



**AGENDA  
REGULAR MEETING  
FREEPORT CITY PLANNING COMMISSION  
THURSDAY, SEPTEMBER 03, 2020 at 6:00 P.M.**

**Planning Commission**

**Members:**

Eric Hayes  
Andrew H. Dill

Nicole Mireles

Stuart Herbst  
Clifford Vandergriff

**THE CITY PLANNING COMMISSION OF THE CITY OF FREEPORT, TEXAS, WILL MEET ON THURSDAY, THE 3<sup>RD</sup> DAY OF SEPTEMBER 2020, AT 6:00 P.M., AT THE FREEPORT POLICE DEPARTMENT, MUNICIPAL COURT ROOM, 430 NORTH BRAZOSPORT BOULEVARD, FREEPORT TEXAS FOR THE FOLLOWING PURPOSES:**

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

**THE GENERAL PUBLIC MAY ALSO JOIN THE PUBLIC MEETING REMOTELY BY TELECONFERENCE BY DIALING:**

**(US): (425) 436-6312 AND USING ACCESS CODE 5678901#**

**OR**

**AUDIO VISUAL CONFERENCE CALL USING:**

**PCs, Macs®, Chromebooks™, iOS and Android™ phones and tablets.**

**International dial-in numbers: [https://fccdl.in/i/planning\\_mtg\\_090320](https://fccdl.in/i/planning_mtg_090320)**

**For users wanting to view and listen to the City Council meeting via a web browser go to [https://join.freeconferencecall.com/planning\\_mtg\\_090320](https://join.freeconferencecall.com/planning_mtg_090320)**

**Enter access code 5678901# and the online meeting ID: [planning\\_mtg\\_090320](https://join.freeconferencecall.com/planning_mtg_090320)**

**For additional assistance connecting to the meeting text 'Call Me' to the Dial-In number above and you will be called into the conference. Message and rates may apply.**

**THE MEETING IS BEING HELD FOR THE FOLLOWING PURPOSES:**

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

**INVOCATION:** (Planning Commission Member)

**PLEDGE OF ALLEGIANCE:** (Planning Commission Member)

**PLANNING COMMISSION BUSINESS**

**REGULAR SESSION:**

1. Consideration of approval of the minutes of previous meeting minutes for 06-15-2020 and 06-30-2020 and 07-28-2020.
2. Discuss and take Action to issue a letter of support from The Planning and Zoning Board, in regard to the City's Main Street Grant Application.
3. Discussion and take Action to Recommend to Council the awarding of RFP 2001 to Kendig Keast Collaborative and authorizing the City Manager to execute a contract.
4. Discussion: On allowing the use of golf carts and ATVs on City streets.
5. Discussion: A possible ordinance amending section 150.011 of the code of ordinances of the City of Freeport.

6. Discuss and take action: on previously tabled item, to recommend to the City Council a change to Chapter 76. Amending section 76.02, C 13, 14, and 15.

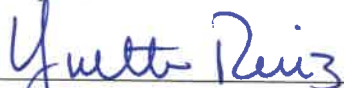
**ADJOURN:**

Items not necessarily discussed in the order they appear on the agenda. The Planning and Zoning Board 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).

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

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

  
\_\_\_\_\_  
Yvette Ruiz  
City of Freeport, Texas

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Monday, June 15, 2020 at 6:00 p.m. at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, Freeport Texas for the purpose of considering the following agenda items:

City Council:

Mayor Brooks Bass  
Councilman Jerry Cain  
Councilman Ken Green  
Councilwoman Sandra Loeza  
Councilman Roy E. Yates

Staff:

Tim Kelty, City Manager  
Stephanie Russell, Assistant City Manager  
Betty Wells, City Secretary  
Laura Tolar, Assistant City Secretary/ Special Projects Coordinator  
Chris Duncan, City Attorney  
Brenda Miller-Ferguson, Human Resource Director Via teleconference  
LeAnn Strahan, Freeport Destination Director Via teleconference  
Chris Motley, Freeport Fire Chief  
Ray Garivey, Freeport Police Department Chief  
Billy Shoemaker, Director for Building and Code via teleconference  
Lance Petty, Freeport Public Works Director  
Courtland Holman, Freeport Economic Development Corp., Director  
Clarisa Molina, Administrator Assistant Via teleconference

Visitors:

Nicole Mireles	Robert Koole
Eric Hayes	Kenneth Hayes
Sam Reyna	Sandra Leavey
David McGinty	Pam Tilley
Jerry Meeks (Veolia)	Jessie Parker
Melanie Oldham	Ronnie Woodruff (BWA)
Jeff Pena	Cathy Cox
Manning Rollerson	Nick Irene (Facts)
Keith Stumbaugh	Ruben Renabato
Andrew Dill	Tim Finley (Dow)
Ruth Renabato	

Visitors, Via Teleconference:

David Austin	Melissa Washington
Vander Williams	Edmeryl Williams
Kim Westergard	Ms. Williams

**Call to order.**

Mayor Brooks Bass called the meeting to order at 6:00 p.m.

**INVOCATION AND PLEDGE OF ALLEGIANCE:**

Invocation was led by Andrew Dill; the Pledge of Allegiance was conducted by Mayor Bass.

**JOINT MEETING WITH PLANNING AND ZONING COMMISSION:**

Call Open of Meeting

Nicole Mireles, Chairperson for the Planning and Zoning Commission opened the Joint Meeting at 6:03.

Work Session regarding proposed DT-1 ZONE.

Nicole Mireles said that after she discussed and interviewed many people and asked a lot of questions, she feels comfortable with the Downtown District going to 8<sup>th</sup> Street.

Eric Hayes said that when this ordinance was brought to the Planning Commission it was for the parking issues. He said that it outlines what types of businesses can be in the Downtown Zone, and it outlines off premise parking. He said if we go to 5<sup>th</sup> Street it will eliminate this problem. He said if we extend to 8<sup>th</sup> Street this will cause a parking problem. Mr. Hayes said that he recommends staying with the original agreement and stop at 5<sup>th</sup> Street.

Andrew Dill said that he still thinks we need to take this to 8<sup>th</sup> Street. Mr. Dill said that he is not clear if the Marina is being included or if it is not.

Keith Stumbaugh asked why we would not include the green space where the old Tarpon Inn Village use to be. He said if that piece of land was going to be developed why would it not be included in the Downtown Zone? He said he understands not wanting to rezone the waterfront of the Marina. He said that the green space could be a potential site for a Marina Plaza, or a draw for Downtown businesses. He also questioned the quad plex's. City Manager Tim Kelty said that the reason was for the legal description to match across the board.

Manning Rollerson said that he lives in the Duplex on Cherry Street. He said that all this needs to be taken care of. He said that people are concerned with the City going into buildings without permission. Mayor Bass advised that this will be discussed later in the agenda.

Ruben Renobato said that he just wants to say again that he supports the new business district and he supports the move to 8<sup>th</sup> Street. He said that he sees this as a future growth idea.

**ADJOURN PLANNING AND ZONING COMMISSION.**

On a motion by Eric Hayes, seconded by Andrew Dill, with all present voting "Aye", Nicole Mireles adjourned the meeting at 6:23 PM.

Consideration and possible action of approving Ordinance No. 2020-2601 on creating a downtown zoning district and establishing its boundaries.

Mayor Bass tabled this item until the next Council Meeting on July 6, 2020.

Mayor Bass said for the record we have reconvened regular session of city council.

### **Citizen's Comments**

Jessie Parker spoke to council about a project that she presented before the Pandemic. She said that this project is back on the table, she said that they will be in partnership with the Lincoln School in Houston. On Juneteenth she said there will be training. Mayor Bass asked to keep us notified because we will like to be a part of it.

Pam Tilley spoke to council about 427 East 8<sup>th</sup>. She said this is the home of her dad. She said that he and several others are still advocating to what should be rightfully theirs. Ms. Tilley asked who is assisting residents in the East End. She asked who will speak to them about what is going on with the Port Freeport. She said that the East End residents can be very helpful. She said that there is so much misinformation given out. She said please consider the East End.

Mayor Bass told Ms. Tilley we have Boards and Commissions that we need members to be in. He said if you are a resident, please get involved. This is one way to get the information. He said that there has been one meeting with the Port, and he still stands the same. The Port will have to fight for the properties that they do not own.

Manning Rollerson said to council that he was going to talk about defunding the Police Department. He said that the Police Department does not need an APC, and a Humvee. He said that we do not need these in our City. He said this is a small community. He said this is a city, and you should be fighting for us. He asked Councilman Green to get the ditches cleaned out.

Kenneth Hayes, commended City Manager Tim Kelty. He said he had a tough job when he came in. He has made some tough decisions and brought some good people in with him.

David Austin, via Teleconference said that he is concerned about his business Signal Electronics that is on 2<sup>nd</sup> Street with the new Downtown Zoning. He asked if he will be grandfathered in. He said that he does not want to apply for a Special Use Permit. Mayor Bass said there will be a Grandfather clause in the new Ordinance.

Edmeryl Williams said that she wants to commend Ms. Tilley for speaking for their concerns on the East End. She thanked the Mayor, and she said that the East End wants to become a part of everything.

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

#### **Emergency management briefing COVID-19.**

Freeport Fire Chief, Chris Motley said that calls have increased, not all COVID related. He said that on June 9, there was COVID-19 free testing that was done. Supplies from Sectrac are working as they should. He said that the supplies are stocked up. He said that there was a family member of an EMS staff which tested positive. The employee is home and waiting for the test results to come back in. He said that the station has been sanitized. He also reminded us that hurricane season started on June 1.

Freeport Police Chief Ray Garivey said that the Police Department is still ready to serve. He said that there were two officers that did test positive for the COVID-19. He said that the City Manager hired a company to come in and sanitize the station, and the jail. The EMS/Fire Department sanitized the Police units. He said that the supplies are good. Chief Garivey said that if there is high tide at the beach, then it is time to move for your safety.

City Manager Tim Kely said that county numbers on the COVID-19 are rising per day. He said to be vigilant, to not relax and think this is all behind us. He said when more businesses open, we can expect to see the spread continue.

Presentation by BWA/Dow Harris Reservoir, on the Expansion Project. And consideration of approving Resolution No. 2020-2637.

Ronnie Woodruff with BWA and Tim Finley with Dow presented to council the expansion project. Mr. Woodruff said that it will triple the water capacity for periods of drought. Mr. Finley said that the water is being managed today with a short-term BRA contract. He said that they will borrow up to \$15 million through the swift funding. He said that tonight they are needing a signed resolution to allow BWA to go and secure a loan. This will cost the city nothing. Dow will be 100% responsible for this first phase. Melanie Oldham spoke on this.

Mayor Bass said that he is moving the Ordinance from Presentations to regular session where a motion will be made.

#### **CONSENT AGENDA:**

Consideration and possible action on the approval of City Council meeting minutes from June 15, 2020

Consideration of approving Resolution No. 2020-2632 declaring a 2012 Chevy Tahoe Police unit with 155,000 miles as surplus and authorizing as disposal (to be donated to the Holiday Lakes, Texas Police Department).

Freeport Police Chief Ray Garivey said that he had received a request from the Police Chief from Holiday Lakes, Police Department. He said that his PD is in need of some vehicles. Chief Garivey said that they had a unit and were able to help.

Consideration and possible action for the amendment of the City Attorney, Chris Duncan's contract for services.

Melanie Oldham spoke to council about the 20% raise, \$6600.00 per month in retainer fee, and \$180.00 per hour for additional work. She asked if this was with the EDC as well, or just the city.

Keith Stumbaugh spoke to council about his concern of the possible conflict of interest with City Attorney also representing the Freeport EDC as well.

Consideration of approving Resolution No. 2020-2633 reappointing qualified person to the Board of Adjustments of said City: Raul Ramirez, Carlos Varela, Keith Stumbaugh.

Consideration and possible action approving the renewal contract with Freese and Nichols.

On a motion by Councilman Cain, seconded by Councilwoman Loeza, with all present voting "Aye" 5-0 Council unanimously approved the Consent Agenda items number 3-7.

### REGULAR SESSION

#### Consideration of approving Resolution No. 2020-2634 for appointing reserve Officers.

Freeport Police Chief, Ray Garivey presented to council Resolution No. 2020-2634 for appointing Reserve Officers. He said that this is something that our ordinance says we must do; the Mayor and Council must approve reserve officers. He said that Reserve Officers are full time peace officers, but they do not get paid. Mr. Kelty said there are six reserve officers, Troy Brimage, Daniel Pennington, Rodney Bowers, Lei Loni Kershaw, Eluterin Martinez and Teresa LeBlanc. They are all TCOLE certified and their commissions are carried through the Freeport Police Department.

Councilwoman Loeza asked if they reserve with no pay? Chief Garivey said yes.

Nicole Mireles asked if they pay for their own commission. Chief Garivey said yes, and they pay for their own uniforms as well.

On a motion by Councilwoman Loeza, seconded by Councilman Green, with all present voting "Aye" 5-0 Council unanimously approved Resolution No. 2020-2634 for appointing reserve Officers.

Melanie Oldham said that she brought this to the attention to Chief Garivey three or four months ago. She also asked if all the Reserve Officers have their license.

Robert Koole said that we just participated in a peaceful protest. He asked why do we need a bigger police force? He said that he thought we were committed to seeing a change. Mayor Bass explained what the Reserve Officers are appointed for, and that they are subject to the same rules as every Officer that is employed by the City of Freeport.

Councilwoman Loeza asked what the liability is if one of the Reserve Officers are injured. Chief Garivey said that they are covered as a full-time officer, just with no pay.

