

CITY OF FREEPORT
NOTICE OF PUBLIC MEETING
THE FREEPORT CITY COUNCIL
MONDAY, AUGUST 15TH 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 August 1st 2011 Council Minutes.
Pg. 483-486
5. Attending citizens and their business.
6. Consideration of authorizing the City Manager to implement a Drought Response Stage 2. Pg. 487
7. **Public Hearing** to consider the adoption of an ordinance nominating both The Dow Chemical Plant A Project and The Dow Chemical Oyster Creek Project, both of which are located within the extraterritorial jurisdiction of the city, for triple enterprise project status under the provisions of the Texas Enterprise Zone Act, Chapter 2303, Texas Government Code (the Act"). Pg. 488
8. Consideration of the approving of Ordinance No. 2011-2284 ordaining the City's participation in the Texas Enterprise Zone Program pursuant to the Texas Enterprise Zone Act, Chapter 2303, Texas Government Code (ACT), providing tax incentives, designating a liaison for communication with interested parties, and nominating Dow Chemical Plant A Project and the Dow Chemical Oyster Creek Project to the office of the Governor Economic Development & Tourism (EDT) through the Economic Development Bank (bank) as an Enterprise Project (Project).
Pg. 489-491
9. **Public Hearing** on the need to adopt an ordinance regulating the restraining of dogs. Pg. 492

10. Consideration of approving Ordinance No. 2011-2285 amending Chapter 90 of the Code of Ordinances of said City to add thereto a new section, to be known as 90.49, containing definitions, prohibiting the restraining of dogs by tethering; containing exceptions; specifying requirements for enclosures used for the keeping of dogs outdoors on any premises in the City. Pg. 493-510
11. Consideration of readvertising and setting a bid date for September 14th, 2011 to request for proposals to purchase 3,423 tons of stabilized concrete and a quantity of crushed granite sufficiently to construct a nature or hiking trail 6 ft. in width and 6, 671 ft. in length.
12. Consideration of approving Resolution No. 2011-2266 readopting a tax abatement and reinvestment zone policy and adopting guidelines and criteria . Pg. 511-534
13. Consideration of awarding the Request for Proposals for Disaster and/or Storm Recovery Services to Ashbritt Environmental as primary and Crowder Gulf as alternate. Pg. 535
14. Consideration of setting a date for a budget work shop 2011-2012.
15. Consideration of authorizing the Mayor to sign a Public Safety Answering Point (PSAP) Responding Boundary Interlocal Agreement with the City of Freeport and the City of Lake Jackson. Pg 536-538

Work Session:

- A. Update on the city's capital improvement projects; city road plan.

Executive Session:

Section 551.074, Government Code

Deliberations concerning the duties of a public officer or employee.

- Councilman Bolton
- City Attorney

Adjourn

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

This notice is posted pursuant to the Texas Open Meeting Act. (Chapter 551, Government Code). In compliance with the Americans with Disabilities Act, the City of Freeport will provide for reasonable accommodations for persons attending City Council

Meetings. Request should be received 48 hours prior to the meeting. Please contact the City Secretary office at 979-233-3526.

I, Delia Munoz City Secretary for the City of Freeport, Texas certify that this agenda was posted on the official bulletin board/glass door of City Hall, facing the rear parking lot of the building, with 24 hours a day public access, 200 West 2nd Street, Freeport Texas, August 12th, 2011 at or before 5:00 p.m.

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 on Monday, August 1st., 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, Property Manager

Visitors: Jim Pirrung Dorothy Pirrung
Joyce Adkins Annette Sanford
Brenda Laird Jerry Meeks

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 18th, 19th, & 21st, 2011 Council Minutes.

On a motion by Councilwoman Kent, seconded by Councilwoman Mireles, with all present voting "aye", Council unanimously approved the July 18th, 19th, & 21st, 2011 Council Minutes.

Attending citizens and their business.

Annette Sanford thanked Council for the lights on the railroad bridge.

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.

Councilwoman Mireles suggested that the selection process be from each ward.

Joyce Adkins asked if this had been done before.

On a motion by Councilman Bolton, seconded by Councilwoman Mireles, with all present voting "aye", Council unanimously approved authorizing the City Manager selecting 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.

Consideration of rescheduling September 5th, 2011 council meeting to September 6th, due to a city holiday.

On a motion by Councilwoman Mireles, seconded by Councilwoman Kent, with all present voting "aye", Council unanimously approved rescheduling September 5th, 2011 council meeting to September 6th, due to a city holiday.

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.

On a motion by Councilwoman Kent, seconded by Councilwoman Barbree, with all present voting "aye", Council unanimously approved September 6th, 2011 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.

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.

On a motion by Councilwoman Mireles, seconded by Councilwoman Kent, with all present voting 4 to 1, Council approved awarding the bid to Cherry Construction 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. Councilman Bolton opposed.

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.

On a motion by Councilwoman Kent, seconded by Councilwoman Mireles, with all present voting "aye", Council unanimously approved 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.

Consideration of setting a public hearing for August 15th, 2011 to create a Texas Enterprise Zone Program.

On a motion by Councilwoman Barbree, seconded by Councilwoman Kent, with all present voting "aye", Council unanimously approved August 15th, 2011 for a public hearing to create a Texas Enterprise Zone Program.

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

On a motion by Councilwoman Mireles, seconded by Councilwoman Barbee, with all present voting 4 to 1, Council authorized for Mr. Pynes to proceed with Mr. & Mrs. Hernandez's proposed development on 331 W. 2nd, known as the old Alamo Drive-in. Councilwoman Kent opposed.

Work Session:

Discussion readopting the tax abatement guidelines and criteria.

Mr. Pynes recommended changing the percentage in the Commercial and Residential Tax Abatement Guidelines and Criteria for 2011-2013.

Jim Pirrung, a retired Industrial Engineer stated that temporary conditions such as tax abatements should not influence the decision whether you build a plant in a particular area; only permanent conditions should be considered.

Council Bolton agreed that there too many tax abatements.

Discussion regarding the proposals for 331 W. 2nd Street; known as the old Alamo Building.

Mr. & Mrs. Thomas Hernandez were present to discuss and answer questions for the proposed development for 331 W. 2nd Street. They would like to remodel the old Alamo building into a 1950 style Drive In ; selling hamburgers, shakes, etc, hiring at least 4 to 6 people.

Richard Kent of 430 W. 1st,, stated that he had done the demographics and Freeport needed variety and a hamburger place would not draw people to Freeport.

Mayor Norma Garcia closed the formal session and opened the executive session at 6:30 p.m.

Executive Session:

Section 551.074

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

- City Manager

Mayor Norma Garcia closed the executive session at 7:01 p.m. and reconvened to take action on item 12 of the agenda.

Adjourn

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

Mayor Norma Moreno Garcia

City Secretary - Delia Munoz



DROUGHT RESPONSE STAGE 2

Goal: To achieve a 20% reduction in daily water allocation demand from the Brazosport Water Authority. We have begun implementing water conservation and minimizing any non-essential water uses.

The following water use restrictions shall apply to all residents and businesses:

DESIGNATED WATER USAGE DAYS		
IF YOUR ADDRESS ENDS WITH:	0,2,4,6,8	1,3,5,7,9
YOUR DESIGNATED WATER DAYS ARE:	SUNDAY & THURSDAY	WEDNESDAY & SATURDAY

The following may only be done on designated watering days between the hours of 8:00pm to midnight and midnight to 10:00am:

- Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems. Watering can be done anytime if it is by means of a hand-held hose, watering can (5 gallons or less) or drip irrigation system.
- Use of water to wash any motor vehicle, motorbike, boat, trailer or other vehicle/equipment. Vehicle washing may be done at anytime at a commercial car wash.
- Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or jacuzzi style pools.
- Operation of any ornamental fountain or pond for aesthetic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

The following is prohibited at all times:

- Washing down any hard surface areas such as sidewalks, driveways, parking lots
- Washing down any building or structure except in the event of a fire
- Use of water for dust control
- Use of water to flush gutters or permitting water to run or accumulate in any gutter or street

Failure to repair a water leak in a reasonable time period is prohibited.

Residents and Businesses will be notified when the conservation measures have been cancelled.

Please call 979-233-3526 for more details or questions.

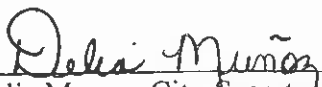
Find us on at City-of-Freepport or our website www.freepport.tx.us for updates as they occur.

TO ALL PERSONS OF INTEREST, CITIZENS, CORPORATIONS, AND FIRMS, THEIR AGENTS AND ATTORNEYS, OWNING ANY INTEREST IN LAND LOCATED WITHIN THE CORPORATE LIMITS OR EXTRATERRITORIAL JURISDICTION OF THE CITY OF FREEPORT, BRAZORIA COUNTY, TEXAS

NOTICE

A public hearing will be held on Monday, the 15th day of August, 2011, at 6:00 o'clock, p.m., central daylight standard time, at the Municipal Courtroom of the Freeport Police Department Building located at 430 North Brazosport Boulevard, in the City of Freeport, in Brazoria County, Texas, ("the City"), at which time and place the City Council of said city will conduct a public hearing during which they will consider the adoption of an ordinance nominating both the **DOW CHEMICAL PLANT A PROJECT AND THE DOW CHEMICAL OYSTER CREEK PROJECT**, both of which are located within the extraterritorial jurisdiction of the City, for triple enterprise project status under the provisions of the Texas Enterprise Zone Act, Chapter 2303, Texas Government Code ("the Act"). The City may abate taxes on the increase in value of real property improvements and eligible personal property that locate in a designated enterprise zone. The level of abatement must be based upon the extent to which the business receiving the abatement creates jobs for qualified employees, in accordance with the City's Tax Abatement Policy, and with qualified employee being defined by the Act. Local sale tax refunding, tax increment financing and Freeport exemptions are also available.

