

NOTICE OF JOINT PUBLIC MEETING  
THE FREEPORT CITY COUNCIL  
PLANNING COMMISSION  
MONDAY, SEPTEMBER 16TH, 2013, 6:00 P.M.  
FREEPORT MUNICIPAL COURT ROOM  
FREEPORT POLICE DEPARTMENT, 430 NORTH BRAZOSPORT BLVD.  
FREEPORT, TEXAS  
AGENDA  
FORMAL SESSION

1. Call to order.
2. Invocation.
3. Pledge of Allegiance.
4. Consideration of approving the September 9th, 2013 Council Minutes. Pg. 803-807
5. Attending citizens and their business.
6. Consideration of approving Resolution No. 2013-2424 authorizing the Fire Chief to donate surplus fire equipment of said city to the Sargent Volunteer Fire Department, Matagorda County, Texas. Pg. 808-810
7. Consideration of approving Resolution No. 2013-2423 nominating candidate(s) for a position on the Board of Directors of the Brazoria County Appraisal District. Pg. 811-816
8. Consideration of approving Ordinance No. 2013-2045 repealing Ordinance No. 2012-2314 closing and abandoning the public roadway known as the South Levee Road from FM 1495 to the Department of Energy Bryan Mound Facility finding that such closing and abandonment was and is not in the public interest and that it did not benefit the public. Pg. 817-819
9. Consideration of designating a representative and an alternative to the Houston-Galveston Area Council 2014 General Assembly. Pg. 820-821
10. Consideration of setting September 23, 2013 as the date to adopt a tax rate for fiscal year 2013-2014.
11. **Joint Public Hearing:** The City Council and the Planning Commission of said City will conduct a Joint Public Hearing to consider a proposed amendment to the Comprehensive Zoning Ordinance and Map of said City, codified as Chapter 155 of the Code of Ordinance of said City, changing the zoning classification of Lots 13-24, Block 600 and Lots 1-12, Block 601, Velasco Townsite, City of Freeport, Brazoria County, Texas, from its present classification of R-2 Single-family Residential District to a new classification of C-2 General Commercial District. Pg. 822-828

12. Consideration of approving Ordinance No. 2013-2046 amending the Comprehensive Zoning Ordinance of said City to change the zoning classification of Lots 13-24, Block 600 and Lots 1-12, Block 601, Velasco Townsite, from the present zoning classification of R-2 Single Family Residential District to a new Zoning Classification of C-2 General Commercial District. Pg. 828-831
13. Consideration of Ordinance No. 2013-2047 closing and vacating streets and alleys and portions of streets and alleys located in the Urban Renewal Tract.
14. Consideration of approving and renewing the City of Freeport Economic Development Corporation Sales Tax Remittance Guaranty and Subordination agreement with the First State Bank of Louise, Texas. Pg. 832-836
15. Consideration of approving the Road & Bridge Interlocal Agreement with the City of Freeport and the Brazoria County for street repairs. Pg. 837-840
16. Consideration of approving alternative modifications to a third Correction Special Warranty deed and/or land development with Gary L. Woodring concerning 0.7648 acres out of S. F. Austin Survey, Abstract 32 & 33, Brazoria County, Texas. Pg. 841-844

#### Adjourn

Items not necessary discussed in the order they appear on the agenda. The Council at its discretion may take action on any or all of the items as listed. This notice is posted pursuant to the Texas Open Meeting Act. (Chapter 551, Government Code).

In compliance with the Americans with Disabilities Act, the City of Freeport will provide for reasonable accommodations for persons attending City Council Meetings. Request should be received 48 hours prior to the meeting. Please contact the City Secretary office at 979-233-3526.

I, Delia Munoz City Secretary for the City of Freeport, Texas certify that this agenda was posted on the official bulletin board/glass door of City Hall, facing the rear parking lot of the building, with 24 hours a day public access, 200 West 2nd Street, Freeport Texas, September 13th, 2013 at or before 5:00 p.m.

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Delia Munoz - City Secretary  
City of Freeport, Texas

State of Texas

County of Brazoria

City of Freeport, Texas

BE IT REMEMBERED, that the Freeport City Council and the Freeport Urban Renewal Agency met for a Joint Public Hearing on Monday, September 9th, 2013 at 6:00 p.m. at the Freeport Municipal Court, 430 North Brazosport Boulevard, Freeport Texas for the purpose of considering the following agenda items:

City Council: Mayor Norma M. Garcia  
Councilwoman Michelle Kent  
Councilman Fred Bolton  
Councilwoman Sandra Loeza  
Councilwoman Sandra Barbree – Absent

Urban Renewal Board: Nat Hickey, Property Director  
Raul Ramirez  
Annette Sanford  
Guadalupe Gonzalez  
Ken Tyner  
John Schults, Jr.

Staff: Jeff Pynes, City Manager  
Gilbert Arispe, Asst. City Manager  
Wallace Shaw, City Attorney  
Delia Munoz, City Secretary  
Brian Davis, Fire Chief  
Bob Welch, Finance Director  
Larry Fansher, Parks Director  
Dan Pennington, Police Chief

Visitors: Lila Lloyd Jerry Meeks  
Eric Hayes Manning Rollerson  
Clan Cameron Gary Woodring  
John Clark Shannon Daughtry  
Bill Morris

Call to order.

Mayor Norma Garcia called the meeting to order at 6:05 p.m.

Invocation.

Mr. Wallace Shaw offered the invocation.

Pledge of Allegiance.

Mr. Raul Ramirez led the Pledge of Allegiance.

Consideration of approving the August 19<sup>th</sup>, 2013 Council Minutes.

On a motion by Councilwoman Kent, seconded by Councilwoman Loeza, with all present voting "aye", Council unanimously approved the August 19th, 2013 Council Minutes.

Attending citizens and their business.

Manning Rollerson complained that the grass is too high on North Ave. J, apartments are inhabitable, mole problems, rent is too high for people that are in a fixed income, Fair Housing Act of 1968 is not being withheld.

Consideration of approving Resolution No. 2013-2423 nominating candidates(s) for a position on the Board of Directors of the Brazoria County Appraisal District.

This item was reagendaed.

**Public Hearing – Proposed budget for fiscal year 2013-2014**

Mayor Norma Garcia opened the Public Hearing at 6:33 p.m. to review and discuss the proposed budget for fiscal year 2013-2014. City Manager Mr. Pynes presented to Council a PowerPoint presentation of the City of Freeport's \$16,947,461.00 budget. He reviewed each departmental category of the budget. He explained why some departments showed an increase/decrease and reviewed all of the capital expenses, city employees receiving 4 % raise, discussed pending projects in the City. Councilman Bolton was pleased with the proposed budget.

There being no comments from audience or council, Mayor Garcia closed the Public Hearing at 6:52 p.m.

Consideration of approving Ordinance No. 2013-2044 adopting a budget for the fiscal year 2013-2014 for the City of Freeport.

On a motion by Councilwoman Kent, seconded by Councilwoman Loeza, with all present voting "aye", Council unanimously approved Ordinance No. 2013-2044 adopting a budget for the fiscal year 2013-2014 for the City of Freeport.