Sandra Leavey commended Chief Garivey for his involvement with the City of Freeport.

Jessie Parker said that she hopes there is some sensitivity training for the officers.

#### Consideration of approving Resolution No. 2020-2637, BWA/Dow Harris Reservoir. Item # 2

On a motion by Councilwoman Loeza, seconded by Councilman Cain, with all present voting "Aye" 5-0 Council unanimously approved Resolution No. 2020-2367 BWA/Dow Harris Reservoir.

#### Consideration and possible action of approving Ordinance No. 2020-2602 or unsafe structure.

Keith Stumbaugh said that he wants to make a comment on the improved PA system. He said this is great.

He said that he has concerns on the Unsafe Structure Ordinance. He said that a city official being able to enter a building without notification or without probable cause, he feels this needs to be removed, he is opposed to this.



Ruben Renobato said that he has reservations about this ordinance. He said that he wants to know if there has been any meetings prior tonight over this fifteen-page ordinance. He said that the criminal enforcement is an issue for him, he said that he leans more to civil penalties. He said that there is grant money out there and it does not have to be paid back.

Melanie Oldham said that she has read through the ordinance and she is concerned about the City being able to come into a building without permission. She said that she thinks that the language needs to be changed in this ordinance. She asked who the qualified people on this board will be.

Nicole Mireles asked who will be letting the property owner know that they are not in compliance. Ms. Mireles said that she is not confident in the City's Code Enforcers. She voiced her concern on the low income with some of our residents.

Mayor Brooks Bass said that we have houses falling, houses that are abandoned, he said there are trees growing through roofs. He said that this ordinance is to help with this kind of bad infrastructure. We must reach a compromise to protect our neighbors.

Jeff Pena said that this ordinance is trying to enforce code. He also asked who the committee will be.

Kim Westergaurd per Via Teleconference, said that her home is livable, she asked what are the standards?

This item was tabled.

Consideration and possible approval for Resolution No. 2020-2635 for the Amendment to the Gulf Coast Center's request to transfer public transportation to Gulf Coast Transit District.

City Manager Tim Kelty presented to council Resolution No. 2020-2635 for the Amendment to the Gulf Coast Center's request to transfer public transportation to Gulf Coast Transit District. Mr. Kelty said that this is a resolution amending the contract that was approved last year for the Gulf Coast Center. This resolution will transfer the authority to the Gulf Coast Transit District. The cost will increase by \$846.00 for a three-year contract.

On a motion by Councilwoman Loeza, seconded by Councilman Cain, with all present voting "Aye" 5-0 Council unanimously approved Resolution No. 2020-2635 for the Amendment to the Gulf Coast Center's request to transfer public transportation to Gulf Coast Transit District.

Consideration of approving an Ordinance No. 2020-2603 with exceptions for residential building size requirements for Brazoria County Community Development Program Projects.

City Manager Tim Kelty presented to council Ordinance No. 2020-2603 with exceptions for residential building size requirements for Brazoria County Community Development Program Projects. He said that there are about five homes that are receiving grant funding from the Brazoria County Community Development Grant Program. He said that this ordinance allows for a smaller construction when being funded through a grant program. Mayor Bass said he does not mind making a specific ordinance in this type of situation. He said that if we did not do this then the city would not be able to receive funding for these new houses.

On a motion by Councilwoman Loeza, seconded by Councilman Cain, with all present voting "Aye" 5-0 Council unanimously approved Ordinance No. 2020-2603 with exceptions for residential building size requirements for Brazoria County Community Development Program Projects.

Melanie Oldham said that this is a great idea, she asked if this applies to the Port homes as well. She said those are carports. She asked if the City Council will be able to look at each individual case.

Eric Hayes asked if there will be garages, or carports? Mayor Bass said there is an exception, and allow carports.

Consideration and possible approval for Resolution No. 2020-2636 for Tax Abatement.

Freeport EDC Director Courtland Holman presented to council Resolution No. 2020-2636 for Tax Abatement. He said that the Tax Abatement expired on October 2, 2019 for residential and commercial. Mr. Holman said that on June 9, 2020 the Freeport EDC reviewed and recommended that the Freeport City Council approve and adopt the new Property Tax Abatement. This must be done every two years by City Council if the council elects to be eligible to participate in Tax Abatement.

Melanie Oldham said that there are a lot of good things in this ordinance. She asked will companies self-report to Ms. Russell. She said that this is good incentive to get businesses here.

City Manager Tim Kelty said that all entities that receive tax abatement from the city will receive annual statement of compliance. Mr. Kelty said that this went to a steering committee before going to the Freeport EDC Board.

On a motion by Councilman Cain, seconded by Councilman Green, with all present voting "Aye" 5-0 Council unanimously approved Resolution No. 2020-2636 for Tax Abatement.

**WORK SESSION:**

Councilman Green asked if there was an update on when the road work on Broad Street by the railroad track. He also asked when the Outriggers will be coming back for the Mystery Ship. Freeport Public Works Director, Lance Petty said that we are still waiting on the outriggers to come back. The street repair will be late October, per the County. Councilman Green also said that on Perry and Ave A, there is a shrub that blocks your view when trying to make a turn.

Councilman Cain said that the property at 1700 West 10<sup>th</sup>, the grass is waist high. Mr. Kelty said that he will get with Code on this issue.

Councilwoman Loeza said that she received a call from a resident on Slaughter Road about the Dow property in this area. She said that the grass has not been cut. She said that she spoke with a representative from Dow and was told that this will be taken care of. She also asked is there are fire hydrants on Slaughter Road. Chief Motley said that there are fire hydrants in this area. She also asked about the abandoned church, she said that this is an eye sore, and she asked about road repair down this road. Ms. Loeza asked about the lighting in the Arlan's Shopping Center, she asked who replaces the lights that are out. Mr. Kelty said that this is the property owner's responsibility.

Councilman Yates said that Dave Austin has a business on 2<sup>nd</sup> Street, this business has been here for many years. Another issue Mr. Austin said he had a busted line at another building, and he was given a sewer adjustment the \$3000.00 bill was reduced to \$1500.00. He said that the city needs to look into this. Mr. Yates said there is a lot of trash in his Ward. Mr. Kelty said that he knows that the trash is being picked up, there is just more put out every day. He said that the bulk should be picked up weekly

and they are struggling to keep up with this. Mr. Yates also said that the Fishing Fiesta is the 4<sup>th</sup> of July. He said that he has raised about \$8000.00 for the fireworks.

Mayor Brooks Bass said that we have quotes for \$17,000.00 for the repairs for both fountains in Downtown.

City Manager Tim Kelty said that he picked up a restitution check for \$30,000.00 from the DA's Office, that was paid by a former employee on money that was stolen. And the \$39,000.00 will also be paid over a period of time.

Update on reports / concerns from Department heads

There was no comment from Department heads.

Open session was closed at 8:06 pm and Council entered into Executive Session.

**CLOSED SESSION:**

Executive Session regarding a.) (Personnel Matters) City Manager Evaluation b.) consultation with city attorney (Potential Litigation) in accordance with Government Code Annotated, Chapter 551, Sections 551.071, 551.074.

**REGULAR SESSION**

Mayor Brooks Bass reconvened regular session at 8:26 P.M.

No action was taken.

Adjourn

On a motion by Councilman Yates, seconded by Councilman Green, with all present voting "Aye", Mayor Brooks Bass adjourned the meeting at 8:27 PM.

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Mayor, Brooks Bass  
City of Freeport, Texas

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City Secretary, Betty Wells  
City of Freeport, Texas

**State of Texas**

**County of Brazoria**

**City of Freeport**

BE IT REMEMBERED, that the Planning Commission of Freeport, Texas met on Tuesday, June 30, 2020 at 5:30 p.m. at Freeport Council Chambers, 430 N. Brazosport Blvd, Freeport Texas for the purpose of considering the following agenda items:

Planning Commission:                      Eric Hayes  
   Stuart Herbst-absent  
   Nicole Mireles  
   Andrew Dill-absent  
   Cliff Vandergriff

Staff:

Yvette Ruiz- Building/Code  
Tim Kelty- City Manager  
Billy Shoemaker-Director Building/Code  
Laura Tolar- Asst. City Secretary

Visitors:

Melanie Oldham  
James & Ronda Richardson  
Ruben Renobato  
Tom Allen

**Open Meeting.**

Nicole Mireles called the meeting to order at 5:32 pm.

**Invocation**

Tim Kelty offered the invocation.

**Pledge of Allegiance**

Nicole Mireles offered the Pledge of Allegiance

**NEW AND OLD BUSINESS ITEMS**

**Approve the minutes of June 1, 2020**

On a motion by Eric Hayes and second by Cliff Vandergriff with all present voting "Aye" the Planning Commission unanimously approved the minutes for 6-01-2020

**OPEN PUBLIC HEARING:**

At 5:34 pm

**PUBLIC HEARING:** Discuss and take action on Tower Hill Subdivision a two Lot Subdivision out of 19.97 acre tract (called 20 acres) Conveyed to C.F.S. Investments Inc. Recorded in County Clerk's file 200105673 of the Brazoria County Official records situated in the McDermott labor abstract 342 Brazoria County, Texas March 2020.

Melanie Oldham's asked about if C.F.S. was right

**CLOSE PUBLIC HEARING:**

At 5:38 pm

**TAKE ACTION ON PUBLIC HEARING:**

On a motion by Eric Hayes and second by Cliff Vanderriff with all present voting "Aye" the Planning Commission approved the ~~on~~ Tower Hill Subdivision a two Lot Subdivision out of 19.97 acre tract (called 20 acres) Conveyed to C.F.S. Investments Inc. Recorded in County Clerk's file 200105673 of the Brazoria County Official records situated in the McDermott labor abstract 342 Brazoria County, Texas March 2020.

**Discuss and take action:** on previously tabled item, to recommend to the City Council a change to Chapter 76. Amending section 76.02, C 13, 14, and 15.

No quorum to vote, item tabled

**Adjourn**

Nicole Mireles adjourned the meeting at 5:41 pm on a motion by Eric Hayes and second by Cliff Vandergriff.

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Nicole Mireles - Chairman  
City of Freeport, Texas

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Yvette Ruiz  
City of Freeport, Texas

**State of Texas**

**County of Brazoria**

**City of Freeport**

BE IT REMEMBERED, that the Planning Commission of Freeport, Texas met on Tuesday, July 28, 2020 at 6:00 p.m. at Freeport Council Chambers, 430 N. Brazosport Blvd, Freeport Texas for the purpose of considering the following agenda items:

Planning Commission:                      Eric Hayes-absent  
   Nicole Mireles-absent  
   Andrew Dill  
   Cliff Vandergriff

Staff:    Yvette Ruiz- Building/Code  
   Tim Kelty- City Manager  
   Stephanie Russell-Asst. City Manager  
   Billy Shoemaker-Director Building/Code  
   Laura Tolar- Asst. City Secretary

Visitors:                                        Melanie Oldham  
   David McGinty  
   Jose J

**CALL TO ORDER**

No quorum

**ADJOURN**

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Nicole Mireles - Chairman  
City of Freeport, Texas

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Yvette Ruiz  
City of Freeport, Texas

Texas Historical Commission  
Texas Main Street Program  
Community Heritage Development Division  
P.O. Box 12276, Austin, Texas, 78711-2276

RE: City of Freeport Main Street Program Recertification

To Whom It May Concern:

On August 18, 2020, the Freeport Economic Development Corporation voted unanimously to support the City of Freeport application for recertification into the Texas Historical Commission Main Street program, as we recognize the values and benefits of the program are inline with our future development plans.

The Freeport EDC has hired a national retail firm to complete the first phase of a downtown master plan to include a downtown revitalization assessment and is currently in discussions to partner with a developer to see the master revitalization plan to fruition.

The Freeport EDC also has a Business Improvement Grant in five categories that focuses on the downtown district to incentivize the redevelopment or improvement of existing businesses, as well as the attraction of new business.

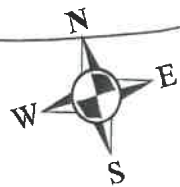
In addition, the Freeport EDC has created the TIRZ with the City and is working towards a downtown revitalization plan that will have metrics to rehabilitate the newly expanded downtown beginning in the next fiscal budget year.

It is evident that the timing of our recertification into the Texas Main Street program could not be more opportune. The Freeport EDC will work hand in hand with the Main Street Manager to promote retail, tourism, marketing and Main Street events in the historic downtown Freeport.

It is our sincerest hope that the Texas Historical Commission will consider our support of the Freeport Main Street Program and approve the application to recertify Freeport as a Texas Main Street City.



# Proposed Downtown District



**Legend**

- HistoricalMarkers
- ▭ proposed\_downtown\_district\_070120
- ▭ proposed\_downtown\_district\_042720\_parcel\_diss
- Improvement Types**
- Commercial
- Misc Imp
- Residential
- ▭ Blocks
- ▭ proposed\_downtown\_district\_042720\_parcel\_dissolved

**BUILDING FOOTPRINTS**

AMERICAN CADLAB INC. Document Path: S:\GIS\Baltimore\mainstreet\_081020.mxd





## Agenda Item # 3

**Title:** Consider Awarding Request for Proposals (RFP) 2001 Rewrite of the Zoning and Subdivision Ordinances to Kendig Keast Collaborative.

**Date:** September 3, 2020

**From:** Billywayne Shoemaker Building Official

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**Staff Recommendation:**

Staff recommends awarding RFP 2001 to Kendig Keast Collaborative and authorizing the City Manager to execute a contract.