BY ORDER OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, made on the 1st day of August, 2011.



Delia Muñoz, City Secretary,
City of Freeport, Texas

NOTE: This notice must be published in a newspaper having general circulation in the municipality not later than the seventh calendar day before the date of the hearing.

ORDINANCE No. 2011-2284

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, ORDAINING THE CITY'S PARTICIPATION IN THE TEXAS ENTERPRISE ZONE PROGRAM PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE (ACT), PROVIDING TAX INCENTIVES, DESIGNATING A LIAISON FOR COMMUNICATION WITH INTERESTED PARTIES, AND NOMINATING *The DOW CHEMICAL COMPANY PLANT A PROJECT AND THE DOW CHEMICAL COMPANY OYSTER CREEK PROJECT* TO THE OFFICE OF THE GOVERNOR ECONOMIC DEVELOPMENT & TOURISM (EDT) THROUGH THE ECONOMIC DEVELOPMENT BANK (BANK) AS AN ENTERPRISE PROJECT (PROJECT).

WHEREAS, the City Council of the City of Freeport, Texas (City) desires to create the proper economic and social environment to induce the investment of private resources in productive business enterprises located in severely distressed areas of the city and to provide employment to residents of such area; and

WHEREAS, the project or activity is not located in an area designated as an enterprise zone; and

WHEREAS, pursuant to Chapter 2303, Subchapter F of the Act, The DOW CHEMICAL COMPANY PLANT A PROJECT AND THE DOW CHEMICAL COMPANY OYSTER CREEK PROJECT have applied to the City for designation as an enterprise projects; and

WHEREAS, the City finds that The DOW CHEMICAL COMPANY PLANT A PROJECT AND THE DOW CHEMICAL COMPANY OYSTER CREEK PROJECT meet the criteria for tax relief and other incentives adopted by the City on the grounds that it will be located at the qualified business site, will create a higher level of employment, economic activity and stability; and

WHEREAS, a public hearing to consider this ordinance was held by the City Council on August 15, 2011, notice of such hearing having been published on August 7, 2011, in the *Brazosport Facts*, a newspaper of general circulation throughout Brazoria County, Texas;

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

Section 1: The City nominates both *The DOW CHEMICAL COMPANY PLANT A PROJECT AND THE DOW CHEMICAL COMPANY OYSTER CREEK PROJECT* for triple enterprise project status.

Section 2: The following local incentives, at the election of the governing body, are or will be made available to the nominated projects or activity of the qualified business:

- A. The City May Provide:
 - a. Tax Abatement
 - b. Tax Increment Financing
 - c. Zoning Variances
 - d. Building Code Exemptions
 - e. Police and Fire Protection
 - f. Road Repair
 - g. Water and Sewer
 - h. Creation/Improvement of Parks
 - i. Freeport Exemption
 - j. Local Sales Tax Refund

- B. Incentives available that may be offered by other entities:
 - a. Community Crime Prevention

- b. Vocational Education
- c. Special Public Transportation
- d. Retraining Programs
- e. Job Training
- f. Literacy and Employment Skills Programs
- g. Promotion and Marketing Services
- h. Tax Abatement

Section 3: The enterprise zone areas within the City are reinvestment zones in accordance with the Texas Tax Code, Chapter 312.

Section 4: The City of Freeport City Council directs and designates its City Manager as the City's liaison to communicate and negotiate with the EDT through the Bank and enterprise project(s) and to oversee zone activities and communications with qualified businesses and other entities in an enterprise zone or affected by an enterprise project.

Section 5: The City finds that DOW THE DOW CHEMICAL COMPANY PLANT A PROJECT AND THE DOW CHEMICAL COMPANY OYSTER CREEK PROJECT meet the criteria for designation as enterprise projects under Chapter 2303, Subchapter F of the Act on the following grounds:

- I. The DOW CHEMICAL COMPANY PLANT A PROJECT AND THE DOW CHEMICAL COMPANY OYSTER CREEK PROJECT are "qualified businesses" under Section 2303.402 of the Act since they will be engaged in the active conduct of a trade or business at a qualified business site within the governing body's jurisdiction, located outside of an enterprise zone and at least thirty-five percent (35%) of the business' new employees will be residents of an enterprise zone or economically disadvantaged individuals; and
- II. There has been and will continue to be a high level of cooperation between public, private, and neighborhood entities in the area; and
- III. The designation of The DOW CHEMICAL COMPANY PLANT A PROJECT AND THE DOW CHEMICAL COMPANY OYSTER CREEK PROJECT as enterprise projects will contribute significantly to the achievement of the plans of the City for development and revitalization of the area.

Section 6: The enterprise project shall take effect on the date of designation of the enterprise project by EDT and terminate five (5) years after the date of designation).

Section 7: This ordinance shall take effect from and after its passage as the law and charter in such case provides.

READ, PASSED AND ADOPTED this 15th day of August, 2011.

Norma Moreno Garcia, Mayor

ATTEST:

Delia Munoz, City Secretary

Approved as to Form Only:

Wallace Shaw, City Attorney

C\Freeport.Ord\Dow Enterprise Zone

NOTICE OF PUBLIC HEARING ON RESTRAINING DOGS

BE IT KNOWN that on Monday, August 15, 2011, beginning at 6:00, p.m., the City Council of the City of Freeport, Texas, will conduct a **PUBLIC HEARING** at the Police Department Municipal Courtroom of the City of Freeport, Texas, located therein at 430 North Brazosport Boulevard, on the need to adopt an ordinance regulating the restraining of dogs. **WRITTEN COMMENTS** concerning this matter may be mailed to arrive at or be delivered in person to the office of the City Manager at such office prior to 5:00 p.m. on the day of such hearing. **VERBAL COMMENTS** will be accepted at the time of the hearing subject to the City Council rules regarding public comments at its meetings.

Delia Munoz, City Secretary
City of Freeport, Texas

NOTE: Publish once at least fifteen (15) days before the date of the hearing.

Delia Munoz

From: Wallace Shaw <shawpc@sbcglobal.net>
Sent: Thursday, July 28, 2011 2:29 PM
To: Delia Munoz
Cc: Tyrone Morrow; Jeff Pynes
Subject: FW: dog tethering ordinances
Attachments: fpt-Section 90.49 Tethering-2.doc

Delia,

I am attaching the most recent revision of the dog restraint ordinance Chief Morrow presented to the City Council and they instructed for he and I to work together in developing it. Please include this attachment, along with this e-mail, in the council packets for 8/15/11 when they will have the public hearing. "Scott" referred to in the e-mail is Scott Houston, Chief Legal Counsel of TML. I have sent him an e-mail requesting his thoughts on this matter but have not yet received a response. When I do, I will forward it to you for including in the packet.

Wallace Shaw

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

From: Julian Taylor [mailto:juliantaylor@sbcglobal.net]
Sent: Monday, July 25, 2011 1:58 PM
To: Wallace Shaw
Subject: dog tethering ordinances

Wallace, according to my internet research--Ft. Worth, Cedar Hill and Texarkana all have passed dog tethering ordinances which outlaw tethering except in the presence of a person responsible for the dog. These ordinances appear to go beyond the exception stated in State Law. **So I guess the question really is whether or not a scheme of state law crafted with a very broad exception with pre-empt the field. Since an exception by law has to be negated in the charging instrument (complaint in municipal court) and thus becomes a part of the offense created by State Law, there would appear to be a strong case for cities being pre-empted from passing ordinances** which contradict the State Law scheme. Yet Ft. Worth and probably other cities seem to be passing ordinances which go beyond the broad exception established by State Law. Such tethering ordinances seem to be coming "all the rage". Cities all over the State are probably looking at this. So TML will have to address this issue sometime. Hopefully Scott will be able to figure out an answer.

