



**AGENDA
REGULAR MEETING
FREEPORT CITY COUNCIL
MONDAY, JANUARY 10, 2022 at 6:00 P.M.**

Mayor:
Brooks Bass

Council Members:
Jeff Pena
Jerry Cain
Mario Muraira
Troy Brimage

City Manager:
Timothy Kelty

THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, WILL MEET ON MONDAY, THE 10TH DAY OF JANUARY, 2022, AT 6:00 P.M., AT THE FREEPORT, POLICE DEPARTMENT, MUNICIPAL COURT ROOM, 430 NORTH BRAZOSPORT BOULEVARD FREEPORT TEXAS

BECAUSE OF THE PUBLIC HEALTH THREAT, SEATING WILL BE POSITIONED TO MEET THE REQUIREMENTS OF THE CDC, AND ATTENDEES ARE ENCOURAGED TO WEAR A FACE MASK.

This meeting will be live streamed via Facebook Live and may be accessed on the City of Freeport Facebook page: <https://www.facebook.com/freeporttexas>

THE MEETING IS BEING HELD FOR THE FOLLOWING PURPOSES:

CALL TO ORDER: *The Mayor will call the meeting to order, declare a quorum if present, and declare notices legally posted pursuant to Open Meetings Act.*

INVOCATION AND PLEDGE OF ALLEGIANCE: (Council Member)

CITIZENS' COMMENTS:

Members of the public are allowed to address the City Council at this time, and must include name and address. *Note*, specific factual information or a recitation of existing policy may be furnished in response to an inquiry made, but any deliberation, discussion, or decision with respect to any subject about which the inquiry was made shall be limited to a proposal to place such subject on the agenda for a subsequent meeting for which notice is provided in compliance with the Texas Open meetings Act unless said notice appears herein. The public is reminded that there is a (4) minute time limit as approved by City Council on June 21, 2010.

PRESENTATIONS/ANNOUNCEMENTS: Announcements by Mayor, City Council and/or Staff.

1. Presentation of the Sabine Pass to Galveston Bay Coastal Storm Risk Management Program, (S2G).
2. Presentation of a Proclamation for Martin Luther King, Jr. **(Kelty)**

CONSENT AGENDA:

Consent Agenda items are considered to be routine in nature and may be acted upon in one motion. Any item requiring additional discussion may be withdrawn from the Consent Agenda by the Mayor, Councilmember or City Manager, and acted upon separately

3. Consideration and possible action on the approval of City Council meeting minutes from December 20, 2021. **(Wells)**
4. Consideration of approving the ratification of the City Administration approval of the Windstorm Insurance Policy Renewal. Proposed by Victor Insurance for TWIA (Texas Windstorm Insurance Association). **(Ezell)**

COUNCIL BUSINESS – REGULAR SESSION:

5. **Public Hearing:** Re-Plat of Lots 432 & 433, Block 3 of Bar-X Ranch, Section II. Being a Re-Plat of a 2.00-acre tract of land known as Lots 432 and 433, Block 3 of Bar-X Ranch, Section II, situated in the Samuel Carter Survey, Abstract 53, Brazoria County, Texas, recorded in Volume 16, Page 119 of the Plat Records of Brazoria County, Texas. **(Roman)**
6. **Public Hearing:** River Haven Village being a 5.000 Acre Tract (217,805.82 SQ FT) out of a 38.7667 acre tract (1,688,681.47 SQ FT) out of a 63 acre tract of land in the Eastern part of the Ramiddle Half of the C. G. H. and H. H. Allsbury One and One-Half League Grant, Abstract 4, Brazoria County, Texas, said 63 acre tract being described as second tract in a deed from J. L. Ducroz and wife, Ella Ducroz, to Charlie Ducroz as recorded in Volume 571, Page 574 of the Deed Records of Brazoria County, Texas. Reason to Plat, to Create 1 Block 5 Lots SCALE: 1"=60', date 10/26/2021. **(Roman)**
7. **Public Hearing:** Discussion regarding Zoning Ordinance No. 2021-2653 and Subdivision Control Ordinance No. 2021-2654. **(Roman)**

8. Consideration and possible action approving Zoning Ordinance No. 2021-2653 and Subdivision Control Ordinance No. 2021-2654 and the signing of the Official Zoning Map by the Mayor and City Secretary. **(Roman)**
9. Second Reading and Consideration of approval of Resolution No. 2021-2732 approving Economic Development projects to be enacted by the Freeport Economic Development Corporation. **(Kelty)**
10. Discussion and possible action regarding Ordinance No. 2021-2648 to require all City Council and Public Board Members to disclose: All current Real Estate Assets in Brazoria County held in their personal name, immediate family's name, business name. All Business Entities owned or partnered in Texas. Any and all business agreements with any other Board or Council member. Any and all agreements or contracts with the city. **(Pena/Muraira)**
11. Consideration and possible action on Resolutions appointing/reappointing members to various Boards and Commissions. **(Kelty)**
 - a. Resolution No. 2022-2733, Planning and Zoning Commission.
 - b. Resolution No. 2022-2734, Boards of Adjustments Appointments.

WORK SESSION:

12. **The City Council may deliberate and make inquiry into any item listed in the Work Session.**
 - A. Mayor Brooks Bass announcements and comments.
 - B. Councilman Pena Ward A announcements and comments.
 - C. Councilman Cain Ward B announcements and comments.
 - D. Councilman Muraira Ward C announcements and comments.
 - E. Councilman Brimage Ward D announcements and comments.
 - F. City Manager Tim Kelty announcements and comments.
 - G. Updates on current infrastructure.
 - H. Update on reports / concerns from Department heads.

CLOSED SESSION:

13. Executive Session regarding a.) (Potential Litigation) consultation with city attorney, b.) (Deliberations about Real Property), East End, and Brazos Cove, and Wong 380 Agreement in accordance with Vernon's Texas Government Code Annotated, Chapter 551, Sections 551.071, 551.072.

COUNCIL BUSINESS – REGULAR SESSION:

ADJOURNMENT:

14. Adjourn.

Items not necessarily 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).

The City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

ACCESSIBILITY STATEMENT This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's Office at (979) 233-3526.

CERTIFICATE I certify the foregoing notice was posted in the official glass case at the rear door of the City Hall, with 24 hours a day public access, 200 West 2nd Street, Freeport Texas, before 6:00 p.m. in accordance with Open Meetings Act.



Betty Wells, City Secretary,
City of Freeport, Texas



City Council Agenda Item # 1

Title: Presentation by Mr. Eddie Irigoyen, Project Manager of the U.S. Army Corps of Engineers, Galveston District. For the S2G Program's- Freeport Project.

Date: January 10, 2022

From: Betty Wells, City Secretary

Staff Recommendation: N/A

Item Summary: This project is being presented by Eddie Irigoyen, Project Manager. The U.S. Army Corps of Engineers (USACE) Galveston District and its partner the Velasco Drainage District will be hosting three public information sessions for the Freeport Project. The Freeport Project is one of three projects included in the S2G Program.

Background Information: This project began about a year ago. Information on the project will be given quarterly to the public through virtual sessions. (Due to COVID-19). USACE and its partner, the Velasco Drainage District are currently in the early stages of preconstruction engineering, and design phase for the project. The project is ongoing, with the estimated completion date of 2026.

Special Considerations: N/A

Financial Impact: N/A

Board or 3rd Party recommendation: N/A

Supporting Documentation:

Story Map, and Public Notice from Department of the Army Galveston District, Corps of Engineers.



Freeport Project

Coastal Storm Risk Management Project

Freeport Inundation Swiper (100yr)



The Threat

Storm surge and the resulting storm tides account for the greatest losses of life and properties from a tropical storm or hurricane (National Oceanographic and Atmospheric Administration). Storm surge can flood communities, sweep homes from foundations, and damage natural coastal protections like sand dunes.

Storm surge, or the rise in seawater level from a storm, occurs when a storm's winds push a significant amount of water from the Gulf of Mexico onto the land. A storm's track, size and intensity determine the amount of storm surge. Storm tide refers to the total observed seawater level during a storm; it is the storm surge plus the normal high tide. In coastal areas that have a sea floor that slopes gradually away from the shoreline, like the Texas coast, higher storm surges are more likely.

Coastal flood risks are increasing due to two factors: rising sea levels and the increased size and intensification of storms. These changing conditions make it even more important to realize the benefits of the Sabine Pass to Galveston Bay Program.

The Coastal Storm Risk Management Program will help protect and mitigate storm surge through the use of levees and storm surge mitigation technologies.

Contracts

- Freeport Contr
- Freeport Contr
- Freeport Contr

Select a contract to learn more

Clute

Oyster Creek

Velasco

Freeport

Surfside Beach

Texas Parks & Wildlife, CONANP, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS,... Powered by Esri

The Plan

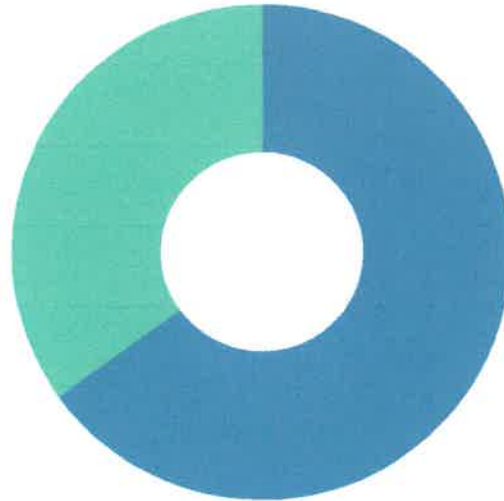
The Freeport Project Coastal Storm Risk Management would raise approximately 13.1 miles of the existing earthen levee system and construct or reconstruct about 5.5 miles of floodwall, improving approximately 43 percent of the existing 43 mile long system. Final elevations would range from 15.8 to 23.8 feet.

Project Schedule

This is the schedule for the Freeport Project Coastal Storm Risk Management design and construction.



Funding



Funding Sources in Millions of Dollars

Cost

The existing Freeport Hurricane Flood Protection Project local sponsor, the Velasco Drainage District, will be the non-Federal cost-sharing sponsor for the Freeport Coastal Storm Risk Management Plan.

The Freeport Project will be accomplished with Federal funding provided for the disaster recovery in Public law 115-123, the Bipartisan Act of 2018, signed into law February 9, 2018. This will result in improvements and additions to the existing coastal storm risk reduction systems in Brazoria County, TX, to include levees and other storm surge mitigation technologies.



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229
GALVESTON, TEXAS 77553-1229

PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS AND VELASCO DRAINAGE DISTRICT
NOTICE OF PUBLIC INFORMATION SESSIONS
FOR THE
SABINE PASS TO GALVESTON BAY COASTAL STORM RISK MANAGEMENT PROGRAM (S2G)
FREERPORT PROJECT (BRAZORIA COUNTY, TEXAS)

The U.S. Army Corps of Engineers (USACE) Galveston District and its partner the Velasco Drainage District will be hosting three public information sessions for the Freeport Project. Due to COVID-19, these public information sessions will only be held virtually.

These sessions will include an overview of the S2G Program and the status of the Freeport Project specifically, including details on construction contract status and the project's path forward. A question-and-answer session with the project delivery team will immediately follow the project status update. Dates and times for each session are listed below:

Tuesday, Jan. 18, 2022, from 11:30 AM – 1:00 PM, CST
Wednesday, Jan. 19, 2022, from 11:30 AM – 1:00 PM, CST
Thursday, Jan. 20, 2022, from 11:30 AM – 1:00 PM, CST

Each session can be accessed via the project website at:

<https://www.swg.usace.army.mil/S2G/Freeport/>

The Freeport Project is one of three projects included in the S2G Program. The Freeport Project focuses on improvements to the existing Hurricane Flood Protection Project (HFPP) that was authorized by the Flood Control Act of 1962 and protects the area from coastal storm surge events from the Gulf of Mexico.

To provide an increased level of protection over the next 50 years for the area, the Freeport Project will raise approximately 13.1 miles of the existing levee system, construct approximately 5.5 miles of floodwall, and install navigable gates in the Dow Barge Canal to reduce storm surge penetration in that area.

USACE and its partner the Velasco Drainage District are currently in the early stages of preconstruction engineering and design (PED) phase for the project. The project team expects to complete this phase by the spring of 2023, followed by construction shortly thereafter, which will take approximately 3.5 years to complete.

Visit the project's StoryMap for additional information (<https://www.swg.usace.army.mil/S2G/Freeport/> and click "Sabine Pass to Galveston Bay Program"), and/or submit any inquiries by email or phone.

GALVESTON DISTRICT
U.S. Army Corps of Engineers

***Proclamation of the City of Freeport Texas
Honoring the Vision, Work, and Life
of Reverend Dr. Martin Luther King Junior***

Whereas, every third Monday of the Month of January we as a Country celebrate the birthday of Reverend Dr. Martin Luther King Jr., a man who recognized the great injustice of segregation and discrimination and made it his life's purpose to right those wrongs in favor of justice, freedom, equality, fairness and reconciliation; and,

Whereas, Dr. King eschewed violence, relying instead on eloquence and the moral imperative of his convictions, braving imprisonment, violence, and threats, living by his belief that "history has proven over and over again that unmerited suffering is redemptive", to the point that he fatally fell to the violence he resisted; and,

Whereas, His life and great sacrifice was NOT in vain, but ended not before his nonviolent quest had irrevocably altered this land to the end toward which he fervently dreamed.

Whereas, to commemorate the life and work of Dr. King we pause to honor his life and engage in acts of service and love to our fellow man.

Therefore, I Brooks Bass, Mayor of Freeport do hereby Proclaim Monday January 17, 2021 as DR. MARTIN LUTHER KING JR. DAY in Freeport Texas

In witness thereof I have set my hand hereunto and caused the seal of the City of Freeport to be affixed this 10th day of January, 2022

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Monday, December 20, 2021 at 6:00 p.m. at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, Freeport Texas for the purpose of considering the following agenda items:

City Council: Mayor Brooks Bass Absent
Councilman Jeff Pena
Councilman Jerry Cain
Councilman Mario Muraira
Councilman Troy Brimage

Staff: Tim Kelty, City Manager
Betty Wells, City Secretary
Cathy Ezell, Finance Director
Chris Duncan, City Attorney
Lance Petty, Public Works Director
Chris Motley, Fire Chief
Kacey Roman, Building Official
Ray Garivey, Freeport Police Chief
Clarisa Molina, Administrative Assistant

Visitors:

Raven Wuebker	Sabrina Brimage
David McGinty	Don Williams
David Estrello	John G.
Sandra Barnett	Jim Barnett
Diane McCleaster	Tommy Pearson
Sam Reyna	Manning Rollerson
Antonio Munoz	Breanna Brimage
Melanie Oldham	Keith Hardy
Brendan Brimage	Juan Nava
Victor G.	Juan Duran
Dennis Jones	Cynthia Jones
Adolfo Castillo	Gracilla Salina
Con McCleaster	Diane McCleaster
Ramon Vigil	Alfanzo Macias
Francisco Cadenas	Linda Duran
Johnny Kouches	Maria Kouches
Jason Hayes	Jana Barnes
Jason Yarberry	Cassie Brant
Melanie Oldham	

Visitors, Via Teleconference:

Laura Tolar
Lisa Hayes
Paul Crow
Vander Williams

Robert Cramer
Kevin Pell
Haley Smith
Kevin Pell

Call to order.

Mayor Pro Tem Jerry Cain called the meeting to order at 6:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE:

Invocation was led by City Manager Tim Kelty, Pledge was led by Mayor Pro Tem Jerry Cain.

CITIZENS' COMMENTS:

John G. asked council if the auto repair shop ordinance will affect his business that he runs from his home. He said that he does oil changes, and changing tires. City Attorney Chris Duncan told John that council could not answer him. He said that he can contact the City Manager for help.

Sam Reyna 2002 N Ave G spoke to council about the sprinkler systems and businesses around town. He said the business on 403 Gulf Blvd., has been trying to open, and the issues were not resolved and the business left. He said the distillery that is wanting to open was told they need a fire wall and a sprinkler system. Mr. Reyna said this is not true it is one or the other. He said we have lost a lot of businesses. We need to amend the ordinance.

Antonio Munoz spoke to council of the ordinance and the problem it is causing for some mechanic shops. Mr. Munoz said some of these businesses cannot afford to put up fences. He said he needs clarity on this ordinance.

Manning Rollerson said we cannot be putting restrictions on buildings that were built in the 50's. He asked council why they neglected the people of the East End? Mr. Rollerson said that the city needs to take responsibility. Mr. Rollerson asked how the Mayor could appoint Brimage. He said that this is the same person that stabbed the East End citizens in the back. Mr. Rollerson spoke about Title VI rights for the minority citizens. Mr. Rollerson told Councilman Pena that the owner of the Ocean Food Mart has been trying to get in touch with him.

David Estrell 624 North C, spoke about the mechanic shops and what they bring to the city. He said they pay taxes, and provide sales tax. Mr. Estrell said customers have asked which Council Members voted for this ordinance. Mr. Estrell said that it is taking longer to get parts because of the pandemic so it is taking longer to repair the vehicles. Mr. Estrell said that the owners of these shops eat in local restaurants. He spoke of residents parking on the streets, as well as churches.

PRESENTATIONS/ANNOUNCEMENTS: Announcements by Mayor, City Council and/or Staff.

CONSENT AGENDA:

Consideration and possible action on the approval of City Council meeting minutes from December 6, 2021.

Consideration and possible action approving the date change for the first and second city council meetings in January 2022, due to the New Years and Martin Luther King Holidays

Consideration and possible action to adopt a Resolution No. 2021-2729, to designate authorized signatories for the Community Development Block Grant-Mitigation (CDBG-MIT) program for GLO State Contract Number 22-082-013-D213

Consideration and possible action to adopt a Resolution No. 2021-2730, to designate authorized signatories for the Community Development Block Grant-Mitigation (CDBG-MIT) program for GLO State Contract Number 22-085-047-D300

Consideration and possible action to adopt a Resolution No. 2021-2731, regarding Civil Rights which includes the following policies: Section 3 Policy. Excessive force policy. Limited English Proficiency (LEP) Standards Plan. Section 504 Policy and Grievance Procedures. Code of Conduct Policy and Fair Housing Policy

Consideration and possible action to approve April as Fair Housing Month: This proclamation will help to fulfill Fair Housing activity obligations as required by the grant.

On a motion by Councilman Muraira, seconded by Councilman Brimage, with all present voting "Aye" 4-0 vote, Council approved item numbers 1-6 on the Consent Agenda.

COUNCIL REGULAR AGENDA:

Councilman Muraira asked that item # 14 be moved to the first item in Council Regular Business.

Discussion and Possible Action to delay enforcement of Ordinance 2021-2641 and Schedule Public Hearing.

City Manager Tim Kelty presented to council the process of enforcement of Ordinance 2021-2641 adopted in October. He said once this ordinance was adopted Council requested that staff take enforcement of this slowly. He said there was a workshop held with affected businesses, and there were about 18-20 in attendance. Mr. Kelty said their concerns were discussed and the regulations explained, as well as staff's intention to delay enforcement. Mr. Kelty said staff will meet with each shop individually at their request.

Councilman Muraira said, council should have been notified of this workshop, he thinks there should be at least two council members in attendance at these type of workshops. He said he met with the mechanics on December 13, at the Freeport Municipal Park, and he was told nothing was resolved. Councilman Muraira said he feels we need to take a step back on this. We need to have meetings with mechanics and we should do this piece by piece.

Councilman Brimage said he feels that the city has been very lenient. This ordinance was passed back in October, and no one has received a fine. This ordinance comes as a result of complaints by residents of the City of Freeport. Councilman Brimage said he serves the citizens of Freeport.

Councilman Pena said that council passes these ordinances, but they are not set in stone. We want to listen to the citizens. But this is not a citizen versus mechanics. Councilman Pena said hopes we have learned from this. He said he wants to suspend this ordinance and hold a Public Hearing.

Councilman Pena made a motion to delay Ordinance No. 2021-2641, and schedule a Public Hearing before considering further action, seconded by Councilman Muraira with discussion that followed.

Councilman Muraira said the mechanics this ordinance affects, some are citizens of Freeport, and are tax payers. He said we need to make changes to the ordinance, and work with these mechanics. We need to take them into consideration, and take a step back. He said this is important.

City Manager asked since Ordinance 2021-2641 was adopted by council, do we need an ordinance to rescind it? City Attorney Chris Duncan said there are a few different options we can do. He said we can repeal the ordinance, or we can amend the ordinance, by changing the effective date.

Councilman Pena amended his motion to repeal Ordinance No. 2021-2641, and hold a Public Hearing.

Councilman Cain said he encourages citizens to be more involved, and not just when it affects you. Every decision we make affects all of us, in one way or another. Every decision that is made, is not going to please everyone. He said we are not here to drive you out of business, but to support the whole city.

Mayor Pro Tem Cain called for a second to the amended motion to repeal Ordinance No. 2021-2641, motion was seconded by Councilman Muraira with discussion as follows.

Juan, 2002 Victoria, spoke of the falling down fences, he asked how this ordinance will solve the problem? He asked if council comes and checks on the businesses?

Antonio Munoz spoke of the Shipley's complaints, and the cars that are parked on the streets from the mechanic shops. He said what about the residents that are parked on the streets? We need to come to a favorable solution.

Manning Rollerson said this will hurt the small businesses in Freeport.

Mayor Pro Tem Cain called the motion for a vote to repeal Ordinance No. 2021-2641, and to hold a Public Meeting, with all present and voting vote 3-1, Ordinance No. 2021-2641 was repealed. Councilman Brimage voted "Ney".

Discussion and Consideration regarding Zoning Ordinance No. 2021-2653 and Subdivision Control Ordinance No. 2021-2654.