**Item Summary:**

The plan is to update the City of Freeport's subdivision and zoning ordinances this represents another step in the revitalization of Freeport,

We have recently created a master fee schedule, rezoned our historic downtown and completed our comprehensive plan. With these important things complete and a plan to keep these documents updated, we are ready for the next step.

This is an exciting and challenging time in the City of Freeport. We are engaged in an important public discussion about what kind of city we will become. Decisions we make today will determine our legacy. It is our intention, to update the subdivision and zoning ordinance. We will need a lot of community input on this project. This update will make it easy for our planning & zoning board, council, staff and residents to know what the game plan is.

This process began with Staff advertising a Request for Proposals to assist the City in rewriting the Zoning and Subdivision Ordinances, in The Facts newspaper on Monday, February 10, 2020 and Monday, February 17, 2020 and opened on Monday, April 13, 2020 Tuesday, February 25, 2020. After reviewing the proposal and being the same firm that prepared our strategic plan, Kendig Keast Collaborative recommended firm.

**Background Information:**

The City needs to update and simplify the Subdivision Ordinances, Planning and Subdivision Design Standards. This is the first comprehensive update since 1964. Our city has changed a lot in the 60 years. This update will also make the Zoning and

Subdivision Ordinance easier to use by adding features like cross-references, illustrations, and consistent review procedures, which are common in city codes today.

**Special Considerations:**

N/A

**Financial Impact:**

The Fiscal Year 2019-2020 Budget included \$50,000 for this project. If awarded, staff would include the remaining portion into next year's budget.

**Board or 3<sup>rd</sup> Party recommendation:**

N/A

**Supporting Documentation:**

Scope of Services and Budget 06.16.20

PSA and enCodePlus SaaS Agreement 06.16.20

**PROFESSIONAL SERVICES AGREEMENT**

**DEVELOPMENT ORDINANCES**

**for**

**FREEPORT, TEXAS**

STATE OF TEXAS

§

COUNTY OF LIBERTY

§

§

KNOWN BY THESE PRESENTS:

This Agreement made this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the Freeport, Texas, acting by and through Tim Kelty, City Manager, hereinafter referred to as the "CLIENT," and Kendig Keast Collaborative, an Illinois Corporation, acting by and through its Chief Executive Officer, Mr. Bret C. Keast, with an office located at 1415 Highway 6 South, Suite D-100, Sugar Land, Texas, 77478, hereinafter referred to as the "CONSULTANT," do hereby make and enter into the following Agreement.

**ARTICLE I**

**CONSULTANT**

- 1.1 The CONSULTANT, as an independent contractor, covenants and agrees to perform the professional planning services related to the Development Ordinances as described in Article II, Scope of Services. Such services shall be performed by the CONSULTANT in strict accordance with the terms of this Agreement and for the consideration stated. Subject to the provisions of Article VI below, CONSULTANT covenants and agrees to perform the specific services identified in Exhibit "A" – Scope of Services. The CONSULTANT shall complete the Scope of Services and shall submit deliverables to the CLIENT as identified in Exhibit "A" – Scope of Services.
- 1.2 The CONSULTANT shall provide its services under this Agreement with the same degree of care, skill, and diligence as is ordinarily provided by a professional planner under similar circumstances for the preparation of a Development Ordinances and to which the Agreement applies.

**ARTICLE II**

**SCOPE OF SERVICES**

- 2.1 The CONSULTANT will perform the professional planning services related to the preparation of the Development Ordinances as set forth in Exhibit "A" – Scope of Services, which is attached and made a part of this Agreement.
- 2.2 Pursuant to this Agreement, the CLIENT shall have the option to obtain the services of the CONSULTANT to perform Additional Services. All such Additional Services shall be described in a written Amendment to this Agreement, as provided by Article X, Changes or Termination, including description of the additional work, associated compensation, and time schedule as applicable. By way of illustration, matters which may constitute Additional Services shall include, but are not limited to, the following:
  - (a) Requested additional workshops or meetings other than the number identified in the Scope of Services and project schedule that require added preparation or follow-up or displace other planned trip activities;

- (b) Requested additional trips other than the number identified in the Scope of Services and Project schedule;
- (c) Requested additional days or nights added to a scheduled trip that require additional time and direct expenses (e.g., meals, hotel nights, extended car rental and gasoline use, airline change fees, extended airport parking, etc.);
- (d) Other requested work tasks, study activities, or documentation not foreseen or specifically identified in the Scope of Services;
- (e) Requested additional deliverables or additional physical copies of deliverables, including the submission at key milestones of draft and final written reports or maps other than those specified, or in a quantity greater than the number identified, in the Scope of Services;
- (f) Requested additional revisions (individual or cumulative) to draft and final deliverables that are beyond the single comprehensive round of revisions that are to be collected, consolidated, and annotated by the CLIENT as specified in the Scope of Services;
- (g) Requested review and provision of recommendations relating to other planning or development related issues and matters other than those for which such findings and recommendations are specified in the Scope of Services;
- (h) Further requested changes to a deliverable which the CONSULTANT has already revised based on review comments and which the CLIENT has already accepted as revised, and which the CONSULTANT determines to be significant and substantive changes to a deliverable already at a point of substantial completion in accordance with the Scope of Services and available budget; and
- (i) Other related or unrelated professional planning services that may be requested by the CLIENT which are not specified in the Scope of Services.

2.3 CONSULTANT will perform the services set forth in Exhibit "B" – Software as a Service Agreement, which is attached and made a part of this Agreement. These services relate to development of the cloud platform used to draft, publish to the web, archive and host the Development Ordinances.

**ARTICLE III**  
**CONSULTANT PERSONNEL**

- 3.1 The CONSULTANT represents that it has or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the CLIENT.
- 3.2 The CONSULTANT may contract with subconsultants for portions of the work or services under this Agreement with the prior written approval of the CLIENT. Any work or services subcontracted hereunder shall be specified by a written agreement and shall be subject to the provisions of this Agreement.

**ARTICLE IV**  
**SUPPORT SERVICES**

- 4.1 The CLIENT agrees to provide the CONSULTANT with support services during conduct of the services listed in Article II, Scope of Services. Support services will include the services described in Exhibit "A" – Scope of Services, which is attached and made a part of this Agreement.
- 4.2 To the extent authorized by law, the readily available existing data and documentation obtained by the CLIENT that are relevant to the accomplishment of the Scope of Services specified in Article II shall be made available by the CLIENT for use by the CONSULTANT.
- 4.3 The CLIENT shall consider and act on all documents and project work items submitted by the CONSULTANT that require review, comments or approval by the CLIENT within a timeframe specified in Exhibit "A" Scope of Services and/or in the project schedule so as to enable the CONSULTANT to complete the work on schedule as provided in Article V of this Agreement.
- 4.4 The CLIENT agrees to provide the CONSULTANT with support services needed to organize, schedule, notify, provide meeting locations, conduct meetings, and prepare minutes of meetings including committees, workshops, public meetings, and public hearings as described in Exhibit "A" – Scope of Services. The CONSULTANT will advise and coordinate with the CLIENT to accomplish these support services.
- 4.5 In the event CLIENT fails to provide any of the needed Support Services in a timely or adequate manner, as documented in a progress report, any additional time or expenses incurred or required by CONSULTANT as a result of such failure shall be compensated on a basis of reimbursement of Actual Costs Incurred ("ACI") by CLIENT in the same manner as, and shall be considered to be, Additional Services.

**ARTICLE V**  
**TIME OF PERFORMANCE**

- 5.1 The CONSULTANT shall commence services upon execution of this Agreement and receipt of written Notice-to-Proceed from the CLIENT.
- 5.2 The CONSULTANT shall make a good faith effort to complete the services described in Article II, Scope of Services within fifteen (15) months from receipt of written Authorization to Proceed by the CLIENT, unless one or more of the following occur:
- (a) This Agreement is terminated in accordance with Article X, Changes or Termination;
  - (b) The Scope of Services and/or Time of Performance are changed in accordance with Article II, Scope of Services or Article X, Changes or Termination; or
  - (c) Matters documented by CONSULTANT in progress reports render such completion schedule impossible or impractical.
- 5.3 The agreement set forth in Exhibit "B", Software as a Service, shall survive the expiration or termination of this Agreement, shall become an independent Agreement, and shall remain in effect in accordance with its terms.

- 5.4 The completion schedule set forth in Section 5.2 may be subject to causes that result in delay over which neither the CONSULTANT nor the CLIENT has any control. Notification and justification for any such delays identified by the CONSULTANT must be included in progress reports. The schedule of work will be extended to include any such delays pursuant to Article X, Changes or Termination.
- 5.5 This Agreement shall terminate upon the CLIENT's final acceptance of work completed by the CONSULTANT, unless otherwise terminated or modified as hereinafter provided.

**ARTICLE VI**  
**COMPENSATION TO CONSULTANT**

- 6.1 The CLIENT shall compensate the CONSULTANT for the professional services performed under this Agreement, and for the software set forth in Exhibit "B", Software as a Service.
- (a) Basic Services. For the Basic Services described in Exhibit "A" Scope of Services under Article II, Scope of Services, the CLIENT shall pay to the CONSULTANT on a basis of reimbursement of Actual Costs Incurred ("ACI") an amount of one hundred fifty-six thousand four hundred forty-eight dollars (\$156,448.00).
- (b) Software as a Service. For the Software and Services described in Exhibit "B" Software as a Service Agreement," the CLIENT shall pay to the CONSULTANT zero and no dollars (\$0.00), which are included as part of Exhibit "A" – Scope of Services.

ACI includes salary costs, overhead, direct expenses, and profit. The above ACI amount may be modified pursuant to Article X, Changes or Termination, in the event of increased cost, change in the Scope of Services, an extension of time beyond that specified in Section 5.2, or an increase or decrease in the complexity or character of the work. In addition to ACI, CLIENT agrees to compensate CONSULTANT on a basis of reimbursement of Actual Costs Incurred ("ACI") for any Additional Services as provided by Article II, Scope of Services, provided that such Additional Services are agreed upon in writing prior to their being undertaken. The cost of such Additional Services shall be invoiced separately by CONSULTANT and paid by CLIENT upon receipt of billing for such services. Such payments shall be in addition to and have no bearing on the above ACI amount. Payments by CLIENT under this Agreement, including the timeliness of payment and the payment of interest on overdue amounts, are subject to Chapter 2251, Texas Government Code.

- 6.2 Each invoice from the CONSULTANT shall be due and payable by the CLIENT upon receipt by the CLIENT, subject to the terms of Section 6.1. The billing statement, certified true and correct by CONSULTANT, shall show the total amount paid and the amount due and payable as of the date of the current statement. Amounts paid and due for Additional Services shall be identified on a separate invoice.
- 6.3 The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the CLIENT for the performance of this Agreement. If at any time during the period of performance under this Agreement, sufficient appropriations and authorization are not made by the CLIENT, this Agreement shall terminate upon written notice being given by the CLIENT to the CONSULTANT. In such event, CLIENT shall comply with the provisions of Section 10.4 below. The CLIENT's decision as to whether sufficient appropriations are available shall be accepted by the CONSULTANT and shall be final.

**ARTICLE VII**  
**PRODUCT OF SERVICES, COPYRIGHT**

- 7.1 Exclusive of the licensed software set forth in Exhibit "B", Software as a Service, the CONSULTANT and the CLIENT mutually agree that reports, maps and materials prepared or developed under the terms of this Agreement shall be delivered to and become the property of the CLIENT. The CONSULTANT shall have the right to retain copies and to utilize the product of services for marketing purposes, except for any confidential information, as defined in Article XI, hereof.
- 7.2 The CONSULTANT shall furnish the CLIENT with the number of copies of reports as shown in Exhibit "A" – Scope of Services.
- 7.3 Exclusive of the licensed software set forth in Exhibit "B", Software as a Service, nothing produced in whole or in part by the CONSULTANT under this Agreement shall be the subject of an application for copyright by or for the CONSULTANT.

**ARTICLE VIII**  
**PRIVATE INTERESTS OF PUBLIC OFFICIALS AND CONSULTANT**

- 8.1 No official, employee, agent, or member of the local public body of the CLIENT shall have any financial interest, direct or indirect in this Agreement or the proceeds thereof.

**ARTICLE IX**  
**CERTIFICATIONS OF CONSULTANT**

- 9.1 The CONSULTANT has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Agreement, and it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, any commission, percentage, brokerage fee, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
- 9.2 The CONSULTANT presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services under this Agreement.

**ARTICLE X**  
**CHANGES OR TERMINATION**

- 10.1 This Agreement may not be altered, changed or amended except by instrument in writing executed by the parties hereto.
- 10.2 The CLIENT may, from time to time, request changes in the Scope of Services and/or time of performance for the services of the CONSULTANT to be performed hereunder. Such changes, including any increase or decrease in the amount of the CONSULTANT'S compensation, which are mutually agreed upon by and between the CLIENT and the CONSULTANT, shall be incorporated in written amendments to this Agreement.
- 10.3 This Agreement may be terminated before the termination date stated in Article V, Time of Performance, by any of the following conditions:

- (a) Right of Either Party to Terminate for Cause - This Agreement may be terminated by either of the parties hereto for failure by the other party to perform in a timely and proper manner its obligations under this Agreement. A signed, written notice of such termination shall be delivered to the other party by express mail with point-by-point tracking and such termination shall take effect twenty (20) days after the notice is deposited in the express mail, provided that the failure to perform has not been remedied by that time. By such termination, neither party may nullify obligations already incurred for performance or failure to perform before the date of termination.
- (b) Right of the CLIENT to Terminate for Convenience - This Agreement may also be terminated by the CLIENT for reasons other than failure by the CONSULTANT to perform in a timely manner and proper manner its obligations under this Agreement. A signed, written notice of such termination shall be delivered to CONSULTANT by registered or certified mail and such termination shall take effect not less than seven (7) days following the date the notice is received by the CONSULTANT.