Julian W. "Pat" Taylor, III.
979-233-2411 / fax 233-4895
e-mail: juliantaylor@sbcglobal.net

Second, Chapter 90 of the Code of Ordinances of the City of Freeport, Texas, is hereby amended to add thereto a new section, to be known as Section 90.49, which shall read as follows:

Section 90.49- Unlawful restraint or tethering of dogs

- (A) As used in this section, the following words and phrases shall have the following Meanings:
- 1) Collar- means any collar constructed of nylon, leather, metal, or similar material specifically designed to be used for a dog.
 - 2) Owner- means a person who owns or has custody or control of a dog.
 - 3) Properly fitted- means, with respect to a collar, a collar that measures the circumference of a dog's neck plus at least one inch.
 - 4) Restraint- means a chain, rope, tether, leash, cable, trolley, pulley, or other device that attaches a dog to a stationary object or trolley system
 - 5) Enclosure for dogs- means an outdoor enclosure used to keep one but not more than three dogs, other than puppies less than six months old.
 - 6) Outdoor enclosure- means a fenced structure constructed of chain link or similar type materials with all four (4) sides enclosed.
- (B) It shall be unlawful for the owner or any person in control of any dog, or the owner or person in control of any premises in the city to fasten, tie, chain or tether any dog to a stationary object, pulley system or trolley system, or to permit any dog to be so fastened, tied, chained or tethered on such premises.
- (C) In any prosecution in the municipal court of the city or any other court of competent jurisdiction, it shall be an affirmative defense if the fastening, tying, chaining or tethering of a dog to a stationary object, pulley system or trolley system is temporary, the owner of such dog is present on the premises where the dog is so fastened, tied, chained or tethered and the dog is not left unattended for more than five minutes while so fastened, tied, chained or tethered. When the owner of the dog is absent, the dog cannot be left chained to a stationary object, pulley system or trolley system.
- (D) It shall be unlawful for the owner or any person in control of any premises in the city, where any dog is kept outside for any period of time, to fail to confine or to cause the dog to be confined within an area of a yard that:
- (1) is not fully enclosed by a fence of sufficient height to prevent the dog or dogs from escaping, and which is constructed of fencing material of a type that at the time of its construction was permitted under the Building Code adopted by the City under Section 150.001 or Section 150.010 of the Code of Ordinances of the City of Freeport, Texas; and,

(2) does not have adequate space for exercise of at least one hundred (100) square feet for one (1) dog and an additional thirty (30) square feet for each additional dog.

(E) It shall be unlawful for the owner or any person in control of any premises in the city where any dog is kept outside, to fail to provide an outdoor dog house, or other enclosure that:

(1) is not fully enclosed on all sides, excluding the entrance, by solid walls and a roof of non-porous material that provides the dog, or dogs, with shade and protection from the elements; and,

(2) is not located at least fifty (50) feet from any adjacent residence or business, excluding the residence or business of the owner or handler of the dogs.

(F) Nothing in this section shall be construed to permit the keeping, possessing, harboring or allowing of more than three (3) dogs (other than unweaned puppies) or to prohibit owners or others from walking dogs with a handheld leash or temporarily fastening, tying or tethering their dog, so long as the owner is immediately present and the animal is not left unattended for more than five minutes while fastened, tied, or tethered.

(G)The presumption of ownership of a dog contained in Division (C) of Section 90.48 of this chapter shall apply in a prosecution under Section 90.49 of this chapter.”

HEALTH AND SAFETY CODE

TITLE 10. HEALTH AND SAFETY OF ANIMALS

CHAPTER 821. TREATMENT AND DISPOSITION OF ANIMALS

SUBCHAPTER A. TREATMENT OF ANIMALS

Sec. 821.001. DEFINITION. In this subchapter, "animal" includes every living dumb creature.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 821.002. TREATMENT OF IMPOUNDED ANIMALS. (a) A person who impounds or causes the impoundment of an animal under state law or municipal ordinance shall supply the animal with sufficient and wholesome food and water during its confinement.

(b) If an animal impounded under Subsection (a) continues to be without necessary food and water for more than 12 successive hours, any person may enter the pound or corral as often as necessary to supply the animal with necessary food and water. That person may recover the reasonable cost of the food and water from the owner of the animal. The animal is not exempt from levy and sale on execution of a judgment issued to recover those costs.

Acts 1989, 71st Leg., ch. 673, Sec. 1, eff. Sept. 1, 1989.

Sec. 821.003. TREATMENT OF LIVE BIRDS. (a) This section applies to a person who receives live birds for transportation or for confinement:

- (1) on wagons or stands;
- (2) by a person who owns a grocery store, commission house, or other market house; or
- (3) by any other person if the birds are to be closely confined.

(b) The person shall immediately place the birds in coops, crates, or cages that are made of open slats or wire on at least three sides and that are of a height so that the birds can stand

upright without touching the top.

(c) The person shall keep clean water and suitable food in troughs or other receptacles in the coops, crates, or cages. The troughs or other receptacles must be easily accessible to the confined birds and must be placed so that the birds cannot spill their contents.

(d) The person shall keep the coops, crates, or cages in a clean and wholesome condition and may place in each coop, crate, or cage only the number of birds that have room to move around and to stand without crowding each other.

(e) The person may not expose the birds to undue heat or cold and shall immediately remove all injured, diseased, or dead birds from the coops, crates, or cages.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 821.004. KNOWLEDGE OR ACTS OF CORPORATE AGENT OR EMPLOYEE. The knowledge and acts of an agent or employee of a corporation in regard to an animal transported, owned, or used by or in the custody of the corporation are the knowledge and acts of the corporation.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. DISPOSITION OF CRUELLY TREATED ANIMALS

Sec. 821.021. DEFINITION. In this subchapter, "cruelly treated" includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 821.0211. ADDITIONAL DEFINITION. In this subchapter, "magistrate" means any officer as defined in Article 2.09, Code of Criminal Procedure, except that the term does not include justices of the supreme court, judges of the court of criminal appeals, or courts of appeals, judges or associate judges

of statutory probate courts, or judges or associate judges of district courts that give preference to family law matters or family district courts under Subchapter D, Chapter 24, Government Code.

Acts 2003, 78th Leg., ch. 1043, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 234, Sec. 10, eff. September 1, 2009.

Sec. 821.022. SEIZURE OF CRUELLY TREATED ANIMAL. (a) If a peace officer or an officer who has responsibility for animal control in a county or municipality has reason to believe that an animal has been or is being cruelly treated, the officer may apply to a justice court or magistrate in the county or to a municipal court in the municipality in which the animal is located for a warrant to seize the animal.

(b) On a showing of probable cause to believe that the animal has been or is being cruelly treated, the court or magistrate shall issue the warrant and set a time within 10 calendar days of the date of issuance for a hearing in the appropriate justice court or municipal court to determine whether the animal has been cruelly treated.

(c) The officer executing the warrant shall cause the animal to be impounded and shall give written notice to the owner of the animal of the time and place of the hearing.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 387, Sec. 1, eff. June 7, 1991; Acts 2003, 78th Leg., ch. 1043, Sec. 2, eff. Sept. 1, 2003.

Sec. 821.023. HEARING; ORDER OF DISPOSITION OR RETURN OF ANIMAL. (a) A finding in a court of competent jurisdiction that the owner of an animal is guilty of an offense under Section 42.09 or 42.092, Penal Code, involving the animal is prima facie evidence at a hearing authorized by Section 821.022 that the animal has been cruelly treated.

(b) A statement of an owner made at a hearing provided for under this subchapter is not admissible in a trial of the owner for

an offense under Section 42.09 or 42.092, Penal Code.

(c) Each interested party is entitled to an opportunity to present evidence at the hearing.

(d) If the court finds that the animal's owner has cruelly treated the animal, the owner shall be divested of ownership of the animal, and the court shall:

- (1) order a public sale of the animal by auction;
- (2) order the animal given to a nonprofit animal shelter, pound, or society for the protection of animals; or
- (3) order the animal humanely destroyed if the court decides that the best interests of the animal or that the public health and safety would be served by doing so.

(e) A court that finds that an animal's owner has cruelly treated the animal shall order the owner to pay all court costs, including costs of:

- (1) investigation;
- (2) expert witnesses;
- (3) housing and caring for the animal during its impoundment;
- (4) conducting any public sale ordered by the court; and
- (5) humanely destroying the animal if destruction is ordered by the court.

(f) The court may order that an animal disposed of under Subsection (d)(1) or (d)(2) be spayed or neutered at the cost of the receiving party.

(g) The court shall order the animal returned to the owner if the court does not find that the animal's owner has cruelly treated the animal.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 157, Sec. 1, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 14.43, 14.44, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1063, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 586, Sec. 4, eff. September 1, 2007.

Sec. 821.024. SALE OR DISPOSITION OF CRUELLY TREATED ANIMAL.

(a) Notice of an auction ordered under this subchapter must be posted on a public bulletin board where other public notices are posted for the court, or municipality. At the auction, a bid by the former owner of a cruelly treated animal or the owner's representative may not be accepted.

(b) Proceeds from the sale of the animal shall be applied first to any costs owed by the former owner under Section 821.024.

(c) The officer conducting the auction shall pay any excess proceeds to the justice or municipal court ordering the auction. The court shall return the excess proceeds to the former owner of the animal.

(d) If the officer is unable to sell the animal at auction, the officer may cause the animal to be humanely destroyed or may give the animal to a nonprofit animal shelter, pound, or society for the protection of animals.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 387, Sec. 2, eff. June 7, 1991; Acts 2003, 78th Leg., ch. 1043, Sec. 2, eff. Sept. 1, 2003.

Sec. 821.025. APPEAL. (a) An owner divested of ownership of an animal under Section 821.023 may appeal the order to a county court or county court at law in the county in which the justice or municipal court is located. As a condition of perfecting an appeal, not later than the 10th calendar day after the date the order is issued, the owner must file a notice of appeal and an appeal bond in an amount determined by the court from which the appeal is taken to be adequate to cover the estimated expenses incurred in housing and caring for the impounded animal during the appeal process. Not later than the fifth calendar day after the date the notice of appeal and appeal bond is filed, the court from which the appeal is taken shall deliver a copy of the court's transcript to the county court or county court at law to which the appeal is made. Not later than the 10th calendar day after the date the county court or county court at law, as appropriate, receives the transcript, the court shall dispose of the appeal.

The decision of the county court or county court at law under this section is final and may not be further

appealed.