City Manager Tim Kelty presented to council Zoning Ordinance No. 2021-2653 and Subdivision Control Ordinance No. 2021-2654. He said there were minor corrections to the map. Mr. Kelty said the concerns City Attorney Chris Duncan had with the ordinances, have been corrected as well. Mr. Kelty said the map and the ordinances have been posted on the website.

Councilman Pena said issues were brought up in the last meeting, he feels this needs to go back to the Planning and Zoning Commission so the public can speak.

Councilman Muraira asked if Chris Duncan's concerns were all taken care of? Chris Duncan said "yes.

Building Official Kacey Roman said the Planning and Zoning Commission approved this, with a few corrections. She asked if Councilman Pena is wanting this to go back to Planning and Zoning, he said yes.

City Manager Tim Kelty said the Planning and Zoning has held several Public Meetings on this ordinance. He said the corrections that were made were things that were overlooked and were not substantive in nature. He said for this to go back to the Planning Commission would be unproductive.

Councilman Muraira said that he agrees with Mr. Kelty, this has already been approved by the Planning and Zoning Commission.

Mayor Pro Tem, Jerry Cain said we will plan to have a Public Hearing on January 10, 2022, at our regular City Council Meeting.

Discussion regarding establishing Rental Inspection Program.

Building Official Kacey Roman presented to council discussion establishing the Rental Inspection Program. Ms. Roman said Council had asked that staff come up with a proposal for the Rental and Inspection Program. She said we are proposing this because all of our citizens deserve a safe a habitable place to live. These inspections will help both our citizens, and our business owners, there will be documentation on both sides. Staff is recommending we start with apartment complexes and small multifamily complexes of four units or more. Ms. Roman said that we will allow more time for compliance and work with properties requiring more extensive repairs. This program is funded by a \$3.00 charge monthly on their water bill.

City Manager Tim Kelty, said this will help with issues like the AC's or stairs that may be unsafe. He said this is being brought tonight to introduce, and to get feedback.

Councilman Brimage said we just said "we don't want government in our business". So why are we going to waste our time and money to do something like this?

Mayor Pro Tem Cain, asked will inspections occur when a unit becomes vacant each time, or when the unit has been vacant for a certain amount of time? Ms. Roman said we can go either route. It will be at the guidance of council. Mayor Cain also said, IPMC does not specify properly working AC. Ms. Roman explained it does not specify AC, but it does say appliance, and if it is present, it must work.

Councilman Pena said he has a strong response to this; rental properties and real estate does not want the city to get involved. He said why aren't we engaging in Section 8, where this is already adopted?

Melanie Oldham said this is an emotional topic. She said some of these apartment complexes have holes in the floors, no water, stoves not working. She said she supports this proposal as long as we do it right.

Councilman Muraira said that he agrees with Ms. Oldham, but we have to make sure we do it right.

Mr. Castillo 1516 N Ave G, said he has a mechanic shop and rental property, he said he pays taxes. Mr. Castillo said he opposes this.

Councilman Pena said he thinks the solution going forward is more affordable housing. He said let's fix the problems but not hinder ourselves.

Councilman Muraira said we need to work on this, we need to make the landlords a part of this process, and keep council involved in any workshops.

Mayor Pro Tem, Cain said we need to speak with the apartment owners, get their input, and may give us a place for negotiation.

Tommy Pearson spoke of the apartment owners, he asked what about the tenants that destroy these units? Mayor Pro Tem, Cain said this protects the owners as well, not just the renters.

Consideration of approving Resolution 2021-2724, to Participate in Texas Cooperative Liquid Assets Securities System Trust (Texas Class) an investment pool administered by Public Trust Advisors, LLC.

Finance Director Cathy Ezell presented to council Resolution 2021-2724, to Participate in Texas Cooperative Liquid Assets Securities System Trust (Texas Class) an investment pool administered by Public Trust Advisors, LLC. She said this is being brought back from the last council meeting with a list of other cities that participate in this pool. She said the bank places requirements on how much money can be kept in the bank.

Councilman Pena asked how many cities are on the list? Ms. Ezell said there are 18.

On a motion by Councilman Pena, seconded by Councilman Muraira, with all voting "Aye" 4-0 Council unanimously approved. Resolution 2021-2724, to Participate in Texas Cooperative Liquid Assets Securities System Trust (Texas Class) an investment pool administered by Public Trust Advisors, LLC.

Consideration and possible action approving a payback schedule for an overpayment in local sales and use taxes.

Finance Director Cathy Ezell presented to council the payback schedule for an overpayment in local sales and use taxes. Ms. Ezell said the City received a letter from the Texas Comptroller saying the city had been over paid in sales tax in the amount of \$423,897.25. Staff recommends that the city enter into a 44-month payback agreement. The amount each month will be \$9,634.00, and the final payment of \$9,635.25.

On a motion by Councilman Muraira to enter into a 44-month payback agreement, seconded by Councilman Pena, with all voting "Aye" 4-0 Council unanimously approved the payback schedule for an overpayment in local sales and use taxes.

Consideration and possible action on agreement with Engie Energy for repayment of credit.

Finance Director Cathy Ezell presented to council an agreement with Engie Energy for repayment of credit. She said that the Engie had a billing mistake that gave the city a \$162,215.86 credit. She said this was a mistake on the power company part, and there should have been no credit. Ms. Ezell said the city can go into a payment agreement for the total amount of \$189,677.56 and it will be spread across five payments. She said, we do owe this money.

Mayor Pro Tem Cain, said he hopes the city has safe guards in place now, to catch these kinds of mistakes.

Councilman Muraira asked how will this be paid, will it be coming out of the fund balance? Ms. Ezell said it will be coming from the fund balance, it is not budgeted. A budget amendment will be presented at a later date.

On a motion by Councilman Pena, for a five-month deferred repayment plan to Engie Energy, seconded by Councilman Cain, with all voting "Aye" 4-0 Council unanimously approved an agreement with Engie Energy for repayment of credit.

Consideration and possible action appointing a TIRZ Board President.

City Manager Tim Kelty presented to the council the possible action of appointing a TIRZ Board President. Mr. Kelty said that EDC Board voted to recommend Jeff Pena as the TIRZ Board President.

On a motion by Councilman Muraira to appoint Jeff Pena as the TIRZ Board President, seconded by Councilman Cain.

Councilman Pena asked if he is allowed to vote? City Attorney Chris Duncan, answered affirmatively.

Mayor Pro Tem Cain called the motion, with a 3-1 vote Jeff Pena was appointed the TIRZ Board President. Councilman Brimage voted "Ney".

Councilman Brimage said "for the record, Jeff voted for himself"? He was told yes.

First Reading and Consideration of Resolution No. 2021-2732 approving economic Development projects to be enacted by the Freeport Economic Development Corporation.

City Manager Tim Kelty read the first read of Resolution No. 2021-2732 approving economic Development projects to be enacted by the Freeport Economic Development Corporation. Mr. Kelty said that this is the first reading of this resolution. He said for the Public and Council's understanding, the three projects that are being proposed are; Local Business Improvement Grants, for \$150,000, a Bridge Lighting project and the development of an Outdoor Market on the 8.8 acres owned by the EDC on Brazos Street. Mr. Kelty explained that the resolution sets not dollar limit to these projects but that EDC had voted to authorize \$25,000 each for the lighting of the Railroad Trestle and Outdoor Market. He said after the second reading and possible action Council can stipulate the dollar amount approved. As it stands it is limited by the \$1.25 million available in the special project line item of the Council approved EDC Budget. He said that there will be no action on this until after the second reading.

Councilman Brimage asked as it is written, if we are giving an open check book for these projects. Is that correct? City Attorney Chris Duncan said the limitation is based on the budget, and the budget was presented to City Council, so this will be limited by whatever the budget amount is. The approval is not specifically for the \$25,000, so the EDC has discretion to spend on the projects whatever is budgeted. Councilman Brimage asked if permission had been given from Union Pacific for lighting on the bridge. Chris Duncan said Union Pacific is evaluating it. Councilman Brimage also asked about selling fresh seafood and he spoke of the licensing that is required. He said, he hopes they respect Mark Frudienburg and Jason who have dedicated 30 plus years to this city, and they are being considered, and this effort wouldn't negatively affect their businesses.

Chris Duncan said he believes Mark was contacted about selling at the outdoor market.

Councilman Pena said the EDC is looking to use the funds to help grow Freeport.

Discussion and possible action regarding Ordinance No. 2021-2648 to require all City Council and Public Board Members to disclose: All current Real Estate Assets in Brazoria County held in their personal name, immediate family's name, business name. All Business Entities owned or partnered in Texas. Any and all business agreements with any other Board or Council member. Any and all agreements or contracts with the city.

Councilman Brimage asked City Attorney Chris Duncan if this ordinance is legal, and enforceable? Mr. Duncan said, "yes, he believes the ordinance is legal". Councilman Brimage said he has contacted several attorneys, including TML, and was told it is not legal or enforceable. Councilman Brimage asked Mr. Duncan if he had contacted TML? Mr. Duncan said "no". Councilman Brimage asked about the time, and cost of getting the ordinance prepared, and requested the hours that was billed to the city to prepare this ordinance. City Attorney Chris Duncan said he can get this information.

Councilman Brimage said that he wants this item tabled, until Mr. Duncan finds out from TML if this is enforceable.

Councilman Cain said he agreed with Councilman Brimage, when he first read the ordinance, that this is no one's business. But, he said, Councilman Pena put this on the agenda to try and clear his name, and promote transparency among the council, and this could actually help the next council that serves, as well as any one of us. Councilman Brimage said his concern is, what this will do to the other boards.

Mayor Pro Tem, Jerry Cain tabled this item.

Councilman Pena said he has taken an informal vote with the EDC and Planning, and no one opposes this.

Discussion and Possible Action to revise the Agenda Policy for Council.

Councilman Brimage said this was brought before council, and was passed, and it is back on the agenda again.

Councilman Pena presented to council the possible action to revise the agenda policy for council. He said just like the mechanical shop ordinance, this one needs some fixing. Councilman Pena said the city council agenda needs to be provided to council, by the first Friday, before the next meeting. He said, if council want to add an item to the agenda, that needs to be done Wednesday before the meeting, and must be done by noon. He said this will allow more participation by council members.

Councilman Pena made a motion that a draft agenda be given to council, the first Friday after council meets, with Wednesday at noon being the deadline to add to the agenda, motion was seconded by Councilman Muraira. With discussion that followed.

Councilman Brimage said he would like to hear input from staff, to see if this is too much pressure on them.

City Manager Tim Kelty said there is nothing that prevents council from bringing things forward to be placed on the city council agenda. He said you do not have to wait for the deadline to submit. As far as requesting the agenda, staff can send out draft agendas and has done so in the past to Councilmen Pena and Muraira. But the agenda is fluid. He said if you want something on the agenda, email staff. Mr. Kelty said agendas are available upon request. Councilman Cain said he has an issue with the Friday

deadline, the reason being is this agenda had nine revisions. He said, his suggestion is; if a councilman wants a copy of the agenda, send an email and request it. Councilman Pena said the purpose for this is we represent our Ward. He said the voices that matters, are the council. He said that council should be involved. Councilman Muraira said he agrees that the agenda needs to be sent out to council.

Mayor Pro Tem, Jerry Cain called the motion for a vote. With a 2-2 vote, the motion did not pass. Councilmen Pena and Muraira voted "Aye". Councilman Brimage and Mayor Pro Tem, Cain voted "Ney".

WORK SESSION:

Fire Chief Motley said that COVID cases are on the rise. He reminded us to practice good hygiene and to social distance. He said that the Hurricane Nicholas debris site is clean, all the debris has been removed.

Public Works Director Lance Petty gave an update on the soccer field lights. He said he met with CenterPoint and the soccer field lights themselves are three phase, 380 volt. He said the storm took out all the power to the school, and the school is not going to put the power back. Mr. Petty said the only way to power the lights on the field is go to the closest pole, which is down 2nd Street. He said this is the closest three phase power that CenterPoint has. For CenterPoint to drop a line here, will be \$10,000 and we would provide all the other wiring. Then the estimated cost to an electrician will be around \$140,000. He said we can do single phase at Cherry Street, but this will only power up the concession and restrooms. Mr. Petty said the palm trees at the entrance of Freeport, and the ones at the golf course, have died because of the freeze. He said that staff will be coming to council, to get approval of getting new palms for the entrance and the golf course. He and Mr. Kelty said the 2021 asphalt paving has been completed, as well as the beach entrance and golf course maintenance road. There was discussion on the basketball program, Mr. Kelty said the city waived the fees this season.

Councilman Pena said the vote by the EDC Board was unanimous, on appointing himself as the TRIZ President. He spoke of workshops, and the importance of having at least two councilmen in attendance. Councilman Pena asked, what is the budget for infrastructure? Ms. Ezell said \$6-7 Million. He said that he has talked about a newsletter of what infrastructure is being scheduled, and when the work is to be done. He said he will continue to bring this up until it is done. Councilman Pena said we need to promote what council is doing. He asked about the mask mandates, and if this will be enforced again? He was told the Governor has prohibited cities from adopting mask mandates. Councilman Pena spoke on the boil water notices, he said that council needs to be made aware of these notices, and then put them on the social media. He spoke on customer service, he said the feedback he got on the basketball issues, there was no customer service. Councilman Pena asked if there is an ordinance for boarded up windows? He said we need to get the buildings in downtown, to clean up the boarded-up windows? Councilman Pena said that he would like an update on the CenterPoint lights.

Councilman Muraira told Mr. Petty that he would like to meet with him, and Mr. Montoya to discuss the plans of the soccer fields. Councilman Muraira asked Mr. Kelty to check into livestream for the city councilman meetings. He said we need to be as transparent as we can. Councilman Muraira said that he would like to see either Facebook Live, or YouTube Live. He said that he would like to be informed more of the important matters that is going on.

Councilman Brimage spoke on the boarded-up windows in downtown. He asked Councilman Pena "you want the government to tell the owners of these buildings to remove the wood from their windows". "But yet you put the mechanic shop ordinance on the agenda to repeal it", this ordinance would have helped

clean up these blighted areas. Councilman Brimage said help me understand the difference, between the downtown blight and the blight throughout the city.

Mayor Pro Tem Cain, wished everyone a happy and safe holiday.

Adjourn

On a motion by Councilman Pena, seconded by Councilman Brimage, with all present voting "Aye", Mayor Pro Tem Cain adjourned the meeting at 8:59 P.M.

Mayor, Brooks Bass
City of Freeport, Texas

City Secretary, Betty Wells
City of Freeport, Texas



City Council Agenda Item # 4

Title: Consideration of approving the ratification of City Administrations approval of the Windstorm Insurance Policy.

Date: January 10, 2022

From: Cathy Ezell, Finance Director

Staff Recommendation:

Ratify the Finance Director’s approval of the City’s windstorm & hail insurance policy renewal for 2022 as proposed by Victor Insurance for TWIA (Texas Windstorm Insurance Association).

Item Summary:

Victor Insurance has provided a Windstorm & Hail Proposal effective January 6, 2022. Victor Insurance works in conjunction with Texas Municipal League Intergovernmental Risk Pool. The coverage premium is \$84,211 annually.

In order to ensure coverage beginning January 6, 2022, the Finance Director executed the Proposal Acceptance Form which was due on December 6th. Ratification of this annual renewal is being brought to Council because the amount exceeds \$50,000. TWIA has historically been the only windstorm insurance option presented by Victor Insurance.

Background Information:

We have made the carrier aware of significant repairs that we have made over the past fiscal year, as summarized below. Any rate changes related to these repairs will be adjusted via endorsements after the original policy renewal is completed.

Over the past fiscal the Freeport Municipal Park Kitchen was added to the policy per FEMA requirements.

Special Considerations

N/A

Financial Impact:

\$84,211 annual premium, which is budgeted.

Board or 3rd Party recommendation:

N/A

Supporting Documentation:

Policy

Acceptance Form

COVERAGES - Windstorm and Hail Only

Attached to and forming part of Policy Number: TWIA-000883522-04

In consideration of the stipulations and conditions herein or added hereto which are made a part of this policy, and of the premiums provided, TWIA does insure the insured named above and legal representatives FROM the inception date shown above TO the expiration date shown above at 12:01 A.M. Standard Time at the location of property against direct loss resulting from the perils of Windstorm and Hail only which have a premium inserted opposite thereto and only on the property described and located as provided hereon.

Item No.	Coverage A/B	Property and Form Description	Coins %	Per Item / Per Occurrence Deductible % Amt	Form Number	Limit of Liability	Premium
		200-210 W 2nd Street, Freeport, Brazoria County, TX, 77541 <i>Underwriting Details:</i> Stories: 3; Construction: Semi Wind Resistant; Roof: Built-Up/Tar and Gravel <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) - \$53.00 Item #1-B forms: 164					
2	A	Property Description: Commercial Building 430 N Brazosport, Freeport, Brazoria County, TX, 77541 <i>Underwriting Details:</i> Stories: 2; Construction: Semi Wind Resistant; Roof: Rubber <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) - \$3,320.00 Item #2-A forms: 164	80%	2% \$32,622		\$1,631,088.00	\$7,054.00
2	B	Description: Personal Property located at: 430 N Brazosport, Freeport, Brazoria County, TX, 77541 <i>Underwriting Details:</i> Stories: 2; Construction: Semi Wind Resistant; Roof: Rubber <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) - \$340.00 Item #2-B forms: 164	80%	2% \$6,055		\$302,756.00	\$1,207.00
3	A	Property Description: Commercial Building 510 S Avenue A, Freeport, Brazoria County, TX, 77541 <i>Underwriting Details:</i> Stories: 1; Construction: Brick; Roof: Steel <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) - \$4,243.00 Item #3-A forms: 164	80%	2% \$18,546		\$927,282.00	\$12,077.00
3	B	Description: Personal Property located at: 510 S Avenue A, Freeport, Brazoria County, TX, 77541 <i>Underwriting Details:</i> Stories: 1; Construction: Brick; Roof: Steel <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) - \$1,938.00 Item #3-B forms: 164	80%	2% \$10,405		\$520,265.00	\$5,517.00
4	A	Property Description: Commercial Building 500 N Brazosport, Freeport, Brazoria County, TX, 77541	80%	2% \$4,647		\$232,365.00	\$3,272.00

(This policy contains two parts. To be valid, both parts must be combined and the policy countersigned by the Texas Windstorm Insurance Association.)

COVERAGES - Windstorm and Hail Only

Attached to and forming part of Policy Number: TWIA-000883522-04

In consideration of the stipulations and conditions herein or added hereto which are made a part of this policy, and of the premiums provided, TWIA does insure the insured named above and legal representatives FROM the inception date shown above TO the expiration date shown above at 12:01 A.M. Standard Time at the location of property against direct loss resulting from the perils of Windstorm and Hail only which have a premium inserted opposite thereto and only on the property described and located as provided hereon.

Item No.	Coverage A/B	Property and Form Description	Coins %	Per Item / Per Occurrence Deductible % Amt	Form Number	Limit of Liability	Premium
<p><i>Underwriting Details:</i> Stories: 1; Construction: Brick; Roof: Built-Up/Tar and Gravel <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) - \$818.00</p>							
4	B	<p>Description: Personal Property located at: 500 N Brazosport, Freeport, Brazoria County, TX, 77541</p> <p><i>Underwriting Details:</i> Stories: 1; Construction: Brick; Roof: Built-Up/Tar and Gravel <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) - \$66.00 Item #4-B forms: 164</p>	80%	2% \$1,000		\$35,622.00	\$444.00
5	A	<p>Property Description: Commercial Building 110 Skinner Street, Freeport, Brazoria County, TX, 77541</p> <p><i>Underwriting Details:</i> Stories: 1; Construction: Brick; Roof: Shingles, Asphalt <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) - \$952.00</p>	80%	2% \$5,153		\$257,669.00	\$3,583.00
5	B	<p>Description: Personal Property located at: 110 Skinner Street, Freeport, Brazoria County, TX, 77541</p> <p><i>Underwriting Details:</i> Stories: 1; Construction: Brick; Roof: Shingles, Asphalt <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) - \$42.00 Item #5-B forms: 164</p>	80%	2% \$1,000		\$14,506.00	\$166.00
6	A	<p>Property Description: Commercial Building 803 N Front Street, Freeport, Brazoria County, TX, 77541</p> <p><i>Underwriting Details:</i> Stories: 1; Construction: Brick; Roof: Steel <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) - \$3,120.00 Item #6-A forms: 164</p>	80%	2% \$13,638		\$681,877.00	\$8,881.00
6	B	<p>Description: Personal Property located at: 803 N Front Street, Freeport, Brazoria County, TX, 77541</p> <p><i>Underwriting Details:</i> Stories: 1; Construction: Brick; Roof: Steel <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) - \$139.00</p>	80%	2% \$1,493		\$74,656.00	\$931.00

(This policy contains two parts. To be valid, both parts must be combined and the policy countersigned by the Texas Windstorm Insurance Association.)

COVERAGES - Windstorm and Hail Only

Attached to and forming part of Policy Number: TWIA-000883522-04

In consideration of the stipulations and conditions herein or added hereto which are made a part of this policy, and of the premiums provided, TWIA does insure the insured named above and legal representatives FROM the inception date shown above TO the expiration date shown above at 12:01 A.M. Standard Time at the location of property against direct loss resulting from the perils of Windstorm and Hail only which have a premium inserted opposite thereto and only on the property described and located as provided hereon.