Consideration of approving alternative modifications to a third Correction Special Warranty deed and Land Development Agreement with Gary L. Woodring concerning 0.7648 acres out of S. F. Austin Survey, Abstracts 32 & 33, Brazoria County, Texas.

Mr. Clark representing Gary Woodring gave a synopsis of the issues that Mr. Woodring is facing from constructing a home. He is in the process of getting house plans, getting proposals on local builders, talking to CenterPoint to move a support cable, communicating with General

Land Office on bulkheads and permitting, AT&T communication cable duct bank crossing the property and problems with the deed language. Mr. Woodring is asking Council for an extension to construct a home. He met with Troy Brimmage from Braztex Investments and is signing an agreement that will construct a house on stilts. If Council will give him an extension of 6 to 8 months, his willing to sign a formal agreement on the completion date of the construction project.

On a motion by Councilman Bolton not to extend the October, 2013 deadline, no second motion. Motion died.

On a motion by Councilwoman Kent to give Mr. Woodring an extension to build, seconded by Councilwoman Loeza, with all present voting; 2-to-2, motion failed. Mayor Garcia and Councilman Bolton opposed.

This item was reagendaed.

Consideration of setting October 7, 2013 for a Public Hearing regarding Chapter 370.002 of the Local Government Code and Division (A) of Section 130.99 of the Code of Ordinances of said City, to Review the Juvenile Curfew Ordinance of said City.

On a motion by Councilwoman Kent, seconded by Councilwoman Loeza, with all present voting "aye", Council unanimously approved October 7, 2013 for a Public Hearing regarding Chapter 370.002 of the Local Government Code and Division (A) of Section 130.99 of the Code of Ordinances of said City, to Review the Juvenile Curfew Ordinance of said City.

Consideration of setting October 7, 2013 for a Joint Public Hearing with the Planning Commission to consider granting a Specific Use Permit to Mr. Eric Hayes to construct an RV Park on Brazosport Boulevard.

On a motion by Councilwoman Kent, seconded by Councilwoman Loeza, with all present voting "aye", Council unanimously approved October 7, 2013 for a Joint Public Hearing with the Planning Commission to consider granting a Specific Use Permit to Mr. Eric Hayes to construct an RV Park on Brazosport Boulevard.

Consideration of approving the Board of Directors and adopting the amended Bylaws for the City of Freeport Redevelopment Authority.

On a motion by Councilwoman Kent, seconded by Councilwoman Loeza, with all present voting "aye", Council unanimously approved the Board of Directors and adopting the amended Bylaws for the City of Freeport Redevelopment Authority.

Joint Public Hearing: A Joint Public Hearing with the Urban Renewal Agency and the Freeport City Council to discuss and review approving an earnest money contract between the City of Freeport Redevelopment Authority and Urban Renewal Agency and the City of Freeport.

There being a quorum with the Urban Renewal Agency, Mayor Norma Garcia opened the Joint Public Hearing at 6: 59 p.m.

Mr. Jeff Pynes City Manager explained to Council and the Urban Renewal Board that the City of Freeport Redevelopment Authority is organized for the purpose of aiding, assisting, and acting on behalf of the City of Freeport including without limitation to aid and assist the City and the Urban Renewal Authority in the purchase and sale of land and improvements.

Jeff Pynes explained to Council and the Urban Renewal Board that Skymark Development Company has offered an Earnest Money Contract. The developer is offering the City 1.2 million for the entire 327 acre urban renewal tract between Velasco Boulevard and Skinner Street. The City owns half and the Urban Renewal owns the other half. The offer is \$100,000 more than the vacant's tract appraised value of 1.1 million.

The Urban Renewal Board took a vote to approve an Earnest Money Contract between the Urban Renewal Agency and the City of Freeport Redevelopment Authority. The motion passes unanimously.

There being no comments or questions, Mayor Garcia closed the Joint Public Hearing 7:18 p.m.

Consideration of approving earnest money contract between the City of Freeport and the City of Freeport Redevelopment Authority.

On a motion by Councilman Bolton, seconded by Councilwoman Loeza, with all present voting "aye:" Council approved an earnest money contract, between the City of Freeport and the City of Freeport Redevelopment Authority. Councilwoman Kent stepped out.

Consideration approving and accepting 2010 Port Security Grant Program in the amount of \$4,484,329.00 for installing public safety Long Term Evolution – LTE network through out Brazoria County.

No action taken

Work Session:

Discussion regarding a proposed Tax Abatement application for Associated Builders and Contractors, Inc., dated Sept. 3, 2013.

Mark Garner, consultant for Associated Builders and Contractors of Texas Gulf Coast, Inc. (ABC) submitted commercial tax abatement for the construction of a new facility in Freeport. Associated Builders and Contractors Inc., is investing 11 million in a new building to be constructed behind the current facility at 1400 North Velasco, Freeport Texas, creating 10 full time jobs and 130 construction jobs. The new building will be approximately 50,000 square feet and will include modern computer labs, office space, meeting rooms, craft certification facilities, medical testing and health care facilities. ABC request the city consider a 7 year 100% tax abatement for the new building and equipment and 2015 be the first year of tax abatement.

Executive Session

Section 551.071, Government Code

Consultation with City Attorney concerning pending or contemplated litigation, settlement offers or other matters in which his duty to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Government Code, to wit;

- Pending contractual negotiations.
- Development water/sewer line contractual issues.  
(no action taken)

Adjourn

On a motion by Councilwoman Loeza, seconded by Councilwoman Kent, with all present voting "aye", Council meeting adjourned at 7:50 p.m.

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Mayor Norma M. Garcia  
City of Freeport, Texas

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City Secretary Delia Munoz  
City of Freeport, Texas

**RESOLUTION**

RESOLUTION OF THE CITY OF FREEPORT, TEXAS, AUTHORIZING THE FIRE CHIEF TO DONATE SURPLUS FIRE EQUIPMENT OF SAID CITY TO THE SARGENT VOLUNTEER FIRE DEPARTMENT, MATAGORDA COUNTY, TEXAS.

**WHEREAS**, the City of Freeport strives to foster a cooperative municipal environment and improved preparedness on the Texas Gulf Coast; and

**WHEREAS**, the Freeport Fire & EMS Department strives to offer leadership in the fire service community and assist regional volunteer fire departments whenever possible; and,

**WHEREAS**, the City of Freeport continues to achieve continued improvement in an effective and efficient fire fleet; and,

**WHEREAS**, the cost of acquiring and maintaining fire service apparatus continues to be a challenge for many volunteer fire departments; and,

**WHEREAS**, the Matagorda County Commission supports and endorses the Sargent Volunteer Fire Department and their apparatus needs.

**NOW, THEREFORE, BE IS RESOLVED BY THE CITY OF FREEPORT, TEXAS, AS FOLLOWS:**

The Fire Chief is authorized to execute the documents needed to transfer ownership of a 1996 Freightliner/Smeal fire apparatus, known locally as Engine 903, to the Sargent Volunteer Fire Department, as a donation from the City of Freeport.

