

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



MONDAY, OCTOBER 10, 2011

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, October 10, 2011 at 6:00 P.M., City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

- 1.0 Call to Order
- 2.0 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.]*
- 3.0 Reports and Announcements
 - **Farmers Market** – 9 a.m.-1:00 p.m. (Every Saturday, September 24-November 12)
 - October 10, 2011 – **Fall Cleanup Week**
 - October 10, 2011 – Planning and Zoning Commission Meeting – moved to 5:00 p.m.
 - October 10, 2011 – Special Council Meeting – Public Hearing on Proposed Tax Rate – 6:00 p.m.
 - October 15, 2011 – **E-Waste and Shredding Event – LoneStar-Tomball College Campus, Parking Lot N3**

- October 15, 2011 – **Tomball Art Walk**, 11:00 a.m.–6:00 p.m.; Free Concert at the Depot (Grateful Geezers Band), 4:30 p.m.–7:00 p.m.
- October 22, 2011 – **2nd Annual American Heart Association’s Northwest Harris County Virtual Heart Walk** to support the American Heart Association – 9:30 a.m.; Heart Walk routes (1, 2 or 3 mile options) begin at The Heart Center at Tomball Regional (north entrance; use free parking garage or adjacent lots)
- October 24, 2011 – Tourism Advisory Committee Meeting – moved to 4:00 p.m.
- October 24, 2011 – Special Council and Planning and Zoning Commission Meeting regarding the Downtown Specific Plan – 6:00 p.m.
- October 28-29, 2011 – **Fire Department Fall Festival**, 709 West Main – 7:00 p.m.-12:00 Midnight
- November 1, 2011 – **Mayor’s Coffee**, 5:30 p.m.–7:00 p.m., **Nona’s Italian Grill**
- November 7, 2011 - Appointments to Tourism Advisory Committee for Terms expiring December 5, 2011
- November 12, 2011 – **2nd Saturday at the Depot** – 5:00 p.m.
- November 19, 2011 – **46th Annual Holiday Parade** – 10:00 a.m.
- November 19, 2011 - **Special Walk Tomball** in the Holiday Parade behind the Walk Tomball! It’s a Wonderful Life banner – 10:00 a.m.
- November 19, 2011 – **Tomball Art Walk**, 11:00 a.m.–6:00 p.m.; Free Concert at the Depot, 5:00 p.m.–7:30 p.m.
- **Walk Tomball!** (Every Saturday at 8:00 a.m. at the Depot)
- Reports by City staff and members of Council about items of community interest on which no action will be taken

4.0 Old Business:

- 4.1 Public Hearing on Tax Rate Increase
- 4.2 Announce that the Vote on Tax Rate will be held on October 17, 2011 at 6:00 p.m. and October 24, 2011 at 5:30 p.m.
- 4.3 Discussion and Approval of a Personal Services Contract, in an amount not to exceed \$8,000, with Baker Botts, LLP for the Creation of a Pension Program for the Volunteer Firefighters of the Tomball Fire Department and Authorize the City Manager to Execute the Engagement Letter

5.0 New Business:

- 5.1 Approve Job Order Proposal Submitted by KBR for the Purpose of Converting Customer Water Service Line Connections to The City’s New Water Mains in the Downtown Area, for a Not to Exceed Cost of \$50,000.00.

6.0 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 7th day of October 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.

Special City Council

Agenda Item

Meeting Date: October 10, 2011

Data Sheet

Topic:

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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:

Fall Cleanup Week

E-Waste and Shredding Event

Fire Department Fall Festival

Mayor's Coffee

City of Tomball

Fall Clean up

Week of October 10 to October 15, 2011

Monday – Saturday - 8:00 am - 4:30 pm

Objective:

Provide the citizens of Tomball the opportunity to dispose of large, hard-to-handle items that cannot be collected under the normal garbage service. **** (Remember this is for residents of Tomball only (must have City utility bill as proof); NO COMMERCIAL BUSINESS OPERATORS) ****

Roll Offs will be available at the City Landfill Site (0.4 miles north of E. Huffsmith on Rudolph) to dispose of the acceptable items. See map to landfill site below.

Acceptable Items:

- Lumber
- Bicycle parts
- Plywood (4 cubic yd. max)
- Rugs/carpet
- Siding
- Clothing
- Box springs and mattresses
- Bricks (small amount)
- Empty buckets or pails
- Rocks (small amount)
- Washing machines
- Dryers
- Water heaters
- Furniture
- Gutter material
- Cardboard boxes
- Lawn mowers (oil & gas removed)
- Dishwashers

Not Acceptable:

- Tree trimmings
- Limbs or stumps
- Tires
- Engine blocks
- Structural steel
- Equipment with oil or gasoline
- Fertilizers
- Pool chemicals
- Batteries
- Oil filters
- Insecticides
- Container with unmarked labels holding liquids
- Sealed containers of any type
- Large amounts of construction or demolition material
- Smoke detectors
- Pressurized vessels
- Flammable, combustible or corrosive products
- Raw meats, food products or byproducts
- Televisions
- Computers
- Refrigerators
- AC units
- Appliances with Freon or fluids
- Paint

All appliances must be drained and tagged by a licensed technician.

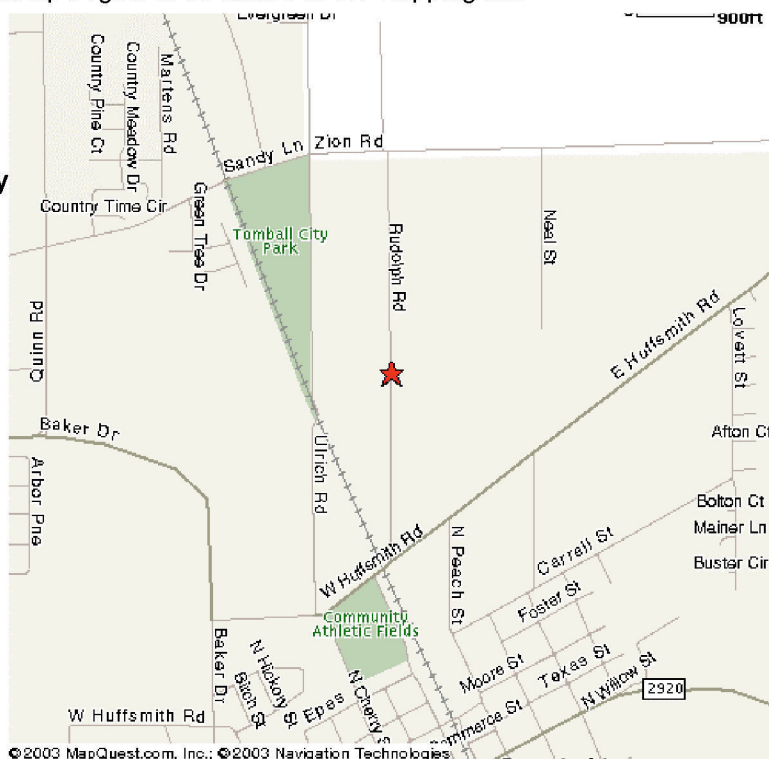
Acceptable items are anything that is inert and would not harm the environment before or after disposal into a landfill.

