

AGENDA

CITY OF PEARLAND ♦ CITY COUNCIL

July 9, 2012

7:30 p.m.

MAYOR
Tom Reid

Susan Sherrouse
Mayor Pro-Tem
Position No. 3

COUNCIL MEMBERS

Woody Owens
Position No. 1

Scott Sherman
Position No. 2



Keith Ordeneaux
Position No. 4

Greg Hill
Position No. 5

Jon R. Branson
Assistant City Manager

Mike Hodge
Assistant City Manager

Bill Eisen
City Manager

Darrin Coker
City Attorney

Young Lorfing
City Secretary

In accordance with the Texas Open Meeting Act the Agenda is posted for public information, at all times, for at least 72 hours preceding the scheduled time of the meeting on the bulletin board located at the front entrance of the City Hall, 3519 Liberty Drive.

AGENDA – REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, TO BE HELD ON MONDAY, JULY 9, 2012, AT 7:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS.

- I. CALL TO ORDER**
- II. INVOCATION AND THE PLEDGE OF ALLEGIANCE**
- III. MAYOR'S ACTIVITY REPORT**
 - 1. Events attended and upcoming events.
- IV. COUNCIL ACTIVITY REPORTS**
 - 1. Events attended and upcoming events.
- V. CITY MANAGER'S REPORT**
 - 1. Events attended and upcoming events.
- VI. CITIZENS**
- VII. DOCKETED PUBLIC HEARING:**
- VIII. CONSENT AGENDA:**

ALL ITEMS LISTED UNDER THE "CONSENT AGENDA" ARE CONSIDERED TO BE ROUTINE AND REQUIRE LITTLE OR NO DELIBERATION BY THE CITY COUNCIL. THESE ITEMS WILL BE ENACTED/APPROVED BY ONE MOTION UNLESS A COUNCILMEMBER REQUESTS SEPARATE ACTION ON AN ITEM, IN WHICH EVENT THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED BY SEPARATE ACTION (IX. MATTERS REMOVED FROM CONSENT AGENDA). APPROVAL OF THE CONSENT AGENDA ENACTS THE ITEMS OF LEGISLATION.

- A. CONSIDERATION AND POSSIBLE ACTION – APPROVAL OF MINUTES:**
 - 1. Minutes of the April 23, 2012, Regular Meeting held at 7:30 p.m.
- B. CONSIDERATION AND POSSIBLE ACTION – EXCUSE COUNCILMEMBER FELICIA HARRIS FROM JUNE 25, 2012, CITY COUNCIL REGULAR MEETING. *City Council.***

- C. CONSIDERATION AND POSSIBLE ACTION – SECOND AND FINAL READING OF ORDINANCE NO. 1464 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, CLOSING THE PUBLIC HEARING; ORDERING IMPROVEMENTS AND LEVYING ASSESSMENTS AGAINST VARIOUS PERSONS AND THEIR PROPERTY FOR THE PAYMENT OF A PART OF THE COST OF A PORTION OF PUBLIC IMPROVEMENTS IN THE CITY OF PEARLAND, TEXAS; PROVIDING FOR THE TIME WHEN SUCH ASSESSMENTS BECOME DUE AND PAYABLE; STIPULATING THE RATE OF INTEREST AND FIXING A CHARGE AND LIEN AGAINST SAID PROPERTY, MAKING SAID CHARGE A PERSONAL LIABILITY OF THE PROPERTY OWNERS OWNING PROPERTY ABUTTING ON SAID STREETS, PROVIDING FOR THE COLLECTION THEREOF; AND PROVIDING A SEVERABILITY CLAUSE.**

Mr. Darrin Coker, City Attorney.

- D. CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-99 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, CONVEYING AN EASEMENT TO SERVE THE COWART'S CREEK REGIONAL DIVERSION FACILITY PUMP STATION.** *Mr. Darrin Coker, City Attorney.*

- E. CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-100 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, CONVEYING AN EASEMENT FOR CERTAIN ELECTRIC UTILITIES.**

Mr. Darrin Coker, City Attorney.

- F. CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-102 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AWARDING A BID FOR WATER TREATMENT CHEMICALS AND WATER ANALYSIS SERVICES.** *Mr. Bill Eisen, City Manager.*

IX. NEW BUSINESS

- 1. CONSIDERATION AND POSSIBLE ACTION – FIRST READING OF ORDINANCE NO. 1465 – AN ORDINANCE EXTENDING THE CITY LIMITS OF THE CITY OF PEARLAND, TEXAS, TO INCLUDE ALL LAND AREA WITHIN CERTAIN LIMITS AND BOUNDARIES AND ANNEXING TO THE CITY OF PEARLAND ALL OF THE AREA WITHIN SUCH LIMITS AND BOUNDARIES (AREA GENERALLY LOCATED AT THE**

CORNER OF KINGSLEY ROAD AND WEST BROADWAY); APPROVING A SERVICE PLAN FOR ALL OF THE AREA WITHIN SUCH LIMITS AND BOUNDARIES; CONTAINING OTHER PROVISIONS RELATED TO THE SUBJECT; AND PROVIDING A SAVINGS AND SEVERABILITY CLAUSE.

ANNEXATION AREA 3. Ms. Lata Krishnarao, Director of Community Development.

- 2. CONSIDERATION AND POSSIBLE ACTION – FIRST READING OF ORDINANCE NO. CUP 2000-57 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, APPROVING A CONDITIONAL USE PERMIT FOR CERTAIN PROPERTY, LOT 2 OF 1011 MAIN ADDITION, A SUBDIVISION OF 10.2734 ACRES SITUATED IN THE H. T. & B. R. R. CO. SURVEY, ABSTRACT 542, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN CLERK’S FILE NO. 2012009314 OF THE OFFICIAL RECORDS OF BRAZORIA COUNTY, TEXAS (LOCATED AT 1011 N. MAIN, PEARLAND, TX) CONDITIONAL USE PERMIT APPLICATION NO. CUP 2012-03 TO ALLOW THE OPERATION OF AN AUTO REPAIR FACILITY (MAJOR), IN THE GENERAL COMMERCIAL (GC) DISTRICT AT THE REQUEST OF NARSH, INC, APPLICANT AND OWNER, CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT. Ms. Lata Krishnarao, Director of Community Development.**
- 3. CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-101 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SUBMIT NINE PROJECT APPLICATIONS TO THE HOUSTON-GALVESTON AREA COUNCIL FOR INCLUSION IN THE 2013-2016 TRANSPORTATION IMPROVEMENT PLAN, AND ALLOCATING MATCHING FUNDS FOR THE CONSTRUCTION OF EACH PROJECT. Mr. Trent Epperson, Director of Engineering and Capital Projects.**
- 4. CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-95 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AWARDED A BID FOR CONSTRUCTION SERVICES ASSOCIATED WITH THE SOUTHGATE AND CYPRESS VILLAGE PARKS PROJECTS. Mr. Bill Eisen, City Manager.**

5. **CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-98** – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING A CONTRACT FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES ASSOCIATED WITH THE BUSINESS CENTER DRIVE PROJECT. *Mr. Bill Eisen, City Manager.*

OTHER BUSINESS:

EXECUTIVE SESSION UNDER TEXAS GOVERNMENT CODE:

1. **SECTION 551.071 – CONSULTATION WITH CITY ATTORNEY** – REGARDING MATTERS SUBJECT TO THE ATTORNEY-CLIENT PRIVILEGE.
Mr. Darrin Coker, City Attorney.
2. **SECTION 551.071 – CONSULTATION WITH CITY ATTORNEY** – REGARDING PENDING LITIGATION ASSOCIATED WITH NATURAL GAS RATES.
Mr. Darrin Coker, City Attorney.

NEW BUSINESS CONTINUED:

6. **CONSIDERATION AND POSSIBLE ACTION** – REGARDING MATTERS SUBJECT TO THE ATTORNEY-CLIENT PRIVILEGE. *City Council.*
7. **CONSIDERATION AND POSSIBLE ACTION** – REGARDING PENDING LITIGATION ASSOCIATED WITH NATURAL GAS RATES. *City Council.*

XI. 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.

Consent Agenda Item A

- A. CONSIDERATION AND POSSIBLE ACTION – APPROVAL OF MINUTES:**
1. Minutes of the April 23, 2012, Regular Meeting Minutes held at 7:30 p.m.

MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, HELD ON MONDAY, APRIL 23, 2012, AT 7:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS.

Mayor Reid called the meeting to order at 7:30 p.m. with the following present:

Mayor	Tom Reid
Councilmember	Woody Owens
Councilmember	Susan Sherrouse
Councilmember	Felicia Harris
Councilmember	Greg Hill
City Manager	Bill Eisen
City Attorney	Darrin Coker
City Secretary	Young Lorfing

Absent: Mayor Pro-Tem Scott Sherman

Others in attendance: Jon Branson Assistant City Manager; Danny Cameron Public Works Director; Vance Riley Fire Chief; J.C. Doyle Police Chief; Trent Epperson Project Director; Roland Garcia Fire Marshal; Claire Bogard Finance Director; Daniel Baum EMS Operations Director; Bob Pearce Purchase Officer; Joel Hardy Grants Coordinator; Sparkle Anderson Public Affairs Manager; Rick Overgaard Assistant Finance Director; Johnny Spires Police Chief.

The invocation was given by Councilmember Sherrouse and the Pledge of Allegiance was led by Police Chief J. C. Doyle.

MAYOR'S ACTIVITY REPORT:

Mayor Reid and Police Chief J. C. Doyle presented Gina Mendez, Velma Guadiana and Yara Saldana with a Proclamation proclaiming "Crime Victims' Rights."

Mayor Reid presented Fire Marshal Roland Garcia, Deputy Fire Marshal Shohn Davis, Deputy Fire Marshal Greg Bozdech, Fire Inspector Cassie Morgan, along with the Brazoria County Fire Marshal and the Harris County Fire Marshal with a proclamation proclaiming May 6, through May 12, "Arson Awareness Week."

Mayor Reid and Councilmember Owens presented a representative for the Knights of Columbus with a proclamation proclaiming "The 25th Annual Crawfish Festival."

Mayor Reid reported April 10, he attended the Keep Pearland Beautiful Environmental Fair; April 11, attended Commissioner El Franco Lee Reception; April 12, attended the Ribbon Cutting for San Jacinto Historic District Monument, and the Houston's State of the City Address by Mayor Annise Parker; April 16, attended the City Council Agenda

Meeting, City Council Special Meeting and Workshop; April 17, attended the Houston Galveston Association Council Monthly Board of Directors meeting; the Parks Educational Seminar with Dr. Crompton; April 19, attended the City of Pearland Chamber Leadership Council, Chamber Luncheon featuring Dr. Bill Staples of University of Houston Clear Lake with Councilmember Woody Owens and Councilmember Susan Sherrouse, joined Director of Community Development Lata Krishnarao at Silverlake Elementary School for a High Five event to educate about healthy eating habits; joined Assistant City Manager Jon Branson for a presentation at Country Place Women's Association, Keep Pearland Beautiful After Hours Business Reception and the Library Board Meeting; April 20, attended the Presentation of Awards at the Recreation Center for Youth Group; April 21, attended the O' Day Drilling 100 Year Anniversary Celebration and presented an award at the Pearland Idol Awards Presentation; April 23, attended the Kids-R-Kids Week of the Young Child, the Ribbon Cutting for Parks Trails and served as a Chairperson for the Development Authority Board of Directors Meeting.

COUNCIL ACTIVITY REPORTS:

Councilmember Owens stated on April 12, he attended a reception in Pasadena with Mayor Johnny Isbell, April 17, Candidates Night, Homeowner Association in Green Tee; April 18, he was as invited to play in a Golf Tournament for the La Port Education Foundation; April 19, attended the City of Pearland Chamber Luncheon and the Greater 288 Partnership meeting, April 20, attended the BBQ event for Lieutenant David Dewhurst.

Councilmember Sherrouse stated on April 8, attended the Silverlake Lions monthly meeting. April 17, attended the Los Angeles National American Association Conference which involved a full day of seminars including several topics reinventing general plan, change of the business plan, budget battles, and local impact of federal budget. This afternoon she attended the Mary's Creek Trail Ribbon Cutting.

Mayor Pro-Tem Sherman absent.

Councilmember Harris stated she attended the Dow Texas Operations Community Update, where they announced their intentions to build a new Cracker which will bring over 2,000 new jobs to our area. April 21, attended the Texas Aggie Musterd and honored Aggies who passed in our region at the Brazos Port College, in College Station. She also attended the Brazoria County Alliance for Children's Fundraiser called the Hope in Healing for Children in Brazoria County Fairgrounds. Personally attended the Republican Convention in Galveston County and Brazoria County with representatives attending the Jefferson County convention. Ms. Harris stated she had the opportunity to give a short speech at the two conventions which she attended.

Councilmember Hill stated he attended many events on April 10, he attended the Rotary

Luncheon attended by guest speaker, U. S. Representative Pete Olson, April 12, He also attended the Presentation of the Gateway Monument with Mayor Reid, also attended the State of the City from Mayor Anise Parker, April 17, attended the Pearland Area Republican Club Meeting; Lions Club Meeting, April 19, attended the City of Pearland Chamber Leadership Council, Chamber Luncheon featuring Dr. Bill Staples of University of Houston Clear Lake, attended the Stella Roberts Recycling Center After Hours put on by Keep Pearland Beautiful; that same evening also attended the Natatorium Volley Ball Booster Club Scholarship Committee to help determine who will receive a scholarship; April 20, attended the breakfast for the Boy Scout at the Busy Bee Cafe, and attended a Lions Club District Convention in Sugar Land and today attended the Mary's Creek Ribbon Cutting for Parks Trails

Mayor Reid recognized anyone running for office.

Councilmember Felicia Harris stated she is running for Congressional District Position No. 14, currently held by Ron Paul and is now retiring. She reminded everyone that election is May 29, 2012, early voting starts May 14, 2012, through May 25, 2012,

Herb Fain stated he is currently running for City Council Position No. 4

Tammy Dexter stated she is running for City Council Position No. 4.

CITY MANAGER'S REPORT:

City Manager Bill Eisen reported he had the opportunity to attend along with Assistant City Manager Mike Hodge a kickoff meeting for water planning effort in Brazoria County. He stated the City participated in a Grant Application with 17 other entities within the county to do some long term water planning for all of Brazoria County. The first meeting was last week and the projected schedule for having a draft report is August of 2013. Mr. Eisen recognized the Finance Director Claire Bogard and her staff with an award to the City of Pearland for the "2012 silver Leadership Circle Award."

CITIZENS:

Charles McMurray 5219 Spring Branch Drive addressed Council and stated he wanted to congratulate Councilmember Harris for doing a great job of running for Congress and her continual service as Councilmember all at the same time. He stated that he read the Executive Session for evaluation of the City Manager. Mr. McMurray stated he has had the pleasure of speaking and working with Mr. Eisen. He feels Mr. Eisen is highly competent and very professional. City of Pearland is very fortunate to have Mr. Bill Eisen, as City Manager. He lastly stressed that during election Candidates should be reminded that they need to file their campaign reports.

Billy and Denise Kutta 5233 Magnolia Street addressed Council and stated that they have a drainage problem previously voiced on March 26, 2012. At that time it was understood that the City was going to do away with the detention pond, the pipes and the pond. Since then none of these things have done. He stated this is a consuming issue and a frustrating situation.

DOCKETED PUBLIC HEARING: None

CONSENT AGENDA:

A. CONSIDERATION AND POSSIBLE ACTION – APPROVAL OF MINUTES:

1. Minutes of the February 27, 2012, Regular Meeting held at 7:30 p.m.
2. Minutes of the March 12, 2012, Regular Meeting held at 7:30 p.m.

B. CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-49 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, CHANGING THE REGULAR MEETING TIMES AND DATES FOR MAY 2012, DUE TO THE MEMORIAL DAY HOLIDAY. *Mr. Darrin Coker, City Attorney.*

Councilmember Owens made the motion, seconded by Councilmember Sherrouse, to adopt Consent Agenda Items A through B as presented on the Consent Agenda.

Voting “Aye” Hill, Harris, Sherrouse, and Owens.

Voting “No” None.

Motion Passed 4 to 0. Councilmember Sherman absent.

NEW BUSINESS:

COUNCIL ACTION – RESOLUTION NO. R2012-52 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO ENTER INTO A CONTRACT WITH BRAZORIA COUNTY MUNICIPAL DISTRICT NO. 4 (“DISTRICT”) FOR THE OPERATION AND MAINTENANCE OF THE DISTRICT’S WATER AND SEWER SYSTEM. *Mr. Bill Eisen, City Manager.*

Councilmember Sherrouse made the motion, seconded by Councilmember Owens, to approve Resolution No. R2012-52.

City Manager Bill Eisen stated this item was on the agenda two weeks ago. Municipal Utility District No. 4, will be annexed into the City on December 31, 2012. Due to some water and sewer operating issues they currently have with a private company they have approached the City about the potential for the City to operate the system until the time of annexation. At the time of annexation the City will take on ownership and responsibility for the system. Today for approval is the actual agreement which has been negotiated and worked out with MUD 4. The MUD 4 Board met today, and is in agreement with most of the terms and agreements. However, there were a couple of changes that were requested and have been included in the action that they took. Mr. Eisen gave an overview of the changes made to the agreement.

Councilmember Owens asked if anyone has been out to inspect the system and where the capital funds will be coming from.

Claire Bogard stated there is a budget adjustment along with the approval of a contract, the funds from the water and sewer fund capital will be coming from cash. The capital cost will be recovered in the future from the water and sewer fees.

Discussion ensued between Council and Claire Bogard Finance Director regarding revenue and fees.

Voting "Aye" Councilmembers Owens, Sherrouse, Harris, and Hill.

Voting "No" None.

Motion Passed 4 to 0. Councilmember Sherman absent.

COUNCIL ACTION – RESOLUTION NO. R2012-53 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AWARDED A BID FOR CONSTRUCTION SERVICES ASSOCIATED WITH CERTAIN SIDEWALK/DRAINAGE IMPROVEMENTS (HAWK ROAD, S. HOUSTON STREET, AND WALNUT STREET).
Mr. Bill Eisen, City Manager.

Councilmember Harris made the motion, seconded by Councilmember Owens, to approve Resolution No. R2012-53.

City Manager Bill Eisen stated this is a proposed expenditure of funds from Community Development Block Grants. Due to the nature of the grant federal funding can only be used in a targeted area as defined by the Department of Housing and Urban Development. The proposed projects that would be included are sections of sidewalks along Hawk Road, South Houston and Walnut.

Voting "Aye" Councilmembers Hill, Harris, Sherrouse, and Owens.

Voting “No” None.

Motion Passed 4 to 0. Councilmember Sherman absent.

FIRST AND ONLY READING OF ORDINANCE NO. 1463 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, ALTERING THE PRIMA FACIE SPEED LIMITS ESTABLISHED FOR VEHICLES UNDER THE PROVISIONS OF ' 545.356, TEXAS TRANSPORTATION CODE, UPON THE BASIS OF A REQUEST BY THE TEXAS DEPARTMENT OF TRANSPORTATION, UPON CERTAIN STREETS AND HIGHWAYS, OF PARTS THEREOF, WITHIN THE CORPORATE LIMITS OF THE CITY OF PEARLAND (CULLEN PARKWAY), AS SET OUT IN THIS ORDINANCE; PROVIDING A PENALTY; AND DECLARING AN EMERGENCY. *Mr. Bill Eisen, City Manager.*

Councilmember Harris made the motion, seconded by Councilmember Harris, to approve Ordinance No. 1463 on its first and only reading.

City Manager Bill Eisen stated this item is a speed study conducted by the Texas Department of Transportation which was the lead agency on the widening and improving the Cullen Boulevard from City limits, north City limits to Broadway. In conjunction with to the speed study process TxDOT is recommending a speed limit of 45 miles per hour and has requested that City Council adopt an ordinance which implements that speed limit.

Voting “Aye” Councilmembers Hill, Harris, Sherrouse, and Owens.

Voting “No” None. .

Motion Passed 4 to 0. Councilmember Sherman absent.

FIRST AND ONLY READING OF ORDINANCE NO. 1462 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, ADDING ARTICLE 5, ETHICS, TO CHAPTER 2, ADMINISTRATION, OF THE CITY OF PEARLAND CODE OF ORDINANCES AND APPROVING THE REVIEW PANEL HEARING PROCEDURES; DECLARING AN EMERGENCY; HAVING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND A REPEALER CLAUSE; PROVIDING FOR CODIFICATION AND AN EFFECTIVE DATE. *Mr. Darrin Coker, City Attorney.*

Councilmember Owens made the motion, seconded by Councilmember Sherrouse, to approve Ordinance No. 1462 on its first and only reading.

City Attorney Darrin Coker stated the City Council previously conducted 3 workshops regarding the proposed ordinance, and most recently indicated a desire to proceed with

adoption of the same. The only modifications since the last workshop include a specific reference to the Mayor as a city official in Section 2-75, and a clarification of Section 2.82 (a) making it clear that the ordinance would not prohibit City Council Candidates from meeting with city employees for political campaign purposes, provided it is a public political forum for which all of the candidates are invited to participate.

Councilmember Owens asked for clarification on Section (e) page (4) of the Resolution and if this was bringing in the Administrative Board, Pearland Economic Development Board, and the Planning and Zoning Board.

City Attorney Darrin Coker stated yes, it applies to those boards and in some cases to the Zoning Board of Adjustments. According to the Resolution, if a Boardmember has served a term which has expired within a 12 month period, and the Boardmember develops an interest in a business that conducts business with the Pearland Economic Development Corporation, the board member is required to disclose that information.

Discussion ensued between City Council and City Attorney Darrin Coker regarding the Resolution.

Voting "Aye" Councilmembers Hill, Harris, Sherrouse, and Owens.

Voting "No" None.

Motion Passed 4 to 0. Councilmember Sherman absent.

COUNCIL ACTION – RESOLUTION NO. R2012-54 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AWARDED A UNIT SUPPLY BID FOR STANDBY GENERATOR PREVENTATIVE MAINTENANCE. *Mr. Bill Eisen, City Manager.*

Councilmember Sherrouse made the motion, seconded by Councilmember Owens, to approve Resolution No. R2012- 54.

City Manager Bill Eisen stated City Council approved a bid award in some time last year to Waukesha-Pearce Industries, Inc., for preventive maintenance services to be performed on City generators as emergency backups located throughout the city. The contract approved at that time had the opportunities to renew the contract for an additional year as long as the company does not increase the price more than the consumer price indexed over the 12 month period. In the this particular case Waukesha-Pearce Industries, Inc., has asked to renew their contact and agreed to waive any price increase.

Voting "Aye" Councilmembers Owens, Sherrouse, Harris, and Hill.

Voting "No" None.

Motion Passed 4 to 0, with Councilmember Sherman absent.

OTHER BUSINESS:

EXECUTIVE SESSION UNDER TEXAS GOVERNMENT CODE

1. **SECTION 551.074 – PERSONNEL MATTERS – DISCUSSION REGARDING CITY MANAGER’S EVALUATION AND PERFORMANCE GOALS FOR 2011 - 2012.** *City Council.*

NEW BUSINESS (CONTINUED):

6. **CONSIDERATION AND POSSIBLE ACTION –REGARDING CITY MANAGER’S EVALUATION AND PERFORMANCE GOALS FOR 2011 - 2012.** *City Council.*

Councilmember Sherrouse moves to postpone this action seconded by Councilmember Hill due to Mayor Pro-Tem Sherman’s absence.

Voting "Aye" Councilmembers Owens, Sherrouse, Harris, and Hill.

Voting "No" None.

Motion Passed 4 to 0, with Councilmember Sherman absent.

ADJOURNMENT

Meeting was adjourned at 8:54 p.m.

Minutes approved as submitted and/or corrected this the ____ day of _____, A.D., 2012.

Tom Reid
Mayor

ATTEST:

Young Lorfing, TRMC
City Secretary

Consent Agenda Item B

- B. CONSIDERATION AND POSSIBLE ACTION – EXCUSE COUNCILMEMBER FELICIA HARRIS FROM JUNE, 25, 2012, CITY COUNCIL REGULAR MEETING. *City Council.***

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

AGENDA OF: 7/9/2012	ITEM NO.: Consent Item
DATE SUBMITTED: 7/2/2012	DEPARTMENT OF ORIGIN: City Secretary
PREPARED BY: Young Lorfing	PRESENTOR: City Council
REVIEWED BY: Bill Eisen	REVIEW DATE: 7/2/12
SUBJECT: Excuse the absence of Councilmember Felicia Harris from the Regular Council Meeting held on June 25, 2012.	
EXHIBITS: None	
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

Excuse Councilmember Felicia Harris's absence from the June 25, 2012, Regular Council Meeting.

RECOMMENDED ACTION

Council action required.