Item No.	Coverage A/B	Property and Form Description	Coins %	Per Item / Per Occurrence Deductible % Amt	Form Number	Limit of Liability	Premium
<i>Item #6-B forms: 164</i>							
7	A	Property Description: Commercial Building 410 Brazosport Boulevard, Freeport, Brazoria County, TX, 77541 <i>Underwriting Details:</i> Stories: 1; Construction: Brick; Roof: Built-Up, Smooth <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) -\$328.00	80%	2% \$2,484		\$124,188.00	\$1,858.00
8	A	Property Description: Commercial Building 131 E 4th Street, Freeport, Brazoria County, TX, 77541 <i>Underwriting Details:</i> Stories: 1; Construction: Brick; Roof: Built-Up, Smooth <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) -\$5,821.00 <i>Item #8-A forms: 164</i>	80%	2% \$22,049		\$1,102,426.00	\$13,582.00
8	B	Description: Personal Property located at: 131 E 4th Street, Freeport, Brazoria County, TX, 77541 <i>Underwriting Details:</i> Stories: 1; Construction: Brick; Roof: Built-Up, Smooth <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) -\$117.00 <i>Item #8-B forms: 164</i>	80%	2% \$1,259		\$62,944.00	\$785.00
9	A	Property Description: Commercial Building 303 East Park Avenue, Freeport, Brazoria County, TX, 77541 <i>Underwriting Details:</i> Stories: 2; Construction: Frame; Roof: Built-Up, Smooth <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) -\$304.00 <i>Item #9-A forms: 164</i>	80%	2% \$2,400		\$120,000.00	\$1,722.00
9	B	Description: Personal Property located at: 303 East Park Avenue, Freeport, Brazoria County, TX, 77541 <i>Underwriting Details:</i> Stories: 2; Construction: Frame; Roof: Built-Up, Smooth <i>Adjustment amounts included in the premium for each item:</i> Deductible 2% (\$1000 min.) -\$70.00 <i>Item #9-B forms: 164</i>	80%	2% \$1,000		\$40,000.00	\$471.00
----- End of Items Schedule -----							

(This policy contains two parts. To be valid, both parts must be combined and the policy countersigned by the Texas Windstorm Insurance Association.)



Clarifying Language Regarding Mold, Fungi, and Other Microorganisms

Please read the following:

All Texas Windstorm Insurance Association (TWIA) policies issued after March 1, 2003 have a clarification added to the exclusion section of the policy. Please read the exclusion below, titled Mold Fungi, or Other Microorganisms. If you have questions relating to this clarification, please call your agent or TWIA at 1-800-788-8247.

This endorsement modifies insurance provided under each policy form listed below:

TWIA Dwelling Policy
TWIA Commercial Policy
TWIA Texas Special Mobile Home Windstorm and Hail Insurance Policy

The following exclusion is added to each policy form as follows:

Exclusion 9. to the TWIA Dwelling Policy,
Exclusion 10. to the TWIA Commercial Policy,
After the second paragraph of SECTION III - SPECIFIC COVERAGE CONDITIONS to the TWIA Texas Special Mobile Home Windstorm and Hail Insurance Policy.

Mold, Fungi, or Other Microorganisms:

- a. Fungi or mold and other microorganisms when used in the policy or in this exclusion means the presence, growth, proliferation, spread or any activity of fungi or mold and other microorganisms.

This exclusion also applies to the cost:

- (1) To remove fungi or mold and other microorganisms from covered property covered under this Texas Windstorm Insurance Association policy.
 - (2) To tear out and replace any part of the building or other covered property as needed to gain access to the fungi or mold and other microorganisms; and
 - (3) Of testing of air or property to confirm the absence, presence or level of fungi or mold and other microorganisms;
- b. This exclusion applies unless the fungi or mold and other microorganisms are located upon the portion of covered property which must be repaired or replaced because of direct physical damage resulting from sudden and accidental wind or hail which would otherwise be covered under this policy. For purposes of this exclusion, sudden and accidental shall include a loss event that is hidden or concealed for a period of time until it is detectable. A hidden loss must be reported to us no later than 30 days after the date it was detected or should have been detected.
- c. However, the exception to the exclusion described in b. above does not include:
- (1) the cost to treat, contain, remove or dispose of the fungi or mold and other microorganisms beyond that which is required to repair or replace the covered property physically damaged by water;
 - (2) the cost of any testing of air or property to confirm the absence, presence or level of fungi, mold and other microorganisms whether performed prior to, during or after the removal, repair, restoration or replacement;
 - (3) the cost of any decontamination of the covered property covered under this Texas Windstorm Insurance Association policy;
 - (4) any increase in loss under this Texas Windstorm Insurance Association policy related to loss of use, debris removal, additional living expense, or diminution in value resulting from c. (1), (2), and (3).

Texas Windstorm Insurance Association
5700 South MoPac Expressway, Building A, Austin, Texas 78749
P.O. Box 99090, Austin, Texas 78709-9090
800-788-8247 / Fax 512-899-4950



Making Repairs in the Event of a Loss

In the event of a loss, first and foremost, continue to ensure the safety of you and your family. If there is any major structural damage, call authorities before entering the building. After you have filed a claim, make temporary repairs to protect your property.

Temporary Repairs

After a loss, make temporary repairs as quickly as possible to prevent further damage.

- Before tearing out, removing, or covering over damaged property or debris, take pictures or videotape if possible. Keep any damaged property until the adjuster sees it and approves of disposal.
- Board broken windows, cover openings with a tarp or plastic to prevent additional water damage, and stop interior leaks. Dry out water damaged and wet areas immediately.
- Keep invoices and receipts for your temporary repairs. If your loss is covered by the policy, reasonable costs for temporary repairs are covered.
- Do not make permanent repairs, such as roof replacement or asphalt patches, until the adjuster has made an inspection. The adjuster needs to be able to see the damage and determine if it is from windstorm or hail.

Permanent Repairs

Whether or not you ultimately have a covered claim, you may need to make permanent structural repairs to your property. To be eligible for insurance through TWIA, many structural repairs must be certified by a Texas Department of Insurance (TDI) appointed qualified inspector or by a Texas licensed professional engineer.

Certificates of Compliance (WPI-8 or WPI-8-C) are issued to certify compliance with the applicable windstorm building code for the area. Without a Certificate of Compliance, TWIA lacks evidence that the structure conforms to the applicable building code, and the structure may be considered ineligible for coverage with TWIA. The WPI-8 certification inspections are done before and during the repair process, if completed by a TDI inspector.

For more information about eligibility requirements, visit www.twia.org/windstorm-certification-requirements. The TDI website provides a list of repairs that do not require inspection and certification. For more information or to contact someone with the TDI Windstorm Inspections Program, you can call 800-248-6032 or go to the TDI website at www.tdi.state.tx.us.



TEXAS WINDSTORM
INSURANCE ASSOCIATION

How to File a Claim

Please keep this informational sheet in an easily-accessible place or in your emergency contacts file.

Write down your policy number here: _____

Ways to File a Claim

- Call TWIA's 24-hour Claims Center at 800-788-8247
- Visit www.twia.org/ClaimsCenter to report a new claim or check the status of an existing claim from your computer or any mobile device
- Contact your agent

Information You Will Need to File Your Claim

- Your TWIA policy number
- The best contact information to reach you
- Brief details of what was damaged and how it happened

After You File a Claim

- Make temporary repairs to protect your property (see "Making Repairs in the Event of a Loss"). Save receipts. Do not make any permanent repairs until you discuss your claim with a TWIA representative.
- TWIA will send you a letter acknowledging your claim and provide the name of the TWIA representative assigned to help with your claim.
- The TWIA representative will call you to discuss your claim and may schedule an adjuster or other expert to inspect your damaged property.
- In instances where an adjuster or expert inspects the damaged property, they will report their findings and recommendations to TWIA.
- The final decision on your claim will be made by TWIA. You will receive a detailed letter explaining TWIA's decision on your claim.
- If you are due a payment for your loss, a check will be issued and sent to you.

Information to Provide Your TWIA Representative

- **Inventory:** If coverage is provided on your personal or business personal property, provide an inventory of these damaged items. Include a description and age of each item, its original cost, and the estimated replacement cost.
- **Documentation:** Any documentation of the damage you claim. This includes reports, estimates, invoices, receipts, photos, and videos.
- **Other Claims:** Information on any other water damage, structural damage, or previous repairs, whether due to plumbing leaks, flood, air-conditioning system leaks, foundation settlement, or other sources.
- **Additional Information Requested by TWIA:** Within 30 days after the date your claim is reported, TWIA may send a written request for additional information necessary to resolve your claim. Please promptly provide TWIA with the requested information.

Texas Windstorm Insurance Association
5700 South MoPac Expressway, Building A, Austin, Texas 78749
P.O. Box 99090, Austin, Texas 78709-9090
800-788-8247 / Fax 512-899-4950

TEXAS WINDSTORM INSURANCE ASSOCIATION
Windstorm and Hail

**Endorsement No. (TWIA) 164 – Replacement Cost Coverage –
Coverage A (Building) and Coverage B (Business Personal Property)**

This endorsement applies only to those Items of Coverage for which this Endorsement No. (TWIA) 164 is scheduled on the Declarations page.

Your Duties After Loss Condition 4.a.(5) is replaced by the following:

4. Duties After Loss.

a. Your Duties After Loss.

- (5) You must keep an accurate record of repair expenses and proof of payment of any applicable Deductible. Upon completion of repairs or replacement, you may submit reasonable proof of repair expenses and payment of any applicable Deductible, including invoices, bills, statements, receipts, canceled checks, money order receipts, credit card statements, and a copy of an executed installment plan contract or other financing arrangement that requires full payment of the Deductible over time.

Our Duties After Loss Condition 4.b.(2) is replaced by the following:

4. Duties After Loss.

b. Our Duties After Loss.

- (2) Not later than the 60th day after the date we receive a claim or the 60th day after the date we receive information requested under Condition 4.b.(1), whichever is later, we shall provide you, in writing, notice of the amount of the loss we will pay, if any, and notice that:
- (i) we have accepted coverage for the claim in full;
 - (ii) we have accepted coverage for the claim in part and have denied coverage for the claim in part; or
 - (iii) we have denied coverage for the claim in full.

If we accept coverage for your claim under Coverage A (Building) or Coverage B (Business Personal Property) in full or part, our notification under this subsection will notify you of the deadlines for completion and documentation of repairs and for demanding appraisal of the "replacement cost" under Condition 6.c.

The following section c. is added to Loss Settlement Condition 6.:

6. Loss Settlement.

c. Our liability and payment for covered losses under Coverage A (Building) and Coverage B (Business Personal Property), excluding property described in Condition 6.c.(7), is modified as follows:

- (1) We will pay the smallest of the following:
- (a) The "replacement cost", meaning the amount actually and necessarily spent to repair or replace the damaged building(s) or business personal property; or
 - (b) The specified limit of liability of the policy.
- (2) We will pay no more than the "actual cash value" until repair or replacement is completed and documentation of "replacement cost" and payment of any applicable Deductible is submitted to us under Condition 4.a.(5).
- (3) You may request payment of "replacement cost" by submitting documentation to us of the completion of repairs or replacement, "replacement cost", and payment of the Deductible not later than the 545th day after the date we notify you of the amount we will pay under Condition 4.b.(2).

Endorsement No. (TWIA) 164 - Replacement Cost Coverage – Coverage A (Building) and Coverage B (Business Personal Property)
Edition Date: November 8, 2019

TEXAS WINDSTORM INSURANCE ASSOCIATION
Windstorm and Hail

- (4) Not later than the 30th day after the date that we receive documentation from you under Condition 6.c.(3), we will provide you, in writing, notice of:
- (a) the amount we will pay under Condition 6.c.(1); and
 - (b) the deadline to request appraisal of the "replacement cost" under Condition 6.c.(6).
- (5) If we notify you under Condition 6.c.(4) that we will pay your claim, or part of your claim, we must make payment not later than the 10th day after we notify you.
- (6) If you have not completed appraisal under Condition 11. of the amount we will pay under Condition 4.b.(2) and you dispute the amount we will pay for "replacement cost", you may demand appraisal of the "replacement cost" not later than the 30th day after the date you receive notice from us under Condition 6.c.(4). You may demand appraisal of "replacement cost" under this subsection without regard to whether all repairs related to the claim are complete. If you demand appraisal of "replacement cost" under this subsection, the appraisal will be conducted as follows:
- (a) You and we will each select a competent and independent appraiser. You shall notify us of your appraiser's identity. We shall notify you of our appraiser's identity within 10 days after we receive notice of your appraiser's identity. The two appraisers will choose a competent and independent umpire. If they cannot agree upon an umpire within 15 days, the commissioner of insurance shall select an umpire from a roster of qualified umpires maintained by the Texas Department of Insurance.
 - (b) The two appraisers will then determine the "replacement cost." If the appraisers fail to agree, they will submit their differences to the umpire. An itemized decision agreed to by any two of these three and filed with us will determine the "replacement cost".
 - (c) You and we are responsible in equal shares for paying the costs incurred or charged in connection with the appraisal, including expenses of the appraisers and umpire. If we pay more than our share of the costs of appraisal, our liability and payment for covered losses shall be reduced by the amount we pay in excess of our share.
 - (d) The appraisal decision is binding upon you and us and is not otherwise reviewable or appealable except as provided by Condition 11.g. and 11.h.
- (7) Condition 6.c. does not apply to the following property:
- (a) Stock (raw, in process, or finished) or merchandise, including materials and supplies in connection therewith;
 - (b) Property of others;
 - (c) Personal property usual to a residence;
 - (d) Books of account, abstracts, manuscripts, drawings, card index systems and other records or storage media (including film, tape, disc, drum, cell and other magnetic recording or storage media);
 - (e) Paintings, etchings, pictures, tapestries, statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelains, rare glassware, bric-a-brac or other articles of art, rarity or antiquity;
 - (f) Outdoor equipment, except equipment used in the service of the building; or
 - (g) Window or wall air conditioning units.
- However, Condition 6.c. applies to property described subsections (7)(a) through (7)(f) if you are a church, school, or hospital.

The following is added to the DEDUCTIBLE clause:

We may refuse to pay Replacement Cost Coverage under this endorsement until we receive reasonable proof of payment by you of any Deductible applicable to the claim. Reasonable proof of payment includes a canceled check, money order receipt, credit card statement, and a copy of an executed installment plan contract or other financing arrangement that requires full payment of the deductible over time.

All other terms and conditions of the policy apply.

Endorsement No. (TWIA) 164 - Replacement Cost Coverage – Coverage A (Building) and Coverage B (Business Personal Property)
Edition Date: November 8, 2019



TWIA Privacy Policy

Protecting your privacy is important to us. We want you to understand what information we collect and how we use it. This notice sets forth our policy for the collection, use, and security of your nonpublic personal financial information.

Information Collected

As a part of our business, we may collect "nonpublic personal financial information" about you in order to provide a financial product or service to you. This includes information we receive from you on applications or other forms, information about your transactions with us or others, and information we receive from a consumer reporting agency.

Information Disclosure

We may disclose the following kinds of nonpublic personal financial information about you:

- Information we receive from you on application or other forms such as your name, address or other information; and
- Information about your transactions with us such as your policy coverage, limits of liability and premiums.

Disclosure to Third Parties

We may disclose nonpublic personal information about you to the following types of third parties:

- Insurers that are eligible under TWIA's clearinghouse process and procedures and have agreed to abide by TWIA's policies regarding use of the disclosed information and researchers.

We may also disclose nonpublic personal financial information about you to nonaffiliated third parties as permitted by law.

Option to Limit Disclosure

If you prefer that we not disclose nonpublic personal financial information about you to nonaffiliated third parties, you may direct us not to make those disclosures (other than disclosures permitted by law). Your option to request we not disclose nonpublic personal financial information about you will apply to the windstorm insurance coverage you have obtained from us.

If you wish to limit disclosure, you must complete the enclosed form and return it to TWIA within 30 days of the date this notice was mailed. If you direct us not to disclose nonpublic personal financial information about you (other than as permitted by law), your election will apply to all named insureds on the policy.

If you do not wish to limit disclosure, no action on your part is required.

Our Security Procedures

We restrict access to nonpublic personal financial information about you to those persons who need to know that information, to provide products or services to you and disclose such information only for legitimate business or legal reasons. We maintain physical, electronic, and procedural safeguards that comply with federal regulations and applicable state law to protect your nonpublic personal financial information.

This notice has been provided to you pursuant to the Gramm-Leach-Bliley Act and the rules of the Texas Department of Insurance, which require a financial institution, such as an insurer, to notify customers of its privacy practices and procedures on an annual basis.

Texas Windstorm Insurance Association
5700 South MoPac Expressway, Building A, Austin, Texas 78749
P.O. Box 99090, Austin, Texas 78709-9090
800-788-8247 / Fax 512-899-4950



TEXAS WINDSTORM
INSURANCE ASSOCIATION

Texas Windstorm Insurance Association Disclosure Limitation Reply Form

If you do not want your nonpublic personal financial information disclosed by the Texas Windstorm Insurance Association, please complete the information below and mail the completed form to:

Texas Windstorm Insurance Association
Disclosure Opt Out
P O Box 99090
Austin TX 78709-9090

_____ I want to limit the nonpublic personal financial information the Texas Windstorm Insurance Association discloses about me to third parties.

Insured's name: City of Freeport
Policy number: TWIA-000883522
Insured's signature: _____
Date: _____

Texas Windstorm Insurance Association
5700 South MoPac Expressway, Building A, Austin, Texas 78749
P.O. Box 99090, Austin, Texas 78709-9090
800-788-8247 / Fax 512-899-4950

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Texas Windstorm Insurance Association

**5700 South MoPac Expressway, Building A, Austin, Texas 78749
P.O. Box 99090, Austin, Texas 78709-9090
1-800-788-8247 / Fax 512-899-4950**

TWIA COMMERCIAL POLICY WINDSTORM AND HAIL

THIS POLICY JACKET WITH THE COMMON DECLARATIONS PAGE, COVERAGE PARTS, AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETES THIS POLICY.

Flood Insurance: You may also need to consider the purchase of flood insurance. Your insurance policy does not include coverage for damage resulting from a flood even if hurricane winds and rain caused the flood to occur. Without separate flood insurance coverage, you may have uncovered losses caused by a flood. Please discuss the need to purchase separate flood insurance coverage with your insurance agent or insurance company, or visit www.floodsmart.gov.

Where you can get information or make a complaint

If you have a question or a problem with a claim or your premium, contact your insurance company first. You can also get information or file a complaint with the Texas Department of Insurance.

Texas Windstorm Insurance Association

To get information or file a complaint with your insurance company:

Call: TWIA at 1-800-788-8247

Toll-free: 1-800-788-8247

Email: Compliance@twia.org

Mail: Attn: Compliance Department

P.O. Box 99090

Austin, TX 78709-9090

The Texas Department of Insurance

To get help with an insurance question, learn about your rights, or file a complaint with the state:

Call: 1-800-252-3439

Online: www.tdi.texas.gov

Email: ConsumerProtection@tdi.texas.gov

Mail: MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091

To compare policies and prices

Visit HelpInsure.com to compare prices and coverages on home and auto insurance policies. The website is a service of the Texas Department of Insurance and the Office of Public Insurance Counsel.

Donde puede obtener información o presentar una queja

Si tiene una pregunta o un problema con una reclamación o con su prima de seguro, comuníquese primero con su compañía de seguros. Usted también puede obtener información o presentar una queja ante el Departamento de Seguros de Texas (Texas Department of Insurance, por su nombre en inglés).

Texas Windstorm Insurance Association

Para obtener información o para presentar una queja ante su compañía de seguros:

Llame a: TWIA al 1-800-788-8247

Teléfono gratuito: 1-800-788-8247

Correo electrónico: Compliance@twia.org

Dirección postal: Attn: Compliance Department

P.O. Box 99090

Austin, TX 78709-9090

El Departamento de Seguros de Texas

Para obtener ayuda con una pregunta relacionada con los seguros, para conocer sus derechos o para presentar una queja ante el estado:

Llame: 1-800-252-3439

En línea: www.tdi.texas.gov

Correo electrónico: ConsumerProtection@tdi.texas.gov

Dirección postal: MC 111-1A, P.O. Box 149091, Austin, TX 78714- 9091

Para comparar pólizas y precios

Visite HelpInsure.com para comparar precios y coberturas en pólizas de seguro para el hogar y automóvil. El sitio web es un servicio del Departamento de Seguros de Texas y de la Oficina del Asesor Público de Seguros (Office of Public Insurance Counsel, por su nombre en inglés).

INSURANCE WEBSITE NOTICE

To compare policies and prices

Visit **Helpinsure.com** to compare prices and coverages on home and auto insurance policies. The website is a service of the Texas Department of Insurance and the Office of Public Insurance Counsel.

AVISO DEL SITIO WEB DE SEGUROS

Para comparar pólizas y precios

Visite **Helpinsure.com** para comparar precios y coberturas en pólizas de seguro para el hogar y automóvil. El sitio web es un servicio del Departamento de Seguros de Texas y de la Oficina del Asesor Público de Seguros (Office of Public Insurance Counsel, por su nombre en inglés).

IMPORTANT NOTICE ABOUT SUPPLEMENTAL CLAIM PAYMENTS

If you think our estimate of your covered damage is not enough, you can ask for a supplemental (additional) claim payment.

The first deadline to request a supplemental claim payment is 60 days after the date you receive our letter that tells you how much we will pay. If your policy does not provide replacement cost coverage, this is your only chance to request a supplemental claim payment. The deadline may be extended in some situations by the Commissioner of Insurance and/or TWIA.

If your policy provides replacement cost coverage, you have more time to ask for a supplemental claim payment.

- Your deadline to complete your repairs and request your replacement cost payment is 545 days after you receive our Notice of Acceptance or Partial Acceptance letter that tells you how much we will pay.
- You can ask for a supplemental claim payment even if you have not started or completed your repairs.
- Within 30 days of receiving your replacement cost payment request, TWIA will either accept your request in full, accept your request in part, or reject your request.
- After you receive our letter that says how much we will pay for replacement cost, you have 30 days to tell us if you think the amount we have agreed to pay is not enough. You can then:
 - Ask for a supplemental replacement cost payment; or
 - Request appraisal of your replacement cost.
- If you ask for a supplemental replacement cost payment before the deadline, you can still go forward with appraisal of your replacement cost later if you think the amount we have agreed to pay is not enough.
- We cannot make the replacement cost payment until the repairs have been made.