The Fire Chief is further directed to coordinate delivery with the Fire Chief from Sargent Volunteer Fire Department and is responsible to ensure the completion of execution and delivery.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FREEPORT,**

**TEXAS**, this \_\_\_\_ day of \_\_\_\_\_, 2013.

**APPROVED:**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Secretary





3.226

Dear Prospective Donor,

Since 1997, the Helping Hands Program has received more than \$18.5 million in donated equipment, including 171 vehicles and 3,848 breathing apparatus. The Texas A&M Forest Service (TFS) is committed to helping volunteer fire departments obtain critically needed equipment, protective gear and emergency vehicles needed to protect the public and emergency personnel from fire and related hazards. The Helping Hands Program is there to facilitate the transfer of this excess used equipment. The program provides liability relief to industry, business, cities and others who donate surplus fire and emergency equipment. TFS will then transfer all ownership rights, responsibilities, and authority for the equipment to the receiving department. You have the option to specify which department receives your equipment.

If your organization is transferring a vehicle as part of this donation, please follow these additional steps to complete the title transfer.

1. Enclose the Original Texas Certificate of Title signed front and back
2. Sign and date in Box 22 on Form 130U (Application for Texas Certificate of Title)
3. Return exempt license plates to your tax assessor office

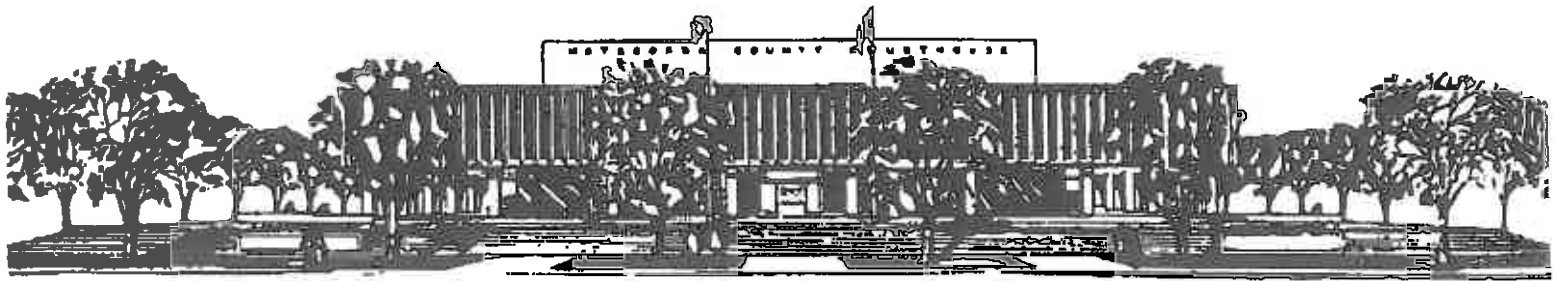
All vehicles titles must be transferred to Texas A&M Forest Service prior to assignment. This process establishes relief of liability for the donor.

Please list the other items you wish to donate on the VFD Helping Hands Program Donation Form. Sign and return a copy to our Lufkin office. TFS will then schedule an appointment to pick up all donations. Your organization will receive a finalized copy of the donor form once all items have been inventoried.

Thank you for your interest in helping Texas Volunteer Fire Departments.

Regards,  
James Dunn  
Helping Hands Program  
E-mail address: [jdunn@tfs.tamu.edu](mailto:jdunn@tfs.tamu.edu)

Texas A&M Forest Service  
Capacity Building Department  
P.O. Box 310  
Lufkin, Texas 75902  
Telephone: (936) 639-8100 Fax: (936) 639-8138



## *Matagorda County*

Kent Pollard  
Commissioner Precinct No. 2  
P. O. BOX 571  
MATAGORDA, TEXAS 77457

(979) 863-7861  
FAX (979) 863-2155  
kpollard@co.matagorda.tx.us

August 13, 2013

Chief Brian Davis  
City of Freeport  
Freeport Fire and EMS  
P.O. Box 3356  
Freeport, Texas 77541

Re: 1996 Freightliner  
Engine 903

Dear Chief Davis,

Thank you so much for taking time from your busy schedule and allowing Chief Joe Heaton of the Sargent VFD and myself to inspect the above referenced equipment. It is my understanding Engine 903 is a surplus piece of equipment and Freeport Fire and EMS is looking for a department in need in which to donate the equipment.

Sargent VFD is located in Sargent, Texas an unincorporated town site in Matagorda County Precinct 2. The Sargent VFD has a very active membership and serves their community and surrounding area well. The Sargent area is growing very rapidly due to an increase of vacation and weekend home owners. As you are well aware "Volunteer Fire Departments" are always under budgeted and in need of any assistance available to them. Sargent VFD has a great need for a pumper truck such as Engine 903.

Matagorda County and Sargent VFD would be greatly appreciative to receive Engine 903 as a donation from the City of Freeport and Freeport Fire and EMS. You have my personal promise it will be put to great use and will not go to waste.

Sincerely,

Kent Pollard  
Matagorda County Commissioner  
Precinct 2

**RESOLUTION NO. 2013-2423**

**A RESOLUTION OF THE \_\_\_\_\_  
OF THE \_\_\_\_\_**

**NOMINATING CANDIDATE(S) FOR A POSITION ON THE BOARD OF DIRECTORS OF  
THE BRAZORIA COUNTY APPRAISAL DISTRICT**

**WHEREAS**, those eligible taxing units participating in the Brazoria County Appraisal District have the right and responsibility to nominate from one to five candidate(s) to fill the five (5) positions of the Board of Directors of the Brazoria County Appraisal District for a term of office commencing on January 1, 2014 and extending through December 31, 2015; and

**WHEREAS**, this governing body desires to exercise its right to nominate the said candidate(s) for such position on said board of directors; now, therefore

**BE IT RESOLVED BY THE \_\_\_\_\_  
OF THE \_\_\_\_\_ :**

Section 1. That the facts and recitations set forth in the preamble of this resolution be, and they are hereby, adopted, ratified, and confirmed.

Section 2. That the following individuals be, and are hereby, nominated as candidate(s) for positions on the board of directors of the Brazoria County Appraisal District to be filled by those eligible taxing units participating in the Brazoria County Appraisal District for a two year term of office commencing on January 1, 2014.

Section 3. That the presiding officer of the governing body of this taxing unit be, and that he or she is hereby, authorized and directed to deliver or cause to be delivered a certified copy of this resolution to the chief appraiser of the Brazoria County Appraisal District on or before October 15, 2013.

**PASSED, ADOPTED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
Secretary

# BRAZORIA COUNTY APPRAISAL DISTRICT

## MEMBERS OF THE BOARD

Ryan Cade  
Ro'Vin Garrett  
William Hasse  
Ruby Jo Knight  
Glenn Salyer  
Susie Tyler

## CHIEF APPRAISER

Cheryl Evans  
500 N. Chenango  
Angleton, Texas 77515  
979-849-7792  
Fax 979-849-7984

August 30, 2013

Mr. Jeff Pynes  
City Manager of Freeport  
200 W. Second St.  
Freeport, TX 77541

Dear Mr. Pynes,

In reference to the selection of the Appraisal District Board of Directors, your 2012 total tax levy was \$ 2,400,127. This tax levy has entitled you to 24 votes for the five (5) directors to be elected to the Brazoria County Appraisal District.

