

# CITY OF FREEPORT

NOTICE OF PUBLIC MEETING  
THE FREEPORT CITY COUNCIL

MONDAY, AUGUST 1ST 2011, 6:00 P.M.  
FREEPORT MUNICIPAL COURT ROOM

FREEPORT POLICE DEPARTMENT, 430 NORTH BRAZOSPORT BLVD.

## AGENDA FORMAL SESSION

1. Call to Order.
2. Invocation.
3. Pledge of Allegiance
4. Consideration of approving the July 18th, 19th, & 21st, 2011 Council Minutes.  
Pg. 452-461
5. Attending citizens and their business.
6. Consideration of authorizing the City Manager to select/appoint 5 members for the Fair Housing Workgroup, 3 of which being from racial/minority, large family, disable, etc. from the incorporated areas of the City. Pg. 462
7. Consideration of rescheduling September 5<sup>th</sup>, 2011 council meeting to September 6<sup>th</sup>, due to a city holiday.
8. Consideration of setting a date for a joint public hearing with the Planning Commission to consider whether or not the Comprehensive Zoning Ordinance and Map of said city, codified as Chapter 155 of the Code of Ordinances of said City, should be amended to add a new zoning district, to be called W-4 Marina District and whether or not the zoning classification of all of the land located North of Second Street, East of Cherry Street, West of Terminal Street and South of the centerline of the Brazos River should be changed to W-4 Marina District.
9. Consideration of accepting and awarding the bids to purchase 3,423 tons of stabilized concrete and a quantity of crushed granite sufficient to construct a nature or hiking trail 6 ft. in width and 6,671 ft. in length. Pg. 463-466
10. Consideration of approving Ordinance No. 2011-2283 reviewing the rate increase request of CenterPoint Energy Entex; denying the requested increase in rates; ordering that no change in rates occur; requiring the reimbursement of rate case expenses; establishing an effective date for this ordinance; Making such other findings and provisions related hereto; containing a savings clause; and providing for the effective date thereof. Pg. 467-472

11. Consideration of setting a public hearing for August 15th, 2011 to create a Texas Enterprise Zone Program. Pg473-482
12. Consideration of the approval of any action items discussed in Executive Session.

Work Session:

- A. Discussion readopting the tax abatement guidelines and criteria.
- B. Discussion regarding the proposals for 331 W. 2nd Street; known as the old Almo Building.

Executive Session:

Section 551.074

Deliberations concerning the evaluation, and duties of a public officer or employee.

- City Manager

Adjourn

Items not necessary discussed in the order they appear on the agenda. The Council at its discretion may take action on any or all of the items as listed.

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

I, Delia Munoz City Secretary for the City of Freeport, Texas certify that this agenda was posted on the official bulletin board/glass door of City Hall, facing the rear parking lot of the building, with 24 hours a day public access, 200 W. 2nd Street, Freeport Texas, July 29th, 2011 at or before 5:00 p.m.

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Delia Munoz – City Secretary  
City of Freeport, Texas

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of the City of Freeport met on Monday, July 18th, 2011 at 6:00 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: Norma Moreno Garcia  
Michelle Kent  
Fred Bolton  
Nicolosa Mireles  
Sandra Barbree

Staff: Jeff Pynes, City Manager  
Gilbert Arispe, Administrative Asst.  
Wallace Shaw, City Attorney  
Delia Munoz, City Secretary  
Nat Hickey, Property Manager  
Larry Fansher, Parks Director  
Ty Morrow, Chief of Police  
Brian Davis, Fire Chief

Visitors: Dorothy Pirrung Jim Pirrung  
Sandra W. Wicke Jerry Meeks  
Brenda Laird Annette Sanford  
Eric Hayes Lila Diehl  
Melanie Oldham Gus Flores  
Debra Timbeross Manning Rollerson  
Landis Adams

Call to Order.

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

Invocation.

Wallace Shaw offered the invocation.

Pledge of Allegiance

Mayor Norma Garcia led the Pledge of Allegiance.

Consideration of approving the July 5th, 2011 Council Minutes.

On a motion by Councilwoman Kent, seconded by Councilwoman Mireles, with all present voting "aye", Council unanimously approved the July 5<sup>th</sup>, 2011 Council Minutes.

Read the Rules & Procedures of City Council Meetings.

Mr. Pynes announced that the Rules & Procedures of City Council are posted outside the City Council Chambers. He read out the Rules & Procedures of City Council to the attendances.

Attending citizens and their business.

Annette Sanford asked if the Fire Chief and Police Chief would be exempt from the Rules & Procedures since their cell phones are always on during council meetings. Mayor Norma Garcia said yes.

Manning Rollerson complained about the noise ordinance. He stated that during football games he can hear the amplifier all the way to his apartment on North Ave. J. He also stated that he can hear music from the events being held at the Freeport Municipal Park. The residents of the city are getting citations for loud noise and feels the city is not exempt from the noise ordinance.

Consideration of the approving Resolution No. 2011-2256 authorizing Wallace Shaw and Julian W. Taylor, III the City Attorney and Assistant City Attorney of said City, respectively, and either of them, to purchase or, failing purchase, to cause to be filed and prosecuted proceedings in eminent domain under Chapter 21 of the property code against all owners and lienholders of the fee simple title (exclusive of the title to the oil, gas and other minerals, if any, in and under and that may be produced therefrom but including all interest in the adjoining streets, easements and rights of way, if any) of Block 515, Lots 1, 2, 3, 4, 5 & 6, Block 517, Lot 1, Block 549, Lots 2, 3, 5, 6, 7 & 8, Block 576, Lot 1 & 2, Block 617, Lot 16, Block 644, Lot 5, Block 654, Lot 10, Block 685, Lot 22, all in the Velasco Townsite of the City Freeport, in Brazoria County, Texas.

