

City of Freeport

NOTICE OF PUBLIC MEETING
THE FREEPORT CITY COUNCIL
MONDAY, MARCH 21ST 2011, 6:30 P.M.
RIVERPLACE, 733 MYSTERY HARBOR LANE
FREEPORT, TEXAS 77541

AGENDA FORMAL SESSION

1. Call to Order.
2. Invocation.
3. Pledge of Allegiance.
4. Consideration of approving the March 7th, 2011 Council Minutes.
Pg. 183-186
5. Public Hearing to consider designating the following described real property located within the corporate boundaries of the City as a reinvestment zone for the purpose of entering into an agreement with the owner or owners thereof granting a tax abatement: Pg. 187
 - Lots 16, 17 and 18, Block 20, Velasco Townsite of the City of Freeport, Brazoria County, Texas according to the map or plat of said townsite recorded in Volume 32, Page 14 of the Deed Records of said county, known locally as 317 South Ave. A, Freeport Texas, known as Maria's Kitchen.
6. Consideration of the approval of Ordinance No. 2011-2276 designating improvements to land located within the incorporate limits of said City as a reinvestment zone to be known as Maria's Kitchen Reinvestment Zone and providing for its initial term and the renewal thereof. Pg. 188-191
7. Consideration of the approval of Resolution No. 2011-2255 granting a tax abatement to Maria Rivera, D/B/A Maria's Kitchen, 317 South Ave. A., Freeport Texas and authorizing the Mayor to sign a tax abatement agreement with Maria Rivera.
Pg. 192-202
8. Consideration of approving the bids and awarding the contract for the construction of the Freeport Marina Ship Store. Pg. 203-212
9. Presentation to the City of Freeport by the Martin Luther King Parade Committee.

10. Mayor McDonald recognizes and awards the Freeport's Leo Club, an affiliate of the Freeport Lion's Club, for their humanitarian coat drive.
11. Acknowledge and award the participants of the City of Freeport's 2nd Annual Youth Art Display and Competition.

Adjourn

NOTE: ITEMS NOT NECESSARY DISCUSSED IN THE ORDER THEY APPEAR ON THE AGENDA. THE COUNCIL, AT ITS DISCRETION, MAY TAKE ACTION ON ANY OR ALL OF THE ITEMS AS LISTED.

This notice is posted pursuant to the Texas Open Meeting Act. (Chapter 551, Government Code). In compliance with the American with Disabilities Act, the City of Freeport will provide for reasonable accommodations for persons attending City Council Meetings. Request should be received 48 hours to the meetings. Please contact the City Secretary office at 979-233-3526.

I, Delia Muñoz, City Secretary, for the City of Freeport, Texas certify that this agenda was posted on the official bulletin board/glass door of City Hall, facing the rear parking lot of the building, with 24 hours a day public access, 200 W. 2nd Street, Freeport, Texas, March 17th, 2011 at or before 5:00 a.m.

Delia Munoz, City Secretary
City of Freeport, Texas

State of Texas

County of Brazoria

City of Freeport, Texas

BE IT REMEMBERED, that the City Council of the City of Freeport, met on Monday, March 7th, 2011 at 6:30 p.m., at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, for the purpose of considering the following agenda items:

City Council: Larry L. McDonald
 Michelle Kent
 Fred Bolton
 Nicole Mireles
 Norma M. Garcia

Staff: Wallace Shaw, City Attorney
 Delia Munoz, City Secretary
 Nat Hickey, Property Manager
 Laura Tolar, Special Program Coordinator
 Gary Pohl, Marshal
 Bob Welch, Finance Director

Visitors: Jim Pirrung Dorothy Pirrung
 Leslie Schkade Angie Degetaire
 Kola Olayiwola Annette Sanford
 Jerry Meeks

Call to Order.

Mayor McDonald called the meeting to order at 6:30 p.m.

Invocation.

Wallace Shaw offered the invocation.

Pledge of Allegiance.

Mayor McDonald led the Pledge of Allegiance.

Consideration of approving the February 22nd, 2011 Council Minutes.

On a motion by Councilwoman Garcia, seconded by Councilwoman Kent, with all present voting "aye", Council unanimously approved February 22nd, 2011 Council Minutes.

Attending citizens and their business.

There were none.

Consideration of renewing the contracts for the collection of delinquent taxes and for the collection of mowing, demolition & paving liens with Perdue Brandon Fielder Collins, & Mott, L.L. P.

