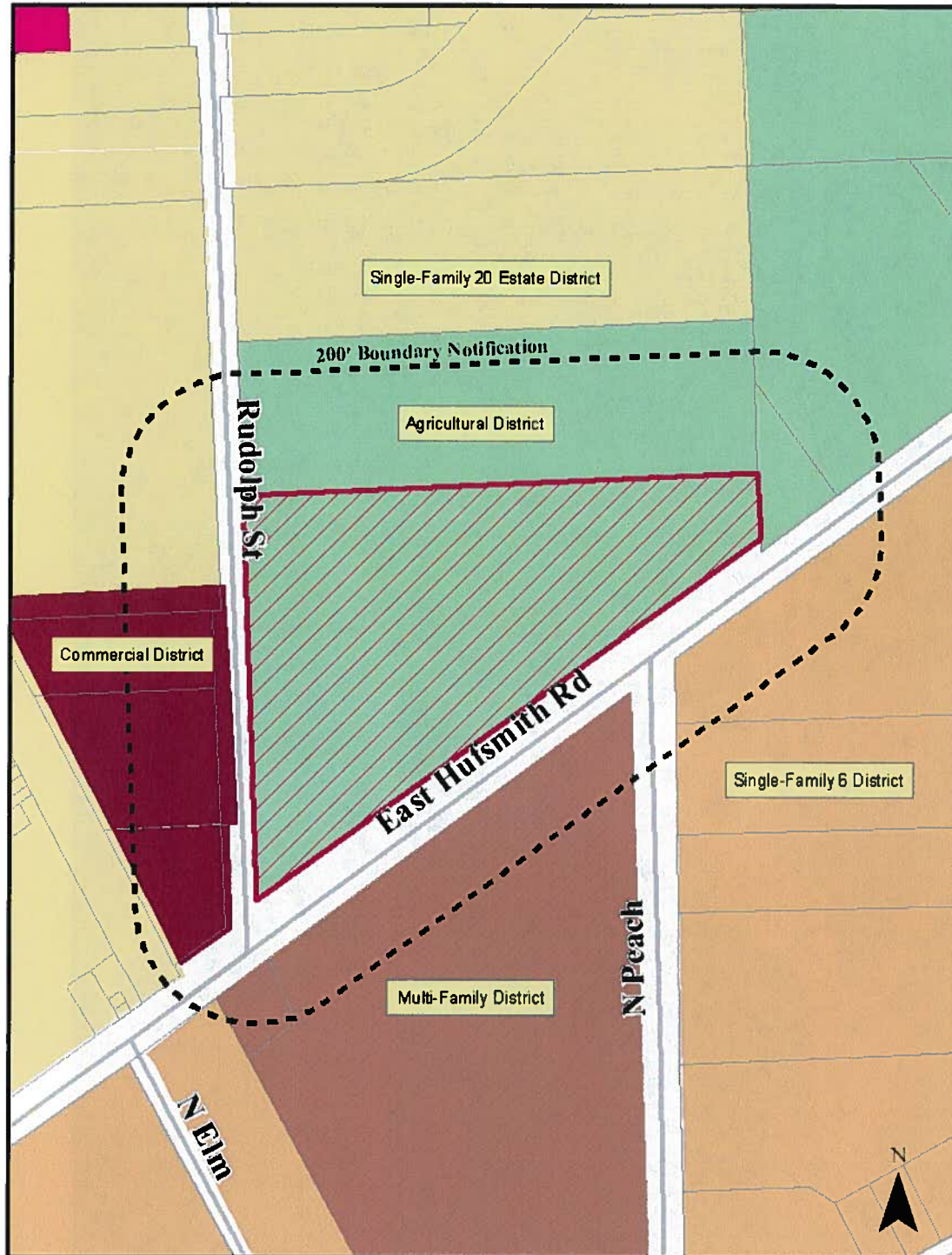


Exhibit "C"
May 17, 2011 Site Plan Response Letter



City of Tomball

Gretchen Fagan
Mayor

George Shackelford
City Manager

May 17, 2011

Ray DeLeon
201 East Hufsmith
Tomball, Texas 77375

RE: Texas Prospects (201 East Hufsmith Road) Press Box Site Plan Letter

Dear Mr. DeLeon:

The Engineering & Planning Department has reviewed the site plan related to the proposed press box located at the above referenced address. At this time, we are unable to approve your request for site plan approval.

The above referenced property is located in the City's AG-Agricultural zoning district and has a land use classification of "Playfield or Stadium (Private)" which is defined as "An athletic field or stadium owned and operated by an agency other than the City of Tomball or the School District."

Per Section 38 of the Zoning Ordinance, the "Playfield or Stadium (Private)" use is not permitted in the AG-Agricultural District. Because the existing baseball facility was established before the passage of the Zoning Ordinance in February 2008, it is considered a "legal nonconforming use." The Zoning Ordinance states that "Any lawful use of property existing at the time of passage of this Ordinance that does not conform to the regulations prescribed in the preceding sections of this Ordinance shall be deemed a legal nonconforming use."

Because the "Playfield or Stadium (Private)" use is considered legally nonconforming, it would not be permitted to expand and the proposed press box would not be allowed. You have three options you could possibly pursue:

1. Request that the property be rezoned to the Commercial, Light Industrial, or Old Town & Mixed Use District. Each of these zoning districts allows the "Playfield or Stadium (Private)" use by right.
2. Request that the property be rezoned to the General Retail District and request a Conditional Use Permit (CUP) to allow your specific use.
3. Remove the partially constructed press box.

I've attached a copy of the rezoning application if you wish to pursue option #1 or #2.

Because construction on the press box commenced without the proper permits from the City of Tomball, the structure is currently considered illegal. Please contact the City's Engineering and Planning Department by June 15, 2011 to notify us of your proposed plan of action. Should you not comply your case will be turned over to the City's Code Enforcement Officer for further action.

Please let me know if you have any questions, (281) 290-1466 or llakatos@ci.tomball.tx.us. To schedule a meeting please contact Brandy Pate, (281) 290-1405 or bpate@ci.tomball.tx.us.

Thank you,


Lori Lakatos, PE, CFM
Acting City Engineer

Attached: Rezoning application

Exhibit "D"
Rezoning Application

Revised 1/20/09



APPLICATION FOR REZONING
Engineering & Planning Department

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

Applicant

Name: The Bass Law Firm, PLLC (on behalf of Owner) Title: Richard W. Bass
Attorney for Owner
Mailing Address: 11109 Cutten Rd., Suite 206 City: Houston State: TX
Zip: 77066
Phone: (713) 589-5679 Fax: (713) 589-5679 Email: richard@rwbasslaw.com

Owner

Name: High Heater, LLC Title: _____
Mailing Address: 201 E. Hufsmith Rd. City: Tomball State: TX
Zip: 77375-4350
Phone: (281) 290-8333 Fax: () Email: probandito@aol.com

Engineer/Surveyor (if applicable)

Name: DPK Engineering LLC (David P. Kelly II, P.E.) Title: Engineer
Mailing Address: _____ City: _____ State: _____
Zip: _____
Phone: (281) 346-2616 Fax: (281) 346-2616 Email: david.kelly@dpkengineering.com

Description of Proposed Project: Seeking rezoning to allow application for building permits on score booth and covers on spectator stands

Physical Location of Property: 901 Rudolf / 201 E. Hufsmith Rd. (corner of E. Hufsmith and Rudolph)

[General Location - approximate distance to nearest existing street corner]
7.5097 AC. Tract of the High Heater LLC Outlot #69 as

Legal Description of Property: described under CF #20060193740 (see attached survey)

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

Current Zoning District: AG-Agricultural District

Current Use of Property: Playfield-Stadium Private (Legal Nonconforming Use)

Proposed Zoning District: C-Commercial District

Proposed Use of Property: Playfield-Stadium Private

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

www.ci.tomball.tx.us

HCAD Identification Number: 0352820000151 Acreage: 7.5097

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.

**Richard
W. Bass**

Digitally signed by Richard W. Bass
DN: cn=Richard W. Bass, o=The Bass Law Firm, PLLC, ou, email=richard@rwbasslaw.com, c=US
Date: 2012.05.04 16:37:27 -05'00'

X
Signature of Applicant

Date

High Heater, LLC

X /s/ Ray Deleon, Director
Signature of Owner

May 4, 2012
Date

Exhibit "E"
Rezoning Request Letter

THE BASS LAW FIRM, PLLC

11109 CUTTEN RD • SUITE 208
HOUSTON, TEXAS 77068
(713) 589-5679
FAX (713) 428-0418

richard@rwbasslaw.com

May 4, 2012

City of Tomball
Engineering & Planning Department
501 James St.
Tomball, Texas 77375

Via email: rschmidt@ci.tomball.tx.us

Re: Application for Rezoning - 7.5097 acres located at corner of 201 E. Hufsmith Rd. and 901 Rudolph; Texas Prospects Baseball Academy (Owner: High Heater, LLC)

Dear members of the Engineering & Planning Department:

This letter is in conjunction with the Application for Rezoning submitted herewith on behalf of property owner High Heater, LLC relating to the referenced property. The referenced property is currently zoned in the AG-Agricultural District. The current use is Playfield-Stadium-Private, a legal nonconforming use by virtue of its use and existence prior to the existence of the City of Tomball's Zoning Ordinance.

The owner desires to add a scoring booth and stand covers on an existing field; however, as the property is currently zoned, the Zoning Ordinance does not provide a mechanism for the application of building permits for additional structures due to the legal nonconforming use. The zoning classification of C-Commercial allows for use by right of Playfield-Stadium-Private. Rezoning the property to C-Commercial will allow the owner to properly submit applications for building permits for the above-mentioned structures.

The owner and the facility currently provide valuable services to Tomball residents, particularly area youth. It provides expert baseball training to children ranging from 6 to 18 years old and routinely provides field and facility use to members of the Tomball School District, including the High School baseball program. In addition, the facility draws college coaches and major league baseball scouts from all over the United States to observe and scout area players. To date, this exposure has resulted in hundreds of area and regional players receiving college scholarship assistance.

THE BASS LAW FIRM, PLLC

City of Tomball

May 4, 2012

Page 2

Your consideration of the application for rezoning is greatly appreciated. If you have any questions, or need additional information, please do not hesitate to contact me.

Sincerely,

Richard Bass

Richard W. Bass

Enclosures

Exhibit "F"
Comprehensive Plan Future Land Use Map



Exhibit "G"
Site Photos



Figure 1: Subject site.
Source: maps.google.com



Figure 2: Architect's office to the west.
Source: maps.google.com



Figure 3: Single-family residence to the east.
Source: maps.google.com



Figure 4: Nursing home to the south.
Source: maps.google.com

Exhibit "H"
Public Comment Form

 Community Development Department
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
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

(please print)

Address:

Signature:

Date:

LUERETIA LOPEZ

1229 KINLEY LN.

HOUSTON, TX. 77018

Lucretia Lopez

06-06-12

☐ I am FOR the requested rezoning as explained on the attached public notice for Zoning Case P12-436. (Please state reasons below)

☒

I am AGAINST the requested rezoning as explained on the attached public notice for Zoning Case P12-436. (Please state reasons below)

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

Monday, June 11, 2012, 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, June 18, 2012, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

COMMENTS:

I do not want my property rezoned
as commercial. It has been in my
family for over a hundred years & I am
happy just as is.

You may also comment via email to rschmidt@ci.tomball.tx.us.
Please reference the Zoning Case number in the subject line.
For questions regarding this request please call 281-290-1410.



Community Development Department

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
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375



Name:
(please print)

Jared Ashmore

Address:

262 North San Houston Pkwy East #440
Houston, Tx 77060

Signature:

Jared Ashmore

Date:

6-4-12



I am **FOR** the requested rezoning as explained on the attached public notice for Zoning Case P12-436. (Please state reasons below)



I am **AGAINST** the requested rezoning as explained on the attached public notice for Zoning Case P12-436. (Please state reasons below)

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

Monday, June 11, 2012, 6:00 PM

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

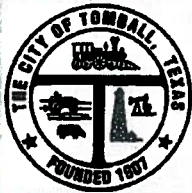
Date, Location & Time of City Council meeting:

Monday, June 18, 2012, 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 rschmidt@ci.tomball.tx.us.
Please reference the Zoning Case number in the subject line.
For questions regarding this request please call 281-290-1410.



Community Development Department

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
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375



Name:

Jared Ashmore

(please print)

Address:

262 North San Houston Pkwy East #440
Houston, Tx 77060

Signature:

Jared Ashmore

Date:

6-4-12

X

I am **FOR** the requested rezoning as explained on the attached public notice for Zoning Case P12-436. (Please state reasons below)

I am **AGAINST** the requested rezoning as explained on the attached public notice for Zoning Case P12-436. (Please state reasons below)

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

Monday, June 11, 2012, 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, June 18, 2012, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

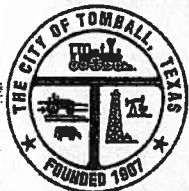
401 Market Street, Tomball, Texas

COMMENTS:

You may also comment via email to rschmidt@ci.tomball.tx.us.

Please reference the Zoning Case number in the subject line.

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



Community Development Department

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
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:

LUCRETIA LOPEZ

(please print)

Address:

1229 KINLEY LN.

HOUSTON, TX. 77018

Signature:

Lucretia Lopez

Date:

06-06-12

I am FOR the requested rezoning as explained on the attached public notice for Zoning Case P12-436. (Please state reasons below)

✓

I am AGAINST the requested rezoning as explained on the attached public notice for Zoning Case P12-436. (Please state reasons below)

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

Monday, June 11, 2012, 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, June 18, 2012, 6:00 PM

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

COMMENTS:

I do not want my property rezoned as commercial. It has been in my family for over a hundred years & I am happy just as is -

You may also comment via email to rschmidt@ci.tomball.tx.us.
Please reference the Zoning Case number in the subject line.
For questions regarding this request please call 281-290-1410.



Community Development Department

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
Community Development Department
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375



Name:

(please print)

Address:

PRESARIO PROPERTIES, LLC

2559 BEECHWOOD VILLAGE CT

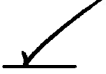
HENDERSON, NV 89052

Signature:

Date:

David E. Lentes

06/02/12



I am **FOR** the requested rezoning as explained on the attached public notice for Zoning Case P12-436. (Please state reasons below)



I am **AGAINST** the requested rezoning as explained on the attached public notice for Zoning Case P12-436. (Please state reasons below)

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

Monday, June 11, 2012, 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, June 18, 2012, 6:00 PM

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

COMMENTS:

NONE

You may also comment via email to rschmidt@ci.tomball.tx.us.
Please reference the Zoning Case number in the subject line.
For questions regarding this request please call 281-290-1410.

Regular City Council

Agenda Item

Meeting Date: June 18, 2012

Data Sheet

Topic:

Consideration to approve **ZONING CASE P12-431**: Request by Bass Law Firm, PLLC, on behalf of Texas Prospects Baseball Academy, to amend Section 38.2 ("Use Charts") of the City's Comprehensive Zoning Ordinance (Ordinance No. 2008-01) by allowing a "Playfield or Stadium (Private)" land use in the Agricultural District with a conditional use permit.