(b) While an appeal under this section is pending, the animal may not be:

(1) sold or given away as provided by Sections 821.023 and 821.024; or

(2) destroyed, except under circumstances which would require the humane destruction of the animal to prevent undue pain to or suffering of the animal.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1043, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1351, Sec. 11(a), eff. September 1, 2009.

SUBCHAPTER C. EUTHANASIA OF ANIMALS

Sec. 821.051. DEFINITIONS. In this subchapter:

(1) "Animal" has the meaning assigned by Section 821.011.

(2) "Animal shelter" means a facility that collects, impounds, or keeps stray, homeless, abandoned, or unwanted animals.

(3) "Board" means the Texas Board of Health.

(4) "Department" means the Texas Department of Health.

Added by Acts 2003, 78th Leg., ch. 30, Sec. 1, eff. Sept. 1, 2003.

Sec. 821.052. METHODS OF EUTHANASIA. (a) A person may euthanize a dog or cat in the custody of an animal shelter only by administering sodium pentobarbital or commercially compressed carbon monoxide.

(b) A person may euthanize all other animals in the custody of an animal shelter, including birds and reptiles, only in accordance with the applicable methods, recommendations, and procedures set forth in the 2000 Report of the American Veterinary Medical Association Panel on Euthanasia as modified or superseded by a subsequent report of the American Veterinary Medical Association Panel on Euthanasia that is approved by the board.

Added by Acts 2003, 78th Leg., ch. 30, Sec. 1, eff. Sept. 1, 2003.

Sec. 821.053. REQUIREMENTS FOR USE OF SODIUM PENTOBARBITAL.

(a) The board by rule shall establish the requirements and procedures for administering sodium pentobarbital to euthanize an animal in the custody of an animal shelter.

(b) A person may administer sodium pentobarbital to euthanize an animal in the custody of an animal shelter only in accordance with the requirements and procedures established by board rule.

Added by Acts 2003, 78th Leg., ch. 30, Sec. 1, eff. Jan. 1, 2005.

Sec. 821.054. REQUIREMENTS FOR USE OF COMMERCIALY COMPRESSED CARBON MONOXIDE. (a) The board by rule shall establish:

(1) standards for a carbon monoxide chamber used to euthanize an animal in the custody of an animal shelter; and

(2) requirements and procedures for administering commercially compressed carbon monoxide to euthanize an animal in the custody of an animal shelter.

(b) A person administering commercially compressed carbon monoxide to euthanize an animal in the custody of an animal shelter:

(1) may use only a carbon monoxide chamber that meets the standards established by board rule; and

(2) may administer the commercially compressed carbon monoxide only in accordance with the requirements and procedures established by board rule.

Added by Acts 2003, 78th Leg., ch. 30, Sec. 1, eff. Jan. 1, 2005.

Sec. 821.055. TRAINING FOR EUTHANASIA TECHNICIANS. (a) A

person may not euthanize an animal in the custody of an animal shelter unless the person has successfully completed, not more than three years before the date the person euthanizes the animal, a training course in the proper methods and techniques for euthanizing animals. The training course curriculum must include:

(1) the pharmacology, proper administration, and storage of euthanasia solutions;

(2) federal and state law regulating the storage and accountability of euthanasia solutions;

(3) euthanasia technician stress management;

(4) proper restraint and handling of an animal during euthanasia;

(5) the procedures for administering commercially compressed carbon monoxide to an animal;

(6) techniques for verifying an animal's death; and

(7) the proper disposal of a euthanized animal.

(b) The department must approve the sponsors and curriculum of the training course required by this section.

(c) This section does not apply to a person licensed to practice veterinary medicine in this state.

(d) Notwithstanding Subsection (a), an employee of an animal shelter is not required to have successfully completed the training course before the 120th day following the date of initial employment.

Added by Acts 2003, 78th Leg., ch. 30, Sec. 1, eff. Jan. 1, 2005.

Sec. 821.056. OFFENSE AND PENALTY. (a) A person commits an offense if the person violates this subchapter or a board rule adopted under this subchapter.

(b) An offense under this section is a Class B misdemeanor.

Added by Acts 2003, 78th Leg., ch. 30, Sec. 1, eff. Sept. 1, 2003.

Sec. 821.057. INJUNCTION. A court of competent jurisdiction, on the petition of any person, may prohibit by injunction the substantial violation of this subchapter or a board rule adopted under this subchapter.

Added by Acts 2003, 78th Leg., ch. 30, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER D. UNLAWFUL RESTRAINT OF DOG

Sec. 821.076. DEFINITIONS. In this subchapter:

(1) "Collar" means any collar constructed of nylon, leather, or similar material, specifically designed to be used for

dog.

(2) "Owner" means a person who owns or has custody or control of a dog.

(3) "Properly fitted" means, with respect to a collar, a collar that measures the circumference of a dog's neck plus at least one inch.

(4) "Restraint" means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

Added by Acts 2007, 80th Leg., R.S., Ch. 674, Sec. 1, eff. September 1, 2007.

Sec. 821.077. UNLAWFUL RESTRAINT OF DOG. (a) An owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement:

(1) between the hours of 10 p.m. and 6 a.m.;

(2) within 500 feet of the premises of a school; or

(3) in the case of extreme weather conditions, including conditions in which:

(A) the actual or effective outdoor temperature is below 32 degrees Fahrenheit;

(B) a heat advisory has been issued by a local or state authority or jurisdiction; or

(C) a hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service.

(b) In this section, a restraint unreasonably limits a dog's movement if the restraint:

(1) uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog;

(2) is a length shorter than the greater of:

(A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or

(B) 10 feet;

(3) is in an unsafe condition; or

(4) causes injury to the dog.

Added by Acts 2007, 80th Leg., R.S., Ch. 674, Sec. 1, eff. September

1, 2007.

Sec. 821.078. EXCEPTIONS. Section 821.077 does not apply to:

(1) a dog restrained to a running line, pulley, or trolley system and that is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type, or improperly fitted collar;

(2) a dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction;

(3) a dog restrained for a reasonable period, not to exceed three hours in a 24-hour period, and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;

(4) a dog restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog;

(5) a dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or

(6) a dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

Added by Acts 2007, 80th Leg., R.S., Ch. 674, Sec. 1, eff. September 1, 2007.

Sec. 821.079. PENALTY. (a) A person commits an offense if the person knowingly violates this subchapter.

(b) A peace officer or animal control officer who has probable cause to believe that an owner is violating this subchapter shall provide the owner with a written statement of that fact. The statement must be signed by the officer and plainly state the date on which and the time at which the statement is provided to the owner.

(c) A person commits an offense if the person is provided a statement described by Subsection (b) and fails to comply with this subchapter within 24 hours of the time the owner is provided the statement. An offense under this subsection is a Class C misdemeanor.

(d) A person commits an offense if the person violates this subchapter and previously has been convicted of an offense under this subchapter. An offense under this subsection is a Class B misdemeanor.

(e) If a person fails to comply with this subchapter with respect to more than one dog, the person's conduct with respect to each dog constitutes a separate offense.

(f) If conduct constituting an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Added by Acts 2007, 80th Leg., R.S., Ch. 674, Sec. 1, eff. September 1, 2007.

Sec. 821.980. DISPOSITION OF PENALTY. Notwithstanding any other law, the clerk of a court that collects a penalty under this subchapter shall remit the penalty collected for deposit in the general fund of the county.

Added by Acts 2007, 80th Leg., R.S., Ch. 674, Sec. 1, eff. September 1, 2007.

Sec. 821.081. HAND-HELD LEASHES. This subchapter does not prohibit a person from walking a dog with a hand-held leash.

Added by Acts 2007, 80th Leg., R.S., Ch. 674, Sec. 1, eff. September 1, 2007.

ORDINANCE NO. 2011-2285

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE AND DECLARING A NUISANCE; AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES OF SAID CITY TO ADD THERETO A NEW SECTION, TO BE KNOWN AS SECTION 90.49, CONTAINING DEFINITIONS, PROHIBITING THE RESTRAINING OF DOGS BY TETHERING; CONTAINING EXCEPTIONS; SPECIFYING REQUIREMENTS FOR ENCLOSURES USED FOR THE KEEPING OF DOGS OUTDOORS ON ANY PREMISES IN THE CITY; PROVIDING FOR PRIMA FACIE PROOF AND PROVIDING AN AFFIRMATIVE DEFENSE; PROVIDING THAT ANY PERSON VIOLATING SAID CODE, AS AMENDED BY THIS ORDINANCE, SHALL BE GUILTY OF A MISDEMEANOR AND ASSESSED A FINE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 10.99 OF SAID CODE OF ORDINANCES; PROVIDING THAT EACH DAY ANY SUCH VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE; CONTAINING SAVINGS CLAUSES; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS DESCRIPTIVE CAPTION HAS BEEN PUBLISHED TWICE IN THE BRAZOSPORT FACTS.

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

WHEREAS, Sections 51.072, 54.001, 54.004 and 217.042 of the Local Government Code of Texas and Sections 2.01, 2.02 and Item (u) of Section 3.07 of the Home Rule Charter of the City authorize the City Council thereof to adopt the provisions of this Ordinance; and,

WHEREAS, the City Council of the City has determined and do 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 hereby find and declare that the restraining of dogs on any residential premises in the City by a chain, rope, tether, leash, cable, trolley, pulley, or other device that attaches a dog to a stationary object or trolley system constitute a public nuisance which should be abated as hereinafter provided.