Consent Agenda Item C

- C. CONSIDERATION AND POSSIBLE ACTION – SECOND AND FINAL READING OF ORDINANCE NO. 1464 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, CLOSING THE PUBLIC HEARING; ORDERING IMPROVEMENTS AND LEVYING ASSESSMENTS AGAINST VARIOUS PERSONS AND THEIR PROPERTY FOR THE PAYMENT OF A PART OF THE COST OF A PORTION OF PUBLIC IMPROVEMENTS IN THE CITY OF PEARLAND, TEXAS; PROVIDING FOR THE TIME WHEN SUCH ASSESSMENTS BECOME DUE AND PAYABLE; STIPULATING THE RATE OF INTEREST AND FIXING A CHARGE AND LIEN AGAINST SAID PROPERTY, MAKING SAID CHARGE A PERSONAL LIABILITY OF THE PROPERTY OWNERS OWNING PROPERTY ABUTTING ON SAID STREETS, PROVIDING FOR THE COLLECTION THEREOF; AND PROVIDING A SEVERABILITY CLAUSE. *Mr. Darrin Coker, City Attorney.***

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

AGENDA OF: 6-25-12	ITEM NO.: Ordinance No. 1464
DATE SUBMITTED: 6-4-12	DEPARTMENT OF ORIGIN: Legal
PREPARED BY: Darrin Coker	PRESENTOR: Darrin Coker
REVIEWED BY: NA	REVIEW DATE: NA
SUBJECT: Business Center Drive (Assessment Ordinance)	
EXHIBITS: Ordinance No.1464	
EXPENDITURE REQUIRED:	AMOUNT BUDGETED:
AMOUNT AVAILABLE:	PROJECT NO.:
ACCOUNT NO.:	
ADDITIONAL APPROPRIATION REQUIRED:	
ACCOUNT NO.:	
PROJECT NO.:	
To be completed by Department:	
<input type="checkbox"/> Finance <input checked="" type="checkbox"/> Legal <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution	

EXECUTIVE SUMMARY

The proposed ordinance will allow the City and the PEDC to proceed with the construction of the portion of Business Center Drive between CR 59 and Broadway. Specifically, the ordinance will allow the City to assess the eight benefiting property owners no more than the value of the special benefit conveyed to them by construction of the improvements or 90% of the improvement cost, whichever is less. The total upfront outlay of funds for the PEDC will be \$3.3M with \$2.2M to be repaid to the Corporation through the City's collection assessment proceeds over an undetermined period of time. The remaining \$1.1M would be an investment cost to the Corporation. The PEDC recently performed an Enhancement Study which showed that all the property owners, except two, will benefit by more than the cost of the improvements, and as a result can be assessed up to 90% of the improvements cost. The cost of the improvements is estimated to be \$4,842,544 or \$681 per linear foot for the affected property owners. The ordinance will allow the City to place a lien on each affected property for an amount stipulated in the ordinance, and the liens will accrue interest at a rate annually determined by the Bond Buyer Index. The liens will be collected by the City as the property sells or as it is developed. Upon receipt of any proceeds from a lien, the City will distribute such funds to the PEDC in accordance with the Reimbursement Agreement between the City and the PEDC.

ORDINANCE NO. 1464

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, CLOSING THE PUBLIC HEARING; ORDERING IMPROVEMENTS AND LEVYING ASSESSMENTS AGAINST VARIOUS PERSONS AND THEIR PROPERTY FOR THE PAYMENT OF A PART OF THE COST OF A PORTION OF PUBLIC IMPROVEMENTS IN THE CITY OF PEARLAND, TEXAS; PROVIDING FOR THE TIME WHEN SUCH ASSESSMENTS BECOME DUE AND PAYABLE; STIPULATING THE RATE OF INTEREST AND FIXING A CHARGE AND LIEN AGAINST SAID PROPERTY, MAKING SAID CHARGE A PERSONAL LIABILITY OF THE PROPERTY OWNERS OWNING PROPERTY ABUTTING ON SAID STREETS, PROVIDING FOR THE COLLECTION THEREOF; AND PROVIDING A SEVERABILITY CLAUSE.

WHEREAS, Chapter 313 of the Texas Transportation Code, provides that the governing body of the City may determine the necessity for and order the improvement of a street or highway in the City, contract for the construction of the improvement in the name of the City, and provide for the payment of the cost of the improvement partly by the City and partly by assessments; and

WHEREAS, the City desires to construct Business Center Drive as a four-lane roadway from Broadway southward to County Road 59 (the "Roadway"); and

WHEREAS, the City caused an estimate of costs to so improve the Roadway to be prepared; and

WHEREAS, the City caused notice of a public hearing on the proposed assessments to be published in the Pearland Reporter News on May 9, 2012, May 16, 2012, and May 23, 2012, and written notice to be mailed to the owners of properties abutting the Roadway as shown on the City's rendered tax roll; and

WHEREAS, the City held a public hearing on June 4, 2012 to receive testimony regarding the proposed improvements, their estimated costs, the enhancement to the values of properties abutting the Roadway that the proposed improvements would create, and the assessment of abutting properties to pay a portion of the costs; now, therefore,

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

Section 1. That it is hereby determined necessary that Business Center Drive be improved as described in Exhibits “A-1” and “A-2” (the “Improvements”), attached hereto and made a part hereof and that the same is hereby ordered to be improved.

Section 2. That the public hearing to consider the proposed assessments to be levied against abutting owners of the Roadway be, and the same is hereby, closed, and all objections to the proposed assessments be, and the same are hereby, overruled.

Section 3. The cost of the Improvements that is assessed against abutting property and the owners of the property shall be apportioned among the parcels of abutting property and the owners of the property in accordance with the front foot rule in accordance with Chapter 313 of the Texas Transportation Code.

Section 4. That there shall be, and is hereby, levied an assessment against the parcels of property, hereinafter mentioned, and against the real and true owners thereof (whether such owners shall be correctly named herein or not), the sums of money itemized and shown opposite the description of the respective parcels of property and the several amounts assessed against the same, and the owners thereof, as far as such owners are known, being shown in Exhibit “B” attached hereto and made a part hereof (the “Assessed Amounts”).

Section 5. Interest shall accrue on the Assessed Amounts at a variable rate, commencing the first day of the month after the City Engineer issues a certificate of substantial completion for the Improvements. The rate for each calendar month that interest shall accrue shall be the first rate published that calendar year by the “Bond Buyer Index of 20 Municipal Bonds of General Obligation Debt,” divided by twelve, and shall not exceed 0.666 (2/3) percent per month (8% annually). The assessments shall mature and become due and payable in full, including any accrued interest, upon the earlier of the following: (a) within thirty (30) days of a sale of all or any portion of the abutting property subject to an assessment levied hereby; or (b) upon the filing of any plat or application for a permit with the City for the development of the abutting property subject to an assessment levied hereby.

Section 6. Upon an assessment’s maturing and becoming due and payable as set forth herein interest shall accrue at the rate of eight percent (8%) a year. Any payments made before the due date shall be accepted, and may be made in whole or in part at anytime and used to offset the total amount due including accrued interest. In the event there is failure to make full payment upon maturity, then at the option of the City of Pearland, or its assigns, such amount shall be and become immediately due and payable, and shall be collectible, together with reasonable attorney’s fees and costs of collection, if incurred.

Section 7. That the Assessed Amounts assessed against the said parcels of property, and the owners thereof as shown on Exhibit "B," and interest thereon before maturity as set forth in Section 5 and any interest thereon after maturity as set forth in Section 6, together with reasonable attorney's fees and costs of collection, if incurred, are hereby declared to be, and are made a lien upon the respective parcels of property against which the same are assessed as shown on Exhibit "B", and a personal liability and charge against the real and true owners of such property whether such owners be named herein or not, and the said liens shall be, and constitute, the first enforceable lien and claim against the property on which such assessments are levied, and shall be a first and paramount lien thereof, superior to all other liens and claims, except State, County, School District and City ad valorem taxes.

Section 8. That, should any portion of this Ordinance be declared void, it is the intention of, and hereby declared by the City Council, that the balance and remainder of such Ordinance, or any parts not void, shall remain in full force and effect as though separately passed and approved.

PASSED and APPROVED ON FIRST READING this the 25th day of June, A.D.,
2012.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING
CITY SECRETARY

APPROVED AS TO FORM:

DARRIN M. COKER
CITY ATTORNEY

PASSED and APPROVED ON SECOND AND FINAL READING this the _____
day of _____, A. D., 2012.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING, TRMC
CITY SECRETARY

APPROVED AS TO FORM:

DARRIN M. COKER
CITY ATTORNEY

EXHIBIT A-1: DESCRIPTION OF IMPROVEMENTS

Construction of portions of Business Center Drive between County Road 59 and West Broadway. The Improvements shall consist of construction of the two and four lane segments of Business Center Drive labeled “unfunded” in Exhibit “A-2” at the estimated cost of \$4,842,544.

Exhibit B

	PROPERTY	PROPERTY OWNER	ASSESSMENT
1	A called 9.99 tract of land being out of Lot 37, Section 81, Allison Richey Gulf Coast Home Company's Part of Suburban Gardens, H.T.&B.R.R. Company Survey, Abstract 300, Pearland, Brazoria County, Texas.	Fishman, George and Mary	\$303,253
2	A called 10.454 tract of land being out of Lots 46 & 47, Section 81, Allison Richey Gulf Coast Home Company's Part of Suburban Gardens, H.T.&B.R.R. Company Survey, Abstract 300, Pearland, Brazoria County, Texas.	Varani, Ahmaldi	\$607,726
3	A called 9.95 tract of land being out of Lot 38-38A, Section 81, Allison Richey Gulf Coast Home Company's Part of Suburban Gardens, H.T.&B.R.R. Company Survey, Abstract 300, Pearland, Brazoria County, Texas.	Parkside 59/288, Ltd.	\$309,416
4	A called 10.01 tract of land being out of Lot 36, Section 81, Allison Richey Gulf Coast Home Company's Part of Suburban Gardens, H.T.&B.R.R. Company Survey, Abstract 300, Pearland, Brazoria County, Texas.	Weems, F. Carrington	\$304,522
5	A called 2.615 tract of land being out of Lot 48A, Section 81, Allison Richey Gulf Coast Home Company's Part of Suburban Gardens, H.T.&B.R.R. Company Survey, Abstract 300, Pearland, Brazoria County, Texas.	Gold Star Development	\$151,620
6	A called 2.615 tract of land being out of Lot 48, Section 81, Allison Richey Gulf Coast Home Company's Part of Suburban	YLT 288 Partners	\$151,712

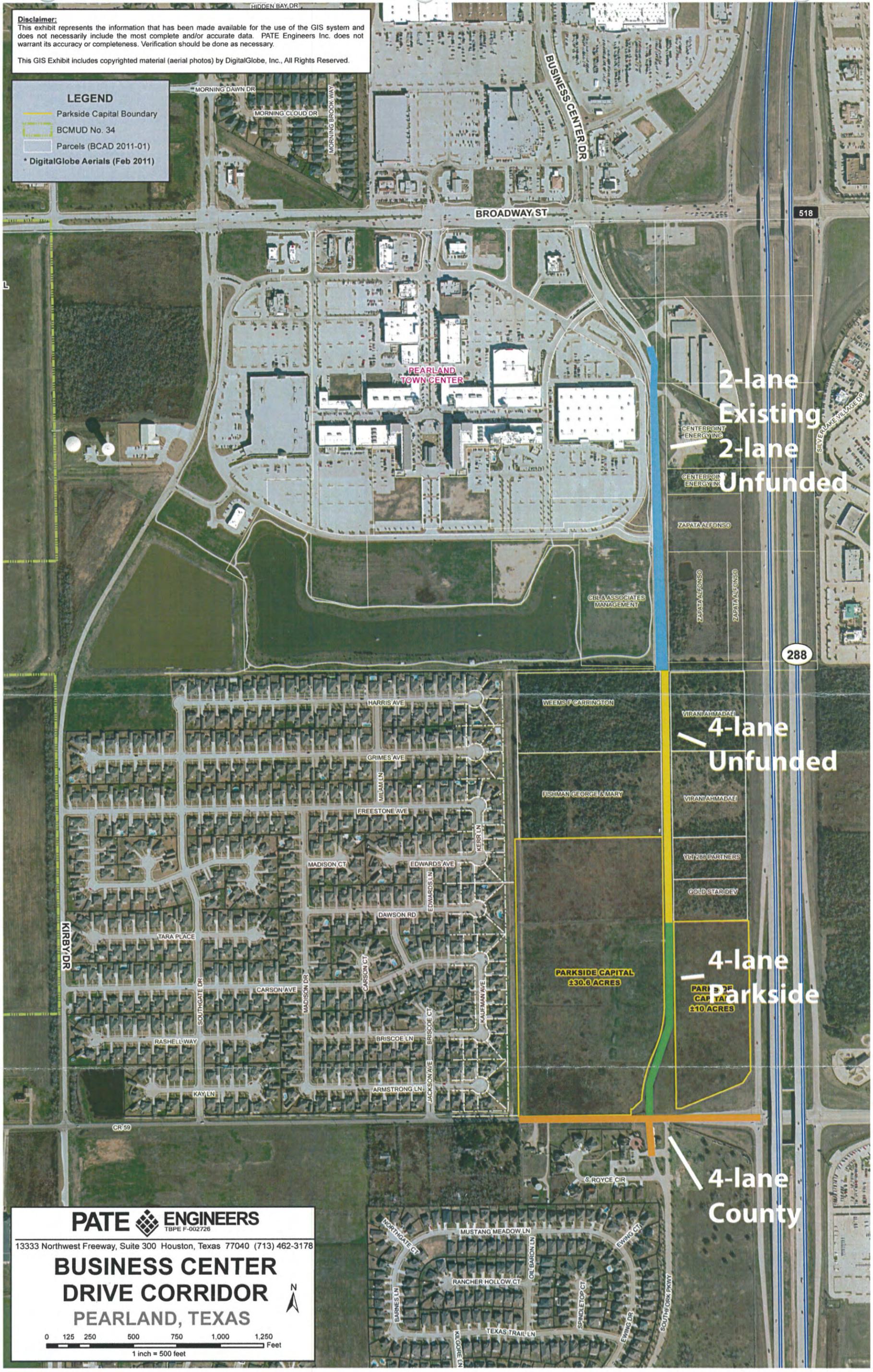
	Gardens, H.T.&B.R.R. Company Survey, Abstract 300, Pearland, Brazoria County, Texas.		
7	A called 10.00 tract of land being out of Lots 44A, 45 & 45A, Allison Richey Gulf Coast Home Company's Part of Suburban Gardens, H.T.&B.R.R. Company Survey, Abstract 300, Pearland, Brazoria County, Texas.	Zapata, Alfonso	\$435,600
8	A called 5.075 tract of land being out of Lots 43A & 44, Allison Richey Gulf Coast Home Company's Part of Suburban Gardens, H.T.&B.R.R. Company Survey, Abstract 300, Pearland, Brazoria County, Texas.	CenterPoint Energy	\$221,067

Disclaimer:
 This exhibit represents the information that has been made available for the use of the GIS system and does not necessarily include the most complete and/or accurate data. PATE Engineers Inc. does not warrant its accuracy or completeness. Verification should be done as necessary.

This GIS Exhibit includes copyrighted material (aerial photos) by DigitalGlobe, Inc., All Rights Reserved.

LEGEND

- Parkside Capital Boundary
- BCMUD No. 34
- Parcels (BCAD 2011-01)
- * DigitalGlobe Aerials (Feb 2011)



2-lane Existing
 2-lane Unfunded

4-lane Unfunded

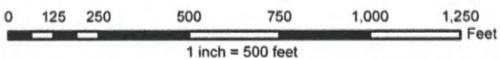
4-lane Parkside

4-lane County

PATE ENGINEERS
 TBPE F-002726

13333 Northwest Freeway, Suite 300 Houston, Texas 77040 (713) 462-3178

BUSINESS CENTER DRIVE CORRIDOR
PEARLAND, TEXAS



Consent Agenda Item D

- D. CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-99 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, CONVEYING AN EASEMENT TO SERVE THE COWART'S CREEK REGIONAL DIVERSION FACILITY PUMP STATION. *Mr. Darrin Coker, City Attorney.***

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

AGENDA OF: July 9, 2012	ITEM NO.: Resolution No. R2012-99
DATE SUBMITTED: 6-28-12	DEPARTMENT OF ORIGIN: Projects
PREPARED BY: Anthony Vu	PRESENTOR: Darrin Coker
REVIEWED BY: Darrin Coker	REVIEW DATE:
SUBJECT: CenterPoint Easement; Cowart Creeks Regional Diversion Facility Pump Station	
EXHIBITS: Resolution 2012-99; A- Easement; B- Survey Map; C – Vicinity Map	
EXPENDITURE REQUIRED: NA AMOUNT AVAILABLE: ACCOUNT NO.:	AMOUNT BUDGETED: PROJECT NO.:
ADDITIONAL APPROPRIATION REQUIRED: ACCOUNT NO.: PROJECT NO.:	
To be completed by Department: <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution	

EXECUTIVE SUMMARY

Centerpoint Energy has requested the City to grant an unobstructed, perpetual easement for the Cowart Creeks Regional Diversion Facility Pump Station project. The proposed 10 feet wide, together with 10 feet wide unobstructed aerial easement is necessary for CenterPoint to provide electrical services to the future pump station.

RECOMMENDED ACTION

Staff recommends granting a perpetual easement to Centerpoint Energy, for the Cowart Creeks Regional Diversion Facility Pump Station project and authorizing the City Manager to execute the easement.

RESOLUTION NO. R2012-99

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, CONVEYING AN EASEMENT TO SERVE THE COWART'S CREEK REGIONAL DIVERSION FACILITY PUMP STATION.

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

Section 1. That certain Easement attached hereto as Exhibit "A" and made a part hereof for all purposes, is hereby conveyed to CenterPoint Energy.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, A.D., 2012.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING, TRMC
CITY SECRETARY

APPROVED AS TO FORM:

DARRIN M. COKER
CITY ATTORNEY

EASEMENT

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

STATE OF TEXAS }

KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF BRAZORIA }

THAT, City of Pearland, herein called Grantor, whether one or more, for and in consideration of the sum of ONE DOLLAR (\$1.00) CASH to Grantor paid by CenterPoint Energy Houston Electric, LLC, herein called Grantee, whose principal address is P. O. Box 1700, Houston, Texas 77251-1700, has **GRANTED, SOLD AND CONVEYED** and by these presents, does **GRANT, SELL AND CONVEY** unto said Grantee, its successors and assigns, all or in part, an exclusive, unobstructed, perpetual easement (hereinafter referred to as the "Easement Area", whether one or more), for electric distribution and communication facilities consisting of a variable number of wires and cables and all necessary and desirable equipment and appurtenances, including, but not limited to, towers or poles made of wood, metal or other materials, props and guys, (hereinafter referred to as "Facilities"), located within the following described lands owned by Grantor, to wit:

That certain 80.0001-acre tract of land situated in the H.T. & B.R.R. Co. Survey, Abstract 293, Brazoria County, Texas, being the same property described in a deed from Chandra Latha Thota Pushpala to the City of Pearland, dated June 30, 2006 and filed for record under County Clerk's File 2006042502 in the Official Records of said County and State.

The Easement Area herein granted is described as follows:

An easement ten (10) feet wide, the location of the centerline of which is shown by the dot-dash symbol on Sketch No. 12-0309, hereto attached and

made a part hereof, together with unobstructed aerial easements ten (10) feet wide, beginning at a plane sixteen (16) feet above the ground and extending upward, located on both sides of and adjoining said ten (10) foot wide easement.

Grantor, its successors and assigns shall observe and exercise all notification laws as per the Underground Facility Damage Prevention and Safety Act, also known as "ONE CALL" & "CALL BEFORE YOU DIG", when working in or near the Easement Area.

To the extent that such laws and codes apply to Grantor, its successors or assigns, Grantor, its successors and assigns shall observe all safety codes and laws which apply to working along, within and or near the Easement Area and facilities during construction activities and safe clearance from such facilities, including O.S.H.A., Chapter 752 of the Texas Health and Safety Code, The National Electric Code, and the National Electrical Safety Code. Grantor, its successors and assigns, is hereby obligated to place National Electrical Safety Code notices into community deed restrictions when Easement Area falls within residential developments.

Notwithstanding the description of the Easement Area set forth in the exhibits, the parties intend that the Easement Area granted herein shall run to the edge of Grantor's property so that the exteriors of all ground or aerial easements herein granted are to intersect with the exteriors of all adjoining easements and/or property lines without any gaps in the property granted.

Grantee shall also have reasonable rights of ingress and egress to and from said Easement Area, together with reasonable working space, for the purposes of erecting, installing, operating, maintaining, replacing, inspecting, and removing said Facilities, together with the additional right to remove from said Easement Area and land immediately adjoining thereto, all bushes, trees and parts thereof, or other structures or improvements

which are within, protrude, bisect, encroach or overhang into said Easement Area and which, in the sole opinion of Grantee, endanger or may interfere with the efficient, safe and proper operation, and maintenance of said Facilities.

TO HAVE AND TO HOLD the above described Easement Area, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its successors or assigns, forever, and Grantor does hereby bind itself and its successors, heirs, assigns, and legal representatives, to fully warrant and forever defend all and singular the above described Easement Area and rights unto said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise. In the event of a deficiency in title or actions taken by others which results in the relocation of Grantee's Facilities, the Grantor herein, its successors and assigns, will be responsible for all costs associated with the relocation and/or removal of Grantee's Facilities.

EXECUTED this _____ day of _____, 2012.

CITY OF PEARLAND

BY: _____
Signature

Name typed or printed

Title

STATE OF TEXAS }

COUNTY OF BRAZORIA }

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, _____ of the City of Pearland, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that ()he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

Given under my hand and seal of office this _____ day of _____, 2012.

Notary's Signature

Name typed or printed

Commission Expires

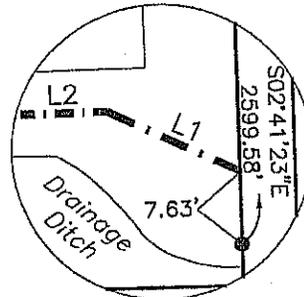
**AFTER RECORDING RETURN TO:
SURVEYING & RIGHT OF WAY
CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC
P. O. BOX 1700
HOUSTON, TX 77251-1700**

A-550

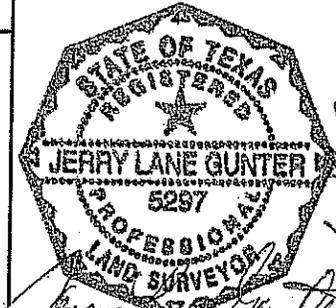
A-308

N87°24'21"E 1319.84'

Line Table		
Line #	Length	Direction
L1	79.76'	N66°39'20"W
L2	46.77'	S87°02'26"W



DETAIL
N.T.S.



A-552

N

CITY OF PEARLAND
B.C.C.F. 2006042502
80.0001 Ac.

CARRIE LANE

Existing HL&P
Easement
Vol. 1106 Pg. 759
Sketch #A-25310

COUNTY ROAD 175C
(BOUNDS DR.)

WELLS DRIVE
(NOT OPEN)

10'
EASEMENT

Detention Pond

Drainage Ditch

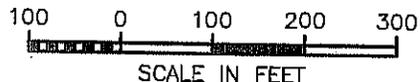
SEE
DETAIL

LEGEND

- = Called & Found IR
w/cop "C.L. Davis
-RPLS 4464"
- = Called & Found
Mag Nail

H.T. & B.R.R. Co. SURVEY A-293

Bearing Basis:
Texas Coordinate System of
1983, South Central Zone
(TXSC Zone 4204); NAD 83



NOTE: THE EXTERIORS OF ALL EASEMENTS ARE TO INTERSECT WITH THE EXTERIORS OF ALL ADJOINING EASEMENTS OR WITH ADJOINING PROPERTY LINES.

REV.1:JOB NO.

BY:

DATE:

REV.2:JOB NO.

BY:

DATE:

EASEMENT - UNOBSTRUCTED

LAST PLOT DATE: 6/19/2012

COUNTY: BRAZORIA

DRAWN BY: JJK

DATE: JUNE 7, 2012

MAP NO: 5647C

SCALE: 1" = 200'

JOB NO: 61237082

FILE NO. - BOOK: 2012

CHECKED BY: JLG

CenterPoint Energy

SURVEYING & RIGHT OF WAY
P.O. Box 1700 Houston, TX 77251-1700

SKETCH NO. 12-0309



Vicinity Map - Pearland, TX



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Consent Agenda Item E

- E. CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-100 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, CONVEYING AN EASEMENT FOR CERTAIN ELECTRIC UTILITIES. *Mr. Darrin Coker, City Attorney.***

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

AGENDA OF: July 9, 2012	ITEM NO.: Resolution No. R2012-100		
DATE SUBMITTED: 6-28-12	DEPARTMENT OF ORIGIN: Projects		
PREPARED BY: Anthony Vu	PRESENTOR: Darrin Coker		
REVIEWED BY: Darrin Coker	REVIEW DATE:		
SUBJECT: CenterPoint Easement; Oakbrook Estates Section 8			
EXHIBITS: Resolution 2012-100; A- Easement; B- Survey Map; C – Vicinity Map			
EXPENDITURE REQUIRED: NA AMOUNT AVAILABLE: ACCOUNT NO.:	AMOUNT BUDGETED: PROJECT NO.:		
ADDITIONAL APPROPRIATION REQUIRED: ACCOUNT NO.: PROJECT NO.:			
To be completed by Department:			
<input type="checkbox"/> Finance	<input checked="" type="checkbox"/> Legal	<input type="checkbox"/> Ordinance	<input checked="" type="checkbox"/> Resolution

EXECUTIVE SUMMARY

Centerpoint Energy has requested the City to grant an unobstructed, perpetual easement for electric distribution for new residential homes. The proposed 10 feet wide, together with 11 feet 6 inches wide unobstructed aerial easement is necessary for CenterPoint to provide electrical services to Oakbrook Estates Section 8 future homes under construction. Due to an existing water and sewer utility conflict, the electrical easement is located within City property at the northwest corner of Grandoak Drive and Glenoak Drive.

