



**AGENDA  
REGULAR MEETING  
FREEPORT CITY COUNCIL  
MONDAY, DECEMBER 16, 2019 at 6:00 P.M.**

**Mayor:**

Brooks Bass

**Council Members:**

Ken Green  
Jerry Cain  
Sandra Loeza  
Roy Yates

**City Manager:**

Timothy Kelty

**THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, WILL MEET ON MONDAY, THE 16th DAY OF DECEMBER 2019, AT 6:00 P.M., AT THE FREEPORT POLICE DEPARTMENT, MUNICIPAL COURT ROOM, 430 NORTH BRAZOSPORT BOULEVARD, FREEPORT TEXAS FOR THE FOLLOWING PURPOSES:**

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

**INVOCATION AND PLEDGE OF ALLEGIANCE:** (Council Member)

**CITIZENS' COMMENTS:**

Members of the public are allowed to address the City Council at this time. *Note*, specific factual information or a recitation of existing policy may be furnished in response to an inquiry made, but any deliberation, discussion, or decision with respect to any subject about which the inquiry was made shall be limited to a proposal to place such subject on the agenda for a subsequent meeting for which notice is provided in compliance with the Texas Open meetings Act unless said notice appears herein. The public is reminded that there is a (4) minute time limit as approved by City Council on June 21, 2010.

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

1. Citizen lifesaving award. **(Garivey)**
2. Employee of the month. **(Kelty)**

**CONSENT AGENDA:**

Consent Agenda items are considered to be routine in nature and may be acted upon in one motion. Any item requiring additional discussion may be withdrawn from the Consent Agenda by the Mayor, Councilmember or City Manager, and acted upon separately.

3. Consideration and possible action on the approval of City Council meeting minutes from November 26 and December 2, 2019. **(Wells)**
4. Consideration and possible action for EMS service agreement for EMS billing. **(Motley)**

#### **COUNCIL BUSINESS – REGULAR SESSION:**

5. Consideration and possible action of approving the cost of proposed outriggers to the Mystery Boat. **(Townsend)**
6. Consideration and possible action approving purchase of Watchguard. **(Russell)**
7. Consideration of approving and awarding the bid for contract for Lift Station No. 5 & 13 rehab and sewer line replacement. **(Kelty)**
8. Consideration and possible action regarding the report of Charter Review Commission recommendations to place items on Charter Review Election Ordinance. **(Kelty)**
9. Consideration of approving Ordinance No. 2019-2591 to extend the industrial district contract. **(Kelty)**

#### **WORK SESSION:**

10. **The City Council may deliberate and make inquiry into any item listed in the Work Session.**
  - A. Mayor Brooks Bass announcements and comments.
  - B. Councilman Green Ward A announcements and comments.
  - C. Councilman Cain Ward B announcements and comments.
  - D. Councilwoman Loeza Ward C announcements and comments.
  - E. Councilman Yates Ward D announcements and comments.
  - F. City Manager Tim Kelty announcement and comments
  - G. Updates on current infrastructure.
  - H. Update on reports / concerns from Department heads.

#### **CLOSED SESSION:**

11. Executive Session regarding a.) economic development (Projects 2019-2 and 2019-3) and Attorney Consultation (Possible Litigation) and b.) Attorney Consultation re: *Jeffrey Pynes v. City of Freeport* in accordance with Vernon's Texas Government Code Annotated, Chapter 551, 551.087 and Chapter 551, 551.071

#### **COUNCIL BUSINESS – REGULAR SESSION:**

12. Consideration and possible action to approve a resolution consenting to the creation of Freeport Municipal Utility District No. 1, to include land located within the City's corporate boundaries, and providing the conditions under which the consent is given." (Kelty)

**ADJOURNMENT:**

13. Adjourn.

Items not necessarily 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).

The City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

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**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.



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Betty Wells, City Secretary  
City of Freeport, Texas



## City Council Agenda Item #1

**Title:** Life Saving Award

**Date:** December 16, 2019

**From:** Chief Raymond Garivey

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**Staff Recommendation:** Staff recommends recognizing citizens Randy Wilkerson and Brad Stephens with the Freeport Police Departments Life Saving Award.

**Item Summary:** On October 7, 2019, citizens Randy Wilkerson and Brad Stephens risked their own lives by jumping into the Brazos River to save the life of an 11-year-old Freeport resident.

**Background Information:** FPD Officers responded to a call of a young man who fallen off the Velasco Bridge. Officers arrived and discovered that an 11-year-old had been pulled from the Brazos River by two residents. The 11-year-old suffered a major fracture to his right leg and ankle as a result of striking a pylon when he hit the water. As a result of his injury, he was unable to swim out of the water back to safe ground.

**Special Considerations:** Staff recommends that Randy Wilkerson and Brad Stephens be recognized in the presence of our Mayor and City Council for their brave actions they took on October 7, 2019. I, Chief Garivey, will present both with Life Saving Award plaques on behalf of the Freeport Police Department.

**Financial Impact:**

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

**Supporting Documentation:**

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Tuesday, November 26, 2019 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 Troy Brimage-Absent  
Councilman Brooks Bass  
Councilman Ken Green  
Councilwoman Sandra Loeza  
Councilman Roy E. Yates

Staff: Tim Kelty, City Manager  
Betty Wells, City Secretary  
Laura Tolar, Assistant City Secretary. Special Events Coordinator  
Chris Duncan, City Attorney  
Brenda Miller-Ferguson Human Resource Director  
Kim Townsend-Parks Department Director  
Craig Graham-Freeport Police Department

Visitors:	David Towers	Robert Koole
	Melanie Oldham	Keith Stumbaugh
	Ruth Renobato	Gina Aguirre Adams
	Landis Adams	Ana Silbas
	Sam Reyna	Ashley Malone
	Larry Fansher	Jerry Meeks
	Sandra Barnett	Jim Barnett
	Doug Dominguez	Stephanie Bass
	Caroline Bass	Brooks Lee Bass
	Ty Morrow	Jerry Cain

Call to order.

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

## REGULAR SESSION

### Swearing in of Mayor Brooks Bass.

City Secretary Betty Wells swore in Mayor Pro-Tem, Brooks Bass as Mayor of the City of Freeport.

Mayor Brooks Bass spoke about the obligation and sacred duty of the employees and elected officials of the City of Freeport to our constituents. Mayor Bass said that he will continue to give this the best effort that he has, and he will continue to work for the entire City of Freeport. He said that it has been his honor to serve with the present and past Council over the last three years. Mayor Bass introduced his family.

### Consideration and possible appointment of Freeport resident to fill the Council position for Ward B.

City Attorney Chris Duncan said that regarding this item, it belongs in Executive Session under Texas Government Code Section 551.074. He recommends Council to take this item up in Executive Session and come back to Open Session after they deliberated. Mayor Bass asked if this is the consensus of Council. Councilwoman Loeza, and Councilman Green said yes.

Mayor Brooks Bass introduced the candidates for Ward B, there were six total candidates. Jerry Cain, Theodore Baker, Ana Silbas, Tyrone Morrow, Loren "Eric" Hayes, and James Barnett. Each candidate was given five minutes to share what they feel that they can add to the Council.

Tyrone Morrow spoke to Council of his past service of Chief for Freeport Police Department and his separation from City Service. He said that he is a very strong advocate to make sure the City is doing what needs to be done. Mr. Morrow said that he is lucky to be part of Ward B, he said that he lives here. He sees that the City is moving in a great direction and the city has great leadership in place. Mr. Morrow said that he can bring a lot of things to the table based on his background, to make sure the City continues to move in the right direction. From contracting, doing bids, and identifying the best practices out there in the industry. He will bring all of these to the table. He wants to make sure the City of Freeport has the best possible processes and protocols. Mr. Morrow said that he has given back to the school district and is giving back to the kids over the last six years he wants to make sure the kids that have issues have the best possible outcome. Mr. Morrow said that with this position available in Ward B he can bring his talents to this board, and he feels that he is well deserving to do that.

Jerry Cain introduced himself to Council. He said that he was born in The City of Freeport. Mr. Cain said that he went to high school in the Hill Country. He attended Brazosport College, and The University of Texas. After school he managed Midas Muffler and Brakes for eighteen years. He now is the Shop Foreman for United Rentals, he has held this position for six years. He said that his involvement with the community and government has been more of a backseat approach. When this opportunity came up, he decided to apply for this position. Mr. Cain said that he is stepping out of his comfort zone, but with his management experience he is aware that tough decisions must be made. He knows that as long the decisions are made for the better of the purpose and in this case, the City of Freeport then it is well worth standing up for. He said that he is not a business man or a politician, he is just an average guy who loves this city. He said that he has no personal agenda or nothing to gain, other than to help the City be a better City. He said that he likes the direction the city is going, and he will continue to the direction we are going. He said that his promise if chosen is to work hard and do his best to make every decision that he makes for the better of the City of Freeport.

Miss Ana Silbas thanked Council for the opportunity to speak to them. She also thanked everyone that was in attendance to listen to each candidate in hopes to earn their vote for Ward B. Miss Ana Silbas said that she was born and raised in the City of Freeport, she is twenty-four years old. She graduated from Brazosport High School in 2014. Ana graduated from the University of Houston in May of 2018 with her BA in History, double minor in law values and policy as well as Mexican American Studies. Ana is employed by Texas Gulf Bank as a Bank Branch Specialist. She said that she feels that she will be able to use the skills which she has gained from her job as well as all the organizations she is in these have helped her to build relationships. Ana said that she brings a new set of ideas and visions to the community. She said that she is interested in this position because she wants to make a difference in the City of Freeport. She said that at her young age she has a lot of potential, and she is excited to have this opportunity. She believes all her visions that she has will push forward the community involvement, the infrastructure and the Economic Development that is taking place in the City of Freeport.

James Barnett said that he is 81 years old and has been a resident of Freeport and Ward B since 1968. He said that he has been married for 49 years to Sandra. He went to Houston public schools and graduated from University of Houston with a bachelor's in science Degree. He was employed for twenty-five years with the Brazosport Facts. He spoke to Council about his past term as Mayor which he served for twelve years. He said that he loves public service. He said that he initiated getting the City Hall building from Texas Gulf Bank. And that he initiated the repair to the sewer and water system that needed to be replaced, and that Council approved a ten-year plan. This was the same for the street repair that he initiated. He said these were cut short by future administration. Mr. Barnett got Council approval for the entrance beautification plan from Brazosport Boulevard to 2<sup>nd</sup> Street. He said that he negotiated several industrial district contracts which brought additional revenue to the city. Mr. Barnett said that he will be an advocate for better pay for Police and Fire personnel. He also said that he would like to see greater emphasis on our boards and commissions. He would like to encourage greater citizen participation in the Governmental and City affairs. He would like to create a system of government that will adequately serve all the people and establish a strong sense of pride and community.

Mayor Brooks Bass closed Open Session at 6:39 PM to go into executive session under Texas Government Code Section 551.074 deliberation on the appointment of a public official.

Mayor Brooks Bass reopened Regular Session 7:07 PM.

Consideration in open session of taking action on any matter discussed in closed executive session

Councilman Yates made a motion to appoint Jerry Cain to fill out the remainder of the term for council member from Ward B, seconded by Councilwoman Loeza, with all present voting "Aye", Council unanimously appointed Jerry Cain as Councilman of Ward B.

Mayor Brooks Bass announced that Jerry Cain was appointed Councilman of Ward B.

Adjourn

On a motion by Councilwoman Loeza seconded by Councilman Green, with all present voting "Aye", Mayor Brooks Bass adjourned the meeting at 7:08 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 City Council of Freeport, Texas met on Monday, December 2, 2019 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  
Chris Duncan, City Attorney  
Brenda Miller-Ferguson Human Resource Director  
Courtland Holman, Economic Development Director  
Billy Shoemaker-Building Department Director  
Ray Garivey-Freeport Chief of Police  
David Hoelewyn, Street Department Director  
Nat Hickey, Property Manager  
Brian Dybala, Freeport Gold Course Director  
Kim Townsend, Freeport Parks Department Director  
Carissa Seidler, Freeport Parks Maintenance Supervisor  
LeAnn Strahan, Freeport Museum Supervisor

Visitors:	Mario Muraira	Eric Hayes
	Edmeryl Williams	Angie Willaims
	Katrina Garcia	Kyle Hammonds
	Bob Koole	Nicole Mireles
	Sam Reyna	Manning Rollerson
	Nicole Mireles	Jerry Meeks
	Philenon Bruner	Jim Barnett
	Sandra Barnett	Larry Fansher
	Jon Hockenyos	Travis James
	Jerry Meeks	Darlene Wier

**Call to order.**

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



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

**Swearing in of Council Member for Ward B.**

City Secretary, Betty Wells swore in Councilman Jerry Cain for Ward B.

**Citizen's Comments**

Larry Fansher spoke to Council regarding the East End of Freeport. He said that in over the last twenty years, current and former residents of the East End have expressed their unhappiness with the tactics by the Port Freeport to obtain the East End properties. He said that there is a lack of support that the East End residents have received from the City of Freeport. He said that complaints consist of lack of adequate street and ditch maintenance, denial of permits and excessive Port traffic. Mr. Fansher said that the residents have received threats of Eminent Domain. He said that there has been no public discussions or statements made by City officials and this has the residents concerned of what the city's position is in this matter. Mr. Fansher said that the City should take steps for what is coming and make its position known. Mayor Bass spoke on this issue, he said that this Council believes in standing for the Citizens of Freeport and that includes the residents of East End. Mayor Brooks said that he assures that Council will always strive to do what is best for the whole City.

**CONSENT AGENDA:**

Consideration and possible action on the approval of City Council meeting minutes from November 18, 2019.

Consideration to approve the necessary road closures downtown for the "Christmas Story" Market. Sunday, December 8, 2019.

Consideration of approving Resolution No. 2019-2613 for changing the signatories with the Texas Gulf Bank. (Russell)

On a motion by Councilman Yates, seconded by Councilwoman Loeza, with all present voting "Aye", Council unanimously approved the Consent Agenda.

**REGULAR SESSION**

Consideration and action regarding the selecting a Mayor Pro Tem from among eligible Council members.

Councilman Yates made a motion to appoint Councilwoman Loeza as Mayor Pro Tem, seconded by Councilman Green with all present and voting "Aye." Council unanimously approved the appointment of Councilwoman Sandra Loeza as Mayor Pro Tem.

**Public Hearing:** Discuss and consider approval of a proposed re-plat of Dossey Subdivision. A 0.09 and a 0.003 acre tract out of lot 1-A Block 1 of Bernard Acres Subdivision, section 1, in the C.G.H. and H.H. Alsbury League, Abstract 4, according to the recorded plat in volume 7, page 65 of the plat records of Brazoria County, Texas. Located in the ETJ of The City of Freeport, Brazoria County, Texas.