On a motion by Councilman Bolton, seconded by Councilwoman Mireles, with all present voting "aye", Council unanimously approved Resolution No. 2011-2256 authorizing Wallace Shaw and Julian W. Taylor, III the City Attorney and Assistant City Attorney of said City, respectively, and either of them, to purchase or, failing purchase, to cause to be filed and prosecuted proceedings in eminent domain under Chapter 21 of the property code against all owners and lienholders of the fee simple title (exclusive of the title to the oil, gas and other minerals, if any, in and under and that may be produced therefrom but including all interest in the adjoining streets, easements and rights of way, if any) of Block 515, Lots 1, 2, 3, 4, 5 & 6, Block 517, Lot 1, Block 549, Lots 2, 3, 5, 6, 7 & 8, Block 576, Lot 1 & 2, Block 617, Lot 16, Block 644, Lot 5, Block 654, Lot 10,

Block 685, Lot 22, all in the Velasco Townsite of the City Freeport, in Brazoria County, Texas.

Consideration of approving Resolution No. 2011-2257 nominating, constituting and appointing qualified person(s) for expired terms to the Planning Commission of said city.

On a motion by Councilwoman Mireles, seconded by Councilman Bolton, with all present voting "aye", Council unanimously approved Resolution No. 2011-2257 nominating and appointing Eddie Virgil and Tobey Davenport to the Planning Commission.

Consideration of approving Resolution No. 2011-2258 nominating, constituting and appointing qualified person(s) for expired terms to the Library Board of said city.

On a motion by Councilwoman Mireles, seconded by Councilwoman Barbree, with all present voting "aye", Council unanimously approved Resolution No. 2011-2258 nominating and appointing James Walker, June Strambler, Nancy Hughes, Margie Edwards and Lila Lloyd to the Library Board of said city.

Consideration of approving Resolution No. 2011-2259 nominating, constituting and appointing qualified person(s) for expired terms of the Board of Adjustments of said city.

This item was reagendaed.

Consideration of approving Resolution No. 2011-2260 nominating, constituting and appointing qualified person(s) for expired terms of the Urban Renewal Board of said city.

On a motion by Councilwoman Kent, seconded by Councilwoman Mireles, with all present voting "aye", Council unanimously approved Resolution No. 2011-2260 nominating and appointing Annette Sanford, Ken Tyner, and Raul Ramirez to the Urban Renewal Board of said city.

Consideration of approving Resolution No. 2011-2261 nominating, constituting and appointing qualified person(s) for expired terms of the Beautification/Parks & Recreation Committee of said city.

On a motion by Councilwoman Mireles, seconded by Councilwoman Kent, with all present voting "aye", Council unanimously approved Resolution No. 2011-2261 nominating and appointing Guadalupe Gonzales, Margaret L. McMahan, Michelle Backman and Cliff Shimek to the Beautification/Parks & Recreation Committee of said city.

Consideration of approving Resolution No. 2011-2262 nominating, constituting and appointing qualified person(s) for expired terms of the Economic Development Corporation of said city.

On a motion by Councilwoman Mireles, seconded by Councilwoman Kent, with all present voting "aye", Council unanimously approved Resolution No. 2011-2262 nominating and appointing Lila Diehl, Mingo Marquez, Lon Siddall and Willie Garcia, to the Economic Development Corporation of said city.

Consideration of approving Resolution No. 2011-2263 nominating, constituting and appointing qualified person(s) for expired terms to the Historical Commission and Main Street Advisory Board of said city.

On a motion by Councilwoman Kent, seconded by Councilwoman Mireles, with all present voting "aye", Council unanimously approved Resolution No. 2011-2263 nominating and appointing Charles Hawkins, Lalo Garcia, George Elizondo, and Cliff Shimek to the Historical Commission and Main Street Advisory Board of said city.

Consideration of approving Resolution No. 2011-2264 nominating, constituting and appointing qualified person(s) for expired terms to the Charter Review Commission of said city.

On a motion by Councilwoman Mireles, seconded by Councilwoman Barbree, with all present voting "aye", Council unanimously approved Resolution No. 2011-2264 nominating and appointing Sandra W. Wicke, Dorothy Pirrung, Mingo Marquez, Jason Thompson, and Lila Lloyd to the Charter Review Commission of city.

Consideration of approving Resolution No. 2011-2265 nominating, constituting and appointing qualified person(s) for expired terms to the Senior Citizens Commission of said city.

On a motion by Councilwoman Mireles, seconded by Councilwoman Kent, with all present voting "aye", Council unanimously approved Resolution No. 2011-2265 nominating and appointing Mary Darnell, Beverly Garrison, Martha Westbrook, and Shirley Theriot to the Senior Citizens of said city.

Consideration of setting a public hearing date to implement an anti-tethering ordinance.

On a motion by Councilwoman Kent, seconded by Councilwoman Mireles, with all present voting "aye", Council unanimously approved August 15th, 2011 for a public hearing date to implement anti-tethering ordinance.

Consideration of authorizing the Mayor to sign a lease agreement with Platinum Marketing.

On a motion by Councilwoman Kent, seconded by Councilwoman Barbree, with all present voting "aye", Council unanimously approved authorizing the Mayor to sign a lease agreement with Platinum Marketing.

Consideration of the approval of any action items discussed in Executive Session.

No action taken.

Work Session:

Discussion regarding the new Senate Bill 100 requiring adjustments to the Municipal Election Dates.

Mr. Shaw explained the Senate Bill that will require adjustments to the municipal election dates. One option is to change terms of elected officials to 4 years and have an election only every other year. The second option is to stay with the annual elections by running joint with Brazoria County every year in November, definite facing an increase in price over the previous May elections.

Mayor Norma Garcia closed the open session and opened the executive session at 6:40 pm.

Executive Session:

Section 551.071, Government Code

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

- Freeport Marina
- Urban Renewal Plan 1
- Proposed Annexation

Section 551.074, Government Code

Deliberations concerning the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee, to wit:

- City Manager

Adjourn

Mayor Norma Garcia reconvened in open session to adjourn. On a motion by Councilwoman Kent, seconded by Councilwoman Barbree, with all present voting "aye", the meeting adjourned at 7:43 p.m.

