

NOTICE OF PUBLIC HEARING
THE FREEPORT CITY COUNCIL
MONDAY, SEPTEMBER 14, 2015, 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. Attending citizens and their business.
5. Consideration of approving September 3, 2015 Council Minutes. Pg. 648-652
6. **Public Hearing** – Proposed budget for fiscal year. Pg. 653
7. Consideration of approving Ordinance No. 2015-2093 adopting a budget for the fiscal year 2015-2016 for the City of Freeport. Pg. 654-657
8. Consideration of approving Resolution No. 2015-2471 declaring that the operation within said City of a non-regulated night club at 127 West Second Street during any period of time beginning at 2:00 A.M. and ending at 7:00 A.M. on the same day would create a public nuisance; declaring a moratorium on the issuance of certificates of occupancy and other permits for such use at such location, or elsewhere within the City, that do not exclude operation as a non-regulated night club during any period of time beginning at 2:00 A.M. and ending at 7:00 A.M. on the same day; prohibiting such use during any period of time beginning 2:00 A.M. and 7:00 A.M. on the same day at such location or elsewhere within said City, pending consideration and adopting of an appropriate amendment to the Comprehensive Zoning Ordinance of the City to remediate such nuisance; directing the building official of the City to refrain from issuing any such certificates or permits that do not exclude operation as a non-regulated night club during any period of time beginning at 2:00 a.m. and ending at 7:00 A.M. on the same day until further orders of the City Council; directing the Planning Commission of the City to study and report to the City Council its recommendation regarding such amendment of the Zoning Ordinances. Pg. 658-663
9. Consideration of approving a request from the Fraternity of Eagles Aerie # 3111 for their Annual Turkey Shoot beginning October 18, 2015 and ending December 20, 2015 every Sunday from noon to 4:00 p.m. Pg. 664
10. Consideration of approving and authorizing the Mayor to sign an order of Demolition on 411 South Ave. F and 1026 West 4th., that fails to meet standards set forth in the Standard Unsafe Building Abatement Code. Pg. 665

11. Consideration of awarding the bid for the exchange of City owed property in Blocks 35, 71, 507, 661, 676, 720, 752, 755, 764, 789, 790, 809, 810 for Jordan owed properties in Blocks 716, 729, 730, 731, 742, 743, 760, 773. Pg. 666-667
12. Consideration of awarding a bid for a boat ramp and pier, and authorizing the City Manager or his designee to negotiate a contract with the successful bidder and authorizing the Mayor and City Secretary respectively to execute and attest such contract. Pg. 668-676
13. Consideration of authorizing the Mayor to sign a new agreement for Operations, Maintenance and Maintenance and Management Services, with Veolia Water North America –Central, LLC. 677-700
14. Consideration of approving Ordinance No. 2015-2094 amending Chapter 71 of the Code of Ordinances of said City to delete from Section 71.51 of said Code the intersection of Dixie Drive and Eighth Street as a two-way stop intersection and adding such intersection to Section 71.50 of said Code of Ordinances as a four-way intersection. Pg. 701-704
15. Consideration of approving Ordinance No. 2015-2095 amending Chapter 71 of the Code of Ordinances of said City deleting from Section 71.51 of said code the intersection of Dixie Drive and Fourth Street as a two-way stop intersection and adding such intersection to Section 71.53 of said Code of Ordinance as a three way stop intersection. Pg. 705-708
16. Consideration of the approval of any action to be taken as a result of 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:

- Praxair

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, September 11, 2015 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 Thursday, September 3, 2015 at 6:00 p.m. , at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, Freeport Texas for the purpose of considering the following agenda items:

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

Staff: Jeff Pynes, City Manager
Wallace Shaw, City Attorney
Delia Munoz, City Secretary
Dan Pennington, Police Chief
Bob Welch, Finance Director
Brian Davis, Fire Chief
Nat Hickey, Property Manager

Visitors: Eric Hayes
Lila Diehl
Annette Sanford

Call to order.

Mayor Norma Moreno Garcia opened the first tax rate hearing at 6:00 p.m.

First Tax Rate Public Hearing on adoption of proposed tax rate and consider motion that the property tax rate be increased by the adoption of a tax rate of 0.671524, which is effectively a 4.01 percent increase in the tax rate.

City Manager Jeff Pynes explained the rollback tax rate, effective tax rate, and the current tax rate and the revenues it generates. He recommends Council choose the rollback tax rate of 0.671524.

Councilman Bolton asked the differences in the rollback tax rate and the effective tax rate.

Bob Welch Finance Director explained the differences.

There being no more comments from staff or audience, Mayor Norma Moreno Garcia closed the Public Hearing at 6:06 pm.

Announcement: Second Tax Rate Public Hearing on a proposed tax rate will be conducted on September 9, 2015 p.m., 6: 00 p.m., at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, Freeport Texas and the adoption of the Tax Rate for fiscal year 2015-2016 on September 14, 2015.

Mayor Norma M. Garcia announced the Second Tax Rate Public Hearing on a proposed tax rate will be conducted on September 9, 2015 p.m., 6: 00 p.m., at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, Freeport Texas and the adoption of the Tax Rate for fiscal year 2015-2016 on September 14, 2015.

Adjourn

On a motion by Councilwoman Barbree, seconded by Councilman Bolton, with all present voting "Aye", Mayor Norma M. Garcia adjourned the meeting at 6:06 p.m.

Mayor Norma Moreno Garcia
City of Freeport, Texas

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 Thursday, September 3, 2015 at 6:15 p.m., at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, Freeport Texas for the purpose of considering the following agenda items:

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

Staff: Jeff Pynes, City Manager
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

Visitors: Eric Hayes
Lila Diehl
Annette Sanford

Call to order.

Mayor Norma Moreno Garcia called the meeting to order at 6:15 p.m.

Invocation.

Mr. Wallace Shaw offered the invocation.

Pledge of Allegiance.

Mayor Norma Moreno Garcia led the Pledge of Allegiance.

Consideration of approving the August 17, 2015 Council Minutes.

On a motion by Councilwoman Loeza, seconded by Councilwoman Barbree, with all present voting "Aye", Council unanimously approved the August 17, 2015 Council Minutes.

Attending citizens and their business.

There were none.

Consideration of approving an Interlocal Agreement with Brazoria County and the City of Freeport for the repair of streets for Fiscal Year 2015-2016.

