

**NOTICE OF SPECIAL CITY COUNCIL MEETING - WORKSHOP
CITY OF TOMBALL, TEXAS**



**Monday, November 04, 2024
5:00 PM**

Notice is hereby given of a Special Workshop of the Tomball City Council, to be held on Monday, November 04, 2024 at 5:00 PM, City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

The public toll-free dial-in numbers to participate in the telephonic meeting are any one of the following (dial by your location): +1 312 626 6799 US (Chicago); +1 646 876 9923 US (New York); +1 301 715 8592 US; +1 346 248 7799 US (Houston); +1 408 638 0968 US (San Jose); +1 669 900 6833 US (San Jose); or +1 253 215 8782 US (Tahoma) - Meeting ID: 839 7157 0624 Passcode: 740936. The public will be permitted to offer public comments telephonically, as provided by the agenda and as permitted by the presiding officer during the meeting.

- A. Call to Order
- B. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*
- C. General Discussion
 - 1. Presentation and discussion regarding the Draft Tree Protection Ordinance.
 - 2. Presentation and discussion regarding hours of operation at commercial establishments.
 - 3. Discuss a proposed Council ethics policy.
 - 4. Discuss amendments to Council reimbursement policy.
- D. Proposed November 18, 2024, Agenda Items

1. Notice of intent to Annex and set date of Public Hearing - 15920 FM 2920
2. Zoning Case Z24-18: Request by John and Tracy Randall, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 36.408 acres of land legally described as being three tracts of land situated in the Jesse Pruett Survey, Abstract No. 629 from Single-Family Estate Residential (SF-20-E) to the Light Industrial (LI) zoning district. The property is located at 21725 Hufsmith-Kohrville Road, within the City of Tomball, Harris County, Texas.
3. Authorize the City Manager to Execute an amendment to the Interlocal Agreement between the City of Tomball and Harris County Emergency Services District No. 15 (ESD15) for Fire Protection, Fire Suppression, and Rescue Services.
4. Approve a contract with B & C Constructors, LP for general contractor services through a 1GPA Contract (Contract No. 24-06DP-01) for a not-to-exceed amount of \$445,000, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the Fiscal Year 2024-2025 Budget.
5. Approve a contract with B & C Constructors, LP to complete the construction a building for the pool area at Jerry Matheson Park, through a BuyBoard Contract (Contract No. 728-24) for a not-to-exceed amount of \$150,320, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the Fiscal Year 2024-2025 Budget and Capital Improvement Plan.
6. Approve a purchase with Water & Play Expressions, Inc. for the purchase and installation of a shade structure for the splashpad at Jerry Matheson Park, through a BuyBoard Contract (Contract No. 679-22) for a not-to-exceed amount of \$159,598.24, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the Fiscal Year 2024-2025 Budget and Capital Improvement Plan and is being reimbursed by a grant from CenterPoint Energy Foundation.
7. Approve a Service Agreement with Every-Bellies Catering, LLC for alcohol beverage services for City of Tomball festivals (RFP 2024-14) and authorize the City Manager to execute any and all documents related to the purchases.
8. Consideration to award a Contract for Bid Number 2024-11R for the construction of the Baker Drive Water Plant, Project Number 2024-10019. The expenditure was included in the Fiscal Year 2024-2025 Budget as part of the 2025-2029 Capital Improvement Plan.

9. Consideration to award a Contract for Bid Number 2025-01 for the construction of sanitary sewer line extension along Rudolph Road, Project Number 2025-10009. The expenditure was included in the Fiscal Year 2024-2025 Budget as part of the 2025-2029 Capital Improvement Plan.
10. Consideration to award a Professional Services Agreement with Oller Engineering, Inc for the design of water line replacement along Oak Street and Clayton Street, Project Number 2025-10003. The expenditure was included in the Fiscal Year 2024-2025 Budget as part of the 2025-2029 Capital Improvement Plan.
- E. Discuss Future Workshop Topics
- F. Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 1st day of November 2024 by 5:00 PM, and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Tracylynn Garcia

Tracylynn Garcia, TRMC, MMC, CPM
City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodation or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (281) 290-1019 for further information.

City Council Meeting Agenda Item Data Sheet

Meeting Date: November 4, 2024

Topic:

Presentation and discussion regarding the Draft Tree Protection Ordinance.

Background:

Origination: Community Development Department

Recommendation:

Party(ies) responsible for placing this item on agenda: Craig T. Meyers, P.E.

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed Sasha Luna
Staff Member _____ Date _____

Approved by _____
City Manager _____ Date _____

Section 18-339.-Purpose.

The purpose of this section is to preserve, protect, and enhance existing trees and mitigate the effects of tree removal within the City of Tomball. Trees, particularly native species, add natural beauty and distinct local character, add shade, promote water conservation, provide locations for habitat, and increase property values. The provisions of this section are intended to support the long-term viability of healthy trees and promote natural ecological, environmental, and aesthetic quality in the community.

Section 18-340.-Applicability.

The provisions of this section shall apply to all property within the city limits.

Section 18-341.-Exemptions.

Exemptions from the requirements of this section are as follows:

- (a) Trees that a degreed Urban Forester, registered Landscape Architect, or degreed Certified Arborist has determined and documented are dead, diseased, in severe decline, or deemed a safety hazard.
- (b) Trees within proposed public streets, utility easements, and required fire lanes.
- (c) Or as otherwise exempt under applicable law, including Section 212.905 of the Texas Local Government Code.

Section 18-342.-Appeals.

The City Council shall consider appeals if it determines that compliance with this section creates an undue hardship for the applicant. An applicant may submit an alternative plan or request relief from compliance as part of an appeal application.

Section 18-343.-Definitions.

Caliper inch. The diameter of the trunk of a tree as measured at twelve (12) inches above grade. This measurement method is used for replacement trees.

Diameter inch (diameter breast-height). The diameter of the trunk measured four-and-one-half feet (54 inches) above grade. This measurement method is used for mature trees during a tree survey.

Clear-cutting. The indiscriminate cutting, plowing, or grubbing of trees without regard to type or size for the purpose of clearing the land.

Critically alter. The uprooting, removing the canopy or severing the main trunk of a tree, or causing damage which may cause a tree to die. This includes but is not limited to the

removal of a tree from a property, damage inflicted upon a tree by machinery, storage of materials or the compaction of soil above the root system of a tree, a change in the natural grade above the root system of a tree, or excessive pruning.

Critical Root Zone. An area of root zone to be protected to ensure the viability of trees to be preserved during construction. The area is defined at a ratio of 1-inch trunk diameter = 1-foot of critical root zone radius.

Mitigation. The method by which trees are replaced is either through replanting on the subject property, planting or transplanting to another location or same property, or through payment of fees-in-lieu of replanting approved by the City.

Parcel of land. Land in the City of Tomball which has been platted or not platted.

Protective fencing. Chain link, silt fence, or other fencing used to protect preserved trees during construction activities.

Protected tree. Any tree species listed in the City of Tomball Tree List (Table 18-344.1) that measures 18 diameter inches or larger. Species not listed in Table 18-344.1 do not require protection or replacement.

Tree, dead (or declining). A tree that is dead or in severe decline with substantial structural defects, no remedial options available, and no chance of recovery, as determined and documented by a degreed Urban Forester, degreed Certified Arborist, or registered Landscape Architect.

Tree, replacement. Trees planted to mitigate the loss of trees during development.

Tree fund. A City-administered fund established for collection of fees-in-lieu or replacement trees paid as mitigation and may include other contributions made in support of tree protection efforts.

Tree Survey. A plan or drawing to scale that identifies the exact size, location, condition (healthy, dead, or declining), and species of protected trees and the disposition of each protected tree during development. The plan shall indicate whether each protected tree is to be preserved or removed. The plan shall indicate the location and types of treatments to be utilized to protect trees during development such as fencing, mulching, root pruning, and other measures.

Section 18-344.-Protected tree species.

The requirements for tree replacement and mitigation as outlined in this section apply only to the trees listed in the City of Tomball Tree List (Table 18-344.1).

Table 18-344.1

City of Tomball Tree List	
American Elm	London Plane Tree
American Holly	Overcup Oak
American Sycamore	Pecan
Aristocrat Pear	Pin Oak
American Sweetgum	Possumhaw Holly
Arizona Cypress	Redbud
Bald Cypress	Red Maple
Boxelder	River Birch
Bradford Pear	Sawtooth Oak
Bur Oak	Shumard Oak
Caddo Sugar Maple	Slippery Elm
Cedar	Southern Magnolia
Cedar Elm	Sugar Maple
Chinquapin Oak	Sweet Gum
Cleveland Pear	Sycamore
Dawn Redwood	Texas Red Oak
Eastern Red Cedar	Tulip Tree
Green Ash	Tulip Tree Liriodendron
Lacebark Elm	Water Oak
Laurel Oak	White Ash
Leyland Cypress	Willow Oak
Live Oak	

Section 18-345.-Tree removal permit.

- (a) Tree removal permit required. A tree removal permit is required for the removal of any protected tree within the City of Tomball. Trees on existing single-family and two-family residential properties are exempt from this requirement.
- (b) Tree Removal Permit Application. A tree removal permit application and any associated permit application fees established by the City shall be submitted to the Community Development Department in conformance with the requirements of this section.
- (c) Approval. The City Manager or his/her designee shall have the authority to issue a Tree Removal Permit if it complies with all the requirements of this Code
- (d) Expiration. A Tree Removal Permit shall expire two years after its issuance.

