



City of Freeport
Meeting and/or Executive Session Agenda

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>

Tuesday, September 3, 2024, 6:00 PM | Council Chamber | 430 N. Brazosport Boulevard, Freeport, Texas 77541

In accordance with Section 551.043 of the Texas Government Code, this agenda has been posted at Freeport City Hall, and distributed to the appropriate news media within the required time frame. All meetings of the Freeport City Council are open to the public. Public participation and written comments are invited on all open session business items.

The Mayor and City Council request that cell phones be turned off or set to vibrate. Members of the audience are requested to step outside to conduct a phone conversation. The Council Chamber is wheelchair accessible and special parking is available outside the building. If special accommodation is required, please contact the City Secretary a minimum of 72 hours in advance at 979-233-3526.

1: Call to Order:

- 1A. Call to Order - Jerry Cain, Mayor
- 1B. Invocation - Councilman
- 1C. Pledges - Pledge of Allegiance to the United States; Pledge of Allegiance to the State of Texas.
- 1D. Audience Participation – Anyone who has registered to speak prior to the meeting being called to order and desires to address the City Council will be heard at this time, or during the discussion of an item listed on the agenda. These forms are located by the City Secretary. After completing the form, give it to the City Secretary. She will give it to the Mayor. The Mayor will call on you when that item is presented, once a motion has been made by Council then public participation will not be allowed. You will have four (4) minutes to make your comments regardless of the number of agenda items to be addressed.

2: Consent Agenda:

All items listed are part of the Consent Agenda. Public Hearing and review are held collectively unless opposition is presented, in which case the contested item will be heard separately.

- 2A. Action regarding Minutes, August 19, 2024 - Clarisa Fernandez, City Secretary
- 2B. Action regarding approving the Employee Holiday Calendar for Fiscal Year 2024-2025. (Donna Fisher)

3: Proclamations - Presentations and Updates

- 3A. Employee Recognitions – Lance Petty, City Manager
- 3B. Upcoming Events - Red Tide Pep Rally, September 6th, BISD (TBD)
 - Kid Fest September 7th, 3PM-7PM
 - Haunting Tales of the Texas Coast Exhibit, September 16th, 9AM
 - Homecoming Parade and Bonfire, September 19th, BISD (TBD)
 - Tidalwave Fundraiser, September 20th, Tidalwave Carwash, 8AM
 - Back the Blue Football Game, September 26th, Hopper Field (TBD)
 - Fentanyl Walk, September 28th, FMP, 9AM-2PM

4: Public Hearings

- 4A. Public Hearing regarding the FY2024-2025 Proposed Budget (Cathy Ezell)

5: Business

- 5A. Consideration and possible action approving Tortuga Sands Beach a Re-Plat of a 41.00 Acre Tract One Block, 16 Lots said subject called Tract Recorded In County Clerk's File No. 2024008485 of the Brazoria County Official Records in the S.F. Austin Peninsular League Abstract 29 City of Freeport (Etj) Brazoria County, Texas. (Shelby Araujo)
- 5B. Consideration and possible action to adopt Ordinance No. 2024-2734 adopting the Fiscal Year 2024-2025 Budget. (Cathy Ezell)
- 5C. Consideration and possible action to adopt Ordinance No. 2024-2735 establishing a Tax Rate for the 2024 Tax Year. (Cathy Ezell)
- 5D. Consideration and possible action to approve Resolution No. 2024-2877 amending the City of Freeport's Investment Policy. (Cathy Ezell)
- 5E. Consideration and possible approving Resolution No. 2024-2878 to approve an addendum to the bond council engagement with Bracewell LLP. (Cathy Ezell)
- 5F. Consideration and possible action approving a Professional Services Payment Agreement between the City of Freeport and Freeport 19 LLC. (Cathy Ezell)
- 5G. Discussion on the nomination of candidates to be placed on the ballot for the Brazoria County Appraisal District Board of Directors. (Cathy Ezell)
- 5H. Consideration and possible action approving the Interlocal Agreement between the City of Freeport and the Brazoria County Health Department. (Christopher Motley)

6: Adjournment

- 6A. Adjournment – Jerry Cain, Mayor

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).

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 Fernandez,
City Secretary, City of Freeport, Texas



State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Monday, August 19, 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 Jerry Cain
- Councilman Jeff Pena
- Councilman Jarvis Davis
- Councilman George Matamoros
- Councilman Winston Rossow

Staff:

- Lance Petty, City Manager
- Daniel Sylvia, Interim City Attorney
- Crystal Ruiz, Executive Administrative Assistant
- Cathy Ezell, Finance Director
- Toby Cohen, IT Manager
- Donna Fisher, Human Resource Director

Visitors:

Manning Rollerson	Pamela Dancy
Karla Clark	Gary Guerrero
Kenneth Hayes	Con McCleester
Sam Reyna	Diane McCleester
Nicole Mireles	Carol Parker
Margaret Bachman	Mark Parker
Shonda Marshall	

THE MEETING IS BEING HELD FOR THE FOLLOWING PURPOSES:

CALL TO ORDER:

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

INVOCATION AND PLEDGE OF ALLEGIANCE:

Invocation and Pledge was led by Councilman Rossow.

Mayor Cain said, for the record, Councilman Pena is not currently present.

CITIZENS' COMMENTS:

Sam Reyna resides at 2002 North Ave G. He said he would like to apologize for making false statements at the last council meeting. He said he stated that the City had no annual reports of the TIRZ projects which, in fact, the City did in fact have all the information as requested, but are not submitting the annual reports to the taxing units and the public. He said he submitted a public information request for the annual reports for the years 2019 through 2023. He said he needed the information of captured appraised value of property within the zone and

the exact amount of money in the project account, which is \$500,000. Mr. Reyna said he did not get the annual report he requested and Ms. Cathy Ezell related the message that she would give him the annual reports within two years. He said that the open records acts give citizens the right to access government records and release requested information promptly, which is 10 working days, not two years. He said this was not his first rodeo with this type of response. Mr. Reyna said he had filed a complaint against the Mayor and Council members did like the rulings of DA office of the Secretary of the State. He said he knows how to fill out complaint forms and how to exhaust all remedies. Mr. Reyna said next time he submits a public information request, and it is not released to him within the allotted time, he will file a complaint with the Attorney General. Mr. Reyna said Ms. Ezell's son is an employee of the City and was hired during her employment as Assistant City Manager and that is a violation of the City's Charter Section 11.04. He said he should be terminated as soon as possible and any money he earned as an employee of the City should be reimbursed back to the City. He said Cathy Ezell knew or should have known she was violating the City's Charter. Mr. Reyna said it needs to be terminated as well. He said the HR department is at fault also because all new hires and information should go through the HR department to ensure that there is no unfair treatment happening within the department and that includes nepotism. Mr. Reyna said Mr. Petty is doing a good job but Kelly left behind some cancer that needs to be removed and to clean house and surround himself with his own administration as that is the norm with all City Managers. He thanked Mr. Petty for raising the Stars and Stripes.

Manning Rollerson said he has a deep concern and the concern is the growth of the City of Freeport. He said the concern is rooftops in the City of Freeport and the concern is where is the budget going to come from for the new rooftops. He said he has heard of special bonds and everything else but at the end of the day the people are not going to vote for more taxes because they are being taxed out. He said every time there is an abatement they are propping up a company and losing in the City. He said Dow has been here since the 1940's and asked if the City of Freeport has grown since the 1940's? He said let's be honest, trillions of dollars in abatements to every industry in this community and the economy is dead with no rooftops and no growth. He said these trillion-dollar companies can not pull themselves up by the bootstraps and the City is dying. He said yes the opposition that came was true since corporations have been invaded the City of Freeport has not had an economical growth since they went in this direction. Mr. Rollerson said but to target two people he was wrong about that because the responsibility falls on every single person who sits up at the Council when there is an economic downfall in the City and it goes on everybody that represents the City. He said and for 40 straight years the City has not grown and there is no excuses for it. He said there is no excuse for the street light, no excuse for no sidewalks, there is no excuse for the plumbing. He said because there is too many trillions of dollars went through the City and the City is still looking like it was back in 1979 when he was growing up, and it has to change. He thanked the Council for what they are doing so far but he disagrees with a lot of people that get up there and throw rocks at everybody. Mr. Rollerson said they are beyond the rock throwing and need to start striving for the future because Freeport will not grow if they keep allowing to be took advantage by the industry and not grow as a City. He said they are paying out but there is no return. He asked the Council to look into the contingency plan by LNG blowing up in this community AIG said there is a contingency plan for the citizens. He said there is a contingency plan when there is willful dumping in the community and that was willful because the report stated it was willful. He said let's start getting some checks in the mailbox because he is in DC every six months talking with the insurance companies.

Karla Clark resides at 411 Sailfish. She said just like Mr. Rollerson said that Mayor Cain as Mayor stops the finger pointing at the audience or at any of the Council, and it just needs to stop. She said her point was with the storm that came through there is a contract with Oyster Creek and Surfside concerning the sewage and has tried to figure out how much we get paid for transporting this and it looks like the document was signed back in 2000 by James Barnett. She said basically, it says Surfside shall pay quarterly payment to the City of Freeport and then it also says that it will go on and Freeport will supply the disposal of the sewage into the Oyster Creek plant. She said some of the Council have come out and some of them know that during the storm back in January there was problems with the sewer because Oyster Creek pumps are not working they did not fix them before the storm and are still not fixed. She said the ditch is full of black water, and it goes into ground water.

She said the BWA and TCEQ all of that goes right in front of a restaurant even if there was a well or there was not a well there and if they are on city water that kind of stuff is not a good as a habit. She said it has been going on all year and if Oyster Creek is not doing what the City needs them to do they need to be kicked along. She said the documents she has started with Surfside back in the 2000's and would really like to know how much they are paying the City and if there had been any updates because they have had growth, and we need to get more into the City rather than to pay more in our taxes because at this point there is a pump down there flushing it out and the toilets in Bridge Harbor are very sketchy sometimes whether they are going to flush and she knows that the City has had these same problems with the storm and everything.

Nicole Mireles resides at 2002 North Avenue G. She said she had decided not to say anything but she just wanted to make a few comments from what she heard. She said one of the citizens came up and blamed the Council for what was going on and that they are horrible and no rooftops and all this other stuff. She said but guess what the Council was not even on Council when all this crap started. She said she was there four years, and she saw the injustice and what went on and what did not go on. She said all she would like to say is for the Council to hold their heads up and keep doing what they are doing. She said the Council is doing a good job. She said that she knows it goes in one ear and out the other, but she wanted to let Council know that she is always there and is always involved with the City because she loves her City. Ms. Mireles said she is not the person to get off of Council and stops participating in Council meetings. She said although maybe the Council hopes that she will stop going to Council meetings, nonetheless she likes to be informed. She said she feels like there is a good, strong Council right now and to not let anything or anybody tell you any different.

Shonda Marshall resides at 1606 North Ave M. She said the reason she wanted to speak tonight is that she needed to set the record straight. She said she received a very disturbing phone call that basically stated that a rumor was being spread that Councilman Pena had stole, S-T-O-L-E her house and that she received no compensation for the sale of her house and that he now owns it. Ms. Marshall said that is not true nothing can be further from the truth. She said she decided along with her family to sell her house and receive full compensation. She said she did not sell her house to Mr. Pena. She said if anyone would like to know who owns the house it can be looked up on the tax records, and it is not Mr. Pena. She said she wanted to make sure she cleared his name. She said if there is someone out there spreading rumors about this Councilman or any of the other leaders, the Mayor, the other Councilman, the City Manager, and whoever, she asked that it please be stopped. She said all it does is tear the leaders apart and they need to poll them and work in integrity so that this City can grow and prosper. She said and please whatever you do if you are going to be vindictive towards one of the Councilman or the mayor or whoever do not use Shonda Marshalls name and if you want to do something against the Councilman do not include her or her family please. She said if you have any questions about anything that relates to Shonda Marshall, call Shonda Marshall.

Mayor Cain said he wanted to make a comment on Mr. Rollerson's statement and he had mentioned that it falls on all of us that are representing the City and he wants to make it clear that those of us that go up here and speak and those of us that talk to other cities, other counties, other states or whoever are representing the City and these changes do not just fall on the people that are sitting up there and it also falls on everyone. He said he just wanted to say that while Mr. Rollerson was still present.

Manning Rollerson said the reason he said we need to build houses is because houses need to be built but that infrastructure needs to be taken care of because it needs to be taken care of. He said he agrees with everybody up there because there is a new system but at the end of the day the blame falls on the elected officials and not the citizens and asked if it is not done who do they look to? He said the Council.

Mayor Cain said unfortunately, he is right the blame does fall on the Council, but it takes a village.

COUNCIL BUSINESS – REGULAR SESSION:

Consideration and possible action on the approval of City Council Meeting Minutes, from August 5, 2024.

A motion was made by Councilman Matamoros to approve the City Council Meeting Minutes, from August 5, 2024, seconded by Councilman Rossow with all present and voting "Aye" 5-0. The Council unanimously approved the motion.

Consideration and possible action approving Resolution No. 2024-2876 appointing a qualified person the Brazosport Water Authority of said City; Kenneth Hayes.

City Manager Lance Petty said staff recommended the approval of the resolution. He said this resolution is to reappoint Kenneth Hayes as a member of the Board of Directors of the Brazosport Water Authority. He said Mr. Hayes has represented the City on the board since September 2016, faithfully attending the BWA meetings as the City representative and keeping the City informed as to the efforts of the BWA. Mr. Petty said, as a founding member of the BWA the City of Freeport is allowed to appoint one member to the Brazos Water Authority Board of directors to represent the City's interests and that appointment is made by the City Council to serve a two-year term which expires in 2024.

Mayor Cain said he appreciates Mr. Hayes for all he has done for the City and being on the BWA.

A motion was made by Mayor Cain to approve Resolution No. 2024-2876 appointing a qualified person to the Brazosport Water Authority of said City; Kenneth Hayes, seconded by Councilman Matamoros with discussion that followed.

Councilman Pena said this particular appointment is no different from the other boards that the Council is responsible for appointing, and he is curious if the City had solicited the position in public as it has been done for the other boards and where that was posted. He said he wanted to know if there might be other folks that might be interested in representing the City through the BWA to get meaningful updates as it relates to the water supply to the City and to the neighbors as well as the sewage that has to be dealt with and how it would be charged back to the residents here on the water bills and is curious if this particular position had been advertised in any way, shape, or form. City Manager Lance Petty said no there was no advertisement. Councilman Pena asked why there was not, and why would they not and do we have the latitude to just make that decision unilaterally or is the City Hall staff required to advertise for it? Interim City Attorney Daniel Sylvia said typically for these kinds of appointments there are no requirements to advertise, and it is just City staffs recommendation and can be brought to the Council to appoint or to make recommendations, but there is no requirement to advertise for those positions. Councilman Pena asked so can it be expected that any future board appointments will not be advertised or is it just this particular case BWA being a one off and was curious as to why? City Manager Lance Petty said no, the reappointment of Mr. Hayes like the Mayor, said Mr. Hayes has served the City well in this capacity since 2016 and he does represent the City at all and attends all board meetings. Mr. Petty said Mr. Hayes give information back that is needed for the City if it is anything pertaining to BWA. Mr. Petty said BWA has nothing to do with the sewer system. Councilman Pena said he was talking about the water supply and water bill when you start seeing the sewer on there and so what he is really interested in is there are residents who are willing to participate in the process and in the government and when those opportunities are not offered to get new ideas, fresh ideas, and or for that matter more participation from the residents he thinks it is a disservice. Councilman Pena said he asked that they put this out for advertisement to see if there are any other residents that might want to hold this position.

Councilman Rossow said it was stated that Mr. Hayes has done this for the last eight years with no problems, and he does not see why they should even think about replacing him if there have not been any problems. He said if it is not broke do not fix it.

Mayor Cain called the motion to a vote with all present and voting "Aye" 4-1. The Council approved the motion. Councilman Pena voted "Nay".

Karla Clark resides at 411 Sailfish. She said she just wanted to ask Mr. Hayes or the Council that she knows the BWA went back to us earlier this year with a deep increase in our input to the BWA. She asked if that was approved and if so how much was or are we paying for their new expansion in the rivers? Mayor Cain said if she has an opportunity to reach out to Mr. Hayes he will be more than happy to tell her what he knows. Ms. Clark said the Council are the ones that approved the increase.

Consideration and possible action on setting the City of Freeport Proposed 2024 tax rate, setting the public hearing (if necessary), and directing staff to publish the Notice of Proposed 2024 tax rate.

Finance Director Cathy Ezell said they received the tax rate calculations from the county last week to where they can move forward with the vote on the proposed tax rate. She said at this time staff is recommending that with the budget has been presented to the Council that the City proposed a tax rate that is equal to the no new tax rate which is 0.514967. Ms. Ezell said of that 0.450351 goes to M&O and .064616 goes to the debt. She said when compared to what was adopted last year at the 53 it is about a penny decrease but it still gives the same revenue by proposing a tax rate at the no new tax rate revenue rate it is not required to have a public hearing because that is that rate. Ms. Ezell said she did verify that her thinking was correct with Ms. Kristen of the tax assessor collectors office that if a tax rate is proposed of the no new revenue rate a public hearing will not have to be held on the tax rate. She said that is what staff recommends and that is what Mr. Petty and her stated in the budget that there is no tax rate increase proposed in the budget nor any other rate increases.

Mayor Cain said no tax rate is always a good thing to vote on.

Finance Director Cathy Ezell said if the Council chose to vote on the proposed tax rate it would have to be a record vote, so that she can give it to the tax assessor collector. She said if that rate is proposed if that is what the Council chose to.

A motion was made by Mayor Cain to set the proposed tax rate not to exceed \$0.514967 per \$100 in property valuation, seconded by Councilman Matamoros with discussion that followed.

Councilman Matamoros said he just wanted to thank Ms. Ezell and City Manager Mr. Petty for working hard to provide a budget to where taxes are not raised on the residents.