On a motion by Councilwoman Garcia, seconded by Councilwoman Mireles, with all present voting "aye", Council unanimously approved renewing the contracts for the collection of delinquent taxes and for the collection of mowing, demolition & paving liens with Perdue Brandon Fielder Collins & Mott, L.L. P.

Consideration of approving Ordinance No. 2011-2274, authorizing and imposing an additional collection penalty on delinquent taxes pursuant to Texas Tax Code Section 33.11.

On a motion by Councilwoman Mireles, seconded by Councilwoman Kent, with all present voting "aye", Council unanimously approved Ordinance No. 2011-2274 authorizing and imposing an additional collection penalty on delinquent taxes pursuant to Texas Tax Code Section 33.11.

Consideration of approving Ordinance No. 2011-2275 amending Section 71.21 of the Code of Ordinance to set the speed limit on State Hwy. 332 from the west city limits to the east city limits at 55 mile per hour.

On a motion by Councilwoman Garcia, seconded by Councilwoman Kent, with all present voting "aye", Council unanimously approved Ordinance 2011-2275 amending Section 71.21 of the Code of Ordinance to set the speed limit on State Hwy. 332 from the west city limits to the east city limits at 55 mile per hour.

Consideration of authorizing the Mayor to sign a contract with Mike Sorrell Trucking for the demolition of structures and on asbestos removal from the Gulf Boulevard Motel, 119 S. Gulf Boulevard, Freeport Texas.

On a motion by Councilman Bolton, seconded by Councilwoman Kent, with all present voting 4 to 1, Council approved the Mayor to sign a contract with Mike Sorrell Trucking for the demolition of structures and on asbestos removal from the Gulf Boulevard Motel, 119 South Boulevard, Freeport Texas for the sum of \$35,830.00. Councilwoman Mireles opposed.

Consideration of setting March 21st 2011, as the date to receive bids for the construction of the Freeport Marina Ship Store and ratifying the publication of the Invitation to Bid notice thereof in the Brazosport Facts.

On a motion by Councilwoman Kent, seconded by Mayor McDonald, with all present voting "aye", Council unanimously approved setting March 21st, 2011 as the date to receive bids for the construction of the Freeport Marina Ship Store and ratifying the publication of the Invitation to Bid notice thereof in the Brazosport Facts.

Consideration of approving a residential tax abatement application and setting April 4th, 2011 for a public hearing to consider designating the following described real property located with the corporate boundaries of the City as a reinvestment zone for the purpose of entering into an agreement with the owner(s) thereof granting a tax abatement and instructing the City Attorney to prepare the necessary documents for Christine H. Garfield and Ron Shoup, 502 W. First, Freeport Texas , Block 80, Lot 8, Freeport Townsite, Id No. 4200-0777-000.

On a motion by Councilwoman Garcia, seconded by Councilwoman Kent, with all present voting "aye", Council unanimously approved a residential tax abatement application and setting April 4th, 2011 for a public hearing to consider designating the following described real property located with the corporate boundaries of the City as a reinvestment zone for the purpose of entering into an agreement with the owner(s) thereof granting a tax abatement and instructing the City Attorney to prepare the necessary documents for Christine H. Garfield and Ron Shoup, 502 W. First, Freeport Texas , Block 80, Lot 8, Freeport Townsite, Id No. 4200-0777-000.

Consideration of approving Resolution No. 2011-2254 nominating and appointing a qualified person to the Planning Commission of the City.

On a motion by Councilwoman Mireles, seconded by Councilwoman Kent, with all present voting "aye", Council unanimously approved Resolution No. 2011-2254 nominating and appointing Jesse Aguilar to the Planning Commission of the City.

Mayor McDonald opened the Work Session at 7:01 p.m.

Work:

Report by Leslie Schkade of Perdue Brandon Fielder Collins & Mott L.L.P concerning the collection report.

Leslie Schkade of Perdue Brandon Fielder Collins & Mott L.L.P reviewed and discussed nine charts of the collection report to the City of Freeport.

Adjourn

On a motion by Councilwoman Kent, seconded by Councilwoman Mireles, with all present voting “aye”, the meeting was adjourned at 7:08 p.m.

Mayor – Larry L. McDonald

City Secretary – Delia Munoz

NOTICE OF PUBLIC HEARING

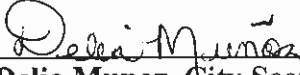
The City Council of the City of Freeport, Texas, will hold a public hearing on Monday, the 21st day of March, 2011, beginning at 6:30, p.m., at River Place located therein at 733 Mystery Harbor Lane, Freeport, Brazoria County, Texas, to consider designating the following described real property located within the corporate boundaries of the City as a reinvestment zone for the purpose of entering into an agreement with the owner or owners thereof granting a tax abatement:

Lots 16, 17 and 18, Block 20, VELASCO TOWNSITE of the City of Freeport, Brazoria County, Texas, according to the map or plat of said townsite recorded in Volume 32, page 14 of the Deed Records of said county, known locally as 317 South Avenue A, Freeport, Texas.