On a motion by Councilman Bolton, seconded by Councilman McDonald, with all present voting "Aye", Council unanimously approved an Interlocal Agreement with Brazoria County and the City of Freeport for the repair of streets for Fiscal Year 2015-2016.

Consideration of appointing qualified person(s) to the remainder of current terms and/or expired terms on the following boards and commissions:

- Planning Commission
- Library Board
- Board of Adjustment
- Urban Renewal Board
- Beautification/Parks & Recreation
- Economic Development
- Charter Review
- Senior Citizens Commission

Planning Commission: On a motion by Councilman Bolton, seconded Councilman McDonald, with all present voting 4 to 1, Tobey Davenport and Eddie Virgil were reappointed to the Planning Commission. Mayor Norma M. Garcia opposed.

Library Board: On a motion by Councilwoman Barbree, seconded Councilwoman Loeza, with all present voting "Aye", Council unanimously approved James Walker, June Strambler, Nancy Hughes, Margie Edwards, and Lila Lloyd to the Library Board.

Board of Adjustment: On a motion by Councilwoman Barbree, seconded Councilman McDonald, with all present voting "Aye", Council unanimously approved Raul Ramirez, Jim Pirrung, Sammy Moore, and Tim Closs to the Board of Adjustment Board.

Urban Renewal Board: On a motion by Councilman McDonald, seconded by Councilwoman Barbree, with all present voting "Aye", Council unanimously approved Annette Sanford, Ken Tyner, and Raul Ramirez to the Urban Renewal Board.

Beautification/Parks & Recreation: On a motion by Councilwoman Barbree, seconded by Councilman McDonald, with all present voting "Aye", Council unanimously approved Guadalupe Gonzalez, Margaret L. McMahan, Michael Dohle, and Michelle Backman to the Beautification/Parks & Recreation Board.

Economic Development: On a motion by Councilwoman Barbree, seconded Councilman McDonald, with all present voting "Aye", Council unanimously approved Trent D. Allen, Mark Friundenberg, Jason Travis, and Roy Yates to the Economic Development Corporation.

Charter Review: On a motion by Councilman Bolton, seconded by Councilman McDonald, with all present voting 4 to 1, Council approved Nino Herrera, Daniela Ramirez, Ruben Cuellar, Beatrice Gonzalez and Eric Hayes to the Charter Review Board. Mayor Norma Garcia opposed.

Senior Citizen: On a motion by Councilman McDonald, seconded by Councilman Bolton, with all present voting "Aye" Council unanimously approved Ona Johnson, Sammy T. Moore, Martha Westbrook, and Shirley Theriot to the Senior Citizens Board.

Consideration of approving the Planning Commission recommendation to erect stop signs on 4th and Dixie and 8th and Dixie.

On a motion by Councilwoman Barbree, seconded by Councilwoman Loeza, with all present voting "Aye", Council unanimously approved to erect stop signs on 4th and Dixie and 8th and Dixie.

Mayor Norma Moreno Garcia closed the Formal Session and opened the Executive Session at 6:30 p.m.

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:

- Praxair

Adjourn

On a motion by Councilman McDonald , seconded by Councilwoman Barbree, with all present voting "Aye", Mayor Norma M. Garcia adjourned the meeting at 6:50 p.m.

Mayor Norma Moreno Garcia
City of Freeport, Texas

Delia Munoz - City Secretary
City of Freeport, Texas

NOTICE OF PUBLIC BUDGET HEARING

BE IT KNOWN that on Wednesday, September 9, 2015, beginning at 6:00 o'clock, p.m., the City Council of the City of Freeport, Texas, will conduct a PUBLIC HEARING at the Police Department Municipal Courtroom of the City of Freeport, Texas, located therein at 430 North Brazosport Boulevard, on the PROPOSED BUDGET of the City for the FISCAL YEAR 2015-2016, which may be EXAMINED on request at the Office of the City Manager, 200 West Second Street, Freeport, Texas 77541, during normal business hours. WRITTEN COMMENTS concerning the budget must be mailed to arrive at or be delivered in person to the office of the City Manager at such last mentioned address prior to 5:00 p.m. on the day of such hearing. VERBAL COMMENTS will be accepted at the time of the hearing.

THIS BUDGET WILL RAISE MORE TOTAL PROPERTY TAXES THAN LAST YEAR'S BUDGET BY \$309,735, OR 13.52%, AND OF THAT AMOUNT, \$231,207 IS TAX REVENUE TO BE RAISED FROM NEW PROPERTY ADDED TO THE TAX ROLL THIS YEAR.

Delia Muñoz, City Secretary
City of Freeport, Texas

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; MAKING FINDINGS OF FACT; ADOPTING A BUDGET FOR THE FISCAL YEAR 2015-2016 FOR THE CITY; PROVIDING FOR THE FILING THEREOF; 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, Article 9 of the Home Rule Charter of the City requires the adoption of an annual budget; 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, 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,

WHEREAS, under Section 102.006(a) and (b) of the Local Government Code and Chapter 9 of said Charter, the governing body of the municipality is required to conduct a public hearing on such proposed annual budget; and

WHEREAS, under Section 102.006(c) of the Local Government Code and Chapter 9 of said Charter, public notice of the date, time and location of such hearing must be given, under Section 102.0065(c) and Section 102.011 of said Code the provisions of said Charter control as to the method of giving such notice and under Chapter 9 of said Charter said notice must be published at least 15 days before the date of such hearing in the official newspaper of the City; and,

WHEREAS, under Section 102.006(b) of the Local Government Code, the public hearing on the proposed annual budget must be held before the date the governing body makes its tax levy for the fiscal year covered by such budget, under Section 102.007(c) of said Code and Chapter 9 of said Charter, at the conclusion of such hearing, the governing body must take action on such proposed annual budget and under Section 102.009(a) of said Code and Chapter 9 of said Charter, the governing body of the City may levy taxes only in accordance with such budget.

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

SECTION ONE (1) - Findings of Fact

In connection with the adoption of the 2015-2016 ANNUAL BUDGET, the City Council hereby makes the following findings:

(1) The proposed budget for the City's Fiscal Year 2015-2016, a copy of which is attached hereto as Exhibit "A", is the result of several workshop meetings, each of which were conducted in accordance with and notice of each of which was given in the manner required by the Texas Open Meetings Act, now codified as Chapter 551 of the Government Code.

(2) On the 20th day of July, 2015, the City Manager filed with the City Secretary the original of such proposed annual budget.