Councilman Pena said there is a hand in the audience and he himself had a comment. Mayor Cain said there is a motion on the floor. Councilman Pena said he thought there could be discussion on it with citizens during this time, have always done that, and is not sure why that is different tonight. Mayor Cain said there is a motion on the floor and once a motion has been made comment are not accepted. Councilman Pena asked really? Mayor Cain said absolutely. Councilman Pena said this is new to him tonight. Councilman Pena asked when did this change and how do they get the citizens input? Councilman Pena said maybe the motion should not be done to so that they allow citizens to participate in the discussion, so they are actually working with the residents. Councilman Pena said that is his one recommendation on how this particular procedure is being handled here or for that matter the facilitation of the meeting. He said it is all news to him tonight and he is sure it is news to everybody else who keeps raising their hands and for that matter anybody at home. He said he actually has the opposite opinion of the opinion that has been expressed there earlier and that is because he had been frustrated over the last month with the moving parts in the city budget but will get into that in more detail but he is really surprised and shocked that the last meeting and the one before that he asked why are they not talking about this new budget at the Council meeting? Councilman Pena said it is not even on the agenda but then they are going to be expected to come forward there in another two weeks and vote to approve a budget that has so many potholes it makes Freeport's potholes look like smooth and it is terrible and he can not trust the tax proposal when he knows that when they are saying as the CFO just stated it is because of the great budget that they have that is the reason why they do not have to raise taxes. Councilman Pena said he has heard so many different things from the administration like there is no money but then they are giving raises across the board, they have to tighten their belts so there are no capital projects. Mayor Cain asked if Councilman Pena was talking about budget? Councilman Pena said yes and when they are talking about the tax raise or no tax raise because they

are tying it to the budget that is pristine and that is what it is tied to and they are saying they are going to the tax increase or decrease based on the budgetary needs but if we can not trust the budget how can we trust how we should be moving forward with the tax policy. He said and it is completely incongruent and does not make any sense to him and he is not sure how it makes sense to anybody else. He said he wanted to make that comment so that maybe everyone else should ask that question at home and call in to your representatives.

Mayor Cain called a motion to the vote with all present and voting "Aye" 4-1. The Council approved the motion.

Councilman Pena voted "Nay", Councilman Davis voted "Aye", Mayor Cain voted "Aye", Councilman Rossow voted "Aye", Councilman Matamoros voted "Aye".

Consideration and possible action approving an agreement between the City of Freeport and P3Works for Public Improvement District (PID) and Tax Increment Reinvestment Zone (TIRZ) Creation and Administrative Services.

Finance Director Cathy Ezell said she had representative from P3Works Adrianna Barnes if there were any questions. Ms. Ezell said there is a development that is going in on Skinner Street and part of the development is a PID and the TIRZ. She said in order to create the PID in the TIRZ there has to be someone who specializes in that and that is what P3Work does and they are highly recommended. Ms. Ezell said she spoke with the City of Bay City who has has worked with them and also worked with the developer that is doing the project that is on Skinner Street. She said P3 is highly recommended as well as they come highly recommended from the bond Council. She said this contract is for them to help create the PID and the TIRZ as part of this development and have to go ahead and get it in place as they are working on the development agreement with Freeport 19 LLC, and they have to be able to review the document before it comes before everybody to make sure that everything is in accordance with all the laws and everything. She said she is working with the bond attorney, the City attorney's office, financial advisors, City of Freeport, Lance, and herself are all working and trying to get all these moving pieces to make sure everything is in place and that is why they need their expertise and they come highly recommended. She said it is not at the cost of the City and the City will be entering an agreement a public administration agreement with Freeport 19 LLC to where they will pay for the administrative cost, and it will not be at the expense of the City of Freeport. She said but the City of Freeport and City Council determine who they will work with. Ms. Ezell said that is what is on the agenda is to approve the agreement with P3Works for the PID, TIRZ, and the creation for administrative services for the PID and the TIRZ.

A motion was made by Councilman Pena to table this item with discussion that followed.

Councilman Pena said Ms. Ezell had mentioned that there was an agreement with the Freeport 19 LLC and asked if this was correct? City Manager Lance Petty said there is not a developer agreement in place right now. Councilman Pena said that is his concern. Mr. Petty said there was one in place but are making the changes to it. Finance Director Cathy Ezell said there was one in place but changes are being made to it however it was not something that the bond council, Mr. Petty, and herself thought was for the best for the City of Freeport the way the agreement was written and therefore it is being revised. Councilman Pena said he is glad Ms. Ezell mentioned that because the concern was and he hopes the rest of the Council listens to this because this is very important. Councilman Pena said he came to the meetings to be as quiet as possible but he can not sit idly when people are losing money and it is funny to some of the residents that are in the audience. Councilman Pena said money is being lost, transparency is being lost, and due process and losing million of dollars. He said to put your personal animus against him aside and just listen for the numbers on this as it is just common sense. He said Freeport 19 LLC and there is not an agreement with them but are going to create a whole PID and TIRZ to accommodate them. He said he wanted to talk about Freeport 19 LLC because this was the same group that the Council was made aware of. Councilman Pena said he received phone calls from residents about these developers threatening residents in that space and so the Council got wind of it all and decided they were not going to continue with the group and about a month later the group comes back and switches up their name to

Freeport 19 LLC and he was not fooled because it is the same group that was abusing and threatening the residents over in those 19 acres. Councilman Pena said so if you care about anybody developing and profiting off Freeport assets and Freeport land and, for that matter bullying the residents to kick them out of their property ownership. He said this is what Freeport 19 LLC is about but more importantly he is not sure why they are putting the cart way before the horse talking about they need to build this infrastructure in place for this development company because all it means is that they are going to line their pockets that much more. He said this is the 19 acres that was sold last year or agreed to be sold to these guys, the same guys that are bullying the residents for \$150,000. He said on top of the hundred and \$150,000 giveaway which was worth \$2 million dollars and now as far as the infrastructure goes they are setting it up so that they do not even have to pay for the infrastructure that is going to be passed on to the residents. and that is another story. He said what is interesting about this is that there have been other developments in the City that have been asking for PIDs and TIRZ and this cart before the horse process did not occur then and it should not now. He said TIRZ and PID should not be created now because this particular developer does not have the financial wherewithal or the means potentially to actually do the deal. He said he brings this up because he brought this red flag up last time when it was Realty World that the EDC now has a lawsuit about and on they were getting to also do the same with the 19 acres. He said the bond, about two months ago he asked the Council and the administration if they had done any diligence on their financing? He said and the answer was well there was this bonding company do a review of their financial and he simply asked if he could get a copy of those financial because he knows a little bit about the mortgage financing. He said he has asked the same group that was with the EDC for the last three years who could not get their act together and their financing together even though he asked over and over for almost two years for them to give him their financials, and they never did. He said so here he is now wondering they backdoor the EDC came back to City Council and said why do they just do it. Councilman Pena said then it is the same problem they still do not have their financials and if they just going to trust this bonding company that is fine but at least if the Council is asking for those same numbers to review because some of us have that expertise, some might have IT expertise then lets let that guy look at it and some guys may have pumps and drilling and any other construction background then let that guy look at that. Councilman Pena said he is there telling them that he still has not received that information yet still planning as if this thing is already buttoned up and already done. He said you have to ask yourself why is this being fast tracked? He asked why are they not doing their due diligence? He said this is why he asked this item to be table. He said to at least get the financials to see whether or not they are going to approve this but much less should they should not be doing be doing any discussion about the PID or TIRZ on a project with a developer whose questionable on ethics and questionable on financing and certainly obviously has just twisted around their LLC name to still be part of the game. He said and yet this project has not been advertised or solicited any other developers. He said he knows that when that particular developer who was there at last meeting or two meetings ago about the apartment water rates they were interested in doing more for public housing. He said he mentioned the 19 acres and they said they did not now anything about it. He said he wants to know why they are rewarding bad behavior? He asked why are they not doing the due diligence? He asked why are they not trying to do what is best for the taxpayers money and property when they have this opportunity now.

Mayor Cain said he, unlike some people who do not trust the people who are running the City, he does trust them and, since he trusts them he is okay with moving forward.

Mayor Cain called the motion to a vote, motion died due to a lack of a second.

A motion was made by Councilman Matamoros to approve the agreement between the City of Freeport and P3Works for Public Improvement District (PID) and Tax Increment Reinvestment Zone (TIRZ) Creation and Administrative Services, seconded by Councilman Rossow with discussion that followed.

Councilman Rossow said he agrees with Mayor Cain that there has to be trust in the people that are in charge of this item. He said we are not in charge. He said yes they can vote it down and can table it or approve it but he does not believe that it will be brought before the Council unless it has been validated by either by the City

Manager, the City Finance, or the Mayor then the Council gives their voice on it. Councilman Rossow said he trusts the people and that is their job.

Finance Director Cathy Ezell said she wanted to reassure the Council that the due diligence is being done she heard the rumors and she saw the first agreement and Mr. Petty and herself had a long conversation and that is why they contacted the City's Bond Council that is why they contacted the City's financial advisor and that is also why she reached out per Mr. Petty request to the City of Bay City. Ms. Ezell said she knows their Finance Director who is their Interim City Manager and spoke for over an hour about the same company that is doing a development like this in their City. She said the Finance Director in Bay City told her about some concerns she had that they did not come to fruition and she also told her some concerns which were the same as hers. She said they went back and forth. Ms. Ezell said the Finance Director sent her a copy of their development agreement that they. Ms. Ezell said they have done the due diligence not only with hiring possibly P3Works, the people that come the most highly recommended but also the bond council which is a group of attorneys that do this stuff day in and out and the City's Financial advisor they know of the developer and they have worked with the developer before. She said she made the phone call to the City of Bay City. Ms. Ezell said the staff is doing its due diligence and she wants to reassure the Council that they are doing what we they are supposed to do before they bring this forward. Ms. Ezell said when Interim City Attorney David Olson saw the agreement his response was to her that this really protects the City and she said that is the point. City Manager Lance Petty said the number one goal is to protect the City and he will never push development that is going to be on the back of the current taxpayers it is not going to happen. Mr. Petty said in order to develop these are the type of things that have to be put in place to get the motion moving forward. He said like Ms. Ezell said they contacted the bond councils, financial councils, and they vetted these companies the \$150,000 for 19 acres that were talked about was sold to Jim Maddox Properties LLC and the development is Freeport 19 LLC and he was aware when he came into this position about the strong arming talk and things like that and he had a long conversation with them. He said it was basically one of those things if he hears that they are pushing on any of the citizens around the development will be cut off. He said they have done every step possible and when he reviewed the initial agreement that was initiated he seen so many holes in it right off the bat and that is why he nixed it and got with the Financial Advisors and Bond Council to start reviewing it and rebuild the developers agreements that is in the benefit of the City of Freeport and not the developer. He said that is how they took the initiative on this and how they move forward with it .

Councilman Davis asked if anybody heard about this or know about this? He said he is glad to hear that it was broken down and did research with other cities that are working with P3Works.

Adrianna Barnes with P3Works said she heard a lot of discussion and she could address a lot of the different comments and questions that were made. She said that before any PID bonds are issued there is an underwriter that performs a pretty in-depth due diligence process with the developer and so that is when the real first commitment comes on board from the City after the development agreement is approved and if it gets approved there is a tremendous due diligence process that occurs before those PID bonds are issued through the underwriter. Ms. Barnes said they do specialize in helping cities with creating and administering both PIDs and TIRZ and she assist a number of cities in the Houston area. She said she is the regional manager for P3Works and works with Angleton, Bay City, City of Brazoria, City of Friendswood, Montgomery County, and City of Dayton. She said they kind of have a pretty good number of cities and counties they work with all across the State, and she just happens to work with the Houston office and provide the services for Houston cities, counties, Houston area cities, and counties. She said they have an office in Austin and then an office in North Richland Hills and those offices service those particular areas and so the Dallas-Fort Worth area and then the Austin and Central Texas area. Ms. Barnes said that tonight does not create a PID. She said she kind of heard that it kind of sounded like maybe there was some confusion whether that was what was going to occur tonight and it is not. She said the PID creation process is something that P3Works will work with the City Manager, Finance Director, Bond Council, and Financial advisor on that process, and it will come before the Council because there are public hearing requirements and there are all kinds of requirements. Ms. Barnes said to

Councilman Pena if he wanted to look up the PID act it is in chapter 372 of the Local Government Code and that might help answer some of the questions but if it does not she can answer any specific questions but she asked that communications go through the City Manager and the Finance Director. She said they only work for the cities and do not work for the developer at all. She said their interest is to protect the City. Mayor Cain said the Council appreciates that. Ms. Barnes said there will be a professional services agreement which will come forward soon after tonight in which that if approved will require the developer to put up a specified amount of money in what they call an escrow account and that is where the invoices get paid is from those funds from the escrow, because most cities do not want their taxpayers paying for any portion of this type of development and that is why the developers are required to put those moneys in escrow to make sure that the services are covered by the developer and not the citizens or the City's general fund. She said same thing is true for the TIRZ it is a different financial tool from the PID but they do work together. Finance Director Cathy Ezell said the public service agreement is probably going to be on the next Council agenda.

Councilman Pena said in no way he is disparaging the company's reputation and or for that matter their abilities and he thinks the reputation speaks for itself. Adrianna Barnes with P3Works said she did not take it that way. Councilman Pena said he just wanted to be abundantly clear that there is no criticism for the company. Ms. Barnes said no offense taken. Councilman Pena said that he was listening closely to Ms. Barnes and said they really will not do the due diligence until after the development agreement is signed and approved by the Council. Councilman Pena said and what is interesting about that is that it is after the development is done and, so again he is not sure why they have to get into this agreement to afford the ability to do the due diligence after when they need to be doing that due diligence before they even have a development agreement with a company that has questionable ethics and questionable financing. Councilman Pena said he has been asking for these proof of funds for the last three years, and he has yet to receive anything. He said nobody on the EDC, Mayor, and nobody on the Council. Councilman Pena said the question was also about trust with the City Hall staff and the trust with the administration. He said he has a very shaken trust with the administration. He said he has a very shaken trust with the City Hall staff. Mayor Cain said to Councilman Pena now he is getting off the subject. Councilman Pena said Mayor Cain and Councilman Rossow from Ward D expressed his whole point there and so this whole talking point was about trust so he wants to respond to that because his problem is that his trust is shaken over this whole budget review process as it was stated when the administration the City Hall staff bring forward anything they can trust it to be true. He said he is looking at the minutes. Mayor Cain said the minutes do not pertain to whether or not they are going to approve the PID or the TIRZ. Councilman Pena said he just wanted to say on July 1st the CFO came forward and said that the City shows that the City is in great financial shape as of the year 2023. Mayor Cain said that has nothing to do with the PID or the TIRZ. Councilman Pena said if in this budget cycle they are given surprises and the things were not disclosed in that audit and they are now having to deal with that, that is what is shaking his confidence on this whole budget process.

Mayor Cain called the motion to a vote with all present and voting "Aye" 4-1. The Council approved the motion. Councilman Pena voted "Nay".

Consideration and possible action to award the bid for the construction of the waterline to Fire Station #2 to Android Construction Services LLP and authorize the City Manager to sign the contract.

Finance Director Cathy Ezell said the City went out for requests for proposals for construction of the water line for fire station two. She said two BIDs were received, one from Android and one from Matula and Mutala. She said Android came in with a lower bid at \$39,200. She said this is to run the new water line to the new building at fire station two. Ms. Ezell said staff recommended moving forward with Android construction and this is within the budget of the fire station two for improvements.

A motion was made by Councilman Matamoros to award the bid for the construction of the waterline to Fire Station #2 to Android Construction Services LLP and authorize the City Manager to sign the contract, seconded by Councilman Davis with discussion that followed.

Councilman Pena asked how many bids were reviewed and accepted? Finance Director Cathy Ezell said two and went out for BIDs three times and the first two times they were no BIDs received and the third time two BIDs were received. Councilman Pena asked if this company had done any work for the City of Freeport? Ms. Ezell said yes. Councilman Pena asked what projects? Ms. Ezell said quite a few water line repairs for Veolia, and they have also done water line repairs in 1495 if she remembers correctly. City Manager Lance Petty said yes the TxDot project, there were some issues there when they hit some water lines, and they had to call contractors in to make repairs and both companies have been used. Councilman Pena asked if they are qualified? Mr. Petty said yes.

Mayor Cain called the motion to a vote with all present voting "Aye" 5-0. The Council unanimously approved the motion.

Consideration and possible action approving a one-month extension to the contract between the City of Freeport and the U.S. Department of Energy for the Strategic Petroleum Reserve Project for water service and allow the City Manager to sign the contract.

Finance Director Cathy Ezell said the current contract between the City of Freeport and the U.S. Department of Energy expires on September 30th, 2024. She said this contract was originally entered in 2014 and it was a 10 year contract. She said this is for their Bryan Mound oil storage site that they have out by the Golf Course. City Manager Lance Petty said it is out by the sewer plant. Ms. Ezell said they are asking for a one-month extension because they are preparing a long-term contract. She said there is no discount and they only receive water. She said there is no discount to the rate and they pay out of City limit rates. She said the federal government requires a contract with the City to provide a water service. She said so this is a one month extension until they can bring back a long term contract.

Mayor Cain asked if the one month extension would be at the current rate? Finance Director Cathy Ezell said yes there is no discount on the rates and they pay out of city limits rates. Ms. Ezell said there are times when this site can use 4 million gallons of water in a month and it depends on what they are doing out there but they are one of the higher volume water and there is no discount. Mayor Cain said as he is reading he wants the public to understand what they are talking about the current contract say \$890,000 a year. Ms. Ezell said that is correct or up to \$890,000.

A motion was made by Councilman Matamoros to approve a one-month extension to the contract between the City of Freeport and the U.S. Department of Energy for the Strategic Petroleum Reserve Project for water service and allow the City Manager to sign the contract, seconded by Councilman Davis with all present and voting "Aye" 5-0. The Council unanimously approved the motion.