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Mayor Norma Garcia  
City of Freeport, Texas

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Delia Munoz – City Secretary  
City of Freeport, Texas



State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of the City of Freeport met for a budget workshop on Tuesday, July 19th, 2011 at 6:00 p.m. at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, for the purpose of considering the 2011-2012 budget proposals.

City Council: Norma Moreno Garcia  
Michelle Kent  
Fred Bolton  
Nicolosa Mireles  
Sandra Barbree

Staff: Jeff Pynes, City Attorney  
Gilbert Arispe, Administrative Asst.  
Delia Munoz, City Secretary  
Larry Fansher, Parks Director  
Ty Morrow, Police Chief  
Brian Davis, Fire Chief  
Bob Welch, Finance Director  
Brian Dybala, Golf Director  
Nat Hickey, Property Manager

Visitors: Joyce Adkins                      Annette Sanford  
Marty De Leon                      Lalo Garcia  
Sandra Loeza

Call to order.

Mayor Norma Garcia called the budget workshop to order at 6:00 p.m.

Invocation

A moment of silence.

Work Session: Discuss and consider 2011-2012 budget proposals.

City Manager Jeff Pynes and departments heads presented recommendations for fiscal year 2011-2012. Council reviewed the proposed budget for the following departments; Historical Museum, Main Street, Golf Course, Code Enforcement, Building Department, Mayor & Council.

Adjourn:

On a motion by Councilwoman Kent, seconded by Councilwoman Mireles, with all present voting “aye”, Council adjourned the workshop at 7:03 p.m.

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Mayor Norma Garcia  
City of Freeport, Texas

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City Secretary – Delia Munoz  
City of Freeport, Texas

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of the City of Freeport met for a 2nd budget workshop on Thursday, July 21st, 2011 at 6:00 p.m. at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, to discuss 2011-2012 budget proposals.

City Council: Norma Moreno Garcia  
Michelle Kent  
Fred Bolton  
Nicolosa Mireles  
Sandra Barbree

Staff: Jeff Pynes, City Attorney  
Gilbert Arispe, Administrative Asst.  
Delia Munoz, City Secretary  
Larry Fansher, Parks Director  
Ty Morrow, Police Chief  
Brian Davis, Fire Chief  
Bob Welch, Finance Director  
Brian Dybala, Golf Director  
Angela Degetaire, Marina Director

Visitors: Annette Sanford Kristy Mercado  
Jerry Meeks

Call to order.

Mayor Norma Garcia called the budget workshop to order at 6:00 p.m.

Invocation

A moment of silence.

Work Session: Discuss and consider 2011-2012 budget proposals.

City Manager Jeff Pynes and Directors presented recommendations for fiscal year 2011-2012 budget. Council reviewed the proposed budget for the following departments: Marina Fund, Street Department, Street & Drainage Fund, Service Center, Fire Department, Ambulance/EMS, Police Department, Parks, Recreation, Library, Senior Citizens fund, Water & Sewer fund,

Hotel/Motel fund, General Administration. Councilman Bolton stated that he worked and requested that future budget proposals be provided at least 10 days prior to the budget workshop. Mr. Pynes agreed.

Adjourn:

On a motion by Councilwoman Kent, seconded by Councilman Bolton, with all present voting “aye”, Council adjourned the workshop at 8:30 p.m.

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Mayor Norma Garcia  
City of Freeport, Texas

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City Secretary – Delia Munoz  
City of Freeport, Texas

# AGENDA

## BRAZORIA COUNTY COMMUNITY DEVELOPMENT ADVISORY BOARD

Wednesday, July 27, 2011

6: 00 P.M.

Commissioner's Courtroom, 1st Floor

- (1) Call Meeting to Order
- (2) Roll Call of Members
- (3) Recognize and hear from visitors.
- (4) Receive citizen comments and input regarding the 2010-2014 5-Year Consolidated Plan and 2011 Action Plan.
- (5) Receive citizen comments and input regarding the Village of Jones Creek to add Billingsley, Tuna Trail and Warsaw Way to their 2010 Jones Creek Street Improvement Project.
- (6) Consider and take action on request from Village of Jones Creek to add Billingsley, Tuna Trail and Warsaw Way to their 2010 Jones Creek Street Improvement Project.
- (7) Consider and take action on request from City of Lake Jackson to extend their 2009 Lake Jackson Facade/Lighting Project until March 31, 2012.
- (8) Discuss Section 3 hiring and preferences during any contract bids.
- (9) Discuss and take nominations for a Fair Housing Workgroup. The Workgroup needs to consist of at least 3 of the group being from racial/minority, large family, disabled, etc. from the ~~un~~incorporated area of Brazoria County. (Preferably consisting of 1 member from each group.)
  - 1) Create a Fair Housing Workgroup\* and post the members on your website
  - 2) Complete the FFAST in a meeting with the Workgroup
  - 3) Attend a required Fair Housing training (likely in August) by one or more Workgroup members
- (10) Discuss and determine future funding allocations and take action.
  - Option 1 - Current funding
  - Option 2 - Every 3 year funding
  - Option 3 - Application process
  - Option 4 - Based on population or l/m %
- (11) Discuss GLO (formerly TDRA) funding - Hurricane Ike Disaster Relief - Non-Housing.
- (12) Discuss TDHCA (H-GAC) funding - Hurricane Ike Disaster Relief - Housing.
- (13) Review financial and other status reports on CDBG and HOME Programs.
- (14) Set next meeting date.

To: City of Freeport

From: Staff

Date: July 25<sup>th</sup>, 2011

The City of Freeport went out for bids on purchasing 3,423 tons of stabilized concrete and a quantity of crushed granite sufficient to construct a nature or hiking trail of 6 ft. in width and 6,671 ft. in length.

