



**AGENDA
REGULAR MEETING
FREEPORT CITY COUNCIL
MONDAY, APRIL 1, 2024 AT 6:00 PM**

Mayor:

Brooks Bass

Council Members:

Jeff Pena

Jerry Cain

George Matamoros

Winston Rossow

City Manager:

Lance Petty

THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, WILL MEET ON MONDAY, APRIL 1, 2024 AT 6:00 PM, AT THE FREEPORT, POLICE DEPARTMENT, MUNICIPAL COURT ROOM, 430 NORTH BRAZOSPORT BOULEVARD FREEPORT TEXAS

This meeting will be live streamed via YouTube Live and may be accessed on the City of Freeport

Facebook page: <https://www.facebook.com/freeporttexas> or by visiting

<https://www.youtube.com/@cityoffreeporttx8375/streams>

THE MEETING IS BEING HELD 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:

Citizens who have registered with the City Secretary prior to the meeting being called to order and desire to address the City Council will be heard at this time, or the time the item is considered. Each speaker is limited to four (4) minutes, regardless of the number of agenda items to be addressed. All speakers must identify themselves by providing their name and residential address when making comments. Speakers making personal, impertinent, profane or slanderous remarks may be removed from the room and shall be barred from re-entering the meeting.

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

1. Proclamation for National Public Safety Telecommunicators Week. **(Jennifer Howell)**

2. Proclamation for National Animal Control Officer Appreciation week. **(Jennifer Howell)**

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 Any item requiring additional discussion may be withdrawn from the Consent Agenda by the Mayor, Councilmember or City Manager, and acted upon separately.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 March 18, 2024. **(Clarisa Molina)**
4. Consideration and possible action for road closures for the Cinco de Mayo Event on May 3rd, 2024. **(Ana Silbas)**

COUNCIL BUSINESS – REGULAR SESSION:

5. Consideration and possible action approving Resolution No. 2024-2852 authorizing a revision to the City of Freeport Policy Handbook Chapter 5- Standards of Conduct Section 5.14 Harassment in the Work Place. **(Donna Fisher)**
6. Consideration and possible action approving Resolution No. 2024-2839 for the demolishing of the building located at 208 West Park Avenue. **(Robert Johnson)**
7. Consideration and possible action entering into Business Associate Agreement between HUB International and the City of Freeport. **(Cathy Ezell)**

WORK SESSION:

8. The City Council may deliberate and make inquiry into any item specifically listed as a Subsection under the itemized Sections A-F below, an item appearing on the City Council agenda for this meeting, on matters related to community events, or on matters that are not within the jurisdiction of the City for consideration by City Council. The City Council may not deliberate on any City matters not specifically disclosed under this Work Session or on this posted City Council Meeting agenda. City Council members and the Mayor always reserve the right to request that a matter be placed on a future agenda for consideration.
 - A. Councilman Pena Ward A announcements and comments.
 - B. Councilman Cain Ward B announcements and comments.
 - C. Councilman Matamoros Ward C announcements and comments.
 - D. Councilman Rossow Ward D announcements and comments.
 - E. Mayor Brooks Bass announcements and comments.
 - F. City Manager Lance Petty announcements and comments.

CLOSED SESSION:

9. Executive Session regarding a.) (Consultation with Attorney) Possible Litigation – Park Avenue Lofts (Jeff Pena) for suit for unpaid Hotel Occupancy Taxes pursuant to Section 551.071 b.) (Deliberations about Real Property) 1.) O.A. Fleming property 2.) Freeport 19 LLC. pursuant to Section 551.072.

COUNCIL BUSINESS – REGULAR SESSION:

10. Take any action resulting from Executive Session.

ADJOURNMENT:

11. 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).

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.

CERTIFICATE I certify the foregoing notice was posted in the official glass case at the front door of the City Hall, with 24 hours a day public access, 1201 North Avenue H. , Freeport Texas, before 6:00 p.m. in accordance with Open Meetings Act.

Clarisa Molina

Clarisa Molina,
City Secretary, City of Freeport, Texas



Proclamation
National Public Safety Telecommunicators Week
April 14-20, 2024

Whereas emergencies can occur at any time that require police, fire or emergency medical services; and,

Whereas when an emergency occurs the prompt response of police officers, firefighters and paramedics is critical to the protection of life and preservation of property; and,

Whereas the safety of our police officers and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the City of Freeport emergency communications center; and,

Whereas Public Safety Telecommunicators are the first and most critical contact our citizens have with emergency services; and,

Whereas Public Safety Telecommunicators are the single vital link for our police officers and firefighters by monitoring their activities by radio, providing them information and ensuring their safety; and,

Whereas Public Safety Telecommunicators of the Freeport Police and Freeport Fire Department have contributed substantially to the apprehension of criminals, suppression of fires and treatment of patients; and,

Whereas each dispatcher has exhibited compassion, understanding and professionalism during the performance of their job in the past year;

Therefore, Be It Resolved that the City Council of Freeport declares the week of April 14-20, 2024, to be National Public Safety Telecommunicators Week in Freeport, TX, in honor of the individuals whose diligence and professionalism keep our city and citizens safe, and encourages all citizens to join us in expressing their sincere appreciation for the service of these individuals.

Signed this ____ day of _____, 2024

Governor/County Executive/Mayor _____

In the State of Texas, Brazoria County, City of Freeport.

Proclamation
National Animal Control Officer Appreciation Week
April 14-20, 2024

Whereas the National Animal Care and Control Association has designated April 14-20, 2024 as Animal Control Officer Appreciation Week; and,

Whereas various federal, state, and local government officials throughout the country take this time to recognize, thank and commend all Animal Control Officers for the dedicated service they provide to the citizens, public safety, domestic animals, livestock and wildlife across the nation; and,

Whereas every day, Animal Control Officers put themselves in potentially dangerous situations to protect the health and welfare of all kinds of animals and the public; and,

Whereas the City of Freeport recognizes and commends the work done by the Animal Control Officers on a daily basis to the citizens of our community; and,

Whereas the City of Freeport recognizes the Animal Control Officers who answer calls for assistance, capturing roaming and potentially dangerous animals, rescue animals in distress, investigate reports of animal cruelty and neglect, provide education for pet guardians about responsible pet care and mediate disputes between neighbors regarding conflicts involving animals;

Therefore, Be It Resolved that the City Council of Freeport declares the week of April 14-20, 2024, to be National Animal Control Officer Appreciation Week in Freeport, TX, in honor of the individuals and encourages all citizens to join us in expressing their sincere appreciation for the service of these individuals.

Signed this ____ day of _____, 2024

Governor/County Executive/Mayor _____

In the State of Texas, Brazoria County, City of Freeport.

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Monday, March 18, 2024 at 6:00 PM 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 Jeff Pena- Not Present
- Councilman Jerry Cain
- Councilman George Matamoros
- Councilman Winston Rossow

Staff:

- Lance Petty, City Manager
- David Olson, Interim City Attorney
- Clarisa Molina, City Secretary
- Cathy Ezell, Finance Director
- Toby Cohen, IT Manager
- Donna Fisher, Human Resource Director
- Rudy Ragle, Interim Public Director
- Jennifer Howell, Police Chief
- Chris Motley, Fire Chief
- Ana Silbas, Main Street Coordinator

Visitors:	David McGinty	Kenneth Hayes
	Sam Reyna	Con McCleester
	Nicole Mireles	Diane McCleester
	John Garza	Carol Parker
	Becky McDonald	Mark Parker
	Keith Stumbaugh	Karla Clark
	Pamela Dancy	

THE MEETING IS BEING HELD FOR THE FOLLOWING PURPOSES:

CALL TO ORDER:

Mayor Bass called the meeting to order at 6:00P.M.

INVOCATION AND PLEDGE OF ALLEGIANCE:

Invocation and Pledge was led by Councilman Rossow.

CITIZENS' COMMENTS:

Main Street Coordinator Ana Silbas said on behalf of the Freeport Historical Commission and Main Street Advisory Board she wanted to give another reminder regarding the Community Visioning Session next Tuesday, March 26 at the Freeport River Place. She said it was going to be from 5:30P.M.to 7:30P.M., and

light refreshments would be served also. She said this is in preparation to prepare for the Downtown comprehensive plan and historical design guidelines. Ms. Silbas said the topics of exploration will include historic preservation, public realm, economic revitalization, programming and housing as well. She said this is in conjunction with the Freeport Economic Development Corporation as well as with the City of Freeport. She thanked the Council for helping to move this initiative forward and hopes to see the Council there.

Becky McDonald resides at 922 West Fifth Street. She said she lives directly across the street from the church and catty corner from the house raid that happened on the 22nd with the SWAT. She said her question was that the Pastor had told her he had put the eviction in to have the renters evicted, which is the church's house that they own. She said there were still many people in that house, and she was told he had cut the water off. She asked if there were so many people living in that house with no water and if that is not an issue that the City should address? Ms. McDonald said there are at least 10 to 15 people in that house every day. She said she works from home, and she sees it all day. She said another issue was she does not know how many police officers there are in Freeport. She said she moved to Freeport a year ago in July but in West Fifth Street is like a free for all. She said the street has a regular 30 to 35 miles per hour but it is race day race night. She said she has neighbors and they all have children around them and no police presence in her street except for that day and it has been three weeks this Thursday since that happened. She said there had been one police car on her street that she has seen. She said that is not to say she has been there every day and spotted it but she is saying if the presence could be done that would help tremendously by cutting that trouble down that there is until they are evicted. Ms. McDonald asked if the Council knew how long an eviction takes place? She said she had been told he went to court on the 11th which is a week ago today. She asked if the Council knew how long that eviction until it is enforced? Mayor Bass asked for the address? Ms. McDonald said she wants to say it is directly next to the church it is either 919 or 929 West 5th Street but it is where the raid happened on 2/22 with the SWAT and every other agency at 12:00P.M.

