

NOTICE OF PUBLIC MEETING
THE FREEPORT CITY COUNCIL
MONDAY, NOVEMBER 5TH, 2012, 6:00 P.M.
FREEPORT MUNICIPAL COURT ROOM
FREEPORT POLICE DEPARTMENT, 430 NORTH BRAZOSPORT BLVD.
FREEPORT, TEXAS

AGENDA
FORMAL SESSION

1. Call to order.
2. Invocation.
3. Pledge of Allegiance.
4. Consideration of approving the October 15th, 2012 Council Minutes. Pg. 700-703
5. Attending citizens and their business.
6. Consideration of approving Resolution No. 2012-2401 appointing a qualified person to fill the unexpired term of Laverne Siemers of the Library Board. Pg. 704-705
7. Consideration of approving Resolution No. 2012-2402 authorizing and directing the Mayor to submit a letter to the State Comptroller in compliance with Section 2206.101 of the Texas Government Code which requires cities and other Governmental Entities to submit information concerning their authority to exercise the Power of Eminent Domain and making other provisions related to the subject. Pg. 706-709
8. Consideration of approving Resolution No. 2012-2403 designating the City Manager to act for and on behalf of the City of Freeport in dealing with the State of Texas General Land Office for the purpose of applying for state assistance to clean and maintain the public beach. Pg. 710
9. Consideration of approving Ordinance No. 2012-2028 enacting and adopting a supplement (S-16) to the Code of Ordinance of the City of Freeport. Pg. 711-712
10. Consideration of repealing Ordinance No. 2012-2026 and approving Ordinance No. 2012-2029 amending the Comprehensive Zoning Ordinance of said City to permit the specific use of Block 712, Lots 18, 19 and 20, Velasco Townsite, within the corporate limits of said City, known locally as 1213 N. Ave. J as site for a communication tower to be operated by Jim Dibble and Skyway Towers. Pg. 713-718

Executive Session:

Section 551.074, Government Code

Deliberations concerning duties and responsibilities of a public officer or employee to wit:

- City Manager

Adjourn

Items not necessary discussed in the order they appear on the agenda. The Council at its discretion may take action on any or all of the items as listed. This notice is posted pursuant to the Texas Open Meeting Act. (Chapter 551, Government Code).

In compliance with the Americans with Disabilities Act, the City of Freeport will provide for reasonable accommodations for persons attending City Council Meetings.

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

I, Delia Munoz City Secretary for the City of Freeport, Texas certify that this agenda was posted on the official bulletin board/glass door of City Hall, facing the rear parking lot of the building, with 24 hours a day public access, 200 West 2nd Street, Freeport Texas, November 2nd, 2012 at or before 5:00 p.m.

Delia Munoz - City Secretary
City of Freeport, Texas

State of Texas

County of Brazoria

City of Freeport, Texas

BE IT REMEMBERED, that the City Council of the City of Freeport met on Monday, October 15th, 2012 at 6:00 p.m., at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, for the purpose of considering the following agenda items:

City Council: Norma M. Garcia
Michelle Kent
Fred Bolton
Sandra Loeza
Sandra Barbree

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

Visitors: John Mercer
Jim Pirrung
Lila Lloyd
Manning Rollerson
Dorothy Pirrung
Officer Paul Rodriguez

Call to order.

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

Invocation.

Wallace Shaw offered the invocation.

Pledge of Allegiance.

Mayor Norma Garcia led the Pledge of Allegiance.

Consideration of approving the October 1st, 2012 Council Minutes.

On a motion by Councilwoman Kent, seconded by Councilwoman Barbree, with all present voting "aye", Council unanimously approved the October 1st, 2012 Council Minutes.

Attending citizens and their business.

Manning Rollerson thanked Council for doing a good job and said that Council members need to get paid more for their Council positions. He suggested the City having a trash service instead of employing Waste Management.

Consideration of approving Ordinance No. 2012-2027 pertaining to the Brazoria County Erosion Response Plan; amending Ordinance No. 2010-2263 the Dune Protection and Beach Access Plan of the City of Freeport, Texas to adopt Revisions 1 of the Brazoria County Erosion Response Plan.