At the same hearing, the City Council will consider whether or not to enter into an agreement granting a tax abatement to the owner or owners of the above described property.

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

By order of the City Council this 22 day of February, 2011.



Delia Munoz, City Secretary
City of Freeport, Texas

ORDINANCE NO. 2011-2276

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; CONTAINING FINDINGS OF FACT; DESIGNATING IMPROVEMENTS TO LAND LOCATED WITHIN THE INCORPORATED LIMITS OF SAID CITY AS A REINVESTMENT ZONE TO BE KNOWN AS MARIA'S KITCHEN REINVESTMENT ZONE AND PROVIDING FOR ITS INITIAL TERM AND THE RENEWAL THEREOF; CONTAINING SAVINGS CLAUSES; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE AND ADOPTION.

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

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

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

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

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

(1) That on September 147, 2009, by its Resolution No.2009-2207, the City Council of the City, pursuant to Subchapter B of Chapter 312 of the Property Tax Code, the City established a tax abatement and reinvestment zone policy and adopting guidelines and criteria for the same.

(2) That pursuant to such guidelines and criteria, on February 7, 2011, MARIA RIVERA (hereinafter sometimes "the Owner") filed a written application for a tax abatement for and the designation of a reinvestment zone consisting of improvements to the land, hereinafter described, for which the Owner is requesting a tax abatement.

(3) That the land on which such improvements is located is within the corporate limits of the City and described as follows:

Lots 16, 17 and 18, Block 20, VELASCO TOWNSITE of the City of Freeport, Brazoria County, Texas, according to the map or plat of said townsite recorded in Volume 32, page 14 of the Deed Records of said county.

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

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

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

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

Second, the request of the Owner to have the improvements to the land known locally as 317 South Avenue A, Freeport, Texas, more fully described above, designated as a reinvestment zone, as such zone is defined in Subchapter B of Chapter 312 of the Property Tax Code and in the guidelines and criteria adopted by the above mentioned resolution, is hereby approved and such improvements to land is hereby designated as the Maria's Kitchen Reinvestment Zone.

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

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

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

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

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

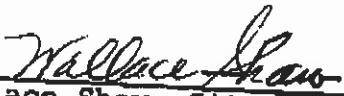
READ, PASSED AND ADOPTED this _____ day of _____, 2011.

Larry McDonald, Sr., Mayor
City of Freeport, Texas

ATTEST:

Delia Muñoz, City Secretary
City of Freeport, Texas

APPROVED AS TO FORM ONLY:



Wallace Shaw, City Attorney,
City of Freeport, Texas

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RESOLUTION NO. 2011-2255

AN RESOLUTION OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; MAKING FINDINGS OF FACT; GRANTING A TAX ABATEMENT TO MARIA RIVERA, D/B/A MARIA'S KITCHEN, PURSUANT TO THE TERMS AND CONDITIONS OF AND AUTHORIZING THE MAYOR AND CITY SECRETARY TO EXECUTE AND ATTEST, RESPECTIVELY, A TAX ABATEMENT AGREEMENT WITH THE SAID --; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THE ORIGINAL OF THIS RESOLUTION SHALL BE MAINTAINED BY THE CITY SECRETARY IN THE PERMANENT RECORDS THEREOF.

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

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

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

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

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

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

(2) That on February 7, 2011, pursuant to such guidelines and criteria, MARIA RIVERA (hereinafter sometimes "the Owner") filed a written application requesting a tax abatement for and the designation of a reinvestment zone consisting of the land for which the Owner is requesting a tax abatement.

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

(5) That prior to the adoption of this resolution, there was read, passed and adopted by the City Council of the City an ordinance approving such request and designating such land as a reinvestment zone as such zone is defined in Subchapter B of Chapter 312 of the Property Tax Code and in the guidelines and criteria adopted by the above mentioned resolution, being Ordinance No. _____.

(6) That the adoption of Ordinance No. ~~2011-~~²²⁷⁶ was preceded by a public hearing at which all interested persons were given the opportunity to speak and present evidence for or against such designation.

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

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

(9) That in Ordinance No. 2011-2276, the City Council of the City found that the designation of such zone is reasonably likely to contribute to the retention or expansion of primary employment or attract major investment to such zone.