Pamela Dancy resides at South Front Street. She said it was brought up that when Councilman Pena had asked about what Mr. Hayes does on the BWA board. She asked why is it not allow to have more people that might want to be interested in that position? She said what she heard is that the Council decided without giving the people a choice and she is thinking well where is the democracy in that? She said the government is telling the citizens what has to be done or the way it is going to be done and it just kind of threw her because they always honor even though it is not a board. She said she was just curious about how come there is not a choice if somebody else was interested. She said and this has nothing to do with Mr. Hayes but the right of the citizens being able to have a choice to possibly pick somebody else.

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 Pena thanked everyone who is tuned in, came out tonight, and for that matter even spoke out. He said he wanted to ask a question because he could not hear it earlier and is glad Mr. Reyna stayed through the workshop because he had a couple questions on the annual report for the TIRZ. Councilman Pena asked Mr. Reyna if he had said he had informed the Secretary of State or that he filed with the Attorney General? Mr. Reyna said he filed some complaints against the Mayor for violation of Open Meeting Acts. Mr. Reyna said he got as far with the D.A and the D.A. just slapped him on the wrist and told him to take the Open Meetings Act class again. Mr. Reyna said the one he took to the Secretary of State was a violation of submitting a package for City Council three days after it had expired and the kids at the Secretary of State Department there are just a bunch of kids and you can give them all the witnesses and evidence you can give them and they still are not going to make the right decision and so he just kind of gave up on it. Mr. Reyna said he is familiar with filing these complaints and he has never done anything to Ms. Ezell for her to disrespect him the way she did by telling him she could give him the information within a two-year period. Mr. Reyna said that was a slap in the face and he does not appreciate that and she has violated the section of the charter 11.04 because she in the category of the City Manager which it states elected officials are City Managers and Ms. Ezell falls into that category as City Manager because she is the Assistant City Manager and she was the City Manager two weeks ago and she falls in that category and she should of known that. He said also the HR Department should have caught up on that. Mayor Cain said the issue that he has is that this is Councilman Pena's work session. Councilman Pena said he was just trying to get answers and did not need all the backstory. Councilman Pena asked so there is really three things that Mr. Reyna brought forward? Mayor Cain said he encouraged Mr. Reyna and Councilman Pena get together after the meeting. Councilman Pena asked who actually did the nepotism and who got hired illegally? Mr. Reyna said Ms. Ezell's son. City Manager Lance Petty said Finance Director is not on trial. Councilman Pena said he is hoping that this can be put on the agenda for next meeting. Councilman Pena said he has asked for the agenda request for the budget and hopes it can be on the next one so there can be discussion, as well as the water rate issue that there was with the apartment complex and for that matter the water rate ordinance that needs correcting. Karla Clark said since the Council is being prejudiced about the form there are no rules on the back of them, and she requested to have the rules. Councilman Pena said he wished Mr. Rollerson was still there because he mentioned that in fact the City, has not grown and he is exactly right and if you just want to look at the Census. He said the Census shows that the City went from 12,000 people in the last decade to 10,000, just a little over. He asked why is there not more development or more housing development? He said the answer to that is because it is costly and expensive. He said it is expensive to build a brand new house, ground up. He said we can incentivize, but not interested in lining their pockets. He said he agrees new construction is expensive. Councilman Pena said Ms. Clark had spoken as well and asked for the numbers and has not received them. He said he is curious to the pattern he is seeing with the residents asking for information, and they are not getting it. He asked Mr. Petty was aware of the delays by the administration? City Manager Lance Petty said no, if there are any delays it is in the hands of the attorney. Mr. Petty said to Councilman Pena like the email he sent the other day with the two pages of requests. He said the attorney has not reviewed it and have ten days to get it back because it was considered a public information request. Mr. Petty said he spoke to legal yesterday and they said he would have a response to Councilman Pena's questions sent over in a timely matter. Councilman Pena said some of them were plain and will get into them as well but he has had no response from the attorneys in neither a 24-hour period, 48-hour period, 72-hour period and is just thinking why is it okay to get such a slow response. Councilman Pena said this is not the first time. He said the slow response from Olson and Olson continues to happen even as it had been communicated to him by City staff. He said he knows that is why they went out on BIDs for them and he hopes they do resubmit that BID to get a better response going forward. Councilman Pena said he can not sugarcoat this stuff. He said he wants to be nice and respectful but somebody has to be the adult in the room and say the though truths. He said he hopes he gets a response tomorrow. He said there were a couple of other residents that came forward, and he thanked them for coming forward. He said he would not speak on those particular items at this

point. He said he did want to touch on a request that he had, and it was for City hall staff. Councilman Pena said he wanted to know the status for the Downtown fountain and splash pad. He said residents are still trying to use the splash pad the last month of summer, but it has not been operating since the hurricane. He said he would like to know the timetable for that. City Manager Lance Petty said he does not know the exact timetable but he knew that parts had to be ordered for it. Public Works Director Rudy Ragle said he is expecting parts to arrive within the next 30 days. Councilman Pena asked if the splash pad at the other park was working? Mr. Petty said yes. Councilman Pena said he will just direct them there. Councilman Pena asked if it was the same with the fountain? Mr. Ragle said that might be a bigger issue than just parts. Councilman Pena said he just wanted to make mention that the total overhaul for that project on that fountain if gut it all out and redo it all together it should not be more that \$5,000. He said for that matter probably less than \$2,500 but that is another story. Councilman Pena asked if the street sweeper was working and operating ? City Manager Lance Petty said it was operable, but it broke down as cleaning during the storm and new parts have been ordered and they will be there this week to replace them. Councilman Pena said he just knows that there is a lot of debris in the downtown zone. Councilman Pena said the other thing he wanted to touch on was TIRZ and they are doing them in general. He said he was curious because it was kind of like the budget with no vision behind it and no guidelines to it and it is like if somebody said they need a TIRZ they can not just listen to the political winds. He said he thinks Council should be afforded the tools of knowing the decision matrix if the following is true then they need TIRZ or need a PID. He said he hopes staff will be able to provide that going forward as they try to develop in these areas. He said he is making a big sting about the 19 acres over on Skinner Street but will still have the same problem he imagines on just potential random unnecessary give away for O'A Fleming because they are thinking these are the tools that are needed to throw in the sandlot when they do not need to give away all of the assets and money. Councilman Pena said he had a request on Friday to ask for their finances that he had asked for two months ago and still has not receive that. He asked if he could expect to receive that this week or is that going to be legal again? Councilman Pena said because it was not a legal issue two months ago, it just was not delivered. City Manager Lance said to Councilman Pena when he sent an email requesting this information it was considered a public information request and all those go to the City Attorney for review and Mr. Olson did say he would have a response within the ten day time period and that it was still under review. Councilman Pena said he just wanted to state that in the past in his tenure as a Councilman any request of information that he has ever submitted it has not been, until lately in the last nine months or actually ten months, that all of sudden, his request use to be responded to within 24 to 48 hours, maybe even 72 hours and had never been treated as an open records request and said he knew the difference and why that was there but that the Council had never had to be treated as such and he is happy to be told that they are going to get that information but here is part of it so they can knock that out but to just summarily move it to the Attorneys office so that it will be dragged out. Councilman Pena said he could of use that information for tonight and that same information could have been disseminated to Council to help make decision. He said he hopes Olson and Olson will in fact respond in a timely matter. Councilman Pena said he had a meeting, and he would like the public to know, that on June 17th there was an audit report presentation saying that everything is peachy but then three weeks ago on July 31st he was invited to have a sit down with Mr. Petty and Ms. Ezell and it was disclosed that there are so many pot holes in the budget and so many gaping holes. He said so many budget overruns to the tune of \$300,000 in overtime and this was known at the time of the audit. He said at the time of the audit the Council was told here in public that everything was peachy and it is not peachy. He said this is why his confidence is shaken, and when there is a lawsuit because payroll taxes were not paid by the administration under the same office of the CFO that is why his confidence is so shaken. He said and when the budget has no vision of any potential kind of growth and reinvestment in the City that is also a reflection that there is no vision in the budget. He said they were told a month ago the budget is very tight and there is no money but there is money for raises across the board that makes no sense. He said they are talking out of both sides of their mouths. He asked how can there be no money for anything except to just give ourselves a raise? He said that was not cool. He said he is going to get more on that in the next meeting hopefully the budget is on the agenda. He said he also wanted to make mention that he will be meeting with more City staff asking questions as allowed by the charter asking questions about why they are spending money and how they feel about it. He said that is what he was elected to do to ask questions and provide solutions. He said he is not there

to tell anybody what to do. He said he makes his points, talking points the rationale behind it, so that council can use that and process that to make a decision on a vote and you see how the vote goes. Councilman Pena said he wants to be more informed as they move into the latter part of the budget cycle. He said he would be asking various employees and asked if anybody had a problem with that? He asked if anybody has a reason for him not to ask any employee what was going on in City Hall? He said that is a question for the Council or anybody on the City hall administration, senior staff, and attorney. Mayor Cain said it is touchy and they are not supposed to have a back and forth right now. City Manager Lance Petty said it is a violation of the Charter. Mayor Cain said Council members are supposed to, if they want to speak to a department head about City business they are supposed to go through the City Manager. Councilman Pena asked what section that was in the charter? Finance Director Cathy Ezell said 3.08. Councilman Pena said someone has it memorized and he loved it. Councilman Pena said he would be revisiting that particular section. He asked if anyone from the charter review board was present that would be able to speak to that intelligently as well? He said he is hoping that they in fact add that on the agenda for the next council meeting the budget. He hopes that there is greater transparency for the public about all the missing information that he received at this meeting. He said it was not an executive session meeting it was a meeting in the new City Hall conference room. He said he should of live broadcast it on social media so everyone could see what it is he is actually doing. He said people ask him where he is and he says he is trying to do the public work. He said at the next one there will be more information.

Councilman Davis Ward B announcements and comments.

Councilman Davis thanked everyone for coming out and for all those that continue to come out. He said on that note he was going to try to stay positive. He said God puts us through obstacles in life and puts us through things only to make us stronger and to get us ready for what is about to come. He said he believes big things are coming for Freeport, and it will on time. Councilman Davis said we have to all work together. He said he heard Mayor Cain say it takes a village and they have to all get on the same page and will have to get a vision. He said they are things in the works like the Boardwalk, Riverwalk, and Downtown project is also being worked on. He said they are also looking at people to build rooftops in Freeport, and it is going to happen. He said a lot of it takes time and money. He said we would find a way to make it happen. He said he is confident about the team they have and for the people that are behind the scenes working on it. He said we are going to make it happen, and we are going to bring Freeport back up again. He said we would all be apart of that and if he is gone he knows it will happen. He believes it is going to happen, and he is going to trust in the process, and it takes time and money.

Councilman Matamoros Ward C announcements and comments.

Councilman Matamoros thanked the residents and visitors who attended in person and viewed online. He thanked the residents who spoke in citizens' comments. He said he would like the Council to take up in a future meeting. He said he would like to create an ordinance to keep the Council off of the boards and commissions. He said it was something that was talked about previously and it is something that he would like for legal and City staff to look into that or if it has to be a charter change then that way. He said he would also like to see if the charter review can come back sooner and is looking into some changes with the charter specifically issues concerning Council members. He said with the changes that the Mayor had instituted tonight, he would actually like to see the removal of the workshop. He said the majority of the Council contact the City Manager when they have issues. He said it is counterproductive to the entire meeting and it prolongs it. He said they hear long unnecessary speeches. He said maybe removing the workshop from our city council meeting.

Councilman Rossow Ward D announcements and comments.

Councilman Rossow said he appreciates everyone coming out. He said he does not like to be degraded and no one likes to be degraded or called a kid, or for someone to say there is only one adult in the room and things like that. He said it is counterproductive. Councilman Rossow said he agrees with Councilman Davis where they have to work together. He said he knows it is going to take a lot for them to work together. He said he is glad FEMA is here in Freeport. He said Freeport is his town, and he is glad that we can depend on FEMA helping all the people that need help. He said he did not lose much due to the storm, but he advises if you have to apply for FEMA they are located at the Rec Center. He said if you get turned down the first time, then apply

again. He said he has applied but has yet to receive any compensation or anything like that for damages that was done in his home. He said once he gets a no, he is going to apply again. He said he was glad to see the trash removal being carried away. He said he really believes, and it is his opinion that they are doing a great job. He said they were doing a really great job. He said he knows a lot of people are complaining about them not picking up this and not picking up that but they are not requiring what the City requires of how it has to be a certain way or anything. He said they just come and pick up everything. He said he thinks they are done with the brush removal and now they are working on the debris and trash. He said his word to the public be patient. He said he had a lot of fun at Bingo. He said he probably will always attend, since his wife loves Bingo. He said she likes it especially when she wins. He said he never wanted to play Bingo and his wife talked him into playing Bingo. He said they feed you give you prizes and you do not have to spend any money. He said he has gone many times and never won. He said he is a good husband and takes his wife . He told City Manager Lance Petty to keep up the good work and also Mayor Cain keep up the good work. He said Finance Director Cathy Ezell keep up the good work she is doing a good job. He said that was just his opinion and if you do not have an opinion you are not a man. He said every man should have an opinion.

Mayor Jerry Cain announcements and comments.

Mayor Cain thanked those who attended in person and those who continue to speak at the meetings. He said these meetings are really are for you all. He said he had some concerns about the direction that the meetings occasionally go. He said over the years he has witnessed more and more attacks on our fellow citizens, Council members, and city staff. He said, although these attacks bring pretty good entertainment to those having watch parties at home it makes the meeting counterproductive and unprofessional. He said the City has some great opportunities ahead of us when it comes to development of land, bringing in new business, and getting more people to move here things that we all want and the City needs. He said for these improvements to happen we have to create a different image. He said it has to start at the top with our City government. He said he wants the citizens to continue to come out and speaking on the items that are on the agenda. He said he also wants to make it known that he is working on changes as to how the Council meetings will be run with the goal to have more professional meetings and spend the time taking care of what is important and that being the City of Freeport. He said he normally does not write notes but he felt that it was important to write this down so he did not miss anything. He said our meetings sometimes are a circus and hear all the time of people that are at home having Council watch parties and they have their beer, barbecue, or whatever it is and they are waiting for someone to throw a dagger. He said that is one of the things that is holding the City back from moving on. He said hopefully starting next meeting there will be some changes. He said pay close attention to the agenda, because it could affect you or anyone. He said there were comments made today about the appointment on the BWA and he said he would encourage the City in the future to post it. He said if Mr. Hayes gets tired of doing it, but also it gives someone else the opportunity and the Council at that time, once again will vote and if Mr. Hayes is still wanting to do it and still doing as good as a job as he is doing now he will continue to have his vote. He said he encourages the City to put it out there although it is not required per legal. He said he thinks it will be a good procedure.

City Manager Lance Petty announcements and comments.

City Manager Lance Petty said he knows that development is a big question here in the City of Freeport. He said we are continuously working all day long, everyday on development. He said we have to incentivize things and we have to create PIDS and TIRZ to develop property. He said you will not be able to build a home that is affordable to the residents of Freeport. He said this is the reason why you create these things so developers pay for infrastructure on the back end of the development and if you did not create these things the City would have to pay for the infrastructure and if the developer pays for the infrastructure, then the houses increase because they are trying to get their money back on infrastructure improvements. He said these are the type of things development wise that we do to be creative but are also firm and looking at the best interest of the City of Freeport. He said we are going to go through every hope that they can to make sure that everything is developed for the best interest of the City of Freeport. He said that was just a quick note on development. He said to Councilman Pena anytime he would like talk about development and what it is they are looking at in the properties he is well aware of the O.A Fleming property. He said it is a \$8 million infrastructure cost and so if

a developer has to eat that up front to just tally that up and that is about over \$385,000 home to get their money back. Mr. Petty said that development does not make sense for us. He said we have to look at those things. Councilman Pena said it depends on the number of units. Mr. Petty told Councilman Pena anytime he would want to go meet and go over development and they we are looking at and things like that he is more than welcome to come to the office and do so. Councilman Pena said he would be by tomorrow. He said the update on Arlan's they found some unforeseen issues with mold and stuff when they went in replacing the walls and things like that and they extended their openings to mid September. He said they continuously stay in contact with them because we need the grocery store to open back up. He said he understands the importance, he lives here and he knows it is a lot quicker to get that store open back up than to build a new one.

CLOSED SESSION:

Executive Session regarding a.) (Consultation with Attorney) 1. Property 200 West 2nd Street pursuant to Section 551.071.

The regular session closed at 7:38P.M. and the Council entered into the Executive Session.

COUNCIL BUSINESS – REGULAR SESSION:

Take any action resulting from Executive Session.

Executive Session ended at 8:06P.M. and the Council entered back into regular session.

There was no action from Executive Session.

Mayor Cain read the following statement from the Council: "We are are still pursing legal remedies for the payment of the \$345,000 to Covarrubias remodeling for the project at 200 West 2nd Street."

Mayor Cain said the Council has not given up on it and has not forgotten about it, but they just do not have the answers that are needed yet. Mayor Cain said the Council is still looking into it.

ADJOURNMENT:

Adjourn

A motion was made by Councilman Pena to adjourn the meeting, seconded by Councilman Davis with all present and voting "Aye" 5-0. Mayor Cain adjourned the meeting at 8:07P.M.

Jerry Cain, Mayor

Clarisa Fernandez, City Secretary



City Council Agenda Item #[2.B]

Title: Action regarding approving the Employee Holiday Calendar for Fiscal Year 2024-2025.

Date: September 3, 2024

From: Donna Fisher, HR Director

Staff Recommendation: Staff recommends approving the Employee Holiday Calendar for Fiscal Year 2024-2025.

Item Summary: The Employee Holiday Calendar for Fiscal Year 2024-2025 will set the dates of the paid holidays for employees.

Background Information: Each year the City allots 14.5 days of paid holidays per the City's Personnel Policy.

Special Considerations: N/A

Financial Impact: The paid holidays are included in the Fiscal Year 2024-2025 Budget.

