

AGENDA – WORKSHOP OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, TO BE HELD ON MONDAY, FEBRUARY 20, 2012, AT 6:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS.

I. CALL TO ORDER

II. PURPOSE OF THE WORKSHOP:

- 1. COUNCIL INPUT AND DISCUSSION:** REGARDING HEB GROCERY AND TERRA ASSOCIATES REQUESTING A PROPOSED ZONE CHANGE FROM THE PREVIOUSLY APPROVED GENERAL BUSINESS. *Mr. Harold Ellis, Senior Planner.*
- 2. COUNCIL INPUT AND DISCUSSION:** REGARDING THE CREATION OF THE PEARLAND PARKS FOUNDATION. *Ms. Michelle Smith, Director of Parks and Recreation.*
- 3. COUNCIL INPUT AND DISCUSSION:** REGARDING THE MASTER FIRE STATION LOCATION PLAN. *Mr. Bill Eisen, City Manager.*

III. ADJOURNMENT

This site is accessible to disabled individuals. For special assistance, please call Young Lorfing at 281-652-1840 prior to the meeting so that appropriate arrangements can be made.

Workshop Item No. 1

1. **COUNCIL INPUT AND DISCUSSION:** REGARDING HEB GROCERY AND TERRA ASSOCIATES REQUESTING A PROPOSED ZONE CHANGE FROM THE PREVIOUSLY APPROVED GENERAL BUSINESS.
Mr. Harold Ellis, Senior Planner.

**AGENDA REQUEST
BUSINESS OF THE CITY COUNCIL
CITY OF PEARLAND, TEXAS**

| | |
|--|--|
| AGENDA OF: February 20, 2012 | ITEM NO.: Workshop Item No. 1 |
| DATE SUBMITTED: February 8, 2012 | DEPT. OF ORIGIN: Planning |
| PREPARED BY: Harold Ellis | PRESENTOR: Harold Ellis |
| REVIEWED BY: Mike Hodge | REVIEW DATE: February 10, 2012 |
| SUBJECT: Request of HEB Grocery, owner, and Terra Associates, applicant, for a Joint Workshop regarding a proposed zone change from the previously approved General Business (GB) Zone – Northwest Corner of Broadway/Pearland Pkwy | |
| EXHIBITS: 1) Application for workshop; 2) Proposed conceptual site plan (excerpt); 3) Proposed conceptual site plan (full); 4) Document submitted to Council July 11, 2011 with proposed HEB +; 5) Proposed Planned Development Draft Ordinance | |
| EXPENDITURE REQUIRED: N/A AMOUNT AVAILABLE: N/A ACCOUNT NO.: N/A | AMOUNT BUDGETED: N/A PROJECT NO.: N/A |
| ADDITIONAL APPROPRIATION REQUIRED: N/A ACCOUNT NO.: N/A PROJECT NO.: N/A | |
| To be completed by Department: <input type="checkbox"/> Finance <input type="checkbox"/> Legal <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution | |

EXECUTIVE SUMMARY

This workshop is to discuss a request for a zone change from the General Business (GB) zoning district, to Planned Development (PD). The property is located at the Northwest Corner of Pearland Parkway and Broadway (FM518) and consists of 22.34 acres of land.

The current (GB) zoning for the property was approved by City Council on July 11, 2011. Prior to that meeting, Council, Planning and Zoning Commission, HEB, and staff had been discussing ways to ensure the site, due to its prime location, is developed as a high quality development, as achieved through a Planned Development. At the July 11, 2011 meeting the applicant, HEB Grocery, provided Council with a spreadsheet showing a proposed "HEB +" Planned Development (included in this report as Exhibit 4). HEB proposed that if Council approved the (GB) request on July 11, 2011 that they

would submit a Planned Development application, the proposed “HEB + ”, to address Council concerns regarding approving the standard (GB) zone for the property.

HEB has submitted the application for the proposed “HEB + “ Planned Development. Below is a chart comparing the proposed “HEB + “ presented to Council on July 11, 2011, and the current PD proposal.

| Requirement | Current zoning requirements for the property - GB/Corridor Overlay District Criteria | Proposed HEB+ Planned Development commitment, at the time of GB zoning approval (July 11, 2011) | Current PD Proposal - for February 20, 2012 Workshop |
|------------------------|--|--|--|
| Building Height | 45' | 45' | Will meet City requirements |
| Building Facades | Masonry on all sides, EIFS or Stucco | Will meet City requirements | Will meet City requirements |
| Building Transparency | Minimum 25% Transparency for each façade facing a thoroughfare, which in this case is both Broadway and Pearland Pkwy | Will meet City requirements | Variance requested. UDC requires 25% transparency on walls facing thoroughfare. HEB requests ability to distribute transparency for buildings over 40,000 sq ft in such a way as not to infringe on the operation of the facility. Specific amount of transparency proposed is not specified. |
| Building Articulation | Required - need 3' in depth for every 25' of horizontal or vertical length for buildings over 50,000 sq. ft. Buildings smaller than 50,000 sq. ft. are required to have 1' in depth. | Will meet City requirements | Will meet City requirements |
| Sidewalks | Minimum 4' walkway from parking lot to front of store | Will provide one walkway in the middle of the parking lot and one sidewalk along each edge | Will meet City requirements, and increase interior walkway from 4' to 6'. |
| Signage | Per UDC and Overlay | Will meet UDC and Overlay requirements. In addition, will provide a project "identifier" sign at FM 518 and Pearland Pkwy | Will meet UDC requirements and will provide a project "identifier" sign at FM 518 and Pearland Pkwy |
| Landscaping | 30' Buffer on both streets with continuous hedge, 30' buffer on west side, berms, 50% of trees along front of lot, 60% of trees to be evergreen, all islands to have at least one tree, 15% green space required | Will meet UDC and Overlay requirements, plus increase the amount of green space from req'd 15% up to 30.22%, or about 25% if front pads are built out in the future. | Will meet minimum City requirements. |
| Trees | Street - Minimum 188 caliper Inches Interior - Minimum 153 Caliper Inches Ornamental - Minimum 125 Caliper | Street-218 caliper Inches (extra 16%) Interior-180 Caliper Inches (extra 17.7%) Ornamental-132 Caliper Inches (extra 5%) | Will increase street trees by 16% Will increase interior trees by 17.7% Will increase ornamental trees by 5% |
| Other Special Features | None required | None proposed | None proposed |
| Lighting | Lighting height throughout main parking lot in center no higher than building it serves. | Will request that poles be uniform in height to match lights serving HEB | Variance requested. UDC requires that lights be no taller than buildings they are serving. HEB requests that all light poles be uniform in height to match height of tallest building (HEB). Pad site are anticipated to be lower than main (HEB) building |

Since the last discussions with HEB the Parks Department has indicated that the west side of Pearland Pkwy, where the proposed store would front, is part of the City's Master Trail Plan which calls for a minimum of 10' trails. Increasing the proposed sidewalk in that area from 6' to 10' would be beneficial to the City. Additionally, the plan calls for a trailhead to be located in the same area, which would typically include a

bench, shade structure, etc. These features could be incorporated into the proposed site plan.

Staff has reviewed the latest PD proposal and has the following minor comments which need to be addressed in order for staff to adequately administrate the Planned Development Document:

- Specific section references to the UDC should be removed from the document, as these sections may change with future UDC amendments.
- In Section I (B) of the submitted PD document, future pad sites should be referred to as *potential* accompanying establishments, as the applicant is requesting flexibility on having to develop pad sites shown on the proposed site plan.
- In Section I (B) (5) of the submitted PD document, 3 pad sites should be referenced to match the proposed site plan. Proposed gas station is considered a pad site.
- In Section I (B) (7) of the submitted PD document, it should be clear that the 30% open space includes future pad site locations.
- In Section II (C) of the submitted PD document, the second paragraph states that *The project complies with the GB and COD districts*. That sentence should continue by saying *with the exceptions provided in this document*.
- In Section III (A) (7) of the submitted PD document, in the last sentence, the applicant is requesting that a *majority of the 25% transparency be allowed to be on the front side for the HEB anchor*. This should be clarified. Specific transparency numbers should be stated.
- In Section III (B) of the submitted PD document, it states that *Everything depicted on the Design Plan is general and nothing is precise because the project is not yet designed*. Section 2.2.2.5 of Pearland's UDC states that *The Design Plan shall be incorporated as a component part of the PD district regulations, and shall be construed in conjunction with the authorized uses and development standards set forth in such regulations*. Furthermore, UDC also states that *All development applications within the PD district shall be consistent with the incorporated Design Plan. Failure of a subsequent development application to conform to the approved Design Plan for the PD district shall result in denial of the application, unless the PD district regulations first are amended through incorporation of a Design Plan with which the development application is consistent*. Therefore, a design plan which provides the City assurances on what is to be developed is required for PD's. Please revise accordingly.
- In Section III (B) of the submitted PD document, public facilities are referenced in the third sentence of the intro paragraph. That sentence should be rephrased to state: Adjustments to the Design Plan that do not deviate substantially from the Design Plan, and otherwise comply with the intent of the various requirements within the Pearland Commons PD and other city ordinances and regulations in effect at the time this document is adopted shall not require separate or additional approvals from City Council or the Planning and Zoning Commission. There are no public facilities proposed.
- In Section (III) (B) (1) of the submitted PD document, open space is referenced. Open Space should be defined to not include the future pad sites which may later be developed.
- In Section (III) (C) (1) of the submitted PD document, *Building Material* should be changed to *Transparency*. The variance being requested is for the transparency requirements. The applicant has indicated they will meet the building materials requirement.

- In Section (III) (C) (2) of the submitted PD document, the location and height of proposed lights should be indicated.

Staff Recommendation

Conduct the workshop and provide direction to staff and the applicant.

Exhibit 1 - Application:



REQUEST FOR A PLANNED DEVELOPMENT WORKSHOP*

***THIS IS NOT AN APPLICATION FOR A CHANGE IN ZONING TO PLANNED DEVELOPMENT (PD). PLEASE COMPLETE THE "APPLICATION FOR A CHANGE IN ZONING" BEFORE THE JOINT PUBLIC HEARING.**

Current Zoning District: General Business

Proposed Zoning District: Planned Development

Property Information:

Address or General Location of Property: NW Quadrant of Pearland Parkway & FM 518

Tax Account No. 7045-0000-001

Subdivision: Pearland Commons Lot: A Block: _____

A complete package must include all information shown on the checklist below.

PROPERTY OWNER INFORMATION:

NAME HEB Grocery - Richard Golden
ADDRESS 646 S Main
CITY San Antonio STATE TX ZIP 78204
PHONE(210) 938-8238
FAX() _____
E-MAIL ADDRESS golden.richard@HEB.com

APPLICANT/AGENT INFORMATION:

NAME Terra Associates c/o Lyle Henkel
ADDRESS 1445 N Loop West, Suite 445
CITY Houston STATE TX ZIP 77008
PHONE(713) 993-0333
FAX(713) 993-0743
E-MAIL ADDRESS leh@terraassoc.com

*Property owner must be the current owner of the property at the time of submittal of the application, and not the party that has the property under contract.

As owner and applicant, I hereby request approval of the above described request as provided for by the Unified Development Code of the City of Pearland.

Owner's Signature: [Signature] Date: January 30, 2012

Applicant/Agent's Signature: [Signature] Date: January 30, 2012

- Request, filled out completely, and signed by the owner of the property to be considered for the zone change or planned development district
- Metes and Bounds Description, (Survey, or a Plat of the property that provides or contains the metes and bounds description).
- Parcel map, printed from the City of Pearland website, indicating the location and boundaries of the subject property.
- The proposed draft PD document in electronic form by date of application (either emailed or on a CD) (see PD Format for guidelines on how to prepare the PD).

Exhibit 2 - Proposed Conceptual Site Plan (layout excerpt):





REQUIREMENTS

GENERAL REQUIREMENTS - CHAPTER 4, SECTION 4.2.2.4 OF UNIFIED DEVELOPMENT CODE

PERCENTAGE OF GROSS LANDSCAPE AREA REQUIRED = 15 %
 PERCENTAGE OF GROSS LANDSCAPE AREA PROVIDED = 91 %

SIDE YARD LANDSCAPING
 REQUIRED: 35% OF LENGTH OF PARKING LOT IF ADJUTING RESIDENTIAL
 PROVIDED: 0 (SITE DOES NOT ADJUT A RESIDENTIAL DISTRICT)

INTERIOR LANDSCAPING
 PARKING LOT TREES REQUIRED: MINIMUM 2" CALIPER - 1%
 PARKING SPACES (785 SPACES) = 153 CALIPER INCHES REQUIRED;
 PROVIDED: 86 3" CALIPER TREES (180 CALIPER INCHES)

CORRIDOR OVERLAY DISTRICT - CHAPTER 2, SECTION 2.4.5.1 OF UNIFIED DEVELOPMENT CODE
FRONT SETBACK LANDSCAPING
 REQUIRED: 30' LANDSCAPED BUFFER FOR PARKING AREAS
 PROVIDED: 30'

SETBACK AREA LANDSCAPING
 REQUIRED: 15% SHALL CONSIST OF LANDSCAPED OPEN AREAS
 PROVIDED: A MINIMUM OF 15 % OF THE SETBACK AREA SHALL BE LANDSCAPED

% OF GROSS LANDSCAPED AREA
 REQUIRED: 15% OF THE GROSS LOT AREA
 PROVIDED: 30.22% OF THE GROSS LOT AREA

TREES
SHADE STREET TREES WITH A MIN. 3" CALIPER
 REQUIRED: 1% OF STREET FRONTAGE (1151' + 827') * 10 = 198 CALIPER INCHES TOTAL
 PROVIDED: 24 4" CALIPER SHADE TREES (216 CALIPER INCHES TOTAL)

ORNAMENTAL TREES WITH A MIN. 2" CALIPER
 REQUIRED: 1% OF STREET FRONTAGE (1151' + 827') * 15 = 125 CALIPER INCHES TOTAL
 PROVIDED: 44 3" CALIPER ORNAMENTAL TREES (132 CALIPER INCHES TOTAL)

SHRUBS
 REQUIRED NUMBER = 5X TOTAL CALIPER INCHES OF STREET TREES
 PROVIDED: A MINIMUM OF 140 SHRUBS WILL BE PROVIDED

INTERIOR SITE LANDSCAPING
 NO PARKING SPACES SHALL BE GREATER THAN 50' FROM A TREE. EACH ISLAND TO HAVE AT LEAST 1 TREE. A MECHANICAL IRRIGATION SYSTEM IS REQUIRED TO BE INSTALLED AND MAINTAINED

