

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



TUESDAY, JANUARY 3, 2012

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Tuesday, January 3, 2012 at 6:00 P.M., City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

- 1.0 Call to Order
- 2.0 Invocation
 - Led by Pastor Ken Shuman, WellSpring Church
- 3.0 Pledges to U.S. and Texas Flags
- 4.0 Public Comments and Receipt of Petitions *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law.]*
- 5.0 Reports and Announcements

- January 14, 2012 – **2nd Saturday at the Depot** – 5:00 p.m.
- January 24, 2012 – **Annual Boards and Commission Recruitment Reception** – 5:30 p.m.-7:00 p.m. at the Community Center
- **Farmers Market** – Opening Day is February 4, 9 a.m.-1:00 p.m.
- Appointments to Board of Adjustments will be on February 20, 2011 agenda (terms expiring 3/2/12)
- **Walk Tomball!** (Every Saturday at 9:00 a.m. at the Depot)
- Reports by City staff and members of Council about items of community interest on which no action will be taken

6.0 Approve the Minutes of the December 19, 2011 Regular City Council Meeting

7.0 Old Business:

- 7.1 Adopt, on Second Reading, Ordinance 2011-32, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 11.09 acres of land, Legally described as Lot 183 and Tracts 179A, 180A, and 184A, Tomball Outlots, Within the City of Tomball, Harris County, Texas, from the Agricultural District to the Light Industrial District; Said property being generally located on the westerly side of South Cherry Street, southerly of Agg Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for severability; Providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, Making findings of fact; and providing for other related matters

8.0 New Business:

- 8.1 Approve Resolution No. 2012-01, a Resolution and Order of the City Council of the City of Tomball, Texas, Ordering a Regular City Officer's Election, to be held in the City of Tomball on Saturday, May 12, 2012; Designating the Polling Places and Appointing Election Officials for Such Election; Directing the Giving of Notice of Such Election; Designating the Date for a Runoff Election if Needed; and Providing Details Relating to the Holding of Such Election
Aprobar Resolución Nro. 2012-01, un Resolución y Orden del Consejo Municipal de la Ciudad de Tomball, Texas, Ordenando la Celebración de una Elección Regular de Funcionarios Municipales Para el Sábado 12 de Mayo de 2012; Designando los Lugares de Votación y Nombrando a los Oficiales Electorales de tal Elección; Instruyendo que se Notifique Sobre Esta Elección; Designando la Fecha de una Elección de Desempate de ser Necesaria; y Proporcionando Detalles Referentes a la Celebración de tal Elección
 Phê Duyệt Nghị Quyết Số 2012-01, Một Nghị Quyết Và Lệnh Của Hội Đồng Thành Phố Thành Phố Tomball, Texas, Yêu Cầu Một Cuộc Bầu Cử Viên Chức Thành Phố Thượng Lệ Tổ Chức Ngày Thứ Bảy, 12 Tháng Năm, 2012; Thiết Lập Các Địa Điểm Bỏ Phiếu Và Bổ Nhiệm Các Viên Chức Phụ Trách Bầu Cử Cho Cuộc Bầu Cử Đây; Hướng Dẫn Đưa Ra Thông Báo Của Cuộc Bầu Cử; Thiết Lập Ngày Cho Cuộc Bầu Cử Chung Cuộc Nếu Cần; Và Đưa Ra Các Chi Tiết Có Liên Quan Đến Việc Tổ Chức Bầu Cử
- 8.2 Approve Renewal of Contract and First Amendment between the City of Tomball and Comcast for Internet Access, in the Amount of \$70,527.60 for Three Years.

9.0 Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 29th day of December 2011 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

*Doris Speer*_____

Doris Speer

City Secretary, TRMC

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

AGENDAS MAY ALSO BE VIEWED ONLINE AT www.ci.tomball.tx.us.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: January 3, 2012

Topic:

- January 14, 2012 – **2nd Saturday at the Depot** – 5:00 p.m.
- January 24, 2012 – **Annual Boards and Commission Recruitment Reception** – 5:30 p.m.-7:00 p.m. at the Community Center
- **Farmers Market** – Opening Day is February 4, 9 a.m.-1:00 p.m.
- Appointments to Board of Adjustments will be on February 20, 2011 agenda (terms expiring 3/2/12)
- **Walk Tomball!** (Every Saturday at 9:00 a.m. at the Depot)
- Reports by City staff and members of Council about items of community interest on which no action will be taken

Background:

Origination:

Recommendation:

Funding:

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

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

ATTACHMENTS:

2nd Saturday - January 14, 2012

Annual Boards and Commissions Recruitment Reception



2nd Saturday at The Depot!

Showing January, 14th



*Special start
time in
January!
The fun
begins at
4:30 p.m.*

- Games
- Activities
- Food and Family Fun

- Music from Zeddie Frack
- The Movie Starts at Dark!

Admission is Always FREE!

ALL ABOARD!

Please join us for our 3rd Annual
**BOARDS & COMMISSIONS
RECRUITMENT RECEPTION**

Tuesday, January 24, 2012

5:30 to 7:30 p.m.

*Tomball Community Center
221 Market Street, Room B*

Come meet and greet current
Board members and register
to be a potential member of a
Tomball Board yourself!

Don't miss your opportunity to
"Get on a Board" or Commission and serve on
your community "train"!

FREE REGISTRATION AND FOOD



Regular City Council
Agenda Item
Data Sheet

Meeting Date: January 3, 2012

Topic:

Approve the Minutes of the December 19, 2011 Regular City Council Meeting

Background:

Origination:

Recommendation:

Funding:

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

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

ATTACHMENTS:

Draft Minutes - 12/19/2011 Regular Council Meeting

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, DECEMBER 19, 2011
6:00 P.M.**

1.0 Call to Order

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

Councilman Stoll
Councilman Brown
Councilman Townsend
Councilman Hudgens

Members absent:

Councilman Dodson - Excused

Others present:

City Manager – George Shackelford
City Secretary – Doris Speer
City Attorney – Loren Smith
Police Chief – Robert Hauck
Director of Public Works – David Kauffman
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
Assistant City Engineer – Lori Lakatos
Assistant City Planner – Rodney Schmidt
Marketing Director – Mike Baxter
Community Events Coordinator – Rosalie Dillon
Chief-NWEMS – Brian Petrilla
Executive Director-TEDC – Kelly Violette

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2.0 The invocation was led by Pastor Kenny Rodgers, Anointed Faith Family Church.

3.0 The pledges to U. S. and Texas Flags were led by Randy Parr, Fire Chief, City of Tomball.

4.0 The following Public Comments were received:

Grady Martin, President, TSCO 8118 Boudreaux Road, 77379	- Expressed the Tomball Sister City Organization's appreciation for the City's support in the successful German Christmas Market.
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5.0 Presentations:

- Mayor Fagan honored Walter and Sheryl Prescott, Aquascapes, and Brett Farley, Artist, for their contributions to the construction of the Depot Plaza Fountain, splash pad, and oil derrick.
- Mayor Fagan presented Ken Walden with the Proclamation naming him the "**Mayor's Volunteer of the Year 2011**". State Representative Allen Fletcher presented Ken Walden with a Texas flag flown over the Texas State Capitol in honor of the "**Mayor's Volunteer of the Year 2011**" on December 14, 2011.
- Mayor Fagan presented a photograph to State Representative Allen Fletcher.
- Mayor Fagan recognized Glenn Windsor and the Tomball Finance Department for earning the Certificate of Achievement for Excellence in Financial Reporting for fiscal year ending September 30, 2010 for the 21st year.

6.0 Reports and Announcements:

- **NO Walk Tomball!** on December 24, 2011
- **Tuesday**, January 3, 2012 – Regular City Council Meeting – 6:00 p.m.
- January 14, 2012 – **2nd Saturday at the Depot** – 5:00 p.m.
- January 24, 2012 – **Annual Boards and Commission Recruitment Reception** – 5:30 p.m.-7:00 p.m. at the Community Center
- Appointments to Board of Adjustments will be on February agenda (terms expiring 3/2/12)
- **Walk Tomball!** (Every Saturday at 9:00 a.m. at the Depot)
- Reports by City staff and members of Council about items of community interest on which no action will be taken
 - David Kauffman and Randy Parr presented an update on Dead/Dying Trees. HL&P and the City Public Works Department have been removing trees as needed due to the extended drought; the estimated additional cost for the removal of approximately 260 trees in the public right-of-way only is \$104,000. Randy Parr advised that there are approximately 10,000 dead trees on public and private property in the community. He is pursuing grant funds to offset the costs of removal and/or replacement of some of these trees; the estimated cost to removal the majority of the dead trees is \$2.1 million, of which the City would be

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responsible for a portion of the cost. City staff will provide on-going updates to Council regarding progress.

- 7.0 Motion was made by Councilman Stoll, second by Councilman Townsend, to approve the Minutes of the December 5, 2011 Regular City Council Meeting.

Motion carried unanimously.

- 8.0 New Business:

- 8.1 Doris Speer presented Resolution No. 2011-27. Motion was made by Councilman Townsend, second by Councilman Brown, to approve Resolution No. 2011-27, a Resolution of the City Council of the City of Tomball, Texas, Supporting the Annual Baseball Parade, to be held in Tomball on Saturday, March 3, 2012.

Motion carried unanimously.

- 8.2 Kelly Violette presented Resolution No. 2011-28. Motion was made by Councilman Brown, second by Councilman Stoll, to approve Resolution No. 2011-28, a Resolution of the City Council of the City of Tomball, Texas, Authorizing the Mayor to Execute a Warranty Deed Conveying 97.5 Acres of Land, Generally Located at the Northwest Corner of Hufsmith-Kohrville and Holderrieth Roads, to the Tomball Industrial Development Corporation (also known as the Tomball Economic Development Corporation).

Motion carried unanimously.

- 8.3 Lori Lakatos presented the recommendation from the Capital Improvement Plan Advisory Committee in Compliance with Chapter 395, Texas Local Government Code, stating that no changes are recommended by the CIPAC at this time.

No action was necessary/taken.

- 8.4 Lori Lakatos presented the Barajas Tract No. 2 Replat. Motion was made by Councilman Brown, second by Councilman Stoll, to approve **REPLAT BARAJAS TRACT NO. 2:** Being a Subdivision of 0.4821 Acre Tract, 21,000.00 square feet, in the Joseph House Survey A-34 in Harris County, Texas, Being a Replat of Lots 23, 24, 25, 26, 27 and 28, Block 69 in the Revised Map of Tomball according to the Map Records in Volume 4, Page 25 of the Map Records of Harris County, Texas.

Motion carried unanimously.

- 8.5 Rodney Schmidt presented information regarding **ZONING CASE P11-375:** Request by Drachman Interest on behalf of FNR, LLC to amend the City's Comprehensive Zoning Ordinance to rezone approximately 11.09 acres of land, legally described as Lot

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183 and Tracts 179A, 180A, and 184A, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located on the westerly side of South Cherry Street, southerly of Agg Road, from the Agricultural District to the Light Industrial District.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P11-375** at 6:35 p.m.; no public comments being received, Mayor Fagan closed the Public Hearing at 6:35 p.m.
- Motion was made by Councilman Stoll, second by Councilman Brown, to read Ordinance No. 2011-32 by Caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Townsend, second by Councilman Brown, to adopt on First Reading, Ordinance No. 2011-32, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 11.09 acres of land, Legally described as Lot 183 and Tracts 179A, 180A, and 184A, Tomball Outlots, Within the City of Tomball, Harris County, Texas, from the Agricultural District to the Light Industrial District; Said property being generally located on the westerly side of South Cherry Street, southerly of Agg Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for severability; Providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, Making findings of fact; and providing for other related matters. Vote was as follows:

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

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Motion carried unanimously.

- 8.6 Lori Lakatos presented the tabulation and recommendation for COT Project Bid Number 2012-01. Motion was made by Councilman Townsend, second by Councilman Hudgens, to award the Contract for COT Project Bid Number 2012-01, E&P Project Number 2009-10006, Brown Hufsmith Phase II, to Low Bidder, Monarch Civil Constructors, LLC, in the amount of \$961,487.78.

Motion carried unanimously.

- 8.7 Lori Lakatos presented the tabulation and recommendation for COT Project Bid Number 2012-02. Motion was made by Councilman Townsend, second by Councilman Hudgens, to award the Contract for COT Project Bid Number 2012-02, E&P Project Number 2011-

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10003, Brown Road Utility Extension West of SH 249, to Low Bidder, Monarch Civil Constructors, LLC, in the amount of \$169,053.02.

Motion carried unanimously.

- 8.8 Robert Hauck presented the requested amendment. Motion was made by Councilman Townsend, second by Councilman Brown, to approve the Amendment to the Current Contract between the City of Tomball and AOT Public Safety Corporation for False Alarm Billing and Tracking Services. Vote was as follows:

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

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Motion carried, 3 votes Aye to 1 vote Nay.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 19th day of December 2011.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Meeting Date: January 3, 2012

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance 2011-32, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 11.09 acres of land, Legally described as Lot 183 and Tracts 179A, 180A, and 184A, Tomball Outlots, Within the City of Tomball, Harris County, Texas, from the Agricultural District to the Light Industrial District; Said property being generally located on the westerly side of South Cherry Street, southerly of Agg Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for severability; Providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, Making findings of fact; and providing for other related matters

Background:

On October 28, 2011, the Engineering & Planning Department received a rezoning application for the subject site from the applicant, Drachman Interest. According to their rezoning request letter, Drachman Interest is currently under contract for the property on S. Cherry Street north of Theiss Lane (LT 183 & TRS 179A 180A & 184A) and wishes to relocate their steel fabrication facility from its current location in the Brittmoore Tanner Business Park to this location.

