

City of Freeport

NOTICE OF PUBLIC MEETING
THE FREEPORT CITY COUNCIL
MONDAY, OCTOBER 18TH, 2010, 6:00 P.M.
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 October 4th, 2010 Council Minutes. Pg. 1006-1010
5. Attending citizens and their business.
6. **Public Hearing:** A public hearing regarding Chapter 370.002 of the Local Government Code and Division (A) of Section 130.99 of the Code of Ordinance of said City to review the juvenile curfew ordinance of said City. Pg. 1011
7. Consideration of approving Ordinance No. 2010-2264 amending Chapter 130 of the Code of Ordinances of said City, providing a curfew for minors. Pg. 1012-1022
8. **Joint Public Hearing:** To discuss amending Section 155.023 Supplementary District Regulation and Exception (I) Parking and off-street loading areas and restoring item (10) back in the Code of Ordinances as originally written. Pg. 1023
9. Consideration of approving Ordinance No. 2010-2265 amending the Code of Ordinances if said City to restore item (10) to division (I) of Section 155.023 of said requirements for the paving of any off – street vehicular parking area, surface drive or driveway within said City. Pg. 1024-1028
10. Consideration of setting November 15th, 2010 for a public hearing to consider designating the following described real property located within the corporate boundaries of the City as a reinvestment zone for the purpose of entering into an agreement with the owner(s) thereof granting a tax abatement and instructing the City Attorney to prepare the necessary documents; Block 633, Lot 21 & 22, Velasco Townsite, Norma and Julio Molina, 821 North Ave. C., Freeport, Texas. Pg.1029-1036

11. Consideration of approving Ordinance No. 2210-2266 granting a Specific Use Permit to Capital Telecom to erect and operate 120 foot communication antennae on a 50 foot by 50 foot, parcel of land out of Lot 1, Freeport Properties Subdivision, known as 1744 W. 4th Street. Pg. 1037-1041
12. Consideration of authorizing the City Manager to sign the WEBQA Service Agreement for processing the building, code enforcement and inspection activities for the City. Pg. 1042-1043
13. Consideration of selling the City's interest on Block 183, Lot 7, Freeport Townsite, known as 1725 West 8th Street. Pg. 1044-1048
14. Consideration of approving Resolution No. 2010-2247 notice of denial of CenterPoint's intent to increase rates submitted on or about June 30th, 2010. Pg. 1049-1054
15. Consideration of setting November 9th, 2010 for a bid date for landscaping, grounds care and mowing services for portions of the City's right-of-ways and parks areas. Pg. 1055

Work Session:

- A. Update regarding the Gulf Boulevard Motel, 119 South Gulf Boulevard, Freeport Texas.

Adjourn

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

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

I, Delia Muñoz, City Secretary, for the City of Freeport, Texas certify that this agenda was posted on the official bulletin board/glass door of City Hall, facing the rear parking lot of the building, with 24 hours a day public access, 200 W. 2nd Street, Freeport, Texas, October 7th, 2010 at or before 5:00 p.m.

Delia Munoz/City Secretary
City of Freeport, Texas

Invocation.

City Attorney Wallace Shaw offered the invocation.

Pledge of Allegiance.

Mayor McDonald led the Pledge of Allegiance.

Consideration of approving the September 20th, 2010 Council Minutes.

On a motion by Councilwoman Mireles, seconded by Councilwoman Kent, with all present voting "aye", Council unanimously approved the September 20th, 2010 Council Minutes.

Attending citizens and their business.

Lucky Gilbert is a volunteer and supporter of the Summer Time Blues Festival. The festival keeps getting bigger and better and thanked all for the support the city has given the festival. The community has been good to him and his family and is proud to live in Freeport.

Sandra Wood-Wicke stated that she is not against the communication tower but opposes the location. She does not want the antenna erected near schools and in the middle of a neighborhood. There is an antenna erected on Gulf Boulevard and it is an eyesore. She preferred the antenna be erected in an industrial area or out of town.

Consideration of calling a public hearing regarding Chapter 370.002 of the Local Government Code and Division (A) of Section 130.99 of the Code of Ordinance of said City to review the juvenile curfew ordinance of said City.

On a motion by Councilwoman Kent, seconded by Councilwoman Garcia, with all present voting "aye", Council unanimously approved October 18th, 2010 setting a date for a public hearing regarding Chapter 370.002 of the Local Government Code and Division (A) of Section 130.99 of the Code of Ordinance of said City to review the juvenile curfew ordinance of said City

Consideration of approving the bids and awarding the mowing contract for the City of Freeport.

On a motion by Councilman Bolton, seconded by Councilwoman Mireles, with all present voting "aye", Council approved the bids and awarded the mowing contract to Bustos Lawn Service, P.O. Box 2316, Freeport, Texas.

Consideration of authorizing the City Manager to complete the sidewalk pedestrian mobility project on Skinner from Ave. J. to Freeport Oaks Apartments.

City Manager Jeff Pynes explained the modifications to the storm water drainage ditch, using 24 inch pipe, costing approximately \$52,863.

Mayor McDonald stated that there is a flooding issue down Skinner Street to Ave. J to the Freeport Oaks Apartments and preferred that a 36 inch pipe be installed instead of 24 inch.

Councilman Bolton asked for the cost of installing a 36 inch pipe verses a 24 inch pipe.

B. R. Williams, Street Supervisor did not have the exact cost.

On a motion by Councilwoman Garcia, seconded by Councilwoman Kent, with all present voting "aye", Council approved to authorize the City Manager to complete the sidewalk pedestrian mobility project with a 36 inch pipe with stipulations not to exceed \$62,000.

Consideration of approving a Residential Tax Abatement application for Norma & Julio Molina, new construction at 821 N. Ave. C., Freeport, Texas.

On a motion by Councilwoman Garcia, seconded by Mayor McDonald, with all present voting "aye", Council unanimously approved a Residential Tax Abatement application to Norma & Julio Molina, new construction at 821 N. Ave. C., Freeport, Texas.

Consideration of the Planning Commissions recommendation regarding a Specific Use Permit for Abundant Life Church to operate a church on Block 600, Lot 10-SW/2; Lot 11, Velasco Townsite, known as 606 North Gulf Boulevard.

On September 28th, 2010 the Planning Commission met and denied a Specific Use Permit for Abundant Life Church to operate a church on Block 600 Lot 10-SW/2; Lot 11, Velasco Townsite, known as 606 North Gulf Boulevard.

Joyce Adkins said that the church has no parking.

On a motion by Councilwoman Kent, seconded by Councilman Bolton, with all present voting 3 to 2, Council denied a Specific Use Permit for Abundant Life Church to operate a church on Block 600 Lot 10-SW/2; Lot 11, Velasco Townsite, known as 606 North Gulf Boulevard. Mayor McDonald and Councilwoman Garcia opposed.

Consideration of the Planning Commissions recommendation with regard to a Specific Use Permit to Capital Telecom to erect and operate 120 foot communication antennae on a 50 ft. by 50 ft., parcel of land out of Lot 1, Freeport Properties Subdivision, known as 1744 W. 4th Street.

Sandra Wood-Wicke stated that she is not against the communication tower but opposes the location. She does not want the antenna erected near schools and in the middle of a neighborhood. There is an antenna erected on Gulf Boulevard and it is an eyesore. She preferred the antenna be erected in an industrial area or out of town.

Sandra Barnett of 1630 W. 4th, suggested relocating the communication tower.

Joyce Adkins of 102 N. Ave. C. said no one wants the communication tower erected just the requester.

Eric Hayes of 1507 W. Broad opposes the location, not the communication tower.

Mike Nevil of 1532 West 9th opposes the communication tower and that it is bad planning. He prefers it be installed in an industrial location.

Loren Hayes of 1531 W. 2nd Street spoke to his neighbors on the 1500 and 1600 Block and all opposed the proposed communication tower.

Larry and Glenda Fansher of 1630 West 10th, opposes the communication tower. He requested a moratorium be placed on all proposed communication towers.

Louie Jones of 1424 N. Ave. F., stated to audience and council that Freeport Business Park was his business. To erect a proposed communicating tower was a small business for Freeport, bringing wireless internet, would not do anything to hurt Freeport, and would not depreciate properties.

On a motion by Councilwoman Kent to deny a Specific Use Permit to Capital Telecom to erect and operate a communication tower, seconded by Councilman Bolton, with all present voting, 2 to 3, motion failed. Mayor McDonald, Councilwoman Garcia and Councilwoman Mireles voted not to deny the Specific Use Permit.

Consideration of approving Ordinance No. 2010-2261 amending the Code of Ordinance by adding Chapter 134, illegal smoking products to Title XIII, General offenses, which will prohibit the use, purchase, possession and sale.

On a motion by Councilwoman Garcia, seconded by Mayor McDonald, with all present voting "aye", Council approved Ordinance No. 2010-2261 amending the Code of Ordinance by adding Chapter 134, illegal smoking products to Title XIII, General offenses, which will prohibit the use, purchase, possession and sale.

Consideration of approving Ordinance No. 2010-2262 amending item (9) of Division (B) of Section 121.05 of the Code of Ordinances of said City to increase the amount of the fee for a non consent wrecker towing to \$130.00.

Chief Morrow researched the wrecker towing fees and recommended to increase the wrecker fees to \$130.00. It is not unreasonable and would be consistent with the other cities in the country.

On a motion by Councilwoman Kent to approve Ordinance No. 2010-2262, amending item (9) of Division (B) of Section 121.05 of the Code of Ordinances of said City to increase the amount of the fee for a non consent wrecker towing to \$130.00. Motion died, due to lack of a second.

On a motion by Councilman Bolton to increase the wrecker fee from \$85.00 to \$100.00, seconded by Councilwoman Mireles, with all present voting 4 to 1, Council approved to increase the wrecker fee to \$100.00. Councilwoman Kent opposed.

Consideration of approving Ordinance No. 2010-2263 adopting a Dune Protection and Beach Access Plan for Bryan Beach and a portion of Surfside Beach.

Gilbert Arispe Administrative Assistant explained that adopting the ordinance would give the City control of the beach and eligible for reimbursed funding for maintaining the beach.

On a motion by Councilwoman Mireles, seconded by Councilwoman Kent, with all present voting “aye”, Council unanimously approved Ordinance No. 2010-2263 adopting a Dune Protection and Beach Access Plan for Bryan Beach and a portion of Surfside Beach.

Consideration of approving Resolution No. 2010-2246 appointing a qualified person to fill an unexpired term of Joshua Pettijohn of the Historical Commission and Main Street Advisory board of said City.