(10) That more than seven (7) days prior to the adoption of this resolution and the granting of the tax abatement hereinafter granted, written notice of the intent of the City Council of the City to enter into the proposed tax abatement agreement which the Mayor and City Secretary of the City are hereinafter authorized to execute and attest, respectively, was delivered to the presiding officer of each of the other taxing units in which such real property is located; and that such notice included a copy of such proposed agreement.

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

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

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

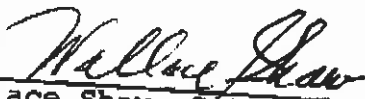
READ, PASSED AND ADOPTED this _____ day of _____, 2011.

Larry McDonald, Sr., Mayor,
City of Freeport, Texas

ATTEST:

Delia Munoz, City Secretary
City of Freeport, Texas

APPROVED AS TO FORM ONLY:



Wallace Shaw, City Attorney,
City of Freeport, Texas

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TAX ABATEMENT AGREEMENT

This Tax Abatement Agreement (this "Agreement") is made by and between the City of Freeport, Texas a municipal corporation and home-rule city (the "City"), and MARIA RIVERA, (the "Owner"), an individual residing at 1703 North Avenue N, Freeport, Texas, qualified to do and doing business in county as "Maria's Kitchen" and the owner of interests in real property located within the Zone (as defined below).

W I T N E S S E T H:

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

WHEREAS, the Owner desires to construct a new restaurant to be used by her in conducting the business of "Maria's Kitchen": and

WHEREAS, the Owner has filed a written request for tax abatement, dated as of February 7, 2011, in accordance with the City's Resolution No. Resolution No. 2009-2207 (hereinafter "the Resolution") which establishes the property tax abatement program for the City of Freeport in designated reinvestment zones; and

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

WHEREAS, the City Council has determined that the Improvements are practical and are of benefit to the land within the Zone and to the City; and

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

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

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

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

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

1. Definitions

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

"Abatement Period" means that period which commences on the first day of the Effective Date of Abatement and ends not more than four (4) years thereafter.

"BCAD" means the Brazoria County Appraisal District.

"City" means the City of Freeport, Texas.

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

"Effective Date of Abatement" means the January 1, 2011.

"Eligible Property" means the improvements to the property which are to be used as a food service facility and which expands the local tax base as those terms are defined in the Guidelines and Criteria for Tax Abatement in the City of Freeport attached to and adopted by the Resolution.

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

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

"Owner" means MARIA RIVERA.

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

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

"Resolution" means City of Freeport Resolution Number 2009-2207 establishing the property tax abatement program for the City in designated reinvestment zones, for which an abatement is being granted.

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

"Zone" means the "Maria's Kitchen Reinvestment Zone", which is more particularly described in the Ordinance.

2. Authorization

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

3. Property

(a) The Street Address of the taxable real property to be improved under this Agreement is 317 South Avenue A, Freeport, Texas. It is more fully described as Lots 16, 17 and 18, Block 20, Velasco Townsite of the City of Freeport, Texas, comprising 0.2152 acres of land, more or less.

(b) The BCAD tax account number of the Property is 8110-0252-000.

4. Representations and Warranties by the Owner

(a) The Owner represents that the Owner owns the Property and that the Property is located within the boundaries of the Zone. The Owner represents that the Owner is authorized to execute this Agreement and to construct the Improvements described in Section 5 hereof. The Owner represents that as of January 1, 2011, the Property had an approximate appraised value of \$7,030.00. The Owner represents and warrants that the construction of the Improvements began on or about --, 20--, and that construction of the Improvements was completed as of the effective date of this Agreement. The Owner represents and warrants that the construction of the Improvements was for the purpose of constructing a building for a food service establishment total size of the Property is approximately 2,500 square feet.

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

(c) The Owner represents and warrants that the value of the Property was increase by at least \$151,510.00 upon completion of the Improvements.

(d) The Owner represents and warrants that she will retain employment for at least four (4) people on a permanent basis in the City and will create employment for at least two (2) additional people on a permanent basis in the City beginning no later than one (1) year from the start of the Abatement Period and continuing through the term of this Agreement, excepting accident, casualty, fire, explosion, or natural disaster that is found by the City Manager to substantially impact the Owner's ability to use the Project as specified in Section 5(c) below.

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

(f) The Owner represents and warrants that it will construct and operate the Project described in Application of Owner for a tax abatement incorporated herein by this reference.