LEGEND

- TREES**
- Parking lot tree
3" caliper minimum
 - Street tree (large shade tree, 60% evergreen and 40% deciduous)
4" caliper minimum
 - Ornamental tree
3" caliper minimum
 - Evergreen screening tree
- UNDERSTORY**
- Turf
 - Shrub/groundcover areas

H-E-B

PEARLAND COMMONS
±22.34 AC. PD

EXHIBIT B

| | |
|--|--|
| <p>EVERGREEN DESIGN GROUP Landscape Design & Construction</p> <p>1200 GOLF LINKS 11002 Evergreen Blvd. #10 Houston, TX 77066 www.evergreendesigngroup.com</p> | <p>TERRA ASSOCIATES, INC. CONSULTING ENGINEERS</p> <p>1400 N. LOOP WEST, SUITE 100 HOUSTON, TEXAS 77028 713.869.7400 www.terraengineers.com</p> |
|--|--|



HEB Pearland
 NWQ of FM 518 at Pearland Parkway
 Pearland, Texas

| Requirement | GB/Overlay District Criteria | Proposed GB "PLUS" by HEB | Anticipated PD Requirements |
|------------------------|--|--|---|
| Building Height | 45' max | 45' max | 45' max |
| Building Facades | Masonry on all sides, EIFS or Stucco allowed | Will meet City requirements | Anticipate will have to add upgraded materials and/or architectural enhancements; perhaps minimum 15% to be stone, brick, or combination thereof. |
| Building Transparency | Minimum 25% Transparency | Will meet City requirements | Will meet City requirements |
| Building Articulation | Required - need 3' in depth for every 25' of hor. or vert. length | Will meet City requirements | Will meet City requirements |
| Sidewalks | Need 4' walkway from parking lot to front of store | Will provide one walkway in the middle of the parking lot and one sidewalk along each edge | Will have to provide a raised median in middle of parking lot, minimum 10-foot wide, with enhanced landscaped & sidewalk, and 6' meandering sidewalk along each side. |
| Signage | Per UDC and Overlay | Will meet UDC and Overlay requirements. In addition, will provide a project "Identifier" sign at FM 518 and Pearland Parkway | Same |
| Landscaping | 30' Buffer on both streets with continuous hedge, 30' buffer on west side, berms, 50% of trees along front of lot, 60% of trees to be evergreen, all islands to have at least one tree, 15% green space required | Will meet UDC and Overlay requirements, plus increase the amount of green space from req'd 15% up to 30.22%, or about 25% if front pads are built out in the future. | Same |
| Trees | Street - Minimum 188 Caliper Inches Interior - Minimum 153 Caliper inches Ornamental - Minimum 125 cal inches | Street - 218 Caliper inches (extra 16%) Interior - 180 Caliper inches (extra 17.7%) Ornamental - 132 Caliper Inches (extra 5%) | Same Same Same |
| Other Special Features | None required | None proposed | Anticipate that concrete enhancements will be required (colored or patterned concrete) |
| Lighting | Lighting height throughout main parking lot in center no higher than building it serves. | Will request that poles be uniform in height to match lights serving HEB | Same |

Exhibit 5 - Proposed PD Document:

Planned Development

For

Pearland Commons

Prepared for:



Grocery Company

Prepared by:

TERRA
ASSOCIATES, INC.
CONSULTING ENGINEERS

1445 North Loop West, Suite 450
Houston, TX 77008
P: 713-993-0333 / F: 713-993-0743

January, 2012

I. Introduction

A. Description of the Subject Property.

Pearland Commons occupies the northwest quadrant of the intersection of two City of Pearland major thoroughfares. Refer to exhibit A. Broadway (FM 518) abuts the southern boundary and Pearland Parkway abuts the eastern boundary. The site is bounded on the north by vacant land (zoned PD), and by a partial 30-foot ROW (Whitehead Rd) & a 30-foot drainage easement to the west. To the west of the drainage easement are retail and multifamily developments. Refer to Exhibit A – Site Map.

B. Description of Proposed Development.

Pearland Commons will be developed as a retail center with a grocery anchor and accompanying establishments in pad sites which conveniently accommodates customers and their vehicles while focusing on internal and external pedestrian activity. Key elements of the overall site plan include:

1. A Project Identifier Sign with landscaping at the major intersection.
2. Driveways along Broadway and Pearland Parkway are limited to essential locations and are coordinated with existing driveways and esplanade openings. The location of all of the driveways will ensure traffic entering and exiting the project is accommodated in the most efficient and safe manner.
3. A 30-foot wide landscape buffer is provided along the entire frontage of Broadway and Pearland Parkway. This area will contain landscaping, berms and walkways designed to screen the adjacent parking areas from the abutting roadways with naturally aesthetic appeal.
4. The western boundary of the project will possess a minimum 30' wide landscaped buffer.
5. Proposed tenants include a 120,000 square foot grocery anchor; up to two pad sites, and/or in-line retail space.
6. All parking areas will be constructed of concrete rather than asphalt to enhance the quality and longevity of the project.
7. The landscaping and open space requirements are 15% of the total gross area of the project. The proposed landscaping and open space shown on the site plan will be approximately ±30% of the total gross area of the project or 200% of what is required by the City of Pearland standards.

C. Describe the area of land in acreage.

The total land area is 22.3385-acres. Refer to Exhibit B – Site Plan, and Exhibit C – Plat.

D. A statement as to the purpose and intent of the PD district established therein.

The purpose and intent of the PD district is to facilitate the design and implementation of retail development that is designed to aesthetically and harmoniously compliment the adjacent residential and commercial areas.

II. Zoning and Land Use

A. Describe the existing zoning districts and the boundaries of said districts.

The site covers one zoning district: General Business (GB). Refer to Exhibit D – Existing Zoning.

B. Describe the base zoning district(s) to be overlaid, together with boundaries of the district(s), and describe the areas in acreage of each different district.

The base zoning district for the overlay district is GB (General Business).

| Zoning District | Acres |
|-----------------|--------------|
| GB | 22.34 |
| | Total: 22.34 |

Refer to Exhibit C – plat.

C. The general standards applicable to development within the district, with or without reference to the base district, including but not limited to: density, lot areas, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, accessory building, signs, lighting, project phasing or scheduling, management associations, and such other requirements as the City Council may deem necessary in order to implement the Comprehensive Plan and the purposes of the PD district.

Pearland Commons is affected by one zoning district, as referenced above, and the Corridor Overlay Districts. The Corridor Overlay District affects any tract located along specified major thoroughfares in Pearland. The project complies with the GB and the COD districts. The COD is discussed further in Section III of this document.

The management of the project will be overseen by a professional commercial property manager with expertise in maintenance and continuity of the common areas.

Below is a table depicting standards for each of the affected zoning districts.

| LAND USE SUMMARY | | | |
|---|-------|---------------------------|-----------------|
| USE | ACRES | PERCENTAGE OF TOTAL ACRES | ZONING DISTRICT |
| Single Family | 0 | 0 | - |
| Multiple Family | 0 | 0 | - |
| General Business/Commercial | 22.34 | 100 | GB |
| Parkland to be Dedicated to the City | 0 | 0 | - |
| Common Open Spaces/trails Maintained by HOA | 0 | 0 | - |
| Detention | 0 | 0 | - |
| Thoroughfares/ROW | 0 | 0 | - |
| Internal Streets/Vehicular Circulation | 0 | 0 | - |
| Others | 0 | 0 | - |

I. Provide the percentage of use in each zoning classification.

The land use in the overall project is 100% commercial/retail and will be in accordance with the land uses permitted in GB zone. The detention is located off-site.

D. The permitted, conditional and accessory uses authorized in the district, the location of such uses, the residential densities or other measurements of development intensity associated with base districts or phases of the development in conformance with the approved Design Plan.

Pearland Commons is a proposed retail project and at this time, the only known tenant is HEB Grocery. However, the Owners (HEB Grocery) do not foresee any uses that would not otherwise be permitted in the GB zoning district.

III. Design Standards Applicable to the Development

A. Design Standards

Specific design standards, including signage, building height, landscaping, fencing, parking, etc., that are applicable to this development are the standards set forth for the GB zoning district which are listed in Chapter 2, Article 4, Division 4, Section 4 of the UDC, and the design standards for the Corridor Overlay District, as listed in Chapter 2, Article 4, Division 5, Section 1 of the UDC.

1. Signage: The project will comply with the current UDC 4.2.5.1.
2. Landscaping/Street Trees: The project complies with the minimum requirements in the current UDC. Refer to Exhibit A – Conceptual Plan.
3. Fencing: Fencing is not required for this project due to a 30' landscape buffer between the project and adjacent areas zoned for residential, per the UDC 4.2.4.1 (a) (2) (b).

4. **Parking and Vehicular Circulation:** The project complies with the current UDC. This section also includes standards of lighting of the parking lot and sidewalks. We are requesting a variance on the parking lot lighting so that the site lighting will be uniform in height. See III.C. below.
 5. **Screening:** The project will comply with the current UDC per the requirements set forth in 4.2.4.1(a) (2) for the landscape buffer and 4.2.4.1 (b) for the screening along the thoroughfares.
 6. **Sidewalks:** The sidewalks located along Broadway and Pearland Parkway complies with the width and material standards stated in the current UDC 2.4.5.1 (1). The sidewalks that compose the internal pedestrian circulation, as shown on Exhibit B, will be a minimum of six (6) feet in width.
 7. **Corridor Overlay District:** The project complies with the current UDC standards for the COD. These standards apply because the project abuts two major thoroughfares, Pearland Parkway and Broadway. Included within these standards are requirements for building articulation and building material. This project will meet the building articulation requirements. The building material will be complied with on all buildings including the requirement that the exterior walls facing the major thoroughfare be 25% transparent, however we are requesting that a majority of the 25% transparency be allowed to be on the front side for the HEB anchor (without reducing the total SF of required transparency).
- B. Refer to Design Plan and describe which aspects of plan are precise and which are general.

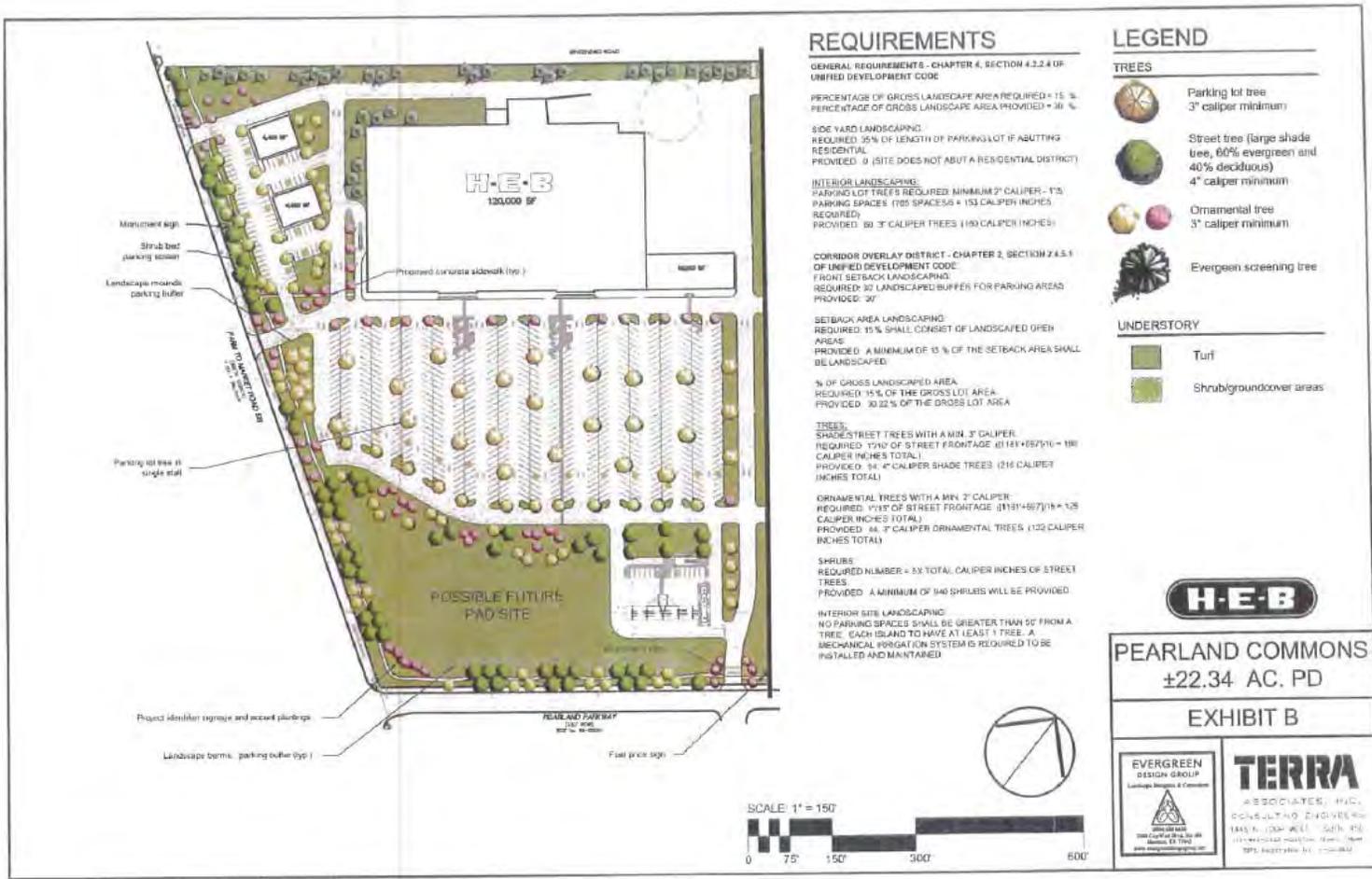
The Design Plan in this document is included for the sole purpose of establishing general design guidelines as to the basic character and physical relationships of the planned uses and facilities. Everything depicted on the Design Plan is general and nothing is precise because the project is not yet designed. The ideas and plans *represent the intent* of the Owner and the quality and character of the development. Adjustments to the Design Plan that do not introduce or remove new public facilities, do not deviate substantially from the Design Plan, and otherwise comply with the intent of the various requirements within the Pearland Commons PD and other city ordinances and regulations in effect at the time this document is adopted shall not require separate or additional approvals from City Council or the Planning & Zoning Commission. *It is essential to the success of the Pearland Commons PD to maintain flexibility in the site plan process in order to respond to ever changing market conditions and retail demand.* Listed below are criteria to further define the flexibility, or lack thereof, with respect to the Master Plan.

1. Open space within the project may not be reduced in size without consent of City Council. In no case will the open space be less than the requirements set forth in the UDC.

