

THE FREEPORT CITY COUNCIL
MONDAY, OCTOBER 21ST, 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 October 7th, 2013 Council Minutes. Pg. 934-939
5. Attending citizens and their business.
6. **Public Hearing:** The City Council of the City of Freeport will consider designating the following the following described real property located within the corporate boundaries of the City as a reinvestment zone for the purpose of entering into an agreement with Associated Builders and Contractors of Texas Gulf Coast, Inc., a Texas Non Profit Corporation, the owner thereof , and granting a tax abatement with respect to such property: Pg. 940

All of Blocks 44, 45 and 46 together with portions of the abandoned right-of- way of Avenues I, J and K of the Velasco Townsite of the City of Freeport, in Brazoria County, Texas, the map or plat of thereof being recorded in Volume 32, Page 14, Deed Records of Brazoria County, Texas to be known locally as 1400 North Velasco Boulevard, Tx. 77541
7. Consideration of approving Ordinance No. 2013-2053 designating all of Blocks 44, 45 and 46 together with portions of the abandoned right-of- way of Avenues I, J and K of the Velasco Townsite as a Reinvestment Zone to be known as the Associated Builders and Contractors of Texas Gulf Coast, Inc., Reinvestment Zone and providing for its initial term and the renewal thereof. Pg. 941-945
8. Consideration of approving Resolution No. 2013-2426 approving a Commercial Tax Abatement agreement to the Associated Builders and Contractors of Texas Gulf Coast, 1400 North Velasco Boulevard, Freeport Texas. Pg. 946-958
9. Consideration of approving and signing a re-plat for Dilip R. Patel of Lot 522 A1A, BCIC Division 14, J. F. Fields, known as 2001 Brazosport, Freeport Texas.
10. Consideration of accepting and approval of language for the deed of levees from the Velasco Drainage District to the City of Freeport. Pg. 959-976

11. Consideration of approving and authorizing the City Manager to sign an Interlocal Agreement with Region One Education Service Center Purchasing Cooperative.
Pg. 977-990

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, October 18th, 2013 at or before 5:00 p.m.

Delia Munoz - City Secretary
City of Freeport, Texas

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the Freeport City Council and the Planning Commission met on Monday, October 7, 2013 for a Joint Public Meeting at 6:00 p.m., at the Freeport Municipal Court Room, 430 North Brazosport Boulevard, 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

Planning Commission: Edward T. Garcia
Reuben Cuellar
Jesse Aguilar – Absent
Tobey Davenport
Eddie Virgil

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

Visitors:	Manning Rollerson	Jerry Meeks
	Eric Hayes	Lila Diehl
	Dale Lindsey	Shannon Daughtry
	Jimmy Birmingham	Margie Kveton
	Debra Martinez	Mark Garner
	Lila Lloyd	

Call to order.

Mayor Norma M. Garcia called the meeting to order at 6:00 p.m.

Invocation.

City Attorney Wallace Shaw offered the invocation.

Pledge of Allegiance.

Mayor Norma Garcia led the Pledge of Allegiance.

Consideration of approving the September 23rd & October 1st, 2013 Council Minutes.

On a motion by Councilwoman Kent, seconded by Councilwoman Barbree, with all present voting "aye", Council unanimously approved the September 23rd & October 1st, 2013 Council Minutes.

Attending citizens and their business.

Manning Rollerson addressed Councilwoman Barbree that the management of Azalea Courts Apartments is discriminating against African Americans.

Consideration of approving Ordinance No. 2013-2046 amending the budget for the fiscal year 2012-2013.

On a motion by Councilwoman Kent, seconded by Councilwoman Barbree, with all present voting "aye", Council unanimously approved Ordinance No. 2013-2046 amending the budget for the fiscal year 2012-2013.

Consideration of approving Resolution No. 2013-2425 authorizing the Fire Chief to donate a 1970 Kaiser Jeep Corporation 5 Ton Cargo truck, of said City to the Rivers End Volunteer Fire Department, Brazoria County.

On a motion by Councilwoman Kent, seconded by Councilwoman Loeza, with all present voting "aye", Council unanimously approved Resolution 2013-2425 authorizing the Fire Chief to donate a 1970 Kaiser Jeep Corporation 5 Ton Cargo truck, of said City to the Rivers End Volunteer Fire Department, Brazoria County.

Public Hearing: A Public Hearing regarding Chapter 370.002 of the Local Government Code and Division (A) of Section 130.99 of the Code of Ordinance of said City to review the Juvenile Curfew Ordinance of said City.

Mayor Garcia opened the Public Hearing at 6:13 p.m. regarding Chapter 370.002 of the Local Code and Division (A) of Section 130.99 of the Code of Ordinance of said City to review the Juvenile Curfew Ordinance of the said City, to be reviewed every three years.

Lt. Danny Gillchrist stated that the ordinance had been reviewed and recommended no changes to the current Juvenile Curfew ordinance.

There being no more questions from staff or audience concerning the Juvenile Curfew Ordinance, Mayor Garcia closed the Public Hearing at 6:15 p.m.

Consideration of approving Ordinance No. 2013-2049 readopting Chapter 130 of the Code of Ordinances of said City, providing a Juvenile Curfew for minor(s).

On a motion by Councilwoman Barbree, seconded by Councilwoman Kent , with all present voting “aye”, Council unanimously approved Ordinance No. 2013-2049 readopting, Chapter 130 of the Code of Ordinances of said City, providing a Juvenile Curfew for minor(s).

Joint Public Hearing: The City Council and the Planning Commission of said City will conduct a Joint Public Hearing to consider a propose amendment to the Comprehensive Zoning Ordinance and Map of said City, codified as Chapter 155 of the Code of Ordinances of said City, granting to Loren Eric Hayes a specific use permit to operate an RV Park within said City on Lots 92 and 93, Brazos Coast Investment Company Subdivision, Division 14, A. Calvit Survey, Abstract 49 and J.F. Fields Survey, Abstract 62, Brazoria County, Texas, located on North Brazosport Boulevard, northeast of its intersection with Zapata Street.

There being a quorum with the Planning Commission, Mayor Garcia opened the Joint Public Hearing at 6:16 p.m. to consider granting to Loren Eric Hayes a specific use permit to operate an RV Park within said City on Lots 92 and 93 Brazos Coast Investment Company Subdivision, Division 14. A. Calvit Survey, Abstract 49 and J.F. Fields Survey, Abstract 62, Brazoria County, Texas, located on North Brazosport Boulevard, northeast of its intersection with Zapata Street.

Edward T. Garcia spokesman for the Planning Commission opened the meeting at 6:16 p.m. Mr. Garcia asked Council and audience if anybody had any statement for or against the proposed specific use permit to operate a RV Park.

Dale Lindsey has property in the area and his concern is beautification, type of roads and materials, the area is low and drainage is a problem, water flows to the back of Zapata Street and into a ditch.

Margie Kveton has Area Mini Storage and her concern is over beautification of the area, safety, vandalism and transits coming to the park.

Manning Rollerson stated that the propose RV Park will not encourage any burglars into the Area Mini Storage. He suggested that Council give Mr. Hayes an opportunity and approve the Specific Use Permit.

Mayor Garcia asked if he had plans to raise the property elevation. Mr. Hayes said yes.

Councilman Bolton asked if he had plans for a recreational facility on the property. Mr. Hayes said he planned on a community center.

Lila Diehl spoke in favor of the RV Park. She stated that a lot of the people applying to live at the RV Park will be employed by the Dow Chemical and will have background criminal history clearance. The expansion of chemical plants and employments coming in; they expect the area to have a shortage of houses and apartments.

Councilwoman Loeza asked if the propose RV Park would be seen coming in to Freeport on Hwy. 288. Mr. Hayes said that you would have to really look for it, and that it would have a fence.

City Manager Jeff Pynes asked if he presented his plans to the Velasco Drainage District. Mr. Hayes said no.

There being no more comments or questions, Mayor Norma Garcia closed the Joint Public Meeting and the Planning Commission adjourned at 6:37 p.m.

Consideration of approving Ordinance No. 2013-2050 amending the Comprehensive Zoning ordinance of said city permit the specific use of Lots 92 & 93, Brazos coast Investment Company Subdivision 14, A Calvit Survey, Abstract 49 and J. F. Fields Survey, Abstract 62, Brazoria County, Texas within the corporate limits of said City, as an RV Park to be operated by the owner thereof, Loren Eric Hayes.

On a motion by Councilwoman Barbree, seconded by Councilwoman Kent, with all present voting "aye", Council unanimously approved Ordinance No. 2013-2050 amending the Comprehensive Zoning ordinance of said city permit the specific use of Lots 92 & 93, Brazos coast Investment Company Subdivision 14, A Calvit Survey, Abstract 49 and J. F. Fields Survey, Abstract 62, Brazoria County, Texas within the corporate limits of said City, as an RV Park to be operated by the owner thereof, Loren Eric Hayes, contingent upon a fence erected, the drainage concerns be approved by the Velasco Drainage District and approval of the details of the construction of the road.

Consideration of approving Ordinance No. 2013-2051 amending Section 112.04 of the Code of Ordinance to require written consent by the surface owner or owner(s) of any property in the City, which is the site for exploration or drilling for oil, gas and other minerals.

On a motion by Councilwoman Kent, seconded by Councilwoman Loeza, with all present voting "aye", Council unanimously approved Ordinance No. 2013-2051 amending Section 112.04 of the Code of Ordinance to require written consent by the surface owner or owner(s) of any property in the City, which is the site for exploration or drilling for oil, gas and other minerals.

Consideration of approving Ordinance No. 2013-2052 amending sections of 52.15 & 52.16 of the Code of Ordinances to increase the rates for certain water & sewer rates services on or after October 5th, 2013.

On a motion by Councilwoman Barbree, seconded by Councilwoman Loeza, with all present voting "aye", Council unanimously approved Ordinance No. 2013-2052 amending sections of 52.15 & 52.16 of the Code of Ordinances to increase the rates for certain water & sewer rates services on or after October 5th, 2013.

Consideration of approving a Commercial Tax Abatement application for Associated Builders and Contractors, Inc., a new building to be located behind the current facility at 1400 N. Velasco, Freeport, Texas, Tx. Id. 8110-0519-.000.

No Action Taken

Work Session:

Schneider Electric – Introduction to Performance Contracting

Debra Martinez Senior Energy Solutions Specialist presented Council with a PowerPoint presentation of Performance Contracting identifying energy saving:

- Waste water treatment plants
- Water meter replacement
- EMS – building controls
- Commissioning of existing equipment
- Lighting retrofit for facilities
- Mechanical system replacements
- Other water retrofits
- Possible beautify city lighting

Ms. Martinez will report back to discuss the results of the Preliminary Audit on energy conservation at no cost to the City.

Mayor Garcia closed the Work Session at 7:05 p.m. and Open the Executive Session at 7:10 p.m.