Each voting taxing unit nominates by resolution, one to five candidate(s) to fill the five (5) positions of the Board of Directors. These nominations must be submitted to the Chief Appraiser before October 15, 2013.

Please address all submissions to Cheryl Evans, Chief Appraiser, at the above address.

Sincerely,



Cheryl Evans  
Chief Appraiser

CE/td

**BRAZORIA COUNTY APPRAISAL DISTRICT**

**MEMBERS OF THE BOARD**

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**CHIEF APPRAISER**

Cheryl Evans  
500 North Chenango  
Angleton, Texas 77515  
979-849-7792  
Fax 979-849-7984

**M E M O**

To: All Voting Taxing Units  
From: Cheryl Evans, Chief Appraiser  
Subject: 2013 Board of Directors Election For  
Years 2014 – 2015  
Date: August 30, 2013

*Cheryl Evans*

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Your taxing unit participates in selecting members of the Brazoria County Appraisal District's Board of Directors. The board is composed of five members who serve two-year terms, all of which expire December 31, 2013. If the county assessor-collector is not appointed to the board, the county assessor-collector serves as a non-voting director. This memorandum sets out the process of selecting directors for the two-year term that begins January 1, 2014.

Section 6.03, Property Tax Code, establishes the selection process for Appraisal District Directors.

**Selection Procedures**

The procedures for selecting members of the board of directors for the two-year term beginning on January 1, 2014 are as follows:

**Nomination**

Before **October 15, 2013**, the voting unit must adopt a resolution nominating from one to five candidate(s) by formal action. The presiding officer of the voting unit must submit the nominees name(s) and addresses to the Chief Appraiser.

August 30, 2013

**Election**

Before **October 30, 2013**, the Chief Appraiser will prepare a ballot listing the nominees in alphabetical order by last name.

Before **December 15, 2013** each voting unit must cast its vote by **written resolution** naming the person or persons for whom it votes, and submit a certified copy to the Chief Appraiser. **Ballots received by the Chief Appraiser after December 15, 2013 may not be counted.**

The Chief Appraiser will count the votes, declare the results, and notify the five candidates who received the largest vote totals before December 31, 2013. The Chief Appraiser also notifies all taxing units (voting and non-voting) and all candidates (winners & losers) of the outcome. If a tie occurs, the Chief Appraiser must solve it through any method of chance.

**To assist you in this process, I have enclosed the following:**

1. A suggested form of resolution for the nomination(s) of a candidate(s) to the board of directors of the Brazoria County Appraisal District.
2. A calendar that lays out the procedures and dates for conducting the 2013 election.
3. Letter showing the number of votes your entity is entitled to cast in the ballot after candidate nominations are due. (See October 30 on the election calendar.)

Thanking you in advance for your help in carrying out this important task and I invite your questions or comments on the board selection process. Please do not hesitate to call me.

Enclosures (3)

**BRAZORIA COUNTY APPRAISAL DISTRICT  
2013 BOARD OF DIRECTORS ELECTION CALENDAR**

- Before Oct. 1  
(August 30, 2013)**      The chief appraiser notifies each voting taxing unit of the number of votes it may cast.
- Each voting unit may nominate one candidate for each position to be filled. Since the board of directors consists of five members, **the unit may nominate from one to five candidates.**
- Before Oct. 15**      The presiding officer of the unit submits the names and addresses of the nominees **by written resolution** to the chief appraiser.
- Before Oct. 30**      The chief appraiser prepares and submits to each voting taxing unit a ballot listing the nominees alphabetically by each candidate's last name and provides the number of votes it may cast, with a resolution sample.
- Before Dec. 15**      Each voting unit cast votes for any of the candidates on the ballot and submits to the chief appraiser **by written resolution**. The unit may cast all its votes for one candidate or may distribute the votes among any number of candidates.
- Before Dec. 31**      The chief appraiser counts the votes and certifies as winner the five candidates who received the largest vote totals. The chief appraiser notifies all taxing units (voting and non-voting) and all the candidates (winners and losers) of the outcome.
- If a tie occurs, the Chief Appraiser must resolve it through any method of chance.

**BRAZORIA COUNTY APPRAISAL DISTRICT**

**MEMBERS OF THE BOARD**

Ryan Cade  
Ro'Vin Garrett  
William Hasse  
Ruby Jo Knight  
Glenn Salyer  
Susie Tyler

**CHIEF APPRAISER**

Cheryl Evans  
500 North Chenango  
Angleton, Texas 77515  
979-849-7792  
Fax 979-849-7984

**MEMO**

To: All Voting Taxing Units  
From: Cheryl Evans, Chief Appraiser  
Subject: 2013 Board of Directors Election For  
Years 2014 – 2015  
Date: August 30, 2013

*Cheryl  
Evans*

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Senate Bill 359 of the 2013 Texas Legislature states that Junior College Districts are to be added as a voting member of appraisal districts for the selection of directors to serve on the appraisal district board. Effective immediately on 6/14/2013.

Section 6.03, Property Tax Code, establishes the selection process for Appraisal District Directors.

If you have any questions or concerns in this matter, please don't hesitate to call me.



ORDINANCE NO. 2013.2045

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; REPEALING ORDINANCE NO.2012-2314 CLOSING AND ABANDONING THE PUBLIC ROADWAY KNOWN AS THE SOUTH LEVEE ROAD FROM FM 1495 TO THE DEPARTMENT OF ENERGY BRYAN MOUND FACILITY; FINDING THAT SUCH CLOSING AND ABANDONMENT WAS AND IS NOT IN THE PUBLIC INTEREST AND THAT IT DID NOT BENEFIT THE PUBLIC; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE AND ADOPTION.

WHEREAS, there is located within the City of Freeport, Texas, hereinafter ~~the City~~, a road known as the South Levee Road, running upon, along and across Brazos River Harbor Navigation District Tracts 1, 1A, 2A, 4 and 5, from F.M. Highway 1495 to the Department of Energy Bryan Mound Facility; and,

WHEREAS, by Ordinance No. 2012-2314, read, passed and adopted on July 2, 2012, such road was closed and abandoned as a public road, with a City utility easement being retained therein; and,

WHEREAS, PORT FREEPORT, formerly known as the Brazos River Harbor Navigation District, is the owner of the underlying fee simple title to the land included in such road and of all of the land adjoining such roadway, except that owned by TBD Family, Ltd.; and

WHEREAS, prior to the adoption Ordinance No. 2012-2314, the City was mistakenly informed that the VELASCO DRAINAGE DISTRICT of Brazoria County, Texas, PORT FREEPORT, the UNITED STATES DEPARTMENT OF ENERGY, and TBD FAMILY, LTD., had requested that such public roadway be closed and abandoned and would enter into an agreement between the City and Port Freeport, the United States Department of Energy, and TBD Family, Ltd., under the terms of which such roadway would be converted to an easement for a private road for certain persons and entities; and,

WHEREAS, such agreement was not in fact executed by all of the parties named above and, therefore, all of such parties did not in fact request that such roadway be closed as a public roadway and the closing of such roadway without such agreement regarding the easement being retained by the City being executed and agreed to by all of the parties to such agreement was and is not in the public interest of and did not benefit the public; and,

WHEREAS, the City of Freeport, Texas, is a "Home Rule City" and a "Home Rule Municipality" lying and situated in Brazoria County, Texas, as described in and defined by Section 5, Article XI of the Constitution of Texas and Section 1.005 of the Local Government Code of Texas, respectively; and,

WHEREAS, Item (p) of Article 3.07 of the Home Rule Charter of the City of Freeport authorize the City Council thereof to adopt the provisions of this Ordinance.