2. The location of the open space may shift within the project to accommodate specific change in the dimensions of buildings, parking and pad sites so long as the basic concept and intent of the Master Plan remains intact. Such shifts will not require separate or additional approvals of City Council or the Planning & Zoning Commission and will meet the requirements of the UDC.
 3. The location of buildings including pad sites may shift or be altered in size, dimension, and number. Such changes may be made without separate or further approvals from the City Council or the Planning & Zoning Commission so long as the basic concept and intent of the Master Plan remains intact.
- C. A specific list of deviations from standards in the base zoning district(s), together with any standards in the ordinance which are to be varied for development within the PD district.

There is one base zoning district in the project, GB. It is the intent of the proposed plan to comply with the standards of the GB zoning district for the entire project with the exception of those items listed below.

1. **Building Material:** Section 2.4.5.1 (d) (2) (c) of the UDC requires that a minimum 25% of the exterior wall of a building facing a specified major thoroughfare to be transparent. Potentially large anchor tenants use primarily masonry for their exterior façade with a majority of transparent materials in the front of the facility. To do otherwise materially offsets the basic business operations of the large retail anchors. We propose that any building larger than 40,000 square feet be allowed to have the transparency distributed in such a way as not to infringe on the operation of the facility.
2. **Lighting Standards:** Section 2.4.5.1 (h) (1) (c) requires that Vehicular Circulation & Parking Area light pole heights be no taller than the building it serves. While Pearland Commons will comply with all other Lighting Standard requirements under the UDC, we request that light heights within the main parking field for the shopping center be allowed to remain at a uniform height equal to or less than the HEB building height. This essentially affects one row of parking light standards in front of the 10k SF retail building next to HEB.



REQUIREMENTS

GENERAL REQUIREMENTS - CHAPTER 4, SECTION 4.2.2.4 OF UNIFIED DEVELOPMENT CODE

PERCENTAGE OF GROSS LANDSCAPE AREA REQUIRED = 15 %
 PERCENTAGE OF GROSS LANDSCAPE AREA PROVIDED = 36 %

SIDE YARD LANDSCAPING:
 REQUIRED: 35% OF LENGTH OF PARKING LOT IF ABUTTING RESIDENTIAL
 PROVIDED: 0 (SITE DOES NOT ABUT A RESIDENTIAL DISTRICT)

INTERIOR LANDSCAPING:
 PARKING LOT TREES REQUIRED: MINIMUM 2" CALIPER - 1'S
 PARKING SPACES (105 SPACES) = 153 CALIPER INCHES REQUIRED
 PROVIDED: 80 3" CALIPER TREES (150 CALIPER INCHES)

CORRIDOR OVERLAY DISTRICT - CHAPTER 2, SECTION 2.4.5.1 OF UNIFIED DEVELOPMENT CODE

FRONT SETBACK LANDSCAPING:
 REQUIRED: 37' LANDSCAPED BUFFER FOR PARKING AREAS
 PROVIDED: 30'

SETBACK AREA LANDSCAPING:
 REQUIRED: 15% SHALL CONSIST OF LANDSCAPED OPEN AREAS
 PROVIDED: A MINIMUM OF 15 % OF THE SETBACK AREA SHALL BE LANDSCAPED

% OF GROSS LANDSCAPED AREA:
 REQUIRED: 15% OF THE GROSS LOT AREA
 PROVIDED: 30.22% OF THE GROSS LOT AREA

TREES:
 SHADE STREET TREES WITH A MIN. 3" CALIPER:
 REQUIRED: 1/10' OF STREET FRONTAGE (1131' / 10' = 113.1)
 CALIPER INCHES TOTAL
 PROVIDED: 34 4" CALIPER SHADE TREES (216 CALIPER INCHES TOTAL)

ORNAMENTAL TREES WITH A MIN. 2" CALIPER:
 REQUIRED: 1/15' OF STREET FRONTAGE (1131' / 15' = 75.4)
 CALIPER INCHES TOTAL
 PROVIDED: 44 3" CALIPER ORNAMENTAL TREES (132 CALIPER INCHES TOTAL)

SHRUBS:
 REQUIRED NUMBER = 5X TOTAL CALIPER INCHES OF STREET TREES
 PROVIDED: A MINIMUM OF 540 SHRUBS WILL BE PROVIDED

INTERIOR SITE LANDSCAPING:
 NO PARKING SPACES SHALL BE GREATER THAN 50' FROM A TREE. EACH ISLAND TO HAVE AT LEAST 1 TREE. A MECHANICAL IRRIGATION SYSTEM IS REQUIRED TO BE INSTALLED AND MAINTAINED

LEGEND

- TREES**
- Parking lot tree
3" caliper minimum
 - Street tree (large shade tree, 60% evergreen and 40% deciduous)
4" caliper minimum
 - Ornamental tree
3" caliper minimum
 - Evergreen screening tree
- UNDERSTORY**
- Turf
 - Shrub/groundcover areas



PEARLAND COMMONS
 ±22.34 AC. PD
EXHIBIT B



Workshop Item No. 2

2. **COUNCIL INPUT AND DISCUSSION:** REGARDING THE CREATION OF THE PEARLAND PARKS FOUNDATION. *Ms. Michelle Smith, Director of Parks and Recreation.*

**AGENDA REQUEST
BUSINESS OF THE CITY COUNCIL
CITY OF PEARLAND, TEXAS**

| | | | |
|---|---|--|---|
| AGENDA OF: | February 20, 2012 | ITEM NO.: | Workshop Item No. 2 |
| DATE SUBMITTED: | January 26, 2012 | DEPT. OF ORIGIN: | |
| PREPARED BY: | Michelle Smith | PRESENTOR: | Michelle Smith |
| REVIEWED BY: | Jon R. Branson | REVIEW DATE: | February 03, 2012 |
| SUBJECT: Creation of the Pearland Parks Foundation | | | |
| EXHIBITS: Powerpoint presentation, Drafts of Financial Naming Rights Policy, Gifting Formula, Commemorative Naming Policy, Sponsorship/Advertising Policy, MOU, By laws, Opportunity Inventory | | | |
| FUNDING: | <input checked="" type="checkbox"/> Grant | <input type="checkbox"/> Developer/Other | <input checked="" type="checkbox"/> Cash |
| | <input type="checkbox"/> Bonds To Be Sold | <input type="checkbox"/> Bonds- Sold | <input type="checkbox"/> L/P – To Be Sold |
| | | <input type="checkbox"/> L/P – Sold | |
| EXPENDITURE REQUIRED: | | AMOUNT BUDGETED: | |
| AMOUNT AVAILABLE: | | PROJECT NO.: | |
| ACCOUNT NO.: | | | |
| ADDITIONAL APPROPRIATION REQUIRED: | | | |
| ACCOUNT NO.: | | | |
| PROJECT NO.: | | | |
| To be completed by Department: | | | |
| Finance | Legal | Ordinance | Resolution |

EXECUTIVE SUMMARY

BACKGROUND

The City Council in 1995 saw a need to develop a community plan that would address some quality of life issues that were important to Pearland. As a result they had the vision to create 'Pearland 2020' to assist in this long range planning effort that involved a number of members of the community. One of the Goals/Projects for the Economy related to the development of recreational and cultural amenities. Subsequently one of the outcomes that was identified and accomplished was the creation of the Pearland Enrichment Foundation. In 1995 they had the vision and saw the need for a separate vehicle for funding and moved toward that vision. Unfortunately there was no movement or action taken thereafter and no evidence of a plan for sustainability and that foundation was dissolved by the Secretary of State just a couple of years ago. While it was originally attempted in 1995 there is even more support for this type of action now 17 years later.

In cities across the county, the creation of park foundations is becoming more and more the norm. As the economy suffers, as tax supported budgets dwindle while citizen demand for service increases, it has become evident that alternate sources of funding for park amenities, land conservation and low cost programs accessible to all is more important than ever.

In July of 2011 a workshop was presented on the idea of creating a non-profit Foundation that would encourage the use of private and corporate dollars to support the programs of the Parks & Recreation Department. At that time Council requested more details and a more concrete plan of action of how this might work in this community. Because, while various communities have these types of foundations, they operate differently and are driven by the needs of the community they serve.

After additional research and planning, staff has developed a list of action steps along with a possible timeline for such steps. There are two separate timelines included in the PowerPoint provided that staff will review in more detail. The two major milestones will be the creation of the independent entity known as the Pearland Parks Foundation (slide 4 of the PowerPoint) and then concurrently the creation of the public private partnership/relationship (slide 5 of the PowerPoint) between the Foundation and the City. It is the creation of that relationship that will direct the Foundation on the parameters they are able to work within.

In addition to the timeline of the various tasks needed to create movement toward the Foundation, staff has included drafts of the documents that would create parameters and establish the relationship between the two entities. The By-laws and MOU documents are rough drafts and can be used as samples of what the Council might expect to see from the Foundation Board once it is established. The drafts of the policies and asset inventory provide a visual and basis for discussion on the document Council could expect to see staff present in the near future as well as can be used to attempt to provide situational examples of how the relationship between the entities would operate. These are all in draft form and while the content of the various documents' is still up for discussion, they provide the beginning framework for discussion.

BID AND AWARD

N/A

SCHEDULE

A more detailed schedule of the action steps will be discussed throughout the presentation.

POLICY/GOAL CONSIDERATION

CURRENT AND FUTURE FUNDING /FINANCIAL IMPACTS

| | 2012 | 2013 | 2014 | 2015-2019 |
|---------------------|------|------|------|-----------|
| Revenues | | | | |
| Lease Proceeds | | | | |
| Grant Proceeds | | | | |
| Expenditures | | | | |
| Capital Outlay | | | | |
| Net Impact | | | | |
| Lease Payments | | | | |

O&M IMPACT INFORMATION

RECOMMENDED ACTION

Staff requests Council approval to proceed with the creation and formation of the Pearland Parks Foundation.

PEARLAND PARKS FOUNDATION

A public-private partnership

What is it?

The Pearland Parks Foundation would be an independent, stand alone non-profit 501c3. The primary purpose of the foundation would be to assist the City of Pearland to improve the park system and recreational facilities through land acquisition and development of existing parks.

Why create it?

- ▣ Access to private foundation and other monies for which governmental entities do not qualify
- ▣ Lessen burden on government
- ▣ Lower tax appropriations/ Budget constraints
- ▣ Increased constituent demand
- ▣ Future O & M costs

Tasks & Timeline

to create the Foundation itself

- ▣ Check name availability with Secretary of State
- ▣ Approval of Council to proceed
- ▣ Prepare Certificate of Formation
- ▣ File the Certificate with the Secretary of State
- ▣ Prepare by-laws
- ▣ Meeting of initial Foundation Directors
- ▣ Apply for Federal EIN
- ▣ Prepare and file for Federal Tax-Exemption
- ▣ Apply for Texas exemption

Tasks & Timeline

to create Public Private Partnership

- ▣ Prepare MOU between Foundation and City
- ▣ Prepare Naming Rights Policy
- ▣ Create initial asset inventory
- ▣ Council Adopts Naming Rights policy, MOU with Foundation, initial asset inventory
- ▣ Collateral created to solicit for inventory need
- ▣ Foundation board begins work

Funding Strategies for the Foundation

- ▣ Utility bills donations
- ▣ Naming Rights
- ▣ Annual Fundraiser
- ▣ General donations

Questions?

FINANCIAL NAMING RIGHTS POLICY

1. Introduction

Financial Naming Rights refers to the granting by the owner the right to name a piece of property or portions of a property usually granted in exchange for financial consideration.

- 1.1. There are two main types of naming situations this policy intends to address:
 - a) The opening or reopening of City parks, facilities and facility amenities.
 - b) Providing recognition of financial contributions.

2. Purpose

2.1. This policy is to develop a systematic and consistent approach for the official naming of public facilities in the City of Pearland, including parks, specific facilities in parks, recreational areas, and City owned park dedicated property that is fair and ensures a worthy and enduring legacy for the City. The goal is to provide a consistent evaluation framework and approval process when considering non-commemorative naming proposals for City facilities.

2.2. This policy is intended to balance public and private interests by encouraging philanthropic giving while acknowledging public investment in, and ownership of City facilities. This is also to encourage continued investment in these facilities for the benefit of the citizens of Pearland for generations to come.

2.3 Ensure that parks, city facilities, and specific amenities are easily identified and located.

2.4 Ensure that given names to parks, city facilities, and specific amenities are consistent with the values and character of the area or neighborhood served.

2.5 Encourage the dedication of lands, facilities, or donations by individuals and/or groups.

2.6 Advance the reputation of the City as well as increase the understanding and public support for its programs

3. Scope

3.1. This policy applies to all City of Pearland Parks & Recreation facilities and amenities, including interior and exterior building components, including those facilities owned or operated directly by the City, and those operated by non-profit tenants.

- 3.2. This policy does not apply to:
- a) City owned facilities leased to commercial tenants
 - b) Non-City facilities
 - c) Non-recreation municipal facilities ie. Police Station or City Hall

4. Other Related Naming Policies

- 4.1. Related City Naming Policies include:
- a) Commemorative Naming Policy
 - b) Sponsorship and Commercial Advertising Policies

5. Definitions

5.1. **Applicant:** A person or group of persons, entity or organization that makes a formal proposal to the City to name all or portions of a City facility.

5.2. **Approval Agreement:** a City agreement outlining the terms and conditions of approval in granting naming rights.

5.3. **City Facility:** any property, complex, structure, building or portion thereof owned or controlled (e.g. through long term lease) by the City of Pearland but excluding properties identified in Section 3.2.

5.4. **Commemorative Naming:** naming rights granted to honor outstanding achievement, distinctive service, or significant community contribution without consideration to financial contribution.

5.6. **Corporate Naming:** naming rights granted to a corporation or a corporate foundation, negotiated for a specific fee.

5.7. **Cultural Facility:** any City facility used primarily for the purpose of arts and cultural activities, programs or services.

5.8. **Designated City Staff:** for the purpose of administering this policy, the City Manager will designate a staff person in the relevant City department.

5.9. **Exterior Facility Components:** all ancillary structures, and all exterior components of a City facility which are visually accessible from the public realm, including, but not limited to parks, plazas, courtyards, squares, gardens, lawns, playing fields, and playgrounds.

5.10. **Interior Facility Components:** all substantial interior components of a City facility, including, but not limited to, wings, halls, auditoriums, galleries, lounges, lobbies, and program rooms, etc.

5.11. **Logo:** a combination of characters and/or graphics used to identify a company or organization, including a symbol, wordmark, or trademark.

5.12. **Market Valuation:** a current assessment of the potential value within the marketplace of the naming rights for a specific property.

5.13. **Naming Rights Agreement:** a legal contract outlining the terms of the agreement between the naming entity and the City.

5.14. **Naming Entity:** the entity (e.g. corporation, community organization or individual) to whom naming rights are granted pursuant to a Naming Rights Agreement.

5.15. **Naming Rights:** the right to name or rename a piece of property, or parts of a property granted in exchange for financial considerations.