See attach bids: Cherry Crushed Concrete  
Mike Sorrell Trucking & Material

# MIKE SORRELL TRUCKING & MATERIALS, INC.

P. O. BOX 2049 • FREEPORT, TX 77542-2049 • PHONE (979) 233-6655 • FAX (979) 233-7313  
2101 OYSTER CREEK BEND FM 523 • OYSTER CREEK, TX 77541



7/18/2011

Delia Munoz  
Freeport City Secretary  
Freeport, Texas

RE: Hiking Trail and Parking Lot Materials

We are pleased to quote the above mentioned material per your request. Please find below the pricing.

- 1). Crushed granite delivered for stockpile at city yard.  
**Approx. 1000 tons for \$59.00 per ton**
  
- 2). 1.5 Sack cement stabilized crushed concrete  
**Approx. 3400 tons for \$22.25 per ton**

Qualifications:

1. Pricing is for material only.
2. Price is good 30 days.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Stuart Herbst', with a long horizontal flourish extending to the right.

Stuart Herbst  
Project Manager  
Mike Sorrell Trucking and Materials, Inc.

John Conyer  
General Manager  
Stabilize Material Div.  
Mobile: 832-435-2533  
Fax: 281-692-1804



"Quality & Service at a Reasonable Cost"  
Family Owned Since 1952

Stabilize Material Division  
5325 CR 58  
Manvel, TX 77578  
Phone: 281-692-1900  
Fax: 281-692-9471

**Monday, July 25, 2011**

**City of Freeport / LORA**  
**Phone: 979-233-3526**  
**Fax: 979-233-8867**

**Bld Pkg July 25, 2011 @ 2:00**

- 1. 3,423 tons of Stabilize Concrete**
- 2. Crushed Granite for Nature or Hiking Trail 6 ft. wide & 6,671 ft length.**

**5% Cement Stabilize Crushed Concrete - \$ 22.00 per ton delivered**

**7% Cement Stabilize Crushed Concrete - \$ 23.25 per ton delivered**

**10% Cement Stabilize Crushed Concrete - \$ 25.25 per ton delivered**

**5/8" Granite Rock \$ 33.00 per ton delivered**

**1 " Granite Rock \$ 36.00 per ton delivered**

**1½" Granite Rock \$ 36.00 per ton delivered**

**Rosie Plemons**  
**281-692-1900 ex: 3**  
**FAX: 281-692-9471**  
**Mobile 281-960-6082**  
**rosie@cherrycrushedconcrete.com**

***Roll Off / Washout Boxes - Crushed Concrete - Stabilize***  
***Materials - Industrial - Commercial - Road Removals***



**INVITATION TO BID**

NOTICE IS HEREBY GIVEN that the City of Freeport, Texas, is interested in the purchase of 3,423 tons of stabilized concrete and a quantity of crushed granite sufficient to construct a nature or hiking trail 6 ft. in width and 6,671 ft. in length.

SEALED BIDS addressed to the City Manager by any person, firm or corporation desiring to sell the same will be received at the office of the City Manager located at 200 W. 2nd Street, Freeport, Brazoria County, Texas 77541, during normal business hours until 2:00 o'clock, p.m., on the 25<sup>th</sup> day of JULY, 2011, on which day, beginning at 2:00 o'clock, p.m., all such bids will be opened and publicly read aloud. Any bid received after 2:00 p.m. on such date will be returned unopened.

COPIES OF THE PLANS AND SPECIFICATIONS for such nature or hiking trail are available for public inspection at the Office of the City Manager during normal business hours. A set of such documents may be obtained from such office upon payment of the customary copy charge.

A CASHIER'S OR CERTIFIED CHECK drawn on a bank acceptable to said Board and payable to the order of said City, OR an ACCEPTABLE BID BOND with a corporate surety included on the latest list of surety companies holding certificates of authority from the State Board of Insurance, in the amount of not less than ten (10%) of the total bid or \$500.00, whichever is less, must accompany the bid as guarantee that if awarded the bid the bidder will enter into a contract with said City covering the sale of such stabilized concrete and crushed granite within ten (10) days from the above date.

The contract will be awarded to the LOWEST RESPONSIBLE BIDDER OR to the BIDDER WHO PROVIDES goods or services at the BEST VALUE for the municipality.

The City RESERVES the right to REJECT ANY AND ALL BIDS, to WAIVE any INFORMALITIES in bidding and, in the case of any AMBIGUITY OR LACK OF CLEARNESS, the City reserves the right to construe the same in a manner most advantageous to the City, or to reject the bid.

BY ORDER OF THE BOARD OF THE CITY COUNCIL this 20<sup>th</sup> day of JUNE,  
2011.

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Delia Munoz, City Secretary  
City of Freeport, Texas

**NOTE:** Publish once per week for two consecutive weeks, first publication to be more than 14 days before date of meeting at which bids are to be opened and read aloud.

**AGENDA INFORMATION SHEET**  
**ITEM NO. 10**

**ORDINANCE TO DENY RATE INCREASE  
REQUEST OF CENTERPOINT ENERGY  
ENTEX**

**BACKGROUND**

The City is a member of the Texas Coast Utilities Coalition of Cities (“TCUC”), a coalition of cities served by CenterPoint Energy Entex (“CenterPoint”) to address utility ratemaking and service related issues.

On or about April 29, 2011 CenterPoint filed a request to increase gas rates by approximately \$82,000 for its Texas Coast Division. CenterPoint proposed the following increases in the customer charges:

<b>Customer Class</b>	<b>Current Customer Charge</b>	<b>Proposed Customer Charge</b>	<b>Increase in Customer Charge</b>
<b>Residential</b>	\$14.78	\$14.82	\$0.04
<b>Small Commercial</b>	\$13.85	\$13.92	\$0.07
<b>Large Volume</b>	\$14.52	\$15.73	\$1.21

CenterPoint’s request was filed pursuant to a regulatory scheme known as a cost of service adjustment (“COSA”). This is a formulaic ratemaking scheme approved by the Railroad Commission in 2008 in Gas Utility Docket No. 9791 (*GUD 9791*). COSA allows annual filings to be made which require that CenterPoint be given an 11.8% return on its invested capital along with all annual increases in rates to be recovered through a fixed monthly charge. The coalition appealed the Railroad Commission’s decision in *GUD 9791* to the Travis County District Courts.