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

First, the City Council of the City of Freeport, Texas, finds and declares that the findings of fact and conclusions of law set forth in the preamble to this ordinance are true and correct.

Second, Ordinance No. 2012-2314, read, passed and adopted on July 2, 2012, closing and abandoning the public road within the City, known as the South Levee Road, running across Brazos River Harbor Navigation District Tracts 1, 1A, 2A, 4 and 5, from F.M. Highway 1495 to the Department of Energy Bryan Mound Facility, described by metes and bounds in the field notes attached hereto as Exhibit A, is HEREBY REPEALED.

Third, in the event any section or provision of this ordinance is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining sections and provisions of this ordinance and such remaining sections and provisions shall remain in full force and effect.

Fourth, this ordinance shall take effect and be in force from and after its passage and adoption.

READ, PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Norma Moreno Garcia, Mayor,  
City of Freeport, Texas

ATTEST:

\_\_\_\_\_  
Delia Muñoz, City Secretary  
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

\_\_\_\_\_  
Wallace Shaw, City Attorney  
City of Freeport, Texas

C:\Freeport.Ord\Repeal Ord Closing South Levee Rd-Ord



September 5, 2013

The Honorable Norma Moreno Garcia  
Mayor, City of Freeport  
200 W 2nd St  
Freeport, TX 77541

Dear Mayor Garcia:

I am writing regarding the appointment of your city's representative to H-GAC's 2014 General Assembly.

H-GAC's Bylaws provide that each member Home Rule city with a population under 25,000 as of the last (2010) Federal Census is entitled to designate one representative and one alternate to the H-GAC General Assembly, which will meet in early 2014.

I am enclosing the appropriate form for your city's use in officially designating a representative and an alternate. The two designees must be elected official members of your city's governing body.

A dinner meeting of Home Rule city representatives will be scheduled for November. At that meeting, your 2013 Home Rule Cities' H-GAC Board of Directors representatives will report on this year's activities and look ahead to issues and progress in 2014.

We are sending a copy of these designation materials to your city secretary as well. We would appreciate receiving your city's designation form no later than October 7. If you have any questions during the designation process, please call Rick Guerrero at 713-993-4598.

Sincerely,

Jack Steele

JS/kay

Enclosure

cc: City Secretary



**DESIGNATION OF REPRESENTATIVE AND ALTERNATE  
HOUSTON-GALVESTON AREA COUNCIL  
2014 GENERAL ASSEMBLY**

\*\*\*\*\*

**BE IT RESOLVED**, by the Mayor and City Council of \_\_\_\_\_, Texas,  
that \_\_\_\_\_ be, and is hereby designated as its Representative  
to the **GENERAL ASSEMBLY** of the Houston-Galveston Area Council for the year 2014.

**FURTHER**, that the Official Alternate authorized to serve as the voting representative should  
the hereinabove named representative become ineligible, or should he/she resign, is  
\_\_\_\_\_.

**THAT** the Executive Director of the Houston-Galveston Area Council be notified of the  
designation of the hereinabove named representative and alternate.

**PASSED AND ADOPTED**, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**APPROVED:**

\_\_\_\_\_  
Mayor

**ATTEST:**

By: \_\_\_\_\_

**TO ALL PERSONS IN INTEREST, CITIZENS, CORPORATIONS, AND FIRMS, THEIR AGENTS AND ATTORNEYS, AND TO ALL PERSONS, FIRMS, AND CORPORATIONS OWNING ANY INTEREST IN THE BELOW DESCRIBED LAND OR ANY LAND LOCATED WITHIN TWO HUNDRED (200') FEET THEREOF AND TO ALL INHABITANTS AND LAND OWNERS OF AND IN THE CITY OF FREEPORT, BRAZORIA COUNTY, TEXAS.**

**NOTICE**

**A joint public hearing will be held on Monday, the 16th day of September, 2013, at 6:00 o'clock p.m., central daylight savings time, at the Police Department Municipal Courtroom of the City of Freeport, Texas, located at 430 North Brazosport Boulevard, within the corporate limits of said city, in Brazoria County, Texas, at which time and place the City Council and the Planning Commission of said city will conduct a joint public hearing to consider a proposed amendment to the Comprehensive Zoning Ordinance and Map of said city, codified as Chapter 155 of the Code of Ordinances of said City, changing the zoning classification of Lots 13-24, Block 600 and Lots 1-12, Block 601, Velasco Townsite, City of Freeport, Brazoria County, Texas, from its present classification of R-2 Single-family Residential District to a new classification of C-2 General Commercial District.**

**BY ORDER OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS,**

**made on the 5th day of August, 2013.**

---

**Delia Munoz, City Secretary,  
City of Freeport, Texas**

**NOTE: This notice should be published in the Brazosport Facts ONE (1) time only at least fifteen (15) full days prior to the date of the public hearing. Also, a copy of this notice must be mailed at least ten (10) full days prior to the date of the public hearing to the owner(s) of the land for which a change in zoning classification is being sought and to the owners of all land within 200 feet thereof.**

City of Freeport  
Public Works Division  
Phone: 979-233-3526

For Office Use Only

Case Number: \_\_\_\_\_  
Date Filed: \_\_\_\_\_  
P & Z Date: 7-23-13  
Council Date: \_\_\_\_\_  
Request for:

**Application for  
Rezoning**

\_\_\_ Map Change  
\_\_\_ Text Change

1. Address or general location of site: N. Ave F
2. Subdivision Velasco

Block	Lots	Acres
<u>600</u>	<u>13-24</u>	
<u>601</u>	<u>1-12</u>	
3. Current Zoning Classification: R2 Zone
4. Proposed Zoning Classification: C2
5. Reason for Requesting a Rezoning (attach additional sheet if necessary):  
To establish an RV Park

I hereby certify that I am the owner, or duly authorized agent of the owner, for the purposes of this application. The application fee of \$150.00, to cover the cost of this rezoning application, has been paid to the City of Freeport on July 16, 2013. I also certify that I have been informed and understand the regulations regarding rezoning as specified in the Zoning Ordinance of the City of Freeport. I understand it is necessary for me, or my authorized agent, to be present at both the Planning and Zoning Commission and the City Council public hearings.

Owner's signature: POA David Collins

Owners name: DAVID COLLINS

Address: 906 OLEANDER

City, State, Zip: LAKE JACKSON, TX 77566 Phone: (979) 297-5253

In lieu of representing this request myself as owner of the subject property, I hereby authorize the person designated below, to act in the capacity as my agent for the application, processing, representation, and/or presentation of this request. The designated agent shall be the principal contact person with the city (and vice versa) in processing and responding to requirements, information or issues relative to this request.

POA David Collins  
Signature of Owner

DAVID COLLINS  
Name printed or typed





Old River RD

Munson

QUIB BLVD. N.