- 10.4 Upon receipt of a notice of termination under any of the conditions under Sections 6.3 or 10.3 above, the CONSULTANT shall, unless the notice otherwise directs, immediately discontinue all services in connection with the performance of this Agreement. Within thirty (30) days after receipt of the notice of termination, the CONSULTANT shall submit a Final Statement, showing the services performed under this Agreement prior to the effective date of termination. Such Final Statement shall also include any unpaid amounts or unreimbursed expenses, as well as any financial obligations incurred by CONSULTANT on behalf of CLIENT and which cannot reasonably be refunded to CONSULTANT, all of which CLIENT agrees to pay upon receipt of said Final Statement. Data and study products prepared by the CONSULTANT and paid for by CLIENT under this Agreement shall be delivered to the CLIENT if requested.
- 10.5 Notwithstanding the provisions of this Article X, the CONSULTANT shall not be relieved of liability to the CLIENT for damages sustained by the CLIENT by virtue of any negligent act or omission or any breach of this Agreement by the CONSULTANT.

#### **ARTICLE XI** **CONFIDENTIALITY**

- 11.1 Any information determined to be confidential that is provided to the CONSULTANT by the CLIENT or obtained or developed by the CONSULTANT for the benefit of the CLIENT in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the CONSULTANT without prior written approval of the CLIENT. Confidential information shall only be used for the purposes of this Agreement and shall not copy, disclose, convey or transfer any of the Confidential Information to any third party, excluding the party's authorized employees. Provisions regarding the confidentiality of the licensed software are inclusive of the terms and conditions of the software.

#### **ARTICLE XII** **INSPECTION OF RECORDS**

- 12.1 The CONSULTANT shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Agreement and such other records



as may be deemed necessary by the CLIENT to assure proper accounting for all project funds. These records will be retained for three years after the expiration of this Agreement.

- 12.2 Any time during normal business hours and as requested by the CLIENT, the CONSULTANT shall make available to the CLIENT for examination all of its project records with respect to all matters covered by this Agreement and will allow the CLIENT to review, examine, and make excerpts from such records, and to make copies of all contracts, invoices, materials, payrolls, records of personnel conditions of employment, and other data relating to all matters covered by this Agreement. The financial records of the CONSULTANT are maintained in its corporate office located in Sugar Land, Texas, and copies will be available upon request in a timely manner in this office for audit purposes to the CLIENT or its authorized representative.

### **ARTICLE XIII INSURANCE**

13.1 Insurance

- A. The CONSULTANT agrees to maintain Worker's Compensation Insurance to cover all of its own personnel engaged in performing services for the CLIENT under this contract in the following amounts:

Worker's Compensation: Statutory

- B. The CONSULTANT also agrees to maintain Commercial General Liability, Business Automobile Liability, Umbrella Liability, and Errors and Omissions Insurance, covering claims against the CONSULTANT for any incidents arising in the course of work performed under this Agreement, in the following amounts:

Commercial General Liability Insurance: Personal injury and property damage -- \$1,000,000.00 combined single each occurrence and \$2,000,000.00 general aggregate

Business Automobile Liability for all vehicles: Bodily injury and property damage -- \$1,000,000.00 combined single limit each occurrence

Umbrella Liability: \$2,000,000.00

Errors and Omissions: \$1,000,000.00

### **ARTICLE XIV MISCELLANEOUS PROVISIONS**

- 14.1 Force Majeure. Neither the CLIENT nor the CONSULTANT shall be required to perform any term, condition, or covenant of this Agreement while such performance is delayed or prevented by acts of God, material or labor restriction by any governmental authority, terrorism, civil riot, floods, hurricanes, or other natural disasters, any other cause not within the control of the CLIENT or the CONSULTANT that by the exercise of due diligence the CLIENT or the CONSULTANT is unable, wholly or in part, to prevent or overcome and supersedes all prior agreements and understanding between CLIENT and CONSULTANT concerning the subject matter of this Agreement.

- 14.2 Entire Agreement. This Agreement constitutes the entire agreement between the CLIENT and the CONSULTANT. No other agreements, amendments, modifications, implied or otherwise, shall be binding on any of the parties unless set forth in writing and signed by both parties.
- 14.3 Choice of Law. The CLIENT and the CONSULTANT agree that this Agreement shall be construed in accordance with the laws of the State of Texas.
- 14.4 Dispute Resolution. Any dispute, controversy or claim between the parties shall be resolved in the following manner:

The parties will attempt in good faith to resolve any dispute, controversy or claim arising out of or relating to this Agreement promptly by negotiation between designated executives or other representatives of the parties who have the authority to settle the controversy. No terms of resolving the dispute, controversy or claim discussed or offered shall be binding on either party or otherwise detrimental to the interest of either party in the event it is not resolved by negotiation.

The disputing party shall give the other party written notice of the dispute by registered or certified mail. Within ten (10) days after receipt of said notice, the receiving party shall submit to the disputing party a written response. Unless shown otherwise, receipt will be presumed to have occurred three (3) days following the mailing. The notice and response shall include: (a) a statement of each party's position and a summary of the evidence and arguments supporting its position; and (b) the name and title of the designated executive or other representative who will represent the party in negotiations. The negotiators so designated shall meet at a mutually acceptable time and place within twenty (20) days of the date of receipt by the receiving party of the disputing party's notice and thereafter as often as they reasonably deem necessary to exchange relevant information and to attempt to resolve the dispute.

If the controversy or claim has not been resolved within thirty (30) days of the meeting of the designated executives or representatives, the parties shall endeavor to settle the dispute by non-binding mediation.

If the matter has not been resolved pursuant to the aforesaid non-binding mediation procedures within ninety (90) days of the commencement of such procedure, parties are free to bring their claim in a court of law. Venue for all actions brought pursuant to this Agreement is in Liberty County, Texas; and all parties consent to Liberty County, Texas, being the exclusive jurisdiction to resolve said claims or controversies arising pursuant to this Agreement.

- 14.5 Severability. If one or more of the provisions of this Agreement, or the application of any provision to any party or circumstance, is held invalid, unenforceable, or illegal in any respect, the remainder of this Agreement and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.
- 14.6 Notice. Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and shall be mailed by certified or registered mail addressed as set forth below or at such other address as may be specified by written notice:

CLIENT: Tim Kelty, City Manager  
City of Freeport  
200 W. 2nd Street  
Freeport, TX 77541

CONSULTANT: Bret C. Keast, Chief Executive Officer  
Kendig Keast Collaborative  
1415 Highway 6 South, Suite D-100  
Sugar Land, Texas 77478

- 14.7 Assignment. The CONSULTANT shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the CLIENT thereto. Provided however, that claims for money by the CONSULTANT from the CLIENT under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the CLIENT.
- 14.8 Successors and Assigns. The CLIENT and the CONSULTANT each binds itself and its successors, executors, administrators and assigns to the other parties of the Contract and to the successors, executors, administrators and assigns of such other parties, in respect to all covenants of this Agreement. Nothing herein shall be construed as creating any personal liability on the part of any officer, board member, commissioner, employee or agent of any public body, which is a party hereto.
- 14.9 Reports and Information. The CONSULTANT, at such times and in such forms as the CLIENT may require, shall furnish the CLIENT such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the cost and obligations incurred or to be in connection therewith, and any other matter covered by this Agreement.
- 14.10 Incorporation of Provisions Required by Law. Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein and this Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.
- 14.11 Waiver. The failure on the part of any party herein at any time to require the performance by any other party of any portion of this Agreement shall not be deemed a waiver of, or in any way affect that party's rights to enforce such provision or any other provision. Any waiver by any party herein of any provision hereof shall not be taken or held to be a waiver of any other provision hereof or any other breach hereof.
- 14.12 Survival. Any and all representations and conditions made by the CONSULTANT under this Agreement are of the essence of this Agreement and shall survive the execution, delivery and termination of it, and all statements contained in any documents required by the CLIENT, whether delivered at the time of the execution or at a later date, shall constitute representations hereunder.
- 14.13 Cumulative Remedies. In the event of default by any party herein, all other parties shall have all rights and remedies afforded to it at law or in equity to recover damages and to interpret or enforce the terms of this Agreement. The exercise of any one right or remedy shall be without prejudice to the enforcement of any other right or remedy allowed at law or in equity.

- 14.14 State or Federal Laws. This Agreement is performed in Liberty, Texas, and is subject to all applicable federal and state laws, statutes, codes, any and applicable permits, ordinances, rules, orders, and regulations of any local, state, or federal government authority having or asserting jurisdiction.
- 14.15 Equal Employment Opportunity. In the performance of this Agreement, the CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, or national origin. The CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of it, state that it is an Equal Opportunity Employer.
- 14.16 Multiple Originals. Two (2) copies of this Agreement are executed; each shall be deemed an original.

\* \* \* \* \*

The parties have executed this Agreement in duplicate originals.

This \_\_\_\_\_ day of \_\_\_\_\_, 2020.

FOR FREEPORT:

FOR KENDIG KEAST COLLABORATIVE:

By: \_\_\_\_\_  
 Tim Kelty  
 City Manager

By: \_\_\_\_\_  
 Bret C. Keast, AICP  
 Chief Executive Officer

ATTEST:  
 \_\_\_\_\_

**EXHIBIT "B"**  
**SOFTWARE AS A SERVICE AGREEMENT**

Licensor: enCodePlus, LLC  
1415 Highway 6 South, Suite D-100  
Sugar Land, Texas 77478

Licensee: Tim Kelty, City Manager  
City of Freeport  
200 W. 2nd Street  
Freeport, TX 77541

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Licensor and Licensee agree as follows:

1) **Definitions.**

- a. *Agreement* means this Software as a Service Agreement, including all incorporated exhibits and documents.
- b. *Authorized Users* means all Users authorized by the Licensor to access and use the Software through the Licensee's account under this Agreement, and includes individual users that are employees of Licensees but excludes outside contractors or agents of the Licensee.
- c. *Calendar Day* or "Day" means All days in a month, including weekends and holidays.
- d. *Effective Date* is the date the Agreement is executed by Licensee and Licensor.
- e. *Force Majeure Event* means an event, such as a hurricane, earthquake, or other casualty caused by nature; labor strike; war; a law, order, proclamation, regulation, or ordinance of any governmental agency that prevents Licensor or Licensee from performing its obligations under this Agreement.
- f. *Law* means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, or other requirement of any federal, state, local, or foreign government, political subdivision, or any arbitrator, court, or tribunal of competent jurisdiction.
- g. *Licensed Technology* means Licensor's proprietary software or any third-party software or other intellectual property provided to allow the Licensee to access and utilize the Software in conformance with this Agreement or to make the Software available to the Licensee over the Internet.
- h. *Licensee* means the City of Freeport and its employees.
- i. *Licensee Data* means any and all information, data, materials, works, expressions, or other content, including any that are:
  - (1) uploaded, submitted, posted, transferred, transmitted, or otherwise provided or made available by or on behalf of the Licensee for processing by or through the Software, or
  - (2) collected, downloaded, or otherwise received by Licensor or the Software for the Licensee or pursuant to this Agreement or at the written request or instruction of the Licensee. All output, copies, reproductions, improvements, modifications, adaptations, translations, designs and methods and other derivative works of, based on, derived from, obtained from the Licensee in connection with the Software, or otherwise using any Licensee Data are themselves also Licensee Data. Licensee Data does not include any Licensor Materials.
- j. *Licensor* means enCodePlus, LLC.

- k. *Renewal Term* has the meaning set forth in Section 14.2.
  - l. *Services* means all services required of Licensor to ensure the Software is available to the Licensee over the Internet consistent with the terms of this Agreement. These services include: hosting; making the system available to the Licensee over the Internet as a service; ensuring the system operates with other software, hardware, systems, networks, and services; using embedded third party software, including for processing Licensee Data; programming, modifying, or configuring the Software to meet the Licensee's ongoing needs; integrating, customizing, enhancing, or modifying the Software; consulting activities; and training or project management.
  - m. *Service Error* means an event that results in an impairment of performance or essential operations of the Software.
  - n. *Software as a Service (SaaS)* or "Software" means the turnkey system provided by Licensor pursuant to this Agreement as part of its Services, including the Licensed Technology that Licensor will make accessible to the Licensed as part of its Services under this Agreement.
  - o. *Term* means the Initial Term and any subsequent Renewal Terms.
- 2) **Agreement.** This Software as a Service ("Agreement" or "License") is made as of the date of the last signature below, between enCodePlus, LLC, a Texas Limited Liability Company ("Licensor"), and the City of Freeport, a public body corporate and political subdivision of the State of Texas ("Licensee").
- 3) **Licensed Technology.** This is an Agreement between Licensor and Licensee, with a term as set out in Section 5, below. Licensor grants licensee a non-transferable, non-exclusive, limited, non-assignable, and non-sublicensable right to use the Software covered by this Agreement pursuant to the terms of this Agreement including payment of all applicable Fees. This right to use and access the Software is for unlimited concurrent use for Licensee governmental purposes, including on- and off-site access. This License gives only certain rights to Licensee. All other rights are reserved to Licensor.
- 4) **Software Package.** The terms of this Agreement apply to Licensee's use of the Standard Features, including an unlimited number of registered license seats and two hours of annual technical support<sup>1</sup>.
- 5) **Term and Termination.**
- a. *Initial Term.* The initial term of this Agreement commences as of the Effective Date of the Professional Services Agreement (PSA) for the Development Ordinances (\_\_\_\_\_, 2020) and, unless terminated earlier pursuant to this Agreement, will continue for the 18-month duration of the PSA (ending on \_\_\_\_\_, 2020).
  - b. *Renewal.* Following expiration of the Initial Term, this Agreement will automatically and perpetually renew each year on the anniversary of the Effective Date for an additional one-year term (each a "Renewal Term") unless:
    - (1) terminated pursuant to this Agreement, or
    - (2) the Licensee gives Licensor written notice of nonrenewal at least 30 days prior to the expiration of the current term (collectively, the Renewal Term and the Initial Term constitute the "Term").