Drachman Interest requests Council's consideration in rezoning the property from its current designation as agricultural to light/heavy industrial, for the use as a structural steel fabrication facility. The company intends to erect a building to house their steel fabrication facility and executive offices. The company has been active in the Texas area for over 10 years as a supplier for TX Dot, in addition, the company produces steel fabrication work for the construction, oil and petrochemical industries (please visit www.associatedsteelfab.com to see samples of projects).

There is a mixture of land uses in the vicinity. To the north of the subject site is Devasco International and a single-family residence within the Light Industrial and Single-Family 9 Districts, respectively; to the south is BL Technology in the Commercial District; to the east is South Cherry Street and agricultural and residential land uses in the SF-20-E District; and to the west is the City of Tomball's M-121 West drainage channel in the Agricultural District.

On December 12, 2011, the Planning and Zoning Commission, after conducting a public hearing on this request, voted to recommend approval of Zoning Case P11-375. On December 19, 2011, City Council approved Ordinance No. 2011-32 on First Reading.

Origination:

Drachman Interest on behalf of FNR, LLC

Recommendation:

Adopt, on Second Reading, Ordinance No. 2011-32

Funding:

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

City Secretary

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

ATTACHMENTS:

Ordinance No. 2011-32

P11-375 Staff Report

Notice of Public Hearings

Property Owner Notification Letter

ORDINANCE NO. 2011-32

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 11.09 ACRES OF LAND, LEGALLY DESCRIBED AS LOT 183 AND TRACTS 179A, 180A, AND 184A, TOMBALL OUTLOTS, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE AGRICULTURAL DISTRICT TO THE LIGHT INDUSTRIAL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED ON THE WESTERLY SIDE OF SOUTH CHERRY STREET, SOUTHERLY OF AGG ROAD; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS

* * * * *

Whereas, the owner(s) of approximately 11.09 acres of land, legally described as Lot 183 and Tracts 179A, 180A, and 184A, Tomball Outlots, generally located on the westerly side of South Cherry Street, southerly of Agg Road, in the City of Tomball, Harris County, Texas, (the "Property"), have requested that the Property be rezoned; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days written notice of that hearing to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to change the zoning for the Property from the Agricultural District to the Light Industrial District; and

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

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

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

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

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

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

Section 2. The zoning classification of 11.09 acres of land, legally described as Lot 183 and Tracts 179A, 180A, and 184A, Tomball Outlots, within the City of Tomball, Harris County, Texas, is hereby changed from the Agricultural District to the Light Industrial District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas-Ordinance 2008-01, ("Zoning District Map"), shall be revised and amended to show the designation of 11.09 acres of land, legally described as Lot 183 and Tracts 179A, 180A, and 184A, Tomball Outlots, generally located on the westerly side of South Cherry Street, southerly of Agg Road, as Light Industrial District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for 11.09 acres of land, legally described as Lot 183 and Tracts 179A, 180A, and 184A, Tomball Outlots, generally located on the westerly side of South Cherry Street, southerly of Agg Road, to the Light Industrial District as described above.

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

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

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 19TH DAY OF DECEMBER 2011.

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

SECOND READING:

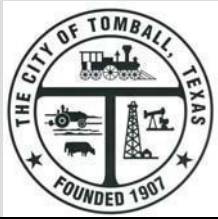
READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 3RD DAY OF JANUARY 2011.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Rezoning Staff Report

Planning and Zoning Commission Public Hearing Date: December 12, 2011

Rezoning Case: P11-375
Property Owner(s): FNR, LLC
Applicant(s): Drachman Interest
Legal Description: Lot 183 and Tracts 179A, 180A, and 184A, Tomball Outlots
Location: Generally located westerly of South Cherry Street, southerly of Agg Road
Area: 11.09 acres
Present Zoning and Use: Agricultural District / Undeveloped
Comp Plan Designation: Business / Industrial
Proposed Zoning and Use: Light Industrial District / Steel Fabrication ("Metal Products, Stamping, and Manufacture")

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

Adjacent Zoning & Land Uses:

North: Light Industrial and Single-Family 9 Districts / Devasco International and Single-Family Residence
South: Commercial District / BL Technology
East: SF-20-E District / South Cherry Street, Agricultural, and Residential
West: Agricultural District / M-121 West Drainage Channel

BACKGROUND

The subject site is legally described as Lot 183 and Tracts 179A, 180A, and 184A, Tomball Outlots within the City of Tomball, Harris County, Texas totaling approximately 11.09 acres. The site is generally located westerly of South Cherry Street, southerly of Agg Road, is undeveloped (Exhibit "A"), and is currently zoned Agricultural District (Exhibit "B").

On October 28, 2011, the Engineering & Planning Department received a rezoning application and letter for the subject site (Exhibits "C" and "D") from the applicant, Drachman Interest. According to their rezoning request letter:

We are currently under contract for the property on S. Cherry Street north of Theiss Lane (LT 183 & TRS 179A 180A & 184A).

It is our intent to relocate our steel fabrication facility from its current location in the Brittmoore Tanner Business Park to this location.

To achieve this, we request your consideration in rezoning this property from its current designation as agricultural to light/heavy industrial, for the use as a structural steel fabrication facility. It is our intent to erect a building to house our steel fabrication facility in addition to our executive offices.

We have been active in the Texas area for over 10 years as a supplier for TX Dot, in addition we produce steel fabrication work for the construction, oil and petrochemical industries. If you visit our website at www.associatedsteelfab.com you will see a sample of the range of projects we perform and have completed.

As a matter of information, the Zoning Ordinance's "Metal Products, Stamping, and Manufacture" land use is permitted by right in the Light Industrial District and not permitted in the Agricultural District.

ANALYSIS

According to the Tomball Zoning Ordinance, "The LI, Light Industrial, district is intended primarily for the conduct of light manufacturing, assembling and fabrication activities, and for warehousing, research and development, wholesaling and service operations that do not typically depend upon frequent customer or client visits. Such uses do require accessibility to major thoroughfares, major highways, and/or other means of transportation such as the railroad."

There is a mixture of land uses in the vicinity (Exhibits "A" and "B"). To the north of the subject site is Devasco International and a single-family residence within the Light Industrial and Single-Family 9 Districts, respectively; to the south is BL Technology in the Commercial District; to the east is South Cherry Street and agricultural and residential land uses in the SF-20-E District; and to the west is the City of Tomball's M-121 West drainage channel in the Agricultural District.

The Comprehensive Plan's future land use map identifies the site as "Business/Industrial" (Exhibit "E"). It states the "Business/Industrial" land use classification is "where industrial and intensive employment activities should occur. Activities that will require unenclosed assembly, repair and/or storage and require heavy truck or rail transportation support are acceptable. Also included would be warehousing and distribution facilities, as well as offices and showrooms." The proposed rezoning to the Light Industrial District and "Metal Products, Stamping, and Manufacture" land use are generally consistent with the Comprehensive Plan. **It should be noted that any use permitted in the Light Industrial District would be allowed at this location if the zoning is changed.**

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

are required to be submitted and approved by the Engineering & Planning Department and Fire Marshal's Office prior to a building permit application submittal.

ZONING CONSIDERATIONS

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

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

There is a mixture of land uses in the vicinity (Exhibits "A" and "B"). To the north of the subject site is Devasco International and a single-family residence within the Light Industrial and Single-Family 9 Districts, respectively; to the south is BL Technology in the Commercial District; to the east is South Cherry Street and agricultural and residential land uses in the SF-20-E District; and to the west is the City of Tomball's M-121 West drainage channel in the Agricultural District. See the attached site photos (Exhibit "F").

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

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

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

In the immediate vicinity, there are two vacant tracts along Commercial Park Drive zoned Light Industrial.

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

There has been steady development city-wide and within the vicinity in the Light Industrial District.

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

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

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

The proposed zone change is not anticipated to adversely affect health, safety, morals, or general welfare.

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

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

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

The Comprehensive Plan’s future land use map identifies the site as “Business/Industrial” (Exhibit “E”). It states the “Business/Industrial” land use classification is “where industrial and intensive employment activities should occur. Activities that will require unenclosed assembly, repair and/or storage and require heavy truck or rail transportation support are acceptable. Also included would be warehousing and distribution facilities, as well as offices and showrooms.” The proposed rezoning to the Light Industrial District and “Metal Products, Stamping, and Manufacture” land use are generally consistent with the Comprehensive Plan.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on December 1, 2011 and, as of the writing of this report, no public comment forms were received.

RECOMMENDATION

That the Planning and Zoning Commission recommend:

1. APPROVAL of Zoning Case P11-375 based on the following:
 - a. The proposed zoning of Light Industrial District is compatible with the Tomball Comprehensive Plan.
 - b. The proposed zoning of Light Industrial District will not negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area.
 - c. There is sufficient utility capacity to service a light industrial use on this site.
2. APPROVAL of the staff report as the Planning and Zoning Commission’s final recommendation to the City Council.

EXHIBITS

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

Exhibit "A"
Aerial Photo



Exhibit "B"
Zoning Map

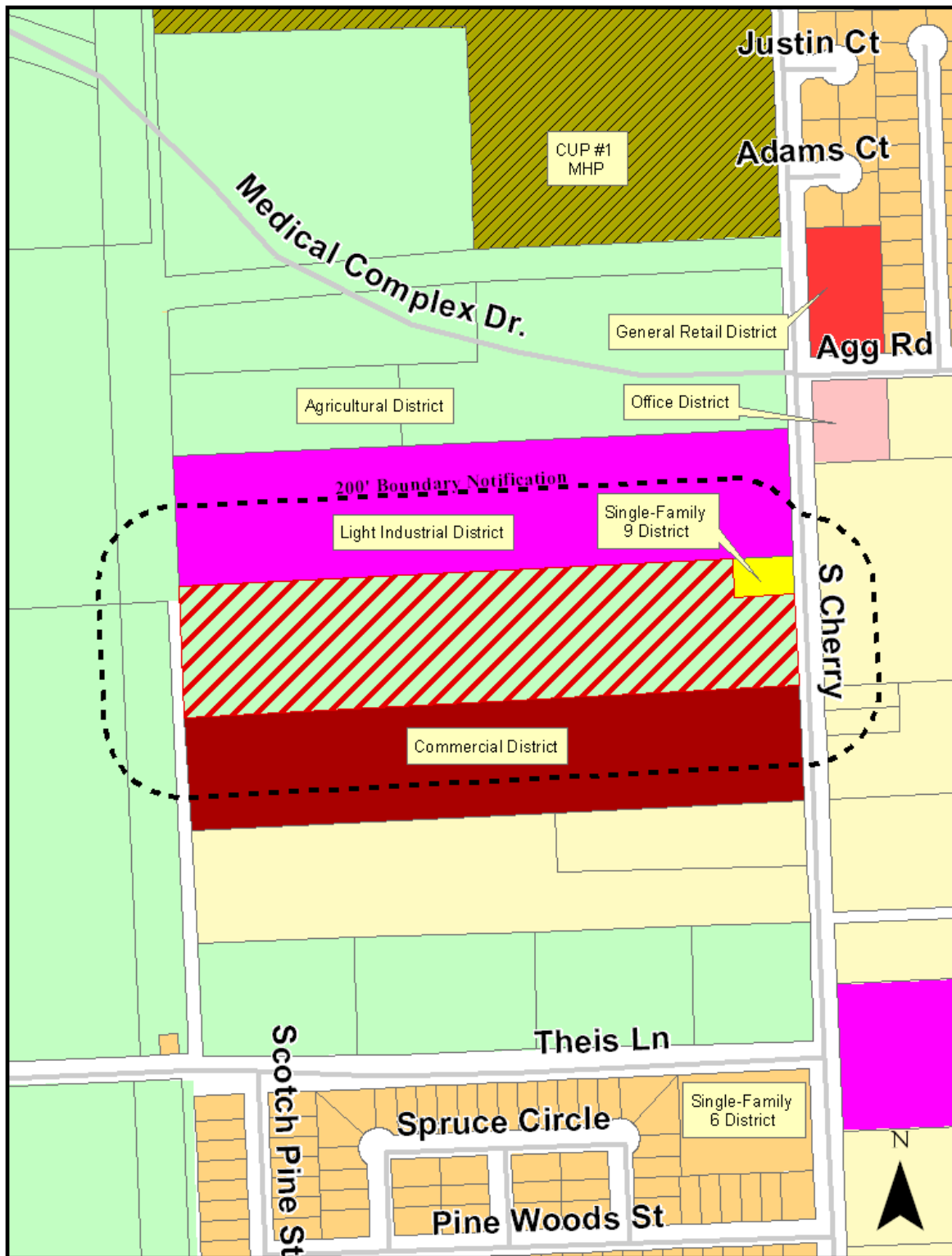


Exhibit "C"
Rezoning Application

Revised 1/20/09



APPLICATION FOR REZONING
Engineering & Planning Department



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

Applicant

Name: Drachman Interest Title: _____
Mailing Address: 5100 Ashley Ct. City: Houston State: TX
Zip: 77041
Phone: (713) 296 1400 Fax: () Email: craig@associatesteelfab.com

Owner

Name: FNR, LLC c/o Wade Houghton Title: _____
Mailing Address: 7020 Portwest Dr. Suite 100 City: Houston State: TX
Zip: 77024 - 1024
Phone: () Fax: () Email: wade.ha@scaly.net.com

Engineer/Surveyor (if applicable)

Name: _____ Title: _____
Mailing Address: _____ City: _____ State: _____
Zip: _____
Phone: () Fax: () Email: _____

Description of Proposed Project: Steel fabrication shop - Industrial office/Warehouse

Physical Location of Property: S. Cherry St. @ Theirs Ln.
[General Location - approximate distance to nearest existing street corner]

Legal Description of Property: LT 183 1/2 TRS M9A 180A 1/2 184A TOMBALL OUTLOTS
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: AG

Current Use of Property: N/A

Proposed Zoning District: Light Industrial

Proposed Use of Property: Steel Fabrication / Metal Products Manufacture
Structural Steel Fabrication

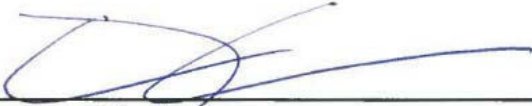
City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405

www.ci.tomball.tx.us

HCAD Identification Number: 635 286 006 0183 Acreage: 11.08

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  10-25-11
Signature of Applicant Date

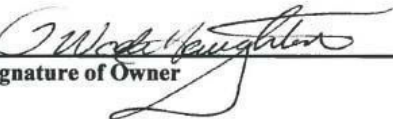
X  10-25-11
Signature of Owner Date

Exhibit "D"
Rezoning Request Letter



ASSOCIATED STEEL FABRICATORS, INC.