Mcneal

Lively

EXISTING

Pg. 825



**CITY OF FREEPORT  
PLANNING COMMISSION AND CITY COUNCIL  
JOINT PUBLIC HEARING  
Monday, September 16, 2013, 6:00 p.m.  
Freeport Police Department, Municipal Courtroom  
430 North Brazosport Boulevard  
Freeport, Texas**

**AGENDA**

Edward Garcia, Chairman  
Tobey Davenport  
Eddie Virgil

Rueben Cuellar  
Jesse Aguilar

NOTICE is hereby given that the Planning Commission of The City of Freeport, Texas will meet in a Joint Public Hearing with the Freeport City Council on Monday, **September 16, 2013 at 6:00 P.M.** at the Police Department Municipal Courtroom, 430 North Brazosport Boulevard, Freeport, Texas to discuss the following:

1. Call to order.
2. Conduct a Joint Public Hearing to consider a proposed amendment to the Comprehensive Zoning Ordinance and Map of said City, codified as Chapter 155 of the Code of Ordinances of said City, changing the zoning classification of Lots 13-24, Block 600 and Lots 1-12, Block 601, Velasco Townsite, City of Freeport, Brazoria County, Texas, from its present classification of R-2 Single-Family District to a new classification of C-2 General Commercial District.
3. Make a recommendation to the City Council concerning whether or not the Comprehensive Zoning Ordinance and Map of said City, codified as Chapter 155 of the Code of Ordinances of said City should be amended to change the zoning classification of Lots 13-24, Block 600 and Lots 1-12, Block 601, Velasco Townsite, City of Freeport, Brazoria County, Texas, from its present classification of R-2 Single-Family District to a new classification of C-2 General Commercial District.
4. Adjourn.

**NOTE: ITEMS NOT NECESSARILY DISCUSSED IN THE ORDER THEY APPEAR ON THE AGENDA. THE PLANNING COMMISSION, AT ITS DISCRETION, MAY TAKE ACTION ON ANY OR ALL OF THE ITEMS LISTED.**

I, Melissa Farmer, Building/Permit Department Secretary, City of Freeport, Texas, hereby certify that this agenda was posted on the official bulletin board/glass door of City Hall, facing the rear parking lot of the building with 24-hour access, at 200 West 2<sup>nd</sup> Street, Freeport, Texas, on or before **Friday, September 13, 2013, at 5:00 P.M.**

A handwritten signature in cursive script that reads "Melissa Farmer". The signature is written in black ink and is positioned above a horizontal line.

Melissa Farmer  
Building/Permit Department  
City of Freeport

ORDINANCE NO. 2013-2046

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF SAID CITY TO CHANGE THE ZONING CLASSIFICATION OF LOTS 13-24, BLOCK 600 AND LOTS 1-12, BLOCK G01. VELASCO TOWNSITE, FROM THE PRESENT ZONING CLASSIFICATION OF R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT TO A NEW ZONING CLASSIFICATION OF C-2 GENERAL COMMERCIAL DISTRICT; RATIFYING AND CONFIRMING ALL ACTIONS PREVIOUSLY TAKEN BY THE PLANNING COMMISSION OF SAID CITY OR THE CITY COUNCIL, OR BOTH; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE AND ADOPTION.

WHEREAS, the City of Freeport, Texas (the City), is a "Home Rule City" and a "Home Rule Municipality" lying and situated in Brazoria County, Texas, as described in and defined by Section 5, Article XI of the Constitution of Texas and Section 1.005 of the Local Government Code of Texas, respectively; and,

WHEREAS, Subchapter A of Chapter 211 of the Local Government Code of Texas and Item (g) of Section 3.07 of the Home Rule Charter of the City authorizes the City Council thereof to adopt the provisions of this Ordinance; and,

WHEREAS, the City Council of the City has determined and does here now declare that the adoption of this ordinance is necessary to the health, safety and general welfare of the inhabitants of the City and is necessary to conform the comprehensive zoning plan of the City to the current zoning conditions which exist therein.

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

SECTION ONE--Findings of Fact and Conclusions of Law.

The City Council of the City makes the following findings of fact and conclusions of law, viz:

First, that the public hearings required by the Zoning Enabling Act of the State of Texas, codified as Chapter 211 of the Texas Local Government Code, and the present Comprehensive Zoning Ordinance of the City, codified as Chapter 155 of the Code of Ordinances of the City, have been conducted in the manner and at the time required.

Second, that not less than fifteen (15) days prior to the date of such hearings, public notice thereof was published once in the Brazosport Facts, a newspaper of general circulation in and the official newspaper of the City, stating the date, time and place of such hearings.

Third, that not less than ten (10) days before the date of such hearings, written notice of the proposed change in classification was proposed and to all owners of property located within two hundred (200') feet of such property.

Fourth, that after considering evidence submitted at such hearings, the City Council of the City is of the opinion and finds that the conditions which warranted the classification of the hereinafter described property as -- at the time of the adoption of such classification for such property have substantially changed that conditions now exist which indicate that the classification of such property as -- is no longer appropriate and, considering the community as a whole and the present Comprehensive Zoning Plan of the City, such property should be reclassified for purposes of zoning and the zoning of such property changed from R-2 Single-Family District to C-2 General Commercial District.

Fifth, that the health, safety, morals and general welfare of the inhabitants of the City will best be served by the adoption of this ordinance and the change in zoning classification hereinafter mentioned.

Sixth, that this Ordinance in its final form has been reviewed by the Planning Commission of the City as required by Section 32.00.4 of the Code of Ordinances of the City.

SECTION TWO--Comprehensive Zoning Ordinance Amended  
and Zoning Changed.

Ordinance No. 1100, read, passed and adopted on the 3rd day of April, 1964, and now codified as Chapter 155 of the Code of Ordinances of the, is hereby amended and supplemented to provide that the following described parcel of land within the corporate limits of the City, to-wit:

Lots 13-24, Block 600 and Lots 1-12, Block 601, Velasco Townsite, City of Freeport Brazoria County, Texas, according to the map or plat recorded in Volume 32, page 14 of the Deed Records of said county,

be and the same is hereby reclassified for purposes of zoning as C-2 General Commercial District as defined in Section 155.038 of the Code of Ordinances and that the zoning of said land should be and the same is hereby changed from R-2 Single-family Residential District to C-2 General Commercial District.

SECTION THREE--Ratification and Confirmation.

The City Council of the City hereby ratifies and confirms any and all action taken by the Planning Commission of the City or the City Council of the City, or both, in connection with the change in zoning classification evidenced by this ordinance, including but not limited to the calling of a public hearing required by said Zoning Enabling Act and said Chapter 155, the giving of public notice of such hearings, the giving of written notice to the owners of property which is the subject of such and to the adjoining property owners, the making of preliminary and final reports with respect to such change and the conducting of the public hearings required by said Act and said Chapter 155.

SECTION FOUR--Severance Clause.

In the event any section or provision of this ordinance is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining sections and provisions of this ordinance and such remaining sections and provisions shall remain in full force and effect.

SECTION FIVE--Effective Date.

This ordinance shall take effect and be in force from and after its passage and approval.