You can only have one appraisal. If you have already been through appraisal before making your request for the replacement cost payment, you cannot have another appraisal.

If you are not sure about a deadline, please contact us as soon as possible. We can help you understand any deadlines that may apply to your claim.

To request a supplemental payment contact us at (800) 788-8247, at Claims Center at www.twia.org/claimscenter, or email claims@twia.org. Please include your claim number with your email.

If you can, tell us why our estimate of your covered damages was not enough. Please send detailed estimates, pictures, contracts with those doing repairs, or any other information you think might help.

- Why it helps: We can decide and issue any payments quickly when we know the repair costs.

Read more about supplemental claim payments and appraisal in Condition 11 of this policy on page 8.

IMPORTANT NOTICE REGARDING RESOLUTION OF DISPUTES

YOUR ACCESS TO JUDICIAL REVIEW OF OUR DECISIONS UNDER THIS POLICY IS LIMITED BY STATUTE. DISPUTES UNDER THIS POLICY MUST BE RESOLVED THROUGH DISPUTE RESOLUTION PROCEDURES STIPULATED IN THE POLICY CONDITIONS AND THE TEXAS WINDSTORM INSURANCE ASSOCIATION ACT, CHAPTER 2210, TEXAS INSURANCE CODE.

DISPUTES REGARDING ACCEPTED CLAIMS:

If we accept coverage for the claim in full or part, and you dispute the amount of loss, you must demand appraisal no later than the 60th day after the date you receive notice of our decision regarding your claim, or request a 30-day extension not later than the 75th day after you receive notice of our decision regarding your claim. Otherwise, you waive the right to contest our determination of the amount of loss that we will pay.

You have more time to demand appraisal of how much we will pay you for "replacement cost". You may demand appraisal of "replacement cost" without regard to whether all repairs related to the claim are complete. You must demand appraisal no later than the 30th day after the date you receive notice of our decision regarding your request for replacement cost payment.

An appraisal decision is binding on you and us as to the amount of loss we will pay for a fully accepted claim or the accepted portion

of a partially accepted claim. You may file a lawsuit not later than two years after the date of the appraisal decision to vacate an appraisal decision and begin a new appraisal process. Otherwise, you may not bring a lawsuit against us with reference to a claim for which we have accepted coverage in full.

The processes, deadlines, and binding effect of appraisal are further described in policy Condition 11 and Condition 6 (if you have replacement cost coverage).

DISPUTES REGARDING DENIED CLAIMS:

If we deny coverage for the claim in full or part, and you dispute that determination, you must provide us with notice, not later than two years after the date on which you receive notice of our decision regarding your claim, that you intend to bring a lawsuit concerning denial of the claim. Otherwise, you waive the right to contest our denial of the claim, and you are barred from bringing a lawsuit concerning denial of coverage.

We must request alternative dispute resolution (including mediation) not later than the 60th day after we receive your notice of intent to bring a lawsuit. Alternative dispute resolution must be completed not later than the 60th day after we request alternative dispute resolution, unless the period is extended by mutual agreement or by a rule of the commissioner of insurance. If alternative dispute resolution is not completed or you are not satisfied after alternative dispute resolution, you may bring a lawsuit in a district court not later than two years after the date on which you receive notice of our decision regarding your claim. The only issues you may raise in a lawsuit against us are (1) whether our denial of coverage was proper, and (2) the amount of damages permitted under the Texas Windstorm Insurance Association Act, Section 2210.576(b), Texas Insurance Code.

The requirements for notice of intent to bring a lawsuit, alternative dispute resolution, and filing a lawsuit against us are described in policy Condition 12.

OMBUDSMAN FOR POLICYHOLDERS:

The Texas Department of Insurance has established the Coastal Outreach and Assistance Services Team (COAST) Program to assist consumers with understanding the TWIA claim process. To obtain assistance from the COAST Program, please refer to the COAST Program website at www.tdi.texas.gov/Consumer/COAST; email ConsumerProtection@tdi.texas.gov; call toll-free 1-855-352-6278; or write to COAST Program – MC 111-1A, Texas Department of Insurance, P.O. Box 149104, Austin, TX 78714- 9104.

IMPORTANT NOTICE REGARDING PAYMENT OF INSURANCE DEDUCTIBLES

Texas law requires a person insured under a property insurance policy to pay any deductible applicable to a claim made under the policy. It is a violation of Texas law for a seller of goods or services who reasonably expects to be paid wholly or partly from the proceeds of a property insurance claim to knowingly allow the insured person to fail to pay, or assist the insured person's failure to pay, the applicable insurance deductible.

This notice is for information only and does not become a part or condition of the insurance policy.

**TEXAS WINDSTORM INSURANCE ASSOCIATION
COMMERCIAL POLICY
WINDSTORM AND HAIL**

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Texas Windstorm Insurance Association - Commercial Policy Windstorm and Hail

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy, the words "we", "us", and "our" refer to the Texas Windstorm Insurance Association. "You" and "your" refer to the named insured shown in the Declarations.

AGREEMENT

We will provide the insurance described in this policy in return for the premium and compliance with all applicable provisions of this policy.

Premium Surcharge:

The Texas Insurance Commissioner has the authority to determine that a premium surcharge is necessary to pay public securities issued on behalf of TWIA policyholders and to require you to pay this surcharge. This policy will immediately be subject to any non-refundable premium surcharge determined by the Commissioner and implemented by us.

If a surcharge is implemented, we will notify you in writing and include in the notice the amount you must pay. Payment of the surcharge will then be due 120 days after you receive the notice from us. Failure to pay the surcharge by the deadline will result in cancellation of the policy.

DEFINITIONS

In this policy:

"Actual cash value" means the reasonable and necessary amount that you are likely to incur to repair or replace the damaged part of covered property, at the time of loss or damage, with material of like kind and quality and for the same use, subject to a deduction for deterioration and depreciation. "Actual cash value" applies to valuation of damage regardless of whether the property has sustained partial loss or total loss. The "actual cash value" of lost or damaged property may be significantly less than its replacement cost. We will not pay to repair or replace undamaged property due to mismatch of color, discontinued, outdated or obsolete material.

"Cost to repair or replace" means the reasonable and necessary amount that you are likely to incur to repair or replace the damaged part of covered property, at the time of loss or damage, with material of like kind and quality and for the same use, without a deduction for deterioration and depreciation. We will not pay to repair or replace undamaged property due to mismatch of color, discontinued, outdated or obsolete material.

COVERAGES

COVERED PROPERTY

Covered property, as used in this policy, means the following types of property for which a limit of liability is shown in the Declarations.

COVERAGE A (Building)

We cover:

1. Building or structure, meaning everything which is legally part of the building or structure described in the Declarations, unless listed in the PROPERTY NOT COVERED section of the policy. However, we do not cover machinery which is not used solely in the service of the building.
2. Personal property owned by you that is used for the service of and located on the described location, including:
 - a. Fire extinguishing equipment;
 - b. Maintenance equipment and supplies;
 - c. Floor coverings;
 - d. Window shades;
 - e. Furnishings of corridors and stairs; and
 - f. Appliances used for refrigerating, ventilating, cooking, dishwashing or laundry.

However, you are covered for these items as building landlord, but not if you are a tenant or occupant.

3. Materials and supplies located on or next to the described location used to construct, alter or repair the building or other structures on the described location. The total limit of liability for this coverage is 10% of the Coverage A (Building) limit of liability. This is not additional insurance and does not increase the Coverage A (Building) limit of liability.
4. At your option, 10% of the limit of liability applying to your boarding, rooming, fraternity or sorority houses or apartment buildings (containing 8 or less separate apartments) may be extended as excess insurance to:

Texas Windstorm Insurance Association - Commercial Policy Windstorm and Hail

- a. Fences
- b. Drives
- c. Walks
- d. Outdoor Fixtures
- e. Garages, employee's quarters and other outbuildings used in connection with any such building.

This extension does not apply to structures over or partially over water. This is not additional insurance and does not increase the limit of liability.

COVERAGE B (Business Personal Property)

We cover:

Business personal property located in or on the building described in the Declarations, or in the open on the described location, or in a vehicle or railroad car located within 100 feet of the described building, consisting of the following unless otherwise specified in the Declarations:

1. Furniture and fixtures;
2. Machinery and Equipment;
3. Stock, meaning merchandise held in storage or for sale, raw materials, and goods in process or finished, including supplies used in their packing or shipping;
4. All other personal property owned by you;
5. Personal property of others for which you are legally liable, that is:
 - a. Sold but not delivered;
 - b. Held in trust, on consignment, for storage, or;
 - c. Held for repairs.
6. Personal property of your officers, partners or employees, if not otherwise insured. Loss or damage to the covered property will be adjusted and made payable to you.
7. Labor, materials or services furnished or arranged by you on personal property of others;
8. Your use interest as tenant in improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
 - a. Made a part of the building or structure you occupy but do not own; and
 - b. You acquired or made at your expense but cannot legally remove.

9. Your interest as unit owner in improvements and betterments made to a condominium. Improvements and betterments are fixtures, alterations, installations or additions which are part of:

- a. The building and contained within the unfinished interior surfaces of the perimeter walls, floors, and ceilings; and
- b. The exterior surfaces of balconies and terraces.

However, we do not cover property in or on the described location which is defined in the condominium's declarations or by-laws as a common element.

PROPERTY NOT COVERED

1. Unless specifically described in the Declarations, we do not cover:
 - a. Animals;
 - b. Motor or engine propelled vehicles or machines designed for movement on land, including attached machinery or equipment. However, we do cover such vehicles which are not subject to motor vehicle registration, while located in a fully enclosed building, and are:
 - (1) Devices and equipment for assisting the handicapped;
 - (2) Lawn and garden equipment not exceeding 18 horsepower;
 - (3) Golf carts;
 - (4) Vehicles or machines used for recreational purposes while located on the described location;
 - (5) Fork Lifts.
 - c. Aircraft, meaning any device used or designed for flight, except model or hobby aircraft not used or designed to carry people or cargo.
 - d. Watercraft, including outboard motors and furnishings or equipment. However, we do cover watercraft, including outboard motors and furnishings or equipment, while located on land, in a fully enclosed building, on the described location.
 - e. Wharves, docks, piers, boathouses, bulkheads or other structures located over or partially over water and the property in or on it;
 - f. Radio or television towers, antennas and satellite

Texas Windstorm Insurance Association - Commercial Policy Windstorm and Hail

signal receiving equipment, windmills, wind chargers, and outside erected signs;

- g. Metal smokestacks, except when securely fastened to walls of a masonry building;
- h. Greenhouses and cloth awnings;
- i. Metal screen enclosures and their contents;
- j. Manuscripts, bullion, records and books of records (except for their physical value in blank);
- k. Customers' goods in laundries, cleaning, or pressing establishments.

2. We do not cover:

- a. Accounts, currency, deeds, or other evidences of debt, money, or securities.
- b. Wind turbines.
- c. Breakaway walls, or business personal property contained within a breakaway wall enclosure. Breakaway wall means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation systems.
- d. Property that is covered under another coverage form of this or any other policy in which it is more specifically described, except for the excess of the amount due from the other insurance.

EXTENSIONS OF COVERAGE

1. Debris Removal.

We will pay your expenses to remove debris of covered property caused by or resulting from windstorm or hail that occurs during the policy period. However, we will not pay more than the amount of insurance, nor such proportion of such expense as the amount of insurance bears to the total amount of all insurance, whether such insurance includes this clause or not. This does not increase the limit of liability that applies to the damaged property.

2. Preservation of Property.

If it is necessary to move covered property from the described premises to preserve it from loss or damage by windstorm or hail, we will pay for the expense and any direct physical loss or damage to that property:

- a. While it is being moved or while temporarily stored at another location; and
- b. Only if the loss or damage occurs within 30 days after the property is first moved.

This does not increase the limit of liability that applies to the damaged property.

3. Reasonable Repairs.

If property is damaged by windstorm or hail, we will pay the reasonable cost you incur for necessary repairs made solely to protect covered property from future damage. This coverage does not increase the limit of liability that applies to the property being repaired.

COVERED CAUSES OF LOSS

We insure for direct physical loss to the covered property caused by windstorm or hail unless the loss is excluded in the Exclusions.

EXCLUSIONS

The following exclusions apply to loss to covered property:

1. Flood.

We will not pay under any and all circumstances for loss or damage caused by or resulting from flood, surface water, waves, storm surge, tides, tidal water, tidal waves, tsunami, seiche, overflow of streams or other bodies of water, or spray from any of these, all whether driven by wind or not.

2. Governmental Action.

We will not pay for loss or damage caused by or resulting from seizure or destruction of property by order of governmental authority.

3. War.

We will not pay for loss or damage caused by or resulting from:

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

Texas Windstorm Insurance Association - Commercial Policy Windstorm and Hail

c. Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

4. Nuclear Hazard.

We will not pay for loss or damage resulting from nuclear reaction or radiation, or radioactive contamination, however caused.

5. Power Failure.

We will not pay for loss or damage resulting from the failure of power or other utility service supplied to the described premises, if the failure occurs away from the described premises. However, we will pay for loss resulting from physical damage to power, heating or cooling equipment located on the described premises if caused by windstorm or hail.

6. Rain.

We will not pay for loss or damage caused by or resulting from rain, whether driven by wind or not, unless wind or hail first makes an opening in the walls or roof of the described building. Then we will only pay for loss to the interior of the building, or the insured property within, caused immediately by rain entering through such openings.

7. Electricity.

We will not pay for loss or damage to electrical devices or wiring caused by electricity resulting from artificial causes.

8. Ordinance or Law.

We will not pay for loss or damage caused directly or indirectly by the enforcement of any ordinance or law:

- a. Regulating the construction or repair of any property; or
- b. Requiring the demolition of any property, including the cost of removing its debris.

9. Business Income/Extra Expense.

We will not pay for loss resulting from the interruption of business or manufacture.

10. Mold, Fungi, or Other Microorganisms.

We will not pay for loss or damage caused by or resulting from fungi or mold and other microorganisms, except as provided in 10.b.

- a. "Fungi or mold and other microorganisms" when used in the policy or in this exclusion means the presence, growth, proliferation, spread or any activity of fungi or mold and other microorganisms.

This exclusion also applies to the cost:

- (1) To remove fungi or mold and other microorganisms from covered property covered under this Texas Windstorm Insurance Association policy.
 - (2) To tear out and replace any part of the building or other covered property as needed to gain access to the fungi or mold and other microorganisms; and
 - (3) Of testing of air or property to confirm the absence, presence or level of fungi or mold and other microorganisms;
- b. This exclusion applies unless the fungi or mold and other microorganisms are located upon the portion of covered property which must be repaired or replaced because of sudden and accidental direct physical damage resulting from wind or hail which would otherwise be covered under this policy. For purposes of this exclusion, sudden and accidental shall include a loss event that is hidden or concealed for a period of time until it is detectable. A hidden loss must be reported to us no later than 30 days after the date it was detected or should have been detected.

- c. However, the exception to the exclusion described in "b." above does not include:

- (1) the cost to treat, contain, remove or dispose of the fungi or mold and other microorganisms beyond that which is required to repair or replace the covered property physically damaged by water;
- (2) the cost of any testing of air or property to confirm the absence, presence or level of fungi, mold and other microorganisms whether performed prior to, during or after the removal, repair, restoration or replacement;

Texas Windstorm Insurance Association - Commercial Policy Windstorm and Hail

- (3) the cost of any decontamination of the covered property covered under this Texas Windstorm Insurance Association policy;
- (4) any increase in loss under this Texas Windstorm Insurance Association policy related to loss of use, debris removal, additional living expense, or diminution in value resulting from c. (1), (2), and (3).

11. Asbestos.

We will not pay for any loss or damage caused by or resulting from asbestos. We do pay for direct physical loss caused by windstorm or hail to covered property containing asbestos materials; however, we will not pay for the additional cost or expense to test for, monitor, clean up, remove, contain, treat, abate or assess the effects of asbestos or asbestos-containing materials.

DEDUCTIBLE

We will not pay for loss or damage to any item in any one occurrence until the amount of loss or damage exceeds the Deductible amount shown in the Declarations for that item. We will then pay the amount of loss or damage for that item in excess of the Deductible amount, up to the applicable limit of liability.

CONDITIONS

- 1. **Policy Period.** This policy applies only to loss which occurs during the policy period shown in the Declarations.
- 2. **Insurable Interest and Limit of Liability.** Even if more than one person has an insurable interest in the property covered, we will not be liable in any loss:
 - a. for an amount greater than the interest of a person insured under this policy; or
 - b. for more than the applicable limit of liability.
- 3. **Fraudulent Misrepresentation.**

- a. This policy is void as to an insured, if the insured has fraudulently misrepresented in proof of loss or death a fact material to the question of our liability under the policy, and the insured's misrepresentation misled and caused us to waive or lose a valid defense to the policy.
- b. This policy is void as to an insured, if the insured has fraudulently misrepresented in the application for the policy any fact material to the risk, and the insured's misrepresentation contributed to the contingency or event on which the policy became due and payable.

4. Duties After Loss.

a. Your Duties After Loss.

- (1) In case of a loss to covered property caused by windstorm or hail, you must file a claim with us not later than one year after the date on which the damage to property that is the basis of the claim occurs. The commissioner of insurance, on a showing of good cause by a person insured by us, may extend the one-year period to file a claim for a period not to exceed 180 days. You may also submit with your claim any bids, estimates, reports, photographs, invoices, bills, receipts, inventories, comments, documents, records and other information.
- (2) You must provide us with the information we request under Condition 4.b.(1).
- (3) You must protect the property from further damage.
- (4) You must make reasonable, necessary and temporary repairs to protect the property.
- (5) You must keep an accurate record of repair expenses and proof of payment of any applicable Deductible.
- (6) You must provide us access to the damaged property as often as we reasonably require.

b. Our Duties After Loss.

- (1) Not later than the 30th day after the date the

Texas Windstorm Insurance Association - Commercial Policy Windstorm and Hail

claim is filed, we may request in writing information that is necessary to determine whether to accept or reject the claim.

- (2) Not later than the 60th day after the date we receive a claim or the 60th day after the date we receive information requested under Condition 4.b.(1), whichever is later, we shall provide you, in writing, notice of the amount of the loss we will pay, if any, and notice that:
 - (i) we have accepted coverage for the claim in full;
 - (ii) we have accepted coverage for the claim in part and have denied coverage for the claim in part; or
 - (iii) we have denied coverage for the claim in full.
- (3) We must, on request, provide you reasonable access to all information relevant to the determination by us concerning the claim. You may copy the information at your own cost or may request that we provide a copy of all or part of the information to you. We may charge you the actual cost incurred by us in providing a copy of the information requested, excluding any amount for labor involved in making any information or copy of information available to you.

5. Loss Payment.

- a. If we notify you under Condition 4.b.(2) that we will pay your claim, or part of your claim, we must make payment not later than the 10th day after we notify you.
- b. If payment of your claim or part of your claim requires the performance of an act by you, we must make payment not later than the 10th day after the date the act is performed.

6. Loss Settlement. Covered property losses are settled as follows:

- a. We will use any guidelines published by the commissioner of insurance under Insurance Code Sec. 2210.578(f) to evaluate and settle claims involving the extent to which a loss to insured property was incurred as a result of wind, waves, tidal surges, or rising waters not caused by waves or surges.

b. Our liability and payment for covered losses will not exceed the smallest of the following:

- (1) The "actual cash value" of the damaged property;
- (2) The "cost to repair or replace" the damaged property; or
- (3) The specified limit of liability of the policy.

7. Coordination of Coverage. Our liability and payment for covered losses under Condition 6. is subject to the following:

- a. Our liability and payment for your use interest as tenant in improvements and betterments will be reduced by the amount the lessor or others are obligated to pay for repairs or replacement of the tenant improvements and betterments.
- b. If two or more of this policy's coverages apply to the same loss or damage, payment for the loss under one coverage will reduce any amount you are entitled to recover under another coverage.
- c. Pro Rata Distribution. If one limit of liability applies to two or more separate coverage items A. (building) and B. (business personal property), coverage will apply to each item in the same proportion that the value of each such item bears to the total limit for that item of insurance.

8. Mortgage Clause (Without Contribution).

- a. The word "mortgagee" includes trustee.
- b. We will pay for any covered loss of or damage to buildings or structures to the mortgagee shown in the Declarations as interests appear.
- c. The mortgagee has the right to receive loss payment even if the mortgagee has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the mortgagee has the right to receive loss payment if the mortgagee:
 - (1) At our request, pays any premiums due under this policy, if you have failed to do so.

Texas Windstorm Insurance Association - Commercial Policy Windstorm and Hail

- (2) Submits to us any information we requested from you under Condition 4.b.(1) promptly after receiving notice from us of your failure to do so.
- (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgagee.

All of the terms of this policy will then apply directly to the mortgagee. Failure of the mortgagee to comply with d.(1), d.(2) or d.(3) above shall void this policy as to the interest of the mortgagee.

- e. If we pay the mortgagee for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this policy:
 - (1) The mortgagee's rights under the mortgage will be transferred to us to the extent of the amount we pay;
 - (2) The mortgagee's right to recover the full amount of the mortgagee's claim will not be impaired.

At our option, we may pay to the mortgagee the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If this policy is canceled, we will give the mortgagee specifically named in the Declarations written notice of cancellation.

If we cancel the policy, we will give the mortgagee the same number of days' notice of cancellation we give you.

If you cancel the policy, we will give the mortgagee notice of cancellation to be effective on the date stated in the notice. The effective date of cancellation cannot be before the 10th day after we mail notice.

We will not give notice of cancellation to any successor or assignee of the mortgagee named in this policy.

- g. If the property described is a dwelling and is foreclosed upon under the deed of trust, the mortgagee may cancel this policy of insurance and will be entitled to any unearned premiums from this policy.