- Conduct a Public Hearing on **ZONING CASE P12-431**
- Adopt, on First Reading, Ordinance No. 2012-18, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Amending Section 38.2 ("Use Charts") to Allow a "Playfield or Stadium (Private)" Land Use in the Agricultural District with a Conditional Use Permit; 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 May 13, 2011, the City of Tomball received a site plan application for the construction of a press box and storage building at Tomball Prospects Baseball Academy at 201 East Hufsmith Road. On May 17, 2011, the property owner was notified by the City of Tomball that the site plan could not be approved because the property was zoned Agricultural District and the "Playfield or Stadium (Private)" land use was not permitted in the Agricultural District.

On April 10, 2012, the City of Tomball received a Zoning Ordinance text amendment application from The Bass Law Firm, on behalf of Texas Prospects Baseball Academy, requesting Section 38.2 ("Use Charts") be revised to allow a "Playfield or Stadium (Private)" land use in the Agricultural District with a conditional use permit.

The applicant has also submitted a rezoning application (P12-436) requesting 201 East Hufsmith be rezoned from the Agricultural District to the Commercial District. If P12-436 is denied, the applicant is requesting P12-431 be approved to allow for future expansion at Tomball Prospects Baseball Academy.

On June 11, 2012, the Planning & Zoning Commission, after conducting a public hearing on this request, voted to recommend approval of Zoning Case P12-431. This case is now being forwarded to City Council for consideration and possible action.

Origination:

Bass Law Firm, PLLC, on behalf of Texas Prospects Baseball Academy

Recommendation:

In its formal recommendation to City Council, the Planning and Zoning Commission voted to recommend approval of Zoning Case P12-431.

Funding:

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

Engineering and Planning

ACTION TAKEN

APPROVAL ☐ YES ☐ NO	READINGS PASSED ☐ 1 ST ☐ 2 ND	OTHER
---	---	--------------

ATTACHMENTS:

Notice of Public Hearing

Ordinance 2012-18

P12-431 Staff Report

NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
JUNE 11, 2012
&
CITY COUNCIL
JUNE 18, 2012



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, June 11, 2012, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, June 18, 2012, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P11-383: Request by K.E. Jams Investments, Inc. to amend Conditional Use Permit #1 by expanding the "Recreational Vehicle Park" land use at Corral Recreational Vehicle Park. The property is an approximately 23.74 acre site, legally described as Lot 168, Amending Plat of Tomball Outlots, generally located on the westerly side of South Cherry Street, northerly of Agg Road. The site is located in the Manufactured Home Park District.

ZONING CASE P12-431: Request by Bass Law Firm, PLLC, on behalf of Texas Prospects Baseball Academy, to amend Section 38.2 ("Use Charts") of the City's Comprehensive Zoning Ordinance (Ordinance No. 2008-01) by allowing a "Playfield or Stadium (Private)" land use in the Agricultural District with a conditional use permit.

ZONING CASE P12-436: Request by Bass Law Firm, PLLC, on behalf of High Heater, LLC, to amend the City's Comprehensive Zoning Ordinance by rezoning approximately 7.51 acres of land, legally described as part of Lot 69, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located easterly of Rudolph Road, northerly of Hufsmith Road, from the Agricultural District to the Commercial District.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday

through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact Assistant City Planner** Rodney Schmidt, (281) 290-1410, rschmidt@ci.tomball.tx.us

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 7th day of June 2012 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate

Senior Administrative Assistant

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

ORDINANCE NO. 2012-18

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY AMENDING SECTION 38.2 ("USE CHARTS") TO ALLOW A "PLAYFIELD OR STADIUM (PRIVATE)" LAND USE IN THE AGRICULTURAL DISTRICT WITH A CONDITIONAL USE PERMIT; 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, Bass Law Firm, PLLC, on behalf of Texas Prospects Baseball Academy, has requested that the City amend its Comprehensive Zoning Ordinance to allow a "Playfield or Stadium (Private)" land use in the Agricultural District with a conditional use permit; and

Whereas, the Planning & Zoning Commission and the City Council of the City of Tomball, Texas, have published notice and conducted hearings regarding the request to allow a "Playfield or Stadium (Private)" land use in the Agricultural District with a conditional use permit; and

Whereas, the Planning & Zoning Commission recommended in its final report that the City Council approve the amendment to Section 38.2 ("Use Charts") of the Comprehensive Zoning Ordinance; and

Whereas, the City Council has determined that allowing a "Playfield or Stadium (Private)" land use in the Agricultural District with a conditional use permit would be appropriate, that the proposed change would not adversely affect the public health, safety, morals or general welfare but would benefit the community, and that the proposed change is in accord with the City's comprehensive plan;

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

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

Section 2. Section 38.2 ("Use Charts") of the Comprehensive Zoning Ordinance of the City of Tomball, Texas, is hereby amended to read as follows:

Types of Land Uses	Residential Zoning Districts							Non-Residential Zoning Districts							OT&MU	Parking Ratio (Also see Section 39)	
	AG	SF-20-E	SF-9	SF-6		D	MF	MHP	O		GR			C			LI
Playfield or Stadium (Private)	C										C			P	P	P	1 space: 3 seats

Section 3. 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 4. 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 5. This Ordinance shall become effective fourteen days after the final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law. The City Secretary is directed to publish the caption of this Ordinance in the City's official newspaper within 14 days after the passage of the ordinance.

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 18TH DAY OF JUNE
2012.**

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

SECOND READING:

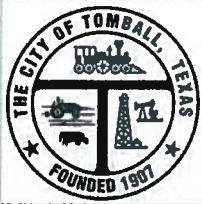
**READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 2ND DAY OF JULY
2012.**

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Text Amendment Staff Report

Planning & Zoning Commission Hearing Date: June 11, 2012

ZONING CASE P12-431: Request by Bass Law Firm, PLLC, on behalf of Texas Prospects Baseball Academy, to amend Section 38.2 ("Use Charts") of the City's Comprehensive Zoning Ordinance (Ordinance No. 2008-01) by allowing a "Playfield or Stadium (Private)" land use in the Agricultural District with a conditional use permit.

BACKGROUND

On May 13, 2011, the City of Tomball received a site plan application for the construction of a press box and storage building at Tomball Prospects Baseball Academy at 201 East Hufsmith Road. On May 17, 2011, the property owner was notified by the City of Tomball that the site plan could not be approved because the property was zoned Agricultural District and the "Playfield or Stadium (Private)" land use was not permitted in the Agricultural District (Exhibit "A").

On April 10, 2012, the City of Tomball received a Zoning Ordinance text amendment application (Exhibit "B") from The Bass Law Firm, on behalf of Texas Prospects Baseball Academy, requesting Section 38.2 ("Use Charts") be revised to allow a "Playfield or Stadium (Private)" land use in the Agricultural District with a conditional use permit.

The applicant has also submitted a rezoning application (P12-436) requesting 201 East Hufsmith be rezoned from the Agricultural District to the Commercial District. If P12-436 is denied, the applicant is requesting P12-431 be approved to allow for future expansion at Tomball Prospects Baseball Academy.

ANALYSIS

The "Playfield or Stadium (Private)" land use is defined in Section 45 of the Tomball Zoning Ordinance as "An athletic field or stadium owned and operated by an agency other than the City of Tomball or the School District" and is listed under "Amusement & Recreation" in Section 38.2.

The Comprehensive Plan states, "Parks includes mini, neighborhood, community, or regional parks that are both active and passive recreational areas. This can include both publicly and privately owned parks, open spaces, and recreation areas. Park and open space uses are also appropriate in all residential land use designations."

Because "Playfield or Stadium (Private)" is considered "Amusement & Recreation" and because, parks, open spaces, and recreational areas are deemed appropriate in residential areas by the Comp Plan and the Agricultural District is listed in Section 38 of the Zoning Ordinance as a residential zoning district, permitting the "Playfield or Stadium (Private)" land uses in the Agricultural District with a conditional use permit would appear to be consistent with the Comp Plan and will ensure the Planning & Zoning Commission, City Council, and the public have proper oversight over proposed projects to ensure compatibility with adjacent areas.

PROPOSED AMENDMENTS

Section 38.2 (“Use Charts”)

Types of Land Uses	Residential Zoning Districts							Non-Residential Zoning Districts							OT&MU	Parking Ratio (Also see Section 39)	
	AG	SF-20-E	SF-9	SF-6		D	MF	MHP	O		GR			C			LI
Playfield or Stadium (Private)	C										C			P	P	P	1 space; 3 seats

PUBLIC COMMENT

A public hearing notice was published in the Tomball Tribune on Tuesday, May 29, 2012 and, as of the writing of this staff report, no public comments were received.

RECOMMENDATION

That the Planning & Zoning Commission recommend:

1. APPROVAL of Zoning Case P12-431 based on the following:
 - a. Permitting “Playfield or Stadium (Private)” land uses in the Agricultural District with a conditional use permit is generally consistent with the Comprehensive Plan; and
 - b. The conditional use permit process will provide the Planning & Zoning Commission, City Council, and the public oversight to ensure “Playfield or Stadium (Private)” land uses are appropriate on a case-by-case basis in the Agricultural District.
2. APPROVAL of the staff report as the Planning & Zoning Commission’s final recommendation to the City Council.

EXHIBITS

- A. May 17, 2011 Site Plan Response Letter
- B. Zoning Ordinance Text Amendment Application

Exhibit "A"
May 17, 2011 Site Plan Response Letter



City of Tomball

Gretchen Fagan
Mayor

George Shackelford
City Manager

May 17, 2011

Ray DeLeon
201 East Hufsmith
Tomball, Texas 77375

RE: Texas Prospects (201 East Hufsmith Road) Press Box Site Plan Letter

Dear Mr. DeLeon:

The Engineering & Planning Department has reviewed the site plan related to the proposed press box located at the above referenced address. At this time, we are unable to approve your request for site plan approval.

The above referenced property is located in the City's AG-Agricultural zoning district and has a land use classification of "Playfield or Stadium (Private)" which is defined as "An athletic field or stadium owned and operated by an agency other than the City of Tomball or the School District."

Per Section 38 of the Zoning Ordinance, the "Playfield or Stadium (Private)" use is not permitted in the AG-Agricultural District. Because the existing baseball facility was established before the passage of the Zoning Ordinance in February 2008, it is considered a "legal nonconforming use." The Zoning Ordinance states that "Any lawful use of property existing at the time of passage of this Ordinance that does not conform to the regulations prescribed in the preceding sections of this Ordinance shall be deemed a legal nonconforming use."

Because the "Playfield or Stadium (Private)" use is considered legally nonconforming, it would not be permitted to expand and the proposed press box would not be allowed. You have three options you could possibly pursue:

1. Request that the property be rezoned to the Commercial, Light Industrial, or Old Town & Mixed Use District. Each of these zoning districts allows the "Playfield or Stadium (Private)" use by right.
2. Request that the property be rezoned to the General Retail District and request a Conditional Use Permit (CUP) to allow your specific use.
3. Remove the partially constructed press box.

I've attached a copy of the rezoning application if you wish to pursue option #1 or #2.

Because construction on the press box commenced without the proper permits from the City of Tomball, the structure is currently considered illegal. Please contact the City's Engineering and Planning Department by June 15, 2011 to notify us of your proposed plan of action. Should you not comply your case will be turned over to the City's Code Enforcement Officer for further action.

Please let me know if you have any questions, (281) 290-1466 or llakatos@ci.tomball.tx.us. To schedule a meeting please contact Brandy Pate, (281) 290-1405 or bpate@ci.tomball.tx.us.

Thank you,


Lori Lakatos, PE, CFM
Acting City Engineer

Attached: Rezoning application

Exhibit "B"
Zoning Ordinance Text Amendment Application



Zoning Text Amendment
Engineering & Planning Department

Revised 1/20/09



APPLICATION REQUIREMENTS: 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 request may be delayed until corrections or additions are received. There is a \$500.00 application fee that must be paid at time of submission or the application will not be processed.

Applicant

Name: The Bass Law Firm, PLLC (on behalf of Owner) Title: Richard W. Bass
Attorney for Owner
Mailing Address: 11109 Cutten Rd., Suite 206 City: Houston State: TX
Zip: 77066
Phone: (713) 589-5679 Fax: (713) 429-0419 Email: richard@rwbasslaw.com

Property Owner

Name: Texas Prospects Baseball Academy Title: _____
Mailing Address: 201 E. Hufsmith Rd. City: Tomball State: TX
Zip: 77375-4350
Phone: (281) 290-8333 Fax: () Email: probandito@aol.com

Statement of Purpose- Identify the existing section(s) of the Zoning Ordinance for which the Text Amendment is proposed, the proposed revised language and the reason(s) for the requested text Amendment (attach additional sheets as necessary):

Zoning Ordinance for with the Text Amendment is proposed: Article IV: Use Regulations (Use Charts),
Amusement & Recreation, Playfield or Stadium (Private)

Proposed Revised Language: addition of a "C" in the use chart under Residential Zoning Districts-AG and
adjacent to Playfield or Stadium-Private

Reason for the requested text amendment: to allow applications for a Conditional Use Permit (per Section
37 of the Zoning Ordinance) for a Playfield or Stadium (Private) within the Agricultural District (AG).

The text amendment to a "C" classification (rather than a "P" classification) would allow the City of Tomball
to analyze on a case by case basis whether a proposed Playfield or Stadium (Private) is appropriate and
comports with the city's long range plans.

General Description of Property Affected by Amendment (attach additional sheets as necessary):

Properties zoned within the Agricultural District would be allowed to submit applications for a Conditional
Use Permit for a Ballfield or Stadium (Private).

Statement of Facts Which the Applicant Believes Justify the Amendment (attach additional sheets as necessary):

The Property Owner on this application is within the AG District, however, it includes a Ballfield or Stadium (Private) classified as a legal nonconforming use because the use pre-dated the Zoning Ordinance. Because of the legal nonconforming use classification, it is not possible to seek building permits for additions or renovations to the current facility. Through the requested text amendment, the Property Owner, if approved via a Conditional Use Permit, could apply for building permits for potential additions or renovations. It is the understanding of this Applicant that use of described Property as a Ballfield or Stadium (Private) is in-line with the city's long range plans.

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.

**Richard W.
Bass**

Digitally signed by Richard W. Bass
DN: cn=Richard W. Bass, o=The Bass
Law Firm, PLLC, ou,
email=richard@rwbasslaw.com, c=US
Date: 2012.04.10 16:38:48 -0500

☒

Signature of Applicant

Date

Texas Prospects Baseball Academy

☒ **/s/ Ray Deleon, President**

April 10, 2012

Signature of Owner

Date

Regular City Council

Agenda Item

Meeting Date: June 18, 2012

Data Sheet

Topic:

Approve **TOMBALL 2920 REPLAT NO. 1**: A Subdivision of 26.4208 Acres of Land; Being a Replat of Lot 1 of Tomball 2920 as Recorded at File Code Number 644123, Harris County Map Records, Located in the Joseph House Survey, Abstract Number 34, City of Tomball, Harris County, Texas.

Background:

The Tomball 2920 Replat No. 1 was presented to the Planning and Zoning Commission on April 9, 2012 and approved with contingencies. Corrections have been made and the Replat is now being forwarded to City Council for approval consideration.