On a motion by Councilwoman Garcia to appoint Lalo Garcia to fill an unexpired term of Joshua Pettijohn of the Historical Commission and Main Street Advisory Board, seconded by Councilwoman Mireles, with all present voting 3 to 1, Council approved Lalo Garcia to the said board. Councilwoman Kent opposed and Councilman Bolton abstained from voting.

Mayor McDonald opened the Work Session at 7:07 p.m.

Work Session:

Discussion regarding the Board & Committees executing contracts that are financially binding.

Mr. Pynes reviewed options to restrict or allow City Boards and/or Commissions from signing financially binding contracts.

Adjourn

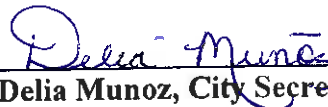
On a motion by Councilwoman Kent, seconded by Mayor McDonald, with all present voting “aye”, Council adjourned the meeting at 7:18 p.m.

Mayor Larry L. McDonald

City Secretary-Delia Munoz

**NOTICE OF PUBLIC HEARING FOR THE
EVALUATION OF THE JUVENILE CURFEW ORDINANCE**

BE IT KNOWN that on Monday, October 18, 2010, 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, pursuant to Chapter 370.002 of the Local Government Code and Division (A) of Section 130.99 of the Code of Ordinances of said city, to **REVIEW THE JUVENILE CURFEW ORDINANCE** of said city, codified as Sections 130.20 through 130.99 of said Code of Ordinances, for purpose of determining whether or not to abolish, continue or modify said ordinance. **WRITTEN COMMENTS** concerning said ordinance may be mailed to the office of the City Manager, 200 W. 2nd St., Freeport, TX 77541, and will be considered if such comments arrive 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.



Delia Munoz, City Secretary
City of Freeport, Texas

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS; CONTAINING FINDINGS OF FACTS AND CONCLUSION OF LAW; DECLARING THE PRESENCE OF MINORS IN PUBLIC PLACES, ON THE PUBLIC STREETS, AND IN THE COMMERCIAL ESTABLISHMENTS OF SAID CITY DURING THE NOCTURNAL AND DAYLIGHT HOURS HEREINAFTER SPECIFIED TO BE A PUBLIC NUISANCE AND PROVIDING FOR THE ABATEMENT THEREOF AS THEREIN PROVIDED; AMENDING CHAPTER 130 OF THE CODE OF ORDINANCES OF SAID CITY, PROVIDING A CURFEW FOR MINORS, REGULATING USE OF STREETS BY MINORS DURING NOCTURNAL AND DAYLIGHT HOURS, AND PROVIDING FOR RELATED MATTERS SUCH AS PERMITS, REGULATIONS AND DEFENSES, PARENTAL RESPONSIBILITIES, POLICE PROCEDURES AND PENALTIES, AS WELL AS IMPLEMENTATION THROUGH VOLUNTARY RESEARCH AND LOCAL ACTION FOR THE PREVENTION OF JUVENILE DELINQUENCY; 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 THIS ORDINANCE BUT NOT EXCEEDING FIVE HUNDRED (\$500.00) DOLLARS; PROVIDING THAT EACH DAY ANY SUCH VIOLATION CONTINUES AND EACH PART OF ANY DAY DURING WHICH ANY SUCH VIOLATION SHALL OCCUR SHALL CONSTITUTE A SEPARATE OFFENSE; CONTAINING SAVINGS CLAUSES; PROVIDING FOR CONTINUED EVALUATION OF THIS CURFEW ORDINANCE BY CITY COUNCIL WITH PUBLIC HEARINGS TO BE HELD BEFORE THE THIRD ANNIVERSARY OF THE ADOPTION HEREOF; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE ON FROM AND AFTER ITS DESCRIPTIVE CAPTION HAS BEEN PUBLISHED TWICE IN THE BRAZOSPORT FACTS.

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

WHEREAS, Sections 51.072, 54.001, 54.004, 370.002 and 217.042 of the Local Government Code of Texas, Article 45.06 of the Code of Criminal Procedure of Texas and Sections 2.01 and 2.02 of the Home Rule Charter of the City of Freeport authorize the City Council thereof to adopt the provisions of this Ordinance; and,

WHEREAS, the City Council of the City of Freeport, Texas, is concerned about an increase in juvenile violence, juvenile gang activity, and crime by persons under the age of 18 in the City of Freeport, Texas, resulting in juveniles being involved in a wide range of unacceptable behavior including vandalism, public drinking and littering, drug use, breaking and entering, and harassment of residents; and,

WHEREAS, the City Council has determined the many of these problems involving minors occur during normal school hours as well as at night and early morning hours; and,

WHEREAS, the City Council has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and,

WHEREAS, the City Council believes that a curfew imposed upon those persons of compulsory school age will encourage participation in educational activities and will promote the public good; and,

WHEREAS, the City Council believes that a curfew for those under the age of 18 will help to attain the foregoing objectives and will serve to diminish the undesirable impact of such conduct on the citizens of the City of Freeport, Texas, and will promote the public good, safety and welfare;

WHEREAS, on the same day as but prior to the adoption hereof the City Council conducted a public hearing on the need to continue this curfew ordinance and to consider amendments thereto; and

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

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

First, Section 130.20 through 130.99 of the Code of Ordinances of the City of Freeport, Texas, added to said Code by Ordinance No. 1767, read, passed and adopted on the 20th day of June, 1994, and amended by Ordinance No. 1785, passed and adopted on the 19th day of June, 1995, and continued by Ordinance No. 2001-1957, read, passed and adopted on the 19th day of November, 2001, by Ordinance No. 2004-2069, read, passed and adopted on the 15th day of November, 2004, and Ordinance No. 2007-2179, read, passed and adopted on the 5th day of November, 2007, is hereby re-adopted in its entirety to read as follows:

"Sec. 130.20 SHORT TITLE

This subchapter shall be known and may be cited as 'the Curfew Ordinance of the City of Freeport, Texas.'

Sec. 130.21 PURPOSES; FINDINGS; CONCLUSIONS.

(A) This subchapter is enacted in accordance with the prevailing community standards and regulations for the conduct of minors on streets, in public places and in private businesses during normal school hours, at night, and during early morning hours for the good of minors in the City, to promote family responsibility here, and for the public good, safety and welfare of the citizens of the City.

(B) The City Council finds that the curfew established by this Curfew Ordinance meets a very real local need and should, based on the published experiences of other local governments, be a significant factor in minimizing juvenile delinquency in the City in the years ahead. The community sense of the proper time for the cessation of all outdoor activities by minors on the streets, in public places and in private businesses, is reflected in the curfew hours declared by this subchapter which takes into consideration those hours when minors are normally in school as well as those dangerous nocturnal and early morning hours when the accumulation of minors poses a special risk due to their special susceptibility to peer pressure, their immaturity and their lack of experience, all tendencies normally associated with those of youthful years.

(C) The City Council finds that the City is not overcrowded. Local school facilities and adequate indoor living space permits minors in the City to healthfully occupy their time during daytime and nighttime hours. Commercial recreational facilities are almost nonexistent and there is little or nothing for minors to do outdoors, but roam the streets and frequent the commercial establishments of the City which are open after the curfew hours which this subchapter declares.

(D) The City Council finds that minors roaming the streets, public places and frequenting commercial establishments during the curfew hours which this Curfew Ordinance declares constitutes a public nuisance which should be abated as hereinafter provided.

(E) The City council finds that School hours should generally be used for educational activities by minors.

(F) Parental responsibility for the whereabouts of children is the norm. Legal sanctions to enforce such results have had a demonstrated effectiveness over the years. As parental control increases, the likelihood of juvenile delinquency decreases. There is a need for daytime and nighttime curfew hours for minors in order to achieve, under local conditions, the purposes hereinbefore stated.

Sec. 130.22 DEFINITIONS.

For the purpose of this subchapter, the following terms and phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present terms include the future, words in the plural number include the singular and words in the singular number include the plural. The word 'shall' is always mandatory and not merely directory.

CHIEF OF POLICE. 'Chief of Police' means the Chief of Police of the City or his or her designated representative.

COMMERCIAL ESTABLISHMENT. 'Commercial establishment' means any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment, and includes the entire premises thereof and all adjacent parking areas under the control of the owner of the commercial establishment.

CUSTODY. 'Custody' includes possession of a minor by a parent of such minor, possession by the guardian of the person of such minor, or possession by any other person to whom legal conservatorship or other legal custody of the minor has been given by order of a court of competent jurisdiction.

CURFEW HOURS. 'Curfew hours' shall mean:

(1) For any minor 14 years of age or younger, on each day of the week from 10:00 p.m. until 5:00 a.m. of the following day;

(2) For any minor 15 years of age or older, on any Sunday, Monday, Tuesday, Wednesday, or Thursday, from 11:00 p.m. until 5:00 a.m. of the following day, and on any Friday or Saturday, from 12:00 midnight until 5:00 a.m. of the following day;

(3) For any minor, on any day when school is in session within the Brazosport Independent School District during the fall and spring semesters, from 7:30 a.m. through 3:30 p.m., unless a later arrival time or earlier dismissal time has been authorized at the school of appropriate attendance for such minor, in which event such earlier or later time shall apply.

DIRECT ROUTE. 'Direct route' means the shortest path of travel through a public place to reach a final destination without detour or stops along the way.

MINOR. 'Minor' means any person under the age of 18, or, in equivalent phrasing often herein employed, any person 17 or less years of age, provided, however, such definition shall not include any married person or any person who has had the disabilities of minority removed in accordance with the Texas Family Code.

PARENT. 'Parent' means:

(1) The mother, a man presumed to be the biological father, a man who has been adjudicated to be the biological father by a court of competent jurisdiction, or an adoptive mother or father of a minor, but does not include any person whose parent-child relationship with a minor has been terminated by a court of competent jurisdiction.

(2) A person who stands in loco parentis to a minor.

(3) A person to whom guardianship, conservatorship or other legal custody of the minor has been given by order of a court of competent jurisdiction.

PUBLIC PLACE. 'Public place' means a physical location which is owned by the public or by a political subdivision of the State of Texas or the federal government.

REMAIN. 'Remain' means to stay behind, to tarry and to stay unnecessarily upon the streets, public places or the premises of commercial establishments including congregating in groups of minors (or the interacting of individual minors together) in which any minor included would not be using the streets for a purpose declared to be a defense in Section 130.24.

STREET. 'Street' means a way or place of whatsoever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. The term street includes legal right-of-way, including, but not limited to, the cartway or traffic lanes, the curb, the sidewalks, whether paved or unpaved, and any grass plots or other grounds found within the legal right-of-way of a street. The term street is implied irrespective of what it is called or formally named, whether alley, avenue, court, road or otherwise.