Second, Chapter 90 of the Code of Ordinances of the City of Freeport, Texas, is hereby amended to add thereto a new section, to be known as Section 90.49, which shall read as follows:

"Section 90.49- Unlawful restraint or tethering of dogs

(A) As used in this section, the following words and phrases shall have the following Meanings:

1) Collar- means any collar constructed of nylon, leather, metal, or similar material specifically designed to be used for a dog.

2) Owner- means a person who owns or has custody or control of a dog.

3) Properly fitted- means, with respect to a collar, a collar that measures the circumference of a dog's neck plus at least one inch.

4) Restraint- means a chain, rope, tether, leash, cable, trolley, pulley, or other device that attaches a dog to a stationary object or trolley system

5) Enclosure for dogs- means an outdoor enclosure used to keep one but not more than three dogs, other than puppies less than six months old.

6) Outdoor enclosure- means a fenced structure constructed of chain link or similar type materials with all four (4) sides enclosed.

(B) It shall be unlawful for the owner or any person in control of any dog, or the owner or person in control of any premises in the city to fasten, tie, chain or tether any dog to a stationary object, pulley system or trolley system, or to permit any dog to be so fastened, tied, chained or tethered on such premises.

(C) In any prosecution in the municipal court of the city or any other court of competent jurisdiction, it shall be an affirmative defense if the fastening, tying, chaining or tethering of a dog to a stationary object, pulley system or trolley system is temporary, the owner of such dog is present on the premises where the dog is so fastened, tied, chained or tethered and the dog is not left unattended for more than five minutes while so fastened, tied, chained or tethered. When the owner of the dog is absent, the dog cannot be left chained to a stationary object, pulley system or trolley system.

(D) It shall be unlawful for the owner or any person in control of any premises in the city, where any dog is kept outside for any period of time, to fail to confine or to cause the dog to be confined within an area of a yard that:

(1) is not fully enclosed by a fence of sufficient height to prevent the dog or dogs from escaping, and which is constructed of fencing material of a type that at the time of its construction was permitted under the Building Code adopted by the City under Section 150.001 or Section 150.010 of the Code of Ordinances of the City of Freeport, Texas; and,

(2) does not have adequate space for exercise of at least one hundred (100) square feet for one (1) dog and an additional thirty (30) square feet for each additional dog.

(E) It shall be unlawful for the owner or any person in control of any premises in the city where any dog is kept outside, to fail to provide an outdoor dog house, or other enclosure that:

(1) is not fully enclosed on all sides, excluding the entrance, by solid walls and a roof of non-porous material that provides the dog, or dogs, with shade and protection from the elements; and,

(2) is not located at least fifty (50) feet from any adjacent residence or business, excluding the residence or business of the owner or handler of the dogs.

(F) Nothing in this section shall be construed to permit the keeping, Possessing, harboring or allowing of more than three (3) dogs (other than unweaned puppies) or to prohibit owners or others from walking dogs with a handheld leash or temporarily fastening, tying or tethering their dog, so long as the owner is immediately present and the animal is not left unattended for more than five minutes while so fastened, tied, or tethered.

(G) The presumption of ownership of a dog contained in Division © of Section 90.48 of this chapter shall apply in a prosecution under Section 90.49 of this chapter."

Third, any person violating the Code of Ordinances of the City, as amended by this ordinance, shall be guilty of a misdemeanor and upon conviction therefor assessed a fine as prescribed in Section 10.99 of said Code; and each day such violation continues and each part of any day any such violation occurs shall constitute a separate offense.

Fourth 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.

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

Sixth, no offense committed and no fine, forfeiture or penalty incurred prior to the effective date of this ordinance is to be affected by the adoption of this ordinance but the punishment for any offense committed and the recovery of any fines or forfeitures incurred prior to such date shall take place as if this ordinance had not been adopted.

Seventh, 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.

Eighth, this ordinance shall take effect and be in force from and after the descriptive caption of this ordinance has been published twice in the Brazosport Facts, the official newspaper of said City.

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

Norma Moreno Garcia, Mayor,
City of Freeport, Texas

ATTEST:

Delia Muñoz, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

Wallace Shaw, City Attorney,
City of Freeport, Texas

RESOLUTION NO. 2011-2266

AN RESOLUTION OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; ESTABLISHING A TAX ABATEMENT AND REINVESTMENT ZONE POLICY AND ADOPTING GUIDELINES AND CRITERIA FOR THE SAME; PROVIDING AN EFFECTIVE DATE AND FOR EXPIRATION AFTER TWO (2) YEARS; PROVIDING FOR AMENDMENT AND RECISION PRIOR TO EXPIRATION; PROVIDING FOR THE CONTINUATION FOR ITS DURATION OF ANY ABATEMENT CONTRACT ENTERED INTO PRIOR TO ANY SUCH AMENDMENT, RECISION OR EXPIRATION; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THE ORIGINAL OF THIS RESOLUTION SHALL BE MAINTAINED BY THE CITY SECRETARY IN THE PERMANENT RECORDS OF SAID CITY.

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 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 hereby establishes a Tax Abatement and Reinvestment Zone Policy and adopts the guidelines and criteria for commercial and residential projects which are marked, respectively, "Exhibit A" and Exhibit B", and are attached hereto and made a part hereof as if set forth herein in full.

Second, this resolution, the Tax Abatement and Reinvestment Zone Policy hereby established and the guidelines and criteria therefor hereby adopted shall take effect upon the passage and adoption of this resolution and may be amended or rescinded by the City Council of the City at any time thereafter. Provided, however, unless rescinded prior thereto, this resolution and the guidelines and criteria adopted hereby shall expire two (2) years after the effective date hereof. Provided further, any abatement application timely filed prior to and adoption of this resolution shall be governed by the guidelines in effect when such application was filed; and any abatement agreement entered into prior to such expiration or prior to any such amendment or rescision shall, for the duration of such agreement, remain in full force and effect, subject to the guidelines and criteria in effect on the date of the execution of such agreement.

Third, in the event any section or provision of this resolution or the guidelines and criteria hereby adopted are 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 remainder thereof which 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.

Norma Moreno Garcia, Mayor,
City of Freeport, Texas

ATTEST:

Delia Munoz, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

Wallace Shaw, City Attorney,
City of Freeport, Texas

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RESIDENTIAL TAX ABATEMENT
GUIDELINES AND CRITERIA

PROCEDURES

AND

APPLICATION

CITY OF FREEPORT, TEXAS

OUTLINE OF ACTIVITIES RESIDENTIAL TAX ABATEMENT

I. Application for Building Permit-No Developer

- A. Building official delivers statement of right to abatement to applicant for building permit
- B. Owner has Ninety (90) days to file application (with City Secretary)
- C. No response/no abatement
- D. Application filed with City Secretary who:
 - 1. Collects Seventy-Five Dollars (75.00) application fee
 - 2. Determines if in reinvestment zone
 - 3. If not, refers to City Council for creation with recommendation
 - 4. Reviews for Completeness (with Legal)
 - 5. Determines if satisfies guidelines and criteria (with Legal)
 - 6. Reviews fiscal impact - Improvements on tax rolls vs. utility construction by City (with City Manager)
 - 7. Reviews Community impact - consistency with comprehensive plan/any adverse impact (with City Manager)
 - 8. Reviews Economic feasibility (with City Manager)
 - 9. Reviews legal description (with legal)
 - 10. Obtains any needed additional information
 - 11. Meets with applicant to discuss project
- D. Contents of Documents
 - 1. Estimated value of modernization or new construction
 - 2. Percent of value to be abated each year
 - 3. Commencement/termination date of abatement
 - 4. Use of facility, construction schedule and plans, legal description

II. If Developer, refer to Planning and City Council

RESIDENTIAL TAX ABATEMENT

The City of Freeport may offer residential tax abatement as a stimulus for economic development in Freeport. The policy of the City is to consider residential tax abatement for new structures, the modernization of existing structures, and the development of new subdivisions within the City. The guidelines and criteria herein adopted shall expire Two (2) years from and after adoption. Nothing herein shall imply or suggest that the City be under any obligation to provide tax abatement to any applicant. All applicants shall be considered on a case-by-case basis.

A. Definitions

1. *Base Year Value* means the assessed value of eligible property on January 1 Preceding the date of execution of the agreement.
2. *Developer* means a person, firm or corporation constructing one or more new structures in a subdivision for resale to third parties.
3. *Economic Life* means the replacement and upgrading of residential structures for Purposes of reconditioning or refurbishing.
4. *Modernization* means the replacement and upgrading of residential structures for purposes of reconditioning or refurbishing.
5. *New structure* means residential improvements made to a previously unimproved property that is placed into use by means other than modernization.
6. *Reinvestment Zone* means an area designated in accordance with the Act by the City of Freeport and may include all residentially zoned property in the City. Only property in a reinvestment zone may receive tax abatement.
7. *Residential improvements* means the construction of residential buildings(s), and all the appurtenances thereto, whether single-family, duplex or multi-family in purpose, and includes modernization and new structures.
8. *Subdivision* means the division of any tract into lots.
9. *Subdivision improvements* mean all improvements to real property required of the developer by City policy.
10. *Total facility* means all buildings and structures along with the appurtenances thereto.

B. ELIGIBILITY

Residential improvements anywhere within the corporate limits of a value in excess of Five Thousand (\$5,000) may receive abatement. Abatements may only be granted for the value of eligible property subsequent to and listed in an abatement agreement between the City and the property owner. Abatements will be granted for residential improvements only. However, the enhancement of real estate value resulting from residential subdivision improvements constructed within the corporate limits of the City is eligible for tax abatement.