Board or 3rd Party Recommendation: N/A

Supporting Documentation:

1. Holiday Calendar 2024-2025

Employee Holiday Calendar

Fiscal Year 2024 - 2025

NOTE: Holiday schedules for Fire and Police Department Employees may vary due to 24/7 coverage requirement.
Please refer to Departmental Policies.

The City Manager may revise this employee holiday calendar at any time based on the needs of the City.

	VETERAN'S DAY	MONDAY	NOVEMBER 11, 2024
	THANKSGIVING	THURSDAY	NOVEMBER 28, 2024
	THANKSGIVING	FRIDAY	NOVEMBER 29, 2024
	CHRISTMAS	TUESDAY	DECEMBER 24, 2024
	CHRISTMAS	WEDNESDAY	DECEMBER 25, 2024
	NEW YEAR'S EVE - HALF DAY	TUESDAY	DECEMBER 31, 2024 (CITY HALL CLOSES at NOON)
	NEW YEAR'S DAY	WEDNESDAY	JANUARY 1, 2025
	MARTIN L. KING DAY	MONDAY	JANUARY 20, 2025
	PRESIDENT'S DAY	MONDAY	FEBRUARY 17, 2025
	GOOD FRIDAY	FRIDAY	APRIL 18, 2025
	MEMORIAL DAY	MONDAY	MAY 26, 2025
	JUNETEENTH	THURSDAY	JUNE 19, 2025
	INDEPENDENCE DAY	FRIDAY	JULY 4, 2025
	LABOR DAY	MONDAY	SEPTEMBER 1, 2025
	BIRTHDAY	EMPLOYEE'S BIRTH DATE	BIRTH DATE * *Can be used on birthday or within the work week when birthday occurs. **Per Local Government Code Fire/EMS Dept. observes Patriot Day on 9-11; this replaces the Birthday holiday in Fire/EMS Dept.



City Council Agenda Item #[4.A]

Title: Public Hearing regarding the FY2024-2025 Proposed Budget
Date: September 3, 2024
From: Cathy Ezell, Finance Director

Staff Recommendation: N/A

Item Summary: On July 15, 2024, the City Manager and Finance Director presented a proposed budget for the Fiscal Year 2024-2025 which was filed with the City Secretary and posted on the City Website as required by Local Government Code Section 102.005.

The adjustments identified below have been made from the originally proposed budget:

- General Fund
 - Revenues increased \$750
 - Expenditures increased \$5,646
 - Transfers decreased \$21,023
 - This is a net increase to fund balance of \$16,128
- Water/Sewer Fund - expenses increased \$238,345
- Vehicle & Equipment Fund - expenditures decreased \$21,023
- EDC Projects Fund - expenditures decreased \$88,735
- EDC Marketing Fund - expenditures decreased \$25,000

Background Information: Per Section 102.006 of the Local Government Code, the City must hold a public hearing on the proposed budget. Any person may attend and may participate in the hearing. The governing body shall set the hearing for a date occurring after the 15th day after the date the proposed budget is filed with the municipal clerk but before the date the governing body makes its tax levy. Notice of this hearing was made in compliance with Section 102.005(b) of Local Government Code.

Special Considerations: N/A

Financial Impact: The Proposed Budget has been updated for revenues and expenditures increases and reductions. At this time, the Proposed General Fund Budget has expected excess revenues over expenditure of \$798,525. This excess is being used to fund one-time capital expenditures. The General Fund is budgeted to have \$7,577,094 in reserves at the end of FY2024-2025. The total Budget (which includes all funds) is approximately \$32 million.



Board or 3rd Party Recommendation: The EDC has approved their budgets.

Supporting Documentation:

None



City Council Agenda Item #[5.A]

Title: Consideration and possible action approving Tortuga Sands Beach a Re-Plat of a 41.00 Acre Tract One Block, 16 Lots said subject called Tract Recorded In County Clerk's File No. 2024008485 of the Brazoria County Official Records in the S.F. Austin Peninsular League Abstract 29 City of Freeport (Etj) Brazoria County, Texas.

Date: September 3, 2024

From: Shelby Araujo, Building Director

Staff Recommendation: Approve the replat.

Item Summary: Hold public hearing and upon closing of public hearing consider action to approve replat.

Background Information: Owner is requesting to divide the 41 acres into 16 lots.

Special Considerations: This property is located in the City's ETJ and meets subdivision standards. Was approved through Planning and Zoning on August 27th, 2024.

Financial Impact: None

Board or 3rd Party Recommendation: None

Supporting Documentation:

1. Tortuga Sands_Speich Replat

OFFICE: 979-265-3623 FIRM: 10024500 FAX: 979-265-8940



SURVEYOR:
DOYLE & WACHTSTETTER, INC.
131 COMMERCE STREET
CLUTE, TX 77531
(979) 265-3622



City Council Agenda Item #[5.B]

Title: Consideration and possible action to adopt Ordinance No. 2024-2734 adopting the Fiscal Year 2024-2025 Budget.

Date: September 3, 2024

From: Cathy Ezell, Finance Director

Staff Recommendation: Staff recommends adoption of the Ordinance.

Item Summary: Per section 102.007 of the Texas Local Government Code, at the conclusion of the public hearing, the governing body of the municipality shall take action on the proposed budget. A vote to adopt the budget must be a record vote. Upon final adoption, the budget shall be in effect for the fiscal year. As required by law, once approved, the Budget Cover Page will be updated with the following statement: “This year's tax levy to fund maintenance and operations expenditures does not exceed last year's maintenance and operations tax levy.” A copy of the budget, as finally adopted, will be filed with City Secretary and the County Clerk of Brazoria County. The final budget will also be made available on the City’s website.

Background Information: On July 15, 2024, the City Manager presented to the City Council a proposed budget for the fiscal year 2025 which was filed with the City Secretary and posted on the City website as required by Local Government Code Section 102.005. Additionally, a notice as required by Section 102.006 of the Local Government Code, was published to conduct a public hearing on such budget on September 3, 2024. During such hearing all citizens and taxpayers of the City had the right to be present and to be heard, and those who requested to be heard were heard.

Special Considerations: Per Section 9.11 of the City’s Charter, “the budget shall be finally adopted not later than fifteen (15) days prior to the beginning of the fiscal year and should the City Council fail to so adopt a budget, the then existing budget together with its tax levying ordinance and its appropriation ordinance shall be deemed adopted for the ensuing fiscal year. If delayed by a situation beyond the control of the City it shall be acted on as soon as practicable.”

Financial Impact: The proposed Ordinance appropriates expenditures for the fiscal year beginning October 1, 2024 through September 30, 2025.

Board or 3rd Party Recommendation: N/A

Supporting Documentation:

1. Budget Ordinance FY2024

ORDINANCE NO. 2024-2734

AN ORDINANCE APPROVING AND ADOPTING THE CITY OF FREEPORT, TEXAS, ANNUAL GOVERNMENTAL AND PROPRIETARY FUNDS BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2024 AND ENDING SEPTEMBER 30, 2025; MAKING APPROPRIATIONS FOR CITY OPERATIONS FOR SUCH FISCAL YEAR AS REFLECTED IN SUCH BUDGET; AUTHORIZING VARIOUS OTHER TRANSFERS; MAKING CERTAIN FINDINGS AND CONTAINING CERTAIN PROVISIONS RELATING TO THE SUBJECT; PROVIDING A SEVERANCE CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, under Section 102.001(b) of the Local Government Code, because the City has a City Manager form of government, the City Manager is the budget officer of the City municipality and under Section 102.002 of said Code and Chapter 9 of said Charter, the City Manager is required to prepare a proposed annual budget for the municipality and, under Section 102.03(a) of said Code and Chapter 9 of said Charter, is required to file the same with the City Secretary before the 30th day before the date the governing body of the municipality makes its tax levy for the fiscal year; and,

WHEREAS, on July 15, 2024, the City Manager presented to the City Council a proposed budget of the expenditures of the City of Freeport for the fiscal year 2025 and the proposed budget was filed with the City Secretary and posted on the City website as required by Local Government Code Section 102.005; and

WHEREAS, pursuant to notice as required by Section 102.006 of the Local Government Code, on September 6, 2022, a public hearing on such budget was held in the Council Chambers, at which hearing all citizens and taxpayers of the City had the right to be present and to be heard, and those who requested to be heard were heard; and

WHEREAS, the City Council has considered the proposed budget and has made such changes therein as in the City Council's judgment were warranted by law and were in the best interest of the citizens and taxpayers of the City; and

WHEREAS, such changes are described in Exhibit A

WHEREAS, under Chapter 9 of said Charter, the governing body of the municipality is required to adopt a budget not later than fifteen (15) days prior to the beginning of the fiscal year; and,

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

Section 1. The facts and opinions in the preamble of this ordinance are true and correct.

Section 2. In accordance with the provisions of Local Government Code Section 102. 007, the City Council hereby approves and adopts the budget described above, the same as shown in Exhibit A, all of which are attached and incorporated herein. The City Secretary is hereby directed to place on such budget and to sign an endorsement reading as follows: " The Original Annual Budget of the City of Freeport, Texas, for Fiscal Year 2024-2025" and to keep such budget on file in her office as a public record. In addition, in accordance with Section 102. 009 (d), Texas Local Government Code, the City Secretary is hereby directed to file a true copy of the approved Budget in the offices of the county clerks of the counties in which the City is located.

Section 3. The FY2024-2025 Budget for operations shall be administered as follows:

a. The Council may transfer any unencumbered appropriation balance or portion thereof from one department, or fund to another, at any time.

b. The City Manager shall have authority, without Council approval, to transfer appropriation balances from one expenditure account to another within a department.

c. At any time in any fiscal year, the Council may, pursuant to Article XI, section 9.14 of the City Charter, make emergency appropriations to meet a pressing need for public expenditure, for other than regular or recurring requirements, to protect the public health, safety or welfare. Such appropriation shall not be more than 5% of the total annual budget; however, the 5% may only be allocated annually under the condition the "undesignated" reserve/contingency funds in general revenue does not exceed eight million dollars. All reserve/contingency funds may only be used with the specific consent of the City Council for unforeseen contingencies by the City Manager.

Section 4. That the Beginning Fund Balance reflected in the budget for each fund for which a Budget is adopted shall be adjusted to be the amount of the Ending Fund Balance for Fiscal Year 2023-2024 as reflected in the final Comprehensive Annual Financial Report for Fiscal Year 2023-2024 upon publication. The revised Beginning Fund Balance shall thereafter be used to calculate the Fiscal Year 2024-2025 Ending Fund Balance.

Section 5. That the budget for Fiscal Year 2024-2025 shall be increased for valid outstanding encumbrances at the conclusion of Fiscal Year 2023-2024. Said increased appropriations shall be equal to the outstanding and valid encumbrances and shall be recorded in the appropriate accounts.

Section 6. All ordinances and resolutions, and parts of ordinances and resolutions in conflict herewith, are hereby repealed.

Section 7. A copy of the final approved budget shall be filed with the City Secretary and posted on the website in accordance with Local Government Code Section 102.008.

Section 8. It is hereby found and determined that the meeting at which this ordinance was passed was open to the public and that advance public notice of the time, place and purpose of said meeting was given as required by law.

This ordinance shall be effective from and after its passage and the annual budget adopted hereby shall be in effect for the Fiscal Year of the City beginning October 1, 2024 and ending September 30, 2025.

PASSED AND ADOPTED this _____ day of September 2024.

Jerry Cain, Mayor

ATTEST:

Clarisa Fernandez, City Secretary

APPROVED AS TO FORM AND CONTENT:

City Attorney

EXHIBIT "A"
City of Freeport FY2024-2025 Adopted Budget

Fund	FY2024-2025 Proposed Budget	Adjustments	FY2024-2025 Adopted Budget
General Fund			
Administration	2,085,975	6,385	2,092,360
Information Technology	503,027	(9,670)	493,357
Municipal Court	258,213	2,617	260,830
Police/Animal Control	6,081,941	5,000	6,086,941
Fire/Emergency Management	1,727,304	-	1,727,304
EMS	1,152,226	-	1,152,226
Streets/Drainage	1,456,908	-	1,456,908
Service Center	214,667	-	214,667
Beach Maintenance	42,850	-	42,850
Garbage	775,000	-	775,000
Building	388,502	-	388,502
Code Enforcement	356,227	-	356,227
Library	51,850	-	51,850
Parks	1,316,140	-	1,316,140
Recreation	525,869	-	525,869
Sr. Citizen's Commission	17,500	-	17,500
Golf Course	1,324,854	-	1,324,854
Historical Museum	238,118	84,112	322,230
Mainstreet	155,323	(82,798)	72,525
Emergency Management	-	-	-
General Fund Total	18,672,494	5,646	18,678,140
Water/Sewer Fund	7,607,733	238,345	7,846,078
Other Funds			
Capital Debt Service	801,619	-	801,619
Court Security	-	-	-

Court Technology	6,000	-	6,000
Hotel/Motel	25,000	-	25,000
TIRZ	-	-	-
State Narcotics	21,000	-	21,000
City-EDC Project	85,000	-	85,000
Facilities CIP	-	-	-
Vehicle & Equipment Fund	232,688	(21,023)	211,665
Streets & Drainage CIP	-	-	-
Information Technology Fund	-	-	-
2020 Cert of Obligation	-	-	-
2021 Cert of Bond Fund	2,071,996	-	2,071,996
Projects Fund	-	-	-
Freeport Economic Development Corp	1,195,265	-	1,995,265
EDC Projects	1,207,220	(88,435)	1,118,785
EDC Marketing	125,00	(25,000)	75,000
Other Funds Total	13,378,521	(78,886)	13,457,407

Transfers	1,409,338	74,023	1,335,315
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NOTE: Expenses for the Employee Benefit Fund is not included in the Citywide Total above to avoid duplication of the amounts shown as part of the General and Utility Fund budgets that are transfers to this fund for services.



City Council Agenda Item #[5.C]

Title: Consideration and possible action to adopt Ordinance No. 2024-2735 establishing a Tax Rate for the 2024 Tax Year.

Date: September 3, 2024

From: Cathy Ezell, Finance Director

Staff Recommendation: Staff recommends adopting the ordinance. This year's tax rate does not exceed the "No New Revenue Rate." Therefore, a motion to adopt the proposed ordinance does not require the language of a "tax increase" as stated in 26.05(b) of the Property Tax Code. Staff recommends adopting a tax rate of \$0.514967 per \$100 in property valuation.

There are two motions that need to be made:

1. **Motion to set the maintenance and operation tax rate as \$0.450351 per \$100 property valuation.**
2. **Motion to set the debt service tax rate as \$0.064616 per \$100 property valuation**

The vote must be a record vote.

Item Summary: A tax rate of \$0.514967 per \$100 property valuation has been proposed. This rate is equal to the "No New Revenue Rate" The City is not required to hold a public hearing nor to hold an election to seek voter approval.

Background Information: On August 19, 2024, Council proposed a not to exceed tax rate of \$0.514967 per \$100 property valuation for adoption on Tuesday, September 3, 2024

Special Considerations: Council must adopt the tax rate before Sept. 30 or 60 days after receiving the certified appraisal roll, whichever date is later. Additionally, the deadline to approve a tax rate for consolidated tax bill is September 20, 2024. The City's Charter requires that the budget be adopted not later than 15 days before the start of the fiscal year.

Financial Impact: Taxes owed under any of the above rates can be calculated as follows:
Property Tax Amount = (Rate) X (Taxable Value of Property)/100

Board or 3rd Party Recommendation: N/A

Supporting Documentation:

1. Ordinance Adopting 2024 Tax Rate

ORDINANCE NUMBER 2024-2735

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, ESTABLISHING A TAX RATE FOR EACH \$100.00 VALUATION OF TAXABLE PROPERTY FOR THE 2024 TAX YEAR; LEVYING ALL TAXES FOR SAID CITY FOR SUCH TAX YEAR; ALLOCATING SUCH TAXES FOR CERTAIN MUNICIPAL PURPOSES THEREIN ENUMERATED; ORDERING THAT SUCH TAXES BE ASSESSED AND COLLECTED; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING AN EFFECTIVE DATE FOR THIS ORDINANCE.

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

WHEREAS, Section 6.22 (c), Texas Tax Code, authorizes the governing body of a taxing unit to require the county in which said unit is located to assess and collect the taxes such unit imposes in the manner in which the county assesses and collects its taxes; and,

WHEREAS, Section 26.05 of the Texas Property Tax Code provides that the governing body of each taxing unit shall adopt a tax rate for the current tax year before the later of September 30 or the 60th day after the date the certified appraisal roll is received by the taxing unit; and

WHEREAS, county taxes in Brazoria County, Texas, are assessed and collected by the Brazoria County Tax Assessor-Collector; and,

WHEREAS, Section 6.23 (a)(3) of the Texas Tax Code, provides that the county assessor and collector of taxes shall, if so required by a taxing unit, assess and collect the taxes of said unit; and,

WHEREAS, heretofore the City Council, being the governing body thereof, adopted a resolution requesting and requiring the Assessor and Collector of Taxes for Brazoria County to assess and collect the ad valorem taxes levied by the City; and,

WHEREAS, under the provisions of Section 26.05 (b) of the Tax Code, the tax rate must be set by ordinance, resolution or order which, if the rate exceeds the no-new-revenue maintenance and operations tax rate, must be adopted by a motion with a record vote of the governing body of the City, such motion must be made in the form prescribed in Section 26.05 (b), at least sixty (60) percent of the members of the governing body are required to vote in favor of the motion to adopt such ordinance, resolution or order and, if the ordinance, resolution or order sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation expenditures of the City that exceeds the amount of taxes imposed for that purpose in the preceding year, additional requirements regarding the contents of

such ordinance, resolution or order and the giving of notice of the home page of any Internet website operated by the City must be met; and,

WHEREAS, Section 26.05 (d) of the Tax Code, the City is only required to conduct a public hearing and satisfy the notice and voting requirements of Section 26.06 and Section 26.065 of the Tax Code where the proposed tax rate will exceed the lower of the voter approval tax rate or the no-new-revenue tax rate calculated as provided in said code.