(3) A public hearing on such proposed budget was held on the 9th day of September, 2015, beginning at 6:15 p.m., in the Municipal Courtroom of the Police and Courts Building of the City of Freeport, Texas, located therein at 430 Brazosport Boulevard, and prior to the adoption of this ordinance.

(4) Notice of such hearing was published in the Brazosport Facts, the official newspaper of the City, on the 24th day of August, 2015.

(5) This ordinance is being adopted at the conclusion of such hearing and on the same date as the date on which such hearing was held.

(6) The contingent appropriations in such budget do not exceed three percent (3%) of the total budget appropriations.

(7) The estimated expenditures of the General Fund and Debt Service Fund stated in such budget do not exceed total estimated resources of each fund.

SECTION TWO (2) - Proposed Annual Budget Adopted; Appropriations

The PROPOSED ANNUAL BUDGET for the City's FISCAL YEAR 2015-2016, in its complete form, as heretofore filed with the City Secretary, and with any changes thereto made following such workshop meetings and the public hearing mentioned above, attached hereto and made a part hereof as Exhibit A, is hereby ADOPTED; and the several amounts set forth therein as proposed expenditures are hereby APPROPRIATED to and for the objects and purposes therein specified.

THIS BUDGET WILL RAISE MORE TOTAL PROPERTY TAXES THAN LAST YEAR'S BUDGET BY \$309,735, OR 13.52%, AND OF THAT AMOUNT, \$231,207 IS TAX REVENUE TO BE RAISED FROM NEW PROPERTY ADDED TO THE TAX ROLL THIS YEAR.

SECTION THREE (3) - Filing of Copies

A copy of this ordinance and of the attached complete copy of such budget, attached hereto as Exhibit A, shall be filed with the City Secretary of the City of Freeport, Texas and shall be maintained with the official records of the City. Certified copies thereof shall be filed by the City Secretary with the County Clerk of Brazoria County, Texas and the office of the State Comptroller of Public Accounts for the State of Texas.

SECTION FOUR (4) - 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 remaining sections and provisions of this ordinance and such remaining sections and provisions shall remain in full force and effect.

SECTION FIVE (5) - Effective Dates

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, 2015, and ending September 30, 2016.

PASSED AND ADOPTED this ____ day of _____, 2015.

Norma Moreno Garcia, Mayor
City of Freeport, Texas

ATTEST:

Delia Muñoz, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

Wallace Shaw, City Attorney,
City of Freeport, Texas

A RESOLUTION OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; CONTAINING DEFINITIONS; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; DECLARING THAT THE OPERATION WITHIN SAID CITY OF A NON-REGULATED NIGHT CLUB AT 127 WEST SECOND STREET DURING ANY PERIOD OF TIME BEGINNING AT 2:00 A.M. AND ENDING AT 7:00 A.M. ON THE SAME DAY WOULD CREATE A PUBLIC NUISANCE; AND DECLARING A MORATORIUM ON THE ISSUANCE OF CERTIFICATES OF OCCUPANCY AND OTHER PERMITS FOR SUCH USE AT SUCH LOCATION, OR ELSEWHERE WITHIN THE CITY, THAT DO NOT EXCLUDE OPERATION AS A NON-REGULATED NIGHT CLUB DURING ANY PERIOD OF TIME BEGINNING AT 2:00 A.M. AND ENDING AT 7:00 A.M. ON THE SAME DAY; AND PROHIBITING SUCH USE DURING ANY PERIOD OF TIME BETWEEN 2:00 A.M. AND 7:00 A.M. ON THE SAME DAY AT SUCH LOCATION OR ELSEWHERE WITHIN SAID CITY, PENDING CONSIDERATION AND ADOPTION OF AN APPROPRIATE AMENDMENT TO THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY TO REMEDIATE SUCH NUISANCE; DIRECTING THE BUILDING OFFICIAL OF THE CITY TO REFRAIN FROM ISSUING ANY SUCH CERTIFICATES OR PERMITS THAT DO NOT EXCLUDE OPERATION AS A NON-REGULATED NIGHT CLUB DURING ANY PERIOD OF TIME BEGINNING AT 2:00 A.M. AND ENDING AT 7:00 A.M. ON THE SAME DAY UNTIL FURTHER ORDERS OF THE CITY COUNCIL; DIRECTING THE PLANNING COMMISSION OF THE CITY TO STUDY AND REPORT TO THE CITY COUNCIL ITS RECOMMENDATION REGARDING SUCH AMENDMENT OF THE ZONING ORDINANCE; CONTAINING A SEVERANCE CLAUSE; PROVIDING THAT THIS RESOLUTION SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE AND ADOPTION; PROVIDING THAT THE ORIGINAL OF THIS RESOLUTION SHALL BE MAINTAINED BY THE CITY SECRETARY IN THE PERMANENT RECORDS OF SAID CITY; AND DIRECTING THE CITY SECRETARY TO CAUSE A COPY OF THE CAPTION TO THIS RESOLUTION TO BE PUBLISHED TWICE IN THE BRAZOSPORT FACTS.

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 Texas Constitution and Section 1.005 of the Local Government Code, respectively; and,

WHEREAS, Sections 51.072, 54.001, 54.004 and Chapters 211, 214 and 217 of the Local Government Code and Sections 2.01, 2.02, Items (g) and (u) of Section 3.07 and Section 8.03 of the Home Rule Charter of the City authorize the City Council thereof to adopt the provisions of this Resolution; and,

WHEREAS, the City Council of the City has determined and does here now declare that the adoption of this resolution is necessary to the health, safety and general welfare of its inhabitants and persons sojourning with the City during the hours mentioned above.

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

First, as used in this resolution, the following phrase shall have the following meaning:

NON-REGULATED NIGHT CLUB. A Night Club that sponsors or permits any event or activity involving alcohol which is not regulated by the Texas Alcoholic Beverage Commission between the hours of 2:00 a.m. and 7:00 a.m. on the same day if such club has or is required by the Code of Ordinances of the City to have any of the following: (1) a sound amplification permit, (2) a dance hall permit, or (3) a coin-operated machine on which a tax is required to be paid.

Second, the City Council of the City (the City Council) makes the following findings of fact and conclusions of law:

(1) The City Council is expressly authorized to determine, declare and abate nuisances and to prevent disorderly conduct within the City by Sections 2.01, 2.02, Items (g) and (u) of Section 3.07 and Section 8.03 of its Home Rule Charter and pursuant to Chapter 217 of the Texas Local Government Code.