1. Upon determination that a tax abatement should be offered to the applicant, an abatement for residential improvement shall be for three (3) years only with Ninety Percent (90%) of the value of such improvement being abated the first year, Eighty-Five Percent (85%) of such value the second year and Eighty Percent (80%) of such value the third year.

2. For developer tax abatement, an abatement may be extended to the value of subdivision improvements and the enhanced value of the real estate resulting therefrom.

3. An abatement for residential improvements may not be offered or granted to a developer for a longer term or a different percent than that specified in 1 above.

C. CRITERIA

1. Any request for tax abatement shall be reviewed by City staff, which may consider a request for abatement for property not presently located in a Reinvestment Zone. In such case the City staff will make a recommendation to the City Council concerning designation of the area as a Reinvestment Zone.

2. Any request for tax abatement shall be reviewed for Completeness. The City staff shall determine whether the application satisfies the guidelines and criteria and whether economic development incentives should be offered in each case. Tax abatement shall be based upon a objective evaluation of the following criteria which each applicant will be requested to address in narrative format:

1. *Fiscal Impact* Addition of real property improvement to the tax rolls. No utility construction by the City would be required other than routine.

2. *Community Impact* The project is comparable with the City's comprehensive plan. No adverse environmental impact will be created by the project.

D. PROCEDURES

Any person, partnership, organization, corporation or other entity desiring that the City consider providing tax abatement to encourage location of residential improvements with the City limits of Freeport shall be required to comply with the following guidelines.

1. Preliminary Application Steps:

A. If the owner of real estate for which a building permit for residential improvements having a value in excess of \$5,000.00 is sought is not a developer, then the Building Official shall furnish to the applicant for such permit a written statement advising the owner of such real estate of such owner's right to apply for a residential tax abatement; and no building permit shall be issued unless and until such statement, signed and dated by the owner, is returned to the Building Official. Such owner shall, for a period of ninety (90) days from such date, have the right to apply to the City for a residential tax abatement.

B. The failure of such owner to apply for a residential tax abatement shall for such improvements within such period shall constitute a waiver of such right as to such owner and all subsequent owners of such real property.

C. The right to a residential tax abatement for individuals who purchase a new structure from a developer and the procedure for applying for the same shall be applying for the same shall be determined by the City Council at the time a plat of the subdivision in which such improvements are to located is presented for final approval.

D. An applicant for a residential tax abatement may be required to provide substantiation of economic feasibility of the overall project to assist in determining the long term benefit to the City.

E. A complete legal description shall be provided to the City by the applicant.

(6). The applicant shall complete all forms and furnish all information required by these guidelines before any applications for a residential tax abatement will be considered by the City Council.

2. All information in the application package detailed above will reviewed for completeness and accuracy. Additional information may be requested as needed.

for real property improvements and type of project.

4. Proposed use of the facility, is in the City's corporate limits and is not a reinvestment zone, the City Council may propose an ordinance designating the Tax Reinvestment Zone and approving the terms for a percentage and duration of tax abatement.

5. The City will be responsible for drafting the proposed agreement pursuant to the approved Tax Abatement, as well as all associated documentation. All expenses, including legal fees, associated with the drafting of the document are to be paid by the applicant. The legal document is to include the following:

- a. Estimated value of modernization or new construction to be abated.
- b. Percent of value to be abated each year.
- c. Commencement date and the termination date of the abatement.
- d. Proposed use of the facility, nature of construction, time schedule, map, property description and improvements list as provided in the application.
- e. Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture and administration.

TAX REINVESTMENT ZONE
RESIDENTIAL APPLICATION

SECTION I

Property Owner(s) : _____

Mailing Address: _____ Telephone Number: _____

Property Owner's Representative: _____

Mailing Address: _____ Telephone Number: _____

Property Address (physical): _____

Property Legal Description: _____

Located within: City of Freeport _____ Freeport ET _____

Description of Project:

Date of projected occupation of project/initiation of operations:

SECTION II

Fiscal Impact:

What is the value of real property improvements added to the tax rolls? \$ _____

What utility construction is required: _____

Community Impact:

Is the project compatible with the City's comprehensive plan? _____

What adverse environment impact will be created by the project: _____

Date: _____

Applicant(s) Signature(s)

COMMERCIAL TAX ABATEMENT
GUIDELINES AND CRITERIA

PROCEDURES
AND
APPLICATION

CITY OF FREEPORT, TEXAS

ECONOMIC DEVELOPMENT INCENTIVES CITY OF FREEPORT

I. Introduction

The City of Freeport is committed to desirable economic development. A successful economic development program depends on a viable working relationship between all aspects of the public and private sector. In addition to insuring the protection of the environment and other natural resources as high priority, any attempts to stimulate the economy should be relatively assured of eventful positive economic effects on the City of Freeport's revenue raising capabilities.

This document describes guidelines and criteria to opportunities that the City may consider in attempts to assert positive economic development. Nothing herein shall imply or suggest that the City of Freeport is under obligation to afford these opportunities to any applicant.

All applicants shall be reviewed on a case by case basis. The customized design of a total incentives package is intended to allow maximum flexibility in addressing the unique concerns of each applicant while enabling the City to respond to the changing needs of the community. Consideration will be given to applicants according to the criteria listed in this document.

II. TAX ABATEMENT

A. Definitions

1. *Abatement* means the full or partial exemption from ad valorem taxes on certain real property in a reinvestment zone designated by the city council for economic development purposes.

2. *Affected jurisdiction* means Brazoria County and any school district, the majority of which is located in the county and levies ad valorem taxes upon and provides services to property located within the proposed or any existing reinvestment zone designated by the city council.

3. *Agreement* means a contractual agreement between a property owner and/or lessee and an affected jurisdiction for the purposes of tax abatement.

4. *Base year value* means the assessed value of eligible property on January 1 preceding the execution of the agreement, plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the agreement.
5. *City* means Freeport, Texas.
6. *Deferred maintenance* means improvements necessary for continued operations which do not improve productivity or alter the process technology.
7. *Distribution Center Facility* means buildings and structures, including machinery and equipment, used or to be used primarily to receive, store, service, or distribute goods or materials owned by the facility operator, where a majority of the goods or services are distributed to points at least 50 miles from its location in Brazoria County, Texas.
8. *Expansion* means the addition of buildings, structures, machinery or equipment purposes of increasing production capacity.
9. *Facility* means property improvements completed or in the process of construction which together compromise an integral whole.
10. *Manufacturing facility* means buildings and structures, including machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
11. *Modernization* means the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.
12. *New facility* means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.

13. *Other basic industry* means buildings and structures, including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or services, which serve a market primarily outside the Brazoria Primary Metropolitan Statistical Area (PMSA) and result in the creation of new permanent jobs and create new wealth in the PSMA.

14. *Personal property* means tangible personal property located on the real property, excluding that personal property located on the real property prior to the period covered by the abatement agreement with the City, and other than inventory or supplies.

15. *Productive life* means the number of years a property improvement is expected to be in service.

16. *Regional entertainment facility* means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through the admission of the general public where the majority of users reside at least 50 miles from its location in Brazoria County.

17. *Research facility buildings* means buildings and structures, including machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.

18. *Reinvestment zone* means any area of the City which has been designated a reinvestment zone for tax purposes and which is located within the taxing jurisdiction of the City. It is the intent of the City to designate reinvestment zones on case by case basis in order to maximize the potential incentives for eligible enterprises to locate or expand within the City.

19. *Regional Service facility* means buildings and structures, including machinery and equipment, used or to be used to service goods where a majority of the goods being serviced originate at least 50 miles from the facilities location in Brazoria County.

20. *Value of property* means the assessed value of eligible property for purposes of ad valorem taxation.

B. General Criteria - All applicants should meet the following criteria before being considered for abatement.

1. The project expands the local tax base.

2. The project creates permanent full time employment opportunities.
3. The project in all likelihood would not otherwise be developed.
4. The project makes a contribution to enhancing further economic development.
5. The project must remain in good standing to all reasonable aesthetic and environmental concerns.
6. The project has not begun and no construction has commenced at time of application approval.
7. Companies seeking to qualify for tax abatement on the basis of job retention shall document that without the creation of a reinvestment zone and/or tax abatement, it will either reduce or increase operations.
8. The project should not have any of the following objections:
 - a. There would be substantial adverse affect on the provision of government service or tax base.
 - b. Insufficient financial capacity.
 - c. Planned or potential use of the property would constitute a hazard to public safety.
 - d. Planned or potential use of the property would give adverse impacts to adjacent properties; or,
 - e. Any violation of laws of the U.S. or State of Texas or ordinances of the City would occur.
 - f. Property owned or used by the State of Texas or its political subdivisions.
 - g. Property owned by an organization owned, operated or directed by a state political subdivision.

C. Specific Criteria - If the project in the application meets the general criteria, is a facility of a targeted enterprise and has a capital cost that exceeds \$50,000.00, then abatement of any or all of the increased value will be considered. In no case would tax abatement exceed the maximum allowed by state law, presently 100% for 10 years.