Section 18-346.-Tree survey.

(a) Tree survey required.

A tree survey shall be submitted prior to the removal of any protected trees. The tree survey shall be performed and certified by a degreed Urban Forester, degreed Certified Arborist, or registered Landscape Architect. The submitted tree survey shall include the exact size, location, condition (healthy, dead, or declining), and species of each tree that measures 18 caliper inches or larger and is listed on the City of Tomball Tree List (Table 18-344.1). It is recommended that the tree survey includes trees that measure eight (8) caliper inches or larger to retain eligibility for preserved tree credits according to Section 18-349. – Tree Preservation Incentives and Chapter 50.

(b) Tree survey requirements.

The tree survey shall be submitted on a scaled drawing of the property which includes the following information:

- (1) A vicinity map locating the property within the community;
- (2) The boundaries of the property and its calculated area;
- (3) The location of all existing streets, drainage and utility easements that are on or adjacent to the property;
- (4) The location of any required buffer zones;
- (5) Include all protected trees 18-inch diameter or larger and all trees 8-inch diameter or larger that will be preserved for tree credits. Each protected tree that is individually located by the survey will need to be flagged with blue plastic flagging. The tree survey submittals must include a table cross referenced to the diagram with the identification number, species, and diameter; and
- (6) Location of tree protection fencing installed at the edge of the Critical Root Zone as defined by a ratio of one (1) inch trunk diameter to one (1) foot of radius.

(c) Alternatives to a tree survey.

- (1) No Protected Trees on Site. In lieu of a tree survey, the applicant may submit an affidavit from a degreed Urban Forester, degreed Certified Arborist, or registered Landscape Architect certifying that there are no protected trees on the property or all protected trees on the property are entirely dead or in severe decline. The affidavit shall be approved by the City Manager or his/her designee to be accepted as an alternative to the required tree survey.

- (2) Preservation areas. In lieu of a tree survey, the applicant may submit a landscape plan together with the plat submittal or a tree removal permit depicting no-disturbance preservation areas that include substantial existing tree canopy coverage that will not be disturbed or critically altered during grading or construction, with the following conditions:
- (a) The no-disturbance preservation areas shall constitute a minimum of 20% of the parcel area.
 - (b) To confirm the existence of substantial existing tree canopy coverage in the designated areas, the submittal shall include aerial photographs and on-site photos.
 - (c) Trees within the designated areas do not need to be identified as a protected tree species.

Section 18-347.-Buffer zones.

For plats submitted after the effective date of this provision that are adjacent to existing properties zoned for residential uses that are not part of the new subdivision, a buffer zone is required in the new subdivision along the common boundary between the new subdivision and the existing residential zone. The buffer zone shall be established as a platted reserve restricted exclusively for trees and landscaping, being a strip not less than 18 feet deep running parallel and adjacent to the common boundary and not less than 15 feet deep behind the back line of any easement or series of abutting parallel easements along the common boundary. Outside of any existing or proposed easement within the buffer zone, all trees and underbrush within this buffer zone, if they exist, are subject to mandatory preservation.

Exemptions from the buffer zone requirements include:

- (a) Subdivisions that are less than five acres in size; and
- (b) Replats of existing subdivisions where the boundary between the subdivision being replatted and the existing residential zone is unchanged and where additional lots are not being created along the boundary.

Section 18-348.-Tree Replacement Standards

- (a) Mitigation of Removed Trees. Protected trees meeting the minimum size and species requirements shall be replaced at a rate of 1 inch caliper of new trees for every 1-inch diameter of protected trees removed. The total number of caliper inches required to be mitigated shall not exceed 100 caliper inches per acre.
- (b) Replacement Tree Size. All replacement trees required per the mitigation ratio shall be a minimum of four (4) caliper inches. Trees must be a species listed in City of Tomball Tree List (Table 18-344.1).

(c) Landscape Credit. Replacement trees that are planted on site as mitigation for removal of protected trees are eligible to be counted toward the landscaping requirements of Chapter 50.

(d) Timing of Mitigation Compliance.

(1) Replacement trees shall be planted within 90 days of issuance of tree removal permit. If the replacement trees cannot be planted within 90 days, the City Manager or his/her designee may approve a delay in replacement of up to six months after the date of tree removal permit issuance.

(2) If an applicant cannot replace the mitigation trees required or gain approval to plant on an alternate site, a fee-in-lieu payment into the tree fund shall be required before the tree removal permit can be issued.

Section 18-349.-Tree Preservation Incentives

(a) Preserved Tree Credits. Trees listed in the City of Tomball Tree List (Table 18-344.1) that are preserved onsite and measure eight (8) diameter inches or greater may be credited toward the replacement trees required for mitigation or toward the landscape requirements in Chapter 50.

(b) Preserved tree credits will be granted according to the standards set out in Table 18-349.1.

Table 18-349.1

Preserved Tree Size (in diameter inches)	Credits Toward Replacement Tree Requirement (Mitigation)
8” – 11”	8 caliper inches
12” – 17”	12 caliper inches

(c) Code Conflicts. In certain cases, the preservation of protected trees may be desirable enough to take priority over full compliance of certain conflicting subdivision and zoning regulations, including, but not limited to, setbacks, lot design standards, building heights, sidewalks, lighting, signage, parking spaces, parking lot design, and driveway separation. When a conflict exists between the preservation of a protected tree and the provisions of subdivision or zoning ordinances, the applicant may request an alternative standard or design. The applicant’s request may be considered and approved by the City Manager or his/her designee, provided that a reasonable application of public health and safety standards are maintained with the proposed design.

Section 18-350.-Alternative Mitigation Methods

(a) Fee-in-Lieu payment. If replacement tree plantings cannot be fully accommodated on site with adequate space and conditions for long-term health, then an alternative fee-in-lieu payment to the Tree Mitigation Fund, which is hereby established, may be considered. If

the applicant can demonstrate every effort has been made to plant the required replacement trees on site, the City Manager or his/her designee may consider a fee-in-lieu payment for the remaining balance of replacement tree value. Payments to the fund will be on a per caliper inch basis at a rate established in the City's Master Fee Schedule. Replacement trees and fee-in-lieu payments may be combined to satisfy the requirement.

- (b) Off-site mitigation. If replacement tree plantings cannot be fully accommodated on site, then replacement trees may be proposed to be planted in a location mutually agreed upon by the City Manager or his/her designee and the applicant, including parks and other public places such as streets, medians, and other common open spaces.

Section 18-351.-Tree Mitigation and Enforcement Funds

- (a) The City Manager or his/her designee shall establish a dedicated account to be known as the Tree Mitigation Fund.
- (1) Mitigation fees paid as provided by Section 18-350 – Alternative Mitigation Methods of this article shall be recorded for the benefit of the fund and accounted for in a manner that distinguishes such funds from other general funds of the city. The balance of such fund remaining at the end of each fiscal year shall be appropriated as the beginning balance of the fund for the following fiscal year. The assets of the fund may be used as provided by this section, and for no other purpose.
 - (2) The assets of the fund shall be expended to purchase and plant new trees in public parks, parkways, medians and rights-of-way of public streets and upon the grounds of other public property of the city. Planting costs payable from the fund include the installation of related irrigation equipment and other measures necessary to protect and subsequent maintenance following planting. An amount not to exceed 20 percent of the fund balance at the beginning of each fiscal year may be expended to promote public awareness of the objectives of this article, including Earth Day, or Arbor Day programs for the distribution of sapling trees to the general public.
 - (3) The City Manager or his/her designee shall establish a dedicated account to be known as the Tree Enforcement Fund.
 - (a) Penalties for violations paid shall be recorded for the benefit of the fund and accounted for in a manner that distinguishes such funds from other general funds of the City. The balance of such fund remaining at the end of each fiscal year shall be appropriated as the beginning balance of the fund for the following fiscal year. The assets of the fund may be used as provided by this section, and for no other purpose.
 - (b) The assets of the fund can be expended to hire or contract with an Urban Forester, Arborist, or Landscape Architect to help with enforcement, inspections and reviews as well as to promote public awareness of the

objectives of this article and may be used for necessary expenses, equipment, or contractual obligations related to the enforcement of this article.

City Council Meeting Agenda Item Data Sheet

Meeting Date: November 4, 2024

Topic:

Presentation and discussion regarding hours of operation at commercial establishments.

Background:

Origination: Community Development Department

Recommendation:

Party(ies) responsible for placing this item on agenda: Craig T. Meyers, P.E.

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed Sasha Luna
Staff Member _____ Date _____

Approved by _____
City Manager _____ Date _____

ARTICLE III. NUISANCES¹

Sec. 18-163. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Nuisance means any unlawful act, or omitting to perform a duty, or the suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others;
- (2) Offends decency;
- (3) Is offensive to the senses;
- (4) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(Code 1978, § 15-1; Code 1993, § 30-156)

Sec. 18-164. Illustrative enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (1) Noxious weeds and other rank vegetation.
- (2) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- (3) Any condition which provides harborage for rats, mice, snakes and other vermin.
- (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
- (5) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
- (6) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.

¹State law reference(s)—Authority to define, prohibit, V.T.C.A., Local Government Code § 217.042.

- (7) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (8) The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- (9) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- (10) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (11) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

(Code 1978, § 15-2; Code 1993, § 30-157)

Sec. 18-165. Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

(Code 1978, § 15-3; Code 1993, § 30-158)

Sec. 18-166. Owners required to keep lots of free of weeds, etc.; procedure for abatement.