(2) The City Council finds that the Texas Alcoholic Beverage Commission does not regulate the consumption of alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m. on the same day on any premises for which a license or permit has not been issued by such commission for the sale or consumption of alcoholic beverages on such premises during other hours of such day.

(3) The City Council finds that a Non-Regulated Night Club, as defined above, is being operated on the premises located within the City at 127 West Second Street between the hours of 12:00 a.m. and 2:00 a.m. on the same day and would like to extend its hours of operation from 2:00 a.m. to 4:00 a.m. on the same day.

(4) The City Council finds that such Club does not have a license or permit issued by the Texas Alcoholic Beverage Commission to sell or permit the consumption of alcoholic beverages on the premises located within the City at 127 West Second Street during any portion of the day for which a license or permit may be obtained.

(5) The City Council finds that officers of the City's Police Department have been called to answer disturbance calls at or near such location numerous times during the current year between the hours of 2:00 a.m. and 7:00 a.m. of the same day, some of which involved various forms of disorderly conduct, which creates a public nuisance, which is caused or worsened by the availability of alcohol.

(6) The concern over such disorderly conduct within the City is a legitimate health and safety issue which demands reasonable regulation of Non-Regulated Night Clubs, as defined above, within the City at any time between the hours of 2:00 a.m. and 7:00 a.m. on the same day in order to remediate such nuisance, maintain public peace and order and protect the health and well-being of inhabitants of and persons sojourning within the City.

(7) Because the operation of a Non-Regulated Night Club at 127 West Second Street between the hours of 12:00 a.m. and 2:00 a.m. on the same day has resulted in or worsened various forms of disorderly conduct at or near such location, a public nuisance has been created.

(8) The amendment of the City's zoning ordinance to prohibit the use of any land within the City for the operation of a Non-Regulated Night Club at any time between the hours of 2:00 a.m. and 7:00 a.m. on the same day, when the consumption of alcohol is not regulated by the Texas Alcoholic Beverage Commission, is a legitimate and reasonable means of remediating the nuisance created or that could be worsened by the consumption of alcohol within the City during such hours at or near such location or any other location within the City.

(9) The City Council does not intend to suppress speech or other activities protected by the First Amendment, but to enact an ordinance prohibiting the consumption of alcohol at Non-Regulated Night Clubs, as defined above, during the time of day when the consumption of alcohol is not allowed at businesses having a license or permit from the Texas Alcoholic Beverage Commission.

(10) The City Council finds that the Planning Commission of the City should be requested to begin consideration of an amendment to the Comprehensive Zoning Ordinance of the City which would prohibit the use of any land or building within the City for the operation of a Non-Regulated Night Club, as defined above, at any time between during the hours of 2:00 a.m. and 7:00 a.m. on the same day.

(11) The City Council finds that the process described in Item (10) above has not yet begun and to begin such process and complete the amending of the Comprehensive Zoning Ordinance of the City will take approximately sixty (60) days.

(12) Because of the publicity that has been given to the process described in Item (10) above, the Non-Regulated Night Club now operating within the City at 127 West Second Street city may continue or begin and ~~that club or~~ other such clubs may begin operating at other locations within the City during hours of 2:00 a.m. and 7:00 a.m. before such process is completed.

Third, a moratorium on the issuance of certificates of occupancy and other certificates or permits by the City for the development or use of any land within the city, including but not limited to the land located at 127 West Second Street, as the location for a Non-Regulated Night Club, as defined above, at any time during the period beginning at 2:00 a.m. and ending at 7:00 a.m. is hereby declared.

Fourth, the Building Official and other officers or employees of the City are hereby instructed to refrain from issuing any certificates of occupancy or other certificates or permits for the development or use of the land located at 127 West Second Street, or any other land within the City, as a location for a Non-Regulated Night Club, at any time during the period beginning at 2:00 a.m. and ending at 7:00 am. on the same day and any such use is hereby prohibited until further orders of the City Council.

Fifth, the Planning Commission of the City is hereby directed to immediately begin and complete its study and, if deemed appropriate, request the calling of a joint public hearing by the City Council and the Planning Commission, so that such commission may make a report and recommendation concerning the amendment of the Comprehensive Zoning Ordinance to prohibit the use of any land with the city as a location for the operation during such time of a Non-Regulated Night Club.

SIXTH, in the event any section or provision of this resolution is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining sections and provisions hereof and such remaining sections and provisions shall remain in full force and effect.

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

Eighth, the original of this resolution, after execution and attestation, shall be maintained by the City Secretary in the permanent records of the City and certified copies delivered to the Building Official and the Chairman of the Planning Commission of the City.

Ninth, the City Secretary is hereby directed to cause the descriptive caption of this resolution to be published twice in the Brazosport Facts, the official newspaper the City.

READ, PASSED AND ADOPTED this _____ day of _____, 2015.

Norma Moreno Garcia, Mayor,
City of Freeport, Texas

ATTEST:

Delia Muñoz, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

Wallace Shaw, City Attorney,
City of Freeport, Texas

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Fraternal Order Eagles # 3111
6818 Hwy. 332 E.
Freeport, TX 77541
979-239-2582

To: Freeport City Council

RE: Fraternal Order Eagles # 3111 Annual Turkey Shoot

Dear Freeport City Council;

The Fraternity of Eagles Aerie # 3111 would like to request to be placed on the next City Council meeting to discuss our Annual Turkey Shoot. We would like to be allowed to conduct the shoot every Sunday from Noon to 4:00 p.m. beginning October 18, 2015 and ending December 20, 2015.

Proceeds will be for Christmas Baskets for the Brazosport Area.

Sincerely Yours,

Archie Joss
Worthy President
Fraternal Order Eagles # 3111



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

September 4, 2015

Re: Demolition Approval

Dear Honorable Mayor Garcia,

In the last few months, I have been overseeing the Building and Code Enforcement Department. During which, I was informed that three buildings in the community were approved for demolition. In preparing the documentation for demolition under the Standard Unsafe Building Abatement Code, we did not have the final approval for two city own buildings.

Property Location: 411 South Ave F
1026 West 4th

In order to proceed forward with demolition, we need you to sign an order that the buildings above failed to meet standards set forth in the Standard Unsafe Building Abatement Code. The approval will meet the requirements for demolition.

If you have any question please call me, 979-236-4910.