Origination:

Recommendation:

Funding:

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

Engineering and Planning

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Tomball 2920 Replat No. 1

By: Michael H. Richmond
Michael H. Richmond, President

ATTEST:
By: [Signature]

THE STATE OF TEXAS
COUNTY OF HARRIS

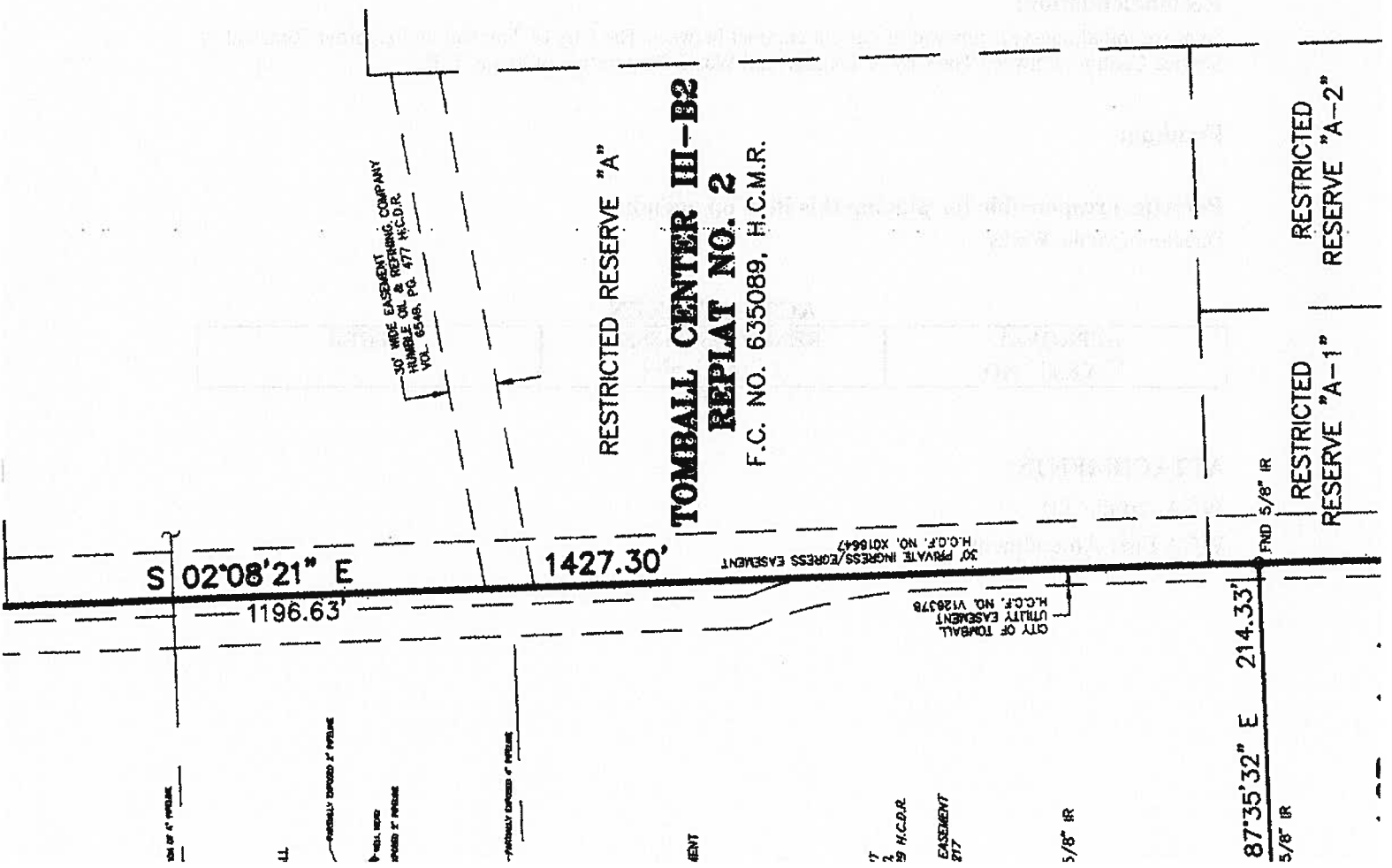
BEFORE ME, the undersigned authority,
Richmond and PAR
whose names are subscribed to the foregoing
they executed the same for the purposes a
capacity therein and herein stated, and as
HOLDINGS, LLC.

GIVEN UNDER MY HAND AND SEAL OF OFF
2012.

[Signature]
Notary Public in and for the State of Texas
My Commission expires: 5/7/2014

- NOTES:
1. Public easements denoted on this public utility, including the City of Tomball, to and from and upon said easement, inspection, patrolling, maintaining and add without the necessity of any time of prox utility, including the City of Tomball, shall any building, fences, trees, shrubs, other interfere with the construction, maintenance the easements shown on this plat. Neither be responsible for any damages to property relocation of any obstruction in the public
 2. According to FEMA Firm Panel No. 4 Zone "X" and is not in the 0.2% Annual Flood
 3. All oil/gas pipelines or pipeline easements shown.
 4. All oil/gas wells with ownership (plugs) have been shown.
 5. No building or structure shall be constructed within easements. Building setback lines will be at a minimum should be 15 feet off

STATE HIGHWAY 249
(120' R.O.W.)
(VOL. 850, PG. 215 H.C.D.R. & H.C.C.F. NO. B5)



Regular City Council
Agenda Item
Data Sheet

Meeting Date: June 18, 2012

Topic:

Approve Initial One-Year Renewal of the Service Contract Between the City of Tomball and Waste Corporation of Texas, L.P.

Background:

Per Article 3.0 of the existing service contract between The City of Tomball and Waste Corporation of Texas L.P. (WCA), staff recommends renewal of the reference service contract for the initial one-year term extension. There have been no significant service-related issues with WCA, their personnel have been extremely responsive, and staff feels that the current rates from WCA are extremely competitive. Therefore, staff believes it is in the City's best interest to renew the existing contract with WCA.

Attached is a copy of Article 3.0 of the existing service contract, and a copy of the first amendment to the existing service contract.

Origination:

Director of Public Works

Recommendation:

Approve initial one-year renewal of current contract between The City of Tomball and Approve Renewal of Service Contract Between The City of Tomball and Waste Corporation of Texas, L.P..

Funding:

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

Director of Public Works

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

WCA Article 3.0

WCA First Amendment

SOLID WASTE COLLECTION AND DISPOSAL SERVICES FOR THE CITY OF TOMBALL, TEXAS

SERVICE CONTRACT

This Contract is dated as of the 1st day of October in the year 2009, between the City of Tomball (hereinafter called the CITY) and Waste Corporation of Texas, L.P. (hereinafter called "WCA").

The CITY and WCA, in consideration of mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1.0 – GENERAL DESCRIPTION OF SERVICES

For and in consideration of the compliance by WCA with the covenants and conditions herein set forth and the ordinances and regulations of the CITY governing the collection and disposal of solid waste, the CITY grants to WCA permission to use the City's designated public streets, alleys and access roadways within the corporate limits of the CITY for the purpose of providing collection services for residential, commercial and industrial waste except for hazardous waste and biosolids. WCA shall provide all supervision, materials, equipment, labor, insurance and all other skills and property required to fulfill each of its obligations under this agreement.

ARTICLE 2.0 – CONTRACT DOCUMENTS

The Contract documents, all of which are attached hereto and made a part hereof, comprise the entire Agreement between the CITY and WCA with respect to the transaction and services hereby contemplated. Execution of the Contract is a representation that WCA has become familiar with all laws, rules, regulations, ordinances and restrictions applicable to, governing or affecting the services to be provided by WCA hereunder.

ARTICLE 3.0 – CONTRACT TERM

The initial term of the Contract is for three (3) years and the CITY may, at its sole option, renew the contract for two one-year term extensions. The CITY shall give WCA written notice of its intention to extend, or not to extend, the Contract a minimum of ninety (90) days before the expiration of the initial three year term or any applicable on year extension.

ARTICLE 4.0 – STARTING DATE

The starting date for which WCA shall begin providing the services required hereunder shall be October 1, 2009.

**FIRST AMENDMENT TO
SOLID WASTE COLLECTION AND DISPOSAL SERVICES CONTRACT**

This First Amendment to Solid Waste Collection and Disposal Services Contract is entered into as of the 1st of October, 2011, by and between the City of Tomball (hereinafter called the "CITY") and Waste Corporation of Texas, L.P. (hereinafter called "WCA").

RECITALS:

WHEREAS, the CITY and WCA entered into that certain Service Contract dated October 1, 2009, which governs WCA's provision of solid waste collection and disposal services to the CITY (the "Service Contract"); and

WHEREAS, the CITY and WCA desire to amend and modify the Service Contract with respect to the timing of any contract rate modifications under Article 14.0 of the Service Contract;

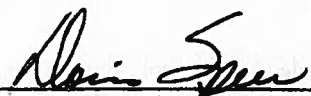
NOW, THEREFORE, in consideration of the foregoing recitals and good and valuable consideration, which the parties hereby acknowledge has been received, the CITY and WCA agree as follows:

1. Effective June 1, 2012 and during the remaining term of the Service Contract, the CPI, fuel and any other adjustments, whether upward or downward, in the contract rates shall be evaluated and determined annually based on changes in CPI, fuel, other operating costs of doing business, or burdensome changes in laws, ordinances, taxes, fees or regulations for the period commencing on June 1st and ending on May 31st (with the next determination being made for June 1, 2011 through May 31, 2012).
2. The procedures set forth in Sections 14.4 and 14.5 shall remain in full force and effect and are not modified by this Amendment. Any change in contract rates shall continue to become effective as of October 1st of the year for which each such adjustment is made in accordance with Article 14.0 as amended hereby.
3. Except as amended and modified by the Amendment, all other terms and provisions of the Service Contract shall be unaffected by this Amendment and remain in full force and effect.

This First Amendment has been duly executed by the authorized representatives of the CITY and WCA effective as of the date first above written.

ATTEST:

CITY OF TOMBALL


Doris Speer, City Secretary

By:

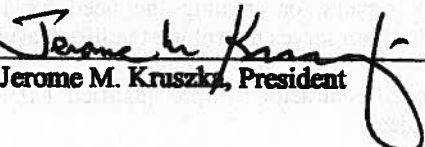

George Shackelford, City Manager

ATTEST:

WASTE CORPORATION OF
TEXAS, L.P.


Michael A. Roy, Secretary

By:


Jerome M. Kruszyk, President

Regular City Council

Agenda Item

Data Sheet

Meeting Date: June 18, 2012

Topic:

Award Contract for Project No. 2012-06, Asphalt Overlay Improvements, to Forde Construction, Inc., in the Amount of \$116,384.00.

Background:

The ongoing Public Works Street Maintenance Program serves to improve the quality and driving safety of our City streets, as well as minimize potential damages to underlying base and subgrade materials. When cracks form in asphalt surfaces, surface water can penetrate through the underlying base, causing extensive damage, costly repairs, or creating the need for total street reconstruction. The Public Works Street Maintenance Program serves to prolong the life of asphalt streets while improving the overall surface quality.

The recommended contractor is a pre-qualified TxDOT contractor and has performed quality work for the City on past projects.

Attached for your review is a copy of the bid tab and agreement form for Project #2012-06.

The current FY budget for asphalt improvements is \$125,000.00.

Origination:

Public Works

Recommendation:

Staff recommends award of bid for project #2012-06 to Forde Construction, Inc., in the amount of \$116,384.00.

Funding: Yes

Account Number: 100-154-6207

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

Director of Public Works

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Project 2012-06 Bid Tab and Bid Form 061412

CITY OF TOMBALL

REPORT OF OPENING AND TABULATION OF BIDS

DATE: 6-4-12

TIME: 2:01 p.m.

PROJECT NUMBER: 2012-06

PROJECT: ASPHALT OVERLAY IMPROVEMENTS

- 1) **Forde Construction Company, Inc. 6842 Calle Lozano, Houston, TX 77041**
\$116,384.00 – Bid Bond included
- 2) **Pavecon, Ltd., 9900 Wind fern Rd., Houston, TX 77064**
\$117,794.00 – Bid Bond included
- 3) **Enterprise Commercial Paving, 10 Stokes St., Houston, TX 77022**
\$122,886.04 – Bid Bond included
- 4) **Craig & Heldt, Inc., 1970 Knoll, Houston, TX 77080**
\$138,545.00 – Bid Bond included
- 5) **AAA Asphalt Paving, Inc., 10526 Tanner Rd., Houston, TX 77041**
\$163,598.09 – Bid Bond included

RECOMMENDATION: _____

FUND: GENERAL

DEPARTMENT: STREETS (154)

BUDGETED ACCOUNT: 6208

WITHIN BUDGET: Yes

(Above information forwarded to Steve Purvis and Jeremy Waterman to use when planning council agenda to award contract.)

Department Head Signature: _____

2012-06 Asphalt Overlay Improvements – Bid Detail Items

Item	Length & Width	Quantity Square Yards	Item Description	Item Cost
1	38' x 363'	1,532.67	2" compacted asphalt overlay of Pine Street beginning at the intersection of Main Street and extending 363' South including 2" cold plane of entire surface area from curb to curb maintaining a 1/4" per foot slope. Work to include all cleaning, sweeping, application of tack coat and restriping as existing. Asphalt to be compacted to approximate 95% Standard Proctor Density.	\$ <u>21,065.00</u>
2	40' x 50' 860' x 20' 160' x 32'	2,702.22	1-1/2" compacted asphalt overlay of Holderrieth Blvd. beginning at the intersection of Main Street and extending 1060' South including 1-1/2" cold plane transition from the intersection of Main Street and extending 50' South and 25' of 1-1/2" milled transition at the intersection of Alma Street. Work to include all cleaning, sweeping, application of tack coat, and restriping as existing. Asphalt to be compacted to approximate 95% Standard Proctor Density.	\$ <u>25,669.00</u>
3	18' x 300'	600	1-1/2" compacted asphalt overlay of Roxanne Street beginning at the intersection of Hicks Street and extending 300' South including 25' of 1-1/2" milled transition onto Hicks St. and 10' of 1-1/2" milled transition at dead end. Work to include all cleaning, sweeping and application of tack coat. Asphalt to be compacted to approximate 95% Standard Proctor Density.	\$ <u>7,800.00</u>
4	18' x 514'	1,028	1-1/2" compacted asphalt overlay of Houston Street beginning at the intersection of N. Elm Street and extending 514' East including 25' of 1-1/2" milled transition at the intersection of N. Elm Street, 25' of 1-1/2" milled transition at the intersection of Peach Street, and 10' of 1-1/2" milled transitional tie-in to each section of Railroad R.O.W. Asphalt to be compacted to approximate 95% Standard Proctor Density.	\$ <u>10,023.00</u>
5	21' x 1362'	3,178	1-1/2" compacted asphalt overlay of Hospital Street beginning at the intersection of Carrell Street and extending 1,362' North including 25' of 1-1/2" milled transition at the intersection of Carrell Street, 25' of 1-1/2" milled transition at	\$ <u>28,602.00</u>

2012-06 Asphalt Overlay Improvements – Bid Detail Items

			the intersection of E. Hufsmith, and application of 1" level-up course on identified 20' x 60' area. Work to include all cleaning, sweeping, and application of tack coat. Asphalt to be compacted to approximate 95% Standard Proctor Density.	
Item	Length & Width	Quantity Square Yards	Item Description	Item Cost
6	16' x 265'	471.11	2" compacted asphalt overlay of Walnut Street beginning at the intersection of Houston Street and extending 265' North including 20' of 2" milled transition onto Houston Street, and 20' of 2" milled transition onto Oxford Street. Work to include all cleaning, sweeping, and application of tack coat. Asphalt to be compacted to approximate 95% Standard Proctor Density.	\$ <u>7,536.00</u>
7	22' x 50'	122.22	1-1/2" compacted asphalt overlay of identified section of Ulrich Road including 8' of 1-1/2" milled transition at each end. Asphalt to be compacted to approximate 95% Standard Proctor Density.	\$ <u>3,355.00</u>
8	22' x 160'	391.11	1-1/2" compacted asphalt overlay of identified section of Baker Drive including 8' of 1-1/2" milled transition at each end. Asphalt to be compacted to approximate 95% Standard Proctor Density.	\$ <u>4,692.00</u>
9	20' x 30'	66.66	1-1/2" compacted asphalt overlay of identified section of North Elm Street including 8' of 1-1/2" milled transition at each end. Asphalt to be compacted to approximate 95% Standard Proctor Density.	\$ <u>3,036.00</u>
10	22' x 40'	97.77	1-1/2" compacted asphalt overlay of identified section of Hicks Street including 8' of 1-1/2" milled transition at each end. Asphalt to be compacted to approximate 95% Standard Proctor Density.	\$ <u>4,606.00</u>

Total Bid Submitted: \$ 116,384.00

Company Submitting Bid: Forde Construction Company, Inc.