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

(h) The Owner represents that the improvements will replace those on adjoining real property previously used by the Owner as a location for a food service establishment and that the use of such adjoining property for such purpose has been discontinued.

5. Terms of the Agreement

(a) The Owner has or will shall make the Improvements substantially in conformity with the description contained in the Application of the Owner for a tax abatement incorporated herein by reference.

(b) The Improvements has or will be completed in accordance with the provisions of the Application of the Owner for a tax abatement incorporated herein by reference and the Building and other applicable codes of the City and shall conform to the City's Zoning Ordinance. In case of any conflict, the Building or Standard Code, or Zoning Ordinance as the case may be, shall prevail. In addition, the Owner shall comply with the City's Subdivision Ordinance, if applicable.

(c) Upon completion of the Improvements, the Owner shall use the Property for the proposed use specified in this paragraph during the Abatement Period specified in Section 6 hereof. However, the City Council may approve a change from the proposed use in writing, if the City Council determines that the change is consistent with the guidelines adopted by the Resolution and with the City's general purpose of encouraging development or redevelopment of the Zone during the Abatement Period specified in Section 6 hereof. The proposed use of the Property (unless and until the City Council approves a change in use) is for food service establishment, pursuant to and to the extent described in the Application of the Owner for a tax abatement incorporated herein by reference.

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

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

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

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

(h) Not later than March 15th of each year during the Abatement Period, the Owner shall submit to the City Manager and the Chief Appraiser of BCAD a January employee count for the Project. The employee count submitted shall correspond to the Employment count reported in the Owner's "Employers Quarterly Report" to the Texas Workforce Employment Commission. The employee count submitted by the Owner shall be used to determine abatement eligibility for that year and be subject to audit, pursuant to the provisions of the guidelines attached to and adopted by the Resolution. The City Manager shall certify to the Chief Appraiser of BCAD whether the Owner is in compliance with the employment requirements of this Agreement.

6. Tax Abatement

(a) Abatement on the Improvements shall be permitted only for the value of new "eligible property" constructed or added after January 1, 2011, subject to the limitation stated in subsection 5@ above. In addition, this exemption from taxation is specifically subject to the rights of the holders of outstanding bonds of the City. The portion of the value of new eligible Improvements subject to the abatement shall be determined in accordance with the following schedule:

Total Investment	Abatement Per Year
\$100,000 to \$500,000	100% 75% 50%
\$500,000 to 2,000,000	100% 75% 50% 25%
\$2,000,000 to 5,000,000	100% 100% 75% 50% 25%
Over \$5,000,000	100% 100% 100% 75% 50%

If the construction period extends beyond one years from the Effective Date of Abatement, the Improvements shall be considered completed for purposes of abatement and, in no case, shall the Abatement Period exceed five (5) years from the Effective Date of Abatement.

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

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

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

3. The additional value of the eligible improvements constructed after January 1, 2011, but before the effective date of this Agreement, shall be taxable in accordance with Section 6(a) of this Agreement.

4. Any equipment or machinery, described in the Application of the Owner for a tax abatement, incorporated herein by reference, and installed in the property pursuant to this Agreement, that is removed from the property for longer than a temporary repair period, shall be fully taxable.

(c) The City shall enter into only one tax abatement agreement for the Project described in the Application of the Owner for a tax abatement, incorporated herein by reference, during the existence of the Zone.

7. Default and Recapture

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

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

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

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

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

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

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

8. Administration

(a) For purposes of this Agreement, the value of the real and personal Property comprising the Zone, including the value of the Improvements listed in the Application of the Owner for a tax abatement, which is incorporated herein by reference, shall be the same as the value of the Improvements determined annually by the chief appraiser of BCAD. Each year, the Owner shall furnish the City with such information as may be necessary for calculating the amount of abatement. Once the value of the Improvements has been established and the amount of the abatement calculated, the chief appraiser of the BCAD shall notify the affected jurisdictions that levy taxes of the amount of such assessment.

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

9. Compliance with State and Local Regulations

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

10. Merger

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

11. Notice

(a) All notices shall be in writing and unless hand delivered, shall be sent by U.S. Mail certified, return receipt requested.

(b) If mailed, any notice or communication shall be deemed to be received three (3) days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the following address:

To the Owner

If mailed or personally delivered:

Maria Rivera
1703 N. Ave N
Freeport, TX 77541

To the City

If mailed or personally delivered:

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

Each party may designate a different address by giving the other party written notice ten (10) days in advance of such designation.