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<sup>1</sup> Support excludes adding or building new content, document management services, and Software customization.

- c. *Termination for Cause.* In addition to any right of termination set forth elsewhere in this Agreement, the Licensor or Licensee may terminate this Agreement for cause in accordance with this Section.
- (1) The Licensor or Licensee may give written notice of termination to the other party effective as of the date specified in the notice if:
    - (a) the other party materially breaches this Agreement; and
    - (b) the breach cannot be cured, or can be cured, but remains uncured 30 days after the breaching party receives written notice of the breach.
  - (2) The Licensee may terminate any and all of this Agreement, effective immediately, by written notice to Licensor if Provider:
    - (a) is dissolved or liquidated or takes any corporate action for such purpose;
    - (b) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due;
    - (c) files or has filed against it a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency Law;
    - (d) makes or seeks to make a general assignment for the benefit of its creditors; or
    - (e) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.
- d. *Termination for Convenience.* At any time without cause and without causing any breach or incurring any additional obligation, liability, or penalty, the Licensee may terminate this Agreement, in whole or in part, at any time by giving 30 days written notice to Licensor. In the event this Agreement is terminated for convenience, Licensor shall be paid for any services properly performed through the termination date specified in the written notice of termination. Provider acknowledges that payment for goods and services rendered is good, valuable and sufficient consideration for the Licensee's right to terminate this Agreement for convenience.
- e. *Termination Due to Change in Funding.* If the funds the Licensee relied upon to establish this Agreement are not appropriated, withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding, the Licensee may terminate this Agreement by providing 90 days' written notice to the Licensor. The termination shall be effective on the date specified in the termination notice.
- f. *Effect of Termination; Data Retention.* Upon termination or expiration of this Agreement, the Licensor and Licensee shall comply with the requirements and obligations of this Subsection.
- (1) Subject to the continuing rights, licenses, and obligations of either Licensor or Licensee under this Agreement, all authorizations and licenses granted under this Agreement will immediately terminate. The Licensee shall cease all use of the expired or terminated Software, and Licensor shall cease all use of Licensee Data.
  - (2) The Licensee shall pay to Licensor all undisputed charges and amounts due and payable to Licensor, if any, for use of the Licensed Technology and Services performed under the terminated or expired Agreement.
  - (3) Licensor shall repay, on a pro rata basis, all fees, expenses, and other amounts paid in advance for any Services that Licensor has not performed as of the effective date of such expiration or termination.

(4) Licensor shall, upon the Licensee's written request, promptly destroy and erase from all systems it directly or indirectly uses or controls, all originals and copies of all of the Licensee's Data. Licensee has full, unlimited access to Licensee's Data through its password-protected maintenance module, allowing Licensee to export the data to Microsoft Word and Adobe PDF. Also, the Licensee may save the document in HTML format or as a web archive file. Licensee is advised to keep backups of its data. For Licensor's then-current technical support rate, Licensor may offer export services to convert content into other file formats and deliver them to Licensee electronically or on optical or other solid-state media.

6) **Fees.**

- a. *Fees.* Licensee will pay Licensor in accordance with **Table 1, Payment Schedule**.
- b. *Fees During Renewal Terms.* Licensor fees are fixed during the Initial Term. Licensor may increase Fees for the Renewal Term and subsequent Renewal Terms by providing written notice to the Licensee at least 60 calendar days before the Renewal Term that would be subject to the new fees begins. No increase in Fees for a Renewal Term shall exceed the lesser of:
  - (1) Three percent of the Fees effective during the immediately preceding Renewal Term; or
  - (2) The amount equal to the percentage of the most-recently published Consumer Price Index (CPI) for all Urban Consumers. Licensor and Licensee agree that if this CPI is no longer published, Licensor and the Licensee will negotiate in good faith to select a new index that best reflects and accounts for cost changes relevant to the Licensee's geographic location and Licensor's business.
- c. *Invoices.* Licensor shall submit invoices to the Licensee for access to the Licensed Technology and for all services completed at least 60 days prior to the due date of the payment. The invoice shall be submitted to Licensee in electronic format.
- d. *Payment.*
  - (1) *Initial Term.* Not applicable.
  - (2) *Renewal Term.* Licensor shall submit invoices to Licensee for access to the Licensed Technology and all services completed at least 60 days prior to the due date of payment.
  - (3) *Late Payment.* If any payment due under this Agreement ("Payment Due") is more than 15 days past due, a fee of 10 percent of the Payment Due shall be paid by Licensee in addition to the Payment Due. If Payment Due is more than 30 days late, the Fee shall be 20 percent in addition to the Payment Due. If Payment Due is more than 45 days late, the Software will be taken off line, and will not be restored until the Payments Due and any Fees associated with each Payment Due has been paid in full.



<b>Table 1 Payment Schedule</b>		
<b>Build</b>	<b>Term</b>	<b>Not-To-Exceed Amount</b>
Content Conversion	None	\$0
Feature Package	Municipal Zoning Publisher (waived)	(\$8,350)
Individual Features	Standard only	\$0
<b>License, Maintenance and Support</b>		
License and Maintenance	Annual	(\$4,500)
Support	Two Hours	\$0
	Additional Hours	\$150
<b>TOTAL</b>		<b>\$0</b>
<b>Payment Schedule</b>		
Execution (waived)		\$0
Draft Delivery		\$0
Final Delivery		\$0

7) **Software Build.**

a. *Content.* Development Ordinance

b. *Standard Features.*

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• Adobe PDF Generator</li> <li>• Auto-Numbering / Tracking</li> <li>• Boolean Search</li> <li>• Categorization Tags</li> <li>• Codification Tool</li> <li>• Collaborative Drafting</li> <li>• Commenting</li> <li>• Content Management</li> <li>• CSS Stylesheet</li> <li>• Dynamic Tables</li> <li>• Email Notification</li> <li>• e-Reader</li> <li>• Google Analytics</li> <li>• In-Line Graphics and Tables</li> </ul> | <ul style="list-style-type: none"> <li>• Internal Hyperlinking</li> <li>• External Hyperlinking</li> <li>• Microsoft Word Exporter</li> <li>• Mobile Device Access</li> <li>• My Favorites</li> <li>• Pop-Up Definitions</li> <li>• Social Media Links</li> <li>• Real-Time Web Publishing</li> <li>• Track Changes</li> <li>• User Guide and Tutorials</li> <li>• Version Management</li> <li>• Video Animation</li> <li>• Web Content Accessibility Compliance</li> </ul> |
|---|---|

c. *Support and Maintenance.* With respect to addressing errors which may arise in the Software, Licensor shall provide Support Services for the Software in accordance with the provisions of this Subsection.

d. *Support Responsibilities.*

(1) Support shall be provided by Licensor as set for in Table 1, Payment Schedule.

(2) Licensor shall:

- (a) correct all Service Errors, including by providing defect repair, programming corrections, and remedial programming.
  - (b) provide telephone or web-based support within one business day of contact by Licensee during Licensor's business hours, or at a mutually agreeable time. Licensor makes no promises as to the duration of resolution, except that Licensor shall expedite the resolution to the best of its reasonable ability, and Licensor may deem a request as unresolvable. Failure of Licensor to achieve the technical support response times shall not constitute a material breach of this Agreement.
  - (c) Provide online access to user support information, to the full extent Licensor makes such resources available to its other customers.
- e. *Service Maintenance.* Licensor shall continuously maintain the Software to optimize availability. Such maintenance services shall include:
- (1) Scheduled once annually, all updates, bug fixes, enhancements, new releases, new versions, and other improvements to the Software, excluding additional features, at no additional charge;
  - (2) Ensuring that all changes to the Software will not adversely affect the system; and
  - (3) All such services and repairs necessary to maintain access to or use of the Software.
- f. *Escrow.* If included in Section 7, Software Build, Licensor shall place all source code constituting and relating to the Software into an escrow account pursuant to the terms of an escrow agreement (the "Escrow Agreement") to be entered into between Licensor and the escrow agent (the "Escrow Agent") which shall name Licensee as a beneficiary; provided, however, that the Escrow Agreement shall contain substantially the following conditions with respect to release of escrow to Licensee: (i) Licensor is adjudged bankrupt, and/or (ii) in the event of a catastrophic loss which terminates Licensor's operations, then Licensee shall have a non-exclusive, royalty-free, perpetual, worldwide license to use the source code released from the escrow in its sole discretion, solely for its own internal use and not for any resell, license, or sub-license. In consideration of Licensor placing the source code in escrow, Licensee will pay an annual escrow fee of \$1,000, plus a \$500 escrow initiation fee, for the first license year and an annual source code escrow fee of \$1,000 thereafter. All charges for additional services which may be requested from the escrow company by Licensee as a beneficiary to the escrow agreement shall be payable by Licensee.

8) **Services.** (upon Development Ordinance adoption)

- a. *Document Management.* The "Content" identified in Section 7, Software Build, above, may be systematically managed and maintained by Licensor. Such services include the integration of new or amended text and the documented history (i.e., ordinance, resolution, bill, by-law, plus the adopted and/or effective date, and legal citation(s), as applicable). All amendments will be denoted by Title, Chapter, Article, or Section, as applicable, together with a cumulative history table of all amendments. The ordinance, resolution, bill, or by-law is uploaded to the cloud library and linked within the document text and history table. Keywords may be added to maintain a searchable history of amendments.

- b. *Legal Review.* During the document management process, an experienced attorney is available to review the document for its integrity relative to grammatical correctness, conflicts and internal inconsistencies, and conformance with state law.
- c. *Payment.* Upon completion, an invoice will be issued, billed at a rate of \$18 per page and/or \$200 per hour for legal review services. Fees for the Initial Term and each Renewal Term shall be as set forth in Section 6, Fees.

9) **Notices.**

- a. *Generally.* Except as provided in Subsection 9.b., notices delivered pursuant to this Agreement shall be sent to the people and addresses shown in this Section. Generally, notices shall be delivered by First Class Mail or courier service. Such notice shall be deemed to have been given when deposited in the United States Mail or courier service properly addressed to the intended recipient.
- b. *Upgrades, Maintenance, Service Interruptions, and Planned Outages.* Notices regarding upgrades, maintenance, service interruptions, and planned outages shall be delivered by electronic mail to the Licensee. Licensee may change the individuals who receive notice pursuant to this Subsection by electronic mail notice to Licensor.

To Licensor	To Licensee
Bret C. Keast, AICP, President <b>enCodePlus, LLC</b> 1415 Highway 6, Suite D-100 Sugar Land, TX 77478 Tel: 281.302.5847 Email: bret@enCodePlus.com <i>With copy to:</i> William G. Harger, Attorney at Law William G. Harger & Associates, PLLC 704 Main Street Richmond, Texas 77469 Tel: (281) 202-6000 Email: harger@hargerlaw.com	Tim Kelty, City Manager City of Freeport 200 W. 2nd Street Freeport, TX 77541 Tel: 979.233.3526 Email: tkelty@freeport.tx.us <i>With a copy to:</i> Stephanie Russell, Assistant City Manager City of Freeport 200 W. 2nd Street Freeport, TX 77541 Tel: 979-871-0107: Email: srussell@freeport.tx.us

Account Management	Financial Services Department
Kim Keast, Business Manager enCodePlus, LLC 1415 Highway 6, Suite A-300 Sugar Land, TX 77478 Tel: (281) 302-5847 Email: kim@encodeplus.com	<div style="background-color: yellow; height: 15px; width: 100%;"></div> <div style="background-color: yellow; height: 15px; width: 100%;"></div> <div style="background-color: yellow; height: 15px; width: 100%;"></div> <div style="background-color: yellow; height: 15px; width: 100%;"></div> <div style="background-color: yellow; height: 15px; width: 100%;"></div> Tel: _____ Email: _____  <div style="background-color: yellow; height: 15px; width: 100%;"></div> <div style="background-color: yellow; height: 15px; width: 100%;"></div> <div style="background-color: yellow; height: 15px; width: 100%;"></div> <div style="background-color: yellow; height: 15px; width: 100%;"></div> Tel: _____ Email: _____

GIS Build (OPTIONAL)	GIS Department / Contact
Suhag Kansara, AICP enCodePlus Tel: (281) 888-0697 Email: suhag@encodeplus.com	Name Loudoun County Government Tel: _____ Email: _____

- 10) **Assignment.** Licensor may not assign its rights and obligations under this Agreement without prior written notice to Licensee no less than 30 days prior to assignment. Licensee may thereafter continue with the terms of this Agreement, attempt to renegotiate with the assignee, or terminate this license pursuant to the provisions of Section 5, Term and Termination.
- 11) **No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the Licensor and Licensee and their respective successors and permitted assigns. There are no third-party beneficiaries to this Agreement.
- 12) **No Waiver.** The failure of either party to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. A waiver of any breach under this Agreement shall not be deemed a waiver of any subsequent breach.
- 13) **Effective Date.** The Effective Date shall be the date on which the Licensee executes this Agreement, or such other date as may be agreed to by the Licensor and Licensee and indicated as "Effective Date" below.
- a. *Venue.* Licensor and Licensee agree that this Agreement shall be construed in accordance with the laws of the State of Texas. Venue for all actions brought pursuant to this agreement is in Liberty County; and all parties consent to Liberty County, being the exclusive jurisdiction to resolve said claims or controversies arising pursuant to this agreement. The parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement promptly by negotiation between senior executives of the parties who have the authority to settle the controversy.
  - b. *Notice of Dispute.* The disputing party shall give the other party written notice of the dispute. The other party shall respond in writing within 10 days after receipt of said notice. The notice and response shall include: (1) a statement of the party's position and a summary of the facts and arguments supporting its position; and (2) the name and title of the executive who will represent the party. The executives shall meet at a mutually acceptable time and place within 20 days of the date of the disputing party's notice and thereafter as often as they reasonably deem necessary to exchange relevant information and to attempt to resolve the dispute.
  - c. *Mediation.* If the controversy or claim has not been resolved within 30 days of the first meeting of the senior executives, the parties shall endeavor to settle the dispute by non-binding mediation.
  - d. *Court.* If the matter has not been resolved pursuant to the aforesaid non-binding mediation procedures within 90 days of the commencement of such procedure, parties may bring their claim in a court of law. Venue for all actions brought pursuant to this agreement is in Liberty County and all parties consent to Liberty County, being the exclusive jurisdiction to resolve said claims or controversies arising pursuant to this agreement.