Name & Title of Person Submitting Bid: James B. Diaz, Vice President

Telephone Number: 713-466-0511

Fax Number: 713-466-1791

Accepted and agreed to this _____ day of _____ 2012

By: _____

File Number: 713-466-0511
 File Number: 713-466-1791
 I and agreed to this _____ day of _____ 2012

 George Shackelford, City Manager
 City of Tomball, Texas

BID LETTER FOR UNIT PRICE CONTRACT

Tomball Texas

Date: June 1, 2012

**Project: 2012-06 Asphalt Overlay
Improvements**

Proposals of Forde Construction Co., Inc. (hereinafter called "Bidder") A corporation*,
organized and existing under the laws of the state of Texas, A partnership
or an individual doing business as _____.

Dear Purchasing Agent:

The Bidder, in compliance with your invitation for bids for the construction of "Asphalt Overlay Improvements", having examined the bid proposal with related documents and the site of the proposed work, and being familiar with all conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies, and to construct the project in accordance with the special conditions, technical specifications and the Master Service Contract, within the time set forth therein, and at the prices stated within the schedule of bid items. These prices are to cover all expenses incurred in performing the work required under the contract documents, of which this bid proposal is a part.

Bidder hereby agrees to commence work under this contract on or before a date to be specified in writing, "Notice to Proceed", by the Owner and to fully complete the project within 60 consecutive calendar days thereafter. Bidder further agrees to pay as liquidated damages, the sum of \$250.00 for each consecutive calendar day thereafter.

The following schedule of bid items and indicated unit prices include all labor, materials, drayage, equipment, overhead, profit, insurance, etc. to cover the finished work of the several kinds called for.

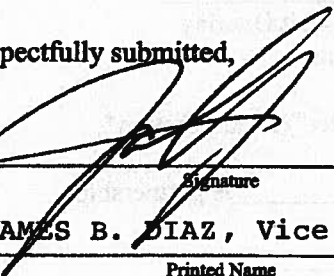
Bidder understands that the owner reserves the right to reject any or all bids, and to waive any informalities in the bidding.

The bidder agrees that this bid shall be good and may not be withdrawn for a period of 60 calendar days after the schedule closing time for receiving bids.

* Strike out corporation, partnership, or individual as applicable

Upon receipt of written notice of the acceptance of this bid, bidder will execute a Master Service Contract and furnish both performance and payment bonds and required insurance within 15 days after notice of contract award. Bidders Bond is required to become the property of the Owner in the event the contract and bonds required are not executed within the time above set forth, as liquidated damages for the delay and additional expense to the Owner caused thereby.

Respectfully submitted,

By: 

Signature

JAMES B. DIAZ, Vice President

Printed Name

6842 Calle Lozano Houston, TX 77041

Business Address

713-466-0511

Telephone No.

(SEAL - If bid is by a Corporation)

Regular City Council

Agenda Item

Meeting Date: June 18, 2012

Data Sheet

Topic:

Approve Recommendations regarding Existing Buildings and Proposed Restroom Facilities, Located at 217 South Walnut Street (Depot Plaza).

Background:

Staff's initial discussion with Council regarding the existing buildings located at 217 South Walnut Street included discussion regarding current condition of existing buildings, the costs to bring the buildings into compliance with current building codes and the costs to remodel the existing buildings for use, the costs for asbestos abatement, and the costs for demolition of the existing buildings.

The purpose of this agenda item is to review prior items of discussion, and staff will provide a presentation regarding construction of new restroom facilities for the Depot Plaza.

Attached for your review are the proposals and floor plans for the proposed restroom facilities that are included in the presentation.

Origination:

Public Works

Recommendation:

N/A

Funding:

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

Director of Public Works

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Restroom Proposal 1

Floor Plan 1

Proposal 2

Floor Plan 2

Proposal 3

Floor Plan 3

Proposal 4

Floor Plan 4

KBR Site Built Proposal

Proposal: Depot Plaza, Tomball, TX

Date: May 14, 2012

BuyBoard Contract Number: 346-10

We offer to ***furnish and install*** the public restroom building quoted below for this project. We offer to construct off-site, deliver, and turn-key install the building on-site, subject to any exceptions noted in our "Scope of Work" herein.

Cost for the restroom building turn-key installed: \$166,293

GENERAL CONTRACTOR/OWNER SCOPE OF WORK:

Preparation of Building Pad:

We will provide a site plan for the building pad and location for you to stub out utilities as well as a pad section/detail.

Pad Requirements:

1. Survey the building site and provide a finished slab elevation for the prefabricated building. The building pad size we require is larger than the final actual building footprint. Provide building front corner stakes with 10' offsets.
2. Excavate the existing site to the depth of 14" below finished building floor elevation.
3. Furnish and install compacted to 90% class 2 road base per the attached drawing.
4. Furnish and stock pile within 10' from the building footprint coarse mason sand ready for placement on the pad by our staff after we set and gain approval to cover the underground piping.
5. Some sites may require footings for soils conditions, frost protection, or owner mandated building code requirements. If footings are required for this project, it will be noted on a site pad plan and you will be responsible for the site footings.

General/Owner verification of site access to allow Building Delivery:

You certify to PRC that suitable delivery access to the proposed building site is available. Suitable access is defined as 14' minimum width, 16' minimum height, and sufficient turning radius for a crane and 70' tractor-trailer. Our cost is based upon the crane being able to get within 35' from the building center and for the delivery truck to be no more than 35' from the crane center pick point. If the path to the building site traverses curbs, underground utilities, landscaping, sidewalks, or other obstacles that could be damaged, it is the General/Owner's responsibility for repair and all costs, if damage occurs. If trench plating is required, it shall be the cost responsibility of the General/Owner. If unseen obstacles are present when site installation begins, it is the General/Owner's responsibility to properly mark them and verbally notify PRC before installation.

Installation Notice and Site Availability:

PRC will provide sufficient notice of delivery of the prefabricated building. The Owner shall make the site available during the delivery period. During the delivery period, on an improved site, Owner should stop site watering several days before delivery to minimize the impact on the soils for the heavy equipment needed for installation.

Caution:

If site is not ready for our field crew to perform their installation and if no notice of delay in readiness from General/Owner is received, PRC will provide a change order for re-mobilization on a daily basis until the site is ready for us. Ready means that the site pad is completed, the corner required survey stakes are in place, the slab elevation stakes are in place, the location of the front of the building is confirmed on site, and access to the site is available from an improved roadway. General/Owner shall sign the change order before we will continue delivery.

Public Restroom Company will “turn-key” set the buildings including the hook up of utilities inside the building when they are available. PRC will use its own specially-trained staff for the installation.

Utility Connections:

The General/Owner is responsible for flushing line for water before final connection. The General/Owner is responsible for final connections of water, sewer, and electrical at the exterior, nominally 6 feet from building line. PRC provides a POC for water, a DWV waste line with clean out for connection, and an electrical schedule 80 PVC sleeve at an exterior ground box for your electrician to run your electrical service wire through our conduit up to the panel and tie off the lugs.

Special Conditions, Permits, and Inspection Fees:

You should follow local requirements for applicable building permit fees, health department fees, all inspection fees, site concrete testing fees, and compaction tests, if required by General/Owner. PRC is responsible for all required State inspections and final State insignia certification of the building, if applicable.

Jurisdiction for Off-site Work:

Jurisdiction, for permitting and inspection of this building shall be either the State agency that manages prefabricated building in the state or the local CBO, (when the State does not provide certification.) If the responsibility for building inspection is the local CBO we will provide a certified plan set, calculations, and a third party engineer inspection report for any and all closed work the local official cannot see.

PUBLIC RESTROOM COMPANY SCOPE OF WORK:**Our In Plant/Off-Site Construction Scheduling System:**

PRC has several off-site manufacturing centers in the United States, strategically located, that have the proper equipment and whose staff has been thoroughly trained to fabricate our custom buildings to our standards. We manage quality control in our off-site production facility to comply with the approved drawings and provide an inspection certification and photos as required. When proprietary materials, which we have designed and fabricated, are part of the project, PRC supplies the manufacturing centers with these special parts or chemicals. We then schedule the factory construction process to coordinate

with your delivery date through our Operations Division field staff. We guaranty on-time, at-cost delivery, weather permitting.

Terms of Payment for Building: We invoice for engineering and architectural plans upon submittal. Then we invoice monthly on a percentage of completion basis for factory construction. We provide you with progress invoices to coincide with your monthly billing cycle; certified factory inspection reports and photos to verify building progress. Since the prefabricated building (materials) represents 90% of the project cost and is a product (materials), we expect our billings to be paid as we do not accept withholding of retention.

In the event of project stoppage, additional fees may be assessed for re-mobilization, storage, crane costs, etc. ***Our discounted project costs are based upon timely payments. Delays in payment could change delivery schedules and project costs.***

Delivery and Installation:

Site Inspection:

PRC staff, upon site arrival, will verify the required dimensions of the building pad and the corner locations/elevation. We will also verify the delivery path from an accessible road or street and install the underground utilities to the point of connection nominally 6' from the exterior of the building.

Installation:

PRC will install the building turn-key, except for any exclusion (listed under "Exclusions," herein.)

Installation of Utilities Under the prefabricated Building:

We fabricate off-site an underground utility (electrical, water, and DWV) pre-assembled plumbing and electrical tree. Our site staff will excavate the trenches and set the plumbing and electrical tree into code-depth excavated trenches.

Your utility POC's start nominally 6' from the building footprint where we pick up the task and connect your services to the building stub downs. We provide all the under slab piping (including the driven electrical ground rod or lightning rod, if applicable.) All you have to do is bring utility services to within 6' of the pad.

Connection of Utilities Post Building Placement:

After placement of the building on the pad by PRC, our field staff will tie in the water and sewer connection "inside" the building only and terminate at a point of connection (POC) outside the building clearly marked for each utility service. The General/Owner is responsible for final service connections at the POC.

Electrical:

We provide the electrical conduit to the POC 6' from the building. You pull the wire and tie it off on the electrical panel.

Plumbing:

You will connect the water to our stub 6' from the building and you will flush the line, per local code.

Sewer:

Some sites, depending on the local jurisdiction, will require an outside trap which you will install if needed. We will provide you with a point of connection including a clean out to which you will terminate the site sewer service drain.

Testing of Water, Sewer, and Electrical in Plant and Final Site Utility Connection:

Before the building leaves the manufacturing center, we test the water piping, DWV, and the electrical connections for compliance with code. While the building is fully tested for leaks at the factory before shipment, road vibration may loosen some plumbing slip fittings and require tightening once the building services (water) is completed. **You are responsible** for minor fitting tightening to handle small slip fitting leaks caused by transportation.

Time of Completion:

PRC estimates a 90 day schedule to complete the project from receipt of final "notice to proceed" and written approval of the project architectural drawings by the owner. The time of completion is listed on the final quotation sheet.

Exclusions/Exceptions:

1. Access issues for delivery of the building when the General/Owner contractor has not provided a proper path to the final site. This exclusion covers sites whose access is limited by trees, inaccessible roadways, overhead power lines at location where crane will lift building, grade changes, berms, or uneven site grades, or when the path of travel is over improvements such as sidewalks, all of which are not within the scope of work by PRC.)
2. Any trench plate requirements for protection of site soils, sidewalks, or site utilities.
3. Sidewalks outside the building footprint.
4. Survey, excavation, and installation of the building pad per our plans.
5. Soil conditions not suitable for bearing 1500 psf.
6. Improper water pressure, an undersized meter, or flow to the building.
7. Bonds, building permits, site survey, special inspection fees, minor trash removal, final utility connections, minor plumbing leaks if water is not available when building site work installation is complete, site soils or improvements if damaged during installation, landscaping.
8. Traffic control requirements coordinated by the Owner.

Clarifications:

Our crane costs, which are included herein, are based on a 35' maximum radius distance from the center pin of the crane to center point of the furthest building. If additional distance requires a larger crane, additional costs will be assessed by change order to you.

Insurance and Prevailing Wage Certification:

PRC shall comply with the required bid specification insurance requirements, prevailing wage reports, and safety requirements of the project, including the recently promulgated OSHA regulations.

Special Insurance to protect the Building before acceptance:

As PRC requires payment for each month of off-site construction, and since the building is not on owner property where their insurance will cover the building, we provide a special policy that insures the

property even when paid for off-site until the building is finally accepted by the owner. The policy provides the owner and General/Owner contractor as additional insured during this period. PRC provides the General and Owner a policy rider to cover the building while it is being built off-site, while in transit to the job site, during and after it is installed on-site until final acceptance. This special policy covers each building module (section) for up to \$200,000. This exceeds the cost of any building module we have offered for sale herein.

Errors and Omissions Insurance:

Our firm employs licensed architects, engineers, and drafting staff to provide design of our buildings. Since these buildings are required to meet accessibility standards and building codes on site, and since we are the designer, we carry Errors and Omissions Insurance (E & O) to protect our clients from any errors. The policy covers a limit of up to \$1,000,000 per occurrence and is more clearly explained in the insurance certificates we provide after receipt of a purchase order.

WARRANTY

All work performed by PUBLIC RESTROOM COMPANY (called "Company") shall be warranted to the Owner to be of good quality, free of faults and defects in material, workmanship, and title for 5 years from last date of installation if building is installed by Company or 1 year if building is installed by Owner or Owner's agent without on-site supervision by Company. Company will repair or replace at their sole option any defects in work upon proper notice to the below stated address. This warranty applies only if all work performed by Company has been fully paid for, including change orders if applicable. Company has no responsibility for any neglect, abuse, or improper handling of building product. The warranties expressed herein are exclusive, and are in lieu of all other warranties expressed or implied, including those of merchantability and fitness. There are no warranties which extend beyond those described on the face of this Warranty. The foregoing shall constitute the full liability of the Company and be the sole remedy to the Owner.

Term of Offer and Acceptance:

This offer is valid for acceptance within 30 days, or when a part of a public bid for the applicable duration imposed within the Owner's documents. If our offer is not accepted within 30 days of the general contractors/Owners notice to proceed from the owner, cost increases may be added based upon any increases in our costs.