5100 Ashley Court
Houston, Texas 77041
(713) 896-1400 FAX (713) 896-1411

We are currently under contract for the property on S. Cherry Street north of Theiss Lane (LT 183 & TRS 179A 180A & 184A).

It is our intent to relocate our steel fabrication facility from its current location in the Brittmoore Tanner Business Park to this location.

To achieve this, we request your consideration in rezoning this property from its current designation as agricultural to light/heavy industrial, for the use as a structural steel fabrication facility. It is our intent to erect a building to house our steel fabrication facility in addition to our executive offices.

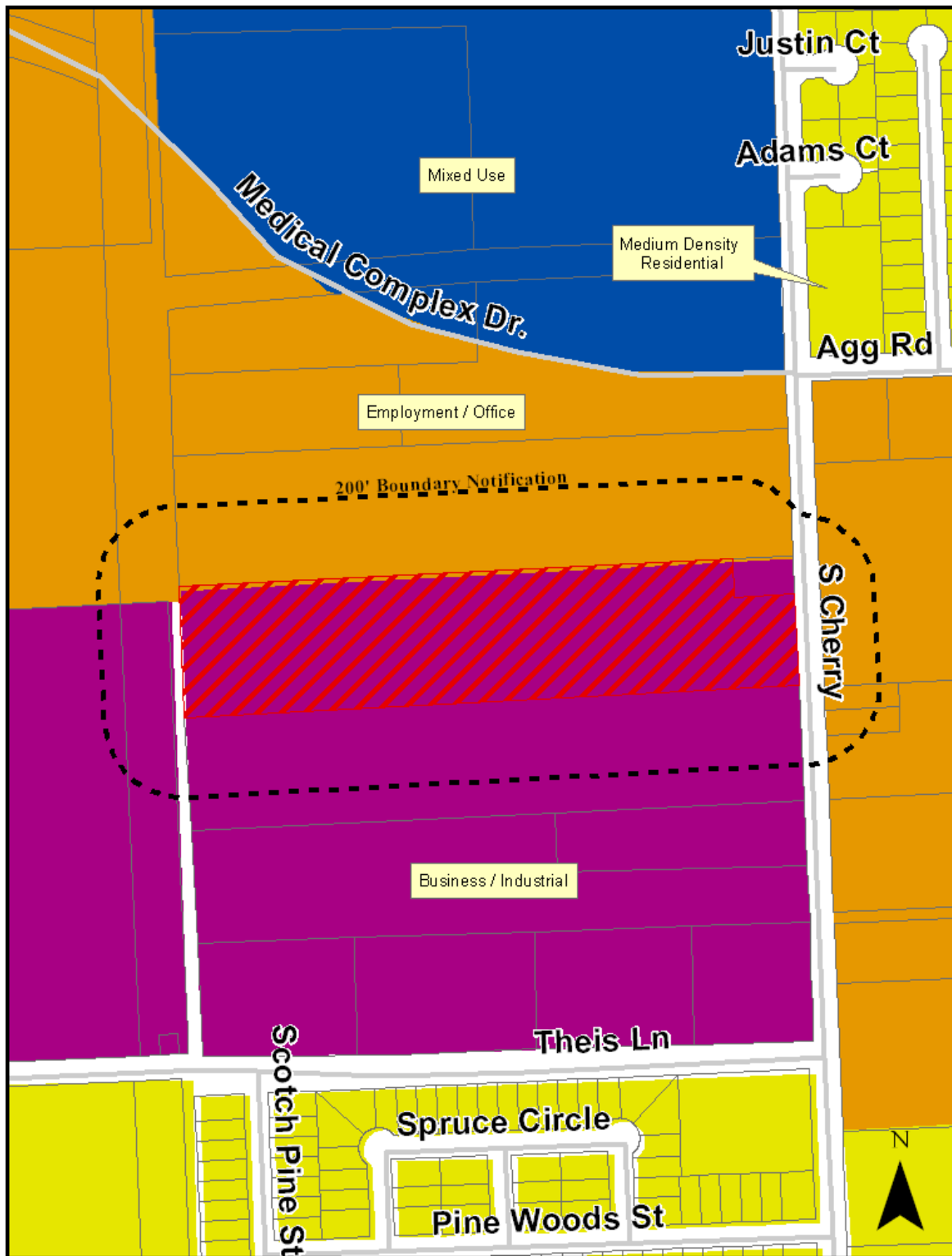
We have been active in the Texas area for over 10 years as a supplier for TX Dot, in addition we produce steel fabrication work for the construction, oil and petrochemical industries. If you visit our website at www.associatedsteelfab.com you will see a sample of the range of projects we perform and have completed.

We ask for your approval at the earliest possible date in this re-zoning so we may proceed with our purchase and development of the site.

Thank you for your attention to this matter.

Craig Drachman

Exhibit "E"
Comprehensive Plan Future Land Use Map



**Exhibit “F”
Site Photos**



Figure 1: Westerly view of subject site.



Figure 2: Devasco International to the north of subject site.



Figure 3: Single-family residence adjacent to subject site.



Figure 4: Agricultural and residential use to the east of subject site.



Figure 5: BL Technology to the south of subject site.



Figure 6: M-121 West drainage channel to the west of subject site.

**NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
DECEMBER 12, 2011
&
CITY COUNCIL
DECEMBER 19, 2011**



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, December 12, 2011, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, December 19, 2011, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P11-375: Request by Drachman Interest on behalf of FNR, LLC to amend the City's Comprehensive Zoning Ordinance to rezone approximately 11.09 acres of land, legally described as Lot 183 and Tracts 179A, 180A, and 184A, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located on the westerly side of South Cherry Street, southerly of Agg Road, from the Agricultural District to the Light Industrial District.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact Assistant City Planner** Rodney Schmidt, (281) 290-1410, rschmidt@ci.tomball.tx.us

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 8th day of December 2011 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate

Senior Administrative Assistant

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



Notice of Public Hearing

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

CASE NUMBER: P11-375

APPLICANT: Drachman Interest on behalf of FNR, LLC

LOCATION: Westerly side of South Cherry Street, southerly of Agg Road

PROPOSAL: Request to amend the City's Comprehensive Zoning Ordinance to rezone approximately 11.09 acres of land, legally described as Lot 183 and Tracts 179A, 180A, and 184A, Tomball Outlots, within the City of Tomball, Harris County, Texas, from the Agricultural District to the Light Industrial District.

* * *

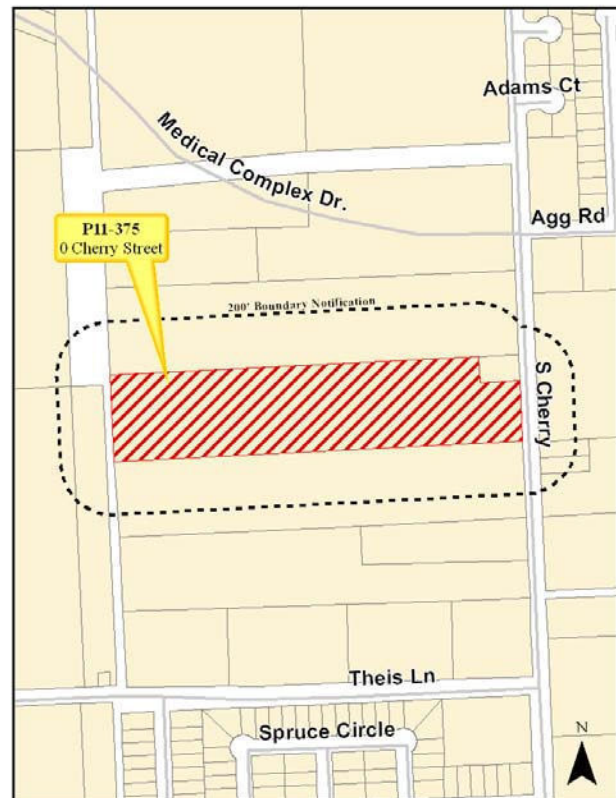
CONTACT PLANNER: Rodney Schmidt

PHONE: (281) 290-1410

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

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

This notice is being mailed to all owners of real property within 200 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll. Interested parties may appear and speak on the project or the staff recommendation at the meeting. Written comments may also be submitted for consideration.



**Planning and Zoning Commission
Public Hearing:
Monday, December 12, 2011, 6:00 PM**

**City Council Public Hearing:
*Monday, December 19, 2011, 6:00 PM**

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

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

Regular City Council

Agenda Item

Meeting Date: January 3, 2012

Data Sheet

Topic:

Approve Resolution No. 2012-01, a Resolution and Order of the City Council of the City of Tomball, Texas, Ordering a Regular City Officer's Election, to be held in the City of Tomball on Saturday, May 12, 2012; Designating the Polling Places and Appointing Election Officials for Such Election; Directing the Giving of Notice of Such Election; Designating the Date for a Runoff Election if Needed; and Providing Details Relating to the Holding of Such Election

Aprobar Resolución Nro. 2012-01, un Resolución y Orden del Consejo Municipal de la Ciudad de Tomball, Texas, Ordenando la Celebración de una Elección Regular de Funcionarios Municipales Para el Sábado 12 de Mayo de 2012; Designando los Lugares de Votación y Nombrando a los Oficiales Electorales de tal Elección; Instruyendo que se Notifique Sobre Esta Elección; Designando la Fecha de una Elección de Desempeño de ser Necesaria; y Proporcionando Detalles Referentes a la Celebración de tal Elección

Phê Duyệt Nghị Quyết Số 2012-01, Một Nghị Quyết Và Lệnh Của Hội Đồng Thành Phố Thành Phố Tomball, Texas, Yêu Cầu Một Cuộc Bầu Cử Viên Chức Thành Phố Thường Lệ Tổ Chức Ngày Thứ Bảy, 12 Tháng Năm, 2012; Thiết Lập Các Địa Điểm Bỏ Phiếu Và Bổ Nhiệm Các Viên Chức Phụ Trách Bầu Cử Cho Cuộc Bầu Cử Đây; Hướng Dẫn Đưa Ra Thông Báo Của Cuộc Bầu Cử; Thiết Lập Ngày Cho Cuộc Bầu Cử Chung Cuộc Nếu Cần; Và Đưa Ra Các Chi Tiết Có Liên Quan Đến Việc Tổ Chức Bầu Cử

Background:

Resolution No. 2012-01 orders the Regular City Officer's Election, which will be held on Saturday, May 12, 2012 for Council Positions 2 and 4.

The first day to file an Application for Place on Ballot is Saturday, February 4; the last day to file an Application for Place on Ballot is Monday, March 5, at 5:00 p.m. Early Voting will be held April 30-May 4 and May 7-8, 2012.

The Resolution also designates the polling places, appoints the election officers, authorizes the use of the eSlate Voting System, and authorizes two 12-hour days of early voting on Tuesday, May 1, and Tuesday, May 8, 2012. A proposed increase of \$0.50 per hour for the Election Judge, Alternate Election Judge, and Election Clerks has been included in the Resolution to allow the City to remain competitive with Harris County in keeping our election workers. The total additional personnel expense will be between \$100 and \$200, depending on whether or not a runoff election is required.

The 2011 City general election cost \$8,591.05, which included \$3,163.87 to Harris County for the use of County equipment; the City purchased its own election equipment, eliminating logistics difficulties in using the County's equipment due to recently adopted State legislation. Additional expenses may be incurred due to new translation requirements (we are required to include Spanish, Vietnamese, and Mandarin translations), increased costs of advertising, or a required run-off election.

The contract between Hart Intercivic and the City includes personnel training, equipment testing, programming, on-site support, tallying, maintenance/repairs, software upgrades and certification services for the City's general election. The anticipated expenses for the May 12, 2012 election are \$10,200, including the contracted services with Hart Intercivic; funds budgeted for elections in the FY 2011-2012 budget are sufficient to cover anticipated costs.

A provision has been added to Section 2 to authorize the City Secretary to select an Acting Presiding or Acting Alternate Presiding Judge from the qualified pool of Election Clerks if either the Presiding Judge or the Alternate Presiding Judge is unable to perform his/her assigned duties for whatever reason.