5.16. **Non-profit Tenant:** a non-profit entity or organization occupying a City facility through an Occupation Agreement.

5.17. **Occupation Agreement:** the lease, sublease, license, sublicense, management and/or operating agreement which grants a non-profit tenant the right to use and occupy a City facility or a portion thereof.

5.18 **Parks** are owned and managed by the City, used for public recreation purposes and include developed and undeveloped park areas and designated open space areas.

5.18. **Park Facility:** any City facility under the care and custody of the Park & Recreations Department, including but not limited to community centers, pools, rinks, gardens, conservatories, tenanted properties and athletic complexes.

5.19. **Proposal:** the proposal by an applicant to the City with respect to naming rights.

5.20. **Public Realm:** publicly owned streets, sidewalks, rights-of-ways, parks, and other publicly accessible or visually accessible open spaces.

5.21. **Renaming:** a change of name of a piece of property which already has a name whether geographic, commemorative or historic.

5.22. **Request for Reconsideration:** an appeal process available to applicants where they wish to appeal to City Council. A Request for Reconsideration will only be considered where the applicant can demonstrate that the criteria and/or documentation were not properly evaluated at the time of the initial review, or new facts become available which were not known at the time of the initial review.

5.23 **Specific Amenities** are amenities/facilities that could be located within a park or part of a facility. These include, but are not limited to athletic fields, gymnasiums, meeting rooms, picnic shelters, tennis and basketball courts and playground equipment.

6. General Principles

6.1. The granting of naming rights is intended to support and promote investment in City facilities.

6.2. Naming rights may be granted under the terms and conditions outlined in this policy as recognition for financial contributions from naming entities where these contributions result in significant and direct benefits to the City, including contributing toward the acquisition, development or conveyance of land or building.

6.3. A Naming Rights Agreement may not compromise the City's or a non-profit tenant's tax status or ability to carry out its functions fully and impartially.

6.4. Neither the City nor its non-profit tenant may relinquish any aspect of its right to manage and control a City facility through a Naming Rights Agreement.

6.5. The granting of naming rights will not entitle a naming entity to preferential treatment by the City outside of the Naming Rights Agreement.

6.6. The approval of naming rights is not intended to replace other grant or support programs to non-profit tenants.

6.7. A Naming Rights Agreement must not conflict with the terms and conditions of any existing Occupation Agreement between the City and a non-profit tenant, and/or between the City and a head-landlord.

6.8. Established names of facilities contribute significantly to historic continuity, City identity and pride and/or reflect unique characteristics of the site.

6.9. Naming rights opportunities are intended to benefit the applicant in the provision of significant and direct benefits to the City.

6.10. The approval of naming rights will not result in additional costs for the City, excluding the City's approval process.

6.11. The authority to grant and terminate naming rights rests with City Council or its designee.

6.12. The City will not pursue naming rights with respect to a City facility fully occupied by a non-profit Tenant.

6.13. In multi-tenanted buildings, proposals for naming City facilities, exterior facility components or common areas will only be considered if all the tenants support the proposal and their support is documented to the City's satisfaction.

6.14. Naming rights may not be resold or assigned by the naming entity.

6.15 Significant and direct benefits will be calculated using the attached gifting formula

7. Guidelines

7.1. The granting of naming rights will be considered for City sport facilities, cultural facilities, and park facilities. This will include new, renaming, interior facility components and exterior facility components and will be subject to the application process.

7.2. Any applicant seeking approval of the granting of naming rights must first establish an internal policy related to the sale of naming rights which has been approved by its Board of Directors.

7.3. Any non-profit tenant seeking approval for naming rights that are not included in the facility lease, must have a current signed occupation agreement in place with the City and must be in full compliance with that agreement to the satisfaction of the City.

7.4. City Council or its designee shall have the exclusive authority to either grant or refuse any proposal to name City facilities or any portion thereof and to terminate for good cause, naming rights previously granted.

7.5. The City will only consider proposals directly from an applicant.

7.6. The City shall evaluate corporate naming proposals according to the following criteria:

- a) An assessment of the proposal against the applicant's mission, vision and values.
- b) A naming entity's products, services and business practices shall not contradict, to the extent reasonably ascertainable, the mandate, policies or objectives of the City, including, but not limited to, the City's Ethics and Purchasing Policies.
- c) The naming entity's products, services and business practices shall conform to all applicable federal, state or municipal laws, ordinances and regulations, to the extent reasonably ascertainable.

7.7. The City shall evaluate individual and community organization naming proposals according to the following criteria:

- a) An assessment of the proposal against the applicant's mission, vision and values.
- b) The naming entity should have a direct relationship with the applicant.
- c) If the naming entity is a non-profit organization, the naming entity must be in good standing with all appropriate government entities.
- d) If the naming entity is a non-profit organization, an assessment of the compatibility of the naming entity's and applicant's mission, vision and values.

7.8. Logos will not be permitted on any signage except the internal or external space relating to the naming rights.

7.9. Signage and acknowledgement associated with naming rights must comply with all applicable laws and by-laws, and must be approved in advance by the City.

7.10. In addition to signage and acknowledgement associated with naming rights that is in accordance with (7.9), an applicant may include as part of a comprehensive sign package one ancillary exterior sign for the naming or renaming of interior rooms or facility components. The ancillary exterior sign must not contain logos or wordmarks, must comply with all applicable laws and by-laws, and must be agreed upon by the applicant and the City.

7.11. Naming of a City facility should include the purpose of the facility.

7.12. Renaming of City facilities must:

- a) Retain and reflect the historic name.
- b) Consider the impact on the individual or organization previously named.
- c) Recognize the cost and impact of changing existing signs.
- d) Respect the rebuilding of community recognition.
- e) Acknowledge the cost of updating of records, such as letterhead, databases and promotional materials.

7.13. All Naming Rights Agreements will be for a fixed term and shall be decided or negotiated on a case-by-case basis. Naming rights of parks, facilities, and amenities may be renewed by mutual agreement between the parties.

7.14. If a Naming Rights Proposal is approved by the City Council or its designee, an Approval Agreement will be executed between the City and the non-profit tenant authorizing the non-profit tenant to grant naming rights to the naming entity under terms and conditions to the satisfaction of the City Attorney.

7.15. The City will endeavor, to the extent reasonably practicable, to balance its responsibility to maintain transparent processes and provide full disclosure to the public, with its responsibility to maintain confidentiality regarding third party interests.

7.16 Names will not be chosen that:

- a) Cause confusion due to duplication or names sounding similar to existing locations within the City.
- b) Are names of companies whose business is substantially derived from the sale of alcohol, tobacco, firearms, and/or pornography; or any other business or industry deemed inappropriate at sole discretion of the City.
- c) Are discriminatory or derogatory considering race, gender, creed, religious, political affiliation, sexual orientation, or other similar factors.
- d) Violate copyright or trademark laws.

8. Application Process

8.1. The Parks & Recreation Director will keep an Asset Inventory, approved by City Council, for properties, amenities and facilities.

8.2 Naming right agreements will be managed by the Pearland Parks Foundation in accordance with this policy, the MOU between the City and the Foundation and the approved Asset Inventory.

8.3. Applicants will make a written proposal and will provide to the designated organization all relevant materials including; but not limited to:

- a) Demonstration of available funds.
- b) Proposed term of naming agreement.
- c) Proposed rights and benefits.
- d) Demonstrated support through documents from key stakeholders (e.g. members, users, donors).
- e) Intended use of funds (e.g. capital, endowment, capital reserve plans).
- f) Draft signage proposal and acknowledgement plan.
- g) In the case of a multi-tenanted City facility, letters of support and approval from all other tenants or occupants of the City facility.

8.4. The Foundation will review proposals and prepare a report.

8.5. If the naming request is associated with a heritage building, the Foundation shall seek the advice of the City's Historical Society.

8.6. Naming proposals for interior and/or exterior facility components of a facility which comply with this policy will be reported to the City Manager for consideration and decision.

8.7. Naming proposals for City facilities which comply with this policy will be reported to City Council or its designee for consideration and decision.

8.8. In the event that Applicants wishes to pursue naming rights for facilities, amenities, properties not on the approved Asset Inventory the applicant will make a written proposal to the Parks & Recreation Director who will, using approved formula, recommend the addition of the amenities, facility, property to the Asset Inventory. Only assets on the inventory approved by council are available for financial naming rights.

9. Request for Reconsideration Process

9.1. An applicant may only submit a Request for Reconsideration of a Proposal that has been denied if the applicant can demonstrate that criteria and documentation were not properly assessed at the time of the initial review, or new facts become available which were not known at the time of the initial review. It is Council's policy not to consider Requests for Reconsideration based on questions of evaluation.

9.2. Request for Reconsideration must be submitted within 30 days of the final decision.

10. Roles & Responsibilities

10.1. The City Manager will:

- a) Designate a City staff person in the appropriate City departments who will:
 - Act as the primary liaison for Financial Naming Rights requests.
 - Provide information to the applicant on the interpretation of this policy.
 - Evaluate the extent to which this policy's guidelines have been met in the proposal.
 - Facilitate timely communication.
 - Protect the confidentiality of Naming Rights Agreements to the extent permitted by law.
 - Review all Naming Rights Agreements to ensure that the City's interests are adequately protected.
 - Seek advice from the City Attorney, if appropriate.
 - Report to the City Manager and City Council or it's designate as appropriate.
- b) Maintain a registry of all Occupation Agreements, Naming Rights Agreements, Commemorative Naming Agreements and Approval Agreements.
- c) Consider and respond to all requests for naming of interior facility components and exterior facility components based on this policy.

10.2. The Pearland Parks Foundation will:

- a) Consider approval of naming proposals for City facilities based on this policy.
- b) Consider Requests for Reconsideration based on this policy.

10.3. City Council will:

- a) Consider approval of naming proposals for City facilities based on this policy.
- b) Consider Requests for Reconsideration based on this policy.

10.3. The applicant will:

- a) Undertake due diligence to ensure all proposals meet the spirit, intent, guidelines and procedures outlined in this policy.
- b) Provide the designated City staff with the necessary documentation and information as outlined in this policy.
- c) Execute a Naming Rights Agreement as outlined in this policy.
- d) Execute an Approval Agreement as outlined in this policy.
- e) Maintain regular communication with designated City staff throughout the process.
- f) Assume any costs associated with the naming of a City facility or any portion thereof, with the exception of a public opinion survey where required.
- G) Transfer the financial or other consideration, upon execution of the naming rights agreement or in accord with an approved payment schedule.

11. Naming Rights Agreement

11.1. Naming Rights Agreements will be in the form of a legal contract between the applicant and naming entity and should contain:

- a) A description of the contractual relationship, specifying the exact nature of the agreement.
- b) The term of agreement.
- c) Renewal options, if any.
- d) Value assessment, including cash, in-kind goods and services (and method of evaluating in-kind contributions).
- e) Payment schedule.
- f) Rights and benefits.
- g) Agreement to remove or cover signage for a limited period and only during an event where the City has a legal obligation to ensure sites are free of corporate signage.
- h) Release, indemnification, hold harmless and early termination clauses.
- i) Insurance clauses.
- j) Confidentiality terms.

11.2. All Naming Rights Agreements shall be reviewed to the satisfaction of the City Attorney.

12. Approval Agreement

12.1. Approval Agreements shall be in the form of a legal contract between the Foundation and the applicant and contains any terms and conditions of the City Council's or its designee's approval in granting naming rights, and shall be to the satisfaction of the City Attorney.

City of Pearland

NAMING POLICY GIFTING FORMULA

FORMULA

GA = Gifting Amount

To arrive at GA:

$$B + X = GA$$

B = Capital Project Cost

X = Unknown Dedicated Endowment Amount

To arrive at X:

Assumption: The endowment money will be kept in a dedicated account with an annual return of 5%, which will be moved annually to a replacement income account.

- I. The replacement and enhancement costs will be based on the number of years of anticipated use of items to be replaced.
- R. Replacement cost will be actual replacement plus any anticipated enhancements.
- X. The unknown endowment necessary

Simplistic Example: Gifting endowment necessary for a park bench

Given:

| | |
|----------------|---|
| B = Capital | Bench, Plaque and labor cost are equal to \$800 |
| T. Term | The bench is anticipated to last 10 years |
| R. Replacement | The replacement cost in 10 years is anticipated to be \$1,000 |

The dedicated endowment necessary to produce \$1,000 (R) in 10 years (T) @ 5% can be calculated by finding the dedicated endowment (X) necessary.

$$1. (R) 1,000 = .05X \cdot 10(T)$$

$$2. 1,000 = .50X$$

$$3. \frac{1,000}{.50} = \frac{.50X}{.50}$$

$$X = \$2,000$$

$$GA = B + X$$

$$GA = \$800 + \$2,000$$

Gifting amount for a park bench would be \$2,800

It should also be noted that the income account of the dedicated endowment would grow annually at approximately 5%. The actual income account could have as much as \$1,300 in ten years based on investment return.

This formula allows Parks and Recreation management to establish gifting amounts necessary for endowments based on actual dollar amounts. It is recommended that management review the results, and in each case apply available national benchmarks, community demand, and perceived market value to the suggested gifting price. A small amount could be added for administration, possibly a percentage of interest earnings.

In cases where NO capital expenditure is necessary, such as an existing meeting room, the same formula may be used with (B) being zero (0).

COMMEMORATIVE NAMING POLICY

PURPOSE:

The City of Pearland acquires land and constructs major public facilities that deserve naming that celebrates the history, environment as well as the community involvement and citizen contribution. This policy is to develop a systematic and consistent approach for the official naming of public facilities in the City of Pearland, including parks, specific facilities in parks, recreational areas, municipal buildings and City owned property that is fair and ensures a worthy and enduring legacy for the City.

Objectives:

- Ensure that parks, city facilities, and specific amenities are easily identified and located.
- Ensure that given names to parks, city facilities, and specific amenities are consistent with the values and character of the area or neighborhood served.
- Encourage public participation in the naming, renaming, and dedication of parks, city facilities, and specific amenities
- Advance the reputation of the City as well as increase the understanding and public support for its programs.

DEFINITIONS:

PARKS are owned and managed by the City, used for public recreation purposes and include developed and undeveloped park areas and designated open space areas.

CITY FACILITIES are City owned facilities. Buildings may include but are not limited to City Hall, Fire and Police Stations, Senior Center, Recreation Center, Libraries, Plants (Wastewater & Water), Storm water Detention Facilities, Municipal Courts, Civic Centers, Community Center, etc.

SPECIFIC AMENITIES are amenities/facilities that could be located within a park or part of a facility. These include, but are not limited to athletic fields, gymnasiums, meeting rooms, picnic shelters, tennis and basketball courts and playground equipment.