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:

- Associated Builders and Contractors tax abatement
- Marina Litigations

Mayor Garcia closed the Executive Session and Reconvened the Formal Session to motion on Item No. 14 on the agenda.

Adjourn

On a motion by Councilwoman Kent, seconded by Councilwoman Barbree, with all present voting “aye”, Council adjourned at 7:50 p.m.

Mayor Norma M. Garcia
City of Freeport, Texas

City Secretary - Delia Munoz
City of Freeport, Texas

NOTICE OF PUBLIC HEARING

The City Council of the City of Freeport, Texas, will hold a public hearing on Monday, October 21, 2013, beginning at 6:00 o'clock, p.m., in the Police Department Municipal Courtroom located within the City, in Brazoria County, Texas, at 430 North Brazosport Boulevard, Freeport, Texas 77541, to consider designating the following described real property located within the corporate boundaries of the City as a reinvestment zone for the purpose of entering into an agreement with ASSOCIATED BUILDERS AND CONTRACTORS OF TEXAS GULF COAST, INC., a Texas Non-Profit Corporation, the owner thereof, and granting a tax abatement with respect to such property:

All of Blocks 44, 45 and 46, together with portions of the abandoned right-of-way of Avenues I, J And K of the Velasco Townsite of the City of Freeport, in Brazoria County, Texas, the map or plat of thereof being recorded in Volume 32, page 14, Deed Records of Brazoria County, Texas, to be known locally as 1400 North Velasco Boulevard, Freeport, TX 77541.

On the same date and at the same time and place, the City Council of the City of Freeport, Texas, will consider entering into an agreement granting a tax abatement to said corporation.

All interested persons will be given an opportunity to speak and present evidence for or against such designation and for and against such abatement.

Witness my hand this 11th day of October, 2013.



Delia Munoz, City Secretary
City of Freeport, Texas

ORDINANCE NO. 2013-2053

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; CONTAINING FINDINGS OF FACT; DESIGNATING IMPROVEMENTS TO LAND LOCATED WITHIN THE INCORPORATED LIMITS OF SAID CITY AS A REINVESTMENT ZONE TO BE KNOWN AS THE ASSOCIATED BUILDERS AND CONTRACTORS OF TEXAS GULF COAST, INC., REINVESTMENT ZONE AND PROVIDING FOR ITS INITIAL TERM AND THE RENEWAL THEREOF; CONTAINING SAVINGS CLAUSES; 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, hereinafter sometimes referred to as 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, Sections 51.072 and 54.004 of the Local Government Code, Subchapter B of Chapter 312 of the Property Tax Code and Sections 2.01, 2.02 and 9.18 of the Home Rule Charter of the City authorize the City Council thereof to adopt the provisions of this Resolution; 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.

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, makes the following findings of fact:

(1) That on August 20, 2007, the City Council of the City, pursuant to Subchapter B of Chapter 312 of the Property Tax Code, adopted Resolution No. 2007-2153 establishing a tax abatement and reinvestment zone policy and adopting guidelines and criteria for the same; that on September 4, 2007, the City Council of the City pursuant to said Subchapter B adopted Resolution #2007-2155, amending such guidelines and criteria; and on August 5, 2013, the City Council of the City by its Resolution No. 2012-2211 re-adopted such guidelines and criteria, as amended.

(2) That pursuant to such guidelines and criteria, on September 3, 2013, ASSOCIATED BUILDERS AND CONTRACTORS OF TEXAS GULF COAST, INC., a Texas Non-Profit Corporation, (hereinafter sometimes called "the Applicant") filed a written application dated September 3, 2013, for a tax abatement for assets it is placing on and the designation of a reinvestment zone consisting of the following real estate:

All of Blocks 44, 45 and 46, together with portions of the abandoned right-of-way of Avenues I, J And K of the Velasco Townsite of the City of Freeport, in Brazoria County, Texas, the map or plat of thereof being recorded in Volume 32, page 14, Deed Records of Brazoria County, Texas, to be known locally as 1400 North Velasco Boulevard, Freeport, TX 77541 and being more particularly described in metes and bounds in the field notes attached hereto and made a part hereof as Exhibit A.

(3) That the land on which the improvements to which the Owner seeks to have designated as a reinvestment zone is within the corporate limits of the City.

(4) That the adoption of this ordinance designating such reinvestment zone was preceded by a public hearing at which all interested persons were given the opportunity to speak and present evidence for or against such designation.

(5) That written notice of such hearing was given to the presiding officer of each of the other taxing units having real property within such zone more than seven (7) days prior to the date of such hearing.

(6) That notice of such hearing was also published in a newspaper of general circulation within the City of Freeport, Texas, more than seven (7) days prior to the date of such hearing.

(7) That the designation of such zone is reasonably likely to contribute to the retention or expansion of primary employment or attract major investment to such zone.

Second, the request of the Applicant to have the land described above designated as a reinvestment zone, as such zone is defined in Subchapter B of Chapter 312 of the Property Tax Code and in the guidelines and criteria adopted by the above mentioned resolution, is hereby approved and such land is hereby designated as the to be known as the Associated Builders and Contractors of the Texas Gulf Coast Reinvestment Zone.

Third, as provided in Subchapter B of Chapter 312 of the Property Tax Code, such designation shall last for an initial term of five (5) years from the date on which this ordinance is read, passed and adopted as indicated below; and such designation may be renewed, with the consent of the City Council of the City for successive periods up to five (5) additional years.

Fourth, this ordinance is cumulative of and in addition to all other ordinances of the City on the same subject and all such ordinances are hereby expressly saved from repeal. Provided however, where this ordinance and the comprehensive zoning ordinance of the city conflict or overlap, the zoning ordinance shall prevail and where this ordinance and any other ordinance conflict or overlap, whichever imposes the more stringent regulations or penalties, as the case may be, shall prevail.

Fifth, nothing contained in this ordinance shall cause any rights heretofore vested to be altered, affected or impaired in any way and all such rights may be hereafter enforced as if this ordinance had not been adopted.

Sixth, 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.

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

APPROVED AS TO FORM ONLY:

**Wallace Shaw, City Attorney,
City of Freeport, Texas**

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RESOLUTION NO. 2013-2426

AN RESOLUTION OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; MAKING FINDINGS OF FACT; GRANTING A TAX ABATEMENT TO THE ASSOCIATED BUILDERS AND CONTRACTORS OF TEXAS GULF COAST, INC., A TEXAS NON-PROFIT CORPORATION, PURSUANT TO THE TERMS AND CONDITIONS OF AND AUTHORIZING THE MAYOR AND CITY SECRETARY TO EXECUTE AND ATTEST, RESPECTIVELY, A TAX ABATEMENT AGREEMENT WITH THE SAID CORPORATION; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THE ORIGINAL OF THIS RESOLUTION SHALL BE MAINTAINED BY THE CITY SECRETARY IN THE PERMANENT RECORDS THEREOF.

WHEREAS, the City of Freeport, Texas, hereinafter sometimes "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, Sections 51.072 and 54.004 of the Local Government Code, Subchapter B of Chapter 312 of the Property Tax Code and Sections 2.01, 2.02 and 9.18 of the Home Rule Charter of the City authorize the City Council thereof to adopt the provisions of this Resolution; and,

WHEREAS, the City Council of the City has determined to and does here now declare that the adoption of this resolution is necessary to the health, safety and general welfare of the inhabitants and the economic development of the City.

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

First, the City Council of the City of Freeport (hereinafter sometimes "the City") makes the following findings of fact:

(1) That on September 14, 2009, by its Resolution No.2009-2207, the City Council of the City, pursuant to Subchapter B of Chapter 312 of the Property Tax Code, established a tax abatement and reinvestment zone policy and adopting guidelines and criteria for the City and, on September 4, 2007, the City Council of the City pursuant to said Subchapter B adopted Resolution #2007-2155, amending such guidelines and criteria.

(2) That on August 5, 2013, by its Resolution No. 2013-2211, the City Council of the City, pursuant to Subchapter B of Chapter 312 of the Property Tax Code, readopted such tax abatement and reinvestment zone policy and such guidelines and criteria.

(3) That on September 3, 2013, pursuant to such guidelines and criteria, ASSOCIATED BUILDERS AND CONTRACTORS OF TEXAS GULF COAST, INC., a Texas Non-Profit Corporation, hereinafter sometimes called "the Owner", filed a written application requesting a tax abatement for and the designation of a reinvestment zone consisting of the land for which the Owner is requesting a tax abatement.

(4) That the land for which the Owner seeks a tax abatement is within the corporate limits of the City and within a reinvestment zone established by Ordinance No. 2013-_____.

(5) That the adoption of Ordinance No. 2013-_____ was preceded by a public hearing at which all interested persons were given the opportunity to speak and present evidence for or against such designation.

(6) That more than seven (7) days prior to the adoption of this resolution and the granting of the tax abatement hereinafter granted, written notice of the intent of the City Council of the City to enter into the proposed tax abatement agreement which the Mayor and City Secretary of the City are hereinafter authorized to execute and attest, respectively, was delivered to the presiding officer of each of the other taxing units in which the real property which is designated by Ordinance No. 2013-_____ as a reinvestment zone is located; and that such notice included a copy of such proposed agreement.

(7) That written notice of such hearing was published in the Brazosport Fact, the official newspaper of the City and a newspaper having general circulation within the boundaries of all taxing units having real property within such zone, more than seven (7) days prior to the date of such hearing.

(8) That such tax abatement agreement is reasonably likely to contribute to the retention or expansion of primary employment or attract major investment to such zone.

Second, the tax abatement requested by the above mentioned application is hereby granted pursuant to the terms and conditions of and the Mayor and City Secretary of the City of Freeport, Texas, are hereby authorized to execute and attest, respectively, the Tax Abatement Agreement with the Owner, a copy of which marked Exhibit "A" is attached hereto and made a part hereof for all purposes as if set forth herein at this point in full.

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

Fourth, the original of this resolution, after execution and attestation, shall be maintained by the City Secretary in the permanent records of the City.

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**

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TAX ABATEMENT AGREEMENT

This Tax Abatement Agreement (this "Agreement") is made by and between the City of Freeport, Texas a municipal corporation and home rule city (the "City"), and the Associated Builders and Contractors of the Texas Gulf Coast, a non-profit corporation (the "Owner"), qualified to do business in the State of Texas and the owner of interests in real property located within the Zone (as defined below).