READ, PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Norma Moreno Garcia, Mayor,  
City of Freeport, Texas

ATTEST:

\_\_\_\_\_  
Delia Munoz, City Secretary,  
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

\_\_\_\_\_  
Wallace Shaw, City Attorney  
City of Freeport, Texas

C:\Freeport.Zon\Blk 600 & 601 VTS Rzng-Ord

**SALES TAX REMITTANCE, GUARANTY  
AND SUBORDINATION AGREEMENT**

This **SALES TAX REMITTANCE, GUARANTY AND SUBORDINATION AGREEMENT** (this "Agreement") is made to be effective as of February 11, 2010, by and among the **CITY OF FREEPORT, TEXAS**, a duly incorporated and existing home rule city operating and existing under the laws of the State of Texas (the "City"), the **FREEPORT ECONOMIC DEVELOPMENT CORPORATION**, a nonprofit development corporation organized and existing under the laws of the State of Texas, including Section 4B of the Development Corporation Act of 1979, Article 5190.6, Texas Revised Civil Statutes Annotated, as amended (the "Corporation") and **FIRST STATE BANK OF LOUISE, TEXAS** (the "Bank").

**RECITALS**

**WHEREAS**, the Corporation on behalf of the City is to finance the completion of the construction of a public marina (the "Project"); to promote economic development in the City; and

**WHEREAS**, such financing contemplates the issuance of the Corporation's note in a principal amount not to exceed \$1,750,000.00.

**AGREEMENT**

1. **Financing of Project**: For and in consideration of the City's covenants and agreements herein contained and subject to the terms contained herein, the Corporation hereby agrees to enter into the Loan Agreement, dated of even date herewith (as same may be amended, restated, supplemented and/or otherwise modified, the "Loan Agreement"), by and between the Corporation and the Bank, and a promissory note thereunder in a principal amount not to exceed \$1,750,000.00 (the "Note"), and the Corporation hereby agrees and covenants that all proceeds of the loan evidenced by the Note shall be used solely to pay the costs of the Project.

2. **Receipt and Transfer of Proceeds of Sales Tax**. The City agrees, in cooperation with the Corporation, to take such actions as are required to cause 1/2 of 1% sales and use tax (the "Sales Tax") received from the Comptroller of Public Accounts of the State of Texas for and on behalf of the Corporation to be deposited immediately upon receipt by the City to the credit of the Corporation.

3. **Guaranty**. Pursuant to the authority of Chapter 380, Local Government Code, as amended, the City hereby guaranties the payment of the principal of and interest on the Note by the Corporation. The City's guaranty is subject to annual appropriation.

4. **Subordination**. The City and the Corporation agree that the pledge of the Sales Tax to the Note shall be senior to the pledge or use thereof to the Corporation's existing loan from the City for the Project and the use thereof to pay the principal of and interest on any outstanding or future bonds, certificates of obligation or other indebtedness of the City. The City hereby



expressly subordinates its rights to the Sales Tax under its existing loan to the Corporation for the Project to the payment of all principal and interest on the Note.

5. **Revenues.** Neither the City nor the Corporation shall pledge any revenues, rents, lease or license payments received from the Project without the consent of the Bank.

6. **Modifications.** This Agreement shall not be changed orally, and no executory agreement shall be effective to waive, change, modify or discharge this Agreement in whole or in part unless such executory agreement is in writing and is signed by the parties against whom enforcement of any waiver, change, modification or discharge is sought and approved in writing by the Bank.

7. **Counterparts.** This Agreement may be executed in several counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this Agreement.

8. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

9. **Applicable Law.** This Agreement shall in all respects be governed by, and construed in accordance with, the substantive federal laws of the United States and the laws of the State of Texas.

10. **Captions.** The section headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

11. **Capitalized Terms.** All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement.

*[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BANK]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date and year first above written.

**FREEMPORT ECONOMIC DEVELOPMENT  
CORPORATION**

By:   
Dan Tarver, President

ATTEST:

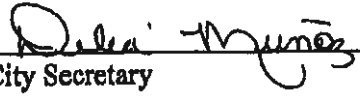
By:   
Lila Diehl, Secretary

*Signature Page to Sales Tax Remittance, Guaranty and Subordination Agreement*

CITY OF FREEPORT, TEXAS


By:   
Larry McDonald, Mayor

ATTEST:

  
City Secretary

*Signature Page to Sales Tax Remittance, Guaranty and Subordination Agreement*

**FIRST STATE BANK OF LOUISE, TEXAS**

By:   
\_\_\_\_\_

Dan Croft, President

*Signature Page to Sales Tax Remittance, Guaranty and Subordination Agreement*

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

**INTERLOCAL AGREEMENT**

This agreement is made at Angleton, Brazoria County, Texas between BRAZORIA COUNTY, TEXAS acting through its Commissioners' Court (hereinafter "County"), and the City of Freeport, acting through its Mayor (hereinafter "City").

NOW THEREFORE, THE COUNTY AND THE CITY agrees as follows:

1.0 The term of this agreement shall be from October 1, 2013, to September 30, 2014. The AGREEMENT may be renewed annually by the written approval of County and City.

1.1 Pursuant to the Interlocal Cooperation Act, Texas Government Code, Chapter 791 and the Texas Transportation Code, Section 251.012, the County agrees to provide personnel and equipment at its own expense to assist in the construction, improvement, maintenance and/or repair of a street or alley located within the corporate limits of the City of Freeport, subject to the approval of the County Engineer as set forth in Section 1.3, including sub grade preparation, base preparation, asphalt paving, culverts and ditch work, herbicide spraying, painting and striping roads, installation of permanent traffic signs, and other routine road maintenance operations. Any work performed on the City's streets and alleys which are not an integral part of, or a connecting link to, other

roads and highways is allowed if such work is determined to be a benefit to the County by Commissioners' Court. The City will provide materials, including fuel used by the equipment for these projects. All such materials shall be paid for by the City, and may be purchased through the County's suppliers. The City shall reimburse the cost of any work performed or obtained by the County, which is determined to be beyond the scope of this agreement, to the County.

1.2 The county work authorized by this AGREEMENT may be done:

- (1) By the County through use of county equipment;
- (2) By an independent contractor with whom the County has contracted for the provision of certain services and materials, conditioned on the City providing a purchase order to such independent contractor for the full amount of such services or materials.

1.3 During the term of this AGREEMENT when County work is requested, the Mayor of the City shall submit a request in writing to the County Engineer. The County Engineer and the Mayor of the City shall agree in writing as to the location and type of assistance to be provided pursuant to this AGREEMENT. It is expressly understood between the parties that the County shall have no authority or obligation to provide any service or work on any city street or alley not so agreed to in writing. The County Engineer is authorized to sign an acceptance statement for

each project at the appropriate time and authorize the work subject to be completed as the Road and Bridge Department schedules permit.

1.4 The parties intend that the County in performing such services shall act as an independent contractor and shall have control of the work and the manner in which it is performed. The County shall not be considered an agent, employee, or borrowed servant of the City.

1.5 For and in consideration of the above agreement by the County, the City agrees to provide all warning and safety signs and other safety protections as required when such work is being performed by the County.