Origination:

Doris Speer, City Secretary

Recommendation:

Approve Resolution No. 2012-01

Funding: Yes

Account Number: 100-114-6371

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

City Secretary

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

ATTACHMENTS:

Resolution No. 2012-01 - Calling the 2012 General City Election

RESOLUTION NO. 2012-01

A RESOLUTION AND ORDER OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, ORDERING A REGULAR CITY OFFICER'S ELECTION, TO BE HELD IN THE CITY OF TOMBALL ON SATURDAY, MAY 12, 2012; DESIGNATING THE POLLING PLACES AND APPOINTING ELECTION OFFICIALS FOR SUCH ELECTION; DIRECTING THE GIVING OF NOTICE OF SUCH ELECTION; DESIGNATING THE DATE FOR A RUNOFF ELECTION IF NEEDED; AND PROVIDING DETAILS RELATING TO THE HOLDING OF SUCH ELECTION

* * * * *

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

Section 1: It is hereby ordered that a Regular Election be held in and throughout the City of Tomball, Texas on the second Saturday in May, the 12th day of May, 2012, at which election the following officers shall be elected by the resident qualified voters in and for the said City of Tomball, to-wit:

POSITION

**COUNCIL POSITION 2
COUNCIL POSITION 4.**

Section 2: The present boundaries of the City constituting one election precinct, the polls shall be open for voting from seven o'clock (7:00) a.m. until seven o'clock (7:00) p.m. at the following polling place, and the following are hereby appointed officers to conduct the election at said polling place:

POLLING PLACE

Tomball City Hall
401 Market Street
Tomball, Texas 77375

ELECTION OFFICERS

Mary Coats, Presiding Judge
Patsy Kinsey, Alternate Presiding Judge.

The City Secretary is hereby authorized and directed to provide a copy of the RESOLUTION to the judges as written notice of their appointment as required by Section 32.009 of the Texas Election Code. [If either the Presiding Judge or the Alternate Presiding Judge is unable to perform his/her assigned duties, the City Secretary is authorized to select an Acting Presiding or Acting Alternate Presiding Judge from the qualified Election Clerks, as needed.](#)

The Presiding Judge shall have the authority to appoint no more than seven (7) clerks to assist in the holding of such election, but in no event shall the Presiding Judge appoint less than two clerks. Said election officers shall also serve as the Early Voting Ballot Board for such election; the Presiding Judge of such election precinct shall also serve as the Presiding Officer of the Early Voting Ballot Board.

The Election Judge shall be compensated at an hourly rate of \$12.00; early voting clerks and election clerks shall be compensated at an hourly rate of \$11.00 as provided by Title 3, Section 32.091(a) of the State Election Code. The Election Judge shall be compensated in the amount of \$25 for the delivery of election equipment and supplies as provided by Title 3, Section 32.091(a) of the State Election Code, if such delivery is necessary. The City will pay for any required training of the City's election judges and clerks. Judges and clerks will also be reimbursed for travel and will be paid at the set hourly rates for training time.

Section 4: The City Secretary is hereby appointed the Elections Clerk for early voting; the appointment of a deputy clerk or clerks for early voting by the City Secretary shall be in accordance with Section 83.001 *et seq.* of the Texas Election Code. The place for early voting for such election is hereby designated as:

City Hall
City of Tomball, Texas
401 Market Street
Tomball, Texas 77375.

Said clerks shall keep said office open during the hours that the City Hall is regularly open for business, that is, from seven forty-five o'clock (7:45) a.m. until five o'clock (5:00) p.m. on Monday, Wednesday, and Thursday, from seven forty-five o'clock (7:45) a.m. until seven forty-five o'clock (7:45) p.m. on Tuesday, and from seven forty-five o'clock (7:45) a.m. until four o'clock (4:00) p.m. on Friday, on each day for early voting which is not a Saturday, a Sunday, or an official state holiday, beginning on the twelfth (12th) day and continuing through the fourth (4th) day preceding the date of such election. As required under Section 85.005 (d), Election Code, early voting by personal appearance at the main early voting polling place shall be conducted for at least 12 hours on two weekdays, if the early voting period consists of six or more weekdays; therefore, early voting by personal appearance shall be conducted for 12 hours on Tuesday, May 1, 2012 and Tuesday, May 8, 2012.

Said clerks shall not permit anyone to vote early by personal appearance on any day which is not a regular working day for the clerk's office, and under no circumstances shall they permit anyone to vote early by personal appearance at any time when such office is not open to the public. The above-described place for early voting is also the clerk's mailing address to which ballot applications and ballots voted by mail may be sent. The early voting clerk, in accordance with the provisions of the Texas Election Code, shall maintain a roster listing each person who votes early by personal appearance and each person to whom a ballot to be voted by mail is sent. The roster shall be maintained in a form approved by the Secretary of State.

Section 5: All ballots shall be prepared in accordance with Texas Election Code. Paper ballots shall be used for early voting by mail and the eSlate Direct Recording Electronic (DRE) Voting System shall be used

for early voting by personal appearance and voting on Election Day, both of which are part of the eSlate DRE Voting System. The City Council hereby adopts for use in early and election day voting the eSlate Direct Recording Electronic (DRE) Voting System as approved by the Secretary of State. All expenditures necessary for the conduct of the election, the purchase of materials therefore, and the employment of all election officials is hereby authorized.

Section 6: The City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

Section 7: Notice of this election shall be given in accordance with the provisions of the Texas Election Code and returns of such notice shall be made as provided for in said Code. The Mayor shall issue all necessary orders and writs for such election, and returns of such election shall be made to the City Secretary after the closing of the polls.

Section 8: Said election shall be held in accordance with the provisions of Article XI, Section 11 of the Constitution of Texas, which provides that a municipality having terms exceeding two (2) years must fill any vacancy within 120 days after such vacancy occurs, the Texas Election Code and the Federal Voting Rights Act of 1965, as amended. Only duly qualified resident electors of the City of Tomball shall be qualified to vote.

Section 9: The first day to file an application for place on ballot is February 4, 2012. All candidates for election for the Office of City Councilman, Council Positions 2 and 4, must file their names with the City Secretary of the City of Tomball, Texas, by 5:00 P.M. on March 5, 2012 in order for their names to be included on the Official Ballot.

Section 10: Should a Runoff Election be required, the date of the Runoff Election is designated to be Saturday, June 16, 2012. Early voting for the Runoff Election will begin June 4, 2012 and end June 12, 2012. All terms, conditions, and provisions established for the May 12, 2012 Regular City Officers Election shall apply to the Runoff Election.

Section 11: The City Secretary is hereby authorized and instructed to give Notice of said election as required by law.

PASSED, APPROVED and RESOLVED this _____ day of January 2012.

GRETCHEN FAGAN, Mayor
City of Tomball

ATTEST:

DORIS SPEER, City Secretary
City of Tomball

RESOLUCIÓN Nro. 2012-01

RESOLUCIÓN Y ORDEN DEL CONSEJO MUNICIPAL DE LA CIUDAD DE TOMBALL, TEXAS, ORDENANDO LA CELEBRACIÓN DE UNA ELECCIÓN REGULAR DE FUNCIONARIOS MUNICIPALES PARA EL SÁBADO 12 DE MAYO DE 2012; DESIGNANDO LOS LUGARES DE VOTACIÓN Y NOMBRANDO A LOS OFICIALES ELECTORALES DE TAL ELECCIÓN; INSTRUYENDO QUE SE NOTIFIQUE SOBRE ESTA ELECCIÓN; DESIGNANDO LA FECHA DE UNA ELECCIÓN DE DESEMPATE DE SER NECESARIA; Y PROPORCIONANDO DETALLES REFERENTES A LA CELEBRACIÓN DE TAL ELECCIÓN.

* * * * *

EL CONSEJO MUNICIPAL DE LA CIUDAD DE TOMBALL, TEXAS, RESUELVE:

Sección 1: Por la presente se ordena que se celebre una Elección Regular en y en toda la Ciudad de Tomball el segundo sábado de mayo, es decir el 12 de mayo de 2012, elección en la cual los residentes votantes calificados de la mencionada Ciudad de Tomball elegirán a los siguientes funcionarios municipales, a saber:

CARGO

**CONCEJAL, POSICIÓN 2
CONCEJAL, POSICIÓN 4**

Sección 2: Los límites actuales de la Ciudad constituyen un precinto electoral, las casillas electorales abrirán desde las siete en punto (7:00) de la mañana hasta las siete en punto (7:00) de la tarde en el siguiente lugar de votación, y quienes figuran a continuación son por la presente designados oficiales a cargo de la conducción de la elección en el mencionado lugar de votación:

LUGAR DE VOTACIÓN

Tomball City Hall
401 Market Street
Tomball, Texas 77375

OFICIALES ELECTORALES

Mary Coats, Juez Presidente
Patsy Kinsey, Juez Presidente Alterno

Por la presente se autoriza e instruye a la Secretaria de la Ciudad para que proporcione una copia de la RESOLUCIÓN a los jueces como aviso escrito de su nombramiento como lo requiere la Sección 32.009 del Código Electoral de Texas. *If either the Presiding Judge or the Alternate Presiding Judge is unable to perform his/her assigned duties, the City Secretary is authorized to select an Acting Presiding or Acting Alternate Presiding Judge from the qualified Election Clerks, as needed.*

El Juez Presidente tendrá la autoridad de nombrar a no más de siete (7) funcionarios para que asistan en la conducción de tal elección, pero en ningún caso el Juez Presidente deberá nombrar menos de dos funcionarios. Tales oficiales electorales integrarán también el Consejo de Boletas de Votación Anticipada de tal elección; el Juez Presidente de tal precinto electoral cumplirá además la función de Oficial Presidente del Consejo de Boletas de Votación Anticipada.

El Juez Electoral debe ser remunerado a razón de \$12.00 por hora; los funcionarios de votación anticipada y los funcionarios electorales deben ser remunerados a razón de \$11.00 por horas según lo dispone el Título 3, Sección 32.091(a) del Código Electoral del Estado. El Juez Electoral debe recibir una remuneración de \$25 por hacer entrega del equipo y los suministros para la elección según lo dispone el Título 3, Sección 32.091(a) del Código Electoral del Estado, en el caso de que dicha entrega sea necesaria. La Ciudad pagará cualquier capacitación necesaria de los jueces y funcionarios electorales de la Ciudad. Además se reembolsará a los jueces y funcionarios por gastos de viaje y se les pagará a la tarifa por hora establecida para el tiempo de capacitación.

Sección 4: Por la presente se designa a la Secretaria de la Ciudad como Oficial de Votación Anticipada; el nombramiento de funcionarios de votación anticipada por parte de la Secretaria de la Ciudad deberá ser conforme con la Sección 83.001 *et seq.* del Código Electoral de Texas. Por la presente se designa el lugar de votación anticipada para dicha elección de la siguiente manera:

City Hall
City of Tomball, Texas
401 Market Street
Tomball, Texas 77375.

Los funcionarios mencionados deberán mantener dicha oficina abierta durante el horario en que City Hall normalmente está abierto, es decir, desde las siete y cuarenta y cinco (7:45) a.m. hasta las cinco en punto (5:00) p.m. los días lunes, miércoles y jueves; desde las siete y cuarenta y cinco (7:45) a.m. hasta las siete y cuarenta y cinco (7:45) p.m. los martes; y desde las siete y cuarenta y cinco (7:45) a.m. hasta las cuatro en punto (4:00) p.m. los viernes, todos los días de votación anticipada que no sean sábado, domingo ni día feriado oficial del estado, comenzando el décimo segundo (12vo) día anterior a la elección y culminando el cuarto (4to) día anterior a la fecha de tal elección. Según lo requiere la Sección 85.005 (d) del Código electoral, la votación anticipada en persona en el lugar central de votación anticipada debe realizarse por al menos 12 horas

dos días hábiles si el período de votación anticipada es de seis días hábiles o más; por lo tanto, la votación anticipada en persona se realizará por 12 horas el día martes 1 de mayo de 2012 y el martes 8 de mayo de 2012.

Los funcionarios mencionados no deberán permitir a nadie votar por anticipado en persona en ningún día que no sea un día de trabajo normal de la oficina del oficial, y bajo ninguna circunstancia deberán permitir que nadie vote por anticipado en persona en cualquier hora en que tal ofician no esté abierta al público. El lugar de votación anticipada mencionado arriba es también la dirección postal del oficial a la cual pueden enviarse las solicitudes de boletas de votación por correo y los votos emitidos por correo. De acuerdo con las disposiciones del Código Electoral de Texas, el oficial de votación anticipada debe mantener una lista con los nombres de cada persona que vota por anticipado en persona y cada persona a quien se le envía una boleta de votación para votar por correo. Esta lista debe ser mantenida de una forma aprobada por el Secretario de Estado.

Sección 5: Todas las boletas de votación deberán ser preparadas de acuerdo con el Código Electoral de Texas. La votación anticipada por correo será mediante el uso de boletas de papel y para la votación anticipada en persona y para la votación el día de elección se usará el Sistema de Votación Electrónico de Registro Directo (DRE) eSlate, siendo ambos parte del Sistema de Votación DRE eSlate. Por la presente el Consejo Municipal adopta el Sistema de Votación Electrónico de Registro Directo (DRE) eSlate para ser usado durante la votación anticipada y durante el día de elección según éste fue aprobado por el Secretario de Estado. Por la presente se autorizan todos los gastos necesarios para la conducción de la elección, la compra de los materiales para la misma, y la contratación de todos los oficiales electorales.