<u>Total Investment</u>	<u>Abatement Per Year</u>
\$50,000 to \$100,000	90% 85%
\$100,000 to \$1,000,000	90% 85% 80%
Over \$1,000,000	90% 85% 80% 75% 70% 65% 60%

DESIGNATION OF A REINVESTMENT ZONE

The City Council by ordinance must designate an area as a reinvestment zone. Prior to adopting such an ordinance the City Council must conduct a public hearing on the designation that entitles all interested persons to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, notice of the hearing must be:

1. Published in a newspaper having general circulation in the City.
2. Delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone.
3. Should any affected jurisdiction be able to show cause in the public hearing why the grant of abatement will have a substantial adverse effect on its bonds, tax revenue, service capacity or the provision of services, that showing shall be reason for the City to deny any designation of the reinvestment zone, the granting of the abatement or both.

TAX ABATEMENT AGREEMENT

The City by resolution may enter into a tax abatement agreement in accordance with the criteria contained in this document. At least seven days before entering into the agreement, the City will deliver written notice of its intent to each taxing unit that is included in the reinvestment zone.

1. Any agreement will include, but not be limited to, the following specific items.
 - a. All appropriate stipulations included in the application as outlined by this document for a reinvestment zone and tax abatement agreement; and
 - b. The amount and duration of the tax abatement; and

c. A method for determining the qualifications of meeting the criteria and applicant's promise to meet and maintain these qualifications over the term of the agreement; the City will be allowed, upon written request and reasonable notice, to inspect and audit such records of the applicant as are necessary to substantiate that the applicant is meeting criteria agreed upon during the term of the abatement; and

d. A provision that in the event the agreement is not kept, the tax abatement agreement will be determined null and void and all abated taxes will be paid immediately to the City and all other taxing units participating in the agreement; and

e. Any and all other statutory requirements pertaining to municipal tax abatements agreements, including but not limited to those requirements set forth in Section 312.205 of the State Tax Code (Vernon's 1992 with 1976 supplement), as amended.

2. Eligible Property. Abatement may be extended to the value of buildings, structures, fixed machinery, equipment, site improvements plus that office space and related fixed improvements necessary to the operation and administration of the facility. The economic life of the property and improvements must exceed the life of the abatement agreement.

a. Abatement may be granted to new facilities; and,

b. Abatement may be granted for improvements to existing facilities for purposes of modernization and expansion.

3. Recapture

a. In the event that the facility is completed and begins producing goods and/or services, but subsequently discontinues such production for any reason excepting fire, explosion or other casualty or natural disaster for a period of one year during the abatement period, then the agreement shall terminate and so shall the abatement of taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for the calendar year shall be paid to the City within (60) days from the termination.

b. Should the City determine that the company or individual is in default according to the terms and conditions of the abatement agreement, the City shall notify the company or individual, in writing, at the address stated in the agreement, and if such non-compliance is not resolved within (60) days from the date of such notice, then the agreement shall be terminated.

c. In the event that the company or individual:

(1). allows its ad valorem taxes owed the City or affected jurisdiction to become delinquent and fails to timely and properly follow legal procedures for their protest and/or contest, or

(2). violates any of the terms and conditions of the abatement agreement and fails to resolve such violations with sixty (60) days from the date of written notice of such violations, the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within (60) days of the termination.

4. Upon completion of construction, the City shall annually evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations to the City Council and the City Attorney.

5. The City must deliver a report to the Texas Comptroller's Office describing the guidelines and criteria, reinvestment zone, terms of any abatement agreements, and any other information required by the Comptroller. The reports will be submitted by March 31 of the year following the designation of a zone or the execution of a tax abatement.

APPLICATION FOR TAX ABATEMENT INSTRUCTIONS

1. Attach additional pages if there is not enough space allotted to answer questions on the application.

2. Applicants and projects must meet the requirements established by the City of Freeport Guidelines and Criteria in order to receive positive consideration.

3. Applicants must submit an application processing fee in the amount of Five Hundred Dollars (\$500) or one percent (1%) of the value of the proposed improvement(s), whichever is less, to cover cost to the City of attorney's fees and legal notices to be published.

4. Applicants must submit an adequately definitive legal description that sufficiently describe the tract(s) of land comprising the proposed reinvestment zone (tax abatement area) upon which the new facility, expansion or modernization project will be located. Applications with insufficient or indefinite legal descriptions will be returned to the applicant for amendment such applications will not be considered for hearing until corrected.

5. Applicant must submit the attached *Certification of Appraised Value of Properties* form which is part of this application. This certification should cover the proposed tax abatement area and it is the responsibility of the applicant to obtain this information from the Brazoria County Appraisal District.

APPLICANT INFORMATION

The taxing unit may consider applicant's financial capacity in determining whether to enter into an abatement agreement. Established companies for which public information is available, or the wholly owned businesses of such companies, should include with the new application a copy of their latest annual report to the stockholders. Other applicants and new companies should attach a statement showing:

- (1). when the company was established
- (2). business references (name, contact person, accountant, attorney)
- (3). may be required to submit an audit financial statement and business plan.

PROJECT INFORMATION

Only facilities listed in the General Criteria of the Guidelines may receive abatement. Check guidelines definitions to see if project qualifies.

If the project is a Regional Entertainment Facility, Regional Service Facility, Regional Distribution Center Facility or other basic industry, include the following items;

- (1). market studies
- (2). business plans
- (3). agreements or other materials demonstrating that the facility is intended to serve a market of which the majority is substantially outside the City of Freeport.

ECONOMIC MARKET

Permanent Employment Estimates

In estimating the permanent employment, include the total number of jobs retained or created at this site by your firm as well as known permanent jobs of service contractors required for operation.

Estimated Appraised Value on Site

The value on January 1 preceding abatement should be the value established by the Brazoria County Appraisal District. If the applicant must estimate value because taxable value is not known or is combined with other properties under a single tax account, please so state. To qualify, the abated properties must be expected to result in an addition to the tax base of at least fifty thousand dollars (\$50,000) after the period of abatement expires. Projections of value should be a best estimate" based on taxability in Texas. The projection of project values not abated should include personal property and ineligible project related improvements such as an office in excess of that used for plant administration, housing, etc.

APPLICATION FOR TAX ABATEMENT
COMMERCIAL/INDUSTRIAL

This application should be filed at least ninety (90) days prior to the beginning of construction or the installation of equipment. This application will become part of any later agreement or contract and knowingly false representations thereon will be grounds for the voiding of any later agreement or contract.

Original copy of this application and attachments should be submitted to:

City Manager
City of Freeport
200 West Second Street
Freeport, TX 77541

APPLICANT INFORMATION

Company Name: _____ Submittal Date: _____

Address: _____

Name/Address/Telephone of Company contact on this project: _____

PROJECT INFORMATION

Check type of facility to be abated:

- | | | | |
|------------------|-----|-------------------------------|-----|
| Manufacturing | () | Regional Distribution | () |
| Regional Service | () | Regional Entertainment Center | () |
| Research | () | Other Basic Industry | () |

Proposed facility address and legal description: (attach exhibit if necessary):

Attach a map showing the site. (Attach as Exhibit)

Proposed facility located in the following taxing jurisdictions:

School District	Brazoria Independent School District
Drainage District	Velasco Drainage District
City	City of Freeport
Other Taxing Jurisdictions: Brazoria County; Port Freeport; etc.	

Describe product or service to be provided: _____

This application is for a: New Facility () Expansion ()

PROJECT DESCRIPTION

Please attach a statement which:

1. fully explains the project;
2. describes the site and existing improvements;
3. describes all proposed improvements;

4. provides a list of improvements and fixed equipment for which abatement is requested.

ECONOMIC IMPACT INFORMATION

- A. Estimated cost of improvements:

Real Estate \$ _____

Personal Property \$ _____

- B. Permanent employment estimates:

If existing facility, current plant employment: _____
Estimated number of jobs retained: () jobs created: ()
Number of employees anticipated at start up: () within
1yr. ()

- C. Construction employment estimates:

Construction to start: Month: _____ Year: _____
Construction to be completed: Month: _____ Year: _____
Number of construction jobs anticipated: At start: _____
Peak _____ Finish: _____

- D. School District impact estimates: (for projects over \$5,000,000)

Number of families transferred to area: _____

Number of students added to ISD: _____

- E. City Impact estimates:

Volume of treated water required from city: _____

Volume of effluent water to be treated by city: _____

Has permitted been started? Yes () No ()

- F. Estimated appraised value on site:

CERTIFICATION OF APPRAISED VALUE OF PROPERTIES
AS OF JANUARY 1, _____

To: City of Freeport
Fm: Brazoria County Appraisal District
Date: _____

The Brazoria County Appraisal District hereby certifies that the following appraised values as of January 1, _____ for property of _____ Described in Exhibit "A" attached hereto are listed in the records of Brazoria County Appraisal District and indicated by the following Account Numbers:

<u>PERSONAL PROPERTY</u>	<u>APPRAISAL VALUE</u>
Account No. _____	\$ _____
Account No. _____	\$ _____
<u>LAND</u>	
Account No. _____	\$ _____
Account No. _____	\$ _____
Account No. _____	\$ _____
<u>IMPROVEMENTS</u>	
Account No. _____	\$ _____
Account No. _____	\$ _____
Account No. _____	\$ _____

Certified this _____ day of _____, _____

Chief Appraiser
Brazoria County Appraisal District


By: _____



FREEPORT FIRE & EMS
131 East Fourth Street
P.O. Box 3356
Freeport, Texas 77541
Ph: (979) 233-2111 Fax: (979) 233-4103

Brian Davis
Chief
Christopher Motley
Deputy Chief
Billywayne Shoemaker
EMS Coordinator

To: Norma Garcia Moreno
Honorable Mayor

FROM: Christopher D. Motley 
Deputy Fire & EMS Chief / EMC

DATE: August 8, 2011

RE: Disaster and/or Storm Recovery Services

The City of Freeport issued a request for proposal for Disaster and/or Storm Recovery Services with a bid of services opening on May 11, 2011. The bid proposals were reviewed and evaluated according to the basis of award. On July 20, 2011, each bidder was extended an invitation to provide an oral presentation for their proposal. A peer group evaluated the oral presentations and reviewed a copy of the evaluation according to the basis of award to validate Emergency Managements perspective.