12. Effective Date

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

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

Maria Rivera, Owner

THE CITY OF FREEPORT, TEXAS

BY _____
Its Mayor

ATTEST:

Its City Secretary

APPROVED AS TO FORM



City Attorney

C:\Freeport.Abt\Maria's Kitchen-TaxAbat-Agr

INVITATION TO BID

Sealed proposals, in duplicate, addressed to:

**CITY OF FREEPORT
200 W. 2nd St.
Freeport, TX 77541**

will be received until 9:00 a.m. on March 21, 2011, at the office of the City Manager, 200 W. 2nd Street, Freeport, in Brazoria County, Texas, during normal business hours, and then publicly opened and read aloud for the following project:

**OFFICE, RESTROOM
LAUNDRY, CLOSET, ETC.
FREEPORT MUNICIPAL MARINA
202 East 2nd Street,
Freeport, TX 77541**

General Contractors are invited to submit lump sum bids for the construction of an office, restroom, laundry and closet, and related concrete sidewalks and access areas, to be located at the Freeport Municipal Marina. This new construction shall be as described in the Contract Documents available at the office of the City Manager, 200 West Second Street, Freeport, Texas 77541, upon request.

SPECIAL REQUIREMENTS

- 1. A Bid Bond or Cashier's Check for at least 10% of the bid amount payable to the City of Freeport ("City") shall accompany each bid.**
- 2. Performance and Payment Bonds for 100% of the Contract sum will be required of the successful bidder at time of Contract execution.**
- 3. Each bidder shall submit data in regard to that bidder's qualifications as a Contractor with but separate from but at the same time as its bid.**
- 4. Wage rate requirements: As stated in the Bidding Documents, or as required by law.**
- 5. No proposal may be withdrawn from the date of bid opening until sixty (60) days after the date of bid opening.**

6. The City reserves the right to reject any and all bids, to waive any and all formalities and to accept any bid considered advantageous to the City.
7. The General Contractor selected by the City shall waive all rights to interest on retainage as called for in Section 2252(2), Government Code.
8. In the case of ambiguity or lack of clearness, the owner reserves the right to construe a bid in a manner most advantageous to the owner, or to reject such bid.
9. The contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the owner.
10. Completion date for the project is May 10, 2011, and all bids must specify the Contractors ability to complete the project by that date.

BY ORDER OF THE CITY COUNCIL adopted on the 7th day of March, 2011.

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

THE STATE OF TEXAS

X

Draft

COUNTY OF BRAZORIA

X

PUBLIC WORKS CONTRACT

CITY OF FREEPORT

X

This agreement made this ____ day of _____, 2011, by and between the CITY OF FREEPORT, TEXAS ("OWNER"), a Home-Rule Municipality lying and situated in Brazoria County, Texas, and _____ ("CONTRACTOR"), a [sole proprietor/partnership composed of -- and --/ private corporation duly organized under the laws of the State of Texas] with a principal office at -- in -- County, Texas,

W I T N E S S E T H:

1. For and in consideration of the payments and agreements herein mentioned, CONTRACTOR will commence and complete, in a good and workmanlike manner, the construction of -- ("PROJECT").

2. The CONTRACTOR will furnish at CONTRACTOR'S expense all bonds, permits, licenses, transportation, material, supplies, tools, equipment, machinery, labor and other services necessary for the construction and completion of the PROJECT as described in the CONTRACT DOCUMENTS and any CHANGE ORDERS approved by both parties or their duly authorized representatives.

3. The CONTRACTOR will commence the work necessary to construct and complete the PROJECT in the manner described in the CONTRACT DOCUMENTS in the manner therein specified ("the WORK") within _____ calendar days after the date of the NOTICE TO PROCEED is sent to CONTRACTOR and will complete the WORK within _____ calendar days thereafter unless the period of completion is extended otherwise by the CONTRACT DOCUMENTS.

4. A CONTRACTOR'S PAYMENT BOND and a CONTRACTOR'S PERFORMANCE BOND as required by Chapter 2253 of the Government Code of Texas have been furnished by CONTRACTOR TO OWNER as required by Chapter 2253 of the Government Code of Texas prior to the execution of this contract or will be furnished before any of the WORK begins or within ten (10) days of the date hereof, which ever event is first. If such bonds are not filed as provided herein, OWNER may terminate this contract.