Sección 6: Por la presente se autoriza e instruye a la Secretaria de la Ciudad para que proporcione todos los suministros electorales necesarios para la conducción de tal elección.

Sección 7: Se deberá dar aviso de esta elección de acuerdo con lo dispuesto en el Código Electoral de Texas y la entrega de tal aviso deberá hacerse según lo dispuesto por dicho Código. La Alcaldesa deberá expedir todas las órdenes y escritos necesarios para tal elección y los resultados de tal elección deben ser entregados a la Secretaria de la Ciudad después que cierren las casillas de votación.

Sección 8: Dicha elección deberá ser celebrada de acuerdo con las disposiciones del Artículo XI, Sección 11 de la Constitución de Texas, la cual determina que una municipalidad con mandatos de más de dos (2) años debe llenar una vacante en un plazo de 120 días a partir de cuando se genera la vacante; deberá ser celebrada además de acuerdo con el Código Electoral de Texas y con la Ley Federal de Derechos de Votación de 1965, según enmendada. Solamente los votantes residentes debidamente calificados de la Ciudad de Tomball estarán calificados para votar.

Sección 9: El primer día para presentar una solicitud para un lugar en la boleta de votación es el 4 de febrero de 2012. Todos los candidatos para el cargo de Concejal Municipal, Concejal Municipal 2 y 4, deben presentar sus nombres ante la Secretaria de la Ciudad de Tomball para las 5:00 P.M. del 5 de marzo de 2012 para que sus nombres sean incluidos en la Boleta Oficial de Votación.

Sección 10: En el caso de que sea necesaria una Elección de Desempate, la fecha de la Elección de Desempate será el sábado 16 de junio de 2012. La votación anticipada de la Elección de Desempate comenzará el 4 de junio de 2012 y terminará el 12 de junio de 2012. Todos los términos, condiciones y disposiciones establecidas para la Elección Regular de Funcionarios Municipales del 12 de mayo de 2012 se aplicarán a la Elección de Desempate.

Sección 11: Por la presente se instruye y autoriza a la Secretaria de la Ciudad a que haga la notificación de dicha elección según lo exige la ley.

PASADA, APROBADA y RESUELTA este día 3 de enero de 2012.

GRETCHEN FAGAN, Alcaldesa
Ciudad de Tomball

ATESTIGUA:

DORIS SPEER, Secretaria de la Ciudad
Ciudad de Tomball

NGHỊ QUYẾT SỐ 2012-01

**MỘT NGHỊ QUYẾT VÀ LỆNH CỦA HỘI ĐỒNG THÀNH PHỐ
THÀNH PHỐ TOMBALL, TEXAS, YÊU CẦU MỘT CUỘC BẦU
CỬ VIÊN CHỨC THÀNH PHỐ THƯỜNG LỆ TỔ CHỨC NGÀY
THỨ BẢY, 12 THÁNG NĂM, 2012; THIẾT LẬP CÁC ĐỊA ĐIỂM
BỎ PHIẾU VÀ BỔ NHIỆM CÁC VIÊN CHỨC PHỤ TRÁCH BẦU
CỬ CHO CUỘC BẦU CỬ NÀY; HƯỚNG DẪN ĐƯA RA THÔNG
BÁO CỦA CUỘC BẦU CỬ; THIẾT LẬP NGÀY CHO CUỘC BẦU
CỬ CHUNG CUỘC NẾU CẦN; VÀ ĐƯA RA CÁC CHI TIẾT CÓ
LIÊN QUAN ĐẾN VIỆC TỔ CHỨC BẦU CỬ**

* * * * *

**HỘI ĐỒNG THÀNH PHỐ CỦA THÀNH PHỐ TOMBALL, TEXAS RA NGHỊ
QUYẾT:**

Mục 1: Theo đây ra yêu cầu một Cuộc Bầu Cử Thường Lệ được tổ chức trong toàn Thành Phố Tomball, Texas vào ngày Thứ Bảy thứ hai, 12 tháng Năm, 2012, để cử tri có đủ điều kiện đi bầu cho các chức vụ dưới đây trong và cho Thành Phố Tomball nói trên, gồm có:

VỊ TRÍ

**NGHỊ VIÊN THÀNH PHỐ VỊ TRÍ 2
NGHỊ VIÊN THÀNH PHỐ VỊ TRÍ 4**

Mục 2: Các ranh giới hiện tại của Thành Phố lập nên một phân khu bầu cử, phòng phiếu sẽ mở cửa cho cử tri đi bầu từ bảy giờ (7:00) sáng cho đến bảy giờ (7:00) chiều tại địa điểm bỏ phiếu sau đây, và theo đó cũng là danh sách các viên chức được bổ nhiệm phụ trách tiến hành cuộc bầu cử tại địa điểm bỏ phiếu đã chọn:

ĐỊA ĐIỂM BỎ PHIẾU

Tomball City Hall
401 Market Street
Tomball, Texas 77375

CÁC VIÊN CHỨC PHỤ TRÁCH CUỘC BẦU CỬ

Mary Coats, Trưởng Ban Điều Hành
Patsy Kinsey, Trưởng Ban Điều Hành Dự Khuyết

Bí Thư Thành Phố theo đây được cho phép và được chỉ thị giao một bản sao của NGHỊ QUYẾT cho các trưởng ban điều hành như bản thông báo về việc bổ nhiệm của họ như đã được yêu cầu trong Mục 32.009 của Bộ Luật Bầu Cử Texas. [If either the](#)

Presiding Judge or the Alternate Presiding Judge is unable to perform his/her assigned duties, the City Secretary is authorized to select an Acting Presiding or Acting Alternate Presiding Judge from the qualified Election Clerks, as needed.

Trưởng Ban Điều Hành sẽ có quyền bổ nhiệm không quá bảy (7) thư ký để giúp việc tổ chức cuộc bầu cử nói trên, nhưng Trưởng Ban điều hành không được bổ nhiệm ít hơn hai thư ký. Các viên chức bầu cử nói trên cũng sẽ nằm trong Ban Thực Hiện Bỏ Phiếu Sớm cho cuộc bầu cử trên; Trưởng Ban Điều Hành của phân khu bầu cử cũng sẽ làm Viên Chức Điều Hành của Ban Thực Hiện Bầu Cử Sớm.

Trưởng Ban Điều Hành sẽ được trả lương giờ ở mức \$12.00; các thư ký phụ trách bỏ phiếu sớm và các thư ký cuộc bầu cử sẽ được trả lương giờ ở mức \$11.00 như đã được chỉ định trong Tiêu Đề 3, Mục 32.091(a) Bộ Luật Bầu Cử Tiểu Bang. Trưởng Ban Điều Hành sẽ được trả thêm \$25 cho việc phân phối các dụng cụ và thiết bị cho cuộc bầu cử như đã được chỉ định trong Tiêu Đề 3, Mục 32.091(a) Bộ Luật Bầu Cử Tiểu Bang, nếu cần. Thành Phố sẽ trả cho bất kỳ buổi huấn luyện cần thiết nào của các trưởng ban và thư ký phụ trách cuộc bầu cử của Thành Phố. Các trưởng ban và thư ký sẽ được hoàn lại tiền đi lại và sẽ được trả lương giờ cho thời gian huấn luyện.

Mục 4: Bí thư Thành Phố theo đây được chỉ định làm Thư Ký cho Cuộc Bầu Cử bỏ phiếu sớm; việc bổ nhiệm một thư ký phụ tá hoặc các thư ký cho kỳ bỏ phiếu sớm của Bí Thư Thành Phố chiếu theo Mục 83.001 et seq. của Bộ Luật Bầu Cử Texas. Địa điểm thực hiện bỏ phiếu sớm cho cuộc bầu cử trên được thiết định ở:

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

Các thư ký nói trên sẽ mở cửa phòng phiếu trong thời gian Tòa Thị Chính mở cửa thường lệ, đó là từ bảy giờ bốn mươi lăm (7:45) sáng cho đến năm giờ (5:00) chiều ngày thứ Hai, thứ Tư, và thứ Năm, từ bảy giờ bốn mươi lăm (7:45) sáng cho đến 7 giờ bốn mươi lăm (7:45) chiều vào ngày thứ Ba, và từ bảy giờ bốn mươi lăm (7:45) sáng cho đến bốn giờ (4:00) chiều vào ngày thứ Sáu, trừ ngày thứ Bảy, Chủ Nhật, hoặc ngày lễ chính thức của Tiểu Bang, bắt đầu từ ngày thứ mười hai (12) cho đến ngày thứ tư (4) trước ngày bầu cử chính thức. Như đã được yêu cầu trong Mục 85.005 (d), Bộ Luật Bầu Cử, thủ tục đích thân đến bỏ phiếu sớm tại địa điểm bỏ phiếu sớm chính sẽ được tiến hành ít nhất 12 tiếng vào hai ngày trong tuần, nếu thời gian bỏ phiếu sớm từ sáu ngày trở lên; do đó, thủ tục đích thân đến bỏ phiếu sớm sẽ được tiến hành trong 12 tiếng vào ngày thứ Ba, 1 tháng Năm, 2012 và thứ Ba, 8 tháng Năm, 2012.

Các thư ký đã nói ở trên sẽ không cho ai đích thân đến bỏ phiếu sớm vào các ngày khác ngày làm việc thường lệ của văn phòng thư ký, và không cho phép ai đích thân đến bỏ phiếu vào lúc văn phòng này không mở cửa cho công chúng. Địa điểm mô tả ở trên cho thủ tục bỏ phiếu sớm cũng là địa chỉ thư từ của thư ký để gửi các đơn xin lá phiếu và

các lá phiếu đã bầu. Thư ký phụ trách bỏ phiếu sớm, chiếu theo các điều khoản trong Bộ Luật Bầu Cử Texas, sẽ giữ danh sách mỗi người đích thân đến bỏ phiếu sớm và mỗi cá nhân gửi lá phiếu bầu qua thư. Danh sách này sẽ được giữ theo mẫu đã được Bí Thư Tiểu Bang chấp thuận.

Mục 5: Tất cả các lá phiếu sẽ được chuẩn bị chiếu theo Bộ Luật Bầu Cử Texas. Các lá phiếu chụp quét quang điện sẽ được dùng cho thủ tục bỏ phiếu qua thư và Hệ Thống Bỏ Phiếu Ghi Điện Tử Trực Tiếp eSlate (DRE) sẽ được sử dụng cho thủ tục đích thân đến bỏ phiếu sớm và bỏ phiếu ngày Bầu Cử, cả hai đều thuộc Hệ Thống Bỏ Phiếu DRE eSlate. Hội Đồng Thành Phố theo đây thông qua việc sử dụng Hệ Thống Bỏ Phiếu Ghi Điện Tử Trực Tiếp eSlate (DRE) cho ngày bỏ phiếu sớm và bỏ phiếu chính thức như đã được Bí Thư Tiểu Bang chấp thuận. Tất cả các chi phí cần thiết cho việc tiến hành cuộc bầu cử, tiền mua các tài liệu theo đó, và việc mướn các viên chức phụ trách bầu cử được cấp phép.

Mục 6: Bí Thư Thành Phố theo đây được cấp phép và chỉ thị cung cấp các dụng cụ bầu cử cần thiết để tiến hành cuộc bầu cử trên.

Mục 7: Thông báo của cuộc bầu cử này sẽ được ban hành chiếu theo các điều khoản của Bộ Luật Bầu Cử Texas và việc thông báo kết quả này nên được làm theo chỉ thị của Bộ Luật nói trên. Thị trưởng sẽ ban hành tất cả các yêu cầu và lệnh cần thiết cho cuộc bầu cử, và kết quả của cuộc bầu cử sẽ được gửi cho Bí Thư Thành Phố sau khi đóng cửa phòng phiếu.

Mục 8: Cuộc bầu cử nói trên sẽ được tổ chức chiếu theo quy định của Điều XI, Mục 11 của Hiến pháp tiểu bang Texas, trong đó quy định rằng viên chức cơ quan thành phố có đã làm việc nhiệm kỳ hơn hai (2) năm phải tìm người vào vị trí trống trong vòng 120 ngày sau khi có vị trí trống trong xảy ra, theo Bộ Luật Bầu Cử Texas và Đạo luật Quyền bầu cử Liên bang năm 1965, được sửa đổi. Chỉ có các cử tri thường trú hội đủ điều kiện của thành phố Tomball sẽ được bỏ phiếu.

Mục 9: Ngày đầu tiên nộp đơn cho vị trí trên lá phiếu là ngày 4 tháng Hai, năm 2011. Tất cả các ứng cử viên cho cuộc bầu cử Văn Phòng Nghị Viên Hội đồng Thành phố, Vị trí 2 và Vị trí 4, phải đệ trình tên lên cho thư ký thành phố của thành phố Tomball, Texas, vào lúc 5 giờ chiều ngày 5 tháng Ba, 2012 để cho tên của họ được bao gồm trong Lá Phiếu Chính Thức.

Mục 10: Nếu cần thiết tổ chức một bầu cử chung cuộc, ngày bầu cử chung cuộc được chỉ định là thứ Bảy 16 Tháng Sáu, 2012. Thủ tục Bỏ phiếu sớm cho cuộc bầu cử Chung Cuộc sẽ bắt đầu ngày 4 Tháng Sáu năm 2012 và kết thúc ngày 12 tháng Sáu năm 2012. Tất cả các điều khoản, điều kiện, và các quy định được đưa ra cho Cuộc Bầu Cử Viên Chức Thành Phố Thường Lệ ngày 12 tháng Năm, 2012 cũng sẽ áp dụng cho Cuộc Bầu Cử Chung Cuộc.