On a motion by Councilwoman Kent, seconded by Councilwoman Loeza, with all present voting "aye", Council unanimously approved Mr. Arispe's recommendation to approve Ordinance 2012-2027 pertaining to the Brazoria County Erosion Response Plan; amending Ordinance No. 2010-2263 the Dune Protection and Beach Access Plan of the City of Freeport, Texas to adopt Revisions 1 of the Brazoria County Erosion Response Plan.

Consideration of approving Resolution No. 2012-2400 adopting the Houston Galveston Area Council Regional Hazard Mitigation Plan – 2011.

On a motion by Councilwoman Kent, seconded by Councilwoman Barbree, with all present voting "aye", Council unanimously approved Mr. Brian Davis recommendation to approve Resolution No. 2012-2400 adopting the Houston Galveston Area Council Regional Hazard Mitigation Plan -2011.

Consideration of approving the bids and awarding the contract for the City of Freeport Central Lift Station Rehabilitation.

On a motion by Councilman Bolton, seconded by Councilwoman Barbree, with all present voting "aye", Council unanimously approved Project Engineer John Mercer's recommendation to approve the bids and award the contract to LL& F Construction Management, Inc. of El Campo, Texas for \$842,290.80.

Consideration of advertising for bids on Block 87, Lots 9 & 12, Velasco Townsite, known as 18 & 24 South Avenue F., Tx Id 8110-0880-000.

On a motion by Councilwoman Kent, seconded by Councilwoman Loeza, with all present voting "aye", Council unanimously approved advertising for bids on Block 87, Lots 9 & 12, Velasco Townsite known as 18 & 24 South Avenue F., Tx. Id. 8110-0880-000.

Consideration of selling the City's interest in Tract 6, Block W, Abstract 90 (Slaughter Road area) Tax Id 0090-0016-110.

On a motion by Councilwoman Kent, seconded by Councilwoman Barbree, with all present voting "aye", Council unanimously approved selling the City's interest in Tract 6 Block W, Abstract 90 (Slaughter Road area) Tax Id 0090-0016-110.

Consideration of final judgment and possible sheriff sale on Block 6, Lots 13 thru 21, Velasco Townsite, known as 107 thru 123 South Gulf Boulevard, Id 0090-0016-110.

On a motion by Councilman Bolton, seconded by Councilwoman Loeza, with all present voting "aye", Council unanimously approved a final judgment and possible sheriff's sale on Block 6, Lots 13 thru 21, Velasco Townsite, known as 107 thru 123 South Gulf Boulevard, Id 0090-0016-110.

Consideration of approving a special warrant deed correction in substitution for the earlier deed dated May 21st, 2012 recorded in the official records of Brazoria County as Document # 2012022681; property conveyed to Gary Woodring, being 0.764 acres of land out of S.F. Austin Survey, Abstract 32 and S.F. Austin Survey, Abstract 33, City of Freeport, Brazoria.

On a motion by Councilwoman Barbree, seconded by Councilwoman Kent, with all present voting "aye", Council unanimously approved a special warrant deed correction in substitution for the earlier deed dated May 21st, 2012 recorded in the official records of Brazoria County as Document # 2012022681; property conveyed to Gary Woodring, being 0.764 acres of land out of S.F. Austin Survey, Abstract 32 and S.F. Austin Survey, Abstract 33, City of Freeport, Brazoria.

Consideration on any item discussed in Executive Session.

On a motion by Councilman Bolton, seconded by Councilwoman Barbree, with all present voting "aye", Council unanimously approved to increase the hourly rate of the city attorney from \$90.00 to \$110.00.

Mayor Norma Garcia closed the formal session and opened the Executive Session at 6:25 p.m.

Executive Session:

Section 551.074, Government Code

Deliberations concerning duties and responsibilities of a public officer or employee to wit;

- City Manager

Section 551.074, Government Code

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

- City Attorney- Wallace Shaw

(Mayor Norma Garcia closed the Executive Session at 7:18 p.m. and reconvened the formal session to motion on No. 13 of the agenda).

Adjourn

On a motion by Councilwoman Kent, seconded by Councilman Bolton, with all present voting "aye", Council adjourned at 7:20 p.m.