WHEREAS, such Section further provides that where the tax rate consists of two components (one which will impose the amount of taxes needed to pay the unit's debt service and the other which will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year); and

WHEREAS, the proposed tax rate for the current tax year of the City of Freeport, Texas, consists of two such components, a tax rate of **\$0.064616** for debt service and a tax rate of **\$0.450351** to fund maintenance and operation expenditures; and

WHEREAS, a budget appropriating revenue generated by the collection of ad valorem for the use and support of the municipal government of the City of Freeport has been proposed by the Freeport City Council as required by Title Four (4), Section 102.009 of the Local Government Code; and

WHEREAS, it is necessary and appropriate for the City Council to adopt the 2024 Tax Rate for the City of Freeport, Texas.

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

Section 1. Findings of Fact

The City Council hereby makes the following findings:

- (1) The Chief Appraiser of the Brazoria County Appraisal District furnished to the Assessor and Collector of Taxes for Brazoria County, Texas, a Certified Estimate of Taxable Value of the City for the 2024 tax year on the 8th day of August, 2024.
- (2) The Assessor and Collector of Taxes calculated the No New Revenue, Voter Approval, and De Minimis tax rates for such tax year, being \$0.514967, \$0.556781, and \$0.595190, respectively, per \$100.00 valuation.
- (3) On the 19th day of August, City Council made a motion which was seconded proposing to adopt a tax rate of \$0.514967 per \$100.00 valuation for the 2024 tax year.

- (4) There is outstanding indebtedness for which an interest and sinking fund must be provided from ad valorem taxes and taxes must be levied as provided below to provide a general fund for current expenses and the general improvement of the City and its property, and to meet the revenue requirements of the budget for the City's 2024-2025 fiscal year.
- (5) On the 22nd day of August, 2024 a Notice of 2024 Tax Year Proposed Property Tax Rate for the City of Freeport was published in The Facts.

Section 2. Appraisal Roll Accepted and Adopted

The City Council of the City hereby accepts and adopts the Certified Appraisal Roll for the City furnished to the Assessor and Collector of the City by the Brazoria County Appraisal District and which is incorporated herein by reference.

Section 3. Tax Rate for Interest and Sinking Fund

The City Council of the City hereby orders, determines and establishes that the tax rate for each \$100.00 valuation of taxable property within the City for the interest and sinking fund shall be \$0.064616 the tax year 2024.

Section 4. Tax Rate for Maintenance and Operations

The City Council of the City hereby orders, determines and establishes that the tax rate for each \$100.00 valuation of taxable property within the City to provide a general fund for maintenance and operation expenses of the City shall be \$0.450351 for the tax year 2024.

Section 5. Internet Website

The City Secretary shall cause the following to be included on the homepage of the City website:

This year's tax levy to fund maintenance and operations expenditures does not exceed last year's maintenance and operations tax levy. A statement about "tax increase" as specified by §26.05(b) of Property Tax Code is not required to be included on the home page of any Internet website operated by CITY OF FREEPORT.

Section 6. Tax Levy; Assessment and Collection

Ad valorem taxes for the tax year 2024 are hereby levied and shall be assessed and collected as herein above set forth by the City as the ad valorem tax for said year, to-wit: a total tax of \$0.514967 on each \$100.00 valuation of taxable property situated in the City.

Section 7. Severance Clause

Any section or provision of this ordinance found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction is hereby declared to be severable from the remainder of this ordinance which shall remain in full force and effect.

Section 8. Effective Date

This ordinance shall be effective from and after its passage and adoption.

PASSED AND ADOPTED this _____ day of September, 2024.

Jerry Cain, Mayor
City of Freeport, Texas

ATTEST:

Clarisa Fernandez, City Secretary
City of Freeport, Texas

APPROVED AS TO FORM AND CONTENT:

David Olson, Interim City Attorney
City of Freeport, Texas



City Council Agenda Item #[5.D]

Title: Consideration and possible action to approve Resolution No. 2024-2877 amending the City of Freeport's Investment Policy.

Date: September 3, 2024

From: Cathy Ezell, Finance Director

Staff Recommendation: Staff recommends the approval of the resolution.

Item Summary: Chapter 2256 of the Texas Government Code (“Public Funds Investment Act”) requires an annual review of the City’s Investment Policy. It requires a resolution approving any changes. The only change being proposed is changing the List of Authorized Investment Officers to reflect the title change from Financial Analyst to Assistant Finance Director.

Background Information: The purpose of City’s Investment Policy is to provide direction for investing the funds of the City of Freeport and to comply with Chapter 2256 of the Texas Government Code (“Public Funds Investment Act”), which requires each entity to adopt a written investment policy regarding the investment of its funds and any funds under its control. The investment policy addresses the methods, procedures and practices that must be exercised to ensure effective and judicious fiscal management of the City’s funds.

Special Considerations: N/A

Financial Impact: N/A

Board or 3rd Party Recommendation: N/A

Supporting Documentation:

1. Resolution 2024
2. Investment Policy 2024

RESOLUTION NO. 2024-2877

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, AMENDING THE LIST OF AUTHORIZED INVESTMENT OFFICERS; PROVIDING FOR INCORPORATION OF PREAMBLE AND AN EFFECTIVE DATE.

WHEREAS, Chapter 2256 of the Texas Government Code, commonly known as the “Public Funds Investment Act,” requires the City to adopt an Investment Policy and Qualified Broker/Deal List by rule, order, ordinance or resolution; and

WHEREAS, the City Council must approve any amendments to such Investment Policy; and

WHEREAS, the proposed amendment to the Investment Policy, a copy of which is attached hereto as Exhibit “A,” complies with the Public Funds Investment Act, as amended, and authorizes the investment of City funds in safe and prudent investments; and

WHEREAS, the City Council hereby finds that the proposed Amended Investment Policy should be approved.

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

Section 1. The facts and statements contained in the preamble are hereby found to be true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Changing the List of Authorized Investment Officer to include the Assistant Finance Director, of the City of Freeport’s Investment Policy is hereby amended as attached hereto as “Exhibit A”.

Section 3. This Resolution shall become effective immediately upon its passage.

DULY PASSED, APPROVED AND ADOPTED on this the _____ day of September 2024.

Jerry Cain, Mayor
City of Freeport, Texas

ATTEST:

Clarisa Fernandez, City Secretary
City of Freeport, Texas

APPROVED AS TO FORM AND CONTENT:

David Olson, Interim City Attorney
City of Freeport, Texas



City of Freeport, Texas Investment Policy

Revised
September 3, 2024

City Freeport Investment Policy

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I. Policy

It is the policy of the City Freeport (the “City”) to administer and invest its funds in a manner that will preserve the principal and maintain the liquidity while meeting the daily cash flow requirements of the City. The City will conform to all federal, state and local statutes, rules and regulations governing the investment of the City’s funds.

Not less than annually, City Council shall adopt a written instrument by resolution stating that it has reviewed the Investment Policy and investment strategies and that the written instrument so adopted shall record any changes made to the Investment Policy or investment strategies.

II. Purpose

The purpose of this policy is to provide direction for investing the funds of the City of Freeport and to comply with Chapter 2256 of the Texas Government Code (“Public Funds Investment Act”), which requires each entity to adopt a written investment policy regarding the investment of its funds and any funds under its control. The investment policy addresses the methods, procedures and practices that must be exercised to ensure effective and judicious fiscal management of the City’s funds.

III. Scope

This investment policy applies to the safekeeping and investing of all financial assets of the City. These funds are accounted for in the City's Annual Financial Report and include all financial assets of all funds managed by the City, including but not limited to tax revenues, charges for services, bond proceeds, interest income, loans and funds received by the City where the City performs a custodial function. However, this policy does not apply to the assets administered for the benefit of the City by outside agencies under deferred compensation programs or other retirement programs.

IV. General Objectives

The primary objectives, in priority order, of the City’s investment activities shall be safety, liquidity, and yield:

- A. **Safety** – Safety of the principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to minimize credit risk and interest rate risk.
 - i. **Credit Risk and Concentration of Credit Risk** – The City will minimize credit risk, the risk of loss due to the failure of the security issuer or backer, and concentration of credit risk, the

risk of loss attributed to the magnitude of investment in a single issuer, by:

- Limiting investments to the safest types of securities,
- Pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisers with which the City will do business, and;
- Diversifying the investment portfolio so that potential losses on individual securities will be minimized.

ii. **Interest Rate Risk** – The City will manage the risk that the market value of securities in the portfolio will fail due to changes in general interest rates, by:

- Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity,
- Investing operating funds primarily in shorter-term securities, money market mutual funds, or similar investment pools, and;
- Diversify maturities and stagger purchase dates to minimize the impact of market movements over time.

B. **Liquidity** – The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands. Furthermore, since all possible cash demands cannot be anticipated, a portion of the portfolio will be invested in money market mutual funds or local government investment pools that offer same-day liquidity for short-term funds. Additionally, securities held in the portfolio will have active secondary or resale markets.

C. **Public Trust** – All participants in the City’s investment process shall seek to act responsibly as custodians of the public trust. Investment officials shall avoid any transaction that might impair public confidence in the City’s ability to govern effectively.

D. **Yield** – The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. The core of investments is restricted to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed.

- E. **Investments held to Maturity** - Securities shall not be sold prior to maturity with the following exceptions:

- 1) A security with declining credit may be sold early to minimize loss of principal.
- 2) Liquidity needs of the portfolio require that the security be sold.

City Council will be informed promptly in the event that a security is sold prior to maturity.

V. Standards of Care

- F. **Prudence** – The standard of prudence to be used by investing officials shall be the "prudent person" rule. This rule states that "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived." The determination of whether an investing official has exercised prudence with respect to an investment decision shall be applied in the context of managing an overall portfolio rather than a consideration as to the prudence of a single investment.

Investment officials acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that deviations from expectations are reported in a timely fashion and appropriate action is taken to control unfavorable developments.

- G. **Ethics and Conflicts of Interest** – Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution and management of the investment program, or that could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose to the City any material interests in financial institutions that conduct business with the City. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. (See Exhibit B.)

Furthermore, an investment official who has a personal business relationship with an organization seeking to sell an investment to the City shall file a statement disclosing that personal business interest. An investment official who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement disclosing that relationship. A statement required

under this subsection must be filed with the Texas Ethics Commission and the City Council.

- H. **Delegation of Authority** – Authority to manage the City's investment program is granted to the Investment Officer (s) as listed in Exhibit A. Responsibility for the operation of the investment program is hereby delegated to the Investment Officer, who shall act in accordance with established procedures and internal controls for the operation of the investment program consistent with this investment policy. This policy includes explicit delegation of authority to persons responsible for investment transactions. (See Exhibit A) No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate activities of subordinate officials.
- I. **Training** – Investment officials must complete at least 10 hours of investment training within 12 months of taking office or assuming duties and shall attend an investment training session not less than once in a two-year period and receive not less than 8 hours of instruction relating to investment responsibilities. The City shall provide the training through courses and seminars offered by professional organizations and associations to insure the quality and capability of the City's investment personnel making investment decisions in compliance with Public Funds Investment Act (PFIA). Professional organizations and associations that may provide investment training included the Government Treasurer's Organization of Texas, the University of North Texas, the Government Finance Officers Association of Texas, or the Texas Municipal League.
- J. **Internal Controls** – The Investment Officer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft, or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (a) the cost of a control should not exceed the benefits likely to be derived and (b) the valuation of costs and benefits requires estimates and judgments by management.

VI. Safekeeping and Custody

- A. **Authorized Broker/Dealers and Financial Institutions** – The Investment Officer will maintain a list of financial institutions and security broker/dealers authorized to provide investment services (Exhibit C) to the City. This list shall be reviewed, revised as necessary and adopted at least annually.

Any person or business entity wishing to be listed as authorized to provide investment services will be required to provide a certification stating the firm has received, read and understood the Entity's investment policy and agree to comply with the policy (Exhibit D). Authorized firms may include primary dealers or regional dealers that qualify under Securities & Exchange Commission Rule 15C3-1 (Uniform Net Capital Rule), and qualified depositories. All investment providers, including financial institutions, banks, money market mutual funds, and local government investment pools, must sign a certification acknowledging that the organization has received and reviewed the Entity's investment policy and that reasonable procedures and controls have been implemented to preclude investment transactions that are not authorized by the Entity's policy. No security, even if otherwise authorized by this policy, may be acquired from an investment provider who has not complied with this requirement.

No securities may be acquired from entities not qualified under this section.

- B. Competitive Purchasing** – The City's policy requires competitive quotes for all individual security purchases and sales except for a) transactions with money market mutual funds and local government investment pools; b) treasury and agency securities purchased at issue through an approved broker/dealer or financial institution; and c) exceptions approved by the Investment Officer on a case by case basis. These exceptions will take into consideration the investment type, maturity date, amount to be invested, and disruption to the City's investment strategy.

Quotes may be accepted orally, in writing, electronically or in any combination of these methods.

- C. Delivery vs. Payment** – All trades apart from investment pools and mutual funds will be executed by delivery vs. payment (DVP) to ensure that securities are deposited in an eligible financial institution prior to the release of funds. Securities and collateral will be held in the City's name by a third-party custodian as evidenced by safekeeping receipts of the institution with which the securities are deposited.

VII. Suitable and Authorized Investments

- A. Eligible Investments** – Assets of the City may be invested in the following instruments described below. All these investments are authorized by the Public Funds Investment Act. Only those instruments listed in this section are authorized.

1. Obligations of the United States of America, its agencies and instrumentalities
 2. Certificates of Deposit issued by a depository institution. The certificate of deposit must be guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor and secured by obligations in a manner and amount as provided by law. In addition, certificates of deposit obtained through a depository institution which are fully collateralized under a pledge agreement approved by the City are authorized investments.
 3. No-load Money Market Mutual Funds that 1) are registered and regulated by the Securities and Exchange Commission, 2) have a dollar weighted average stated maturity of 90 days or less, 3) seek to maintain a net asset value of \$1.00 per share and 4) are rated no lower than AAA or an equivalent rating by at least one nationally recognized rating service.
 4. Local Government Investment Pools, authorized by a separate resolution, which meet the requirements of Chapter 2256.016 of the Public Funds Investment Act and are rated no lower than AAA or an equivalent rating by at least one nationally recognized rating service.
 5. Commercial paper as authorized by Chapter 2256.013 if the commercial paper: 1) has a stated maturity of 270 day or fewer from the date of issuance; and 2) is rated not less than A-1 or P-1 or an equivalent rating by at least: A) two nationally recognized credit rating agencies; or B) one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.
- B. **Collateralization** – Collateralization will be required on all funds on deposit with a depository bank, other than investments. To anticipate market changes and provide a level of security for all funds, the collateralization level will be one hundred two percent (102%) of market value of principal and accrued interest on the deposits, less an amount insured by the FDIC.

Securities pledged as collateral will be held in the City's name by an independent third party with whom the City has a current custodial agreement. The Investment Officer is responsible for entering into collateralization agreements with third party custodians in compliance with this Policy. The agreements are to specify the acceptable investment securities for collateral, including provisions relation to possession of the collateral, the substitution or release of investment securities, ownership

of securities, and the method of valuation of securities. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the City and retained. Collateral shall be reviewed at least quarterly to assure that the market value of the pledged securities is adequate.

C. Existing Investments – Any investment currently held that does not meet the guidelines of this policy, but were authorized investments at the time of purchase, is not required to be liquidated; however, the City shall take all prudent measures consistent with this Investment Policy to liquidate an investment that does not or no longer qualifies as an authorized investment.

VIII. Investment Parameters

D. Diversification – The investments shall be diversified by security type and institution. Except for U.S. Treasury securities and authorized pools, the City will diversify the entire portfolio to comply with the investment strategy; however, in no case shall any single investment transaction be more than five-percent (5%) of the entire portfolio.

E. Maximum Maturities – To the extent possible, the City shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than three (3) years from the date of purchase. The composite portfolio will have a weighted average maturity of 365 days or less. This dollar weighted average maturity will be calculated using the stated final maturity dates of each security.

IX. Investment Strategies

The City maintains separate portfolios for individual funds or groups of funds that are managed according to the terms of this Policy and the corresponding investment strategies listed in Exhibit E. The investment strategy for portfolios established after the annual Investment Policy review and adoption will be managed in accordance with the terms of this Policy and applicable agreements until the next annual review when a specific strategy will be adopted.

The City maintains a pooled fund group that is an aggregation of the majority of City funds including tax receipts, enterprise fund revenues, fine and fee revenues, as well as some, but not all, bond proceeds, and grants. This portfolio is maintained to meet anticipated daily cash needs for City operations, capital projects and debt service.

The objectives of this portfolio are to ensure safety of principal; ensure adequate investment liquidity; limit market and credit risk through

diversification; and attain the best feasible yield in accordance with the objectives and restrictions set for in this Policy.

X. Reporting

- F. Methods** – The Investment Officer shall prepare an investment report at least quarterly, including a management summary that provides an analysis of the status of the current investment portfolio and transactions made over the last quarter. This management summary will be prepared in a manner consistent with the requirements of Section 2256.023 (Internal Management Reports) of the PFIA, and that will allow the City to ascertain whether investment activities during the reporting period have conformed to the investment policy. The report should be provided to the City Council.
- G. Annual Audit** - The City's external independent auditor shall formally review the quarterly reports, compliance with this policy, and internal management controls over investments in conjunction with the annual financial audit. The results of the review will be reported to the City Council.
- H. Performance Standards** – The investment portfolio shall be managed in accordance with the objectives specified in this policy (safety, liquidity, and yield). The portfolio should obtain a market average rate of return during a market/economic environment of stable interest rates. The Investment Officer shall determine whether market yields are being achieved by comparing the portfolio market yield to the three (3) month U.S. Treasury Bill, the six (6) month U.S. Treasury Bill and the two (2) year U.S. Treasury Note.
- I. Marking to Market** – The market value of the portfolio shall be calculated at least monthly and a statement of the market value of the portfolio shall be issued at least quarterly. The market value of each investment shall be obtained from an independent source such as the Wall Street Journal, a reputable brokerage firm or security pricing service and reported on the investment reports.