Sincerely

Christopher D. Motley

INVITATION TO BID

NOTICE IS HEREBY GIVEN that the City of Freeport, Texas, is interested in trading, according to the Specifications mentioned below, the following described lots now owned by the City:

Lots 9 through 12 and 15, Block 35; Lot 2, Block 71; Lot 6, Block 507; Lots 1 through 24, Block 661; Lots 14 and 15, Block 676; Lots 5, 11 and 12, Block 720; Lots 13, 16, 19, 22, 24 and 24A, Block 752; Lot 11, Block 755; Lots 18 and 19, Block 764; Lot 3, Block 789; Lots 14, 15, 19 and 21, Block 790; Lots 13 and 24, Block 809; Lots 2, 3, 4, 5, 7, 9, 10, 11 and 12, Block 810 of the Velasco Townsite according to the map or plat recorded in Volume 32, page 14 of the Deed Records of Brazoria County, Texas,

for lots located within Blocks 716, 729, 730, 731, 742, 743, 760 or 773 of said townsite not presently owned by the City.

SEALED BIDS OR PROPOSALS addressed to the City Manager labeled "Real Property Bid" by any person, firm or corporation desiring to trade all of the lots owned by that person, firm or corporation in the above mentioned blocks for all of the City's lots listed above will be received at the office of the City Manager located at 200 W. 2nd St., Freeport, Brazoria County, Texas 77541, during normal business hours until 2:00 o'clock, p.m., on the 17th day of August, 2015, on which day, beginning at 2:00 o'clock, p.m., all such bids or proposals will be opened and publicly read aloud. Any bid received after 2:00 p.m. on such date will be returned unopened. Bids proposing a trade for less than all of the above described lots for located outside of Project will not be accepted.

COPIES OF THE SPECIFICATIONS for such trade are available for public inspection at the above office of the City Manager during normal business hours. A set of such documents may be obtained from such office upon payment of the customary copy charge.

The City RESERVES the right to REJECT ANY AND ALL BIDS, to WAIVE any INFORMALITIES in bidding and, in the case of any AMBIGUITY OR LACK OF CLEARNESS, the City reserves the right to construe the same in a manner most advantageous to the City, or to reject the bid.

BY ORDER OF THE CITY COUNCIL of the City of Freeport, Texas, this
20th day of July, 2015.

Delia Munoz, City Secretary
City of Freeport, Texas

NOTE: Publish once per week for two consecutive weeks, first publication to be more than 15 days before date of meeting at which bids are to be opened and read aloud.

Jordan Family Lots

INVITATION TO BID

BLOCK NO.	LOT NO.	ACCOUNT NO.
716	24	8110-3088-000
729	11,16	8110-3226-000
729	15	8110-3237-000
729	17	8110-3239-000
729	19	8110-3241-000
730	9	8110-3256-000
731	1-2-7-18	8110-3273-000
731	21	8110-3290-000
731	23	8110-3292-000
731	24	8110-3293-000
742	17,19	8110-3375-000
743	7,14	8110-3389-000
760	4,5,9,12,23	8110-3620-000
760	6,8,10,13,14,15,17	8110-3622-000
760	19	8110-3632-000
773	3,12,12A	8110-3748-000
773	9	8110-3753-000
773	16	8110-3762-000

NOTICE IS HEREBY GIVEN that the City of Freeport, Texas, is interested in trading, according to the Specifications mentioned below, the following described lots now owned by the City:

Lots 9 through 12 and 15, Block 35; Lot 2, Block 71; Lot 6, Block 507; Lots 1 through 24, Block 661; Lots 14 and 15, Block 676; Lots 5, 11 and 12 Block 720; Lots 13, 16, 19, 22, 24 and 24A, Block 752; Lot 11, Block 755; Lots 18 and 19, Block 764; Lot 3, Block 789; Lots 14, 15, 19 and 21, Block 790; Lots 13 and 24, Block 809; Lots 2, 3, 4, 5, 7, 9, 10, 11 and 12, Block 810 of the Velasco Townsite according to the map or plat recorded in Volume 32, page 14 of the Deed Records of Brazoria County, Texas,

for an equal number of lots located within Blocks 716, 729, 730, 731, 742, 743, 760, or 773 of said Townsite not presently owned by the City.

SEALED BIDS OR PROPOSALS addressed to the City Manager labeled "Real Property Bid" by any person, firm or corporation desiring to trade all of the owned by that person, firm or corporation in the above mentioned blocks for all of the City's lots listed above will be received at the office of the City Manager located at 200 W. 2nd St., Freeport, Brazoria County, Texas 77541, during normal business hours until 2:00 o'clock, p.m., on the 17th day of August, 2015, on which day, beginning at 2:00 o'clock, p.m., all such bids or proposals will be opened and publicly read aloud. Any bid received after 2:00 p.m. on such date will be returned unopened. Bids proposing a trade for less than all of the above described lots for located outside of Project will not be accepted.

COPIES OF THE SPECIFICATIONS for such trade are available for public inspection at the above office of the City Manager during normal business hours. A set of such documents may be obtained from such office upon payment of the customary copy charge.

The City RESERVES the right to REJECT ANY AND ALL BIDS, to WAIVE any INFORMALITIES in bidding and, in the case of any AMBIGUITY OR LACK OF CLARITY, the City reserves the right to construe the same in a manner most advantageous to the City, or to reject the bid.

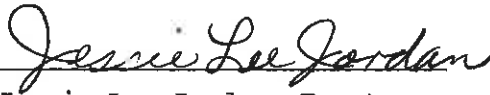
BY ORDER OF THE CITY COUNCIL of the City of Freeport, Texas, this 20th day of July, 2015.

Delia Munoz, City Secretary
City of Freeport, Texas

This bid is submitted according to the invitation to bid as appeared in The Facts, a copy shown above.

The Jordan Family Trust proposes to exchange the list of lots shown above for the lots advertised and offered by the City of Freeport.

8/15/2015
Date


Jessie Lee Jordan, Trustee
of The Jordan Family Trust

24-15
/

September 8, 2015 Boat Ramp and Pier @ 2:00 p.m.

Present: Gilbert Arispe
Delia Munoz
Roger Lackey

2 bids opened:

- Salt Water Salvage \$163, 000. 00
- J & S Contractors \$174, 393.00

By Delia Munoz



Finger Piers for Second Street Park

To: City of Freeport

Date: September 7, 2015

S W S Services does hereby submit this proposal for:

Construction of Finger Piers (3) for boat ramp at Second Street Park consisting of treated lumber, galvanized hardware, and cleats. New construction shall consist of eight inch by eight inch treated pilings with cement filled plastic jackets to reduce decay.