Nicole Mireles resides at 2002 North Avenue G. She said she told her Council representative she was going to be nice. She said all she was asking was heavy haul trash all over her neighborhood. She said all the streets over on Avenue G and H and all that area there have large hauls that have not been picked up. She said she knows she has a lot of weeds in her front yard and is working with her weeds as far as fertilizing her yard and she takes pride in her yard but where she put some stuff out there it had killed her grass. She said she does not know what day of the month they are supposed to go or not. She said she knows they are getting ready to have the City wide cleanup. She said she is old to pick up all that. Ms. Mireles said she already picked up once and put it on the side on the curb. She asked the Council to look into that and see what is going on with that and she would appreciate it.

Dianne McCleester resides at 97 Dolphin Lane. She said her presentation had a lot of tax code numbers but she thinks it helps the presentation bring out the facts. She said she thinks the City is losing quite a bit of money from not doing HOT tax. She said HOT tax could be beneficial to the City of Freeport. She said the tax can be used for multiple projects in coastal cities. She said Freeport is a coastal municipality. Ms. McCleester said the State Tax Code 351.001 Chapter Eight Section Three A states "a home-rule municipality that borders on the Gulf of Mexico and has a population of less than 80,000" can collect so much money. She said and depending on the percentage of tax collected that can be used for beach maintenance, lifeguards, golf course, and parks. She said there is a new bill in the House 550 that within a mile of a hotel could be used for sewage drainage and other things but it is still sitting in the house. She said that cities under 35,000 can collect HOT tax on their extraterritorial jurisdiction in section 351.0025 but can exceed 15% combined between the State and the City. She said Treasure Island is in the ETJ of Freeport and has over 100 short term rentals. She said Freeport is looking at possibly 100 to \$200,000 on these short-term rentals. She said Freeport Hotel Occupancy Tax Ordinance Section 2-354 states the words, terms, and phrases used in this section are as defined in V.T.C.A. Tax Code 351.103 or as may later be defined in other statutes. She said Tax Code 156.001 states in "in this chapter, "hotel" means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or

bed and breakfast". Ms. McCleester said but in September 1st, 2015 section B was added to House Bill 1905 states "for purposes of the imposition of a hotel occupancy tax under this chapter, Chapter 351 or 352, or other law, "hotel" includes a short-term rental. In this subsection, "short-term rental" means the rental of all or part of a residential property to a person who is not a permanent resident". She said AirBnB and verbal host can go into their accounts and check their transaction history to find out how much they owe the City. Ms. McCleester said HOT tax is not a tax for residents and it is not a tax on their owners, it is a tourist tax. She said a host collects the tax and remits those funds to the City or State. She said if a hosts pays State tax they owe the City of Freeport Hotel tax. Mayor Bass asked Interim City Attorney David Olson to look into this.

Sam Reyna resides at 2002 North Avenue G. He said the minutes from the last council meeting item 11 on the agenda discussion and clarification pertaining to candidate application for May 4, 2024 election. He said two Council Members sent the City Manager a text to place that item on the agenda but it was not transcribed that way. He said the text read discussion and possible action, and not discussion and clarification. He said the City Manager modified the item without notifying the two Council Members and when confronted about the modification he said he was following the advice of the City Attorney, who depends on the opinion of the Attorney General and not the law. Mr. Reyna said the minutes from the last meeting said Councilman Pena asked Interim City Attorney David Olson if anything and everything Mr. Reyna had just described changed his legal opinion, Interim City Attorney David Olson said no, Councilman Pena asked any particular reason why, Interim City Attorney David Olson said he had Paige Bailey on his office jeopardized this Attorney General's opinion to see if there was any court of appeal decision that would overturn and there is not. Mr. Reyna said on page 5 of the handout that he gave to the Council it reads the ambiguity of the current wording this word means that related from the resulting disabilities held up a Houston City Council election for over a year. He said till the Third Court of Appeals that is why he mentioned the Third Court of Appeals last time because he had read it from the handout. He said Cynthia Bailey prevailed in the lawsuit when the Texas First Court of Appeals. He said to Interim City Attorney David Olson this is what he was talking about that he did not have knowledge about. He said it allowed her to remain on the ballot. He said in the opinion issued Chief Justice Sherry Radack and Justices Russell Lloyd and Julie Countiss said Renee Jefferson-Smith, who placed third in the November 5, 2019 general election and contested Bailey's eligibility, did not prove to the Houston mayor's office that Bailey was ineligible. He said she was eligible and that is what the First Court of Appeals ruled that she was eligible and put back on the ballot. He said Mr. David Olson had also said that he does not know what list and he does not work on lists or article from news reports and he worked on case law. Mr. Reyna asked Interim City Attorney David Olson if he had received any case laws that would give a clarification of released from the resulting disability if the courts had not been able to do it? Mr. Reyna said discussion and clarification that is really an insult to his intelligence he is not an attorney but he had worked for some real good attorneys. He said he worked for Jerry Buch and got in some of his best cases. He said the chemical spills in the water wells in El Campo, BP oil spills in the Gulf worked from Brownsville all the way to Mississippi. He said he worked for Russell Harrington doing the same thing doing Jones act work, shrimp boats. He said there was a lot of activism back in the days. He said then he worked for John O'Quinn he said he worked for him Jones act and maritime law. Mr. Reyna said he was a licensed pilot for Armstrong Marines out of Houston worked out of Galveston taking crew members to the first platform when it first started drilling for oil in the Gulf and they would get hurt and he would go over there and pick them up. He said he would bring them to shore and he made sure they had an attorney's card in their pocket. He said he did a lot of paralegal work for O'Quinn he was hard and hollered too much but he paid good and cash no money trail. Mr. Reyna said he is no rookie to the law and for them to say discussion and clarification. He said if they want to give him any clarification give him clarification on Senate Bill 466. He said he was given clarification on House Bill 1316 which when he went back later to do research and he read it passed the Senate and it died in the committee across the hall the same thing happened to 466. He said on page 7 this was a bill that was introduced by Pat Fallon and states "his bill would've removed the words "or otherwise leased from the resulting disabilities" essentially making it possible for convicted felons to run only if they had been pardoned. Mr. Reyna said just like 1316 it went across the hall it passed the senate but it went across the hall and it died in the committee so back to square one. He said release from resulting disabilities nobody can give a good interpretation of the clause. He said it is too late for

him to be put on the ballot and has filed a lawsuit and not against the chamber but the State of Texas. He said so other citizens like himself that have completed their sentences will be eligible. He said to the Mayor that he did contact some other attorneys from Angleton and contacted Perry Stevens and he was interested and said he was running out of time but recommended him with Lena Clemons and they do not have no constitutional law or election code laws experience, and so they told him his only option would be to go to Houston. He said he talked to Sam Lee and told him the same thing. He said so he contacted attorneys in Houston and all the way to San Antonio and he can not afford them they were very expensive. He said he went ahead and filed a lawsuit on his own. He said he was not an attorney but he knows the law and said he thinks he had done a pretty good job. He said all he had to do is just type it up and take it to an attorney let him proof read it and file it so this does not happen again to other citizens.

Keith Stumbaugh said he is the spokesperson for the Concerned Citizens of Freeport. He said every election year since 2015 the CCF has hosted candidate forums that provide an opportunity for the candidates running for city office to publicly express their positions on various issues facing Freeport and its citizens. He said the CCF hosts these candidate forums as a public service to the voting citizens of Freeport so they can learn more about the candidates who if elected will be making decisions affecting them. He said they believe that informed voters make for better City government. Mr. Stumbaugh said this year's forum will be held on Saturday, April 6th at the First United Methodist Church Fellowship Hall at 1600 West Broad Street at 10:00 in the morning. He said this year in addition to the City candidates the two runoff candidates for County Commissioner Precinct 1 will also be invited to participate. He said the invitation letters of the candidates were mailed today and hope that all the candidates can participate in this year's forum. Mr. Stumbaugh said as always the public is invited and light refreshments would be served. He said the CCF anticipates a successful and productive event.

PRESENTATIONS/ANNOUNCEMENTS:

Presentation by Texas Police Chief Association for the Freeport Police Department.

Christella Rodriguez is the Police Chief for the Bay City Police Department and on behalf of the Texas Chiefs Police Association she presented an accreditation certification to the Freeport Police Department.

Presentation by Perdue, Brandon, Fielder, Collins, and Mott L.L.P. regarding Collections.

Mike Darlow with Perdue, Brandon, Fielder, Collins & Mott, LLP, presented to the Council the collection of delinquent taxes, court fines, and fees.

CONSENT AGENDA:

Consideration and possible action on the approval of City Council Meeting Minutes, from March 4, 2024.

A motion was made by Councilman Matamoros to approve the City Council Meeting Minutes, from March 4, 2024, seconded by Councilman Cain with all present voting "Aye" 4-0 council unanimously approved the motion.

Consideration and possible action by City Council approving the sale of trust property located in the 400 Block of North Avenue F (Velasco Townsite, Block 571, Lot 4.

Mayor Bass said his concern or idea of bringing this off the consent agenda into the regular session is that this is an action that was not approved by the administration. Mayor Bass asked if this was correct? City Manager Lance Petty said correct. Mayor Bass asked why? City Manager Lance Petty said the Brazoria County Tax Office contacted the City and had said this gentleman made an offer on the property for \$3,280 and the land value right now is \$11,720. Mr. Petty said this is a 25ft lot and the gentleman does not own the properties next to it, so he would not be able to develop this lot into a residential home without owning adjoining property. Mr. Petty said at this time, the staff was not comfortable approving this as presented.

A motion was made by Mayor Bass to deny the sale of the trust property at this time located in the 400 Block of North Avenue F, seconded by Councilman Matamoros with all present voting "Aye" 4-0 council unanimously approved the motion.