TIME OF NIGHT. 'Time of night' as referred to herein is based upon the prevailing standard of time, whether Central Standard Time or Central Daylight Saving Time, generally observed at that hour by the public in the City. Proof that a particular time was observed by the City's Police Department on any calendar day shall be prima facie evidence in the Municipal Court of the conformity of such time to the then prevailing standard of time.

YEAR OF AGE. 'Year of Age' continues from one birthday, such as the seventeenth to (but not including the day of) the next, such as the eighteenth birthday, making it clear that '17 or less years of age' is herein treated as equivalent to the phrase, 'under 18 years of age'.

Sec. 130.23 CURFEW FOR MINORS.

It shall be unlawful for a minor to be or remain in or upon the streets, public places or commercial establishments within the City during the curfew hours defined in Section 130.22 above.

Sec. 130.24 DEFENSES.

(A) It is a defense to prosecution of a minor under this subchapter for such minor being in or upon the streets, public places or commercial establishments within the City during the daytime or nighttime hours designated by this subchapter as times at which it is unlawful for such minor to remain in or upon such streets, public places or commercial establishments when such minor is:

(1) Accompanied by a parent having custody of such minor.

(2) Accompanied by an adult authorized by a parent of such minor having custody to take said parent's place in accompanying said minor for a designated period of time. For the purposes of this ordinance it shall be presumed that a step-parent of a minor who is accompanying such minor has been so authorized by a parent of a minor to take such parent's place in accompanying said minor.

(3) Exercising his or her rights under the First Amendment to the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. Such minor shall evidence the bona fides of such exercise by first delivering to the Chief of Police, at the City's Police Department, a written communication, signed by such minor and countersigned if practicable by a parent of such minor having custody of such minor, stating the home address and telephone number of the minor and the parent, addressed to the Chief of Police and specifying when, where and in what manner said minor will be on the streets at night or during hours when this subchapter is otherwise applicable to said minor in the exercise of a First Amendment Right which right shall be specified in such communication. This written communication shall be delivered to the office of the Chief of Police at least one week prior to the time specified in such communication as being the time when the minor will be exercising his or her First Amendment Right therein specified.

(4) Involved in a case of reasonable necessity, but then only after a parent of a minor or an employee of a public or private school has communicated to the City's police dispatcher, orally or in writing, the facts establishing such reasonable necessity, relating the same to specified streets at a designated time and a described purpose, including points of origin and destination. A copy of such written communication, or of the police record of an oral communication, in either case, duly certified by the Chief of Police to be correct, with an appropriate notation of the time it was received and of the names and addresses of such parent and minor, shall be admissible in evidence in the Municipal Court of the City as prima facie proof of the truth of all facts set forth therein.

(5) On the residential property where such minor resides, or where a parent of such minor resides.

(6) A student enrolled in a private school who was in fact released from attending class on the hour charged due to an official school holiday or in service day. Because of Court rulings requiring that students being home schooled receive equal protection of law with those in private schools, children who are being home schooled are also hereby placed under this defense.

(7) Engaged in an organized athletic activity sponsored by an official group or voluntary association comprised of adults and directly supervised by an adult or adults.

(8) Engaged in an out-of-school educational activity or an activity of a religious or other voluntary association attended by such minor. "Out-of-school educational activity" shall include organized trips for minors to parks, libraries, museums, recreation centers and other such private and public places so long as such trips are planned or permitted by a public school, a private school or by a group or association of home schoolers, and provided that such trips are directly supervised by an adult or adults.

(9) Returning home by a direct route from and within 30 minutes of release from school or from the excepted activities described in (A) (7) or (A) (8) of this Section.

(10) A student on his or her regular school lunch break.

(11) Authorized, by special permit from the Chief of Police, carried on the person of such minor thus authorized, as follows: When normal or necessary daytime or nighttime activities of a minor, particularly a minor well along the road to maturity, may be inadequately provided for by other provisions of this subchapter, then a request may be made to the Chief of Police, either for a regulation as provided in (A) (12) of this Section or for a special permit under this division (A) (11), as the circumstances warrant. Upon the Chief of Police's finding of necessity for the use of the streets to the extent warranted by a written application by a minor and by a parent of such minor, if feasible, stating (i) the home, age and address of such minor, (ii) the name, address and telephone number of a parent thereof, (iii) the height, weight, sex, color of eyes and hair and other physical characteristics of such minor, (iv) the reason or necessity which requires each minor to remain upon the streets during the curfew hours otherwise prohibited, (v) the street or route and the beginning and ending of the period of time involved by date and hour, and (vi) a photo of the minor and (vii) school attended, if any, and current grade enrolled in by this minor. The Chief of Police may grant a permit in writing for the use by such minor of such streets at such hours as in the Chief of Police's opinion may reasonably be necessary. In an emergency this may be handled by telephone, or other effective communication, with a corresponding record being made contemporaneously, either to the Chief of Police or, if unavailable, by a police officer authorized by the Chief of Police to act on his behalf in an emergency, at the police station. A special permit may also be issued to minors, ages 16 and 17 with a Texas driver's license, whereby the parent makes written application as set out above, except (iv) and (v) and where the parent assumes all responsibility and liability for the actions of the minor, releasing the City from any liability from non-enforcement of this Curfew Ordinance as to that minor.

(12) Authorized, by regulation issued by the Chief of Police, in other similar cases for reasonable necessity, similarly handled, but adapted to normal or necessary daytime or nighttime activities of more minors than can readily be dealt with on an individual special permit basis. Normally such regulation by the Chief of Police permitting use of the streets should be issued sufficiently in advance to permit appropriate publicity through news media and through other agencies such as the schools, and shall define the activity, the scope of the use of the streets permitted, the period of time involved not to extend more than 10 minutes beyond the time for termination of such activity as therein specified, the reason for such minors attending such activity and a showing that such regulation is reasonably necessary and is consistent with the public interest and the purposes of this Curfew Ordinance. An application for such a regulation shall be in writing, signed by the applicant and be delivered to the office of the Chief of Police at least one week prior to the activity.

(13) In possession of a certified card of employment, signed by the Chief of Police and identifying the minor as outlined in (A) (11) of this Section. Such card shall be renewable every two months when the current facts so warrant.

(14) With parental consent, in a motor vehicle. This contemplates normal travel. From excess of caution, this clearly exempts bona fide interstate movement through the City. This also exempts interstate travel beginning or ending in the City.

(B) Each of the foregoing defenses, and their several limitations, such as provisions for notification, shall be severable.

Sec. 130.25 PARENTAL AND COMMERCIAL ESTABLISHMENT RESPONSIBILITY.

(A) It shall be unlawful for a parent or other person having custody of a minor as defined in this subchapter to knowingly permit or by inefficient control to allow such minor to be or remain upon any City street in violation of Section 130.23, under circumstances not constituting a Defense under Section 130.24, or otherwise beyond the scope of this subchapter. The term 'knowingly' includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall, a fortiori, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor. It shall be prima facie evidence of a violation of this division by a parent charged hereunder, if such parent having legal custody of a minor had no knowledge of such minor's whereabouts at the time when such minor was cited for the underlying violation of Section 130.23 that forms the basis of the charge against the parent.

(B) It shall be unlawful for the owner or operator of a commercial establishment to knowingly allow a minor to remain at such commercial establishment during the hours of curfew established in this ordinance beyond the time necessary to conduct and complete an expected activity associated with the normal business of that commercial establishment. It shall be no defense to this subdivision that a minor made a purchase, if the minor did not immediately make such purchase upon arrival and depart immediately thereafter. It shall be a defense to prosecution under this subdivision that the owner or operator of such commercial establishment has promptly notified the Police Department dispatcher that a minor or minors who are present on the premises after hours have refused to depart. A copy of the police record of such notification, duly certified by the Chief of Police to be correct, with an appropriate notation of the time it was received, shall be admissible in evidence in the Municipal Court of the City as prima facie proof of the truth of all facts set forth therein.

Sec. 130.26 POLICE PROCEDURES.

(A) A police officer of the City, upon finding or having his or her attention called to any minor in public places, on the streets of the City or at any commercial establishment within the City who appears to be in prima facie violation of this subchapter and not clearly subject to any Section 130.24 defenses, shall, subject to divisions (B), ©, and (D) of this section, take such minor to the City's police station where a parent of such minor having custody shall immediately be notified to come for such minor. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts, and to centralize responsibility in the police supervisor then on duty for accurate, effective, fair, impartial and uniform enforcement, and recording, thus making available experienced supervisory personnel, the best of facilities and access to information and records. In the absence of convincing evidence such as a birth certificate or a driver's license or other similar identification, a police officer on the street shall in the first instance use his or her best judgment in determining age. The officer may issue a notice to appear as provided in Section 33.11 of this code.

(B) Where a minor has been picked up pursuant to an apparent prima facie violation of the daytime curfew provisions of this subchapter the police officer having such minor in his custody shall, prior to transporting such minor to the police station, attempt to ascertain whether or not the minor is enrolled as a student at a public school. If it appears the minor is truant from attendance at a school at which he or she is enrolled, then the officer shall as a first alternative attempt to immediately transport such minor to the appropriate school where the minor is enrolled in attendance, and release the minor to a truant officer or other school official with the authority to take responsibility for such minor, if possible. If it is not possible the officer shall transport the minor to the police station and follow the procedure outlined in the other provisions of this section in handling such minor. In any event, the officer shall make or cause to be made a report to the appropriate school truant officer for the public school where the minor is enrolled in attendance. If it is determined that the minor is not enrolled in a public school, the police officer shall follow the procedure outlined in division (A) of this section, in handling such minor.

(C) Police procedures shall constantly be refined in the light of experience and may provide, inter alia, that the police officer may deliver to a parent thereof the minor under appropriate circumstances, as for example, a minor of tender age near his or her home and whose identity and address is already known to the officer or may readily be ascertained.

(D) In any event, when a minor is taken into custody by a police officer under this section, the officer shall, without unnecessary delay:

(1) Release the minor to the minor's parent, guardian, custodian, or appropriate school official;

(2) Take the minor to the minor before the municipal court to answer the charge; or

(3) Take the minor to a place designated by the chief of Police as a juvenile curfew processing office.

(E) In any event, any police officer who has taken a minor into custody for a curfew violation under this subchapter, shall, within 24 hours, file a written report with the Chief of Police or shall participate (to the extent of the information for which he or she is responsible) in the preparation and filing of such a report by such supervisor within 24 hours.