1.6 The parties further agree that such work and materials are provided by the County without warranty of any kind to the City or any third party, and that the County has no obligation to provide any supplemental warranty work after a project's completion. The City agrees to provide any engineering or design work required for work done pursuant to this agreement.

## II.

2.0 To the extent authorized by law, the City hereby agrees to hold harmless the County, its officers, agents and employees from any and all loss, damage, cost demands or causes of action of any nature or kind for loss or damage to property, or for injury or death to persons, arising in any manner from the performance of the above-referenced work.

2.1 Payment for services or materials under this agreement shall be payable from current revenues available to the paying party.

III.

3.0 Either party may terminate this agreement upon thirty- (30) day's written notice to the other party.

3.1 Nothing herein shall be construed to make either party a purchaser or consumer of goods or services from the other.

3.2 Nothing herein shall be construed to create any rights in third parties.

SIGNED AND ENTERED this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

BRAZORIA COUNTY, TEXAS

  
\_\_\_\_\_  
By: Joe King  
Brazoria County Judge

\_\_\_\_\_  
\_\_\_\_\_  
By: Mayor

ATTEST:

\_\_\_\_\_  
CITY SECRETARY



**Jeff Pynes**

---

**From:** Ruiz, Yvette  
**Sent:** Friday, September 13, 2013 11:08 AM  
**To:** Jeff Pynes  
**Subject:** FW: Proposed Land Development Agreement  
**Attachments:** 839312\_1.docx

**From:** Jonathan H. Clark [<mailto:clark@hooverslovacek.com>]  
**Sent:** Friday, September 13, 2013 10:57 AM  
**To:** Pynes, Jeff; [shawpc@sbcglobal.net](mailto:shawpc@sbcglobal.net)  
**Cc:** Woodring, Gary (GJ)  
**Subject:** Proposed Land Development Agreement

Mr. Pynes and Mr. Shaw,

As you know, this firm represents Gary Woodring. Gary appreciates that the Council will allow him to present a detailed Land Development Plan on Monday night.

In connection with Gary's request for an extension of time to develop the property, we have prepared the attached Land Development Agreement. Gary understands that the decision to grant or deny the extension is entirely up to the Council; nevertheless, to facilitate this possibility, we wanted to forward the proposed Land Development Agreement to you in advance of the meeting so you can review and share any thoughts.

We will forward the Residential Construction Contract, Landscaping Plans, and Bulkhead Schematic as soon as those are finalized. If you have any questions or request any additional information at this time, please do not hesitate to contact me.

Best regards,

**Jonathan H. Clark, Partner**

**HooverSlovacek**  
Attorneys at Law

5847 San Felipe, Suite 2200  
Houston, Texas 77057  
Office: 713.977.8686  
Fax: 713.977.5395

**BOARD**  
**CERTIFIED**  
Consumer and Commercial Law  
Texas Board of Legal Specialization

Pg. 841

**LAND DEVELOPMENT  
AGREEMENT**

This LAND DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into as of the \_\_\_\_ day of September, 2013 by and between the CITY OF FREEPORT, TEXAS, a municipal corporation located in Brazoria County, Texas (the "City") and GARY J. WOODRING, an individual ("Woodring").

**RECITALS:**

WHEREAS, by virtue of that certain Second Correction Special Warranty Deed, filed for record under Clerk's File No. 2013013656 in the Real Property Records of Brazoria County, Texas (the "Deed"), the City conveyed to Woodring that certain 0.764 acre, more or less, tract or parcel of land located in the City of Freeport, Brazoria County, Texas (the "Property"), said Property being more fully described in Exhibit "A" hereto;

WHEREAS, the Deed contains certain terms and conditions to the estate conveyed therein, requiring Woodring to construct certain improvements on the Property on or before October 1, 2013 (the "Completion Date"); and

WHEREAS, the City and Woodring have agreed to extend the Completion Date for a period of eight (8) months to June 1, 2014 (the "Extended Completion Date") upon the terms and conditions contained herein.

**AGREEMENT:**

NOW THEREFORE, for and in the consideration of TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Woodring hereby agree as follows:

1. Construction of Improvements. Upon the mutual execution of this Agreement, Woodring shall proceed with the construction of a home (the "Home") on the Property in accordance with the following (collectively referred to as the "Improvements"):

- (a) *Construction Contract*. Woodring shall enter into the Residential Construction Contract (the "Contract") with Braztex Development, LLC (the "Builder") attached hereto as Exhibit "B" for the construction of the Home in substantial accordance thereto.
- (b) *Landscaping*. Woodring shall improve the Property with landscaping and other exterior improvements in substantial accordance the plans attached hereto as Exhibit "C"; and
- (c) *Bulkheading*. Woodring shall bulkhead the waterfront portion of the Property in the location depicted on Exhibit "D" attached hereto.

2. Completion of the Improvements. Woodring shall proceed diligently towards completion of the Improvements by the Extended Completion Date; provided, however, the

Extended Completion Date shall be delayed in the event Woodring, the Builder, or any contractor, subcontractor, vendor, or agent thereof is rendered unable, in whole or in part, by Force Majeure to carry out its obligations in completing the Improvements (provided that due diligence is being used to resume performance of such obligations at the earliest practicable time). The term "Force Majeure", as used herein, shall include without limitation of the generality thereof, Acts of God, acts of the public enemy, orders of any kind of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, whether similar to those enumerated or otherwise, which are not within the control of the party claiming such inability, which such party could not have avoided by the exercise of due diligence and care.

3. City Action. In the event Woodring completes the Improvements on or before the Extended Completion Date, the City shall execute a "Notice of Compliance" evidencing Woodring's compliance with the terms and conditions of the Deed, and terminating the City's right to "terminate the estate [granted by the Deed] and to re-enter and retake the premises," as provided in the Deed. The Notice of Compliance shall then be recorded in the Real Property Records of Brazoria County, Texas. Provided, however, in the event Woodring is unable to complete the Improvements on or before the Extended Completion Date, the City shall be entitled to exercise its rights under the Deed. As a material part of the consideration for this Agreement, the City agrees to delay any such action until after the Extended Notice Date. The City's sole and exclusive remedy for Woodring's breach of this Agreement shall be the exercise of its right to "re-enter and retake the premises" as provided in the Deed.

4. Modification. This Agreement shall be subject to change or modification only with the written consent of each of the parties hereto.

[Signatures Appear on the Following Page.]

IN WITNESS WHEREOF, the City and Woodring have entered into this Agreement as of the date first written above.

CITY OF FREEPORT, TEXAS

By: \_\_\_\_\_  
Norma Morena Garcia, Mayor

\_\_\_\_\_  
Gary J. Woodring

STATE OF TEXAS       §  
                                  §  
COUNTY OF BRAZORIA §

This instrument was acknowledged before me on the \_\_\_\_ day of September, 2013, by Norma Morena Garcia, the Mayor of the CITY OF FREEPORT, TEXAS, a municipal corporation located in Brazoria County, Texas, on behalf of said municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas

STATE OF TEXAS       §  
                                  §  
COUNTY OF BRAZORIA §

This instrument was acknowledged before me on the \_\_\_\_ day of September, 2013, by GARY J. WOODRING.

\_\_\_\_\_  
Notary Public, State of Texas