RECOMMENDED ACTION

Staff recommends granting a per petual easement to Centerpoint Energy for the Oakbrook Estates Section 8 residential development and authorizing the City Manager to execute the easement.

RESOLUTION NO. R2012-100

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, CONVEYING AN EASEMENT FOR CERTAIN ELECTRIC UTILITIES.

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

Section 1. That certain Easement attached hereto as Exhibit "A" and made a part hereof for all purposes, is hereby conveyed to CenterPoint Energy.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, A.D., 2012.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING, TRMC
CITY SECRETARY

APPROVED AS TO FORM:

DARRIN M. COKER
CITY ATTORNEY

EASEMENT

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

STATE OF TEXAS }

KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF BRAZORIA }

THAT, City of Pearland, a Texas corporation, herein called Grantor, whether one or more, for and in consideration of the sum of ONE DOLLAR (\$1.00) CASH to Grantor paid by CenterPoint Energy Houston Electric, LLC, herein called Grantee, whose principal address is P. O. Box 1700, Houston, Texas 77251-1700, has **GRANTED, SOLD AND CONVEYED** and by these presents, does **GRANT, SELL AND CONVEY** unto said Grantee, its successors and assigns, all or in part, an exclusive, unobstructed, perpetual easement (hereinafter referred to as the "Easement Area", whether one or more), for electric distribution and communication facilities consisting of a variable number of wires and cables and all necessary and desirable equipment and appurtenances, including, but not limited to, towers or poles made of wood, metal or other materials, props and guys, (hereinafter referred to as "Facilities"), located within the following described lands owned by Grantor, to wit:

Restricted Reserve "A" in Block 4 of Partial Replat of Oakbrook Estates Section 6, a subdivision situated in the Warren D. C. Hall League, Abstract 70, Harris County, Texas, according to the map or plat thereof recorded in County Clerk's File 2007004022 of the Official Public Records of said County and State, being the same property described in a deed from Oakbrook Estates Ltd. to City of Pearland, dated June 2, 2009 and filed for record under County Clerk's File 2009024565 of said Official Public Records..

The Easement Area herein granted is described as follows:

An easement ten (10) feet wide, the location of which is shown by the hatched area on Sketch No. 12-0245, attached hereto and made a part hereof, together with an unobstructed aerial easement eleven (11) feet six (6) inches wide, beginning at a plane sixteen (16) feet above the ground and extending upward, located northerly of and westerly of and adjoining said ten (10) foot easement.

Grantor, its successors and assigns shall observe and exercise all notification laws as per the Underground Facility Damage Prevention and Safety Act, also known as "ONE CALL" & "CALL BEFORE YOU DIG", when working in or near the Easement Area.

To the extent that such laws and codes apply to Grantor, its successors or assigns, Grantor, its successors and assigns shall observe all safety codes and laws which apply to working along, within and or near the Easement Area and facilities during construction activities and safe clearance from such facilities, including O.S.H.A., Chapter 752 of the Texas Health and Safety Code, The National Electric Code, and the National Electrical Safety Code. Grantor, its successors and assigns, is hereby obligated to place National Electrical Safety Code notices into community deed restrictions when Easement Area falls within residential developments.

Notwithstanding the description of the Easement Area set forth in the exhibits, the parties intend that the Easement Area granted herein shall run to the edge of Grantor's property so that the exteriors of all ground or aerial easements herein granted are to intersect with the exteriors of all adjoining easements and/or property lines without any gaps in the property granted.

Grantee shall also have reasonable rights of ingress and egress to and from said Easement Area, together with reasonable working space, for the purposes of erecting, installing, operating, maintaining, replacing, inspecting, and removing said Facilities,

together with the additional right to remove from said Easement Area and land immediately adjoining thereto, all bushes, trees and parts thereof, or other structures or improvements which are within, protrude, bisect, encroach or overhang into said Easement Area and which, in the sole opinion of Grantee, endanger or may interfere with the efficient, safe and proper operation, and maintenance of said Facilities.

In utilizing the Easement Area, Grantee shall comply with all requirements of the Right of Way Management Ordinance of the City of Pearland as if the Easement Area were located in a public right of way in the City of Pearland.

TO HAVE AND TO HOLD the above described Easement Area, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its successors or assigns, forever, and Grantor does hereby bind itself and its successors, heirs, assigns, and legal representatives, to fully warrant and forever defend all and singular the above described Easement Area and rights unto said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise. In the event of a deficiency in title or actions taken by others which results in the relocation of Grantee's Facilities, the Grantor herein, its successors and assigns, will be responsible for all costs associated with the relocation and/or removal of Grantee's Facilities.

EXECUTED this _____ day of _____, 2012.

City of Pearland, a Texas corporation

BY: _____
Signature

Name typed or printed

Title _____

STATE OF TEXAS }

COUNTY OF _____ }

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____,

_____ of City of Pearland, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that ()he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

Given under my hand and seal of office this _____ day of _____, 2012.

Notary's Signature

Name typed or printed

Commission Expires

**AFTER RECORDING RETURN TO:
SURVEYING & RIGHT OF WAY
CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC
P. O. BOX 1700
HOUSTON, TX 77251-1700**



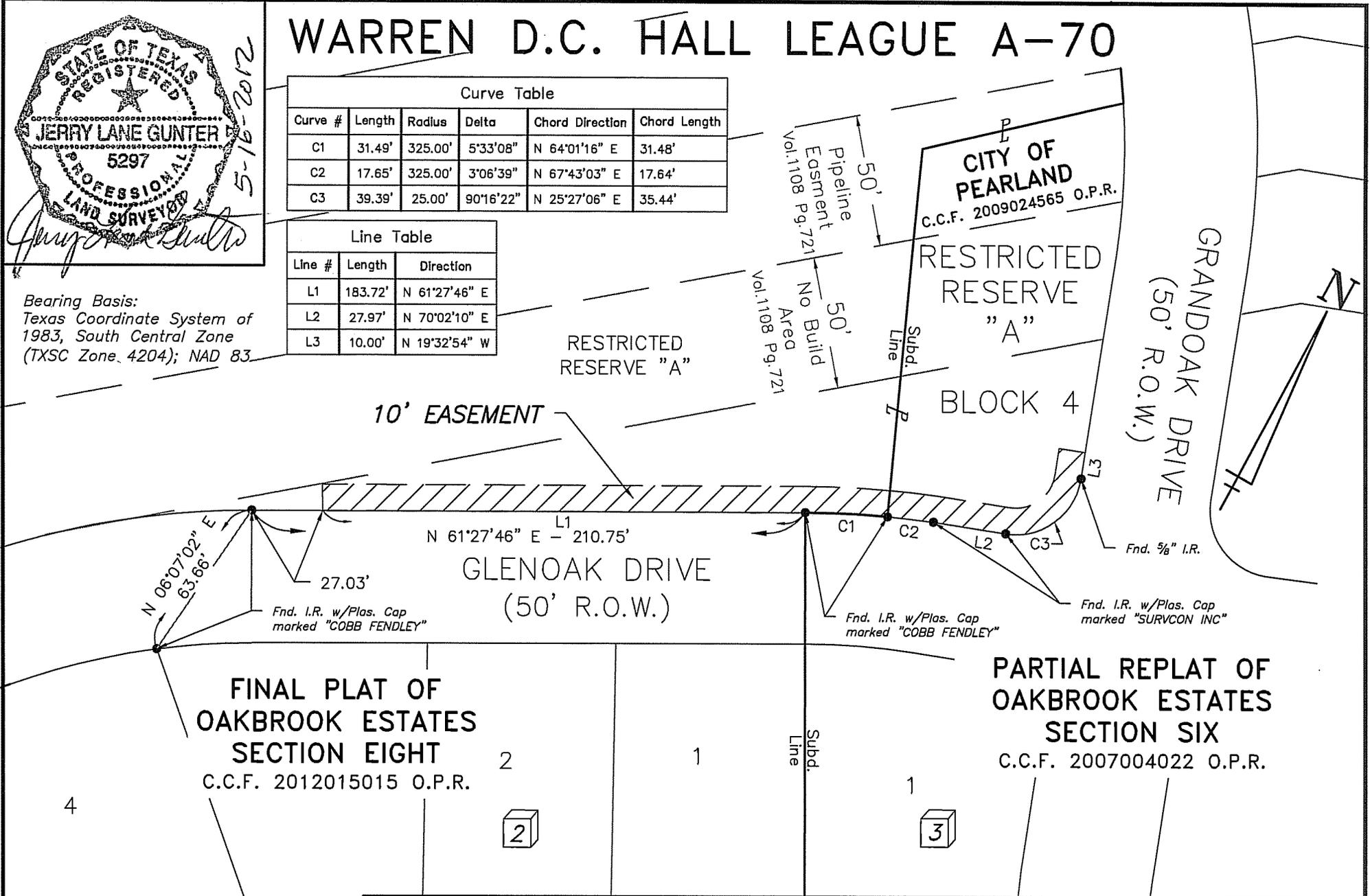
5-16-2012

WARREN D.C. HALL LEAGUE A-70

Curve Table					
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	31.49'	325.00'	5°33'08"	N 64°01'16" E	31.48'
C2	17.65'	325.00'	3°06'39"	N 67°43'03" E	17.64'
C3	39.39'	25.00'	90°16'22"	N 25°27'06" E	35.44'

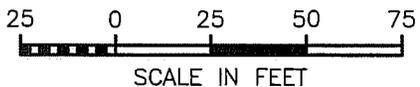
Line Table		
Line #	Length	Direction
L1	183.72'	N 61°27'46" E
L2	27.97'	N 70°02'10" E
L3	10.00'	N 19°32'54" W

Bearing Basis:
Texas Coordinate System of
1983, South Central Zone
(TXSC Zone 4204); NAD 83



**FINAL PLAT OF
OAKBROOK ESTATES
SECTION EIGHT**
C.C.F. 2012015015 O.P.R.

**PARTIAL REPLAT OF
OAKBROOK ESTATES
SECTION SIX**
C.C.F. 2007004022 O.P.R.



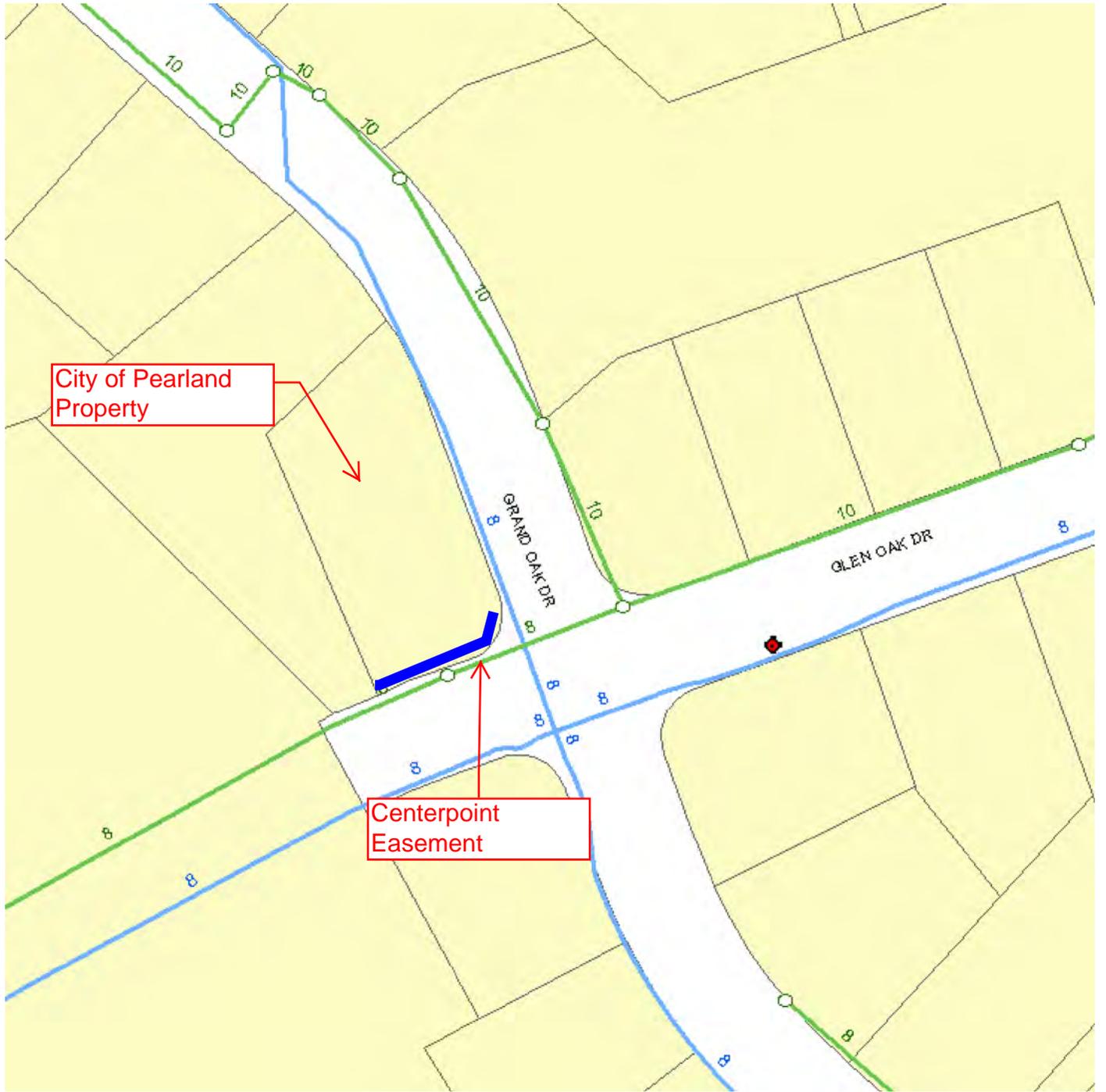
NOTE: THE EXTERIORS OF ALL EASEMENTS ARE TO INTERSECT WITH THE EXTERIORS OF ALL ADJOINING EASEMENTS OR WITH ADJOINING PROPERTY LINES.

REV.1: JOB NO. BY: DATE: REV.2: JOB NO. BY: DATE:

EASEMENT — UNOBSTRUCTED
COUNTY: BRAZORIA
DATE: 05-15-2012
SCALE: 1" = 50'
FILE NO. — BOOK: 2012

LAST PLOT DATE: 05-15-2012
DRAWN BY: WJD
MAP NO: 5648D
JOB NO: 60275119A
CHECKED BY: JLG

CenterPoint Energy
SURVEYING & RIGHT OF WAY
P.O. Box 1700 Houston, TX 77251-1700
SKETCH NO. 12-0245



Vicinity Map - Pearland, TX



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Consent Agenda Item F

- F. CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-102 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AWARDED A BID FOR WATER TREATMENT CHEMICALS AND WATER ANALYSIS SERVICES. *Mr. Bill Eisen, City Manager.***

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

AGENDA OF:	July 9, 2012	ITEM NO.:	Resolution No. R2012-102
DATE SUBMITTED:	June 29, 2012	DEPT. OF ORIGIN:	Finance
PREPARED BY:	Bob Pearce	PRESENTOR:	Bill Eisen
REVIEWED BY:	Jon R. Branson	REVIEW DATE:	July 05, 2012
SUBJECT: Correction of erroneous unit price schedule with Resolution #R2012-90			
EXHIBITS: R2012-102; Revised pricing schedule.			
FUNDING:			
<input 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 – Sold <input type="checkbox"/> L/P – To Be Sold			
EXPENDITURE REQUIRED: \$575,000 (est) AMOUNT BUDGETED: \$575,000 (FY12) AMOUNT AVAILABLE: \$190,000(rest of FY12) PROJECT NO.: ACCOUNT NO.: 030-4042-542-06-00; 030-4043-542-06-00			
ADDITIONAL APPROPRIATION REQUIRED: ACCOUNT NO.: PROJECT NO.:			
To be completed by Department:			
X Finance		X Legal	
		Ordinance	
		X Resolution	

EXECUTIVE SUMMARY

BACKGROUND

Subsequent to the Council meeting of June 11, 2012, Purchasing staff discovered that due to an oversight, the pricing schedule attached to the agenda request for the renewal of a bid for water treatment chemicals contained outdated pricing. It mistakenly reflected the original bid pricing from the initial bid award in 2010, rather than with a 3.9% increase, as requested at renewal in 2011 by Napco and approved in accordance with the allowable CPI increase in effect at that time as prescribed by bid specifications and Council bid award.

It remains a fact that for the current renewal period, Napco has chosen to forego an allowable 3.6% increase presently in effect, with pricing to remain consistent with the 2011 level. It should

be further noted that the estimated annual usage of \$575,000 for this final annual renewal period of the bid award was based on actual chemical expenditures for 2011 (with adjustment for anticipated climatic conditions) and not on the lower unit pricing schedule, and therefore remains an accurate estimate.

SCOPE OF CONTRACT

Contractor will furnish water treatment chemicals, per specifications, as needed throughout the term of this award.

BID AND AWARD

N/A

SCHEDULE

Chemicals will be delivered by the awarded vendor to the various City water facilities as needed throughout the term of this bid award.

POLICY/GOAL CONSIDERATION

This bid award will positively impact the City's goal of providing and maintaining a safe and reliable water supply for residents throughout the City.

CURRENT AND FUTURE FUNDING /FINANCIAL IMPACTS/DEBT SERVICE

Funding for these services will come from Public Works' operating budget.

O&M IMPACT INFORMATION

Fiscal Year	2012	2013	2014
	\$190,000 for remainder of FY12	\$385,000	Re-bid

RECOMMENDED ACTION

Staff recommends approval of a resolution to renew a bid award for water treatment chemicals to Napco Chemical Co. at the unit costs referenced in the table attached below, with an estimated total expenditure of approximately \$575,000.

DESCRIPTION	PRICE PER GALLON
Liquid Polyphosphate Blend – Napco 211LM	\$9.82/per gallon
Zinc Orthophosphate – Napco 206	\$8.26/per gallon
Sodium Hypochlorite 10-12% - Napco Bleach	\$0.86/per gallon Truck Load \$1.03/per gallon < Truck Load
Liquid Ammonium Sulfate – Napco LAS	\$1.15/per gallon Truck Load \$1.93/per gallon < Truck Load
Liquid Sodium Bisulfite 40% Solution – Napco D-Chlor	\$1.17/per gallon Truck Load \$1.93/per gallon < Truck Load
Delivery Time	1- 3 Days

RESOLUTION NO. R2012-102

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AWARDED A BID FOR WATER TREATMENT CHEMICALS AND WATER ANALYSIS SERVICES.

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

Section 1. That the City previously opened bids for water treatment chemicals and water analysis services, and such bid was awarded to Napco Chemical Company, Inc.

Section 2. That the City Council hereby renews the bid with Napco Chemical Company, Inc., in the estimated amount of \$575,000.00.

Section 3. The City Manager or his designee is hereby authorized to execute a contract for water treatment chemicals and water analysis services.

PASSED, APPROVED and ADOPTED this the _____ day of _____,
A.D., 2012.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING, TRMC
CITY SECRETARY

APPROVED AS TO FORM:

DARRIN M. COKER
CITY ATTORNEY

New Business Item No. 1

1. **CONSIDERATION AND POSSIBLE ACTION – FIRST READING OF ORDINANCE NO. 1465** – AN ORDINANCE EXTENDING THE CITY LIMITS OF THE CITY OF PEARLAND, TEXAS, TO INCLUDE ALL LAND AREA WITHIN CERTAIN LIMITS AND BOUNDARIES AND ANNEXING TO THE CITY OF PEARLAND ALL OF THE AREA WITHIN SUCH LIMITS AND BOUNDARIES (**AREA GENERALLY LOCATED AT THE CORNER OF KINGSLEY ROAD AND WEST BROADWAY**); APPROVING A SERVICE PLAN FOR ALL OF THE AREA WITHIN SUCH LIMITS AND BOUNDARIES; CONTAINING OTHER PROVISIONS RELATED TO THE SUBJECT; AND PROVIDING A SAVINGS AND SEVERABILITY CLAUSE. ANNEXATION AREA 3. *Ms. Lata Krishnarao, Director of Community Development.*

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

AGENDA OF: July 9, 2012	ITEM NO.: Ordinance No. 1465
DATE SUBMITTED: June 28, 2012	DEPT. OF ORIGIN: Planning
PREPARED BY: Harold Ellis	PRESENTOR: Bill Eisen
REVIEWED BY: Mike Hodge	REVIEW DATE: July 2, 2012
SUBJECT: Request for Voluntary Annexation of Land into the City Limits (Annexation area 3) - First of two required Ordinance Readings	
EXHIBITS/ATTACHMENTS: <ul style="list-style-type: none">1. Ordinance 14652. Exhibit A – Metes and Bounds Description3. Exhibit B – Service Plan4. Vicinity Map	
EXPENDITURE REQUIRED: N/A	AMOUNT BUDGETED: N/A
AMOUNT AVAILABLE: N/A	PROJECT NO.: N/A
ACCOUNT 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 checked="" type="checkbox"/> Legal <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution	

EXECUTIVE SUMMARY

This is the first of two required readings for the proposed Ordinance for the possible Annexation of undeveloped land into the City of Pearland, known as Annexation Area 3. This is an area that Council indicated they would like to consider annexing in the 2009 Future Land Use Plan update. The annexation consists of 20.3 acres and is located at the southeast corner of the intersection of Broadway and Kingsley Drive.

Beltway 23, Ltd, is the owner of the property in question and has initiated this annexation petition. Beltway 23, Ltd. owns 18.1 acres of the property in question, and the remaining 2.20 acres is City right-of-way which will be included as part of the annexation request. This remaining acreage includes the street-right-of-way for existing County Road 48, south of Broadway, which is approximately 970' in length.

Since the area is in Pearland's ETJ and will eventually become part of the city, as is the plan for all ETJ land, annexing the area now before the property is developed, as opposed to annexing in the future, will ensure that future growth is guided by city's regulations and the conforms to the long range plans for the area.

Service Plan: A Service Plan for Annexation Area 3 is attached to this report. As indicated by the Service Plan, the City will be able to service the possible annexation area with existing resources. The City is already providing fire fighting and EMS. However, Fire Marshal services would increase with annexation and Fire Inspection services will also be available in the area after annexation. The City would provide police services after annexation.

Zoning: As Council has indicated that zoning should be a separate process, a complete zoning analysis for this site has not yet been done. However, for Council's reference, the Future Land Use Plan does indicate this area to be a minor retail note, which would allow for limited retail/commercial activity.

Staff Recommendation: Staff recommends approval of the Annexation of Area 3 for the following reasons;

- 1) The abovementioned property is in the City's Extra-Territorial Jurisdiction and will eventually become a part of the City of Pearland. By annexing this property now, we are able to prevent non-conforming issues that will occur if this property develops while it remains outside of the city limits.
- 2) As mentioned previously, Area 3 is in Pearland's ETJ and will eventually become part of the city, as is the plan for all ETJ land, annexing the area now, as opposed to annexing in the future, will ensure that future growth is guided by city's regulations and conforms to the long range plans for the area. By annexing the property, the city will be in a better position to provide safeguards against unplanned and unregulated growth for current and future residents of Pearland.
- 3) This is a land-owner initiated annexation petition which will not affect nearby properties in a negative manner. It will give assurances to nearby property owners that development on this property will now be subject to City of Pearland regulations.

Recommended Action

Consider the annexation of Area 3.

ORDINANCE NO. 1465

AN ORDINANCE EXTENDING THE CITY LIMITS OF THE CITY OF PEARLAND, TEXAS, TO INCLUDE ALL LAND AREA WITHIN CERTAIN LIMITS AND BOUNDARIES AND ANNEXING TO THE CITY OF PEARLAND ALL OF THE AREA WITHIN SUCH LIMITS AND BOUNDARIES (AREA GENERALLY LOCATED AT THE CORNER OF KINGSLEY ROAD AND WEST BROADWAY); APPROVING A SERVICE PLAN FOR ALL OF THE AREA WITHIN SUCH LIMITS AND BOUNDARIES; CONTAINING OTHER PROVISIONS RELATED TO THE SUBJECT; AND PROVIDING A SAVINGS AND SEVERABILITY CLAUSE.