W I T N E S S E T H:

WHEREAS, the creation and retention of job opportunities within the City is paramount to the City's continued economic development; and

WHEREAS, the Owner desires to construct a new facility, as shown in the attached Exhibit A, to be used for its offices and the craft training, safety training, security verification, business development tools, management education and contractor information development services; and

WHEREAS, the Owner has filed a written request for tax abatement, dated as of September 3, 2013, in accordance with the Resolution No. 2007-2153, adopted August 20, 2007, which was amended by Resolution No. 2007-2155, adopted September 4, 2007, and which was re-adapted by Resolution No. 2013-2411 adopted August 5, 2013, (collectively "the Resolution") establishes the property tax abatement program for the City in designated reinvestment zones; and

WHEREAS, it is reasonably likely that this Agreement will contribute to the retention, expansion and creation of primary employment and will attract major investment in the Zone that would be of benefit to property within the Zone and that would contribute to the economic development of the City; and

WHEREAS, the City Council has determined that the Improvements proposed to be constructed by the Owner are practical and are of benefit to the land within the Zone and to the City; and

WHEREAS, City Council finds that there will be no substantial potential adverse effect on the provision of City services or on the tax base caused by this Agreement; and

WHEREAS, the Owner has represented that the facility will be designed and constructed to meet all applicable federal, state, and local environmental degradation of hazard; and

WHEREAS, the City Council finds that the planned use of the Improvements, when constructed and operated in accordance with applicable environmental standards, will not constitute a hazard to public health, safety, or morals; and

WHEREAS, City Council finds that the terms of this Agreement meet the applicable requirements of the Resolution and the Texas Tax Code.

NOW THEREFORE,, the parties hereto, for and in consideration of the premises and the mutual promises stated herein, agree as follows;

1. Definitions

The following terms shall have the meanings assigned below, unless otherwise defined or the context clearly requires otherwise.

"Abatement Period" means that period which commences on the first day of the Effective Date of Abatement and ends at the end of the seventh (7th) years thereafter.

"BCAD" means the Brazoria County Appraisal District.

"City" means the City of Freeport, Texas.

"City Manager" means the City Manager of the City.

"Effective Date of Abatement" means January 1, 2014.

"Eligible Property" means facility for offices of the Owner and the craft training, safety training, security verification, business development tools, management education and contractor information development services which Owner provides and the new equipment or machinery described in Exhibit "B" attached hereto, which expands the local tax base as those terms are defined in the Guidelines and Criteria for Tax Abatement in the City of Freeport attached to and adopted by the Resolution.

"Improvements" means the improvements to the property, more fully described in Section 5 below, constituting the Project.

"Ordinance" means City of Freeport Ordinance Number 2013- _____ which created the Zone.

"Owner" means the Associated Builders and Contractors of the Texas Gulf Coast, Inc.

"Project" means the improvements to be constructed by the Owner on the Real Property as more fully described in Section 5. below.

"Property" means the real property to be improved, as more fully described in Section 3(a) below.

"Resolution" means City of Freeport Resolution No.2007-2153, adopted August 20, 2007, which was amended by Resolution No. 2007-2155, adopted September 4, 2007, and which was re-adapted by Resolution No. 2013-2411 adopted August 5, 2012, establishing the property tax abatement program for the City in designated reinvestment zones, for which an abatement is being granted.

"Tax Code" means the Texas Property Tax Code, as amended.

"Zone" means the Associated Builders and Contractors of the Texas Gulf Coast Reinvestment Zone, which is more particularly described in the Ordinance.

2. Authorization

This Agreement is authorized by the Resolution which established the property tax abatement program for properties in designated reinvestment zones and by the Ordinance.

3. Property

(a) The Street Address of the taxable real property to be improved under this Agreement is located at 1400 North Velasco Boulevard, Freeport, TX 77541. It is more fully described in Exhibit "A" attached hereto and made a part hereof for all purposes.

(b) The BCAD tax account number of the Property is 81100519-000.

4. Representations and Warranties by the Owner

(a) The Owner represents that the Owner owns the Property and that the Property is located within boundaries of the Zone. The Owner represents that the Owner has authorized the person signing this Agreement to do so and that Owner will execute this Agreement and complete the Improvements described in Section 5 hereof, and in the project description marked Exhibit "B" and attached hereto. The Owner represents that as of January 1, 2013, the Property had an approximate appraised value of One Hundred Thirty-Five Thousand Six Hundred Fifty and no/100 (\$135,650.00). The Owner represents and warrants that the construction of the Improvements described in Exhibit "B" will begin between November, 2013, and January, 2014, and that construction of the Improvements will be completed as of the effective date of this Agreement. The Owner represents and warrants that the construction of the improvements shall be completed as described in Exhibit "B", all for the purpose of constructing and furnishing the facility. The total size of the Property is approximately 6.92 acres.

(b) The Owner represents that no interest in the Property is held or leased by a member of the City Council or a member of the City's Planning Commission.

The Owner represents and warrants that the value of the Property will increase by at least Ten Million Three Hundred Sixty Four Thousand Three Hundred Fifty and no/100 (\$10,364,350.00) Dollars upon completion of the Improvements.

(d) The Owner represents and warrants that it will retain employment for at least twenty-two (22) people on a permanent basis in the City and will create employment for at least ten (10) people on a permanent basis in the City beginning no later than one (1) year from the start of the Abatement Period and continuing through the term of this Agreement, excepting accident, casualty, fire, explosion, or natural disaster that is found by the City Manager to substantially impact the Owner's ability to use the Project as specified in Section 5(c) below.

(e) The Owner represents and warrants that the Improvements will not solely or primarily have the purpose of transferring employment from one part of the City to another.

(f) The Owner represents and warrants that it will construct and operate the Project described in Exhibit "B" attached hereto and incorporated herein by this reference.

(g) The Owner represents and warrants that the Improvements will be designed, constructed, and operated in accordance with all applicable federal, state, and local environmental regulations, and that the construction and operation of the Improvements will not cause environmental degradation or hazard to the Property or the environs of the City.

(h) The Owner represents that the improvements are necessary because capacity cannot be provided efficiently utilizing its existing facility capacity when reasonable allowance is made for necessary improvements.

5. Terms of the Agreement

(a) The Owner shall make the improvements substantially in conformity with the descriptions, plans and specifications as described in Exhibit "B".

(b) The Improvements shall be completed in accordance with the provisions of Exhibit "B" and the City's Building and other Standard Codes and shall conform to the City's Zoning Ordinance. In case of any conflict, the Building Code or Standard Code, or Zoning Ordinance as the case may be, shall prevail. In addition, the Owner shall comply with City's Subdivision Ordinance, if applicable.

(c) Upon completion of the Improvements, the Owner shall use the Property for the proposed use specified in this paragraph during the Abatement Period specified in Section 6 hereof. However, the City Council may approve a change from the proposed use in writing, if the City Council determines that the change is consistent with the guidelines adopted by the Resolution and with the City's general purpose of encouraging development or redevelopment of the Zone during the Abatement Period specified in Section 6 hereof. The proposed use of the Property (unless and until the City Council approves a change in use) is as a facility for offices of the Owner and the craft training, safety training, security verification, business development tools, management education and contractor information development services which Owner provides and the new equipment or machinery described in Exhibit "B", pursuant to and to the extent described in Exhibit "B" attached hereto and incorporated herein.

(d) The Owner shall allow the City's employees access to the Property for the purpose of inspecting the Improvements to ensure that the Improvements were completed and are being maintained in accordance with the terms of this Agreement. All inspections will be made only after giving the Owner notice at least twenty-four (24) hours in advance thereof, and will be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the Project. All inspections will be made with one (1) or more representatives of the Owner and in accordance with the owner's safety and security standards, but this shall not act as a limitation on the City's ability to perform any inspection or enter the affected property pursuant to the Code of Ordinances, the Building Code or other Standard Code or otherwise.

(e) The Owner shall maintain the Improvements in good repair and condition during the Abatement Period specified in Section 6 hereof.

(f) The Owner shall provide the City's employees access to all records requested and necessary for the purpose of conducting an audit of the Project. Any such audit shall be made only after giving the Owner notice at least seven (7) days in advance thereof, and will be conducted in such a manner as to not unreasonably interfere with the operation of the Project.

(g) The Owner shall not assign this Agreement without the written approval of the City Council. In addition, any such assignment must be approved by City Council.

(h) Not later than March 15th of each year during the Abatement Period, the Owner shall submit to the City Manager and the Chief Appraiser of BCAD a January employee count for the Project. The employee count submitted shall correspond to the Employment count reported in the Owner's "Employer Quarterly Report" to the Texas Workforce Employment Commission.

(i) The employee count submitted by the Owner shall be used to determine eligibility for that year and be determine abatement eligibility for that year and be subject to audit, pursuant to the provisions of the guidelines attached to and adopted by the Resolution. The City Manager shall certify to the Chief Appraiser of BCAD whether the Owner is in compliance with the employment requirements of this Agreement.

6. Tax Abatement

(a) Abatement on the Improvements specifically listed in Exhibit "B" shall be permitted only for the value of new "eligible property" constructed or added after January 1, 2014, subject to the limitation stated in subsection 5 above. In addition, this exemption from taxation is specifically subject to the rights of the holders of outstanding bonds of the City. The portion of the value of new eligible Improvements subject to the abatement shall be determined in accordance with the following schedule:

Total Investment	Abatement Per Year
\$50,000 to \$100,000	100% 50%
\$100,000 to \$1,000,000	100% 75% 50%
Over \$1,000,000	100% 100% 100% 100% 100% 100% 100%

If the construction period extends beyond seven (7) years from the Effective Date of Abatement, the Improvements shall be considered completed for purposes of abatement and, in no case, shall the Abatement Period exceed seven (7) years from the Effective Date of Abatement.

(b) From the Effective Date of Abatement to the end of the Abatement Period, taxes shall be payable as follows:

1. The value of (i) the property on which the project is located without regard to any improvements thereon and (ii) any tangible personal property not attached to the land and for which an abatement has not been specifically granted shall be fully taxable.

2. The base year value of any improvements on the property which are not eligible improvements shall be fully taxable.

3. The additional value of the eligible improvements constructed after January 1, 2013, but before the effective date of this Agreement, shall be taxable in accordance with Section 6(a) of this Agreement.

4. Any equipment or machinery, described in Exhibit "B" and installed in the property pursuant to this Agreement, that is removed from the property for longer than a temporary repair period, shall be fully taxable.

(c) The City shall enter into only one tax abatement agreement for the Project described in Exhibit "B" of this Agreement during the existence of the Associated Builders and Contractors of Texas Gulf Coast Reinvestment Zone.

7. Default and Recapture

(a) This Agreement shall terminate in the event that the use and operation of the facility for the purpose specified in Section 5 above is discontinued, for any reason excepting fire, explosion, other casualty or accident, or natural disaster, continuously for a period in excess of twelve (12) month during the Abatement Period. The Owner shall not be entitled to the abatement of taxes for that twelve month period during which the facility did not produce a product or service. The taxes abated during that twelve month period shall become immediately due and payable, and shall be paid to the City within sixty (60) days from the date of termination of this Agreement.