- e. *Relief.* Nothing in this Section shall prevent a Party from bringing an action for injunctive relief if such relief is necessary for the protection of a right or property or proprietary information which might be lost absent such relief.
- 16) **Integration.** This Agreement constitutes the entire agreement between the parties with regard to the subject matter hereof and thereof. This Agreement supersedes all previous agreements between or among the parties. There are no agreements, representations, or warranties between or among the parties other than those set forth in this Agreement or the documents and agreements referred to in this Agreement.
- 17) **Force Majeure.**
- a. *Excused.* The party affected by the Force Majeure Event shall be excused from performance due to a Force Majeure Event as long as the affected party:
    - (1) gave prompt notice to the other party,
    - (2) took all reasonable steps to avoid the cause of nonperformance, and
    - (3) continued to take reasonable steps to avoid and remove the cause of nonperformance.
  - b. *Notice.* The affected party shall promptly notify the other party in writing and resume performance as soon as possible after the Force Majeure Event and to the full extent the cause of nonperformance is removed.
- 18) **Amendments and Modifications.** No amendment, modification, or supplement to this Agreement shall be binding on any of the parties unless it is in writing and signed by the parties.
- 19) **General Interpretation.** The terms of this Agreement have been negotiated by the parties hereto and the language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a particular benefit under the agreement. No rule of strict construction will be applied against any person.
- 20) **Further Assurances.** Each of the parties agree to take such further action to execute and deliver such additional documents as may be reasonably required to them to effectuate the purpose and intent of this Agreement.
- 21) **Severability.** If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof shall be stricken from this Agreement, and such provision shall not affect the legality, enforceability, or validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance with the provisions of this section, then this stricken provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision as is legally possible.

Freeport, Texas

Licensee

Authorized Agent Signature

Authorized Agent (Typed)

Date

Effective Date

enCodePlus, LLC

Licenser



Authorized Agent Signature

Bret C. Keast, President

Authorized Agent (Typed)

Date

## Exhibit A, Scope of Services

Under contract to Freeport, the Consultant Team will provide professional planning services and zoning and land development regulation writing to assist the City in reviewing, analyzing, and rewriting the zoning (Chapter 155) and subdivision (Chapter 154) ordinances, which is organized in four phases:

1. Project Initiation and Orientation;
2. Iterative Drafting;
3. Public Review and Comment; and
4. Adoption.

This work will create a development ordinance that will include appropriate graphics, and in the online (enCodePlus™) format, internal or external hyperlinks for cross-referencing. The preparation of the zoning and subdivision ordinances will build on the Strategic Community Plan adopted by the City in February 2019.

The updated ordinances will include revised, updated, and new text additions addressing each of the respective sections of each ordinance. In particular, the new regulations will:

- Restructure and reorganize the ordinances to improve navigation, administration, and readability;
- Implement the recommendations of the Strategic Community Plan;
- Reflect recent changes in state and federal laws, including the Texas model floodplain regulations;
- Address gaps or deficiencies in the regulations identified by City staff;
- Be brought up to par relative to the latest planning practices;
- Ensure consistency within and between the ordinances, as well with other applicable City codes;
- Consolidate, create new or refine the current districts and uses, and identify recommended changes to the district boundaries on the zoning map;
- Add tables of land uses and dimensional standards;
- Consolidate and update the definitions;
- Update parking ratios based upon the recommended land use matrix; and
- Outline a table of required approval and permit procedures with identification of timing relative to other application types; which body reviews, recommends and approves applications; whether or not a public hearing is required; and cross-references to applicable ordinance sections.

The Consultant Team's project involvement and facilitation will be carried out according to the provisions of this Scope of Services and contingent upon the support of City staff to make the best use of the available budget. The City's Assistant City Manager will be the Project Director and will manage the overall process and collaborate with the Consultant Team in performing the project services. The Consultant Team will rely on the City Attorney to provide all necessary legal review and support on behalf of the City (i.e., the Consultant Team is not expected to provide or budget for separate legal counsel for the project).

### Project Administration

KKC will complete project management activities in coordination with the City's Project Director to ensure schedule adherence, cost control, and quality assurance. These activities will include:

- A project kick-off teleconference with key City staff (following receipt of written Notice to Proceed), to review the Scope of Services, schedule, data/ information needs, and project logistics (see Task 1).

- Monthly submittal of written progress reports in conjunction with each invoice. These reports will describe the project status, and document significant work accomplished and activities scheduled for the next progress report period. The report will also document any modifications to any tasks, deliverables, or meeting attendance specified in this scope of services, or on the project duration and/or total compensation specified in our agreement.
- Preparation and maintenance throughout the project of a schedule, including due dates for all deliverables, anticipated meeting dates, plus specified review/comment timeframes to ensure adequate time for City review/approval of deliverables.

Frequent communication and coordination with the City's Project Director by email, phone, and written correspondence, as appropriate.

### **City Support Services**

The City will provide administrative and technical support services to assist the Consultant Team in performing this Scope of Services for updating the zoning and subdivision ordinances. The support services to be provided by City Staff will include the following types of general services and specific tasks for the planning program:

- Identify a single individual as the City's Project Director, who will serve as a primary point of contact and source of day-to-day work program direction for this collaborative regulatory drafting effort involving both City and Consultant personnel, resources, and capabilities.
- Upon request, provide all available data, maps, air photos, spatial data, previous reports/plans/studies/ordinances, data sets and GIS coverages and layers already developed/maintained by the City for its entire planning area, and other information that is available to the City in digital or printed format, which may be pertinent and necessary for development of the project. Prompt compilation and delivery of such resource materials to the Consultant Team may be an essential prerequisite for initiation of the regulatory drafting process and timely progress on various initial public meeting and diagnostic tasks.
- Make affected or related entities or organizations aware of the project and the process for developing the regulations, as needed.
- Ensure that key City personnel and appointed and elected officials will participate as needed in the process and be available upon request, through arrangements made by the City's Project Director, to provide information and referrals and offer opinions, insights, and suggestions that are necessary for development of the various aspects of the project. This will include potential formal or informal meetings and a briefing with the City Council during Task 2.2.
- Reproduce and forward each draft deliverable provided via e-mail by the Consultant Team to the STT and other project participants as appropriate. In addition, each draft deliverable will be provided to the Planning Commission and City Council for courtesy review and discussion as the project proceeds. The City's Project Director may provide briefings to the City Council or other bodies at regular intervals throughout the process.
- Provide three-ring binders with section dividers for each Planning Commission member and applicable STT members for purposes of organizing and maintaining materials throughout the process.
- Consider and act on all deliverables and other interim work items submitted by the Consultant Team that require City review, comments or approval within a reasonable period of time so as to enable the Consultant Team to complete the work on schedule. Specific timeframes for such City response will be incorporated into a detailed project schedule.



- Provide the Consultant Team written summaries and copies of any handouts/materials from all project-related meetings not attended by the Consultant Team.

## SCOPE OF SERVICES

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### Phase 1, Project Initiation and Orientation

- 1.1. Project Orientation. Meet via teleconference with the Project Director and other applicable staff to:
  - Establish communications, scheduling, file format, and administrative protocols;
  - Receive data and information requested by the Consultant Team, e.g., history of zone changes and variances, GIS zoning files, etc.);
  - Lay out a schedule for the project outlining the deliverable and meeting dates, adequate time for review and discussion, and periods for revisions and resubmittals;
  - Discuss the arrangements and dates for the stakeholder meetings.
    - *Deliverable(s)*: Project schedule.
    - *Meeting(s)*:
      - One teleconference.
      - Trip No. 1 for field reconnaissance only (non-public)
- 1.2. Stakeholder Meetings.
  - Lead discussions with groups of stakeholders as to their experiences, perspectives, and input to the update of the zoning and subdivision ordinances. The meetings will include:
    - Four, 50-minute video-conference meetings with groups of eight to 12 participants; and
    - Recorded notes of conversations and responses.
  - The responsibilities of City staff are to:
    - Identify the topical groups and invitees, commonly including local business owners and tenants, developers and builders, brokers, financing institutions, design professionals, development applicants, and interested others identified by the City's Project Director;
    - Mail invitations three weeks in advance of the meeting dates, follow up for confirmation by email or telephone, and call two days before the video-conferences to remind and confirm attendance; and
    - Develop a list of all individuals confirmed for each session.
      - *Deliverable(s)*: Summary of stakeholder input.
      - *Video-Conference Meetings*: Stakeholder conversations.

1.3. Meetings with Staff and the Planning Commission.

- Attend a video-conference with the Staff Technical Team (STT) to clearly understand current processes, procedures, and practices, as well as to gain a firsthand understanding of the limitations or problems with the administration and enforcement of the Zoning and Subdivision ordinances;
- Present an introduction to the project via video-conference before the Planning Commission, which may be held jointly with the City Council, Board of Adjustment, and Urban Renewal Agency, including the project scope and timeline, summarize the findings of the stakeholder meetings, and to initiate dialog as to the key planning and regulatory issues to be addressed in the ordinance rewrite.
  - *Deliverable(s)*: PowerPoint presentation for the Commission/Joint meeting.
  - *Video-Conference Meetings*:
    - STT
    - Joint Commission/Council/BOA/URA

1.4. Annotated Outline.

- Prepare annotated outline, which makes recommendations about the proposed ordinance organization and content.
- Discuss the Annotated Outline via video-conference with the Project Director.
  - *Deliverable(s)*:
    - Annotated Outline
  - *Meeting(s)*:
    - Teleconference with the Project Director

**Phase 2, Iterative Drafting.**

2.1. Online Interactive Ordinance.

- Design and build the site framework, including the homepage, page layout and stylesheet, and preliminary outline. Standard features include:
  - Adobe PDF Generator
  - Auto-Numbering / Tracking
  - Boolean Search
  - Categorization Tags
  - Codification Tool
  - Collaborative Drafting
  - Commenting
  - Content Management
  - CSS Stylesheet
  - Dynamic Tables
  - Email Notification
  - e-Reader
  - Google Analytics
  - In-Line Graphics and Tables
  - Internal Hyperlinking
  - External Hyperlinking
  - Microsoft Word Exporter
  - Mobile Device Access
  - My Favorites
  - Pop-Up Definitions
  - Social Media Links
  - Real-Time Web Publishing
  - Track Changes
  - User Guide and Tutorials
  - Version Management
  - Video Animation
  - Web Content Accessibility Compliance

- Introduce and train staff on the use of the password-protected Maintenance Module for providing comments and editing the draft development ordinances. The City will have licensed access to the software as spelled out in the Agreement.
  - *Deliverable(s)*: Password-protected web-based project site
  - *Meeting(s)*: No meetings are required for this task.

Optional Deliverables (enCodePlus Features):

- Interactive online GIS Zoning Map
  - o Standard = \$3,000 one-time; \$3,000 maintenance (interactive zoning map)
  - o Advanced = \$4,500 one-time; \$3,500 maintenance (interactive zoning map with Brazoria County Appraisal District parcels and data, address search, zoning regulations by address, ordinance to text links, and parcel buffer tool)
  - o Premium = \$6,500 one-time; \$4,500 maintenance (Advanced features plus land use lookup and Multiple Listing Service)
- Land use lookup (\$2,500 one-time)
- AppTrak+ online application tracking (\$5,500 one-time)
- Landscaping and screening calculator (\$2,500 one-time)
- Sign calculator (\$2,500 one-time)
- Parking calculator (\$2,500 one-time)
- Development Yield calculator (\$2,500 one-time)
- Fee calculator (\$2,500 one-time)

2.2. Ordinance Drafting.

- Draft the development ordinance (including Chapters 154, Subdivisions, and Chapter 155, Zoning) in two modules to facilitate discussion with the STT and Planning Commission.
- Develop regulatory language based on the input received at meetings, through coordination with the STT, and through field study.
- Build the online, interactive functionality, including tags of all definitions and cross-references for the purpose of internal/external hyperlinking.
  - *Deliverables*:
    - Password access to enCodePlus.
    - Two draft modules of the development ordinance published online and delivered in Adobe PDF for electronic distribution and posting on the project website by the City.
    - One round of revisions for each draft module following the review and receipt of comments and suggested revisions from the STT and Planning Commission.
    - Revised draft modules assembled into a Public Review Draft.
  - *Video-Conference or Trip Nos. 2 and 3*: A series of meetings will be held for each module including:
    - A teleconference with the City's Project Director during the drafting of each module;
    - A meeting with the STT held prior to Commission meetings;
    - As necessary, meetings with interest groups;
    - A work session with the Planning Commission to present and discuss the draft ordinance module; and
    - A Council briefing to coincide with Trip No. 2.