WHEREAS, the City Council of the City of Pearland, Texas, has, following due notice and publication in accordance with the requirements of §43.052, Tex. Local Govt. Code, conducted two (2) public hearings regarding the City's intended annexation of certain territory located contiguous to the City and within the City's extraterritorial jurisdiction; and

WHEREAS, public hearings were conducted before the City Council on June 11, 2012 and on June 18, 2012, at the Pearland City Hall, 3519 Liberty Drive, Pearland, Texas; and

WHEREAS, the City of Pearland has, in accordance with §43.051 et seq., Tex. Local Govt. Code, complied with all procedural requirements regarding the annexation of territory, including the preparation of a plan for extension of municipal services into the area annexed to the City; and

WHEREAS, the City intends to fulfill those obligations imposed upon it by state law regarding newly annexed areas, including timely provision of municipal services as required by law; and

ORDINANCE NO. 1465

WHEREAS, the City Council finds and determines that the annexation intended by this Ordinance is in the best interests of the City of Pearland and benefits the health, safety, and welfare of the citizens of said City; now, therefore,

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

Section 1. That the boundaries and limits of the City of Pearland, Texas, are hereby extended to embrace and include all of the territory described in Exhibit "A" attached hereto and made a part hereof, and such territory is hereby annexed to and made a part of the City.

Section 2. The plan for extension of municipal services into the territory annexed to the City of Pearland by the provisions of this Ordinance is set forth in the City of Pearland, Texas, Service Plan for approximately 20.3 acres, more or less, to be annexed into the City of Pearland, Brazoria County, Texas attached hereto as Exhibit "B" and made a part hereof for all purposes. Such Municipal Service Plan is hereby approved.

Section 3. The City Council officially finds, determines, recites and declares that sufficient written notices of the date, hour, place and subject matter of the meetings of the City Council at which this Ordinance was considered were posted at a place convenient to the public at the City Hall of the City of Pearland for the time required by law preceding said meetings, as required by law; and that said meetings have been open to the public, as required by law, at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The

ORDINANCE NO. 1465

City Council further ratifies, approves and confirms such written notices and the contents and posting thereof.

Section 4. Savings. All rights and remedies which have accrued in favor of the City under this Chapter and amendments thereto shall be and are preserved for the benefit of the City.

Section 5. Severability. If any section or part of this Ordinance be held unconstitutional, illegal or invalid, or the application thereof ineffective or inapplicable as to any territory, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no wise affect, impair or invalidate the remaining portions, the same shall be and remain in full force and effect; and should this Ordinance for any reason be ineffective as to any part of the area hereby annexed to the City of Pearland, such ineffectiveness of this Ordinance as to any such part or parts of any such areas shall not affect the effectiveness of the Ordinance as to all of the remainder of such area, and the City Council hereby declares it to be its purpose to annex to the City of Pearland every part of the area described in Exhibit "A", attached hereto, regardless of whether any other part of such described area is hereby effectively annexed to the City. Provided, further, that if there is included in the general description of territory set out in Exhibit "A", attached hereto, any land or area which is already a part of and included within the general limits of the City of Pearland, or which is presently part of and included in the limits of any other city, town or village, or which is not within the City of Pearland's jurisdiction to annex, the same is hereby excluded and excepted from the

ORDINANCE NO. 1465

territory to be annexed as fully as if such excluded and excepted area was specifically described herein.

PASSED and APPROVED on First Reading this the 9th day of July, A. D., 2012.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING, TRMC
CITY SECRETARY

PASSED and APPROVED on Second and Final Reading this the 23rd day of July A. D., 2012.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING, TRMC
CITY SECRETARY

APPROVED AS TO FORM:

DARRIN M. COKER
CITY ATTORNEY

EXHIBIT "A"
METES AND BOUNDS DESCRIPTION
20.3 ACRES MORE OR LESS OUT OF
J.S. TALMAGE SURVEY, ABSTRACT 564
BRAZORIA COUNTY, TEXAS

The herein described 20.3 acres, more or less, being generally located in Section 80, J. S. Talmage Survey, Abstract 564, Brazoria County, Texas; the south line being along the south line of Lot 2, Section 80, J. S. Talmage Survey, Abstract 564 according to the plat thereof as filed in Volume 2, Page 98 Brazoria County Plat Records; the west line being the east line of City of Pearland Ordinance No. 1035; the north line being the south right-of-way line of County Road 92 and the extension of City of Pearland Ordinance No. 924 and the east line being the west line of City of Pearland Ordinance No 924;

All that certain 20.3 acres, more or less, to be annexed into the City of Pearland and being all of Lots 1 & 2, Section 80, J. S. Talmage Survey, Abstract 564 and being more particularly described by metes and bounds as follows;

Commencing at a point marking the common corner of Abstracts 305, 565, 564 and 538 and being the intersection of County Road 92 (Broadway) and County Road 48 (Kingsley Drive); Thence Southerly – 20' with the common line of said Abstract 538 and Abstract 564 to a point marking the POINT OF BEGINNING of herein described tract;

1. Thence Easterly – 910', more or less, with the south of City of Pearland Ordinance No. 880 to a point for corner marking the most northerly northwest corner of City of Pearland Ordinance No. 924;
2. Thence Southerly – 970', more or less, with the east line of said Lots 1 and 2, Section 80, J. S. Talmage Survey, Abstract 564 and the west line of City of Pearland Ordinance No. 924 to a point for corner;
3. Thence Westerly – 910', more or less, with the south line of said Lot 2, Section 80 and continuing with the most westerly north line of said City of Pearland Ordinance No. 924 to a point for corner;
4. Thence Northerly – 970', more or less, with the east line of said City of Pearland Ordinance No. 1035 to the POINT OF BEGINNING and containing 20.3 acres of land more or less

"This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not be used to convey or establish interest in real property except those right and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

This metes and bounds description is accompanied by a separate plat, drawing or exhibit per Texas Board of Professional Land Surveyor's "General Rules of Procedures and Practices" Section 663.19(9).

Compiled by:
C.L. Davis & Company
Job Number: 11-421-141 Annexation-Beltway-23 M&B.doc
02-09-2012



CITY OF PEARLAND, TEXAS

SERVICE PLAN FOR AREA 3 - The herein described 20.3 acres, more or less, being generally located in Section 80, J. S. Talmage Survey Abstract 564, Brazoria County, Texas; the south line being along the south line of Lot 2, Section 80, J. S. Talmage Survey, Abstract 564 according to the plat thereof as filed in Volume 2, Page 98 Brazoria County Plat Records; the west line being the east line of City of Pearland Ordinance No. 1035; the north line being the south right-of-way line of County Road 92 and the extension of City of Pearland Ordinance 924 and the east line being the west line of City of Pearland Ordinance No 924; All that certain 20.3 acres, more or less, to be annexed into the City of Pearland and being all of Lots 1 & 2, Section 80, J. S. Talmage Survey, Abstract 564.

I. INTRODUCTION

This Service Plan ("Plan") is made by the City of Pearland, Texas ("City") pursuant to Chapter 43 of the Local Government Code ("the Act"). This Plan relates to the annexation by the City, by petition of the owner, of land located adjacent to the city limits and encompassing approximately 20.3 acres in Brazoria County, Texas. The Tract is described by metes and bounds in "Exhibit A-1", and by map in "Exhibit A-2" which are attached to this Plan and to the annexation ordinance of which this Plan is a part.

II. TERM: EFFECTIVE DATE

This Plan will be in effect for a term of ten years commencing on the effective date of the annexation of the Tract. Renewal of this Plan will be at the option of the City. Such option may be exercised by the adoption of an ordinance by the City Council, which refers to this Plan and specifically renews this Plan for a stated period of time.

III. SERVICE PROGRAMS

- A. In General. This Plan includes two service programs: (I) the Early Action Program, described below, and (II) a Capital Improvement Program according to the Texas Local Government Code, Chapter 43, described below.
- B. Scope and Quality of Services. This Plan will provide a level of services, infrastructure, and infrastructure maintenance that is comparable to the level of services, infrastructure, and infrastructure maintenance currently provided and available in other parts of the municipality with topography, land use, and population density similar to the Tract. However, it is not the intent of this Plan to require that a uniform level of services be provided to all areas of the City (including the Tract) where differing characteristics of topography, land utilization and population density are considered as sufficient basis for providing differing service levels.
- C. Definitions.
 - 1. As used in this Plan, "providing services" includes having services provided by any method or means by which the City extends municipal services to any other area of the City. This may include causing or allowing private utilities, governmental

entities and other public service organizations to provide such services, in whole or part.

2. As used in this Plan, the phrase “Standard Policies and Procedures” means those policies and procedures of the City applicable to a particular service which are in effect either at the time that the service is requested or at the time that the service is made available or provided. The policies and procedures may require that a specific type of request be made, such as an application or a petition. They may require that fees or charges be paid, and they may include eligibility requirements and similar provisions.

D. Early Action Program

1. Statutory Services. The statutory services will be provided within the Tract within the period that meets or exceeds that required by State law. The following services will be provided in accordance with Standard Policies and Procedures immediately upon the effective date of the annexation:
 - a. Police Protection: The Police Department of the City will provide protection and law enforcement in the Tract. These activities will include normal patrols and responses, the handling of complaints and incident reports, and, as appropriate, support by special units of the Department.
 - b. Fire Protection: The Pearland Fire Department (PFD) of the City of Pearland will continue to serve the area in cooperation with other fire departments in the area according to mutually agreed to procedures.
 - c. Emergency Medical Service: The Pearland Emergency Medical Service (EMS) will continue to provide emergency medical service to the Tract under a contract with the City.
 - d. Solid Waste Collection: Service will be provided to eligible property by private contractor, under contract with the City. To be eligible for City solid waste collection service, property must have frontage on a public street or other approved location and place solid waste in containers approved for the specific type of occupancy. Any person currently being serviced by a privately owned solid waste management service provider may continue to use that service for two years after the effective date of the annexation.
 - e. Operation and Maintenance of Water and Wastewater Facilities: Existing public water and wastewater facilities, if any, will be operated and maintained by the City or by private contractor under contract to the City.
 - f. Operation and Maintenance of Road and Streets (including lighting): Existing public roads and streets, including lighting and traffic control devices, if any, will be operated and maintained by the City, subject to the jurisdiction of other governmental entities. State highways and farm-to-market roads remain the

primary responsibility of the Texas Department of Transportation, for instance. Existing roadside drainage ditches not maintained under the jurisdiction of another entity will be operated and maintained by the City.

- g. Operation and Maintenance of Parks, Playgrounds and Swimming Pools: Not Applicable.
 - h. Operation and Maintenance of Any Other Publicly Owned Facility, Building or Service. Existing publicly owned or operated facilities, buildings, or services, if any, will be operated and maintained by the City or by private contractor under contract to the City.
2. Additional Services. Certain services, in addition to the statutory services, will be provided in accordance with Standard Policies and Procedures within the Tract to the same extent they are provided to similar territories elsewhere in the City. These are as follows:
- a. Library Service will be provided from existing facilities and future facilities outside the Tract. Residents of the Tract will be eligible for borrowing privileges at City/County libraries on the same basis as current residents.
 - b. Health services will be provided by the City Health Department to area residents and businesses. Health services include City inspection of restaurants and groceries and Animal Control.
 - c. Code Enforcement personnel will enforce the City's housing code and ordinances against junk motor vehicles, high weeds, unsafe buildings, and illegal dumping of refuse.
 - d. Other City Services, to the extent applicable to persons or properties within the Tract, in accordance with standard policies and procedures will be provided.

E. Capital Improvement Program

As necessary, the City will initiate the construction of certain capital improvements necessary for providing municipal services for the Tract. Those improvements, which are necessary, are indicated below. Access to the improvements will be in accordance with Standard Policies and Procedures. The improvements shall be completed as soon as reasonably possible and shall be substantially completed within the time period indicated below.

- 1. Police Protection: Additional capital improvements are not necessary at this time to provide police protection. The Tract will be included with other territory in connection with planning for new, revised, or expanded public safety facilities.

2. Fire Protection: Additional capital improvements are not necessary at this time to provide fire protection. The Tract will be included with other territory in connection with planning for new, revised, or expanded public safety facilities.
3. Emergency Medical Service: Additional capital improvements are not necessary at this time to provide emergency medical service. The Tract will be included with other territory in connection with planning for new, revised, or expanded public safety facilities.
4. Solid Waste Collection: No capital improvements are necessary at this time to provide solid waste collection services within the Tract. The Tract will be included with other territory in connection with planning for new revised or expanded solid waste facilities.
5. Water and Wastewater Facilities: Additional capital improvements are not necessary at this time to service the tract. The cost of future connections to available water and sewer lines will be the responsibility of the Tract owners, as it is within the existing City utility system following standard policies and procedures. Capital recovery charges or impact fees also will be assessed at the time of future connections to the City's utility system or upon issuance of building permits for lots developed within the Tract.

The City will make wastewater treatment capacity in existing or future wastewater treatment plants built and operated by the City available for the Tract.

The city will make potable water supply from existing or future sources built and operated by the City available to the Tract. The City currently operates its own ground water wells and purchases wholesale surface water via contract from third parties.

6. Roads and Streets (including lighting): Additional roads, streets or related facilities are not necessary at this time to serve the tract. Future extensions or widening of roads or streets and future installation of related facilities, such as traffic control devices or street lights will be undertaken in accordance with Standard Policies and Procedures. The Tract will be included with other territory in connection with planning for new, revised, widened, or enlarged roads, streets, or related facilities.
7. Parks, Playgrounds, and Swimming Pools: Additional capital improvements are not necessary at this time to provide such services to the Tract. The Tract will be included with other territory in connection with planning for such facilities.
8. Other Publicly-Owned Facilities, Building or Services: All other City functions and services, and the additional services described above, can be provided for the Tract by using existing capital improvements. Additional capital improvements

are not necessary to provide City services, but the Tract will be included with other territory in connection with planning for new, revised, or expanded facilities, buildings or services.

II. AMENDMENT: GOVERNING LAW

This Plan may not be amended or repealed except as provided by the Act or other controlling law. Neither changes in the methods nor means of implementing any part of the service programs nor changes in the responsibilities of the various departments of the City will constitute amendments to this Plan and the City reserves the right to make such changes. This Plan is subject to and will be interpreted when in accordance with the Act, the Constitution and laws of the federal governments of the United States of America and the State of Texas, and the orders, rules and regulations of governmental bodies and officers having jurisdiction.

III. FORCE MAJEURE

Should a force majeure interrupt the service described herein, the City will resume services under this Plan within a reasonable time after the cessation of the force majeure. "Force Majeure," for the purpose of this Plan will include, but not be limited to, acts of God, acts of the public enemy, war blockades, insurrection, riots, epidemics, landslides, lightning, earthquakes, fire, storms, floods, washouts, droughts, tornadoes, hurricanes, arrests and restraints of government, explosions, collisions and other inability of the City, whether similar to those enumerated or otherwise, which is not within the control of the City.

IV. ENTIRE PLAN

This document contains the entire and integrated Service Plan relating to the Tract, and supersedes all other negotiations, representations, plans and agreements, whether written or oral.

EXHIBIT A-1

EXHIBIT "A"
METES AND BOUNDS DESCRIPTION
20.3 ACRES MORE OR LESS OUT OF
J.S. TALMAGE SURVEY, ABSTRACT 564
BRAZORIA COUNTY, TEXAS

The herein described 20.3 acres, more or less, being generally located in Section 80, J. S. Talmage Survey, Abstract 564, Brazoria County, Texas; the south line being along the south line of Lot 2, Section 80, J. S. Talmage Survey, Abstract 564 according to the plat thereof as filed in Volume 2, Page 98 Brazoria County Plat Records; the west line being the east line of City of Pearland Ordinance No. 1035; the north line being the south right-of-way line of County Road 92 and the extension of City of Pearland Ordinance No. 924 and the east line being the west line of City of Pearland Ordinance No 924;

All that certain 20.3 acres, more or less, to be annexed into the City of Pearland and being all of Lots 1 & 2, Section 80, J. S. Talmage Survey, Abstract 564 and being more particularly described by metes and bounds as follows;

Commencing at a point marking the common corner of Abstracts 305, 565, 564 and 538 and being the intersection of County Road 92 (Broadway) and County Road 48 (Kingsley Drive); Thence Southerly – 20' with the common line of said Abstract 538 and Abstract 564 to a point marking the POINT OF BEGINNING of herein described tract;

1. Thence Easterly – 910', more or less, with the south of City of Pearland Ordinance No. 880 to a point for corner marking the most northerly northwest corner of City of Pearland Ordinance No. 924;
2. Thence Southerly – 970', more or less, with the east line of said Lots 1 and 2, Section 80, J. S. Talmage Survey, Abstract 564 and the west line of City of Pearland Ordinance No. 924 to a point for corner;
3. Thence Westerly – 910', more or less, with the south line of said Lot 2, Section 80 and continuing with the most westerly north line of said City of Pearland Ordinance No. 924 to a point for corner;
4. Thence Northerly – 970', more or less, with the east line of said City of Pearland Ordinance No. 1035 to the POINT OF BEGINNING and containing 20.3 acres of land more or less

"This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not be used to convey or establish interest in real property except those right and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

This metes and bounds description is accompanied by a separate plat, drawing or exhibit per Texas Board of Professional Land Surveyor's "General Rules of Procedures and Practices" Section 663.19(9).

Compiled by:
C.L. Davis & Company
Job Number: 11-421-141 Annexation-Beltway-23 M&B.doc
02-09-2012



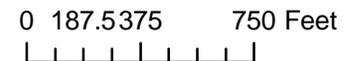


Vicinity Map

Annexation Petition

Southeast corner Broadway/Kingsley

This product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



New Business Item No. 2

2. **CONSIDERATION AND POSSIBLE ACTION – FIRST READING OF ORDINANCE NO. CUP 2000-57 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, APPROVING A CONDITIONAL USE PERMIT FOR CERTAIN PROPERTY, LOT 2 OF 1011 MAIN ADDITION, A SUBDIVISION OF 10.2734 ACRES SITUATED IN THE H. T. & B. R. R. CO. SURVEY, ABSTRACT 542, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN CLERK’S FILE NO. 2012009314 OF THE OFFICIAL RECORDS OF BRAZORIA COUNTY, TEXAS (LOCATED AT 1011 N. MAIN, PEARLAND, TX) CONDITIONAL USE PERMIT APPLICATION NO. CUP 2012-03 TO ALLOW THE OPERATION OF AN AUTO REPAIR FACILITY (MAJOR), IN THE GENERAL COMMERCIAL (GC) DISTRICT AT THE REQUEST OF NARSH, INC, APPLICANT AND OWNER, CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT. *Ms. Lata Krishnarao, Director of Community Development.***

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

AGENDA OF: July 9, 2012	ITEM NO.: Ordinance No. 2000CUP-57
DATE SUBMITTED: June 28, 2012	DEPT. OF ORIGIN: Planning
PREPARED BY: Harold Ellis	PRESENTOR: Bill Eisen
REVIEWED BY: Mike Hodge	REVIEW DATE: July 2, 2012
SUBJECT: A request of Narsh Inc., applicant and owner, for approval of a Conditional Use Permit to allow the operation of an Auto Repair Facility (Major) in the General Commercial (GC) District Located at 1011 N. Main	
EXHIBITS: Ordinance No. 2000CUP-57 and Exhibits (Exhibit A - Application, and Applicant Packet; Exhibit B - Vicinity Map; Exhibit D - P&Z Recommendation Letter), Joint Public Hearing Staff Report, Maps and Related Documents	
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

SUMMARY: Narsh Inc., applicant and owner, is requesting approval of a Conditional Use Permit to allow the operation of an Auto Repair Facility (Major) at the above referenced location. The site is currently zoned General Commercial (GC) and there are not currently any business operations ongoing at the site. The most recent commercial use on the site was column sales/construction company which is no longer in operation. The property has an existing commercial structure on site; however the structure is not currently in use.

The property owner is proposing to redevelop the site to be used as a Maaco Collision

Repair and Auto Painting Facility. On August 3, 2011, a Pre-development meeting was held between staff and the property owner to discuss the City's current regulations for development. At that meeting, the proposed use was classified as Auto Body Repair, which was a permitted use in the General Commercial (GC) zoning district at that time. On March 19, 2012, the applicant submitted plans to the City for a Commercial Build Out permit. The Planning Department reviewed the plans and was unable to approve the permit as the land use classification in the City's Unified Development Code no longer permits the proposed use. This proposed use is currently classified in the City's Land Use Matrix as Auto Repair Facility (Major) which is only permitted in the General Commercial (GC) zone with the approval of a Conditional Use Permit. The change in the two classifications occurred when the City last updated the Unified Development Code, which was approved on October 24, 2011. This update combined the land use classification of Auto Body Repair, permitted by-right prior to the latest UDC update in the GC zoning district, with Auto Repair Facility (Major), which is only permitted in the GC zoning district with the approval of a Conditional Use Permit.

If the Conditional Use Permit is approved, the site plan process will commence with the Planning and Building departments.

STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit No. 2012-03 to allow the operation of an Auto Repair Facility (Major) in the General Commercial (GC) district as proposed by the applicant and owner for the following reasons and with the following condition:

1. The proposed request should not have any significant negative impact on the surrounding properties and developments.
2. The proposed request would be in conformance with the Unified Development Code with the approval of a Conditional use Permit.
3. The proposed request is in conformance with the criteria of approval of a Conditional Use Permit listed in the Unified Development Code.
4. The proposed request would result in redevelopment of a currently non-occupied building in a commercial zoning district.
5. The proposed request would enhance the property from its current state.

PLANNING AND ZONING COMMISSION DISCUSSION: At the regular meeting of the Planning and Zoning Commission on April 16, 2012, there was brief discussion regarding potential brand logo colors for the proposed business, building separation between different nearby buildings, and plat boundary lines. Following this discussion Commissioner Neil West made a motion to approve the Conditional Use Permit (CUP). The motion was seconded by Commissioner Ginger McFadden. The vote was 4-0 and the motion passed.

STAFF RECOMMENDATION TO COUNCIL: Consider the conditional use permit.

ORDINANCE NO. 2000CUP-57

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, APPROVING A CONDITIONAL USE PERMIT FOR CERTAIN PROPERTY, LOT 2 OF 1011 MAIN ADDITION, A SUBDIVISION OF 10.2734 ACRES SITUATED IN THE H. T. & B. R. R. CO. SURVEY, ABSTRACT 542, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN CLERK'S FILE NO. 2012009314 OF THE OFFICIAL RECORDS OF BRAZORIA COUNTY, TEXAS (**LOCATED AT 1011 N. MAIN, PEARLAND, TX**) CONDITIONAL USE PERMIT APPLICATION NO. CUP 2012-03 TO ALLOW THE OPERATION OF AN AUTO REPAIR FACILITY (MAJOR), IN THE GENERAL COMMERCIAL (GC) DISTRICT AT THE REQUEST OF NARSH, INC, APPLICANT AND OWNER, CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT.

WHEREAS Narsh, Inc., applicant and owner, filed an application for a Conditional Use Permit to allow the operation of an Auto Repair Facility (Major), on certain property, said property being legally described in the original applications for amendment attached hereto and made a part hereof for all purposes as Exhibit "A", and more graphically depicted in the location map attached hereto and made a part hereof for all purposes as Exhibit "B"; and

WHEREAS, on the 18th day of June 2012, a Joint Public Hearing was held before the Planning and Zoning Commission and the City Council of the City of Pearland, Texas, notice being given by publication in the official newspaper of the City, the affidavit of publication being attached hereto and made a part hereof for all purposes as Exhibit "C", said call and notice being in strict conformity with provisions of Section 1.2.2.2 of Ordinance No. 2000T; and

WHEREAS, on the 18th day of June, 2012, the Planning and Zoning Commission of the City submitted its report and recommendation to the City Council regarding the proposed Conditional Use Permit application for Narsh, Inc., applicant and owner, whereby the Commission recommended approval of the Conditional Use Permit, said

ORDINANCE NO. 2000CUP-57

recommendation attached hereto and made a part hereof for all purposes as Exhibit “D”; and

WHEREAS, upon receipt of the report from the Planning and Zoning Commission, the City Council considered this application and the recommendation of the Planning and Zoning Commission at regular meeting(s) on July 9, 2012 and July 23, 2012; and

WHEREAS, the City Council, having fully heard the testimony and argument of all interested parties, and having been fully advised in the premises, finds that in the case of the application of Narsh, Inc., applicant and owner, presented which, in the judgment of the City Council, would justify the approval of said application; now, therefore,

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

Section I. The following described property located within the corporate limits of the City of Pearland, Texas, and presently classified as General Commercial (GC), is hereby granted a Conditional Use Permit to allow the operation of an Auto Repair Facility (Major) in said zoning district; such property being more particularly described as:

Lot 2 of 1011 Main Addition, A subdivision of 10.2734 acres situated in the H. T. & B. R. CO. Survey, Abstract 542, according to the map or plat thereof recorded in Clerk’s File No. 2012009314 of the Official Records of Brazoria County, Texas

Located at 1011 N. Main, Pearland, TX

ORDINANCE NO. 2000CUP-57

Section II. The City Council of the City of Pearland finds and determines that the recitations in the preamble hereof are true and that all necessary prerequisites of law have been accomplished. The City Council further finds and determines that there has been compliance with the mandates of law in the posting and presentation of this matter to the Planning and Zoning Commission and to the City Council for consideration and decision.

Section III. The City Council of the City of Pearland finds and determines that the approval herein granted promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.

Section IV. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section V. All rights and remedies, which have accrued in the favor of the City under this Ordinance and its amendments thereto, shall be and are preserved for the benefit of the City.

Section VI. This Ordinance shall become effective after its passage and approval on second and final reading.