The mortgagee must credit any unearned premium against any deficiency owed by the borrower and return any unearned premium not so credited to the borrower.

9. Other Insurance.

- a. If property covered by this policy is also covered by other insurance, we will pay only the proportion of a loss caused by windstorm or hail under this policy that the limit of liability applying under this policy bears to the total amount of insurance covering the property.
- b. If glass or an item of personal property is insured specifically under any other policy, then this policy applies as excess insurance over the specific insurance.
- c. If a loss covered by this policy is also covered by other insurance in the name of a condominium association, the insurance provided in this policy will be excess over the amount collectible under the other insurance.

10. Limited Judicial Remedies.

Your access to judicial review of our decisions under this policy is limited by statute.

- a. You may not bring a private lawsuit against us, our agent or representative under Chapters 541 (concerning unfair methods of competition and unfair or deceptive acts or practices) or 542 (concerning processing and settlement of claims), Texas Insurance Code. Subchapter L-1, Chapter 2210, Texas Insurance Code provides the exclusive remedies for claims against us, our agent or our representative.
- b. You may not bring a class action suit against us.
- c. We and our agents or representatives may not be held liable for damages under Chapter 17, Texas Business and Commerce Code (concerning deceptive trade practices), or under any provisions of any law providing for additional damages, punitive damages, or a penalty, except as otherwise specified by the Texas Windstorm Insurance Association Act, Chapter 2210, Texas Insurance Code.

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- d. You may not bring a lawsuit against us with reference to a claim for which we have accepted coverage in full, except as provided by Condition 11.
 - e. You may not bring a lawsuit against us with reference to the amount of loss we will pay for a claim in full or in part, except as provided by Condition 11.
 - f. You may not bring a lawsuit against us with reference to a claim for which we have denied coverage in full or in part, except as provided by Condition 12.
11. Disputes About the Amount of Your Covered Loss.
- a. If you disagree with the amount paid on your claim for your covered loss:
 - (1) You may request supplemental (additional) payments on covered or accepted items. Your deadline to ask for a supplemental (additional) payment is the same as your deadline for appraisal.
 - (2) If we are unable to agree on a supplemental (additional) payment, you may demand appraisal.
 - (3) Appraisal is your exclusive remedy or only way to resolve a disagreement about the amount we will pay for your covered damages.
 - b. If you choose to demand appraisal, you must do so no later than the 60th day after the date you receive notice from us that we accept coverage for a claim in full or in part as provided by Condition 4.b.(2).
 - c. You may request in writing that the 60-day period to demand appraisal be extended:
 - (1) not later than the 75th day after the date you receive written notice from us that we accept coverage for a claim in full or in part; and
 - (2) we may grant an additional 30-day period in which you may demand appraisal, on a showing of good cause.
 - d. You may request from us a detailed summary of the manner in which we determined the amount of the loss we will pay.
 - e. If you do not demand appraisal before the 61st day after we notify you that we accept coverage for a claim in full or in part, or before the 31st day after we grant an extension for good cause, you waive your right to contest our determination of the amount of loss we will pay for that claim.
 - f. Appraisal Process.
 - (1) If you demand appraisal of the amount we will pay for a claim, you and we will each select a competent and independent appraiser. You shall notify us of your appraiser's identity. We shall notify you of our appraiser's identity within 10 days after we receive notice of your appraiser's identity. The two appraisers will choose a competent and independent umpire. If they cannot agree upon an umpire within 15 days, the commissioner of insurance shall select an umpire from a roster of qualified umpires maintained by the Texas Department of Insurance.
 - (2) The two appraisers will then determine the amount of loss, stating separately for the portion of the claim for which we have accepted coverage in full or in part:
 - (i) The "actual cash value" of the damaged property; and
 - (ii) The "cost to repair or replace" the damaged property.
 - (3) If you or we request that they do so, the appraisers will also determine the amount of loss for any extensions of coverage for which we have accepted coverage in full or in part.
 - (4) If the appraisers fail to agree, they will submit their differences to the umpire. An itemized decision agreed to by any two of these three and filed with us will determine the amount of the loss.
 - (5) You and we are responsible in equal shares for paying the costs incurred or charged in connection with the appraisal, including expenses of the appraisers and umpire. If we pay more than our share of the costs of appraisal, our liability and payment for covered losses shall be reduced by the amount we pay in excess of our share.

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- g. The appraisal decision is binding upon you and us and is not otherwise reviewable or appealable, unless:
- (1) the appraisal decision was obtained by corruption, fraud, or other undue means;
 - (2) your or our rights were prejudiced by:
 - (i) evident partiality by an appraisal umpire;
 - (ii) corruption by an appraiser or umpire; or
 - (iii) misconduct or willful misbehavior of an appraiser or umpire; or
 - (3) an appraiser or umpire:
 - (i) exceeded the appraiser's or umpire's powers;
 - (ii) refused to postpone the appraisal after a showing of sufficient cause for the postponement;
 - (iii) refused to consider evidence material to the claim; or
 - (iv) conducted the appraisal in a manner that substantially prejudiced your or our rights.
- h. If you or we believe the appraisal decision is appealable as a result of any reason listed in Condition 11.g., you or we may file a lawsuit to vacate the appraisal decision in a district court in the county in which the loss that is the subject of the appraisal occurred. A lawsuit under this paragraph must be filed not later than two years after the date of an appraisal decision. If the court vacates the appraisal decision, you and we must begin the appraisal process again.
12. Disputes Concerning Denied Coverage - Exclusive Remedy.
- a. If you dispute our decision to deny coverage for a claim in full or in part, prior to bringing a lawsuit against us, you must provide notice to us of your intent to bring a lawsuit. You may use a form supplied by us.
- b. If you do not provide notice of intent to bring a lawsuit against us within two years after the date you receive notice from us that we denied a claim in full or in part as provided by Condition 4.b.(2), you waive your right to contest our partial or full denial of coverage and you are barred from bringing a lawsuit against us concerning the denial of that claim.
- c. As a prerequisite for filing a lawsuit against us, we may require you to submit the dispute to alternative dispute resolution by mediation or moderated settlement conference, as provided by Chapter 154, Texas Civil Practice and Remedies Code. If we require an alternative dispute resolution:
- (1) we must request the alternative dispute resolution in writing not later than the 60th day after the date we receive your notice of intent to bring a lawsuit against us; and
 - (2) except as provided by Condition 12.c.(3), the alternative dispute resolution must be completed not later than the 60th day after the date we request the alternative dispute resolution in writing.
 - (3) The 60-day period for completion of the alternative dispute resolution can be extended by:
 - (i) your and our mutual consent; or
 - (ii) rule adopted by the commissioner of insurance.
- d. Mediation.
- (1) If we request alternative dispute resolution by mediation and you and we are unable to agree on a mediator, the commissioner of insurance shall select a mediator from a roster of qualified mediators maintained by the Texas Department of Insurance.
 - (2) If we request alternative dispute resolution by mediation, you and we will be equally responsible for the expenses of mediation.

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e. Lawsuit Against Us.

- (1) You may bring a lawsuit against us concerning the denial of a claim only if you have notified us of your intent to bring a lawsuit as required by Condition 12.a.
- (2) As provided by Condition 12.c., we have 60 days from the receipt of your notice of intent to bring a lawsuit against us to request that you submit your dispute with us to alternative dispute resolution. You may not bring a lawsuit against us prior to the expiration of that 60-day period, unless we waive our right to request alternative dispute resolution of that claim dispute in writing.
- (3) If we request alternative dispute resolution as provided by 12.c., you may bring a lawsuit against us if:
 - (i) the alternative dispute resolution was not completed within 60 days from the date we made the request, and no extension was granted under Condition 12.c.(3);
 - (ii) the alternative dispute resolution was not completed prior to the expiration of an authorized extension of the 60-day period, as provided by Condition 12.c.; or
 - (iii) you are not satisfied after completion of the alternative dispute resolution.
- (4) You must bring any lawsuit against us concerning the denial of a claim not later than two years after the date on which you receive written notification from us that we have denied a claim in full or in part as provided by Condition 4.b.(2).
- (5) You must bring any lawsuit against us concerning the denial of a claim in a district court in the county in which the loss that is the subject of the coverage denial occurred.
- (6) If you bring a lawsuit against us concerning the denial of a claim prior to providing notice as required under Condition 12.a., the court shall abate the lawsuit until you provide the notice to us and, if requested by us, the dispute has been submitted to alternative dispute resolution.
- (7) Limitation on Scope of Lawsuit. You may only bring a lawsuit against us concerning the denial of a claim to determine:
 - (i) whether our denial of coverage was proper; and
 - (ii) the amount of damage to which you are entitled to recover, if any.
- (8) Limitation on Damages Concerning Denied Coverage.
 - (i) You may recover only:
 - (A) the covered loss payable under the terms of this policy, less any amount already paid by us for any portion of a covered loss;
 - (B) prejudgment interest, at the rate provided in Subchapter B, Chapter 304, Texas Finance Code, from the first day after the date specified by Condition 5., by which we were or would have been required to pay an accepted claim in full or in part; and
 - (C) court costs and reasonable and necessary attorney's fees.
 - (ii) Nothing in the Texas Windstorm Insurance Association Act, Chapter 2210, Texas Insurance Code, including the limitation on damages described by Condition 12.e.(8)(i), may be construed to limit the consequential damages, or amount of consequential damages, that you may recover under common law in a lawsuit against us.
 - (iii) You may recover damages in an amount not to exceed two times the damages associated with a covered loss payable under the terms of the policy and any consequential damages recoverable under common law, if you show by clear and convincing evidence that we mishandled your claim to your detriment by intentionally:

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- (A) failing to meet the deadlines or timelines established in the Texas Windstorm Insurance Association Act under Subchapter L-1, Chapter 2210, Texas Insurance Code, without good cause, including the applicable deadline established for payment of an accepted claim or the accepted portion of a claim;
- (B) disregarding applicable guidelines published by the commissioner of insurance under Section 2210.578(f), Texas Insurance Code;
- (C) failing to provide written notice that we have accepted or rejected a claim as provided for under Condition 4.b.(2);
- (D) rejecting a claim without conducting a reasonable investigation with respect to the claim; or
- (E) denying coverage for a claim in full or in part, if our liability has become reasonably clear as a result of our investigation with respect to the portion of the claim that was denied.

For purposes of Condition 12.e.(8)(iii), "intentionally" means actual awareness of the facts surrounding the act or practice listed under Condition 12.e.(8)(iii), coupled with the specific intent that you suffer harm or damages as a result of the act or practice. Specific intent may be inferred from objective manifestations that we acted intentionally or from facts that show that we acted with flagrant disregard of the duty to avoid the acts or practices listed under Condition 12.e.(8)(iii).

- 13. Commissioner Extension of Deadlines. The commissioner of insurance, on a showing of good cause, may by rule extend any deadline established under policy Condition 4, 5, 6, 11 and 12, including endorsements, and set the number of days by which the deadline is extended.

- 14. Appeals Other Than Claims Disputes. A person insured under this policy, or their representative, who is aggrieved by an act, ruling or decision by us, may appeal to the commissioner of insurance not later than the 30th day after the date of that act, ruling or decision. This policy condition does not apply to a person who is required to resolve a dispute under Conditions 11 or 12 or a binding arbitration endorsement to this policy.
- 15. Subrogation (Transfer of Rights of Recovery Against Others to Us). If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing, prior to a loss to your covered property.
- 16. Abandonment of Property. There can be no abandonment of property to us.
- 17. Liberalization. If the commissioner of insurance adopts a revision which would broaden or extend the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened or extended coverage will immediately apply to this policy.
- 18. Waiver or Change of Policy Provisions. This policy contains all the agreements between you and us concerning the insurance afforded. You are authorized to make changes in the terms of this policy with our consent; however, this policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy. Your agent is not our authorized representative.
- 19. Cancellation.
 - a. You may cancel this policy at any time by notifying us in writing of the date cancellation is to take effect. We will send you any refund due when the policy is returned to us. The refund will be pro rata, subject to a policy minimum retained premium in an amount equal to 90 days or \$100 whichever is applicable. Payment of the minimum retained premium shall not create or extend coverage beyond the cancellation date that you requested. The minimum retained premium is fully earned on the effective date of the policy and you shall owe to us any unpaid balance of the minimum retained premium.

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b. We may cancel this policy by mailing or delivering to you notice in writing of the date cancellation takes effect. The effective date of cancellation cannot be before the 14th day after we mail or deliver the notice. Our notice of cancellation will state the reason for cancellation and will state that if the refund is not included with the notice, it will be returned on demand. The refund will be pro rata.

20. **Assignment.** Assignment of your rights and duties under the policy will not be valid unless we give our written consent.

21. **Death.** If you die, we insure:

a. Your spouse, if a resident of the same household at the time of death; or

b. The legal representative of the decedent's estate only with respect to the described location.

Coverage will be provided until the end of the policy period in which you die.

Victor Insurance Managers Inc.
Windstorm & Hail Proposal
(applicable to TWIA Policy only)

PROPOSAL ACCEPTANCE FORM

Please sign and return this form to Victor Insurance Managers Inc. no later than **December 23, 2021**

Please Return To:

Victor Insurance Managers Inc.
3100 Wilcrest Drive, Ste 200, Houston, TX 77042
jessica.mendez@victorinsurance.com

PREMIUM PAYMENT

Your coverage will become effective on the date shown on the TWIA Commercial Renewal Offer Summary provided the appropriate documents and full payment have been received by TWIA on or before the effective date of coverage.

You will now have the following options for making payment. **Please indicate your selection below:**

- The City will make payment directly to Texas Windstorm Insurance Association (TWIA) (recommended)
- Payment will be made by TMLIRP on our behalf to TWIA in the amount of the total premium. TMLIRP will coordinate all billing of the TWIA windstorm policies and we will be invoiced separately by TMLIRP.

Windstorm & Hail Coverages Accepted

Deductible	Total Limit	Premium
2%	\$10,676,644	\$84,211.00

By accepting this proposal, you acknowledge and understand a minimum policy premiums may apply, you have met all eligibility requirements regarding flood coverage at certain locations and you have reviewed the windstorm location's schedule and are in agreement with the locations and limits used in this proposal.

I, the undersigned, as an authorized representative of:

City of Freeport

do hereby accept on behalf of the above named political subdivision the portions of the proposal as indicated above.

Signature of Authorized

Official: 

Title: Finance Director

Date: 12/6/2021

TMLIRP OFFICE USE ONLY

Contribution: _____ Verified by: _____ Contract #: _____



City Council Agenda Item # 5

Title: Public Hearing: Discuss and take action regarding request for replat of Lots 432 & 433, block 3 of Bar X Ranch, section II situated in the Samuel Carter Survey, Abstract 53 Brazoria County.

Date: January 10, 2022

From: Kacey Roman, Director of Building and Code

Staff Recommendation:

Staff recommends approval of this re-plat.

Item Summary:

The property owner would like to join the two lots together, into one large lot to build on in the future.

Background Information:

Special Considerations:

None.

Financial Impact:

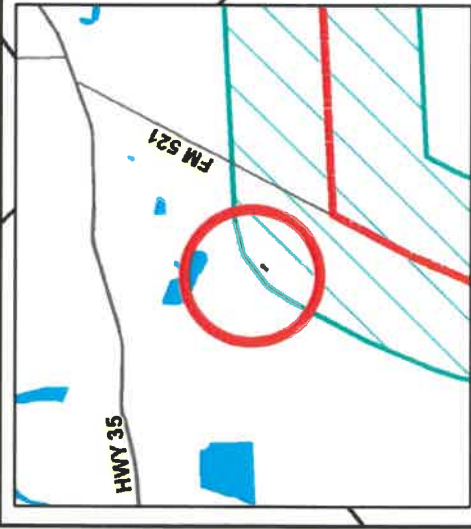
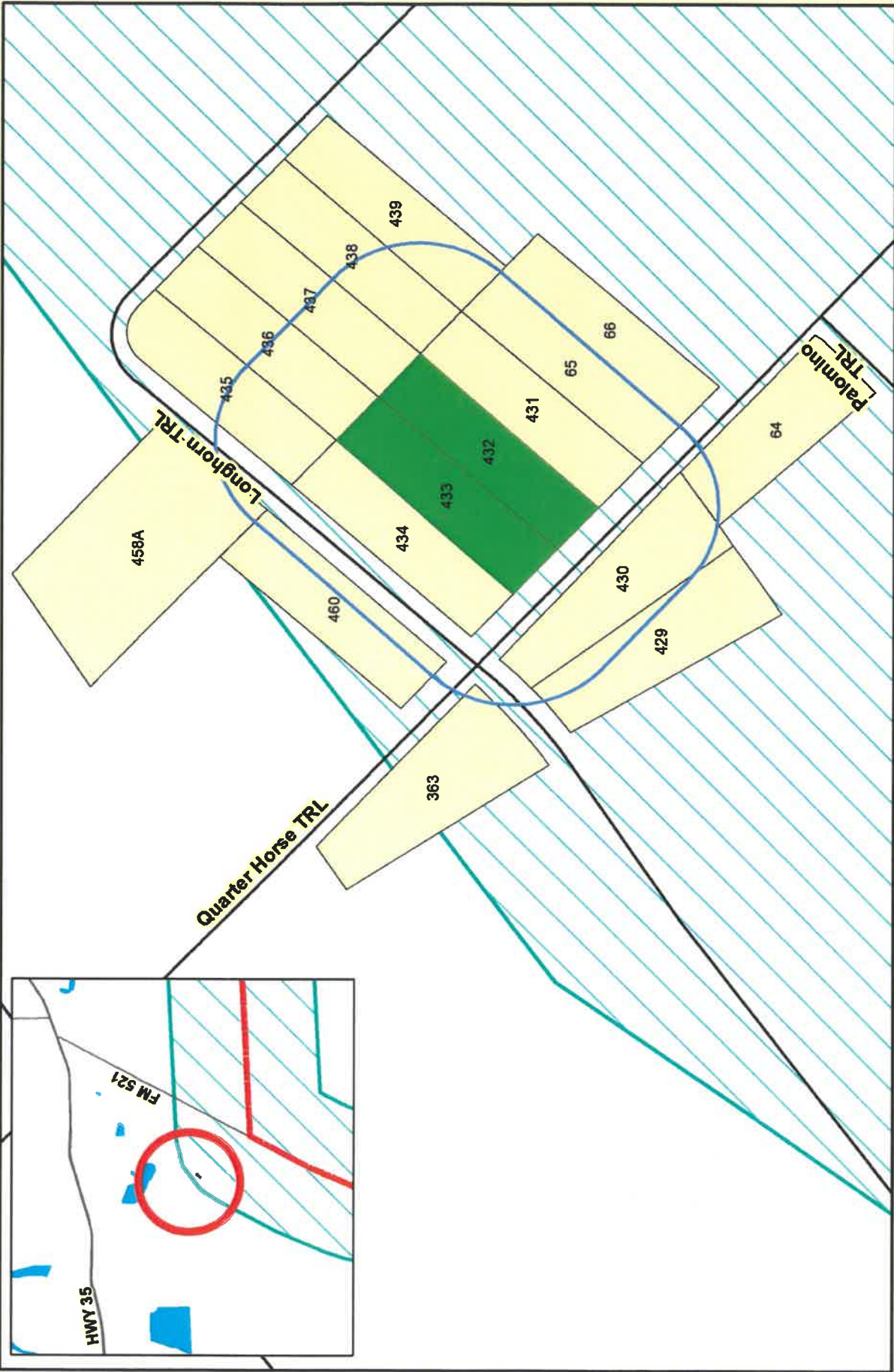
No financial impact.

Board or 3rd Party recommendation:

Planning Commission recommendation is to approve.

Supporting Documentation:


See attached information.



- Legend**
- Buffer
 - 184015 & 184016
 - Buffered Parcels
 - Roads
 - Water
 - City of Freeport ETJ

Replat Property Location Map

Property ID 184015 & 184016


 0 35 70 140 210 280 350 Feet
Author: Laura Tolar
 Document Path: S:\GIS Data\184015_cox replat 200ft w template 010521.mxd

OWNER: JAMIE A. SHERREY COX
 2,00 ACRES
 LOTS 432 & 433, BLOCK 3,
 BAR X RANCH, SECTION II,
 430 QUARTER HORSE TRAIL
 NEAR ARLINGTON, TX 77015

APPROVED THIS 21st DAY OF Dec, 2021 BY THE CITY COUNCIL OF THE CITY OF PEARPORT, BRAZORIA COUNTY, TEXAS.

WARD 7
 WARD 8
 WARD 9

PEARPORT PLANNING COMMISSION

APPROVED THIS 21st DAY OF Dec, 2021 BY THE CITY PLANNING COMMISSION OF THE CITY OF PEARPORT, BRAZORIA COUNTY, TEXAS.