In its transmittal letter submitting its COSA-3 application for 2011, CenterPoint makes it a point to note that rate case expenses are less because of the availability of the COSA-3 tariff. However, under traditional ratemaking under the Gas Utility Regulatory Act (GURA) it is highly unlikely that CenterPoint would have expended the resources to recover a change in its cost of service of only \$82,000. Concomitantly, absent the availability of the COSA-3 tariff, the City would not have to expend its resources having to address a rate application where the utility seeks an increase of only 0.15 percent (0.15%) in its cost of service. Thus, it is questionable whether the COSA-3 tariff results in reduced regulatory expense.

The Travis County District Court, 345<sup>th</sup> Judicial District Court of Travis County, Texas in Cause No. D-1-GN-09-000982, *Texas Coast Utilities Coalition vs. The Railroad Commission of Texas*, Judge Stephen Yelenosky presiding, agreed with TCUC that the COSA was an illegal tariff and

issued a Judgment concluding that the Railroad Commission (1) did not have the authority to impose the COSA tariff on the City; and (2) did not have the authority to approve a COSA tariff in those areas where the Railroad Commission had original jurisdiction.

Beyond the lack of authority under the GURA to implement a COSA tariff in the City, CenterPoint's request is deficient in several respects:

1. CenterPoint provides insufficient data regarding its expenses related to its Affiliate Transactions; CenterPoint fails to provide the data from which the City may determine if CenterPoint's affiliate expenses meet the standards found in GURA;
2. CenterPoint provides insufficient data regarding its cost of capital, including its Return on Equity, its Cost of Debt, its Capital Structure, and its overall Rate of Return; the Cost of Capital CenterPoint proposes is based on an analysis of the capital markets as they existed in 2008;
3. CenterPoint provides insufficient data regarding its proposed Rate Design; CenterPoint proposes to recover its increase through the monthly customer charge and the customer charge for the Residential class of customers is materially higher than the charge for the Commercial customers but not materially lower than the charge to Industrial customers; CenterPoint fails to justify this anomaly in its rate design;
4. Based on a preliminary review it appears that CenterPoint's proposed treatment of Accumulated Deferred Income Tax (ADIT) is inconsistent with recent rulings by the Railroad Commission; the Railroad Commission recently determined that an ADIT debit should not be included in the calculation of a utility's rate base unless the revenue that gives rise to the tax liability is also deducted from rate base; it appears that CenterPoint did not follow this practice;
5. Based on a preliminary review it appears that CenterPoint's proposed calculation of its Cash Working Capital fails to take into account that CenterPoint factors its accounts receivables and the correct number of Meter Reading Days, which results in an overstatement of its Cash Working Capital needs; and
6. Based on a preliminary review it appears that CenterPoint's proposed calculation of its Pension Expense is inconsistent with recent rulings by the Railroad Commission; the Railroad Commission recently determined that because of the recent turmoil in the stock market, that a utility should use a 3-year average for determining Pension Expense; it appears that CenterPoint failed to adhere to this practice.

It is highly likely that CenterPoint will repeat last year's practice and implement its proposed rate increase on August 1, 2011, notwithstanding the City's denial of its request to increase rates. Also, the Railroad Commission has concluded that under a COSA filing, the City may not suspend CenterPoint's proposed effective date, notwithstanding the clear language of Section 104.107 of GURA authorizing the City to suspend a utility's proposed effective date for up to 90 days. The City's regulatory counsel is of the opinion that the Railroad Commission is in error in its conclusion.

Because of the Railroad Commission's ruling regarding suspension of CenterPoint's proposed effective date – a conclusion with which the TCUC cities' disagree and which is on appeal in Travis County District Court – and the likelihood that CenterPoint will implement its proposed increase in rates on August 1, 2011, the City's consultant has not had and will not have sufficient

time to conduct a full review of CenterPoint's rate application prior to August 1. While the GURA provides the City 125 days to make a decision regarding a utility's rate application, under the framework of COSA adopted by the Railroad Commission, the City is limited to at the most about 60 days of review time. Thus, the list of deficiencies in CenterPoint's rate application noted above should not be viewed as an exhaustive list and there may well be additional issues that would need to be addressed.

### **RECOMMENDATION**

Special Counsel for the TCUC cities, Herrera & Boyle, PLLC, recommend that the Council deny CenterPoint's requested increase primarily because the COSA-3 tariff has been found to be an illegal tariff by the Travis County District Court, but also because CenterPoint's application fails to meet the requirements of the Gas Utility Regulatory Act regarding a proper application to increase rates. **The City needs to take action by July 31, 2010 but recommends that the City take action at its earliest opportunity.**

ORDINANCE NO. 2011-2283

AN ORDINANCE OF THE CITY OF \_\_\_\_\_, TEXAS, REVIEWING THE RATE INCREASE REQUEST OF CENTERPOINT ENERGY ENTEX; DENYING THE REQUESTED INCREASE IN RATES; ORDERING THAT NO CHANGE IN RATES OCCUR; REQUIRING THE REIMBURSEMENT OF RATE CASE EXPENSES; ESTABLISHING AN EFFECTIVE DATE FOR THIS ORDINANCE; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED HERETO; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

**WHEREAS**, on or about April 29, 2011 CenterPoint Energy Entex (“CenterPoint”) filed a request to increase rates by an annual amount of approximately \$82,000 within the Texas Coast Division under the “Cost of Service Adjustment-3” (“COSA-3”) tariff approved by the Railroad Commission of Texas; and

**WHEREAS**, CenterPoint’s filing purports to be in compliance with a “Cost of Service Adjustment-3” (“COSA-3”) tariff approved by the Railroad Commission of Texas; and