COUNCIL BUSINESS – REGULAR SESSION:

Consideration and possible action approving Ordinance No. 2024-2725 regarding city ordinance curfew.

Police Chief Jennifer Howell said this is not our decision anymore because legislation has decided to take that away from the City, so there could no longer be an ordinance setting up the juvenile curfew. She said she got with Mr. Olson to file to have this removed from the ordinance.

Mayor Bass said this is straight forward. He said he thought Republicans are supposed to be less governmental interference, but they sure are interfering in a lot of local government stuff.

A motion was made by Mayor Bass to approve Ordinance No. 2024-2725 regarding city curfew which will remove the provision concerning regulating the curfew of 18-year-olds and younger, seconded by Councilman Cain with all present voting "Aye" 4-0 council unanimously approved the motion.

Consideration and possible action approving Ordinance No. 2024-2726 for possible revision of Ordinance No. 2019-2567 establishing the City's Ethics Policy for all Elected and Appointed City Officials and all City Employees.

Human Resource Director Donna Fisher said the ethics ordinance is to be reaffirmed every year. She said the ordinance that was brought to the Council six weeks ago or so, she had taken back to the original 2019 language. Ms. Fisher said the only exception to that was the addition of the ethics training session. She said this was basically except the section on training, the original ordinance that had been approved every year since 2019.

A motion was made by Mayor Bass to approve Ordinance No. 2024-2726 for possible revision of Ordinance No. 2019-2567 establishing the City's Ethics Policy for all Elected and Appointed City Officials and all City Employees, seconded by Councilman Rossow with discussion that followed.

Councilman Matamoros asked why go back to this ordinance and not the previous one? He said he did some research and the City of Sugar Land ordinance had more teeth that stood up to a court challenge. Human Resource Director Donna Fisher said in order to get this reaffirmed she pretty much took it back to the 2019 language but can look at amending it some more but atleast the training section is going to be in it. Ms. Fisher said the way it was presented six weeks ago was not going to make it through.

Mayor Bass called the motion to a vote, with all present voting "Aye" 4-0 council unanimously approved the motion.

Consideration and possible action approving Resolution No. 2024-2849 for annual re-affirmation of Ordinance No. 2024-2726 establishing the City's Ethics Policy for all Elected and Appointed City Officials and all City Employees.

A motion was made by Mayor Bass to approve Resolution No. 2024-2849 for annual re-affirmation of Ordinance No. 2024-2726 establishing the City's Ethics Policy for all Elected and Appointed City Officials and all City Employees, seconded by Councilman Matamoros with all present voting "Aye" 4-0 council unanimously approved the motion.

Consideration and possible action approving Resolution No. 2024-2850 appointing a member to the Freeport Economic Development Board.

City Manager Lance Petty said currently the Economic Development Corporation has a vacancy due to the

resignation of Councilman Matamoros whose term is due to expire on May 31st, 2024. He said this appointment would be to fill out the remainder of this term and would be up for consideration for reappointment to a new 2-year term at that time. Mr. Petty said at the time this memo was prepared, the City received applications from: Melanie Oldham, Ronnie Martin, and Karla Clark. He said another application was also received from Michelle Moreno. Mr. Petty said the EDC is the most active board in Freeport appointed by the City Council, and current membership on the board includes: Josh Mitchell, Sandra Loeza, Mark Parker, Shonda Marshall, David McGinty, Kenneth Tyner.

Ronnie Martin said the reason he put his name was he had a different perspective to bring toward Freeport. He said he owned a huge corporation for 12 1/2 years in Los Angeles, and he knows a lot of corporation owners and their head staff from his old business. He said the deal is that he looks at Freeport and what works here. He said yes Downtown Freeport will never get a giant grocery store or department store but if you get the right business you are going to draw people there. He said it had nothing to do with something huge it had to do with the right fix. Mr. Martin said everybody knows windswept middle of nowhere and it was packed all the time. He said this is what he hoped to bring to Freeport. He said he had done some research on businesses and took them to the EDC to look at because people like Waffle House will never come here but Huddle House would look at us because Huddle House looked at underserved communities and this is exactly their market if you talk to them. Mr. Martin said he wanted to bring stuff to Freeport that would work that would stay here. He said he had those connections. He said iHOP was one of his clients and had talked to them. He said this is why he put his name up. He said he is willing to give the time and he lives at 1850 West Eight Street and has lived there for eight years now.

Karla Clark resides at 411 Sailfish. She said as most of the Council knows she had been going to the meetings and keeping up with most of the boards. She said she had been to the EDC meetings. She said she goes to almost all of the City Council meetings and she keeps herself updated with the things that are going on with all the committees. Ms. Clark said she was on the Planning and Zoning for a short period of time to finish out a term. She said she thinks her background as a civil servant and also knowing the businesses here in the area would help her and help the EDC to process and be a better group and work with them. Ms. Clark asked if Mr. Ronnie was still on the Main Street Board or is the Council going with two different boards? She said she thought he was just appointed to the Main Street Board. She asked if this was true? Ms. Clark asked if it was allowed to go on more than one? Mayor Bass said he does not see a policy against it. Mayor Bass said he is not a big fan of it but does not see a policy against it.

A motion was made by Councilman Matamoros to appoint Mr. Ronnie Martin to fulfill the remaining months of this term to the EDC, seconded by Councilman Cain with discussion that followed.

Mayor Bass asked Mr. Martin if he would remove himself from the Main Street Board? Mr. Martin said if the Mayor wanted him to he would.

Mayor Bass called the motion to a vote, with all present voting "Aye" 4-0 council unanimously approved the motion.

Consideration and possible action on awarding Bid for Phase II Asbestos Remediation for City Hall.

City Manager Lance Petty said staff recommended the Council award the BID to Inland Environments Ltd. and authorize the city Manager to work with the city attorney to develop a contract with the awarded contractor based upon the plans and specifications and the BID submitted by the contractor. Mr. Petty said the City received 4 BIDs for Phase II Asbestos Remediation at city hall on the 1st and 2nd floors. He said the most responsive BID was received from Inland Environments Ltd. for the amount of \$59,610.00. He said upon award of the BID by the City Council, the staff will work with the City Attorney to develop and execute a contract to complete the work. Mr. Petty said during the Phase I asbestos remediation, additional asbestos presence was located, and a Phase II abatement would be required prior to renovation. He said an asbestos study was performed by Envirotest LLC, which did identify the presence of additional asbestos on floors one

and two. He said following the completion of the survey, Envirotec LLC, in collaboration with IAD Architects, developed the specifications for the remediation efforts, which were properly advertised for BIDs. He said the consultant evaluated the BIDs and determined that the lowest bidder, Emmanuel Enterprises LLC, would need to re-bid based off of removal methods for ceiling tiles containing asbestos. Mr. Petty said he did receive an updated BID from the lowest bidder and when he corrected his BID he came in third, so the lowest bidder would be Inland Environments. Mr. Petty said Phase II abatement needs to be completed regardless of the path moving forward with the building to remove all the asbestos out of the building. He said the budget is appropriated in the capital improvements fund.

Mayor Bass said he is confused. Mayor Bass asked Mr. Petty if he was recommending Inland Environment but it looks like it says due to the bidding process staff elected to accept the next lowest bidder which was Envirotec. City Manager Lance Petty said Envirotec was the lowest bidder but they had missed some items on their BID so they had to resubmit and Inland was the second lowest bidder and that is who was decided to go with. Mayor Bass asked and the amount they are requesting is \$59,610? City Manager Lance Petty said yes. Mayor Bass asked what is the amount that was set aside for this? Finance Director Cathy Ezell said it was \$100,000.

A motion was made by Councilman Cain to approve the awarding of the BID to Inland Environment Ltd. and authorize the City Manager to work with the City Attorney to develop a contract with the awarded contractor based upon the plans and specification and the BIDs submitted by the contractor, seconded by Councilman Matamoros with discussion that followed.

Mayor Bass asked if this would remove all of the asbestos that we are aware of? City Manager Lance Petty said yes. Mayor Bass asked if they could find more? City Manager Lance Petty said he does not believe that they will.

Mayor Bass called the motion to a vote, with all present voting "Aye" 4-0 council unanimously approved the motion.

Consideration and possible action to approve Resolution No. 2024-2851 approving and adopting the Electronic Funds Transfer (EFT) Policy and Procedures for the City of Freeport.

Finance Director Cathy Ezell said the City of Freeport recognizes the use of various electronic payment methods as a safe and efficient method to process certain disbursements. She said the City of Freeport is committed to establishing controls and procedures to ensure the proper protocols are followed, and that applicable overbite is in place for the use of EFTs. She said this policy will formalize the procedures that are already in place. Ms. Ezell said the primary goal of this policy is to ensure Electronic Fund Transfers (EFTs) are initiated, executed, and approved securely. She said this policy establishes general guidelines for using EFTs including wire transfers for payables and receivables. She said the procedures outline the electronic funds transactions the City may engage in and the accounting procedures to be followed in accordance with state and federal laws. She said these procedures are already in place but creating the policy to ensure that it is there. Ms. Ezell said these are the procedures that are being done.

Interim City Attorney David Olson said it is housekeeping. Finance Director Cathy Ezell said yes it is housekeeping and the auditors look at the procedures for the EFTs and said the guidelines are being followed, but they felt like housekeeping and needed a policy to show what is being done so the Council knows what is being done for the electronic payments.