(F) When a parent having custody has come to take charge of such minor and the appropriate information has been recorded, such minor shall immediately be released to the custody of such parent. If a parent having custody cannot be located, or fails to take charge of the minor within a reasonable time, then the minor shall be released to the juvenile authorities having jurisdiction over such minor (with referral by the municipal court judge of the City if required by the statutes applicable to such juvenile authorities) or the minor may temporarily be entrusted to another relative, neighbor or other person who will on behalf of a parent having custody assume the responsibility of caring for the minor pending the availability or arrival of such parent.

(G) To insure parental notice in the case of a first violation by a minor, the Chief of Police shall, by certified mail and return receipt requested, send to a parent having custody written notice of said violation with a warning that any subsequent violation will result in full enforcement of this subchapter against a parent of a minor in violation and of the applicable penalties.

(H) In the event a police officer of the City, upon finding or having his or her attention called to any minor remaining at a commercial establishment in apparent violation of Section 130.25(B), shall undertake action against such minor under this subchapter, such officer shall first ascertain from the Police Department dispatcher whether or not the owner or operator of such establishment has a defense as outlined above under Section 130.25(B) by virtue of having made a report to the police department dispatcher as therein provided. If no such report has been made then the officer shall issue a Municipal Court Misdemeanor Citation to such owner or operator charging a violation of Section 130.25(B).

Sec. 130.97 REPORTS OF VIOLATIONS AND TRANSFER OF CASES TO THE BRAZORIA COUNTY JUVENILE PROBATION DEPARTMENT.

(A) Any minor who has been twice convicted of a violation of any of the provisions of the subchapter and who stands charged with a third violation hereof shall be reported by the Chief of Police to the Brazoria County Juvenile Probation Department pursuant to the Texas Family Code.

(B) At the discretion of the Chief of Police, a similar report may be made to the Brazoria County Juvenile Probation Department concerning any other minor who has been taken into custody for a curfew violation, whenever the Chief deems it appropriate.

(C) The Municipal Court Judge may transfer to the Brazoria County Juvenile Probation Department any minor offender, whether for a first offense or subsequent offense, where such judge determines that there is a real need for supervision of said minor.

Sec. 130.98 PENALTY.

(A) Should any person, firm, or corporation, their agent, servant, or employee, charged with a violation of any provision of this subchapter, be convicted by a court of competent jurisdiction, such person, firm, or corporation, their agents, servants or employees, may be fined any sum not less than \$1 nor more than \$500 for each violation, provided however, that convictions of violations of Section 130.25(A) shall be subject to minimum fines for enhanced offenses as specified by Division (B) of this section.

(B) If, after a Section 130.26(G) notice of a first violation of Section 130.23 by a minor has been given to a parent or other person with custody of such minor as defined by this subchapter, such parent violates Section 130.25(A) (in connection with a second violation of Section 130.23 by such minor), such violation by such parent or other person having custody shall constitute a first offense of Section 130.25(A) by such parent or other person having custody and, upon conviction such parent or other person having custody shall be fined not less than \$25.00 for such first offense. If in the trial of a second offense under Section 130.25(A), enhanced, it is shown that the said parent or other person having custody has already been convicted of one previous violation of said Section, upon conviction the said parent or other person having custody shall be fined not less than \$50.00. If in the trial of a third or additional offense under Section 130.25(A), enhanced, it is shown that such parent or other person having custody has been convicted, respectively, of two or more violations of said Section as specified in the enhancement paragraph, such parent or other person having custody shall be fined not less than \$75.00 upon conviction of a third offense, enhanced, not less than \$100.00 for conviction of a fourth offense, enhanced, and so forth in increasing increments of \$25.00 for each subsequent conviction shown as alleged in the enhancement paragraph, up to a maximum of \$500.00. The judge presiding in a Municipal Court case filed under this subchapter, upon finding a parent or other person having custody guilty of a second or subsequent violation of Section 130.25(A), shall not only sentence such parent or other person having custody to pay such fine and the costs of prosecution but shall also assess any other punishment available to such judge under the laws of the State of Texas.

(C) Any person violating any of the provisions of this subchapter for which no penalty is otherwise provided shall be subject to the penalty set forth in Section 10.99.

Sec. 130.99 CONTINUING EVALUATION BY CITY COUNCIL

(1) Before the third anniversary of each re-adoption of this subchapter in its entirety, the City Council will hold public hearings to review and evaluate the provisions of this subchapter, and consider modifications of this subchapter to comply with Section 370.002 of the Local Government Code. Provided, however, such evaluation and consideration of updating may occur more often at the request of the Chief of Police.

(2) There shall be compiled and informally reported to the City Council through effective channels (such as the normal by-weekly distribution by the City Manager, to each member of the City Council, the Chief of Police and the City Attorney of noteworthy material) all exceptional cases hereunder of reasonable necessity, the notices of school and other activities, the special permits issued by the Chief of Police and the regulations adopted by the Chief of Police, as herein above authorized, for use by the City Council in connection with its evaluation and consideration of updating this subchapter.

(3) For the same reasons, as well as for the implementation beyond these legal aspects of the basic purposes hereof, the Chief of Police, City Manager and City Council, in coordinated efforts, shall work with existing, and may organize, voluntary groups and shall seek volunteer leadership in programs of research and of action dealing constructively on neighborhood and local bases, with juvenile delinquency and the prevention, control or containment thereof, in all its implications and with practicable steps toward attaining a better life for minors 17 or less years of age, and with the working of this Curfew Ordinance, community-wise and in individual cases, as one much needed legal goal toward that end, as well as for continuing present protection of minors and of other persons, and of property and other interests important to the welfare of the people of the City."

Second, each day any violation of this ordinance continues and each part of any day any such violation occurs shall constitute a separate offense.

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

Fourth, 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.

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

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

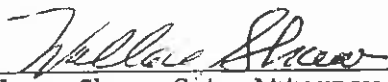
READ, PASSED AND ADOPTED this _____ day of _____, 2010.

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

ATTEST:

Delia Muñoz, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:



Wallace Shaw, City Attorney,
City of Freeport, Texas

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(8) Parking ratio abbreviations in the permitted use, temporary use and specific use schedules refer to the off-street parking requirements

applicable to the corresponding uses. Interpretation of off-street parking requirements is as follows:

Parking Ratio	Interpretation of Off-Street Parking Requirements
none	Off-street parking not required
1/100	1 space for each 100 square feet of gross floor space
1/unit	1 space for each dwelling unit
1/guest room	1 space for each guest room
1/3 seats	1 space for each three seats within the largest auditorium (20 inches shall equal 1 seat of benches as provided)
1/3 beds	1 space for each 3 beds
1/1.5 emp	1 space for 1.5 employees
5/alley	5 spaces for each bowling lane
10/wash lane	10 spaces for each washing lane

(9) *Townhouses.* 2.5 off-street parking spaces for each townhouse

(10) *Paving.* Any off-street vehicular parking area, service drive or driveway shall be surfaced with a concrete, asphalt or asphaltic concrete pavement or with a pavement of gravel, cinder, shell, limestone or other similar loose material. All such surfaces shall be constructed so that drainage will not be impaired.

(J) *Projections into required yards.* Open and unenclosed building projections such as outside stairways and fire escapes, balconies, terraces or porches, awnings, eave and roof extensions, and ornamental features may project into the required yards for a distance not to exceed 4 feet. In no case shall such projections be located closer than 3 feet from any lot line.

(K) *Site plan.*

(1) A site plan is a plan of development drawn to scale indicating:

(a) The location and arrangement of buildings on subject property;

(b) Building setbacks or yards;

(c) Landscaping and/or walls and fences for screening purposes; and

(d) Off-street parking and loading areas and design of ingress and egress to and from abutting streets.

(2) Where a site plan is required, a Certificate of Occupancy and Compliance shall not be issued until a site plan of development has been approved by the Building Official.

(3) For any specific use permit application or whenever two or more main buildings, or portions thereof, are placed upon a single lot or tract and such buildings will not face upon a street or officially approved place, a site plan shall be submitted to and reviewed by the City Planning Commission prior to being approved by the Building Official for the purpose of issuing a Certificate of Occupancy and Compliance.

ORDINANCE NO. 2010-2265

AN ORDINANCE OF THE CITY OF FREEPORT, BRAZORIA COUNTY, TEXAS, CONTAINING A PREAMBLE; CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; AMENDING THE CODE OF ORDINANCES OF SAID CITY TO RESTORE ITEM (10) TO DIVISION (I) OF SECTION 155.023 OF SAID CODE REQUIREMENTS FOR THE PAVING OF ANY OFF-STREET VEHICULAR PARKING AREA, SURFACE DRIVE OR DRIVEWAY WITHIN SAID CITY IN THE MANNER THEREIN PRESCRIBED; RATIFYING AND CONFIRMING ALL ACTIONS PREVIOUSLY TAKEN BY THE PLANNING COMMISSION OF SAID CITY OR THE CITY COUNCIL, OR BOTH; PROVIDING THAT ANY PERSON VIOLATING SAID CODE OF ORDINANCES, AS AMENDED BY THIS ORDINANCE, SHALL BE GUILTY OF A MISDEMEANOR AND ASSESSED A FINE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 155.999 OF SAID CODE OF ORDINANCE AND 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 THIS DESCRIPTIVE CAPTION HAS BEEN PUBLISHED TWICE IN THE BRAZOSPORT FACTS.

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

WHEREAS, Subchapter A of Chapter 211 of the Local Government Code of Texas and Item (g) of Section 3.07 of the Home Rule Charter of the City of Freeport authorizes the City Council thereof to adopt the provisions of this Ordinance; and,

WHEREAS, the City Council of the City of Freeport has determined to here now declare that the adoption of this ordinance is necessary to the health, safety and general welfare of the inhabitants of said City and is necessary to conform the comprehensive zoning plan of said City to the current zoning conditions which exist therein.

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

SECTION ONE--Findings of Fact and Conclusions of Law.

The City Council of the City of Freeport, Texas, makes the following findings of fact and conclusions of law, viz:

First, that the public hearings required by the Zoning Enabling Act of the State of Texas, codified as Chapter 211 of the Texas Local Government Code, and the present Comprehensive Zoning Ordinance of the City of Freeport, Texas, codified as Chapter 155 of the Code of Ordinances of the City, have been conducted in the manner and at the time required.

Second, that not less than fifteen (15) days prior to the date of such hearings, public notice thereof was published once in the Brazosport Facts, a newspaper of general circulation in and the official newspaper of said City, stating the date, time and place of such hearings.