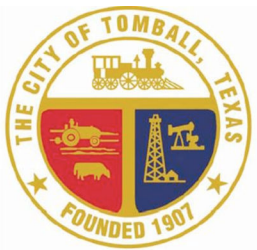
The City of Tomball will provide a free chipping service for brush and small limbs during the week of Tomball Cleanup. To participate, please call **(281) 290-1400** the week before the cleanup begins to be added to the chipping list.

CHIPPING SPECIFICATIONS:

- Turn all big ends toward road or in one direction
- Limit size to 6 ft.-8 ft., maximum
- Keep logs separate from limbs, nothing over 6" dia.
- Place limbs & brush near roadside and not on property
- Leaves, please bag for regular garbage pickup

Map to Tomball landfill site

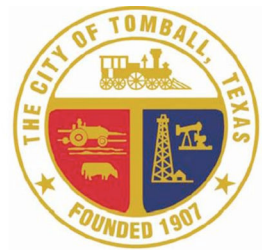




E-WASTE RECYCLING DAY

OCTOBER 15, 2011

9 AM to 1 PM



OBJECTIVE:

To provide a convenient e-waste recycling program to the residents of the City of Tomball, **NO COMMERCIAL BUSINESS OPERATORS**, in the form of an e-waste collection event. ****You must present a city utility bill as proof of residency.**** This event is sponsored by the City of Tomball, Waste Corporation of America, and CompuCycle.

PROGRAM:

CompuCycle will process all e-waste generated by the residents of the City of Tomball at no charge. CompuCycle adheres to the Responsible Recycling (R2) practices. The drive-thru e-waste drop off service will be located at **Lone Star College, 30555 Tomball Parkway, north entrance, parking lot N-3.**

ITEMS ACCEPTED – COMPUTER- RELATED ELECTRONICS:

Computers	Monitors & TVs	Keyboards
Routers	Hubs	Computer Mice
Laptops	Printers	Switches
Power Cords	Cables	Fax Machines
UPS	Servers	Cell Phones
Cellular Phones	DVD Players	Telephones
VCRs	Cable Boxes	Gaming Consoles
Clocks	Batteries	Radios
Toner Cartridges	Ink Jet Cartridges	Copiers

ITEMS NOT ACCEPTED:

Vacuum Cleaners	Refrigerators	Washing Machines
Weed - Eaters		

ABOUT CompuCycle:

CompuCycle, Houston's first EPA - accredited, R2 Certified responsible e-cycling solutions provider focuses on refurbishing equipment for resale, reuse of components, and environmentally responsible e-waste recycling.



7700 Kempwood Dr.
Houston, TX 77055



FALL FESTIVAL

Hosted by: Tomball Fire Department



FRIDAY & SATURDAY

OCTOBER 28 & 29, 2011

7pm - 12am

709 W. Main St.
Tomball, Texas

COME ENJOY THE GAMES & HAY RIDE

ACCEPTING CANNED GOODS AND PET FOOD FOR NON-PROFIT ORGANIZATIONS.

ALSO ACCEPTING DONATIONS FOR NEXT YEARS FALL FESTIVAL.

QUESTIONS? CONTACT LISA GRIFFIN 281-351-7101

November 1, 2011
5:30 P.M.
Nonna's Italian Grill
1025 Alma

Mayor's Coffee

Stop by to get in
touch with Tomball!



Gretchen Fagan
Mayor

For more information call 281-290-1002 or visit ci.tomball.tx.us

Special City Council

Agenda Item

Data Sheet

Meeting Date: October 10, 2011

Topic:

Public Hearing on Tax Rate Increase

Background:

The notice of effective tax rate and the notice of public hearings on tax increase have been published in the official newspaper as required (see attached).

The effective tax rate would provide approximately the same amount of revenue as received in 2010; the rollback rate will provide approximately the same amount of tax revenue as received in 2010 plus sufficient funds to pay anticipated debt in the coming year.

Under the State's Truth-in-Taxation laws (Chapter 26, Tax Code, Section 26.06), the City must publish special notices regarding the tax rate and must hold two public hearings before adopting a tax rate that exceeds the lower of the rollback rate or the effective tax rate, with a minimum of seven (7) days' notice for each public hearing. While the proposed tax rate of \$0.341455/\$100 does not exceed the rollback tax rate of \$0.372830/\$100, it does exceed the effective tax rate of \$0.258190/\$100; therefore, two public hearings are required before Council's vote on the tax rate.

Due to the delay in receiving the effective and rollback tax rates from Harris County, the dates selected for the public hearings on the proposed tax rate were October 3, 2011 (regular meeting) and October 10, 2011 (special meeting), at 6:00 p.m.; following each public hearing, the council must announce the date and time for the vote on the proposed tax rate.

Origination:

State of Texas Truth-in-Taxation Laws.

Recommendation:

Hold Public Hearing as posted.

Funding:

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

City Secretary

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

ATTACHMENTS:

Notice of Public Hearing on Tax Increase

Notice of Public Hearing on Tax Increase

The City of Tomball, Texas will hold two public hearings on a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by 32.25 percent (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax calculated under Chapter 26, Tax Code). Your individual taxes may increase at a greater or lesser rate, or even decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted.

The first public hearing will be held on October 3, 2011, 6:00 PM
at City Hall, 401 Market Street, Tomball, TX 77375.

The second public hearing will be held on October 10, 2011, 6:00 PM at
City Hall, 401 Market Street, Tomball, TX 77375.

The members of the governing body voted on the proposal to consider the tax increase as follows:

FOR: Councilmembers F.S. Hudgens, Rick Brown, and Preston L. Dodson

AGAINST: Councilmembers Mark Stoll and Derek Townsend

PRESENT and not voting: N/A

ABSENT: N/A

The average taxable value of a residence homestead in the City of Tomball, Texas last year was \$166,526 (average taxable value of a residence homestead in the taxing unit for the preceding tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older). Based on last year's tax rate of \$0.251455 (preceding year's adopted tax rate) per \$100 of taxable value, the amount of taxes imposed last year on the average home was \$418.74 (tax on average taxable value of a residence homestead in the taxing unit for the preceding tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

The average taxable value of a residence homestead in the City of Tomball, Texas this year is \$147,746 (average taxable value of a residence homestead in the taxing unit for the current tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older). If the governing body adopts the effective tax rate for this year of \$0.258197 per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$381.48 (tax on average taxable value of a residence homestead in the taxing unit for the current tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

If the governing body adopts the proposed tax rate of \$0.341455 per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$504.49 (tax on the average taxable value of a residence homestead in the taxing unit for the current tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

Members of the public are encouraged to attend the hearings and express their views.