Mayor Bass asked what is the policy on electronic fund transfers? Finance Director Cathy Ezell said there is a lot of different electronic fund transfers and said wires are only really used for bond payments which are required of the bond payments or if it is something that is an emergency basis then a wire is used. She said they also use what is called ACH payments which is basically an electronic check and those are used to pay the vendors. Ms. Ezell said in order for the vendor to be paid via ACH they have to complete the City form they

submit and the City verifies the information that is submitted with the vendor and then instead of issuing them a check an ACH payment is sent via the bank. Ms. Ezell said payroll is done via ACH as well for all those employees who have direct deposit and when payroll is cut this week she sends a file for all electronic ACH payments for the people who have direct deposit. She said ACH is also used for utility billing for those customers who have authorized the City to take their utility payments out of the bank. She said these are standard procedures at any city but it is put into a policy.

A motion was made by Mayor Bass to approve Resolution No. 2024-2851 adopting the Electronic Funds Transfer (EFT) Policy and Procedures for the City of Freeport, seconded by Councilman Matamoros with all present voting "Aye" 4-0 council unanimously approved the motion.

WORK SESSION:

The City Council may deliberate and make inquiry into any item specifically listed as a Subsection under the itemized Sections A-F below, an item appearing on the City Council agenda for this meeting, on matters related to community events, or on matters that are not within the jurisdiction of the City for consideration by City Council. The City Council may not deliberate on any City matters not specifically disclosed under this Work Session or on this posted City Council Meeting agenda. City Council members and the Mayor always reserve the right to request that a matter be placed on a future agenda for consideration.

Councilman Pena Ward A announcements and comments.

Councilman Cain Ward B announcements and comments.

Councilman Cain said he wanted to thank everybody that came out tonight in person and those that were watching live online. He said there was an election coming up and the City of Freeport is notorious for having a weak turnout, and he encouraged everybody to talk to their neighbors, talk to their neighbors neighbors, talk to who ever you see at Bucee's, and get them out to vote. He said this because it is important for the City. Mayor Bass asked if he was saying vote early and vote often? Councilman Cain said vote early and vote often just once. Mayor Bass said he just wanted to clarify. Councilman Cain said he wanted to say, as a community, he encouraged everybody to keep our neighbors up north of us in our prayers. He said there was a storm that came through here over the weekend, and luckily we just received a little bit of rain. He said, unfortunately, just 25 miles north it was not so. He said to keep our neighbors in our prayers.

Councilman Matamoros Ward C announcements and comments.

Councilman Matamoros said he would like to thank all the residents that attended in person, viewed online, and those residents who spoke about concerns involving their area of town. He said he would like to congratulate the Police Department. He said having family in law enforcement is a thankless job, especially when you are doing it correctly and for the Freeport Police Department to do it correctly and get this achievement shows that there is great leadership from the top, but all the way through every single law enforcement officer who patrols the streets or answers the phone. He thanked the Freeport Police Department for all their hard work and was truly appreciated. He said he also wanted to say that he had noticed heavy garbage not being picked up and if Mr. Petty could look into that and what he had noticed was that the residents were doing it properly, and it was still not being picked up. Councilman Matamoros said if Mr. Petty can speak to AmeriWaste and look into that.

Councilman Rossow Ward D announcements and comments.

Councilman Rossow said he also appreciated everyone that came out tonight. He said he thinks the Council may need to revisit how the garbage and trees are collected if they want the City to look good. He said to him, he can not really depend on the citizens to do what they are instructed to do in order for trash, limbs, trees, and things to be picked up. He said he had looked at other cities and their trash and things like that are picked up. He said they are not in a bundle, a five, six foot bundle, or four foot bundle with twine around them, and he said the reason why he said this is that it was brought to his attention in some cases, and he had seen it where trash, limbs, trees, and debris are in the front of some people houses for a long period of time. Councilman Rossow

said he also wanted to say he got the chance to go to bingo today. He said he does not play bingo, but his wife talked him into playing bingo today and there were over 100 people there playing bingo in the middle of the day. He said he guessed he was going to start playing bingo with his wife. He said you do not have to put up any money and get to win prizes, and he thought that was pretty cool. He said he also noticed a lot of work going on thanks to Lance and his heavy hand. He said sidewalks, digging, repairing pipes, and just moving and doing things. He said he is so glad he is retired, and it makes him feel good. He said he remembered when he used to work.

Mayor Brooks Bass announcements and comments.

Mayor Bass said if anybody would like to turn on channel two, he was not sure at 10:00P.M. but at 5:00P.M. the Mayor was on the news. He said the news came to ask him about the roof that blew off his building on Friday evening. He said he received a call at about 6:30P.M. saying they lost their roof. Mayor Bass said the roof was down by Dirty South which is about a block and a half from his building. He said he thinks it was a tornado because his building was destroyed and nobody else was. He said this slows things down, and they will do their best to overcome this and will get to lawyering again soon. He said there was a lot of damage. He said he does agree with Councilman Cain that it was more damage than what folks expected. Mayor Bass said he knows there were a number of signs, a lot of trees, a lot of fences, and there was a picture of a part of a fence that was actually blown the roof of a house. He said to him that it was not a straight wind, it was a tornado. Mayor Bass said to Ms. McDonald there are 30 days, generally speaking, to evict somebody once the process is started, and it goes through a JP, so if the pastor went to the Justice of Peace Court it should take 30 days for the judge to sign that order. Mayor Bass asked for Chief Howell to please put a special watch on this particular residence, because if there are some folks that are there illegally, they need to be removed. Mayor Bass said to Chief Howell if she could also work on the speed down 5th Street and, as well as Broad Street, he will appreciate that. Mayor Bass said his granddaddy used to call him AJ Foyt because he would go down Broad Street and make the corner in his camaro on two wheels and now he is upset with people that do that now. He said he was not upset then so maybe he is a hypocrite. Mayor Bass said on Sunday a very fine man was lost and his name was Randall Hufstetler. He said Judge Hufstetler was the presiding judge 300 District Court for 24 years. He said 24 years of hearing nothing but family cases. He said imagine his demeanor when he would go home but he passed on unexpectedly within reason. Mayor Bass said he just did not want the opportunity to go by that he was a good man, decent man, and one fine jurist. He said he was from the City of Dickinson and they used to talk about how they could really relate to each other because the Mayor is from the City of Freeport and so if Dickinson is a lot like City of Freeport in its makeup, population, economics, and when they went to go shoot behind the City of Freeport out there on port property with permission and his shoe would start failling apart and the Mayor would start giving him a hard time about his shoe falling apart and he pulls out of his bag a roll of duct tape to tape his shoe. Mayor Bass said he knew right there he had Freeport in him because they had the can do spirit. Mayor Bass said he just wanted to say to his wife Danette and children Chris and Meghan that he will be missed but will not be forgotten.

City Manager Lance Petty announcements and comments.

City Manager Lance Petty said he just wanted to let everybody know the City of Freeport has a really, really good staff. He said it was good to see that when something happened like the storm that came through Angleton, the staff answered the call. He said that also goes from the emergency management Mr. Chief Motley, Chief Howell and the Public Works Department. He said they dispatched public works crew to Angleton, and they worked 10 to 12 hours helping aid in moving debris out of the roads and things like that. Mr. Petty said it is very important to him and relaxing to know that if something happens, our City and other Cities will return the favor. He said the cities did come together and worked really well together and was super proud of everybody that was part of that and the Public Works Department as well for going out and working, and also the fire department supplying chainsaws and things like that. Mr. Petty said Mr. Rudy has been here for about six weeks and is the Interim Public Works Director right now and will be full time within 20 days. He said Mr. Rudy is leading the Public Works crew now and is turning it over to a good guy that can handle the job. Mr. Petty said to Mr. Rudy to do us good. Mayor Bass said he had big shoes to fill.

ADJOURNMENT:

Adjourn

A motion was made by Councilman Cain to adjourn the meeting, seconded by Councilman Matamoros with all present and voting "Aye" 4-0. Mayor Bass adjourned the meeting at 7:10P.M.

Brooks Bass, Mayor

Clarisa Molina, City Secretary



City Council Agenda Item #4.

Title: Consideration and possible action for road closures for the Cinco de Mayo Event on May 3rd, 2024.

Date: April 1, 2024

From: Ana Silbas, Mainstreet Coordinator

Staff Recommendation: Main Street Staff recommends the approval of road closures for the 2024 Cinco de Mayo Celebration in Historic Downtown Freeport. This cultural event was created to highlight our designated Main Street district in accordance to the Main Street Four Point Approach.

Item Summary: The Freeport Historical Commission & Main Street Advisory Board will host the Cinco de Mayo Celebration on Friday, May 3, 2024 from 5pm-8pm in Historic Downtown Freeport. The planned activities for this event include live entertainment, food vendors and special activities. As part of community outreach efforts, we would like to have businesses and organizations represented as well. The requested road closures on **Friday, May 3, 2024** include the following:

3:00 PM- 9:00 PM E. Park from 2nd Street to 4th Street
Road Barrels at Broad and E. Park alley
Road Barrels at Broad and East Side of W. Park

Background Information: The inaugural Freeport Main Street Cinco de Mayo Celebration was held on May 5, 2022.

Special Considerations: N/A

Financial Impact: Community sponsorships will help to recuperate a portion of expenses.

Board or 3rd Party Recommendation: The Freeport Historical Commission & Main Street Advisory Board supports the Cinco de Mayo Celebration as one of its annual community events.

Supporting Documentation:

1. 2024 Cinco de Mayo Road Closure MapMap
2. 2024 Cinco de Mayo Celebration Event Flyer



Freeport
Main Street
Presents



CINCO

M

Mayo
CELEBRATION

Live Entertainment | Food Vendors | Special Activities

May 3, 2024 | 5pm-8pm

**Historic Downtown Freeport
Memorial Park**

**296 E. Park Avenue
Freeport, TX**



City Council Agenda Item #5.

Title: Consideration and possible action approving Resolution No. 2024-2852 authorizing a revision to the City of Freeport Policy Handbook Chapter 5- Standards of Conduct Section 5.14 Harassment in the Work Place.

Date: April 1, 2024

From: Donna Fisher, HR Director

Staff Recommendation: Staff recommends approval of the Resolution.