5. The CONTRACTOR agrees to perform all of the WORK therein for the sum of \$-- as shown in the CONTRACTOR'S BID.

6. The term "CONTRACT DOCUMENTS" means and includes the following:

- A. ADVERTISEMENT for bids.
- B. CONTRACTOR'S BID including any schedules or attachments.
- C. CONTRACTOR'S BID BOND or copy of CASHIERS CHECK.
- E. This PUBLIC WORKS CONTRACT.
- F. The attached GENERAL CONDITIONS
- G. CONTRACTOR'S PAYMENT BOND
- H. CONTRACTOR'S PERFORMANCE BOND
- I. NOTICE TO PROCEED
- J. The attached PLANS AND SPECIFICATIONS.
- K. Any attached ADDENDA
- L. Any CHANGE ORDERS subsequently issued by the OWNER

7. The OWNER will pay to the CONTRACTOR in the manner and at such times as set forth in the GENERAL CONDITIONS the amount set forth above.

8. The parties intend that Contractor, in performing such services, shall act as an independent contractor and shall have control of the work and the manner in which it is performed. Contractor shall be free to contract for similar services to be performed for other persons, firms or corporations and Contractor is not to be considered an agent or employee of Owners and is not entitled to participate in any employee benefits of Owners. Further, the Owner shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance except with respect to the employees of Owner.

9. The CONTRACT DOCUMENTS shall be binding upon the parties hereto and their respective [heirs, executors, administrators,] successors and assigns.

10. By the execution of this Public Works Contract, the Contractor hereby waives all rights to interest on retainage as called for in Section 2252(2), Government Code.

11. This contract is performable in Brazoria County, Texas, and shall be governed by the laws of the State of Texas, excluding conflict of laws rules if the application of such rules would require the application of the laws of a different state or nation.

12. Venue for any action hereunder, at law or in equity, shall be in a court of competent jurisdiction located in Brazoria County, Texas.

IN WITNESS WHEREOF the parties have executed, or cause to be executed by their respective duly authorized officers or agents, this Agreement in multiple copies (each of which shall be deemed to be an original) on the date first written above.

"CONTRACTOR"

(Name Typed or Printed)

By _____
Its _____

ATTEST:

Its _____
"OWNER"

THE CITY OF FREEPORT, TEXAS

BY _____
Larry McDonald, Mayor

ATTEST:

Delia Munoz, City Secretary

GENERAL CONDITIONS

ALTERATIONS AND EXTRAS: OWNER reserves the right during the progress of the work to make any changes, additions or deletions to the original plans and specifications. All changes are to be made by written CHANGE ORDERS and accepted by both parties or their duly authorized representatives before proceeding with the work included therein. The duly authorized representative of the OWNER shall be the City Manager of the City of Freeport. CHANGE ORDERS shall not invalidate any of the other CONTRACT DOCUMENTS. No bills for extras will be honored unless supported by a written CHANGE ORDER.

INDEPENDENT CONTRACTOR: In the performance of this contract, CONTRACTOR shall be an independent contractor with the sole right to supervise, manage, control and direct the performance of the details of the WORK. OWNER is only interested in the results to be obtained, but the work must meet with the approval of the OWNER whose representatives shall be entitled to make such inspections as may be necessary to assure such results.

INSURANCE: CONTRACTOR agrees to carry adequate Worker's Compensation and Employer's Liability Insurance covering all persons and employees working on the PROJECT and also to carry Comprehensive Public Liability Insurance and Automotive Public Liability and Property Damage Insurance naming the OWNER as an additional insured in the amount of at least \$1,000,000.00 to protect against any claims for injuries or death to persons or damage to property sustained in the carrying out of the WORK. Evidence of compliance with this provision sufficient to satisfy OWNER'S attorney shall be furnished by CONTRACTOR prior to the commencement of any portion of the WORK.

OPERATIONS: CONTRACTOR shall commence the WORK and prosecute the same diligently and without interruption to completion within the time limits set forth in the contract.

RISK OF LOSS: Until written acceptance of the PROJECT by OWNER, all risk of loss, injury or destruction by any cause other than acts or omissions of OWNER, its officer, agents or employees, shall be borne by CONTRACTOR. Responsibility of CONTRACTOR shall extend to materials and equipment supplied for the performance of the WORK.

DEFAULTS: Time and quality of work shall be of the essence of this contract. If the CONTRACTOR fails to begin or prosecute the WORK with reasonable diligence, without interruption and in a good and workmanlike manner, OWNER, at OWNER'S option, upon three (3) days' written notice to CONTRACTOR, may terminate the WORK. Without prejudice to any other remedy it may have, OWNER may take control of the WORK for the purpose of completing the same under the terms hereof, either by OWNER'S own employees or by other independent contract(s). If OWNER take control of the WORK, then CONTRACTOR shall be entitled, upon completion of the work, to the difference between the contract price and the reasonable cost and expenses incurred by OWNER in finishing the WORK. If such costs and expenses should exceed the contract price, CONTRACTOR agrees to pay the excess to OWNER at Freeport, in Brazoria County, Texas, within thirty (30) days after being billed therefore by OWNER, as liquidated damages agreed upon by the parties hereto in consideration of the difficulty of ascertaining the actual damages by other means. The provisions of this section shall not apply to any defaults in performance of the incidental covenants of the CONTRACTOR which are not directly related to the continuity and quality of the performance of the WORK.