Public Hearing was opened by Mayor Bass at 6:16 PM. Billy Shoemaker, Building Department Director presented to Council a proposed replat being of Dossey Subdivision. A 0.09 and a 0.003 acre tract out of lot 1-A Block 1 of Bernard Acres Subdivision, section 1, in the C.G.H. and H.H. Alsbury League,

Abstract 4, according to the recorded plat in volume 7, page 65 of the plat records of Brazoria County, Texas. Located in the ETJ of The City of Freeport, Brazoria County, Texas. Billy Shoemaker said that Planning and Zoning has approved this replat. No one from the public requested to speak at the public hearing. Mayor Bass closed the Public Hearing at 6:18 PM.

On a motion by Councilwoman Loeza, seconded by Councilman Yates, with all present voting "Aye", Council unanimously approved the replat of Dossey Subdivision. A 0.09 and a 0.003 acre tract out of lot 1-A Block 1 of Bernard Acres Subdivision, section 1, in the C.G.H. and H.H. Alsbury League, Abstract 4, according to the recorded plat in volume 7, page 65 of the plat records of Brazoria County, Texas. Located in the ETJ of The City of Freeport, Brazoria County, Texas.

#### **Public Hearing: Tax Increment Reinvestment Zone (TIRZ)**

Public Hearing was opened by Mayor Bass at 6:19 PM. Courtland Holman presented to Council the proposed TIRZ. City Manager Tim Kelty explained that the TIRZ creates a district which includes downtown and development along the river. Councilwoman Loeza asked if it can be dissolved at any time within the thirty years. Mr. Kelty said that this can be dissolved at any time as long as debt has not been issued and remains outstanding. Mayor Bass asked how this benefits the City. EDC Director Courtland Holman explained it enables the City to incentivize development and investment in district including the downtown. It creates dedicated funding for infrastructure within the district. Councilman Green asked if there is an incentive for people to come and do business through the TIRZ. Mr. Holman said that this is the reason we are doing this. The incentive comes from the additional property tax dollars generated in the district as a result of development. This district is set to collect 50% of the incremental new tax dollars generated to plug back into the district to foster additional development. EDC has hired TXP to help us put this TIRZ together. Mayor Bass asked how long will it be for the City to see the rewards from this. Mr. James with TXP said that because of investment that has been made this year, January 31, 2021 is when we should see the first of the revenue, and it will grow overtime

A citizen (no name given) asked if other cities have done this, and if so, is there any numbers from development from these other cities. Mr. Barnett asked TXP who signed their paychecks. John Hockenyos said that they are consultants with TXP and they were hired by the EDC. Nicole Mireles asked if the Master Plan will still be used in this program. Councilwoman Loeza asked about the Board that will be established, and who will form this Board. It is proposed in the ordinance that the EDC Board serve as the TIRZ Board. Mayor Bass closed the Public Hearing at 6:34 PM

#### **Consideration and possible action of approving Ordinance No. 2019-2590 for proposed TIRZ**

On a motion by Councilwoman Loeza, seconded by Councilman Green, with all voting 3 to 2, Council approved Ordinance No. 2019-2590 for proposed TIRZ. Councilman Yates and Mayor Brooks Bass voted no.

#### **Consideration of approval of streets for 2019-2020 interlocal agreement with Brazoria County for paving.**

David Hoelwyn Street Department Director presented to Council the interlocal agreement with Brazoria County. Mr. Hoelwyn said that he re-evaluates the streets through the year and he will do the ones that are in worse condition. These proposed streets must be presented to the County's Engineering Department by December 15, 2019. Councilman Green asked if this includes West Broad by the railroad tracks. Mr. Hoelwyn said that this covers Broad Street from Hickory to Cedar. He said that this is the worst part of West Broad. Mayor Bass said regarding the plans make sure that we piggyback with a sound check of the drains. Nicole Mireles asked if the agreement with the County fixes City streets. City Manager Tim. Kelty said this is for the City streets. Kyle Hammonds asked why this is limited to two

miles of street repair per year. He asked why the City cannot repair the streets, he asked if there is money in the budget to repair the streets. Mayor Brooks said that we will take care of the streets that we can, with the money that we can, because it does need to be better. Robert Koole said that he has asked for the last two years that potholes be repaired on Broad Street. He said that Second Street is an obstacle course with water standing on the streets and cars parked on the streets with bumpers sticking out of the ICS business parking lot. Councilwoman Loeza said if this is approved, can it be changed. City Manager Tim Kelty said what we are voting on is a list of streets that must be sent to the County Engineering to get a schedule. It is anticipated that work will begin in March or April. He said it could be modified up until work begins.

On a motion by Councilman Green and seconded by Councilwoman Loeza with all present voting "Aye", Council unanimously approved the list of streets for the 2019-2020 interlocal agreement with Brazoria County for street paving.

#### Discussion regarding improvements to Antonelli's.

Kim Townsend Parks Department Director presented a recommendation for Jesus Ramirez to do the restoration to Antonelli's. Ms. Townsend said that this is just repairs, of rotten wood, pressure washing and painting to restore to its natural look. This will restore it just as a landmark, not as a working restaurant. Mayor Bass asked where we stand on the Mystery Boat. Ms. Townsend said that SWS has submitted a quote, and this will include the mast, outriggers, port starboard light, and the stern light. Ms. Townsend said she is just waiting on approval. Darlene Wier asked if we can do fund raiser to help restore this building. Melanie Oldham asked if The Historical Commission would be able to look at this and see if there are funds from the County and the state to restore historical buildings. This item was tabled by Mayor Brooks Bass.

#### **WORK SESSION:**

Councilman Green thanked Larry Fansher for addressing the East End. He also thanked Street Department Director David Hoelewyn for addressing the ditch situation on 8th Street

Councilwoman Loeza said that there was a huge sink hole she asked Street Department Director David Hoelewyn how that happened. Mr. Hoelewyn said that he believes that it is from a sewer main. He said that they will be unable to permanently fix it until the sewer main is repaired, they just packed it with base material. Jerry Meeks with Veolia will come back and repair the hole once the Victoria street is Completed. David Hoelewyn said that they are checking this daily. Councilwoman Loeza asked Building Department Director, Billy Shoemaker about a vacant house on the 1900 block of North Ave H. She said and the yard has very high grass and it needs to be cut. Billy Shoemaker said that he believes that the home is in foreclosure and there is a legal issue that they are addressing. Mayor Bass said if it becomes an issue of public safety use the enforcement policy that we have. Councilwoman Loeza asked whose responsibility is it to pick up the trash that is left behind from the garbage trucks. She said the house is vacant and it looks bad. Billy Shoemaker said that his staff will typically go by and pick it up.

Councilman Yates asked if anyone knows where we are at on the drainage issue for Ave A by Mikes Machine Shop. City Manager Tim. Kelty said that he hopes to have a proposal on the next meeting from Freese and Nichols.

Councilman Cain thanked Mayor and Council for the opportunity. He asked David Hoelewyn, Street Department Director about the intersection on 8<sup>th</sup> and Mesquite he said that there is a pothole. David Hoelewyn said that he will look into getting this repaired-on Wednesday. Councilman Cain said that they just finished the repairs Yaupon and there are still barricades. David Hoelewyn said that the barricades

are still there because of the tar strips that are put in the joints they need to make sure that they took. Councilman Cain that some of the barricades have been moved and have been placed on the sidewalks.

Mayor Bass said that on the intersection of 10<sup>th</sup> and Yaupon the new concrete job looks great. He said there is a water monitor that has a bag over it. He asked Jerry Meeks with Veolia if he can look at this, Jerry Meeks said that it is broke and must be replaced.

City Manager Tim Kelty said that he wants to remind everyone that this Thursday is "The Holiday on the Brazos" at the park on the river. Sunday the Museum will have "The Christmas Story Market" from 12 PM to 8 PM. He also reminded Council of the employee Christmas Party on December 13, 2019. Mr. Kelty said that David Hoelewyn, Street Department Director will have a status update on the streets, and he wants to recognize David Hoelewyn that he has identified in the areas we are paving that some areas of the base was not adequate upon the compaction testing that has been done.

#### Update on reports / concerns from Department heads

Parks Department Director Kim Townsend said that she wanted to remind everyone of The Holiday on the Brazos coming up this Thursday December 5, 2019 starting at 6 PM. She said that Santa will be there, the High School Choir will perform. There will be floats for the children to ride, and a photo booth.

EDC Director Courtland Holman said that the EDC's website is now live. The web address is [www.freeportedc.com](http://www.freeportedc.com). Mr. Holman said this is the first website for the EDC to his knowledge. Nicole Mireles asked if the agendas and minutes are up to date on this website.

Street Department Director David Hoelewyn said that they have been stabilizing all the streets. He said that one more block of Holly has been done, and the County let him know that they are unable to order Portland to stabilize, and it will be Monday before they can order more. David said that they have two blocks of 7<sup>th</sup> Street, two blocks of Mesquite, one block on Holly left to stabilize. He said that 6<sup>th</sup> Street is finished with Portland.

Police Chief Ray Garivey said that Saturday December 7, 2019 is Pancakes with Santa from 9 AM- 12:00 noon at Riverplace.

Open session was closed at 7:18 pm and Council entered into Executive Session.

#### **CLOSED SESSION:**

Executive Session regarding economic development (Projects 2019-2 and 2019-3) and Attorney Consultation (Potential Litigation) in accordance with Vernon's Texas Government Code Annotated, Chapter 551, 551.087 and Chapter 551, 551.071.

#### **REGULAR SESSION**

Mayor Brooks Bass opened regular session at 8:01 pm

Consideration in open session of taking action on any matter discussed in closed executive session

No action taken.

Adjourn

On a motion by Councilwoman Loeza, seconded by Councilman Green, with all present voting "Aye", Mayor Brooks Bass adjourned the meeting at 8:01 PM.

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Mayor, Brooks Bass  
City of Freeport, Texas

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City Secretary, Betty Wells  
City of Freeport, Texas



## City Council Agenda Item #4

**Title:** Agreement for Specialized Professional Ambulance Billing Services.

**Date:** 12/16/2019

**From:** Christopher D. Motley, Fire Chief

**Staff Recommendation:** Staff recommends approving the Agreement for Specialized Professional Ambulance Billing Services and Addendum A – Hardware/software. The second recommendation is to authorize the City Manager, Tim Kelty to sign the agreement.

**Item Summary:** This agreement is to contract its EMS billing to Emergicon, LLC. This agreement is a contract renewal. City of Freeport has been working with Emerigcon, LLC since 2014. Emerigcon, LLC provides additional services to the department in revenue collection such as Texas Ambulance Supplement Payment Program (TASPP).

**Background Information:** The Freeport Fire & EMS Department bills for its emergency medical services. The department has outsourced billing services since 1999. The billing for EMS services provides funding for half of the existing firefighter/medics. Emerigcon and the Department has voluntarily participated in the TASPP program (grant) over the last three years being in additional \$282,000.00. Emerigcon has been keeping current with Medicare and Medicaid rules and updates.

Operationally, Emerigcon, LLC services has greatly improved the department's services with the utilization of electronic patient reporting and billing software. Their staff is currently working with the department to increase our billing return on Medicare and Medicaid patients and motor vehicle accident patients. Additional services provided by Emerigcon, LLC is collections of nonpayment. At this time, the Department does not utilize this option.

**Special Considerations:** None

**Financial Impact:** No financial impact to City. The Emergicon, LLC is compensated from the 11% of the amount collected. These fees are paid prior to the City receives its deposit.

**Board or 3<sup>rd</sup> Party recommendation:** None

**Supporting Documentation:** None

## ADDENDUM A – HARDWARE/SOFTWARE

This document is an addendum to the Service Agreement between Emergicon, LLC and The City of Freeport (Client). It is understood that the following software is being purchased from ESO Solutions by the Client through a Service Agreement with Emergicon, LLC.

### QUOTE LINE ITEMS

Product	Quantity	List Price	Discounts	Total Price	Line Item Description
ePCR Suite w/Quality Management 1,250 - 2,500 Incidents	1.00	\$5,795.00	\$869.25	\$4,925.75	Annual Recurring Cost - includes unlimited users, live support, state data reporting, hospital link-up, continuous weekly web training, free regional user groups, and software upgrades
QuickSpeak	4.00	\$89.00	\$59.40	\$336.60	Annual Recurring Cost - Language translation tool
ePCR Mobile	4.00	\$695.00	\$417.00	\$2,363.00	One-Time Cost - Mobile ePCR, unlimited users
Interface - Monitor	1.00	\$3,895.00	\$699.25	\$3,395.75	One-Time Cost - Unlimited cardiac monitors, allows for direct integration of cardiac monitor data
Interface - Billing (NEMESIS Export)	1.00	\$1,995.00	\$1,995.00	\$0.00	One-Time Cost - Allows for integration of ePCR data into billing software
Services - Training	1.00	\$995.00	\$0.00	\$995.00	One-Time Cost - Includes onsite training, web training, system setup, and implementation
Services - Training Travel Costs	1.00	\$750.00	\$100.00	\$650.00	One-Time Cost - Estimated travel expenses for onsite training

Full Price	\$16,706.00
Sum of Discounts	\$4,039.90
Grand Total	\$12,666.10

Emergicon agrees to pay for the above-mentioned software and recurring fees to ESO Solutions for the Client. Repayment of costs incurred will be based on three equal amounts over ninety (90) days beginning after the expense is incurred (the 90 Day Pay Back).

The contract between ESO Solutions and the Client will automatically renew annually according to the ESO Solutions Software License Agreement. Emergicon will pay ESO Solutions on the contract renewal date for the Full Annual Subscription Fee as outlined in the above Contract and Billing Details.

### Cancellation fees

Should the Client terminate Emergicon's Service Agreement before the 90 Day Pay Back or the Full Annual Subscription Fees (for subsequent annual renewal) are received, the Client will be responsible for unpaid balances. Emergicon will invoice the Client upon written notice of cancellation and payment will be due 30 days from the cancellation date.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date written below.

EMERGICON, LLC

By:

\_\_\_\_\_

Signature

Christopher Turner

President & CEO

Date

CLIENT

By:

\_\_\_\_\_

Signature

Tim Kelty

City Manager

Date



## **AGREEMENT FOR SPECIALIZED PROFESSIONAL AMBULANCE BILLING SERVICES**

This Agreement is entered into this 1<sup>st</sup> day of January, 2020, by and between Emergicon, LLC, a Texas business corporation, and The City of Freeport, a Texas municipality, ("Client").