(b) The Owner shall be in default hereof in the event that the Owner:

1. allows ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protect and/or contest; or

2. has made any material representation which is determined to be false or misleading in any respect; or

3. is in breach of any material warranty and fails to cure within 60 days from the date notice is provided thereof as described below (the "Cure Period"); or

4. violates any of the terms and conditions of this Agreement and fails to cure during the Cure Period.

(c) Should the City Council determine that the Owner is in default according to the terms and conditions of this Agreement, the City Manager shall notify the Owner in writing at the address stated in this Agreement, and if such default is not cured during the Cure period, then this Agreement may be terminated as to all parties and all taxes previously abated by virtue of this Agreement, shall be recaptured, and paid by the Owner within sixty (60) days of the termination.

8. Administration

(a) For purposes of this Agreement, the value of the real and personal Property comprising the Zone, including the value of the Improvements listed in Exhibit "B" hereof, shall be the same as the value of the Improvements determined annually by the chief appraiser of BCAD.

(b) Each year, the Owner shall furnish the City with such information as may be necessary for calculating the amount of abatement. Once the value of the Improvements has been established and the amount of the abatement calculated, the chief appraiser of the BCAD shall notify the affected jurisdictions that levy taxes of the amount of assessment.

(c) Upon the completion of construction of the Improvements, the City Manager shall annually evaluate each facility receiving abatement to ensure compliance with this Agreement and prepare a report of any violations of this Agreement.

9. Compliance with State and Local Regulations

Except as specifically provided herein, nothing in this Agreement shall be construed to alter or affect the obligation of the Owner to comply with any ordinance, rule or regulation of the City, or the laws and regulations of the State of Texas and the United States.

10. Merger

The parties agree that this Agreement contains all of the terms and conditions of the understanding of the parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence and preliminary understandings between the parties and others relating hereto are superseded by this Agreement.

11. Notice

(a) All notices shall be in writing and unless hand delivered, shall be sent by U.S. Mail certified, return receipt requested. If mailed, any notice or communication shall be deemed to be received three (3) days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the following address:

To the Owner

If Mailed:

C/O President, ABC
P.O. Drawer 3650
Freeport, TX 77542-2650

Pg. 956

If delivered in person

C/O President, ABC
1400 North Velasco Blvd.
Freeport, TX 77541

To the City

If mailed or personally delivered:

C/O City Manager
200 West Second Street
Freeport, TX 77541

(b) Each party may designate a different address by giving the other party written notice as prescribed above at least ten (10) days in advance of the effective date of such designation.

12. Effective Date

If approved by the Mayor and City Council, the Effective Date of this Agreement shall be the Effective Date of Abatement as defined in Section 1 hereof.

This agreement has been executed by the parties in multiple originals, each having full force and effect.

**ASSOCIATED BUILDERS AND CONTRACTORS
OF THE TEXAS GULF COAST, INC.**

By: _____

Name Printed: _____

Title: _____

ATTEST:

Name Printed: _____

Title: _____

THE CITY OF FREEPORT, TEXAS

BY _____
Norma Moreno Garcia. Mayor

ATTEST:

Delia Munos, City Secretary

APPROVED AS TO FORM ONLY

Wallace Shaw, City Attorney

C:\Freeport.Abt\ABC-TaxAbate-Agreement

Munoz, Delia

From: Wallace Shaw <shawpc@sbcglobal.net>
Sent: Friday, October 18, 2013 3:07 PM
To: Munoz, Delia
Subject: FW: Old River Levees
Attachments: Quitclaim Agreement.docx; ATT00422.htm

From: Wallace Shaw [<mailto:wallace.shaw@sbcglobal.net>]
Sent: Thursday, September 05, 2013 1:36 PM
To: Law Office
Subject: Fwd: Old River Levees

Sent from my iPhone

Begin forwarded message:

From: "Jspynes1@yahoo.com" <[jspynes1@yahoo.com](mailto:Jspynes1@yahoo.com)>
Date: September 5, 2013, 11:01:49 AM CDT
To: wallace.shaw@sbcglobal.net
Subject: Fwd: Old River Levees

Mr. Shaw can you look at this agreement with VDD. I would like to have it in Mondays council meeting. The south side levy is ours by the reverter. They want to also give us the north side levy inside the tide gate along with the pump stations.

I have talked with the Mayor and she wants this to proceed. The only question I have is in # 8 where it says we have to maintain them in good working condition and repair. Obviously if they are ours it's our responsibility I don't dispute that; however, if its ours I don't think they should be able to mandate or require such statement. The levy is not part of the federal levy system and I don't think we would ever not have them as a second line of defense from the old river water issues. However, I just wouldn't want to get boxed into the wording if we had a developer that proposes a project that's engineered to support the height of the levy with a development and not have the actual levy. Just don't want to get boxed in.

Let me know what you think. I would like it on Mondays agenda.

Thanks

Jeff

Sent from my iPhone

Begin forwarded message:

From: Jeff Pynes <citymanager@freeport.tx.us>
Date: September 5, 2013, 10:44:02 AM CDT

Pg. 959

Munoz, Delia

From: Wallace Shaw <shawpc@sbcglobal.net>
Sent: Friday, October 18, 2013 3:11 PM
To: Munoz, Delia
Subject: FW: Return of levees to the City of Freeport

From: Wallace Shaw [<mailto:shawpc@sbcglobal.net>]
Sent: Monday, October 07, 2013 5:34 PM
To: 'Larry Boyd'
Cc: 'Jeff Pynes'
Subject: Return of levees to the City of Freeport

Larry,

This is a follow up to a previous conversation we had regarding the Quitclaim Agreement you drafted 7/20/12. The City of Freeport has two problems with it.

First, it is a quitclaim which, as you know, has a jaded history with Title Companies. I have reviewed the conveyance from the City of Freeport to the Velasco Drainage District in 1967 and it was a special warranty deed. It seems like VDD should return to the City what it received from the City in the same manner in which it was received.

Second, the City has a problem with Paragraph 8 which obligates the City to "...operate the levees and pump stations on the Property and to maintain them in good condition and repair." The City believes that the quoted language binds the City to maintain the levees and pump stations at exactly the same locations and using the same equipment which it receives from the VDD without any discretion to make any alterations which the City Council may deem appropriate. Of course, the City will operate and maintain in good condition whatever the City Council deems appropriate.

Please let me hear from you concerning this matter.

Wallace Shaw

CONFIDENTIALITY NOTICE: This electronic transmission (including any files attached hereto) contains confidential information that is legally privileged, confidential, and exempt from disclosure. The information is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or any employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying, distribution, or the taking of any action in reliance on the contents of this confidential information is strictly prohibited. If you have received this communication in error, please destroy it and immediately notify us by telephone. Thank you.

To: "jspynes1@yahoo.com" <jspynes1@yahoo.com>
Subject: FW: Old River Levees

From: Wallace Shaw [mailto:wallace.shaw@sbcglobal.net]
Sent: Monday, July 30, 2012 11:54 AM
To: Jeff Pynes
Cc: Delia Munoz
Subject: FW: Old River Levees

Jeff,

Is this something you want on the agenda for 8/6/12?

Wallace Shaw

CONFIDENTIALITY NOTICE: This electronic transmission (including any files attached hereto) contains confidential information that is legally privileged, confidential, and exempt from disclosure. The information is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or any employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying, distribution, or the taking of any action in reliance on the contents of this confidential information is strictly prohibited. If you have received this communication in error, please destroy it and immediately notify us by telephone. Thank you.

-----Original Message-----

From: Beverly Thomas [mailto:bt5436@swbell.net]
Sent: Tuesday, July 24, 2012 11:28 AM
To: wallace.shaw@sbcglobal.net
Cc: 'Chris Gallion'; 'George Kidwell'
Subject: RE: Old River Levees

Wallace:

Attached is a draft of the proposed Quitclaim Agreement between the City of Freeport and Velasco Drainage District, quitclaiming the Old Brazos River Levees and two pump stations from Velasco Drainage District to Freeport. I understand that Jeff Pynes and Chris Gallion have already been discussing this transfer. Please let me know whether the agreement is satisfactory, or whether you would like any changes.

Thanks,

Larry

Laurence E. Boyd
209 E. Mulberry, Suite 200
P. O. Box 269
Angleton, Texas 77516-0269

Pg. 961

QUITCLAIM AGREEMENT

STATE OF TEXAS §

COUNTY OF BRAZORIA §

1. Grantor herein is Velasco Drainage District, a political subdivision of the State of Texas. Grantee herein is the City of Freeport, a Texas municipal corporation, whose address is 200 West Second Street, Freeport, Texas 77541.

2. The term “the Property” herein shall mean the following real property in Brazoria County, Texas, which Property is further described on Exhibit “A” hereto, and all improvements thereon:

- a. The Old Brazos River Levees along the north and south sides of the Old Brazos River in the City of Freeport, from Velasco Drainage District’s guillotine gate, also known as the tide gate, which tide gate is shown on Exhibit “B” hereto, to the end of the Old Brazos River at Highway 288;
- b. The Old Brazos River Levee at the west end of the Old Brazos River in the City of Freeport, connecting the Old Brazos River Levee along the south side of the Old Brazos River in the City of Freeport (herein called “the Old Brazos River Levee South”) with the Old Brazos River Levee along the north side of the Old Brazos River in the City of Freeport (herein called “the Old Brazos River Levee North”);
- c. Low Water Pump Station, also known as Underpass Pump Station, which is shown on Exhibit “A” hereto, located approximately 375 feet north of the intersection of Second Street and the Union Pacific Railroad track, south of the Old Brazos River in the City of Freeport;
- d. Memorial Pump Station, which is shown on Exhibit “A” hereto, located approximately 320 feet south of the intersection of Britt Bailey Street and Avenue A, on the north side of the Old Brazos River in the City of Freeport; and
- e. The following land, regardless whether included in the area shown on Exhibit “A,” described in an Easement Grant dated on or about December 9, 2009, from Western Seafood Company to Velasco Drainage District, recorded as Document No. 2009055558 in the Official Records of Brazoria County, Texas:

Parcels 5-8, being a total of 0.067 acres out of a 1.183 acre tract as recorded in Volume 1672, Pages 381-385 of the Deed Records of Brazoria County, Texas, out of the Velasco Townsite, out of the Eli Mitchell Survey, Abstract No. 99, out of the City of Freeport, out of the County of Brazoria, being more particularly described

by metes and bounds on Exhibit "A" attached hereto and incorporated herein in full.

3. However, regardless of any other provision, the Property shall not include the tide gate itself, any of the area shown on Exhibit "B," the Map Showing the Limits of the Tide Gate Area, or any abutments, improvements, fixtures, or equipment thereon.