Special Notice of Possible Project Cost Increases as a Result of Late Payments:

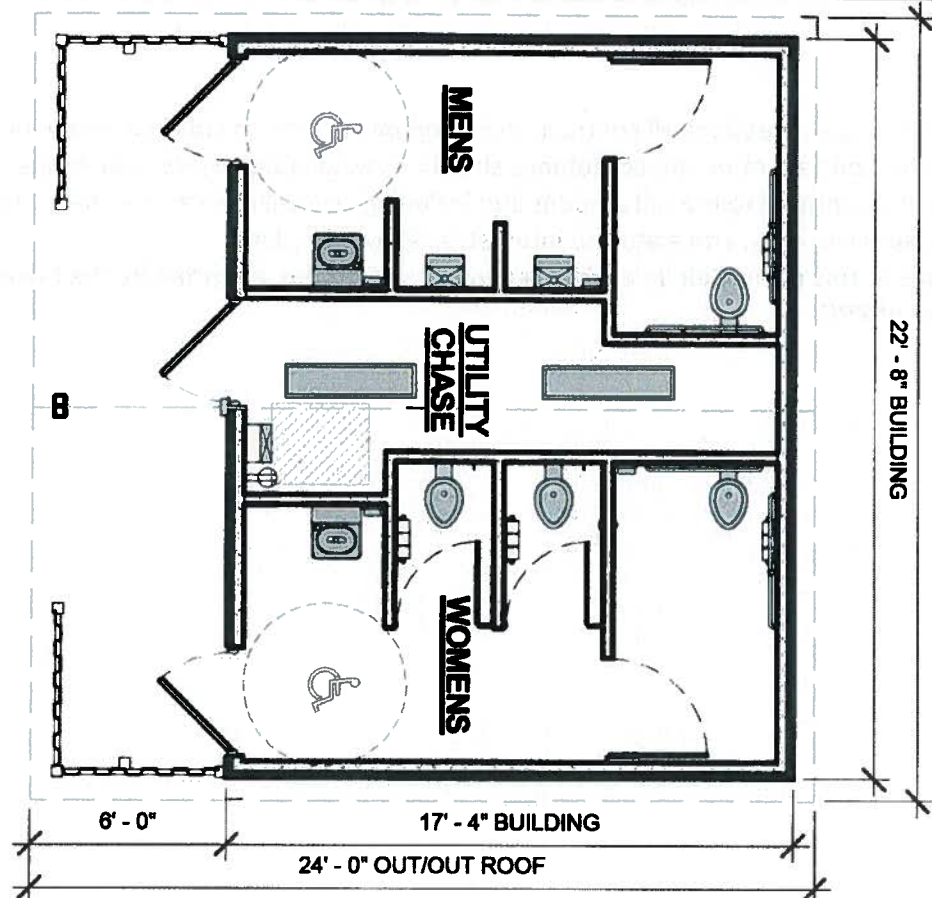
In the event of delayed or late payment, PRC shall have the right to remedies including late charges, overall project total cost increases, and other damages as allowed by applicable law. The contract price quoted herein is a discounted price based upon our receipt of progress payments as invoiced on the agreed billing schedule of PRC. In the event of non-payment, PRC will provide a 5 day written notice to cure and if payment is still not received, the discounted price for the payment due may increase, to an undetermined amount, to cover work stoppage, remobilization, cancellation of materials and subsequent restocking charges, resale of the contracted building to another party, storage fees, additional crane fees, travel and per diem costs for field crews, and any other cost applicable to the project, as allowed by law.

Venue for Contract Jurisdiction:

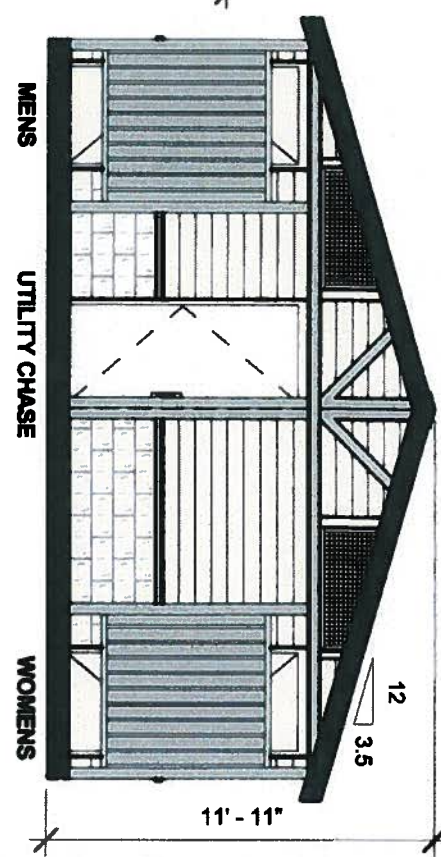
Public Restroom Company requires all contracts accepted by our firm to hold that the venue for legal jurisdiction for this contract offer and acceptance shall be Washoe County, Nevada. In the event of your default, PRC shall be entitled to the full amount due including reasonable attorney fees, costs, storage, expenses of physical recovery, and statutory interest, as allowed by law.

No modifications to this offer shall be authorized unless confirmed in writing by the President or Chief Financial Officer of PRC.

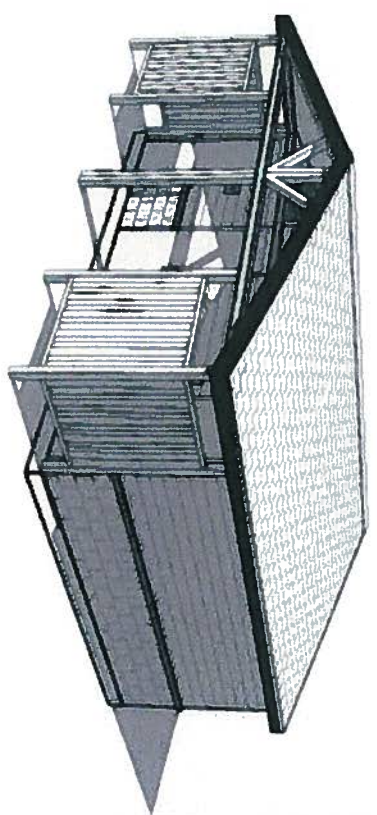
24' - 0" OUT/OUT ROOF
22' - 8" BUILDING



1 FLOOR PLAN
3/16" = 1'-0"



2 FRONT ELEVATION
3/16" = 1'-0"



3 PERSPECTIVE



COPYRIGHT 2011, PUBLIC RESTROOM COMPANY. THIS MATERIAL IS THE EXCLUSIVE PROPERTY OF PUBLIC RESTROOM COMPANY AND SHALL NOT BE REPRODUCED, USED, OR DISCLOSED TO OTHERS EXCEPT AS AUTHORIZED BY THE WRITTEN PERMISSION OF PUBLIC RESTROOM COMPANY.

BUILDING TYPE:
PROJECT:

RESTROOM BUILDING

**DEPOT PLAZA
TOMBALL, TX**

REVISION BY: REVISION DATE: REVISION #

DATE: 5/4/12 DRAWN BY: MAJ
PROJECT #: 8754

MAXIMUM PERSON AM HOUR:
270 M

PH: 888-888-2060 FAX: 888-888-1448

-NOT FOR CONSTRUCTION - PRELIMINARY DESIGN DRAWING ONLY - DO NOT SCALE. DIMENSIONS PRELIM.



TURNKEY QUOTATION

PROJECT NAME: Depot Plaza
OWNER: City of Tomball, Texas
DATE: June 4, 2012
RFL LICENSE #: B-625024, Expires 8/31/13

Restroom Facilities Limited (RFL), the Nation's leading specialized restroom design/build firm since 1988, offers to furnish and install, per plans and specifications, subject to our attached Standard Terms and Conditions of Sale, and the Scope of Work, which become part of our offer to sell.

PRELIMINARY PURCHASE PRICE

Model No. W312CE @ \$170,093.00

This cost includes freight, crane and installation. We require execution of this purchase agreement, together with a 10% deposit prior to submittal of architectural plans for your approval; 80% in progress billings during construction; and balance of 10% upon completion of delivery and installation, no retention. Payment of 90% must be received by RFL prior to scheduling of delivery and installation. Thank you for considering RFL as your restroom specialist for this project.

HOW WE WORK

Upon receipt of your deposit, we begin the design process. Once plans have been approved and engineer stamped, the manufacturing process begins. Typically, the construction time frame is 90-120 days. In-plant inspection reports and certifications will be provided by an independent inspection agency. The client must prepare the site in accordance with the "Scope of Work by General" attached and coordinate any required on site inspections. After the site prep has been completed, our crew arrives to perform the installation. They will verify elevation, offsets, location, and access.

Exclusions:

- A. Sidewalks beyond building slab.
- B. Site issues beyond the control of RFL.
- C. Damage to existing improvements.
- D. Protection of existing utilities, landscaping, and improvements.

GENERAL'S SCOPE OF WORK
TURNKEY INSTALLATION OF RESTROOM BUILDING WITH ATTACHED SLAB

A. Survey Stakes:

Provide ten foot offset stakes and locate front corners of building, existing utilities, and inverts within the area of construction. Locate and mark final slab elevation.

B. Subgrade Pad

Preparing the site is fairly simple. Detailed instructions to prepare the building site are as follows:

1. Excavate down ten inches below the finish floor elevation (the slab is eight inches thick on top of a two inch sand bed).
2. If soils are poor, it may be necessary to import six inches of Class II base rock. (This is not necessary if native soils will compact)
3. Compact to 95%, or to local code requirement.
4. Compact one foot over in all directions (over build).
5. Supply approximately five cubic yards of clean sand, on side of site, for fine grading.
6. Excavate and backfill trenches for underground plumbing and utility kit.
7. Depending on weather, all irrigation should be turned off prior to delivery to allow the surrounding soils to dry and bear the weight of the truck and crane.
8. Check corner locations against plans for proper sizing.
9. Verify finish floor elevation for concrete slab (**shipped fully attached to the building.**)
10. Excavate one foot perimeter footing if required by local code to specified depth.

C. Site Access and Storage:

Provide suitable safe clear access to allow a crane (up to 110 tons), and the building on a semi-trailer (up to 40 tons) to reach site (14' width, 70' length, and 14' in height). If path to site is over existing utilities, sidewalks, or other damageable areas, proper marking, plating or other appropriate protection must be provided by GENERAL. GENERAL is responsible for removing any overhead obstructions (i.e. power lines, trees). This proposal provides for a 110 ton crane with access to within 25' of the building pad. The proposal is based on four (4) hours of crane time. If access is limited a larger crane may be required. All additional crane costs shall be borne by the GENERAL. A direct route to the project site is assumed. Should routes be altered due to road closures or restrictions, additional fees may apply.

D. Utilities:

Bring water, sewer, and power (if applicable) utilities into point of connection Christy boxes (supplied by RFL), within six feet of the building line at the location shown on our plan.

1. Water: RFL will furnish and install a water point of connection (isolation valve), from mechanical chase to a Christy box six feet from the building line. GENERAL must connect service to valve.
2. Sewer: RFL will furnish and install a sewer point of connection from mechanical chase to a Christy box six feet from the building line. GENERAL must connect service.
3. Electrical: (when this option is chosen) RFL will furnish and install a PVC conduit and a Christy box to the point of connection six feet from the building line. GENERAL to pull the electrical service line through the conduit and connect to the main panel lugs inside the building. All electrical inside the building will be furnished and installed by RFL, except as noted above in exclusions.
4. If the utilities are not available when we depart the site, testing and minor leaks will be the responsibility of the GENERAL.
5. A minimum 1½" line with 25 gpm at 60 psi pressure minimum is required to ensure that water closets will operate as designed. If this is not available an auxiliary holding tank may be required.

E. Special Conditions and Costs:

If specifications by owner require any testing or special inspections, costs, if any, shall be borne by GENERAL.

F. Permits and Fees:

All building permits and fees shall be borne by GENERAL.

G. Inspections:

It is very important that the GENERAL understand that our costs are based upon fast track construction and that delays for inspection are an impediment to the timely completion of the project. We seek the full cooperation of the GENERAL and local building officials or project inspectors in accomplishing this end. We require that all inspections be scheduled with adequate notice to ensure that the underground plumbing and electrical work is approved prior to placement of building. We require that final inspection and acceptance by owner and building officials be performed immediately following RFL's completion of installation. We also require final inspection and acceptance immediately following RFL's conclusion of any correction items.

H. Site Clean Up and Debris Removal:

GENERAL shall provide an on-site trash bin for disposal of one pick up load of debris. All excess spoils shall be responsibility of GENERAL. All rough and final grading shall be by GENERAL.

I. Soils Information:

Even though the building department may not require an official soils report, it is always a good idea to obtain one. Our slab requires a minimum allowable soil bearing pressure of 1,000 psf. This value needs to be confirmed, on site, by the owner, or through the owner's contractor, and not by RFL. The need to obtain a soils report is only a recommendation by RFL. Ultimately, it is up to the owner and the local jurisdiction to decide whether or not to pursue evaluating the soils beyond the generally conservative assumptions given in current applicable codes.

STANDARD TERMS AND CONDITIONS OF SALE

1. **LINKAGE:** These Terms and Conditions of Sale shall apply and form a part of the Company's Offer to Sell and supersede all other expressed or implied terms and be linked to our Agreement for work whether or not signed by the Purchaser.
2. **ACCEPTANCE:** Unless otherwise expressly stated herein, the Company's Offer supersedes all previous quotations and expires, unless accepted by purchaser, within thirty (30) days from date of Offer. None of the Terms and Conditions contained in this quotation may be added to, modified, superseded or otherwise altered except by a written instrument signed by the President of the Company. Each shipment to buyer from the Company shall be deemed to be only under these Terms and Conditions of Sale, which shall become part of our Offer to Sell, notwithstanding any Terms and Conditions that may be contained in any purchase order or other form of the buyer, notwithstanding the shipment, acceptance of payment or similar act of the Company. All Purchase Orders when accepted by the Company at 400 Western Road, Reno, Nevada 89506, will be in accordance with the Laws of the State of Nevada. All orders are subject to review by the Company in accordance with the Company's Offer to Sell before final acceptance is authorized. All disputes shall be governed by applicable Nevada Law and all claims shall be filed and litigated in Washoe County, Nevada, with the prevailing party recovering attorney's fees.

3. **PRICES:** Sales tax is not required provided the structure is installed by RFL. All Use taxes, and applicable in plant taxes, permits and fees are paid for by RFL. If payment is not made by client in accordance with the Contract Terms, interest will be charged at the rate of 1-1/2% (one and one-half percent) per month until paid. If an order is accepted by the Company, and a delivery date is accepted by the Client, and delivery is delayed by the Client, payment of all but 10% is due upon completion at the Point of Manufacture. A 1-1/2% (one and one-half percent) per month added fee shall be due for each month the shipment is delayed.

4. **TERMINATION:** Purchaser shall be responsible for costs of work performed which will include overhead and profit. Contract may not be cancelled once production has commenced.

5. **TITLE AND LIEN RIGHTS:** All Products remain the personal property of the Company, whether or not affixed to any other real property or structure, until the price (including any notes given therefore) of the equipment has been fully paid in cash. The Company shall, in the event of the purchaser's default, have the right to enter upon any premises and repossess such structures and equipment wherever it may be located.

6. **LACHES:** Failure of the Company to exercise any right or remedy under this contract shall not be deemed a waiver of such right, nor shall any lien or other right of the Company be lost or impaired by laches or in any manner or by any act or failure to act.

7. **LIMITATION OF LIABILITY:** Under no circumstances, unless stated in our Offer to Sell or bid, shall the Company have any liability for liquidated damages, for collateral, consequential special damages, loss of profits, loss of production, delay in the progress of construction, whether resulting from delays in delivery, performance, breach of warranty, due to lack of timely performance in reviewing and approving shop drawings, completing site preparation or lack of payment in accordance with the terms set forth herein. The aggregate total liability of the Company under the contract, whether for breach of warranty or otherwise shall in no event exceed the contract price. Buyer agrees to indemnify and holds harmless the Company from all claims by third parties which extend beyond the foregoing limitations on the Company's liability.