Mục 11: Thư Ký Thành Phố theo đây được cấp phép và hướng dẫn để ban hành Thông Báo về cuộc bầu cử trên theo yêu cầu của luật pháp.

THÔNG QUA, CHẤP THUẬN, và RA NGHỊ QUYẾT ngày 3 tháng Một, 2012.

GRETCHEN FAGAN, Thị trưởng
Thành Phố Tomball

CHỨNG THỰC:

DORIS SPEER, Bí Thư Thành Phố
Thành Phố Tomball

Regular City Council

Agenda Item

Meeting Date: January 3, 2012

Data Sheet

Topic:

Approve Renewal of Contract and First Amendment between the City of Tomball and Comcast for Internet Access, in the Amount of \$70,527.60 for Three Years.

Background:

Currently, Comcast provides the City's Internet access and a point-to-point network connection to Fire Station One. With this renewal, the City will be changing to Comcast's switched fiber network, allowing the City to add Fire Station Two and to replace the existing AT&T circuit. This will greatly increase the bandwidth to both fire stations and will add reliability to Fire Station Two that has had multiple problems with the existing circuit.

The amendment adds the words "To the extent permitted by law" to Sections 9.1 and 9.2, as requested by the City Attorney.

The annual costs for the renewed contract will increase from \$22,680.00 to \$23,509.20 per year for the improved services.

Origination:

Doug Tippey, IT Manager

Recommendation:

Approve Renewal

Funding: Yes

Account Number: 100-117-6312

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

Doug Tippey, IT Manager

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

ATTACHMENTS:

Proposed Renewal Comcast Network Services Agreement
First Amendment to Comcast Network Services Agreement

Comcast Business Communications, LLC Network Services Agreement

This Agreement ("Agreement") is made on the 19th day of December, 2011 ("Effective Date") by and between Comcast Business Communications, LLC ("Company" or "Comcast"), a Delaware limited liability company, with offices located at One Comcast Center, Philadelphia, PA 19103 and City of Tomball ("Customer"), with offices located at 401 Market St Tomball, TX 77375. Herein, the above shall be collectively referred to as the "Parties" and individually as "Party"

Description of Services to be provided by Company to Customer:

Ethernet Network Services ("ENS") with 10 Mbps at one (1) site and 5 Mbps at two (2) sites, as set forth in Schedules A and B attached hereto; 5 Mbps Ethernet Dedicated Internet ("EDI") Services at the Customer site set forth in Schedules A and B attached hereto.	
Term of Agreement (months): Thirty-Six (36)	Agreement Number: TX-14035-121911-01
Non-Recurring Charges ("NRC"): \$500.00	Monthly Recurring Charges ("MRC"): \$1,959.10
Any Additional Charges/Explanation:	
Number of Sites: Three (3)	Estimated Service Date: Ninety (90) to one-hundred twenty (120) days after mutual execution of Agreement.
Notes / Comments: Modifications made to the terms and conditions of the Agreement are set forth in the First Amendment attached hereto.	
Sales Person: Carl Sugden	Telephone Number: (713) 341-8626
General Manager: Robert Newsom	Telephone Number: (713) 341-8093
Customer Contact: Doug Tippy	Telephone Number: (281) 992-2209

This Network Services Agreement sets forth the terms and conditions under which Comcast Business Communications, LLC and its operating affiliates ("Comcast") will provide the Services identified above to Customer. This Comcast Network Services Agreement consists of this document ("Cover Page"), the standard Comcast Business Communications, LLC General Terms and Conditions ("General Terms and Conditions"), and Schedules A and B ("Schedules"), and any jointly executed amendments ("Amendments"), collectively referred to as the "Agreement". In the event of any inconsistency among these documents, precedence will be as follows: (1) Amendments, (2) General Terms and Conditions, (3) this Cover Page, and (4) Schedules. This Agreement shall commence and become a legally binding agreement upon Customer's execution of this Cover Page. The Agreement shall terminate as set forth in the General Terms and Conditions. All capitalized terms not defined on this Cover Page shall have the definitions given to them in the General Terms and Conditions.

All modifications to the Agreement, if any, must be captured in a written Amendment, executed by an authorized Comcast Vice President and the Customer. All other attempts to modify the Agreement shall be void and non-binding on Comcast.

Customer, by signing below, agrees and accepts the terms and conditions of this Agreement.

City of Tomball

Comcast Business Communications, LLC

Signature:		Signature:	
Printed Name:		Printed Name:	
Title:		Title:	
Date:		Date:	

**COMCAST BUSINESS COMMUNICATIONS, LLC
GENERAL TERMS AND CONDITIONS**

SECTION 1 - SCOPE OF SERVICE

1.1 Company will provide to Customer the Service at the prices set forth in the attached Schedule A, and to the location(s) set forth in Schedule B, both attached hereto ("Buildings"). The Service is provisioned by utilizing fiber optic cable, associated with electronics and other equipment ("Network"), which transports and distributes digital signals in a standards based Internet Protocol (IP) format for standards based IP applications to Customer's Buildings identified in the attached Schedule B and at the transmission level designated in Schedule A attached hereto. The Network is provisioned into Customer's Building at the point of interconnection between the Network and Customer's provided equipment located at Customer's Building ("Demarcation Point").

1.2 The Service does not include connection to the public switched network, building wire, any Local Area Networks ("LANs"), Customer Premise Equipment ("CPE"), IP addressing capability, firewalls or any other equipment, electronics, or wiring required on the Customer's side of the Demarcation Point.

1.3 Upon the request of Customer, Company will consider providing other services to Customer at terms, conditions, and prices to be mutually agreed upon in writing between the Parties.

SECTION 2 - INSTALLATION OF NETWORK

2.1 Customer, at no cost to Company, shall secure throughout the term of Service any easements, leases or other agreements necessary to allow Company to use existing pathways into and in each Building to the Demarcation Point for the Service.

2.2 Subject to the terms of this Agreement, and at no cost to Company, Customer shall provide adequate environmentally controlled space and electricity required for installation, operation, and maintenance of the Network used to provision the Service within each Building.

2.3 Company and its employees, agents, lessees, officers and its authorized vendors will require free ingress and egress into and out of the Buildings in connection with the provision of Services. Upon reasonable notice from Company, Customer shall assist Company in accessing each Building.

2.4 If the presence of asbestos or other hazardous materials exists or is detected, Customer must have such hazardous materials removed immediately at Customer's expense or notify Company to install the applicable portion of the Network in areas of any such Building not containing such hazardous material. Any additional expense incurred as a result of encountering hazardous materials, including but not limited to, any additional equipment shall be borne by Customer.

2.5 Company shall have no obligation to install, operate, or maintain Customer-provided facilities or equipment.

2.6 Customer shall be responsible for providing maintenance, repair, operation and replacement of all wire, cable facilities on the Customer's side of the Demarcation Point. Any CPE and wiring that Customer uses in connection with the Service shall be compatible with the Network.

2.7 Customer shall use reasonable efforts to maintain its property and Buildings in a manner that preserves the integrity of the Service and shall promptly notify Company of any event that affects such integrity including but not limited to damage to the Network.

2.8 At such time as Company completes installation and connection of the necessary facilities and equipment to provide the Service, Company shall then notify Customer in writing that the Service is available for use and the date of such notice shall be the "Service Date". The current notice form is

called the Billing Information Form ("Billing Form"). Company may update, modify or replace the service notification form from time to time without notice to Customer.

2.9 Any other failure on the part of Customer to be ready to receive Service, or any refusal on the part of Customer to receive Service, shall not relieve Customer of its obligation to pay charges for any Service that would otherwise be available for use.

2.10 Customer-Provided Equipment (CPE). Company shall have no obligation to install, operate, or maintain CPE. Customer alone shall be responsible for providing maintenance, repair, operation and replacement of all inside telephone wiring and equipment and facilities on the Customer's side of the Demarcation Point. All CPE and wiring that Customer uses in connection with the Services must be fully compatible with the Services. Customer shall be responsible for the payment of all charges for troubleshooting, maintenance or repairs attempted or performed by Company's employees or authorized contractors when the difficulty or trouble report results from CPE.

SECTION 3 - OWNERSHIP, IMPAIRMENT, AND REMOVAL OF THE NETWORK

3.1 The Network is and shall remain the property of Company regardless of whether installed between, within or upon the Buildings and whether installed overhead, above, or underground and shall not be considered a fixture or an addition to the land or the Buildings located thereon. Customer agrees that it shall take no action that directly or indirectly impairs Company's title to the Network, or exposes Company to any claim, lien, encumbrance, or legal process, except as otherwise agreed in writing by the Parties. Nothing in this Agreement shall preclude the Company from using the Network for services provided to other Company customers.

3.2 For a period of twelve (12) months following Company's discontinuance of Service to the Buildings, Company retains the right to remove the Network including, but not limited to, that portion of the Network that is located in the Buildings. To the extent Company removes such portion of the Network, it shall be responsible for returning the Buildings to their prior condition, reasonable wear and tear excepted.

SECTION 4 - COMPENSATION; PAYMENT

4.1 The Non-Recurring Charges ("Non-Recurring Charges" or "NRC") and Monthly Recurring Charges ("Monthly Recurring Charges" or "MRC") for the Service is set forth in the attached Schedule A and on the first page of the Agreement. Upon installation of Services, Company shall immediately invoice Customer for the NRC and Customer shall pay Company one hundred percent (100%) of the NRC. Unless otherwise stated in this Agreement, Company will invoice Customer in advance on a monthly basis for all Monthly Recurring Charges arising under the Agreement. Payment will be considered timely made to Company if received within thirty (30) days after the invoice date set forth in the invoice. Any charges not paid to Company within such period will be considered past due. In the event the Service Date is not the first day of the billing period, the first Recurring Charge shall also include the pro rated in arrears charges for Services from date of installation to the date of first billing.

4.2 Any payment not made when due will be subject to a late charge of 1.5% per month or the highest rate allowed by law on the unpaid invoice, whichever is lower.

4.3 Except for taxes based on Company's net income, and except to the extent Customer provides a valid tax exemption certificate prior to the delivery of Service, Customer shall be responsible for the payment of any and all applicable local, state, and federal taxes (however designated) levied upon the sale, installation, use or provision of Service. Further, Company reserves the right to invoice Customer for the costs of any fees or payment obligations stemming from an order, rule, or regulation of the FCC, a public service commission or a court of competent jurisdiction with respect to the

Services, including, without limitation, universal service fund charges, or as otherwise needed to recover amounts that Company is required by government or quasi-governmental authorities to collect from or to pay to others in support of statutory or regulatory programs, including, without limitation, franchise fees and right-of-way fees. It will be the responsibility of Customer to pay any such taxes and fees that subsequently become applicable retroactively.

4.4 In the event that any newly adopted law, rule, regulation, or judgment increases Company's costs of providing Services, Customer shall pay Company's additional costs of providing Services under the new law, rule, regulation or judgment.

SECTION 5 - TERM

Unless sooner terminated as provided herein, the term of this Agreement shall be for Thirty-Six (36) months from the Service Date ("Term"). In the case of multiple Service Dates, the Term shall be Thirty-Six (36) months from the last Service Date. Upon the expiration of the Term, this Agreement shall automatically renew for successive periods of one (1) year each ("Renewal Term(s)"), unless prior notice of non-renewal is delivered by either Party to the other at least thirty (30) days before the expiration of the Service Term or the then current Renewal Term. Effective at any time after the end of the initial Service Term and from time to time therein, Company may modify the charges for the Services to reflect then-current prevailing pricing subject to thirty (30) days prior notice to Customer. Customer will have thirty (30) days from receipt of such notice to cancel the applicable Service without further liability. Should Customer fail to cancel within this timeframe, Customer will be deemed to have accepted the modified Service pricing for the remainder of the Renewal Term.

SECTION 6 - TERMINATION WITHOUT FAULT; DEFAULT

6.1 Notwithstanding any other term or provision in this Agreement, Customer shall have the right, in its sole discretion, to terminate this Agreement at any time during the Term, or any Renewal Term, upon (i) sixty (60) days prior written notice to Company and (ii) the payment of 100% of the remaining Recurring Charges ("Termination Charges") payable to Company within ten (10) days following termination of the Agreement ("Termination Charges").

6.2 (a) Company may, in its sole discretion, immediately terminate this Agreement in the event that it is unable to provide Service due to any law, rule, regulation, Force Majeure event, or judgment of any court or government agency. If Company terminates the agreement under this subsection 6.2(a), Customer shall have no obligation to pay any remaining Monthly Recurring Charges as a result of Termination by the Company, with the exception of any past due amounts.

(b) Any breach of Article 9A shall be deemed a material breach of this Agreement. In the event of such material breach, Company shall have the right to restrict, suspend, or terminate immediately any or all Service, without liability on the part of Company, and then to notify Customer of the action that Company has taken and the reason for such action, in addition to any and all other rights and remedies under this Agreement. In the event Company terminates service under this subsection 6.2(b), Customer shall be responsible for the payment of all past due amounts and Termination Charges in addition to any other remedies as identified in section 6.4.