DISCUSSION:

The City Council will evaluate the merit of each suggested park, city facility and specific amenity name according to criteria outlined in this policy. The Parks, Recreation and Beautification Board shall review and make recommendations to the City Council for areas that relate to parks, recreation facilities and recreation specific amenities. All non-related recreation facilities or specific amenities will go directly to the Administration Staff with a recommendation to City Council.

When feasible, the process to name parks, recreation areas, facilities, and municipal buildings should begin within twelve (12) months after the City has acquired title to the land and/or formally accepted the dedication.

Names that are similar to existing parks, recreation areas, facilities, and municipal buildings should not be considered in order to minimize confusion.

Facilities or specialized areas may have a name different from that of the larger park, recreation area, facility, or municipal building.

This applies to buildings and facilities available to and operated for the benefit of the public and under the management and responsibility of the City of Pearland.

Facilities may be named after individuals (either living or deceased), organizations or entities consistent with criteria set out in these guidelines.

Symbolic names reflecting historical or special events or circumstances may be used at the discretion of the City Council. (This may include such names as Independence or Centennial Parks)

The naming of a facility must be consistent with the positive image of the community

Consideration should be given to including the function of the building to the extent practical, such as 'library' or 'activity building'.

Any one or combination of all these criteria may be considered when making decisions.

CRITERIA:

The practice of the City of Pearland is to name parks, recreation areas, facilities, and municipal buildings through an adopted process utilizing the above objectives, emphasizing community values and character, local and national history, geography, the environment, civics, and service to the City of Pearland. Therefore, the following criteria shall be used in determining the appropriateness of the naming designation:

Environmental Criteria

A park, facility or specific amenity may be named for a predominant plant material, wildlife stream, river, lakes and creeks adjacent to or in close proximity to the location.

Geographic Location Criteria

A park, facility or specific amenity may be named for the school on which it is located or street it is adjacent to.

The geographic location may be based also on the identification of the park or facility with a specific place, neighborhood, regional area of the City or the City

itself if the park or facility is deemed to serve the entire community or the surrounding areas.

Historical/Symbolic Criteria

Facilities may be named for a historical place, event or other instance of cultural significance. Facilities may also be named for local, State and National historical individual, families, organization or entities who, for historical or symbolic reasons, have contributed to the community. Nominated individuals shall be limited to those deceased for a minimum of 5 years. When considering individuals or families under this category, criteria will include their character, service to the community, leadership and inspiration to others.

Civic Contributions Criteria

Individuals selected within this category can either be living or deceased and should be selected after many years of service to the community and in consideration of their positive impact on the development and well-being of the entire community. These decisions should be made objectively, without consideration to illness, misfortune or incidents creating emotional responses. Organizations should be selected according to the same criteria.

The City of Pearland reserves the right to seek sponsorship for the naming rights to a park, facilities or amenities as a method of obtaining funds to aid in the construction, maintenance and operation of said park, facility or amenity.

Individual/Organization Naming (The following criteria shall be used in evaluating the merit of each naming request):

- The % of signatures of residents within a ½ mile radius for neighborhood parks
- The % of signature of residents within 2 mile radius for community parks
- The individual was a resident of the City of Pearland and/or the Pearland Independent School District for fifteen (15) years or more.
- The individual must not have been convicted of a felony.

- The person being memorialized died in the line of duty serving the City of Pearland or the United States of America or died while performing a heroic act (e.g., saving the life of another person).
- The individual must have been deceased a minimum of 3 years.

- Individual:
The City will obtain and/or attempt to make contact for approval from individual or living family members of individuals recommended for having a park, facility or specific facility named in their honor or memory.

- Organization:
Active: Signed letterhead with approval from Board of Directors stating their approval for the naming of a park, facility or specific facility.

Non-Active Organization: City Council will have FINAL approval based on recommendations.

Satisfying one or more of the eligibility criteria listed above does not assure a recommendation from the Parks, Recreation and Beautification Board or City Council approval.

Renaming of parks, city facilities, or specific amenities

There will be no re-naming of existing Parks, Facilities or Specific Facilities unless it is found that the criteria outlined in this policy is in question. Only with City Council approval can this be investigated and approved. The primary reason of not allowing re-naming is to avoid diminishing the original justification for the name or discount the value of the prior contributions. Consideration will be given to requests for a subsection of a facility or park in honor or memory of an individual/organization with appropriate recognition and acceptable criteria. The City reserves the right to change the name of a park, facility specific amenity to maintain consistency with these guidelines. However, renaming carries with it a much greater burden of process compared to initial naming. Tradition and continuity of name and community identification are important community values. Each request to rename must meet the criteria of this policy, but meeting all criteria does not ensure renaming.

Plaques, Markers and Memorials:

Plaques, Markers and Memorials that are requested to be located on City Property, a City Facility or on the any City Premises, must follow the guidelines set below:

- Must be in accordance with City Standards. The location, size and writing on plaques require approval by the designated City Staff.
- Designed to blend with the compliment of the existing Park or Facility.
- Must be made of bronze or any other pre-approved material by the City of Pearland.
- A written maintenance agreement for each plaque, marker or memorial must be reviewed and approved by the Parks & Recreation Department Director.

Procedures

The City Council may name or rename a City facility without following these guidelines. An individual council member may submit a naming suggestion to the Parks & Recreation Director, who will then apply the guidelines and procedures.

Naming Procedure:

New Parks or Facilities

1. Groups or individuals may submit an Application for Naming a Public Facility. All recommendations will be given the same consideration without regard to the nomination source.
2. Staff will review the form for completeness and accuracy and forward all requests to the City Manager who will make a recommendation to the City Council. The Pearland City Council is responsible for the FINAL approval.

Existing Facilities:

Requests to name existing Specific Facilities located within a City Park or Facility (as defined on page one of this policy) shall be made by completing the nomination form provided by the Parks & Recreation Department. Staff will review the form for completeness and forward to the Parks, Recreation and Beautification Board. The Board will provide a recommendation to City Council. The decision of the City Council will be FINAL.

References

Application for Naming a Public Facility
Financial Naming Rights Policy

Review & Revision History

Draft 12-14-10

Reviewed by Parks Board 2-3-11

Reviewed by Council April 2011

CITY OF PEARLAND
APPLICATION FOR NAMING A PUBLIC FACILITY

Please type or print clearly in ink and return to:
Parks & Recreation Department

Date of Submittal: _____

Individual or Organization Submitting Application:

Address: _____

City, State, Zip: _____

Telephone: (_____) _____

Signature of Individual or Organization Representative:

Facility Information

Location: _____
(Please be specific as to the location of the Specific Amenity you are nominating)

Current Name: _____

Function of facility: _____

Proposed Name: _____

Criteria Category being used: _____
(Please refer to the Naming of Public Facilities Policy to see the categories and criteria used)

Explanation of why this individual/organization should be considered. (This information will be used by City Staff/Parks, Recreation and Beautification Board and/or City Council to determine the basis for their recommendation and/or decision). Use additional paper if necessary.

The City of Pearland
SPONSORSHIP AND COMMERCIAL ADVERTISING POLICIES

The City's programs, events, services and property play an important role in providing a high quality of life for the Pearland community. Advertising and sponsorship of programs and/or property can assist the City in funding these important amenities and can provide valuable exposure to local businesses.

POLICIES

Sponsorship and commercial advertising policies allow for the solicitation of general sponsorships of programs, events and property, as well as Program Presenting Sponsorships. Additionally, the policies allow staff to solicit and sell commercial advertising in City publications, at events, and on athletic team fields, uniforms, and the appropriate equipment.

I. GENERAL SPONSORSHIP POLICY

THE POLICY:

1. Program and event sponsorships provide an opportunity for individuals and the business community to support the efforts of the City while providing broad-based marketing opportunities for both the City and the sponsor, along with the potential to grow a sponsor's business.
2. Sponsorships could include donated products, in-kind services and/or money to offset operating costs.
3. Business sponsors shall be provided an opportunity for their employees to volunteer at an event or program as appropriate.
4. Sponsors shall be recognized as supporters of the community and investors in the City of Pearland.
5. Sponsorships will vary based on the level of exposure the sponsor will receive at an event or program and on the total event cost and availability of appropriate sponsors.
6. Staff shall identify what sponsors can realistically offer and how the acknowledgement of the sponsors will be allocated based on level of involvement. The benefits to sponsors are both tangible (e.g. media, brochure, signage, tickets, marketing materials, display tables) and intangible (e.g. prestige of opportunity, targeted demographics, name association, recognition and exclusivity).

CRITERIA:

1. Applicable City staff shall determine the appropriateness of a sponsor for a given event or program and may refuse to enter into a sponsorship agreement if the sponsor is deemed to be inconsistent with the City's goals, ethics, codes or ordinances.
2. Formal written agreements outlining the terms of the sponsorship shall be required between the sponsor and the City and shall be authorized by the appropriate department head and the sponsor.

II. PROGRAM PRESENTING SPONSORSHIPS POLICY

Program Presenting Sponsorships provide "short-term" recognition of a sponsor of an event or program. The Program Presenting Sponsorship term could be one or more years, and may be renewable. A hypothetical example of Program Presenting Sponsorship would be an agreement to trade a cash contribution or a predetermined level of advertising for the Christmas parade in the *Pearland Journal* newspaper for the event to be promoted as: "*The Journal presents the Pearland Christmas Parade.*"

THE POLICY:

1. Program Presenting Sponsorships provide an opportunity to support the efforts of the City while providing broad-based marketing opportunities for both the City and the sponsor, along with the potential to grow a sponsor's business.
2. In-kind or cash contributions shall vary based on the level of exposure the sponsor will receive at an event or program, the total event cost and availability of appropriate sponsors, the size, demographics and interest expressed in the event.

CRITERIA:

Program Presenting Sponsorships shall require a written agreement authorized by the appropriate department head that, at his/her sole discretion, shall determine the appropriateness of a sponsor for a given event or program and may refuse to enter into a Program Presenting Sponsorship agreement if the sponsor is deemed to be inconsistent with the City's goals, ethics, codes or ordinances.

III. COMMERCIAL ADVERTISING POLICY

RECOMMENDATION:

The City will entertain consideration for the placement of commercial ads in select City publications. Other venue sources available include:

1. Athletic field fencing
2. Event-specific brochures
3. Athletic team uniforms and other appropriate athletic equipment (e.g., balls, goals, score boards)
4. City events or programs (e.g., hole sponsor at Miniature Golf)

THE POLICY:

The City of Pearland recognizes that opportunities exist to raise revenues to be used for public benefit through the sale of commercial advertising in City publications, suitable City-owned facilities and team sponsorships. This policy governs the sale of advertising, defines the types of commercial advertising the City will sell and ensures that standards for acceptance or rejection are clear and objective.

The City of Pearland is acting in its proprietary capacity to raise revenues for the City in a manner consistent with City policies. By selling advertising, the City is not creating a public forum or a limited public forum for speech.

1. The City will establish commercial advertising rates guided by the prevailing market for similar advertising.
2. No advertising will be accepted if that advertisement or the information contained within does not meet the Policy's Criteria as defined below.
3. Appropriate City staff will monitor decisions to accept or decline advertising requests to ensure consistency.
4. Appropriate City staff shall review all proposed advertisements and determine if the advertisement meets the Policy's Criteria.
5. If City staff declines an advertisement, a written notice outlining the reason(s) for the determination will be promptly provided to the advertiser. The advertiser may appeal this decision to the department head.
6. The City will maintain its reputation and public image by avoiding advertising that is offensive or controversial.
7. The sale of advertising space does not imply any City endorsement of the product or service advertised.

CRITERIA:

Advertising in City of Pearland publications, at events or programs, or on tickets, property or shirts may **NOT** contain material or information that:

1. Is false, misleading, libelous or deceptive.
2. Promotes unlawful or illegal goods, services or activities.
3. Implies or declares an endorsement by the City of Gaithersburg of any goods, services or activities.
4. Contains any obscenity or sexual conduct of any kind (obscenity is defined as any communication, picture, image, graphic image or other matter that the average citizen, applying contemporary standards, would find, taking the material as a whole, appeals to prurient interest and whether it depicts or describes, in a patently offensive way, sexual conduct).
5. Promotes the sale or use of tobacco or tobacco-related products.
6. Supports or opposes a political candidate, issue or cause.
7. Supports or opposes a religion or religious denomination, creed, tenet or belief, including information or material that supports or opposes atheism or agnosticism.
8. Is, as determined in the discretion of the department head, clearly inconsistent with the City's goals with respect to the facility, activity, program, publication or brochure at or in which the advertising would appear, or if the department head determines that the advertisement would otherwise interfere with the primary purpose of the subject property or program.
9. Advertising in City of Pearland publications, at events or programs, or on tickets, property, or shirts may not conflict with any City policy or procedure.

Additionally, advertisers shall meet the following criteria before the City of Pearland will sell advertising space to them:

1. Enter into any appropriate legal contracts with the City of Pearland to be authorized by the department head.
2. Adhere to visual identity guidelines as provided by the City of Pearland.
3. Provide electronic versions of all advertising materials, and proofs, as necessary, to meet the City's print schedule, at no cost to the City.
4. Adhere to all other City policies, Municipal Codes, and procedures as well as State, County and Federal laws and policies.

This policy becomes effective on the _____ day of _____, 2011.

APPROVED:

, City Manager

APPROVED for Form and Legal Sufficiency:

, City Attorney

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF PEARLAND AND THE
PEARLAND PARKS FOUNDATION**

THIS AGREEMENT is made by and between the City of Pearland, a municipal corporation located at City Hall, 3519 Liberty Dr, Pearland, Texas 77581 (the city), and the Pearland Parks Foundation, a nonprofit corporation organized pursuant to state statutes, located in Pearland, Texas (the Foundation).

WHEREAS, the City, through its Parks and Recreation Department, maintains the stated vision for Pearland to be a thriving and healthy City where members of the community are physically active, socially involved and emotionally connected; and the stated mission that the department shall contribute to and enhance the quality of life for the citizens of Pearland....staff will work to preserve the past, practice in the present and plan for the future; and

WHEREAS, the City, owns or operates and maintains real estate, buildings and other recreational facilities, and operates a wide variety of programs and services in furtherance of this mission; and

WHEREAS, the City has a naming policy authorizing the "naming" of certain facilities, buildings, landscape areas, programs, and other related Park and Recreation Department assets, in return for private sector monies donated to the Foundation and managed by the Foundation in accordance with this Memorandum of Understanding (MOU) between the City and the Foundation; and

WHEREAS, the City, through its Parks and Recreation Department, established the terms of the naming agreements, including necessary gifting amounts, length of memorialization, management of funds, plaque locations and size. Additionally, the Parks and Recreation Department philosophically and by policy will not name any asset without the necessary monetary gift as detailed in the Policies and Procedures Manual; and

WHEREAS, the Foundation wishes to support the City's Parks and Recreation Department's vision and mission and had the opportunity to accomplish more than public funding allows; and

WHEREAS, the private nature of the Foundation also provides the added advantage of dedicated funder services; and

WHEREAS, the city wishes to assist and enhance the operation of, and appropriately recognize, the Foundation; and

WHEREAS, the City wishes to support the fund raising activities of the Foundation and promote a positive relationship with volunteer members; and

WHEREAS, the Foundation wishes to assure the City and its Parks and Recreation Department that it will operate effectively and responsibly with the reasonable expectations of both public and private interests on behalf of the city and its Parks and Recreation Department

THEREFORE, based on the foregoing, the parties enter into the following agreement.