**WHEREAS**, the COSA-3 tariff approved by the Railroad Commission of Texas provides that “[t]he provisions of this Cost of Service Adjustment are to be implemented in harmony with the Gas Utility Regulatory Act (Texas Utilities Code, Chapters 101-105)” and that the “Company’s annual rate adjustment will be made in accordance with all applicable laws”; and

**WHEREAS**, absent the availability of the COSA-3 tariff approved by the Railroad Commission of Texas, it is highly unlikely that CenterPoint would have initiated a rate case to recover a change in its cost of service of \$82,000, which represents approximately 0.15 percent (0.15%) of its overall cost of service; and

**WHEREAS**, absent the availability of the COSA-3 tariff approved by the Railroad Commission of Texas, the City would not be expending resources to address an application to increase rates by the *de minimis* amount of \$82,000; and

**WHEREAS**, the Railroad Commission of Texas in Gas Utility Docket No. 9910 concluded that a municipality may not suspend the effective date that CenterPoint proposes in its request to change rates under a COSA application, a conclusion with which the City disagrees and which issue is pending before the Travis County District Court; and

**WHEREAS**, CenterPoint proposed an effective date of August 1, 2011, which in conjunction with the Railroad Commission of Texas’ conclusion that the City may not suspend CenterPoint’s

proposed effective date, precludes the City from conducting a meaningful review of CenterPoint's request to raise rates, thereby denying the City's counsel and consultants the ability to provide a full review and recommendation to the Texas Coast Utilities Coalition of Cities ("TCUC Cities"); and

**WHEREAS**, CenterPoint failed to carry its burden of proof and meet the requirements of the Gas Utility Regulatory Act as necessary to warrant a change in rates, by failing to meet the requirements of the Gas Utility Regulatory Act in several areas of its rate request, including, but not limited to the following areas:

- a. CenterPoint's expenses related to its Affiliate Transactions;
- b. CenterPoint's proposed cost of capital, including its Return on Equity, its Cost of Debt, its Capital Structure, and its overall Rate of Return;
- c. CenterPoint's proposed Rate Design;
- d. CenterPoint's proposed treatment of Accumulated Deferred Income Tax;
- e. CenterPoint's proposed calculation of its Cash Working Capital; and
- f. CenterPoint's proposed calculation of its Pension Expense; and

**WHEREAS**, the 345<sup>th</sup> Judicial District Court of Travis County, Texas in Cause No. D-1-GN-09-000982, *Texas Coast Utilities Coalition vs. The Railroad Commission of Texas*, Judge Stephen Yelenosky presiding, issued a Judgment concluding that the Railroad Commission of Texas did not have the authority to impose the COSA-3 tariff on the City and did not have the authority to approve a COSA-3 tariff in those areas where the Railroad Commission of Texas had original jurisdiction;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF \_\_\_\_\_, TEXAS:**

**Section 1:** That the facts contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2:** That the base rate increase proposed by CenterPoint is denied.

**Section 3:** That to the extent CenterPoint implements any change in rates in contradiction of this Ordinance, CenterPoint shall refund to the City any base rate increase in full, plus interest calculated at the rate being earned on customer deposits, and shall also remit any and all amounts pursuant to penalties that may apply.

**Section 4:** That the effective date for this Ordinance is the date of its adoption.

**Section 5:** If there is an appeal of this Ordinance, the City reserves all rights to advocate adjustments to the revenue requirement, cost allocation and rate design proposed by CenterPoint and to fully participate in such appeal, including the reimbursement of its reasonable rate case expenses.

**Section 6:** The City is a participant in a coalition of cities known as the Texas Coast Utilities Coalition of Cities and authorizes intervention in proceedings related to CenterPoint's rate

application before the Railroad Commission of Texas and related proceedings in courts of law, and subject to the right to terminate employment at any time, the City authorizes the law firm of Herrera & Boyle, PLLC to act as special counsel with regard to rate proceedings involving CenterPoint before the City, the Railroad Commission of Texas, or any court of law.

**Section 7:** All conditions precedent to the adoption of each of the foregoing sections herein have been complied with under law.

**Section 8:** CenterPoint shall reimburse the reasonable rate case expenses of the TCUC Cities upon presentment of invoices received by the City.

**Section 9:** That if any section or part of any section, paragraph, or clause of this Ordinance is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force, or effect of any other section or sections, part of section, paragraph, or clause of this Ordinance.

**Section 10:** That the City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered, and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**Section 11:** That the City Secretary is hereby directed to send a true and copy of this Ordinance to Scott E. Doyle, Regional Vice President Gas Operations, CenterPoint Energy, 1111 Louisiana Street, Houston, Texas 77002 and to Alfred R. Herrera, Herrera & Boyle, PLLC, Suite 1250, 816 Congress, Austin, Texas 78701.

**INTRODUCED, READ and PASSED** by the affirmative vote of the City Council of the City of \_\_\_\_\_ on this the \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney



# Window on State Government

Susan Combs, Texas Comptroller of Public Accounts

System Maintenance Notice

## Enterprise Zone Program

### Program Objective

The Texas Enterprise Zone Program is an economic development tool for local communities to partner with the State of Texas to promote job creation and capital investment in economically distressed areas of the state.

### Participation

Local communities must nominate a company as an Enterprise Project to be eligible to participate in the Enterprise Zone Program. Legislation limits allocations to the state and local communities per biennium. The state accepts applications quarterly with deadlines on the first working day of March, June, September and December.

### Benefits to Participation

Designated projects are eligible to apply for state sales and use tax refunds on qualified expenditures. The level and amount of refund is related to the capital investment and jobs created or retained at the qualified business site.