In the lump sum of:

Eighteen thousand DOLLARS

(\$ 18,000.00)

THIS PRICE WILL INCLUDE LABOR & MATERIAL

Submitted by:

Company Name: SWS Services
Address: 810 CR 366
Freeport, TX 77541

Telephone No. (979) 233-1797

FAX No. (979) 373-9855



T Pier for Second Street Park

To: City of Freeport

Date: September 7, 2015

S W S Services does hereby submit this proposal for:

Construction of new T Pier of same dimensions as existing condemned pier, using treated lumber, galvanized hardware, and four twelve-inch cleats, along the front river-facing side. New construction shall consist of eight inch by eight inch treated pilings with cement filled plastic jackets to reduce decay.

In the lump sum of:

Forty-four thousand DOLLARS

(\$ 44,000.00)

THIS PRICE WILL INCLUDE LABOR & MATERIAL

Submitted by:

Company Name: SWS Services
Address: 810 CR 366
Freeport, TX 77541

Telephone No. (979) 233-1797

FAX No. (979) 373-9855



East Boat Ramp Repair for Second Street Park

To: City of Freeport

Date: September 7, 2015

S W S Services does hereby submit this proposal to:

Remove existing Ramp and

Reconstruct new boat ramp consisting of concrete retaining wall in erosion zone. This proposal is to include formation of new boat ramp surface with twenty foot concrete sidewalk.

In the lump sum of:

One hundred one thousand DOLLARS

(\$ 101,000.00)

THIS PRICE WILL INCLUDE LABOR & MATERIAL

Submitted by:

Company Name: SWS Services
Address: 810 CR 366
Freeport, TX 77541

Telephone No. (979) 233-1797

FAX No. (979) 373-9855



Reconstruction of Docks and Boat Ramp for Second Street Park

To: City of Freeport

Date: September 7, 2015

S W S Services does hereby submit this proposal to:

Reconstruct damaged boat ramp and finger piers (3) and T pier at Second Street Park.

In the lump sum of:

One Hundred Sixty-three thousand DOLLARS

(\$ 163,000.00)

THIS PRICE WILL INCLUDE LABOR & MATERIAL

Submitted by:

Company Name: SWS Services
Address: 810 CR 366
Freeport, TX 77541

Telephone No. (979) 233-1797
FAX No. (979) 373-9855

City of Freeport; Bid for Boat Ramp and Piers, J&S Contractors Inc., 8 Sept 2015

J&S Contractors Inc. hereby submits a bid for the construction of seven sections of pier, one concrete erosion barrier and one boat ramp as per Exhibit "A" page 1-2 as furnished by the City of Freeport all subject to the following notes. Notes are keyed to the attached Exhibit "A" page 2, pier sections are numbered 1-7 inclusive, pier sections are replacements for existing pier sections erosion barrier and boat ramp are noted as such.

All work, items, and materials as described in Exhibit "A" page 1, except as noted *, are included in the bid.

Piling will be 10" butt diameter *, not 8"x8", 2.5 CCA treated, maximum length 25', lengths will vary from 12-25' maximum. Plastic pipe will extend from the mud line to approx. 12" above normal high tide, space allowed for pier framing, the void between the pipe and piling will be filled with "Sackreet". If considered for award we would like to discuss the use of "Poly Coated" piling.

All lumber and piling except decking, handrails and benches subject to salt water splash or immersion will be treated, 2.5 CCA . Decking will be treated; .23MCA, handrails and benches will be treated with ACQ.

Existing piling will be removed as required to allow construction of new piers, new piers may be shifted slightly to avoid existing pile stubs, pile location may vary but not exceed 10' center to center to avoid existing pile stubs. As a minimum the existing piling will be removed to the existing mudline.

NOTES:

1. This pier section is a deck built over an existing bulkhead; no work is to be done to the actual bulkhead, only the deck section 53"x29' above the bulkhead will be removed and replaced.
2. This is a pile supported pier, 48"x60', existing to be removed and replaced with a new pier complete with new piling. 3x8" batter boards on front and sides. 4 cleats installed
3. This is a pile supported pier, 81"x60', existing to be removed and replaced with a new pier complete with new piling. 3x8" batter boards on front and sides. 4 cleats installed
4. This is a pile supported pier, 46"x60', existing pier to removed, the inshore approximately 33' of this will be replaced with a concrete section, offshore 27' will be a pile supported wooden pier. 3x8" batter boards on front and sides. 4 cleats installed
5. This pier section is a deck built over an existing bulkhead, no work is to be done to the actual bulkhead, only the deck section 55"x42.5' above the bulkhead will be removed and replaced.
6. This is a pile supported pier, 50"x48', existing to be removed and replaced with a new pier complete with new piling and handrails.
7. This a pile supported pier, 63"x48.5', existing pier to be removed and replaced with a new pier complete with new piling, handrails across shore side, 2 benches and 3x8" batter boards across front. 4 cleats and 8 PVC rod holders installed.

Concrete erosion barrier, to extend between the new and existing boat ramp from the approx. low tide line approx. ^{20' FRS} 6' up the bank, approximately 6.75' x ^{20' FRS} 6" x 8" thick maximum with rebar similar to ramp.

Ramp, 15' x 60' x 6" thick with epoxy coated rebar, At contractors option below water portion may be precast on the bank and placed on driven piling in place of compacted fill. Fill as required may be clay, sand, stabilized sand, crushed concrete and or limestone. Compaction will be only as site conditions allow, base will be adequate in the contractors' opinion to support the ramp.

During all phases of construction the boat ramp and pier area with a portion of the parking lot will be closed to the public, City of Freeport will assist in the closure of this area.

All permits required by this work from the State of Texas and the Federal Government will be provided by the City of Freeport.

Cost of required insurance and performance / payment bond is included in price

Price

\$ 174,393⁰⁰

One Hundred & Seventy Four Thousand
Three Hundred & Ninety Three

J&S Contractors Inc.