ORDINANCE NO. 2000CUP-57

PASSED, APPROVED, and ADOPTED on First Reading this 9th day of July,
2012.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING, TRMC
CITY SECRETARY

PASSED, APPROVED, and ADOPTED on Second and Final Reading this 23rd
day of July, 2012.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING, TRMC
CITY SECRETARY

APPROVED AS TO FORM:

DARRIN M. COKER
CITY ATTORNEY



APPLICATION FOR A CONDITIONAL USE PERMIT (CUP)

City of Pearland
Community Development
3523 Liberty Drive
(Community Center)
Pearland, Texas 77581
281-652-1768
281-652-1702 fax
www.cityofpearland.com

Conditional Use Permit Request for: AUTO REPAIR (MAJOR)
(list proposed use from the Table of Uses of the UDC)
Maaco Collision Re Pair & Auto Painting

Current Zoning District: G.C.

Property Information:

Address or General Location of Property: 1011 Northmain ST
Pearland TX 77581

Tax Account No. 05420021000

Subdivision: _____ Lot: _____ Block: _____

A complete application must include all information shown on the Application Checklist attached to this application.

PROPERTY OWNER INFORMATION:

NAME NARSH INC.
ADDRESS 3560 Old Spanish Trail
CITY Houston STATE TX ZIP 77021
PHONE (832) 876-9099
FAX (713) 741-1110
E-MAIL ADDRESS Maaco53@Yahoo.com

APPLICANT/AGENT INFORMATION:

NAME same
ADDRESS _____
CITY _____ STATE _____ ZIP _____
PHONE (____) _____
FAX (____) _____
E-MAIL ADDRESS _____

*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: 5-14-2012

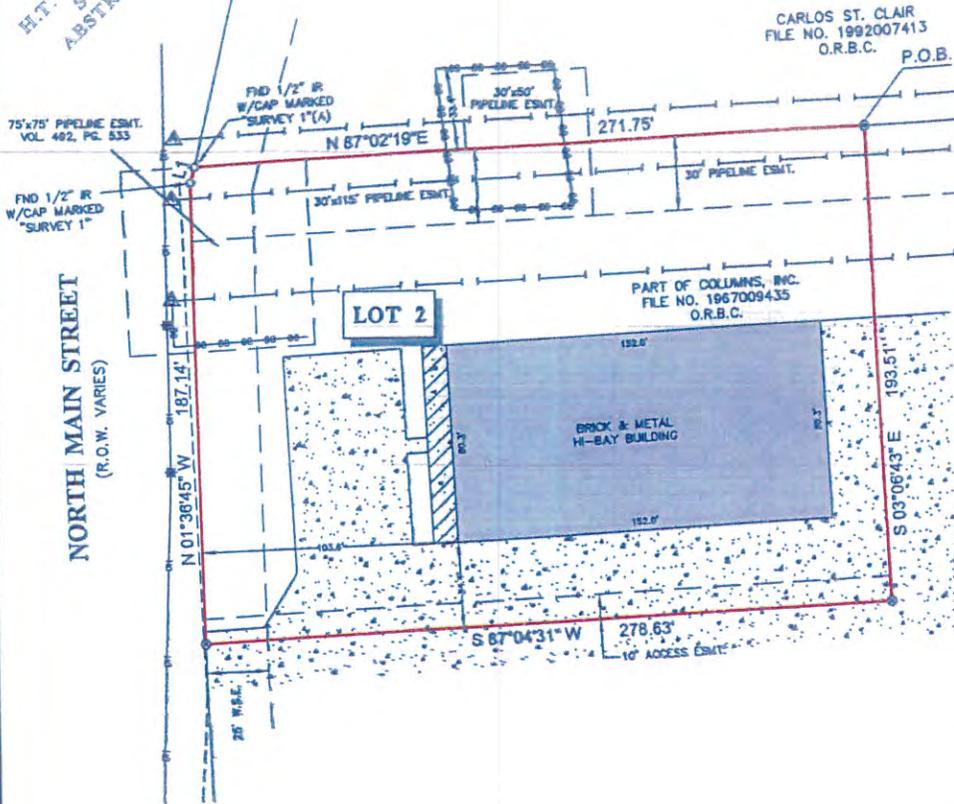
Agent's/
Applicant's Signature: same Date: _____

OFFICE USE ONLY:

FEES PAID: <u>250.00</u>	DATE PAID: <u>5/14/12</u>	RECEIVED BY: <u>[Signature]</u>	RECEIPT NUMBER: <u>211479</u>
--------------------------	---------------------------	---------------------------------	-------------------------------

Application No. 2012-03

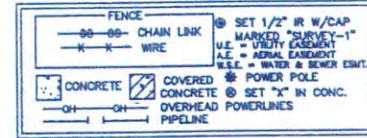
H.T. & B.R.R. CO.
SURVEY
ABSTRACT 542



REMAINDER OF
COLUMNS, INC.
FILE NO. 1967009435
O.R.B.C.

REFERENCE POINT
SE CORNER OF
32.82 ACRE TRACT
VOL. 112, PG. 250
D.R.B.C.

LEGEND



- NOTES:**
- ALL BEARINGS SHOWN HEREON ARE REFERENCED TO THE RIGHT-OF-WAY MAP OF MAIN STREET, POINTS (A) AND (B) WERE HELD FOR HORIZONTAL CONTROL.
 - FLOOD INFORMATION IS BASED ON THE NATIONAL FLOOD INSURANCE PROGRAM'S FLOOD INSURANCE RATE MAP FOR THE COUNTY LISTED BELOW.
 - ABSTRACT INFORMATION FOR THE SUBJECT TRACT WAS PROVIDED BY THE TITLE INSURANCE COMPANY LISTED BELOW.
 - THIS SURVEY IS CERTIFIED TO THE TITLE INSURANCE COMPANY LISTED BELOW FOR THIS TRANSACTION ONLY, IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.
 - THIS SURVEY PLAT IS REFERENCED TO A METES AND BOUNDS DESCRIPTION PREPARED BY SURVEY 1, INC. DATED FEBRUARY 2, 2012.
 - THERE ARE NO NATURAL DRAINAGE COURSES ON SUBJECT PROPERTY.
 - RESTRICTIVE COVENANTS AS RECORDED IN C.F. NO. 2012008314 D.R.
 - PIPELINE R.O.W. GRANTED TO THE TEXAS PIPE LINE CO. AS RECORDED IN VOL. 153, PG. 30 D.R.
 - PIPELINE R.O.W. GRANTED TO TEXAS EASTERN TRANSMISSION AS RECORDED IN VOL. 485, PG. 166 D.R.
 - PIPELINE R.O.W. GRANTED TO UNITED GAS PIPELINE CO. AS RECORDED IN VOL. 476, PG. 320 D.R.
 - PIPELINE R.O.W. GRANTED TO UNITED GAS PIPELINE CO. AS RECORDED IN VOL. 492, PG. 533 D.R.
 - AN EASEMENT TO RELIANT ENERGY H.L.&P. AS RECORDED IN C.F. NO. 00-009484.

KINDER MORGAN
GAS PIPELINE MARKER
1-800-633-0184

MONUMENT PIPELINE, L.P.
NATURAL GAS
PIPELINE MARKER
1-866-842-6571

LINE	BEARING	DISTANCE
L1	N 14°28'13" E	6.54'

PROJECT:
A LAND TITLE SURVEY OF LOT 2, OF 1011 MAIN ADDITION, A SUBDIVISION OF 10.2734 ACRES SITUATED IN THE H.T.&B.R.R. CO. SURVEY, ABSTRACT 542, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN CLERK'S FILE NO. 2012009314 OF THE OFFICIAL RECORDS OF BRAZORIA COUNTY, TEXAS.

CLIENT: NARSH INC.

ADDRESS: 1011 NORTH MAIN STREET

FLOOD ZONE: "AE" **FLOOD MAP#:** 48039C 0035 1

FLOOD MAP DATE: 8-22-1999 **FLOOD MAP COUNTY:** BRAZORIA

www.survey1inc.com
survey1inc@yahoo.com
P.O. Box 2545 • Acker, TX 77612
(281)383-1382 • Fax(281)383-1383

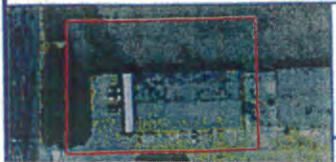


SURVEYORS CERTIFICATE:
I, BY PROFESSIONAL OPINION, THIS PLAT REPRESENTS THE FACTS FOUND ON THE GROUND DURING THE COURSE OF A BOUNDARY SURVEY CONDUCTED UNDER MY SUPERVISION ON FEBRUARY 3, 2012 AND THAT THIS PLAT SUBSTANTIALLY COMPLETES WITH THE CURRENT STANDARDS AS ADOPTED BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING, AND THAT THERE ARE NO ENCROACHMENTS OR PROTRUSIONS EXCEPT AS SHOWN.

B.T. WEBER
4891
PROFESSIONAL LAND SURVEYOR

H.T. WEBER
RPLS# 4101

FIELD CREW: SD 2-14930-12
DRAFTER: RG
DATE: 2-2-2012



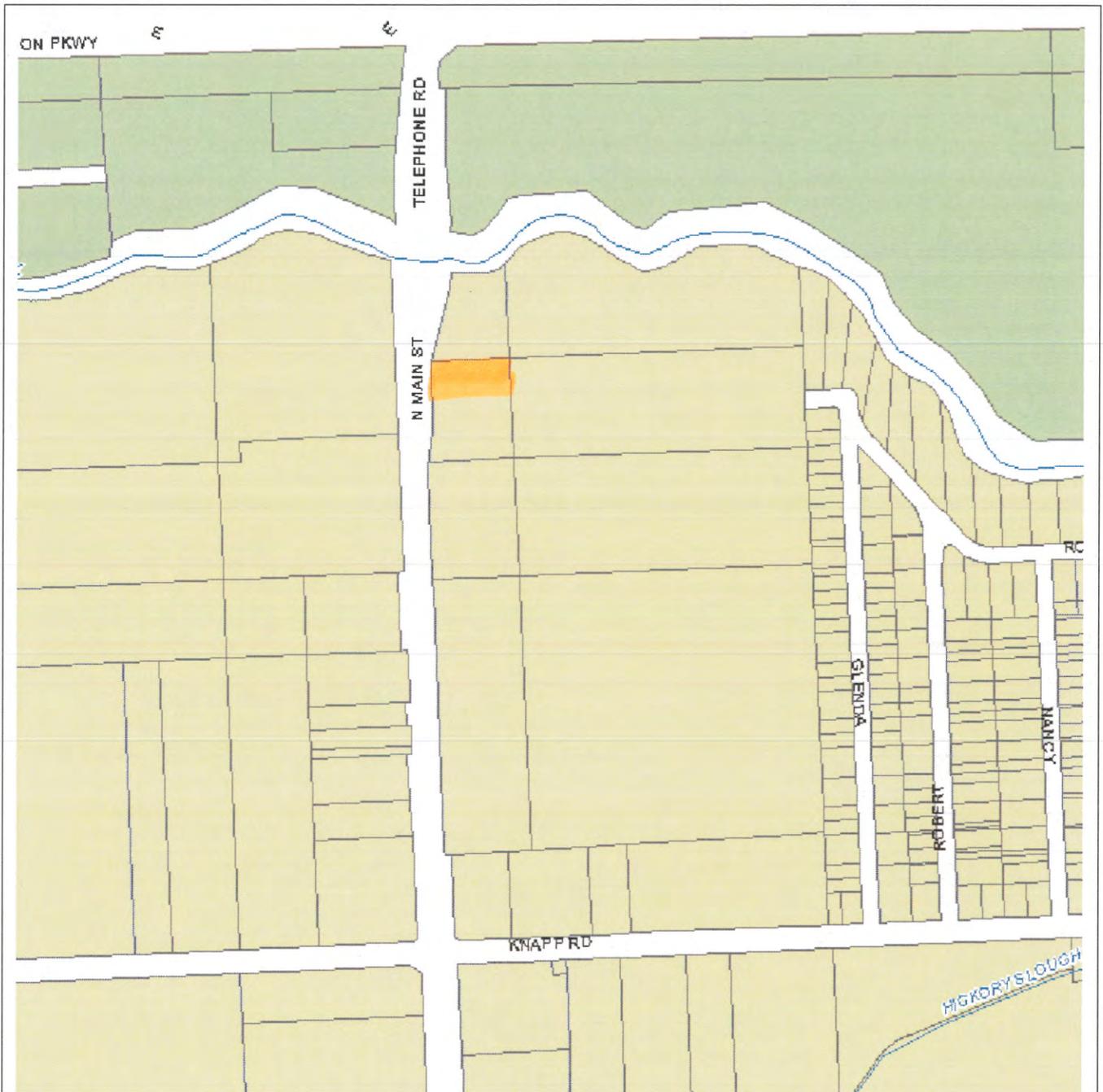
TITLE COMPANY:

stewart
title

CATHY S. CROCKER 281-412-6900
G.F. # 1103831662

ISSUE DATE: 4-11-2012





Vicinity Map - Pearland, TX



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May 14, 2012

Harold Ellis
City Planner, City of Pearland
3523 Liberty Drive,
Pearland, TX 77581

Re: Conditional use Permit request
1011 North Main Street Pearland, TX 77581

Dear Mr. Ellis,

Here is some additional information in connection with our Conditional Use Permit request. The following is a descriptive narrative about our business process that should answer all your questions.

Maaco Collision Repair and Auto Painting is the largest national franchise chain of body shops, established since 1971 with more than 500 franchised centers specializing in minor body repair and complete repainting of cars, small trucks, vans, etc. Our core business is to provide cosmetic refinishing of vehicles. Our typical customer vehicle needs a paint job and has minor dents and dings to be repaired. We prefer to not do major collision repairs, particularly those requiring extensive cutting, welding, frame straightening and/or repairs to engines and drive train components. For such damage we would typically sub out these types of repairs to local collision or mechanical repair shops.

Our operation generally involves the vehicle spending a few hours to a couple days in the actual body repair process (by comparison, heavy collision repairs can take many days or even weeks to complete). The vehicle is then prepped for refinishing (sanding, masking), primed and painted in the spray booth, dried in a gas fired oven, unmasked and detailed (vacuum interiors, clean windows, replace emblems, trim, wipers, license plates, etc. as needed) for delivery back to the customer. All work is done inside the building. Our business is typically open from 7:30 am to 5:30 pm Monday through Friday plus half a day on Saturday for the convenience of our customers. The shop crew is typically working from 8:00 am to 5:00 pm Monday through Friday; a partial crew may work Saturday on equipment maintenance and general housekeeping.

The paint storage & mixing room (typically an H-3 "liquid storage room") will contain approximately 150 gallons of automotive paints and related products in factory sealed containers (pints, quarts, gallons and fives). Paint mixing of up to a gallon at a time is accomplished in this same room; there are no pumps or piping between the storage room and the booth. All paint is applied in a self contained booth.

We do not do repairs to engines, drive trains, radiators, fuel systems or tanks, nor does our business involve tune-ups or oil changes. Vehicles requiring these types of repairs would undoubtedly have sustained heavy collision damage and would be subbed out as stated above. We do not wash cars and have no wash down area. We do not wet sand vehicles; in fact, we have no significant water usage (outside of normal restroom activities). Our typical customer vehicle is basically in good operating condition (not leaking fuel, oil, etc.) and just needs some cosmetic refinishing.

Vehicles waiting to be repaired would be temporarily kept in a fenced yard adjacent to the building. Once a vehicle repair has started, it is usually completed in just a couple of days. Once completed, they are delivered back to the customer.

We will be providing affordable cosmetic vehicle refinishing that is not yet available in this part of the market. Traffic impact would be minimal. We expect to have 12-14 employees and anticipate 8-12 customer visits per day. The surrounding neighborhoods include automotive repair/service, light industrial/manufacturing, and other commercial type services.

Furthermore, it will increase the employment base in the area.

We have already purchased a 12,000 sq. ft. building on a 53,000 sq. ft. lot commonly known as 1011 North Main Street Pearland, TX 77581.

There is sufficient onsite parking under current parking codes for customer vehicles and employees; any vehicles parked outside overnight would be within the existing fenced area at the rear of the site.

We have attached a shop plan for your review.

I, myself, as a resident of Pearland am striving to hold true the standards in our great city. If you have any questions or desire further information please do not hesitate to call me at the numbers below.



Best Regards,
Syed S. Hussain
Cell: (832) 876-9099
Work: (713) 741-7444

CITY OF PEARLAND

*** CUSTOMER RECEIPT ***

Oper: CBLAIR Type: CC Drawer: 1
Date: 5/15/12 02 Receipt no: 211479

Description	Quantity	Amount
BA	BOARD OF ADJUSTMENTS	
	1.00	\$250.00
Trans number:		3707773

WARCH INC.
1011 W. MAIN
CUP

Tender detail		
CK CHECK	5018	\$250.00
Total tendered		\$250.00
Total payment		\$250.00

Trans date: 5/14/12 Time: 13:34:17

H.T. & B.R.R. CO.
SURVEY
ABSTRACT 542

CARLOS ST. CLAIR
FILE NO. 1992007413
O.R.B.C. P.O.B.

75'x75' PIPELINE ESMT.
VOL. 492, PG. 533

FND 1/2" IR
W/CAP MARKED
"SURVEY 1"

FND 1/2" IR
W/CAP MARKED
"SURVEY 1"(A)

N 87°02'19"E

271.75'

30' PIPELINE ESMT.

30'x15' PIPELINE ESMT.

30'x50' PIPELINE ESMT.

PART OF COLUMNS, INC.
FILE NO. 1967009435
O.R.B.C.

NORTH MAIN STREET
(R.O.W. VARIES)

LOT 2

BRICK & METAL
HI-BAY BUILDING

N 01°36'45" W 187.14'

152.0'

193.51'

S 03°06'43" E

S 87°04'31" W

278.63'

10' ACCESS ESMT.

25' W.S.E.

TITLE COMPANY:

stewart
title

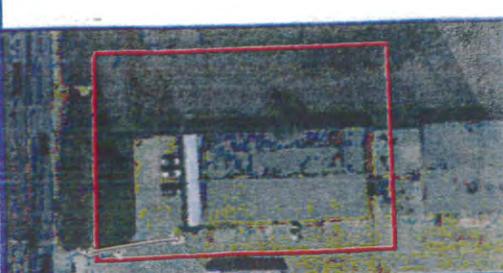
CATHY S. CROCKER

281-412-6900

G.F. #: 1103931662

ISSUE DATE:

4-11-2012



POSTING OF ZONING NOTIFICATION SIGNS ON PROPERTY UNDER CONSIDERATION FOR A ZONE CHANGE (OR CONDITIONAL USE PERMIT)

Any person, firm or corporation requesting a zoning change, a conditional use permit (CUP), or a variance shall be required to erect and maintain a sign(s), to be inspected by the City, upon the property for which a variance or zoning change has been requested.

Such sign(s) shall be located as follows:

- (1) One (1) sign per street frontage shall be located within thirty feet (30') of the abutting street, or as determined by the City.
- (2) So as to be clearly visible and readable from the public right-of-way and not obstructed in any manner.
- (3) So as not to create a hazard to traffic on the public rights-of-way abutting the property.
- (4) On the subject property at least ten (10) days prior to the hearing of such zoning change request by the Planning and Zoning Commission, and to remain continuously on said property until final action by the City Council or withdrawal of the case by the applicant. Removal of the sign by the applicant prior to a recommendation by the Planning and Zoning Commission and/or a final decision by the City Council shall constitute a withdrawal of the request.
- (5) The signs shall be as follows:
 - A minimum sign size of 2 feet by 3 feet, but no larger than 4 feet by 4 feet
 - At least 2 feet above the ground
 - Blue or black lettering that is a minimum of 3 inches by 1/2 inch, on a white background
 - Message content as follows:

(C.U.P.)
PROPOSED (SPECIFY REQUEST)
Contact City of Pearland
281-652-1768

#WS
5-14-2012

*Signs must be professionally made; handwritten signs are not allowed.

*Signs must be freestanding and cannot be attached to a tree, fence, or building.

DUPLICATE TAX RECEIPT



**RO'VIN GARRETT, RTA
BRAZORIA COUNTY TAX ASSESSOR - COLLECTOR
111 E. LOCUST
ANGLETON, TEXAS 77515**

Certified Owner:

**COLUMNS INC
1011 N MAIN ST
PEARLAND, TX 77581-2207**

Legal Description:

**A0542 H T & B R R, TRACT 82C-83C,
PEARLAND, ACRES 10.2734**

**Parcel Address: 1011 N MAIN ST HWY 35
Legal Acres: 10.2734**

**Remit Seq No: 18906425
Receipt Date: 10/26/2011
Deposit Date: 02/22/2012
Print Date: 05/08/2012**

**Deposit No: TR120531
Validation No: 900000023672553
Account No: 0542-0021-000
Operator Code: CYN**

Year	Tax Unit Name	Tax Value	Tax Rate	Levy Paid	P&I	Coll Fee Paid	Total
2011	Brazoria County	853,700	0.413101	1,768.90	0.00	0.00	1,768.90
2011	Special Road & Bridge	853,700	0.060000	256.92	0.00	0.00	256.92
2011	Pearland Isd	853,700	1.419400	6,077.87	0.00	0.00	6,077.87
2011	Brazoria Drainage Dist 4	853,700	0.156000	667.99	0.00	0.00	667.99
2011	City Of Pearland	853,700	0.685100	2,933.60	0.00	0.00	2,933.60
				\$11,705.28	\$0.00	\$0.00	\$11,705.28

**Check Number(s):
1620**

PAYMENT TYPE:

Checks: \$11,705.28 --<

Exemptions on this property:

Total Applied: \$11,705.28

Change Paid: \$0.00

ACCOUNT PAID IN FULL

**PAYER:
COLUMNS INC
1011 N MAIN ST
PEARLAND, TX 77581-2207**

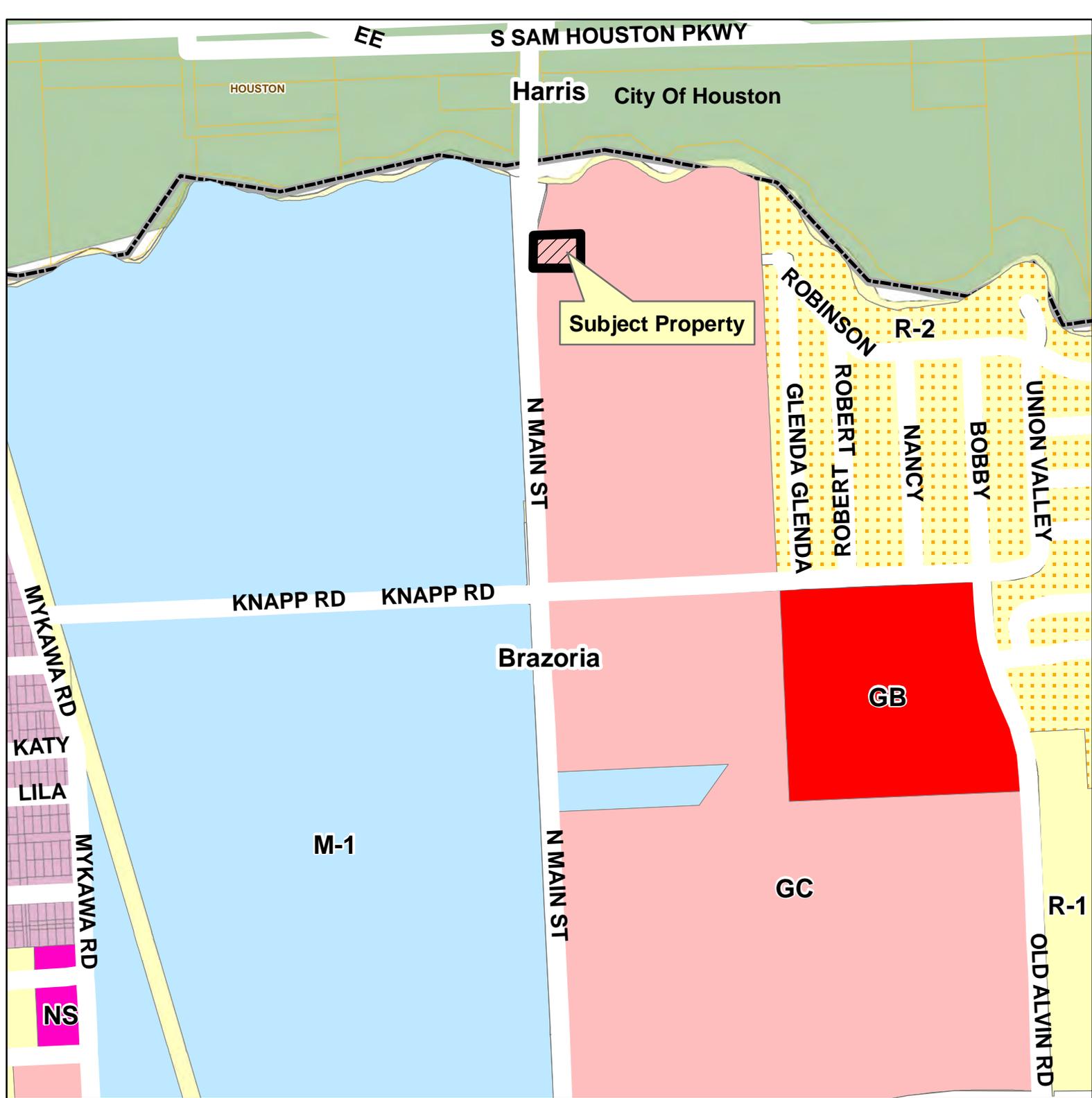
(979) 864-1320, (979) 388-1320, (281) 756-1320

PROPOSED

(Conditional Use Permit)

Contact City of Pearland

281-652-1768

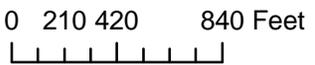


Vicinity and Zoning Map

CUP 2012-03

1011 N. Main

This product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.