8. **DELIVERY:** Except as may be otherwise specified in the attached Offer, delivery will be F.O.B. point of manufacture. Time of delivery is an estimate only. The Company shall in no event be liable for delays caused by fires, acts of God, strikes, labor difficulties, acts of Government or military, delays in transportation or procurement of materials or causes of any kind beyond the Company's immediate control. If building is ready for shipment and Customer delays said shipment, Company shall store the facility at the point of manufacturing and charge 1-1/2% (one and one-half percent) per month as a storage charge. If shipment arrives and site is not ready, Owner shall pay any off-site storage fees as applicable.

9. **WARRANTY:** All Products produced by the company are warranted to the purchaser to be free from defects in material, workmanship and title. The Company will replace or repair, at its option, defects in workmanship or any part which is proven defective within one year from delivery. This warranty applies only where the Company has been notified in writing of the defect within the warranty period and where any equipment has been properly operated and maintained in accordance with the Company's instructions: the Company having no responsibility for abuse, neglect or improper storage.

Should any issues arise where additional work must be performed RFL retains the right to perform this work at the earliest opportunity. Should it be necessary to have this work performed by others due to the nature of the work or a conflict in scheduling, RFL must be notified 48 hours in advance in writing and given the opportunity to perform said work. Should it be necessary to have this work performed by others a written estimate must be approved by RFL in advance of any work being undertaken. The Company assigns any and all warranties for fixtures, appliances, and other equipment manufactured by others to said other manufacturer. Due to its nature, concrete is prone to settling and cracking. Minor cracking in the concrete is normal and is not the responsibility of RFL. We use high quality 304 stainless steel in our products and under certain conditions and/or improper maintenance stainless steel may rust. Minor rust spots or discoloration are not the responsibility of RFL. The foregoing shall constitute the said liability of the Company and the sole remedy to the purchaser. Company's warranties as set forth in this paragraph are exclusive and are in lieu of, and purchaser hereby waives all other warranties, expressed or implied, including without limitation, any implied warranties or merchantability and fitness. This warranty shall be void if payment in full for the project is not received by the Company in accordance with these Terms and Conditions of Sale.

10. **CREDIT: (Deposit and Progress Payments)**

A. **MUNICIPAL AND FEDERAL GOVERNMENT AGENCIES:** Orders may require deposits or progress payments. If buyer's financial situation justifies such action, the Company may at its election require payment in advance or cancel the order as to any unshipped item and require payment of its reasonable cancellation charges. If the buyer delays completion of manufacture or a delay in shipment, the Company shall require payment according to the percentage of completion. In the event of the default of the buyer, the Company is entitled to the full amount due including reasonable attorneys fees, costs, storage, expenses of physical recovery, and interest at 1-1/2% (one and one-half percent) per month.

B. **GENERAL CONTRACTORS AND NON-GOVERNMENT AGENCIES:** Orders may require deposits or advance payment as well as progress payments subject to the buyer's credit worthiness in accordance with the Company's applicable credit policies. Breach of any payment terms shall accelerate full payment which shall be due the balance of the contract amount including change orders.

Restroom Facilities Limited

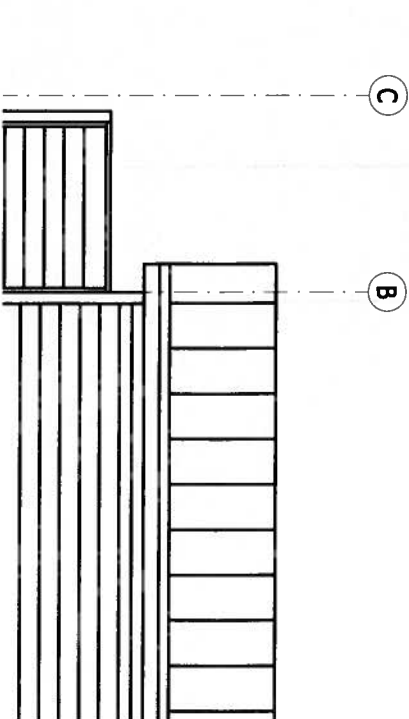
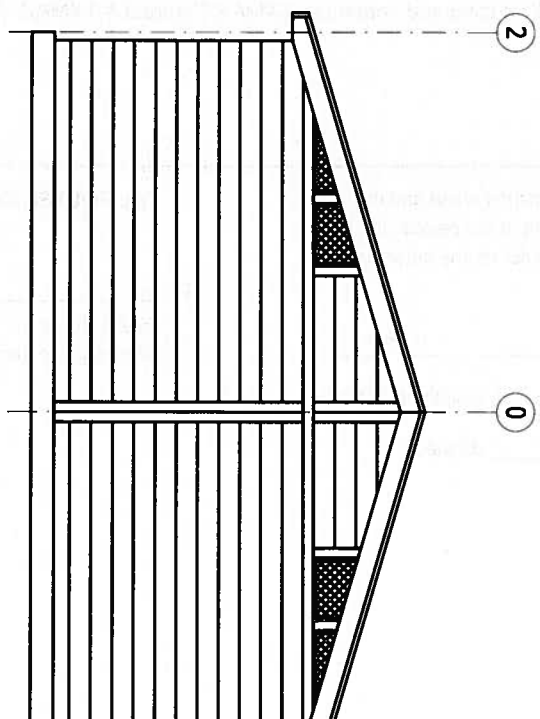
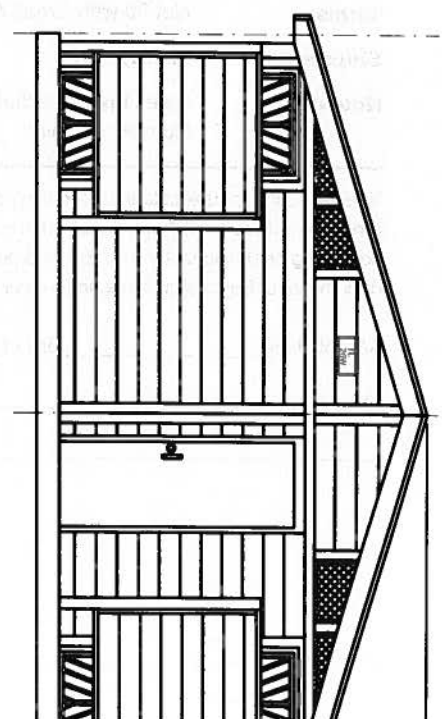
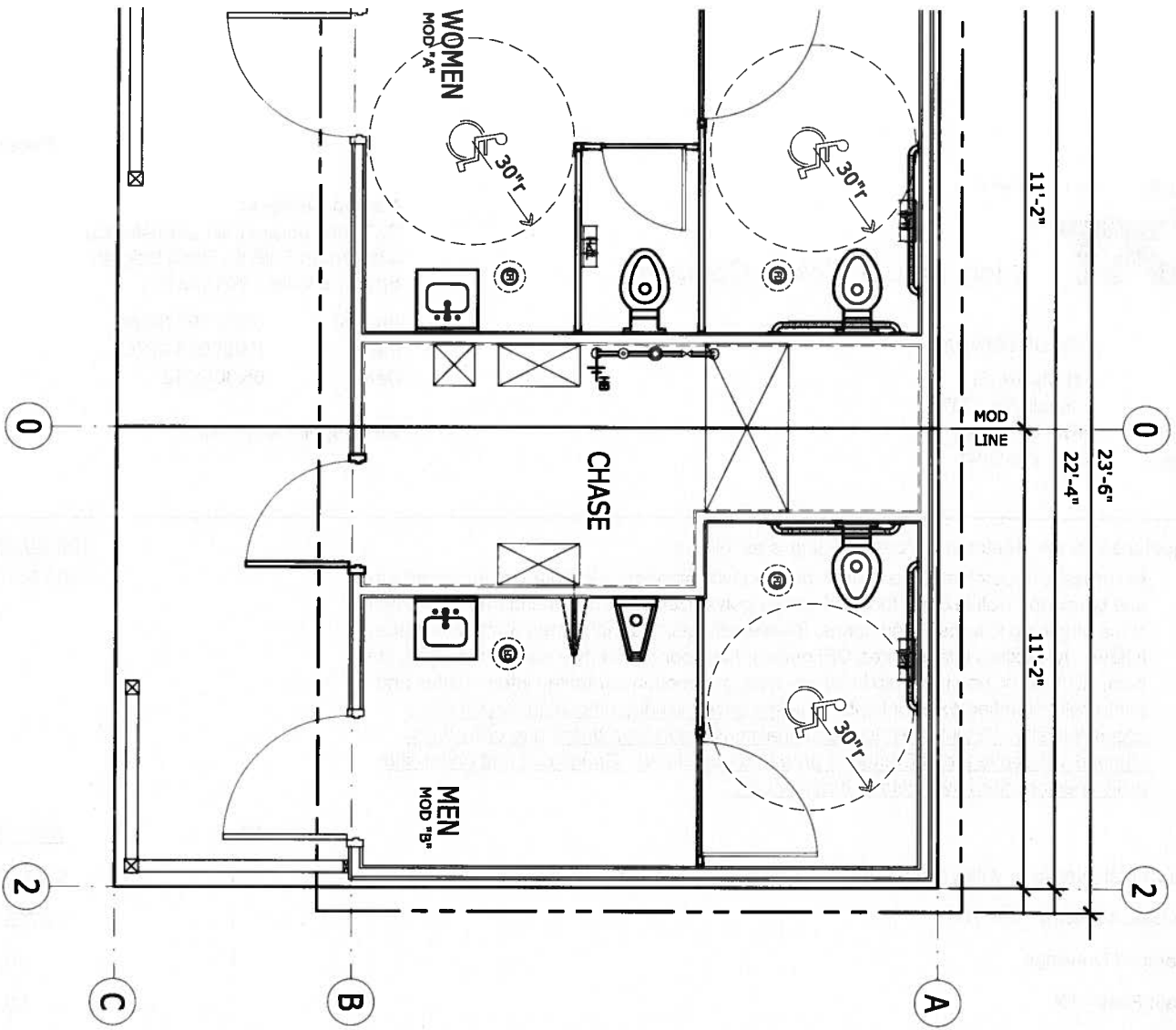
Howard Worthing, President

Date

Client Name

Name and Title

Date



Quote #: **DROG300K1T-1**

, Inc. an L.B. Foster Company

Mailing Address:CXT Incorporated, an LBFoster Co.
3808 North Sullivan Road Bldg. #7
Spokane Valley, WA 99216**To: City of Tomball**401 Market St
Tomball, TX 77375**Attention:** David Kauffman**Phone:** (281) 351-5484**Phone:** (800) 696-5766**Fax:** (509) 928-8270**Date:** 05/30/2012**Re:** Depot Plaza Park

Our quotation for the Montrose w/Porch building is as follows:

Per Building

Montrose with porch multi-user flush building with standard simulated cedar shake roof and barnwood wall texture, three 16-gauge galvanized steel doors and frames, vitreous china plumbing fixtures (2-lavatories, 3-water closets, 1-urinal), three 3-roll toilet paper holders, two exhaust fans, three GFI outlets, five floor drains, two s/s mirrors, ADA grab bars, ADA signs, one hose bib in chase area, and motion controlled interior lights and photo cell controlled exterior lights. Building price includes offloading by crane at accessible site. "Full Install" includes final connection from building to utility lines stubbed 12" above top of Customer prepared gravel pad. Gravel pad and under-slab utility lines provided by others and not by CXT.

\$83,667.12

	<u>Qty</u>	<u>Ext. Price</u>
Horizontal Lap/Napa Valley Wall	1	\$7,700.00
30 Gallon Electric Tank WH	1	\$725.43
Stamped Drawings	1	\$0.01
State Fees - TX	1	\$0.01
Full Install	1	\$3,869.00
Freight		\$5,500.00
		\$101,461.57

FOB: FOB Hillsboro, TX Prepaid and Add.**Terms:** Net 30 with Credit Approval. Pricing and Terms per TXMAS Contract # TXMAS-5-560100**Shipment:** 90 Days ARO**Notes:** Sales tax not included
Number of Units: ____

This quotation is subject to the conditions on the attached sheet and the terms hereof shall constitute the exclusive agreement of the parties and all conflicting or additional terms in Buyer's purchase order or any other such documents of Buyer shall have no force or effect.

L.B. FOSTER COMPANY

By _____

David Rogers
drogers@lbfoster.com

Accepted this _____ day of _____ 20____

By: _____ (Customer Name)

(Signed)

CONDITIONS OF SALE**Taxes**

Prices exclude all Federal/State/Local taxes. Tax will be charged where applicable if customer is unable to provide proof of exemption.

Payment Terms

Payment to CXT by the purchaser shall be made net 30 days after the submission of the invoice to the purchaser. Interest at a rate equal to the lower of (i) the highest rate permitted by law; or (ii) 1.5% per month will be charged monthly on all unpaid invoices beginning the 35th day (includes 5 day grace period) from the date of the invoice. Under no circumstances can a retention be taken and purchaser shall pay the full invoiced amount without offset or reduction. These terms are available upon approval of credit. If CXT initiates legal proceeding to collect any unpaid amount, purchaser shall be liable for all of CXT's costs, expenses and attorneys fees associated with such litigation, including the fees and costs of any appeal.

Quotation Term

This offer is subject to acceptance within 60 days from the date of this quotation. After that time, prices are subject to change without notice.

Drawings

Prices do not include any documentation other than standard drawings, packing lists, and invoices, unless otherwise stated in quote. Special documentation, reports, or submittals can be supplied at an additional cost. If additional engineering, engineering seals, state approvals, drawings, or insignias are required additional charges may incur.

Delivery

Delivery will be scheduled immediately upon receipt of written customer approval of all building submittals, building worksheet(s) and signed contract/purchase order. In the event delivery of the buildings ordered is/are not completed within 30 days of the agreed to schedule through no fault of CXT, an invoice for the full contract value (excluding shipping and installation costs) will be submitted for payment, the terms of which will be as per item 2 in our quotation. Delivery and installation charges will be invoiced at the time of delivery and installation. Should the delivery and installation costs increase due to changes in the delivery period, this increase in cost will be added to the price originally quoted, and will be subject to the contract payment terms. In the event that the delivery is delayed more than 45 days after the agreed to schedule and through no fault of CXT, then in addition to the remedies above, a storage fee of 1/2% of contract price per month or part of any month will be charged.

Fuel Costs

Fuel costs for crane and freight have been quoted at fuel prices furnished at the time of quotation. If at the time of delivery and installation these costs have risen, CXT reserves the right to adjust the freight and crane costs to reflect the fuel costs furnished at the time of delivery.

Responsibilities of the Customer

- A. Stake exact location building is to be set, including orientation.
- B. Provide clear and level site, free of overhead and/or underground obstructions.
- C. Provide site accessible to normal highway trucks and sufficient area for the crane to install and other equipment to perform the contract requirements.
- D. Customer shall provide notice in writing of low bridges, roadway width or grade, unimproved roads or any other possible obstacles from State highway and/or main county road to site. CXT reserves the right to charge the customer for additional costs incurred for special equipment required to perform delivery and installation.
- E. Customer is responsible for all permits required.