The tax information above is published as a requirement of State Law. Your individual taxes will not increase unless Harris County Appraisal District has appraised your property at a higher value.

Special City Council

Agenda Item

Data Sheet

Meeting Date: October 10, 2011

Topic:

Announce that the Vote on Tax Rate will be held on October 17, 2011 at 6:00 p.m. and October 24, 2011 at 5:30 p.m.

Background:

The notice of effective tax rate and the notice of public hearings on tax increase have been published in the official newspaper as required (see attached).

Following each public hearing, the Mayor and Council must announce the dates and times at which the vote on the proposed tax rate will take place.

Under the State's Truth-in-Taxation laws (Chapter 26, Tax Code), with each public hearing, the City must announce the date, time and place of the meeting(s) at which it will vote on the tax rate and publish a special notice regarding the vote on the tax rate. The dates approved by Council are October 17, 2011 at 6:00 p.m. and October 24, 2011 at 5:30 p.m., in City Hall, 401 Market Street, Tomball, Texas.

Origination:

State of Texas Truth-in-Taxation requirements.

Recommendation:

Announce date, time and place of the meetings at which Council will vote on the tax rate.

Funding:

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

City Secretary

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

Special City Council

Agenda Item

Meeting Date: October 10, 2011

Data Sheet

Topic:

Discussion and Approval of a Personal Services Contract, in an amount not to exceed \$8,000, with Baker Botts, LLP for the Creation of a Pension Program for the Volunteer Firefighters of the Tomball Fire Department and Authorize the City Manager to Execute the Engagement Letter

Background:

The Tomball Fire Department began participating in the Texas Volunteer Firefighters' Retirement Plan in 1998. In that era, volunteer membership was stable. Shortly thereafter, membership began to dwindle and a part-time paid duty crew was hired to handle daytime operations. Originally, contributions to the plan were minimal amounts and were based on the number of volunteers on the roster. For amounts to be credited to a participant's account, certain criteria related to attendance at training sessions and responses to emergency calls had to be met. Over the course of time, the "old guard" membership retired or moved away prior to satisfying the 15-year participation for full vesting in the program. The City continued to fund participation based on rostered volunteers. Several years ago, an audit of the State retirement program revealed that it was actuarially unsound and the State moved to correct the problem by significantly increasing the monthly contribution amounts. Our volunteer firefighters have become more transient in nature and are not staying with the Department long enough to meet the State's 15-year vesting period for full benefits.

During the 2010/2011 Budget Process, I identified the need to move to a different program in order to create a system that can provide an incentive that could have some increased value over the State system; Council approved that supplemental request. This proposed professional services contract will allow us to move forward with the project and create a program that will be a significant tool in our recruiting and retention efforts for our volunteer members. Legal costs to complete the necessary documentation to create the pension program are estimated to be approximately \$4,000-\$5,000 with the maximum amount being \$8,000 and funds are budgeted in the Fire Department budget. The volunteer membership supports the creation of this program.

Origination:

Fire Department

Recommendation:

Staff recommends approval

Funding: Yes

Account Number: 142-6020

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

Randy Parr

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

ATTACHMENTS:

Discussion memo

Redlined version of original proposal

Revised Engagement Letter

TOMBALL FIRE DEPARTMENT
1200 RUDEL
TOMBALL, TEXAS 77375

MEMORANDUM

Date: October 5, 2011
To: George Shackelford
From: Randy Parr
Subject: Volunteer Pension Program

The Tomball Volunteer Fire Department enrolled in the Texas Emergency Services Retirement System – Firefighters’ Pension System in 1997/1998. At that time, monthly contributions for each member maintained on the Department’s roster was \$12.00 per month. Full vesting did not occur until a firefighter had 15 years in the system. In 2004, the State determined that this retirement system was grossly underfunded and revised both the monthly contribution amounts as well as the benefits to be paid. The funding requirement was increased annually until the monthly contribution amount for each member on the Department’s roster reached \$36.00 per month effective in 2011. With a very minimal number of exceptions, the volunteer members of TFD have come and gone over the past several years. At this time, there are only two volunteer members still active from when I was appointed fire chief in March of 2004.

Financially, due to the volunteer membership dwindling and becoming more transient, the impact to the City of Tomball is that we have been contributing money to some other volunteer fire department’s member’s pension. The reason I say this is that should a volunteer either not meet the minimum participation requirements or leave the organization prior to vesting in the State pension plan, there is no refund provided to the City. The money drops into the State pension plan “bucket” and is used to satisfy the pension plan’s liability to those volunteers from whatever department that remain in the system for the required vesting period and become eligible to receive a pension.

The new pension system which was approved by Council in the 2010-2011 Budget process will only benefit the volunteer members of the Tomball Fire Department. There will still be a minimum participation threshold requirement for members to receive an allocation of money from the annual amount contributed in to the program, but the money will remain only with TVFD members. Should a person leave prior to meeting the five year vesting requirement, those moneys will be reallocated to the remaining members in the program. This length of service awards program (LOSAP) will provide a very significant recruiting/retention tool for attracting and retaining volunteer members at TFD.

Under the new pension system, members will receive points based on length of time in the organization, attendance at trainings, incidents and public education events, nights spent in the station, certification levels and positions held in the organization, including but not limited to officer positions, standing committee positions, coordinator and Board of Director position. All participants' points will be added together and the participant's percentage of the total points will be determined. Based on that percentage, an allocation of the City's contribution, earnings on the investment account and reallocation of forfeited amounts from departing members will be made to each participant's account. The annual maximum amount that can be allocated from the City's contribution to each participant's account is set at \$3,000 by the Internal Revenue Service Regulations.

Cost wise, the City will see no change in its volunteer firefighter pension costs. The only caveat to this assumption would be if the Volunteer program expands significantly, we may ask for some minimal increase in the budget line. Currently, the annual budget amount in this category is \$18,000. Costs of the administering the program and investing the funds will be borne by the plan itself. I would envision that the City's contribution of its budgeted amount would be made in four quarterly amounts to take advantage of the average cost concept of investing. At the time the pension documents are completed, I would recommend, with your approval, volunteer fire department members that will serve on the "TFD Volunteer Pension Plan Committee". Their first actions would be to ratify the plan documents and meet with the plan's financial advisor to discuss the investment goals and limitations on the types of investments.

Let me know if you have any other thoughts or suggestions. Thanks.

September 23, ~~October 6~~, 2011

TOMBALL FIRE DEPARTMENT
(Employee Benefit Matters)

Mr. Randall F. Parr, EFO, CFO
Fire Chief
Tomball Fire Department
1200 Rudel
Tomball, TX 77375

Rob Fowler
TEL +1 713.229.1229
FAX +1 713.229.2729
rob.fowler@bakerbotts.com

Dear Randy:

Baker Botts L.L.P. (“Baker Botts,” the “Firm” or “we”) is pleased to have the opportunity to represent the Tomball Fire Department (“TFD”). Thank you for selecting us.