XI. Record Retention

Records related to the City's investment activities will be maintained as recommended by the *Texas State Library Municipal Records Manual*. The Investment Officer, in conjunction with the City Secretary is responsible for filing and storing records of investment activity.

Exhibits

EXHIBIT A

List of Authorized Investment Officers

City of Freeport City Manager

City of Freeport Finance Director

City of Freeport Assistant Finance Director

EXHIBIT B

Statement of Ethics and Conflicts of Interest

Investment officials for the City Freeport shall refrain from personal business relationships with business organizations that could conflict with the proper execution of the investment program, or which could impair their ability to make partial investment decisions. This would only apply to personal business relationships with business organizations that have been approved by City Council to conduct investment transactions with the City.

An investment official is considered to have a personal business relationship with a business organization if:

- (1) The investment official owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business.
- (2) Funds received by the investment official from the business organization exceed 10 percent of the investment official's gross income for the previous year.
- (3) The investment official has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment official.

I do hereby certify that I do not have a personal business relationship with any business organization approved to conduct investment transactions with the City Freeport, nor am I related within the second degree by affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the Freeport as of the date of this statement.

City of Freeport
Investment Official

Signature

Date

Printed Name

Title

EXHIBIT C

Approved Broker/Dealers, Financial Institutions and Investment Pools

Broker/Dealers

- a. Patrick Boyer, Duncan Williams
- b. Robert Phillips, Samco
- c. Russel Robnison, Bank of Oklahoma
- d. Luigi Mancini, Multi-Bank Securities
- e. Gilbert Ramon, Hilltop Securities

Dealers a-d communications as and pricing are handled by Anne Jenkins, AJ Capital.

Financial Institutions

Texas Gulf Bank, N.A. (Primary Depository)

U.S. Bank, N.A.

Investment Pools

TexPool
Texas Class

EXHIBIT D

Certification by Broker/Dealers and Financial Institutions

(date)

City of Freeport, Texas
Attn: Finance
200 W. 2nd Street
Freeport, TX 77541

Dear Ms. Russell:

This certification is executed on behalf of the City of Freeport, Texas (the Investor) and _____ (the Business Organization), pursuant to the Public Funds Investment Act, Chapter 2256, Texas Government Code, (the Act) in connection with investment transactions conducted between the Investor and Business Organization.

The undersigned Registered Principal of the Business Organization hereby certifies on behalf of the Business Organization that:

1. The undersigned is a Registered Principal of the Business Organization offering to enter an investment transaction with the Investor (Note: as such terms are used in the Public Funds Investment Act, chapter 2256, Texas Local Government Code) and;
2. The Registered Principal of the Business Organization has received and reviewed the Investment Policy furnished by the Investor and;
3. The Registered Principal of the Business Organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Business Organization and the Investor that are not authorized by the Investor's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the investor's entire portfolio or requires and interpretation of the subjective investment standards.

Registered Principal

Broker Assigned to the Account

Signed By: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT E

Investment Strategy

The City of Freeport's investment portfolio will be designed and managed to ensure that it will meet all the requirements established by the City's investment policy and the Public Funds Investment Act. The overall investment strategy outlined in the investment policy has been further refined in this investment strategy statement by the following fund types.

Operating Funds:

Operating Funds generally have greater cash flow needs than other funds types. The operating fund portfolio may consist of any approved investment type with the understanding that the financial requirements of the operating funds will dictate the maturity dates of the investment. At utmost importance is the preservation and safety of the investment principal.

Additionally each investment will be viewed for its liquidity and marketability of the investment if the need arises to liquidate the investment before maturity. The final determining factors for the investment strategy will be the diversification of the investment portfolio and the yield of the investment.

To achieve short-term needs of one (1) to one hundred and eighty (180) days, funds will be invested in approved investment pools. For longer-term needs of six (6) months to five (5) years, funds will be invested in approved investments with objectives prioritized as follows:

- 1) understanding the suitability of the investment to the financial requirements of the City of Freeport;
- 2) preservation and safety of principal;
- 3) liquidity;
- 4) marketability of the investment if the need arises to liquidate the investment before maturity;
- 5) diversification of the investment portfolio; and
- 6) yield.

Debt Service Funds:

The debt service requirements are semi-annual, thus allowing the investment strategy to mirror debt obligation payment dates. The strategy for debt service funds allows greater flexibility since the actual requirements are known into the future. Investments will still meet the adopted policies; however, planning maturity dates to match debt requirement dates will be the primary objective.

The investment instruments will be primarily in approved investment types with maturities at six or twelve months established to match debt requirement dates. Shorter-term investment may be used to meet these objectives and longer-term investments may be used when fund balance reserves exceed one year's debt service requirements.

To achieve this strategy the following objectives are prioritized to evaluate investment opportunities:

- 1) understanding the suitability of the investment to the financial requirements of the City Freeport;
- 2) preservation and safety of principal;
- 3) yield;
- 4) marketability of the investment if the need arises to liquidate the investment before maturity;
- 5) diversification of the investment portfolio; and
- 6) liquidity.

Capital Improvement Funds:

Bond proceeds can be invested over the life of the project; however, the exact disbursement of the funds is not always known. The investment objective of the capital improvement funds is to schedule maturities to maximize investment earnings while preserving principle. The key to an effective strategy is to be aware of the project needs and match maturities to the period funds are needed.

The investment objective for capital projects funds is still to match investment maturities with funding needs. As short-term needs are recognized investment maturities will be moved into approved investment pools to meet financial requirements. Longer-term needs will be invested with the following objectives as prioritized for capital improvement funds:

- 1) understanding the suitability of the investment to the financial requirements of the City of Freeport;
- 2) preservation and safety of principal;
- 3) diversification of the investment portfolio;
- 4) yield;
- 5) liquidity; and
- 6) marketability of the investment if the need arises to liquidate the investment before maturity.

Reserve Funds:

Certain reserve funds have been established as required by bond covenants. The investment objective is to invest reserve funds to the extent that maturities are established to the limit of the investment policy or to the end of the bond requirements whichever is shorter.

The overall investment strategy for reserve funds will not rely on investment pools; however, the use of pools is not prohibited. Longer-term investment objectives are prioritized as follows:

- 1) understanding the suitability of the investment to the financial requirements of the City of Freeport;
- 2) diversification of the investment portfolio;
- 3) preservation and safety of principal;
- 4) yield;
- 5) liquidity; and
- 6) marketability of the investment if the need arises to liquidate the investment before maturity.



City Council Agenda Item #[5.E]

Title: Consideration and possible approving Resolution No. 2024-2878 to approve an addendum to the bond council engagement with Bracewell LLP.

Date: September 3, 2024

From: Cathy Ezell, Finance Director

Staff Recommendation: Staff recommends approval of the resolution.

Item Summary: Bracewell will represent Client in connection with advice and counsel regarding the creation of one or more public improvement districts (each, a “PID”), the negotiation of related development agreements (each, a “Development Agreement”) with the developer(s) undertaking development within the PID (each, a “Developer”) of the PID, and, upon the request of the City, to any tax increment reinvestment zones (“TIRZ”) supporting development within a PID. Bracewell will also represent the City in connection with its issuance, from time to time, of bonds, and other debt obligations (“Obligations”) related thereto.

Bracewell agrees that their services as counsel to the City in connection with PID matters may include the following as directed by the City:

1. Drafting the Development Agreement and other City documents relating to the PID (and upon request of the City, a TIRZ), including policies and procedures for creation of a PID by the City;
2. Drafting documents relating to the creation of the PID and the levy of Assessments;
3. Attendance at all meetings of the City Council as required or requested in connection with the planning and authorization of Obligations, including consultation on federal income tax matters;
4. Preparation of the ordinances of the City Council authorizing issuance of Obligations, together with all other legal documents comprising the transcript of proceedings for authorization and issuance of Obligations;
5. Preparation of and submission to the Attorney General of Texas of a transcript of proceedings for each series of Obligations to obtain the approval of the Attorney General and registration of Obligations by the Comptroller of Public Accounts of Texas;
6. Preparation and filing of legal documents required under federal income tax law for the Obligations;
7. Representation of the City at the closing of the sale of Obligations, including preparation of all closing documents; and
8. If appropriate, the delivery at closing of our approving opinion as to the validity of the Obligations under Texas law, and the exclusion of interest on the Obligations from gross income of the holders under federal income tax law.



Background Information: The development of the 19 acres on Skinner Street requires a development agreement to be created as well as Professional Services Payment Agreement between the City of Freeport and Freeport 19 LLC. These services will be provide by Bracewell LLP. The City is already working on these documents with Bracewell and their engagement with the City of Freeport needs to be amended.

Special Considerations: N/A

Financial Impact: These services will be paid by the developer. There will be no cost to the City.

Board or 3rd Party Recommendation: N/A

Supporting Documentation:

1. Notice of a Meeting to Approve Engagement Letter(10436407.1)
2. Resolution Approving Contingent Fee Engagement - City of Freeport 8-2024(10436411.1)
3. City of Freeport - Addendum to Engagement for PID Creation - 8-2024(10370406.2)

Consider the adoption of a Resolution of the City Council of City of Freeport, Texas,
Approving an Addendum to an Engagement Agreement Relating to Bond Counsel Services

1. City of Freeport, Texas (the “City”) is considering the issuance of public improvement district (PID) obligations from time to time as authorized by Texas statutes, in order to finance or refinance various public projects;
2. Bracewell LLP’s (“Bracewell” or the “Firm”) is a full-service firm that includes a national public finance practice and has the necessary competence, qualification and experience to serve as bond counsel for the City with respect to PID matters.
3. The Bracewell currently serves as bond counsel to the City and the City is proposing to add matters related to PIDs and PID bonds to Bracewell’ scope of services.
4. The City’s attorneys and supporting personnel do not have the required experience, qualifications or resources to adequately perform the services covered by the addendum.
5. Given the nature of the services and the source of payment therefor (fees for the issuance of PID obligations being from the proceeds of such obligations), such legal services cannot reasonably be obtained from attorneys in private practice under a contract providing for the payment of hourly fees without contingency; and
6. Entering into a contingent fee contract with Bracewell for the additional scope of services is in the best interest of the residents of the City as the City will have competent, qualified and experienced counsel to advise on the issuance of the creation of PIDs and the issuance of PID obligations, and the provision of such legal services will not financially impact the City as the compensation for such services will be paid from the proceeds of such obligations or payments received from the developer of land within a PID.

RESOLUTION NO. 2024- 2878

A RESOLUTION OF THE CITY OF FREEPORT, TEXAS APPROVING AN
ADDENDUM TO AN ENGAGEMENT AGREEMENT RELATING TO BOND
COUNSEL SERVICES

WHEREAS, the City of Freeport, Texas (the “City”) is considering the creation of public improvement districts (“PIDs”) and the issuance of PID obligations from time to time as authorized by Texas statutes, in order to finance or refinance various public projects; and

WHEREAS, the City desires to engage competent, experienced counsel to advise the City in connection with PIDs and the issuance of PID obligations; and

WHEREAS, Bracewell LLP (“Bracewell” or the “Firm”) is a nationally recognized law firm providing bond counsel services; and

WHEREAS, the City and the Firm desire to enter into an addendum to their existing engagement agreement (the “Addendum”) that sets forth the agreement between the parties with respect to such services;

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

SECTION 1. The recitals set forth in the preamble of this Resolution are true and correct in all material respects and the terms defined in the Recitals are incorporated herein for all purposes.

SECTION 2. It is hereby found, determined and declared that there is a substantial need for Bracewell’s legal services; the legal services cannot be adequately performed by the attorneys and supporting personnel of the City; and the legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which the services will be obtained and the compensation for such services will be paid from the proceeds of PID obligations or payments received from the developer of land within a PID.

SECTION 3. The City Council approves the Addendum by and between the City and the Firm in substantially the form attached hereto as Exhibit A, with such changes as may be approved by the City Manager, and the City Manager is hereby authorized to execute such Engagement Agreement and the appropriate officers of the City may attest such signature.

SECTION 4. It is hereby found, determined, and declared that a sufficient written notice of the date, hour, place, and subject of this meeting of the City Council was posted at the location and the time required by law preceding this meeting, as required by the Open Meetings Act, Chapter 551, Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Resolution and the subject matter thereof has been discussed, considered and formally acted upon. It is further found, determined and declared that sufficient written notice of the Addendum was posted as required by Chapter 2254, Texas

Government Code. The City Council further ratifies, approves and confirms such written notices and the contents and posting thereof.

PRESENTED AND PASSED on this the ____ day of _____, 2024.

Jerry Cain, Mayor
City of Freeport, Texas

ATTEST:

Clarisa Fernandez, City Secretary
City of Freeport, Texas

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS §
COUNTY OF BRAZORIA §

I, the undersigned officer of the City Council of the City of Freeport, Texas, hereby certify as follows:

1. The City Council of the City of Freeport, Texas, convened in a regular meeting on the _____ day of _____, 2024, at the regular meeting place thereof, within said City and the roll was called of the duly constituted officers and members of said City Council, to wit:

Jerry Cain	Mayor
Jeff Pena	Council Member, Ward A
Jarvis Davis	Council Member, Ward B
George Matamoros	Council Member, Ward C
Winston Rossow	Council Member, Ward D

and all of said persons were present, except the following absentee(s): None, thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written

RESOLUTION NO. 2024-

A RESOLUTION OF THE CITY OF FREEPORT, TEXAS APPROVING AN ADDENDUM TO AN ENGAGEMENT AGREEMENT RELATING TO BOND COUNSEL SERVICES

was duly introduced for the consideration of said City Council. It was then duly moved and seconded that said resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of said resolution, prevailed and carried by the following vote:

1. Member(s) of City Council shown present voted "Aye."

2. Member(s) of City Council shown present voted “No.”

2. A true, full and correct copy of the aforesaid resolution adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that said resolution has been duly recorded in said City Council's minutes of said meeting; that the above and foregoing paragraph is a true, full and correct excerpt from said City Council's minutes of said meeting pertaining to the adoption of said resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said City Council as indicated therein; that each of the officers and members of said City Council was duly

and sufficiently notified officially and personally, in advance, of the date, hour, place and purpose of the aforesaid meeting, and that said resolution would be introduced and considered for adoption at said meeting, and each of said officers and members consented, in advance, to the holding of said meeting for such purpose; that said meeting was open to the public as required by law; and that public notice of the date, hour, place and subject of said meeting was given as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED this _____ day of _____, 2024.

Clarisa Fernandez, City Secretary
City of Freeport, Texas

[SEAL]

EXHIBIT A

ADDENDUM TO ENGAGEMENT AGREEMENT

BRACEWELL

August 13, 2024

Mr. Lance Petty
City Manager
City of Freeport, Texas
1201 North Avenue H
Freeport, TX 77541

Re: Addendum to Engagement Letter – City of Freeport, Texas

Dear Mr. Petty:

Thank you for engaging us to represent the City of Freeport, Texas (“City” or “Client”) as special counsel to the City. We appreciate the confidence you have shown in Bracewell LLP (“Bracewell” or “Firm”) and look forward to this opportunity to represent your interests.

This addendum to our existing bond counsel engagement letter is for the purpose of adding an additional matter to our scope of services. The Terms of Engagement attached to this addendum will replace those included in the original engagement letter. This addendum has been approved by Bracewell subject to the conditions described in this letter.

A. Scope of Engagement

Bracewell will represent Client in connection with advice and counsel regarding the creation of one or more public improvement districts (each, a “PID”), the negotiation of related development agreements (each, a “Development Agreement”) with the developer(s) undertaking development within the PID (each, a “Developer”) of the PID, and, upon the request of the City, to any tax increment reinvestment zones (“TIRZ”) supporting development within a PID. Bracewell will also represent the City in connection with its issuance, from time to time, of bonds, and other debt obligations (“Obligations”) related thereto.

We agree that our services as counsel to the City in connection with PID matters may include the following as directed by the City:

1. Drafting the Development Agreement and other City documents relating to the PID (and upon request of the City, a TIRZ), including policies and procedures for creation of a PID by the City;

Bracewell LLP

T: +1.713.223.2300 F: +1.800.404.3970
711 Louisiana Street, Suite 2300, Houston, Texas 77002-2770
bracewell.com

AUSTIN CONNECTICUT DALLAS DUBAI HOUSTON LONDON NEW YORK SAN ANTONIO SEATTLE WASHINGTON, DC

2. Drafting documents relating to the creation of the PID and the levy of Assessments;
3. Attendance at all meetings of the City Council as required or requested in connection with the planning and authorization of Obligations, including consultation on federal income tax matters;
4. Preparation of the ordinances of the City Council authorizing issuance of Obligations, together with all other legal documents comprising the transcript of proceedings for authorization and issuance of Obligations;
5. Preparation of and submission to the Attorney General of Texas of a transcript of proceedings for each series of Obligations to obtain the approval of the Attorney General and registration of Obligations by the Comptroller of Public Accounts of Texas;
6. Preparation and filing of legal documents required under federal income tax law for the Obligations;
7. Representation of the City at the closing of the sale of Obligations, including preparation of all closing documents; and
8. If appropriate, the delivery at closing of our approving opinion as to the validity of the Obligations under Texas law, and the exclusion of interest on the Obligations from gross income of the holders under federal income tax law.

The services outlined above do not include such matters as services as disclosure counsel in connection with the sale of the Obligations, work on post-closing federal tax or disclosure issues, obtaining IRS rulings or clarifications of federal tax law, presentations to rating agencies or bond insurers, or “blue sky” or securities registration services. We will be pleased to provide legal services in connection with any matters not included in paragraphs 1 through 8 above, but we believe that such additional services, if requested by the City, should be the subject of an addendum to this letter or a separate letter of engagement. Our representation of the City with respect to any particular series of Obligations will end upon the closing for that particular series of Obligations.

This Engagement Letter may be supplemented to reflect new matters or issues that deviate from the current engagement in scope, billing arrangements, complexity, risk, or that otherwise require a substantial change in terms and conditions. The Terms of Engagement, however, will govern all projects and engagements for Client.