Access to Site

Delivery will be made in normal highway trucks and trailers. If at the time of delivery conditions of access are hazardous or unsuitable for truck equipment for any reason, CXT will negotiate extra costs to ensure a safe and quality installation to the chosen site or will agree to an alternative site with better access.

To safely offload the facility referred to within this quotation, CXT must have clear and unobstructed access next to the gravel pad or hole where the facility will be placed. CXT is not responsible for cracked or damaged roads, driveways, sidewalks or aprons that are in the path of the delivery trucks or cranes at the final offloading site. Should CXT be required to obtain a larger crane than quoted due to site amenities or hardscapes, CXT will charge the customer the difference between the crane originally quoted, and the one that was hired in order to successfully offload the facility safely and efficiently.

Installation

- A. If the customer opts to have full installation of their new building, CXT will provide a backhoe trailered into the site, and prepare the customer site at the marked hole/pad area. The crane will arrive and set up next to the hole/pad. Any requirements to lift the building over obstacles or not having the ability of the crane to be right next to the hole could incur additional charges. The size of the crane varies however most cranes require an area of 18'x18' for their outriggers. Truck(s) carrying the vaults and the building systematically pull up right next to the crane and are offloaded onto the site. Any requirements to lift the building over obstacles or not having the ability of the truck to be right next to the crane could incur additional charges. Installation crew then performs all necessary excavation, backfill, compaction, site grading, and connection of utilities (if applicable). Please note: additional time and any special equipment needed by the installation crew for unscheduled site work will be billed to the customer. This work must be approved by Customer Field Representative by signing the Additional Work Required section on the Building Acceptance Form.
- B. If the customer opts to prepare the hole, and do earthwork preparation for the site, the customer will move all excess dirt to allow access by the crane and semi-truck. The crane will arrive and set up next to the hole/pad. Any requirements to lift the building over obstacles or not having the ability of the crane to be right next to the hole could incur additional charges. The size of the crane varies however most cranes require an area of 18'x18' for their outriggers. Truck(s) carrying the vaults and the building systematically pull up right next to the crane and are offloaded onto

charges. Customer performs all necessary excavation, backfill, compaction, site grading, connection of utilities (if applicable).

- C. If customer opts to self-install their building CXT can provide a drawing of the recommended lifting/rigging arrangement plus the four special lifting plates for the buildings itself with a **refundable deposit of \$1,000.00** payable by credit card **only**. The customer must return lifting plates and hardware to CXT (at customers cost) within 2 weeks (14) days or a \$1,000.00 fee will be charged to the customer credit card. Please note: It is highly recommended that you use our lifting/rigging arrangements. The CXT arrangements will help prevent damage to the building. *CXT will not take responsibility for any damage/accidents to the building or workers during the use or non-use of our recommended lifting/rigging arrangements.*

0. Transportation

Your building(s) will be transported from our plant to your installation site via semi-truck with trailer. The length and clearance vary with the style of trailer used to accommodate your building model(s) and must be taken into consideration when determining access to site.

If you ordered a(n)....

Cascadian/Rocky Mountain - Requires 1 truck: When shipped in 2-pieces (standard) the building with vault is shipped on a flatbed trailer. The length of the tractor-trailer can be up to 75' long. Must have a 14' height clearance to access site.

Gunnison - Requires 1 truck: Shipped with its vault, this building is typically shipped on a step-deck trailer. The length of the tractor-trailer can be up to 75' long. Must have 14' height clearance to access site.

Toga Special - Requires 2 trucks: 1 to transport the building and 1 to transport vaults. The building is typically shipped on a step-deck trailer and 2 vaults are typically transported on a flatbed trailer. The length of the tractor-trailer can be up to 75' long. Must have 14' height and 14' width clearance to access site.

Dbl Cascadian/Dbl Rocky Mountain - Requires 2 trucks: 1 to transport the building and 1 to transport the vaults. The building is typically shipped on a dbl-drop or low boy trailer (approximate ground clearance of 4 to 6") and the 2 vaults are typically transported on a flatbed trailer. The length of the tractor-trailer can range from 75' to 80'. Must have 14' height and 14' width clearance to access site.

Cortez/Ozark I/Teton/Pioneer - Requires 1 truck: Generally shipped on a step-deck trailer. The length of the tractor-trailer can be up to 75' long. Must have a 14' height and 14' width clearance to access site.

Large Flush, Sectional, or Custom Bldgs -

(Arapahoe/OzarkII/Cheyenne/Montrose/Taos/Rainier/Pomona/Navajo/Mallibu/Kodiak/Fontana/Diablo/Denali)

Requires 2-4 trucks, depending on size of building. Each section will be shipped on an RGN trailer (approximate ground clearance of 4 to 6 "). The length of the tractor-trailer can range from 80' to 115'. Must have 14' height and 14' width clearance to access site. The Denali model could ship on either an RGN trailer or a dbl-drop.

Schweitzer/Mendocino - Requires 1-2 trucks, depending on size of building. Generally shipped on a step-deck trailer. The length of the tractor-trailer can be up to 75' long. Must have 14' height and 14' width clearance to access site.

1. CXT Warranty

CXT warrants that all structures sold pursuant hereto will, when delivered, conform to specifications of the building listed on the quote. Structures shall be deemed accepted and meeting specifications unless notice identifying the nature of any non-conformity is provided to CXT in writing within one (1) year of delivery. It is specifically understood that CXT's obligation hereunder is for credit or repair only. CXT will repair structural defects against materials and workmanship for one (1) year from date of delivery provided CXT is first given the opportunity to inspect said structure. CXT warrants all components sold within all structures pursuant here to when delivered within structures. Components deemed accepted and meeting specifications shall be warranted for a period of one (1) year against defects in the materials and/or workmanship from said date of delivery. CXT is not responsible for components that are damaged due to misuse, acts of violence, negligence, acts of God, or accidents. Shipping, handling, installation or other incidental or consequential costs, unless otherwise agreed to in writing by CXT, are not included.

This warranty shall not apply to:

- 1) Any goods which have been repaired or altered without CXT's express written consent, in such a way as in the reasonable judgment of CXT, to adversely effect the stability or reliability thereof;
- 2) To any goods which have been subject to misuse, negligence, acts of God, or accidents;
- 3) To any goods which have not been installed to manufacturer's specifications and guidelines, improperly maintained, or used outside of the specifications for which such goods were designed.

2. Disclaimer of Other Warranties

THE WARRANTY SET FORTH ABOVE IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. ALL OTHER WARRANTIES ARE HEREBY DISCLAIMED. CXT MAKES NO OTHER WARRANTY EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

3. Limitation of Remedies

In the event of any breach of any obligations hereunder; breach of any warranty regarding the goods, or any negligent act or omission of any party, the parties agree to submit all claims to binding arbitration. Any settlement reached shall include all reasonable costs including attorney fees. In no event shall CXT be subject to or liable for any incidental or consequential damages. Without limitation on the foregoing, in no event shall CXT be liable for damages in excess of the purchase price of the goods herein offered.

4. Acceptance

The foregoing terms will be deemed accepted in full by signature and return of one copy to CXT, subject to customer credit approval. A copy of any applicable form of payment security device (i.e. payment bonds) available to CXT shall be included with the signed copy of this agreement.

5. Timing of Billing to Buyer

Seller will invoice Buyer upon shipment from its supplier or facility, unless otherwise indicated on the face of this document.

6. Storage of Material For Buyer

If, at Buyer's request, goods covered by this document are held at Seller's facility or service provider for more than 21 days after they are available for shipment, Buyer shall accept Seller's invoice and pay said invoice based on payment terms set forth herein.

7. Material Reservation

Seller will only reserve material for 30 days with receipt of an executed purchase order, quote or order acknowledgement acceptable to Seller. After that time, material availability, price and shipment date may be adjusted, at Seller's option.

[illegible]

MONTROSE with PORCH
CITY STANDARD BUILDING

DATE: 11/11/2011

of the way of a representative of America's largest
trading and service company in world trade. The
company is not doing as well as it should. It
is better than the other big firms, but it is
not doing as well as it should. It is not doing
as well as it should. It is not doing as well as
it should. It is not doing as well as it should.

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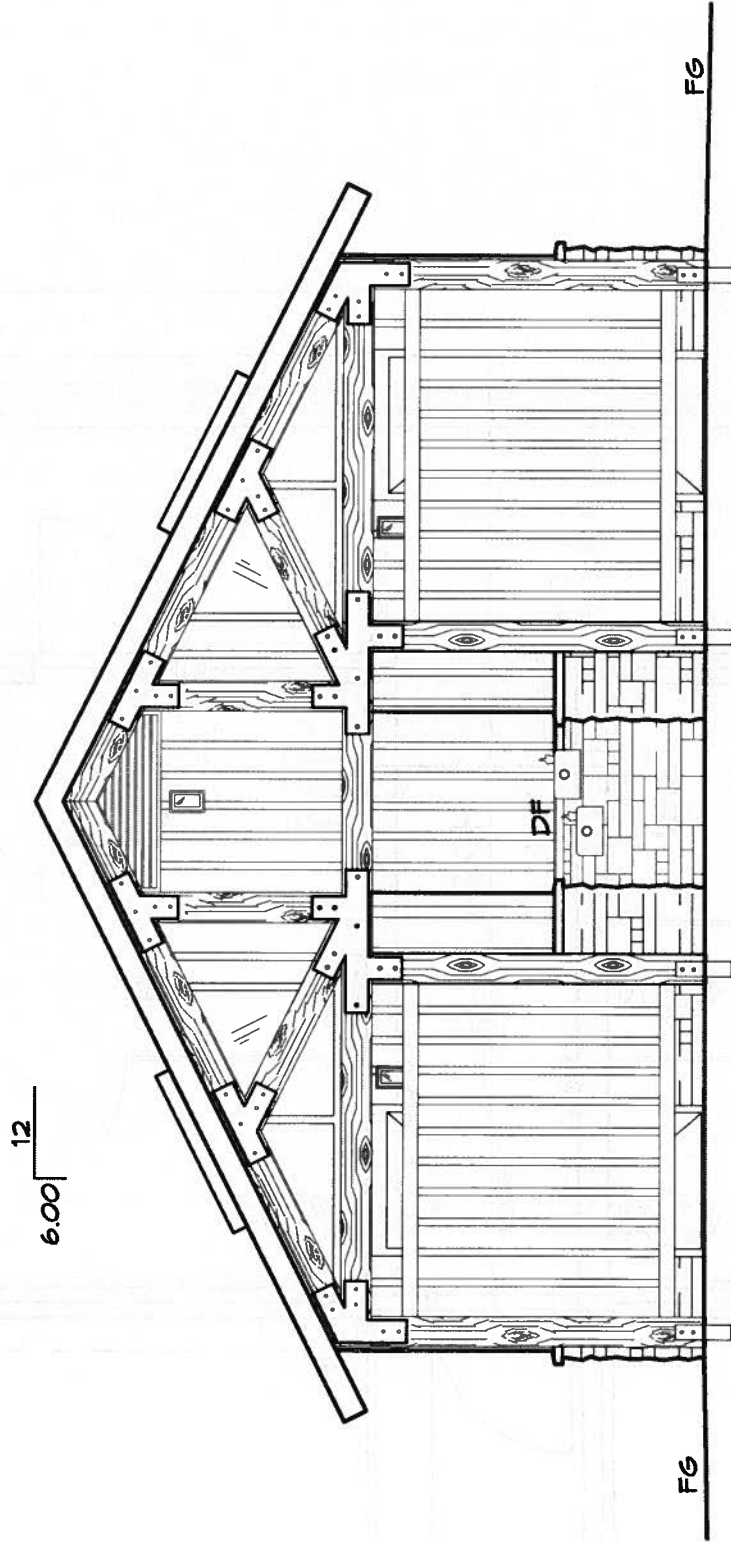
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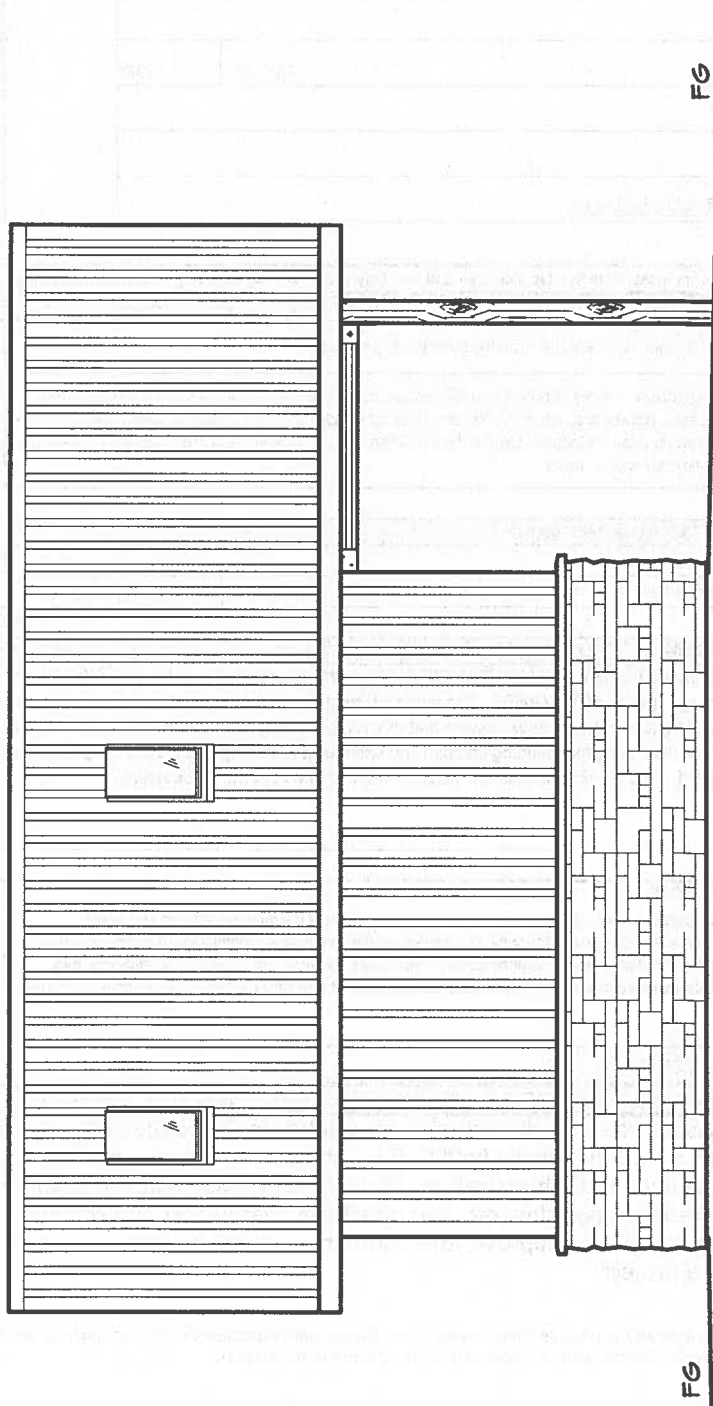
ii



FRONT ELEVATION

SCALE: 1/4" = 1'-0"

1



1 SIDE ELEVATION

SCALE: 1/4" = 1'-0"

BUDGETARY ESTIMATE ONLY - NOT FOR PURCHASE DOCUMENTS

Date: 5/22/2012

Job: Depot Plaza Restroom Facility

Customer: City of Tomball

Contact: David Kauffman

Address: 501 James Street

City: Tomball

State: TX Zip Code: 77375

Phone: (381) 290-1415

Fax:

E-mail: dkauffman@ci.tomball.tx.us

Fed. Supply Contract
#GS-07F-0095M

Pensylvania COSTARS
Contract #014-096

Ohio STS Contract #
7756400307

CMAS CONTRACT
#4-04-54-0011A
State of California
Contractor's
License # 849246

TXMAS CONTRACT
TXMAS-5-56030

New Mexico Price
Agreement
#70-000-00-04031

This is not a formal quote or proposal from Romtec, this is an 'estimate only' given for budgetary purposes - costs will change over time

Quantity	Model	Description	Comm. Price	Extension
1	2081	Value/Concrete - Sierra IV Multi-User Restroom Building Kit Package	\$73,387.00	\$73,387.00
		Building estimate includes all accessories, fixtures, and building components such as doors, windows, locks, toilets, sinks, faucets, flush valves, roofing, etc. Does not include concrete and rebar for footing, foundation, and slab, however those are included below in the installation estimate. Custom items and/or upgrades will typically affect the costs of your project.		