6.3 In the event of default, either Party may terminate this Agreement. A "default" exists under this Agreement upon the following events:

(i) either Party's failure to meet or perform any material term, provision, covenant, agreement, or obligation contained in this Agreement; provided that the non-defaulting Party so advises the defaulting Party in writing of the event of default and the defaulting Party does not remedy the default within thirty (30) days after written notice thereof; or

(ii) either Party's insolvency or initiation of bankruptcy or receivership

proceedings by or against the Party.

(iii) Customer is in breach of a payment obligation and fails to make payment in full within ten (10) days after receipt of written notice of default.

6.4 The non-defaulting Party shall be entitled to all available legal and equitable remedies for such breach.

6.5 In addition to the remedies set forth in Section 6.4 above, Company shall be entitled to Termination Charges for any Customer Default.

SECTION 7 - SERVICE RESPONSE TIMES

7.1 Maintenance Service consists of the repair or replacement, at Company's option, of any portion of the Network that is malfunctioning. Company will maintain the Network twenty-four (24) hours a day, seven (7) days per week, every day of the year.

7.2 In the event that Company, in responding to a Customer-initiated service call, determines that the reason for such service call is due to Customer-provided equipment or Customer's actions or omissions, acts or omissions of third parties with whom Customer has any type of relationship, Customer shall compensate Company for Company's costs of such service call at the rate of \$50.00 per half hour and \$150.00 per truck roll charge.

SECTION 8 - LIMITATIONS ON WARRANTIES AND LIABILITY

8.1 COMPANY WILL NOT BE LIABLE TO CUSTOMER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, COVER, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORESEEABLE, OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY LOSS REVENUE, LOSS OF USE, LOSS OF BUSINESS, OR LOSS OF PROFIT WHETHER SUCH ALLEGED LIABILITY ARISES IN CONTRACT OR TORT. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, COMPANY'S AGGREGATE LIABILITY TO CUSTOMER FOR ANY DAMAGES OF ANY KIND UNDER THIS AGREEMENT WILL NOT EXCEED, IN AMOUNT, A SUM EQUIVALENT TO THE APPLICABLE OUT-OF-SERVICE CREDIT.

8.2 THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

8.3 Company's liability for mistakes, errors, omissions, interruptions, delays, outages, or defects in transmission or switching of any Service (individually or collectively, "Liability"), excluding any Liability caused by force majeure events or Customer actions, omission or equipment, shall be limited solely to 1/30th of the Monthly Recurring Charge, for the affected portion of the Service, for one or more Liabilities of at least two (2) hours in duration in any 24-hour period that is not coincident with any other Liability, ("Credit"), provided that the Liability is reported by Customer during the duration of the Liability.

8.4 Company shall not be liable for any act or omission of any other company or companies furnishing a portion of the Service including, but not limited to, the inability of a supplier to provide equipment in a timely manner for Network, or for damages associated with services, facilities, or equipment which it does not furnish, including, but not limited to, damages which result from the operation of Customer's system, equipment or facilities. In no event shall Company, its affiliates, its/their employees agents, contractors, merchants, or licensors be liable for any loss, damage or claim arising out of or related to: (1) stored, transmitted, or recorded data, files, or software. (i.e., Customer is advised to back up all data, files and software prior to the installation of service and at regular intervals thereafter); (2) interoperability, interaction or interconnection of the Service provided under this Agreement with applications, equipment, services or networks provided by Customer or third parties.

8.5 Neither Customer nor its agents or independent contractors shall offer third parties warranties or representations for the Service which would obligate or otherwise bind Company beyond any warranty or representation expressly set forth in this Agreement.

8.6 Customer is prohibited from reselling Company-provided Services in any way. Customer, its employees, agents and independent contractors shall not use the Network to provide any product or Service that directly or indirectly competes with any product or Services provided by the Company (Non-Compete)

SECTION 9 - INDEMNIFICATION

9.1 Subject to Section 8, each Party ("Indemnifying Party") will indemnify and hold harmless the other Party ("Indemnified Party"), its affiliates, officers, directors, employees, stockholders, partners, independent contractors and agents from and against any and all joint or several costs, damages, losses, liabilities, expenses, judgments, fines, settlements and any other amount of any nature, including reasonable fees and disbursements of attorneys, accountants, and experts (collectively, "Damages"), arising from any and all claims, demands, actions, suits, or proceedings whether civil, criminal, administrative, or investigative (collectively, "Claims") relating to:

(i) Any Claim of any third party resulting from the gross negligence or willful act or omission of Indemnifying Party arising out of or related to this Agreement, the obligations hereunder, and uses of Services; and

(ii) Any violation of this Agreement by the Indemnifying Party or any violation of any law, rule, regulation, or order of any governmental authority having jurisdiction over any aspect hereof, or in violation of any patent, right, license, agreement, or certificate relating to the subject matter hereof.

9.2 The Indemnifying Party agrees to defend the Indemnified Party for any loss, injury, liability, claim or demand ("Actions") that is the subject of this Section 9. The Indemnified Party agrees to notify the Indemnifying Party promptly, in writing, of any Actions, threatened or actual, and to cooperate in every reasonable way to facilitate the defense or settlement of such Actions. The Indemnifying Party shall assume the defense of any Action with counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party may employ its own counsel in any such case, and shall pay such counsel's fees and expenses. The Indemnifying Party shall have the right to settle any claim for which indemnification is available; provided, however, that to the extent that such settlement requires the Indemnified Party to take or refrain from taking any action or purports to obligate the Indemnified Party, then the Indemnifying Party shall not settle such claim without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 9A - USE POLICIES

9A.1 Customer agrees to ensure that all uses of the Services installed at its premises ("use") are legal and appropriate. Specifically, Customer agrees to ensure that all uses by Customer or by any other person ("user"), whether authorized by Customer or not, comply with all applicable laws, regulations, and written and electronic instructions for use. Company reserves the right to act immediately and without notice to terminate or suspend the Services and/or to remove from the Services any information transmitted by or to Customer or users, if Company (i) determines that such use or information does not conform with the requirements set forth in this Agreement, (ii) determines that such use or information interferes with Company's ability to provide the Services to Customer or others, or (iii) reasonably believes that such use or information may violate any laws, regulations, or written and electronic instructions for use. Furthermore, to the extent Customer purchases Internet bandwidth services, such Services shall be subject to Company's Acceptable Use Policies ("AUP") that may limit use. The AUP and other policies concerning the Services are posted <http://www.comcast.com/business> or on another web site about which Customer has been notified, and are incorporated to this Agreement by

reference. Company may update the use policies from time to time, and such updates shall be deemed effective seven (7) days after the update is posted online, with or without actual notice to Customer. Accordingly, Customer should check the above web addresses (or the applicable successor URLs) on a regular basis to ensure that its activities conform to the most current version of the use policies. Company's action or inaction in enforcing acceptable use shall not constitute review or approval of Customer's or any other users' use or information.

9A.2 Violation. Any breach of this Article 9A shall be deemed a material breach of this Agreement. In the event of such material breach, Company shall have the right to restrict, suspend, or terminate immediately any or all Service, without liability on the part of Company, and then to notify Customer of the action that Company has taken and the reason for such action, in addition to any and all other rights and remedies under this Agreement.

SECTION 10 - INSURANCE

10.1 Company shall maintain during the Initial Term or any Renewal Term commercial general liability insurance that covers its liability and obligations hereunder including premises operations, broad-form property damage, personal injury hazards and contractual liability.

10.2 Customer shall maintain during the Initial Term or any Renewal Term commercial general liability insurance that covers its liability and obligations hereunder including premises operations, broad-form property damage (including, if appropriate, flood damage), personal injury hazards and contractual liability.

10.3 The liability limits under these policies shall be one million (\$1,000,000) dollars per occurrence, with a combined single limit for bodily injury and property damage liability.

SECTION 11 - ASSIGNMENT

11.1 Neither Party shall assign any right, obligation or duty, in whole or in part, or of any other interest hereunder, without the prior written consent of the other Party, which shall not be unreasonably withheld. The foregoing notwithstanding, Company may assign this Agreement to any affiliate, related entity, or successor in interest without Customer's consent. In addition, Company may partially assign its rights and obligations hereunder to any party which acquires from Company all or substantially all of the assets of cable franchise(s) in which the Service is deployed to Customer.

11.2 All obligations and duties of either Party under this Agreement shall be binding on all successors in interest and assigns of such Party.

SECTION 12 - FORCE MAJEURE

Neither Party shall be held liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, act of terrorism, government regulations, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities, or acts or omissions of transportation common carriers.

SECTION 13 - SEVERABILITY

In the event that any one or more of the provisions in this Agreement shall for any reason be held invalid, unenforceable, or void in any respect under the laws of the jurisdiction governing the entire Agreement, such provision(s) shall be construed so as to render it enforceable and effective to the maximum extent possible in order to effectuate the intention of this Agreement; and the validity, legality, and enforceability of the remaining provisions hereof shall not be affected or impaired.

SECTION 14 - THIRD-PARTY BENEFICIARIES

No provision in this Agreement is intended, nor shall any be interpreted, to provide any person not a Party to this Agreement with any remedy, claim, liability, reimbursement, cause of action or create any other third party beneficiary rights against Company.

SECTION 15 - INDEPENDENT CONTRACTORS

15.1 The Parties to this Agreement are independent contractors. Neither Party is an agent, representative, or partner of the other Party. Neither Party shall have any right, power, or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other Party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture, or partnership between the Parties or to impose any liability attributable to such a relationship upon either Party.

15.2 The requirements of this Article shall survive the expiration, termination, or cancellation of this Agreement to the greatest extent permitted by law.

SECTION 16 - NONDISCLOSURE

16.1 Unless prior written consent is obtained from a Party hereto, the other Party will keep in strictest confidence all information identified by the first Party as confidential, or which, from the circumstances, in good faith and in good conscience, should be treated as confidential; provided that (a) the owner thereof has taken reasonable measures to keep such information secret; and (b) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by the public. Such information includes but is not limited to all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or not stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing. A Party shall be excused from these nondisclosure provisions if the information has been, or is subsequently, made public by the disclosing Party, is independently developed by the other Party, if the disclosing Party gives its express, prior written consent to the public disclosure of the information, or if the disclosure is required by any law or governmental or quasi-governmental rule or regulation.

16.2 Customer shall not disclose to third parties the rates, terms, or conditions of this Agreement or any proprietary or confidential information of the Company, except as necessary for the operation of Customer's business and under non-disclosure agreement between Customer and third parties, or as required by law.

SECTION 16A - CUSTOMER PRIVACY POLICIES

16A.1 In addition to the provisions of Article 16, the privacy policy below applies to Company's handling of Customer confidential information. In the event of a conflict between the provisions of Article 16 and any provision of the privacy policy below, the applicable provision of the privacy policy shall prevail in the resolution of the conflict. A copy of Company's privacy policy is available at <http://www.comcast.com/customerprivacy/>. Company may update this policy from time to time, and such updates shall be deemed effective upon posting.

16A.2 Privacy Note Regarding Information Provided to Third Parties: Company is not responsible for any information provided by Customer to third parties, and this information is not subject to the privacy provisions of this Agreement or the privacy policies. Customer assumes all privacy and other risks associated with providing personally identifiable information to third parties via the Services.

SECTION 17 - NOTICES

17.1 Any notices or other communications contemplated or required under

this Agreement, in order to be valid, shall be in writing and shall be given via personal delivery, or overnight courier, or via U.S. Certified Mail, Return Receipt Requested, at the following addresses:

To Customer:

Attn: Doug Tippy
City of Tomball
401 Market St

Tomball, TX 77375

With an additional customer copy to:

To Company;

Attn.: VP – Business Services
Comcast Business Communications, LLC.
One Comcast Center
Philadelphia, PA 19103

With a copy to:

Attn.: Cable Law Department
Comcast Cable Communications, LLC.
One Comcast Center
Philadelphia, PA 19103

SECTION 18 - HEADINGS AND TITLES

The headings or titles of any provisions of this Agreement are for convenience or reference only and are not to be considered in construing this Agreement.

SECTION 19 - GOVERNING LAW AND COURTS

The domestic law of the state in which the Services are provided shall govern the construction, interpretation, and performance of this Agreement, except to the extent superseded by federal law.

SECTION 20 - COMPLIANCE WITH LAWS

Each of the Parties agrees to comply with all applicable local, state and federal laws and regulations and ordinances in the performance of its respective obligations under this Agreement.

SECTION 21 - AMENDMENTS; NO WAIVER

21.1 This Agreement may be amended only by written agreement signed by authorized representatives of both Parties.

21.2 No waiver of any provisions of this Agreement or to any default under this Agreement shall be effective unless the same shall be in writing and signed by or on behalf of the Party against whom such waiver is claimed.

21.3 No course of dealing or failure of any Party to strictly enforce any term, right, or condition of this Agreement shall be construed as a waiver of such term, right or condition.

21.4 Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default.

SECTION 22 - SURVIVAL

Provisions contained in this Agreement that by their sense and context are intended to survive the performance, termination or cancellation of this Agreement hereof by any Party hereto shall so survive.

SECTION 23 - FULLY INTEGRATED

This writing constitutes the entire agreement between the Parties as to the subject matter hereof and supersedes and merges all prior oral or written agreements, representations, statements, negotiations, understandings, proposals, and undertakings with respect to the Agreement.

SECTION 24 -INTERPRETATION OF AGREEMENT

This Agreement is a negotiated document. In the event that this Agreement requires interpretation, such interpretation shall not use any rule of construction that a document is to be construed more strictly against the Party who prepared the document.