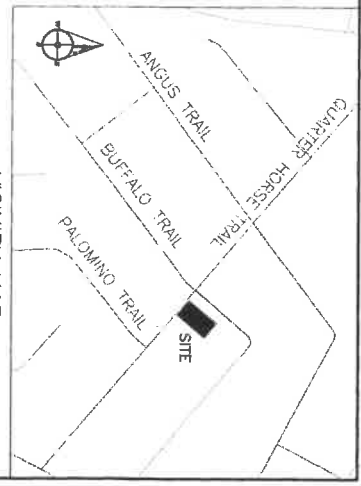
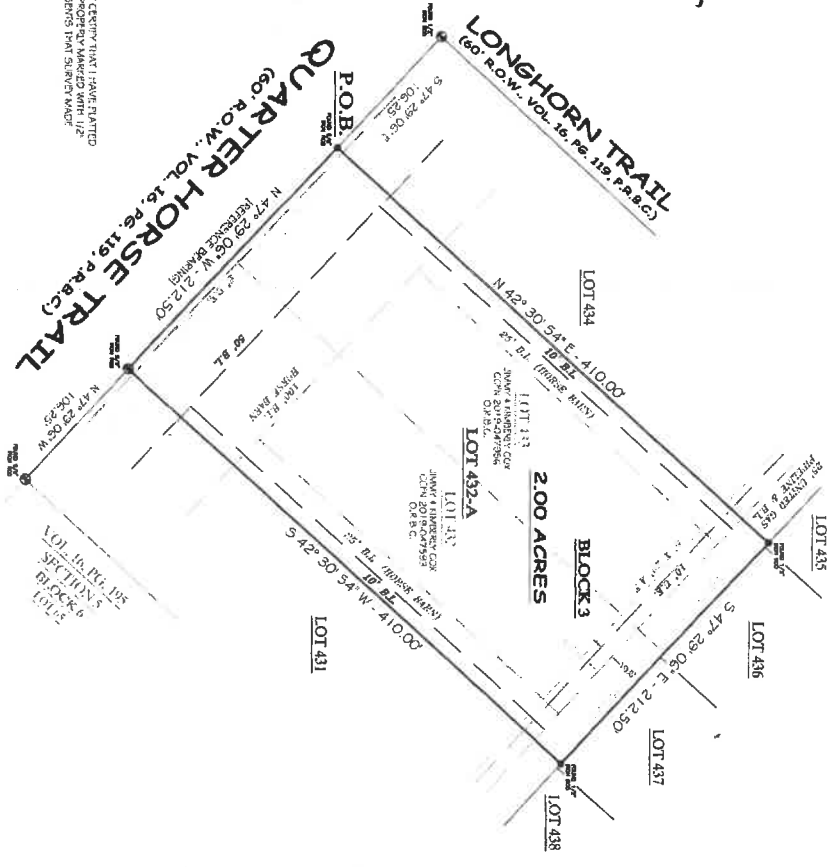
COMMISSION MEMBER: Melanie Coburn
 VICE MEMBER: _____

STATE OF TEXAS
 COUNTY OF BRAZORIA
 GEORGE K. LAINE, A REGISTERED PROFESSIONAL LAND SURVEYOR OF THE STATE OF TEXAS, DO HEREBY CERTIFY THAT I HAVE PLATTED THIS RE-PLAT OF LOTS 432 & 433, BLOCK 3, BAR X RANCH, SECTION II, 430 QUARTER HORSE TRAIL NEAR ARLINGTON, TEXAS, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 125, SUBCHAPTER C, OF THE TEXAS LAND SURVEYING ACT, AND THE PROVISIONS OF THE TEXAS CONSTITUTION, AND I AM NOT PROVIDING ANY INFORMATION THAT WOULD BE IN VIOLATION OF THE TEXAS PROFESSIONAL LAND SURVEYOR LICENSE NO. 8008.



RE-PLAT OF LOTS 432 & 433, BLOCK 3 OF BAR X RANCH, SECTION II

Being a Re-Plat of a 2.00 acre tract of land known as Lots 432 and 433, Block 3 of Bar X Ranch, Section II, situated in the Samuel Carter Survey, Abstract 53, Brazoria County, Texas, recorded in Volume 16, Page 119 of the Plat Records of Brazoria County, Texas.



P.O. BOX 3344, LANE JACOBSON, TX 77566
 Phone (379) 299-3373

OCTOBER 11, 2019



STATE OF TEXAS, COUNTY OF BRAZORIA

WE, JAMIE A. SHERREY COX, OWNER OF LOTS 432 & 433, BLOCK 3 OF BAR X RANCH, SECTION II, IN BRAZORIA COUNTY, TEXAS, BEING RECORDED IN VOLUME 16, PAGE 119 OF THE PLAT RECORDS OF BRAZORIA COUNTY, TEXAS, AND CONVEYED TO JAMIE A. SHERREY COX IN COUNTY CLERK'S RECORD 2015 04 07 936 & 2015 04 07 933 OF THE OFFICIAL RECORDS OF THE COUNTY CLERK'S OFFICE, BRAZORIA COUNTY, TEXAS, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 125, SUBCHAPTER C, OF THE TEXAS LAND SURVEYING ACT, AND THE PROVISIONS OF THE TEXAS CONSTITUTION, AND HEREBY DECLARE TO THE PUBLIC THAT ALL STREETS FOR BAR X RANCH, SECTION II, AND DO HEREBY DECLARE TO THE PUBLIC THAT ALL STREETS FOR THE QUARTER HORSE TRAIL AND LONGHORN TRAIL ARE HEREBY DECLARED TO BE OPEN TO SUCH GRASSES, AND DO HEREBY GIVE MY SELF, MY HEIRS, SUCCESSORS AND ASSIGNS, TO WABSON, AND DEFEND THE TITLE OF THE LAND SO PROVIDED.

JAMIE COX
 SAMBERY COX

STATE OF TEXAS, COUNTY OF BRAZORIA
 BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED JAMIE COX, HEREIN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED THAT SHE IS THE OWNER OF THE FOREGOING INTERESTS AND CONSIDERATION THEREIN EXPRESSED.



GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 21st DAY OF December, 2021.
 MANDY DABERT
 NOTARY PUBLIC, STATE OF TEXAS
 MY COMMISSION EXPIRES 06-12-2025

- NOTES:
- 1) THESE ARE MY PRINTS OR PRINTING DISCREPANCIES WITHIN THE BOUNDARIES OF THIS PLAT AND ARE TO BE IGNORED.
 - 2) ALL GRASSING, EROSIONS AND RIGHT OF WAYS SHALL BE KEPT CLEAR OF THIS PLAT AND ANY VIOLATION OF THIS SHALL BE SUBJECT TO THE DISCRETION OF THE SURVEYOR.
 - 3) THIS PROPERTY IS LOCATED WITHIN MADE, MAE AND IS WITHIN THE 100 YEAR FLOOD PLAIN ACCORDING TO THE FLOOD HAZARD MAP OF BRAZORIA COUNTY, DATED JUNE 5, 1988. NEW CONSTRUCTION SHOULD CONSULT WITH THE LOCAL GOVERNMENT TO OBTAIN A BUILDING PERMIT BEFORE COMMENCING CONSTRUCTION TO ENSURE PROPER FLOOD ELEVATION.
 - 4) ALL CONCRETE ARE 16" NON-REINFORCED WITH A PLASTIC CAP LABELED "WABSON" 9435 600X UNLESS NOTED OTHERWISE.
 - 5) THE INTERSECTIONS BETWEEN THE LOTS AND LOTS INTO ONE LOT.
 - 6) ALL GRASSES ARE SHOWN ON THE SOUTHWEST CORNER OF LOTS 431, 434, 435, 436, 437 AND 438.



City Council Agenda Item # 6

Title: Public Hearing: Discuss and take action regarding request for replat of: RIVER HAVEN VILLAGE Being a 5.000 Acre Tract (217,805.82 SQ FT.) out of a 38.7667 Acre Tract (1,688,681.47 SQ FT) out of a 63 Acre Tract of land in the Eastern part of the middle half of the C. G. H. and the H. H. Allsbury One and One-Half League Grant, Abstract 4, Brazoria County, Texas said 63 Acre Tract being described as second tract in a Deed from J. L. Ducroz and wife, Ella Ducroz, to Charlie Ducroz as recorded in Volume 571, Page 574 of the Deed of Records of Brazoria County, Texas.

Date: January 10, 2022

From: Kacey Roman, Director of Building and Code

Staff Recommendation:

Staff recommends approval of this re-plat.

Item Summary:

The property owner would like to create 5 lots.

Background Information:

The property owners have purchased a large tract of land, and are re-platting to build personal homes on the water front. They plan to keep three lots for personal use to build on, sell a couple of lots, and the rest is wetlands that they will retain ownership of. The owners are aware of flood zones, elevation issues, etc.

Special Considerations:

None.

Financial Impact:

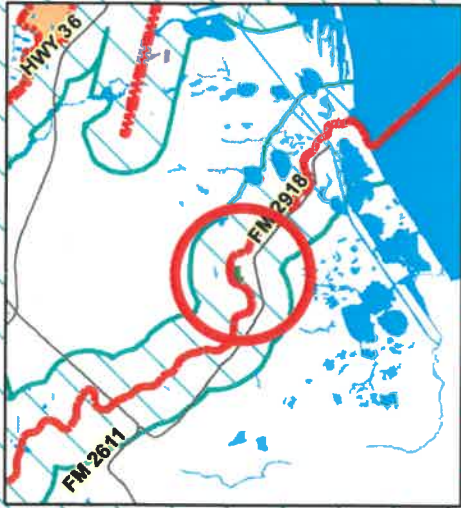
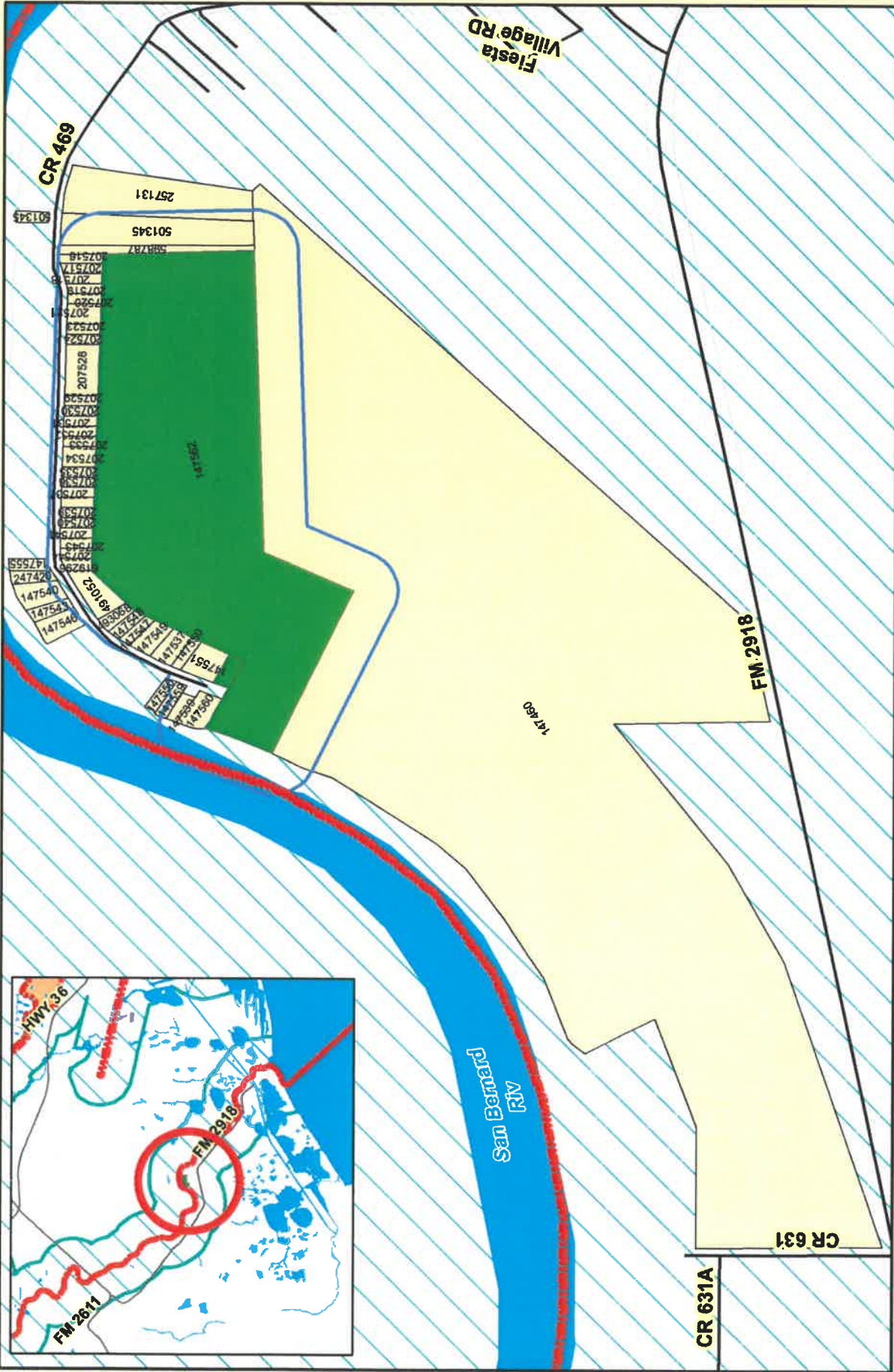
No financial impact.

Board or 3rd Party recommendation:

Planning Commission recommendation is to approve.

Supporting Documentation:

See attached information.



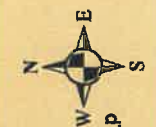
Legend

	Roads
	147562
	20' Buffer
	Buffered Parcels
	Water
	City of Freeport ETJ

Replat Property Location Map

Property ID 147562

Author: Laura Tolar
 Document Path: S:\GIS Data\147562 rm_p replat 200ft w template 120721.mxd





City Council Agenda Item # 7

Title: Discussion regarding adoption of Zoning Ordinance No. 2021-2653, and Subdivision Control Ordinance No. 2021-2654.

Date: January 10, 2022

From: Kacey Roman, Director of Building Code

Staff Recommendation:

Staff recommends Council Consider these ordinances and accept additional feedback from the public in their regard.

Item Summary:

The Zoning and Subdivision Control Ordinances have been fully reviewed with City Attorney Chris Duncan, and revisions have been resolving his legal concerns raised at the last meeting.

Background Information:

These ordinances have been under consideration and development for a year. This is the culmination of a huge collaborative effort including Citizens, City Staff, Kendig Keast and the Planning and Zoning Committee.

Special Considerations: The Ordinances and the proposed map has been posted on the website for the last several months with the posting being updated to reflect each revision made.

Financial Impact: NA

Board or 3rd Party recommendation:

The Planning and Zoning Commission has voted to recommend approval

Supporting Documentation: Ordinances adopting Zoning and Subdivision Control regulations by reference. Codified documents previously distributed.

ORDINANCE NO. 2021-2653

AN ORDINANCE OF THE CITY OF FREEPORT, BRAZORIA COUNTY, TEXAS, CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE CITY OF FREEPORT, TEXAS, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THERETO IN ACCORDANCE WITH THE PROVISIONS OF TEXAS LOCAL GOVERNMENT CODE CHAPTER 211; AND ESTABLISHING DISTRICTS AND SETTING FORTH RULES FOR EVERY DISTRICT; PROVIDING PENALTIES AND A SAVINGS CLAUSE RATIFYING AND CONFIRMING ALL ACTIONS PREVIOUSLY TAKEN BY THE PLANNING AND ZONING 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, Chapter 211.001 et seq of the Texas Local Government Code and Article 8 of the Home Rule Charter of the City of Freeport, Texas, which empowers the City to enact a zoning ordinance and to provide for its administration, enforcement and amendments; and

WHEREAS, the City Council deems it necessary for the purpose of promoting the health, safety, morals and the general welfare of the City to enact such an ordinance; and

WHEREAS, the City Council, pursuant to the provisions of the Texas Local Government Code, has appointed a Zoning Commission to recommend the boundaries of the various districts and appropriate regulations to be enforced therein; and

WHEREAS, the Zoning Commission has divided the city into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements; and

WHEREAS, the Zoning Commission has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality, and

WHEREAS, the City Council has given due public notice of hearings relating to zoning districts, regulations, and restrictions, and held such public hearings, jointly with the Zoning Commission to consider the pre-liminary report of the Commission; and

WHEREAS, all requirements of the Texas Local Government Code with regard to the preparation of the report of the Zoning Commission and subsequent acts of the City Council have been met.

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 of Freeport, Brazoria County, Texas, ("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 Section 211.001, et seq., of the Texas Local Government Code, 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 after considering evidence submitted at such hearings, the City Council of the City is of the opinion and finds that the conditions at the time of the adoption of the previously enacted Comprehensive Zoning Plan have changed and, considering the community as a whole, the

present Comprehensive Zoning Plan of the City should be replaced with a new Comprehensive Zoning Plan as set forth herein.

Fourth, 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 new Comprehensive Zoning Plan as set forth herein.

SECTION TWO—Adoption of New Comprehensive Zoning Ordinance

The prior comprehensive zoning ordinance of the City of Freeport is hereby rescinded replaced with the following New Comprehensive Zoning Ordinance, to-wit:

Chapters 155 and 157 contained in Exhibit A, attached and incorporated herein for all purposes.

SECTION THREE—Adoption of Official Zoning Map.

The official zoning map of the City of Freeport is hereby adopted as set forth in Exhibit B attached and incorporated herein for all purposes.

SECTION FOUR--Ratification and Confirmation.

The City Council of the City hereby ratifies and confirms any and all action taken by the Planning and Zoning Commission thereof or the City Council, or both, in connection with the adoption of the new Comprehensive Zoning Ordinance and Official Zoning Map evidenced by this ordinance, including but not limited to the calling of a public hearing required by said Zoning Enabling Act, 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 Ordinance.

SECTION FIVE--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 SIX--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 January, 2022.

Brooks Bass, Mayor

ATTEST:

Betty Wells, City Secretary

APPROVED AS TO FORM ONLY:

Christopher Duncan, City Attorney

ORDINANCE NO. 2021-2654

AN ORDINANCE OF THE CITY OF FREEPORT, BRAZORIA COUNTY, TEXAS, CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; ESTABLISHING COMPREHENSIVE SUBDIVISION AND PROPERTY DEVELOPMENT REGULATIONS FOR THE CITY OF FREEPORT, TEXAS, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THERETO IN ACCORDANCE WITH THE PROVISIONS OF TEXAS LOCAL GOVERNMENT CODE CHAPTER 212; AND ESTABLISHING DISTRICTS AND SETTING FORTH RULES FOR EVERY DISTRICT; PROVIDING PENALTIES AND A SAVINGS CLAUSE RATIFYING AND CONFIRMING ALL ACTIONS PREVIOUSLY TAKEN BY THE PLANNING AND ZONING 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, Chapter 212.001 et seq of the Texas Local Government Code and Article 8 of the Home Rule Charter of the City of Freeport, Texas, which empowers the City to enact an ordinance and to provide for its administration, enforcement and amendments; and

WHEREAS, the City Council deems it necessary for the purpose of promoting the health, safety, morals and the general welfare of the City to enact such an ordinance; and

WHEREAS, the City Council, pursuant to the provisions of the Texas Local Government Code, has appointed a Planning and Zoning Commission to recommend the appropriate regulations to be enforced therein; and

WHEREAS, the Planning and Zoning Commission has prepared regulations pertaining to such subdivision and development designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements; and

WHEREAS, the City has given due public notice of hearings relating to subdivision and planning regulations, and restrictions, and held such public hearings to consider the pre-liminary report of the Commission; and

WHEREAS, all requirements of the Texas Local Government Code with regard to the preparation of the report of the Planning and Zoning Commission and subsequent acts of the City Council have been met.

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 of Freeport, Brazoria County, Texas, ("the City") makes the following findings of fact and conclusions of law, viz:

First, that the public hearings required by Section 212.001, et seq., of the Texas Local Government Code, 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 after considering evidence submitted at such hearings, the City Council of the City is of the opinion and finds that the conditions at the time of the adoption of the previously enacted subdivision and development regulations have changed and, considering the community as a whole, the present regulations of the City should be replaced with a new regulation as set forth herein.

Fourth, that the health, safety, morals and general welfare of the inhabitants of the City will best be served by the adoption of this ordinance as set forth herein.

SECTION TWO—Adoption of Subdivision and Development Control Ordinance

The prior subdivision and development control ordinance of the City of Freeport is hereby rescinded replaced with the following Subdivision and Development Control Ordinance, to-wit:

Chapter 154 contained in Exhibit A, attached and incorporated herein for all purposes.

SECTION THREE -- Ratification and Confirmation.

The City Council of the City hereby ratifies and confirms any and all action taken by the Planning and Zoning Commission thereof or the City Council, or both, in connection with the adoption of the new subdivision and development control Ordinance evidenced by this ordinance, including but not limited to the calling of a public hearing required by said the Texas Local Government Code, the giving of public notice of such hearings, 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 Ordinance.

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 January, 2022.