By this letter agreement, we seek to confirm a clear, mutual understanding of the services we are to perform and the terms under which those services are to be performed. Of course, if you ever have any questions regarding any aspect of our representation, we encourage you to contact us immediately so that any issues can be promptly resolved to our mutual satisfaction.

Identification of Our Client

You acknowledge that we are counsel to TFD only, and are not hereunder agreeing to act as counsel to any officer, director, stockholder, partner, subsidiary, parent, affiliate, agent or employee of TFD, or to undertake any duties to any such person or entity.

Scope of the Engagement, Fees and Expenses

You have asked us to represent TFD in preparing a deferred compensation plan for its volunteer firefighters (the “Matter”). You are not engaging us for business advice; our professional services are limited to legal matters.

This engagement is only for this Matter. However, should you tender to us other work, and should we expressly accept the representation of you with respect to that other work, this letter will govern our engagement for that other work as well as though it were included in the definition of the “Matter.” Any amendments or modifications to this letter must be in writing and signed by all parties hereto.

You agree to pay our reasonable attorney's fees and expenses for our work on the Matter, including (even after our representation has concluded) (a) the time and expenses that we may incur responding to discovery requests regarding this engagement, and (b) the time and expenses that we may incur in defending any claims relating to this engagement if the case is (i) adjudicated and we are not found liable, or (ii) settled by you with your consent.

We apply applicable rules of professional conduct to determine the reasonable value of our services in accordance with applicable rules of professional conduct. Fees for our services are based on the time and labor required, the novelty and difficulty of the particular questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in this locality for similar services, the time limitations imposed by the client or by the circumstances, the nature and length of the professional relationship with the client, and the experience, reputation, and ability of the lawyer or lawyers performing the services. These factors are used to determine the hourly rates applicable to this Matter. Our fees for the Matter will be determined primarily by the time recorded by our lawyers and other timekeepers for working on the Matter at the hourly rates reflected in our invoices.

We currently anticipate that Rob Fowler and Alison Sulentic will work on the Matter. Their respective hourly rates for this work during 2011 are \$650 and \$475.

We may use other lawyers and non lawyer staff in order to handle efficiently the Matter and control legal costs. Our U.S. hourly rates for 2011 range from \$500 to \$1,000 per hour for partners, and \$250 to \$750 per hour for associates and other counsel. Our U.S. rates for paralegals and clerks and other non lawyer professionals range from \$125 to \$600 per hour. Our rates for lawyers based outside the U.S. vary depending on local market conditions. Our hourly rates usually increase at the beginning of each calendar year to take into account current levels of legal experience, changes in overhead costs, and other factors.

While complex matters typically require the attention of more than one attorney, it is often desirable for one attorney to serve as the primary contact with the client and be primarily responsible for the work. We anticipate that Rob Fowler will serve in that capacity in connection with the Matter. However, each lawyer working on the Matter considers you to be a valued client, and you may contact any attorney working on the Matter at any time to assist with your needs. Of course, the availability of each of our lawyers varies over time, depending on current workload and personnel changes. As a result, from time to time, the lawyers working on the Matter may change.

At your request, we will provide you with an estimate of the amount of fees and expenses that any particular project or defined phase of a project may cost and we will not commence work on any such project or phase until you have authorized us to do so. Our periodic invoices will give you an update of our actual fees (determined as described above) and expenses so that you can compare them to our estimate. We will endeavor to update our estimates from time to time as we learn more about the project or phase. Nevertheless, you understand that our estimates are just that—estimates—and are neither a fixed fee amount, nor a

maximum fee amount; you agree to pay the actual fees and expenses as invoiced, even if they exceed the estimate. Of course, any decision by you not to authorize us to proceed with a project or phase, as well as any delays in authorizing us so to proceed, may have an adverse effect on your rights or on the outcome of the Matter. **Notwithstanding the foregoing, we agree that we will not incur fees in excess of \$8,000 on the Matter without your prior written approval.**

We try to manage our own business efficiently so that we can deliver legal services to our clients in a cost-effective way while honoring our obligations to preserve client confidences. Like many organizations, we may outsource certain functions to operate our business more efficiently, including delivery, storage, duplicating, information technology, and collection of older accounts receivable. We also use the services of consultants and hardware and software vendors to advise us on the efficient operation of the Firm and the effective use of our systems. These parties may have some access to client confidential information in performing their services. All are bound by duties of confidentiality so that their obligations to preserve confidentiality are the same as that of our own employees. You consent to our allowing nonemployees access to information as outlined in this paragraph.

Our practice is to send a periodic statement, usually monthly, for services rendered and expenses posted during the previous interval. The detail in the statement is intended to inform you about the fees and expenses incurred and the nature and progress of the work performed. These invoices usually contain confidential information protected by legal privileges, which may be waived if you do not treat them as confidential.

We do our best to see that our clients are satisfied with our services and charges. We encourage you to inquire about any matter relating to this agreement or our statements that is in any way unclear or appears unsatisfactory. Concerns that are brought to our attention promptly can usually be easily addressed. Should there be any unanticipated delay in the payment of our statements, we will try to resolve any concerns you may have by a brief telephone call. Alternatively, we may send you notice that your account is past due.

Our fees are set with the expectation that they will be paid within 30 days of invoicing. We do not normally charge interest, in consideration of your prompt payment.

Conflicts

We have performed a conflicts check on the names you provided. Based on a check of these names and under the applicable standards in the governing rules of professional conduct, we believe that the Firm is free to undertake the Matter. If we identify a conflict after work has begun, you agree to use reasonable efforts to help us resolve the conflict to the satisfaction of all parties.

Because of our professional ethical responsibilities to each of our clients, we are prohibited from sharing with you any confidential information that we obtain in the course of our representation of another client. By signing below, you acknowledge and agree that the Firm

will have no obligation to share with you confidential information obtained from any of our other clients, even if such information is material to you and your interests.

Issue Conflicts

The Firm has several hundred lawyers in different cities and countries. Our conflicts process involves the application of the standards set forth in applicable rules of professional conduct. We do not undertake to check or disclose other relationships. For example, our conflicts process will not necessarily reveal and we do not check to determine whether other clients of the Firm may be your competitors or may take positions on the subject matter of certain issues that may be adverse to or inconsistent with positions you may favor respecting that subject matter. As a result, we may represent your business competitors, and in fact, we often represent more than one client in any particular industry. Your signature below acknowledges and consents to the limited scope of our conflicts check and any issue conflicts.