Planning & Zoning Commission

Recommendation Letter

June 20, 2012

Honorable Mayor and City Council Members
3519 Liberty Drive
Pearland, TX 77581

Re: Recommendation on CUP 2012-03

Honorable Mayor and City Council Members:

At their meeting on June 18, 2012, the Planning and Zoning Commission considered the following:

A request of Narsh Inc., applicant, and owner, for approval of a Conditional Use Permit to allow the operation of an Auto Repair Facility (Major) in the General Commercial (GC) District, on the following described property:

LEGAL DESCRIPTION: Lot 2 of 1011 Main Addition, A subdivision of 10.2734 acres situated in the H. T. & B. R. R. CO. Survey, Abstract 542, according to the map or plat thereof recorded in Clerk's File No. 2012009314 of the Official Records of Brazoria County, Texas

GENERAL LOCATION: 1011 N. Main, Pearland, TX

After staff presentation there was brief discussion regarding potential brand logo colors for the proposed business, building separation between different nearby buildings, and plat boundary lines. Following this discussion Commissioner Neil West made a motion to approve the Conditional Use Permit (CUP). The motion was seconded by Commissioner Ginger McFadden. The vote was 4-0 and the motion passed.

Sincerely,

Harold Ellis
City Planner
On behalf of the Planning and Zoning Commission



JOINT PUBLIC HEARING AGENDA ITEM MEETING OF JUNE 18, 2012

Conditional Use Permit No. CUP 2012-03

At the request of Narsh Inc., applicant, and owner, for approval of a Conditional Use Permit to allow the operation of an Auto Repair Facility (Major) in the General Commercial (GC) District, on the following described property, to wit:

Legal Description: Lot 2 of 1011 Main Addition, A subdivision of 10.2734 acres situated in the H. T. & B. R. R. CO. Survey, Abstract 542, according to the map or plat thereof recorded in Clerk's File No. 2012009314 of the Official Records of Brazoria County, Texas

General Location: 1011 N. Main, Pearland, TX

APPROVAL PROCESS: After this Joint Public Hearing, the requested Conditional Use Permit application will be considered as follows:

Planning and Zoning Commission: June 18, 2012*
City Council for First Reading: July 9, 2012*
City Council for Second Reading: July 23, 2012*

(*dates subject to change)

SUMMARY: Narsh Inc., applicant and owner, is requesting approval of a Conditional Use Permit to allow the operation of an Auto Repair Facility (Major) at the above referenced location. The site is currently zoned General Commercial (GC) and there are not currently any business operations ongoing at the site. The most recent commercial use on the site was column sales/construction company which is no longer in operation. The property has an existing commercial structure on site; however the structure is not currently in use.

The property owner is proposing to redevelop the site to be used as a Maaco Collision Repair and Auto Painting Facility. On August 3, 2011, a Pre-development meeting was

held between staff and the property owner to discuss the City's current regulations for development. At that meeting, the proposed use was classified as Auto Body Repair, which was a permitted use in the General Commercial (GC) zoning district at that time. On March 19, 2012, the applicant submitted plans to the City for a Commercial Build Out permit. The Planning Department reviewed the plans and was unable to approve the permit as the land use classification in the City's Unified Development Code no longer permits the proposed use. This proposed use is currently classified in the City's Land Use Matrix as Auto Repair Facility (Major) which is only permitted in the General Commercial (GC) zone with the approval of a Conditional Use Permit. The change in the two classifications occurred when the City last updated the Unified Development Code, which was approved on October 24, 2011. This update combined the land use classification of Auto Body Repair, permitted by-right prior to the latest UDC update in the GC zoning district, with Auto Repair Facility (Major), which is only permitted in the GC zoning district with the approval of a Conditional Use Permit.

If the Conditional Use Permit is approved, the site plan process will commence with the Planning and Building departments.

SURROUNDING ZONING AND LAND USES:

	<u>Zoning</u>	<u>Land Use</u>
North	General Commercial (GC)	Vacant
South	General Commercial (GC)	Commercial
East	General Commercial (GC)	Commercial
West	Light Industrial (M-1)	Commercial

CONFORMANCE WITH THE UNIFIED DEVELOPMENT CODE (UDC): As previously mentioned, the property is currently zoned General Commercial (GC). A breakdown between those lot and development requirements and the site current configuration is provided below:

	<u>General Commercial</u>	<u>Existing Site</u>
Lot Size:	22,500 sq ft	53,397 sq ft
Lot Width:	150'	187.14
Lot Depth:	125'	271.75'
Front Setback:	25'	~95'
Rear Setback:	25'	~25'
Side Setback:	10'	~75'/~35'

At the time of development, all aspects of the Unified Development Code (UDC) will be required to be met. At this time, all aspects of the UDC appear to be met with the exception of the side façade materials, which the applicant is working with the Planning Department to address.

PLATTING STATUS: The property is currently platted as Minor Plat of 1011 Main Addition.

CONFORMANCE WITH THE COMPREHENSIVE PLAN: The current Comprehensive Plan (latest update in 2009) indicates *Industrial* for the subject property. The subject property is currently zoned General Commercial (GC), and that zoning district is not a correlating zoning district in the City's Comprehensive Plan for *Industrial*. Light and Heavy Industrial (M-1 and M-2) are the correlating zoning districts which would comply with the City's Comprehensive Plan and Future Land Use Plan. However, as the Future Land Use Plan is meant to be a guide, and not parcel specific, and as this property is in general proximity of other Light Industrial (M-1) zoning districts, the property in question could be considered to be in general compliance with the Comprehensive Plan.

CONFORMANCE WITH THE THOROUGHFARE PLAN: The subject property has frontage on Main St, a major thoroughfare, with a minimum of 120' right-of-way.

AVAILABILITY OF UTILITIES: The subject parcel does have access to public water and public sewer.

IMPACT ON EXISTING AND FUTURE DEVELOPMENT: The traffic impact of the proposed development will be reviewed by the City's Engineering Department at the time of formal site plan submittal. When the City combined the two land use classifications mentioned above, the thought was that Auto Body Repair facilities may not always be appropriate in the General Commercial (GC) zoning district, particularly on major thoroughfares or at entrances to the City. In this case, the building to be used exists, the façade on the front is masonry, and does not resemble a typical auto repair facility (photo below). In this situation, the proposed use may not be as unsuited for the area as it may be if it were in a more traditional auto repair facility building, which would not blend as well with entrances to the City or along major thoroughfares.



As the applicant may not be adding additional parking, parking lot and site landscaping would not be triggered with the change of use. Therefore, to assist in mitigating the potential adverse impacts of the proposed use along a major thoroughfare in the City's Corridor Overlay District, Council may want to consider adding a condition of approval to the Conditional use Permit which requires additional landscaping be added to the site. This is further detailed in the Conditions of Approval section of this report.

ADDITIONAL COMMENTS: This request has been reviewed by the City's Development Review Committee and there are no additional comments from other departments at the time of this report.

SITE PLAN CONSIDERATIONS: A conceptual site plan for was submitted with the Conditional Use Permit application. This plan appears to meet the City's Corridor Overlay District regulations. A complete review will occur at time of formal site plan submittal.

PUBLIC NOTIFICATION: Public notice, comment forms, and a vicinity map were mailed to property owners within 200 feet of the subject property under consideration for the Conditional Use Permit. A legal notice of public hearing was published in the local newspaper, and a notification sign was placed on the property by the applicant.

OPPOSITION TO OR SUPPORT OF PROPOSED REQUEST: Staff has not received any comments either in opposition to or in support of the proposed Conditional Use Permit request.

CRITERIA FOR APPROVAL: When considering an application for a Conditional Use Permit, the Planning and Zoning Commission and City Council shall evaluate the impact of the proposed use on and its compatibility with surrounding properties and residential areas to ensure the appropriateness of the use at the particular location, and shall consider the extent to which:

- (1) The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;
- (2) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
- (3) The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;
- (4) The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;

- (5) The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;
- (6) The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and
- (7) The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.

Conditions: The City Council may require such modifications in the proposed use and attach such conditions to the Conditional Use Permit as the City Council deems necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this section.

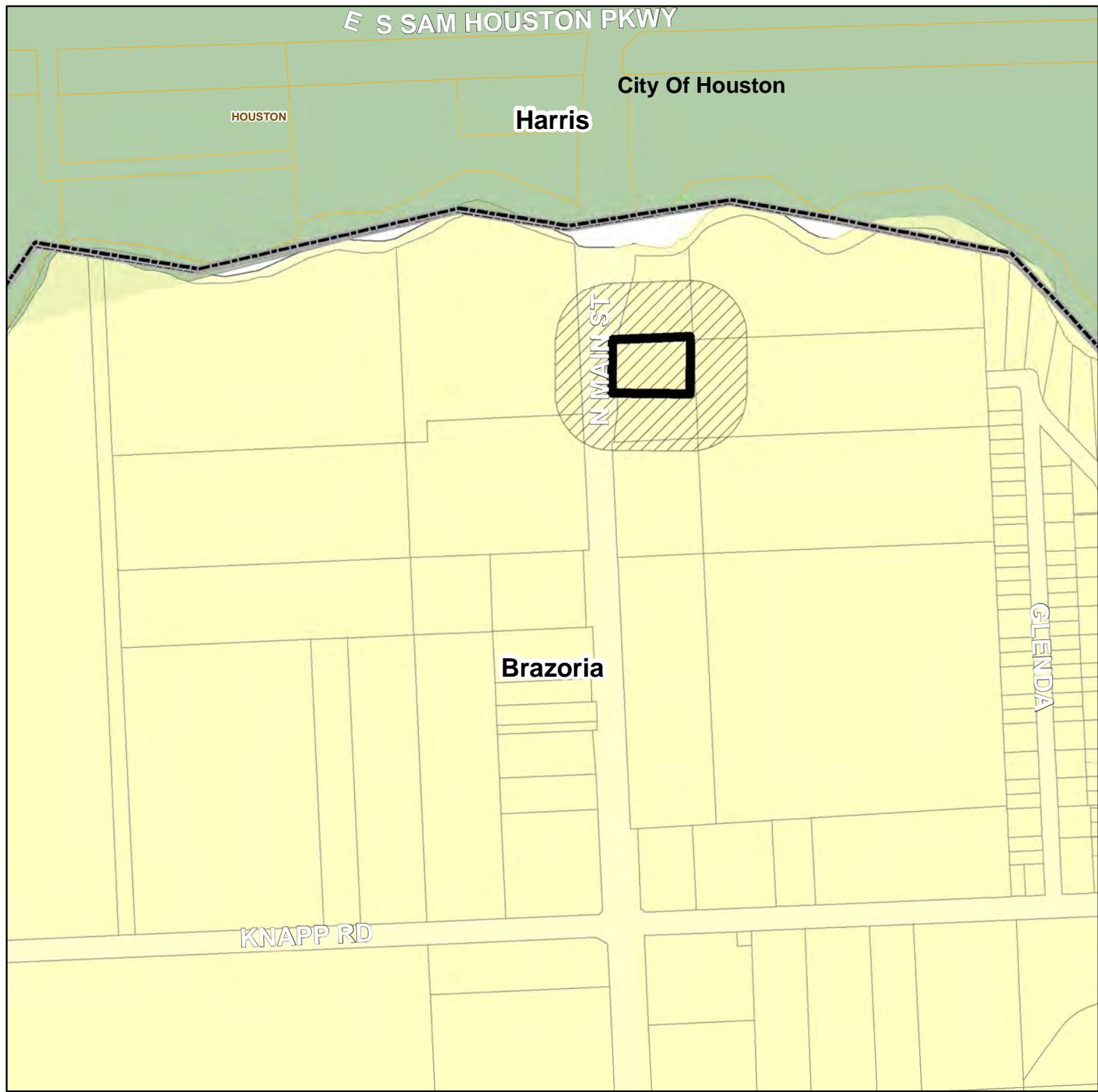
Should City Council identify additional impacts which it feels should be mitigated, additional conditions and modifications may be placed on the approval of the Conditional Use Permit.

STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit No. 2012-03 to allow the operation of an Auto Repair Facility (Major) in the General Commercial (GC) district as proposed by the applicant and owner for the following reasons and with the following condition:

1. The proposed request should not have any significant negative impact on the surrounding properties and developments.
2. The proposed request would be in conformance with the Unified Development Code with the approval of a Conditional use Permit.
3. The proposed request is in conformance with the criteria of approval of a Conditional Use Permit listed in the Unified Development Code.
4. The proposed request would result in redevelopment of a currently non-occupied building in a commercial zoning district.
5. The proposed request would enhance the property from its current state.

SUPPORTING DOCUMENTS:

- Vicinity and Zoning Map
- Property Ownership Map
- Property Owner Notification List
- Future Land Use Plan
- Aerial Photograph
- Zone Change Application and applicant packet

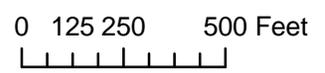


Abutter Map

CUP 2012-03

1011 N. Main

This product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



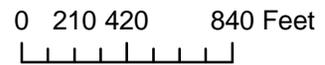


FLUP Map

CUP 2012-03

1011 N. Main

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AERIAL Map

CUP 2012-03

1011 N. Main

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0 125 250 500 Feet



New Business Item No. 3

- 3. CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-101** – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SUBMIT NINE PROJECT APPLICATIONS TO THE HOUSTON-GALVESTON AREA COUNCIL FOR INCLUSION IN THE 2013-2016 TRANSPORTATION IMPROVEMENT PLAN, AND ALLOCATING MATCHING FUNDS FOR THE CONSTRUCTION OF EACH PROJECT.
Mr. Trent Epperson, Director of Engineering and Capital Projects.

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

AGENDA OF: July 9, 2012	ITEM NO.: Resolution No. 2012-101
DATE SUBMITTED: June 28, 2012	DEPT. OF ORIGIN:
PREPARED BY: Trent Epperson	PRESENTOR: Trent Epperson
REVIEWED BY: Mike Hodge	REVIEW DATE: July 2, 2012
SUBJECT: 2013-2016 Transportation Improvement Program Call for Projects Resolution Documenting Local Match	
EXHIBITS: Resolution 2102-101; Exhibit A – Cost Spreadsheet	
FUNDING:	
<input type="checkbox"/> Grant	<input type="checkbox"/> Developer/Other
<input type="checkbox"/> Bonds To Be Sold	<input type="checkbox"/> Bonds- Sold
<input type="checkbox"/> L/P – Sold	<input type="checkbox"/> Cash
<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:	
<input checked="" type="checkbox"/> Finance	<input checked="" type="checkbox"/> Legal
<input type="checkbox"/> Ordinance	<input checked="" type="checkbox"/> Resolution

EXECUTIVE SUMMARY

The City is preparing submittals to the Houston-Galveston Area Council (H-GAC) for the 2013-2016 Transportation Improvement Program (TIP) “Call for Projects”. The TIP identifies four years of priority projects selected for federal funding as well as locally funded projects ready for implementation. Four funding categories exist for new projects to be added to the TIP; the Surface Transportation Program – Metro Mobility (STP-MM), Congestion Mitigation/Air Quality Improvement Program (CMAQ), the Surface Transportation Program – Enhancement, and the Job Access Reverse Commute and New Freedom Projects (JARC-NF).

Project eligibility requirements include: inclusion in H-GAC’s Regional Transportation Plan (RTP), inclusion in the Air Quality Conformity year in 2019 or earlier, funding support from the City or sponsoring agency, and the ability to meet Environmental Clearance and PS&E deadlines established by HGAC Transportation Policy Council (TPC). The Projects being submitted meet eligibility requirements.

The projects selected for submittal are the City of Pearland projects most likely to score well on the TIP scoring factors and cost/benefit analysis. The factors for STP-MM funding are Congestion Relief, Regional Impact, Mobility & Air Quality, Safety & Security, and Access Management. The City is an eligible project sponsor and has designated nine projects, listed below in priority order, as ideal for receiving funds in the TIP. The roadway projects are eligible for funding from the STP-MM category and the trail projects are eligible for funding from the STP-Enhancement category.

BACKGROUND

See Executive Summary

SCOPE OF CONTRACT/AGREEMENT

NA

BID AND AWARD

NA

SCHEDULE

On May 25th, the Transportation Policy Council authorized the 2013-2016 Call for Projects. HGAC has set the final acceptance date for submittals to be August 1st and will begin their review for Project selection. The Transportation Policy Council is scheduled to approve the project selections in December 2012.

POLICY/GOAL CONSIDERATION

Council Goal – Transportation B – Continue to build relationships with all stakeholders and actively lobby elected officials/TxDOT to ensure Pearland’s priority transportation interest/needs are met.

If selected, TIP funding will provide 80% of the funding for projects that are in the 2007 Bond Program, reducing the need to debt finance the entire project.

CURRENT AND FUTURE CIP FUNDING /FINANCIAL IMPACTS/DEBT SERVICE

Project Name	Limits	Funding Year	Total Project Cost	City Contribution	TxDOT Contribution
Smith Ranch Rd/CR94	Hughes Ranch to Broadway	2015	\$4,984,489	\$996,898	\$3,987,591
Bailey Rd	Veterans Dr to FM 1128	2015	\$27,664,720	\$5,532,944	\$22,131,775
Mykawa Rd	BW8 to FM 518	2016	\$26,128,536	\$4,445,000	\$21,683,536
McHard Rd Ext	Cullen to Mykawa	2016	\$41,155,664	\$8,231,133	\$32,924,531
CR 403	CR94 to Cullen	2014	\$21,928,000	\$4,385,600	\$17,542,400
CR 48/ Kingsley	BW8 to Clear Creek	2016	\$11,362,000	\$2,272,400	\$9,089,600
Max Rd Ext	Future McHard Road to Hughes Ranch	2016	\$7,589,907	\$1,517,981	\$6,071,926
Shadowcreek Ranch Trail	East of Kingsley to Kirby Dr	2016	\$1,624,755	\$324,951	\$1,299,804
Green Tee Terrace Trail	FM 518 along Clear Creek to Barry Rose Rd	2016	\$3,320,316	\$664,063	\$2,656,253

All of the roadway projects are included in the City’s Master Thoroughfare Plan. Smith Ranch Road, Bailey, Mykawa, McHard, and CR 403 are in the current Five-Year Capital Improvement Program (CIP). If awarded TIP funding for any of the projects, twenty percent of the project budget would need to be programmed into the appropriate CIP year as matching funds.

O&M IMPACT INFORMATION

To be determined based on the number or projects selected.

Year	2012	2013	2014	2015	2016
Operation and Maintenance Costs					

RECOMMENDED ACTION

Staff recommends Council adopt a resolution to submit nine projects for the 2013-2016 Transportation Improvement Program “Call for Projects”.

RESOLUTION NO. R2012-101

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SUBMIT NINE PROJECT APPLICATIONS TO THE HOUSTON-GALVESTON AREA COUNCIL FOR INCLUSION IN THE 2013-2016 TRANSPORTATION IMPROVEMENT PLAN, AND ALLOCATING MATCHING FUNDS FOR THE CONSTRUCTION OF EACH PROJECT.

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

Section 1. That the City Manager or his designee is hereby authorized to submit nine project applications, described in Exhibit "A" attached hereto, to the Houston-Galveston Area Council for inclusion in the 2013-2016 Transportation Improvement Program.

Section 2. That the City's proposed share of the local match for each project is described in Exhibit "A".

PASSED, APPROVED and ADOPTED this the _____ day of _____,
A.D., 2012.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING, TRMC
CITY SECRETARY

APPROVED AS TO FORM:

DARRIN M. COKER
CITY ATTORNEY

“Exhibit A”

Project Name	Limits	Funding Year	Total Project Cost	City Contribution	TxDOT Contribution
Smith Ranch Rd/CR94	Hughes Ranch to Broadway	2015	\$4,984,489	\$996,898	\$3,987,591
Bailey Rd	Veterans Dr to FM 1128	2015	\$27,664,720	\$5,532,944	\$22,131,775
Mykawa Rd	BW8 to FM 518	2016	\$26,128,536	\$4,445,000	\$21,683,536
McHard Rd Ext	Cullen to Mykawa	2016	\$41,155,664	\$8,231,133	\$32,924,531
CR 403	CR94 to Cullen	2014	\$21,928,000	\$4,385,600	\$17,542,400
CR 48/ Kingsley	BW8 to Clear Creek	2016	\$11,362,000	\$2,272,400	\$9,089,600
Max Rd Ext	Future McHard Road to Hughes Ranch	2016	\$7,589,907	\$1,517,981	\$6,071,926
Shadowcreek Ranch Trail	East of Kingsley to Kirby Dr	2016	\$1,740,488	\$348,097	\$1,392,390
Green Tee Terrace Trail	FM 518 along Clear Creek to Barry Rose Rd	2016	\$3,675,500	\$735,100	\$2,940,400

New Business Item No. 4

4. **CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-95** – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AWARDING A BID FOR CONSTRUCTION SERVICES ASSOCIATED WITH THE SOUTHGATE AND CYPRESS VILLAGE PARKS PROJECTS. *Mr. Bill Eisen, City Manager.*

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

AGENDA OF: July 9, 2012	ITEM NO.: Resolution No. R2012-95
DATE SUBMITTED: June 6, 2012	DEPT. OF ORIGIN: Projects
PREPARED BY: Cuong Le	PRESENTOR: Bill Eisen
REVIEWED BY: Mike Hodge	REVIEW DATE: June 15, 2012
SUBJECT: Award of Construction Contract for Southgate & Cypress Village Parks	
EXHIBITS: R2012-95; A - Bid Tab	
FUNDING: <input 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 – Sold <input type="checkbox"/> L/P – To Be Sold	
EXPENDITURE REQUIRED: \$185,998.46 AMOUNT BUDGETED: \$ 305,717 AMOUNT AVAILABLE: \$275,542.00 PROJECT NO.: PK1101 & PK1102 ACCOUNT NO.: 047-0000-565.76-08 and 76-02 ADDITIONAL APPROPRIATION REQUIRED: \$0 ACCOUNT NO.: PROJECT NO.:	
To be completed by Department: X Finance X Legal Ordinance X Resolution	

EXECUTIVE SUMMARY

BACKGROUND

The 2011-12 CIP budget identified funding for the Southgate (zone 2) and Cypress Village (zone 8) neighborhood parks. These parks are funded via Park Land Fees (Fund 47) with a total budget of \$305,717.00. In March, 2011 the Parks Department executed a design contract with Landesign Group for design services to plan, bid and construct the improvements for both parks. That design effort was completed in April this year and bids were opened electronically on May 17th. Due to the relatively small size of the two projects, both parks were bid as a single project but, for funding purposes, the costs associated with each park are separated so that expenditures may be tracked to the individual park zone.

SCOPE OF CONTRACT/AGREEMENT

Because the Architect's estimate for the work (totaling around \$338,537) exceeded the available funding for both parks the proposed work was separated into Base Bid Items and Add Alternates. The Base Bid work items were identified based on the improvements required to provide the basic level of service provided by the park area. This consisted of contractor mobilization charges, grading and drainage, concrete sidewalks, decomposed granite trails and the irrigation systems. A list of Add Alternates, including the specified trees, was developed that would allow Staff to incorporate these individual improvements on the basis of available funding tailoring both parks to their respective budget.

BID AND AWARD

The bid was well attended with seven contractors submitting **TOTAL** Bid prices (Base Bid work plus All Alternates) ranging from \$291,737.00 to \$463,969.00. The low TOTAL bid of \$291,737.00 submitted by Al-Earth.

Total available funding for the parks is \$275,542.00 (consisting of \$190,524.00 for Southgate and \$85,018.00 for Cypress Village). The **BASE BID** submitted for Southgate was \$90,653.34 and for Cypress Village of \$84,884.32 totaling \$175,537.66 leaving a balance remaining of \$100,004.34 in the combined budget. This leaves a balance in each individual park budget of \$99,870.66 in the Southgate and \$133.68 in the Cypress Village fund. This balance precludes the acceptance of any Add Alternates for Cypress Village since the funding cannot be shared across park zones.

However, the remaining balance available in the Southgate zone will allow for the addition of several Add Alternates in the order of their priority as established by the Parks Department.

- 1 Low Retaining Wall for Playground area at the cost of \$6,205.80
- 2 each Picnic Table pads at a cost of \$1460.00
- 1 Drinking Fountain and Faucet at the cost of \$2,795.00
- Total of selected Add Alternates of \$10,460.80

This brings the Total cost of the Southgate park to \$101,114.14 and adding in the Base Bid only for Cypress Village of \$84,884.32 gives a Total Contract Award of \$185,998.46. The remaining balance of the available funding, \$89,543.54 is allocated for the purchase, under separate contract, of playground equipment.