Level of Capital Investment	Maximum Number of Jobs Allocated	Maximum Potential Refund	Maximum Refund Per Job Allocated
\$40,000 to \$399,999	10	\$25,000	\$2,500
\$400,000 to \$999,999	25	\$62,500	\$2,500
\$1,000,000 to \$4,999,999	125	\$312,500	\$2,500
\$5,000,000 to \$149,999,999	500	\$1,250,000	\$2,500
Double Jumbo Project \$150,000,000 to \$249,999,999	500	\$2,500,000	\$5,000



<b>Level of Capital Investment</b>	<b>Maximum Number of Jobs Allocated</b>	<b>Maximum Potential Refund</b>	<b>Maximum Refund Per Job Allocated</b>
Triple Jumbo Project \$250,000,000 or more	500	\$3,750,000	\$7,500

## Participation Requirements

Communities may nominate projects, for a designation period up to five years, non-inclusive of a 90-day window prior to the application deadline. Employment and capital investment commitments must be incurred and met within this timeframe.

Projects may be physically located in or outside of an Enterprise Zone.

If located within a zone, the company commits that at least 25% of their new employees will meet economically disadvantaged or enterprise zone residence requirements.

If located outside of a zone, the company commits that at least 35% of their new employees will meet economically disadvantaged or enterprise zone residency requirements.

## Program Resources

### General Program:

Enterprise Zone Program Statutes, Chapter 2303, Texas Government Code

Enterprise Zone Program Rules, 10 TAC 176

What is my Block Group?

Census Tract / Block Group Zones

HUD Section 8 Income Limits by Texas Counties

Chapter 311: Texas Tax Increment Financing Act

Chapter 312: Property Redevelopment and Tax Abatement Act

Chapter 313: Texas Economic Development Act

### Applications and Sample Documents:

#### Application for Program Benefits:

Guidelines (PDF)

Application (MSWord)

Enterprise or Defense Readjustment Project Claim for Refund

Enterprise or Defense Readjustment Project Claim for Refund for Projects Designated on or After September 1, 2001

Enterprise or Defense Readjustment Project - Invoices or Contracts Supplement

### Benefit Documents:

Please contact Ping Hu, Audit Division Headquarters, at (512) 305-9897.

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## Contact Information

For additional information on the Texas Enterprise Zone Program, call the Economic Development Bank at (512) 936-0100.

### Required Plug-ins

[ Adobe Reader, MS Word Viewer ]

ORDINANCE NO. 04-1768

AN ORDINANCE AUTHORIZING THE CITY OF LAKE JACKSON TO PARTICIPATE IN THE TEXAS ENTERPRISE ZONE PROGRAM UNDER THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE; PROVIDING TAX INCENTIVES; NOMINATING BASF CORPORATION ("BASF") TO THE OFFICE OF THE GOVERNOR ECONOMIC DEVELOPMENT & TOURISM THROUGH THE ECONOMIC DEVELOPMENT BANK FOR DESIGNATION AS A QUALIFIED BUSINESS AND TRIPLE JUMBO ENTERPRISE PROJECT UNDER THE ACT; DESIGNATING A LIAISON FOR OVERSEEING ENTERPRISE PROJECTS AND COMMUNICATING WITH INTERESTED PARTIES; AND PROVIDING A SAVINGS CLAUSE.

WHEREAS, the City of Lake Jackson, Texas ("the City") desires to create the proper economic and social environment to induce the investment of private resources in productive business enterprises located within the City and the ETJ areas of the City and provide employment to residents of distressed areas;

WHEREAS, the Texas Enterprise Zone Act, Chapter 2303, Texas Government Code, as amended, (the "Act") authorizes the designation of enterprise projects within an enterprise zone (or, if the requirements of Section 2303.402 (a) (2) of the Act are met, within an area that does not qualify as an enterprise zone);

WHEREAS, under the 2003 amendments to the Act, the Act is now administered by The Office of The Governor Of Economic Development & Tourism ("GOED&T") through the Texas Economic Development Bank ("Bank");

WHEREAS, with proper notice to the public, a public hearing to consider this ordinance was held on the 1<sup>st</sup> day of November, 2004, during a meeting of the City Council, the Council Chambers, at City Hall, in Lake Jackson, during which all interested persons were allowed to appear and be heard; and

WHEREAS, the City Council has determined that passage of this ordinance would best serve public health, necessity, and convenience and the general welfare of the City and its citizens.

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

**SECTION 1.** As required by Section 2303.4051 (b) of the Act, the City's local incentives available in each area within an enterprise zone and in each area not in an enterprise zone are identified and summarized briefly in the attached **Exhibit A**; and at least one of the local incentives is unique to the enterprise zone area. The City is in full compliance with the Act.

**SECTION 2.** The City finds that BASF Corporation ("BASF"), or its successor in interest, meets the criteria for designation as an enterprise project under the Act on the following grounds:

- a) BASF, is a "qualified business" under Section 2303.402 of the Act because it is engaged in the active conduct of a trade or business at a qualified business site and at least thirty-five (35%) percent of its new employees in the Enterprise Zone will be residents of an enterprise zone in this state or economically disadvantaged individuals;
- b) The BASF project is qualified under Section 2303.404 of the Act because (1) it involves "an expansion, renovation, or new construction"; (2) it will be completed within a predetermined period not to exceed five years; and (3) the BASF subsidiary maintains separate books and records for the Lake Jackson operations;
- c) There has been and will continue to be a high level of cooperation between public, private, and neighborhood entities within the jurisdiction of the City;

- d) The designation of BASF as an enterprise project will contribute significantly to the achievement of the plans of BASF and the City for development and revitalization of the area in which the enterprise project will be located; and
- e) BASF qualifies for job retention benefits under Section 2303.406 (a) (4) (G) because BASF is both adding a new business line or product and deleting or decreasing an existing business line or product, and the designation will prevent BASF's net production capacity from decreasing.

**SECTION 3.** BASF qualifies as a Triple Jumbo Enterprise Project as defined in Section 2303.407 (b) (6) and Section 2303.407 (d) of the Act because BASF will be making a capital investment in a project in excess of \$250,000,000. The City finds that it is in the best interest of the City to nominate BASF as a Triple Jumbo Enterprise Project under the Act.