SECTION 25 - RIGHT TO ENTER INTO CONTRACTS

Nothing herein shall be construed as preventing either Party hereto from entering into similar contractual arrangements with other parties, unless such contracts would conflict with the performance of this Agreement.

SECTION 26 - REMEDIES CUMULATIVE

All rights of termination, or other remedies set forth in this Agreement are cumulative and are not intended to be exclusive of other remedies to which the injured Party may be entitled at law or equity in case of any breach or threatened breach by the other Party of any provision of this Agreement. Use of one or more remedies shall not bar use of any other remedy for the purpose of enforcing any provision of this Agreement; provided, however, that Party shall not be entitled to retain the benefit of inconsistent remedies.

SECTION 27 - COUNTERPARTS

This Agreement may be executed simultaneously in two or more counterparts, each counterpart shall be deemed an original, and all counterparts individually or together shall constitute one and the same instrument.



COMCAST SALES ORDER

MSA No		Saville Acct #		D. Submitted	11/22/2011
Sales Order #	31944	Account Exec	Carl Sugden	AE Code	14035
Channel	Government	SDE	Steven Castro	Order Type	Renewal and Upgrad
Market	Houston				

Billing Information

Entity Name	City of Tomball				
Street / Address	401 Market St			County	Harris
City State, Zip	Tomball	TX	77375-		
Contact Name	Doug Tippy				
Phone	(281) 992-2209	Fax		Cell / Pager	
Email	dtippey@tomballtx.com				
Tax Exempt	Yes	Billing Format	Monthly		

Customer Signature <-----> Total Charges for Sales Order 31944

Total Sites	Total MRC	Total NRC	Svc Commitment Term / Mo.	FOC Date	Svc. Commit Date	Customer Requested Due Date
3	\$1,959.10	\$500.00	36			

Main Locations

# Services	Service Name	QOS	Bandwidth	Bandwidth Type
1	Enterprise Ethernet Dedicated Internet	N/A	5	
1	Enterprise Ethernet Network Service	Basic	10	

Remote Locations

# Services	Service Name	QOS	Bandwidth	Bandwidth Type
2	Enterprise Ethernet Network Service	Basic	5	

Customer Signed and Approved

Signature _____

Date _____

Main Location City Hall

Main Customer Location / MSC -----> Site Name : City Hall -----> NPA-NXX

Address 1	401 Market St	County	Harris
Address 2		Floor	Room
City State, Zip	Tomball TX 77375-	Lat	Long
Local Contact	Doug Tippey	Email	Doug Tippey <dtippey@tomballtx.com>
Phone	(281) 992-2209 Ext: Fax	Cell / Pager	
Easment	Yes Letter Attached		
Property Mgr Name	Property Phone		
Special Instructions			

Service	QoS	Bandwidth	SERVICE		INTERFACE		Bandwidth Type
			MRC	NRC	MRC	NRC	
Enterprise Ethernet Network Service	Basic	10	\$585.10	\$0.00	\$0.00	\$0.00	
Enterprise Ethernet Dedicated Internet	N/A	5	\$660.00	\$0.00	\$0.00	\$0.00	

Remote Locations terminating at City Hall

Remote Customer Locations / Cell Tower -----> Site Name : Fire 2 -----> NPA-NXX

Address 1	11675 Holderrieth Tomball	County	Harris
Address 2		Floor	Room
City State, Zi	Tomball TX 77375-	Lat	Long
Local Contact	Doug Tippey	Email	dtippey@tomballtx.com
Phone	(281) 992-2209 Ext: Fax	Cell / Page	
Easment	Yes Letter Attached		
Property Mgr Name	Property Phone		
Special Instructions			

Service	QoS	Bandwidth	SERVICE		INTERFACE		Bandwidth Type
			MRC	NRC	MRC	NRC	
Enterprise Ethernet Network Service	Basic	5	\$357.00	\$500.00	\$0.00	\$0.00	

Address 1 1200 Rudell Rd. **County** Harris
Address 2 **Floor** **Room**
City State, Zi Tomball TX 77375- **Lat** **Long**
Local Contact Doug Tippey **Email** dtippey@tomballtx.com
Phone (281) 992-2209 Ext: **Fax** **Cell / Page**
Easment Yes **Letter Attached**
Property Mgr Name **Property Phone**
Special Instructions

			<i>SERVICE</i>		<i>INTERFACE</i>		<i>Bandwidth Type</i>
<i>Service</i>	<i>QoS</i>	<i>Bandwidth</i>	<i>MRC</i>	<i>NRC</i>	<i>MRC</i>	<i>NRC</i>	
Enterprise Ethernet Network Service	Basic	5	\$357.00	\$0.00	\$0.00	\$0.00	



SCHEDULE B - BUILDING LOCATION DETAIL

BILLING LOCATION INFORMATION

Billing Name City of Tomball
County Harris
Street / Address 401 Market St
City State, Zip Tomball TX 77375-
Tax Exempt Yes
Billing Interval Monthly

Contact Name Doug Tippey
Email dtippey@tomballtx.com
Phone (281) 992-2209 Ext:
Fax _____
Cell / Pager _____

SERVICE LOCATIONS

Site Name: City Hall
County Harris
Address 1 401 Market St
Address 2 _____
Floor _____
Room _____
City State, Zip Tomball TX 77375-

LocalContact Doug Tippey
Email Doug Tippey <dtippey@tomballtx.com>
Phone (281) 992-2209 Ext:
Fax _____
Cell / Pager _____
Latitude _____
Longitude _____

Site Name: Fire 1
County Harris
Address 1 1200 Rudell Rd.
Address 2 _____
Floor _____
Room _____
City State, Zip Tomball TX 77375-

Local Contact Doug Tippey
Email dtippey@tomballtx.com
Phone (281) 992-2209 Ext:
Fax _____
Cell / Pager _____
Latitude _____
Longitude _____

Site Name: Fire 2
County Harris
Address 1 11675 Holderrieth Tomball
Address 2 _____
Floor _____
Room _____
City State, Zip Tomball TX 77375-

Local Contact Doug Tippey
Email dtippey@tomballtx.com
Phone (281) 992-2209 Ext:
Fax _____
Cell / Pager _____
Latitude _____
Longitude _____

SCHEDULE A
BUILDINGS, SERVICES AND PRICING

Date: 8/14/2011

Short Description of Service:

Legacy Migration 3 site ENS Basic 10mb, 5MB, 5MB, 1 site EDI 5MB

Term: 36 MONTHS

DATA NETWORK SERVICES - PAGE 1

Line	Service Element	Description	Location A*	Location Z*	Tax Jurisdiction	Qty	Unit Pricing		Extended Pricing	
							MRC	NRC	MRC	NRC
001	EDI - Network Interface	5 Mbps	City Hall		Interstate	1	\$360.00	\$0.00	\$360.00	\$0.00
002	EDI - Bandwidth	5 Mbps	City Hall		Interstate	1	\$300.00	\$0.00	\$300.00	\$0.00
003	Ethernet Network Interface - 10 / 100	1 Port	City Hall		Interstate	1	\$127.50	\$0.00	\$127.50	\$0.00
004	ENS - Basic Network Bandwidth	10 Mbps	City Hall		Interstate	1	\$457.60	\$0.00	\$457.60	\$0.00
005	Ethernet Network Interface - 10 / 100	1 Port	Fire 1		Interstate	1	\$127.50	\$0.00	\$127.50	\$0.00
006	ENS - Basic Network Bandwidth	5 Mbps	Fire 1		Interstate	1	\$229.50	\$0.00	\$229.50	\$0.00
007	Ethernet Network Interface - 10 / 100	1 Port	Fire 2		Interstate	1	\$127.50	\$500.00	\$127.50	\$500.00
008	ENS - Basic Network Bandwidth	5 Mbps	Fire 2		Interstate	1	\$229.50	\$0.00	\$229.50	\$0.00
009						1	\$0.00	\$0.00	\$0.00	\$0.00
010						1	\$0.00	\$0.00	\$0.00	\$0.00
011						1	\$0.00	\$0.00	\$0.00	\$0.00
012						1	\$0.00	\$0.00	\$0.00	\$0.00
013						1	\$0.00	\$0.00	\$0.00	\$0.00
014						1	\$0.00	\$0.00	\$0.00	\$0.00
015						1	\$0.00	\$0.00	\$0.00	\$0.00
016						1	\$0.00	\$0.00	\$0.00	\$0.00
017						1	\$0.00	\$0.00	\$0.00	\$0.00
018						1	\$0.00	\$0.00	\$0.00	\$0.00
019						1	\$0.00	\$0.00	\$0.00	\$0.00
020						1	\$0.00	\$0.00	\$0.00	\$0.00
021						1	\$0.00	\$0.00	\$0.00	\$0.00
022						1	\$0.00	\$0.00	\$0.00	\$0.00
023						1	\$0.00	\$0.00	\$0.00	\$0.00
024						1	\$0.00	\$0.00	\$0.00	\$0.00
025						1	\$0.00	\$0.00	\$0.00	\$0.00
026						1	\$0.00	\$0.00	\$0.00	\$0.00
027						1	\$0.00	\$0.00	\$0.00	\$0.00
028						1	\$0.00	\$0.00	\$0.00	\$0.00
029						1	\$0.00	\$0.00	\$0.00	\$0.00
030						1	\$0.00	\$0.00	\$0.00	\$0.00
031						1	\$0.00	\$0.00	\$0.00	\$0.00
032						1	\$0.00	\$0.00	\$0.00	\$0.00
033						1	\$0.00	\$0.00	\$0.00	\$0.00
034						1	\$0.00	\$0.00	\$0.00	\$0.00
035						1	\$0.00	\$0.00	\$0.00	\$0.00

* Building Location Detail Attached

COMCAST ACCOUNT REPRESENTATIVE

COMCAST SALES ENGINEER

Carl Sugden

Clint Nesbitt

CUSTOMER NAME

City of Tomball

NAME

TITLE

DATE

TOTAL MONTHLY SERVICE CHARGES:

\$1,959.10

MONTHLY CUSTOM INSTALLATION CHARGES:

\$0.00

TOTAL MONTHLY CHARGES:

\$1,959.10

TOTAL NONRECURRING SERVICE CHARGES:

\$500.00

NONRECURRING CUSTOM INSTALLATION CHARGES:

\$0.00

TOTAL NONRECURRING CHARGES:

\$500.00

Note: The prices included on this sales order do not include any local, state or federal fees, charges, or taxes that may apply. Please refer to the Comcast Master Services Agreement for specific detail regarding such charges.

FIRST AMENDMENT
To
Network Services Agreement No. TX-14035-121911-01

This First Amendment ("Amendment") is concurrently entered into on December 19, 2011 ("Effective Date") in conjunction with Network Services Agreement No. TX-14035-121911-01 ("Agreement") by and between Comcast Business Communications, LLC ("Company") and City of Tomball ("Customer"), individually referred to herein as "Party" and jointly referred to as "Parties". In the event of conflict between this Amendment and the Agreement, the terms and conditions of this Amendment shall take precedence in the interpretation of the explicit matter in question. Unless otherwise set forth herein, all capitalized terms set forth herein shall have the same meaning as set forth in the Agreement.

Whereas, the Parties desire to amend the Agreement by this writing to reflect the amended or additional terms and conditions to which the Parties have agreed to;

Now, therefore, in consideration of the mutual covenants, promises, and consideration set forth in this Amendment, the Parties agree as follows:

1. Section 9.1 of the Agreement is hereby modified to read as follows:

"To the extent permitted by law, and subject to Section 8, each Party ("Indemnifying Party") will indemnify and hold harmless the other Party ("Indemnified Party"), its affiliates, officers, directors, employees, stockholders, partners, independent contractors and agents from and against any and all joint or several costs, damages, losses, liabilities, expenses, judgments, fines, settlements and any other amount of any nature, including reasonable fees and disbursements of attorneys, accountants, and experts (collectively, "Damages"), arising from any and all claims, demands, actions, suits, or proceedings whether civil, criminal, administrative, or investigative (collectively, "Claims") relating to:

(i) Any Claim of any third party resulting from the gross negligence or willful act or omission of Indemnifying Party arising out of or related to this Agreement, the obligations hereunder, and uses of Services; and

(ii) Any violation of this Agreement by the Indemnifying Party or any violation of any law, rule, regulation, or order of any governmental authority having jurisdiction over any aspect hereof, or in violation of any patent, right, license, agreement, or certificate relating to the subject matter hereof."

2. Section 9.2 of the Agreement is hereby modified to read as follows:

"To the extent permitted by law, the Indemnifying Party agrees to defend the Indemnified Party for any loss, injury, liability, claim or demand ("Actions") that is the subject of this Section 9. The Indemnified Party agrees to notify the Indemnifying Party promptly, in writing, of any Actions, threatened or actual, and to cooperate in every reasonable way to facilitate the defense or settlement of such Actions. The Indemnifying Party shall assume the defense of any Action with counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party may employ its own counsel in any such case, and shall pay such counsel's fees and expenses. The Indemnifying Party shall have the right to settle any claim for which indemnification is available; provided, however, that to the extent that such settlement requires the Indemnified Party to take or refrain from taking any action or purports to obligate the Indemnified Party, then the Indemnifying Party shall not settle such claim without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed."

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as of the day and year written below and the persons signing covenant and warrant that they are duly authorized to sign for and on behalf of the respective Parties. Except as otherwise modified by this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

City of Tomball		Comcast Business Communications, LLC	
Signature:		Signature:	
Printed Name:		Printed Name:	
Title:		Title:	
Date:		Date:	