Al-Earth is Houston firm that has performed work on a variety of projects, although a limited number of which were park projects. The Architect is reluctant to make a recommendation because of Al-Earth's limited experience with landscaping projects. The majority of the work on this project is grading, sidewalks, trail and irrigation and not landscaping. While they have not performed work for this Architect before, they have performed much larger building projects where references were satisfied with the work and their adherence to the project budget and schedule.

SCHEDULE

The construction package bid on May 17, 2012 and a Notice to Proceed is expected to be issued within ten days of Award of the Contract. The overall Construction Phase is scheduled to be substantially completed within 120 calendar days with final completion 30 days later for a total schedule of 150 days from notice to proceed.

POLICY/GOAL CONSIDERATION

The Parks & Recreation Master Plan was adopted by Council in 2010. Both of these projects meet needs identified in that master plan.

The plan identified the City was meeting the current need of 16.22% acres of developed neighborhood park land. The plan also provided maps showing that the city has minimal developed park land west of 288. Through the Parkland Dedication ordinance the City received a dedication of about 5 acres in the South Gate subdivision for the development of a neighborhood park. Subsequently the residents requested that the department consider developing a park on that land.

Two of the city's core principles are to be responsive and results oriented. In this situation the land was available, some monies were available through fees that had been deposited through the Parkland Dedication ordinance and the citizen showed an interest in the development of the land. In response to the request and to meet a need identified in the master plan staff budgeted for the development of the neighborhood park in the South Gate subdivision.

In addition to identifying the need for more developed park land, the plan also identified improvements and enhancements that should be made to existing parks. In order to meet facility and equipment requirements for a neighborhood park it was recommended that Cypress Village have the following amenities added to the park: signage, internal sidewalk/trails, benches, sport court, water fountain, backstop, picnic tables/shade, bar b q pits and trash cans. In accordance with the Master Plan and because there was money available in this park zone, staff worked on a master plan for this park that includes these elements.

CURRENT AND FUTURE CIP FUNDING /FINANCIAL IMPACTS/DEBT SERVICE

Funding for the project is from the Park Land Fees: \$205,599 for Southgate Park and \$100,118.00 for Cypress Village Park with \$30,155.00 previously committed in the design contract and purchase of park amenities such as tables and benches.

Year	To Date	2013	2014	2015	2016	Total
Budget	\$ 305,717					\$ 305,717
Prior Expenditures						
PER						-
Land/ROW						-
Design/Survey	30,175					30,175
Construction						-
FF&E						-
Current Request						
Construction	185,998					185,998
Future Expenditures						
PER						-
Land/ROW						-
Design/Survey						-
Construction						-
FF&E	89,544					89,544
Total Expenditures	\$ 305,717	\$ -	\$ -	\$ -	\$ -	\$ 305,717
Remaining Balance	\$ (0)	\$ (0)	\$ (0)	\$ (0)	\$ (0)	\$ (0)

Debt Sold						
Debt to Be Sold						
Annual Debt Service						

O&M IMPACT INFORMATION

Per the Parks Department, the annual park maintenance is estimated at \$1500/year per Park. Please see below for the O&M breakdown.

- Cypress Village: = \$1,500/year
- Southgate Park: 4.4 acres = \$1,500/year
- Total O&M: \$3,000/year

Year	2012	2013	2014	2015	2016
Operation and Maintenance Costs	\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,000

RECOMMENDED ACTION

Staff recommends that Council approve the Bid results, Award the Contract for Construction to Al-Earth in the amount of \$185,998.46 and authorize the City Manager to execute the agreement.

RESOLUTION NO. R2012-95

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND,
TEXAS, AWARDING A BID FOR CONSTRUCTION SERVICES
ASSOCIATED WITH THE SOUTHGATE AND CYPRESS VILLAGE PARKS
PROJECTS.**

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

Section 1. That the City opened bids for construction services associated with the Southgate and Cypress Village Parks, and such bids have been reviewed and tabulated.

Section 2. That the City Council hereby awards the bid to Al-Earth, Inc., in the amount of \$185,998.46.

Section 3. The City Manager or his designee is hereby authorized to execute a contract for construction services associated with the Southgate and Cypress Village Parks.

PASSED, APPROVED and ADOPTED this the _____ day of _____,
A.D., 2012.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING, TRMC
CITY SECRETARY

APPROVED AS TO FORM:

DARRIN M. COKER
CITY ATTORNEY

Bid #: 0412-34 Addendum 3 - South Gate and Cypress Village Parks

Specification Responses				Architect's Estimate	Al-Earth	Landscape Art. Inc	Gulf Coast Landscape Services, Inc.	Montgomery Building Services	SPECIALTY CONSTRUCTION	Millis Development & Construction, Inc.	Jerdon Enterprise L.P.							
Line	Description	UOM	QTY	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended			
1	South Gate Park Bid Items	PKG	1	\$135,021.00	\$90,653.34	\$90,653.34	\$109,487.00	\$109,487.00	\$96,850.00	\$96,850.00	\$139,132.00	\$139,132.00	\$138,419.00	\$138,419.00	\$156,029.88	\$156,029.88	\$190,000.00	\$190,000.00
1.1	Mobilization to include project sign	LS	1		\$13,500.00		\$1,800.00		\$6,500.00		\$3,000.00		\$3,500.00		\$2,109.90		\$25,000.00	
1.2	All work as shown on the plans and described in the Summary of Work in accordance with all associative specifications for both project sites, including grading, drainage, sidewalks and ramps, decomposed granite trails, curb cuts, water and sewer utilities	LS	1		\$77,153.34		\$107,687.00		\$90,350.00		\$136,132.00		\$134,919.00		\$153,919.98		\$165,000.00	
2	Cypress Village Park Bid Items	PKG	1	\$103,815.00	\$84,884.32	\$84,884.32	\$95,490.00	\$95,490.00	\$91,275.00	\$91,275.00	\$121,292.00	\$121,292.00	\$135,819.00	\$135,819.00	\$153,704.22	\$153,704.22	\$162,000.00	\$162,000.00
2.1	Mobilization to include project sign	LS	1		\$12,500.00		\$1,800.00		\$6,500.00		\$3,000.00		\$3,750.00		\$2,116.50		\$25,000.00	
2.2	All work as shown on the plans and described in the Summary of Work in accordance with all specifications, including Grading, drainage, sidewalks and ramps, decomposed granite trails, curb cuts, water and sewer utilities, irrigation and landscape grass	LS	1		\$72,384.32		\$93,690.00		\$84,775.00		\$118,292.00		\$132,069.00		\$151,587.72		\$137,000.00	
3	South Gate Add Alternates	PKG	1	\$60,693.00	\$70,892.73	\$70,892.73	\$72,878.00	\$72,878.00	\$83,775.00	\$83,775.00	\$80,326.00	\$80,326.00	\$94,340.00	\$94,340.00	\$93,949.12	\$93,949.12	\$68,440.00	\$68,440.00
3.1	Concrete Basketball Half Court and associateive equipment (Complete in Place)	LS	1		\$16,584.25		\$19,315.00		\$17,175.00		\$24,783.00		\$22,000.00		\$20,648.91		\$18,000.00	
3.2	Concrete Curb with Weep Holes for Playground Areas(Complete in Place)	LS	1		\$6,205.80		\$7,013.00		\$11,200.00		\$4,658.00		\$10,000.00		\$16,654.14		\$8,800.00	
3.3	Concrete Exercise Pad(Complete in Place)	LS	1		\$6,902.68		\$8,067.00		\$8,300.00		\$11,520.00		\$12,000.00		\$17,303.99		\$7,800.00	
3.4	Concrete Park Bench Pad (Complete in Place)	EA	4		\$730.00		\$1,200.00		\$1,325.00		\$750.00		\$1,250.00		\$827.08		\$250.00	
3.5	Ball field Backstop (Complete in Place)	LS	1		\$3,510.00		\$4,020.00		\$5,500.00		\$3,450.00		\$4,500.00		\$5,591.24		\$2,400.00	
3.6	Drinking Fountain and Faucet complete in place (Complete in Place)	LS	1		\$2,795.00		\$6,655.00		\$8,800.00		\$2,875.00		\$3,500.00		\$4,923.10		\$2,200.00	
3.7	Bald Cypress, Montezuma (30 gal) (Complete in Place)	EA	3		\$393.75		\$170.00		\$200.00		\$288.00		\$350.00		\$191.30		\$320.00	
3.8	Mexican Sycamore (65 gal) (Complete in Place)	EA	6		\$531.25		\$633.00		\$700.00		\$805.00		\$740.00		\$703.30		\$700.00	
3.9	Willow Oak (45 gal) (Complete in Place)	EA	14		\$500.00		\$287.00		\$450.00		\$460.00		\$520.00		\$476.84		\$370.00	
3.10	Chestnut Oak (65gal) (Complete in Place)	EA	5		\$500.00		\$572.00		\$600.00		\$720.00		\$725.00		\$703.30		\$700.00	
3.11	Chestnut Oak (30 gal) (Complete in Place)	EA	8		\$393.75		\$255.00		\$200.00		\$288.00		\$375.00		\$210.99		\$320.00	
3.12	Magnolia, "Little Gem" (30 gal) (Complete in Place)	EA	7		\$393.75		\$181.00		\$240.00		\$288.00		\$450.00		\$201.14		\$340.00	
3.13	Yaupon Holly (15 gal) (Complete in Place)	EA	5		\$268.75		\$81.00		\$110.00		\$173.00		\$205.00		\$90.02		\$150.00	
3.14	Texas Redbud (30 gal) (Complete in Place)	EA	8		\$393.75		\$175.00		\$230.00		\$288.00		\$370.00		\$281.32		\$320.00	
3.15	Crepe Myrtle (30 gal) (Complete in Place)	EA	13		\$381.25		\$170.00		\$210.00		\$259.00		\$370.00		\$191.30		\$300.00	
3.16	Wildflower Mix: Texas Oklahoma Premium Mix (Complete in Place)	SF/LS	25000		\$0.11		\$0.18		\$0.20		\$0.14		\$0.24		\$0.09		\$0.09	
5	Cypress Village Add Alternates	PKG	1	\$39,008.00	\$45,306.50	\$45,306.50	\$46,015.00	\$46,015.00	\$54,155.00	\$54,155.00	\$53,022.80	\$53,022.80	\$59,040.00	\$59,040.00	\$50,500.02	\$50,500.02	\$43,529.00	\$43,529.00
5.1	Concrete Basketball Half Court and associateive equipment (Complete in Place)	LS	1		\$16,584.25		\$16,587.00		\$17,175.00		\$24,783.00		\$22,000.00		\$20,713.48		\$18,000.00	
5.2	Ball field backstop (Complete in Place)	EA	1		\$3,510.00		\$4,020.00		\$5,500.00		\$3,450.00		\$4,500.00		\$5,608.73		\$2,400.00	
5.3	Picnic Table Pad(Complete in Place)	EA	2		\$730.00		\$1,200.00		\$1,650.00		\$750.00		\$1,250.00		\$829.67		\$800.00	
5.4	Drinking Fountain and Faucet complete in place (Complete in Place)	LS	1		\$2,795.00		\$6,420.00		\$8,800.00		\$2,875.00		\$3,500.00		\$4,938.50		\$2,200.00	
5.5	Bald Cypress, Montezuma (30 gal) (Complete in Place)	EA	5		\$393.75		\$170.00		\$200.00		\$288.00		\$350.00		\$191.90		\$320.00	
5.6	Mexican Sycamore (65 gal) (Complete in Place)	EA	4		\$531.25		\$633.00		\$700.00		\$805.00		\$740.00		\$705.50		\$700.00	
5.7	Winged Elm (45 gal) (Complete in Place)	EA	5		\$531.25		\$354.00		\$480.00		\$460.00		\$630.00		\$478.33		\$370.00	
5.8	Chestnut Oak (65gal) (Complete in Place)	EA	6		\$500.00		\$572.00		\$600.00		\$690.00		\$725.00		\$705.50		\$700.00	
5.9	Magnolia, "Little Gem" (30 gal) (Complete in Place)	EA	3		\$393.75		\$181.00		\$240.00		\$288.00		\$500.00		\$201.77		\$340.00	
5.10	Yaupon Holly (15 gal) (Complete in Place)	EA	3		\$268.75		\$81.00		\$110.00		\$173.00		\$205.00		\$90.30		\$150.00	
5.11	Texas Redbud (30 gal) (Complete in Place)	EA	3		\$393.75		\$175.00		\$230.00		\$288.00		\$370.00		\$352.75		\$320.00	

5.12	Crepe Myrtle (30 gal) (Complete in Place)	EA	10		\$381.25		\$170.00		\$210.00		\$259.00		\$370.00		\$191.90		\$300.00		
5.13	Wildflower Mix: Texas Oklahoma Premium Mix (Complete in Place)	SF/LS	24100		\$0.11		\$0.17		\$0.20		\$0.14		\$0.25		\$0.09		\$0.09		
5.14	Aristocrat Pear (30 gal) (Complete in Place)	EA	4		\$393.75		\$224.00		\$230.00		\$288.00		\$345.00		\$287.84		\$320.00		
Total Bid Including All Add Alternates					\$338,537.00		\$291,736.89		\$323,870.00		\$326,055.00		\$393,772.80		\$427,618.00		\$454,183.24		\$463,969.00
Total Base Bid (Only)					\$238,836.00		\$175,537.66		\$204,977.00		\$188,125.00		\$260,424.00		\$274,238.00		\$309,734.10		\$352,000.00

New Business Item No. 5

5. **CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-98** – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING A CONTRACT FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES ASSOCIATED WITH THE BUSINESS CENTER DRIVE PROJECT.
Mr. Bill Eisen, City Manager.

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

AGENDA OF: July 9, 2012	ITEM NO.: Resolution No. R2012-98
DATE SUBMITTED: June 28, 2012	DEPT. OF ORIGIN: Projects
PREPARED BY: Trent Epperson	PRESENTOR: Bill Eisen
REVIEWED BY: Mike Hodge	REVIEW DATE: July 2, 2012
SUBJECT: Award of Construction Management and Inspection Services Contract for Business Center Drive	
EXHIBITS: R2012-98; A – Professional Services Agreement and Proposal - Klotz Associates	
FUNDING: <input type="checkbox"/> Grant <input checked="" 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: \$213,734 AMOUNT BUDGETED: 5,156,524 AMOUNT AVAILABLE: 4,672,552 PROJECT NO.: TR0811 ACCOUNT NO.: 050-0000-565.03-00 ADDITIONAL APPROPRIATION REQUIRED: ACCOUNT NO.: PROJECT NO.:	
To be completed by Department: <div style="display: flex; justify-content: space-around;"> Finance Legal Ordinance Resolution </div>	

EXECUTIVE SUMMARY

BACKGROUND

The Business Center Drive project will complete the extension of a four lane roadway between Broadway and C R 59, improving mobility for businesses in the corridor and providing a secondary thoroughfare to alleviate traffic at the Pearland Town Center area. The Preliminary and Design Engineering were completed by Freese and Nichols Inc.

To fund the project, the City entered into a Developer Agreement with Parkside 59/288, Ltd. in May 2011. Parkside funded the design of the entire project and will fund the construction expenditures, including Construction Management, of the segment of the road immediately adjacent to their property. Parkside also acquired all necessary right-of-way and easements for the project. In addition, they designed and constructed the utilities and the storm water detention for the road.

The remainder of the project will be funded by the PEDC. The PEDC will be reimbursed for much of their costs through a road assessment levied by the City and reimbursement agreement with the City

The project will complete the remaining two lanes of the roadway from Broadway to the southern entrance of the Pearland Town Center, and will complete four lanes of roadway from the southern Town Center entrance to CR 59, including drainage, sidewalks, conduit for street lighting, a signal at CR59, and landscaping and irrigation of the roadway medians.

SCOPE OF CONTRACT/AGREEMENT

The proposed contract with Klotz Associates (Klotz) is based on the City's Standard Scope of Services for Construction Management/Construction Inspection (CMCI). Pre-construction activities include attending the pre-bid meeting, chairing the pre-construction and plan review meetings, establishing a construction schedule, review of shop drawings for equipment and materials submittals. Construction activities include: responding to the contractor's Requests for Information, providing clarification of the design intent, record keeping and tracking of the work and contractor forces, preparation of monthly reports and reviews of pay requests, including requests for change orders and coordination of quality control and laboratory testing. Post-construction activities include: leading the substantial and final completion inspection, management of punch list work, management of as built documents, review and organization of the O & M manuals, project close-out/ turn over to City operations staff and recommendation of final acceptance and finally, warranty phase activities. The scope of work also includes a part time, experienced construction manager and a full time inspector.

The proposal for the above Construction Management and Inspection services is based on an Hourly Not to Exceed estimate of \$213,734.00, which includes a reimbursable fee for mileage, deliveries and reproductions of \$10,836.00. This fee is approximately 5.0% of the estimated construction costs and is well within historical costs for these services.

BID AND AWARD

N/A

SCHEDULE

The City is currently awaiting the approval of the TxDOT permit for the roadway. The construction package will be advertised immediately following the approval of the permit, which is anticipated in the next four weeks, with the consideration of the construction contract award following the bidding process. The overall Construction Phase is scheduled to be substantially completed three hundred thirty (330) days from notice to proceed.

POLICY/GOAL CONSIDERATION

The Business Center Drive project is a high priority due to economic benefit to the area. The main benefit of the project is that it provides a transportation corridor, opening the area south of Town Center for development. In addition, construction of the project fulfills the City's responsibilities under the Developer Agreement with Parkside.

CURRENT AND FUTURE CIP FUNDING /FINANCIAL IMPACTS/DEBT SERVICE

Year	To Date	2013	2014	2015	2016	Total
Budget	\$ 5,156,524					\$ 5,156,524
Prior Expenditures						
PER						-
Land/ROW						-
Design/Survey	489,272					489,272
Construction						-
FF&E						-
Current Request						
Construction	213,734					213,734
Future Expenditures						
PER						-
Land/ROW						-
Design/Survey						-
Construction	4,453,518					4,453,518
FF&E						-
Total Expenditures	\$ 5,156,524	\$ -	\$ -	\$ -	\$ -	\$ 5,156,524
Remaining Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Debt Sold						X
Debt to Be Sold						X
Annual Debt Service						X

O&M IMPACT INFORMATION

Year	2012	2013	2014	2015	2016
Operation and Maintenance Costs		\$ 6,000	\$ 25,000	25000	25000

RECOMMENDED ACTION

Staff recommends that Council approve the Construction Management and Inspections Services contract with Klotz Associates in the amount of \$213,734.00 and authorize the City Manager to execute the agreement.

RESOLUTION NO. R2012-98

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING A CONTRACT FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES ASSOCIATED WITH THE BUSINESS CENTER DRIVE PROJECT.

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

Section 1. That certain contract for construction management and inspection services associated with the Business Center Drive Project, a copy of which is attached hereto as Exhibit "A" and made a part hereof for all purposes, is hereby authorized and approved.

Section 2. That the City Manager or his designee is hereby authorized to execute and the City Secretary to attest a contract for construction management and inspection services associated with the Business Center Drive Project.

PASSED, APPROVED and ADOPTED this the _____ day of _____,
A.D., 2012.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING, TRMC
CITY SECRETARY

APPROVED AS TO FORM:

DARRIN M. COKER
CITY ATTORNEY

CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT is entered into on _____, 2012, by and between the City of Pearland ("CITY") and Klotz Associates ("CONSULTANT").

The CITY engages the CONSULTANT to perform Construction Management and Construction Inspection Services for a project known and described as Business Center Drive ("PROJECT"). (Project # TR0811)

SECTION I - SERVICES OF THE CONSULTANT

The CONSULTANT shall perform the following professional services to CITY standards and in accordance with the degree of care and skill that a professional in Texas would exercise under the same or similar circumstances:

- A. The CONSULTANT shall perform Construction Management and Construction Inspection Services. See Exhibit A, attached, for a detailed SCOPE OF WORK. The PROJECT schedule shall conform to the construction schedule.

- B. The CONSULTANT acknowledges that the CITY (through its employee handbook) considers the following to be misconduct that is grounds for termination of a CITY employee: Any fraud, forgery, misappropriation of funds, receiving payment for services not performed or for hours not worked, mishandling or untruthful reporting of money transactions, destruction of assets, embezzlement, accepting materials of value from vendors, or consultants, and/or collecting reimbursement of expenses made for the benefit of the CITY. The CONSULTANT agrees that it will not, directly or indirectly; encourage a CITY employee to engage in such misconduct.

- C. The CONSULTANT recognizes that all drawings, special provisions, field survey notes, reports, estimates and any and all other documents or work product generated by the CONSULTANT under the CONTRACT shall be delivered to the CITY upon request, shall become subject to the Open Records Laws of this State.

- D. The CONSULTANT shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons, damages to property, or any errors and omissions relating to the performance of any work by the CONSULTANT, its agents, employees or subcontractors under this Agreement, as follows:
 - (1) Workers' Compensation as required by law.
 - (2) Professional Liability Insurance in an amount not less than \$1,000,000 in the aggregate.
 - (3) Comprehensive General Liability and Property Damage Insurance with minimum limits of \$1,000,000 for injury or death of any one person,

\$1,000,000 for each occurrence, and \$1,000,000 for each occurrence of damage to or destruction of property.

- (4) Comprehensive Automobile and Truck Liability Insurance covering owned, hired, and non-owned vehicles, with minimum limits of \$1,000,000 for injury or death of any one person, \$1,000,000 for each occurrence, and \$1,000,000 for property damage.

The CONSULTANT shall include the CITY as an additional insured under the policies, with the exception of the Professional Liability Insurance and Workers' Compensation. Certificates of Insurance and endorsements shall be furnished to the CITY before work commences. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, and/or reduced in coverage or in limits ("Change in Coverage") except with prior written consent of the CITY and only after the CITY has been provided with written notice of such Change in Coverage, such notice to be sent to the CITY either by hand delivery to the City Manager or by certified mail, return receipt requested, and received by the City no fewer than thirty (30) days prior to the effective date of such Change in Coverage. Prior to commencing services under this CONTRACT, CONSULTANT shall furnish CITY with Certificates of Insurance, or formal endorsements as required by this CONTRACT, issued by CONSULTANT'S insurer(s), as evidence that policies providing the required coverage, conditions, and limits required by this CONTRACT are in full force and effect.

- E. The CONSULTANT shall indemnify and hold the CITY, its officers, agents, and employees, harmless from any claim, loss, damage, suit, and liability of every kind for which CONSULTANT is legally liable, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person, for damage to any property, or errors in design, any of which are caused by the negligent act or omission of the CONSULTANT, his officers, employees, agents, or subcontractors under this CONTRACT.
- F. All parties intend that the CONSULTANT, in performing services pursuant to this CONTRACT, shall act as an independent contractor and shall have control of its own work and the manner in which it is performed. The CONSULTANT is not to be considered an agent or employee of the CITY.

SECTION II - PERIOD OF SERVICE

This CONTRACT will be binding upon execution and end upon completion of construction and warranty related work.

SECTION III - CONSULTANT'S COMPENSATION

- A. The method of payment for this CONTRACT is **Hourly Not To Exceed**. Total compensation for the services performed shall **be the sum of \$213,734.00**.
- B. The CITY shall pay the CONSULTANT in installments based upon monthly progress reports and detailed invoices submitted by the CONSULTANT.
- C. The CITY shall make payments to the CONSULTANT within thirty (30) days after receipt and approval of a detailed invoice. Invoices shall be submitted on a monthly basis.

SECTION IV - THE CITY'S RESPONSIBILITIES

- A. The CITY shall designate a project manager during the term of this CONTRACT. The project manager has the authority to administer this CONTRACT and shall monitor compliance with all terms and conditions stated herein. All requests for information from or a decision by the CITY on any aspect of the work shall be directed to the project manager.
- B. The CITY shall review submittals by the CONSULTANT and provide prompt response to questions and rendering of decisions pertaining thereto, to minimize delay in the progress of the CONSULTANT'S work. The CITY will keep the CONSULTANT advised concerning the progress of the CITY'S review of the work. The CONSULTANT agrees that the CITY'S inspection, review, acceptance or approval of CONSULTANT'S work shall not relieve CONSULTANT'S responsibility for errors or omissions of the CONSULTANT or its sub-consultant(s) or in any way affect the CONSULTANT'S status as an independent contractor of the CITY.

SECTION V - TERMINATION

- A. The CITY, at its sole discretion, may terminate this CONTRACT for any reason - with or without cause -- by delivering written notice to CONSULTANT personally or by certified mail at 1160 Dairy Ashford, suite 500 Houston, Tx 77079. Immediately after receiving such written notice, the CONSULTANT shall discontinue providing the services under this CONTRACT.
- B. If this CONTRACT is terminated, CONSULTANT shall deliver to the CITY all drawings, special provisions, field survey notes, reports, estimates and any and all other documents or work product generated by the CONSULTANT under the CONTRACT, entirely or partially completed, together with all unused materials supplied by the CITY on or before the 15th day following termination of the CONTRACT.
- C. In the event of such termination, the CONSULTANT shall be paid for services performed prior to receipt of the written notice of termination. The CITY shall make final payment within sixty (60) days after the CONSULTANT has delivered

to the CITY a detailed invoice for services rendered and the documents or work product generated by the CONSULTANT under the CONTRACT.