ATTEST:

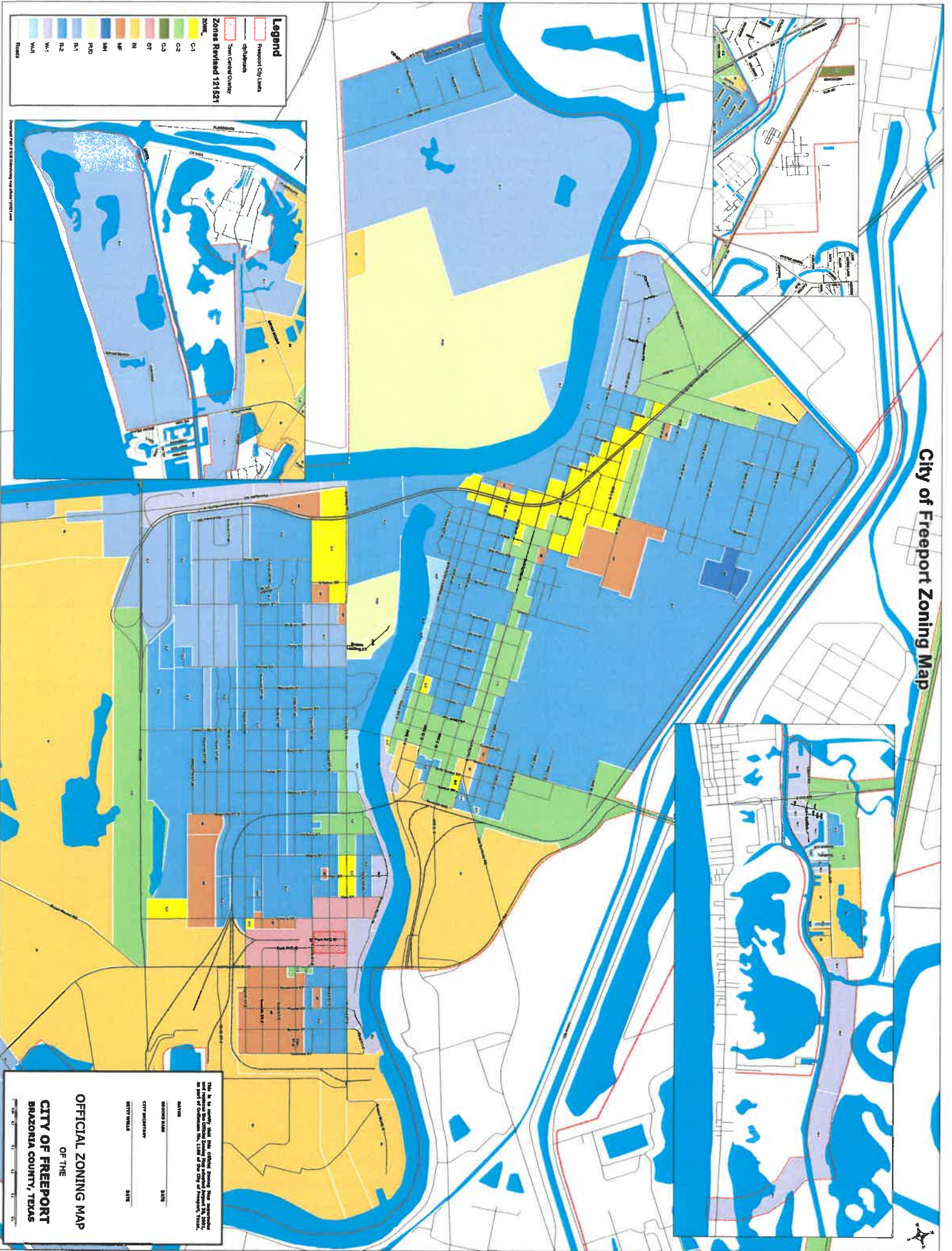
Brooks Bass, Mayor

Betty Wells, City Secretary

APPROVED AS TO FORM ONLY:

Christopher Duncan, City Attorney

City of Freeport Zoning Map



Legend

- Freeport City Limits
- Other Jurisdictions
- Town Center Overlay Zone
- Zone Revised 12/13/21

C-1	C-2	C-3	OT	N	MP	AM	R-1	R-2	W-1	W-2
Community Center	Community Center	Community Center	Office	Neighborhood	Medium Density Residential	Arts and Entertainment	Single-Family Residential	Single-Family Residential	Neighborhood	Neighborhood



OFFICIAL ZONING MAP
OF THE
CITY OF FREEPORT
BRAZORIA COUNTY, TEXAS

MAP NO. 10,000
APPROVED BY THE CITY COUNCIL ON 11/11/21
DATE OF ADOPTION: 11/11/21

SCALE: 1" = 1/4 MILE





City Council Agenda Item # 8

Title: Consideration and possible action of the adoption and approval of Zoning Ordinance No. 2021-2653, and Subdivision Control Ordinance No. 2021-2654, and the signing of the Official Zoning Map by the Mayor and City Secretary.

Date: January 10, 2022

From: Kacey Roman, Director of Building Code

Staff Recommendation:

Staff recommends the approval of these ordinances and the zoning map.

Item Summary:

The Zoning and Subdivision Control Ordinances have been reviewed with City Attorney Chris Duncan, and revisions have been completed, resolving his legal concerns raised at the last meeting.

Background Information:

These ordinances have been under consideration and development for a year. This is the culmination of a huge collaborative effort including Citizens, City Staff, Kendig Keast and the Planning and Zoning Committee.

Special Considerations: The Ordinances and the proposed map has been posted on the website, and has been made available at the City Library for the last several months with the posting being updated to reflect each revision made.

Financial Impact: NA

Board or 3rd Party recommendation:

The Planning and Zoning Commission has voted to recommend approval

Supporting Documentation:

Ordinances, and Map.

ORDINANCE NO. 2021-2653

AN ORDINANCE OF THE CITY OF FREEPORT, BRAZORIA COUNTY, TEXAS, CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE CITY OF FREEPORT, TEXAS, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THERETO IN ACCORDANCE WITH THE PROVISIONS OF TEXAS LOCAL GOVERNMENT CODE CHAPTER 211; AND ESTABLISHING DISTRICTS AND SETTING FORTH RULES FOR EVERY DISTRICT; PROVIDING PENALTIES AND A SAVINGS CLAUSE RATIFYING AND CONFIRMING ALL ACTIONS PREVIOUSLY TAKEN BY THE PLANNING AND ZONING 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, Chapter 211.001 et seq of the Texas Local Government Code and Article 8 of the Home Rule Charter of the City of Freeport, Texas, which empowers the City to enact a zoning ordinance and to provide for its administration, enforcement and amendments; and

WHEREAS, the City Council deems it necessary for the purpose of promoting the health, safety, morals and the general welfare of the City to enact such an ordinance; and

WHEREAS, the City Council, pursuant to the provisions of the Texas Local Government Code, has appointed a Zoning Commission to recommend the boundaries of the various districts and appropriate regulations to be enforced therein; and

WHEREAS, the Zoning Commission has divided the city into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements; and

WHEREAS, the Zoning Commission has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality, and

WHEREAS, the City Council has given due public notice of hearings relating to zoning districts, regulations, and restrictions, and held such public hearings, jointly with the Zoning Commission to consider the pre-liminary report of the Commission; and

WHEREAS, all requirements of the Texas Local Government Code with regard to the preparation of the report of the Zoning Commission and subsequent acts of the City Council have been met.

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 of Freeport, Brazoria County, Texas, ("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 Section 211.001, et seq., of the Texas Local Government Code, 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 after considering evidence submitted at such hearings, the City Council of the City is of the opinion and finds that the conditions at the time of the adoption of the previously enacted Comprehensive Zoning Plan have changed and, considering the community as a whole, the

present Comprehensive Zoning Plan of the City should be replaced with a new Comprehensive Zoning Plan as set forth herein.

Fourth, 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 new Comprehensive Zoning Plan as set forth herein.

SECTION TWO—Adoption of New Comprehensive Zoning Ordinance

The prior comprehensive zoning ordinance of the City of Freeport is hereby rescinded replaced with the following New Comprehensive Zoning Ordinance, to-wit:

Chapters 155 and 157 contained in Exhibit A, attached and incorporated herein for all purposes.

SECTION THREE—Adoption of Official Zoning Map.

The official zoning map of the City of Freeport is hereby adopted as set forth in Exhibit B attached and incorporated herein for all purposes.

SECTION FOUR--Ratification and Confirmation.

The City Council of the City hereby ratifies and confirms any and all action taken by the Planning and Zoning Commission thereof or the City Council, or both, in connection with the adoption of the new Comprehensive Zoning Ordinance and Official Zoning Map evidenced by this ordinance, including but not limited to the calling of a public hearing required by said Zoning Enabling Act, 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 Ordinance.

SECTION FIVE--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 SIX--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 January, 2022.

Brooks Bass, Mayor

ATTEST:

Betty Wells, City Secretary

APPROVED AS TO FORM ONLY:

Christopher Duncan, City Attorney

ORDINANCE NO. 2021-2654

AN ORDINANCE OF THE CITY OF FREEPORT, BRAZORIA COUNTY, TEXAS, CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; ESTABLISHING COMPREHENSIVE SUBDIVISION AND PROPERTY DEVELOPMENT REGULATIONS FOR THE CITY OF FREEPORT, TEXAS, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THERETO IN ACCORDANCE WITH THE PROVISIONS OF TEXAS LOCAL GOVERNMENT CODE CHAPTER 212; AND ESTABLISHING DISTRICTS AND SETTING FORTH RULES FOR EVERY DISTRICT; PROVIDING PENALTIES AND A SAVINGS CLAUSE RATIFYING AND CONFIRMING ALL ACTIONS PREVIOUSLY TAKEN BY THE PLANNING AND ZONING 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, Chapter 212.001 et seq of the Texas Local Government Code and Article 8 of the Home Rule Charter of the City of Freeport, Texas, which empowers the City to enact an ordinance and to provide for its administration, enforcement and amendments; and

WHEREAS, the City Council deems it necessary for the purpose of promoting the health, safety, morals and the general welfare of the City to enact such an ordinance; and

WHEREAS, the City Council, pursuant to the provisions of the Texas Local Government Code, has appointed a Planning and Zoning Commission to recommend the appropriate regulations to be enforced therein; and

WHEREAS, the Planning and Zoning Commission has prepared regulations pertaining to such subdivision and development designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements; and

WHEREAS, the City has given due public notice of hearings relating to subdivision and planning regulations, and restrictions, and held such public hearings to consider the pre-liminary report of the Commission; and

WHEREAS, all requirements of the Texas Local Government Code with regard to the preparation of the report of the Planning and Zoning Commission and subsequent acts of the City Council have been met.

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 of Freeport, Brazoria County, Texas, ("the City") makes the following findings of fact and conclusions of law, viz:

First, that the public hearings required by Section 212.001, et seq., of the Texas Local Government Code, 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 after considering evidence submitted at such hearings, the City Council of the City is of the opinion and finds that the conditions at the time of the adoption of the previously enacted subdivision and development regulations have changed and, considering the community as a whole, the present regulations of the City should be replaced with a new regulation as set forth herein.

Fourth, that the health, safety, morals and general welfare of the inhabitants of the City will best be served by the adoption of this ordinance as set forth herein.

SECTION TWO—Adoption of Subdivision and Development Control Ordinance

The prior subdivision and development control ordinance of the City of Freeport is hereby rescinded replaced with the following Subdivision and Development Control Ordinance, to-wit:

Chapter 154 contained in Exhibit A, attached and incorporated herein for all purposes.

SECTION THREE -- Ratification and Confirmation.

The City Council of the City hereby ratifies and confirms any and all action taken by the Planning and Zoning Commission thereof or the City Council, or both, in connection with the adoption of the new subdivision and development control Ordinance evidenced by this ordinance, including but not limited to the calling of a public hearing required by said the Texas Local Government Code, the giving of public notice of such hearings, 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 Ordinance.

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 January, 2022.

Brooks Bass, Mayor

ATTEST:

Betty Wells, City Secretary

APPROVED AS TO FORM ONLY:

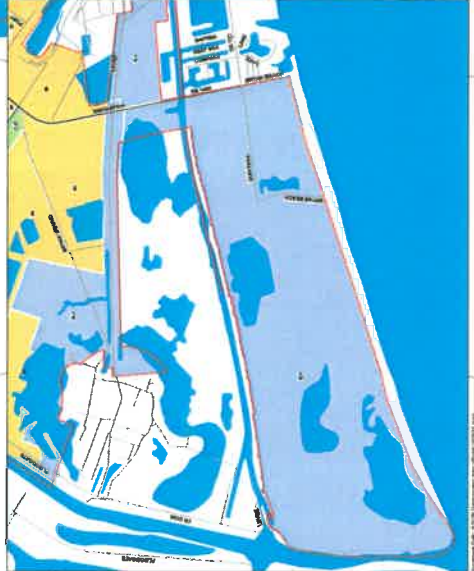
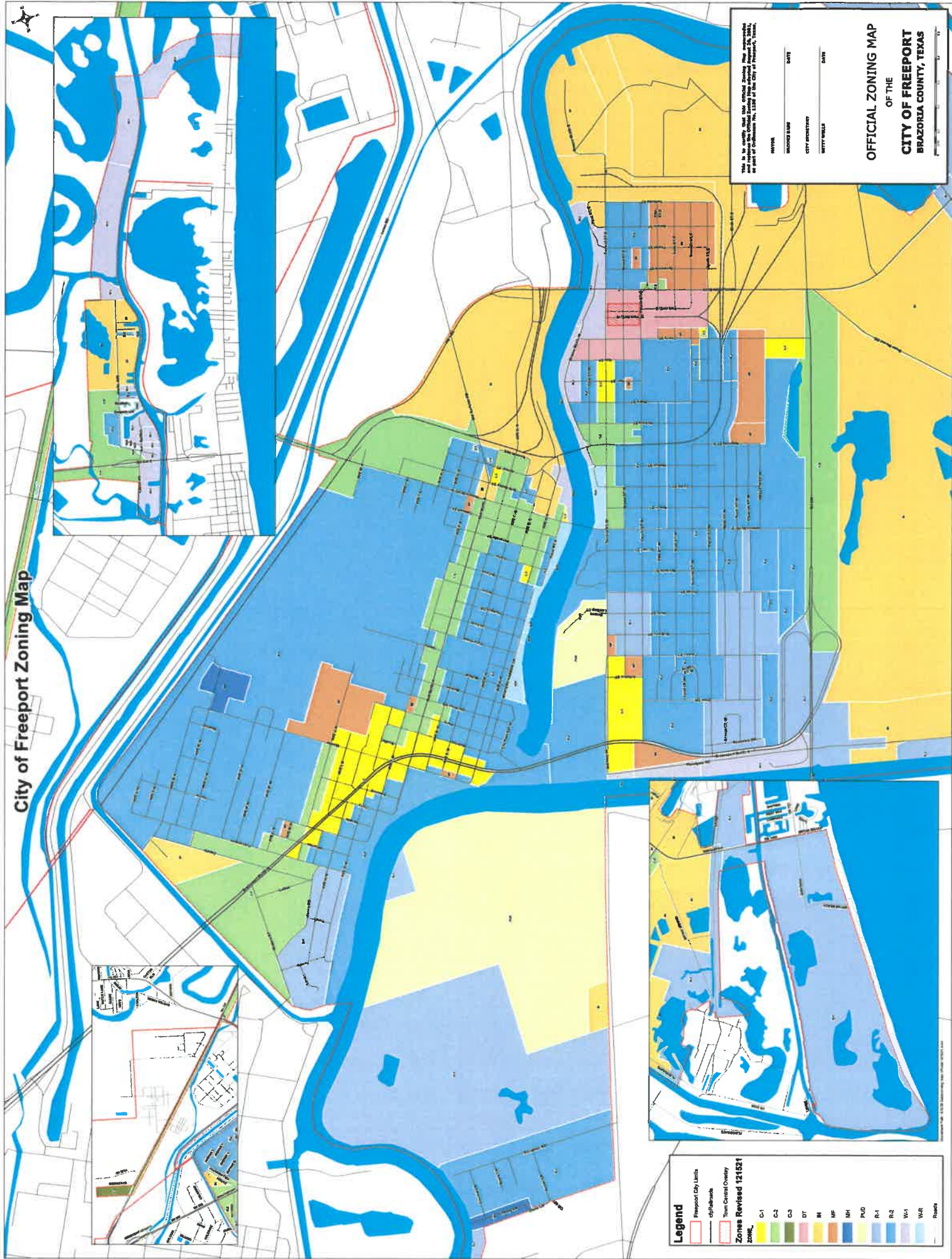
Christopher Duncan, City Attorney

City of Freeport Zoning Map

This is to certify that this Official Zoning Map represents the zoning ordinance of the City of Freeport, Texas, as part of Ordinance No. 121921 of the City of Freeport, Texas.

MAYOR _____ DATE _____
 CITY MANAGER _____ DATE _____
 CITY CLERK _____ DATE _____

OFFICIAL ZONING MAP
OF THE
CITY OF FREEPORT
BRAZORIA COUNTY, TEXAS



Legend

- Freeport City Limits
- Town Council Overlay Zone
- Zone
- C-1
- C-2
- C-3
- DT
- IM
- MF
- MH
- PUD
- R-1
- R-2
- W-1
- W-2
- Roads

Map Date: 12/15/21



City Council Agenda Item # 9

Title: Second reading and consideration of approval of Resolution No. 2021-2732 approving economic development projects to be enacted by the Freeport Economic Development Corporation.

Date: January 10, 2022

From: Tim Kelty, City Manager

Staff Recommendation: Staff recommends City Council approve the Resolution for the requested EDC Economic Development projects.

Item Summary:

The EDC has identified 3 economic development projects that it would like to fund. Because of their nature, they are required to have City Council approval following two readings. This is the second of the two required readings. The projects include the 2022 Local Business Improvement Grant program, the lighting of the railroad trestle bridge over the Old Brazos River, and the development of an outdoor market located on the EDC's 8.8-acre property near downtown.

Background Information:

1. 2022 LOCAL BUSINESS IMPROVEMENT GRANT PROGRAM

The local business improvement grant program provides up to \$10,000 per grant for physical building and equipment improvements that help businesses retain or expand business and economic development. These grants would be awarded month to month. There is also a single Mega Grant of up to \$30,000 which will be competitively offered, with one awarded per year in March. Businesses that receive the grant are reimbursed 50% of their documented and qualified expenses up to the maximum grant amount. This program is an expansion of the previous "façade grant" program, and includes sign improvements, façade improvements, property improvements, and landscaping. The EDC has approved the expenditure of up to \$150,000 in the 2021-2022 fiscal year for this program.

The purpose of this program is to promote the development and expansion of new and existing business enterprises within the city of Freeport, and enhance the economic welfare of the citizens of the City by securing and retaining business enterprises and maintain a higher level of employment, economic activity and stability.

2. EDC OUTDOOR MARKET

The EDC Outdoor Market Project is a project to create immediate use of the EDC 8.8-acre property on Brazos Street. The EDC will make landscaping, lighting, and other improvements that serve the dual purpose of enabling an outdoor market and upgrading the appearance of the property to market the property to developers. The Outdoor Market will facilitate the location of vendors along Brazos Street and provide seating, tables, lighting, and other improvements for market customers and the general public to gather, creating commerce on the property. The EDC intends to complete all improvements

before Spring Break of 2022. The EDC has approved an initial funding amount for this project of \$25,000 for engineering and design, but anticipates needing to spend more once those plans are finalized.

3. BRIDGE LIGHTING PROJECT

The Bridge Lighting Project seeks to maximize the attraction of the Old Brazos River and create an environment for increased commerce and economic development of business on the river and the downtown district. The EDC voted to spend \$25,000 to install attractive lighting on the Railroad Bridge trestle. They will get quotes from various vendors and determine at that time the amount of funding they want to use to implement this project. They also talked about lighting on the Velasco Bridge and the Guillotine Flood Gate to create a lighted corridor along the river. However initially they wanted to focus on the Railroad Bridge. They felt that the lighting of the railroad bridge would have a dramatic effect on the aesthetics of the City, with the Trestle Bridge being a dramatic landmark and visible from most parts of the city.

The EDC will solicit proposals from professional lighting companies and install the improvements in phases based upon obtaining permission of the owners of the structures and the comparative costs of the improvements. The funds for this project are contained in the budget that was approved by the City Council.

Special Considerations: None

Financial Impact: Funding for these projects would come out of the \$1.125 million Special Project line included in the EDC fiscal year budget for projects.

Board or 3rd Party recommendation:

Following a public hearing on the issue, EDC voted to recommend approval of these project at the mentioned dollar limits.

Supporting Documentation: Resolution, Business Improvement Grant Program Guidelines and Criteria.

RESOLUTION NO. 2021-2732

A RESOLUTION OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; APPROVING ECONOMIC DEVELOPMENT PROJECTS TO BE ENACTED BY THE FREEPORT ECONOMIC DEVELOPMENT CORPORATION; AND PROVIDING THAT THIS RESOLUTION SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE AND ADOPTION.

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, the Freeport Economic Development Corporation (the "EDC") is a "type B" nonprofit economic development corporation, authorized under Texas Development Corporations Act, Title 12, Section 501.001 et. seq. specifically Chapter 505 of said Act; and,

WHEREAS, the EDC's specific purpose is to sustain economic development efforts and promote business development in the City; and,

WHEREAS, the City and the EDC have made the specific findings that the EDC may pursue the development projects set forth below, that said projects are authorized by the Texas Development Corporation Act, and that the projects promote economic development within the City of Freeport and satisfy the requirement of serving a public purpose; and,

WHEREAS, prior to passage of this resolution, the City Council conducted two (2) public readings of this resolution, in open session of duly noticed and posted council meetings, and further finds that a duly noticed and posted public hearing was previously held by the EDC on the projects contained herein.

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

FIRST, the City Council of the City of Freeport finds that the facts recited in the preamble hereof are true.

SECOND, the City Council of the City of Freeport hereby approves the following economic development projects:

1. "Local Business Improvement Grant" Project;
2. "Outdoor Market on EDC Property" Project;
3. "Bridge Lighting" Project.

THIRD, the funds to fund the above projects have been budgeted and no further authorization is required from the City Council for the EDC to implement the above projects.

FOURTH, this resolution shall take effect and be in force from and after its passage and adoption.

READ, PASSED AND ADOPTED this _____ day of _____, 2021.

APPROVED:

Brooks Bass, Mayor
City of Freeport, Texas

ATTEST:

Betty Wells, City Clerk
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

Christopher Duncan, City Attorney
City of Freeport, Texas



Business Improvement Grant Program Guidelines and Criteria

Section 1. Purpose

The purpose of this program is to promote the development and expansion of new and existing business enterprises within the City limits of Freeport, Texas and enhance the economic welfare of the citizens of the City by securing and retaining business enterprises and maintaining a higher level of employment, economic activity, and stability.

Section 2. Type and amount of grants

A. Façade Improvement:

Exterior front façade enhancements. Improvements may be considered if located on a corner or paralleling an internal public space such as a park, parking lot, pedestrian way, or visible from a public right-of-way.

Improvements to store facade including, but not limited to:

Exterior painting that incorporates a major visual change (Maintenance painting does not apply.);

Significant masonry cleaning and/or restoration;

Addition of awnings (business logo & letters on awnings are acceptable);

Enhanced exterior building lighting that creates a noticeably enhanced appearance (Replacement of current lighting that is simply repair does not enhance the appearance of the building, such as replacement of inoperable fixtures and is not included.);

Store front entry systems and individual windows and door replacement or modification (if part of an overall design restoration; general building maintenance repairs are not included);

New or restored façade elements, such as cornices, soffits, canopies, and other detail elements.