Other Conflicts Issues

In addition, the nature of our practice is such that occasionally the Firm may concurrently represent a second client that is adverse to another client in a case or matter that is not substantially related to our current representations of the first client where, in our professional judgment, we can undertake the concurrent representation without adversely limiting the responsibilities we have to either client. For purposes of this engagement letter, use of the term "substantially related" is consistent with the use of such phrase in ABA Model Rule of Professional Conduct 1.9, Texas Disciplinary Rule of Professional Conduct 1.09, and similar rules of professional conduct in the other jurisdictions where we maintain offices. In such a situation, we give careful consideration to the needs of both clients before undertaking any such representation. In view of the nature of our practice, you agree that attorneys at the Firm may represent a party with interests directly adverse to yours, so long as that adverse representation is not substantially related to the matters we have been engaged to handle on your behalf, and so long as we believe that our responsibilities to you and the other client would not be adversely limited by the concurrent representations. Where any such representation involving litigation is undertaken, it is likely that our attorneys representing our other client would be required to conduct adverse discovery against you, your parent company, subsidiaries, or affiliates and perhaps to cross-examine witnesses employed by you, your parent company, subsidiaries, or affiliates if any such matter proceeded to trial. Where any such representation involving a transaction is undertaken, our attorneys representing our other client will assist it in seeking the terms most favorable to it even though different terms may be more advantageous to you. We agree, however, that your prospective consent to conflicting representation will not apply where, as a result of our representation of you, we have obtained sensitive, proprietary, or other confidential information that, if known to our other client, could be used by the other client to your material disadvantage, unless any confidential information we have obtained would be screened from the lawyers working for our other client.

In any event, you consent to our undertaking unrelated matters for any party to whom you are adverse in any of the matters we may handle for you from time to time. As one example, if you engage us to represent you in a financing transaction across from a commercial bank or investment bank, we would be able to represent that bank on any matter unrelated to our work for you and where you are not the adverse party. As a second example, if you engage us to represent you in a lawsuit against an entity, such as an insurance company, we would be able to represent such entity on any matter unrelated to our work for you and where you are not the adverse party.

Termination of the Engagement

You have the right at any time to terminate our representation. Similarly, we reserve the right to discontinue our work on this Matter. Provided you consent, we may withdraw from the representation at any time. In addition, if withdrawal can be accomplished without material adverse effect on your interests, you consent and agree that we may withdraw at any time without your consent. Of course, we may withdraw without your consent in any other circumstance if it becomes ethically proper for us to do so.

In the event your account is past due and we are unable to agree on satisfactory payment terms for past due amounts, the failure to make timely and full payment of the balance due on your account shall constitute your authorization for us to withdraw from our representation of you, and you understand that we may pursue collection of the account. If it should ever be necessary for such an action to be pursued, the costs of collecting the debt, including court costs, filing fees, and reasonable attorney's fees, shall also be recoverable.

If you discharge us or we elect to withdraw, you will take all steps necessary to free us of any obligation to perform further, including executing any documents necessary to complete the termination of the representation. We will take all steps that are ethically and reasonably practicable to protect your interests until our withdrawal is complete. If a discharge or a withdrawal occurs, we will be entitled to be paid or reimbursed for all costs and expenses paid or incurred by us on your behalf, and we will also be entitled to be paid a reasonable fee for the time we spent and those professional services we render to you through completion of the termination process and for which we were not previously paid.

Once our work on the Matter is complete, unless we have accepted other work from you, our representation of you will conclude and our attorney-client relationship shall end.

Tax Matters

Any tax advice that we provide in connection with the Matter must comply with our obligations under the Circular 230 regulations issued by the U.S. Treasury. As part of the U.S. Treasury's effort to combat tax shelters, Treasury issued these regulations imposing elaborate requirements upon the providers of tax advice. Pursuant to these regulations, our written tax advice (including emails) to clients will generally include a disclaimer stating that our

advice cannot be used for the purpose of avoiding penalties under the Internal Revenue Code or for promoting, marketing or recommending to another party the transaction or matter that is the subject of our advice.

The inclusion of such disclaimer language in advice we provide you in no way indicates that we believe any of the tax advice we are providing to you is part of a tax shelter. Rather, we will include such language to comply with the Circular 230 regulations. If, at any time during our representation, you would like to receive tax advice upon which you can rely to avoid tax penalties, please contact the lead lawyer or the tax lawyer working with you on the Matter. We will continue to review our Circular 230 policy in light of developments in this area and other relevant considerations.

Retention and Disposition of Records

We typically maintain a file of paper and electronic documents during the representation containing those documents we consider useful to the work (the "Matter File"). We endeavor to send to you, during the course of, or at the conclusion of, our representation, the originals or copies of all documents that we deem important for you to see or retain. Of course, that will not include everything we receive or generate such as our internal work product. You agree that the documents containing our attorney work product, mental impressions or notes and drafts of documents shall be and remain our property and are not considered part of your Matter File. In addition, electronic documents, such as our internal emails, documents containing or reflecting our internal deliberations or self-evaluations, and our internal databases shall remain our property and are not considered part of your Matter File. At the conclusion of this Matter or any other representation we undertake on your behalf, you agree that all electronic and hard copies of documents or data we have in the Matter File relating to the Matter (or other representation, as applicable), whether we may have received them from you, received them from others, or created them ourselves, may be handled and ultimately destroyed, without further notice to you, in accordance with our record retention policy then in effect (currently providing for a retention period of seven years for most matters). However, if you make a written request for the delivery of specific documents while we still retain them, and if we have received payment of all of our invoiced fees and costs, all documents in our Matter File that you so request (other than documents that are our property as described above) will be copied and delivered to you at your expense.

Other Matters

Teamwork between you and our lawyers is critical to our effort to serve you successfully. We depend upon you to provide accurate, complete, and timely information and to disclose fully and accurately all facts and developments relating to the Matter. You agree to promptly notify us of any change in your contact information so that we may communicate with you effectively and efficiently. We will do our best to schedule meetings, proceedings and depositions to serve your convenience, but this may not always be possible or within our control.

We will do our best to provide you with the legal services necessary to achieve a result satisfactory to you. However, the outcome of all legal matters is subject to uncertainties and risks, and we make no promises or guarantees concerning the outcome of the Matter and our fees are not contingent upon the outcome of the Matter. You acknowledge that any statement of opinion given by us as to the anticipated results of a particular course of action being considered for handling the Matter is nothing more than a statement of opinion based on the information available at the time and is not a promise or guarantee.

Nothing contained herein should be construed to give rise to any fiduciary duty owed to any third party by Baker Botts; no third parties are intended to be beneficiaries hereof.

By signing below, you consent to our describing our work for you as a client of the Firm in our various marketing materials, including on our website.

You acknowledge that communication by cellular telephone, facsimile transmission and email may pose risks to confidentiality and to timely, complete communications; nevertheless, you authorize and consent to our use of such communication technology in connection with representing you.

The Texas Supreme Court has promulgated a creed for Texas lawyers and requires that we provide a copy of it to our new clients. A copy is attached. We must also advise you that the "State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. Although not every complaint against or dispute with a lawyer involves professional misconduct, the State Bar's office of general counsel will provide you with information about how to file a complaint; for more information, call 1-800-932-1900."