SUBTOTAL \$73,387.00

DISCOUNT: Government Discount -\$3,669.35

Design Services \$2,500.00 \$2,500.00

Shipping & Handling Estimate From Roseburg, OR to: Tomball, TX Zip Code: 77375 \$9,875.00

Building Subtotal \$82,092.65

INSTALLATION ESTIMATE ONLY

BUILDING TURNKEY INSTALLATION ESTIMATE: This is an estimate only for construction of your building. THIS IS NOT A QUOTE. Too much information is unknown at this time to provide a real or accurate quote. Romtec does assume that this is a prevailing wage job which is semi-truck accessible. This includes site prep, building erection and finish work. Nothing outside the footprint of the building is included. This Turnkey installation assumes there are no bonding requirements.

\$75,000.00

TOTAL \$157,092.65

EXCLUSIONS:

All equipment, trades, and labor required to unload and install the building and fixtures. Other exclusions: engineered fill, concrete, slab sealer, mortar, grout, paint, sidewalks, plumbing rough-in, plumbing installation and trim, floor drains, drain valves, backflow check valve, electrical rough-in, electrical installation and trim, circuit breakers, fluorescent tubes for light fixtures, switches, and outlets.

ROMTEC IS HUBZONE CERTIFIED

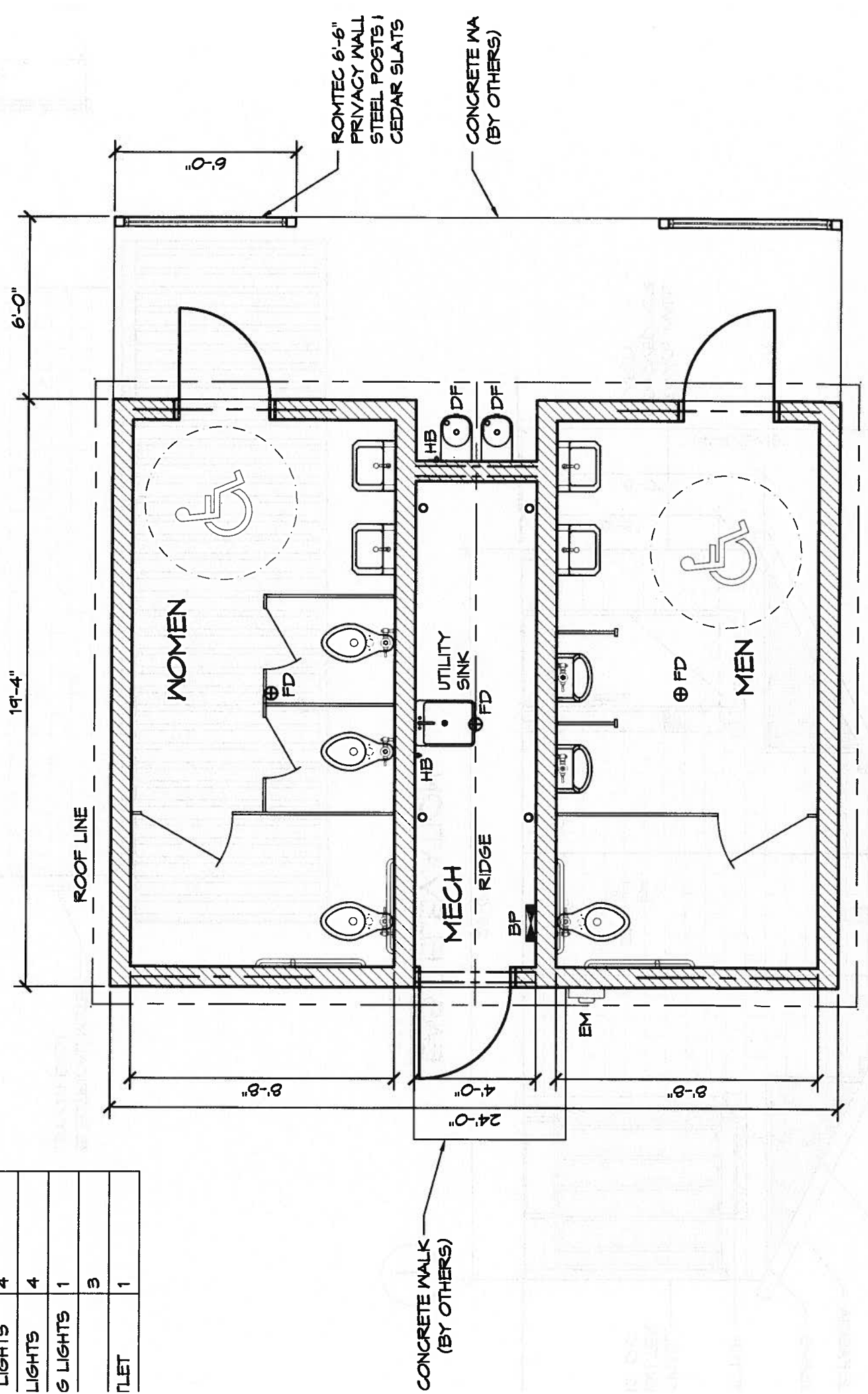
DO NOT ISSUE A PURCHASE ORDER BASED ON THIS BUDGETARY ESTIMATE - YOU MUST ASK ROMTEC FOR AN ACTUAL QUOTATION.

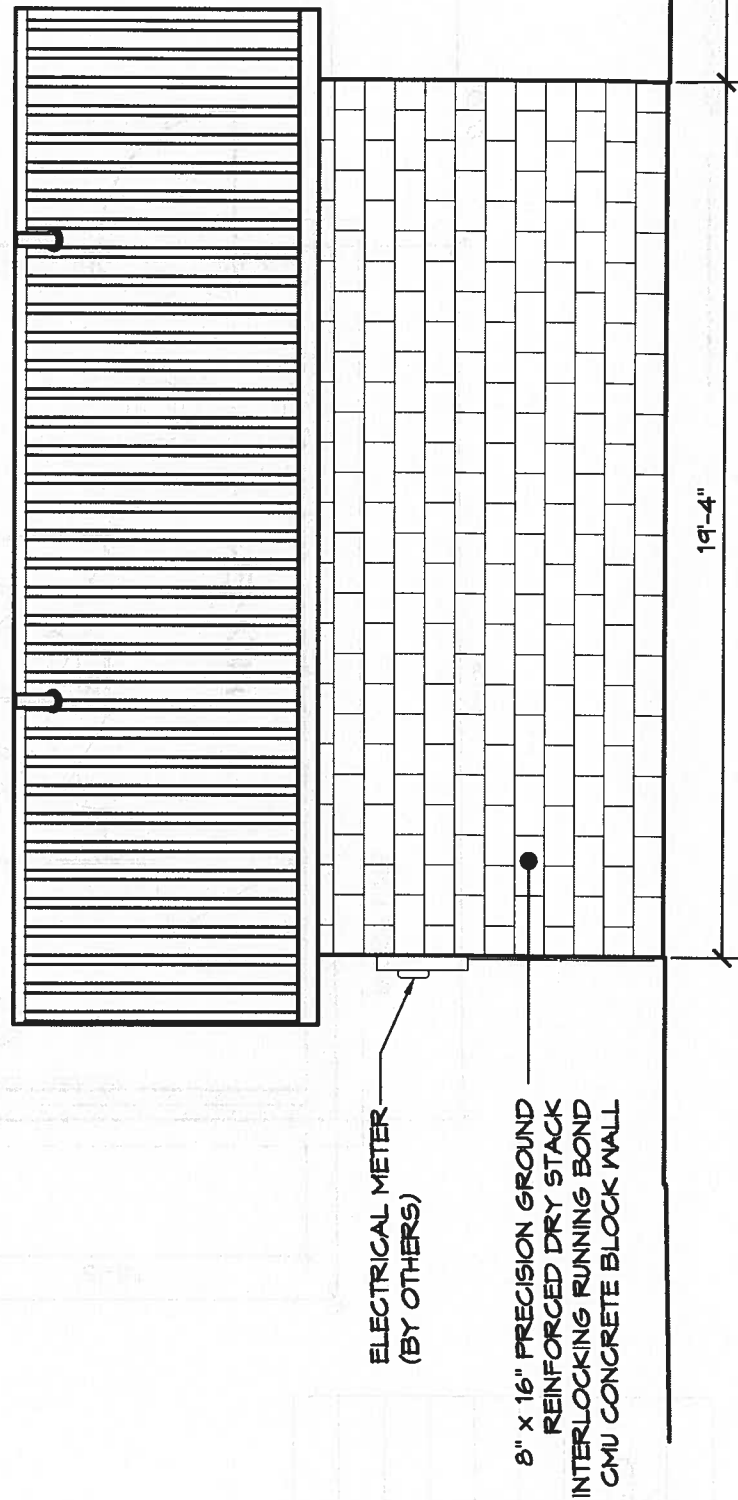
Romtec cannot assure you that the actual costs will be similar to the estimate as other factors come into play. Romtec cannot be legally held to this estimate, however, we will assist you in every way possible to meet budget and job restraints. Many factors, including site conditions, local labor costs, custom materials, upgrades, etc. can affect the overall cost of a product. Until we actually cost out the exact design you approve, this estimate is simply to help you have a budget idea in the earliest stages of a project.

* This quote does not include any applicable sales or use taxes. Subsequent Purchase Order must include sales or use tax unless customer provides Romtec with a resale certificate or proof of exemption.

REINFORCED & GROUT FILLED

ND	AREA/ QUANTITY
	4
	2
LIGHTS	4
LIGHTS	4
6 LIGHTS	1
	3
FLET	1







8121 Broadway Street, Suite 200 • Houston, TX 77061-1340
Office: 713.980.3250 • Fax: 713.980.3258

June 13, 2012
Letter No.: 12-3076-CB
File No.: 731

Steve Purvis
City of Tomball
Assistant to Public Works Director
501 James St.
Tomball, Texas 77375

Subject: Job Order Proposal for RFP# TCPN-SWIII-04-0774 Revision #1
Project Location: City of Tomball Railroad Depot
Project Title: Install New Restroom Building

Dear Mr. Segundo:

Enclosed is our **Design/Build JOC Budget Estimate** proposal for the above subject RFP. The proposal is based on a Design / Build project in conjunction with using KBR and Job Order Contracting as the delivery method for construction, referencing applicable standards and construction practices with the City of Tomball.

The **Budget Estimate** price is not the final cost for the project. KBR will provide a detailed line item estimate per the TCPN Contract and RS Means 2012 Facilities Construction Cost Data which will be a definitive final cost. KBR will provide the final cost as the final scope is identified.

The **Budget Estimate** price for the job order is **\$98,500.00**

The proposed project duration is 90 days after notice to proceed.
The proposal is valid for 15 days.

Please direct any questions to Craig Broz at (713) 980-3250.

Sincerely,

Craig Broz
Area Project Manager
Attachments: Scope

Reference: TCPN Statewide Contract JOC III No. R5087
(http://www.tcpn.org/apps/t_vendor_detail.aspx?VID=87)

Funding Approval _____ Date: _____

Customer PO# _____

Price is accepted as a lump sum fixed firm price and the incorporated scope of work becomes the controlling document taking precedence over line item estimate detail

This proposal includes data that shall not be disclosed outside of addressee and shall not be duplicated, used, or disclosed – in whole or part – for any purpose other than to evaluate this proposal.

KBR - TCPN Statewide III
Contract No. R5087
RFP No. TCPN-SWIII-04-0774 Rev. #1
City of Tomball
Budget Estimate
New Public Restroom Facility

Outline

The intent of this project is to provide a **Design/Build Budget Estimate** to be used in conjunction with job order contracting for all labor, materials and equipment to furnish and install a new public restroom facility located at the Railroad Park for the City of Tomball. All work shall be in accordance with all OSHA standards, applicable federal, state and local building codes and regulations and standard construction practices.

KBR Scope of Work

- Furnish necessary Architectural and Engineered drawings and documents for a new 20 foot by 26 foot restroom building
- Install necessary foundation and slab on grade for building
- Furnish and install new exterior split face block at perimeter of building, smooth block for the interior walls.
- Furnish and install necessary toilet accessories and toilet partitions for privacy
- Furnish and install 4 new 2' x 6' fixed glazed windows (2 in each restroom)
- Furnish and install necessary roof framing for a composition shingle roof
- Install new access sidewalks to building.
- Furnish and install 1 new exhaust fan in each restroom
- Furnish and install new electrical service and interior fixtures for the building..
- Furnish and install new plumbing service and interior fixtures for the building.

KBR General Notes

- Proposal is based on standard working hours with free and clear access to all work concurrent
- All work shall be in accordance with all OSHA Standards, applicable federal, state, and local codes, and regulations and good construction practices
- KBR will include all materials, equipment, and labor in his bid to complete the scope of work.
- KBR shall remove from site all spoils, equipment, materials from site after completion of this project
- KBR is responsible for all measurements and quantities.
- KBR is responsible for all damage to district property caused by the construction of this project.
- Approval of this proposal designates acceptance of the scope of work statement and line item estimate which has been used only to develop a mutually agreed price. The price is accepted as a lump sum fixed firm price and the incorporated scope of work becomes the controlling document taking precedence over line item estimate detail

KBR Exclusions

- Permit fees and after hour inspection costs.
- Exterior mounted drinking fountains
- Landscaping.
- Handling or removal of any hazardous material.
- Davis-Bacon Wages and/or Certified Payrolls.
- Hidden or unforeseen conditions.
- Any work not specifically described in the SOW

End of Scope

This proposal includes data that shall not be disclosed outside of addressee and shall not be duplicated, used, or disclosed in whole or part for any purpose other than to evaluate this proposal.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: June 18, 2012

Topic:

Authorize City Staff to Remove Buildings Located on City Properties

Background:

The City has purchased several parcels of land for projects that also contain structures unneeded or unusable by the City. The vacant structures impose unnecessary maintenance costs and safety risks to the City and need to be removed as soon as feasible. Some of these buildings will require asbestos abatement prior to removal by demolition and/or salvage.

This agenda item only authorizes the removal of the buildings. Future Council action may be necessary to award contract and/or authorize funding.

Lots included:

- 24114 Flax Court
- 24115 Flax Court
- 1315 Lovett Street
- 217 S. Walnut Street
- 217 West Main Street
- 221 West Main Street.

Origination:

Public Works Department

Recommendation:

Approval removal of unusable structures.

Funding:

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

David Kauffman, Public Works Director

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