The recommendation is to award the contract for RFP: Disaster and/or Storm Recovery Services to Ashbritt Environmental as primary and Crowder Gulf as alternate.

Cc: Brian Davis, Fire Chief
Files



HOUSTON-GALVESTON AREA COUNCIL

August 5, 2011

Larry McDonald
City of Freeport
200 West 2nd Street
Freeport, TX 77541

RE: PSAP Responding Boundary Agreement

Dear Mayor McDonald

As you are aware we are in the process of implementing ongoing updates to the E9-1-1 network. The State of Texas and CSEC (Commission on State Emergency Communications) are requiring that all PSAP Boundaries be identified to improve the efficiency of call routing. Kim Ward, E9-1-1 Coordinator, or Lera Robinson, the Quality Assurance Analyst, should have previously explained that these agreements will further prepare our region as new standards for call routing, location information and verification are implemented. Therefore, as required by the State of Texas I have enclosed three original copies of the PSAP Responding Boundary Agreements between the City of Freeport and the City of Lake Jackson. Please sign all three originals and mail all three signed copies to:

Houston-Galveston Area Council
Attn: Ele Hawthorne
P.O. Box 22777
Houston, TX 77227-2777

Once all three original copies have been signed by the "Parties," a copy will be returned to you for your records. If you have any questions please contact Lera Robinson at:

Direct: 832-681-2503
Cell: 713-476-1594
Email: lera.robinson@h-gac.com

Sincerely,

A handwritten signature in black ink, appearing to read 'Ele Hawthorne', is written over the word 'Sincerely,'.

Ele Hawthorne
E9-1-1 Database Specialist
Public Services Program

**INTERLOCAL AGREEMENT
FOR
DEFINING 9-1-1 PUBLIC SAFETY ANSWERING POINT BOUNDARIES**

This Interlocal Agreement ("Agreement") is entered into this 27th day of June, 2011 between **Houston – Galveston Area Council** [*entity: Lake Jackson* ("City"), a Regional Planning Commission of the State of Texas, acting by and through its governing body, the City Council of the **City of Lake Jackson; Brazoria County** ("County"), a political subdivision of the State of Texas, acting by and through its governing body, the Commissioners Court], and **Houston-Galveston Area Council** [*entity: Freeport* ("City"), a Regional Planning Commission of the State of Texas, acting by and through its governing body, the City Council of the **City of Freeport; Brazoria County** ("County"), a political subdivision of the State of Texas, acting by and through its governing body, the Commissioners Court] (collectively hereinafter referred to as the "Parties").

WHEREAS, Texas Government Code Chapter 791 (Interlocal Cooperation Contracts) authorizes local governments to contract with one another in order to increase the efficiency and effectiveness of governmental functions and services;

WHEREAS, each of the Parties are local governments as defined by Texas Government Code § 791.003(4).

WHEREAS, the Parties seek to work together in intergovernmental cooperation to insure that the Public Safety Answering Point ("PSAP") boundary between them is accurate and does not conflict. For purposes of this Agreement, a PSAP boundary is the geographic area that is served by a single PSAP.

NOW, THEREFORE, the Parties enter into this Agreement as follows:

1. **Background and Purpose.** The State of Texas is anticipating the use of geospatial data for the routing of 9-1-1 calls in its Next Generation 9-1-1 environment. PSAP boundaries are an important factor in identifying consistent and accurate routing of all 9-1-1 calls.

The purpose of this Agreement is to identify the PSAP boundary between the Parties' regions for purposes of routing 9-1-1 calls to the appropriate single PSAP.

2. **Deliverables.** The Parties agree to the following boundary description:

See attached map

The Parties agree to review the PSAP boundary established by this Agreement annually and to amend this Agreement if any adjustments are necessary to ensure the continued accurate routing of 9-1-1 calls.

3: Political Boundaries and Fees. The PSAP boundaries defined in this Agreement will not cause any change to the Parties' existing political boundaries or collected 9-1-1 revenues.

4. Effective Date. This Agreement shall be effective as of the date it is signed by both Parties and shall remain in effect until it is terminated by written notice of either Party.

This Agreement constitutes the entire agreement between the Parties and supersedes any and all oral or written agreements between the Parties relating to matters herein. An amendment to this Agreement is not effective unless in writing and signed by both Parties.

The following Attachments are a part of this Agreement:

See Attached Map

This Agreement is executed in duplicate originals.

City of Lake Jackson
25 Oak Drive
Lake Jackson, TX 77566

City of Freeport
200 West 2nd Street
Freeport, TX 77541

By:  _____

By: _____

Printed Name: Bob Sipple

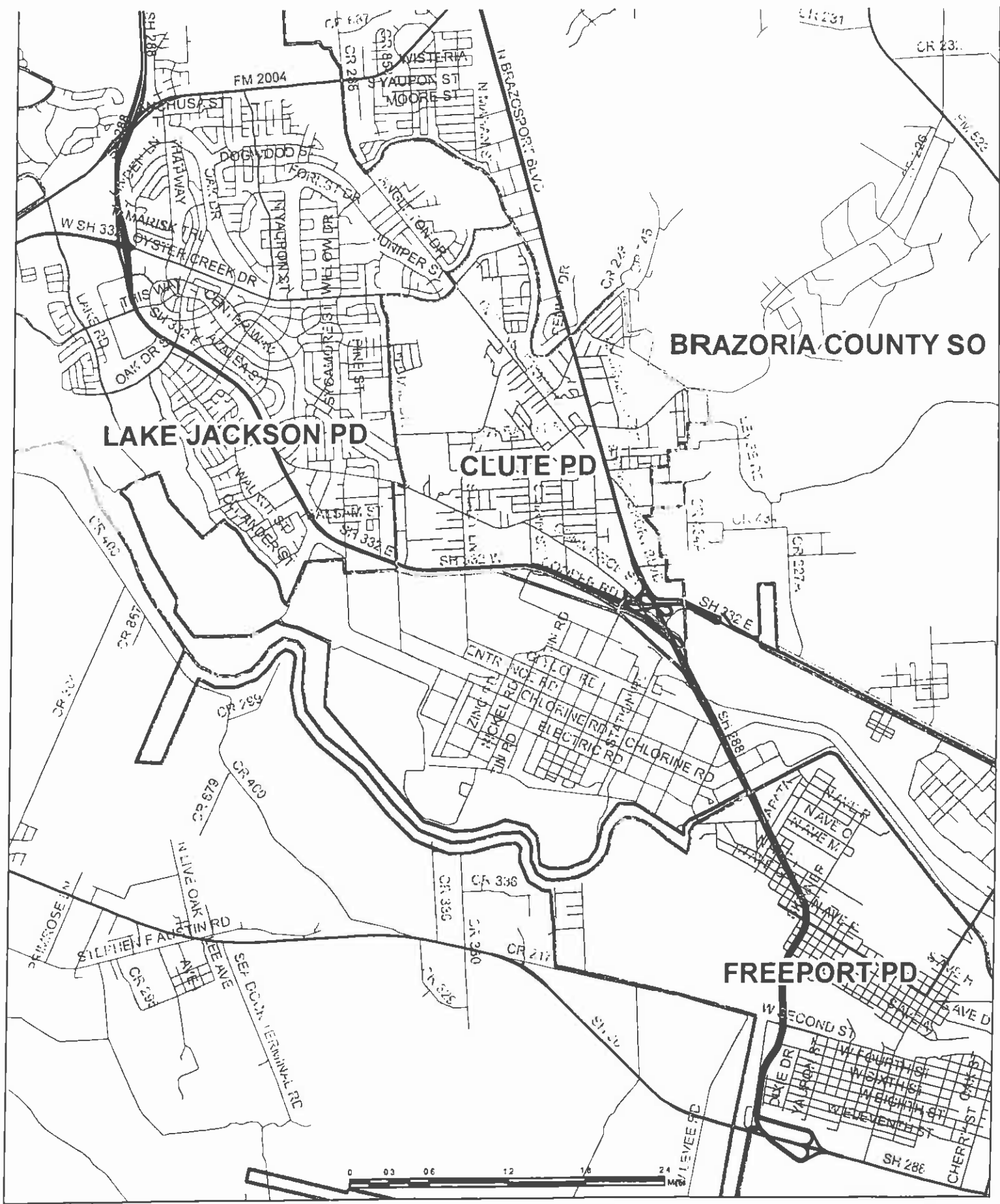
Printed Name: Larry McDonald

Title: Mayor

Title: Mayor

Date: 07-10-11

Date: _____



BRAZORIA COUNTY SO

LAKE JACKSON PD

CLUTE PD

FREEPORT PD



FREEPORT PD / CLUTE PD / LAKE JACKSON PD Page 538

Brazoria County PSAP Boundaries