Conclusion

You acknowledge that you have had the opportunity to consult to the extent you deem advisable with your counsel other than us in reviewing and agreeing to this engagement agreement and the consents contained herein.

If the terms and scope of our engagement and the basis of our fees and our billing practices outlined in this letter are acceptable to you, please so indicate by ~~signing~~**having your authorized representative sign** below. Our mutual agreement and satisfaction with these matters are necessary prerequisites to the commencement of our work for you. However, if the terms we have outlined are not satisfactory and you would like us to consider an alternative arrangement, please let us know so that we may address your concerns as promptly as possible before we commence work.

We look forward to working on your behalf.

Sincerely,

BAKER BOTTS L.L.P.

By: _____
Rob Fowler
Partner

ACCEPTED, ACKNOWLEDGED, AND AGREED:

TOMBALL FIRE DEPARTMENT

By: _____
~~Randall F. Parr~~
~~Fire Chief~~

George Shackelford, City Manager
City of Tomball

THE TEXAS LAWYERS CREED

I am a lawyer. I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that Professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this Creed for no other reason than it is right.

I. OUR LEGAL SYSTEM

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

1. I am passionately proud of my profession. Therefore, “My word is my bond.”
2. I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.
3. I commit myself to an adequate and effective pro bono program.
4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.
5. I will always be conscious of my duty to the judicial system.

II. LAWYER TO CLIENT

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client’s legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest.

1. I will advise my client of the contents of this Creed when undertaking representation.
2. I will endeavor to achieve my client’s lawful objectives in legal transactions and in litigation as quickly and economically as possible.
3. I will be loyal and committed to my client’s lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.
4. I will advise my client that civility and courtesy are expected and are not a sign of weakness.

5. I will advise my client of proper and expected behavior.
6. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demean and abuse anyone or indulge in any offensive conduct.
7. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.
8. I will advise my client that we will not pursue tactics which are intended primarily for delay.
9. I will advise my client that we will not pursue any course of action which is without merit.
10. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.
11. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

III. LAWYER TO LAWYER

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

1. I will be courteous, civil, and prompt in oral and written communications.
2. I will not quarrel over matters of form or style, but I will concentrate on matters of substance.
3. I will identify for other counsel or parties all changes I have made in documents submitted for review.
4. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties.
5. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are cancelled.
6. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.

7. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond.

8. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses.

9. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.

10. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.

11. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed.

12. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the Court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.

13. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.

14. I will not arbitrarily schedule a deposition, Court appearance, or hearing until a good faith effort has been made to schedule it by agreement.

15. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.

16. I will refrain from excessive and abusive discovery.

17. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.

18. I will not seek Court intervention to obtain discovery which is clearly improper and not discoverable.

19. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.

IV. LAWYER AND JUDGE

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.

2. I will conduct myself in Court in a professional manner and demonstrate my respect for the Court and the law.

3. I will treat counsel, opposing parties, witnesses, the Court, and members of the Court staff with courtesy and civility and will not manifest by words or conduct bias or prejudice based on race, color, national origin, religion, disability, age, sex or sexual orientation.

4. I will be punctual.

5. I will not engage in any conduct which offends the dignity and decorum of proceedings.

6. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.

7. I will respect the rulings of the Court.

8. I will give the issues in controversy deliberate, impartial and studied analysis and consideration.

9. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.

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Deletions	7
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	15

October 6, 2011

**TOMBALL FIRE DEPARTMENT
(Employee Benefit Matters)**

Mr. Randall F. Parr, EFO, CFO
Fire Chief
Tomball Fire Department
1200 Rudel
Tomball, TX 77375

Rob Fowler
TEL +1 713.229.1229
FAX +1 713.229.2729
rob.fowler@bakerbotts.com

Dear Randy:

Baker Botts L.L.P. (“Baker Botts,” the “Firm” or “we”) is pleased to have the opportunity to represent the Tomball Fire Department (“TFD”). Thank you for selecting us.

By this letter agreement, we seek to confirm a clear, mutual understanding of the services we are to perform and the terms under which those services are to be performed. Of course, if you ever have any questions regarding any aspect of our representation, we encourage you to contact us immediately so that any issues can be promptly resolved to our mutual satisfaction.

Identification of Our Client

You acknowledge that we are counsel to TFD only, and are not hereunder agreeing to act as counsel to any officer, director, stockholder, partner, subsidiary, parent, affiliate, agent or employee of TFD, or to undertake any duties to any such person or entity.

Scope of the Engagement, Fees and Expenses

You have asked us to represent TFD in preparing a deferred compensation plan for its volunteer firefighters (the “Matter”). You are not engaging us for business advice; our professional services are limited to legal matters.

This engagement is only for this Matter. However, should you tender to us other work, and should we expressly accept the representation of you with respect to that other work, this letter will govern our engagement for that other work as well as though it were included in the definition of the “Matter.” Any amendments or modifications to this letter must be in writing and signed by all parties hereto.

You agree to pay our reasonable attorney's fees and expenses for our work on the Matter, including (even after our representation has concluded) (a) the time and expenses that we may incur responding to discovery requests regarding this engagement, and (b) the time and expenses that we may incur in defending any claims relating to this engagement if the case is (i) adjudicated and we are not found liable, or (ii) settled by you with your consent.

We apply applicable rules of professional conduct to determine the reasonable value of our services in accordance with applicable rules of professional conduct. Fees for our services are based on the time and labor required, the novelty and difficulty of the particular questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in this locality for similar services, the time limitations imposed by the client or by the circumstances, the nature and length of the professional relationship with the client, and the experience, reputation, and ability of the lawyer or lawyers performing the services. These factors are used to determine the hourly rates applicable to this Matter. Our fees for the Matter will be determined primarily by the time recorded by our lawyers and other timekeepers for working on the Matter at the hourly rates reflected in our invoices.

We currently anticipate that Rob Fowler and Alison Sulentic will work on the Matter. Their respective hourly rates for this work during 2011 are \$650 and \$475.

We may use other lawyers and non lawyer staff in order to handle efficiently the Matter and control legal costs. Our U.S. hourly rates for 2011 range from \$500 to \$1,000 per hour for partners, and \$250 to \$750 per hour for associates and other counsel. Our U.S. rates for paralegals and clerks and other non lawyer professionals range from \$125 to \$600 per hour. Our rates for lawyers based outside the U.S. vary depending on local market conditions. Our hourly rates usually increase at the beginning of each calendar year to take into account current levels of legal experience, changes in overhead costs, and other factors.

While complex matters typically require the attention of more than one attorney, it is often desirable for one attorney to serve as the primary contact with the client and be primarily responsible for the work. We anticipate that Rob Fowler will serve in that capacity in connection with the Matter. However, each lawyer working on the Matter considers you to be a valued client, and you may contact any attorney working on the Matter at any time to assist with your needs. Of course, the availability of each of our lawyers varies over time, depending on current workload and personnel changes. As a result, from time to time, the lawyers working on the Matter may change.