4. Velasco Drainage District currently maintains and operates the levees and pumps stations on the Property.

5. On August 21, 1967, the City of Freeport deeded to Velasco Drainage District, without warranty, all right, title, and interest of the City of Freeport to certain levees, pursuant to a deed ("the 1967 Deed") recorded at Volume 1007, page 115 of the Deed Records of Brazoria County, Texas. However, that deed provided that the portion of the Old Brazos River Levee located on the south bank of the Old Brazos River and west of Velasco Drainage District's guillotine gate would automatically revert back to the City of Freeport if both: (1) that guillotine gate is installed; and (2) there is no necessity to increase the height of the portion of the Old Brazos River Levee South, located west of the guillotine gate. The conditions in the 1967 Deed for reverter have been satisfied. Therefore, the parties now agree that the portion of the Old Brazos River Levee on the south side of the Old Brazos River and west of Velasco Drainage District's guillotine gate has reverted to the City of Freeport, pursuant to the 1967 Deed; but the parties also agree that such reverter does not and shall never include the guillotine gate itself, the land shown on Exhibit "B" hereto, or any abutments, improvements, fixtures, or equipment thereon.

6. Velasco Drainage District, for good and valuable consideration has QUITCLAIMED, and by these presents does QUITCLAIM, without warranty, express or implied, unto the City of Freeport, all of Velasco Drainage District's right, title, and interest, if any, in and to "the Property" as defined herein and described on Exhibit "A" which is attached hereto and incorporated herein in full.

7. TO HAVE AND TO HOLD all of Velasco Drainage District's right, title and interest, if any, in and to the above described Property unto the City of Freeport, its successors and assigns forever, so that neither Velasco Drainage District nor its successors and assigns shall have, claim or demand any right or title to the Property, appurtenances, or any part thereof.

8. The City of Freeport accepts this conveyance and agrees to operate the levees and pump stations on the Property and to maintain them in good condition and repair.

9. This is not a third party contract, and no person except the parties hereto and their respective successors shall have any right to enforce any agreement herein.

10. Regardless of any other provision, the Property is conveyed AS-IS, WITH NO WARRANTIES OF ANY NATURE WHATSOEVER, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR HABITABILITY. THE WARRANTIES DISCLAIMED BY THIS PARAGRAPH INCLUDE, BUT ARE NOT LIMITED TO,

WARRANTIES AS TO TITLE AND WARRANTIES AS TO THE PHYSICAL CONDITION OF THE PROPERTY.

VELASCO DRAINAGE DISTRICT

By: _____
George L. Kidwell, Chairman

ATTEST:

F. Robert Hamlet, Secretary

ACCEPTED AND AGREED:

CITY OF FREEPORT

By: _____
Norma Moreno Garcia, Mayor

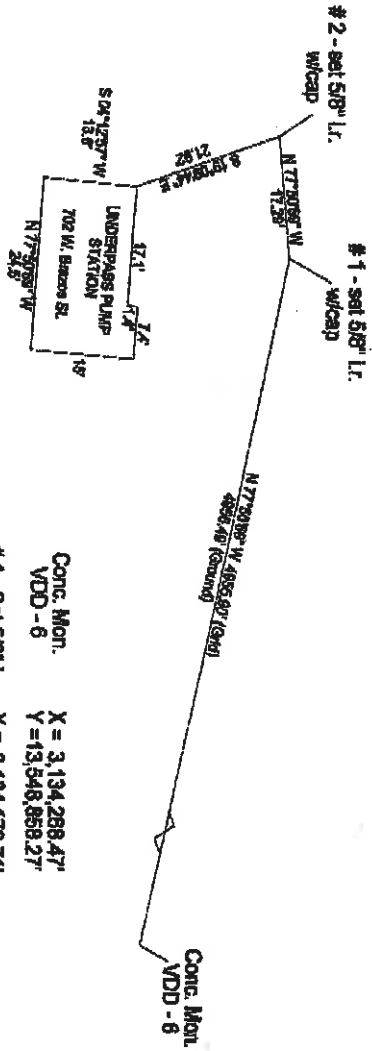
ATTEST:

Delia Munoz, City Secretary

EXHIBIT "A"
INCLUDED IN "THE PROPERTY"



UNDERPASS PUMP STATION (conc. slab w/ building)



Conc. Mon.	X = 3,134,288.47'
VDD - 6	Y = 13,548,858.27'
# 1 - Set 5/8" I.C.	X = 3,134,170.71'
w/comp	Y = 13,548,878.32'
# 2 - Set 5/8" I.C.	X = 3,134,163.49'
w/comp	Y = 13,548,877.82'

Scale 1" = 20'

Note - Bearings, distances and coordinates relate to the Texas State Plane Coordinate System, South Central Zone, NAD83.

EXHIBIT "A"

Parcels 5-8, being a total of 0.067 acres out of 1.183 acre tract as recorded in Volume 1672, Pages 381-385 of the Deed Records of Brazoria County, Texas, out of the Velasco Townsite, out of the Eli Mitchell Survey, Abstract No. 99, out of the City of Freeport, out of the County of Brazoria, being more particularly described by metes and bounds on Exhibit "A" attached hereto and incorporated herein in full.

EXHIBIT "A"

**PARCELS 5-8 (0.067 ACRES)
OUT OF A 1.183 ACRE TRACT
OUT OF THE VELASCO TOWN SITE
OUT OF THE EL MITCHELL SURVEY
ABSTRACT NO. 99
OUT OF THE CITY OF FREEPORT
OUT OF THE COUNTY OF BRAZORIA
OCTOBER 14, 2009**

Parcels 5-8, being a total of 0.067 Acres out of a 1.183 Acre Tract as recorded in Volume 1572, Pages 381-385 of the Deed Records of Brazoria County, Texas, out of the Velasco Town site, out of the El Mitchell Survey, Abstract No. 99, out of the City of Freeport, out of the County of Brazoria, being described as follows:

**Parcel 5
0.023 Acres**

Commencing at a found 5/8" iron rod with a D&G plastic cap at the northwesterly corner of Block No. 30 of the Velasco Town site for the Point of Commencement;

Thence South 33 degrees 04 minutes 00 seconds West, a distance of 124.72 feet to a found 1/2 inch iron rod at the northerly line of a 20 foot wide alley and at the southwestery corner of said Block No. 30;

Thence South 33 degrees 04 minutes 00 seconds West, a distance of 20.28 feet to a set 5/8 inch iron rod with a plastic cap stamped "RPLS 4679" at the southerly line of a 20 foot wide alley and at the northwesterly corner of said 1.183 Acre Tract;

Thence South 56 degrees 56 minutes 00 seconds East along the southerly line of said 20 foot wide alley a distance of 139.38 feet to a set 5/8 inch iron rod with a plastic cap stamped "RPLS 4679", being the Point of Beginning of Parcel 5;

Thence South 56 degrees 56 minutes 00 seconds East along the southerly line of same 20 foot alley a distance of 20.01 feet to a set 5/8 inch iron rod with a plastic cap stamped "RPLS 4679";

Thence South 33 degrees 04 minutes 00 seconds West, a distance of 46.79 feet to a set 5/8 inch iron rod with a plastic cap stamped "RPLS 4679" at the northerly line of Parcel 6;

Thence North 79 degrees 02 minutes 48 seconds West, along the said northerly line of Parcel 6 a distance of 21.15 feet to a set 5/8 inch iron rod with a plastic cap stamped "RPLS 4679" at the southwesterly corner of Parcel 5, being the Point of Beginning of Parcel 6;

Thence North 33 degrees 04 minutes 00 seconds East, a distance of 34.71 feet to Point of Beginning, said Parcel 5 being 0.023 Acres more or less as shown on the attached map.

Parcel 6
0.040 Acres

Beginning at a set 5/8 inch iron rod with a plastic cap stamped "RPLS 4679", being the southwesterly corner of Parcel 5 as described above;

Thence North 79 degrees 02 minutes 48 seconds West, a distance of 36.32 feet to a set 5/8 inch iron rod with a plastic cap stamped "RPLS 4679";

Thence South 10 degree 57 minutes 12 seconds West, a distance of 19.66 feet;

Thence South 76 degree 23 minutes 56 seconds East, a distance of 15.44 feet;

Thence South 60 degrees 50 minutes 37 seconds East, a distance of 74.61 feet;

Thence North 10 degree 57 minutes 12 seconds West, a distance of 18.05 feet to a set 5/8 inch iron rod with a plastic cap stamped "RPLS 4679";

Thence North 79 degrees 02 minutes 48 seconds West, a distance of 32.53 feet to a set 5/8 inch iron rod with a plastic cap stamped "RPLS 4679" at the southeasterly corner of Parcel 5;

Thence North 79 degrees 02 minutes 48 seconds West, a distance of 21.15 feet to a set 5/8 inch iron rod with a plastic cap stamped "RPLS 4679" at the Point of Beginning, said Parcel 6 being 0.040 acres more or less as shown on the attached map.

Parcel 7
0.001 Acres

Commencing at the southwesterly corner of Parcel 6;

Thence South 10 degrees 57 minutes 12 seconds West, a distance of 20.02 feet to the northwesterly corner of Parcel 7 for the Point of Beginning;

Thence South 10 degrees 57 minutes 12 seconds West, a distance of 5.52 feet to a set 1/4 inch iron rod with a plastic cap stamped "RPLS 4679";

Thence North 76 degrees 23 minutes 56 seconds West, a distance of 10.46 feet;

Thence North 09 degrees 45 minutes 57 seconds East 4.85 feet;

Thence North 76 degrees 23 minutes 56 seconds West, a distance of 10.37 feet to the Point of Beginning, said Parcel 7 being 0.001 acres more or less as shown on the attached map.

Parcel 8
0.003 Acres

Commencing at the southeasterly corner of Parcel 7 as the Point of Commencement;

Thence South 79 degrees 02 minutes 48 seconds East, a distance of 60.02 feet to the southwesterly corner of Parcel 8 for the Point of Beginning;

Thence South 79 degrees 02 minutes 48 seconds East, a distance of 19.52 feet to a set 5/8 inch iron rod with a plastic cap stamped "RPLS 4679";

Thence North 10 degree 57 minutes 12 seconds West, a distance of 6.96 feet;

Thence North 80 degrees 50 minutes 37 seconds West, a distance of 19.66 feet;

Thence South 09 degrees 45 minutes 57 seconds West, a distance of 6.34 feet to the Point of Beginning, said Parcel 8 being 0.003 acres more or less as shown on the attached map.