PO Box 4003





Brazoria, Texas 77422



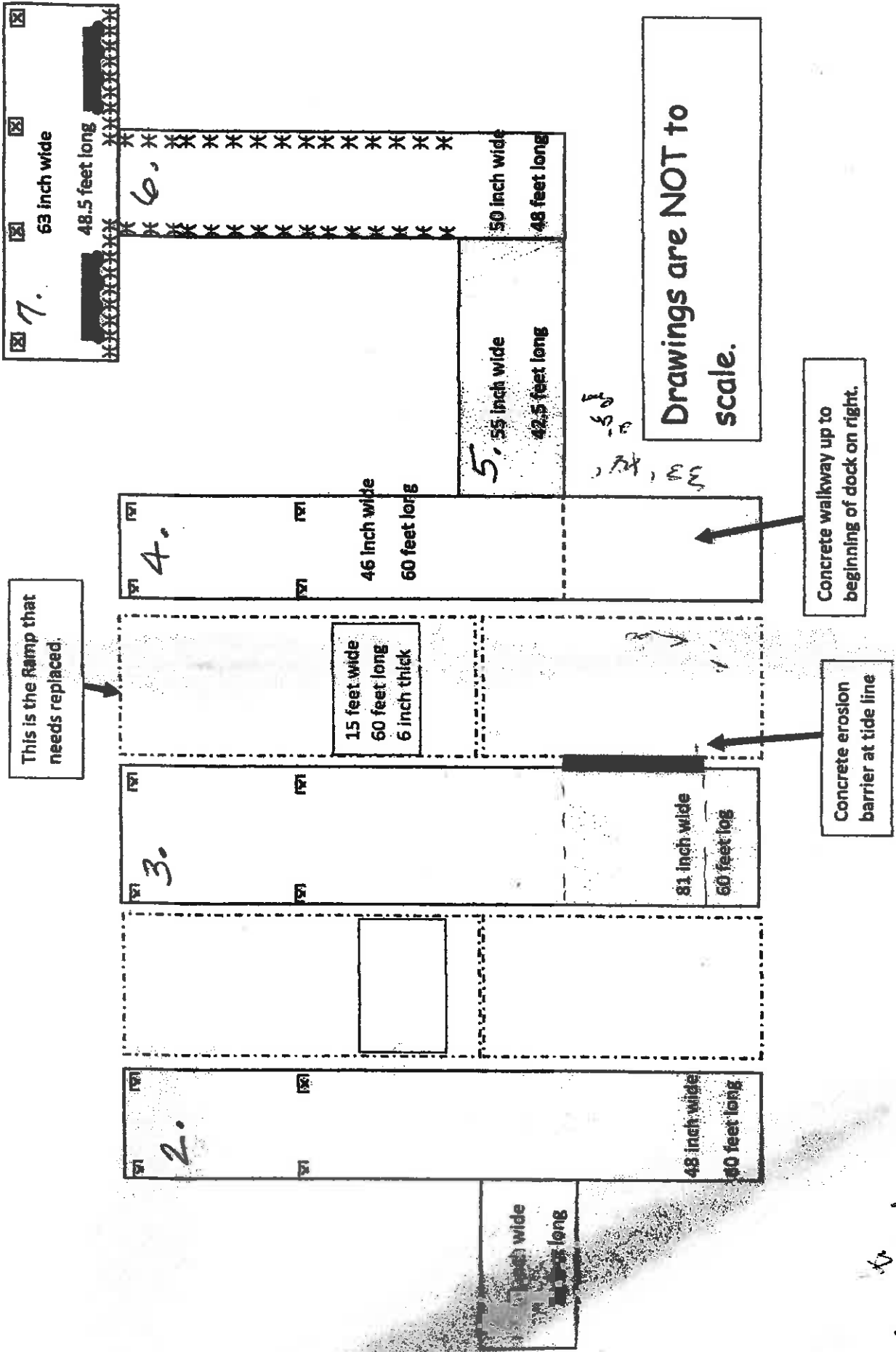
F. Scott Glick vice pres.

Second Street Boat Ramp and Piers

Construction shall consist of:

- Handrails along "T" Pier ~~XXXX~~
- 10 inch galvanized cleats
- 8 inch by 8 inch treated poles minimum and cement or grout filled plastic jackets on 10 foot centers
- 2 benches 12 feet long 
- 8 rod holders 2 inch by 2 feet long PVC 
- Runners 2 inch by 8 inch minimum
- Decked with 2 inch by 8 inch minimum 
- Concrete erosion barrier at tide line 
- Stainless screws/nails for decking
- Epoxy coated 5/8 inch on 16 inch centers or 1/2 inch on 12 inch centers
- Galvanized hardware minimum 1/2 inch
- 3 inch by 8 inch stringers/batter boards along finger piers and front of "T" Pier to keep boats from going underneath piers/docks
- Existing concrete boat ramp and docks must be removed and disposed of.
- Fill and compact base of ramp prior to framing.

Second Street Boat Ramp and Piers



This is the Ramp that needs replaced.

Drawings are NOT to scale.

Concrete walkway up to beginning of dock on right.

Concrete erosion barrier at tide line

Handwritten note: Area of ramp to be replaced

**AGREEMENT FOR
OPERATIONS, MAINTENANCE AND MANAGEMENT SERVICES**

THIS AGREEMENT is entered into this ____ day of _____ 2015, by and between:

The City of Freeport, Texas, with its principal address at 200 West Second Street, Freeport, Texas 77541 (hereinafter "FREEPORT")

and

Veolia Water North America-Central, LLC, with its principal address at 184 Shuman Blvd., Suite 450, Naperville, Illinois 60563 (hereinafter "VEOLIA").

WHEREAS, Freeport owns:

- A 2.25 MGD wastewater treatment plant entitled the Brazos River Diversion Canal Wastewater Treatment Plant (the "Central WWTP");
- A 0.03 MGD wastewater treatment plant entitled the Slaughter Road Treatment Plant (the "Slaughter Road WWTP");
- A corresponding collection system;
- A series of 31 wastewater lift stations listed in Appendix B;
- Three (3) operational water wells; and
- A potable water distribution system including meters, pump stations and storage tanks.

(collectively the wastewater systems and water system are referred to as the "Project").