B. Fees, Expenses and Billing

1. Third Party Payment of Certain PID Creation Fees and Related TIRZ Fees

Bracewell acknowledges that Client intends to pay the portion of the legal fees, other than bond counsel fees, related to this engagement from an escrow account funded by the developers participating in such PIDs and any related TIRZ (each a “Developer”). Invoices will be delivered to Client. Client is Bracewell’s only client in this engagement; no attorney-client or other relationship exists between Bracewell and the Developer, and the Developer will not have any authority as to the performance of this engagement.

Client understands and consents to fees and expenses being paid from funds deposited by the Developer.

2. Development Agreement Related Fees.

Legal fees incurred in connection with the development of City policies or the negotiation of the Development Agreement may be paid from the proceeds of the Obligations to be issued by the City in connection with the PID. Such fees shall be in addition to any fees due under Section C of this Agreement. However, if Obligations are not expected to be issued or have not been issued within twelve months of the execution of the Development Agreement or if the Development Agreement is not executed, the Firm will invoice the City for such fees and expenses, and the City will be responsible for the timely payment of such fees and expenses.

Fees described in paragraphs 1 and 2 will be based primarily on an hourly charge determined by the amount of time devoted by Bracewell professionals to perform the legal services contemplated by this engagement. Other factors authorized by Rule 1.5(a) of the ABA Model Rules of Professional Conduct also may be considered when determining the fees charged by Bracewell.

Billing rates for our attorneys vary according to the experience of the individuals. Our current billing rates for those attorneys in our section who you might ask to work on your matter range from \$250 an hour for the most junior associate to \$1025 an hour for the most senior partner. In an effort to reduce overall legal costs, we utilize paralegal and administrative assistant personnel whenever appropriate. Time devoted by such paralegal personnel to client matters is currently charged at billing rates generally ranging from \$150 to \$350 per hour. Billing rates for attorneys, paralegal and administrative assistant personnel are, from time to time, reviewed and adjusted.

Matters involving the production of electronically stored information may result in additional fees and expenses being incurred by the Firm and/or by third-party vendors on behalf of Client. See the attached Terms of Engagement for more details.

3. Ongoing PID or TIRZ Administrative Related Fees.

Legal fees relating to the ongoing administration of the PID or a related TIRZ, including the review of annual updates to the Service and Assessment Plan, shall be billed at our hourly rates determined by the amount of time devoted by Bracewell professionals to this work. Our fees for ongoing administration of the PID will be paid from assessments levied for administrative costs within the PID.

C. PID Bond Counsel Fees

Our services as Bond Counsel under this Letter will commence following the adoption of a Service and Assessment Plan for a public improvement district. Any services provided prior to the adoption of the Service and Assessment Plan shall be addressed as provided in Section B of this Letter. For our services as bond counsel in connection with the authorization, issuance and sale of each series of public improvement district Obligations, the City will pay us, from the proceeds of sale of each issue or installment of the Obligations, the following:

1. an amount equal to 3% of the first \$5,000,000 in principal amount of such Series of Obligations; and
2. 2-1/2% of the principal amount of such Series of Obligations above said first \$5,000,000 in principal amount but not exceeding \$10,000,000 in principal amount; and
3. 2% of the principal amount of such Series of Obligations above \$10,000,000 in principal amount but not exceeding \$15,000,000 in principal amount; plus
4. an amount equal to 1-1/2% of the principal amount of such Series of Obligations above \$15,000,000 in principal amount.

The above fee schedule shall be applicable to each separate series, issue or installment of Obligations, but shall only be due with respect to Obligations actually issued, sold and delivered. Our fee for bond counsel services for any separate issue or installment of Obligations shall not be less than \$50,000. Our fee for serving as bond counsel on any issue of refunding bonds for the refunding of any Obligations will be 1% of the principal amount of such bonds, but not less than \$50,000.

If the City chooses to issue bond anticipation notes in connection with a bond issue, our fee for such services will be 1% of the principal amount of such note, but not less than \$10,000.

Thank you again for the opportunity to represent you in this matter.

Very truly yours,

Bracewell LLP



Jonathan K. Frels
Partner

AGREED AND ACCEPTED:

City of Freeport, Texas

By: _____

Its: _____

Date: _____

BRACEWELL LLP

TERMS OF ENGAGEMENT

Introduction

These are the Terms of Engagement adopted by Bracewell LLP ("Bracewell") and the addressee of the preceding Engagement Letter ("Client") and referred to in our Engagement Letter as the basis for our representation. Because they are an integral part of our agreement to provide representation, we ask that you review this document carefully and retain it for your files. If you have any questions after reading it, please promptly inform your principal contact at the Firm.

Client of the Firm

Because Bracewell has been engaged to represent the Client only, the engagement does not include the Client's family members, affiliated or related entities, or their respective individual officers, directors, partners, equity owners or employees.

Unless otherwise specifically stated in the Engagement Letter, our representation does not include any parent, subsidiary, or affiliated entity; employee, officer, director, shareholder, member or partner of an entity; or, any commonly owned entity. For any trade association, our representation does not include any member of the trade association; and for individuals, our representation does not include any employer, partner, spouse, sibling, or other family member. In the event we are asked to undertake representation of any other entity in connection with this engagement, we will do so only by agreement defined in the Engagement Letter.

Our Relationship with Others and Conflicts of Interest

We have performed a conflicts check on the names you provided to Bracewell. Based on a check of these names, and under the applicable standards in the governing rules of professional conduct, we believe Bracewell is free to undertake the Matter. If we identify a conflict after work on this Matter has begun, you agree to use reasonable efforts to help us resolve the conflict to the satisfaction of all parties.

Bracewell accepts this engagement on the understanding that our representation of you will not preclude us from accepting another engagement from a new or existing client provided that (1) such engagement is not substantially related to the subject matter of services we provide to you and (2) such other engagement would not impair the confidentiality of related client information.

Billing Arrangements and Terms of Payment

Fees for professional services and expenses are not contingent on the outcome of the project, unless expressly stated in the Engagement Letter.

Bracewell issues invoices on a periodic basis, normally each month, for fees and expenses. Invoices are due on receipt and are considered past due 30 days after receipt.

Clients frequently ask us to estimate the fees and other charges they are likely to incur in connection with a particular matter. Any estimate is based on professional judgment and facts and circumstances

that appear at the time. As such, any estimate is subject to the understanding that, unless we agree otherwise in writing, it does not represent a maximum, minimum, or fixed-fee quotation. The ultimate cost frequently is more or less than the amount estimated.

It may be necessary for us to retain third parties, such as consultants, experts and investigators, in order to represent you adequately. In that event, you will be responsible for the prompt payment of the invoices of those third parties. Although we may advance third-party disbursements in reasonable amounts, we will ask you to pay larger third-party invoices (usually those over \$500) directly to the third party providing the services.

If the representation will require a concentrated period of activity, such as a trial, arbitration, or hearing, we reserve the right to require the payment of all amounts owed and the prepayment of the estimated fees and expenses to be incurred in completing the trial, arbitration, or hearing, as well as arbitration fees likely to be assessed. If you fail to pay timely the estimated fees and expenses, we will have the right to cease performing further work and the right to withdraw from the representation, subject to any applicable rules of court or other applicable tribunal.

Although an insurer's payment of defense costs may be applied to billings of the firm, the payment obligation remains with you. Failure of any insurer to pay all or part of the billings for this project does not relieve you from the obligation to pay billings in full and in a timely manner.

Matters Involving e-Discovery

Many matters require the handling or production of electronically stored information ("ESI"). In litigation, the rules of civil procedure in federal court, as well as in many other jurisdictions, address the gathering and production of ESI ("e-Discovery"). Failure to comply with the rules governing e-Discovery can subject Client and the Firm to possible discovery sanctions. The Firm has developed an e-Practice Department (the "e-Department") to assist the Firm's clients in litigation matters that involve e-Discovery issues. The e-Department head, a lawyer who specializes in e-Discovery matters ("e-Practice Counsel"), and the e-Practice Project Managers will assist Client in handling e-Discovery projects that may arise in connection with the Firm's representation of Client.

The Firm has identified a number of preferred e-Discovery providers that it can recommend to Client ("Outside Vendors"). Client will make the ultimate decision on which Outside Vendor to retain on a matter. Client will contract directly with and will be invoiced by the Outside Vendor for e-Discovery services. In most cases, the Outside Vendor will handle the collection, processing, hosting, and production of Client's ESI. The Firm's e-Department professionals will serve as a liaison between Client, the Outside Vendor and the Firm's attorneys throughout the process, and the Firm will bill the Client for that time. Unless other arrangements are made between the Firm and Client, the Firm's lawyers will handle the review of Client's ESI before production.

Certain matters involving less than 5GB of ESI can be handled by the Firm internally, rather than by an Outside Vendor. In such matters, and upon prior agreement between Client and the Firm, an Outside Vendor will collect the Client's ESI and deliver to the Firm for processing, hosting, review and production. Client will contract directly with the provider for the collection of the ESI. The Firm will charge the client from \$150 to \$250 per GB for processing, depending on the format of the data, and from \$20 to \$40 per GB per month for hosting/storage, depending on the volume of the data.

It is anticipated that the Firm's e-Department professionals will assist Client in both e-Discovery matters handled by Outside Vendors and those handled by the Firm internally. The Firm will bill Client for the time of these professionals.

The hourly rate of the Firm's e-Practice Counsel is \$450 per hour. The range of hourly rates for the Firm's e-Practice Project Managers is \$225 - \$300 per hour. The hourly billing rates of the Firm's e-Department professionals are set, reviewed and adjusted by Bracewell on an annual basis and will appear on the periodic invoice provided for this engagement.

Interest on Past Due Accounts

If Client fails to pay any invoice when due, the past due amount shall accrue interest at the rate of six percent (6%) per annum, beginning on the date due until paid in full. Such interest shall be calculated based upon a year of 365/366 days (as applicable) for the actual number of days the invoice has been outstanding beyond the due date, and shall be compounded monthly. Such interest shall be payable upon demand and will be invoiced separately. The total interest due on past due invoices is available upon inquiry.

Taxes

The Client agrees that all payments under the Engagement Letter shall be payable to Bracewell in U.S. Dollars, free and clear of any and all present and future taxes, levies, imposts, duties, deductions, withholdings, fees, liabilities and similar charges (the "Taxes"). If any Taxes are required to be withheld or deducted from any amount payable under the Engagement Letter, then the amount payable under the Engagement Letter shall be increased to the amount which, after deduction from such increased amount of all Taxes required to be withheld or deducted therefrom, will yield to Bracewell the amounts stated to be payable to Bracewell under the Engagement Letter.

Termination

Because Bracewell has been engaged to provide services in connection with the representation specifically defined in our Engagement Letter, the attorney-client relationship terminates upon our completion of those services.

You may terminate the engagement at any time, with or without cause, by notifying us in writing. The firm also can terminate the engagement before the completion of its representation of you in the specified matter if (a) the continued representation would result in a violation of the applicable rules of professional conduct or other law; (b) the termination can be accomplished without material adverse effect on your interests; (c) you persist in a course of action that Bracewell reasonably believes is criminal or fraudulent, or you have used our services to perpetrate a crime or fraud, (d) the firm has a fundamental disagreement with the objective or tactics in this engagement; (e) you deliberately and substantially fail to discharge an obligation regarding this engagement, including the payment of fees and expenses and the duty of cooperation as provided in the Terms of Engagement; or (f) other good cause for termination exist. In the event that the firm intends to terminate the engagement, the firm will give reasonable notice and allow you access to your files relating to this engagement.

For purposes of this Engagement Letter, this engagement terminates upon written notice of termination by Client or by Bracewell, or 120 days after the date of Bracewell's last substantive legal service billed to Client's account, whichever may first occur.

The termination of our services will not affect your responsibility for payment of legal services rendered and other charges incurred before termination and in connection with an orderly transition of the project.

After completion of the representation, however, changes may occur in the applicable laws or regulations that could affect your future rights and liabilities in regard to the matter. Bracewell has no continuing obligation to give advice with respect to any future legal developments that may relate to the project.

Disposition and Retention of Materials

Bracewell has adopted and implemented an information governance and records management program including a comprehensive policy and records retention schedule. At the close of any matter Bracewell may return Client documents and property, send them to a storage facility for a limited time, or have them destroyed according to our records retention schedule. At Client's request, Client documents and property will be returned to you upon receipt of payment for outstanding fees and costs. Your request must be specific and designate your representative to receive the files. Client is responsible for paying the reasonable cost to retrieve, duplicate and deliver the Client files. Your request for return of Client files must be delivered to Bracewell no later than 120 days after the last substantive service relating to the closed matter. A substantive service does not include audit letter research and preparation, or any other service that does not directly relate to the substantive discharge of a Client engagement.

You agree that Bracewell owns and retains its own files, inclusive of related electronically stored information, pertaining to the engagement. You will not have the right or ability to require us to deliver such files (or copies thereof) to you. Examples of Bracewell files are: firm administrative materials, financial files and documents, time and expense reports, personnel and staffing materials, credit and accounting records, electronic mail correspondence (other than such correspondence which was sent to you by a member of our firm) and internal lawyer's work product, such as drafts, notes, memoranda and legal and factual research, including investigative reports prepared by or for the internal use of lawyers.

It is important for Client to alert Bracewell in advance of special treatment, sensitive information, retention requirements and other unique conditions pertaining to Client files. Client agrees that it will notify Bracewell in a timely, written and specific manner, concerning any requirement for special or unusual handling or attention of its Client files. This includes any statutory or regulatory requirements relating to confidentiality and retention of Client files.

Choice of Law

Because Bracewell performs legal services in a number of jurisdictions, for consistency and predictability, the Client and Bracewell agrees that the Texas Disciplinary Rules of Professional Conduct (found at www.texasbar.com or www.legalethictexas.com) will govern all issues of legal ethics and professionalism.

Pursuant to Texas Government Code section 81.079, we are required to provide you with notice of the existence of the State Bar of Texas grievance process. That information can be found here: www.texasbar.com/AM/Template.cfm?Section=File_a_Grievance&Template=/CM/ContentDisplay.cfm&ContentID=23454 (English)

www.texasbar.com/AM/Template.cfm?Section=File_a_Grievance&Template=/CM/ContentDisplay.cfm&ContentID=23636 (Spanish).

Disclaimer

We cannot guarantee the outcome of any matter. Any expression of our professional judgment regarding your matter or the potential outcome is, of course, limited by our knowledge of the facts and based on the law at the time of expression. It is also subject to any unknown or uncertain factors or conditions beyond our control.

Either at the commencement or during the course of the representation, we may express opinions or beliefs about the matter or various courses of action and the results that might be anticipated. Any expressions on our part concerning the outcome of the representation, or any other legal matters, are based on our professional judgment and are not guarantees.

By signing the Engagement Letter or otherwise indicating your acceptance of the Engagement Letter, you acknowledge that Bracewell has made no promises or guarantees to you about the outcome of the representation, and nothing in these Terms of Engagement shall be construed as such a promise or guarantee.

Your Cooperation

To enable us to provide effective representation, you agree to: (1) disclose to us fully, accurately and on a timely basis, all facts and documents that are or might be material or that we may request; (2) keep us apprised on a timely basis of all developments relating to the representation that are or might be material; (3) attend meetings, conferences, and other proceedings when it is reasonable to do so; (4) provide updated information for conflicts purposes, if necessary; and (5) cooperate fully with us in all matters relating to the engagement.

Statutory Verifications

The Firm hereby represents and warrants that at the time of this Agreement neither the Firm nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Firm: (i) engages in business with Iran, Sudan, or any foreign terrorist organization pursuant to Subchapter F of Chapter 2252 of the Texas Government Code; or (ii) is a company listed by the Texas Comptroller pursuant to Section 2252.153 of the Texas Government Code. The term "foreign terrorist organization" has the meaning assigned to such term pursuant to Section 2252.151 of the Texas Government Code.

By signing and entering into the Agreement, the Firm verifies, pursuant to Chapter 2271 and Chapter 2274 (as added by Senate Bill 13, 87th Legislature Regular Session) of the Government Code, it does not boycott Israel or boycott energy companies and will not boycott Israel or boycott energy companies during the term of this Agreement. "Boycott Israel" has the meaning assigned by Section 808.001, Government Code. "Boycott energy company" has the meaning assigned by Section 809.001, Government Code.

By signing and entering into the Agreement, the Firm verifies, pursuant to Chapter 2274 (as added by Senate Bill 19, 87th Legislature Regular Session) of the Government Code, that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this Agreement against a firearm entity or

firearm trade association. "Discriminate against a firearm entity or firearm trade association" has the meaning assigned by Section 2274.001(3), Government Code.

Modification of Our Agreement

The Terms of Engagement reflect our agreement on the terms of all engagements, and are not subject to any oral agreements, modifications, or understandings. Any change in these Terms of Engagement must be made in writing signed by both Bracewell and Client.

The Terms of Engagement reflect our agreement on the terms of all engagements, and are not subject to any oral agreements, modifications, or understandings. Any change in these Terms of Engagement must be made in writing signed by both Bracewell and Client.

In Conclusion

If you have questions or concerns, at any time, relating to the terms and conditions of this engagement, the services or advice provided by Bracewell, or the fees and expenses reflected in the invoices, please bring them to the attention of your principal contact at our firm, or Bracewell's General Counsel or Managing Partner.



City Council Agenda Item #[5.F]

Title: Consideration and possible action approving a Professional Services Payment Agreement between the City of Freeport and Freeport 19 LLC.

Date: September 3, 2024

From: Cathy Ezell, Finance Director

Staff Recommendation: Staff recommends approval of the Professional Services Payment Agreement.