Section 1. Foundation Representations. The foundation represents and acknowledges the following with regard to its operation, creation and purpose:

1. The foundation is created and operated primarily in support of the City and its Parks and Recreation Department's vision and mission and goal and their work will be compatible with these interests and goal and it will support the master plan of the Pearland Parks and Recreation Department.
2. The Foundation will operate as its primary purpose to secure, purchase, manage and invest privately raised funds solely for the benefit of the Pearland Parks and Recreation Department's programs, properties, facilities, etc.
3. The Foundation will operate a private legal entity separate from the City and its Parks and Recreation Department.
4. The Foundation will use sound fiscal and auditing procedures.
5. The Foundation will not interfere with day to day Parks and Recreation Department operations; and
6. The Foundation will obtain and maintain status as a tax-exempt, charitable organization under state and federal income tax laws to ensure that gifts and bequests received may qualify as deductible, charitable contributions for the donor.

Section 2. Foundation Documents. The Foundation shall keep on file with the City's Pearland Parks and Recreation Department updated copies of all of its enabling documents including the Articles of Incorporation, bylaws and any amendments to these documents. The City's Parks and Recreation Department Director or his/her designee shall review these documents annually.

Section 3. Foundation Enabling Documents – Required Provisions. The Foundation shall include language substantially to the following clauses in its enabling documents:

1. Articles of Incorporation. In the event of its dissolution, the Foundation's assets and records will be distributed to the City of Pearland for Parks and Recreation services, provided the City remains a qualified charitable organization under relevant federal and state income tax laws.
2. Bylaws. The Foundation's Bylaws shall provide that the Director of the Pearland Parks and Recreation Department shall be an ex-officio member of the Foundation Board of Directors.

Section 4. Bond and Insurance. The Foundation shall ensure that officers and staff members are bonded in an amount of not less than \$1,000,000. The premiums payable on such bonds shall obtain and maintain general liability and directors' and officers' liability insurance in a reasonable and appropriate amount as determined by the Foundation Board. The Foundation shall annually provide the City's Parks and Recreation Department documentation of its compliance with this section.

Section 5. Accountability and Stewardship. As the City and the Foundation want to maintain the highest levels of accountability and stewardship, the foundation agrees to share information with the City as reasonably requested, develop reporting processes and institute compliance and auditing procedures that ensure donated funds are accounted for, expenditures are made in accordance with donors' wishes and reports are made to donors on the use of such funds.

Section 6. Donor Solicitation.

6.1 Donor Communication. The Foundation agrees to make the following clear to prospective donors:

1. The Foundation is a separate, legal and tax entity organized for the purpose of encouraging voluntary, private gifts, trusts, and bequests for the benefit of the Pearland Parks and Recreation Department.
2. Responsibility for governance for the Foundation, including investment of gifts and endowments, resides with the Foundation's Board.
3. Checks for charitable gifts to any of the City's Parks and Recreation Department's programs should be made payable to the Pearland Parks Foundation.
4. Gifts made for a designated purpose will be dedicated in their entirety to that purpose unless it is specifically stated that an administrative charge will be applied.

6.2 Conditions of Gift Acceptance. The Foundation agrees that in accepting gifts of all kinds, it will:

1. Advise donors that any restrictive terms and conditions they attach to gifts for the City's Park and Recreation Department are subject to the City's Parks and Recreation Department approval.
2. Ensure that gifts designated for specific purposes are in compliance with the City's Parks and Recreation Department's master plans, vision, mission and philosophy.
3. Ensure that the City's naming policies and procedures are adhered to as delineated in the Policy and Procedure Manual.
4. Ensure that gifts are promptly reported to and approved for acceptance by the City.
5. Coordinate their funding goals, programs and campaigns with the City's Parks and Recreation Department.

6. Any gift, grant, or contract that includes a financial or contractual obligation binding upon the City must have prior concurrence in writing from the designated city staff.

Section 7. Financial Procedures.

7.1 Standards. The Foundation will hold and invest endowments and funds functioning as endowments on a long-term basis. For this purpose, they should ensure that the following standards are applied:

1. Prudent Practices. In general, Foundation investment procedures should be conducted in accordance with applicable state law, prudent, sound practices to ensure that gift assets are protected and enhanced, that a reasonable return is achieved, and with due regard for the fiduciary responsibilities of the Foundation's Board. The investments must be consistent with the terms of the gift instrument.
2. Administration of Income. Income from investments, net of administrative fees, should be administered in accordance with pertinent Foundation policies, and, where appropriate, transferred to the City so as to be expended from the appropriate City's Parks and Recreation Department or program accounts.
3. Annual Report. The Foundation shall also prepare an annual report to the City that summarizes the funds transferred to the City. The City and the Foundation shall provide each other with other reports as may be necessary to ensure proper financial oversight.

Section 8. City's Parks and Recreation Department – Accountability of funds. The Foundation, in consultation with the City's Parks and Recreation Department, shall determine who shall be responsible for reporting to the donor regarding the use of a donor's funds.

Section 9. Financial Commitments Consistent with the City's Parks and Recreation Department Vision and Mission. The Foundation shall carry out financial commitments and expenditures consistent with pertinent policies, plans, and budget approved by the foundation's Board of Directors and consistent with the City's Parks and Recreation Department's vision, mission, and goals.

Section 10. Financial Statement. The Foundation shall maintain financial records in accordance with generally accepted accounting principles, and be audited annually by a firm of certified public accountants. Copies of the audited, financial statements and a current list of Foundation officers, directors or trustees, shall be made available to the City.

Section 11. Inspection of Foundation Records. Because private funds are raised to support public projects, the Foundation will permit, on reasonable notice, authorized City officials or their designees to inspect all Foundation books and records, except to the extent such inspection violates rights to privacy or confidential donor information.

Section 12. Compliance Reviews. The City's Parks and Recreation Department will conduct periodic compliance reviews of the use of donated funds. These reviews will be conducted by the City's Parks and Recreation Department on an annual basis. Their purpose will be to ensure that dispositions of donated funds have complied with the purposes and restrictions set forth by the donors and/pr the Foundation. The scope of the review and extent of testing will be mutually agreed upon in advance by the City and the Foundation. A written report of the results of such review shall be provided to the Foundation.

Section 13. Designation as a Gift. Funds received by the City shall only be accounted for as a gift where the appropriate donor intent is present. Amounts received solely in exchange for services or property shall not be accounted for as gifts.

Section 14. The City's Parks and Recreation Department's Assistance to the Foundation. As long as the Foundation complies with all provisions of this Agreement, the City will assist the Foundation in the following manner:

1. Allow the Foundation to use the name and images of the City's Parks and Recreation Department.
2. Provide the Foundation with assistance in Foundation activities in the discretion of the Director of the Parks and recreation Department, and consistent with what is permitted under state and federal law.
3. Assist the Foundation by suggesting and recommending donor s and contributions to the Foundation.

Section 15. Notice of Non-Compliance – Opportunity to Cure. In the event of non compliance with any provision of this Agreement, the City shall notify the Foundation in writing of the event or practice the City believes does not comply with this Agreement. The Foundation shall, within fifteen (15) days from receipt of the notice of non-compliance, either correct the non-compliance or show cause to the City that the Foundation is in compliance. In the event the Foundation fails to comply within this time period, the City may, at its option, terminate this Agreement and its relationship with the Foundation.

Section 16. Termination. In addition to the method of termination provided for in Section 15, this agreement may be terminated by either party by delivering written notice of termination to the non-terminating party at least thirty (30) days prior to the effective date of any termination. In the event of termination, the Foundation shall provide the City with an accounting of all funds in its possession and transfer those receipts, along with any restrictions thereon, to the City.

Section 17. Entire Agreement and Amendment. This Agreement represents the parties' entire agreement with respect to the matters specified herein.

Section 18. Governing Law and Venue. It is understood that this Agreement shall be governed by and constructed under and in accordance with the laws of the State of Texas.

Venue for any actions arising under this Agreement shall be in the County of Brazoria County, Texas.

Section 19. Servability. Any provision of the Agreement which is prohibited or unenforceability shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof.

Section 20. Attorney's Fees. In the event of litigation or arbitration over the terms or performance of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs.

Section 21. Mediation. Should any dispute arise out of or related to this Memorandum of Understanding or its performance by the parties hereto, the parties shall meet in mediation and attempt to reach a resolution with this assistance of a mutually acceptable mediator. The parties shall select a mediator within ten (10) days of the notice by a party to mediate a claim. Mediation shall be concluded within sixty (60) days of the notice to mediate being made unless extended by the parties by mutual agreement. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution of the claim(s). The costs of mediation shall be paid equally by the parties. If a mediated settlement is reached neither party shall be deemed the prevailing party for purposes of obtaining attorneys fees and legal costs.

**BYLAWS
OF THE
PEARLAND PARKS FOUNDATION**

**ARTICLE I
NAME, SEAL, OFFICES AND PURPOSES**

- Section 1. **Name.** The name of the corporation shall be The Pearland Parks Foundation (“Foundation”).
- Section 2. **Use of Name.** The Board of Directors may permit this corporation or any related corporation the use of the name involving the words Pearland Parks Foundation.
- Section 3. **Seal.** This Corporation shall have no seal.
- Section 4. **Principal Office.** The principal office of the corporation shall be 4141 Bailey Road, Pearland, Texas 77584
- Section 5. **Other Offices.** The corporation may have such other offices at such other places as the Board may determine or as the affairs of the corporation may, from time to time, require.
- Section 4. **Purpose.** The primary purpose for this corporation is to assist the City of Pearland governmental agency and local groups, to improve the park system and recreational facilities through land acquisition and development of existing parks. Always within the scope of the foregoing corporate purposes, this corporation may:
- A. Develop, maintain, improve, expand, erect, enhance, support, preserve, fund, encourage and sustain public parks operated and owned by the Park and Recreation Department for the benefit of its users and the general public;
 - B. Acquire, hold, improve, preserve, develop and restore Park and Recreation facilities and real estate for recreational purpose use by the general public;
 - C. Solicit and receive gifts, grants, subscriptions, devises or bequests of real or personal property, from public or private sources, in order to carry out the purposes of this corporation; and hold, sell, dispose of, invest or reinvest such funds or properties in any manner as the corporation may deem appropriate for achieving the purposes of the corporation; and maintain revolving funds for purposes of carrying out the activities set forth herein;
 - D. Support the recreational opportunities in the park system, and;
 - E. Improve opportunities for visual and performing arts.

ARTICLE II GOVERNANCE

The Board of Directors shall develop operating policies and procedures to govern the activities of the Foundation consistent with the Articles of Incorporation and these Bylaws. The Board shall also negotiate a foundation agreement with the Pearland City Council consistent with the corporation's purpose, its Articles of Incorporation and these Bylaws.

ARTICLE III MEMBERS

Section 1. ***Classes of Members.*** The membership shall consist of three classes of members, as follows: (a) active members; (b) honorary members; and, (c) ex-officio members.

a. ***Active Members.*** Active members shall be those persons elected and serving on the Board of Directors pursuant to the provisions set forth herein.

b. ***Honorary Members.*** Honorary members shall be those individuals who have maintained an active interest in the welfare of the corporation and the parks supported thereby, and have been duly elected as an honorary member by a majority vote of the Board.

c. ***Ex-Officio Members.*** Standing members include the Director of the Park and Recreation Department and an additional staff member designated by the Director. The Board of Directors of the Foundation may duly elect additional ex-officio members by a majority vote of the directors.

Section 2. ***Member Voting Rights.*** As members of the Board of Directors, active members shall be entitled to vote on matters involving the corporation. Honorary members shall be entitled to attend the Annual Meeting and all regular meetings of the Board of Directors but shall not be entitled to vote. Ex-officio members shall not be entitled to vote.

ARTICLE IV BOARD OF DIRECTORS

Section 1. ***Powers.*** The Board of Directors shall exercise all corporate powers and conduct, manage and control the affairs and property of the corporation consistent with

applicable federal and state law including Section 501(c)(3) of the Internal Revenue Code of 1986, the corporation's purpose, the Articles of Incorporation and these Bylaws.

Section 2. ***Number of Directors and Term of Office.*** The corporation shall be governed by a Board of Directors of not less than five (5), nor more than twelve (12) natural persons. The Directors are elected by the Board except for the first Board, which is elected by the incorporators consistent with this section. Directors are active members of the corporation. The term of office for each director shall be three (3) years, except that the term of office for the members of the first Board as chosen by the incorporators of the corporation shall be staggered so that no more than one-third (1/3) of such Director shall be elected for a one (1) year term, one-third (1/3) for a two (2) year term, and the remaining Directors for a three (3) year term. Thereafter, annually, Directors shall be elected at each Annual Meeting of the corporation to serve for a full three (3) year term upon expiration of their term as above provided. Nominations to the Board shall be made by a nominations committee appointed by the Board and shall be set forth in the Notice of the Annual Meeting. Each Director shall hold office for the term for which he or she is elected and until his or her successor shall have been elected and qualified. Directors in office may be re-elected for a maximum of two consecutive terms, excluding the initial terms of the first Board of Directors. The number of Directors shall be set by the Board at its annual meeting. The number so selected must be divisible by three. When the number of Directors is so decreased, each Director in office shall serve until his or her term expires, or until his or her resignation or removal as herein provided.

Section 3. ***Qualifications.*** Any person, whether a resident of the City of Pearland or not, shall be qualified to serve as a Trustee. The Director of the Pearland Parks & Recreation Department shall serve as an ex-officio member of the Board of Trustees. The Chairmen of the Pearland Parks, Recreation and Beautification Board shall always serve as a member of the Board of Trustees. The remaining members of the board of trustees shall be nominated and voted on by a majority of the members of the Board of Trustees.

Section 4. ***Vacancies.*** Any vacancy in the membership of the Board, occurring during the interim between Annual Meetings, may be filled for the unexpired portion of the term by the majority of remaining Directors. Any Director so elected by the Board shall hold office until the election and qualification of his or her successor.

Section 5. ***Voting Rights.*** Each Director shall be entitled to one vote on each matter submitted to the Board for a vote.