Third, that after considering evidence submitted at such hearings, the City Council of the City of Freeport is of the opinion and finds that the changes in the comprehensive zoning ordinance of said City set forth below are necessary to conform the comprehensive zoning plan of said City to the current zoning conditions which exist therein.

Fourth, that the health, safety, morals and general welfare of the inhabitants of the City of Freeport, Texas, will best be served by the adoption of this ordinance making the change in zoning uses and the other regulations hereinafter mentioned.

SECTION TWO--Comprehensive Zoning Ordinance Amended

The Comprehensive Zoning Ordinance of the City of Freeport, Texas, read, passed and approved as Ordinance No. 1100 on the 3rd day of April, 1964, now codified as Chapter 155 of the Code of Ordinances thereof and hereinafter called "the Zoning Ordinance," is hereby amended by restoring Item (10) to Division (I) of Section 155.023 of said Code, to read as follows:

"(10) Paving. Any off-street vehicular parking area, service drive or driveway shall be surfaced with a concrete, asphalt or asphaltic concrete pavement or with a pavement of gravel, cinder, shell, limestone or other similar loose material. All such surfaces shall be constructed so that drainage will not be impaired."

SECTION THREE--Ratification and Confirmation.

The City Council of the City of Freeport, Texas, hereby ratifies and confirms any and all action taken by the Planning Commission of said City or the City Council of said City, or both, in connection with the change in zoning classification evidenced by this ordinance, including but not limited to the calling of a public hearing required by said Zoning Enabling Act and the Zoning Ordinance, the giving of public notice of such hearings, the giving of written notice to the owners of property which is the subject of such and to the adjoining property owners, the making of preliminary and final reports with respect to such change and the conducting of the public hearings required by said Act and the Zoning Ordinance.

SECTION FOUR--Penalty

Any person violating the Zoning Ordinance, as amended by this ordinance, shall be guilty of a misdemeanor and upon conviction therefor assessed a fine as prescribed in Section 155.999 of said ordinance; and each day such violation continues shall constitute a separate offense.

SECTION FIVE--Savings Clauses

(a) 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.

(b) This ordinance is cumulative of and in addition to all other ordinances of the City of Freeport, Texas, on the same subject and all such ordinances are hereby expressly saved from repeal. Provided however, where this ordinance and another ordinance conflict or overlap, this ordinance shall prevail.

(c) 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.

SECTION SIX--Severance Clause.

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

SECTION FIVE--Effective Date.

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

READ, PASSED AND ADOPTED this _____ day of _____, 2010.

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

ATTEST:

Delia Muñoz, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:



Wallace Shaw, City Attorney
City of Freeport, Texas

C:\Freeport.Zon\Restore Item (10) Paving-Ord

NOTICE OF PUBLIC HEARING

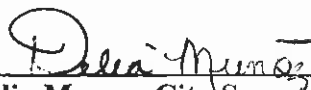
The City Council of the City of Freeport, Texas, will hold a public hearing on Monday, the 15th day of November, 2010, beginning at 6:00, p.m., in the Police Department Municipal Courtroom located therein at 430 North Brazosport Boulevard, Freeport, Brazoria County, Texas, to consider designating the following described real property located within the corporate boundaries of the City as a reinvestment zone for the purpose of entering into an agreement with the owner or owners thereof granting a tax abatement:

Lots 21 & 22, Block 633, Velasco Townsite of the City of Freeport, Brazoria County, Texas, according to the map or plat of said townsite on file in the Plat Records of said county, known locally as 821 N. Ave. C, Freeport, TX 77541.

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

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

By order of the City Council this 18th day of October, 2010.



Delia Munoz, City Secretary
City of Freeport, Texas

TAX ABATEMENT AGREEMENT

This Tax Abatement Agreement (this "Agreement") is made by and between the City of Freeport, Texas a municipal corporation and home-rule city (the "City"), and JULIO C. MOLINA and wife, NORMA MOLINA, (the "Owner", whether one or more), individuals residing in Freeport, Texas, who receive mail at 821 North Avenue C, Freeport, TX 77541 and who are the owners of the real property located within the Zone (as defined below).

W I T N E S S E T H:

WHEREAS, the construction of new residences within the City is paramount to the City's continued economic development; and

WHEREAS, the Owner desires to construct a new dwelling costing in excess of \$5,000.00 to be used for the Owner's personal residence; and

WHEREAS, the Owner has filed a written request for tax abatement, dated as of September 24, 2010, in accordance with the City's Resolution No. 2009-2207, (hereinafter "the Resolution") which establishes the property tax abatement program for the City of Freeport in designated reinvestment zones; and

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

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

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

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

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

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

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

1. **Definitions**

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

"Abatement Period" means that period which commences on the first day of the Effective Date of Abatement and ends three (3) years thereafter.

"BCAD" means the Brazoria County Appraisal District.

"City" means the City of Freeport, Texas.

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

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

"Eligible Property" means the new residential structure which expands the local tax base as that term is defined in the Guidelines and Criteria for Tax Abatement in the City of Freeport attached to and adopted by the Resolution.

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

"Ordinance" means City of Freeport Ordinance Number 2010-____, which created the Zone.

"Owner" JULIO C. MOLINA and wife, NORMA MOLINA.

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

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

"Resolution" means City of Freeport Resolution 2009-2207 adopted September 14, 2009, establishing the property tax abatement program for the City in designated reinvestment zones, for which an abatement is being granted.

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

"Zone" means the Julio C. and Norma Molina Reinvestment Zone, which is more particularly described in the Ordinance.

2. Authorization

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

3. Property

(a) The Street Address of the taxable real property to be improved under this Agreement is 821 N. Ave. C, Freeport, Texas, being Lots 21 & 22, Block 633, Velasco Townsite of the City of Freeport, Brazoria County, Texas.

(b) The BCAD tax account number of the Property is 8110-2303-001.

4. Representations and Warranties by the Owner

(a) The Owner represents and warrants (1) the Owner owns the Property and that the Property is located within the boundaries of the Zone; (2) the Owner is authorized to execute this Agreement and to complete the Improvements described in Section 5 hereof and in the project description marked Exhibit "B" and attached hereto; (3) that as of January 1, 2010, the Property had an approximate appraised value of \$4,690.00; (4) the construction of the Improvements described in Exhibit "A" began after January 1, 2010, and that construction of the Improvements were completed as of the effective date of this Agreement; (5) the construction of the Improvements shall be completed as described in Exhibit "A", all for the purpose of constructing the dwelling therein described; and (6) The total size of the Property is approximately 0.1435 acres or 6,250.86 square feet.

(b) The Owner represents and warrants that the value of the Property will increase by at least \$40,175.00 upon completion of the Improvements.

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

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

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

5. Terms of the Agreement

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

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

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

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

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

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

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

6. Tax Abatement

(a) Abatement on the Improvements specifically listed in Exhibit "A" shall be permitted only for the value of new "eligible property" constructed or added after January 1, 2010, subject to the limitation stated in subsection 5(c) above. In addition, this exemption from taxation is specifically subject to the rights of the holders of outstanding bonds of the City. The portion of the value of new eligible Improvements subject to the abatement shall be 100% of the value of such improvement(s) being abated the first year, 75% of such value the second year and 50% of such value the third year. If the construction period extends beyond three (3) years from the Effective Date of Abatement, the Improvements shall be considered completed for purposes of abatement and, in no case, shall the Abatement Period exceed three (3) years from the Effective Date of Abatement.

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

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

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

3. The additional value of the eligible improvements constructed after January 1, 2010, but before the effective date of this Agreement, shall be taxable in accordance with Section 6(a) of this Agreement.

(c) The City shall enter into only one tax abatement agreement for the Project described in Exhibit "A" of this Agreement during the existence of the Julio C. and Norma Molina Reinvestment Zone.

7. Default and Recapture

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

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

1. allows ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protect and/or contest; or
2. has made any material representation which is determined to be false or misleading in any respect; or
3. is in breach of any material warranty and fails to cure within 60 days from the date notice is provided thereof as described below (the "Cure Period"); or
4. violates any of the terms and conditions of this Agreement and fails to cure during the Cure Period.

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

8. Administration

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

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

9. Compliance with State and Local Regulations

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

10. Merger

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

11. Notice

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

To the Owner, if mailed or personally delivered

821 N. Avenue C
Freeport, TX 77542

To the City, if mailed or personally delivered:

City Manager
200 West Second Street
Freeport, TX 77541

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

12. **Effective Date**

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

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

Julio C. Medina, Owner

Norma Medina, Owner

THE CITY OF FREEPORT, TEXAS

BY _____
Its Mayor

ATTEST:

Its City Secretary

APPROVED AS TO FORM

Its City Attorney

ORDINANCE NO. 2010-2266

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF SAID CITY TO PERMIT THE SPECIFIC USE OF A FIFTY FOOT BY FIFTY FOOT PARCEL OF LAND OUT OF THE NORTH WEST CORNER OF LOT 1 OF THE FREEPORT PROPERTIES SUBDIVISION, WITHIN THE CORPORATE LIMITS OF SAID CITY, KNOWN LOCALLY AS 1744 WEST FOURTH STREET, AS SITE FOR A COMMUNICATIONS TOWER TO BE OPERATED BY CAPITAL TELECOM, UNDER CERTAIN CONDITIONS THEREIN SPECIFIED; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE AND APPROVAL.

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

WHEREAS, Subchapter A of Chapter 211 of the Local Government Code of Texas and Item (g) of Section 3.07 of the Home Rule Charter of the City of Freeport authorizes the City Council thereof to adopt the provisions of this Ordinance; and,

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

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

SECTION ONE--Findings of Fact and Conclusions of Law.

The City Council of the City of Freeport, Texas, makes the following findings of fact and conclusions of law, viz:

First, that all public hearings required by the Zoning Enabling Act of the State of Texas, now codified as Chapter 211 of the Local Government Code, and the present Comprehensive Zoning Ordinance of the City of Freeport, Texas, read, passed and approved as Ordinance No. 1100 on the 3rd day of April, 1964, and hereinafter called "the Zoning Ordinance", were conducted in the manner and at the time required by said Act and the Zoning Ordinance.

Second, that not less than fifteen (15) days prior to the date of such hearings, a public notice thereof was published once in the Brazosport Facts, a newspaper of general circulation in and the official newspaper of the City of Freeport, stating the time and place of such hearings.

Third, that not less than ten (10) days before the date of such public hearings, written notice of the application for the Specific Use Permit hereinafter mentioned was sent to all owners of real property located within two hundred (200') feet of the hereinafter described real property for which such permit is sought.