At your request, we will provide you with an estimate of the amount of fees and expenses that any particular project or defined phase of a project may cost and we will not commence work on any such project or phase until you have authorized us to do so. Our periodic invoices will give you an update of our actual fees (determined as described above) and expenses so that you can compare them to our estimate. We will endeavor to update our estimates from time to time as we learn more about the project or phase. Nevertheless, you understand that our estimates are just that—estimates—and are neither a fixed fee amount, nor a

maximum fee amount; you agree to pay the actual fees and expenses as invoiced, even if they exceed the estimate. Of course, any decision by you not to authorize us to proceed with a project or phase, as well as any delays in authorizing us so to proceed, may have an adverse effect on your rights or on the outcome of the Matter. Notwithstanding the foregoing, we agree that we will not incur fees in excess of \$8,000 on the Matter without your prior written approval.

We try to manage our own business efficiently so that we can deliver legal services to our clients in a cost-effective way while honoring our obligations to preserve client confidences. Like many organizations, we may outsource certain functions to operate our business more efficiently, including delivery, storage, duplicating, information technology, and collection of older accounts receivable. We also use the services of consultants and hardware and software vendors to advise us on the efficient operation of the Firm and the effective use of our systems. These parties may have some access to client confidential information in performing their services. All are bound by duties of confidentiality so that their obligations to preserve confidentiality are the same as that of our own employees. You consent to our allowing nonemployees access to information as outlined in this paragraph.

Our practice is to send a periodic statement, usually monthly, for services rendered and expenses posted during the previous interval. The detail in the statement is intended to inform you about the fees and expenses incurred and the nature and progress of the work performed. These invoices usually contain confidential information protected by legal privileges, which may be waived if you do not treat them as confidential.

We do our best to see that our clients are satisfied with our services and charges. We encourage you to inquire about any matter relating to this agreement or our statements that is in any way unclear or appears unsatisfactory. Concerns that are brought to our attention promptly can usually be easily addressed. Should there be any unanticipated delay in the payment of our statements, we will try to resolve any concerns you may have by a brief telephone call. Alternatively, we may send you notice that your account is past due.

Our fees are set with the expectation that they will be paid within 30 days of invoicing. We do not normally charge interest, in consideration of your prompt payment.

Conflicts

We have performed a conflicts check on the names you provided. Based on a check of these names and under the applicable standards in the governing rules of professional conduct, we believe that the Firm is free to undertake the Matter. If we identify a conflict after work has begun, you agree to use reasonable efforts to help us resolve the conflict to the satisfaction of all parties.

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In the event your account is past due and we are unable to agree on satisfactory payment terms for past due amounts, the failure to make timely and full payment of the balance due on your account shall constitute your authorization for us to withdraw from our representation of you, and you understand that we may pursue collection of the account. If it should ever be necessary for such an action to be pursued, the costs of collecting the debt, including court costs, filing fees, and reasonable attorney's fees, shall also be recoverable.

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advice cannot be used for the purpose of avoiding penalties under the Internal Revenue Code or for promoting, marketing or recommending to another party the transaction or matter that is the subject of our advice.

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Teamwork between you and our lawyers is critical to our effort to serve you successfully. We depend upon you to provide accurate, complete, and timely information and to disclose fully and accurately all facts and developments relating to the Matter. You agree to promptly notify us of any change in your contact information so that we may communicate with you effectively and efficiently. We will do our best to schedule meetings, proceedings and depositions to serve your convenience, but this may not always be possible or within our control.

We will do our best to provide you with the legal services necessary to achieve a result satisfactory to you. However, the outcome of all legal matters is subject to uncertainties and risks, and we make no promises or guarantees concerning the outcome of the Matter and our fees are not contingent upon the outcome of the Matter. You acknowledge that any statement of opinion given by us as to the anticipated results of a particular course of action being considered for handling the Matter is nothing more than a statement of opinion based on the information available at the time and is not a promise or guarantee.

Nothing contained herein should be construed to give rise to any fiduciary duty owed to any third party by Baker Botts; no third parties are intended to be beneficiaries hereof.

By signing below, you consent to our describing our work for you as a client of the Firm in our various marketing materials, including on our website.

You acknowledge that communication by cellular telephone, facsimile transmission and email may pose risks to confidentiality and to timely, complete communications; nevertheless, you authorize and consent to our use of such communication technology in connection with representing you.

The Texas Supreme Court has promulgated a creed for Texas lawyers and requires that we provide a copy of it to our new clients. A copy is attached. We must also advise you that the "State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. Although not every complaint against or dispute with a lawyer involves professional misconduct, the State Bar's office of general counsel will provide you with information about how to file a complaint; for more information, call 1-800-932-1900."

Conclusion

You acknowledge that you have had the opportunity to consult to the extent you deem advisable with your counsel other than us in reviewing and agreeing to this engagement agreement and the consents contained herein.

If the terms and scope of our engagement and the basis of our fees and our billing practices outlined in this letter are acceptable to you, please so indicate by having your authorized representative sign below. Our mutual agreement and satisfaction with these matters are necessary prerequisites to the commencement of our work for you. However, if the terms we have outlined are not satisfactory and you would like us to consider an alternative arrangement, please let us know so that we may address your concerns as promptly as possible before we commence work.

We look forward to working on your behalf.

Sincerely,

BAKER BOTTS L.L.P.

By: _____
Rob Fowler
Partner

ACCEPTED, ACKNOWLEDGED, AND AGREED:

TOMBALL FIRE DEPARTMENT

By: _____
George Shackelford, City Manager
City of Tomball

THE TEXAS LAWYERS CREED

I am a lawyer. I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that Professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this Creed for no other reason than it is right.

I. OUR LEGAL SYSTEM

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

1. I am passionately proud of my profession. Therefore, “My word is my bond.”
2. I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.
3. I commit myself to an adequate and effective pro bono program.
4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.
5. I will always be conscious of my duty to the judicial system.

II. LAWYER TO CLIENT

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client’s legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest.

1. I will advise my client of the contents of this Creed when undertaking representation.
2. I will endeavor to achieve my client’s lawful objectives in legal transactions and in litigation as quickly and economically as possible.
3. I will be loyal and committed to my client’s lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.
4. I will advise my client that civility and courtesy are expected and are not a sign of weakness.

5. I will advise my client of proper and expected behavior.
6. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demean and abuse anyone or indulge in any offensive conduct.
7. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.
8. I will advise my client that we will not pursue tactics which are intended primarily for delay.
9. I will advise my client that we will not pursue any course of action which is without merit.
10. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.
11. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

III. LAWYER TO LAWYER

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

1. I will be courteous, civil, and prompt in oral and written communications.
2. I will not quarrel over matters of form or style, but I will concentrate on matters of substance.
3. I will identify for other counsel or parties all changes I have made in documents submitted for review.
4. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties.
5. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are cancelled.
6. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.

7. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond.

8. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses.

9. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.

10. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.

11. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed.

12. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the Court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.

13. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.

14. I will not arbitrarily schedule a deposition, Court appearance, or hearing until a good faith effort has been made to schedule it by agreement.

15. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.

16. I will refrain from excessive and abusive discovery.

17. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.

18. I will not seek Court intervention to obtain discovery which is clearly improper and not discoverable.

19. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.

IV. LAWYER AND JUDGE

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.
2. I will conduct myself in Court in a professional manner and demonstrate my respect for the Court and the law.
3. I will treat counsel, opposing parties, witnesses, the Court, and members of the Court staff with courtesy and civility and will not manifest by words or conduct bias or prejudice based on race, color, national origin, religion, disability, age, sex or sexual orientation.
4. I will be punctual.
5. I will not engage in any conduct which offends the dignity and decorum of proceedings.
6. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.
7. I will respect the rulings of the Court.
8. I will give the issues in controversy deliberate, impartial and studied analysis and consideration.
9. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.

Special City Council

Agenda Item

Meeting Date: October 10, 2011

Data Sheet

Topic:

Approve Job Order Proposal Submitted by KBR for the Purpose of Converting Customer Water Service Line Connections to The City's New Water Mains in the Downtown Area, for a Not to Exceed Cost of \$50,000.00.

Background:

On January 18, 2011, Public Works reported to Council that the City has replaced a number of water mains in the downtown area, and that due to conflicts with the location of existing utilities, the new mains were installed on the opposite side of some properties. In order to connect these customers to the new water mains, work will need to be performed on private property.

Public Works worked with Olson & Olson to develop a Right of Entry Agreement, and issued notices to all 35 property owners affected by the project. The notice advised customers of the need for the service line conversion, and offered property owners the option to hire a plumber of their choice, complete the conversion and receive reimbursement based on an approved estimate, or execute a Right of Entry Agreement with the City and the City will complete the conversion. After issuing second notices and calling several property owners, Public Works staff met with individual property owners and all concerns were resolved. As a result, 4 properties elected to hire their own plumber and receive reimbursement for their cost of the conversion, 2 properties were converted as emergencies, and 2 properties only requested a tap and meter. This leaves 27 properties to be converted by the City, and those owners have executed Right of Entry Agreements.

Public Works met with KBR, reviewed 6 of the 27 addresses to obtain an average cost to be used to develop a total project cost. KBR developed an average cost of \$5,000.00 per address and has submitted a proposal based on a "Not to Exceed" cost of \$50,000.00.

KBR is an approved State vendor and holds the TCPN Statewide JOC Contract.

Origination:

Public Works

Recommendation:

Staff recommends approval of job order proposal submitted by KBR for the purpose of converting customer water service line connections to the City's new water mains in the downtown area, for a Not to Exceed Cost of \$50,000.00.

Funding: Yes

Account Number: 600-613-6207

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

David Kauffman, Director of Public Works

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER

☐ YES ☐ NO	☐ 1 ST ☐ 2 ND
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ATTACHMENTS:

KBR Proposal



8121 Broadway Street, Suite 200 • Houston, TX 77061-1340
Office: 713.980.3250 • Fax: 713.980.3258

Sept 28, 2011
Letter No.: 11-3031-CB
File No.: 731

Steve Purvis
City of Tomball
Assistant to Public Works Director
501 James St.
Tomball, Texas 77375

Subject: Job Order Proposal for RFP# TCPN-SWII-04-0483 Rev. #1
Project Location: City of Tomball
Project Title: Tie new water line to existing facilities @ Various Locations

Mr. Purvis,

Enclosed is our **Not to Exceed** proposal for the above subject RFP. The proposal is referenced to applicable standards and acceptable construction practices per the City of Tomball.

The **Not to Exceed** price is not the final cost for the project. KBR will provide a detailed line item estimate per the TCPN Contract and RS Means 2011 Facilities Construction Cost Data which will be a definitive final cost. KBR will provide the final cost as the final scope is identified.

Work to be performed under the terms and conditions of the TCPN Contract.

The **Not to Exceed** price for the job order is

\$ 50,000.00

The proposal is valid for **30** days.

Please direct any questions to Craig Broz at (713) 980-3250.

Sincerely,

Craig S. Broz
Area Manager

Attachments: scope

Reference: TCPN Statewide Contract JOC II No. R4958
(http://www.tcpn.org/apps/t_vendor_detail.aspx?VID=87)

Funding Approval _____ Date: _____

Customer PO# _____

Price is accepted as a lump sum fixed firm price and the incorporated scope of work becomes the controlling document taking precedence over line item estimate detail.

This proposal includes data that shall not be disclosed outside of addressee and shall not be duplicated, used, or disclosed – in whole or part – for any purpose other than to evaluate this proposal.

KBR - TCPN Statewide II
Contract No. R4958
RFP No. TCPN-SWII-04-0483 Rev. #1
City of Tomball

Tie new water line to existing facilities @ Various Locations

Outline

The intent of this project is to provide all labor, materials and equipment to reconnect new city water services into existing facilities at various locations for the City of Tomball. All work shall be in accordance with all OSHA standards, applicable federal, state and local building codes and regulations and standard construction practices.

KBR Scope of Work

- Install new ¾" PVC piping from the cities existing new water meters to the existing business or residential facility.
- Pull no cost permits from the City of Tomball to facilitate inspections by the city.
- Utilize mechanical equipment when possible but, hand dig areas when necessary to cause minimal damage to properties or excessive underground utilities.
- Scope of Work stops at single point of connection at the business and/or residence.

KBR General Notes

- **Not to Exceed cost is based on an average of \$5000.00 per location at plus or minus 10 locations**
- Proposal allows standard work hours.
- Proposal is based on free and uninterrupted access to work areas.
- All work shall be in accordance with all OSHA Standards, applicable federal, state, and local codes, and regulations and good construction practices.
- KBR will include all materials, equipment, and labor in his bid to complete the scope of work.
- KBR shall remove from site all spoils, equipment, materials from site after completion of this project.

KBR Exclusions

- Permit fees and after hour inspection costs.
- Moving or removing of existing goods, fixtures or equipment from locations.
- Landscaping.
- Testing of existing piping or fixtures at businesses or residences.
- Damages to existing piping due to change in water pressures and/ or pipe blow outs inside the existing businesses or residences resulting in contents property damage.
- Handling or removal of any hazardous material.
- Davis-Bacon Wages and/or Certified Payrolls.
- Hidden or unforeseen conditions.
- Any work not specifically described in the SOW.

This proposal includes data that shall not be disclosed outside of addressee and shall not be duplicated, used, or disclosed – in whole or part – for any purpose other than to evaluate this proposal.