Section 6. ***Leave of Absence.*** Any Director who is unable to fulfill his or her duties for any period of time may request a leave of absence from the Board.

Section 7. **Resignation.** Any Director may resign by filing a written resignation with the Secretary.

Section 8. **Conflict of Interest.** Any possible conflict of interest or the appearance of a conflict of interest on the part of a Director shall be disclosed to the Board. When any such interest becomes a matter requiring action by the Board, such Director shall not vote or use personal influence or otherwise participate in the matter except to make a brief statement disclosing the existence and nature of the conflict requiring his or her abstention. The Director shall not be included as present in determining a quorum for a meeting at which action by the Board is to be taken on the matter. The minutes of all action taken on such matters should clearly reflect that these requirements have been met.

Section 9. **Board Member's Responsibilities.** Each Director shall assume the responsibility to act solely for the good of this corporation in pursuance of the objects and purposes set forth in the organizational documents and exhibit the highest level of honesty and efficiency when serving as a member of said Board. Directors shall discharge the duties of the position in good faith, in a manner he or she reasonably believes to be in the best interests of the corporation and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

Section 10. **Compensation.** Trustees shall receive no compensation for any meetings attended except all reasonable out of pocket expenses incurred by a Trustee in attending a meeting for or on behalf of the Corporation shall be reimbursed to that Trustee.

ARTICLE IV BOARD OF DIRECTORS MEETINGS

Section 1. **Annual Meetings.** The Annual Meeting of the Board shall be held the 1st Friday in May of each year if such day is not a holiday; or if so, such meeting shall be held at the same time on the next succeeding secular day not a legal holiday. The purpose of the Annual Meeting shall be to elect the officers of the corporation, fill all vacancies on the Board and transact such other business as may properly come before it.

Section 2. **Regular Meeting.** Regular meetings of the Board may be called by the President or in his or her absence the Vice President and upon the written request of three Directors to the Secretary of the corporation.

Section 3. **Special Meetings.** Special meetings of the Board may be called at any time by the President, or any other officer, and shall be called by the President or Secretary upon a request in writing by a majority of the Board.

Section 4. **Place of Meetings.** Meeting of the Board shall be held at the principle office of the corporation, or such other place as designated by the Board.

- Section 5. **Notice of Meetings.** Written notice stating the place, day and hour of any meeting of the Board shall be delivered, either personally or by mail, to each Director, not less than 10 nor more than 30 days before the date of such meeting, by or at the direction of the President, or the Secretary, or the officers or persons calling the meeting. In case of a special meeting the purpose or purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the member at his/her address as it appears on the records of the corporation, with postage thereon prepaid. All other members of the corporation shall, upon written request, receive notice of regular and special meetings via United States Mail.
- Section 6. **Quorum.** A majority of the Board, physically present, shall constitute a quorum for the transaction of business at any meeting; but if less than a majority of the members of the Board are present at said meeting, a majority of the members of the Board present may adjourn the meeting from time to time until a quorum is present.
- Section 7. **Manner of Acting.** Unless otherwise specifically provided for herein, a vote on any matter properly presented before the Board shall require for a passage a majority of the votes of those Directors present at such meeting where a quorum is present.
- Section 8. **Action by Directors.** Any action required by law to be taken at a meeting of the Board or any action which may be taken at a meeting of the Board, may be taken by written actions signed by all Directors. Any action may also be taken by written action signed by the number of Directors that would be required to take the same action at a meeting of the Board at which all Directors were present. In this event, all Directors shall be notified of its text and effective date immediately. Any written action shall be effective when signed by the required number of Directors, unless a different effective time is provided for in the written action.

ARTICLE V

INDEMNIFICATION

- Section 1. **Indemnification, Insurance.** The corporation shall indemnify such persons, for such expenses and liabilities, in such manner, under such circumstances, and to such extent, as permitted by (State) Statutes, as now enacted or hereafter amended. The corporation may obtain insurance coverage for such persons or for other persons working on behalf of the corporation.

ARTICLE IX OFFICERS

- Section 1. ***Composition of the Executive Committee.*** The Executive Committee shall be comprised of all duly elected and incumbent officers. The President shall serve as Chair of the Executive Committee. Any two offices, except those of President and Vice-President may be held by the same person.
- Section 2. ***Election and Term of Office.*** The Board shall elect the officers at the Annual Meeting. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as convenient. The term of office for each officer shall be two years or until such time as their successors are chosen and qualified.
- Section 3. ***Removal.*** Any officer duly elected by the Board may be removed by a two-thirds vote of the Board with or without cause; provided, such removal shall be without prejudice to the contract rights, if any, of the officer so removed.
- Section 4. ***Vacancies.*** Should a vacancy occur in any office due to death, resignation, removal, disqualification or otherwise, the Board may, at its next meeting, elect a person to serve the unexpired term of the officer.
- Section 5. ***Delegation of Duties.*** In case of the absence or disability of any officer of the corporation or for any other reason deemed sufficient, the Executive Committee may, upon a majority vote, delegate that officer's powers or duties to any other officer or to any Director until the Board meets to act on the matter.
- Section 6. ***President.*** The President shall preside at all meetings of the Board, serve as an ex officio member of all standing committees and perform all duties incident to the office of President and such other duties as may be prescribed by the Board from time to time.
- Section 7. ***Vice President.*** In the absence of the Chair or in the event of his/her inability, disability or refusal to act, the Vice President shall perform the duties of the President and when so acting, shall possess all the powers of the office of President and be subject to all restrictions placed upon the President. The Vice President shall perform such other duties as from time to time may be assigned to him/her by the President or by the Board.
- Section 8. ***Secretary.*** It shall be the duty of the Secretary to keep a correct record of all proceedings and keep the minutes of meetings of the Board and Executive Committee. The Secretary shall give proper notice of meetings. The Secretary shall conduct correspondence as directed by the President and to keep a record of the membership. The Secretary will serve a parliamentarian at all Board of Director meetings and perform such other duties as may from time to time be prescribed by the Board.

Section 9. **Treasurer.** Unless provided otherwise by a resolution adopted by the Board, the Treasurer shall (a) keep accurate financial records for the corporation; (b) deposit all monies, drafts and checks in the name of and to the credit of the corporation in such banks and depositories as the Board shall designate from time to time; (c) endorse for deposit all notes, checks and drafts received by the corporation as ordered by the Board, making proper vouchers therefore; (d) disburse corporate funds and issue checks and drafts in the name of the corporation, as ordered by the Board; (e) render to the President and the Board, whenever requested, an account of all of his or her transactions as Treasurer and of the financial condition of the corporation; and, (f) perform such other duties as may be prescribed by the Board or the President from time to time.

ARTICLE VI COMMITTEES

Section 1. **Establishment of Committees.** The Board shall by resolution establish any committees it deems necessary to pursue the objects and purposes of this corporation.

Section 2. **Members.** The Board of Directors may appoint from its number or from among such persons as the board may see fit.

Section 3. **Term of Office.** The members of each committee shall serve until the next Annual Meeting or until a successor is appointed unless the member shall cease to qualify or the President removes the member for good cause shown.

Section 4. **Vacancies.** Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in Section 2 of this Article.

Section 5. **Quorum.** Unless otherwise provided by resolution of the Board, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at the meeting at which a quorum is present shall be the act of the committee.

Section 6. **Duration of Committees.** The Board may dissolve by resolution any committee established under Section 1 of this Article.

ARTICLE VII CONTRACTS, CHECK, DEPOSITS, GIFTS, AND AUDITS

Section 1. ***Contracts.*** The Board may authorize any officer or officers, agent or agents of the corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

Section 2. ***Checks, Drafts, Etc.*** All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation, shall be signed by the officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Treasurer or an Assistant Treasurer and countersigned by the President or Vice President of the corporation.

Section 3. ***Deposits.*** All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Board may direct.

Section 4. ***Gifts.*** The Board may accept on behalf of the corporation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the corporation.

Section 5. ***Audits.*** An annual audit of the annual financial statements of the Corporation by the City of Pearland. In the event the City of Pearland does not perform an annual audit, then there shall be an annual audit or compilation of the financial statements of the Corporation by an independent certified public accountant. A copy of the audit shall be given to the Treasurer and shall be made available to members of the Board.

Section 6. ***Conflicts of Interest.*** The corporation shall not enter into contracts or transactions between the corporation or a related corporation and a Director of the corporation or between the corporation and an organization in which a Director of the corporation is a director, officer or legal representative or has a material financial interest, except in accord with the provisions of (State) Statutes, as now enacted or hereafter amended

ARTICLE VIII BOOKS AND RECORDS

Section 1. ***Required Records.*** The corporation shall take and maintain (a) complete and correct minutes of all proceedings of the Board and all committees established herein or by resolution of the Board; (b) a complete and accurate record of the names and addresses of all members of the corporation including member of the Board entitled to vote; (c) complete and correct financial records of the

corporation; and (d) any and all additional records deemed necessary by the Board or required by applicable (State) law.

Section 2. ***Inspection of Records.*** All records of the corporation shall be kept at the principal office of the corporation and shall be open to inspection by any member of the corporation at a reasonable time for any reason deemed proper by either the Board or the Executive Committee. The Parks & Recreation Director may require that all requests for inspection be in writing for review and ultimate approval or disapproval by either the Board or the Executive Committee.

ARTICLE IX DISSOLUTION OF THE CORPORATION AND ASSETS

In the event of the dissolution of the corporation, assets of the corporation remaining after the discharge of all liabilities shall be distributed consistent with the corporation's Articles of Incorporation.

ARTICLE X FISCAL YEAR

The fiscal year of the corporation shall begin on the first day of January and end on the last day of December of each year.

ARTICLE XI AMENDMENTS

The Bylaws may be amended, altered, repealed, or added to at any meeting of the Board where a quorum is present by the affirmative vote of a majority of the Directors present and voting provided notice of such amendment has been given or has been received by the board members and ex-officio members in writing prior to the meeting.

Adopted this _____ Day of _____, 2012, by the Board of Directors.

MCP OPPORTUNITY INVENTORY

Wheaton Regional Park

| | A | B | C | D | E | F | G |
|----|------------------------------|------------------------------|--------------|------------|-----------|------------------|--|
| 1 | OPPORTUNITY | LOCATION | CATEGORY | RENOVATION | ENDOWMENT | OVERALL NAMING | NAMING NOTES |
| 2 | | | | AMOUNT | AMOUNT | GIFT REQUIREMENT | |
| 3 | Wheaton Regional Park | Wheaton Regional Park | Recreation | TBD | 1M | 1M | Presentend by: |
| 4 | Acorn Woods Trail | Wheaton Regional Park | Environment | TBD | 50K | 50K | Trail Naming Rights |
| 5 | Indoor Tennis Courts | Orebaugh Area | Athletics | TBD | 50K | 50K | Naming rights for individual CTS |
| 6 | Heart Smart Trail | Wheaton Regional Park | Environment | TBD | 50K | 50K | Trail Naming Rights |
| 7 | Wheaton Riding Stables | Glenallan Area | Athletics | TBD | 250K | 250K | Stables Naming Rights |
| 8 | Picnic Shelters | Shorefield Area | Recreation | TBD | 50K | 50K | Shelter Naming Rights |
| 9 | Brookside Garden Display | Glenallan Area | Environment | TBD | 25K-500K | 25K-100K | See Brookside Gardens Opportunities |
| 10 | Pine Lake | Wheaton Regional Park | Conservation | TBD | 300K | 300K | Lake Naming Rights |
| 11 | Softball Field | Rubini Athletic Complex | Athletics | TBD | 100K | 100K | Field Naming Rights |
| 12 | Baseball Field | Rubini Athletic Complex | Athletics | TBD | 100K | 100K | Field Naming Rights |
| 13 | Bookside Nature Center | Glenallan Area | Nature | TBD | 25K-500K | 25K-500K | See Brookside Nature Center |
| 14 | Adventure Playground | Shorefield Area | Children | TBD | 25K-100K | 25K-100K | Playground and Play Pieces |
| 15 | Minature Train | Wheaton Regional Park | Children | TBD | 100K | 100K | Naming Rights |
| 16 | Minature Train Cars | Wheaton Regional Park | Children | TBD | 10K | 10K | Naming Rights |
| 17 | Spillman Carousel | Wheaton Regional Park | Children | TBD | 100K | 100K | Presented by Naming Rights |
| 18 | Carousel Animals | Wheaton Regional Park | Children | TBD | 10K | 10K | Individual Naming Rights |
| 19 | Nature Trails | Wheaton Regional Park | Environment | TBD | 25K-100K | 25K-100K | Individual Naming Rights |
| 20 | Basketball Court | Rubini Athletic Complex | Athletics | TBD | 100K | 100K | Individual Naming Rights |
| 21 | Handball Court | Rubini Athletic Complex | Athletics | TBD | 50K | 50K | Individual Naming Rights |
| 22 | Outdoor Tennis Courts | Wheaton Regional Park | Athletics | TBD | 50K | 50K | Individual Naming Rights |
| 23 | Ice Areana | Wheaton Regional Park | Recreation | TBD | 250K-500K | 250K-500K | Individual Naming Rights |
| 24 | Dog Park | Wheaton Regional Park | Recreation | TBD | 100K | 100K | Individual Naming Rights |
| 25 | | | | | | | |
| 26 | | | | | | | |
| 27 | | | | | | | |
| 28 | | | | | | | |
| 29 | | | | | | | |
| 30 | | | | | | | |
| 31 | | | | | | | |
| 32 | | | | | | | |
| 33 | | | | | | | |
| 34 | | | | | | | |
| 35 | | | | | | | |
| 36 | | | | | | | |
| 37 | | | | | | | |

MCP OPPORTUNITY INVENTORY
Wheaton Regional Park

| | A | B | C | D | E | F | G |
|----|---|---|---|---|---|---|---|
| 38 | | | | | | | |
| 39 | | | | | | | |
| 40 | | | | | | | |
| 41 | | | | | | | |
| 42 | | | | | | | |
| 43 | | | | | | | |
| 44 | | | | | | | |
| 45 | | | | | | | |
| 46 | | | | | | | |

MCP OPPORTUNITY INVENTORY
Wheaton Regional Park

| | H |
|----|----------------------------------|
| 1 | DESCRIPTION |
| 2 | |
| 3 | |
| 4 | To be completed by staff on site |
| 5 | |
| 6 | |
| 7 | |
| 8 | |
| 9 | |
| 10 | |
| 11 | |
| 12 | |
| 13 | |
| 14 | |
| 15 | |
| 16 | |
| 17 | |
| 18 | |
| 19 | |
| 20 | |
| 21 | |
| 22 | |
| 23 | |
| 24 | |
| 25 | |
| 26 | |
| 27 | |
| 28 | |
| 29 | |
| 30 | |
| 31 | |
| 32 | |
| 33 | |
| 34 | |
| 35 | |
| 36 | |
| 37 | |