Fourth, that after giving due regard to the nature and condition of all adjacent uses and structures, the City Council of the City of Freeport, Texas, is of the opinion of that such proposed use conforms to the requirements and intent of the Zoning Ordinance and the Comprehensive Plan of the City; that conditions hereinbelow attached to the granting of such permit as hereby amended, are necessary to the public interest; and that such use under such conditions will not, under the circumstances of this particular case, constitute a nuisance or be detrimental to the public welfare of the community.

Fifth, that the health, safety, morals and general welfare of the City of Freeport, Texas, will best be served by the adoption of this ordinance and the granting of the Specific Use Permit hereinafter mentioned.

SECTION TWO--Comprehensive Zoning Ordinance Amended and Specific Use Permit Granted.

The Zoning Ordinance is hereby amended and a Specific Use Permit is hereby granted with respect to a fifty foot by fifty foot parcel of land out of the north west corner of Lot 1 of the Freeport Properties Subdivision, according to the map or plat of said subdivision on file in the Office of the County Clerk of Brazoria County, Texas, known locally as 1744 West Fourth Street, Freeport, Texas, hereinafter called "the premises", to authorize the use of the premises as a site for a communications tower to be operated by Capital Telecom herein-after called "the Permittee", under the following terms and conditions, viz:

First, the following regulations shall apply:

(1) The tower shall be so constructed that, in the event it falls, such tower will fall in a southwesterly direction toward the southwest corner of said Lot 1.

(2) The tower shall not exceed one hundred twenty (120) feet in height.

(3) The tower and any other improvements on the premises shall be constructed and maintained in a good and workmanlike manner.

(3) The tower shall be guyed and have an approved FAA light on top.

(4) All parking must be off street and within designated parking areas.

(5) Together with any other improvements constructed on the premises, the tower shall be completely surrounded by a six foot (6') chain-link type slatted fence with slatted gate(s), all of which are topped by three strands of bob wire positioned so as to prevent access by anyone climbing such fence or gate(s), and with the slats positioned so as to screen the cabinet and other improvements thereon from being viewed from outside the premises at ground level.

(6) No hazardous materials may be stored on the premises;

(7) Any supplies, equipment or products kept on the premises must be stored within a building located on the premises.

(8) The premises shall be kept safe, clean and free of debris and available for inspection by the Building Official at all times.

(9) The Permittee shall maintain in force and effect a general liability insurance policy insuring Permittee against liability for personal injury, death or damage to any person or property, real or personal, arising out of Permittee's use of the premises, with combined single limits of One Million and no/100 (\$1,000,000.00) Dollars, naming the City as additional insured.

Second, the Permit herein granted shall automatically terminate if the Permittee ceases to use the premises for the permitted purpose for ninety (90) consecutive days, attempts to assign this permit, or subleases (or leases if the Permittee becomes the owner thereof) or rents any portion of the premises to any third person, firm or corporation without the prior consent of the City Council of the City of Freeport, or if the Permittee's lease of the premises ends or is terminated for any reason other than by the acquisition of ownership of the premises by the Permittee.

Third, this permit may also be terminated by the City Council if the Permittee fails or ceases to meet the requirements set forth in Item First of this Section of this ordinance. A termination by the City Council under this Item of this Section of this ordinance shall be upon the affirmative vote of a majority of the members of the City Council present and voting at any regular or special meeting thereof held after at least ten (10) days prior written notice has been sent by certified mail, return receipt requested and addressed to the Permittee at the premises, specifying the particular violation or violations. Any decision of the City Council thereon shall be entered upon the minutes of such meeting and shall be final.

SECTION THREE--Automatic Repealer Clause.

All of the section or provision of this ordinance were adopted and are intended by the City Council of the City to be an integrated whole. Therefore, if any section or provision 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 not to be severable from the remaining sections and provisions of this ordinance and such remaining sections and provisions and this ordinance shall thereupon automatically cease to be of any further force and effect.

SECTION FOUR--Effective Date.

This ordinance shall take effect and be in force from and after the tenth (10th) day following its passage and adoption indicated below if, within such ten (10) day period, it is agreed to and accepted by the Permittee in the manner provided below; otherwise, this ordinance shall not take effect and shall be of no force or effect.

READ, PASSED AND ADOPTED this ____ day of _____, 2010.

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

ATTEST:

Delia Muñoz, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

Wallace Shaw

Wallace Shaw, City Attorney,
City of Freeport, Texas

AGREED TO AND ACCEPTED by the Permittee this _____ day of _____, 2010.

"Permittee"

Capitol Telecom

By _____
Name Printed: _____
Title: _____

ATTEST:

Name Printed: _____
Title: _____

THE STATE OF TEXAS X

COUNTY OF BRAZORIA X

This instrument was acknowledged before me on the _____ day of _____, 2010, by _____, the _____ of Capitol Telecom, a _____, on behalf of said _____.

Notary Public, State of Texas

WEBQA SERVICES AGREEMENT

For GovQA Services

THIS SERVICE AGREEMENT (the "Agreement") between WEBQA, Inc. ("WEBQA") with its principal place of business at 900 S. Frontage Road, Suite 110 Woodridge, IL, 60517 and The City of Freeport, a city with its principal place of business at 200 W. 2nd Street Freeport, TX 77541 ("Customer") is made effective as of October 1, 2010 ("Effective Date").

1. WEBQA DELIVERY OF SERVICES:

WEBQA grants to Customer a non-exclusive, non-transferable, limited license to access and use the GovQA Service on the Authorized Website(s) identified in Schedule 1 in consideration of the fees and terms described in Schedule 1.

2. CUSTOMER RESPONSIBILITIES:

Customer acknowledges it is receiving only a limited license to use the Service and related documentation, if any, and shall obtain no title, ownership nor any other rights in or to the Service and related documentation, all of which title and rights shall remain with WebQA. In addition, Customer agrees that this license is limited to applications for its own use and may not lease or rent the Service nor offer its use for others. All Customer data is owned by the Customer. Under no circumstances is the system intended to capture confidential information. Confidential information is defined as social security numbers and financial information.

Customer agrees to maintain the Authorized Website(s) identified in Schedule 1, provide WEBQA with all information reasonably necessary to setup or establish the Service on Customer's behalf, and allow a "Powered by GovQA" logo with a hyperlink to WebQA's website home page on the Authorized Website.

3. SERVICE LEVELS:

WEBQA will use commercially reasonable efforts to backup and keep the Service and Authorized Website(s) in operation consistent with applicable industry standards and will respond to customers' requests for support during normal business hours.

THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND CUSTOMER'S USE OF THE SERVICES IS AT ITS OWN RISK. WEBQA DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE OR UNEFFECTED BY FORCE MAJEURE EVENTS.

4. WARRANTY AND LIABILITY:

WEBQA MAKES NO REPRESENTATION OR WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE SERVICE AND SHALL HAVE NO LIABILITY FOR ANY CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING, BUT NOT LIMITED TO, DATA LOSS AND BUSINESS INTERRUPTION, AND THE PARTIES AGREE THAT THE ONLY REMEDIES THAT SHALL BE AVAILABLE TO CUSTOMER UNDER THIS AGREEMENT SHALL BE THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT. WEBQA'S LIABILITY UNDER ANY CIRCUMSTANCE INVOLVED HEREIN IS EXPRESSLY LIMITED TO THE AMOUNT RECEIVED UNDER THIS AGREEMENT.

5. TERMINATION:

Either party may terminate this agreement if the terminating party gives the other party sixty (60) day's written notice prior to termination. Should Customer Terminate without cause (defined as the failure of WEBQA to meet its obligations set forth in Section 3) after the first date of the term as defined in Schedule 1, Customer must pay the balance of the current contracted term and this payment obligation will immediately become due. WebQA may terminate services if payments are not received by WebQA as specified in Schedule 1 at which time all monies associated to the current term will become immediately due.

Upon any termination, WebQA will discontinue Services under this agreement; WebQA will provide Customer with an electronic copy of all of Customer's data, if requested; and, provisions of this Agreement regarding Ownership, Liability, Confidentiality and Miscellaneous will continue to survive.

6. INDEMNIFICATION

To the extent permitted by law, each Party agrees to fully indemnify and hold harmless the other for any and all costs, liabilities, losses, and expenses resulting from any claim, suit, action, or proceeding brought by any third party.

7. ACCEPTABLE USE:

Customer represents and warrants that the Services will only be used for lawful purposes, in a manner allowed by law, and in accordance with reasonable operating rules, policies, terms and procedures.

WEBQA may, upon misuse of the Services, request Customer to terminate access to any individual and Customer agrees to promptly comply with such request unless such misuse is corrected.

8. CONFIDENTIALITY:

Each party hereby agrees to maintain the confidentiality of the other party's proprietary materials and information, including but not limited to, all information, knowledge or data not generally available to the public which is acquired in connection with this Agreement, unless disclosure is required by law. Each party hereby agrees not to copy, duplicate, or transcribe any confidential documents of the other party except as required in connection with their performance under this Agreement. Customer acknowledges that the Services contain valuable trade secrets, which are the sole property of WebQA, and Customer agrees to use reasonable care to prevent other parties from learning of these trade secrets or have unauthorized access to the Services. WebQA will use reasonable efforts to insure that any WebQA contractors maintain the confidentiality of proprietary materials and information.

9. MISCELLANEOUS PROVISIONS:

This Agreement will be governed by and construed in accordance with the laws of the State of Texas. The parties agree that any suit or proceeding, under, in connection with or arising out of this Agreement shall be instituted only in a court located in Brazoria County, Texas (if a state proceeding) or in the Southern District of Texas, Galveston Division (if a federal proceeding).

WEBQA may not assign its rights and obligations under this Agreement, in whole or part, without prior written consent of Customer, which consent will not be unreasonably withheld.

10. ACCEPTANCE:

Authorized representatives of Customer and WEBQA have read the foregoing and all documents incorporated therein and agree and accept such terms effective as of the date first written above.

Customer: **The City of Freeport**

Signature: _____

Print Name: _____

Title: _____ Date: _____

WebQA Inc.