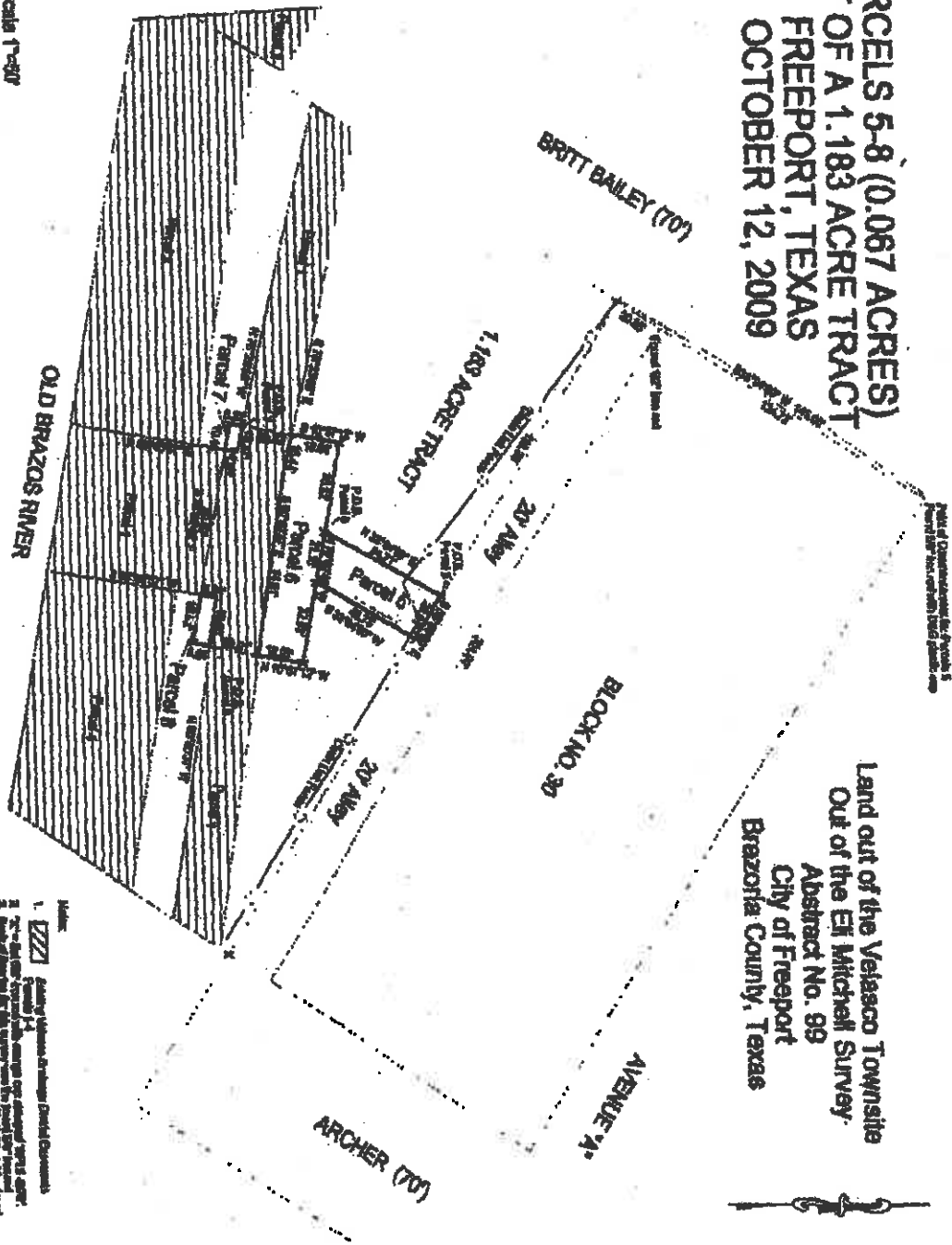
Note:

1. The Basis of Bearing for this survey was the found 5.8" iron rod with D&G plastic cap at the northwesterly corner of Block No. 30 and the found 3/4 inch iron rod at the southwest corner of Block No. 30.
2. The total acreage of Parcel 5-8 is 0.067 Acres.



Chris E. Gallon
Registration: Professional Land Surveyor
Registration Number 4679

**PARCELS 5-8 (0.067 ACRES)
OUT OF A 1.183 ACRE TRACT
FREEPORT, TEXAS
OCTOBER 12, 2009**



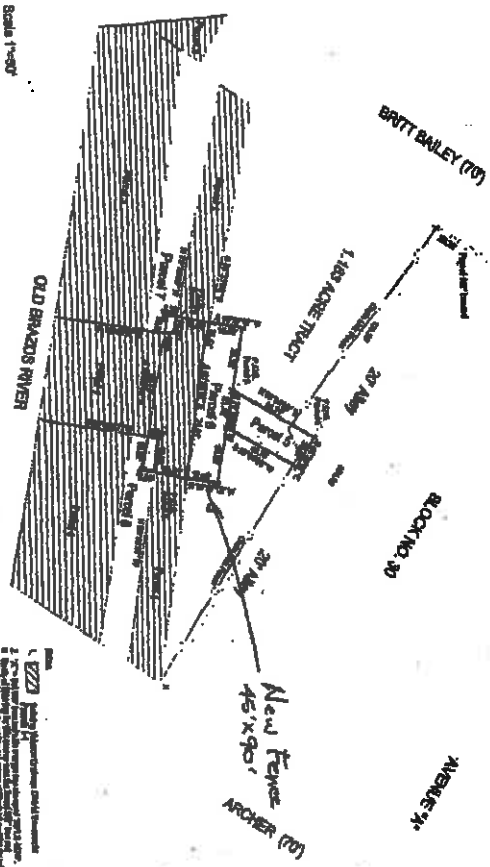
Land out of the Velasco Townsite
Out of the El Mitchell Survey
Abstract No. 89
City of Freeport
Brazoria County, Texas

Scale 1"=50'
Vertical Datum: Mean
Sea Level 1988

- Notes:**
1. [Hatched symbol] Existing Utilities as shown on Official Documents
 2. [Dashed symbol] Proposed Utilities
 3. The plat and recording shall not be effective until the fee interest in the land is fully paid and the recording commission has received the full amount of the recording fee.
 4. This plat is subject to the provisions of the Texas Public Utility Act, Chapter 49, Article 1.10.

PARCELS 5-8 (0.067 ACRES)
 OUT OF A 1.183 ACRE TRACT
 FREEPORT, TEXAS
 OCTOBER 12, 2009

Land out of the Velasco Township
 Out of the E.H. Mitchell Survey
 Abstract No. 88
 City of Freeport
 Brazoria County, Texas

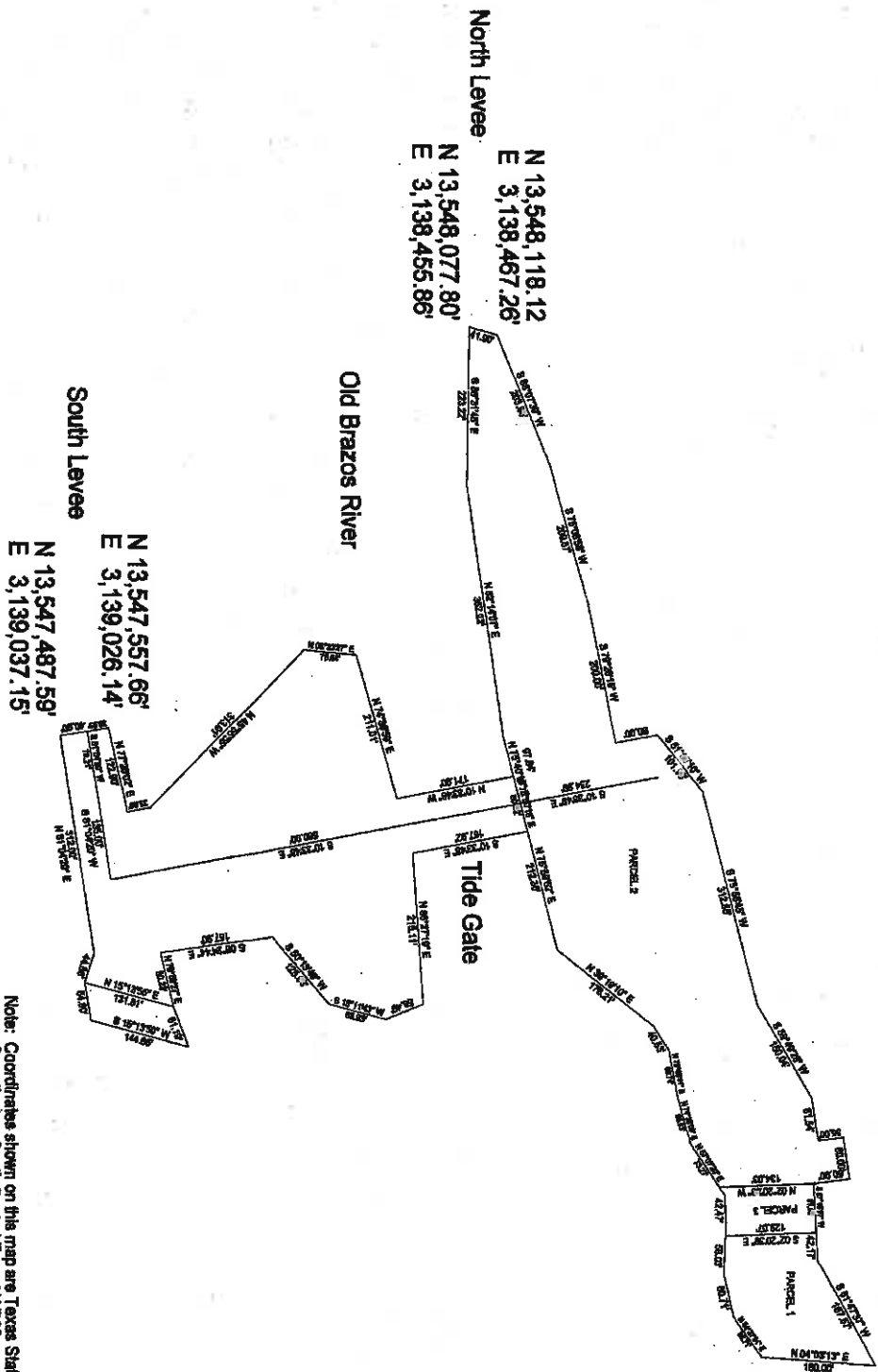


Scale 1"=40'
 Surveyed by [illegible]

BY [illegible]
 Surveyor
 State of Texas

EXHIBIT "B"
EXCLUDED FROM "THE PROPERTY"

MAP SHOWING THE LIMITS OF THE TIDE GATE AREA



North Levee
 N 13,548,118.12
 E 3,138,467.26
 N 13,548,077.80
 E 3,138,455.86

South Levee
 N 13,547,557.66
 E 3,139,026.14
 N 13,547,487.59
 E 3,139,037.15

Note: Coordinates shown on this map are Texas State Plane
 Coordinates, South Central Zone, NAD83.

Scale = 1" = 200'

**REGION ONE EDUCATION SERVICE CENTER
PURCHASING COOPERATIVE**

GENERAL INTERLOCAL MEMBERSHIP AGREEMENT

This **GENERAL INTERLOCAL MEMBERSHIP AGREEMENT** (hereinafter the "Agreement") is entered into by and between the Region One Education Service Center (hereinafter the "ESC") and _____, (hereinafter the "Member") under authority of Chapter 791 of the Texas Government Code.