2.3. Zoning Map Recommendations.

- Compare the zoning district boundaries with the current zoning map and the Future Land Use Map included in the Strategic Community Plan.
- Recommend zoning boundary adjustments for review by the Planning Commission and City Council.
  - *Deliverable(s):*
    - Memorandum with a map denoted with recommended changes.
    - Optional – On-line GIS interactive zoning map added to the Online Interactive Development Ordinance (see Optional Deliverables under Task 2.1)

**Phase 3, Public Review and Comment.**

3.1. Public Review Draft.

- Prepare a public review draft of the new development ordinance to facilitate final reviews of the STT and Planning Commission.
- Create a presentation that overviews the key features and changes of the new development ordinance.

3.2. Planning Commission Public Hearing.

- Present the draft Development Ordinances to the Planning Commission.
- Receive and record public and Commission input.
  - *Deliverable(s):*
    - Public Review Draft of the development ordinance delivered in Adobe PDF
    - PowerPoint presentation
    - Archive the redline version of the document
  - *Video-Conference or Trip No. 4 Meeting:*
    - STT final review
    - Planning Commission public hearing

**Phase 4, Adoption.**

4.1. City Council Public Hearing.

- Create the Public Hearing Draft based on the input received and recommendations provided by the Planning Commission.
- Attend a City Council public hearing to present the final Development Ordinance.
- Make necessary edits based on the input received and direction provided by the Council.

4.2. Final Published Ordinance.

- Publish the adopted ordinance in the online interactive format.
- Produce and provide electronic files.
  - *Deliverable(s):*
    - Electronic files in MS Word and Adobe PDF
    - Password access to enCodePlus
  - *Trip No. 5 Meeting:*
    - City Council public hearing

## Optional Phase 5, Recodification of Code of Ordinances

The scope of work for a two-phase project is outlined below.

### 5.1. Legal Review and Conference

enCodePlus, LLC hereby offers to perform legal review and implementation services for the City of Freeport, including:

- *Material Included.* Code of Ordinances (Titles I – XV).
- *Legal Review.* An attorney will conduct a title-by-title legal review, including recently enacted ordinances, if they have not been codified. The review will identify obsolete provisions, conflicts and inconsistencies with current state statutes, as well as conflicts with other code sections. State law citations will be checked and necessary changes and additions will be noted. If the City’s concerns are more narrowly defined, the scope of review may be limited to selected chapters or just state law references.

The legal review will result in a legal memorandum that includes recommendations for curing conflicts, deleting obsolete provisions, and other “housecleaning” measures. The legal memorandum will show the attorney’s recommendations as footnotes, with comments, strikethroughs and underlines within the code text, which will allow you to see the context of the issues and recommendations. Comments on ordinances not-yet-codified will appear as endnotes to the legal memorandum. It will be delivered in electronic form. All recommendations are intended for the use of an attorney and are not to be considered legal advice to a layperson.

- *Conflicts.* Most conflicts arise over time, and are caused by changes in other bodies of law, such as the state statutes. The state continually revises its statutes and ordinances based upon previous authority, which may cause conflicts with the state law despite no change to the local law. In order to ensure that a code is adequately maintained, we recommend a complete legal review every five to 15 years, depending upon the number of ordinances passed and the extent to which the state statutes have changed since the last review.
- *Staff of Attorneys.* A staff of full-time attorneys will be used to provide legal services. The attorneys are well-versed in local government law and in areas of concern with regard to codification. They also have the benefit of knowledge gained from experience working with many local governments.
- *Conference.* Within 30 days of the City’s receipt of the Legal Memorandum, an attorney will schedule a conference (via teleconference or video-conference), to discuss the findings of the Legal Memorandum. The discussion should include all interested officials, as their participation will help expedite implementation of the approved recommendations.
- *City Responsibility.* The client agrees to:
  - o *Review Legal Memorandum.* The City shall review the legal memorandum and modify and/or approve the proposed changes, including notations to review during the conference.
  - o *Participation of Attorney.* The City will ensure the City Attorney and other interested personnel will attend and participate in the project, including teleconference meetings, and will review the recommended changes. The City Attorney shall provide approval of items to be implemented in the Code.

### 5.2. Implementation

- *Editorial Work in the enCodePlus Database.* The editorial work on the Code will include the following:

- *Prepare Legal Review Findings.* All approved recommendations will be implemented into the Code database as outlined in the legal memorandum.
  - *Incorporate Ordinances.* The ordinances enacted subsequent to the latest ordinance included in the existing code, may be incorporated into the recodification as appropriate. The amended or repealed provisions will be removed and the new provisions inserted.
  - *History Notes.* History notes from the existing Code will be maintained in the new Code. New notes will be added for each section during the project. The note will indicate the source from which the section is derived. History notes are placed at the end of the section being amended.
  - *Adopting Ordinance.* An adopting ordinance will be provided upon completion of the project.
- *Online Proofs.* After the editorial work is complete, the database proof will be submitted to the City for review. Once the changes have been approved and officially adopted, they will be published live via the enCodePlus™ platform.

4.3. Proposed Cost. Provided upon request.

**Optional Phase 6, Supplemental Services**

KKC will provide a budget for these services upon request.

- *Adoption Follow Up.* Upon adoption and first year administration of the new Development Ordinance, KKC may provide consultant assistance, as follows:
  - *Assemble Staff Notes.* During the initial term of administration, staff of different Town departments will likely make note of wording or dimensional changes or other provisional adjustments as record for consideration of amendments. KKC would assemble these notes, developed by Town staff in a written and consistent form, evaluate them as to warranted amendments, and then draft a recommended amendments memorandum.
  - *Performance Audit.* An audit will be conducted to validate the success of the ordinances in achieving certain performance measures, including the gain in efficiency in processing applications toward approval and the quality of development procedures and outcomes. The results of the audit will be included in the Recommended Amendments Memorandum.
  - *Recommended Amendments Memorandum.* After pulling the staff notes together and analyzing them for any conflicts or inconsistencies, KKC will draft a memorandum outlining the recommended amendments, together with required changes elsewhere in the ordinances or Town Code to ensure their integrity. This memorandum may be presented to the Planning Commission and Council to provide technical guidance.
  - *Draft Amendments.* Based on the above memorandum, KKC will draft the warranted amendments in legislative format for staff review. Upon confirmation of the amendments, Town staff will present them to the Planning Commission and Council for recommendation and adoption. KKC will be available to present the amendments on an Add-Alternate basis. Once adopted, the amendments will be approved and published in enCodePlus, with an archive created of the former ordinance.
- *Codification Health Check.* To ensure that the ordinances have been amended and codified properly, a health check will be conducted by enCodePlus staff. The check will review the format and language of amendments, their consistency with state and federal law, correct numbering, history notes, the effective date, and whether the ordinances are footnoted and hyperlinked within the document.

- *enCodePlus Enhancements*. The Town may opt to request custom enhancements to the software to meet certain demands of Town users, such as use and history reporting or additional features. These will be on a case-by-case basis.
- *Two and Five-Year Updates*. To maintain the integrity of the ordinances and to keep them current with legal and regulatory changes and the latest trends, and to amend them as necessary, KKC will perform a comprehensive assessment and conduct warranted updates.

**enCodePlus Upgrades**

Simultaneous with Phase 3, the City may opt to upgrade enCodePlus to include any or all of the features outlined below. These bundles or a la-carte prices will remain for the duration of the Agreement.

<b>A la-carte Zoning Tools</b>		
Available Features	Price	
	One-Time	Annual
<b>Calculators</b>		
Bufferyards	\$ 2,750	\$ -
Development Yield	\$ 2,750	\$ -
Fees	\$ 2,750	\$ -
Floor Area Ratio (FAR)	\$ 2,750	\$ -
Landscaping/Screening	\$ 2,750	\$ -
Parking	\$ 2,750	\$ -
Shared Parking	\$ 2,750	\$ -
Signage	\$ 2,750	\$ -
Tree Replacement	\$ 2,750	\$ -
<b>GIS</b>		
Code to Map Links		
Interactive Map		
Search by Address		
<b>Advanced GIS</b>	\$ 4,500	\$ 4,000
Land Use Lookup		
Multiple Listing Service	Subscription	
Parcel Buffer Tool		
<b>Premium GIS</b>	\$ 6,500	\$ 4,500
<b>Other Features</b>		
Best Bets	\$ 2,500	\$ 0
Definition Library	\$ 0	\$ 750
eReader	\$ 500	\$ 500
Escrow	\$ 750	\$ 1,000
FAQ	\$ 1,250	\$ 0
Ordinance Research Tool	\$ 0	\$ 750
Multiple Listing Service	\$ 1,250	Subscription
Site Navigator	\$ 750	\$ 500
Section Tags	\$ 1,500	\$ -

<b>Zoning Bundles</b>	
Available Features	
<b>Citizen</b>	
Digital Summary	X
eReader	X
FAQ	X
Site Navigator	X
One-Time	\$10,800
Annual	\$1,500
<b>TOTAL</b>	<b>\$12,300</b>
<b>Builder / Developer</b>	
AppTrak+	X
Calculators (7)	X
GIS	X
Land Use Lookup	X
Multiple Listing Service	X
One-Time	\$31,800
Annual	\$8,350
<b>TOTAL</b>	<b>\$40,150</b>
<b>Planner</b>	
Calculators (7)	X
Definition Library	X
GIS	X
Land Use Lookup	X
Legal Research	X
Training	X
One-Time	\$26,200
Annual	\$7,500
<b>TOTAL</b>	<b>\$33,700</b>



**Project Budget**

FREEPORT, TEXAS ZONING AND SUBDIVISION ORDINANCES				
Key Personnel Title	Principal	Project Manager	Associate	TOTAL
<b>Scope Tasks</b>				
<b>Phase 1. Project Initiation and Orientation</b>				
1.1 Project Orientation				\$1,760
1.2 Stakeholder Meetings				\$3,700
1.3 Meetings with Staff and Planning Commission				\$2,320
1.4 Annotated Outline				\$2,900
<b>Subtotal</b>				\$10,680
<i>Direct Expenses</i>				\$595
<b>TOTAL FOR TASK 1</b>	\$3,660	\$5,220	\$1,800	\$11,275
<b>Phase 2. Interactive Drafting</b>				
2.1 Online Interactive Ordinance	Waived			\$0
2.2 Ordinance Drafting				\$52,900
2.3 Zoning Map Recommendations				\$2,460
<b>Subtotal</b>				\$55,360
<i>Direct Expenses</i>				\$832
<b>TOTAL FOR TASK 2</b>	\$16,800	\$26,680	\$11,880	\$56,192
<b>Phase 3. Public Review and Comment</b>				
3.1 Public Review Draft				\$20,580
3.2 Planning Commission Public Hearing				\$5,440
<b>Subtotal</b>				\$26,020
<i>Direct Expenses</i>				\$1,027
<b>TOTAL FOR TASK 3</b>	\$7,200	\$14,500	\$4,320	\$27,047
<b>Phase 4. UDO Adoption</b>				
4.1 City Council Public Hearing				\$3,700
4.2 Final Published Ordinance				\$3,400
<b>Subtotal</b>				\$7,100
<i>Direct Expenses</i>				\$835
<b>TOTAL FOR PHASE 4</b>	\$2,400	\$2,900	\$1,800	\$7,935
<b>TOTAL For All Phases (without Options)</b>				\$102,450



## Agenda Item # 4

**Title:** Discuss possible ordinance creating a routes and standards for utilization of Golf Carts and ATV's in the on City Streets.

**Date:** September 3, 2020

**From:** Billywayne Shoemaker Building Official

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**Staff Recommendation:**

After discussion with the city attorney Staff's recommendation is that we do not create an ordinance on the utilization of golf courts in the City Of Freeport at this time. The city attorney has advised staff that at this time golf carts are allowed on all city streets by State Law.

**Item Summary:**

State Law

1. A "golf cart", as defined in Sec. 502.001(18) of the Texas Transportation Code, is a motor vehicle designed by the manufacturer primarily for transporting persons on a golf course.
2. Sec. 551.301 defines a "neighborhood electric vehicle" (NEV) as a vehicle that can attain a maximum speed of 35 miles per hour on a paved level surface and otherwise complies with Federal Motor Vehicle Safety Standard 500 (49 C.F.R. Section 571.500).
3. A person operating a motor vehicle, including golf carts, on a highway in this state must hold a driver's license per Sec. 521.021 of the Texas Transportation Code.
4. The definition of "highway" according to the Texas Transportation Code Sec. 541.302(5) is the width between the boundary lines of a publicly maintained way any part of which is open to the public for vehicular travel. Therefore a driver's license is required to operate a motor vehicle on any public roadway.
5. A golf carts and neighborhood electric vehicles are by definition motor vehicles and therefore must comply with all traffic laws, including speed limits, stop signs, and the prohibition against driving while intoxicated.