Signature: _____

Print Name: John Dilenschneider

Title: CEO Date: _____

WEBQA SERVICES AGREEMENT

For GovQA Services

Schedule 1

A. Services: Software: GovQA
Seats: Unlimited Seats
Data: All Customer Data is Owned By Customer

B. Fees: Main Modules: At a Locked-In subscription cost per month for term of \$150

<input type="checkbox"/> Code Enforcement	<input type="checkbox"/> Contractor Registration Module
<input type="checkbox"/> Permits and Inspection	<input type="checkbox"/> Web-portal
<input type="checkbox"/> Planning	<input type="checkbox"/> Full Reporting
<input type="checkbox"/> All Service Upgrades	

Implementation and Training: At a Locked-In cost of \$2,500

- One-time setup and load of 25 case types into system
- One time setup and load of 15 document templates into system
- 4 Online Training sessions - to be used at client's discretion
- 1 Follow up refresher training session
- 0 Day(s) of On-Site Training
- One-time property address database import
- One-time legacy data conversion (Freeport will provide data to WebQA as CSV file)

Storage:

10 GB storage free with service. Additional 10GB is \$20/month

C. Terms: Annual Billable Term Starting: **October 1, 2010** Ending: **September 30, 2011** Upon the expiration of this initial term, the term will continue to auto-renew to subsequent annual Optional Terms unless Customer notifies WEBQA in writing of its intention not to extend the term at least sixty (60) days prior to expiration of the current term end date. Renewal terms will not increase by more than eight percent. Customer will hold a kickoff meeting to launch implementation no later than 30 days from contract start date

D. Billing: Fees are exclusive of all taxes. Fees are billed on an annual basis in advance and are due upon receipt of invoice. This secures site, servers and resources necessary to begin project.

Payments over 45 days from initial contract start date will accrue interest at a rate of one (1%) per month. Renewal payments made after contract renewal date will accrue interest at a rate of one (1%) per month

E. Remittance: All payments should be made directly to WebQA and will not be deemed received until actually received in WebQA offices. WebQA mailing address for all payments is:
Accounts Receivable Dept.,

WebQA Inc,
900 S. Frontage Road, Suite 110
Woodridge, IL 60517

F. Special: No special implementation or customization at this time.

G. Contacts:

Organization Name _____
Main Contact Name: _____ Title: _____
Address: _____ City _____ State: _____ Zip: _____
Work Phone: _____ Cell _____ Fax: _____
Billing Contact Name: _____
Title: _____
Address: _____ City _____ State: _____ Zip: _____
Work Phone: _____ Cell _____ Fax: _____
Purchase Order Number: _____ Duns Number: _____



PROPERTY MANAGEMENT

Jeff Pynes
Chief Executive Officer
City Manager

October 11, 2010

Larry McDonald
Mayor

Clan Cameron
Councilmember
Ward A

Jim Phillips
Councilmember
Ward B

Ron Wise
Councilmember
Ward C

Norma Moreno Garcia
Councilmember/
Mayor Pro Tem
Ward D

Jeff Pynes
City Manager

re: Lot 7, Block 183, Freeport Toiwnsite
1725 West 8th Street
Tax ID 4201-1859-000

Please place the following item on the City Council agenda for action:

Discuss / consider the sale of the City's interest in lot 7, block 183,
Freeport Townsite, known as 1725 West 8th Street
Tax ID 4201-1875-000

Habitat for Humanity has made an offer of \$500 for the property. The Brazoria County Appraisal District has an appraised value of \$4,340 on the porptry. After Court cost and Post Judgment cost in the amount of \$532.43 there remains a negative balance of \$32.43. The return to Freeport for their interest in the property would be \$-0-. See attached Bid Analysis.

Property owners on the east and west side of the subject porptry are Claude Davenport and Habitat for Humanity. On the south side, Patrick O'Donnell.

There are three outstanding post judgment liens in the amount of \$257.18 as of 5-31.08.

The property is zoned R-3, Multi-family.

Find attached Property data sheet, Tax Resale Property Information sheet, Bid Analysis and location sketch of property.

N C Hickey
Property Manage

Attach.

/s



PROPERTY MANAGEMENT

Council Agenda Date: October 11, 2010
Agenda Item: _____

Legal Description: Lot 7, Block 183, Freeport Townsite
Street Address: 1725 West 8th Street
Tax ID Numbr: 4201-1859-000

Type of Property Trust
Sheriff Sale Date: November 28, 2004
Sheriff Deed Number: 2005003062

Years Delinquent: 6
Taxes Extinguished by Sheiff Sale \$7,279.71 (thru 10-31-10)

Appraisal District Value: \$4,340
Offer by: Habitat for Humanity \$ 500
Court Cost & Post Judgment: \$ 532.43

Amount left to distribute: \$(-32.43)
Distribution amount to Freeport: \$ -0-
Recommendation: Pleasure of Council

Action: [] Accept
[] Reject
[] Re-agenda

COMMENTS:

Motion by _____ Second by _____ Vote _____

Trust Sale - Council action

Tax Resale Property Information

RESALE MEETING OF: September 28, 2010

Legal Description: FREEPORT, BLOCK 183, LOT 7
ACRES .1989

Physical Address: 1724 8TH

25718
outstanding
liens

Account Number: 4201-1859-000

In Trust To: CITY OF FREEPORT

Adjudged Value/Year: \$4,260.00

Minimum Bid at Sale: \$4,260.00

Offer: \$500.00

Offer made by: HABITAT FOR HUMANITY

Sheriff's Deed Filed: January 14, 2005

Redemption Expiration: 7/14/2005

City weed/demo liens: UNKNOWN

Land Value: (Current) \$4,340.00

Improvement Value:(Current) \$0.00

Previous Owner: JIMMIE BUTLER

Precinct: 1

School District: BRAZOSPORT ISD

Vote:	AYE	NAY
R. Garrett	X	
C. Garner	X	
Judge King	X	
D. Payne	X	
Civil Div. Rep.	X	

Notes: Michael Darlow was present at the meeting.

RECEIVED
OCT 11 2010
PROPERTY MGMT

BID ANALYSIS

Cause Number:	23009*T03	Account Number:	4201-1859-000
Offer Amount:	\$500.00	Value \$:	\$4,340.00
Person Offering:	HABITAT	Adjudged Value\$:	\$4,260.00

Judgement Information

Taxing Entity	Tax Years	Amount Due
BC	1987-2003	\$1,127.55
Brazosport ISD		\$3,010.16
BRHND		\$210.94
Brazosport College		\$241.14
Velasco Drainage		\$202.55
City of Freeport		\$2,255.34
Total		\$7,047.68

Costs

Court Costs	\$334.00	Sheriff Fees	
Publication Fees		Research Fees	
Ad Litem		Recording fee's	
Liens			0
Total		Cost of Deed	
			\$334.00

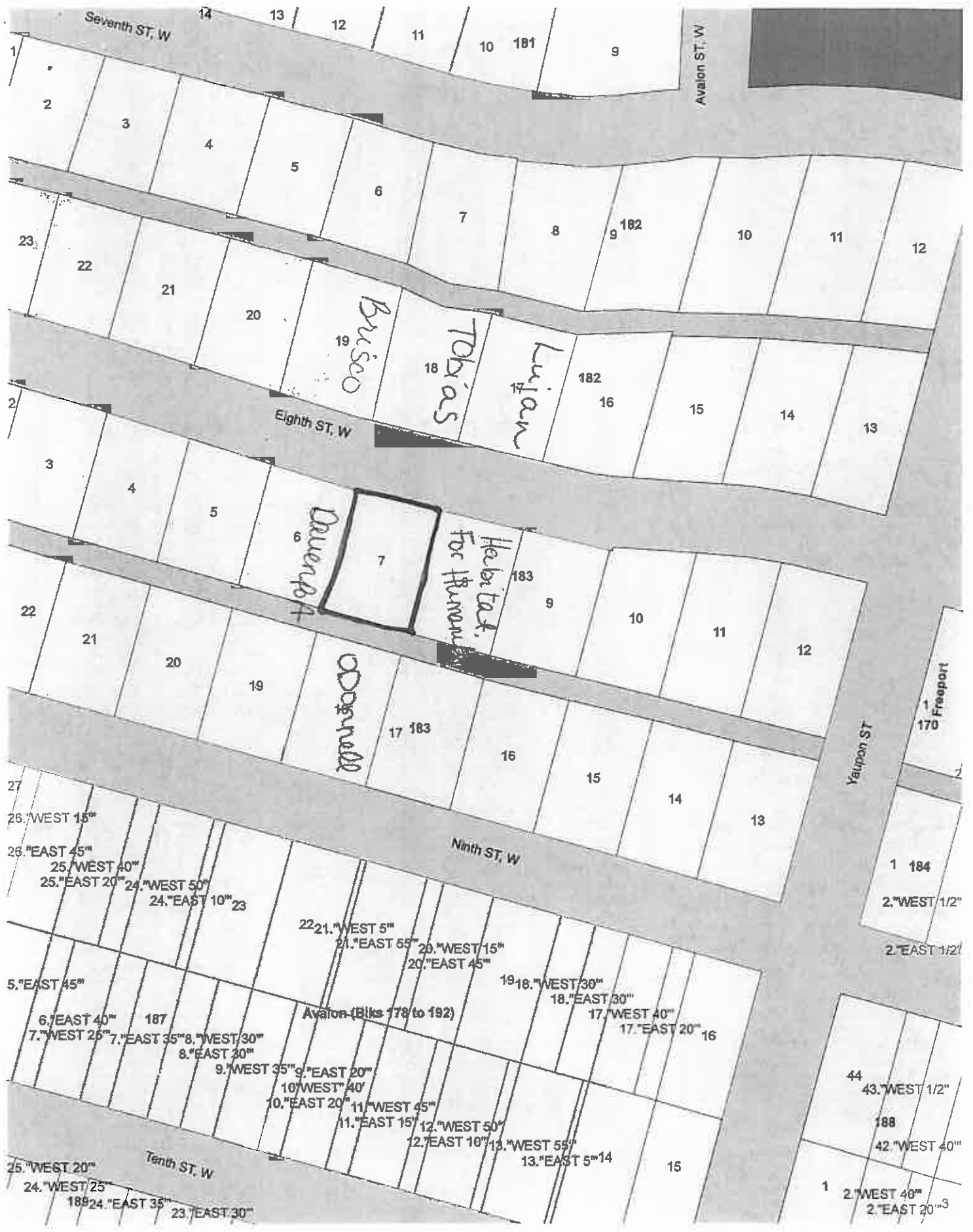
Post Judgement Information

Taxing Entity	Tax Year's	
BC	2004-2009	\$28.68
Brazosport ISD		\$103.51
BRHND		\$4.58
Brazosport College		\$7.75
Velasco Drainage		\$5.18
City of Freeport		\$48.73
Post Judgment Total		\$198.43

Proposed Distribution

Offer Amount	\$500.00	Costs + P & J	\$532.43
Net to Distribute \$			-\$32.43

BC	16.00%	-\$5.19
Brazosport ISD	42.71%	-\$13.85
BRHND	2.99%	-\$0.97
Brazosport College	3.42%	-\$1.11
Velasco Drainage	2.87%	-\$0.93
City of Freeport	32.00%	-\$10.38



AGENDA INFORMATION SHEET
ITEM NO. 14

**NOTICE OF DENIAL OF
CENTERPOINT'S INTENT TO
INCREASE RATES SUBMITTED ON
OR ABOUT JUNE 30, 2010**

BACKGROUND

On June 30, 2010 CenterPoint Energy Houston Electric, LLC (CenterPoint) filed an application with the City and with the Public Utility Commission of Texas (PUCT) to increase its retail transmission and distribution rates by approximately \$76 million, and wholesale transmission rates by about \$18 million. Later, CenterPoint corrected its request to show an increase of about \$92 million for retail rates and \$18 million for wholesale transmission rates.