1. **Purpose.** The purpose of this Agreement is to facilitate the Member's compliance with the competitive procurement requirements for purchases through an Interlocal contract under Chapter 791 of the Texas Government Code, as authorized by Texas Education Code §44.031(a)(4); to relieve Member of the administrative burden of soliciting and obtaining prices from qualified vendors for the purchase goods and services; and to obtain potential savings for members through aggregation of demand and volume purchasing.
2. **Scope.** The scope of this Agreement is limited to the purchase of goods or service, other than engineering or architectural services or construction services, within the specified purchasing programs sponsored by ESC. The purchase of goods includes the purchase of any services reasonably required for the installation, operation, or maintenance of the goods. Otherwise, this Agreement is not limited in scope.
3. **General Membership.** To enroll in the Region One ESC General Purchasing Cooperative, requires the approval of this Agreement by the Member's governing body and by the Region One ESC Board of Directors. The General Purchasing Cooperative Program encompasses all of the ESC-sponsored purchasing cooperative programs currently active or which may become active, and which do not require payment of a special membership fee (see Paragraph #4). From time-to-time, the ESC may notify the Member of new general purchasing cooperative programs which it is activating, and poll membership interest in participating in such program.
4. **Special Membership Fee.** Membership in the General Purchasing Cooperative Program is a pre-requisite to enrolling as a member in the Special Purchasing Cooperative Program. The Special Purchasing Cooperative Program encompasses a group of ESC-sponsored purchasing cooperative programs which are currently active or which may become active, and which require the payment of an annual, non-refundable special membership fee (hereinafter the "special membership fee"). Each Special Purchasing Cooperative Program is governed by additional program-specific terms and conditions. To activate membership in any special purchasing cooperative program, a Member must pay the special membership fee required by each such program.

The ESC, presently, sponsors the following special cooperative purchasing programs:

- A. **Texas Energy Center/Electricity Aggregation Pool** (Exhibit "A")
- B. **Child Nutrition Program – South Texas Cooperative** (Exhibit "B")
- C. **Library Services and Media Cooperative** (Exhibit "C")

The special membership fee and program-specific terms and conditions of each special cooperative purchasing program are set out in the Exhibit indicated for each program. The Exhibit for each program is attached to this Agreement and incorporated herein by reference for all purposes. This special membership fee shall be used by ESC to defray its reasonable administrative costs incurred in the supervision and administration of this Agreement. From time-to-time, the ESC may notify the Member of new special cooperative purchasing programs which it is activating, and poll membership interest in participating in such program.

5. **Membership Term.** This Agreement shall automatically renew for successive one-year terms unless sooner terminated in accordance with the provisions of this Agreement. The conditions set forth shall apply to the initial term and all renewals. The membership year for each purchasing cooperative program commences on September 1 through August 31 of each calendar year. The annual special membership fee covers enrollment through the end of a membership year only.

6. **Contract Supervision and Administration.** The ESC is hereby designated the entity that shall supervise the performance of this Agreement. The ESC may employ personnel, perform administrative activities, and provide administrative services necessary to perform this interlocal contract. In its discharge of this responsibility, the ESC shall be responsible for:

- a. Soliciting requests for quantity demands from Members for goods and services;
- b. Preparing specifications for procurement of goods and services;
- c. Making public solicitations for prices from potential vendors for goods and services;
- d. Qualifying potential vendors and the vendor's goods or services, based on published criteria;
- e. Provide sufficient staff for efficient operation of the purchasing program;
- f. Tabulating price quotes, unit prices, and other information provided by vendors on goods and services and making this information available for Members;
- e. Provide Members with procedures for ordering, delivery, and billing.

7. **Amendments.** The ESC may, from time to time, amend the terms of this Agreement, including a change in program selection and an adjustment in the membership fee, as may be necessary for the reasonable supervision and administration of this Agreement and to defray its reasonable administrative costs. No amendment shall become effective until the beginning of the next renewal year; provided, the ESC has provided not less than 60 days written notice to the Members.

8. **Termination.** This Agreement may be terminated for any the following reasons:

- a. Voluntary.

- (1) The Member submits a written notice to the ESC terminating the Agreement.
- b. Involuntary (without notice).
 - (1) The Member fails to pay the annual renewal membership fee.
- c. Involuntary (with notice)
 - (1) The Member fails to abide by the terms of this Agreement and any guidelines which the ESC may adopt for the reasonable and efficient supervision and administration of this Agreement.
 - (2) The ESC gives written notice to the Member, at least ten (10) days prior to the first day of September, informing the Member that the ESC no longer intends to sponsor the purchasing cooperative.
 - (3) The ESC gives the Member thirty (30) days written notice that the Member has failed to abide by this Agreement, the Guidelines of the Purchasing Cooperative, or any procedure of the Cooperative.

9. **Program Agent.** The Member shall designate, in writing, the person or persons, who shall have express authority to represent and bind the Member in the administration of this Agreement, with respect to each purchasing program, and the ESC will not be required to contact any other individual regarding program matters:

10. **Current Revenue.** The Member hereby warrants that all payments, contributions, fees and disbursements required of it hereunder shall be made from current revenues budgeted and available to the Member.

11. **General Conditions.** The General Conditions to this Agreement are, as follows:

- a. **Defense and Prosecution of Claims.** The ESC shall not be responsible or obligated to defend any claims against the Member or prosecute any claims on behalf of the Member.
- b. **Legal Counsel.** The ESC shall not be responsible or obligated to provide or act as legal counsel to the Member with respect to any matter regarding this Agreement.
- c. **Purchase Contracts.** The ESC shall not be a party to any contracts made by the Member for the purchase of goods or services with any vendor procured by the ESC.
- d. **No Warranty.** The ESC does not warrant, sponsor, or endorse the goods or services of any vendor procured under this Agreement.

- e. Mediation. All claims and disputes arising under this Agreement shall be submitted to non-binding mediation before a neutral mediator in Hidalgo County, with the party demanding mediation of a claim being obligated to pay all costs and expenses of mediation.
- f. Compliance with Procurement Laws. The ESC shall endeavor to solicit prices for goods and services in compliance with all applicable laws and regulations governing purchase contracts by Members, and will keep a record of its procurement methodology for inspection by any Member. Each Member is responsible to for determining, in consultation with its legal counsel, whether purchasing through this cooperative will satisfy the requirements of any applicable law or regulation.

IN WITNESS WHEREOF, the parties, acting through their duly authorized agents, sign this Agreement as of _____, 20__.

REGION ONE ESC

MEMBER

By: _____
 Dr. Cornelio Gonzalez
 Executive Director

By: _____
 Typed Name: _____

Date: _____

Title: _____
 Date: _____

REGION ONE EDUCATION SERVICE CENTER
PURCHASING COOPERATIVE

MEMBER CERTIFICATION

We, the undersigned, certify that this **INTERLOCAL MEMBERSHIP AGREEMENT** was placed on the agenda of a duly called meeting of the Member's board of trustees, and was approved by majority vote of the quorum present at said duly called meeting held on the ____ day of _____, 20____, and said official action was recorded in the minutes of the meeting.

Name:
Board President
Date: _____

ATTEST:

Name:
Secretary of the Board
Date: _____

[SEAL]

INTERLOCAL PARTICIPATION AGREEMENT

EXHIBIT A

Texas Energy Center/Region One Electricity Aggregation Pool

This Interlocal Participation Agreement (“Agreement”) is entered into by and between the Texas Energy Center (“TEC”)/Region One Electricity Aggregation Pool, an administrative agency of cooperating local governments, acting on its own behalf and the behalf of all participating local governments, and the undersigned local government of the State of Texas (“TEC Member”). The purpose of this Agreement is to facilitate compliance with State bidding requirements, to identify qualified vendors of commodities, goods and services, to relieve the burdens of the governmental purchasing function and to realize the various potential economies, including administrative cost savings for TEC Members.

WITNESSTH:

WHEREAS, the TEC Members are authorized by Chapter 791, et seq., The Interlocal Cooperation Act of the Government Code (the “Act”) and Chapter 44.031 of the Texas Education Code (the “Code”), to agree with other local governments to form purchasing cooperatives such as the TEC; and

WHEREAS, the TEC is an administrative agency of local governments cooperating in the discharge of their governmental functions; and

WHEREAS, the TEC Member does hereby adopt this Interlocal Participation Agreement, and such further amendments as may be made in the future, reflecting the evolving mission of the TEC.

NOW BE IT RESOLVED, that the undersigned TEC Member in consideration of the agreement of the TEC and the TEC Members to provide services as detailed in the this agreement, does hereby agree to the following terms, conditions and general provisions.

TERMS AND CONDITIONS

1. **Adopt Organizational Interlocal Cooperation Agreement.** The TEC Member by the adoption and execution of this Agreement hereby adopts and approves this Interlocal Participation Agreement dated _____ and all further amendments as may be made in the future.
2. **Term.** The initial term of this Agreement shall commence at 12:01 am on the date of approval and shall automatically renew for successive one-year terms, unless sooner terminated in accordance with the provisions of this Agreement or through a notice of nonrenewal by either party.
3. **Authorization for Services.** The TEC Member hereby elects to participate in the Texas Energy Center/Electricity Aggregation Services (Exhibit "A," attached hereto and incorporated by reference as if fully copied herein).
4. **Termination.**
 - a. **By the TEC Member.** This Agreement may be terminated by the TEC Member due to a material breach by the TEC and/or Consultant with a thirty (30) day prior written notice to the TEC, following a twenty (20) day opportunity to cure, provided all charges owed to the TEC and/or Consultant have been fully paid.
 - b. **By the TEC.** The TEC may terminate this Agreement by:
 - (1) Giving ten (10) days notice by certified mail to the TEC Member, if the TEC Member fails or refuses to make the payments or contributions as herein provided; or
 - (2) Giving thirty (30) days notice by certified mail to the TEC Member, if the TEC Member fails to abide by this Agreement, the Guidelines of the TEC, or any procedure of the TEC.
 - c. **Termination Procedure.** If the TEC Member terminates its participation during the term of this Agreement or breaches this Agreement, or if the TEC terminates participation of the TEC Member under the provision of this Article, the TEC Member shall bear the full financial responsibility for any increases in the cost of its electricity after the termination date, and for any unpaid charges accrued during its term of membership in the TEC. The TEC may seek the whole amount due, if any, from the terminated TEC Member. The TEC Member will not be entitled to a refund of membership fees paid.
5. **Payments.** The TEC Member agrees to pay member fee based on a plan adopted by the TEC, which plan is attached hereto in Exhibit "A" as discussed in Section 3 Consideration, and incorporated for all purposes as if fully set forth herein. Contributions will be made through the Retail Energy Provider. The TEC reserves the right to collect all funds that are due to the TEC in the event of termination by TEC Member or breach of this Agreement by TEC Member.