MCP OPPORTUNITY INVENTORY
Wheaton Regional Park

| | H |
|----|---|
| 38 | |
| 39 | |
| 40 | |
| 41 | |
| 42 | |
| 43 | |
| 44 | |
| 45 | |
| 46 | |

Workshop Item No. 3

3. **COUNCIL INPUT AND DISCUSSION:** REGARDING THE MASTER FIRE STATION LOCATION PLAN. *Mr. Bill Eisen, City Manager.*

**AGENDA REQUEST
BUSINESS OF THE CITY COUNCIL
CITY OF PEARLAND, TEXAS**

| | | | |
|---|--|---|-------------------------------------|
| AGENDA OF: | 20 February 2012 | ITEM NO.: | Workshop Item No. 3 |
| DATE SUBMITTED: | 3 February 2012 | DEPT. OF ORIGIN: | Fire |
| PREPARED BY: | Vance Riley | PRESENTOR: | Mike Pietsch, P.E. |
| REVIEWED BY: | Jon R. Branson | REVIEW DATE: | 14 February 2012 |
| SUBJECT: Master Fire Station Location Plan | | | |
| EXHIBITS: | Report from Mike Pietsch, P.E. Consulting Services, Inc. | | |
| FUNDING: | <input type="checkbox"/> Grant | <input type="checkbox"/> Developer/Other | <input type="checkbox"/> Cash |
| | <input type="checkbox"/> Bonds To Be Sold | <input type="checkbox"/> Bonds- Sold | <input type="checkbox"/> L/P – Sold |
| | | <input type="checkbox"/> L/P – To Be Sold | |
| EXPENDITURE REQUIRED: | | AMOUNT BUDGETED: | |
| AMOUNT AVAILABLE: | | PROJECT NO.: | |
| ACCOUNT NO.: | | | |
| ADDITIONAL APPROPRIATION REQUIRED: | | | |
| ACCOUNT NO.: | | | |
| PROJECT NO.: | | | |
| To be completed by Department: | | | |
| Finance | Legal | Ordinance | Resolution |

EXECUTIVE SUMMARY

BACKGROUND

The relocation of current and the location of future Fire & EMS stations are critical to improving Fire & EMS response times to meet recommended standards. Of secondary consideration is the location of these stations to maintain or possibly improve the City's ISO rating. The City has hired Mike Pietsch, P. E., to prepare and recommend a Master Fire Station Location Master Plan. A Fire Station Location Master Plan will provide a solid basis of information in the development of the City of Pearland's Capital Improvement Plan as well as the Fire Department's Strategic Plan. Mr. Pietsch will present his recommendations in workshop that includes a written plan. Mr. Pietsch also provided consulting assistance to the City in 2003 to assist with the ISO rating.

POLICY/GOAL CONSIDERATION

CURRENT AND FUTURE CIP FUNDING /FINANCIAL IMPACTS/DEBT SERVICE

| Year | To Date | 2013 | 2014 | 2015 | 2016 | Total |
|----------------------------|---------|------|------|------|------|-------|
| Budget | | | | | | \$ - |
| Prior Expenditures | | | | | | |
| PER | | | | | | - |
| Land/ROW | | | | | | - |
| Design/Survey | | | | | | - |
| Construction | | | | | | - |
| FF&E | | | | | | - |
| Current Request | | | | | | |
| | | | | | | - |
| Future Expenditures | | | | | | |
| PER | | | | | | - |
| Land/ROW | | | | | | - |
| Design/Survey | | | | | | - |
| Construction | | | | | | - |
| FF&E | | | | | | - |
| Total Expenditures | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Remaining Balance | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Debt Sold | | | | | | |
| Debt to Be Sold | | | | | | |
| Annual Debt Service | | | | | | |

O&M IMPACT INFORMATION

| Year | 2012 | 2013 | 2014 | 2015 | 2016 |
|---------------------------------|------|------|------|------|------|
| Operation and Maintenance Costs | | | | | |

RECOMMENDED ACTION

Conduct workshop on the Pearland Fire Department’s Master Fire Station Location Plan.



*Assisting Communities
With Their ISO Rating*

Mike Pietsch, P.E. Consulting Services, Inc.

3101 S. Country Club Rd.
Garland, TX 75043-1311
972.271.3292 Phone
214.728.6507 Cell
972.840.6665 Fax
michaelpietsch@tx.rr.com

A Report From

MIKE PIETSCH, P.E. CONSULTING SERVICES, INC.

To

THE CITY OF PEARLAND

Demonstrating a Master Fire Station Location Plan

November 21, 2011

Submitted by:

***Mike Pietsch, P.E. Consulting Services, Inc.
3101 S. Country Club Rd.
Garland, TX 75043-1311
Phone: 972-271-3292 Fax: 972-840-6665
E-Mail: michaelpietsch@tx.rr.com***

A Report From
MIKE PIETSCH, P.E. CONSULTING SERVICES, INC.
To
THE CITY OF PEARLAND
Master Fire Station Location Plan

Explanation of Study

This report demonstrates an accurate fire station location study for the City of Pearland. The study utilizes 1.5-mile response boundaries (approximates 3 to 4-minute response times) for engine companies and 2.5-mile response boundaries (approximates 6 to 8-minute response times) for ladder companies. Existing structures in areas requiring fire stations are analyzed to determine the apparatus required at all existing and proposed fire stations. This is the most accurate method of locating fire stations along with apparatus deployment that exists today.

The strategic placement of existing and proposed engine and ladder companies is critical to the emergency response for the City of Pearland. The report will address the immediate needs of the City of Pearland along with all future needs based on the existing city limits and ETJ. Apparatus and staffing deployment for each existing and suggested station will be identified.

The suggestions developed from this report relate only to a fire station study and its possible effect on an insurance classification for the City of Pearland. They are not for property loss prevention or life safety purposes and no life safety or property loss prevention suggestions are made.

I would like to thank Chief Riley and his staff for their excellent cooperation. Without their support the accuracy and timeliness of this study would not be possible.

Executive Summary

Based on information obtained during my November 2011 visit to the City of Pearland the fire department will be required to have 9 engine companies and 3 ladder companies in service available to respond to structural alarms of fire, within the existing city limits, operating out of 9 fire stations, as the budget allows. At present, the City of Pearland has 6 engine companies and 2 ladder companies deployed from 6 fire stations (fire station #6 is considered in-service for this report).

Future annexations into Pearland's ETJ will require 2 additional fire stations, as the budget allows. These 2 additional fire stations will not be required in the newly annexed areas until developed occurs within each annexed area to the extent that an extensive road base (with structures) exists such as the response area served by newly erected fire station #6. Since all thoroughfares and streets have not yet been platted within the majority of Pearland's ETJ this study (relating to the ETJ) is obviously an educated approximation. The fire station placement for Pearland's ETJ is based on the extensions of thoroughfares and streets as demonstrated by blue dashed lines on the map developed by Chief Riley.

Limitations placed on this study are: Fire stations 4, 5, and 6 must remain in their same location due to their recent construction. Fire stations 1, 2, and 3 can be relocated (and must be or 2 additional fire stations will be required housing 2 additional engine companies). In addition fire stations 1, 2, and 3 are not suitable to house modern fire apparatus and/or provide adequate living quarters for career and/or volunteer firefighters on duty 24/7.

Analysis of the Existing Fire Defense Infrastructure

The starting point for this study begins, as Pearland's Fire Department existed on November 16, 2011. The following demonstrates the existing deployment of resources available to the Pearland Fire Department for response to *first alarm structure fires*.

1. Fire Station #1 (In the vicinity of Old Alvin Rd. and E. Orange St.) – housing an engine company and a ladder truck company staffed with 4 firefighters.
2. Fire Station #2 (In the vicinity of Walnut St. and McLean Rd.) – housing an engine company staffed with response by volunteer firefighters.
3. Fire Station #3 (In the vicinity of Broadway St. and Dixie Farm Rd.) – housing an engine company staffed with response by volunteer firefighters.
4. Fire Station #4 (In the vicinity of Freedom Dr. and Cullen Pkwy.) – housing an engine company and a ladder truck company staffed with 4 firefighters.
5. Fire Station #5 (In the vicinity of Broadway St. and Kirby Dr.) – housing an engine company staffed with 4 firefighters.
6. Fire Station #6 (In the vicinity of Croix Rd. and Savannah Pkwy.) – housing an engine company with volunteer response staffing this station. This fire station is considered in-service for this report even though it is presently under construction.

In summary, 6 engine companies and 2 ladder companies are available to respond to first alarm structural fires deployed from 6 fire stations. Staffing is determined to be at a level of 12 firefighters on duty with these 8 companies. This gives a staffing level per company of 1.50 firefighters. Based on structural fire reports volunteer response during the workweek was extremely limited and therefore not considered for this report. However, the possibility exists a portion of this minimal volunteer response may be attributed to a malfunctioning paging system that has recently been repaired.

Suggestions for the proper location of existing and proposed fire stations based on the current city limits of the City of Pearland.

This section of the report will consider the suggested relocation of 3 existing fire stations and the erection of a 3 additional fire stations (referred to as proposed fire stations 7, 8, and 9 within this report) as budget constraints allow. Apparatus and staffing requirements will be demonstrated for each individual station.

- Consideration should be given to the relocation of 3 existing fire stations (fire stations 1, 2, and 3) and the erection of 3 additional fire stations as budget constraints allow. The following 6 suggestions are offered for your consideration:
 1. Existing fire station #1 should be relocated to the vicinity of Pearland Pkwy. and Hidden Glen Ln. housing an engine company (apparatus and 4 firefighters*).
 2. Existing fire station #2 should be relocated to the vicinity of Cantu Rd. and Wagon Trail Rd. This station should continue to house an engine company (apparatus and 4 fire fighters*) and a ladder truck (apparatus and 4 fire fighters*).
 3. Existing fire station #3 should be relocated to the vicinity of Yost Rd. and Pine Hill Dr. This fire station should house an engine company (apparatus and 4 firefighters*) and a ladder truck company (apparatus and 4 firefighters*).
 4. A seventh fire station should be erected in the vicinity of one-half mile west of Main St. and Oiler Dr. This station should house an engine company (apparatus and 4 firefighters*).
 5. An eighth fire station should be erected in the vicinity of Clear Lake Loop and Old Airline Rd. This station should house an engine company (apparatus and 4 firefighters*).
 6. A ninth fire station should be erected in the vicinity of McHard Rd. and Country Place Pkwy. This fire station should house an engine company (apparatus and 4 firefighters*).

* Firefighters can be a combination of full-time paid (24/7), part-time paid (they are prorated based on the number of hours per day they are on duty at the fire station), or volunteer firefighters that are on duty at the fire station (they are prorated based on the number of hours per day they are on duty),

Master Fire Station Location Study for the City of Pearland

- The proper deployment of apparatus and staffing based on the immediate needs of the City of Pearland are:
 1. Relocated Fire Station #1 – deploying an engine company.
 2. Relocated Fire Station #2 – deploying an engine company and a ladder truck company.
 3. Relocated Fire Station #3 – deploying an engine company and a ladder truck company.
 4. Existing Fire Station #4 – deploying an engine company.
 5. Existing Fire Station #5 – deploying an engine company and a ladder truck company.
 6. Existing Fire Station #6 – deploying an engine company.
 7. Proposed Fire Station #7 – deploying an engine company.
 8. Proposed Fire Station #8 – deploying an engine company.
 9. Proposed Fire Station #9 – deploying an engine company.

Satisfying the preceding suggestions will require 3 additional engine companies and 1 additional ladder truck company. In addition some level of paid staffing should be provided for the 3 fire stations presently served only by volunteer response. Based on structural fire reports developed over the past year volunteer response during the daytime workweek is extremely limited. Again, the repair of the volunteer paging system may improve this situation.

Suggestions for the proper location of additional fire stations based on the current ETJ for the City of Pearland:

To aid in future planning within the present ETJ of the City of Pearland the following fire stations will be required as areas are annexed and developed. At present current development does not require these stations. Please note that the placement of thoroughfares and streets will greatly affect the exact location of these fire stations. However, when sufficient development occurs within 1.5-road miles of these locations the 2 additional stations will be required, as the budget allows. Whether an engine company or an engine company and a ladder company are required at each station will be based on future building heights, size, occupancy, exposure, construction, and protection. The following locations are provided for your consideration:

1. Fire station #10 should be erected in the vicinity of Pearland Pkwy. (future road extension just west of Airfield Lane in the southeastern section of the City of Pearland demonstrated by the blue dashed line) and the extension of County Rd. 130.
2. Fire station #11 should be erected in the vicinity of Harkey Rd. and Brian St.

If these 2 future suggestions were implemented, as Pearland developed, a total of 11 fire stations would be required to reasonably cover the existing city limits and ETJ of the City of Pearland as they existed in November 2011.

Effect on the ISO Rating for the City of Pearland

At present the City of Pearland has an ISO rating of 3. In spite of the significant improvements in Pearland's existing fire defense infrastructure (Fire Service Communications, Fire Department, Water Department and Fire Safety Control) due to explosive growth of population and development this rating will possibly regress to a 4 or a 5.

Please note that ISO will not return to the City of Pearland for at least 5-years; realistically 10-years. Chief Riley is very knowledgeable of the required steps to prepare for an ISO re-survey prior to the community's set frequency of survey.

Communities such as the City of Pearland, with an excellent water infrastructure, should achieve an ISO rating of 2 or 1. If Pearland improved its fire department infrastructure by complying with a portion of this report's suggestions I firmly believe the City of Pearland could achieve an ISO PPC 2 or 1 in the future.

Plan of Action

- Complete the suggested fire station relocations involving 3 existing fire stations and the erection of 3 additional fire stations as budget constraints allow. This will provide the citizens of Pearland emergency response from 9 fire stations based on the current city limit boundary.
- Provide the apparatus and its deployment as suggested in this report based on 9 fire stations being in-service. This will meet the immediate needs of the City of Pearland.
- Provide additional firefighters* as budget constraints allow. Please note that as new fire stations are erected, housing additional apparatus, the accompanying staffing for the apparatus must be provided. Adding fire stations and apparatus without the accompanying staffing will dilute the overall strength of the fire department and actually negatively impact the ISO rating for the City of Pearland.

Conclusion

Accomplish as many of the suggested fire defense infrastructure improvements as possible which will have a significant impact on the emergency response and the ISO rating for the City of Pearland.

I would like to thank Mr. Bill Eisen for his continued support and the assistance provided me by Fire Chief Vance Riley and his staff.

I appreciate the opportunity afforded me by the City of Pearland and look forward to working with your community in the future.

Sincerely,

W. Michael Pietsch, P.E.
Civil Engineer