Mayor Norma Moreno Garcia
City of Freeport, Texas

City Secretary – Delia Munoz
City of Freeport, Texas

RESOLUTION NO. 2012-2401

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, NOMINATING, CONSTITUTING AND APPOINTING A QUALIFIED PERSON TO THE LIBRARY BOARD OF THE CITY; PROVIDING FOR THE DUTIES OF OFFICE; AND PROVIDING FOR THE TAKING OF THE OATH OF OFFICE REQUIRED BY LAW.

WHEREAS, the term of office of LAVERN SIEMERS as a member of the Library Board of the City of Freeport, Texas ("the City") has expired; and,

WHEREAS, the City Council of the City desires to appoint the below named qualified person as a member of said board.

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

SECTION ONE (1): APPOINTMENT

The City Council of the City hereby nominates, constitutes and appoints the following named qualified person to the Library Board of the City for a full term and until a successor for such person shall have been appointed and qualified, to-wit: PEGGY OSBURN.

SECTION TWO (2): DUTIES

The above named appointee shall perform all of the duties imposed on members of the Library Board of the City by law and the ordinances and resolutions of the City.

SECTION THREE (3): OATH OF OFFICE

Before engaging in the performance of the duties of office, such appointees shall take the Constitutional Oath of Office and sign the affidavit required by law.

READ, PASSED AND ADOPTED this ____ day of _____, 2012

**Norma Moreno Garcia, Mayor
City of Freeport, Texas**

**ATTEST: _____
Delia Muñoz, City Secretary
City of Freeport, Texas**



Boards and Commissions Application

Name: Peggy Osburn

Address: 1714 West 10th, Freeport, Tx 77541

Home Phone: (979) 233-5178 Alternate Phone () _____

Email (optional): _____

Do you live inside the City Limits? Yes No If yes, for how long? 55 yrs

Do you live in the Extra Territorial Jurisdiction? Yes No

Are you registered to vote in Brazoria County? Yes No

Please indicate by rank which Board or Commission you wish to serve on by placing your 1st through 3rd choice in the appropriate box.

<input type="checkbox"/>	Planning Commission
<input type="checkbox"/>	Main Street Board
<input type="checkbox"/>	Board of Adjustments
<input type="checkbox"/>	Urban Renewal Board
<input type="checkbox"/>	Senior Citizens Committee

<input checked="" type="checkbox"/>	Library Board
<input type="checkbox"/>	Beautification/Parks & Recreation
<input type="checkbox"/>	Historical Commission
<input type="checkbox"/>	Economic Development
<input type="checkbox"/>	Charter Review

The City Council will make appointments to the Boards and Commissions. This application will be given to them for review. Please explain why you wish to serve, and what you consider to be your qualifications.

I would like to serve on the Library Board to support the Library and Freeport. I have had a library card for many year - helped start the Book Club and I am a member of Friends of the Library. I look forward to serving if selected - Thank you -

Signature Peggy Osburn Date: 10-23-12

- Step 1: Fill Out this Application.
- Step 2: Attach a cover letter or resume if you would like.
- Step 3: Mail the application and any other related information to the City Secretary, or fax: (979) 233-8867.

If you have any questions about the process or about a particular board or commission, please call Delia Munoz at (979) 233-3526.

RESOLUTION NO. 2012-2402

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS AUTHORIZING AND DIRECTING THE MAYOR TO SUBMIT A LETTER TO THE STATE COMPTROLLER IN COMPLIANCE WITH SECTION 2206.101 OF THE TEXAS GOVERNMENT CODE WHICH REQUIRES CITIES AND OTHER GOVERNMENTAL ENTITIES TO SUBMIT INFORMATION CONCERNING THEIR AUTHORITY TO EXERCISE THE POWER OF EMINENT DOMAIN; AND MAKING OTHER PROVISIONS RELATED TO THE SUBJECT.

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

Section 1. The Mayor is hereby authorized and directed to submit the attached letter to the State Comptroller in compliance with the requirements of Section 2206.101 of the Texas Government Code, which requires cities and other governmental entities to submit information concerning their authority to exercise the power of eminent domain.

Section 2. The Mayor shall submit the letter by certified mail, return receipt requested to the Texas State Comptroller.

Section 3. The City Secretary shall retain in the City's permanent records copies of the letter and the documents showing that it was submitted to the Texas State Comptroller by certified mail, return receipt requested.

PASSED, APPROVED, AND RESOLVED this ____ day of _____, 2012.