6. The Texas Transportation Code allows the operation of a golf cart or NEV vehicle in a master planned community (i.e. the neighborhoods of Harbor Oaks, Key Allegro, Rockport Country Club, and Spanish Woods), on a public or private beach, and on a public highway with a posted speed limit of no more than 35 mph; if the golf cart is operated during daylight hours and is not more than two (2) miles from its residence and is travelling to or from a golf course (see Sec. 551.403). Therefore, a golf cart operated in accordance to these limitations is only exempt from the City of Rockport ordinance, not the traffic law.

7. Sec. 551.404 of the Texas Transportation Code allows the City of Rockport to authorize the use of golf carts and NEVs within the city limits as long as the posted speed limit is not more than 35 mph and the golf cart must have the following required equipment: headlamps, tail lamps, reflectors, parking brake, and mirrors.

8. Sec. 551.405 of the Texas Transportation Code allows golf carts to cross over a road or street with a posted speed limit more than 35 mph.

**Supporting Documentation:**

None.



## Agenda Item # 5

**Title:** Discuss a possible ordinance amending section 150.011 of the code of ordinances of the City of Freeport.

**Date:** September 3, 2020

**From:** Billywayne Shoemaker Building Official

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**Staff Recommendation:**

Since this ordinance was adopted only one variance has been requested. This variance was approved. All builders that have built to this new standard have had no difficulty selling their product. One amendment was made to accommodate grant recipients. Staff recommendation is to leave this ordinance intact. The only modification would be possible allowing for the Building Official the discretion of an exception of no more than 10%.

**Item Summary:**

On April 25, 2017 the planning and Zoning board had the following discussion with the former Building Official. The 2015 Edition of the International Residential Code adopted by the City of Freeport does not provide a minimum size for a dwelling unit. The popularity of "tiny homes" has prompted several inquiries regarding the construction of extremely small homes. While this may be a new trend in certain areas, there is concern for such homes to cause unhealthy conditions such as overcrowding and also the devaluation of existing homes adjacent to the smaller homes. Many cities have deed restrictions and home owner associations that would prevent the construction of "tiny homes" but that is not the case in Freeport. Zoning restrictions control lot sizes, setbacks, and other situations but not the size of a dwelling unit. This ordinance would set a minimum size for dwelling units in the City to protect property values and also to maintain good health standards.

The board held a discussion to consider whether or not to recommend to the City Council that Section 150.011 of the Code of Ordinances be amended to adopt. as a modification of the 2015 edition of the International residential code adopted by Section 150.01 of said Code of Ordinances. a requirement that each dwelling unit shall have a minimum of thousand (1.000) square feet in area with the exclusions included therein.

On a motion by Lisa Girourd, seconded by Cindy Cain, with all present voting "Aye", the Planning Commission unanimously approved whether or not to recommend to the

City Council that Section 150.011 of the Code of Ordinances be amended to adopt, as a modification of the 2015 edition of the International residential code adopted by Section 150.01 of said Code of Ordinances, a requirement that each dwelling unit shall have a minimum of thousand (1,000) square feet in area with the exclusions included therein.

The City Council asked that this be sent back to Planning and Zoning to increase the minimum size of habitable living space and also request that all residential structures be required to include a minimum of a single car enclosed garage with no requirement of either attached or detached.

On July 17, 2017 the Planning and zoning board held discussion and took the following action.

On a motion by Lisa Girouard, seconded by Johnathan Sublet, with all present voting "Aye", the Planning Commission unanimously approved whether or not to recommend to the City Council that Section 150.011 of the Code of Ordinances be amended to adopt, as a modification of the 2015 edition of the International residential code adopted by Section 150.01 of said Code of Ordinances, a requirement that each dwelling unit shall have a minimum of one thousand three hundred, (1,300) square feet of habitable living space in area with the exclusions included therein and at minimum a single car enclosed garage, either attached or detached.

During a joint meeting before Planning and Zoning and the Council, Consideration of the final draft of the proposed ordinance was heard and upon conclusion of discussion and on a motion by Council woman Loeza, seconded by Councilman Bass, with all present voting "Aye", Council unanimously approved Ordinance No. 2018-2560 adding the provision that each dwelling unit shall have a minimum of one thousand three hundred (1,300) square feet of habitable living space, and a provision requiring all new residential construction to include at a minimum a single enclosed garage either attached or detached.

**Supporting Documentation:**

None.



## Agenda Item # 6

**Title:** Discuss and Take action on previously tabled item, to recommend to the City Council a change to Chapter 76. Amending section 76.02, C 13, 14, and 15.

**Date:** September 3, 2020

**From:** Billywayne Shoemaker Building Official

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**Staff Recommendation:**

Recommend to City Council that the Truck Routes be changed due to designed standards of the streets.

**Item Summary:**

5th street was improved in 2017 and designed to replace the existing truck route. Due to the increased deterioration of the existing truck route truck traffic should be rerouted to the properly designed infrastructure.

**Background Information:**

The Item was brought to the Planning and Zoning board previously on December 12, 2017 and the item was tabled. This item again was brought before the Planning and Zoning Board in June of this year but was not heard because there was not a quorum available to vote on the item.

**Supporting Documentation:**

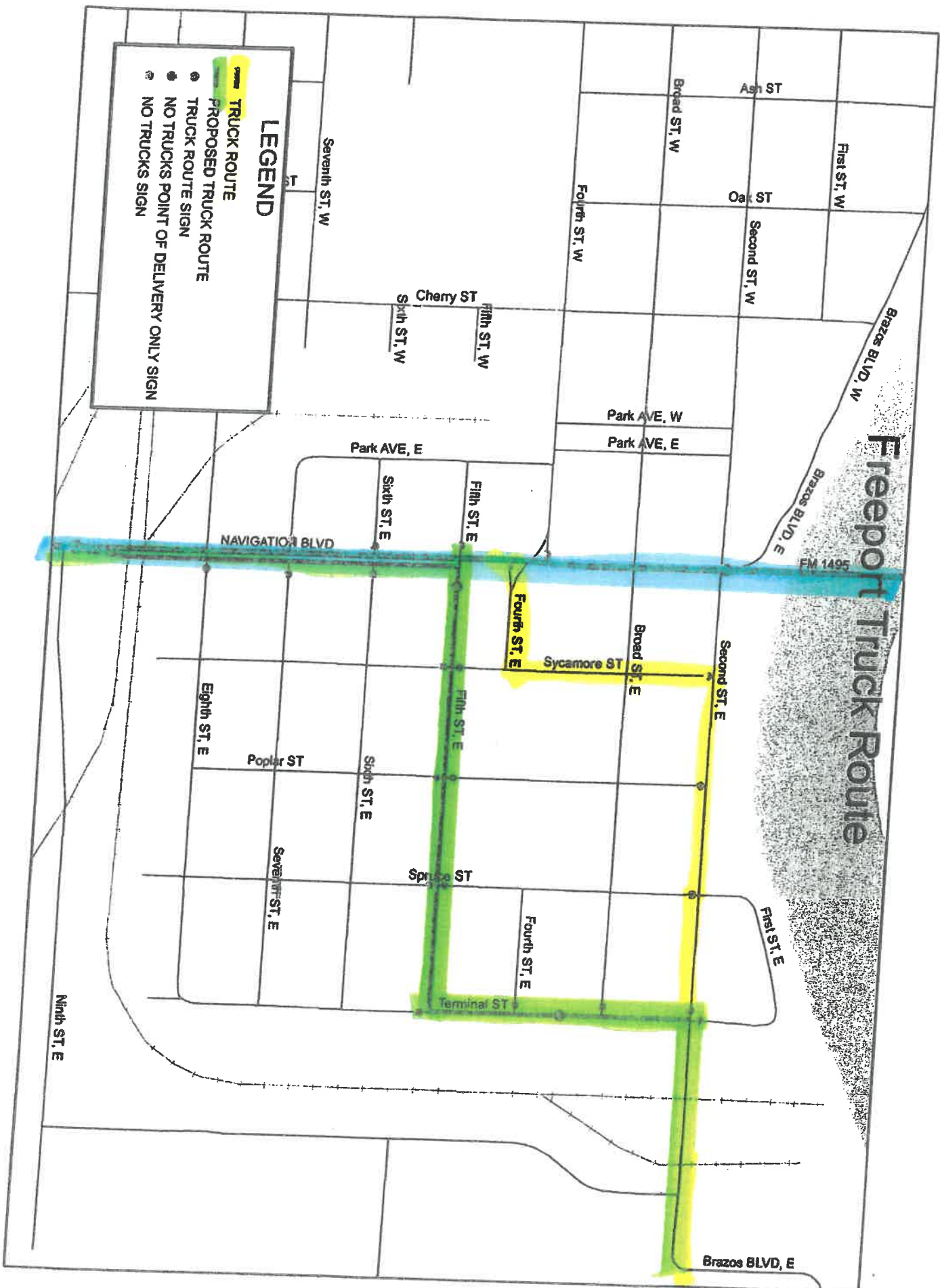
Copy of existing ordinance attached as well as a copy of the map showing existing and proposed route. Supporting Documentation:



# Freeport Truck Route

**LEGEND**

- TRUCK ROUTE
- PROPOSED TRUCK ROUTE
- TRUCK ROUTE SIGN
- NO TRUCKS POINT OF DELIVERY ONLY SIGN
- NO TRUCKS SIGN



## **76.02 RESTRICTIONS ON TRANSPORTATION OF CARGO.**

(A) No person shall operate a truck other than a light truck, or a truck tractor with a trailer attached thereto, for the purpose of transporting bulk or freight on any public street in the city, or any portion thereof, other than a street, or portion thereof, designated in division (C) of this section for the transportation of bulk or freight.

(B) No person shall operate a truck, or a truck tractor with a trailer attached thereto, for the purpose of transporting any hazardous material on any public street in the city, or any portion thereof, other than a street, or portion thereof, designated in division (C) of this section for the transportation of hazardous material.

(C) The following streets, or indicated portions thereof, are authorized for the bi-directional transportation of bulk, freight or hazardous materials, as designated:

(1) Highway 332, within city limits: bulk, freight or hazardous materials.

(2) Brazosport Boulevard (State Highway 288), within city limits: bulk, freight or hazardous materials.

(3) Navigation Boulevard (FM 1495) between the south city limits and FM 523: bulk, freight or hazardous materials.

(4) FM 523 from Navigation Boulevard (FM 1495) junction north to Highway 332: bulk, freight or hazardous materials.

(5) Velasco Boulevard from FM 523 junction to South Avenue A: bulk or freight only.

(6) South Avenue A, from Archer to Division Street: bulk or freight only.

(7) Division Street, from South Avenue A to Gulf Boulevard: bulk or freight only.

(8) Gulf Boulevard, from Brazosport Boulevard to Navigation Boulevard (FM 1495): bulk, freight or hazardous materials.

(9) West 4th Street, from Brazosport Boulevard to Arbutus Street: bulk or freight only.

(10) Arbutus Street, from West 4th Street to West 2nd Street: bulk or freight only.

(11) Oak Street, from West Brazos to West 4th Street: bulk or freight only.

(12) West 4th Street, from Oak Street to Navigation Boulevard (FM 1495): bulk and freight only.



~~(13) East 4th Street, from Navigation Boulevard (FM 1495) to Sycamore: freight and hazardous materials.~~

East 5<sup>th</sup> Street, from Navigation Boulevard (FM 1495) to Terminal: freight and hazardous materials.

~~(14) Sycamore Street, from East 4th Street to East 2nd Street: bulk, freight and hazardous materials.~~

Terminal Street, from East 5<sup>th</sup> Street to East 2<sup>nd</sup> Street: bulk, freight and hazardous materials.

(15) East Brazos, entire length: bulk, freight and hazardous materials. Provided, all ingress and egress for fuel deliveries shall use the East 4th Street exit from Navigation Boulevard (FM 1495) to Sycamore Street to West Brazos.

(16) West 8th Street, from Navigation Boulevard (FM 1495) to Cherry Street: bulk and freight only.

(17) Cherry Street, from West 8th Street to Highway 36: bulk and freight only.

(18) South Avenue D, from Velasco Boulevard to Navigation Boulevard (FM 1495): bulk and freight only.

(19) East 2nd Street, from FM 1495 to end of roadway: bulk, freight and hazardous materials. Provided, however, all hazardous materials deliveries shall ingress and egress using the ~~East 4th Street exit from Navigation Boulevard (F.M. 1495) to Sycamore Street to~~ East 2nd Street.

5<sup>th</sup> Street exit from Navigation Boulevard (FM 1495) to Terminal Street to

(20) Zapata Street, from Brazosport Boulevard to end of roadway: bulk and freight only.

(21) Skinner Street, from Brazosport Boulevard to North Avenue J: bulk and freight only.

(22) North Avenue J, from Skinner Street to Varner Street: bulk and freight only.

(23) Varner Street, from North Avenue J to Brazosport Boulevard, bulk and freight only.

(24) Victoria Street, from Brazosport Boulevard to end of roadway: bulk and freight only.

(25) Archer Street, from South Avenue A to South Gulf Boulevard: bulk and freight only.

- (26) Sailfish, from Highway 332 to end of roadway: bulk and freight only.
- (27) Tarpon, from Sailfish to Marlin Avenue: bulk and freight only.
- (28) Marlin Avenue, from Tarpon to the end of the roadway: bulk and freight only.
- (29) Casco, from Highway 332 to end of roadway: bulk and freight only.

(D) All liquid and solid hazardous materials, including precursors, are prohibited within a one city block radius of the City Hall of the city.

(E) Box or cargo vans delivering supplies and cargo within the one block radius of the City Hall of the city are subject to a 15-minute or one-fourth hour parking rule.

(Ord. 2002-1985, passed 6-17-02) Penalty, see § 10.99