- D. If the remuneration scheduled under this contract is based upon a fixed fee or definitely ascertainable sum, the portion of such sum payable shall be proportionate to the percentage of services completed by the CONSULTANT based upon the scope of work.
- E. In the event this CONTRACT is terminated, the CITY shall have the option of completing the work, or entering into a CONTRACT with another party for the completion of the work.
- F. If the CITY terminates this CONTRACT for cause and/or if the CONTRACTOR breaches any provision of this CONTRACT, then the CITY shall have all rights and remedies in law and/or equity against CONSULTANT. Venue for any action or dispute arising out of or relating to this CONTRACT shall be in Brazoria County, Texas. The laws of the State of Texas shall govern the terms of this CONTRACT. The prevailing party in the action shall be entitled to recover its actual damages with interest, attorney's fees, costs and expenses incurred in connection with the dispute and/or action. CONSULTANT and CITY desire an expeditious means to resolve any disputes that may arise between under this CONTRACT. To accomplish this, the parties agree to mediation as follows: If a dispute arises out of or relates to this CONTRACT, or the breach thereof, and if the dispute cannot be settled through negotiation, then the parties agree first to try in good faith, and before pursuing any legal remedies, to settle the dispute by mediation of a third party who will be selected by agreement of the parties.

SECTION VI – ENTIRE AGREEMENT

This CONTRACT represents the entire agreement between the CITY and the CONSULTANT and supersedes all prior negotiations, representations, or contracts, either written or oral. This CONTRACT may be amended only by written instrument signed by both parties.

SECTION VII – COVENANT AGAINST CONTINGENT FEES

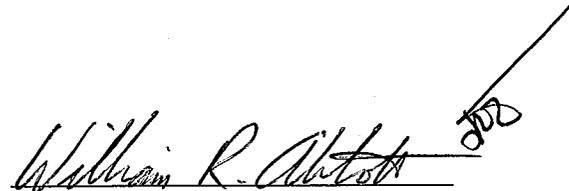
The CONSULTANT affirms that he has not employed or retained any company or person, other than a bona fide employee working for the CONSULTANT to solicit or secure this CONTRACT, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the CONTRACT. For breach or violation of this clause, the CITY may terminate this CONTRACT without liability, and in its discretion, may deduct from the CONTRACT price or consideration, or otherwise recover, the full amount of such fee, commission, percentage brokerage fee, gift, or contingent fee that has been paid.

SECTION VIII- SUCCESSORS AND ASSIGNS

This CONTRACT shall not be assignable except upon the written consent of the parties hereto.

The parties have executed this CONTRACT this _____ day of July, 2012.

BILL EISEN, CITY MANAGER

Handwritten signature of William R. Abbott in cursive script, written over a horizontal line. The signature includes a large, stylized 'A' and 'B' at the end.

WILLIAM R. ABBOTT, P.E., SENIOR VICE PRESIDENT
KLOTZ ASSOCIATES

July 2, 2012

VIA U.S. MAIL AND EMAIL

Mr. Trent Epperson
Projects Director
City of Pearland
3519 Liberty Drive
Pearland, Texas 77581

Re: Business Center Drive – Construction Management Services

Dear Mr. Epperson:

Klotz Associates, Inc. is respectfully submitting a work estimate and amendment for construction management services to construct the Business Center Drive Project. The Project includes construction of two lanes from Broadway to the southern entry of the Pearland Town Center and four lanes from the southern Pearland Town Center entrance to CR59.

Klotz Associates, Inc. understands that the entire agreement is comprised of the following: “The City’s Contract for Professional Services, this proposal letter, and City of Pearland Exhibit ‘A’ Construction Management Scope of Services.

This is a street reconstruction project with an estimated construction cost of \$3.75M, or \$4.3M with contingency, that is currently at the 100% design phase. The project is planned to bid midsummer. The projected construction schedule includes a total of 270 days to achieve substantial completion with an additional 30 days to achieve final completion.

The project deliverables will include the basic tasks and services as outlined in the (SCOPE OF CONSTRUCTION MANAGEMENT SCOPE OF SERVICES, EXHIBIT A). Klotz Associates will perform the above scope of services on an hourly-rate basis for a Not-To-Exceed Fee of \$213,734.00 (\$202,898.00 for labor and \$10,836.00 for expenses). A breakdown of hours per task is included. Additional services will be provided with a mark-up of 10%.

We understand that the project start date is dependent on receipt of permits. The contract time parameters proposed are based on milestones for the three phases of work. The Pre-Construction Phase activities will begin following a written Notice-To-Proceed. The Construction Phase Activities are dependent on receipt of a TxDOT permit and successful bidding. The Warranty Phase Activities will be based on Final Completion, approximately 30 days prior to the end of the one-year warranty period. The following schedule is proposed:

Mr. Trent Epperson
July 2, 2012
Page 2 of 2

<u>Task No.</u>	<u>Description</u>	<u>Schedule</u>
1	Pre-Construction Phase Activities	90 calendar days
2-8	Construction Phase Activities	330 calendar days
9	Warranty Phase Period	30 calendar days

Klotz Associates appreciates the opportunity to work with the City on this important project. We are prepared to begin immediately. Please do not hesitate to contact me should you have questions or comments regarding this proposal.

Sincerely,



William R. Abbott, P.E.
Senior Vice President

WRA:az

Attachment

Cc: Ms. Cara Davis, City of Pearland
Ms. Andrea DeKam Brinkley, City of Pearland

EXHIBIT B

**Construction Management Services
Business Center Drive Extension
City of Pearland
June 28, 2012**

Task No.	Subtask Descriptions	Principal	Construction Manager	Inspector/RPR	Assistant Engineer	Administrative	Total Hours	Total
	Hourly Rate	\$ 220.50	\$ 153.05	\$ 49.09	\$ 107.97	\$ 73.10		
1	Pre-Construction	0	20	16	0	3	39	\$ 4,066
1.1	Constructability Review of Plans		8	8				\$ 1,617
1.2	Pre-Bid Meeting		6	4		1		\$ 1,188
1.3	Pre-Construction Meeting		6	4		2		\$ 1,261
2	Construction Administration and Management Services	0	206	0	33	35	274	\$ 37,650
2.1	On-Site Representative		86		11			\$ 14,350
2.2	Meetings		43			22		\$ 8,189
2.2.2	Four (4) Additional Meetings		12			2		\$ 1,983
2.3	Manage Construction		11					\$ 1,684
2.4	Coordinate Work		43		11	11		\$ 8,573
2.5	Maintain Records		11		11	0		\$ 2,871
3	Construction Inspection Services	0	109	1,720	0	0	1,829	\$ 101,117
3.1	Full-Time On-Site Technical Observation		43	1,570				\$ 83,652
3.3	Maintain Daily Progress Logs			110				\$ 5,400
3.6	Attend Progress Meetings		66	40				\$ 12,065
4	Pay Applications	0	47	0	4	8	59	\$ 8,210
4.1	Progress Pay Applications		43			4		\$ 6,874
4.2	Final Progress Payment		4		4	4		\$ 1,336
5	Document Control		43	0	16	22	81	\$ 9,917
6	Change Orders	0	33	0	33	33	99	\$ 11,026
6.1	Prepare and Issue RFP's		11		11	11		\$ 3,675
6.2	RFP Evaluation		11		11	11		\$ 3,675
6.3	Prepare Change Orders		11		11	11		\$ 3,675
7	Testing Laboratory and Results		78	0	78	0	156	\$ 20,360

8	Project Completion and Close-Out	0	28	0	16	6	50	\$ 6,452
8.1	Walk Through		8					\$ 1,224
8.2	Compile Operation and Maintenance Documents		8		4	2		\$ 1,802
8.3	Conduct Close-Out Meeting		4		4			\$ 1,044
8.4	Prepare Final Payment Application		8		8	4		\$ 2,381
9	Warranty Period	0	22	16	0	4	42	\$ 4,445
9.1	Coordinate One Year Walk-Through		8					\$ 1,224
9.2	Provide Staff for Warranty Inspections		2	8				\$ 699
9.3	List of Non Conforming Work		2					\$ 306
9.4	Oversee Repairs		2	8				\$ 699
9.5	Submit Final Warranty Repairs Report		8			4		\$ 1,517
Task Total		0	586	1,752	180	111	2,629	\$ 202,898

	Hourly Rate
PERSONNEL	
Principal	\$ 220.50
Project Manager	\$ 153.05
Construction Manager	\$ 153.05
Inspector	\$ 49.09
Assistant Engineer	\$ 107.97
Administrative	\$ 73.10
EXPENSES	
Mileage	\$ 9,288.00
Tolls	\$ 1,548.00
	\$ 10,836.00 Total Expenses

Stephen L. Byington, P.E.

Construction Manager

Years of Experience

KA: 3
Other Firms: 8

Education

BS Civil Engineering, Boise
State University, 2001

Registration

Professional Engineer in Texas,
#108056

Professional Engineer in Idaho,
#12742

Certified Floodplain Manager
(CFM), 2008

Responsibility

Mr. Byington will serve as the Construction Manager for the project.

Professional Experience

Mr. Byington has 11 years of consulting experience with a background in construction and construction surveying. He has played a leading role in design and construction phase services for a broad range of infrastructure projects. He has served as Project Manager for all phases of design and construction, as well as development review. His skill set includes a broad range of varying infrastructure-related experience including excellent team building, the ability to multi-task, coordinate and mentor staff with natural problem solving skills.

Project Experience

WA/WB Taxiway Rehabilitation, Houston Airport System, Houston, Texas

- Served as Project Manager for construction phase services on a taxiway reconstruction project on the 15L/33R west side airfield complex.
- The scope of the project included infield drainage improvements and grading, pavement reconstruction, electrical systems and a new electrical vault building.
- The construction phase of this \$42 Million project included eight phases and spans almost two years.
- Specific tasks successfully accomplished include RFI responses, submittals, phasing adjustments, WCD's, resolving tenant concerns, providing AEROTurn evaluations to improve tenant access, provided exhibits and temporary striping exhibits for operations, and negotiated pavement curing challenges related to anomalous environmental conditions.
- Construction was substantially completed in May 2012.

White Creek Channel Improvements, Texas A&M University, College Station, Texas

- Served as Project Engineer for the construction Phase of an erosion and velocity control project on A&M campus.
- Construction phase accomplishments included USACE permit compliance, rigorous SWPPP implementation and challenging construction access.

- The project was completed in 2010.

TDRA Sewer Improvements, City of Mont Belvieu, Texas

- Served as Project Manager for design and construction phases of a sanitary sewer project that included the installation of 11,000 feet of sewer at depths up to 23 feet and the abandonment of 7 lift stations.
- The project included pavement reconstruction, waterline and other utility adjustments.
- The project included construction on state, local streets and residential streets.
- Project complete summer 2012.

Magnolia Road Expansion: Phase 3 Magnolia Road, Pearland, Texas

- As construction Phase Project Manager, he provided construction support services for this \$9 million dollar road and drainage reconstruction project. This project was complete in summer 2010.

Fairmont Park East Street and Drainage, La Porte, Texas

- Evaluated drainage, preliminary design and prepared Preliminary Engineering Report for this subdivision.
- Designed and prepared construction plans, specifications and estimate for this street and drainage project.
- Provided construction phase services during construction.
- This project was completed in 2010.

Brookglen Detention Ponds, City of La Porte, Texas

- Served as Project Engineer on a storm sewer improvement project for a mature residential subdivision that is experiencing flooding.
- Work includes multiple detention ponds, and storm sewer construction and channel outfall improvements. The project also included waterline and other utility adjustments. Project was completed in spring, 2012.

Sheet Flow Relief Structures, City of La Porte, Texas

- Served as Project Engineer on a project involving the retrofitting of extreme event storm drainage structures within an existing residential subdivision that is experiencing flooding.
- The project included waterline and other utility adjustments.
- Construction challenges included work in residential side lot easements. Project completed spring, 2012.

RANDOLPH JAMES AMARO

2313 Mars Drive
Rosharon, TX 77583
jackyamaro@hotmail.com
832.794.0054

EXECUTIVE SUMMARY

With over 30 years experience, I specialize in construction inspection, project estimation and safety compliance.

PROFESSIONAL EXPERIENCE

HARRIS COUNTY ENGINEERING DEPARTMENT – ROAD & BRIDGE, Houston, TX

Chief Inspector, 2007 – 2009

Inspector, 1987 - 2007

- Attended pre-construction meetings of county projects
- Inspected contractor's work according to county specifications
- Performed monthly estimates for the county for all work performed by the contractors and filled out daily reports showing measurements and quantities performed each day with attached drawings to illustrate
- Inspected construction of all types of Harris County projects, included, but not limited to, construction of roads and concrete bridges, installation of underground utilities, roadway excavations, sub-grade stabilization and grading, the placement of forms, re-bar and concrete
- Scheduled all lab testing required
- Ensured that the contractor was in compliance with the installation and maintenance of SWPPP
- Responsible for completing noncompliance reports when required
- Reviewed and made recommendations for change orders as needed for all contracts
- Kept miscellaneous records and prepared reports as needed

GILCO PAVING, Houston, TX

General Superintendent, 1981 - 1986

- Performed duties as superintendent over concrete road projects and installation of underground utilities
- Scheduled projects over each assignment
- Supervised the actual physical construction of the project in strict accordance with the contract plans and drawings
- Verified the safety compliance of all contractors on projects from start to finish
- Directed and coordinated with all supervisors when required to ensure the production of quality work that met with the approved contract

EDUCATION

TEXAS STATE TECHNICAL INSTITUTE, Waco, TX

Associate of Applied Science

Civil Engineering Technology

August 1971 – August 1973

JOHN FOSTER DULLES HIGH SCHOOL, Sugar Land, TX

High School Diploma, May 1969

Activities: FFA, *Member*, 1966 – 1967, Building Trades, *Member*, 1968 – 1969

REFERENCES

Available upon request

EXHIBIT A



CONSTRUCTION MANAGEMENT
SCOPE OF SERVICES

FOR

BUSINESS CENTER DRIVE

BASIC SERVICES: Construction Manager(s) shall render the following professional services to the OWNER in connection with the construction of the Project.

1. Pre-Construction (on specific projects, as requested by the City/Owner)

- 1.1. Provide **minor** constructability review of plans, specifications, contract documents and validity of Engineer of Record's project duration. Identify construction issues, conflicts, deficiencies, review the adequacy and accuracy of the design and independent verification of quantities.
- 1.2. Attend Pre-Bid Meeting; provide feedback to City's Project Manager as necessary, such as: tracking and recording questions for the Engineer's written response, clarifying the Owner's expectations for the project and the project execution.
- 1.3. Chair Pre-Construction Meeting
 - 1.3.1. Schedule and conduct the pre-construction meeting; record and disseminate minutes from pre-construction meeting.
 - 1.3.2. Utilize the City's Pro-Trak system: set communications protocol and contract administration procedures, establish progress meeting schedule and submittal schedule.
 - 1.3.3. Provide agenda for meeting: Key milestone dates, pay application procedures, schedule, public notification issues and procedures, utility coordination issues, traffic control, permitting, property owner notification and coordination, temporary facilities, contractor's use of City's Pro-Trak system, etc.

2. Construction Administration and Management Services

- 2.1. Act as the City's on-site representative administering the contract for construction and providing overall project oversight, maintain record of decisions and changes made.
- 2.2. Meetings: Schedule and conduct construction progress meetings; record minutes from construction progress meetings and distribute via Pro-Trak to: City Project Manager, Design Engineer and contractor throughout the duration of the project.
 - 2.2.1. Schedule meetings every two weeks, to review the following: work progress and schedule, outstanding issues, status of submittals and responses shop drawings unforeseen issues and changes to the work.
 - 2.2.2. Coordinate **four (4)** additional meetings as necessary to discuss and resolve problems and provide guidance in a timely manner.
 - 2.2.3. Coordinate/monitor the following: utility relocation activities for compliance, utility installation verification, reporting, record management and as-built drawings.
 - 2.2.4. Attend all utility coordination, construction, and scheduling meetings.
 - 2.2.5. Obtain copy of ROW permit and prints from Public Works in order to monitor progress of utility relocation per permit/plan.
- 2.3. Manage Construction
 - 2.3.1. All final documentation is required in electronic/digital format, utilizing Pro-Trak as is feasible.
 - 2.3.2. As field problems arise, notify the Design Engineer and City Project Manager of proposed solutions to resolve problems.
 - 2.3.3. Review and update as-built documents regularly with contractor.

- 2.3.4. Monitor and ensure adherence to approved project baseline schedule. Review contractor's schedule monthly, ensure compliance with City's intended schedule, and provide recommendations as needed to retain and regain schedule if needed.
 - 2.3.5. Recommend alternate project sequencing/scheduling to keep project on schedule.
 - 2.3.6. Prepare monthly summary report of construction activities with outstanding issues outlined for review. Monthly progress information associated with the project will be submitted to the Project Manager for review and approval.
 - 2.3.7. Record weather conditions on jobsite daily.
- 2.4. Coordinate work of contractor with external agencies and utility companies. Coordinate contractor's operations with regard to other City contracts and construction as well as with property owners for planned service outages, street closures, and access control issues to properties including notifications.
- 2.4.1. Verify construction conformance and compliance with TCEQ, NOI and NOT.
 - 2.4.2. Verify construction conformance with permitted activities such as: City of Pearland permits, U.S. Army Corps of Engineers permits, TxDOT roadway permits, and any Railroad agreements.
- 2.5. Maintain records of all decisions, actions and activities with regard to construction operations via the City's Pro-Trak system(i.e. Change Orders, RFIs and responses, Submittals and responses, Request for Proposals, correspondence, SWPPP inspections.)

3. Construction Inspection Services

3.1. Provide full-time on-site technical observation of Contractor's activities to verify and ensure all work materials, structures, equipment and workmanship comply with the Contract Documents including Addenda, and Change Orders. Verify and ensure that Contractor maintains good construction practices and professional standards prevailing in the local City, County, and State of Texas. Utilize City's Pro-Trak system for all inspection reports.

3.1.1. Notify the City Project Manager if Contractor's work is not in compliance with the Contract Documents or specifications. Notify the City Project Manager and Design Engineer of any failure of the Contractor to take measures to repair and bring work in compliance.

3.1.2. Issue Advisory Notices to Contractor for work that is not in compliance with approved construction documents.

3.1.3. Issue Non-Compliance Reports to Contractor if non-conforming work is not brought into compliance or if plan of action to bring work into compliance is not conducted in timely manner.

3.1.4. Inspect and observe the materials and equipment being incorporated into the work to assure that they are handled, stored and installed in accordance with the Contract Documents and specifications. Report to the City Project Manager regarding these activities.

3.2. Identify record and notify Design Engineer of any problems or failures to meet performance requirements in a timely manner to minimize delay in the progress of the project, make recommendation(s) for appropriate solution to the City Project Manager and Design Engineer.

- 3.3. Prepare and maintain daily progress log or daily construction reports, photographs, records and track quantities installed that day utilizing the City's Pro-Trak system.
- 3.4. Ensure contractor reviews and approves daily reports and quantities.
- 3.5. Verify contractor has obtained necessary permits and is maintaining any Traffic Control, public notification and Storm Water Pollution Prevention Plans, facilities, equipment or arrangements in accordance with contract documents.
- 3.6. Attend and participate in progress meetings.
- 3.7. Create contacts for your record for: names, addresses, telephone numbers and email of all contractors, subcontractors, sub consultants and major suppliers of material and equipment; store in City's Pro-Trak system.
- 3.8. Immediately notify the City Project Manager and Design Engineer in the event of an on-site accident. Record and note conditions, activities and witnesses to the event.
- 3.9. Maintain Resolution Log and respond to citizen complaints in Pro-Trak system.
- 3.10. Consult with City Project Manager and Design Engineer in advance of scheduled major work operations, tests, inspections or start of important phases of project.

4. Pay Applications

- 4.1. Pay applications will be generated by the City's Pro-Trak system based on quantities approved in the daily reports.. Review and verify quantities provided by contractor for all work in compliance with contract documents.
 - 4.1.1. Review work conducted daily on daily inspection reports and material installed measurements submitted by contractor; verify work conducted and

bid item quantities via Pro-Trak; meet monthly to review pay estimate and quantities with contractor

- 4.1.2. Review progress pay application with Design Engineer for approval or revision prior to submittal to City.
- 4.1.3. Finalize pay application with signatures from Contractor, Engineer and Construction Manager certifying quantities and amounts via Pro-Trak.
- 4.1.4. Notify City Project Manager when all electronic signatures are completed in the Pro-Trak system for invoice processing.
- 4.1.5. Track and record requests for rain or other delays with potential to add to Contract Time in Daily Reports in Pro-Trak.
- 4.1.6. Provide an independent quantity forecast bid items to identify potential quantity over-runs as part of pay estimate review.

4.2. Upon completion of the work, prepare a final progress payment including a balancing change order zeroing out all unused quantities utilizing Pro-Trak. Identify and add additional quantities and make any approved changes to the Contract Time.

- 4.2.1. Review and coordinate with Design Engineer to provide Engineer's recommendation for Substantial Completion or Final Acceptance. (See Close-out Section)

5. Document Control

5.1. Utilize the City's Pro-Trak system to: receive, route, track and log all Contractor communications, Submittals, Change Orders, RFIs, Pay Applications and Citizen Complaint/Resolution Log; communicate with Contractor the status of submittal reviews; review submittal and RFI log in Pro-Trak to ensure timely responses; notify City Project Manager, Contractor and Design Engineer of time critical issues.

5.1.1. Respond to RFIs when such response does not require the Engineer's opinion or expertise or direction from City.

5.1.2. Assemble and maintain notes, comments, sketches and supportive data relative to the Project to facilitate the revision of drawings to conform to the final as-built conditions. Review Contractor's record keeping periodically to ensure completeness, timeliness and progress.

6. Change Orders

6.1. Prepare and issue request for proposals in a timely manner via Pro-Trak. Review RFP and contractor proposal for additional work with City Project Manager and Design Engineer for approval. Ensure the status of RFP and Responses from Contractor, City and Design Engineer are logged and tracked in the Pro-Trak system.

6.2. Provide recommendation on technical matters as an advocate for the City. Evaluate Contractor's response/proposal for merit, cost, time, accuracy and price practicality. Negotiate with Contractor on City's behalf if required.

6.3. Prepare Change Order and documentation including signatures of Contractor, Engineer and Construction Manager for delivery to City.

7. Testing Laboratory and Results

- 7.1. Coordinate testing laboratory activities with Contractor's activities. Review test reports for compliance with Contract Documents. Log, track and retain test reports in Pro-Trak. Review results with Contractor. Monitor any corrective action and re-testing for compliance. Maintain compliance with City's specifications
 - 7.1.1. Review lab test reports and log any failures.
 - 7.1.2. Review Invoicing from Laboratory to daily activities.

8. Project Completion and Close out

- 8.1. A. Provide list of deliverables for substantial completion walk through/inspection. Schedule and conduct **one (1)** project walk through upon receipt of Contractor's notification of substantial completion. Include City Project Manager, Design Engineer and others as directed. Prepare a list of non-conforming work based on visual inspections via Pro-Trak. Record and monitor contractor's corrective efforts and schedule. Schedule final completion inspection for any remaining corrections.
- B. Coordinate and obtain Design Engineer's signature and seal on Substantial Completion certificate and Final Completion and Acceptance certificate via Pro-Trak.
- 8.2. Review and **coordinate the acceptance of** any Operation and Maintenance documents required from the Contractor – forward to Engineer for review **and City for use upon Engineer's approval**. Ensure Contractor's closeout documents are uploaded to Pro-Trak. Review for completeness and accuracy, including; affidavits of final payment, final pay estimates, as built records, redlines and drawings. Once received, notify the Design Engineer and City Project Manager when completed.

- 8.2.1. Upon completion of close out items, provide recommendation for City's Substantial Completion/Final Acceptance certificate.
- 8.2.2. Provide indexed project files, redline plans and as-built or record drawings to City via Pro-Trak.
- 8.3. Conduct Project Close-Out Meeting.
- 8.4. Prepare and recommend final payment application. (Prepare job record logs transmittals, and correspondence reports in an organized file for delivery to City.)
- 8.5. Consult with City on any potential Warranty items requiring repair or replacement.

9. Warranty Period

- 9.1. Schedule, arrange and coordinate a One Year Walk-through of the project to review status of the work 30 days prior to expiration of the One Year Maintenance period.
- 9.2. Provide staff to conduct and participate in the warranty inspections.
- 9.3. Prepare list of non conforming work for presentation to the City Project Manager, Design Engineer and Contractor via Pro-Trak.
- 9.4. Oversee repairs for non conforming work with Contractor.
- 9.5. Submit final report on completed warranty repairs via Pro-Trak.

New Business Item No. 6

6. **CONSIDERATION AND POSSIBLE ACTION – REGARDING MATTERS SUBJECT TO THE ATTORNEY-CLIENT PRIVILEGE.** *City Council.*

New Business Item No. 7

7. **CONSIDERATION AND POSSIBLE ACTION – REGARDING PENDING LITIGATION ASSOCIATED WITH NATURAL GAS RATES.** *City Council.*