Item Summary: Language in this policy is being revised to assist employees in knowing where to make a report of alleged harassment and the steps that will be taken following a complaint.

Background Information: Eileen Begle, attorney with Olson & Olson, conducted a Harassment Prevention Training for Managers in February, 2024. The revisions are a result of her review of our current policy.

Special Considerations: N/A

Financial Impact: N/A

Board or 3rd Party Recommendation: N/A

Supporting Documentation:

1. Resolution - Harassment Policy Revision
2. Harassment in the Work Place - redlined
3. Harassment in the Work Place - final

RESOLUTION NO. 2024-2852

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS,
REVISING SECTION 5.14 HARASSMENT IN THE WORK PLACE POLICY AND
APPROVING THIS REVISION TO THE PERSONNEL POLICY HANDBOOK.**

WHEREAS, the City of Freeport values all employees working to provided services to the citizens; and

WHEREAS, the City of Freeport recognizes the importance of employee safety; and

WHEREAS, the City of Freeport seeks to revise a specific policy to give the employees a mechanism of reporting an incident that they believe is harassment.

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

SECTION 1. HARASSMENT IN THE WORK PLACE POLICY. The City Council of the City hereby approves and adopts the revision to the Harassment in the Work Place Policy attached hereto as Exhibit “A” and approves its addition to the Personnel Policy Handbook.

SECTION 2. PROPER NOTICE AND MEETING. It is hereby found and determined that the meeting at which this resolution was passed was attended by a quorum of the City Council, was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

Read, passed and adopted the _____ day of _____, 2024.

Brooks Bass, Mayor
City of Freeport, Texas

ATTEST:

APPROVED AS TO FORM:

Clarisa Molina, City Secretary
City of Freeport

David Olson, City Attorney
City of Freeport

Harassment in the Work Place

The purpose of this policy is to maintain a professional, businesslike work environment, free from all forms of employee discriminations and to provide procedures for reporting, investigating, and resolution of complaints or harassment, sexual or otherwise.

It is the policy of the City of Freeport that all employees have the right to work in an environment free of all forms of harassment. Therefore, the City does not condone, and will not tolerate, any harassment. The City shall take direct and immediate action to prevent such behavior, and to remedy all reported instances of harassment, sexual or otherwise.

The City of Freeport prohibits harassment because of sex (including sexual harassment, harassment due to pregnancy, childbirth, or related medical conditions and gender harassment) and harassment because of race, religion, color, national origin, medical condition, physical or mental disability, age or any other basis protected by federal, state, or local law, regulation, or ordinance.

The City's anti-harassment policy applies to all individuals involved in the operation of the City, and prohibits unlawful harassment by an employee including officers, supervisors, and co-workers, or by any vendors and/or independent contractors and their employees.

Non-employee violators of this policy are subject to expulsion from City facilities when harassment occurs on City premises. The City may discontinue service to violators of this policy. Furthermore, the City may report violators to the appropriate authority for civil or criminal action.

The City of Freeport prohibits retaliation of any kind against employees, who, in good faith, bring harassment complaints or assist in investigating such complaints.

Prohibited Harassment:

Prohibited harassment because of sex, sexual preference, race, religion, color, national origin, medical condition, physical or mental disability, age, marital status or any other protected basis includes, but is not limited to, the following behavior:

- Explicitly or implicitly ridiculing, mocking, deriding, or belittling any person.
- Making offensive or derogatory comments, slurs or jokes, and other verbal or physical conduct based on color, sex, sexual preference, religion, national origin, physical anatomy or characteristics, medical condition, physical or mental disability, or age either directly or indirectly to another person.
- Making threats of physical harm
- Physical contact such as pushing, punching, shoving, blocking another's way, assault, or interference with another person's work.
- Making "unwelcome" sexually suggestive physical contact or gestures. Any verbal or visual sexually oriented jokes, comments, e-mails, drawings, photos, and propositions.
- Making threats or demands to submit to sexual advances or requests as a condition of

continued employment, offers of employment benefits in return for sexual favors, or to avoid some other negative employment action.

- Retaliation against any employee for making an allegation of harassment or for participating in such an investigation.

Sexual Harassment:

Sexual harassment is defined as “unwelcome” sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment.
- Submission to or rejection of such conduct by an employee is used as a basis for employment decisions affecting the employee.
- Such conduct has the purpose or effect of unreasonably interfering with an employee’s work performance or creating an intimidating, hostile, or offensive working environment.
- The definition of sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women.

Employers Responsibilities:

Each supervisor shall be responsible for preventing acts of harassment.

This responsibility includes:

- Monitoring the work environment on a daily basis for signs that harassment may be occurring.
- Counseling all employees in the types of behavior prohibited and the department procedures for reporting and resolving complaints of harassment.
- Stopping any observed acts that may be considered harassment, and taking appropriate steps to intervene, whether or not the involved employees are within his/her line of supervision.
- Taking immediate action to limit the work contact between two employees where there has been complaint of harassment pending investigation.

Each supervisor has the responsibility to assist any employee of this City, who comes to that supervisor with a complaint of harassment, pending investigation.

Employees Responsibilities:

Each employee of the City of Freeport is responsible for assisting with prevention of harassment through the following acts:

- Refraining from participation in, or encouragement of, actions that could be perceived as harassment.
- Reporting acts of harassment to a supervisor immediately following the incident.

Complaint Procedures:

Employees encountering harassment shall tell the person that their actions are unwelcome and offensive. The employee shall document all incidents of harassment in order to provide the fullest basis for investigation.

Any employee who believes that he/she is being harassed shall report the incident to his/her supervisor as soon as possible ~~so steps may be taken to protect the employee from further harassment and appropriate investigative and disciplinary measures may be initiated. If for any reason you are not comfortable reporting the incident to your supervisor you may report it to:~~ Where this is not practical, the employee may instead file a complaint with another supervisor.

- Your Department Head
- The Director of Human Resources
- City Manager

~~The City will conduct an investigation and, when necessary, take appropriate action. The City Manager or his designee is to verify whether a violation of law and City policy has occurred and will promptly and thoroughly investigate any complaint of harassment. Where the allegation is verified, prompt and appropriate corrective action and disciplinary measures, up to and including dismissal will be implemented.~~

The City will inform parties involved of the outcome of the investigation.

Upon receipt of a report on the investigation of a complaint of harassment against the City Manager, the Mayor shall present the report to the City Council. If the City Council determines that the complaint of harassment is founded, it may discipline the City Manager consistent with its authority under the City Charter, ordinances, resolutions or rules governing discipline of the City Manager.

In cases of harassment committed by a non-employee against a City employee in the workplace, the City Manager shall take all lawful steps to insure that the harassment is brought to an immediate end.

Disciplinary action may also be taken, against any employee who fails to report instances of harassment, or who files a complaint of harassment in bad faith.

An employee reporting an incident of harassment or assisting, testifying, or participating in the investigation of such complaint shall not be subject to any adverse employment action unless it is determined that the employee made the allegation knowing it was false.

Employees accused of harassment may file a grievance/appeal in accordance with the City's procedure when they disagree with the investigation or disposition of a harassment claim.

This policy is not intended to replace, but is in addition to, any rights or remedies an employee may have under the state and federal laws.

Harassment in the Work Place

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- Physical contact such as pushing, punching, shoving, blocking another's way, assault, or interference with another person's work.
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- Making threats or demands to submit to sexual advances or requests as a condition of

continued employment, offers of employment benefits in return for sexual favors, or to avoid some other negative employment action.

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- Your Department Head
- The Director of Human Resources
- City Manager

The City will conduct an investigation and, when necessary, take appropriate action.

The City will inform parties involved of the outcome of the investigation.

Upon receipt of a report on the investigation of a complaint of harassment against the City Manager, the Mayor shall present the report to the City Council. If the City Council determines that the complaint of harassment is founded, it may discipline the City Manager consistent with its authority under the City Charter, ordinances, resolutions or rules governing discipline of the City Manager.

In cases of harassment committed by a non-employee against a City employee in the workplace, the City Manager shall take all lawful steps to insure that the harassment is brought to an immediate end.

Disciplinary action may also be taken, against any employee who fails to report instances of harassment, or who files a complaint of harassment in bad faith.

An employee reporting an incident of harassment or assisting, testifying, or participating in the investigation of such complaint shall not be subject to any adverse employment action unless it is determined that the employee made the allegation knowing it was false.

Employees accused of harassment may file a grievance/appeal in accordance with the City's procedure when they disagree with the investigation or disposition of a harassment claim.

This policy is not intended to replace, but is in addition to, any rights or remedies an employee may have under the state and federal laws.



City Council Agenda Item #6.

Title: Consideration and possible action approving Resolution No. 2024-2839 for the demolishing of the building located at 208 West Park Avenue.

Date: April 1, 2024

From: Robert Johnson, Economic Development Director

Staff Recommendation: Staff recommends that the City Council Discuss for future consideration the Resolution for the requested EDC Economic Development project for the demolition of the building located at 208 West Park Avenue.

Item Summary: The EDC has identified the demolition of the building located at 208 West Park Avenue as a project it would like to consider for funding in the 2023-2024 fiscal year. Because of its nature, the project is required to have City Council approval following two readings. This is the second of the two required readings.

Background Information:

1. DEMOLITION OF BUILDING AT 208 WEST PARK AVENUE

The Freeport Economic Development Corporation desires to improve the property located at 208 West Park Avenue by removing the building and in general enhancing the overall aesthetic appearance and economic vitality of that property. The Freeport Economic Development Corporation has been provided a quote from Turbeville Construction, LLC to perform the services required to remove the building and the Freeport Economic Development Corporation finds and determines that such a project promotes new or expanded business enterprises, enhances the historic downtown Main Street district, addresses safety issues with the building, and is in the best interests of the citizenry of the City of Freeport.