GENERAL PROVISIONS

1. **Authorization to Participate.** Each TEC Member represents and warrants that its governing body has duly authorized its participation in the TEC.
2. **Guidelines.** The TEC Member agrees to abide by the Guidelines of the TEC, as they may be amended, and any all reasonable policies and procedures established by the TEC.
3. **Compensation.** The parties agree that the any payments under this Agreement and all related exhibits and documents are amounts that fairly compensate the TEC and/or its Consultant for the services or functions performed under the Agreement.
4. **Cooperation and Access.** The TEC Member agrees that it will cooperate in compliance with any reasonable requests for information and / or records made by the TEC and/or its Consultant. The TEC reserves the right to audit the relevant records of any TEC Member. Any breach of this Article shall be considered material and shall make the Agreement subject to termination on ten (10) days written notice to the TEC Member.
5. **Coordinator.** The TEC Member agrees to appoint a program coordinator who shall have expressed authority from the Member's governing body, in the form of a Resolution, to represent and bind the TEC Member, and the TEC will not be required to contact any other individual regarding TEC matters. Any notice to or any agreements with the coordinator shall be binding upon the TEC Member. The TEC Member reserves the right to change the coordinator as needed by giving written notice to the TEC. Such notice is not effective until actually received by the TEC.
6. **Current Revenue.** The TEC Member hereby warrants that all payments, contributions, fees and disbursements required of it hereunder shall be made from current revenues budgeted and available to the TEC Member.
7. **Defense and Prosecution of Claims.** The TEC Member authorizes the mediation, or any other form of alternative dispute resolution, or other appearance of the TEC and / or any past or current TEC Member in litigation, claim or dispute, and to engage counsel and appropriate experts, in the TEC's sole discretion, with respect to such litigation, claim or disputes. The TEC Member does hereby agree that any suit brought against the TEC or a TEC Member may be defended in the name of the TEC or the Member by the counsel selected by the TEC, in its sole discretion, or its designee, on behalf of and at the expense of the TEC as necessary for the prosecution of any litigation. Full cooperation by the TEC Member shall be extended to supply any information needed or helpful in such prosecution or defense. Subject to specific revocation, the TEC Member hereby designates the TEC to act as a class representative on its behalf in matters arising out of this Agreement.
8. **Governance.** The TEC shall be governed by the Region One ESC Board of Directors ("Board") in accordance with the Guidelines.
9. **Limitations of Liability.** TEC, ITS CONSULTANT, DO NOT WARRANT THAT THE OPERATION OR USE OF TEC SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. TEC, ITS ENDORSERS AND SERVICING CONTRACTORS, HEREBY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, IN REGARD TO ANY

INFORMATION, PRODUCT OR SERVICE FURNISHED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE PARTIES AGREE THAT IN REGARD TO ANY AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER UNDER ANY CIRCUMSTANCES FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. **Merger.** This Interlocal Participation Agreement, Terms and Conditions, and General Provisions, together with the Guidelines, and Exhibits, represents the complete understanding of the TEC, and TEC Member electing to participate in the TEC.
11. **Notice.** Any written notice to the TEC shall be made by first class mail, postage prepaid and delivered to the Administrator for Business/Finance Services, Region One ESC, 1900 West Schunior Street, Edinburg, TX 78541-2233.
12. **Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and venue shall lie in Hidalgo County, Texas.
13. **Warranty.** By the execution and delivery of this Agreement, the undersigned individuals warrant that they have been duly authorized by all requisite administrative action required to enter into and perform the terms of this Agreement.

IN WITNESS WHEREOF, the parties, acting through their duly authorized representatives, sign this Agreement as of _____, 20__.

TO BE COMPLETED BY THE TEC:

TEXAS ENERGY CENTER/REGION ONE ELECTRICITY AGGREGATION
POOL, acting on behalf of all other TEC Members

By: _____ Date: _____
Dr. Cornelio Gonzalez

TO BE COMPLETED BY THE TEC MEMBER:

(Name of Local Government)

By: _____ Date: _____
(Signature of authorized representative of TEC Member)

(Printed name and title of authorized representative)

**Coordinator for the
TEC Member is:**

Name

Address

City

TEXAS, _____
(Zip Code)

Phone

Fax

E-mail Address

BOARD RESOLUTION

OF

_____, **AND**
(Name of Local Government)

**TEXAS ENERGY CENTER/REGION ONE ELECTRICITY AGGREGATION
POOL**

WHEREAS, the _____, local government, (hereinafter "TEC Member") pursuant to the authority granted by Article 791 et seq. of the Interlocal TEC Act, as amended and Chapter 44.031 of the Texas Education Code, desires to participate in the purchasing program of the TEC;

WHEREAS, _____, local government has elected to be a Member in the Texas Energy Center/Region One Electricity Aggregation Pool (hereinafter "TEC"), a program created by local governments in accordance with and pursuant to the Interlocal Cooperation Act ("Act"), Chapter 791, Texas Government Code and Chapter 44.031 of the Texas Education Code;

WHEREAS, the TEC Member is of the opinion that participation in the TEC's purchasing program will be highly beneficial to the taxpayers of the local government through the efficiencies and potential savings to be realized; and

WHEREAS, the TEC Member desires to participate and join with other local governments in a TEC Interlocal agreement ("Agreement") for the purpose of fulfilling and implementing their respective public and governmental purposes, needs, objectives, programs, functions and services.

NOW, THEREFORE, BE IT RESOLVED, that the TEC Member does request that the TEC include its stated needs for all categories of electricity goods and services, on the TEC's Purchasing Program and award contracts for those items, whereby the TEC Members may be allowed to purchase those items from the TEC's contracts; and that the TEC is authorized to sign and deliver all necessary requests and other documents in connection therewith for and on behalf of the TEC Members that have elected to participate.

FURTHER, BE IT RESOLVED, that the Board of Directors of the TEC Member does hereby authorize its Board President, Superintendent or other officer to execute the Interlocal Participation Agreement.

FINALLY, BE IT RESOLVED that the execution of this Resolution shall evidence the election of TEC Member and eligible local governments to become members of the TEC upon the terms and conditions stated. The Board of Directors has and at the time of adoption of this Resolution had, full power and lawful authority to adopt the foregoing Resolution and to confer the obligations, powers and authority to the persons named, who are hereby granted the power to exercise the same.

I certify that the foregoing is a true and correct copy of the resolution duly adopted by _____, local government on the _____ day of _____, 20 __, and that the same now appears of record in its official minutes.

Adopted and approved this _____ day of _____ 20 __.

_____, TEC Member

By: _____ Date: _____
(Its Representative)

Title _____

ATTEST:

(Secretary of the Board) Date: _____

Exhibit "A"

1. TEC Responsibilities:
 - a. Conduct a competitive solicitation of electricity for the TEC in accordance with applicable State law on behalf of Member.
 - b. Negotiate the terms of a standard contract to be used by the Member for its purchase of electricity from the retail electric provider selected by Region One on behalf of Member.
 - c. Assist with the addition or deletion of accounts with the retail electric provider.
2. Member Responsibilities:
 - a. Commit all of Member's electricity requirements for a minimum of a twelve (12) month period commencing immediately following the expiration of Member's current electricity supply contract, as applicable, to the Region One Pool so that Members electricity requirements may be included in the next competitive solicitation process being conducted by Region One on behalf of participating members. This requirement is limited to those accounts that are located in the service territories served by a utility that is subject to deregulation.
 - b. Provide account information (including service address, ESI ID numbers, account numbers, historical bills and load data) covering the period from the most recent twenty-four (24) months (if applicable) for all of Member's accounts. This account information shall be provided within ten (10) business days from the execution of this Agreement.
 - c. Verify the accuracy of the accounts submitted for bid in the solicitation as well as listed in the agreement negotiated by Region One with a retail electricity supplier.
 - d. Execute authorization for TEC CONSULTANT or a retail electric provider authorized by TEC CONSULTANT to obtain Member's electricity usage data from the Member's local utility. While reasonable efforts will be made to minimize costs, any fees imposed by the utility for such requests will be borne by the Member.
 - e. Fully cooperate with TEC and its CONSULTANT during the competitive solicitation and negotiation process, including, specifically, not entering into any other alternative electricity supply arrangement for the electricity requirements committed under Subsection (a).
 - f. Execute the electricity supply contract negotiated by TEC to purchase electricity to satisfy Members entire electricity requirements committed under Subsection (a) from the retail electric provider selected as a result of the competitive solicitation for a minimum twelve (12) month period, commencing upon expiration of Member's current electricity supply contract, as applicable, based upon the prices awarded by Region One throughout the competitive purchasing process. The execution of the contract must be performed within the timeframe allowed by the retail electric provider awarded by Region One.
 - g. Notify TEC and/or its CONSULTANT in addition to the retail electricity provider, should the Member obtain new or additional metered accounts or disconnect metered accounts during the term of the electricity supply

contract so that the accounts may be added or removed from the Texas Energy Center/Region One Electricity Aggregation Pool. Those added accounts would be served in accordance with the existing contract with the retail electric provider awarded by TEC.

h. By approving this Agreement, the Member's governing board authorizes the Superintendent/Chief Executive Officer, or designee, to execute the contract of a minimum of twelve (12) months with the retail electric provider as awarded by Region One Educational Service Center.

3. Consideration:

In consideration for the services provided by TEC CONSULTANT and Region One ESC, they shall be entitled to receive the following amounts per MWh based on the size of the solicitation and the length of the contract term entered into by the TEC Member:

ENERGY PROCUREMENT & AGGREGATION				
Electricity Procurement \$/per MWh	12-23 Months	24-35 Months	36-47 Months	48+ Months
	\$1.43	\$1.21	\$1.07	\$0.93
Stand-alone Electricity RFQ/RFP	\$20,000, plus \$0.93 per MWh			
Demand Response	15% of revenue generated for the member			
Natural Gas Procurement	Less than 24 Months		24 + Months	
	\$0.50 per MCF		\$0.40 per MCF	
ENERGY MANAGEMENT & CONSERVATION				
Energy Management Review Services Bill Auditing with Software Service	1-35 Months/Per Meter		36 + Months/Per Meter	
	\$16.00		\$14.00	
Usage based charge approximately \$0.50 per MWh (based on annual meter charge/annual MWh usage)				

These amounts shall be generated by the contract to be entered into between the Member and the selected provider as required under Sections 2 (d) and 2 (e) of this Exhibit. The selected retail electricity provider will collect and pay this fee to Region One ESC and/or Consultant. In the event that the retail electricity provider does not make payment, for any reason, then the TEC Member will be responsible for payment of fees upon receipt of invoice from TEC and /or CONSULTANT.