Norma Moreno Garcia, Mayor

ATTEST:

Delia Munoz, City Secretary

_____, 2012

COMPTROLLER OF PUBLIC ACCOUNTS
P. O. Box 13942,
Austin, TX 78711

CERTIFIED MAIL NUMBER
RETURN RECEIPT REQUESTED

Re: Eminent domain authority of the City of Freeport, TX

Dear Ms. Combs:

This letter is sent to you by certified mail, return receipt requested, stating to you that the City of Freeport, Texas, ("the City") is authorized by the State of Texas to exercise the power of eminent domain and identifying each provision of law that grants the City that authority. The information contained in this letter is provided to you pursuant to the requirements of Section 2206.101 of the Texas Government Code.

For your information, the City is a Home-Rule Municipality as defined in Section 5.004 of the Texas Local Government Code and is located in Brazoria County, Texas. As a Texas municipality, the City has been granted general authority to "exercise the right of eminent domain for a public use to acquire public or private property, whether located inside or outside the municipality ..." Tex. Loc. Gov't Code § 251.001.

In addition to § 251.001, there are number of other statutory provisions that grant eminent domain authority, in specific circumstances, to municipalities or to separate entities created or governed by municipalities. Many of those statutory provisions do not currently apply to the City because the circumstances or conditions necessary to the exercise of eminent domain powers do not currently exist in the City or because the City has not created the specified entities, but may apply in the future. A comprehensive list of those statutory provisions is attached as Exhibit "A". Further, Section 2.03 of the Home Rule Charter of the City authorizes the City to exercise the power of eminent domain. A copy of that section is attached as Exhibit "B".

I have been authorized by resolution of the City Council of the City to submit this information to you on the City's behalf. Thank you for your attention.

Sincerely

Norma Moreno Garcia, Mayor
City of Freeport, Texas

EXHIBIT A

List of other statutory and constitutional provisions

Citation	Title
Tex. Loc. Gov't Code § 214.136	Acquisition of property by municipality to enforce building lines
Tex. Loc. Gov't Code § 241.903 (b)	Acquisition of air rights or other Property by municipality
Tex. Loc. Gov't Code ch. 273	Acquisition of property by municipality for certain purposes listed in chapter
Tex. Loc. Gov't Code § 280.001	Acquisition of property by municipality for use of United States
Tex. Loc. Gov't Code § 281.050	Acquisition of property by municipal civic center authority
Tex. Loc. Gov't Code ch. 331	Acquisition of property by municipality for parks, museums, and historical sites
Tex. Loc. Gov't Code § 335.071	Acquisition of property by sports and community venue districts
Tex. Loc. Gov't Code § 374.015	Acquisition of property by municipality for urban renewal
Tex. Loc. Gov't Code § 379B.0045	Acquisition of property by defense base development authorities
Tex. Loc. Gov't Code ch. 392	Acquisition of property by municipal housing authorities
Tex. Loc. Gov't Code § 504.106	Acquisition of property by Type A Economic Development Corporations
Tex. Loc. Gov't Code § 505.105	Acquisition of property by Type B Economic Development Corporations
Tex. Loc. Gov't Code § 507.103	Acquisition of property by Spaceport Development Corporations
Tex. Loc. Gov't Code ch. 552.002	Acquisition of property by municipality for municipal public utility systems
Tex. Loc. Gov't Code § 571.004	Acquisition of property by municipality for seawalls, breakwater, levee, floodway, or drainway
Tex. Loc. Gov't Code § 572.013	Acquisition of property by public entities participating in joint water or sewer service projects
Tex. Loc. Gov't Code ch. 601	Acquisition of property by municipal parking authorities
Tex. Gov't Code § 1505.114	Acquisition of property by municipalities with deep water ports
Tex. Gov't Code § 1506.060	Acquisition of property by home-rule municipalities for parking facilities
Tex. Health & Safety Code § 262.028	Acquisition of property by municipal hospital authorities
Tex. Health & Safety Code § 265.052	Acquisition of property by joint county-city hospital boards
Tex. Transp. Code § 22.011	Acquisition of property by municipality or county for airport purposes
Tex. Transp. Code § 173.159	Acquisition of property by intermunicipal rail district
Tex. Transp. Code § 224.002	Acquisition of property by municipality for state highway project