- (a) *Rubbish, brush, stagnant water, sinks, filth, carrion, or any other unwholesome, unsightly, unsanitary, or objectionable matter.* Every owner, part owner, joint owner, or owner of any interest whatever, hereinafter referred to as the owner, in real estate which is located within a subdivision, either recorded or unrecorded, within the city; or which real estate is open acreage located within 200 feet of any residence, if same be occupied, or commercial establishment; or within 200 feet of any dedicated street right-of-way, shall keep such property free of rubbish, brush, stagnant water, sinks, filth, carrion or any other unwholesome, unsightly, unsanitary or objectionable matter.
- (b) *Weeds prohibited.* Every owner shall keep his property free from weeds, in accordance with the following regulations:
 - (1) *Weeds defined.* The term "weeds" means uncultivated vegetable growth or matter, including grasses, which has grown to a height of more than 12 inches. Cultivated crops, plants, or grasses must be farmed or managed in accordance with customary area practices. Property or parcels which have an area coverage of 50 percent or more in wildflowers or wildflower seed heads are not included within this definition until such time as seeds have matured following the final blooming of the majority of the plants, but in no case later than August 1 of the calendar year.
 - (2) *Parcels larger than four acres.* Parcels larger than four acres which have prohibited weeds present must be cut (i.e., the weeds must be controlled,) for a distance of 25 feet back from the curb, or the edge of the road surface if there is no curb.
 - (3) *Defenses to prosecution.* It shall be a defense to prosecution for violation of this subsection (b) if the owner can prove that:
 - a. Weather conditions have totally prevented cutting or controlling the weeds; or
 - b. The property or parcel has been mowed or the weeds controlled within the previous 30 days.
- (c) *Work or improvements by city; notice.* If the owner of property in the city does not comply with this section within ten days of notice of a violation, the city may do the work or make the improvements required and pay for the work done or improvements made and charge the expenses to the owner of the property. The notice of violation must be given:

- (1) Personally to the owner in writing;
 - (2) By letter addressed to the owner at the owner's post office address; or
 - (3) By publication at least twice within ten consecutive days if personal service cannot be obtained or the owner's post office address is unknown.
- (d) *Assessment of expenses; lien.* The city council may assess expenses incurred against the real estate on which the work is done or improvements made. To obtain a lien against the property, the city manager, municipal health authority, or other city official designated by the city manager must file a statement of expenses with the county clerk. The lien obtained by the city is security for the expenditures made with interest accruing at the rate of ten percent on the amount due from the date of payment by the city. The lien is inferior only to:
- (1) Tax liens; and
 - (2) Liens for street improvements.
- (e) *Foreclosure.* The city council may bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.
- (f) *Statement of expenses.* The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.
- (g) *Remedy cumulative.* The remedy provided by this section is in addition to other remedies available to the city.

(Code 1978, § 15-9; Code 1993, § 30-159; Ord. No. 92-12, § 2.0, 7-20-1992; Ord. No. 2012-03, § 1, 4-2-2012; Ord. No. 2012-13, § 1, 6-18-2012)

Sec. 18-167. Release of pollutants.

All industrial or commercial endeavors are hereby prohibited from releasing particulate matter, eye irritants, radiation, or odorous matter into the atmosphere or water. All industries are hereby prohibited from posing fire, explosion or chemical hazards, or producing toxic and/or noxious matter.

(Code 1978, § 5-11; Code 1993, § 14-11)

Sec. 18-168. Tire storage and mosquito control.

- (a) Every person in possession of land within the corporate limits of the city, either as owner, purchaser, under contract, lessee, tenant or licensee, upon which land there are situated one or more tires, shall keep such tires inside a building or other structure, which building or structure must be capable of preventing the tires from gathering water, or allowing weeds to grow around such tires. Each tire must be stored in such a manner that in the determination of the city the tires are not capable of breeding mosquitoes or other vermin.
- (b) Every person in possession of land within the corporate limits of the city, either as owner, purchaser, under contract, lessee, tenant or licensee, is hereby prohibited from having, storing or otherwise keeping any vessels or vats capable of containing or holding liquids, which vessel or vat in the sole determination of the city would be a breeding place for mosquitoes or other vermin.
- (c) Anyone who stores tires or has tires, or other vessels or vats, without having complied with the provisions of this section or who shall violate any of the provisions of this section shall be guilty of an offense. Cumulative with any other remedy available to the city, the city may proceed against such violator by injunction or other appropriate remedy to correct any violations of this section.

(Code 1978, § 13-4; Code 1993, § 42-1)

Sec. 18-169. Commercial establishments, hours of operation.

It shall be unlawful for any person to operate a commercial establishment, or otherwise be open for business, between the hours of 11:01 pm and 4:59 am. Exemptions to this provision include:

- (1) Commercial establishments with frontage along FM 2920, SH 249 Business, Tomball Parkway, Hufsmith-Kohrville Road, and Holderrieth Road.
- (2) Commercial establishments that are deemed essential for health, safety, and general welfare.
- (3) Commercial establishments that are not contiguous to a residential zoning district as defined in Section 50-82.

Secs. 18-~~17069~~—18-185. Reserved.

City Council Meeting Agenda Item Data Sheet

Meeting Date: November 4, 2024

Topic:

Discuss a proposed Council ethics policy.

Background:

Origination:

Recommendation:

n/a

Party(ies) responsible for placing this item on agenda: David Esquivel, PE

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed _____
Staff Member Date

Approved by _____
City Manager Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: November 4, 2024

Topic:

Discuss amendments to Council reimbursement policy.

Background:

Origination:

Recommendation:

n/a

Party(ies) responsible for placing this item on agenda: David Esquivel, PE

FUNDING (IF APPLICABLE)

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Signed _____
Staff Member Date

Approved by _____
City Manager Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: November 4, 2024

Topic:

Notice of intent to Annex and set date of Public Hearing - 15920 FM 2920

Background:

Origination: City Secretary Office

Recommendation:

Approve Minutes

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

FUNDING (IF APPLICABLE)

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Staff Member Date

Approved by _____
City Manager Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: November 4, 2024

Topic:

Zoning Case Z24-18: Request by John and Tracy Randall, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 36.408 acres of land legally described as being three tracts of land situated in the Jesse Pruett Survey, Abstract No. 629 from Single-Family Estate Residential (SF-20-E) to the Light Industrial (LI) zoning district. The property is located at 21725 Hufsmith-Kohrville Road, within the City of Tomball, Harris County, Texas.

Background:

Origination: John and Tracy Randall

Recommendation:

Party(ies) responsible for placing this item on agenda: Craig T. Meyers, P.E.

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

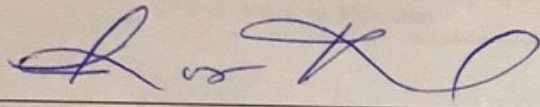
If no, funds will be transferred from account # _____ To account # _____

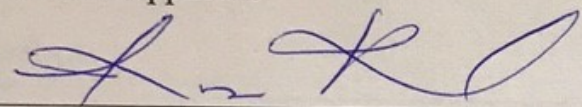
Signed Sasha Luna
Staff Member _____
Date

Approved by _____
City Manager _____
Date

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

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

X  10/11/2024
Signature of Applicant Date

X  10/11/2024
Signature of Owner Date



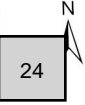
Location

Item 6.



Legend

 Z24-18



City Council Meeting Agenda Item Data Sheet

Meeting Date: November 4, 2024

Topic:

Authorize the City Manager to Execute an amendment to the Interlocal Agreement between the City of Tomball and Harris County Emergency Services District No. 15 (ESD15) for Fire Protection, Fire Suppression, and Rescue Services.

Background:

In the FY25 Budget Council approved the addition of 3 Full-Time Firefighter positions in the Fire Department. This was budgeted by splitting the associated salaries and benefits of these firefighters between ESD15 and the City of Tomball at 50% per entity. This addition requires an amendment to the contract that was approved in March between the City and ESD15.

The amendment to the interlocal agreement provides for the ESD 15s portion of the 3 firefighters approved in the FY25 City of Tomball Budget.

Origination: Fire Department

Recommendation:

Approval

Party(ies) responsible for placing this item on agenda: Joe Sykora, Fire Chief

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed Joe Sykora 10/29/2024 Approved by _____
Staff Member Date City Manager Date

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

**AMENDMENT TO INTERLOCAL AGREEMENT FOR
THE PROVISION OF FIRE PROTECTION SERVICES WITHIN THE SERVICE
AREA OF HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 15**

THIS AMENDMENT TO INTERLOCAL AGREEMENT FOR THE PROVISION OF FIRE PROTECTION SERVICES WITHIN THE SERVICE AREA OF HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 15 ("Agreement") is made and entered into this 6th day of November, 2023, but is effective as of January 1, 2024 ("Effective Date"), between the **CITY OF TOMBALL** (hereinafter referred to as "City"), and **HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 15** (hereinafter referred to as "District"), a political subdivision of the State of Texas.