The Freeport Economic Development Corporation will work in tandem with the Freeport Main Street program and The University of Texas at San Antonio (UTSA) Center for Urban and Regional Planning Research (CURPR) to find a viable use for the property. Preliminary meetings with the Main Street Board of Directors concerning the issue have produced suggestions such as a pocket park and/or public restrooms.

Special Considerations: The EDC conducted a required public hearing with no opposition to this proposed project. The FEDC Board voted unanimously to approve this project.

Financial Impact: Funding for this project would come out of the \$907,220 Special Project line included in the EDC fiscal year budget for projects.

Board or 3rd Party Recommendation: Following a public hearing on the issue, the Freeport Economic Development Corporation authorized and voted to approve as a specific Project for the economic development of the City of Freeport, an expenditure of Twenty-Two thousand and one-hundred and twenty dollars (\$22,120.00) for the demolition of the structure located at 208 W. Park, Freeport, Texas. The vote was unanimously in favor of this project.

Supporting Documentation:

1. City Resolution No. 2024-xxxx 208 W Park Demolition
2. DEMO ONLY - REPORT OF INSPECTION 208 W Park 7 28 22
3. 208 W. Park EDC Letter of Rec
4. proposal Freeport EDC 208 W Park Ave White Box A-E Proposal

RESOLUTION NO. 2024-2839

A RESOLUTION OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; APPROVING AN ECONOMIC DEVELOPMENT PROJECT TO BE ENACTED BY THE FREEPORT ECONOMIC DEVELOPMENT CORPORATION; AND PROVIDING THAT THIS RESOLUTION SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE AND ADOPTION.

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

WHEREAS, the Freeport Economic Development Corporation (the "EDC") is a "type B" nonprofit economic development corporation, authorized under Texas Development Corporations Act, Title 12, Section 501.001 et. seq. specifically Chapter 505 of said Act; and,

WHEREAS, the EDC's specific purpose is to sustain economic development efforts and promote business development in the City; and,

WHEREAS, the City and the EDC have made the specific findings that the EDC may pursue the development project set forth below, that said project is authorized by the Texas Development Corporation Act, and that the project promotes economic development within the City of Freeport and satisfies the requirement of serving a public purpose; and,

WHEREAS, prior to passage of this resolution, the City Council conducted two (2) public readings of this resolution, in open session of duly noticed and posted council meetings, and further finds that a duly noticed and posted public hearing was previously held by the EDC on the projects contained herein.

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

FIRST, the City Council of the City of Freeport finds that the facts recited in the preamble hereof are true.

SECOND, the City Council of the City of Freeport hereby approves the following economic development project: An expenditure of eighteen thousand and one-hundred and twenty dollars (\$18,120.00) for the demolition of the structure located at 208 W. Park, Freeport, Texas 77541;

THIRD, the funds to fund the above project have been budgeted and no further authorization is required from the City Council for the EDC to implement the above project.

FOURTH, this resolution shall take effect and be in force from and after its passage and adoption.

READ, PASSED AND ADOPTED this _____ day of _____ 2024.

APPROVED:

Brooks Bass, Mayor
City of Freeport, Texas

ATTEST:

Clarisa Molina, City Secretary
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

David Olson, City Attorney
City of Freeport, Texas



REPORT OF INSPECTION

Date of Inspection: July 28, 2022
 Address: 208 W. Park Ave
 Owner: Freeport Economic Development Corporation

AN INSPECTION OF THE PROPERTY WAS MADE BY THE BUILDING OFFICIAL AND THE FOLLOWING DEFICIENCIES WERE FOUND AT THE TIME OF THE INSPECTION:

1. Open structure: open/broken windows or doors.
- x 2. Unstable structure: rotten, broken, and/or termite infested structural members such as beams, roof rafters, ceiling and joist, sills, top plates and studs.
- x 3. Roof failure: roof leaking, sagging, missing all or part of roof.
- x 4. Structural failure: collapse or threat of collapse concerning walls, beams, headers, floor and ceiling joist.
5. Foundation failure: breaking, cracking, moving, or settling of slab, pier, beam, or footing that has caused damage to the structure.
- x 6. Absence of fixtures: sinks, lavatories, water closets.
- x 7. Absence of plumbing: venting, water and waste lines missing or in need of repair.
- x 8. Absence of power distribution equipment: electrical service panel, breakers, wiring, outlets, fixtures missing or in need of repair.
9. Building must be vacated within thirty (30) days of receiving this notice.

Notes:

Structure was not built to commercial standards. Thin metal roof lacks appropriate support.
No weatherproofing. No support walls.

Recommend immediate demolition. Recommend to leave concrete foundation, as removal may damage building walls and foundations on either side of the property.

Kacey Roman - Director of Building & Code/Building Official
 Jason Shafer - Fire Marshal

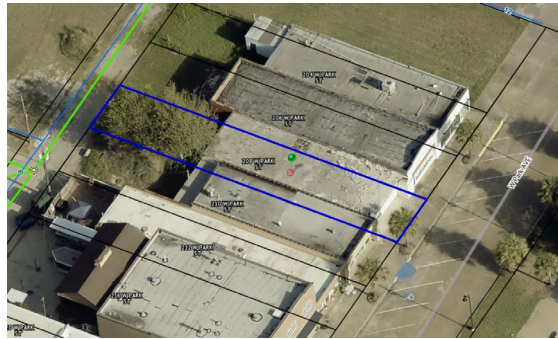
Repair or Demolish	<u>Demolish</u>	<u>Type of Structure</u>	
Demolish Only	<u>x</u>	Single Family House	
		Multi-Family House (Duplex)	
Zoning	<u>DT/TC</u>	Garage Apartment	
		Garage	
<u>Non-Conforming</u>		Storage Building	
Front Setback		Commercial Building	<u>x</u>
Side Setback		Apartment Complex	
Rear Setback			
Use			

DT/TC Zoning Requirements

This district is designed to enhance the economic development and quality of life for the citizens of Freeport, residents of the district, and visitors. The district serves to promote access by the general public to enjoy its beauty, balanced with development as a place of residence and commerce. The district is designed to preserve and enhance Freeport's established downtown with a compact pedestrian-friendly scale that creates a mix of residential and smaller-scale commercial uses, on-street and off-site parking, and urban character typical of a downtown core.

This property is located in the **Town Center**, which consists of two blocks within the City's Downtown which is designed to be the center of the City. As such, a historic pattern of development is desired.

Max Bld Coverage	100%
Min. Living Area SF	
Max Height	50
Min. Lot Area sq ft	2,500 sq ft
Min Width	25
Side Setback	0-10
Rear Setback	10
Front Setback	0
Side Street Setback	0-10
Specific Use Permit from Planning & Zoning	Public Assembly
Temporary Uses Only	Farmer's Market, Seasonal Sales, Special Event, Const Office, Const Dumpster, Portable Storage
Outdoor Storage - Materials	not allowed
Off Street Parking	EXEMPT
Limited Uses	Downtown Loft (Ground-floor residential is prohibited.), Short Term Rentals





Turbeville Construction LLC

131 E. 2nd St.

Freeport, Texas 77541

Phone - (979) 900-7162

To Whom It May Concern,

In concurrence with the Director of Building & Code Enforcement Kasey Roman and Fire Marshal Jason Shafer it is our professional recommendation that the building at 208 West Park Ave. be demolished immediately due to safety concerns out lined in the inspection report from the City of Freeport.

Reason:

- Red oxide bar joist was not designed to carry the dead load that is there now.
 - 2 or more have collapsed.
- The corrugated sheeting is not designed to carry the load over any open framing substrate.
 - Has a large penetration through the roof.
- Grout or concrete was used as a roofing material which does not meet today's code and has inadvertently caused the partial collapse of the roof structure.

Please contact us if any more information is needed.

Respectfully submitted,

James Turbeville

Turbeville Construction, LLC

Integrated Architecture & Design

107 West Way, Suite 16
Lake Jackson, Texas 77566
979.297.1411 p. 979.297.1418 f.
www.iadarchitects.com



September 14, 2023

Mr. Robert Johnson
Executive Director
Freeport EDC
(Sent via email to: rjohnson@freeport.tx.us)

Dear Mr. Johnson,

Thank you for the opportunity to visit with you and to discuss Freeport EDC's interest in developing a new retail shell space in downtown Freeport, Texas. We also thank you for your consideration of iAD Architects as a professional and local design services solution for this important project.

Per your request, we are pleased to submit this proposal for professional architectural and engineering services to design and produce construction contract documents for the proposed development.

PROJECT SCOPE

As a result of our on-site meeting and subsequent discussions and email correspondence with yourself, Mr. Tim Kelty and Ms. Kaytee Ellis, we understand that the project scope will include the following:

- Work with you and other City of Freeport stakeholders to develop the current dilapidated facility located at 208 W. Park Avenue into a new, free-standing, single-story, retail shell space of approximately 2,000 sq. ft.
- The proposed retail shell space will be a single-story, commercial lease space that is capable of supporting a variety of commercial tenant occupancies with an independent storefront entrance and back of house access/egress points.
- The east side of the facility may be developed to either maximize storefront glazing to allow visual access and natural light into the tenant space or be designed to reflect more of a historic downtown Freeport facade. We are pleased to work with Freeport EDC to develop this storefront to accomplish the greater goals of this space.
- Work with you and other City of Freeport stakeholders, along with our professional consulting engineers to address associated site amenities including parking, vehicular circulation, and all civil related items, such as storm water drainage at the rear of the property.
- Develop complete Construction Documents for the permitting and construction for the development defined above.
- We believe construction costs for this project may range between \$450,000 and \$650,000 for the retail shell space building, associated demolition, concrete paving, and site work on the proposed site.