### **RECITALS**

WHEREAS, Client provides emergency and/or non-emergency ambulance services for which it is eligible for payment or reimbursement by patients, insurance carriers, governmental agencies, employers and others;

WHEREAS, Emergicon is engaged in the business of providing third-party billing and accounts receivable management specialized professional services for ambulance and emergency medical service organizations;

WHEREAS, Client desires to utilize Emergicon for billing and claims management services for its organization; and

WHEREAS, Emergicon is willing to provide such specialized professional services upon the terms and conditions provided in this Agreement;

THEREFORE, in consideration of the mutual promises contained in this Agreement, and other good and valuable consideration, the sufficiency of which is acknowledged, the parties, intending to be legally bound, agree as follows:

1. Appointment. Client hereby engages Emergicon to perform the Specialized Professional Services set described in Paragraph 2 of this Agreement and Emergicon accepts such appointment and agrees to provide Specialized Professional Services in accordance with the terms of this Agreement. Client agrees that it will not enter into any contract, agreement, arrangement or understanding with any other person or entity, the purpose of which is to provide for the same or substantially similar specialized professional services during the term of the Agreement, without notice to Emergicon prior to the start date with the other person or entity. For purposes of the appointment, the recitals set forth above are incorporated by reference and made a part of this Agreement as if set forth in their entirety.

2. Specialized Professional Services. Emergicon agrees to perform the following duties (collectively referred to as the "Services") on behalf of Client:

a. Provide Client with instructions for the submission of Required Documentation to Emergicon. For purposes of this Agreement, "Required Documentation" shall consist of prehospital patient care reports (PCRs) (also referred to as "trip sheets" or "run reports"), physician certification statements (PCSs) (required for non-emergency transports), patient authorization signatures (sometimes referred to as "assignment of benefits forms" or "signature forms"), Advance Beneficiary Notices of Non-coverage (ABNs) and other documentation necessary for Emergicon to perform the Specialized Professional Services under this Agreement. All Required Documentation must be signed in accordance with applicable laws, regulations and payer guidelines.

- b. Review the Required Documentation, based on the information supplied by Client, for completeness and eligibility for submission to request reimbursement and to verify compliance under applicable laws, regulations or payer rules, based upon Emergicon's understanding of said laws, regulations or payer rules applicable to the date the ambulance services were rendered. If any Required Documentation is missing, Emergicon will request necessary documentation from Client.
- c. Promptly prepare and submit claims deemed complete and eligible for reimbursement by Emergicon in conformance with this Agreement for electronic or paper submission to the appropriate party or payer based on the information supplied by Client. In the event that Emergicon deems the Required Documentation to be incomplete or inconsistent, Emergicon will notify Client that additional information may be required to process the claim, and Emergicon will return any or all of the Required Documentation to Client that Emergicon determines may be incomplete or inaccurate and will not be responsible to submit any claims with insufficient documentation. Emergicon will make a decision regarding the appropriate coding and payer for submission of the claim based on the information supplied by Client. Client understands and acknowledges that not all accounts will satisfy the eligibility requirements of all payers, and that it might not be possible to obtain reimbursement in all cases. Emergicon makes no representation or warranty that all claims are payable or will be paid, and Client agrees to abide by Emergicon's decisions with regard to proper coding and payer based on the information provided to Emergicon by Client.
- d. Promptly post payments made on Client's behalf by patients, insurers and others.
- e. Unless otherwise directed by Client, make reasonable efforts for the collection of co-payments, deductibles or other patient balances, to include the preparation of invoices and a maximum of three contact attempts to patients, supplemental insurers or other financially responsible parties at industry-appropriate intervals
- f. Perform follow-up for a commercially reasonable period of time following the initial billing date on all open accounts. After this follow-up period, Emergicon will either return the accounts to Client or forward the accounts to a collection agency of Client's choosing. Client and/or its designated collection agency shall bear all costs and liabilities of collections activities and collection agency charges.
- g. Provide monthly reports to Client, which include, at a minimum, cash received, accounts receivable and balance summary. Emergicon shall furnish those reports to Client.
- h. Notify Client of any overpayments and/or credit balances of which Emergicon becomes aware that must be refunded by Client. Client bears sole responsibility for the refund of any overpayments or credit balances to Medicare, Medicaid, patients, or other payers or insurers, and agrees to make such refunds when and within the time frames required by law. Emergicon may, at its option, assist Client in processing such refunds, but all refunds are to be made solely with Client's funds, and Emergicon has no responsibility to make such refunds unless and until Client transfers such funds to Emergicon for this purpose. Emergicon shall not advance

funds on behalf of Client for this purpose. Client acknowledges that federal law requires that any overpayments made by Medicare or any other federal health care program be refunded within 60 days of the identification of any such overpayments.

i. If Client desires that its patients be able to pay their accounts utilizing credit cards, establish a credit card merchant account and related capabilities to permit Client's patients to pay via any major credit card. Emergicon shall in its sole discretion determine which credit cards it will accept.

j. Assist Client in preparing, filing and updating the information on its Medicare, Medicaid or other insurer provider enrollment forms, as well as responding to required revalidations of Client's provider enrollment status. Client bears the sole responsibility to ensure that its Medicare, Medicaid or other insurer provider enrollment forms are submitted and updated in accordance with federal and state law, regulations and policies. Client bears the exclusive responsibility for the submission of such form and any fees that may be associated with the submission of such forms. However, the responsibility for actual submission and all fees associated with the forms shall be borne exclusively by Client and paid prior to submission of these forms by Emergicon. In the event that Client's status as a Medicare or Medicaid provider has lapsed prior to the effective date of this Agreement, Emergicon shall re-enroll Client for an additional fee as described in paragraph 10(d).

3. Specifically Excluded Duties of Emergicon. Notwithstanding any provisions of this Agreement to the contrary, Emergicon shall *not* be responsible to:

- a. Initiate or pursue litigation for the collection of past due accounts.
- b. Invoice for Client's non-ambulance medical transportation services, including but not limited to mobile integrated health programs, paratransit services, wheelchair van, invalid coach services, litter vans and stretcher cars, unless specific arrangements are made otherwise.
- c. Negotiate any checks made payable to Client, though Emergicon may receive funds as an agent of Client for transmittal to Client where permitted by Client;
- d. Accept reassignment of any benefits payable to Client;
- e. Provide legal advice or legal services to Client, any of Client's patients or payers, or anyone acting on Client's behalf;
- f. Obtain any prior authorizations on behalf of Client, or obtain a Physician Certification Statement or other Certificate of Medical Necessity on behalf of Client.

4. Responsibilities of Client. Client agrees to do the following, at its sole cost and expense:

- a. Provide Emergicon with all Required Documentation, as set forth in Paragraph 2(a), above, as well as the following data: Patient Name, Address, and contact phone

number, Date of Birth, Date of Service, Patient Medical Condition, Reason for Transport, Services Rendered (including assessments, interventions and other care), Origin and Destination with accompanying Zip Code, Transport Destination with accompanying Zip Code, Odometer Reading/Loaded Mileage (to the nearest tenth of a mile), and all relevant insurer or payer information, including identity of payer, group or plan numbers, patient's Insurance/Medicare/Medicaid Number, and all other relevant information and ensure that this data and the information contained on the Required Documentation is complete and accurate. Emergicon reserves the right to modify any Required Documentation or data at any time in accordance with new or revised payer requirements, and will provide a copy of any such revisions to Client in writing. Client acknowledges that Emergicon must rely upon the accuracy and completeness of the forms, signatures and other documentation provided to it by Client to allow Emergicon to perform the Specialized Professional Services specified in this Agreement. Emergicon is not in a position to verify the accuracy or completeness of the Required Documentation provided by Client. By forwarding any such documentation to Emergicon, Client expressly represents and warrants that any such documentation is complete and accurate, and that Emergicon may rely upon the completeness and accuracy of any such documentation in performing its Services under this Agreement. Client bears sole responsibility for the claim submissions made by Emergicon on its behalf based upon the aforementioned documentation submitted to Emergicon by Client, and, notwithstanding any other term or provision of this Agreement, Client will, to the extent allowed by law, reimburse Emergicon, for any losses arising from billing or claim submission decisions made by Emergicon based on documentation submitted to Emergicon by Client if such documentation is later determined to be negligently incomplete or inaccurate.

b. Maintain its qualifications to provide ambulance services, including any required local, state and/or federal licenses, permits, certificates or enrollments (collectively, "Licenses"), and to remain in good standing with Medicare, Medicaid and all other state and federal health care programs. Client shall provide copies of all current Licenses, including renewals, to Emergicon. Client shall be responsible to maintain a National Provider Identifier (NPI) number and to update the information associated with its NPI. Client expressly represents and warrants that it will not forward accounts for processing by Emergicon if the account is ineligible for payment or reimbursement, or if Client is ineligible for payment by any payers or insurers as a result of its licensure status, exclusion or other sanction with such payer or insurer, or other legal impediment, and that it will promptly notify Emergicon of any suspension or revocation of any required license, permit, certification or enrollment, or exclusion from any state or federal health care program or any change in ownership or management of Client.

c. Provide Emergicon with a copy of all required Licenses, permits, certificates and enrollments as referenced in Paragraph 4(b), and forward updates of these documents to Emergicon as they are renewed.

d. Provide Emergicon with odometer readings or other documentation of mileage accepted by the payer on all calls reflecting loaded mileage (from the point of patient pickup to the destination) recorded in tenths of a mile as required by Medicare guidelines.

e. In accordance with appropriate payer guidelines, obtain the signature of the patient or other authorized representative of the patient or otherwise meet the ambulance signature

requirements set forth at 42 C.F.R. § 424.36 on each call and forward to Emergicon as part of the Required Documentation.

f. In the event that Client operates a subscription, membership, or resident write-off program, client represents and warrants that its program is actuarially sound in accordance with the guidance of the Office of Inspector General (OIG) and operated in accordance with any applicable state laws, regulations or guidelines. Emergicon will bill in accordance with the terms of such program, provided that Client furnishes those terms to Emergicon in writing. Client is responsible to inform Emergicon of its patients who are members or subscribers of Client's membership or subscription program. Notwithstanding any other provision of this Agreement, Client agrees to reimburse Emergicon, to the extent allowed by law, for any losses arising from Client's membership or subscription program in the event that Client's subscription or membership program is not actuarially sound as set forth in applicable OIG guidance or is not permissible under State law, regulation or policy.

g. If Client is a party to any ALS-BLS "joint billing" or "bundle billing" agreement, Client shall be responsible to provide Emergicon with a copy of such agreement. Client also agrees to submit a PCR from the other party to the joint billing agreement along with the Required Documentation.

h. Obtain a completed and valid PCS form on all trips where required by law and provide copies of all PCS forms to Emergicon as part of the Required Documentation.

i. Provide Emergicon with a copy of all Client rate schedules, contracts or agreements which pertain to Client's billing or charges for services.

j. Notify Emergicon of any or all changes in billing charges for service or changes in any of Client's billing policies or contracts not later than ten (10) days after the Client approval date of said changes.

k. Report all payments made directly to Client within twenty-four (24) hours of Client's receipt of same, excluding Saturday, Sunday, and official government holidays.

l. Cooperate reasonably with Emergicon so as to enable Emergicon to meet its obligations under this Agreement. In the event that Client's approval is required in order for Emergicon to fulfill any obligations it may have under this Agreement, Client shall not unreasonably withhold, condition or delay its approval.

m. In writing, notify Emergicon of any customized needs (reporting, scheduling, support for Texas Ambulance Supplemental Payment Program (TASPP), etc.). Client understands that the processing of customized needs may entail additional charges to Client by Emergicon.

n. Designate a contact person or position, or official designee, authorized to represent the business interests on behalf of Client, who can promptly respond to any questions raised by Emergicon, or who can execute required forms and other documents necessary to the provision of Services by Emergicon under this Agreement.

o. Agree to permit Emergicon to provide training to Client personnel in the event that Emergicon deems such training to be necessary and/or desirable at a cost to be mutually agreed upon by the parties and paid by Client.

p. Provide electronic transfer of PCR data in an acceptable NEMESIS format to Emergicon. Client agrees to bear all cost of the development and implementation of the electronic software "bridge" as mutually agreed upon by the parties and in conjunction with Emergicon information technology personnel, representatives, or contractors.

q. To the extent allowed by law, Client will defend and hold harmless Emergicon and each of its officers, directors, employees, attorneys, and agents, to the extent allowed by applicable law, from and against any and all costs, claims, losses, damages, liabilities, expenses, judgments, penalties, fines and causes of action which arise or result from:

i. Any negligent acts or omissions resulting in claims or liabilities due to an incurable breach or violation of covenant, obligation, or agreement of Client set forth in this agreement and any incurable breach or inaccuracy of any of the representations or warranties made by Client in this agreement or in performing its responsibilities under this agreement.

ii. Both parties agree that defense of an incurable breach or violation of the agreement by Client under this Section 4.q. does not constitute the Client's incurrence of a debt in violation of Article XI Section 7 A. of the Texas Constitution and defined by the Supreme Court in *Tex. & New Orleans R.R. Co. v. Galveston County*, 169 S.W.2d 713, 715 (Tex. 1943).

5. Record Ownership and Access.

a. Client understands that all documentation provided to Emergicon by Client, whether in paper and/or electronic form, is for the sole and express purpose of permitting Emergicon to provide Specialized Professional Services under this Agreement. It is Client's responsibility to maintain all of its documents and business records, including copies of any documents or records provided to Emergicon ("Client-Provided Records"). Emergicon does not act as Client's records custodian.

b. As a convenience to Client, Emergicon will, during the term of this Agreement, produce patient care reports in response to routine attorney requests (with appropriate patient authorization) for such documentation, if those records are in Emergicon's possession at the time it receives such attorney request. For subpoenas, as well as any requests beyond those deemed by Emergicon to be routine attorney requests, Emergicon shall forward such requests to Client for disposition.

c. During the term of this Agreement, Emergicon shall, upon Client's written request, provide to Client, in electronic format and within 14 days of receipt of such written request, copies of any Client-Provided Records furnished to Emergicon by Client, and to any Claim Adjudication Documents generated by and received from insurers or payers in response to

claims submitted by Emergicon on Client's behalf. "Claim Adjudication Documents" shall consist of the documents generated secondary to claim submission in the normal course of claim processing by payers and insurers, including Explanation of Benefits (EOB) documents, Remittance Advice (RA) documents, Medicare Summary Notice (MSN) documents, denials, and other documents of a similar type or nature.

d. Any documents, data, records, or information compiled in the course of Emergicon's provision of Specialized Professional Services under this Agreement, other than those Client-Provided Records and Claim Adjudication Records defined in Paragraphs 5(a) and (c) above, shall be the sole and exclusive property of Emergicon and shall be considered the business and/or proprietary records of Emergicon. Emergicon shall have no obligation to furnish any such business or proprietary records of Emergicon to Client, and Client shall have a right of access only to the Client-Provided Records and Claim Adjudication Documents as defined in Paragraphs 5(a) and (c), above.

e. If Client or a third party requests any documents or records to which Client or the third party has a right of access under Paragraphs 5(a) and (c) of this Agreement, and such documents cannot be provided to Client in electronic form, Emergicon may charge Client the per-copy amount for medical records permitted under the Texas Medical Board rules at the time of Client's request.

f. Should this Agreement be terminated for any reason, all documents and records to which Client has a right of access under Paragraphs 5(a) and (c) of this Agreement shall be maintained in electronic format at a site convenient to Emergicon for a reasonable amount of time for follow-up of all open claims, but in any event not to exceed ninety (90) days following the effective date of termination of this Agreement. Electronic or paper copies, as per Paragraph 5(e) hereof, of the records to which Client has a right of access under Paragraphs 5(a) and (c) will be made available to Client, at Client's sole cost and expense, in a format acceptable to Emergicon at the Client's written request provided that Client makes such request within thirty (30) days following termination of the Agreement, and provided that Client has no outstanding invoices due to Emergicon at the time of the request. Emergicon shall have absolutely no responsibility whatsoever after termination of this Agreement to provide any monthly reports or other such Emergicon-generated reports to Client.

g. Upon termination of this Agreement, Client is responsible to notify all payers, patients, and other correspondents of its new address, phone and/or fax numbers for billing or payment purposes. Notwithstanding any other provisions of this Agreement to the contrary, Emergicon will not be responsible for mail, deliveries, faxes, messages or other communications sent in Client's name to Emergicon after a 90 day close-out period following the effective termination date of this Agreement, and Emergicon shall have no duty to accept, maintain, copy, deliver or forward any such communications to Client following termination and close-out of this Agreement.

h. Costs for copies of documents required and/or requested by Client beyond the requirement of the normal daily claim handling requirements will be invoiced to Client by Emergicon at a per copy price per the Texas Medical Board rules at the time of the request.

6. Client Accounting and Auditing Requirements. If Client requires Emergicon's assistance in Client's accounting or other internal audits, Emergicon will charge client for said audit support services at its customary rates, to be established by Emergicon from time to time. Upon written request of Client for same, Emergicon shall furnish said rates to Client in writing prior to undertaking any work pursuant to this Paragraph.

7. Term and Termination.

a. This Agreement is for an initial term of one year, and will automatically renew for successive like terms unless terminated hereunder.

b. This Agreement may be terminated with or without cause, by either party, upon written notice to the other party with thirty (30) days' notice and a 90 day close-out period to follow.

c. This Agreement may be terminated by Emergicon immediately upon written notice to Client for any of the following reasons:

i. If Client makes an assignment indicating Client financial insecurity for the benefit of creditors, files a voluntary or involuntary petition in bankruptcy, is adjudicated insolvent or bankrupt, petitions or applies to any tribunal for the appointment of any receiver of any trustee over its assets or properties, commences any proceeding under any reorganization, arrangement, readjustment of debt or similar law or statute of any jurisdiction, whether now or hereafter in effect, or if there is commenced against the other party any such proceeding which remains un-dismissed, un-stayed, or the other party by any act or any omission to act indicated its consent to, approval of or acquiescence in any such proceeding or the appointment of any receiver or of any trustee, or suffers any such receivership or trusteeship to continue undischarged, un-stayed, or un-vacated for a period of thirty (30) days.

ii. If Client loses its license, permit or certification necessary to do business, or is excluded from any state or federal health care program.

iii. If Client fails to perform any of its responsibilities as set forth in this Agreement, fails to pay Emergicon for its specialized professional services within thirty (30) days of the date such payment becomes due, takes any actions which Emergicon, in its sole discretion, determines to be unethical, illegal, immoral or non-compliant, or fails to cooperate with Emergicon in any way that prevents, impedes, obstructs, or delays Emergicon in the performance of the Specialized Professional Services set forth in this Agreement.

d. Upon termination for any reason, Emergicon shall perform follow-up on any open accounts submitted by Emergicon on Client's behalf for a period not to exceed ninety (90) days from the date of termination. Emergicon shall have no responsibility to perform such



follow-up in the event Client takes any actions which prevent Emergicon from engaging in such follow-up, or in the event that Client has any unpaid balances due to Emergicon on the date of termination of this Agreement.

- e. This Agreement may be terminated by Client immediately upon written notice to Emergicon for any of the following reasons:
  - i. If Emergicon makes an assignment that indicates Emergicon financial insecurity for the benefit of creditors, files a voluntary or involuntary petition in bankruptcy, is adjudicated insolvent or bankrupt, petitions or applies to any tribunal for the appointment of any receiver or trustee over its assets or properties, commences any proceeding under any reorganization, arrangement, readjustment of debt or similar law or statute of any jurisdiction, whether now or hereafter in effect, or if there is commenced against the other party any such proceeding which remains un-dismissed, un-stayed, or the other party by any act or any omission to act indicated its consent to, approval of or acquiescence in any such proceeding or the appointment of any receiver or of any trustee, or suffers any such receivership or trusteeship to continue undischarged, un-stayed, or un-vacated for a period of thirty (30) days.
  - ii. If Emergicon fails to perform any of its responsibilities as set forth in this Agreement, takes any actions which Client, in its sole discretion, determines to be unethical, illegal, immoral or non-compliant, or fails to cooperate with Client in any way that prevents, impedes, obstructs, or delays Client in the performance of the Client's Specialized Professional Services.

f. Upon termination for any reason, Client shall be responsible to pay the fees set forth in Paragraph 10 below, for all revenues collected by Emergicon on Client's behalf during the 90-day follow-up period set forth in Paragraph 7(d) above. After notice of termination is given, all Emergicon invoices are due and payable by Client within thirty (30) days of same. In the event that Client does not remit payment on any such invoice within thirty (30) days of the invoice, Emergicon shall have no responsibility to perform any further follow-up on open accounts, notwithstanding the provisions of Paragraph 7(d) above.

8. External and Internal Audits.

a. Client shall immediately notify Emergicon if there has been any prepayment audit or review, post payment audit or review, or any investigation or other formal inquiry into the billing practices of Client and/or Emergicon, or claims submitted by Emergicon on behalf of Client, where such audit or investigation is or appears to have been initiated by any governmental agency, insurer, payer, carrier, Medicare Administrative Contractor, Recovery Audit Contract, Zone Program Integrity Contractor, Medicaid Fraud Control Unit, other Medicare or Medicaid contractor or other agency or entity authorized to carry out any such audit or investigation. This obligation shall survive termination of this Agreement for any reason.

b. The Client bears sole responsibility for obtaining and paying for any legal or consulting assistance necessary in defending itself in any such audit or investigation. Emergicon shall assist Client in producing any records, reports or documents in its possession which pertain to the audit or investigation and may charge Client a reasonable fee, as determined by Texas Medical Board rules at the time of the request, for copying, preparation, assembly or retrieval of such documents or reports. Emergicon shall have no obligation to perform any duties under this Paragraph 8(b) following termination of this Agreement for any reason.

c. Client is solely responsible for repaying any overpayments or recoupments sought or imposed by any insurer, carrier, payer or governmental agency or contractor, including interest, civil monetary penalties, fines or other such assessments.

d. Client understands and acknowledges that Emergicon, as part of its compliance program, may on occasion, and at its sole discretion, perform or contract for the performance of periodic, random, internal audits of its coding, billing and other business practices. These voluntary, internal compliance audits may reveal the existence of Client overpayments, and Client agrees that any such overpayments identified by Emergicon in its internal auditing process will be refunded by Client as described in more detail in Paragraph 2(h) of this Agreement.

9. Disposition of Funds.

a. All funds Emergicon receives from third party payers, patients or other sources for ambulance services provided by Client shall be made in the name of Client and forwarded monthly to Client or deposited into a Client account as directed by Client.

b. If Client desires that its patients be able to pay their accounts utilizing credit cards, then Emergicon shall accept credit card payments on behalf of Client's patients in a manner that is secure and agreed upon by the parties, and only to the extent possible and feasible, without making Emergicon a collection agency and responsible for compliance with the federal Fair Debt Collection Practices Act and other state or federal debt collection laws.

c. Emergicon shall not accept a reassignment of any benefits where prohibited by law.

10: Compensation.

a. In exchange for the Specialized Professional Services described in this Agreement, Client shall pay Emergicon a fee equivalent to eleven percent (11.0%) of all revenues collected by Emergicon on behalf of Client. Credit card payments accepted by Emergicon will be charged an additional two percent (2.0%) unless it has been offset by a payer convenience fee. Please refer to Addendum A where applicable for additional.

b. If Client instructs Emergicon to collect on an account(s) initially billed by another Contractor, Emergicon shall be compensated and paid for the collection efforts on said account in accordance with the following schedule: Twenty-two Percent (22%) of the total amount collected on the account.

c. If Client allows Emergicon or places accounts with a 3<sup>rd</sup> party collection agency to continue to pursue accounts with balances beyond 120 days from the date of transport, Emergicon shall be compensated and paid for the collection efforts on said account in accordance with the following schedule: Eighteen Percent (18%) of the total amount collected on the account.

d. The fees payable by Client to Emergicon shall be calculated and invoiced to Client on a periodic basis established by Emergicon in accordance with the receipts report generated by Emergicon.

e. Emergicon shall submit invoices to Client on a periodic basis established by Emergicon. Invoices are to be paid by Client within thirty-five (35) days of the invoice date. Emergicon reserves the right to add simple interest at the annual rate provided by the Prompt Payment Act to any fee where Emergicon has not received payment within thirty-five (35) days of the date of its invoice.

f. In the event that Client is obligated to refund any overpayment or credit balance as set forth in Paragraph 2(h), fees paid to Emergicon by Client for such refunded overpayment or credit balance shall not be credited or refunded to Client unless Emergicon bears responsibility for the overpayment or credit balance.

g. Beginning on the first of October of each fiscal year, starting 2021, the then current fee shall be increased by the Employment Cost Index or, Total Compensation, Not Seasonally Adjusted, Private Industry for Professional, Scientific and Technical Services published by the Bureau of Labor Statistics of the US Department of Labor for the twelve months ending the preceding year.

h. Client agrees to reimburse Emergicon for any and all sales tax liabilities that may arise as a result of this Agreement.

i. Client agree to reimburse \$35 for any checks returned for insufficient funds as a result of this Agreement.

j. Emergicon agrees to notify client sixty (60) days in advance of any automatic price increase.

11. Indemnification and Insurance.

a. In addition to any specific provisions set forth in this Agreement, to the extent allowed by law, Client shall reimburse Emergicon and/or its employees, officers, directors and agents for any and all costs, claims, losses, damages, liabilities, expenses, judgments, penalties, fines, and causes of action to the extent caused by any willful or grossly negligent act or omission on the part of Client or its agents, servants, volunteers, contractors or employees. This provision shall include all costs and disbursements, including without limitation court costs and reasonable attorneys' fees.

b. In addition to any specific indemnification provisions set forth in this

Agreement, to the extent allowed by law, Emergicon shall hold harmless, indemnify and defend Client and/or its employees, officers, directors and agents from and against any and all costs, claims, losses, damages, liabilities, expenses, judgments, penalties, fines and causes of action to the extent caused by any willful or grossly negligent misconduct of any Emergicon agent, servant, contractor or employee and which relate to the Specialized Professional Services performed by Emergicon under this Agreement.

c. Emergicon shall maintain errors and omissions insurance coverage in an amount not less than \$1,000,000.

d. Notwithstanding any other provision of this Agreement, Emergicon shall not be liable for any damages, including but not limited to loss in profits, or for any special, incidental, indirect, consequential or other similar damages suffered in whole, or in part, in connection with this Agreement. Any liability of Emergicon for any disputed billing performed by Emergicon on behalf of Client shall not exceed any amounts paid to Emergicon by Client under this Agreement.

e. Where any provision of this Agreement obligates either party to defend, indemnify, hold harmless, and/or reimburse the other party, such agreement shall include any claims, losses, assessments or damages of any kind, and shall apply equally to that party and to its employees, owners, agents, contractors, attorneys, consultants, accountants, and servants.

12. Confidentiality. Neither Emergicon nor Client shall, during the term of this Agreement or for any extension hereof, for any reason, disclose to any third parties any proprietary information regarding the other party unless required to do so by law, regulation or subpoena. Emergicon acknowledges the Client requirements under the Public Information Act. For purposes of this Agreement, "proprietary information" shall include, but not be limited to, pricing or rate information, information pertaining to contracts with payers, insurers, facilities, ambulance providers, health care systems, or other such parties, audit requests, audit results, billing processes, client lists or other such information.

13. HIPAA Business Associate Assurances. Emergicon agrees to appropriately safeguard protected health information ("PHI") that is created, received, maintained, or transmitted on behalf of Client in compliance with the applicable provisions of Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended ("HIPAA"), and with Public Law 111-5 of February 17, 2009, known as the American Recovery and Reinvestment Act of 2009, Title XII, Subtitle D – Privacy, Sections 13400, *et seq.*, the Health Information Technology and Clinical Health Act, as amended (the "HITECH Act").

a. General Provisions

i. Meaning of Terms. The terms used in this Agreement shall have the same meaning as those terms defined in HIPAA.

ii. Regulatory References. Any reference in this Agreement to a regulatory section means the section currently in effect or as amended.

- iii. Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.
- b. **Obligations of Emergicon**

Emergicon agrees that it will:

  - i. Not use or further disclose PHI other than as permitted or required by this Agreement or as required by law;
  - ii. Use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule with respect to electronic protected health information (“e-PHI”) and implement appropriate physical, technical and administrative safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement;
  - iii. Report to Client any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any security incident (as defined in the HIPAA Security Rule) and any breaches of unsecured PHI as required by 45 CFR §164.410. Breaches of unsecured PHI shall be reported to Client without unreasonable delay but in no case later than 60 days after discovery of the breach;
  - iv. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Emergicon agree to the same restrictions, conditions, and requirements that apply to Emergicon with respect to such information;
  - v. Make PHI in a designated record set available to Client and to an individual who has a right of access in a manner that satisfies Client’s obligations to provide access to PHI in accordance with 45 CFR §164.524 within 30 days of a request;
  - vi. Make any amendment(s) to PHI in a designated record set as directed by Client, or take other measures necessary to satisfy Client’s obligations under 45 CFR §164.526;
  - vii. Maintain and make available information required to provide an accounting of disclosures to Client or an individual who has a right to an accounting within 60 days and as necessary to satisfy Client’s obligations under 45 CFR §164.528;
  - viii. To the extent that Emergicon is to carry out any of Client’s obligations under the HIPAA Privacy Rule, Emergicon shall comply with the requirements of the Privacy Rule that apply to Client when it carries out that obligation;

- ix. Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Emergicon on behalf of Client, available to the Secretary of the Department of Health and Human Services for purposes of determining Emergicon and Client's compliance with HIPAA and the HITECH Act;
- x. Restrict the use or disclosure of PHI if Client notifies Emergicon of any restriction on the use or disclosure of PHI that Client has agreed to or is required to abide by under 45 CFR §164.522; and
- xi. If Client is subject to the Red Flags Rule (found at 16 CFR §681.1 *et seq.*), Emergicon agrees to assist Client in complying with its Red Flags Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. §681.2); (b) taking all steps necessary to comply with the policies and procedures of Client's Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of Client agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting Client of any Red Flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to Client of any threat of identity theft as a result of the incident.

c. Permitted Uses and Disclosures by Emergicon

The specific uses and disclosures of PHI that Emergicon may make on behalf of Client include:

- i. The preparation of invoices to patients, carriers, insurers, and others responsible for payment or reimbursement of the Services provided by Client to its patients, as set forth in this Agreement;
  - ii. Preparation of reminder notices and documents pertaining to collections of overdue accounts;
  - iii. The submission of supporting documentation to carriers, insurers and other payers to substantiate the healthcare services provided by Client to its patients or to appeal denials of payment for the same; and
  - iv. Other uses or disclosures of PHI as permitted by HIPAA necessary to perform the Services that Emergicon has been agreed to perform on behalf of Client, as set forth in this Agreement.
- d. Termination

- i. Notwithstanding the termination provisions set forth in Paragraph 7 of this Agreement, Client may terminate this Agreement if Client determines that Emergicon has violated a material term of the HIPAA Business Associate Assurances set forth in this Paragraph 13.
- ii. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this Agreement, that party shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate this Agreement, according to the provisions set forth in Paragraph 7 of this Agreement, if feasible.
- iii. Upon termination of this Agreement for any reason and upon the written request of Client and pursuant to the other terms and conditions set forth in this Agreement, Emergicon shall return to Client or destroy all PHI received from Client, or created, maintained, or received by Emergicon on behalf of Client that Emergicon still maintains in any form. If return or destruction is infeasible, the protections of this Agreement will extend to such PHI.

14. Compliance.

- a. Emergicon will conduct its activities and operations in compliance with all state and federal statutes, rules and regulations applicable to billing activities.
- b. Client shall conduct its activities, operations and documentation in compliance with all applicable state and federal statutes, rules and regulations. Client expressly represents and warrants that it is under no legal impediment to billing or receiving reimbursement for its services, and that all of Client's personnel are appropriately licensed and/or certified to furnish the services provided by Client. Client agrees to reimburse Emergicon, to the extent allowed by law, for any and all claims, damages and losses caused by Client sending accounts to Emergicon which are ineligible for billing and/or reimbursement for any reason.
- c. Each party is responsible for monitoring and ensuring its own compliance with all applicable state and federal laws and regulations pertaining to billing and reimbursement for its services. However, either party which becomes aware of a violation of any such state or federal laws or regulations or of a questionable claim or claim practice agrees to notify the other party within fifteen (15) days so the other party may appropriately address the matter.
- d. The parties represent that they are not the subject of any actions or investigations pertaining to its participation in or standing with any state or federal health care program, are not subject to exclusion from any state and/or federal health care program, and that no persons providing services for which reimbursement is sought were at the time such services were rendered excluded from any state or Federal health care program.
- e. The parties recognize that this Agreement is at all times subject to applicable state, local, and federal laws and shall be construed accordingly. The parties further recognize that this Agreement may become subject to or be affected by amendments in such laws

and regulations or to new legislation or regulations. Any provisions of law that invalidate, or are otherwise inconsistent with, the material terms and conditions of this Agreement, or that would cause one or both of the parties hereto to be in violation of law, shall be deemed to have superseded the terms of this Agreement and, in such event, the parties agree to utilize their best efforts to modify the terms and conditions of this Agreement to be consistent with the requirements of such law(s) in order to effectuate the purposes and intent of this Agreement. In the event that any such laws or regulations affecting this Agreement are enacted, amended or promulgated, either party may propose to the other a written amendment to this Agreement to be consistent with the provisions of such laws or regulations. In the event that the parties do not agree on such written amendments within thirty (30) days of receipt of the proposed written amendments, then either party may terminate this Agreement without further notice, unless this Agreement would expire earlier by its terms.

15. Non-Engagement of Individuals on the OIG Exclusion List. The parties further warrant that each will take all reasonable steps as set forth by the Office of Inspector General, United States Department of Health and Human Service, to ensure that it does not employ or otherwise engage individuals who have been excluded from participation in federal health care programs. The parties agree to periodically check the OIG exclusion website to ensure that employees, volunteers and all others providing services for each respective organization are not excluded. The website is: <http://exclusions.oig.hhs.gov>.

16. Independent Contractor Relationship. Emergicon and Client stand in an independent contractor relationship to one another and shall not be considered as joint ventures or partners, and nothing herein shall be construed to authorize either party to act as general agent for the other. There is no liability on the part of Emergicon to any entity for any debts, liabilities or obligations incurred by or on behalf of the Client.

17. Prevention of Performance. If a party's obligation to perform any duty hereunder is rendered impossible of performance due to any cause beyond such party's control, including, without limitation, an act of God, war, civil disturbance, fire or casualty, labor dispute, hardware or software failures beyond the party's control, or governmental rule, such party, for so long as such condition exists, shall be excused from such performance, provided it promptly provides the other party with written notice of its inability to perform stating the reasons for such inability and provided that the party takes all appropriate steps as soon as reasonably practicable upon the termination of such condition to recommence performance.

18. Assignment. This Agreement may be assigned by Emergicon to any successors or assigns of Emergicon with the express written consent of the Client. This Agreement may not be assigned by Client without the express written consent of Emergicon. This Agreement shall be binding upon all successors and assigns.

19. Notices. Notices required to be given under this Agreement shall be made to the parties at the following addresses and shall be presumed to have been received by the other party (i) three days after mailing by the party when notices are sent by First Class mail, postage prepaid; (ii) upon transmission (if sent via facsimile with a confirmed transmission report); or (iii) upon receipt (if sent by hand delivery or courier service).



Emergicon:  
Emergicon, LLC.  
PO Box 180446  
Dallas, TX 75218  
Phone: (972-602-2060)  
Fax:(469) 602-5542

Client:  
The City of Freeport  
200 W. 2<sup>nd</sup> Street  
Freeport, TX 77541  
979-233-3526

20. Non-Competition and Non-Solicitation Clause. Without prior, written authorization from Emergicon, Client shall not:

a. During the term of this Agreement, or for two (2) years following its expiration or termination for any reason, employ, retain as an independent contractor, or otherwise in any way hire any personnel currently employed or employed at any time during the term of this Agreement by Emergicon without compensation to Emergicon of a placement fee of two times the annual salary paid by Emergicon to such employee at the time such employee left employment of Emergicon.

b. During the term of this Agreement, or for a period of two (2) years following its expiration or termination for any reason, engage in the provision of billing services for any other ambulance service, medical transportation organization, fire department, or emergency medical services organization without compensation to Emergicon equivalent to two times the annual average of fees during the term of this agreement as paid to Emergicon for these services. Nothing in this Paragraph shall be interpreted to prohibit Client from performing its own in-house billing and/or accounts receivable management following the expiration or proper termination of this Agreement.

21. Governing Law and Forum Selection Clause. This Agreement shall be deemed to have been made and entered into in Texas and shall be interpreted in accordance with the laws thereof, without regard to conflicts of laws principles. The parties expressly agree that the exclusive forum for resolving any legal disputes under this Agreement shall be the state or federal courts serving Tarrant County, Texas. Client expressly agrees to personal jurisdiction and venue in any such court.

IN WITNESS WHEREOF, the parties have executed this Agreement to commence on the date first above written. Client represents that the individual who has executed this Agreement on behalf of the Client is authorized by Client and by law to do so.

EMERGICON, LLC.

CLIENT

By:

By:

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Signature Date

Christopher Turner  
President and CEO

Tim Kilty  
City Manager

**Title**

**Title**



## **City Council Agenda Item #5**

**Title: Mystery Boat**

**Date: 12/16/2019**

**From: Kim Townsend**

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**Staff Recommendation:** Staff recommends that the Company, SWS Services, Mr. Roger Lackey is approved to remove and reconstruct the outriggers and mast on the Mystery Boat. Mr. Lackey has also offered to install running lights and a light on the stern. This will provide a light towards our flag pole in the area. I have spoken to many companies in the area and SWS has offered where others are not available to handle this project.

**Item Summary:** The removal of the mast and existing outriggers /structure will be a major job. This consist of the removal of mast form inside the vessel and then replacing it with the new mast. Also, the outriggers need to be removed and they are pitted and rusted all the way thru the piping. This process will be very critical to not damaging the vessel. Once these are removed, restored and replaced we will be able to remove the fencing and place a monumental plaque for our visitors to read of her History.

**Background Information:**

**Special Considerations:** The Mystery Boat has been a Landmark here in Freeport for many generations. We would like to see this landmark restored to a safe and historical fulfillment.

**Financial Impact: \$12, 500.00**

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

**Supporting Documentation: Quote from SWS, and pictures of the Mystery outriggers.**



**810 CR 336  
Freeport, Texas 77541  
(979)233-1797**

### **Removal of Mast on Mystery Vessel**

To: City of Freeport

Date: October 8, 2019

SWS Services hereby submits this proposal for the removal of the existing outriggers/structure, reconstruction of outriggers and mast is to be sandblasted, painted, and reinstalled.

The price of \$12,500.00 includes labor and materials.

**\*\*Note:** Cutting process will require the assistance of the Freeport Fire Department on hand due to flammable material of the Mystery Vessel.

**\*\*SWS Services will assume no liability or responsibility to the M/V Mystery during the work in progress. This includes but not limited to fire and/or damage to any part of the vessel.**

**\*\*Any unforeseen cost will be in addition to the above quoted price.**

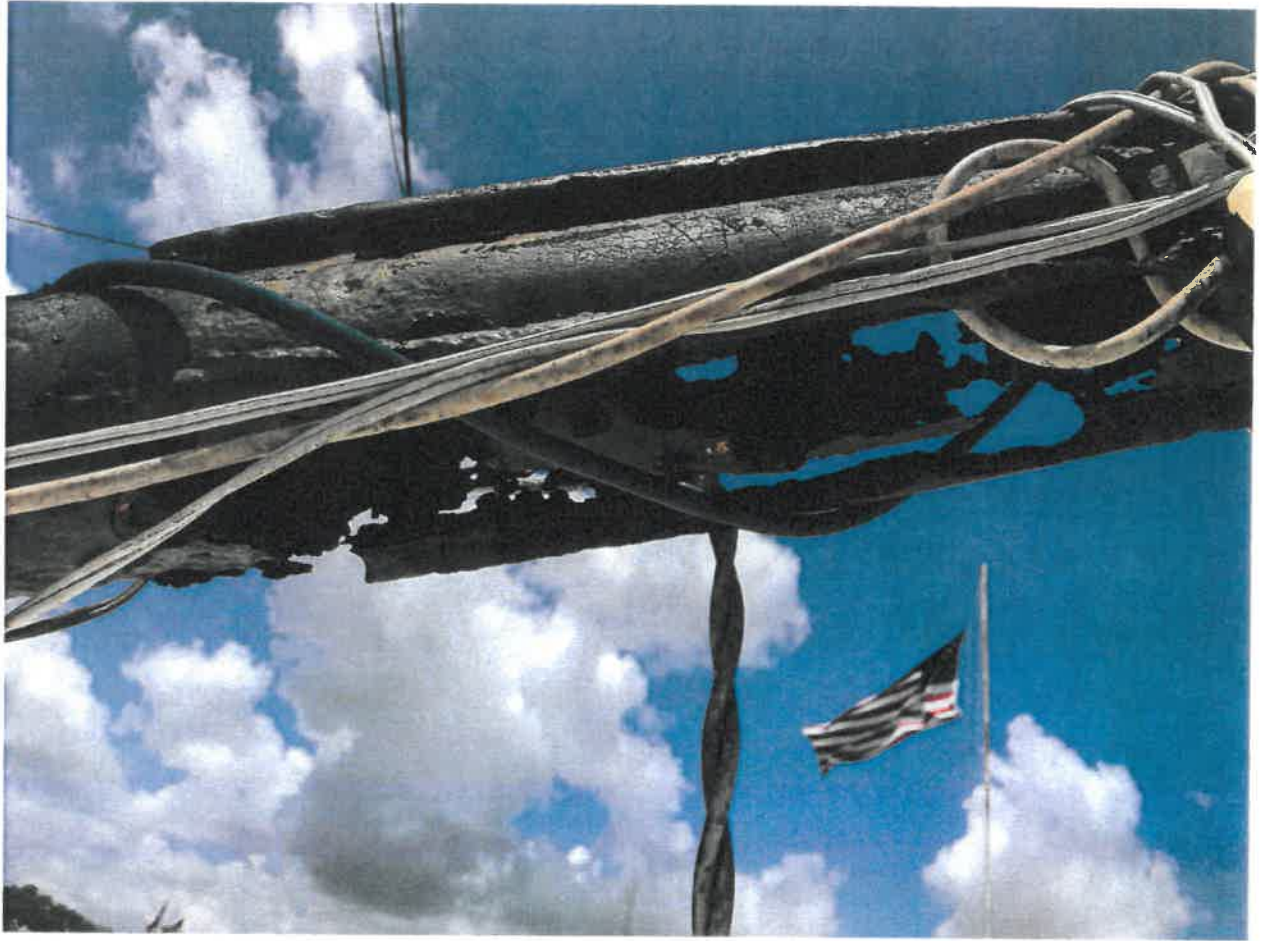
Roger Lackey, Owner

SWS Services

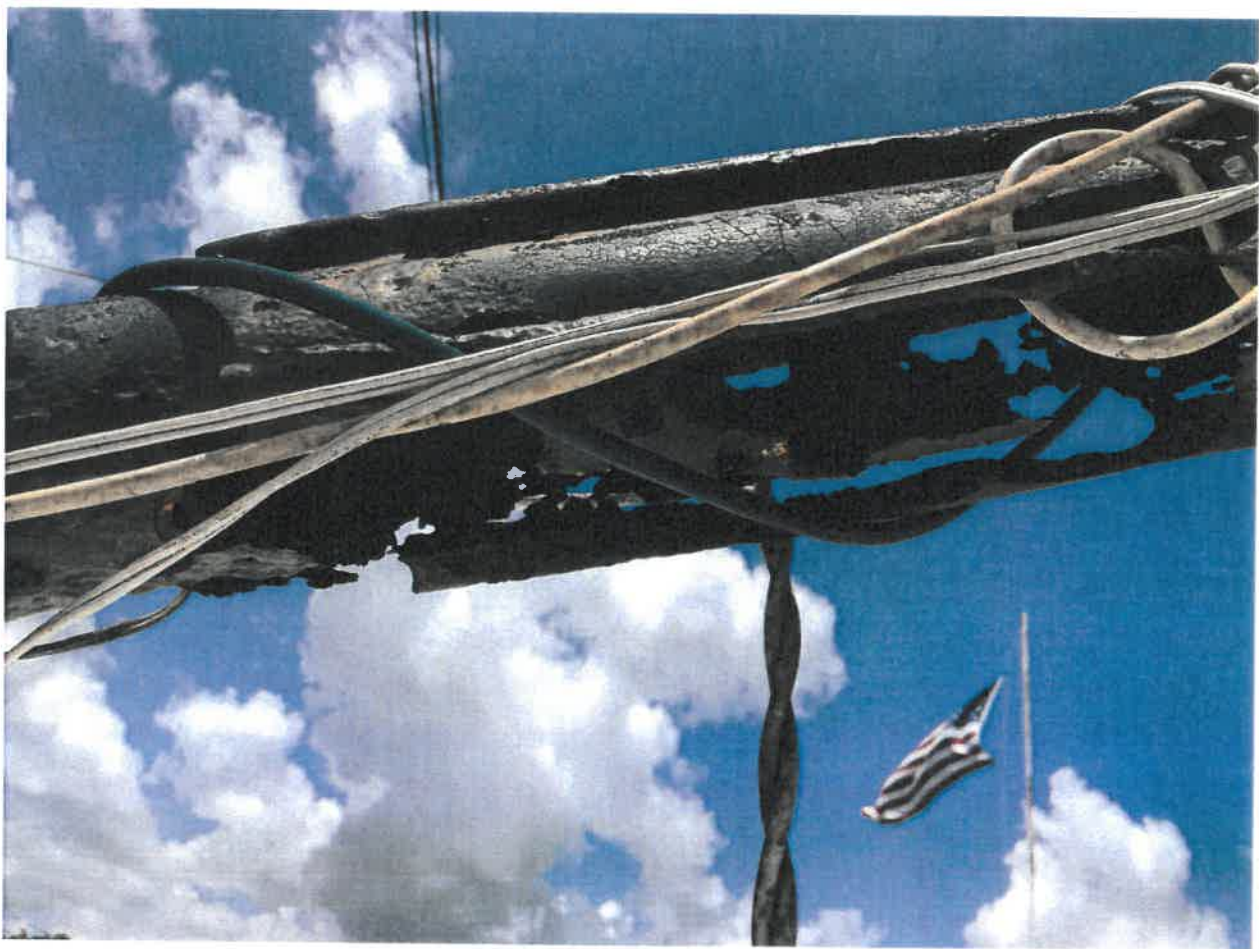
roger@saltwatersalvage.com







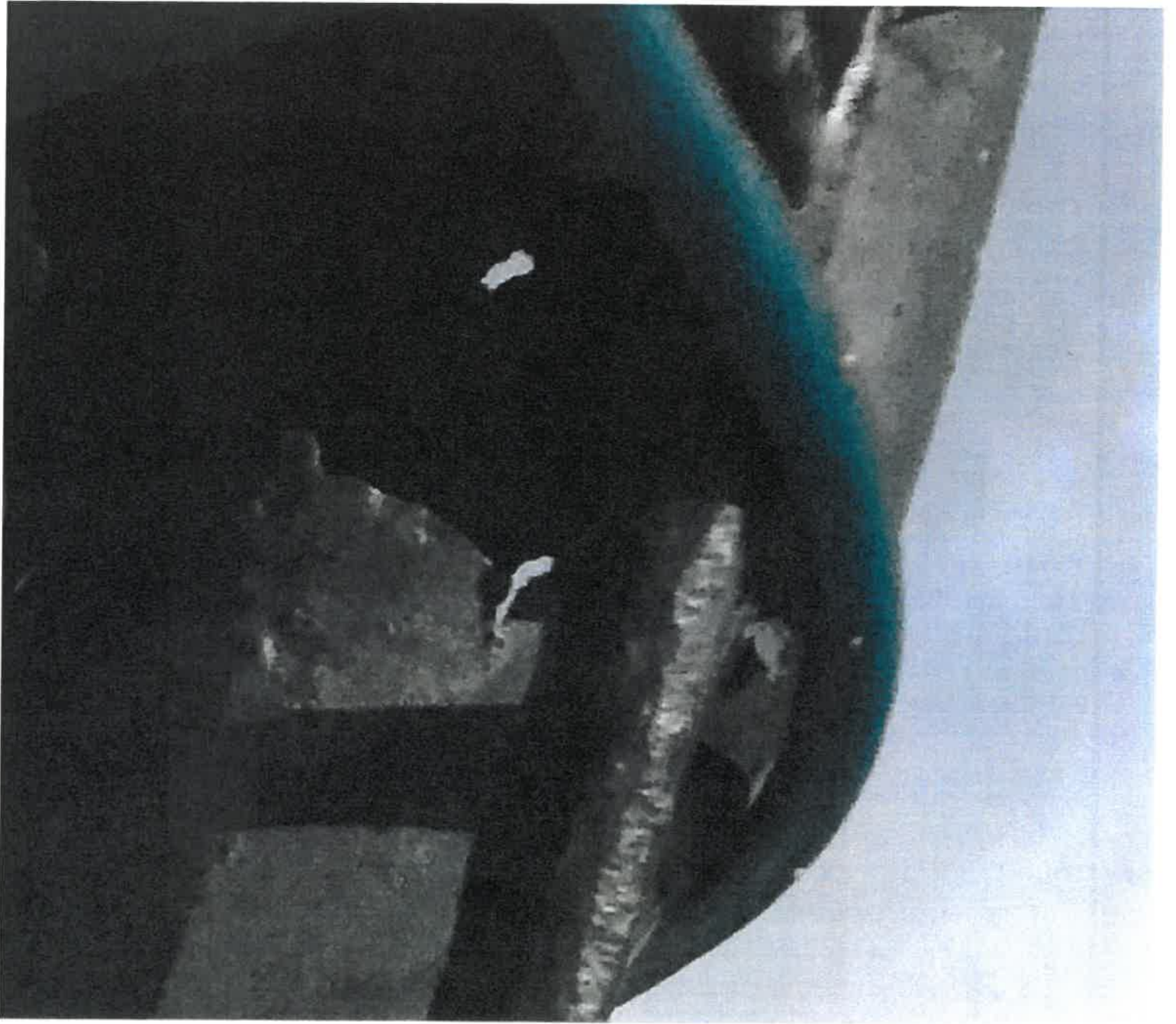














## City Council Agenda Item #6

**Title:** Consider authorizing the purchase of camera systems and software.

**Date:** December 16, 2019

**From:** Stephanie Russell, Assistant City Manager/Finance Director

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**Staff Recommendation:**

Staff recommends authorization to purchase camera systems and software from WatchGuard, Inc. for an amount not to exceed \$77,640.

**Item Summary:**

The Police Department has submitted a request to replace the in-car camera systems within the patrol fleet (14 units) with WatchGuard standard DVR Camera Systems and Evidence Library software. In addition to the units, an Interview Room Camera System is also proposed. The total cost of the proposed project is \$77,640.

**Background Information:**

WatchGuard, Inc. is the exclusive and sole manufacturer of the 4RE Digital In-Car Video System, High Fidelity Wireless Microphone System and Evidence Library evidence management software being proposed. The Police Department currently utilizes L3 camera systems which are not as functional as the proposed WatchGuard system. Additionally, the City has WatchGuard body cameras that are not compatible with the current in-car systems. These new systems will also allow compatibility with neighboring jurisdictions who also utilize WatchGuard.

**Special Considerations:** N/A

**Financial Impact:** The Police Department was awarded a \$106,611 grant for Mobile Video Recorder Equipment from the DJ-Edward Byrne Memorial Justice Assistance Grant Program in September. This revenue and expenditures were included in the first FY2019-2020 budget amendment. However; since the purchase is over \$50,000, per the City's Purchasing Policy, it must be approved by Council.

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

**Supporting Documentation:** WatchGuard Quote and Sole Source Documentation



# 4RE/VISTA Price Quote

CUSTOMER: Freeport Police Department

ISSUED: 1/25/2019 2:09 PM

EXPIRATION: 12/31/2019 12:00 AM

**TOTAL PROJECT ESTIMATED AT:  
\$77,640.00**

ATTENTION: David Fernandez

SALES CONTACT: Dave Childress

PHONE: 979-239-1211

DIRECT: (281) 782-2544

E-MAIL:

E-MAIL:  
dave.childress@motorolasolutions.com

## 4RE and VISTA Proposal Evidence Library 4 Web Software and Licensing

Part Number	Detail	Qty	Direct	Discount	Total Price
KEY-EL4-DEV-001	Evidence Library 4 Web 4RE In-Car Device License Key	15.00	\$150.00	\$0.00	\$2,250.00

## 4RE In-Car System and Options

Part Number	Detail	Qty	Direct	Discount	Total Price
4RE-STD-GPS-RV2	4RE Standard DVR Camera System with integrated 200GB automotive grade hard drive, 16GB USB removable thumb drive, rear facing cabin camera, GPS, hardware, cabling and your choice of mounting bracket.	14.00	\$4,795.00	\$0.00	\$67,130.00
CAM-4RE-PAN-NHD	Additional Front Camera, 4RE, HD Panoramic	14.00	\$200.00	\$200.00	\$0.00

## 4RE Interview System and Options

Part Number	Detail	Qty	Direct	Discount	Total Price
4RE-STD-GPS-RV2	4RE Interview Room Camera System. Includes dome camera, microphone, DVR, integrated 200GB automotive grade hard drive, 16GB USB removable thumb drive, desktop stand & cabling, 1 yr. warranty and remote viewing software. Supports the addition of a second camera.	1.00	\$4,995.00	\$0.00	\$4,995.00
INT-AMP-CPL-M2M	RCA Coupler, Interview Room, Male to Male	1.00	\$5.00	\$0.00	\$5.00
INT-AMP-CAB-001	Audio Amplifier w/ Pwr Supply, Interview Room, Line Level (for Cabin Mic)	1.00	\$85.00	\$0.00	\$85.00

## Wireless Video Transfer and Networking Options

Part Number	Detail	Qty	Direct	Discount	Total Price
4RE-WRL-KIT-101	4RE In-Car 802.11n Wireless Kit, 5GHz (2.4 GHz is available by request)	14.00	\$200.00	\$0.00	\$2,800.00

## 4RE Hardware Warranties

Part Number	Detail	Qty	Direct	Discount	Total Price
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415 E. Exchange Parkway • Allen, TX • 75002  
Toll Free (800) 605-6734 • Main (972) 423-9777 • Fax (972) 423-9778  
[www.WatchGuardVideo.com](http://www.WatchGuardVideo.com)



# 4RE/VISTA Price Quote

WAR-4RE-CAR-1ST	Warranty, 4RE, In-Car, 1st Year (Months 1-12)	15.00	50.00	\$0.00	\$0.00
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### Shipping and Handling

Part Number	Detail	Qty	Direct	Discount	Total Price
Freight	Shipping/Handling and Processing Charges	1.00	\$375.00	\$0.00	\$375.00
					<b>\$77,640.00</b>

**Total Estimated Tax, may vary from State to State \$0.00**

<b>Configuration Discounts</b>	<b>\$2,800.00</b>
<b>Additional Quote Discount</b>	<b>\$0.00</b>
<b>Total Amount</b>	<b>\$77,640.00</b>

NOTE: This is only an estimate for 4RE & VISTA related hardware, software and WG Technical Services. Actual costs related to a turn-key operation requires more detailed discussion and analysis, which will define actual back-office costs and any costs associated with configuration, support and installation. Please contact your sales representative for more details.

To accept this quotation, sign, date and return with Purchase Order: \_\_\_\_\_ DATE: \_\_\_\_\_





5<sup>th</sup> of June, 2018

Reference: WatchGuard, Inc. Sole Source Letter

To whom it may concern:

WatchGuard, Inc. is the exclusive and sole manufacturer of the DV-1 Digital In-Car Video System, the 4RE Digital In-Car Video System, the High Fidelity Wireless Microphone System, the VISTA wearable camera system and the Evidence Library evidence management software. With the exception of the following agreements, these products are represented and sold only by WatchGuard, Inc. Regional Sales Managers selling factory direct in protected sales territories. The exceptions to this are agreements allowing resellers to distribute WatchGuard products on a General Services Administration Contract (GSA), and State Contracts in Pennsylvania, Louisiana, and New Jersey.

WatchGuard, Inc. is also the sole provider of hardware warranty and software maintenance support services for the above mentioned products.

Additionally, several important and unique features are available only with these products;

#### **DV-1 and 4RE Unique Features**

- Record-After-The-Fact provides the ability to retrieve video not previously recorded as an event for up to 60 hours of ignition time for retrieval and downloading.
- Through the automatic media overflow function, a DVD (DV-1) or Removable USB Drive (4RE) can be full and the hard drive buffer stores all video until a new DVD or USB Drive is placed in the system. At that time all of the recorded events are captured without 1 second of loss.

#### **DV-1**

- The system records digital video onto rewritable DVD-Video discs that play in consumer DVD players, allowing for the actual evidence recorded in the car to be the exact evidence presented in court. The system records pre and post event as part of the same Title and not separated. The DVD burning process happens in real-time, and while in motion.
- Supervisors can recover up to 6 of the previous DVDs recorded in the event a DVD is damaged. The system creates a mirror image of the original.
- The DVD recorder is isolated from shock and vibration using a silicone-oil dampened suspension system.

415 E. Exchange · Allen, TX · 75002  
Toll Free (800) 605-6734 · Main (972) 423-9777 · Fax (972) 423-9778  
[www.WatchGuardVideo.com](http://www.WatchGuardVideo.com)



- The complete system is offered in a 1-Piece overhead mounted version that mounts conveniently using an overhead mounting bracket.

#### 4RE

- 4RE is the only high-definition digital in-car video system available today that features the Patented multiple resolution encoding. This allows the front camera to record in two different IACP compliant resolutions simultaneously, allowing the most critical events to be saved in 720P high-definition and the routine events to be saved in 480P (864x480) resolution.
- 4RE exclusively offers the Panoramic X2 camera, manufactured only by WatchGuard, Inc., which is the industry's only dual lens, rotatable turret camera which houses a 68 degree rotatable camera and a 150 degree panoramic camera.

#### Wireless Microphone

- The Hi-Fi microphone has near CD quality high fidelity sound, a line of sight range of one to two miles, and superior building penetration capabilities.
- Using patent pending intelligent standby and a lithium polymer battery gives the microphone its extraordinary battery life of up to 24 hours of talk time, and up to 30 days of standby time.
- The wireless microphone holsters are manufactured exclusively for WatchGuard and manufactured to WatchGuard transmitter specification.

#### VISTA

- VISTA is constructed with industrial grade components and is manufactured in the U.S.A. It is capable of recording both High Definition and Standard Definition video, and battery life capable of record up to 9 continuous hours of HD video. VISTA has other unique features, including:
- The only wearable camera to integrate with the WatchGuard Evidence Library and Evidence Library Express video and evidence management applications.
- Record-After-The-Fact which gives the ability to retrieve video not previously recorded as an event
- VISTA WiFi is the only wearable camera system that can fully integrate with the 4RE HD Digital In-Car Video system to seamlessly capture and synchronize video from multiple vantage points.

415 E. Exchange · Allen, TX · 75002  
Toll Free (800) 605-6734 · Main (972) 423-9777 · Fax (972) 423-9778  
[www.WatchGuardVideo.com](http://www.WatchGuardVideo.com)



## EVIDENCE LIBRARY 4 EVIDENCE MANAGEMENT SOFTWARE

- Evidence Library 4 Web (EL4) utilizes Microsoft SQL Server databases, and can be hosted on premise on agency servers, or deployed as a hybrid solution.
- WatchGuard engineers designed this software from the ground up to have all of the functionality, features, and the customization options necessary to ensure that law enforcement agencies have a tool they can use to protect, search, copy, share, and create reports for their video evidence.
- Using the building blocks of Microsoft Windows Server, Microsoft SQL Server and Active Directory provide for seamless integration in to your existing infrastructure

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. Burrige".

Chief Mike Burrige (Ret)  
*Senior Vice President of Sales*  
WatchGuard, Inc.

415 E. Exchange · Allen, TX · 75002  
Toll Free (800) 605-6734 · Main (972) 423-9777 · Fax (972) 423-9778  
[www.WatchGuardVideo.com](http://www.WatchGuardVideo.com)



Dear Customer:

Please note, the physical address listed on this W-9 is not our remittance address.

Please send all payments to:

WatchGuard, Inc.  
PO Box 677996  
Dallas TX 75267-7996

For correspondence and return shipments or repairs, use our mailing and shipping address:

WatchGuard, Inc.  
415 E Exchange Pkwy  
Allen TX 75002

Thank you for your prompt attention to this matter.

Sincerely,

WatchGuard Accounts Receivable

(800) 605-6734 option 3  
[areceivable@watchguardvideo.com](mailto:areceivable@watchguardvideo.com)



## City Council Agenda Item #7

**Title:** Consideration and possible action on approval and awarding of bid for rehabilitation of lift stations #5 and #13 and replacement of sanitary sewer lines south of West 8<sup>th</sup> street.

**Date:** 12/16/2019

**From:** Tim Kelty, City Manager

---

**Staff Recommendation:** Staff recommends approval the bid from C&A Construction, LLC for the rehab of lift stations No. 5&13 and sewer line replacement project in the amount of \$284,400.83 and authorize the City Manager to execute the resulting contract.

**Item Summary:** This project was engineered and designed by Freese and Nichols. Sealed bids were received and opened on November 26<sup>th</sup>. Bids were received from Matula & Matula Construction, Inc., Sorrell Construction, and C&A Construction LLC. C&A Construction was the low bidder at \$284,400.83 The bid tabulation is attached.

Following the bid opening Freese and Nichols reviewed all the detail in the bids along with the references and project experience of the low bidder. Based on their review, Freese and Nichols recommends the award of the contract to C&A Construction.

**Background Information:**

In August Council authorized Freese and Nichols to move forward with the engineering and design for the rehabilitation of Lift stations #5 and #13 and the replacement of a sanitary sewer line south of west 8<sup>th</sup> street. Both projects are part of the ongoing and overwhelming maintenance needs of the utility infrastructure. The preliminary estimated construction cost for the two projects is about \$225,000.

**Special Considerations:** None

**Board or 3<sup>rd</sup> Party recommendation:** Freese and Nichols recommends the award of the contract to C&A Construction.

**Financial Impact:** The cost of this project is \$284,400.83 which is \$60,000 more than the original estimate. The City budgeted \$1.5 million for water and sewer improvements in this fiscal year. This project will come from those funds

**Supporting Documentation:** Bid Tabulation and Recommendation letter from Freese & Nichols.

**City of Freeport**  
**Lift Station No. 5 & 13 rehab and Sewer line replacement**  
**Bid Tabulation**

Sealed bids were opened at 2:00pm on November 26, 2019.

Three contractors submitted bids and two were present at the bid opening.

	Project Bid Amount
Sorrell Construction	\$357,806.00
C & A Construction, LLC	\$284,400.83
Matula & Matula Construction, Inc.	\$477,614.30

**Bid Opening Attendees:**

Betty Wells – City Secretary

Laura Tolar – Assistant City Secretary

Jorge Avilez- C & A Construction

Chris Blessing- Matula & Matula Construction, Inc.



Innovative approaches  
Practical results  
Outstanding service

11200 Broadway Street, Suite 2320 • Pearland, Texas 77584 • 832-456-4700 • FAX 832-456-4701

[www.freese.com](http://www.freese.com)

December 4, 2019

Tim Kelty  
City of Freeport  
200 W 2<sup>nd</sup> St  
Freeport, TX 77541

Re: Project/Bid No.: 1901  
Lift Station No. 5 & 13 Rehab and Sewer Line Replacement

Dear Mr. Kelty:

Listed below is the summary of bids for Lift Station No. 5 & 13 Rehab and Sewer Line Replacement project. A total of three bid proposals were received on November 26, 2019.

Summary of Bids:

	<u>Total</u>
1) Matula & Matula Construction, INC.	\$ 477,614.30
2) Sorrell Construction Equipment & Materials, LLC.	\$ 347,087.00
3) C&A Construction, LLC	\$ 284,400.83

Freese and Nichols' Opinion of Probable Construction Cost for the project was \$384,650.20. A copy of the bid tabulation is attached for your use and information.

FNI called several references from a project list provided by C&A Construction, LLC and other sources and received positive feedback from several sources who had worked with them on similar projects.

Based on this information, Freese and Nichols recommends that the City of Freeport award the construction contract for this project to C&A Construction, LLC. in the amount of \$284,400.83.

Please call me at (832) 456-4745 if you have any questions.

Sincerely,

Jared Barber, P.E.  
Freese and Nichols, Inc.



## City Council Agenda Item #8

**Title:** Consideration and possible action regarding the recommendations of the Freeport Charter Review Committee to place items for consideration on the upcoming ballot for the Freeport Elections in May of 2020.

**Date:** December 16, 2019

**From:** Tim Kelty, City Manager

---

**Staff Recommendation:** Staff recommends council consider report from and items recommended by the Charter Review Committee for placement on the upcoming ballot in the May election and choose those items you feel are most important for doing so.

**Item Summary:** The Charter review committee has recommended for Council consideration the following 8 questions to be placed upon the upcoming ballot:

1. Shall the Charter be amended to establish the term of office for Mayor and each council member to be elected for a term three years, with a limit of two consecutive terms?
2. Shall the Charter be amended to include Election Dates as standardized by State Law?
3. Shall Section 3.04 of the Charter be amended to state that the Mayor shall receive a monthly compensation of \$400.00, and the other members of the City Council shall receive a monthly compensation of \$200.00 each. The Mayor and each of the other members of the City Council shall also receive an additional \$50.00, payable monthly, for each posted meeting of the City Council attended by them.
4. Shall section 3.07 of the Charter be amended allowing the City Council to adopt, modify and carry out all plans proposed by the Planning Commission.
5. Shall section 4.06 of the Charter be amended to eliminate the requirement that the City Attorney must be a resident of Brazoria County, Texas?
6. Shall Section 11.011 of the Charter be amended to require that every ordinance or resolution adopted by the City Council, shall be published in accordance with state law?



7. Shall the Charter be amended to recognize the city boundaries as they currently stand and as may be amended in the future.
8. Shall the Charter be amended allowing for recordation of adopted ordinances and resolutions to be permanently maintained by electronic means.

**Background Information:** The Charter Review Committee appointed by the City Council in June has met in open meetings over the last 6 months and carefully reviewed section by section the City Charter. They identified over 35 potential changes for the Charter many of which were driven the need to be more congruent with state law, some were considered good housekeeping changes, and several were identified as important and timely. After careful consideration the list was reduced to these eight questions.

**Special Consideration:**

In review of these items Council may consider each item individually and act upon them individually. You may consider them as a whole or in part and may also consider other potential changes outside the recommendation of the committee.

Any items selected for inclusion on the ballot shall be submitted to the voters in the manner provided by chapter 9 of the Local Government Code

**Board or 3<sup>rd</sup> Party recommendation:** This is the formal recommendation of the Charter Review Commission as stipulated procedurally under Section 11.13 of the Charter.

**Supporting Documentation:** Charter Review commission report

**CITY OF FREEPORT**  
**Charter Review Commission Recommendations**  
**DRAFT**  
**December 9, 2019**

**Proposed Changes to the Existing City of Freeport Home Rule Charter:** The following changes are proposed for Council consideration to be placed on the Ballot for the May 2020 General Election. In keeping with prior years' recommendation reports where the text in BLACK is the current language, the GREEN text is the proposed language for inclusion in the Charter, the text in RED is the proposed ballot language and the text in BLUE is the rationale behind the change.

**IMPORTANT AND TIMELY:**

**Proposed Change #1: Section 3.01(b)(d) and Section 5.10**

**Current Charter Language:**

**SECTION. 3.01(b)(d) – NUMBER, SELECTION, AND TERM.**

(b) The Mayor shall be elected from the City of Freeport at large for a two (2) year term at an election to be held in each of the hereinafter designated single member districts or wards on the first Saturday of May in each odd numbered year beginning in 1993.

(d) The members of the City Council shall serve a two year term each, with an election being held for council members from Wards A and C in May of each even numbered year and from Wards B and D in May of each odd numbered year.

**SECTION 5.10. LIMITATION ON CONSECUTIVE TERMS OF OFFICE.**

No person shall be eligible to become a candidate for election to the same office for more than three (3) consecutive terms. Provided, however, the previous terms to which any person holding an elective office on the date this provision becomes effective shall not be counted.

**Proposed Charter Language:**

**SECTION. 3.01(b)(d) – NUMBER, SELECTION, AND TERM.**

(b) The Mayor shall be elected from the City of Freeport at large for a three (3) year term at an election to be held on the May uniform election date beginning in 2021, unless such date is changed by state law.

(d) The members of the City Council shall serve a three year term each, with an election being held for council members from Wards A and C on the general election date beginning in 2020 and from Wards B and D on the general election date beginning in 2021, unless such date is changed by state law.

**SECTION 5.10. LIMITATION ON CONSECUTIVE TERMS OF OFFICE.**

**No person shall be eligible to become a candidate for election to the same office for more than three (3) consecutive terms**

**Proposed Ballot Language:**

Shall the Charter be amended to establish the term of office for Mayor and each council member to be elected for a term three years, with a limit of two consecutive terms?

**Rationale for Change:**

This purpose of this change is to establish 3 year terms, to reduce the expense and interruption of having an election every year.

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**Proposed Change #2: Section 3.01(f)**

**Proposed Charter Language:**

**(f) All references within this Charter to specific Election Dates are henceforth held to be synonymous with the May Uniform Election Dates as proscribed by current State Law and as may be revised by acts of the State Legislature in the future.**

**Proposed Ballot Language:**

Shall the Charter be amended to include Election Dates as standardized by State Law?

**Rationale for Change:**

The Charter makes references to specific dates for Municipal Elections which may be in contravention with State Law. This section prevents conflict with state law by stating that any reference to Election Dates would be held to be the same as the General Election dates as written into current and future State Law.

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**Proposed Change #3: Section 3.04 Compensation**

**Current Charter Language:**

**SECTION 3.04. COMPENSATION.**

The Mayor shall receive a monthly compensation of \$200.00, and the other members of the City Council shall receive a monthly compensation of \$100.00 each. The Mayor and each of the other members of the City Council shall also receive an additional \$25.00, payable monthly, for each posted meeting of the City Council attended by them. Any expenses incident to holding office incurred by any member of the City Council shall also be reimbursed upon presentment of receipt or other proof of payment.

**Proposed Charter Language:**

**The Mayor shall receive a monthly compensation of \$400.00, and the other members of the City Council shall receive a monthly compensation of \$200.00 each. The Mayor and each of the other members of the City Council shall also receive an additional \$50.00, payable monthly, for each posted meeting of the City Council attended by them. Any expenses incident to holding office incurred by any member of the City Council shall also be reimbursed upon presentment of receipt or other proof of payment.**

**Proposed Ballot Language:**

Shall Section 3.04 of the Charter be amended to state that the Mayor shall receive a monthly compensation of \$400.00, and the other members of the City Council shall receive a monthly compensation of \$200.00 each. The Mayor and each of the other members of the City Council shall also receive an additional \$50.00, payable monthly, for each posted meeting of the City Council attended by them.

**Rationale for Change:**

The amount of compensation has not been increased for many years.

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**Proposed Change #4: Section 3.07**

**Current Charter Language:**

**SECTION 3.07. POWERS OF THE CITY COUNCIL**

The determination of all matters of policy and the exercise of all powers of local self-government shall be vested in the City Council. By way of illustration, but not limitation, the following enumerated powers are among these powers that may be exercised by the City Council:

(i) Adopt, modify and carry out plans proposed by the Planning Commission for the clearance of slum districts and rehabilitation of blighted areas;

(j) Adopt, modify and carry out plans proposed by the Planning Commission for the replanning, improvement and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;

**Proposed Charter Language:**

The determination of all matters of policy and the exercise of all powers of local self-government shall be vested in the City Council. By way of illustration, but not limitation, the following enumerated powers are among these powers that may be exercised by the City Council:

(i) Adopt, modify and carry out plans proposed by the Planning Commission;

**Proposed Ballot Language:**

Shall section 3.07 of the Charter be amended allowing the City Council to adopt, modify and carry out all plans proposed by the Planning Commission.