The City and the other members of the Texas Coast Utilities Coalition ("TCUC") suspended the effective date of the rate increase for 90 days in order to review the filing. The City must take action to avoid CenterPoint's rate request being administratively approved.

In its rate application, CenterPoint filed schedules with the cities, which have been reviewed by the cities' consultants and Special Counsel, Herrera & Boyle, PLLC. As a result of their analysis of the filing and the additional information acquired through written requests for information, the consultants filed testimony at the Public Utility Commission of Texas ("PUC") finding that CenterPoint's current rates are excessive and should be reduced.

As discussed in the direct testimony filed at the PUC on September 10, 2010, TCUC's expert, Mr. Jacob Pous with Diversified Utility Consultants, Inc., as well other city consultants identified numerous instances where CenterPoint either overstated their request or did not provide sufficient justification for the amounts being requested. The resolution on the agenda requires that, based on TCUC's consultants analysis and its coordinated efforts with other cities' guidance and research, CenterPoint make the proposed significant adjustments, including decreases in return (\$26 million), capital structure (\$36 million), depreciation (\$25 million), Advanced Metering System (\$26.9 million), and taxes (\$49.3 million), in addition to various smaller adjustments off of the Company's requested amounts. Cumulatively, TCUC's consultants recommend a *reduction* of approximately \$259.8 million to the Company's *proposed* annual revenue. This compares to CenterPoint's proposed increase of about \$110.8 million to its *current* annual revenue. TCUC's consultants' recommendation represents a reduction of approximately \$149.1 million to its *current* revenue of which about \$114 million is for retail distribution rates, and approximately \$35 million for wholesale transmission rates, from existing revenue.

The resolution also requires that within 10 days following the adoption of the Resolution, CenterPoint must file tariffs with the City that are consistent with the recommendations

contained in the direct testimony of TCUC consultants and the consultants TCUC coordinated with in PUC Docket 38339. Among the important recommendations found in the direct testimony filed on September 10, 2010, is the requirement that Franchise Fees be recovered from all customers in base rates, denial of CenterPoint's request to create a Storm Hardening Rider and denial of its request for an alternative customer charge of over \$22 per month per customer.

RECOMMENDATION

CenterPoint is currently recovering excessive rates and its request makes its rates even more unreasonable. CenterPoint's request should be denied. The City should approve the rates as filed by the various city consultants on September 10, 2010 at the PUC in Docket No. 38339.

RESOLUTION NO. 2010-2247

A RESOLUTION BY THE CITY OF Freeport, TEXAS, ("CITY") RESPONDING TO THE APPLICATION OF CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC (CENTERPOINT) FOR AUTHORITY TO CHANGE RATES AND ADOPT CERTAIN RATE RIDERS; DENYING CENTERPOINT'S PROPOSED RATE INCREASE; FINDING THAT THE EXISTING ELECTRIC DISTRIBUTION RATES OF CENTERPOINT ARE UNREASONABLE AND SHOULD BE REDUCED; ORDERING CENTERPOINT TO REDUCE ITS EXISTING RATES WITHIN THE CITY OF Freeport; ORDERING CENTERPOINT TO SUBMIT TARIFFS CONSISTENT WITH THE RECOMMENDATION OF THE TEXAS COAST UTILITIES COALITION OF CITIES' CONSULTANT WORKING IN COORDINATION WITH OTHER CITIES IN PUBLIC UTILITY COMMISSION DOCKET NO. 38339; ORDERING CENTERPOINT TO REIMBURSE THE CITY FOR ITS REASONABLE COSTS INCURRED IN THIS RATE CASE AND ANY RELATED RATEMAKING PROCEEDINGS OR APPEALS OF SAID PROCEEDINGS; DETERMINING THAT THE MEETING COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the city of _____, Texas ("City") is a regulatory authority under the Public Utility Regulatory Act ("PURA") and pursuant to § 33.0001, the City has exclusive original jurisdiction over the electric rates, operations, and services provided within city limits; and

WHEREAS, the City has the authority under PURA §§ 33.001 and 36.001, to determine whether the existing rates of an electric utility are unreasonable or in any way a violation of any provision of law; and

WHEREAS, on or about June 30, 2010, CenterPoint Energy Houston Electric, LLC (CenterPoint) filed with the City Secretary an application for authority to change rates and to adopt certain rate riders ("the application"); and

WHEREAS, on or about June 30, 2010, CenterPoint, pursuant to PURA §§ 33.001 and 36.001, filed with the City of _____ a Statement of Intent to change delivery rates in all municipalities exercising original jurisdiction within its service area effective August 6, 2010; and

WHEREAS, the City previously authorized participation with the Texas Coast Utilities Coalition ("TCUC") in hiring experts and legal counsel to review CenterPoint's Statement of Intent; and

WHEREAS, the City suspended the effective date of the Company's requested rate change; and

WHEREAS, TCUC representatives obtained additional information from the Company through written requests for information; and

WHEREAS, the City's consultants and representatives through cooperative efforts under the direction of TCUC have reviewed the rate filing package and responses to information and have made a recommendation to the City regarding the rates to be charged by the Company within the City; and

WHEREAS, on City of Freeport, this Resolution was properly noticed and the Company and any interested citizen was given an opportunity to address the City Council regarding the Company's current rates and its Statement of Intent to increase rates; and

WHEREAS, PURA § 36.151(a) provides that if a regulatory authority, on its own motion or on complaint by an affected person, after reasonable notice and hearing, finds that the existing rates of an electric utility for a service are unreasonable or in violation of law, the regulatory authority shall enter an order establishing the just and reasonable rates to be observed thereafter, and serve a copy of the order on the electric utility; and

WHEREAS, PURA § 36.151(b) provides that the rates thus ordered by the regulatory authority constitute the legal rates of the electric utility until changed as provided by PURA; and

WHEREAS, after affording reasonable notice and hearing to the Company, it is the City's opinion that the Company's rates are not reasonable, and

WHEREAS, based upon City's Special Counsel and the consultants' findings, the City has made a determination of the reasonableness of the existing rates of the Company, and has determined just and reasonable rates to be hereafter observed and enforced for all services of the Company within the City.

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

Section 1. That the Company was given reasonable notice of the Council's meeting at which the Company's rate application was considered, and the Company had a reasonable opportunity to show the City that its rates were just and reasonable.

Section 2. That the Company failed to show that its proposed or existing rates are just and reasonable.

Section 3. That the adjustments to the Company's Statement of Intent proposed by Diversified Utilities Consulting, Inc., and Mr. Jacob Pous on behalf of TCUC and the overall coordinated recommendation of the cities submitted in Public Utility Commission of Texas ("PUC") Docket No. 38339, and provided to the Company on September 10, 2010, are reasonable and that it is, therefore, reasonable to reduce the Company's *proposed* increase of approximately \$110.8 million in its annual revenue, by \$259.8 million, which represents a reduction to its *current* revenue of about \$149.1 million comprised of a reduction of approximately \$114 million for retail distribution rates, and approximately \$35 million for wholesale transmission rates from the level of CenterPoint's *existing* annual revenue.

Section 4. That within ten days of the adoption of this Resolution, CenterPoint shall file with the City rate tariffs consistent with the adjustments proposed by Mr. Pous and the other cities' experts who coordinated with TCUC, and the costs allocation and rate design recommendations proposed by the cities' experts in PUC Docket No. 38339, and provided to the Company on September 10, 2010, that will result in a reduction in current annual revenue of \$149 million. Included in this recommendation, but not limited by it, is the requirement that franchise fees be recovered from all customers in base rates, denial of the Company's Storm Hardening Rider as an unauthorized automatic recovery mechanism, and denial of the Company's alternative customer charge.

Such tariffs shall constitute just and reasonable rates and establish the Company's overall revenues at an amount that will permit the Company a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing services to the public in excess of the Company's reasonable and necessary operating expenses, in compliance with PURA § 36.151.

Section 5. That the Company shall upon the effective date of this Resolution begin charging rates set forth in the Tariffs that are consistent with the recommendation of TCUC and the witnesses it coordinated with in PUC Docket No. 38339.

Section 6. That the existing rates, services charges, and tariff language not inconsistent with the recommendations of TCUC and the witnesses it coordinated with in PUC Docket No. 38339 shall remain operative.

Section 7. That within thirty days of the adoption of this Resolution, the Company shall reimburse TCUC for all ratemaking costs associated with TCUC's activities related to the rate proceeding and thereafter make prompt reimbursement on a monthly basis to cover costs of appeals to the PUC or Courts, in accordance with PURA § 33.023.

Section 8. That a copy of this Resolution shall be sent to Stephen Bezecny, Director, Regulatory Relations, CenterPoint Energy, Inc. 111 Louisiana St., Houston, Texas, 77002 and Alfred R. Herrera, at Herrera and Boyle, PLLC, 816 Congress Avenue, Suite 1250, Austin, Texas 78701.

Section 9. That the City is authorized to intervene in any appeal of the City's action filed at the PUC and to otherwise participate in any litigation associated with the Company's rates charges in the City, in conjunction with TCUC.

PASSED AND APPROVED this _____ day of _____ 2010.

MAYOR

ATTEST:

CITY SECRETARY

APPROVED AS TO FORM:

CITY ATTORNEY

INTEROFFICE MEMORANDUM

TO: JEFF PYNES, CITY MANAGER
FROM: LARRY FANSHER, PARKS DEPARTMENT
SUBJECT: SEEKING APPROVAL TO GO OUT FOR BIDS AND SET A
BID DATE FOR LANDSCAPE, GROUNDS CARE & MOWING
CONTRACT SERVICES
DATE: 10/14/2010

I am recommending the city go out for bids for landscaping, grounds care and mowing services for portions of the city's right-of-ways and parks areas and set a bid date of Tuesday, November 9, 2010 at 2:00 p.m. at city hall.

We have budgeted funds in this year's budget year to cover the cost of these services.

Thank you for your consideration.