SCOPE OF BASIC SERVICES

Per your request, we understand that the professional service scope of work requested for this project shall include design and coordination of the following disciplines:

- Architectural Design and Construction Contract Documents
- Structural Engineering
- Windstorm Engineering and Inspections
- Mechanical/Electrical/Plumbing Engineering
- Civil Engineering
- Surveying
- Geotechnical Services
- Construction Material Testing (Allowance of \$15,000)

Those professional disciplines identified above shall design and develop complete design/bid documents for the above-mentioned development.

All work will be designed and specified to comply with all local building codes, including all state and national accessibility standards.

Deliverables for this proposed scope of work will include submittals of design and engineering drawings for your review along with all members of the design team. We anticipate submittal milestones to include complete Schematic Design, Complete Design Development, a 50% Owner Review set, and a 100% Construction Documents package. Upon completion of each design phase, and as authorized by you, we will complete and deliver final construction documents and specifications to you for competitive bidding.

We anticipate the City will advertise this project to solicit qualified general contractors to be selected by the City of Freeport.

Our responsibilities will include professional services for the stated scope of work through the Construction Documentation, Bid/Negotiation phase, Construction Administration, and Project Closeout.

This proposal does not include the design or delivery of site utilities, any low voltage systems such as I.T./data systems, audio visual systems, fire suppression systems or landscape/irrigation. We will be pleased to coordinate these services for you if requested, and invoice to you as an additional service addressed in our Per Diem Rate Schedule.

COMPENSATION FOR SERVICES

Compensation to Integrated Architecture & Design, LLC for the above-stated scope of work is proposed at a fixed fee of \$67,742.00. (Sixty-seven thousand, seven hundred and forty-two dollars); plus, all project related reimbursable expenses. This amount is inclusive of the professional consulting services identified above.

Anticipated project related reimbursable expenses such as accessibility reviews, travel, printing/plotting, and deliveries, are not a part of this proposal and may approach an additional \$2,500.00.

On-site accessibility inspections are required by the State of Texas and need to be coordinated and paid for by the Owner. We are happy to coordinate this for you upon successful completion of the project.

At your request, we will be pleased to submit an AIA B101 – 2017 Document “Standard Form of Agreement Between Owner and Architect” for your review and consideration to formalize this agreement beyond this proposal letter.

This proposal will remain valid for 90 days.

PAYMENT

Invoicing shall be monthly based on completed work at the time of invoicing or at the completion stage of each phase of the design agreement. Terms shall be net 30 days.

ADDITIONAL SERVICES

The following are examples of architectural services not included as a part of Basic Services under this proposal:

- Services due to significant changes in scope of the Project or its design, including but not limited to changes in size, complexity, schedule, or type of construction based on the descriptions of scope in this proposal.
- Revising documents and specifications which the Owner has previously approved or when changes are due to causes beyond the control of the Architect. Special meetings for changes of this type will also be Additional Services.
- Preparation of design documents for alternate systems, or for out-of-sequence work requested by the Owner.
- Providing design services relating to future facilities, systems, and equipment, which are not intended to be constructed or operated as a part of the Project.
- Providing design for value engineering of the project after the drawings have been submitted, reviewed, and approved.
- Any reimbursable expenses associated with additional services defined above.

Upon request and written authorization by the Owner, Architect will provide these services as Additional Services. Billing for Additional Services shall be as per the attached Per Diem Rate Schedule. No additional services will be provided or invoiced without the Owner's written consent.

EXECUTION

Should this proposal meet your approval, please duplicate this proposal, execute both copies; retain one for your records and return the other to our office.

Thank you again for considering iAD Architects and for the opportunity to submit this proposal. We look forward to working with you on this project.

Should you have any questions, please do not hesitate to call.

Best regards,



Brent K. Bowles, AIA
Principal, **iAD Architects**

Accepted by: _____
(Signature)

Date: _____

Organization: _____

Title: _____

Integrated Architecture & Design

107 West Way, Suite 16
Lake Jackson, Texas 77566
979.297.1411 p. 979.297.1418 f.
www.iadarchitects.com



PER DIEM RATE SCHEDULE

As of January 1, 2023

Please note that all architectural, design and other related professional services agreed to be compensated via terms of a Per Diem Rate shall be as follows below, and that such rates will be in effect as of the above-mentioned date on all projects in which Integrated Architecture & Design performs professional services:

<u>Integrated Architecture & Design Staff</u>	<u>Rate</u>
Architect/Principal	\$200.00/hour
Associate/Architect	\$150.00/hour
Associate/Production	\$100.00/hour
Draftsman/Production	\$85.00/hour
Clerical	\$60.00/hour

Direct non-labor expenses, such as printing, plotting, reproduction of all project correspondence and contract documents or similar documents, postage, freight, express delivery, photography, and/or travel shall be considered as a Reimbursable Expense and subject to invoice to the client with a multiplier of 1.10.

Consultant fees will be billed directly to the Architect. The Architect will invoice the client for these fees with a multiplier of 1.10.

The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as architects in Texas. TBAE, 333 Guadalupe, Suite 2-350, Austin, TX 78701-3942. p. 512.305.9000



City Council Agenda Item #7.

Title: Consideration and possible action entering into Business Associate Agreement between HUB International and the City of Freeport.

Date: April 1, 2024

From: Cathy Ezell, Finance Director

Staff Recommendation: Staff recommends entering into the Business Associate Agreement.

Item Summary: This agreement allows HUB International access to the City of Freeport's employees' health information as HUB International is the City's new Benefit Administrator. As the new Benefit Administrator, they will need to access this data to help the City better manage its insurance plans.

Background Information: On March 8, 2024, the City Council approved HUB International as its Benefit Administrator. HUB International needs access to protected health information to better serve the employees and the City. In order to obtain the information, HUB International and the City must execute a Business Associate Agreement.

Special Considerations: N/A

Financial Impact: N/A

Board or 3rd Party Recommendation: N/A

Supporting Documentation:

1. Business Associate Agreement

Business Associate Agreement

THIS BUSINESS ASSOCIATE AGREEMENT (this “BAA”), dated as of **April 1, 2024** is entered into by and between **HUB International** (“Business Associate”) and those Employee Welfare Benefit Plans (as defined in the Employee Retirement Income Security Act of 1974) of **City of Freeport** (“Plan Sponsor”) that are subject to 45 CFR Parts 160 and 164, Subparts A and E and 45 CFR Parts 160 and 164, Subpart C (each a “Covered Entity”) and on whose behalf this BAA has been executed and delivered. Business Associate and Covered Entity are referred to herein from time to time each individually as a “Party” and collectively as the “Parties.” Capitalized terms used herein but not otherwise defined in this BAA will have the same meaning as the meaning ascribed to such terms in the HIPAA Rules (as defined below).

WHEREAS, pursuant to certain services agreements (the “Agreements”), Business Associate provides services to Covered Entity that may involve the use, disclosure, transmission, maintenance and/or creation of Protected Health Information; and

WHEREAS, Business Associate and Covered Entity are committed to compliance with the Privacy, Security, Breach Notification and Enforcement Rules of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) at 45 CFR Parts 160 and 164 and any current and future regulations promulgated thereunder (collectively, the “HIPAA Rules”);

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein, and for other good and valuable consideration, the Parties agree as follows:

I. DEFINITIONS

For purposes of this BAA, the following terms shall have the meanings ascribed to them below:

- A. *Breach*. “Breach” shall have the same meaning as the term “breach” in 45 CFR §164.402, subject to all exclusions under 45 CFR §§164.402(1)(i), (ii) and (iii).
- B. *Electronic Protected Health Information*. “Electronic Protected Health Information” or “ePHI” shall have the same meaning as the term “electronic protected health information” in 45 CFR §160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- C. *Electronic Transactions Rule*. “Electronic Transactions Rule” shall mean the final regulations issued by HHS concerning standard transactions and code sets under 45 CFR Parts 160 and 162.
- D. *HHS*. “HHS” shall mean the U.S. Department of Health and Human Services.
- E. *Individual*. “Individual” shall have the same meaning as the term “individual” in 45 CFR § 160.103.
- F. *Protected Health Information*. “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 CFR §160.103,

limited to the information created or received by Business Associate from or on behalf of Covered Entity, including but not limited to Electronic Protected Health Information.

- G. *Required By Law*. “Required by Law” shall have the same meaning as the term “required by law” at 45 CFR §164.103 and the standards imposed at 45 CFR §164.512(a).
- H. *Secretary*. “Secretary” shall mean the Secretary of HHS.
- I. *Security Incident*. “Security Incident” shall have the same meaning as the term “security incident” in 45 CFR §164.304.
- J. *Transaction*. “Transaction” shall have the meaning as the term “transaction” in 45 CFR §160.103.
- K. *Unsecured Protected Health Information*. “Unsecured protected health information” shall have the meaning as the term “unsecured protected health information” in 45 CFR §164.402.

II. OBLIGATIONS OF BUSINESS ASSOCIATE

Business Associate agrees:

- A. Not to use or disclose Protected Health Information other than (i) as permitted or required by this BAA, (ii) as permitted or required to perform its obligations pursuant to the Agreements, or (iii) as Required by Law.
- B. To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic Protected Health Information, to prevent the use or disclosure of PHI other than as provided for by this BAA.
- C. To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this BAA.
- D. To report to the appropriate Covered Entity any use or disclosure of PHI not provided for by this BAA of which it becomes aware and any Successful Security Incident of which Business Associate becomes aware. For purposes of this BAA, a “Successful Security Incident” is any Security Incident that results in unauthorized access, use, disclosure, modification, or destruction of Electronic Protected Health Information of Covered Entity. The parties further stipulate and agree that this paragraph constitutes notice by Business Associate to Covered Entity with respect to any “Unsuccessful Security Incident,” which is defined for purposes of this BAA as any Security Incident that is not a Successful Security Incident. Covered Entity and Business Associate agree that reporting of Unsuccessful Security Incidents are too numerous to be meaningful or helpful and

therefore this BAA constitutes the report from Business Associate that these incidents occur.