**Rationale for Change:**

The current Charter language only allows adoption of Planning Commission recommendations in cases of slum area, blight, or destruction due to disaster. The proper role of the Planning Commission is to undertake all matters of planning for the city.

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**Proposed Change #5: Section 4.06**

**Current Charter Language:**

**SECTION 4.06. CITY ATTORNEY.**

The City Council shall appoint a duly licensed attorney practicing law and a qualified voter in Brazoria County, Texas, who shall be the City Attorney. He shall receive for his services such compensation as may be fixed by the City Council, and shall hold his office at the pleasure of the City Council. The City Attorney, or such other attorneys selected by him with the approval of the City Council, shall represent the City in all litigation. He shall be the legal advisor of, and attorney and counsel for, the City and all officers and departments thereof.

**Proposed Charter Language:**

**SECTION 4.06. CITY ATTORNEY.**

The City Council shall appoint a duly licensed attorney practicing law, who shall be the City Attorney. He shall receive for his services such compensation as may be fixed by the City Council, and shall hold his office at the pleasure of the City Council. The City Attorney, or such other attorneys selected by him with the approval of the City Council, shall represent the City in all litigation. He shall be the legal advisor of, and attorney and counsel for, the City and all officers and departments thereof.

**Proposed Ballot Language:**

**Shall section 4.06 of the Charter be amended to eliminate the requirement that the City Attorney must be a qualified voter in Brazoria County, Texas?**

**Rationale for Change:**

This change eliminates the requirement that the City Attorney is a resident of Brazoria County. This allows for application by a larger pool of attorneys to serve as City Attorney.

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**Proposed Change #6: SECTION 11.011 SELECTION OF NEWSPAPER FOR PUBLICATION**

**Current Charter Language:**

**SECTION 11.011 SELECTION OF NEWSPAPER FOR PUBLICATION**

(a) Every ordinance or resolution adopted by the City Council, which is required or permitted to be published in a newspaper, shall designate, in the body thereof, one or more newspapers of general circulation within the City of Freeport in which such ordinance or resolution, or the descriptive caption thereof, shall be published; and it shall also appear on the City's website for at least ten (10) days or for the length of time between each publication, if it is required to be published more than once, whichever is longer.

(b) Each officer of the City, who is required or permitted to publish any printed notice or other printed matter in any newspaper, shall select one or more newspapers in which such printed notice or other printed matter shall be published.

**Proposed Charter Language:**

(a) Every ordinance or resolution adopted by the City Council, which is required ~~or permitted~~ to be published in a newspaper, shall designate, in the body thereof, one or more newspapers of general circulation within the City of Freeport in which such ordinance or resolution, or the descriptive caption thereof, shall be published; and it shall also appear on the City's website for at least ten (10) days or for the length of time between each publication, if it is required to be published more than once, whichever is longer.

(b) Each officer of the City, who is required ~~or permitted~~ to publish any printed notice or other printed matter in any newspaper, shall select one or more newspapers in which such printed notice or other printed matter shall be published.

**Proposed Ballot Language:**

Shall Section 11.011 of the Charter be amended to require that every ordinance or resolution adopted by the City Council, shall be published in accordance with state law?

**Rationale for Change:**

The current charter language requires publication in excess of the state law requirement and the language leads to confusion.

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**GOOD HOUSEKEEPING**

**Proposed Change #7: SECTION 1.02 BOUNDARIES**

**Current Charter Language:**

**SECTION 1.02. BOUNDARIES.**

The boundaries of the City of Freeport shall be the same as have heretofore been established and as they existed on the 25th day of April, 1960, which boundaries are more fully set out on an official map, and described by metes and bounds in a document titled "Boundaries of the Corporate Limits of the City of Freeport, Brazoria County, Texas," being Ordinance No. 1022, filed in the City Hall of the City of Freeport, Texas.

**Proposed Charter Language:**

The boundaries of the City of Freeport shall be the same as have heretofore been established and as they existed on the 25th day of April, 1960, which boundaries are more fully set out on an official map, and described by metes and bounds in a document titled "Boundaries of the Corporate Limits of the City of Freeport, Brazoria County, Texas," being Ordinance No. 1022, filed in the City Hall of the City of Freeport, Texas, and as have been since and may be amended in the future, as a result of legal annexation.

**Proposed Ballot Language:**

Shall the Charter be amended to recognize the city boundaries as they currently stand and as may be amended in the future.

**Rationale for Change:**

The current Charter language could be very problematic. The city's authority to act within its city limits are limited to whatever the boundaries were back in 1960. Further, annexation would not be allowed in the future without changing the Charter.

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**Proposed Change #8: SECTION 3.10**

**Current Charter Language:**

The vote upon the passage of all ordinances, resolutions and motions shall be taken by the "ayes" and "nays" and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a book kept for that purpose under full caption, and shall be authenticated by the signature of the presiding officer and the person performing the duties of City Secretary.

**Proposed Charter Language:**

The vote upon the passage of all ordinances, resolutions and motions shall be taken by the "ayes" and "nays" and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded ~~in a book and permanently maintained for that purpose under full caption~~, and shall be authenticated by the signature of the presiding officer and the person performing the duties of City Secretary.

**Proposed Ballot Language:**

Shall the Charter be amended allowing for recordation of adopted ordinances and resolutions to be permanently maintained by electronic means.

**Rationale for Change:**

The current charter requires all passed ordinances and resolutions to be maintained "in a book". This change allows such records to be scanned and maintained by electronic means.



## City Council Agenda Item #9

**Title:** Consideration of an Ordinance approving Amendment One to the Industrial District Agreement of December 2011 between the City of Freeport Neighboring cities and various Industries and authorizing the Mayor to sign the contract amendment.

**Date:** December 16, 2019

**From:** Tim Kelty, City Manager

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**Staff Recommendation:** Staff recommends the approval by Council of the Amendment to the Industrial District Agreement.

**Item Summary:** The City of Freeport along with the cities of Clute and Lake Jackson entered into a 15-year Industrial District Contract with BASF, DOW Chemical, and Brock Stratton Ridge companies in December of 2015, for a significant portion of the Cities' General Fund revenue. This Agreement which currently expires in 2026 represents the largest Industrial District contract in which the City is currently engaged. The proposed amendment extends the term of the agreement resetting the clock to the original 15-year term, so that the new expiration would be 2034. All other terms and conditions of the agreement remain as is.

**Background Information:** Changes were proposed in Austin during the State's last two legislative sessions that threaten the future of our ability to enter into industrial district contracts. Last minute changes were made before bills were adopted that prevented what would have amounted to long-term cataclysmic financial impact to the city. In the more recent legislative session, while our authority remained at the end of the day, the foundation of that authority (the right to annex) was eroded locally by being eliminated statewide except for counties with industrial districts exist.

Revenue from this one industrial contract is budgeted this year as the single largest source of revenue supporting the General Fund, larger than Property Tax from all other tax payers, larger than all sales tax revenue.

If this agreement is approved, it would ensure the revenue at least until 2033. As this is the largest of the Industrial agreements it is our intent once adopted to pursue similar amendments with our smaller industrial district partners.



**Financial Impact:** Potentially unmeasurable

**Board or 3<sup>rd</sup> Party recommendation:** this is something we are collaborating on with Clute has already agreed to the effort and Lake Jackson is considering it on the 16<sup>th</sup> as well.

**Supporting Documentation:** Ordinance No. 2019-2591 and Amendment One

**ORDINANCE NO. 2019-2591**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS; EXTENDING THE INDUSTRIAL DISTRICT AGREEMENT BETWEEN THE CITY OF FREEPORT, THE CITY OF CLUTE, THE CITY OF LAKE JACKSON AND DOW, BASF, AND BROCK STRATTON RIDGE, LLC; PROVIDING THAT ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH SHALL BE REPEALED; PROVIDING A SAVINGS CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

WHEREAS, on November 21, 2011, under Section 42.044 of the Texas Local Government Code, the City of Freeport created the Brazosport Industrial District;

WHEREAS, the City of Freeport entered into an industrial district agreement for the Brazosport Industrial District with the City of Clute, the City of Lake Jackson, Dow, BASF, and Brock Stratton Ridge, LLC; and

WHEREAS, the parties to the Agreement now wish to extend the term of the Agreement.

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

**SECTION 1.** That the City of Freeport, Texas is hereby authorized to enter into an agreement with Dow, BASF, Brock Stratton Ridge, LLC, and the cities of Clute and Lake Jackson to extend the term of the Industrial District Agreement up to and including the year 2033.

**SECTION 2.** That the Mayor of the City of Freeport is hereby authorized to execute said extension.

**SECTION 3.** That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict only.

**SECTION 4.** That if any part or portion of this ordinance shall be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any remaining portions or provisions of this ordinance.

**READ, PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2019.**

\_\_\_\_\_  
Brooks Bass Mayor,  
City of Freeport, Texas

ATTEST:

APPROVED AS TO FORM ONLY:

\_\_\_\_\_  
Betty Wells, City Clerk,  
City of Freeport, Texas

\_\_\_\_\_  
Christopher Duncan, City Attorney,  
City of Freeport, Texas

AMENDMENT ONE TO THE  
INDUSTRIAL DISTRICT AGREEMENT

by and among

BASF CORPORATION

and

THE DOW CHEMICAL COMPANY

and

BROCK STRATTON RIDGE, LLC

(formerly The Brock Interests)

and

THE CITY OF LAKE JACKSON, TEXAS

and

THE CITY OF FREEPORT, TEXAS

and

THE CITY OF CLUTE, TEXAS

(Collectively referred to as the "Parties")

WHEREAS, the Parties entered into an Industrial District Agreement effective December 1, 2011 (the Agreement) to guarantee the continuation of the extraterritorial status of certain lands identified in Exhibits A, B, C, and D of the Agreement; and

WHEREAS, the Agreement's term expires on December 1, 2026; and

WHEREAS, the parties have agreed to extend the Agreement's term to December 1, 2034;

NOW THEREFORE, for and in consideration of the mutual promises, covenants, and obligations set forth below, the Parties, each and separately by this instrument, contract and agree as follows:

#### AGREEMENT

1.  
Revision of Term

Section V of the Agreement is hereby amended to revise the term of the Agreement to December 1, 2034. All other terms of the Agreement shall remain the same and in effect.

2.  
Effective Date

The effective date of this Amendment is December 31, 2019 regardless of whether execution by all parties shall have occurred by December 31, 2019.

3.  
Miscellaneous

This Amendment embodies the entire agreement of the Parties relating to the subject matter hereof. If there is any conflict between this Amendment and the Agreement, this Amendment shall control. This instrument may be executed in multiple copies, each of which fully executed shall be deemed to be an original.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date set forth above.

[Execution page follows]

THE DOW CHEMICAL COMPANY

By \_\_\_\_\_

Title \_\_\_\_\_

BROCK STRATTON RIDGE, LLC

By \_\_\_\_\_

Title \_\_\_\_\_

CITY OF LAKE JACKSON

By \_\_\_\_\_

Title \_\_\_\_\_

CITY OF FREEPORT

By \_\_\_\_\_

Title \_\_\_\_\_

CITY OF CLUTE

By \_\_\_\_\_

Title \_\_\_\_\_

BASF CORPORATION

By \_\_\_\_\_

Title \_\_\_\_\_

ATTESTED AND COUNTERSIGNED

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

ATTESTED AND COUNTERSIGNED

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

ATTESTED AND COUNTERSIGNED

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

**RESOLUTION NO. 2019-2614**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, EVIDENCING CONSENT TO THE CREATION OF FREEPORT MUNICIPAL UTILITY DISTRICT NO. 1**

**WHEREAS**, Skymark Development Company, Inc. and its affiliated entities Headway Estates, Ltd. and Aylesbury Ltd. (collectively referred to as "Skymark"), acting under authority of Section 54.016 of the Texas Water Code, has petitioned the City of Freeport, Texas (the "City") for its consent to the creation of Freeport Municipal Utility District No. 1 (the "District"), on land within the corporate boundaries of the City, to promote the development of the land to be included within the District;

**WHEREAS**, Skymark has pending an application to the Texas Commission on Environmental Quality to create the District;

**WHEREAS**, the Texas Commission on Environmental Quality requires a certified copy of a Resolution to evidence the consent by the City to the creation of the District;

**WHEREAS**, the City desires to evidence its consent to the creation of the District, while the City and Skymark attempt to negotiate and finalize the terms of a Utility Agreement that will govern the relationship between the City and the District in the future; and

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

**Section 1.** That all of the matters and facts set out in the preamble hereof are true and correct.

**Section 2.** That the City Council of the City of Freeport, Texas hereby evidences its consent to the creation of the District subject to the terms and conditions set forth in this section and in Exhibit A. The District may not hold a confirmation election, as required by the Texas Water Code, and the City will not approve any plans for construction of District facilities, unless and until the City and Skymark have negotiated and executed a Utility Agreement governing the relationship of the District and the City.

PASSED AND APPROVED on this \_\_\_\_ day of \_\_\_\_\_, 2019.

ATTEST:

\_\_\_\_\_  
Mayor, City of Freeport, Texas

\_\_\_\_\_  
City Secretary, City of Freeport, Texas

(SEAL)

## EXHIBIT A

In addition to the conditions set out in section 2, above, the District will be subject to the following conditions:

- a) Bonds issued by the District shall be limited to net effective interest rates not higher than 2% over the most recent Daily Bond Buyer "20 Bond Index";
- b) Bonds issued by the District shall have a term, for each bond issue, of 30 years or less;
- c) The District shall issue bonds only to finance water, sanitary sewer, drainage, parks, and road infrastructure, or to refund such bonds issued for those purposes;
- d) All bonds issued by the District, with maturities of at least 10 years or more must be callable at par;
- e) No construction of public infrastructure in the District shall commence until all plans are approved by City;
- f) The City has the right to inspect public infrastructure projects during construction;
- g) The District shall provide the City with copies of all Preliminary and Final Official Statements when they are published;
- h) The District shall file a copy of its annual audit with the City each year, immediately after adoption;
- i) The District shall sell its bonds by sealed competitive bids (except refunding bonds);
- j) The District shall not sell its bonds for less than 97% of par (except refunding bonds);
- k) The District shall not issue any refunding bonds that extend maturity dates;
- l) The District shall not issue refunding bonds unless the net present value savings is at least 3% of the principal amount of the refunded bonds;
- m) The District's bond offering documents must make it clear that the full faith and credit of the City is not pledged on the bonds and no City taxes are pledged toward repayment of the bonds; and
- n) The District shall not annex any additional property into its boundaries without prior City consent through a resolution adopted by the City Council.