The grant amount may be up to 50% of the cost of such improvement, up to a maximum of \$10,000

B. Sign Improvement:

New signs and/or major renovations or removal of existing signs. Typically LED Signs are not approved but may be reviewed on a case-by-case basis if integrated into an overall sign.

The grant amount may be up to \$3,500 for an existing business and \$1,000 for a new business.

C. Property Improvement:

Items such as, but not limited to, parking lot resurfacing, striping, driveway improvement, lighting, decorative fencing, pedestrian oriented/streetscape amenities, including street furniture, new curb and sidewalk, and related amenities, demolition and/or removal of a dilapidated structure

The grant amount may be up to 50% of the cost of such improvement, up to a maximum of \$10,000.

D. Landscaping Improvement:

Material such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees or palms, landscape lighting and non-living durable materials that are commonly used in landscaping such as, but not limited to, rocks, pebbles, sand, but excluding paving. (All living materials will be reviewed at 25% of the cost if irrigation is not present or will be applied)

The grant amount may be up to 50% of the cost of such improvement, up to a maximum of \$10,000.

E. MEGA Grant:

Can be a combination of Grant Type A, C, or D or can stand alone as either. This grant will be reserved for those business that are within the defined Downtown boundaries as laid out by our Community Comprehensive Plans or at the discretion of the FEDC Board of Directors. Must provide 1 additional Job with this grant. This grant will be awarded to one (1) applicant per a fiscal year (October 1st - September 30th). Grant applications will be accepted starting October 1st and will close February 28th. Review will be held in March and notification of grant recipient will be announced by May 15th.

The grant amount may be up to 50% of the cost of such improvement up to a maximum of \$30,000.

Section 3. Eligibility

- A. All business buildings and facilities located within the City at the time of adoption of these guidelines shall be eligible for this program.
- B. Any new business planning to locate within the City, or any business currently located within the city limits, shall be eligible for this program.
- C. A *business* is defined as an occupation, profession, or trade in the purchase or sale of goods or services in an attempt to make a profit.
- D. The proposed project must comply with applicable regulations, city- approved planning studies, comprehensive plan designations, City Ordinances, Building Codes, and Americans with Disabilities Act Guidelines.
- E. All applicants must be current and provide FEDC with documentation providing they are current with all Ad Valorem Taxes.
- F. Grants may not be used for refinancing existing loans, working capital, inventory, permits, inspections, security fencing or gates, home occupations, interior remodeling, new construction, and routine maintenance of landscaping and signage (with the exception of letters/logos on new awnings).

Section 4. Guidelines

- A. Proof of the applicant's ownership of the subject facility or facilities, or proof that the owner of such facility has approved the application for such grant funds, shall be required.
- B. The owner of a business to be operated within a leased facility, and the owner of such lease facility, must apply jointly for the program. Copies of a lease agreement and proof of ownership of the leased facility shall be required.
- C. A business or property owner may apply for one (1) or more of the four (4) types of grants per physical location (address) set forth herein within any fiscal year (October 1 to September 30). A business that receives grant funding during a fiscal year shall not be precluded from making subsequent applications for funding in following years.
- D. The maximum amount of funding available to any one applicant, business establishment, or property owner at one physical location (address) shall be \$30,000.00 per fiscal year unless applying for the mega grant.
- E. All grants are reimbursement grants and will only be funded after completion of the project in accordance with drawings and specifications approved by the Freeport

Economic Development Corporation Board of Directors and after the applicant submits to the FEDC proof of paid receipts for all applicable labor and materials. Digital photographs of the completed work shall also be required.

- F. Reimbursement grants are a cash payment of up to the approved percentage of funds expended by the applicant on the improvements and are not to exceed the limits set forth in Section 2(A), (B), and (C) hereof. In-kind contributions to the improvements by the applicant will not be considered as an expenditure by the applicant. Only cash expenditures by the applicant may be used in calculating the cost of improvements.
- G. The applicant shall be obligated to make the improvements in accordance with the application submitted to and approved by the FEDC Board of Directors. Thereafter, any modifications must first receive written approval by either the FEDC Board or the FEDC Executive Director. Failure to obtain such written approval prior to making any such modifications shall render the applicant ineligible to receive grant funding.
- H. The applicant shall be responsible for obtaining all applicable permits related to the improvement project, and failure to do so will render the applicant ineligible to receive grant funding.
- I. The improvements, as presented in the application, must be completed in their entirety. Failure to complete all of the stated improvements shall render the applicant ineligible to receive grant funding.
- J. Upon approval of a grant application, and during the construction of the improvements, a representative or representatives of the FEDC shall have the right, at all reasonable times, to have access to and inspect the work in progress.
- K. The applicant shall not begin any improvements prior to receiving written approval of grant funding from the FEDC.
- L. The applicant must complete the improvement project within six (6) months of receiving written approval therefore from the FEDC. Failure to complete the improvements within the required time period shall result in the loss of the grant funds allocated for the project. Time extensions may be granted at the discretion of the FEDC Board of Directors.
- M. Approval of all applications shall be with the understanding and agreement that, in the event the business (applicant) fails to remain open, or the business or property is sold or transferred and subsequently closes, within twelve (12) months after the funding of the grant, the applicant shall be considered in default of its obligations under the grant, and shall be required to reimburse the FEDC the grant money received.
- N. The applicant must agree that, in the event of default of its obligations, the applicant shall repay to the FEDC the amount of grant funds it has received, with interest, at the rate of 10% per annum, within thirty (30) days after the FEDC

notifies the applicant of the default. The form of such payment shall be a cashier's check or money order, made payable to the Freeport Economic Development Corporation.

- O. The applicant must certify that the applicant does not employ nor will it employ any undocumented workers (an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States). The applicant must agree that if, after receiving grant funds, it is convicted of a violation under 8 U.S.C. Section 1324a(f), the applicant shall repay the amount of the grant funds received by the applicant, with interest, at the rate of 10% per annum, within thirty (30) days after the FEDC notifies the applicant of the violation.
- P. The FEDC shall have the authority to bring a civil action to recover any amounts that the applicant must repay to the FEDC under paragraphs M, N, and O of this Section, and in such action may recover court costs and reasonable attorney's fees.

Section 5. Application and Approval

- A. Applications must be made on a form provided by the FEDC, which form shall be made available at the FEDC offices located at 200 West Second Street, Freeport, TX 77541 and on the FEDC website at www.freeport.tx.us.
- B. The grant application must include:
- Request Letter describing proposed project and the need for grant funds
 - Establishment of business entity name (Copy of Article of Incorporation, dba, etc.)
 - Copy of Lease Agreement (if facility is leased)
 - Legal description of subject property
 - Vicinity map of subject property
 - Estimates of proposed improvements. This quote shall be utilized only for the purpose of determining the amount of grant needed for the project and any costs incurred in obtaining the quote shall be the responsibility of the applicant, not the FEDC.
 - Itemized work estimates which include details and information such as color samples of paint, fabric, sign material
 - Digital Picture of Property and the area to be improved

- Notarized Seal on Application
 - Acknowledge that a sign will be placed at your property stating FEDC – Business Improvement Grant Recipient
- C. All applications must be approved by the FEDC Board of Directors
- D. An applicant shall be notified, in writing or email, within (10) ten business days of the FEDC Board’s decision to approve or disapprove its application.
- E. The FEDC may award grant funds to an applicant, with certain provisions, conditions, or other requirements that the FEDC deems necessary or appropriate.
- F. The FEDC Board of Director shall have sole discretion to accept or reject application. Application are summit on a competitive basis and will be graded on out not limited to:
1. Those applicants that best match our Community Comprehensive Plans
 2. Needs of the City of Freeport and FEDC
 3. Best match for our Downtown Specific Plan
 4. Those that will be beneficial for the growth of our Freeport’s Economic Development
- G. During the FEDC meeting to take action on the grant request by the APPLICANT, the board will conduct a Public Hearing which is followed by a 60-day public comment period. No reimbursements will be dispersed until the 60-day public comment period has passed. If public comments are received, the board will review and take any appropriate action.

Section 6. Funding

- A. Upon notification to the FEDC by the applicant that a project has been completed, an inspection by a FEDC representative or representatives shall be made to confirm that such project has been completed in accordance with the application or any approved modifications thereto. Such notification shall include, but not be limited to, documentation of paid receipts for materials, labor, permits, inspection reports, an affidavit stating that all contractors and subcontractors providing work and/or materials in the construction of the project improvements have been paid and any and all liens and claims regarding such work have been released, or any other item that the FEDC may reasonably deem necessary for determining the project’s completion.

- B. The FEDC agrees to distribute such funds to the applicant within thirty (30) days following the inspection required in paragraph (A) hereof, and confirmation of completion of the project in accordance with the application or any approved modifications thereto. The Executive Director of the FEDC shall issue a letter to the FEDC Board of Directors notifying them of the funding action to be taken. A copy of such letter shall also be provided to the applicant.
- C. Within ten (10) business days following an inspection and the presentation of the receipts as provided in Section 6(A) above, and after a determination is made by the FEDC's representative that the project has not been completed in accordance with the application, or any approved modifications thereof, the Executive Director shall issue a letter to the applicant indicating any and all areas of non-compliance. The applicant shall then have sixty (60) days, from the date of such letter, to make the modifications necessary to bring the project into compliance. Failure to complete such modifications within said sixty-day period shall be deemed a default of applicant's obligations under the grant, and the applicant shall be ineligible to receive grant funding.
- D. Available funding: The FEDC has budgeted \$150,000 per the current fiscal year (October 1 to September 30) to fund improvement grants. Grant applications received after the available funding has been exhausted may be accepted and held until the following fiscal year. The FEDC retains sole discretion to accept or reject applications received after the available funding has been exhausted.

Section 7. Miscellaneous

- A. THE FREEPORT ECONOMIC DEVELOPMENT CORPORATION SHALL DELIVER A COPY OF THESE GUIDELINES TO ANY APPLICANT FOR HIS/HER REVIEW AND THE DELIVERY HEREOF DOES NOT CONSTITUTE AN OFFER OF A BUSINESS IMPROVEMENT GRANT TO THE APPLICANT.
- B. THE LAWS OF THE STATE OF TEXAS SHALL GOVERN THE INTERPRETATION, VALIDITY, PERFORMANCE, AND ENFORCEMENT OF THIS BUSINESS IMPROVEMENT GRANT PROGRAM. IF ANY PROVISION OF THIS BUSINESS IMPROVEMENT GRANT PROGRAM IS HELD TO BE INVALID OR UNENFORCEABLE, THE VALIDITY AND ENFORCEABILITY OF THE REMAINING PROVISIONS SHALL NOT BE AFFECTED THERE.

**ACKNOWLEDGMENT OF RECEIPT OF AND AGREE TO COMPLY WITH
THE GUIDELINES AND CRITERIA FOR BUSINESS IMPROVEMENT GRANT
PROGRAM BY THE FREEPORT ECONOMIC DEVELOPMENT CORPORATION**

Applicant: _____

Address: _____

Phone No.: _____

Signature: _____

Property Owner/Landlord: _____

Address: _____

Phone No.: _____

Signature: _____

This acknowledgement page must be signed and returned to the Executive Director of Freeport Economic Development Corporation. Please retain the Guidelines and Criteria for your records.

Applicants are strongly encouraged to shop local Brazoria County businesses for products and services.

**FREEPORT EDC PROJECTS
2022-1**

1. LOCAL BUSINESS IMPROVEMENT GRANT

The local business improvement grant program provides up to \$10,000 per grant for physical building and equipment improvements that help businesses retain or expand business and economic development. Businesses that receive the grant are reimbursed 50% of their documented and qualified expenses up to \$10,000. This program is an expansion of the previous “façade grant” program. The EDC has approved the expenditure of up to \$150,000 in the 2021-2022 fiscal year for this program. The funds for this project are contained in the budget that was approved by the City Council.

2. EDC OUTDOOR MARKET

The EDC Outdoor Market Project is a project to create immediate use of the EDC 8.8 acre property on Brazos Street. The EDC will make landscaping, lighting, and other improvements that serve the dual purpose of enabling an outdoor market and upgrading the appearance of the property to market the property to developers. The Outdoor Market will facilitate the location of vendors along Brazos Street and provide seating, tables, lighting, and other improvements for market customers and the general public to gather, creating commerce on the property. The EDC intends to complete all improvements before Spring Break of 2022. The funds for this project are contained in the budget that was approved by the City Council.

3. BRIDGE LIGHTING PROJECT

The Bridge Lighting Project seeks to maximize attraction of the Old Brazos River and create an environment for increased commerce and economic development of business on the river and the downtown district. The EDC intends to install attractive lighting on the Velasco Street Bridge, the Railroad Bridge, and the Guillotine Flood Gate to create a lighted corridor along the river. The EDC will solicit proposals from professional lighting companies and install the improvements in phases based upon obtaining permission of the owners of the structures and the comparative costs of the improvements. The funds for this project are contained in the budget that was approved by the City Council.



City Council Agenda Item # 10

Title: Discussion and Possible Action on an Ordinance to require all City Council and Public Board Members to disclose: all current Real Estate Assets in Brazoria County held in their personal name, immediate family's name, business name. all Business Entities owned and partnered in Texas. Any and all business agreements with any other Board or Council member. Any and all agreements or contracts with the City.

Date: January 10, 2022

From: Councilmen Jeff Pena and Mario Muraira

Staff Recommendation:

This has been added to the agenda at the request of Councilmen Pena and Muraira.

Item Summary:

The Ordinance prepared in response to this request requires that, within 30 days of the passage of this ordinance, or within 30 days of election or appointment, all City Council members and Council appointed board members of the City of Freeport, Texas shall deliver to the City Manager in writing, the following information:

1. All current real estate assets in Brazoria County of which the person has any ownership interest or control, whether said ownership held in their personal name, the name of their spouse, their minor child(ren), or another business entity;
2. The name of all business entities, including informal partnerships, of which the person has any ownership interest or control, and the name and contact information of every person or entity with an ownership interest in the entity;
3. Any and all business agreements with any other Council or Board member, with a copy of the written agreement, or, if not a written agreement, a written description of the nature of the agreement;
4. Any and all agreements or contracts with the City of Freeport for the last 10 years to present.

The Ordinance also requires that any change to submitted information must also be provided in writing to the city manager. All such information shall be made available upon open records request. Each failure to provide such information will be subject to a fine of up to \$200 per item not provided.

Background Information:

None

Special Considerations

None

Financial Impact

None

Board or 3rd Party recommendation:

None

Supporting Documentation: Ordinance

ORDINANCE NO. 2021-2648

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; REQUIRING DISCLOSURE OF POTENTIAL FINANCIAL AND CONTRACTUAL CONFLICTS OF INTEREST BY MEMBERS OF THE CITY COUNCIL AND COUNCIL APPOINTED BOARDS OF FREEPORT, TEXAS; PROVIDING THAT ANYONE VIOLATING SAID CODE SHALL BE GUILTY OF A MISDEMEANOR AND, UPON CONVICTION, ASSESSED A PUNISHMENT NOT TO EXCEED TWO HUNDRED (\$200.00) DOLLARS AND THAT EACH DAY ANY SUCH VIOLATION CONTINUES OR OCCURS SHALL CONSTITUTE A SEPARATE OFFENSE; CONTAINING A SAVINGS CLAUSE; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS DESCRIPTIVE CAPTION HAS BEEN PUBLISHED TWICE IN THE BRAZOSPORT FACTS.

WHEREAS, the City of Freeport is committed to transparency and desires to uphold the highest standard of ethical conduct by members of its City Council and council appointed boards; and,

WHEREAS, actual and potential financial and contractual conflicts of interest must be revealed in an even, fair, and transparent way, to benefit the trust of the citizens and public at large; and,

WHEREAS, the City Council desires to implement a mandatory requirement of all City Council members and council appointed board members, to disclose certain specific information, to prevent decisions by their position, that actual or perceived impropriety; and

WHEREAS, the City Council of the City of Freeport, Texas, has determined and does here now declare that the adoption of this ordinance is necessary to the fair and orderly administration of its constitutional and statutory powers as a home-rule municipality.

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

First, within 30 days of the passage of this ordinance, or within 30 days of election or appointment, all City Council members and Council appointed board members of the City of Freeport, Texas shall deliver to the City Manager in writing, the following information:

1. All current real estate assets in Brazoria County of which the person has any ownership interest or control, whether said ownership held in their personal name, the name of their spouse, their minor child(ren), or another business entity;
2. The name of all business entities, including informal partnerships, of which the person has any ownership interest or control, and the name and contact information of every person or entity with an ownership interest in the entity;

3. Any and all business agreements with any other Council or Board member, with a copy of the written agreement, or, if not a written agreement, a written description of the nature of the agreement;

4. Any and all agreements or contracts with the City of Freeport for the last 10 years to present.

Second, each City Council member or Council-appointed board member, deliver to the City Manager in writing any change in the above information.

Third, the City Manager shall make available the above information to any person of the public upon request consistent with the Texas Open Records Act.

Fourth, any person violating any provision of said Code of Ordinances as amended by this ordinance, shall be guilty of a misdemeanor and upon conviction assessed a fine not to exceed Two Hundred (\$200.00) Dollars; and each and every instance any such violation occurs shall constitute a separate offense.

Fifth, 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.

Sixth, this ordinance shall take effect and be in force from and after its descriptive caption has been published twice in the Brazosport Facts.

Seventh, the City Council specifically finds and determines that the meeting at which this ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

READ, PASSED AND ADOPTED this _____ day of January, 2022

Brooks Bass, Mayor

ATTEST:

Betty Wells, City Secretary

APPROVED AS TO FORM ONLY:

Christopher Duncan, City Attorney



City Council Agenda Items # 11

Title: Consideration and possible action approving proposed Resolutions of appointments for the open positions on the Planning and Zoning Commission, and the Boards of Adjustments.

Date: January 10, 2022

From: Tim Kelty, City Manager

Staff Recommendation:

Staff recommends selection of individuals and the approval of the proposed resolutions to appoint qualified individuals to serve on the above listed Boards and or Commissions.

Item Summary:

Terms have not expired on each of the Boards and Commissions. At the time of this memo the city has received applications from Stoney Burke for Planning and Zoning Commission; the remainder of this term is until May 31, 2022, and George Matamoros for Boards of Adjustments, the remainder of this term is until May 31, 2022. These individuals are interested in serving on these Boards and Commissions.

These are active volunteer boards in the city, and filling the vacancy is important to allow for full and representative discussion of important issues.

Background Information: None

Special Consideration: None

Financial Impact: None

Supporting Documentation: Resolutions, and applications received for each Board.

RESOLUTION NO. 2022-2733

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, NOMINATING, CONSTITUTING AND APPOINTING A QUALIFIED PERSON TO THE PLANNING COMMISSION OF THE CITY; PROVIDING FOR THE DUTIES OF OFFICE; AND PROVIDING FOR THE TAKING OF THE OATH OF OFFICE REQUIRED BY LAW.

WHEREAS, the term of office of Nicole Mireles named member(s) of The Planning Commission of the City of Freeport, Texas ("the City") has not expired, of the appointed term;

WHEREAS, the term of appointment of the above member(s) terminates on May 31, 2022 the City desires to appoint the below named qualified person(s) as member of said committee.

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

SECTION ONE (1): APPOINTMENT

The City Council of the City hereby nominates, constitutes and appoints or reappoints the following named qualified person(s) to the Planning Commission of the City for the remainder of term which expires on May 31, 2022 and until a successor for such person shall have been appointed and qualified, to-wit.

SECTION TWO (2): DUTIES

The above named appointee shall perform all of the duties imposed on members of the Planning Commission of the City by law and the ordinances and resolutions of the City.

SECTION THREE (3): OATH OF OFFICE

Before engaging in the performance of the duties of office, each of such appointees shall take the Constitution Oath of Office as required by law.

READ, PASSED AND ADOPTED this ____ day of _____, 2022.

Brooks Bass, Mayor
City of Freeport, Texas

ATTEST:

Betty Wells, City Secretary
City of Freeport, Texas

RESOLUTION NO. 2022-2734

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, APPOINTING QUALIFIED PERSONS TO THE BOARD OF ADJUSTMENTS OF THE CITY TO FULFILL TWO-YEAR TERMS; PROVIDING FOR THE DUTIES OF OFFICE; AND PROVIDING FOR THE TAKING OF THE OATHS OF OFFICE REQUIRED BY LAW.

WHEREAS, Keith Stumbaugh, named member of the Board of Adjustments of the City of Freeport, Texas, has resigned prior to the expiration of his term of appointment;

WHEREAS, the City Council desires to appoint a new member to the Board of Adjustments to complete the unexpired term of Keith Stumbaugh, the expiration of said position being May 31, 2022;

WHEREAS, the City Council of the City desires to appoint the below named qualified person(s) to fill the vacant or expired positions on the board for two (2) year terms, said appointments as members of said board.

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

SECTION ONE (1): APPOINTMENT

The City Council of the City hereby nominates, constitutes and appoints the following named qualified person to the Board of Adjustments of the City to fulfill the vacated position of Keith Stumbaugh, to wit:

Name _____ Term expiration 5/31/2022 (Regular)

SECTION TWO (2): DUTIES

The above named appointee shall perform all of the duties imposed on members of the Board of Adjustment of the City by law and the ordinances and resolutions of the City.

SECTION THREE (3): OATH OF OFFICE

Before engaging in the performance of the duties of office, the appointee shall take the Constitutional Oath of Office and signed the affidavit required by law.

READ, PASSED AND ADOPTED this ____ day of _____, 2022.

Brooks Bass, Mayor
City of Freeport, Texas

ATTEST:

Betty Wells, City Secretary, City of Freeport
City of Freeport, Texas