- Tex. Transp. Code § 311.033 Acquisition of property by municipality for state highway project for Freeway
- Tex. Transp. Code § 311.092 Acquisition of property by municipality for street or alley improvements for assessment projects
- Tex. Transp. Code § 314.011 Acquisition of property by municipality for highway projects
- Tex. Transp. Code § 317.007 Acquisition of property by municipality to eliminate grade crossing
- Tex. Transp. Code § 451.058 Acquisition of property by rapid transit authorities
- Tex. Util. Code § 186.054 Acquisition by municipally owned utility of Property along, over, under, or across a railroad or railroad right-of-way
- Tex. Water Code § 11.033 Acquisition of property by political subdivisions for water purposes
- Tex. CONST. Art. XI, § 5 Granting home rule cities general powers of local self-government

Exhibit "B"

Sec. 2.03. - Eminent Domain.

The City shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and laws of the State of Texas. The City may exercise the power of eminent domain in any manner authorized or permitted by the Constitution and laws of this State. The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.

1 A copy of the Home Rule Charter of the City containing the foregoing section is on file in the office of the Secretary State of the State of Texas.

RESOLUTION 2012-2403

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, DESIGNATING CITY MANAGER JEFF PYNES TO ACT FOR AND ON BEHALF OF THE CITY OF FREEPORT IN DEALING WITH THE TEXAS GENERAL LAND OFFICE FOR THE PURPOSE OF APPLYING FOR STATE ASSISTANCE TO CLEAN AND MAINTAIN THE PUBLIC BEACH.

ON THIS Monday, November 5th, 2012, the City Council of the City of Freeport, Texas, convened in a regular meeting, notice of the convening of which was duly posted in accordance with the Texas Open Meetings Act, when among other business the City adopted the following resolution:

A resolution in connection with application of Bryan Beach for State assistance in cleaning, and maintaining public beach for the period of September 1, 2012 to August 31, 2013.

WHEREAS, the Beach Maintenance Fund Program under the administration of the Texas General Land Office, Austin Texas, requires each city making application for assistance in cleaning and maintaining public beaches to submit supportive documents: and,

WHEREAS, each city shall enter a resolution directing Jeff Pynes to make application for funds and vesting that official with full authority to act for purpose of the program.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, BRAZORIA COUNTY, TEXAS;

That Bryan Beach apply for state assistance in cleaning and maintaining the public beach under Section 61.076, Natural Resources Code; and

That Jeff Pynes shall be vested with full authority to act for purpose of the program.

That any and all fees collected by reimbursement shall be utilized only and specifically for the program of beach maintenance.

READ, PASSED AND APPROVED this _____ day of _____, 2012.

Mayor Norma M. Garcia
City of Freeport, Texas

Delia Munoz, City Secretary
City of Freeport, Texas

ORDINANCE NO. 2012-2028

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCE OF THE CITY; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE AND ADOPTION.

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

WHEREAS, pursuant to the provisions of Chapter 53 of the Local Government Code, the City Council of the City by its Ordinance No. 1806, read, passed and adopted on the 9th day of September, 1996, adopted a Code of Ordinance for the City prepared by American Legal Publishing Corporation of Cincinnati, Ohio ("ALP"); and,

Whereas, supplements S-1, S-2, S-3, S-4, S-5, S-6, S-7, S-8, S-9, S-10, S-11, S-12, S-13, S-14 and S-15 to said Code of Ordinances prepared by ALP have heretofore been adopted by Ordinance Numbers 1817, 1813, 1853, 1888, 2001-1931, 2002-1998, 2003-2024, 2005-2104, 2006-2136, 2007-2175, 2008-2211-B, 2009-2225, 2010-2258 and 2011-2290 of the City, respectively; and,

WHEREAS, ALP has completed supplement S-16 to said Code of Ordinance containing all ordinances of a general and permanent nature enacted since the adoption of Supplement S-16 and has recommended its adoption by the enactment of this ordinance.

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

First, Supplement S-16 to the Code of Ordinances of the City of Freeport, Texas, as submitted by ALP, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Second, such supplement shall be deemed published as of the day of its adoption and approval by the City Council and the City Secretary is hereby authorized and directed to insert such supplement into the copy of such Code of Ordinances kept on file in the City Secretary's office.