**SECTION 4.** The City nominates BASF as a Triple Jumbo Enterprise Project under the Act and designates the City Manager or his designee as liaison to oversee enterprise projects nominated by the City and to perform the other duties described in Section 2303.204 of the Act. The City authorizes the City Manager or his designee to file an application requesting designation of BASF as a Triple Jumbo Enterprise Project with the Texas Economic Development Bank, and to execute all documents and agreements necessary to process the application. Further, the City directs the City Manager or his designee to submit to the Texas Economic Development Bank the information required by Section 2303.4052 of the Act.

**SECTION 5.** As required by Section 2303.4051 (c) (2) of the Act, the City's local incentives, including tax incentives that, at the election of the City Council are or will be made available to BASF, the nominated project, are identified and summarized briefly in the attached Exhibit B.

**SECTION 6.** Upon approval of the Texas Economic Development Bank, the Triple Jumbo Enterprise Project will be named BASF-LAKE JACKSON Project.

**SECTION 7.** The enterprise project shall take effect on the date of designation of the enterprise project noted by the Texas Economic Development Bank and terminate five (5) years after date of designation.

**SECTION 8.** The Enterprise Project designation must be for a predetermined designation period approved by the Bank, with a beginning date and ending date for the Project; and the designation period for the Project may not exceed five (5) years from date on which the designation is made, as required by Section 2303.404 of the Act. BASF and the City request that the Bank approve December 1, 2004, as the beginning date and December 1, 2009, as the ending date of the Project.

**SECTION 9.** The enterprise zone areas within the City are reinvestment zones in accordance with the Texas Tax Code, Chapter 312.


**SECTION 10.** The City of Lake Jackson areas that meet the 2003 requirements in Section 2303.101 of the Act for automatic qualification for designation as an enterprise zone are shown in the attached Exhibit C.

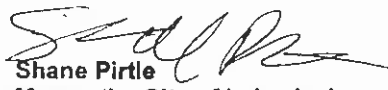
**SECTION 11.** If any part or portion of this ordinance shall be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any remaining portions or provisions of this ordinance.

**PASSED AND APPROVED** on first reading this 1<sup>st</sup> day of November, 2004.

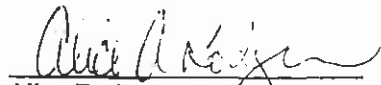
**PASSED AND ADOPTED** on second and final reading this 15<sup>th</sup> day of November, 2004.

THE CITY OF LAKE JACKSON

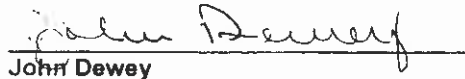


  
Shane Pirtle  
Mayor, the City of Lake Jackson

ATTEST:

  
Alice Rodgers  
City Secretary

APPROVED AS TO FORM:  
November 15, 2004

  
John Dewey  
City Attorney

### Exhibit A

#### Incentives offered by the City of Lake Jackson

	Name of Incentive	Description of Incentive	Availability
1	Tax Abatement	Property tax reduction on case by case basis.	Citywide
2	Bonds	Provided for infrastructure improvements throughout the City.	Citywide
3	Fee Waivers	The City may waive building permit fees for Habitat Housing Authority or other projects on a case by case basis.	Citywide
4	Infrastructure Improvements	In last fifteen (15) years, City has made nearly \$80 million in infrastructure and facility improvements.	Citywide
5	Zoning Changes or Variances	Allows changes in the zoning and variances.	Citywide
6	Building Code Exemptions	Exemptions provided for building codes.	Citywide
7	Streamlined Permitting	City may allow permit applications and supporting materials to be tendered to one department for distribution to the appropriate city departments.	Citywide
8	Enhanced Municipal Services	BASF committed to highway clean up and provided glass crusher for Community's recycling program.	Target Area
9	Community Crime Prevention Programs	Neighborhood Watch Program.	Citywide
10	Capital Improvements in Water and Sewer	Built new wastewater and treatment plant and provides for replacement of water and sewer lines reduces maintenance cost due to broken lines.	Citywide
11	Road Repair	Street Department is responsible for maintaining and repairing all public streets and alleys.	Citywide
12	Creation or Improvements of Parks	Funded by 4B ½ cent optional sales tax has provided for construction of Recreation Center, Outdoor Pool, Civic Center, Youth Sports Complex, and Municipal Golf Course.	Citywide
13	Low-Interest Loans for Housing	Southeast Housing Authority.	Citywide
14	Promotion and Marketing Service	Brazosport Chamber of Commerce.	Citywide
15	Job Training	Brazosport Community College.	District wide
16	Retraining Program	Brazosport Community College.	District wide
17	Vocational Education	BISD.	District wide
18	Industrial District Agreement	Provides for payment in lieu of taxes.	Citywide
19	County Tax Abatement	Property tax reduction.	County wide

### Exhibit B

Incentives that may be considered and offered by the City of Lake Jackson to  
Nominated Texas Enterprise Zone Projects

	Name of Incentive	Description of Incentive	Availability
1	Industrial District Agreement	Payment in lieu of taxes.	Industrial District / Enterprise Zone
2	County Tax Abatement	Recognized in Industry District Agreement.	Enterprise Zone
3	City Tax Abatement	Property tax reduction on case by case basis.	Enterprise Zone
4	Drainage District Abatement	Property tax reduction.	Enterprise Zone
5	Exhibit A	On case by case basis.	Enterprise Zone / Where Applicable / Citywide

**Exhibit C**

Lake Jackson Areas meeting the 2003 Requirements for  
Texas Enterprise Zone (Sections 2303.101 and 2303.109)

CENSUS TRACT	BLOCK GROUP	DESIGNATION
6638	1	Census Block Group with 20% poverty or greater



	Name of Incentive	Description of Incentive	Availability
20	Special Transit Provision	"Connect Transit" allows long/short distance transportation provided for nominal amount to medical facilities and to other locations in the area.	Citywide
21	One-Stop Permitting	City may allow permit applications and supporting materials to be tendered to one department for distribution to the appropriate city departments.	Citywide