Item Summary: The City is working with Freeport 19 LLC on the development of approximately 22 acres on Skinner Street. The Professional Services Payment Agreement is necessary between the City of Freeport and Freeport 19 LLC to ensure the Freeport 19 LLC pays for administrative costs associated with the creation of the Public Utility District (PID) and the Tax Incremental Reinvestment Zone (TIRZ)

Background Information: The City of Freeport has entered into an agreement to develop approximately 22 acres of property on Skinner Street. This development would require the creation of a PID and TIRZ. The City is responsible for hiring the professional service providers for this creation. This ensures the City is well represented. Also, the developer is responsible for paying for all the cost associated with the creation of the PID and the TIRZ. This agreement protects the City from paying any of these costs. The developer will provide the City with funds that will be deposited into an escrow account. All invoice for the professional services will be paid from the escrow account.

Special Considerations: N/A

Financial Impact: N/A

Board or 3rd Party Recommendation: N/A

Supporting Documentation:

1. Freeport Professional Services Agreement(10370481.2)

PROFESSIONAL SERVICES PAYMENT AGREEMENT

This Professional Services Payment Agreement (this “Agreement”), effective as of the 3rd day of September, 2024 (the “Effective Date”), is made and entered into by and between the City of Freeport, Texas (“City”) and Freeport 19, LLC a Texas limited liability company (“Developer”), herein collectively referred to as (“Party” or “Parties”).

WHEREAS, the Developer plans to develop approximately 22 acres of land in the City into a single family housing development, and that the development of the Property shall be developed in accordance with the applicable City Regulations; and

WHEREAS, the Parties previously determined that the financing of a portion of the costs of the public improvements necessary for the development of the Property can be funded by means of Chapter 372, Texas Local Government Code, as amended, entitled the Public Improvement District Assessment Act (“PID Act”); and

WHEREAS, Developer desires to develop the Property and the City, at the behest of Developer, intends to create a Public Improvement District (“PID”) pursuant to the PID Act; and

WHEREAS, the Parties hereto acknowledge that the City has heretofore incurred certain costs relative to the creation of the PID and will continue to incur costs relative to (i) the creation of the PID, (ii) the adoption of a service and assessment plan relative to the Property, and (ii) the City’s issuance of its bonds secured by assessments levied on a portion of the land within the PID (“PID Bonds”), including but not limited to: professional services, legal publications, notices, reproduction of materials, public hearing expenses, recording of documents, engineering fees, attorney fees, financial advisory fees, City staff time dedicated to PID matters (“City Staff Time”), and other special consultant fees (collectively, “City Expenses”).

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Payment for Professional Services. Within ten (10) days of receipt of request by the City, Developer shall deposit with the City [\$35,000] (the “Deposit”) for payment of the City Expenses relative to creating the PID and to fund the review and adoption of the SAP and issuing the PID Bonds. Further:

- (a) City agrees to hold the Deposit in a separate interest bearing account maintained by the City which may only be used to pay the City Expenses.
- (b) City agrees that all City Expenses relating to third-party consultants that are to be paid from the Deposit shall be evidenced by invoices that describe the work performed by person, date, billing rate and amount of time to perform such task. Within ten (10) business days after receipt of each invoice for City

Expenses (and before such invoice is paid), the City shall forward such invoice to the Developer. If the Developer reasonably requests additional information in clarification or support of such invoice, the City/consultant shall provide the same, if available. The Developer shall have ten (10) business days after receipt during which to review each invoice and to make objections. If the Developer objects to any portion of an invoice, the City, the Developer and those providing the services shall attempt to resolve the dispute within a reasonable period of time; however, if not withstanding their collective good faith efforts the dispute cannot be timely resolved, the City may pay such invoice, including any disputed amounts, within thirty (30) days from the date of the invoice using the funds from the Deposit. For City staff time, the City shall provide an accounting of the staff time dedicated to PID matters and an allocation of costs for such time.

- (c) Developer agrees that in the event the Deposit falls below \$10,000.00, upon request from the City, Developer shall advance to the City an additional amount necessary to cause the amount on deposit with the City to equal no less than \$10,000.00.
- (d) In the event the Deposit is exhausted, upon notice, Developer shall pay the balance owed in full within fifteen (15) business days in addition to the remittance of the additional funds as provided above.
- (e) In the instance that deposits of additional funds are not timely made, the City shall have no obligation to incur any additional City Expenses until such deposit is made.
- (f) The City will pay City Expenses out of the Deposit and keep accounting of all charges for City Expenses incurred, including City Staff Time. Upon the termination of this Agreement any unused portion of the Deposit shall be returned to Developer (including all interest earned on the Deposit).

2. No Obligation to Adopt a SAP or Issue PID Bonds. Developer acknowledges that the City has no obligation to adopt a SAP or to issue any PID Bonds or other indebtedness with respect thereto, and nothing contained within this Agreement shall create any such obligation. The Developer's obligation to pay the City Expenses shall exist and continue independent of whether the SAP or PID Bonds or other indebtedness are approved. This Agreement shall confer no vested rights or development rights on the Property or to the Developer. Further, this Agreement shall provide no assurances, promises, or covenants to approve any development in the Property.

3. Termination. Either Party may terminate this Agreement for any reason or for no reason by providing at least five (5) days' written notice of termination. Termination of this Agreement shall be the sole and exclusive remedy of the City and the Developer, as the case may be, for any claim by either Party of any breach of this Agreement by the other Party. The City shall be entitled to pay the City Expenses incurred through the date of termination; however, any excess funds remaining after such payments have been made shall be promptly refunded to Developer.

Notwithstanding any other provision of this Agreement to the contrary, the obligation to repay such excess funds to the Developer in the event of a termination shall survive any termination of this Agreement, and the Developer does not release or discharge its right to such excess funds. At the closing of the sale of the first series of PID Bonds, this Agreement shall automatically terminate and any remaining portion of the Deposit shall be refunded to Developer.

4. Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the transactions contemplated herein.

5. Amendment. This Agreement may only be amended by written instrument approved by the Parties.

6. Successors and Assigns. Neither City nor Developer may assign or transfer their interest in the Agreement without prior written consent of the other Party.

7. Notice. Any notice and/or statement required and permitted to be delivered shall be deemed delivered by electronic transmission received by the other Party or by depositing same in the United States Mail, Certified, with Return Receipt Requested, postage prepaid, addressed to the appropriate Party at the following addresses, or at such other addresses provided by the Parties in writing:

City:

City of Freeport
Attn: City Manager
1201 North Ave H
Freeport, TX 77541

Developer:

Attn: Brian Jarrard
Freeport 19, LLC
5005 Riverway Dr., Ste 210
Houston, TX 77056

8. Interpretation. Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against either Party.

9. Applicable Law. This Agreement is made, and shall be construed in accordance with the laws of the State of Texas and venue shall lie in Brazoria County, Texas.

10. Severability. In the event any portion or provision of this Agreement is illegal, invalid, or unenforceable under present or future law, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be

illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

11. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

12. Execution. The City Manager is hereby authorized to execute and delivery this Agreement in substantially the form presented to the City Council with such changes as he may deem appropriate.

13. Statutory Verifications. The Developer makes the following representations and covenants pursuant to Chapters 2252, 2271, 2274, and 2276, Texas Government Code, as heretofore amended (the "Government Code"), in entering into this Agreement. As used in such verifications, "affiliate" means an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit. Liability for breach of any such verification during the term of this Agreement shall survive until barred by the applicable statute of limitations, and shall not be liquidated or otherwise limited by any provision of this Agreement, notwithstanding anything in this Agreement to the contrary.

- i. Not a Sanctioned Company. The Developer represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Government Code. The foregoing representation excludes the Developer and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.
- ii. No Boycott of Israel. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. As used in the foregoing verification, "boycott Israel" has the meaning provided in Section 2271.001, Government Code.
- iii. No Discrimination Against Firearm Entities. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" has the meaning provided in Section 2274.001(3), Government Code.
- iv. No Boycott of Energy Companies. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. As used in the foregoing verification, "boycott energy companies" has the meaning provided in Section 2276.001(1), Government Code.

CITY OF FREEPORT, TEXAS

By _____
Lance Petty, City Manager

Date: _____

DEVELOPER

Freeport 19, LLC
A Texas limited liability company

By: Jarrard Development LLC, a Texas
limited liability company, Manager

By: _____

Name: Brian Jarrard

Its: Manager



City Council Agenda Item #[5.G]

Title: Discussion on the nomination of candidates to be placed on the ballot for the Brazoria County Appraisal District Board of Directors.

Date: September 3, 2024

From: Cathy Ezell, Finance Director

Staff Recommendation: N/A

Item Summary: The City of Freeport participates in appointing five members of the Brazoria County Appraisal District's Board of Directors. This year, the City can nominate up to five (5) people to be on the ballot for the Board. By October 15, 2024, the City has to submit the names of its nominees by resolution. Before October 30, 2024 the chief appraiser will prepare the ballot listing all candidates and the number of votes the City will have. Before December 15, 2024, the City of Freeport will submit its vote to the chief appraiser.

Background Information: Senate Bill 2 changed the way members can be appointed to the Brazoria County Appraisal District Board of Directors. This item is to begin the discussion to bring forth nominees for the Board. On September 16, 2024, it will be on the agenda to make the City's nomination.

Special Considerations: N/A

Financial Impact: N/A

Board or 3rd Party Recommendation: N/A

Supporting Documentation:

1. CAD Letter

BRAZORIA COUNTY APPRAISAL DISTRICT

MEMBERS OF THE BOARD

Kristin Bulanek
Elizabeth Day
Tommy King
John Luquette
Patrick O'Day
Gail Robinson
George Sanders
Susan Spoor
Robert York-Westbrook

CHIEF APPRAISER

Marcel Pierel III
500 North Chenango
Angleton, Texas 77515
979-849-7742
Fax 979-849-7131

MEMO

To: All Voting Taxing Units
From: Marcel Pierel III, Chief Appraiser
Subject: 2024 Board of Directors Election For
Year 2025
Date: August 16, 2024

Your taxing unit participates in appointing five members of the Brazoria County Appraisal District's Board of Directors.

Due to Senate Bill 2, the appointment of the Brazoria County Appraisal District Board of Directors has changed.

The board is composed of three elected members and five appointed members of which appointed members terms expires December 31, 2024.

Taxing Units will appoint five members. Two members to serve a one-year term and three members to serve a three-year term.

If the county assessor-collector is not appointed to the board, the county assessor-collector serves as an ex officio director.

Section 6.03, Property Tax Code, establishes the selection process for Appraisal District Directors.

Enclosed is the calendar of events that will begin in September.

If you have any questions or concerns in this matter, please don't hesitate to call me.



BRAZORIA COUNTY APPRAISAL DISTRICT
2024 BOARD OF DIRECTORS ELECTION CALENDAR

Before Oct. 1
(Sep. 1, 2024)

The chief appraiser notifies each voting taxing unit of the process for the election of the Board of Directors and the number of votes it is entitled to cast.

Each voting unit may nominate one candidate for each of the appointed positions to be filled. Since the board of directors consists of five appointed members, **the unit may nominate up to five candidates.**

Before Oct. 15

The presiding officer of the unit submits the **names and addresses** of the nominees **by written resolution** to the chief appraiser.

Before Oct. 30

The chief appraiser prepares and submits to each voting taxing unit a ballot listing the nominees alphabetically by each candidate's last name and provides the number of votes it may cast, with a resolution sample.

Before Dec. 15

Each voting unit cast votes for any of the candidates on the ballot and submits to the chief appraiser **by written resolution.** The unit may cast all its votes for one candidate or may distribute the votes among any number of candidates.

Before Dec. 31

The chief appraiser counts the votes and certifies the five candidates who received the largest vote totals. The chief appraiser notifies all taxing units (voting and non-voting) and all nominated candidates of the outcome.

If a tie occurs, the Chief Appraiser must resolve it through any method of chance.



City Council Agenda Item #[5.H]

Title: Consideration and possible action approving the Interlocal Agreement between the City of Freeport and the Brazoria County Health Department.

Date: September 3, 2024

From: Christopher Motley, Fire Chief

Staff Recommendation: Staff recommends to authorize Mayor Jerry Cain to sign Interlocal Agreement between the City of Freeport and the Brazoria County Health Department.

This Interlocal Agreement is a renewal of an existing Brazoria County Health, Public Health Emergency Preparedness program including a point of distribution (POD), response to providing mass immunization or dispensing of medication for addressing a pandemic.

Item Summary: This Interlocal Agreement defines purpose and responsibilities in a response to a public health emergency which may result from natural or man-made causes. During such an emergency, it may be necessary to immunize or treat all or large numbers of people in the area served by the City and the Department.

The City of Freeport has had an agreement with Brazoria County Health since 2004. This Interlocal agreement is renewed every five years with the last signing in 2019.

Background Information: The plan describes the Brazoria County Health's emergency response plan to a Public Health Emergency, each organizations obligation in preparedness and response.

The City of Freeport has participated in local training and exercises in preparation for response to past events such as H1N1 Flu "Swine Flu" and COVID-19 virus mass vaccine program.

Special Considerations: N/A

Financial Impact: N/A

Board or 3rd Party Recommendation: N/A

Supporting Documentation:

1. ILA BC HHealth Freeport 2024 082024

**Interlocal Agreement between the
City of Freeport and the
Brazoria County Health Department
For Mass Immunizations**

This Interlocal Agreement (“Agreement”) is entered into between the City of Freeport (City) and Brazoria County for services provided by/through the Brazoria County Health Department (Department). The Department is a Local Health Department under Chapter 121 of the Health and Safety Code. The Interlocal Cooperation Act, Government Code Chapter 791, governs this Agreement. *This agreement has been approved by a separate order of the Brazoria County Commissioners Court Being Order No. _____, dated _____, 2024 and of the City of Freeport dated _____, 2024.*

I. Purpose

Under a grant from the Texas Department of Health, the Department is required to plan and prepare for a public health emergency which may result from natural or man-made causes. During such an emergency, it may be necessary for the Department to immunize or to mobilize others to immunize or treat large numbers of people in the Brazoria County area. Subject to the City providing facilities that are qualified to serve as a Staff Medication Center, the Department will offer to provide medications for such immunizations or treatments to the City’s First Responders, both employees and volunteers, prior to the general public. The City will provide the Department with the number of immunizations or treatments needed for First Responders, critical staff, and their families annually.

If agreed upon by the City and the Department, the City will make its law enforcement facilities or other facilities available for the First Responder immunization or treatment. The City and the Department agree that this use of the facilities is a “governmental function” as defined in the Interlocal Agreement Act, Texas Government Code §791.003.

II. Term

This agreement becomes effective when approved by the governing body of the City and Department. It may be canceled by either party by giving thirty days’ notice to the other party, otherwise it remains in effect for five years and may be renewed by mutual agreement.

**Interlocal Agreement between the
City of Freeport and the
Brazoria County Health Department
For Mass Immunizations**

III. Public Health Emergency

This agreement will go into effect only if:

- 1) The Commissioner of the Texas Department of State Health Services or the County's local health authority declares that large scale immunization or treatment is necessary as a control measure for an outbreak of a communicable disease;
- 2) The parties agree to the location of the facility or facilities to be used pursuant to this Agreement; and
- 3) The Department has the necessary stock pile of medications.

IV. Obligations of the Department

- 1) The Department will supply or arrange for all vaccines, medicine and supplies needed to administer such medication at the agreed upon City facilities. The Department will provide City with the collection location.
- 2) The Department will be responsible for disposal of medical waste and disinfection of the dispensing area at the facility. Upon completion of use of the facility, the Department will use industry accepted methods to sanitize/disinfect the area within the facility used for the administration of medication during the health emergency.
- 3) Without waiving any immunities, defenses, or protections provided by law, the County is responsible for the negligence of its employees or volunteers acting in the course and scope of employment/service; however, pursuant to section 421.062 of the Texas Government Code the Department/County is not responsible for any civil liability that arises from the furnishing of a service under this Interlocal contract.

V. Obligations of the City

- 1) The City will be responsible for dispensing medications to First Responders and staff.
- 2) The City will be responsible for maintaining the medication in a secure location and will store the medication in accordance with the Department's instructions so that the medication maintains its fitness for use.
- 3) If the City is selected as a distribution site by Department, the City will allow the use of all rooms, fixtures, and equipment that are necessary during the period of the emergency.

**Interlocal Agreement between the
City of Freeport and the
Brazoria County Health Department
For Mass Immunizations**

- 4) If the City is selected as a distribution site by Department, the City will provide at least one person on-site during the period of emergency that has access to the rooms, fixtures and equipment being used during the emergency.
- 5) If the City is selected as a mass distribution site by Department, the City will supply or arrange for all equipment and personnel necessary for staffing, security, crowd control and other tasks.
- 6) Without waiving any immunities, defenses, or protections provided by law, the City is responsible for the negligence of its employees or volunteers acting in the course and scope of employment/service; however, pursuant to section 421.062 of the Texas Government Code the City is not responsible for any civil liability that arises from the furnishing of a service under this Interlocal contract
- 7) The City will return all undistributed medication to the Department.

VI. Point Of Distribution Trailer

- 1) The City has been issued one 6'X12' single axel cargo POD-trailer. The City will only use the POD-trailer during emergencies and for training. The City will be responsible for keeping the POD-trailer and the inventory shown on DA-form 2062 in a secure location.
- 2) The trailer and its inventory are the property of the Department and the City shall have no right, title, or legal interest in them except as has been described in this Interlocal Agreement.
- 3) The Department will conduct periodic inventories of the POD-trailer and its contents.
- 4) The City shall keep the Department informed as to the location of the POD-trailer.
- 5) The City shall inform the Department of any damage to the POD-trailer. If the damage is minor, such as, by way of example and not limitation, a flat tire or a burnt out bulb, the City shall repair the POD-trailer. The Department is responsible for all other maintenance and upkeep unless the damage was caused by the City's negligence. The City will be responsible for repairs caused by the City's negligence.

Execution Page Follows

**Interlocal Agreement between the
City of Freeport and the
Brazoria County Health Department
For Mass Immunizations**

Jerry Cain
Mayor, City of Freeport

Date

L.M. "Matt" Sebesta, Jr.
County Judge

Date

Cathy Sbrusch, RN,BSN,CIC
Director of Public Health Services
Brazoria County Health Department

Date