WITNESSETH:

WHEREAS, the City is a political subdivision under contract with the District to provide fire protection and suppression services to protect life and property from fire and to provide emergency medical first responder and rescue services to the District’s territory;

WHEREAS, the City has the capacity to provide fire protection and suppression services to protect life and property from fire and to provide emergency medical first responder and rescue services to the District’s territory;

WHEREAS, the District desires the City’s assistance to provide fire protection and suppression services to protect life and property from fire and to provide emergency medical first responder and rescue services to the District’s territory in a cost effective and efficient manner to the District;

WHEREAS, the Parties, by action of their respective governing bodies, previously entered into the **INTERLOCAL AGREEMENT FOR THE PROVISION OF FIRE PROTECTION SERVICES WITHIN THE SERVICE AREA OF HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 15 ADMINISTRATIVE SERVICES AGREEMENT** which was effective February 24, 2023. Both parties have agreed to an amendment under Section IV of the agreement in its entirety with all other sections remaining unchanged;

NOW, THEREFORE, in good and valuable consideration of the mutual covenants and promises herein contained, the parties, each intending to be legally bound, hereby agree as follows:

4.1. The City will assign three (3) firefighters per shift for a total of nine (9) firefighters to serve at the Telge Road Fire Station and four (4) Firefighters per shift for a total of 3-5 twelve (12) firefighters per shift to serve at the Mahaffey Road Fire Station beginning January 1, 20254, for a total of 19.5 twenty-one (21) firefighters. Both the City and the District may reevaluate at any

time during the term of this contract if more firefighters are needed to be staffed at any of the two (2) Stations and if it is feasible.

[The remainder of this page is left intentionally blank. Signatures on the following page.]

IN WITNESS THEREOF, the parties hereto, intending to be legally bound hereby, have caused this Amendment to Administrative Services Agreement to be executed by their respective duly authorized representatives as of the day indicated.

CITY OF TOMBALL

HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 15

BY: _____

BY: _____

Name: David Esquivel, City Manager

Name: Terry Whistler, President

Date: _____

Date: October 25, 2023

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 4, 2024

Topic:

Approve a contract with B & C Constructors, LP for general contractor services through a IGPA Contract (Contract No. 24-06DP-01) for a not-to-exceed amount of \$445,000, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchases. These expenditures are included in the Fiscal Year 2024-2025 Budget.

Background:

B&C Constructors, LP is a general contractor company located in Magnolia, Texas. B & C Constructors operates a construction company specializing in a wide range of skills including new construction and renovation of government buildings, schools, universities, retail shops and other construction type components.

B & C was awarded a contract at the October 21, 2024 Regular City Council Meeting to complete the construction and installation of the antique train equipment and required improvements at the Depot. The company has also been identified to complete projects at Jerry Matheson Park, as well as miscellaneous projects included in the City's adopted budget. A full breakdown of the anticipated work is reflected in the table below.

Project	Estimated Amount
Fencing – Jerry Matheson Park	\$40,755
Fencing – Louies Together Playground	\$30,000
Fencing – Pickleball & Basketball Court	\$28,825
Concrete Drainage Repairs (Anna Street)	\$140,000
Office Remodels	\$45,000
Marketing Pergola	\$30,000
HVAC (Depot & City Hall)	\$80,000
Miscellaneous Projects – Facilities	\$25,000
Miscellaneous Projects – Parks	\$25,000
Total Anticipated Expenditures for FY 24-25	\$444,580

This item authorizes a contract with B & C Constructors, LP through a 1GPA Contract (Contract No. 24-06DP-01) for general contractor services for the City of Tomball.

Origination: Public Works Department

Recommendation:

Staff recommends approving a contract with B & C Constructors, LP for general contract services for a not-to-exceed amount \$445,000 for fiscal year 2024-2025.

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: #100-153-6207,
#100-157-6206,
#240-243-6329,
#400-154-6409,

If no, funds will be transferred from account # _____ To account # _____

Signed Meagan Mageo
Staff Member _____ Date _____

Approved by _____
City Manager _____ Date _____

**CITY OF TOMBALL
SERVICES AGREEMENT**

THE STATE OF TEXAS §

COUNTY OF HARRIS §

Description of Services: General Contractor Services

This Agreement is made and entered into by the **City of Tomball** (referred to as the “City”), with an office at 501 James Street, Tomball, TX and, **B & C Constructors, LP** (the “Company”), with an office at **27835 FM 2978 Road, Magnolia, Texas 77354**, City hereby engages the services of Company as an independent contract for Baseball Netting services, upon the following terms and conditions.

1. SCOPE OF AGREEMENT

- 1.1. The City hereby agrees to employ Company and Company agrees to perform the necessary services as requested by the City based on Exhibit A – Proposed Scope of Work.
- 1.2. In the event of a conflict among the terms of this Agreement, the term most favorable to the City, in the City’s sole discretion, shall control.

2. TERM OF AGREEMENT; TERMINATION

- 2.1. This Agreement shall be effective upon proper execution by the City. It shall be effective from **October 1, 2024 through September 30, 2025**. The City reserves the right to withdraw from the Agreement immediately if its governing body fails to appropriate funds necessary for the satisfaction of its contractual obligations. ***Either party may terminate this Agreement for any reason with ninety days (90) written notice to the other party.***
- 2.2. The City’s obligations under this Agreement shall not constitute a general obligation of the City or indebtedness under the constitution or laws of the State of Texas. Nothing contained herein shall ever be construed so as to require City to create a sinking fund or to assess, levy and collect any tax to fund its obligations under this Agreement.
- 2.3. The City reserves the right to enforce the performance of this Agreement in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of any provision of this Agreement, including immediate termination of this Agreement.

3. ENTIRE AGREEMENT

This Agreement represents the entire agreement between Company and the City and no prior or contemporaneous oral or written Agreements or representations shall be construed to alter its terms. No additional terms shall become part of this Agreement without the written consent of both parties and compliance with relevant state law. This Agreement supersedes all other prior agreements either oral or in writing.

4. ASSIGNMENT

Company shall not assign or subcontract its obligations under this Agreement without the prior written consent of the City.

5. COMPENSATION

For and in consideration of the services rendered by the Company pursuant to this Agreement, the City shall pay the Company only for the actual work performed in Exhibit A – Proposed Scope of Work, on the basis set forth in Attachment B, up to an amount not-to-exceed **\$445,000**.

6. MODIFICATION OF RATES

Base Rate adjustments for changes in the Consumer Price Index (CPI) will be considered by the City no more than once per year during the renewal term of the Contract, during the month of October of each Contract Year.

7. IDEMNITY

7.1. DEFINITIONS

For the purpose of this section the following definitions apply:

- a. “City” shall mean all officers, agents and employees of the City of Tomball.
- b. “Claims” shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.
- c. “Company” includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.
- d. “Company’s employees” shall mean any employees, officers, agents, subcontractors, licensees and invitees of Company.
- e. “Damages” shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:
 - i. injury or damage to any property or right
 - ii. injury, damage, or death to any person or entity
 - iii. attorneys’ fees, witness fees, expert witness fees and expenses,
 - iv. any settlement amounts; and
 - v. all other costs and expenses of litigation
- f. “Premise Defects” shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

7.2. Indemnity

COMPANY AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY FROM AND AGAINST LIABILITY FOR ANY CLAIMS FOR DAMAGES ARISING OUT OF THE COMPANY'S WORK AND ACTIVITIES CONDUCTED IN CONNECTION WITH THIS AGREEMENT.

COMPANY IS AN INDEPENDENT CONTRACTOR AND IS NOT, WITH RESPECT TO ITS ACTS OR OMISSIONS, AN AGENT OR EMPLOYEE OF THE CITY.

COMPANY MUST AT ALL TIMES EXERCISE REASONABLE PRECAUTIONS ON BEHALF OF, AND BE SOLELY RESPONSIBLE FOR, THE SAFETY OF COMPANY'S EMPLOYEES WHILE IN THE VICINITY WHERE THE WORK IS BEING DONE. THE CITY IS NOT LIABLE OR RESPONSIBLE FOR THE NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS OF COMPANY OR COMPANY'S EMPLOYEES.

THE CITY ASSUMES NO RESPONSIBILITY OR LIABILITY FOR DAMAGES WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO PREMISE DEFECTS.

THE CITY AND COMPANY MUST PROVIDE THE OTHER PROMPT AND TIMELY NOTICE OF ANY COVERED EVENT WHICH IN ANY WAY AFFECTS OR MIGHT AFFECT THE COMPANY OR CITY. THE CITY HAS THE RIGHT TO COMPROMISE AND DEFEND THE SAME TO THE EXTENT OF ITS OWN INTERESTS.

THE INDEMNITY OBLIGATIONS HEREIN SHALL SURVIVE THE TERMINATION OF THE AGREEMENT FOR ANY REASON AND SHALL SURVIVE THE COMPLETION OF THE WORK.

8. INSURANCE

8.1. AMOUNTS OF INSURANCE

Company agrees to provide and to maintain the following types and amounts of insurance, for the term of this Contract:

TYPE	AMOUNT
(a) Workers Compensation Employer's Liability	(where required – Statutory by State Law) \$100,000 per occurrence

- (b) Commercial (Public) Liability, including but not limited to:
 - a. Premises/ Operations Combined Single Limit
 - b. Independent Contractors
 - c. Personal Injury
 - d. Products/Completed Operations
 - e. Contractual Liability (insuring above indemnity provisions)

All insured at combined single limits for bodily injury and property damage at \$500,000 per occurrence.

- (c) Comprehensive Automobile Liability, in include coverage for:
 - a. Owned/Leased Automobiles

- b. Non-owned Automobiles
- c. Hired Cars

All insured at combined single limits for bodily injury and property damage for \$500,000 per occurrence.

8.2. OTHER INSURANCE REQUIREMENTS

Company understands that it is its sole responsibility to provide the required Certificates and that failure to timely comply with the requirements of this article shall be a cause for termination of this Contract.

Insurance required herein shall be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies shall be subject to examination and approval by the City Attorney's Office for their adequacy as to form, content, form of protection, and providing company.

Insurance required by this Contract for the City as additional insured shall be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

Company further agrees that with respect to the above required liability insurances, the City shall:

- a. Be named as an additional insured;
- b. Be provided with a waiver of subrogation, in favor of the City,
- c. Be provided with 30 days advance written notice of cancellation, nonrenewal, or reduction in coverage (all "endeavor to" and similar language of reservation stricken from cancellation section of certificate); and
- d. Prior to execution of this Agreement, be provided through the office of the City Attorney with their original Certificate of Insurance evidencing the above requirement.

The insurance requirements set out in this section are independent from all other obligations of Company under this Agreement and apply whether or not required by any other provision of this Agreement.

9. PAYMENT AND PERFORMANCE

Payment for services described in this Agreement will be made in accordance with the Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code, or as subsequently amended.

10. VENUE; RECOVERY OF FEES; DISPUTE RESOLUTION; CHOICE OF LAW

Any suit or claim or cause of action regarding this Agreement shall be brought in Harris County, Texas, as the choice of venue and jurisdiction and site of performance by the parties. If the City is the prevailing party in any such action, the City may recover reasonable costs, including costs of court, attorney's fees, expert witnesses' fees, and trial consultants' fees. The parties further agree that the law of the State of Texas shall govern any interpretation of the terms of this Agreement.

11. COMPANY CERTIFICATIONS

Company certifies that neither it, nor any of its agents or employees, have or will offer or accept gifts or anything of value, or enter into any business arrangement, with any employee, official, or agent of the City.

Company certifies, pursuant to Texas Government Code Chapter 2270, that it does not boycott Israel and will not boycott Israel during the term of this Agreement. Company further certifies, pursuant to Texas Government Code Chapter 2252, Subchapter F, that it does not engage in business

with Iran, Sudan, or a foreign terrorist organization as may be designated by the United States Secretary of State pursuant to his authorization in 8 U.S.C. Section 1189.

12. NO WAIVER OF IMMUNITY

The City does not waive any statutory or common law right to sovereign immunity by virtue of the execution of this Agreement.

13. NOTICES

Any written notice provided under this Agreement or required by law shall be deemed to have been given and received on the next day after such notice has been deposited by Registered or Certified Mail with sufficient postage affixed thereto and addressed to the other party to the Agreement; provided, that this shall not prevent the giving of actual notice in any manner.

Notice to Company may be sent to the following address:



14. CONTRACT ADMINISTRATOR

This Agreement shall be administered on the City's behalf by the Project Manager, and all notices, questions, or documentation, arising under this Agreement shall be addressed to the Project Manager at:

City of Tomball, Texas
Attn: Project Manager
501 James Street
Tomball, Texas 77375

AGREED to and ACCPETED this 29th day of OCTOBER, 2024.

B+C CONSTRUCTORS L.P.
Company

[Signature]
Signature

JARED COCHRAN
Print Name

PROJECT MANAGER
Title

THE STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on this 29th day of October, 2024,
by Jared Cochran, on behalf of said entity.



[Signature]
Notary Public, State of Texas

AGREED to and ACCPETED this ___ day of _____, 2024.

City of Tomball

David Esquivel, PE
City Manager

Attest:

Tracylynn Garcia
City Secretary

EXHIBIT A
PROPOSED SCOPE OF WORK

Project	Estimated Amount
Fencing – Jerry Matheson Park	\$40,755
Fencing – Louies Together Playground	\$30,000
Fencing – Pickleball & Basketball Court	\$28,825
Concrete Drainage Repairs (Anna Street)	\$140,000
Office Remodels	\$45,000
Marketing Pergola	\$30,000
HVAC (Depot & City Hall)	\$80,000
Miscellaneous Projects – Facilities	\$25,000
Miscellaneous Projects – Parks	\$25,000
Total Anticipated Expenditures for FY 24-25	\$444,580

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 4, 2024

Approve a contract with B & C Constructors, LP to complete the construction a building for the pool area at Jerry Matheson Park, through a BuyBoard Contract (Contract No. 728-24) for a not-to-exceed amount of \$150,320, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the Fiscal Year 2024-2025 Budget and Capital Improvement Plan.

Background:

The Jerry Matheson Park improvement project started in September 2020. The project included completing needed improvements and enhancement, based on survey input received from the community. The City was awarded a Texas Parks and Wildlife Non-Urban Outdoor Recreation Grant and received funding from community partners including the Tomball Economic Development Corporation, Tomball Regional Health Foundation and HCA-Tomball. The City also contributed funds to complete Phase I of the project.

Phase I of the project was completed in August 2024 and staff requested funding for Phase II in the fiscal year budget as part of the 2025-2029 Capital Improvement Plan. Funding was allocated through the American Rescue Plan Act (ARPA) funds as adopted in the fiscal year 2024-2025 budget totaling \$770,036.92. The City received a grant from the CenterPoint Energy Foundation totaling \$160,000 to cover the purchase of the splashpad shade structures. Staff has worked to develop a full cost estimate of the final elements for Phase II of the project, these elements are depicted in the table below, with the cost of the construction of the pool building to house chemicals and provide a break area for the aquatics staff (\$150,320) in bold. The total expenses to be paid from ARPA funds from project elements is \$696,572.

Element	Cost (*estimate)
Playground Shade Structure	\$95,957.00
Walking Trails & Parking Lot Resurface	\$301,152.00
Splashpad – Spray Deck	\$19,000.00
Parking Lot Addition	\$64,388.00
Pickleball Fencing	\$34,310.00
Splashpad Equipment Fencing	\$6,445.00
Chemical Building (pool area)	\$150,320.00
Parking Lot Lighting	\$15,000.00*
Gate – Splashpad/Pool Connection	\$10,000.00*
Splashpad Shade Structure**	\$159,598.24
Total Expenses	\$856,170.24
Total Expenses Paid from ARPA Funds	\$696,572.00

*denotes pricing is an estimate, staff is working on final pricing

** Grant received for purchase from CenterPoint Energy Foundation

This item authorizes a contract with B & C Constructors, LP to complete the construction of a building for the pool area at Jerry Matheson Park for a total not-to-exceed amount of \$150,320.

Origination: Project Management

Recommendation:

Staff recommends approving a contract with B & C Constructors, LP to complete the construction of a building for the pool area at Jerry Matheson Park for a not-to-exceed amount of \$150,320.

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: No:

If yes, specify Account Number: # 400-153-6409

If no, funds will be transferred from account # _____ To account # _____

Signed	<u>Meagan Mageo</u>	<u>10/21/2024</u>	Approved by	_____
	Staff Member	Date		City Manager
				Date



Preliminary Proposal

Magnolia, Texas 77354
713.932.9400 - o
713.932.9443 - f

DATE: October 24, 2024

PROJECT: COT Pool Building
BuyBoard Contract #728-24
Vendor # 5073

City of Tomball
501 James St.
Tomball, TX 77375

ATT: Justin Pruitt

DESCRIPTION	AMOUNT
Design budget	\$ 17,250.00
Earthwork, building pad and foundation	\$ 20,125.00
Building supply and erection	\$ 40,985.00
Interior Build-out	\$ 28,975.00
Millwork	\$ 4,870.00
Mechanical	\$ 7,150.00
Electrical	\$ 13,875.00
Plumbing	\$ 4,590.00
Doors and windows	\$ 12,500.00
Jared Cochran, Project Manager	TOTAL AMOUNT \$ 150,320.00

THANK YOU FOR YOUR BUSINESS!

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 4, 2024

Approve a purchase with Water & Play Expressions, Inc. for the purchase and installation of a shade structure for the splashpad at Jerry Matheson Park, through a BuyBoard Contract (Contract No. 679-22) for a not-to-exceed amount of \$159,598.24, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the Fiscal Year 2024-2025 Budget and Capital Improvement Plan and is being reimbursed by a grant from CenterPoint Energy Foundation.

Background:

The Jerry Matheson Park Improvement project started in September 2020. The project included completing needed improvements and enhancements, based on survey input received from the community. Phase I of the project was completed in August 2024 and staff requested funding for Phase II in the fiscal year budget as part of the 2025-2029 Capital Improvement Plan. Funding was allocated through the American Rescue Plan Act (ARPA) funds as adopted in the fiscal year 2024-2025 budget totaling \$770,036.92.

In July 2024, staff applied for a grant with the CenterPoint Energy Foundation which awards grants annually to eligible 501(c)(3) organizations where the company has a business presence. The grant application was submitted on behalf of the Tomball Legacy Fund requesting grant funding for shade structures for the splashpad at Jerry Matheson Park. On October 8, 2024, staff received notification that the Tomball Legacy Fund had been awarded a \$160,000 grant for the splashpad shade structures. Shade structures were included in the approved fiscal year 2024-2025 budget as part of our Capital Improvement Plan to be funded from American Rescue Plan Act (ARPA) funds, and City Council approved the purchase of the shade structures at the October 7, 2024 City Council meeting totaling \$114,637.

On October 21, 2024, City Council approved the grant award from the CenterPoint Energy Foundation to pay for the shade structures for the splashpad. Staff worked with our vendor, Water & Play Expressions, Inc. to revise the design of the shade structures in order to encumber the grant funds received. The updated quote includes larger shades as well as an additional shade bringing the total shades to four (4) sail clusters.

This item authorizes the purchase and installation of shade structures for the splashpad at Jerry Matheson Park for a total not-to-exceed amount of \$159,598.24.

Origination: Project Management

Recommendation:

Staff recommends approving the purchase with Water & Play Expressions, Inc for a not-to-exceed amount of \$159,598.24.

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: X No: _____ If yes, specify Account Number: # 400-153-6409

If no, funds will be transferred from account # _____ To account # _____

Signed Drew Huffman
Staff Member _____
Date

Approved by _____
City Manager _____
Date

Water & Play Expressions Inc.
P.O. Box 145
Argyle, TX 76226
Greg Hawkins - Owner - 940-735-0500
greg@waterplayexpressions.com
kimberli@waterplayexpressions.com

Item 10.



City of Tomball
401 Market Street, Tomball, TX 77375
Meagan Mageo - Project Manager
281-290-1411 - MMageo@tomballtx.gov
Project: Additional Shades for Matheson Park Splash Pad

INVOICE

Invoice # 10232024COTSHA2
Invoice Date 10/23/2024
Due Date 10/23/2024

Item	Description	Unit Price	Quantity	Amount
Product	Multi 4 Post Sail Cluster: Sail 1: 22' x 27'2" x 22' x 38' - 14', 14', 17', 21' Sail 2: 26'3" x 38' x 41' x 51' - (2) 14' (2) 21' Sail 3: 22' x 28'8" x 22' x 41' - 14', 14', 17', 21' Post Color: Zinc Yellow - RAL 1018 Fabric Color: Bright Green Fabric UPGRADE to COMMERCIAL HEAVY 430 included in Unit Price	82244.06	1.00	82,244.06
Product	4 Post Hip - 20' x 20' x 8	7129.80	1.00	7,129.80
Product	SED	2142.00	1.00	2,142.00
Service	Freight	2040.00	1.00	2,040.00
Service	Install	66042.38	1.00	66,042.38

NOTES: KMI BUYBOARD NUMBERS:
#679-22
#737-24

WPE terms are 40% equipment deposit (\$63,893.30) followed by progress billing invoicing.

Quote prices are valid for 30 days.

Install quote amount is based on normal soil conditions. Client will be required to obtain a dig test to ensure WPE does not hit any water lines. Install will require a change order if the soil has abnormalities, surfacing changes, unforeseen Geotech report findings or incorrect location of water lines/plumbing.

If during installation, large rocks or concrete are found additional costs for removal will occur. Additional expenses must be approved by both parties.

All customers are required to pay local and state taxes. If a customer has tax exempt status, Water Play Expressions must retain a copy of 501(C)(3) or other proof of tax exempt status.

Quote Approved by: _____

Date: _____

Please make checks payable to Water Play Expressions without the & for bank account purposes.

	Subtotal	159,598.24
	Total	159,598.24
	Amount Paid	0.00
	Balance Due	\$159,598.24

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 4, 2024

Topic:

Approve a Service Agreement with Every-Bellies Catering, LLC for alcohol beverage services for City of Tomball festivals (RFP 2024-14) and authorize the City Manager to execute any and all documents related to the purchases.

Background:

Every-Bellies was selected through the Request for Proposals process (RFP 2024-14), which allowed for interested parties to submit their qualifications and proposal to act as the primary vendor for the sale of beer and wine at City festivals. It was anticipated that this service would involve serving as the primary vendor for alcohol beverage services for a maximum of six (6) festivals during the calendar year, depicted below.

Event Name	Event Month
Choo-Choo Chowdown (new event)	March
Rails and Tails Mudbug Festival	April
July 4 th Celebration and Street Festival	July
GroovFest	September
Depot Day and Fall Fest	October
Deck the Depot Tree Lighting	December

The RFP required that respondents include prior festival experience, references, percentage of gross festival revenue to be paid to the City following an event over the first \$1,000 in profit, description of proposed vending space, and proof of TABC certified servers.

The RFP was advertised as required by Chapter 252 of the Texas Local Government Code and was sent to local restaurants/vendors that could potentially fulfill the requirements or had shown interest in serving as the vendor. The RFP was requested by two vendors, Cisco's Salsa Company and Every-Bellies. The City received one proposal from Every-Bellies.

The submitted proposal meets all requirements in the defined scope of work and City staff recommends awarding a service agreement to Every-Bellies Catering, LLC for an initial term of one (1) Year, with two (2) additional renewal options.

Origination: Project Management

Recommendation:

Staff recommends approving a Service Agreement with Every-Bellies Catering, LLC for alcohol beverage services for City festivals.

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: _____

If no, funds will be transferred from account # _____ To account # _____

Signed Meagan Mageo
Staff Member _____
Date _____

Approved by _____
City Manager _____
Date _____

**CITY OF TOMBALL
SERVICES AGREEMENT**

THE STATE OF TEXAS §

COUNTY OF HARRIS §

Description of Services: Alcohol Beverage Service- Beer & Wine Vendor

This Agreement is made and entered into by the **City of Tomball** (referred to as the “City”), with an office at 501 James Street, Tomball, TX and, **Every-Bellies Catering, LLC** (the “Company”), with an office at **106 Market Street, Tomball, TX 77375**, City hereby engages the services of Company as an independent contract for Alcohol Beverage services- Beer & Wine Vendor, upon the following terms and conditions.

1. SCOPE OF AGREEMENT

- 1.1. The City hereby agrees to employ Company and Company agrees to perform the necessary services as set forth in Exhibit A – Scope of Work and Exhibit B – Contract Pricing, attached hereto and incorporated herein for all purposes.
- 1.2. In the event of a conflict among the terms of this Agreement and the Exhibit A, the term most favorable to the City, in the City’s sole discretion, shall control.

2. TERM OF AGREEMENT; TERMINATION

- 2.1. This Agreement shall be effective upon proper execution by the City. It shall be effective from **January 1, 2025 through December 31, 2025 with (2) two additional (1) one-year renewal options**. The City reserves the right to withdraw from the Agreement immediately if its governing body fails to appropriate funds necessary for the satisfaction of its contractual obligations. ***Either party may terminate this Agreement for any reason with ninety days (90) written notice to the other party.***
- 2.2. The City’s obligations under this Agreement shall not constitute a general obligation of the City or indebtedness under the constitution or laws of the State of Texas. Nothing contained herein shall ever be construed so as to require City to create a sinking fund or to assess, levy and collect any tax to fund its obligations under this Agreement.
- 2.3. The City reserves the right to enforce the performance of this Agreement in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of any provision of this Agreement, including immediate termination of this Agreement.

3. ENTIRE AGREEMENT

This Agreement represents the entire agreement between Company and the City and no prior or contemporaneous oral or written Agreements or representations shall be construed to alter its terms. No additional terms shall become part of this Agreement without the written consent of both parties and compliance with relevant state law. This Agreement supersedes all other prior agreements either oral or in writing.

4. ASSIGNMENT

Company shall not assign or subcontract its obligations under this Agreement without the prior written consent of the City.

5. COMPENSATION

Vendor shall pay the City a percentage of gross festival revenue in accordance with the Contract Documents per the submitted Contract Pricing (EXHIBIT B), hereto attached and accepted by the City. The total revenue for this contract is as follows: 20% of gross festival revenue, after the first \$2,000 of revenue, will be paid to City.

6. MODIFICATION OF RATES

Base Rate adjustments for changes in the Consumer Price Index (CPI) will be considered by the City no more than once per year during the renewal term of the Contract, during the month of October of each Contract Year.

7. IDEMNITY

7.1. DEFINITIONS

For the purpose of this section the following definitions apply:

- a. "City" shall mean all officers, agents and employees of the City of Tomball.
- b. "Claims" shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.
- c. "Company" includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.
- d. "Company's employees" shall mean any employees, officers, agents, subcontractors, licensees and invitees of Company.
- e. "Damages" shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:
 - i. injury or damage to any property or right
 - ii. injury, damage, or death to any person or entity
 - iii. attorneys' fees, witness fees, expert witness fees and expenses,
 - iv. any settlement amounts; and
 - v. all other costs and expenses of litigation
- f. "Premise Defects" shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

7.2. Indemnity

COMPANY AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY FROM AND AGAINST LIABILITY FOR ANY CLAIMS FOR DAMAGES ARISING OUT OF THE COMPANY'S WORK AND ACTIVITIES CONDUCTED IN CONNECTION WITH THIS AGREEMENT.

COMPANY IS AN INDEPENDENT CONTRACTOR AND IS NOT, WITH RESPECT TO ITS ACTS OR OMISSIONS, AN AGENT OR EMPLOYEE OF THE CITY.

COMPANY MUST AT ALL TIMES EXERCISE REASONABLE PRECAUTIONS ON BEHALF OF, AND BE SOLELY RESPONSIBLE FOR, THE SAFETY OF COMPANY'S EMPLOYEES WHILE IN THE VICINITY WHERE THE WORK IS BEING DONE. THE CITY IS NOT LIABLE OR RESPONSIBLE FOR THE NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS OF COMPANY OR COMPANY'S EMPLOYEES.

THE CITY ASSUMES NO RESPONSIBILITY OR LIABILITY FOR DAMAGES WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO PREMISE DEFECTS.

THE CITY AND COMPANY MUST PROVIDE THE OTHER PROMPT AND TIMELY NOTICE OF ANY COVERED EVENT WHICH IN ANY WAY AFFECTS OR MIGHT AFFECT THE COMPANY OR CITY. THE CITY HAS THE RIGHT TO COMPROMISE AND DEFEND THE SAME TO THE EXTENT OF ITS OWN INTERESTS.

THE INDEMNITY OBLIGATIONS HEREIN SHALL SURVIVE THE TERMINATION OF THE AGREEMENT FOR ANY REASON AND SHALL SURVIVE THE COMPLETION OF THE WORK.

8. INSURANCE

8.1. AMOUNTS OF INSURANCE

Company agrees to provide and to maintain the following types and amounts of insurance, for the term of this Contract:

TYPE	AMOUNT
(a) Workers Compensation	(where required – Statutory by State Law)
Employer's Liability	\$100,000 per occurrence

(b) Commercial (Public) Liability, including but not limited to:

- a. Premises/ Operations Combined Single Limit
- b. Independent Contractors
- c. Personal Injury
- d. Products/Completed Operations
- e. Contractual Liability (insuring above indemnity provisions)

All insured at combined single limits for bodily injury and property damage at \$500,000 per occurrence.

(c) Comprehensive Automobile Liability, in include coverage for:

- a. Owned/Leased Automobiles
- b. Non-owned Automobiles
- c. Hired Cars

All insured at combined single limits for bodily injury and property damage for \$500,000 per occurrence.

8.2. OTHER INSURANCE REQUIREMENTS

Company understands that it is its sole responsibility to provide the required Certificates and that failure to timely comply with the requirements of this article shall be a cause for termination of this Contract.

Insurance required herein shall be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies shall be subject to examination and approval by the City Attorney's Office for their adequacy as to form, content, form of protection, and providing company.

Insurance required by this Contract for the City as additional insured shall be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

Company further agrees that with respect to the above required liability insurances, the City shall:

- a. Be named as an additional insured;
- b. Be provided with a waiver of subrogation, in favor of the City,
- c. Br provided with 30 days advance written notice of cancellation, nonrenewal, or reduction in coverage (all "endeavor to" and similar language of reservation stricken from cancellation section of certificate); and
- d. Prior to execution of this Agreement, be provided through the office of the City Attorney with their original Certificate of Insurance evidencing the above requirement.

The insurance requirements set out in this section are independent from all other obligations of Company under this Agreement and apply whether or not required by any other provision of this Agreement.

9. LICENSING

Vendor shall display TABC Certifications for each server working festivals.

10. PAYMENT AND PERFORMANCE

Payment for services described in this Agreement will be made in accordance with the Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code, or as subsequently amended.

11. VENUE; RECOVERY OF FEES; DISPUTE RESOLUTION; CHOICE OF LAW

Any suit or claim or cause of action regarding this Agreement shall be brought in Harris County, Texas, as the choice of venue and jurisdiction and site of performance by the parties. If the City is the prevailing party in any such action, the City may recover reasonable costs, including costs of court, attorney's fees, expert witnesses' fees, and trial consultants' fees. The parties further agree that the law of the State of Texas shall govern any interpretation of the terms of this Agreement.

12. COMPANY CERTIFICATIONS

Company certifies that neither it, nor any of its agents or employees, have or will offer or accept gifts or anything of value, or enter into any business arrangement, with any employee, official, or agent of the City.

Company certifies, pursuant to Texas Government Code Chapter 2270, that it does not boycott Israel and will not boycott Israel during the term of this Agreement. Company further certifies, pursuant to Texas Government Code Chapter 2252, Subchapter F, that it does not engage in business with Iran, Sudan, or a foreign terrorist organization as may be designated by the United States Secretary of State pursuant to his authorization in 8 U.S.C. Section 1189.

13. NO WAIVER OF IMMUNITY

The City does not waive any statutory or common law right to sovereign immunity by virtue of the execution of this Agreement.

14. NOTICES

Any written notice provided under this Agreement or required by law shall be deemed to have been given and received on the next day after such notice has been deposited by Registered or Certified Mail with sufficient postage affixed thereto and addressed to the other party to the Agreement; provided, that this shall not prevent the giving of actual notice in any manner.

Notice to Company may be sent to the following address:

15. CONTRACT ADMINISTRATOR

This Agreement shall be administered on the City's behalf by the Project Manager, and all notices, questions, or documentation, arising under this Agreement shall be addressed to the Project Manager at:

City of Tomball, Texas
Attn: Project Manager
501 James Street
Tomball, Texas 77375

AGREED to and ACCPETED this 25 day of October, 2024.

Everybellies Catering, LLC
Company

Nicole Cole
Signature

Nicole Cole
Print Name

Owner
Title

THE STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on this ___ day of _____, 2024,
by _____, on behalf of said entity.

Notary Public, State of Texas

AGREED to and ACCPETED this ___ day of _____, 2024.

City of Tomball

David Esquivel, PE
City Manager

Attest:

Tracylynn Garcia
City Secretary

RFP 2024-13: ALCOHOL BEVERAGE SERVICES – CITY OF TOMBALL FESTIVALS
EXHIBIT A
SCOPE OF WORK

The City of Tomball is seeking to enter into a Service Agreement with a responsible vendor to provide alcohol beverage services, **limited to beer and wine**, at six (6) City festivals. Vendors with proven experience performing alcohol beverage services are invited to submit profit sharing proposals to provide the operation and management of the sale of beer and wine at designated events within the City of Tomball. The required services and performance conditions are described in the Scope of Work (Exhibit A).

The Vendor services will consist of a single company capable of providing operation and management of necessary equipment, employees, sales items, sales receipts and reports, permits, furnishings and all other materials required for the full operation of beverage and alcohol stands at special events, as specified within this RFP.

It is the intention of the City of Tomball to enter into a services agreement with a single Vendor for an initial period of two (2) years, with the right and option to extend the term for three (3) additional one (1) year periods with the same term and conditions upon the mutual agreement of the. The Vendor will have the right and option to terminate the Contract with a six-month (180) day notice to the City in writing. The City of Tomball will also have the right and option to terminate the Contract upon thirty (30) days written notice.

I. Background

The City of Tomball's motto is "Tomball is Texas for Fun" and with our rapid growth and change over the last decade, Tomball is widely known for its fun spirit and family-oriented community. Our community has continued to grow into an economically diverse and prosperous community, and we continually strive to retain our small-town history and hometown charm. Much of this retention comes from the many festivals hosted in our town, both by the City and other organizations.

Although Tomball may be considered a small community, it offers big options when it comes to recreation and events including five (5) community parks, one (1) sports complex, and the Depot, which is the primary location for most City festivals. Tomball currently hosts six (6) City-sponsored festivals (weather pending), which require a Vendor to sale alcoholic beverages.

Event Name	Event Month
EVENT PENDING	March
Rails and Tails Mudbug Festival	April
July 4 th Celebration and Street Festival	July
Groovfest	September
Depot Day and Fall Fest	November
Depot Tree Lighting	November/December (dependent on Thanksgiving holiday)

The purpose of this proposal is to contract with a responsible vendor for the sale of alcoholic beverages, limited to beer and wine, to event patrons of designated festivals within the City of Tomball with a profit-sharing plan in place to aid in offsetting event costs with a portion of the gross sales.

The Vendor will have exclusive rights to the sale of alcoholic beverages, including beer and wine, during the specified City of Tomball festivals. The City will provide the Vendor with festival dates, times, and general scope of each event, if themed. The selected Vendor is also encouraged to offer soft drinks however, food trucks and other vendors also operating at the festivals will be allowed to sell non-alcoholic beverages to their customers.

II. Vendor Specifications

a. Operations and Management

The Vendor will work with the City to determine the number of and location of service areas within the event area for each event. The City of Tomball will have the final approval of number, location, and hours of service. The Vendor will be responsible for the setup, tear down, and management of each location.

b. Equipment

The Vendor is responsible for providing, at their sole expense, all items necessary to provide onsite sale of beer and wine. The selected Vendor shall be responsible for the items' upkeep, maintenance, repairs and replacement. All items purchased by the Vendor shall remain the property of the Vendor. The Vendor is responsible for the setup, tear down and clean-up of all equipment used and shall remove said equipment from the event grounds within 48 hours of the conclusion of every event. Equipment may include, but is not limited to:

- i. Point-of-sale
- ii. Vending space
- iii. Tables and chairs
- iv. Coolers or troughs
- v. Bars or beverage stands

c. Furnishings

The Vendor is responsible for providing all furnishings unless otherwise negotiated before the event. Furnishings include but is not limited to:

- i. Custom event cups
- ii. Sponsored products
- iii. Utensils
- iv. Beverage serving ware

d. Signage

All prices shall be prominently posted at each serving location.

e. Employees

Vendor is responsible for providing the necessary trained staff and personnel for each event. All staff will be required to wear a uniform, festival t shirt and or credentials for identification purposes. Apparel and personal cleanliness shall be suitable and in keeping with the atmosphere associated with the proposed operation.

f. Sale of Items

The Vendor will be the exclusive seller of beer and wine at festivals previously listed. Vendor shall provide a list of brands to be sold and pricing. Brands and pricing should reflect market trends and should be comparable to similar events. The Vendor is solely responsible for the delivery and handling of alcoholic beverages. Glass containers are not permitted.

g. Receipts and Reports

Vendor is responsible for maintaining a system of tracking sales. The Vendor shall provide the City, immediately following the event, the statements showing gross sales and reports including the number of units of each item sold at each designated location and for what cost. The Vendor shall provide the City, no more the 30 days following the event, a post event report including all sales numbers and plans or ideas for the future of the event.

h. Permits

The Vendor is responsible for securing all licensing and permits to ensure all sales of product conform to local, state, and federal codes and requirements. The Vendor shall maintain current knowledge of the City of Tomball ordinances regarding the sale of alcohol.

III. City Provided Services

The City will provide the following equipment and services for City festivals to the selected Vendor.

- a. Utilities: the City will provide power to beverage stations for cash registers and lights, if needed by the Vendor.
- b. Sanitation: the City shall provide access to a dumpster for the selected Vendor to utilize for trash generated solely by the operation of events.
- c. Trash Receptacles: the City will provide and place trash receptacles adjacent to the vendor space. City staff will empty these receptacles, as necessary.

IV. Deliverables during Contract Term

- a. The Vendor is to provide all contract documents, recommendations for items sold, location for beverage station, quality control activities to ensure adherence with local and state laws and regulations, and site observation.
- b. The Vendor is to provide the sale of beer and wine at the designated City events in accordance with the specification listed in Section 2 of this document.
- c. The Vendor is to provide receipts and reports after each event in accordance with the specifications listed in Section 2 of this document. The Vendor is to include recommendations for changes or improvements to the event, if applicable.

V. Insurance Requirements

Vendor shall obtain and keep for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of this agreement. The Contractor shall pay the cost of such insurance.

- A. The amount of insurance shall not be less than:
 1. Commercial General Liability: Minimum of \$3,000,000 commercial general liability coverage with \$1,000,000 for each occurrence. Policy to include coverage for operations, contractual liability, personal injury liability, products/completed operations liability, broad-form property damage (if applicable) and independent contractor's liability (if applicable) written on an occurrence form.
 2. Business Automobile Liability: \$1,000,000 combined single limit per occurrence for bodily injury and property damage for owned, non-owned and hired autos.
 3. Workers' Compensation and Employer's Liability: Worker's Compensation limits as required by the Labor Code of the State of Utah and employer's liability with limits of \$1,000,000 per accident.
- B. Each insurance policy required by this Agreement shall have the following clauses:
 1. "This insurance shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty days prior written notice by certified mail, return receipt requested, has been given to the City of Tomball".

2. "It is agreed that any insurance or self-insurance maintained by the City of Tomball, its elected or appointed officials, employees, agents and volunteers shall be excess of Contractor's insurance and shall not contribute with insurance provided by this policy."
- C. Each insurance policy required by this Agreement, excepting policies for Workers' Compensation, shall have the following clause in a separate endorsement:
 1. "The City of Tomball, its elected and appointed officials, employees, volunteers and agents are to be named as additional insureds in respect to operations and activities of or on behalf of, the named insured as performed under Agreement with the City of Tomball."
 - D. Insurance is to be placed with insurers acceptable to and approved by the City of Tomball. Contractor's insurer must be authorized to do business in Texas at the time the license is executed and throughout the period the license is maintained, unless otherwise agreed to in writing by the City of Tomball. Failure to keep or renew coverage or to supply evidence of renewal will be treated as a material breach of contract.
 - E. City shall be given original certificates of insurance and endorsements effecting coverage required within, signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received by the city before work begins on the premises.
 - F. City reserves the right to require complete, certified copies of all required insurance policies at any time.
 - G. Any deductibles or self-insured retentions must be declared to and approved by the city. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respect to the City, their elected and appointed officials, employees, agents, and volunteers; or Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.
 - H. Contractor shall include all its contractors as insured under its policies or shall furnish separate certificates and endorsements for each contractor. All coverage for Contractor's contractors shall be subject to all the requirements stated herein.
 - I. Nothing contained herein shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from the activities of Contractor or its agents, employees, invitees, or contractors upon the Premises during the License Period.

- 4) Every-Bellies recruits our most confident employees that are comfortable with large crowds and working with the public quickly and effeicently.
- 5) Every-Bellies has invested in equipment, wifi capabilities, appropriate signage, tables and tents to provide a professional setting that represents Every-Bellie and the City of Tomball.
- 6) Every-Bellies sets up and breaks down in the aloted time that the City allegates.

Financial Compensation:

Every-Bellies will profit share 20% of our profits after the first \$2000.

Pricing:

Beer \$7

Selters \$7

Large 20 oz water \$5

Description of Proposed Vendor Space:

Every-Bellies sets up 2 tents in the designated festival area. We have 2 bars that we use to set up draft beer, we use troughs and white coolers to hold ice and water. We have professional signage printed for all sides of the tents to clearly read beer and wine prices and options.

References:

- 1) Houston Distributing, Tammy Harris, 281-802-5820
- 2) Scarmardo Foods, Jeremy Katkoski, 936-419-9293

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 4, 2024

Topic:

Consideration to award a Contract for Bid Number 2024-11R for the construction of the Baker Drive Water Plant, Project Number 2024-10019. The expenditure was included in the Fiscal Year 2024-2025 Budget as part of the 2025-2029 Capital Improvement Plan

Background:

The Water Master Plan, completed in 2023, identified improvements to the City's water distribution system that would serve current and anticipated future water demands. The recommendations included construction of the Baker Drive Water Plant.

Council approved a design contract with Freese & Nichols on August 21, 2023. Staff has worked with Freese & Nichols to design the water plant based on the recommendations and requirements in the Water Master Plan. The project was placed out for bid with submissions due on Tuesday, July 23, 2024. Due to Hurricane Beryl, the submission date was extended to Tuesday, July 30, 2024, to allow adequate time for interested parties to submit given the extended power outages. Staff received one submission that exceeded the engineer's estimate for construction and on August 19, 2024 City Council approved staff recommendation to reject the bid received and rebid the project.

Sealed bids for the proposed project were due to the design consultant on October 28, 2024. After evaluating the submitted bids, staff will present the apparent low bidder with bid tabulation to City Council for questions at the scheduled workshop on November 4, 2024, before presenting the contract for approval at the November 18, 2024 City Council meeting. Below is a breakdown of the current funding allocated for the project.

Baker Drive Water Plant Budget Breakdown		
Element	Budgeted Amount	Contract Amount
Engineering	\$1,849,087	\$1,849,087
Construction	\$8,329,000*	PENDING

*estimated construction cost

Origination: Project Management

Recommendation:

N/A

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 4, 2024

Topic:

Consideration to award a Contract for Bid Number 2025-01 for the construction of sanitary sewer line extension along Rudolph Road, Project Number 2025-10009. The expenditure was included in the Fiscal Year 2024-2025 Budget as part of the 2025-2029 Capital Improvement Plan

Background:

The Wastewater Master Plan, completed in 2023, identified improvements to the City’s wastewater collection system that would serve current and anticipated future demand. The recommendations included a sanitary sewer line extension along Rudolph Road. This project was identified to be completed within five-years of the Master Plan adoption.

The proposed project includes the construction of a sanitary sewer line extension along the west side Rudolph Road extending south approximately 1,000 linear feet, designed in accordance with the City and Texas Commission on Environmental Quality (TCEQ) standards.

Sealed bids for the proposed project were due to the design consultant on October 31, 2024. After evaluating the submitted bids, staff will present the apparent low bidder with bid tabulation to City Council for questions at the scheduled workshop on November 4, 2024, before presenting the contract for approval at the November 18, 2024 City Council meeting. Below is a breakdown of the current funding allocated for the project.

Rudolph Road Sanitary Sewer Extension		
Budget Breakdown		
Element	Budgeted Amount	Contract Amount
Engineering	\$47,450	\$47,449.00
Construction	\$150,000*	PENDING
Remaining Funds to be Allocated: \$152,551.00		

*estimated construction cost

Origination: Project Management

Recommendation:

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: X No: _____ If yes, specify Account Number: #400-741-6409

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: Meagan Mageo **Approved by:** _____
Staff Member Date City Manager Date

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 4, 2024

Topic:

Consideration to award a Professional Services Agreement with Oller Engineering, Inc for the design of water line replacement along Oak Street and Clayton Street, Project Number 2025-10003. The expenditure was included in the Fiscal Year 2024-2025 Budget as part of the 2025-2029 Capital Improvement Plan

Background:

The Water Master Plan, completed in 2018 & 2023, identified improvements to the City's water distribution system that would serve current and anticipated future water demands. The recommendations included upsizing the water line along Clayton Street and Oak Street. This project was identified to be completed within five-years of the Master Plan adoption.

The proposed project includes the construction of a new water line along Clayton Street to replace the existing 2-inch water line and a new water line along Oak Street to replace the existing 6-inch water line. The project has been broken into four phases for construction, with the first phase consisting of approximately 1,100 linear feet along Clayton Street to S. Pine Street and the replacement along Oak Street is proposed in later phases between fiscal year 2026 - 2029.

The recommended water lines along Clayton Street will replace the existing small diameter line and improve the existing system capacity restrictions and serve existing and future peak hourly demand and increase available fire flow.

Staff is working with Oller Engineering to finalize the scope of work for the proposed Professional Services Agreement to include the design and oversee construction of the proposed water line, survey, and required testing. The final scope of work and agreement pricing will be available to City Council for questions at the scheduled workshop on November 4, 2024, before presenting the agreement for approval at the November 18 City Council meeting. Below is a breakdown of the current funding allocated for the project.

Oak & Clayton Water Line Budget Breakdown		
Element	Budgeted Amount	Contract Amount
Engineering	\$140,000*	PENDING
Construction	\$255,000*	PENDING

*estimated cost

Origination: Project Management

Recommendation:

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: X No: _____ If yes, specify Account Number: #400-613-6409

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: Meagan Mageo **Approved by:** _____
Staff Member Date City Manager Date