- E. In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, to ensure that any subcontractor that creates, receives, maintains or transmits Protected Health Information on behalf of Business Associate agrees to the same restrictions and conditions that apply through this BAA to Business Associate with respect to such PHI. If Business Associate becomes aware of a pattern or practice by the subcontractor that violates such agreement, Business Associate shall take steps to cure the breach or end the violation. If efforts to cure the breach or end the violation are not successful, Business Associate shall terminate its arrangement with the subcontractor, if feasible. If not feasible, Business Associate shall notify Covered Entity of the breach or violation.
- F. To make available, at the request of Covered Entity, and in the form and format designated by such Covered Entity, PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to the requesting Individual or such Individual's designee, within the time period necessary to meet the requirements under 45 CFR § 164.524; provided, however, that this Section II.F is applicable only to the extent Business Associate is required to maintain a Designated Record Set for the particular Covered Entity pursuant to the terms of the Agreements.
- G. To make any amendment(s) to PHI in a Designated Record Set as directed or agreed to by Covered Entity pursuant to 45 CFR § 164.526, or to take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR § 164.526; provided, however, that this Section II.G is applicable only to the extent Business Associate is required to maintain a Designated Record Set for the particular Covered Entity pursuant to the terms of the Agreements.
- H. To make applicable internal practices, books and records available to the Secretary or his designee for purposes of the Secretary's determining Business Associate's compliance with the HIPAA Rules.
- I. To maintain and make available upon request by Covered Entity the information required to provide an accounting of disclosures as necessary to satisfy Covered Entity's obligations under 45 CFR § 164.528.
- J. Without unreasonable delay and in no case later than sixty (60) days following discovery by Business Associate (except as otherwise required under 45 CFR §164.412), Business Associate will notify Covered Entity in writing of any Breach of Unsecured Protected Health Information. Business Associate shall provide Covered Entity, to the extent known, the identity of each Individual whose Unsecured Protected Health Information has, or is reasonably believed by Business Associate, to have been affected by the Breach. In addition, Business Associate shall provide to Covered Entity, either at the time it provides notice to Covered Entity of the Breach or promptly thereafter as information becomes

available, any other information that Covered Entity is required to include in its notification to an Individual under 45 CFR §164.404(c).

- K. In the event Business Associate transmits or receives a Transaction on behalf of Covered Entity, it shall comply with all provisions of the Electronic Transactions Rule to the extent applicable.
- L. To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s).
- M. In its performance of the functions, activities, services, and operations for Covered Entity, Business Associate agrees to make only the minimum necessary uses and disclosures and requests for Protected Health Information.
- N. Business Associate shall not engage in the Sale of Protected Health Information or otherwise directly or indirectly receive direct or indirect remuneration in exchange for the disclosure of Protected Health Information of an Individual, unless Covered Entity or Business Associate has obtained a valid authorization from the Individual, consistent with the requirements under 45 CFR §164.508.

III. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

Except as otherwise limited in this BAA, Business Associate may:

- A. *Use or disclose* PHI for purposes of performing the functions, activities or services for, or on behalf of, each Covered Entity as specified in the Agreements, provided that such use or disclosure would not violate Subpart E of 45 CFR Part 164 if done by Covered Entity or is permitted under paragraphs B and C below.
- B. *Use* PHI for all appropriate management and administrative functions of Business Associate, or as needed to carry out the legal responsibilities of Business Associate.
- C. *Disclose* PHI for all appropriate management and administrative functions of Business Associate, or as needed to carry out the legal responsibilities of Business Associate, provided that such disclosures are either Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

IV. OBLIGATIONS OF COVERED ENTITY

Each Covered Entity shall:

- A. Provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR § 164.520, as well as any changes to such notice.
- B. Provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.
- C. Notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- D. Not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Subpart E of 45 CFR Part 164 if done by Covered Entity, except as set forth in Sections III.B and C.
- E. Disclose only the minimum necessary Protected Health Information to Business Associate as may be required for Business Associate to perform its services to Covered Entity, except that Covered Entity will not be obligated to comply with this minimum necessary limitation if neither Business Associate nor Covered Entity is required to limit its use, disclosure or request to the minimum necessary.

V. TERM AND TERMINATION

- A. **Term.** As to each Covered Entity, the term of this BAA shall be effective as of the date set forth above in the first paragraph. This BAA shall terminate on the date Business Associate ceases to be obligated to perform functions, activities or services for Covered Entity under the Agreements. However, Business Associate's obligations under Articles II, III and V shall survive the termination of this BAA with respect to any PHI so long as it remains in the possession of Business Associate.
- B. **Termination for Cause.** Without limiting the rights of the Parties respecting termination under the Parties' Agreements:
 - 1. **By Covered Entity.** Upon Covered Entity's knowledge of a pattern of an activity or practice of Business Associate that constitutes a material breach or violation of this BAA by Business Associate with respect to PHI maintained for that Covered Entity, such Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation. Covered Entity shall terminate this BAA and the Agreements if Business Associate does not cure the breach or end the violation within such reasonable time as is specified by Covered Entity, or immediately terminate this BAA and the Agreements if Business Associate has breached or violated a material term of this BAA and cure is not possible. However, Business Associate's Agreement(s) and the terms of this BAA with respect to any other Covered Entity shall continue to remain in effect until otherwise terminated.

2. **By Business Associate.** Upon Business Associate's knowledge of a pattern of an activity or practice of Covered Entity that constitutes a material breach or violation of this BAA by such Covered Entity, Business Associate shall provide an opportunity for Covered Entity to cure the breach or end the violation. Business Associate shall terminate this BAA and the Agreements with respect to that Covered Entity if Covered Entity does not cure the breach or end the violation within such reasonable time as is specified by Business Associate, or immediately terminate this BAA and the Agreements with respect to that Covered Entity if Covered Entity has breached or violated a material term of this BAA and cure is not possible. However, Business Associate's Agreement(s) and the terms of this BAA with respect to any other Covered Entity shall continue to remain in effect until otherwise terminated.
- C. **Effect of Termination.** Upon termination of this BAA for any reason, Business Associate, with respect to Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:
1. Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 2. Return to Covered Entity or destroy the remaining PHI that Business Associate still maintains in any form;
 3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic Protected Health Information to prevent use or disclosure of the PHI, other than as provided for in this Section V.C, for as long as Business Associate retains the PHI;
 4. Not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out under Sections III.B and III.C which applied prior to termination; and
 5. Return to Covered Entity or destroy the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

VI. MISCELLANEOUS PROVISIONS

- A. **Regulatory References.** A reference in this BAA to a section in the HIPAA Rules means the section as in effect or as amended, and for which compliance is required at the time of the use or disclosure in question. In case a specific regulatory reference used in this BAA changes, as may occur when an enforcement body moves or otherwise changes its numbering system, this BAA shall remain in place and the Parties subject to the BAA shall use all reasonable efforts to discern the

correct and applicable reference currently in effect in order to optimally satisfy compliance obligations as set forth under governing law.

- B. **Amendment.** The Parties agree to take appropriate action as necessary to amend this BAA from time to time in order for Covered Entity and Business Associate to comply with the HIPAA Rules. Moreover, to the extent permitted by applicable law, upon the compliance date of any final regulation, or amendment to final regulation promulgated by HHS that affects Business Associate or Covered Entity's obligations under this BAA, this BAA will automatically amend such that the obligations imposed on Business Associate or Covered Entity remain in compliance with the final regulation or amendment to final regulation.
- C. **Survival.** The respective rights and obligations of the Parties to this BAA shall survive the termination of this BAA.
- D. **Governing Law.** This BAA shall be governed by the laws of the State of Texas.
- E. **Notices.** All notices hereunder shall be in writing and delivered by hand, by certified mail, return receipt requested or by overnight delivery. Notices shall be directed to the Parties at their respective addresses set forth below their signature, as appropriate, or at such other addresses as the Parties may from time to time designate in writing.
- F. **Entire Agreement; Modification.** This BAA represents the entire agreement between Business Associate and each Covered Entity relating to the subject matter hereof and supersedes all prior oral and written agreements relating to the subject matter hereof. No provision of this BAA may be modified, except in writing, signed by the Parties.
- G. **No Third Party Beneficiaries.** There shall be no third party beneficiaries to this BAA, and no individual (including an Individual) or entity who is not a party to this BAA shall have any rights in connection with a breach or violation of this BAA.
- H. **Binding Effect.** This BAA shall be binding upon the Parties hereto and their successors and assigns.
- I. **Counterparts and Signature.** This BAA may be executed in any number of counterparts, which, when taken together, shall constitute one original. This BAA may be executed by an electronic or facsimile signature of an authorized representative of the Parties, and any such signature shall be deemed to be an original signature and shall be binding on the Parties to the same extent as if such electronic or facsimile signature were an original signature.
- J. **Interpretation of this Agreement.** Any ambiguity in this BAA shall be resolved in favor of a meaning that permits the Parties to comply with applicable law.

[Remainder of page left intentionally blank]

IN WITNESS WHEREOF, the Parties hereto have caused this BAA to be executed as of the date first above written.

BUSINESS ASSOCIATE: HUB International

By: _____

Name: _____

Title: _____

Address of Business Associate:

10000 North Central Expressway, Suite 1200 Dallas, TX 75231

For Notices, a copy (which will not constitute notice) shall be sent to:

HUB International Limited
c/o Legal Department
300 N. LaSalle St., 17th Floor
Chicago, IL 60654

**PLAN SPONSOR: City of Freeport
on behalf of its group health plan as Covered Entity**

By: _____

Name: Brooks Bass_____

Title: Mayor_____

Address of Plan Sponsor:

