

NOTICE OF PUBLIC HEARING
THE FREEPORT CITY COUNCIL
THURSDAY, NOVEMBER 6, 2014, 6:00 P.M.
FREEPORT MUNICIPAL COURT ROOM
FREEPORT POLICE DEPARTMENT, 430 NORTH BRAZOSPORT BLVD.
FREEPORT, TEXAS
AGENDA
FORMAL SESSION

1. Call to order.
2. Invocation.
3. Pledge of Allegiance.
4. Consideration of approving the October 20, 2014 Council Minutes. Pg. 913-915
5. Attending citizens and their business.
6. Proclamation - "Alzheimer's Awareness Month". Pg. 916
7. Consideration of approving and authorizing the City Manager to sign an agreement with Emergicon LLC Service Agreement for EMS billing and collection. Pg. 917-933
8. Consideration of rescheduling November 17, 2014 Council Meeting to November 18, 2014.
9. Consideration of approving the sale of 4.1 ft. of the Perry St. right-of-way included in Lot 2 of the proposed replat for Lawrence K. O'Neil, Jr. on Lots 7 through 12 and the East 2' of Lot 6, Block 663 of the Velasco Townsite as recorded in Volume 32, Page 14 of the Brazoria County Plat Records in the C. Henniger Survey, Abstract 211, City of Freeport, Brazoria County. Pg. 934
10. Consideration of approving Resolution No. 2014-2453 authorizing the City to enter into a loan agreement, promissory note, sales tax remittance, guaranty and subordination agreement and such other matters incident or related to the transaction for refinancing the outstanding debt for the construction of the City of Freeport's Municipal Marina with the First State Bank, Clute, Texas and Freeport Economic Development Corporation and pledging a general certificate of the City's sales and use tax and other sources of City revenue as might be necessary. Pg. 935-936
11. Consideration of approving Ordinance No. 2014-2076 amending section 150.036 of the code of ordinance of said City, to adopt additional local amendments to the 2009 edition of the international property maintenance code, including provisions relating to the registration and inspection of rental (single-family) and (multi-family) dwelling complexes.

12. Consideration of approving Resolution No. 2014-2454 supporting additional routes of heavy lift corridor in Brazoria County, Texas . Pg. 949-951
13. Consideration of taken action on any items discussed in Executive Session.

Executive Session:

Section 551.071, Government Code

Consultation with City Attorney concerning pending or contemplated litigation, settlement offers or other matters in which his duty to the City Council under the Texas Disciplinary Rules of professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Government Code, to wit:

- Freeport Municipal Golf Course
- FLNG – Industrial District Agreement
- Pending Contractual Negotiations regarding : H & H Ventures LLC

Adjourn

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

In compliance with the Americans with Disabilities Act, the City of Freeport will provide for reasonable accommodations for persons attending City Council Meetings. Request should be received 48 hours prior to the meeting. Please contact the City Secretary office at 979-233-3526.

I, Delia Munoz City Secretary for the City of Freeport, Texas certify that this agenda was posted on the official bulletin board/glass door of City Hall, facing the rear parking lot of the building, with 24 hours a day public access, 200 West 2nd Street, Freeport Texas, November 3, 2014 at or before 5:00 p.m.

Delia Munoz - City Secretary
City of Freeport, Texas

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the Freeport City Council met on Monday, October 20, 2014 at 6:06 p.m. at the Freeport Municipal Court Room, Police Department, 430 North Brazosport Boulevard, Freeport Texas for the purpose of considering the following agenda items:

City Council: Mayor Norma M. Garcia
Councilman Larry L. McDonald
Councilman Fred Bolton
Councilwoman Sandra Loeza
Councilwoman Sandra Barbree

Staff: Gilbert Arispe, Assistant City Manager
Delia Munoz, City Secretary
Wallace Shaw, City Attorney
Nat Hickey, Property Manager
Bob Welch, Finance Director
Brian Davis, Fire Chief
Dan Pennington, Police Chief
Larry Fansher, Parks Director

Visitors: Annette Sanford Jerry Meeks
Sam Reyna Nicole Mireles
Cory McMinn Lila Lloyd
Edward Garcia Bill Morris
Louie Jones Evelyn Burrridge
Moby Burrridge

Call to order.

Mayor Norma M. Garcia called the meeting to order at 6:06 p.m.

Invocation.

Wallace Shaw offered the invocation.

Pledge of Allegiance.

Mayor Norma Garcia led the Pledge of Allegiance.

Consideration of approving the October 6, 2014 Council Minutes.

On a motion by Councilwoman Barbree, seconded by Councilman Bolton, with all present voting "Aye", Council unanimously approved the October 6, 2014 Council Minutes.

Attending citizens and their business.

There were none.

Consideration of approving Kennemer, Masters & Lunsford, Certified Public Accountants the City's auditor for the year ending September 30, 2014.

On a motion by Councilman McDonald, seconded by Councilwoman Barbree, with all present voting "Aye", Council unanimously approved Kennemer, Masters & Lunsford, Certified Public Accountants for the City's auditor for the year ending September 30, 2014.

Consideration of approving Ordinance No. 2014- 2075 amending the budget for Fiscal Year 2013-2014.

On a motion by Councilman McDonald, seconded by Councilwoman Barbree, with all present voting "Aye", Council unanimously approved Ordinance No. 2014-2075 amending the budget for Fiscal Year 2013-2014.

Consideration of advertising and setting November 18, 2014 as a bid date for sale of Block 6, Lots 13 through 21, Velasco Townsite, known as 119 South Gulf Boulevard.

On a motion by Councilman Bolton, seconded by Councilwoman Loeza, with all present voting "Aye", Council unanimously approved advertising setting November 18, 2014 as a bid date for sale of Block 6, Lots 13 through 21, Velasco Townsite, known as 119 South Gulf Boulevard.

Consideration of approving an Invitation to Submit Proposals and setting a submittal date of November 24, 2014 for 13.76 acres being that portion of Riverside Park located north of a westerly extension of the public street shown on the plat of said townsite as Ave. C.

Ed Garcia of 1924 N. Ave. G asked if the Fire Station # 2 would be relocated.

Lila Lloyd stated that there were no recreation facilities for the children at that time, the City and BISD were negotiating the plans for the new school.

Councilman McDonald reminded Council that he had requested that a ball field be provided to the children in Freeport before selling Riverside Park. Gilbert Arispe stated that it was merely an Invitation to submit proposals.

Councilman Bolton commented that he has coached kids at the Brazosport High School and was involved in athletics for twenty years. He feels that at the present time, our facilities are junk. His goal and priority is to improve and have quality facilities, but would never jeopardize what is in place. He suggested the City move forward.

On a motion by Councilman Bolton, seconded by Councilwoman Barbee, with all present voting 4 to 1, Council approved an Invitation to Submit Proposals and setting a submittal date of November 24, 2014 for 13.76 acres being that portion of Riverside Park located north of a westerly extension of the public street shown on the plat of said townsite as Ave. C. Councilman McDonald opposed.

Adjourn

On a motion by Councilman McDonald, seconded by Councilwoman Barbree, with all present voting "Aye", Mayor Garcia adjourned the meeting at 6:21 p.m.

Mayor Norma Moreno Garcia
City of Freeport, Texas

City Secretary – Delia Munoz
City of Freeport, Texas

PROCLAMATION

WHEREAS, the City of Freeport is proud to be a part of the Brazoria County Alzheimer's Awareness Project, recognized regionally by the Alzheimer's Association and nationally by the Alzheimer's Foundation as leading the way in community awareness and early detection of Alzheimer's Disease, and

WHEREAS, the Memory Screening Project sponsored by Brazoria County Libraries and the Alzheimer's Awareness Project November 17 through the 22nd will be the largest community-based Memory Screening Project in the United States for the third consecutive year, and

WHEREAS, Alzheimer's, a neurodegenerative disease that results in the loss of brain cells and their connections, affects 5.5 million Americans and more than 350,000 people on the Texas Gulf Coast, and

WHEREAS, Brazoria County, with its Community Partners, has created the largest County sponsored project in the United States to create events and activities that increase awareness about dementia, treatment options, caregiving issues, and community resources, and

WHEREAS, we are called upon as a nation to be aware of Alzheimer's disease and related disorders and to heighten our awareness of these challenges throughout the month of November, 2014,

NOW, THEREFORE, I, Norma Moreno Garcia by virtue of the authority vested in me as Mayor of the City of Freeport, do hereby proclaim the month of November as

"Alzheimer's Awareness Month"

in the City of Freeport, Texas and call upon all citizens to join me in commending the Brazoria County Alzheimer's Awareness Project for working through education and collaboration to create awareness and encourage early detection of Alzheimer's disease in our community.

Mayor



FREEPORT FIRE & EMS
131 East Fourth Street
P.O. Box 3356
Freeport, Texas 77541
(979) 233-2111

Brian Davis
Chief
Christopher Motley
Deputy Chief
Billywayne Shoemaker
Deputy Chief

Over the past 5 years we have been under contract with Intermedix Technologies to perform our EMS billing and revenue collection. Although Intermedix has a wonderful IT and EPCR (Electronic Patient Care Reporting), we have not been satisfied with the revenue collection. On September 24th I met with the Vice President Jackie Willett to discuss Freeport EMS financials. At the conclusion both Freeport and Intermedix felt that termination of the contract was in order based on revenue pursuit and volume of business. I (Billywayne Shoemaker) have been researching alternate billing companies as well as EPCR vendors for some time. The following is a short review of each of the companies I visited with since September.

Billing Services:

Digitech Billing:

Digitech is based out of New York and has been in business since 1984 and has amassed hundreds if not thousands of clients. Digitech is an industry leader in the billing industry. The main issue with Digitech is that they are very large and were reluctant to speak with us due to the low volume of patient transports we make annually. They were only willing to review us after Pearland, also a new customer of theirs, requested that they look at us as a possible client.

Emergicon:

Emergicon is a Texas based billing service since 2006 with 65 clients and a staff of approximately 37 billing professionals. The benefit to us is that each account will be touched by a person with much less reliance on automation. The fact they are only operating in Texas with no interest in pursuing clients outside of Texas allows them to be able to focus on specific practices in the Texas billing systems which are very unique to say the least. Emergicon's three-tiered approach to ambulance billing collection is unique in the industry and ensures accuracy, increases revenue, reduces patient complaints and prevents legal noncompliance. All billing claims go through the company's hands-on redundant system of checks and balances. Employees at Emergicon personally review every bill and receive frequent training, retraining and ongoing education. I visited Christopher Turner, President and CEO, in his office in Gun Barrel, South



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East of Dallas and was very impressed with the amount of space and staff on hand. Most companies are trying to stream line and automate while Emergicon is focusing on a very hands on practice which is what we have been requesting from Intermedix

AMB Ambulance Billing:

AMB is a Kentucky based service that has hundreds of clients nationwide. They started in the Credit Bureau System and have branched over to EMS billing to grow company business. I was able to visit with Billy Cross in Austin whom is the client representative for Texas. While the visit was very informative on ESO, which was Billy's former employer, I did not feel that AMB had anything outstanding to offer the department.

Health Claims Plus:

HCP is a Texas based service out of Liberty that started in 1993 and currently has 15 clients and a very small staff. I visited their office in Liberty. Pete Thomas the CEO visited with me for a few hours. With no vision of operational growth, my feeling is that the staff would be over worked with the addition of our call volume and may not be able to meet our need.

EPCR Vendors:

After speaking with multiple agencies across the state the three industry leaders on EPCRs are Intermedix, ESO, and Image Trend. I spoke with medics that used the different software as well as administrators. While Intermedix has the more robust system they are a one stop shop and will only allow Intermedix clients to use their system. The second is ESO which is quickly becoming the trend setter for all other EPCR vendors. I visited ESO operations center in Austin and was very impressed. Tye Harvey was very informative, he walked me through the entire system both from the administrator view and the Medics charting. It flows very well and I believe it will save time. I was not able to get a lot of formal information from Image Trend as many of my phone calls went unreturned.



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Deputy Chief

In Conclusion:

After careful analysis and discussion with Chief Davis we feel that the best course of action would be to enter into a contract with Emergicon for EMS billing and ESO for our EPCR vendor.

Billywayne Shoemaker, Deputy Chief

EMERGICON SERVICE AGREEMENT

This Service Agreement (this "Agreement") is entered into by and between Emergicon, LLC, ("Emergicon"), and the City of Freeport, Texas (the "Provider").

RECITALS

WHEREAS, Emergicon provides billing and collections services, and other support services (the "Services") to local government agencies, municipalities, fire departments, ambulance providers, and medical emergency services;

WHEREAS, CLIENT, as part of its overall activities, provides emergency and ambulance services, including emergency medical responses, and other patient encounters and/or patient ambulance transportation (the "Ambulatory Services"); and

WHEREAS, CLIENT is desirous of obtaining the Services of Emergicon.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

ARTICLE ONE

TERM AND TERMINATION

1.1 **Term**. Subject to the terms and conditions set forth herein and except as provided in Section 1.02, the initial term of this Agreement shall be for a period of three (3) years from the date of this Agreement (such initial term, together with all extensions thereof, shall be referred to herein as the "Term"). This Agreement may be renewed at the end of the current Term for additional one (1) year periods.

1.2 **Termination**. Notwithstanding any provision of this Agreement to the contrary, this Agreement may be terminated by either party, without cause and without liability (except for continuing obligations during such period), upon thirty (30) days advance written notice to the other party.

1.3 **Obligations During Notice Period**. During the 30-day notice period specified in Sections 1.02 and for a subsequent sixty (60) days from the date of termination, Emergicon shall be entitled to receive compensation for all Accounts (as defined in Section 2.01) billed and collected with respect to the Services and for all other activities performed pursuant to this Agreement, and shall be entitled, after the end of the sixty day termination period to receive compensation for all amounts billed during the termination period but not collected until after the end of the termination period. Emergicon shall be continue to provide services as prescribed in the agreement during the 30 day notice period and fully comply with all terms of the Agreement.

1.4 **Oligations on Termination**. Upon termination of the Agreement, for whatever cause, Emergicon will immediately return any original medical records to Provider. Emergicon shall retain copies of all patient care reports, invoices/claim records, remittance advice

documents and all other PHI of Provider's patients (as the term "PHI" is defined in Section 6.01 of this Agreement) for a period of 10 years, as described in Section 5.01 of this Agreement and in compliance with Section 6.01 of this Agreement.

1.5 **Mailing of Notices.** Any notice required or permitted pursuant to this Agreement shall be in writing and shall be deemed sufficient when delivered personally or sent by U.S. mail, as certified or registered mail, with postage prepaid, addressed as follows:

(a) If to the Provider:

The City of Freeport, Texas
200 W. 2nd Street
Freeport, TX 77541
Attention:
Fax:

If to Emergicon:

Emergicon LLC
PO Box 180446
Dallas, Texas 75218
Attention: Christopher Turner
Fax: 903-887-1863

Each party shall be entitled to specify a different address by giving five (5) days' written notice to the other party. All such notices and communications shall be deemed to be received the same day if by fax (provided the sender has a fax machine/fax database generated proof of receipt) and in three (3) business days if by mail.

ARTICLE TWO

BILLING & COLLECTIONS

2.1 **Billing.** During the Term, Emergicon shall be responsible for the billing of charges and fees relating to the Services as directed by and provided by Provider, including, but not limited to, private insurance, Medicare, Medicaid, and other governmental programs.

(Note: each set of such charges and fees for the Services related to an individual patient encounter may be referred to herein as an "Account" or, collectively, the "Accounts").

2.2 **Compensation.** In consideration for Emergicon providing the Provider with the agreed upon services described in this agreement, the Provider will pay Emergicon a commission per Addendum A. Credit card payments accepted by Emergicon will be charged an additional one and one-half percent (1.5%). These fees will be payable monthly within 30 days of receipt of invoice.

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

If Provider instructs Emergicon to continue to pursue Private Pay accounts with balances beyond 180 days from the date of transport, Emergicon shall be compensated and paid for the collection efforts on said account in accordance with the following schedule: Eighteen Percent (18%) of the total amount collected on the account.

All fees shall be payable monthly within thirty (30) days of receipt of invoice.

2.3 Records of Patient Encounters.

(a) Emergicon shall use its reasonable best efforts to bill all Accounts within three (3) business days of such patient encounter. Such records shall be deemed to be the property of Provider, but Emergicon shall have the right to duplicate and retain paper or electronic copies of the records as further described in Section 1.04 and 5.01 of this Agreement. If the records exist only in electronic form, each electronic copy shall be deemed to be an original for the purposes of this Agreement. Provider shall have no obligation to forward original medical records during the 30-day notice period regarding termination as set forth in Paragraph 1.02.

(b) Provider acknowledges that Emergicon has no responsibility for complying with all provisions of Title 42 C.F.R. Section 410.40 which states, in part, that an ambulance service bears the responsibility for obtaining Physician Certification Statements ("PCS's"). Provider further understands and concurs that Emergicon is neither an ambulance service nor an ambulance provider within the definitions as set forth by the Centers for Medicare and Medicaid Services.

2.4 Requests for Copies. Requests for copies of medical records shall be submitted directly to Provider. Provider may authorize release of the records such that the release is in accordance with the standards and time requirements established by State and Federal law, including but not limited to the requirements of Section 773.091 Texas Health and Safety Code, as well as the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology and Clinical Health Act (HITECH Act).

2.5 Activity Reports. Emergicon shall provide to Provider summary and detail monthly reports of all billing activities that occurred during the preceding month as requested by the Provider by the fifth (5th) business day of the month.

2.6 Information Received by Provider. To the extent that Provider receives payments or original copies of documentation directly, Provider shall forward to Emergicon copies of checks, Explanations of Benefits and/or other documentation within five (5) business days of the date of receipt of payment by Provider.

2.7 Support Services. Emergicon will provide patients and personnel of Provider with telephone support services during normal business hours (Monday - Friday from 9:00 a.m.

to 5:00 p.m.) except on public holidays or other holidays as established by Emergicon. Obligation for Payment. Payment in accordance with this Article Two shall be due and owing to Emergicon by Provider for all Accounts collected during the Term, and the Termination Period if applicable, and collected after the Term but billed during the Term and the Termination Period if applicable, by Emergicon regardless of whether payment was made to Emergicon or to Provider.

ARTICLE THREE INDEMNIFICATION AND FIDELITY BOND

3.1 Emergicon's Indemnification. Emergicon shall indemnify and hold harmless Provider from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from Emergicon's performance of activities pursuant to this Agreement, but only to the extent caused by the willful misconduct or the negligent acts or omissions of Emergicon or any other breach of contract. The indemnification provided for herein shall not be applicable to any claim of adjustment or request for reimbursement made by an insurance company or any servicing agency for Medicare or Medicaid that may be made as the result of an audit of claims made or governmental regulations or laws, including Emergicon's fees charged, except for any adjustments or claims for reimbursement made as a direct result of Emergicon's error.

3.2 Fidelity Bond. Emergicon shall keep and maintain during the term of this Agreement a fidelity bond with a qualified insurer of no less than \$10,000.00.

3.3 Insurance. Emergicon shall keep and maintain during the term of this Agreement Errors & Omissions Liability insurance with a qualified insurer of no less than \$1,000,000.00.

ARTICLE FOUR

CONFIDENTIALITY

4.1 Property of Emergicon. Provider agrees that Emergicon's equipment, computer hardware and software, billing and collection processing, and other related systems and equipment are the property and trade secrets of Emergicon, and that Provider will not release any information regarding such trade secrets to any third party without the prior written consent of Emergicon.

4.2 Fact of Contractual Relationship May Be Disclosed. Notwithstanding the foregoing, either party may, without the prior written consent of the other party, disclose the existence of a contractual relationship between the parties.

ARTICLE FIVE

AUDITS

5.1 Accurate Books and Records. During the Term and for a period of ten (10) years thereafter, each party agrees to maintain accurate books and records associated with the billing and collections made the subject of this Agreement.

5.2 Right to Audit. Upon reasonable written notice, either party may audit the books

and records of the other party insofar and only insofar as such books and records relate or pertain directly to this Agreement. Such audit shall be conducted at the office of the party being audited, shall be during normal business hours, and shall be at the sole cost and expense of the party conducting the audit.

5.3 Penalty for Underpayment. If an audit reveals that a party has failed to pay any amount or portion of any amount due or payable under this Agreement and such amount is in excess of Twenty Thousand Dollars (\$20,000.00), the party being audited shall pay to the auditing party the full cost of the audit and the full amount due or payable plus interest at the rate of ten percent (10%) per annum from the date(s) of non-payment.

ARTICLE SIX

PROTECTED HEALTH INFORMATION

6.1 HIPAA Compliance. Emergicon shall carry out obligations to protect the privacy and security of protected health information ("PHI") under this Agreement in compliance with the applicable provisions of Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended ("HIPAA"), and with Public Law 111-5 of February 17, 2009, known as the American Recovery and Reinvestment Act of 2009, Title XII, Subtitle D – Privacy, Sections 13400, *et seq.*, the Health Information Technology and Clinical Health Act, as amended ("the HITECH Act"). In conformity therewith, Emergicon shall use or disclose PHI only if such use or disclosure is in compliance with each applicable requirement of the HIPAA privacy regulations found at 45 CFR § 164.504(e) and shall comply with the HIPAA security regulations made directly applicable to business associates under the HITECH Act. Emergicon will protect the privacy and security of any personally identifiable PHI that is collected, processed or learned as a result of the services provided to the Provider and Emergicon agrees that it will:

- a) Not use or further disclose PHI except as permitted under this Agreement or required by law;
- b) Use appropriate safeguards to prevent use or disclosure of PHI except as permitted by this Agreement.
- c) Mitigate, to the extent practicable, any harmful effect that is known to Emergicon of a use or disclosure of PHI by Emergicon in violation of this Agreement;
- d) Report to Provider any use or disclosure of PHI by Emergicon in violation of this Agreement;
- e) Report to Provider any use or disclosure of PHI not provided for by this Agreement of which Emergicon becomes aware;
- f) Ensure that agents or subcontractors to whom Emergicon provides PHI, or who have access to PHI created or received by Emergicon on behalf of the Provider, agree to

the same restrictions and conditions that apply to Emergicon with respect to such PHI;

- g) Make PHI available to Provider and to the individual who has a right of access as required under HIPAA within ten (10) days of the request by Provider on behalf of the individual. To the extent PHI is maintained in an electronic health record, Emergicon shall provide the individual with a copy of such information in electronic format, as required by the HITECH Act;
- h) Incorporate any amendments to PHI when notified to do so by Provider;
- i) Provide an accounting of all uses or disclosures of PHI made by Emergicon as required under the HIPAA privacy rule and the HITECH Act within sixty (60) days; and
- j) Make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by Emergicon on behalf of the Provider available to the Secretary of the Department of Health and Human Services for purposes of determining Emergicon's and Provider's compliance with HIPAA and the HITECH Act.
- k) At the termination of this Agreement, return or destroy all PHI received from, or created or received by Emergicon, other than the maintenance of certain records required by applicable law, and if return is infeasible, the protections of this Section will extend to such PHI;
- l) Restrict the disclosure of PHI to a health plan for purposes of carrying out payment or healthcare operations if the Provider authorizes or requests Business Associate to do so;
- m) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of e-PHI that it creates, receives, maintains or transmits on behalf of the Provider;
- n) Implement reasonable and appropriate policies and procedures to comply with the standards, implementation specifications, or other requirements of the HIPAA Security Rule;
- o) Report to Covered Entity any security incident (as defined by the HIPAA Security Rule) of which Emergicon becomes aware, and the steps it has taken to mitigate and potential security compromise that may have occurred, and provide a report to the Provider of any loss of data or other information system compromise as a result of the incident;
- p) Notify the Provider of a breach of unsecured PHI following Emergicon's discovery of a breach without unreasonable delay and in no case later than 60 calendar days after discovery, and provide to the Provider: (a) the identification of each

individual whose unsecured PHI has been, or is reasonably believed by Emergicon to have been, accessed, acquired, used, or disclosed during the breach; and (b) any other available information that Emergicon is required to include in notification to affected individuals;

- q) Secure all PHI in accordance with the technologies and methodologies specified by guidance from the Secretary of HHS, issued pursuant to the HITECH Act; and
- r) Assist the Provider in complying with its Red Flag Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. § 681.2); (b) taking all steps necessary to comply with the policies and procedures of the Provider's Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of the Provider agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting the Provider of any red flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to the Provider of any threat of identity theft as a result of the incident.

6.2 HIPAA Disclosures. The specific uses and disclosures of PHI that may be made by Emergicon on behalf of Provider include:

- i) The preparation of invoices to patients, carriers, insurers and others responsible for payment or reimbursement of the services provided by Provider to its patients;
- j) Preparation of reminder notices and documents pertaining to collections of overdue Accounts;
- k) The submission of supporting documentation to carriers, insurers and other payers to substantiate the health care services provided by Provider to its patients or to appeal denials of payments for same;
- l) The preparation and release of medical records to patients or their legal representatives as permitted by HIPPA privacy and security rules and the HITECH Act;
- m) Uses required for the proper management of Emergicon as a business associate; and Other uses or disclosures of PHI as permitted by HIPAA privacy and security rules.

6.3 HIPAA Breach Provisions. Notwithstanding any other provisions of this Agreement, if either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this Agreement, that party shall take reasonable steps to cure the

breach or end the violation, as applicable, and, if such steps were unsuccessful, either terminate the Agreement (if feasible), or if termination is infeasible, report the problem to the Secretary of the Department of Health and Human Services.

ARTICLE SEVEN

MISCELLANEOUS

7.1 No Waiver. The failure of either party to insist upon strict performance or waiver of any provision of this Agreement shall not be construed as a waiver of any subsequent breach of the same or similar nature.

7.2 Provisions Construed Separately. The parties agree that each provision of this Agreement shall be construed as separable and divisible from every other provision and that the enforceability of any one provision shall not limit the enforceability, in whole or in part, of any other provision hereof. In the event that a court of competent jurisdiction determines that any term or provision herein shall be invalid or unenforceable, the remaining terms and provisions of this Agreement shall not be affected thereby, and shall be interpreted as if the invalid term or provision were not a part hereof.

7.3 Final Agreement. This Agreement sets forth the entire, final and complete understanding between the parties hereto relevant to the subject matter of this Agreement. No waiver or modification of any of the terms or conditions of this Agreement shall be effective unless in writing and signed on behalf of both parties.

7.4 Performance of Agreement, Venue; Choice of Law. Provider understands and agrees that Emergicon will be performing this contract in Dallas County, Texas. The venue for any disputes or causes of action that may arise out of this Agreement is the state and county courts located in Dallas County, Texas. The provisions of this Agreement shall be determined in accordance with the laws of the State of Texas excluding the choice of law provisions thereof.

7.5 Headings. The headings of this Agreement are for ease of reference only and are not intended to limit or restrict the terms hereof.

7.6 Binding Nature of Agreement. This Agreement is binding upon the heirs, legal representatives, successors and assigns of the parties hereto.

7.7 Compliance with Laws Generally. Emergicon shall comply with all applicable laws, orders, rules, or regulations of all governmental agencies bearing on its performance hereunder. If so requested by Provider, Emergicon shall submit appropriate evidence of such compliance.

7.8 Independent Contractor. It is understood and agreed that Emergicon is an independent contractor. Nothing herein contained shall be construed to create any partnership, joint venture, or joint enterprise between the parties.

7.9 Non-Profit Status Determination Letter. If Provider is a not-for-profit entity,

Provider shall provide a duplicate of its letter determining its not-for-profit status with the Internal Revenue Service. In providing such letter, Provider further represents and warrants to Emergicon that it has done every act necessary to maintain its not-for-profit status with the Internal Revenue Service and is not aware of any pending, threatened or actual revocation of its not-for-profit status.

7.10 Appendices. Emergicon and Provider may enter into various appendices to this Agreement from time to time and at any time regarding additional services. Such appendices shall be considered part of this Agreement as if set forth herein at length unless such appendix provides otherwise.

7.11 Assignment. Neither party shall assign or otherwise transfer this Agreement, any interest in this Agreement, or any right or obligation hereunder to any other party without the written consent of the other party.

7.12 Attorneys' Fees. Should it become necessary for either party to employ an attorney to enforce any of the terms and conditions hereof, including the collection of fees, either party shall do so at their sole cost and expense.

IN WITNESS WHEREOF, Emergicon and the Provider have executed this Agreement on the _____ day of _____, 20__

EMERGICON, LLC

THE CITY OF FREEPORT, TEXAS

By: _____

By: _____

Name: Christopher Turner
Title: President & CEO

Name: Jeff Pynes
Title: City Manager

ADDENDUM A

This document is an addendum to the Service Agreement between Emergicon, L.L.C. and the City of Freeport, Texas. It is understood that the following software is being purchased from ESO Solutions by Freeport, Texas, Texas through a Service Agreement with Emergicon, L.L.C.

QUOTE LINE ITEMS

Product	Quantity	List Price	Discounts	Total Price	Line Item Description
ePCR Suite w/Quality Management 1,250 - 2,500 Incidents	1.00	\$6,795.00	\$869.25	\$4,925.75	Annual Recurring Cost - Includes unlimited users, live support, state data reporting, hospital link-up, continuous weekly web training, free regional user groups, and software upgrades
QuickSpeak	4.00	\$99.00	\$59.40	\$336.60	Annual Recurring Cost - Language translation tool
ePCR Mobile	4.00	\$695.00	\$417.00	\$2,383.00	One-Time Cost - Mobile ePCR, unlimited users
Interface - Monitor	1.00	\$3,995.00	\$699.25	\$3,395.75	One-Time Cost - Unlimited cardiac monitors, allows for direct integration of cardiac monitor data
Interface - Billing (MEMSIS Export)	1.00	\$1,995.00	\$1,995.00	\$0.00	One-Time Cost - Allows for integration of ePCR data into billing software
Services - Training	1.00	\$995.00	\$0.00	\$995.00	One-Time Cost - Includes onsite training, web training, system setup, and implementation
Services - Training Travel Costs	1.00	\$750.00	\$100.00	\$650.00	One-Time Cost - Estimated travel expenses for onsite training

Full Price \$18,708.00
Sum of Discounts \$4,029.90
Grand Total \$12,666.10

QUOTE LINE ITEMS

Product	Quantity	List Price	Total Price	Line Item Description
HDE - ESO ePCR Connection < 2,500 Incidents	1.00	\$495.00	\$495.00	Annual Recurring Cost - Node Connection fee: Includes bi-directional, automated data exchange with participating Hospitals

Grand Total \$495.00

Emergicon agrees to pay the above mentioned software fees to ESO Solutions as well as provide five (5) fully rugged mobile computers acceptable to the City of Freeport, Texas.

The contract between ESO Solutions and The City of Freeport, Texas will automatically renew annually according to the ESO Solutions Software License Agreement. Emergicon will pay ESO Solutions on the contract renewal date for the full annual subscription fee.

Cancellation fees

Should The City of Freeport, Texas terminate Emergicon's Service Agreement within twelve (12) months of the date of this Addendum, the County will be responsible for full payment to Emergicon of a cancellation fee equal to the total cost (\$13,161.10), plus the actual cost of hardware provided.

Emergicon will invoice the City upon written notice of cancellation and payment will be due 30 days from cancellation date.

Compensation

In consideration for providing the agreed upon billing services in the Service Agreement and ESO Pro Suite detailed above, the City of Freeport will amend Section 2.02 of the Service Agreement to pay Emergicon eleven percent (11%) of the total amount collected on the Account.

EMERGICON, L.L.C.

The City of Freeport, Texas

By: _____

By: _____

Name: Christopher Turner

Name: Jeff Pynes

Title: President & CEO

Title: City Manager

Date: _____

Date: _____

**Business Associate Agreement
Between Freeport, Texas
and Emergicon, LLC**

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

A. General Provisions

1. **Meaning of Terms.** The terms used in this Agreement shall have the same meaning as those terms defined in HIPAA.
2. **Regulatory References.** Any reference in this Agreement to a regulatory section means the section currently in effect or as amended.
3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.

B. Obligations of Business Associate

Emergicon, LLC, agrees that it will:

1. Not use or further disclose PHI other than as permitted or required by this Agreement or as required by law;
2. Use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule with respect to electronic protected health information (“e- PHI”) and implement appropriate physical, technical and administrative safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement;
3. Report to Freeport, Texas any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any security incident (as defined in the HIPAA Security Rule) and any breaches of unsecured PHI as required by 45 CFR §164.410. Breaches of unsecured PHI shall be reported to Freeport, Texas without unreasonable delay but in no case later than 60 days after discovery of the breach;
4. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of

Emergicon, LLC agree to the same restrictions, conditions, and requirements that apply to Emergicon, LLC with respect to such information;

5. Make PHI in a designated record set available to Freeport, Texas and to an individual who has a right of access in a manner that satisfies Freeport, Texas' obligations to provide access to PHI in accordance with 45 CFR §164.524 within 30 days of a request;
6. Make any amendment(s) to PHI in a designated record set as directed by Freeport, Texas, or take other measures necessary to satisfy Freeport, Texas' obligations under 45 CFR §164.526;
7. Maintain and make available information required to provide an accounting of disclosures to Freeport, Texas or an individual who has a right to an accounting within 60 days and as necessary to satisfy Freeport, Texas' obligations under 45 CFR §164.528;
8. To the extent that Emergicon, LLC is to carry out any of Freeport, Texas' obligations under the HIPAA Privacy Rule, Emergicon, LLC shall comply with the requirements of the Privacy Rule that apply to Freeport, Texas when it carries out that obligation;
9. Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Emergicon, LLC on behalf of Freeport, Texas, available to the Secretary of the Department of Health and Human Services for purposes of determining Emergicon, LLC and Freeport, Texas' compliance with HIPAA and the HITECH Act;
10. Restrict the use or disclosure of PHI if Freeport, Texas notifies Emergicon, LLC of any restriction on the use or disclosure of PHI that Freeport, Texas has agreed to or is required to abide by under 45 CFR §164.522; and
11. If Freeport, Texas is subject to the Red Flags Rule (found at 16 CFR §681.1 *et seq.*), Emergicon, LLC agrees to assist Freeport, Texas in complying with its Red Flags Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. §681.2); (b) taking all steps necessary to comply with the policies and procedures of Freeport, Texas Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of Freeport, Texas agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting Freeport, Texas of any Red Flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to Freeport, Texas of any threat of identity theft as a result of the incident.

C. Permitted Uses and Disclosures by Business Associate

The specific uses and disclosures of PHI that may be made by Emergicon, LLC on behalf of Freeport, Texas include:

1. The preparation of invoices to patients, carriers, insurers and others responsible for payment or reimbursement of the services provided by Freeport, Texas to its patients;
2. Preparation of reminder notices and documents pertaining to collections of overdue accounts;
3. The submission of supporting documentation to carriers, insurers and other payers to substantiate the healthcare services provided by Freeport, Texas to its patients or to appeal denials of payment for the same; and
4. Other uses or disclosures of PHI as permitted by HIPAA necessary to perform the services that Emergicon, LLC has been engaged to perform on behalf of Freeport, Texas.

D. Termination

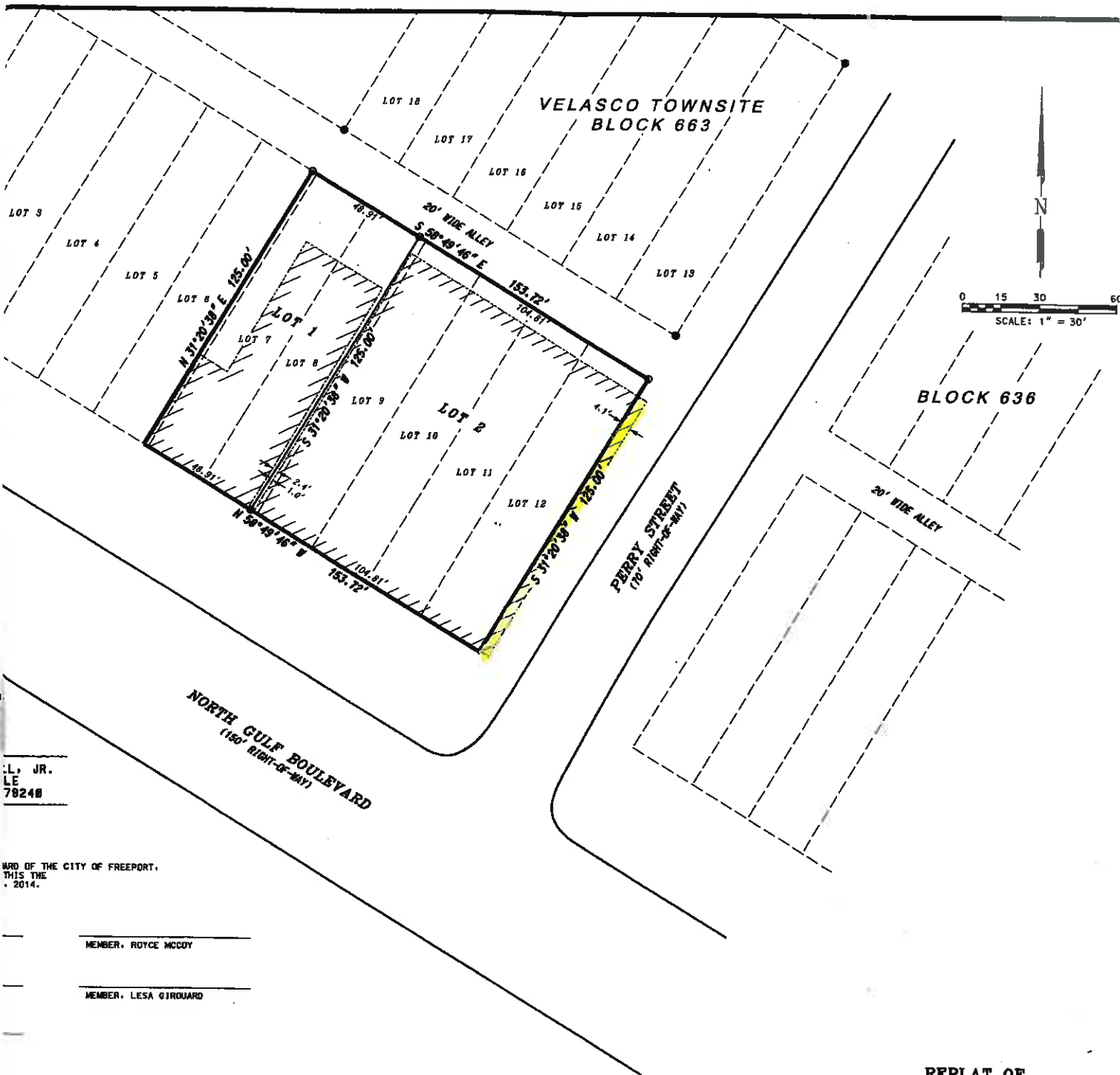
1. Freeport, Texas may terminate this Agreement if Freeport, Texas determines that Emergicon, LLC has violated a material term of the Agreement.
2. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this Agreement, that party shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the Agreement if feasible.
3. Upon termination of this Agreement for any reason, Emergicon, LLC shall return to Freeport, Texas or destroy all PHI received from Freeport, Texas, or created, maintained, or received by Emergicon, LLC on behalf of Freeport, Texas that Emergicon, LLC still maintains in any form. Emergicon, LLC shall retain no copies of the PHI. If return or destruction is infeasible, the protections of this Agreement will extend to such PHI.

Freeport, Texas

Emergicon, LLC

X

X



L. JR.
LE
79248

WARD OF THE CITY OF FREEPORT.
THIS THE
. 2014.

MEMBER, ROYCE MCCOY

MEMBER, LESA CIRROUARD

PROFESSIONAL LAND
I CERTIFY THAT THE
E EAST 2' OF LOT 6,
FREEPORT, BRAZORIA
ABSTRACT 211,
ACTUAL SURVEY ON
PRESENTS THE SURVEY



- NOTES:
1. BEARINGS ARE RELATIVE TO THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (NAD 83).
 2. ALL DISTANCES ARE HORIZONTAL SURFACE LEVEL LENGTHS (SF = 0.999882182).
 3. THIS PROPERTY LIES WITHIN THE LIMITS OF ZONE "XS00", PER FLOOD INSURANCE RATE MAP 48039C0780 I, DATED NOVEMBER 17, 1993.
 4. ● DENOTES FOUND IRON PIPE/ROD.
 5. ○ DENOTES SCRIBED "K" IN CONCRETE.
 6. THIS PROPERTY IS SUBJECT TO THE BUILDING RESTRICTIONS OF THE CITY OF FREEPORT, TX.
 7. 77 DENOTES EDGE OF EXISTING BUILDING.

REPLAT OF
LOTS 7 THROUGH 12
AND THE EAST 2' OF LOT 6,
BLOCK 663

OF THE
VELASCO TOWNSITE
AS RECORDED IN
VOLUME 92, PAGE 14
OF THE
BRAZORIA COUNTY PLAT RECORDS
IN THE
C. HENNIGER SURVEY
ABSTRACT 211
CITY OF FREEPORT
BRAZORIA COUNTY, TEXAS

Doyle & Wachtstetter, Inc.
Surveying and Mapping GPS/GIS
131 COMMERCE STREET, CLUTE, TEXAS 77531
OFFICE: 979.285.3622 FAX: 979.262.2174

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS AUTHORIZING THE CITY TO ENTER INTO A LOAN AGREEMENT, PROMISSORY NOTE, SALES TAX REMITTANCE, GUARANTY and SUBORDINATION AGREEMENT AND SUCH OTHER MATTERS INCIDENT OR RELATED TO THE TRANSACTION FOR REFINANCING THE OUTSTANDING DEBT FOR THE CONSTRUCTION OF THE CITY OF FREEPORT'S MUNICIPAL MARINA WITH THE FIRST STATE BANK, CLUTE, TEXAS AND FREEPORT ECONOMIC DEVELOPMENT CORPORATION AND PLEDGING A GENERAL CERTIFICATE OF THE CITY'S SALES AND USE TAX AND OTHER SOURCES OF CITY REVENUE AS MIGHT BE NECESSARY

WHEREAS, it will be remembered that on February 11, 2010, the FREEPORT ECONOMIC DEVELOPMENT CORPORATION ("Freeport EDC") with the agreement of the CITY OF FREEPORT ("City") entered into a Loan Agreement, Promissory Note and related documents ("the Loan") with the First State Bank of Louise, Texas ("Bank of Louise") in the amount of One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) for the purpose of financing the construction of the public marina as an economic development project; and

WHEREAS, Freeport EDC and the City agreed to pledge a portion of its Economic Development Sales and Use Tax as security for repayment of the Loan; and

WHEREAS, current favorable conditions for borrowers in the financial markets make it possible for the Freeport EDC and the City to refinance the Loan at a better interest rate which would achieve a present value debt service savings; and

WHEREAS, in order to take advantage of the favorable refinancing conditions of said financial markets, the Freeport EDC and the City propose to repay the current amount due under the Loan with the Bank of Louise; and then further to refinance the balance owing for construction of the now-named City of Freeport's Municipal Marina ("City Marina"), namely \$1,356,746.74 with the FIRST STATE BANK, CLUTE, TEXAS ("Bank"); and

WHEREAS, the Freeport EDC and the City find it in the public interest to take advantage of the current low interest rates and favorable financing conditions of the financial markets, saving a substantial amount in present value debt service savings; and

WHEREAS, in order to do so, it will be necessary for both the Freeport EDC and the City to enter into a new Loan Agreement, Promissory Note and related documents with the Bank, the terms of which have been and are presented to the Freeport EDC and the City as to the proposed terms of the refinancing.

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

1. The City agrees to assist the Freeport EDC Board of Directors as necessary in the repayment or other satisfaction of the current Loan and Promissory Note terms and conditions with the Bank of Louise in relation to the Loan Agreement and Promissory Note entered into in February 11, 2010, including any action necessary to remove the current Sales Tax Remittance, Guaranty and Subordination Agreement with the Bank of Louise.
2. The City agrees to join the Board of Directors of the Freeport EDC in entering into a new Loan Agreement and new Promissory Note to refinance the amount outstanding due for the construction of the City Marina,

in a principal amount of \$1,356,746.74 and at an interest rate agreed upon by the Bank and Freeport EDC and the City on the date of the execution of the new Promissory Note and the new Loan Agreement.

3. The City agrees to join the Board of Directors of the Freeport EDC to continue with its pledge of its Economic Development Sales and Use revenue in order to secure the principal and interest on the new Promissory Note and the new Loan Agreement, and further to sign a new Sales Tax Remittance, Guaranty and Subordination Agreement with the Bank and the City and the Freeport EDC.
4. The City agrees that should the pledge of its designated Sales and Use Tax Remittance Agreement as described above fail for any reason to satisfy the amounts due under the Loan Agreement and Promissory Note with the Bank, that it will pledge its full faith and credit in repayment of the debt being refinanced by the Loan Agreement and Promissory Note.
5. The City hereby agrees to promptly collect and remit to the Corporation the Sales Tax (defined in the Loan Agreement) to provide for the prompt payment of the Promissory Note, and to assist and cooperate with the Corporation in the enforcement and collection of sales and use taxes imposed on behalf of the Corporation. Should any other form of repayment of the Note become necessary because of the failure for whatever reason for the pledged Sales and Use Tax revenue to satisfy the principal and interest payments of the Promissory Note, the City agrees to promptly remit to the Bank the amount due and payable under the terms and under the same schedule for payments due under the Loan Agreement and Promissory Note with whatever revenue the City has designated for same.
6. The Loan Agreement, Promissory Note and Sales Tax Remittance Agreement attached hereto as Exhibits A, B and C, and incorporated by reference as a part of this Resolution for all purposes, with respect to the obligations of the City and Corporation during the time the Note is outstanding, are hereby approved as to form and substance. Furthermore, the Mayor and the City Secretary and the other officers of the City are hereby authorized, jointly and severally, to execute and deliver such endorsements, instruments, certificates, documents, or papers necessary and advisable to carry out the intent and purposed of this Resolution.
7. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given all as required by the V.T.C.A. Government Code, Chapter 551, as amended.
8. This Resolution shall be in force and effect from and after its passage on the date shown below.

PASSED AND ADOPTED this _____ day of _____ 2014.

CITY OF FREEPORT, TEXAS:

MAYOR

ATTEST:

City Clerk or Secretary

**RESOLUTION SUPPORTING ADDITIONAL ROUTES OF
HEAVLY LIFT CORRIDOR IN BRAZORIA COUNTY, TEXAS**

Whereas in 2011, the Texas Legislature in House Bill 1305 amended the Texas Transportation Code, Chapter 623, Subchapter K to allow trucks to carry excess cargo weight on designated routes in southern Brazoria County, Texas;

Whereas, by allowing trucks to carry excess cargo weight on the designated routes, less trucks will be on the public roads and highways, which will increase safety to the citizens of Brazoria County, Texas;

Whereas, by allowing trucks to carry excess cargo weight on the designated routes, it will also reduce transportation cost to businesses, which will promote economic development and growth for the benefit of the citizens of Brazoria County, Texas;

Whereas, Port Freeport is proposing an additional amendment to the Texas Transportation Code, Chapter 623, Subchapter K, to add additional designated routes to the statute as set forth in Exhibit "A" attached hereto for Skymark Development located in Freeport, Texas and ChevronPhillips located in Sweeny, Texas;

Whereas, the City wishes to express its support for the additional designated routes proposed by Port Freeport for the benefit of Skymark Development, ChevronPhillips and the citizens of Brazoria County, Texas.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City that the City offers support for adding the proposed routes attached hereto as Exhibit "A" to the Texas Transportation Code, Chapter 623, Subchapter K; and,

BE IT FURTHER RESOLVED, that the City Secretary furnish a certified copy of this resolution to the appropriate officials of Port Freeport and maintain the original hereof in the permanent records of the City.

READ, PASSED AND ADOPTED this _____ day of November, 2014.

Norma Moreno Garcia
Mayor of the City of Freeport, Texas

ATTEST: _____
Delia Munoz
City Secretary

C/Freeport.Rsl/Support Additional Routes-Rsl



FREPORT PORT AUTHORITY ROUTE MAP