NON-ASSIGNABILITY: This contract shall not be transferred or assigned, directly or collaterally, without the advance written approval of OWNER.

NOTICES: Notices shall be sent to the OWNER c/o City Manager, 200 W. 2ND St., Freeport, TX 77541 and to CONTRACTOR at _____ . Notices must be in writing and delivered in person or sent by certified mail, return receipt requested and postage prepaid.

SUBCONTRACTING: CONTRACTOR shall be permitted to subcontract the WORK or any part thereof but subcontracting shall not relieve CONTRACTOR of primary responsibility for the continuity and quality of the performance of the WORK in a timely fashion.

INSPECTION : During the progress of the work, CONTRACTOR agrees to allow the Building Official and the Marina Manager of the OWNER to inspect the work being performed and make suggestions but CONTRACTOR shall not be obligated to make any changes except as provided above in the paragraph entitled ALERTATIONS AND EXTRAS and COMPLIANCE WITH AUTHORITY.

INDEMNITY: CONTRACTOR agrees to protect, indemnify and hold OWNER and OWNER'S officers, agents and employees, free and harmless from and against any and all claims, demands and causes of action of every kind and character (including the amounts of judgments, penalties, interest, court costs and legal fees incurred in the defense of the same) arising in favor of any person, firm, corporation or other legally recognized entity (including the employees of the parties and the employees of any subcontractor) on account of taxes, claims, debts, personal injuries, death or damages to property and, without limitation by enumeration, all other claims or demands of every character occurring or in anywise incident to, in connection with or arising out of the performance of the WORK by CONTRACTOR or any subcontractors of CONTRACTOR or the agents or employees of either of them.

COMPLIANCE WITH AUTHORITY: CONTRACTOR agrees to comply with all laws, orders, rules or regulations of any governmental body, including without limitation, those pertaining to Social Security, safety, health, old age pension and unemployment compensation. Before final payment hereunder, CONTRACTOR shall satisfy OWNER of the payment and release of all debts, taxes, liens, claims, charges and obligations arising by operation of law or otherwise, out of CONTRACTOR'S performance of the WORK. OWNER may withhold funds due CONTRACTOR hereunder or otherwise, without interest, to assure itself of the discharge of all such obligations or to satisfy any provisions of law relating to claims against CONTRACTOR.

PAYMENT: Upon completion of the WORK in accordance with the terms of the CONTRACT DOCUMENTS and after final acceptance of the PROJECT by OWNER or its authorized representative, OWNER AGREES to pay CONTRACTOR in lawful money of the United States the sum specified in the contract (less a retainage of ten (10%) percent). The accumulated retainage shall be paid to the CONTRACTOR by the OWNER upon the expiration of ninety (90) days following the acceptance of the PROJECT by the OWNER unless further withholding is required under the preceding paragraph.

WARRANTY: CONTRACTOR hereby EXPRESSLY WARRANTS that upon completion of the PROJECT, the WORK shall for a period of twenty (20) years from the date of acceptance by OWNER be FREE FROM DEFECTS IN MATERIAL AND WORKMANSHIP and that CONTRACTOR will REPLACE AND REPAIR any such defects occurring within such period at no cost to OWNER. Provided, however, without regard to defects in material or workmanship, CONTRACTOR agrees to repair all roof leaks (except those caused by hurricane, tornado, hail, fire or other catastrophe) occurring within five (5) years of the date of installation.

INTERPRETATION: The CONTRACT DOCUMENTS constitute the entire agreement between the parties and no other conversation, bids, memoranda or other matter shall vary, alter or interpret the terms hereof . The side head captions of these General Conditions are for the convenience of the parties in the identification of the several provision hereof and shall not constitute a part of these General Conditions nor be considered interpretive thereof. Failure of the OWNER to exercise any option, right or privilege hereunder or to demand compliance as to any obligation or covenant of CONTRACTOR shall not constitute a waiver of any such right, privilege or option, or the strict performance hereof unless such waiver is evidenced by a properly executed addendum to the Contract to which these General Conditions are attached.