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

READ, PASSED AND ADOPTED this _____ day of _____, 2012.

**Norma Moreno Garcia, Mayor,
City of Freeport, Texas**

ATTEST:

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

APPROVED AS TO FORM ONLY

**Wallace Shaw, City Attorney
City of Freeport, Texas**

C:\Freeport-Code\UpDate-S16

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF SAID CITY TO PERMIT THE SPECIFIC USE OF LOTS 18, 19 AND 20, BLOCK 712, VELASCO TOWNSITE, WITHIN THE CORPORATE LIMITS OF SAID CITY KNOWN LOCALLY AS 1213 N. Ave. J, AS SITE FOR A COMMUNICATIONS TOWER TO BE OPERATED BY JIM DIBBLE AND SKYWAY TOWERS, UNDER CERTAIN CONDITIONS THEREIN SPECIFIED; CONTAINING A SEVERANCE CLAUSE; PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE AND APPROVAL; AND REPEALING ORDINANCE NO. 2012-2026.

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

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

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

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

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

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

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

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

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

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

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

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

The Zoning Ordinance is hereby amended and a Specific Use Permit is hereby granted with respect to Lots 18, 19 and 20, Block 712, Velasco Townsite, according to the map or plat of said subdivision on file in the Office of the County Clerk of Brazoria County, Texas, known locally as 1213 N. Ave. J, , Freeport, Texas, hereinafter called "the premises", to authorize the use of the premises as a site for a communications tower to be operated by Jim Dibble and Skyway Towers, hereinafter collectively called "the Permittees", under the following terms and conditions, viz:

First, the following regulations shall apply:

(1) The tower shall be constructed so that, in the event it falls, such tower will fall within a distance of 150 feet from the center of the tower.

(2) The tower shall not exceed two hundred fifty (250) feet in height.

(3) The tower and any other improvements on the premises shall be constructed and maintained in a good and workmanlike manner and shall have an approved FAA light on top.

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

(5) Together with any other improvements constructed on the premises, the tower shall be completely surrounded by an eight foot (8') board on board type fence with an eight foot (8') foot board on board double gate containing two six (6') foot wide panels and with the boards positioned so as to screen the cabinet and other improvements thereon from being viewed from outside the premises at ground level.

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

(7) Any supplies, equipment or products kept on the premises must be stored within the fenced compound.

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

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

Second, the Permit herein granted shall automatically terminate if the Permittees cease to use the premises for the permitted purpose for ninety (90) consecutive days, attempts to assign this permit, or sells his or its interest to any third person, firm or corporation without such third person, firm or corporation agreeing in writing to be bound by the terms hereof, or if the Permittees' interest in the premises ends or is terminated for any reason.

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

SECTION THREE--Automatic Repealer Clause.

All of the section or provision of this ordinance were adopted and are intended by the City Council of the City to be an integrated whole. Therefore, if any section or provision is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared not to be severable from the remaining sections and provisions of this ordinance and such remaining sections and provisions and this ordinance shall thereupon automatically cease to be of any further force and effect.

SECTION FOUR--Effective Date.

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

SECTION FIVE--Repeal of Ordinance No. 2012-2026.

Ordinance No. 2012-2026 read, passed and adopted on the 1st day of October, 2012, is hereby repealed.

READ, PASSED AND ADOPTED this _____ day of _____, 2012.

Norma Merino Garcia, Mayor,
City of Freeport, Texas

ATTEST:

Delia Muñoz, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

Wallace Shaw, City Attorney,
City of Freeport, Texas

AGREED TO AND ACCEPTED by the Permittee this _____ day of _____, 2012

"Permittees.

Jim Dibble, Individually

SKYWAY TOWER

By _____
Name Printed: _____
Title: _____

ATTEST:

Name Printed: _____
Title: _____

THE STATE OF TEXAS X
COUNTY OF BRAZORIA X

This instrument was acknowledged before me on the _____ day of _____, 2012, by Jim Dibble, Individually.

Notary Public, State of Texas

THE STATE OF TEXAS X
COUNTY OF BRAZORIA X

This instrument was acknowledged before me on the _____ day of _____, 2012, by _____, the _____ of Skyway Towers, a _____, on behalf of said _____.

Notary Public, State of Texas

C:\Freeport.SUP\Jim Dibble & Skyway Towers