WHEREAS, FREEPORT and Professional Services Group, Inc. ("PSG"), VEOLIA's affiliate, are parties to an Agreement for Operations, Maintenance and Management Services dated March 21, 1995 as amended by Amendment One to the Agreement for Operation, Maintenance and Management Services dated March 13, 2000, as amended by Amendment Two to the Agreement for Operation, Maintenance and Management Services dated April 1, 2015 (together referred to as "Existing Agreement") for the operations maintenance and management services;

WHEREAS, the Existing Agreement expires on September 30, 2015 and PSG and FREEPORT desire to terminate the Existing Agreement; and

WHEREAS, the VEOLIA and FREEPORT desire to enter into this Agreement to commence on October 1, 2015 to replace the Existing Agreement between PSG and FREEPORT.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, FREEPORT, PSG and VEOLIA agree as follows:

1. General

- 1.1 Definitions of words and phrases used in this Agreement and the attachments are contained in Appendix A.
- 1.2 All land, buildings, facilities, easements, licenses, rights-of-way, equipment and vehicles presently or hereinafter acquired or owned by FREEPORT shall remain the exclusive property of FREEPORT unless specifically provided for otherwise in this Agreement.
- 1.3 This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas.
- 1.4 This Agreement shall be binding upon the successors and assigns of each of the parties, but neither party shall assign this Agreement without the prior written consent of the other party. Consent shall not be unreasonably withheld.
- 1.5 All notices shall be in writing and transmitted to the party's address stated above. All notices shall be deemed given when delivered, if delivered personally or by courier mail service, i.e., Federal Express or Airborne Express, delivered after such notice has been deposited in the United States mail postage prepaid, if mailed certified or registered U.S. mail, return receipt requested; or received by the party for which notice is intended if given in any other manner.
- 1.6 This Agreement, including Appendices A through E, is the entire Agreement between the parties. This Agreement may be modified only by written agreement signed by both parties. Wherever used, the terms "VEOLIA" and "FREEPORT" shall include the party's respective officers, agents, directors, elected or appointed officials and employees and, where appropriate, subcontractors or anyone under the party's control acting on its behalf.
- 1.7 If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.
- 1.8 It is understood that the relationship of VEOLIA to FREEPORT is that of independent contractor. The services provided under this Agreement are of a professional nature and shall be performed in accordance with good and accepted

industry practices for contract operators similarly situated. However, such services shall not be considered engineering services and nothing herein is intended to imply that VEOLIA is to supply professional engineering services to FREEPORT unless specifically stated in this Agreement to the contrary.

- 1.9 If any litigation is necessary to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees which are directly attributed to such litigation in addition to any other relief to which it may be entitled.
- 1.10 Nothing in this Agreement shall be construed to create in any third party or in favor of any third party any right(s), license(s), power(s) or privilege(s).
- 1.11 Prior to the commencement of work under this Agreement, each party shall designate in writing an employee or other representative of the designating party who shall have full authority to approve changes in the Scope of Work and compensation therefore, execute written Change Orders reflecting such changes, render decisions promptly, and furnish information expeditiously to the other party when necessary.
- 1.12 This Agreement shall be interpreted in accordance with its plain meaning and not strictly for or against either party hereto.

2. VEOLIA's Services – General

- 2.1. VEOLIA shall provide a sufficient number of certified and qualified personnel, including management, administrative, operational, technical, laboratory and clerical, who meet relevant State of Texas requirements and certifications regarding wastewater treatment operations, maintenance and management and are capable and demonstrate experience necessary to operate the facilities covered by this Agreement.
- 2.2. VEOLIA shall provide ongoing training and education for appropriate personnel in all necessary areas of modern wastewater process control, maintenance, safety, and supervisory skills.
- 2.3. VEOLIA shall develop and/or supply and utilize computerized programs for maintenance, process control and laboratory Quality Assurance/Quality Control. Such programs shall be capable of readily providing historical data and trends.
- 2.4. Within fifteen (15) days after VEOLIA begins service under this Agreement, VEOLIA will provide a physical inventory of FREEPORT's vehicles (if any) and equipment in use at the Project and a general statement as to the condition of each vehicle or piece of equipment.

- 2.5. VEOLIA will provide FREEPORT with a physical inventory of chemicals and other consumables on hand when VEOLIA begins services under this Agreement. VEOLIA will provide FREEPORT with the same quantity of chemicals or equivalent upon termination of this Agreement.
- 2.6. VEOLIA shall be responsible for maintaining all manufacturers' warranties on new equipment purchased by FREEPORT and assist FREEPORT in enforcing existing equipment warranties and guarantees.
- 2.7. VEOLIA shall provide FREEPORT with full documentation that preventive maintenance is being performed on FREEPORT's owned equipment in accordance with manufacturer's recommendations at intervals and in sufficient detail as may be determined by FREEPORT. Such a maintenance program must include documentation of corrective and preventive maintenance and a spare parts inventory.
- 2.8. VEOLIA shall operate, maintain and/or monitor the Project on a 24-hour per day, seven day per week schedule, but the facilities will only be staffed Monday through Friday for eight (8) hours a day.
- 2.9. Visits may be made at a reasonable time by FREEPORT's officers so designated by FREEPORT's representative. All visitors to the Project shall comply with VEOLIA's operating and safety procedures.
- 2.10. VEOLIA will implement and maintain an employee safety program in compliance with applicable laws, rules and regulations and make recommendations to FREEPORT regarding the need, if any, for FREEPORT to rehabilitate, expand or modify the Project to comply with governmental safety regulations applicable to VEOLIA's operations hereunder and federal regulations promulgated pursuant to the Americans With Disability Act ("ADA"). Nothing herein shall be construed to place upon VEOLIA a duty to find and report violations of either the safety laws or the ADA at the Facility.
- 2.11. VEOLIA may modify the process and/or facilities to achieve the objectives of this Agreement and charge the Costs to the Maintenance and Repair Limit; provided, however, no modification shall be without FREEPORT's prior written approval if the complete modification Cost shall be in excess of One Thousand Dollars (\$1,000).
- 2.12. In any emergency affecting the safety of persons or property, VEOLIA may act without written amendment or change order, at VEOLIA's discretion, to prevent threatened damage, injury or loss. VEOLIA shall be compensated by FREEPORT for any such emergency work notwithstanding the lack of a written amendment. Such compensation shall include VEOLIA's non-labor direct Costs for the emergency work. Nothing contained in this Section shall impose upon

VEOLIA a duty to perform any emergency work absent a change order and failure to perform any such emergency work shall not impose upon VEOLIA any liability for errors and omissions.

- 2.13. As required by law, permit or court order, VEOLIA will prepare plant performance reports and submit them to FREEPORT for signature and transmittal to appropriate authorities. These reports will include the quarterly reports and system evaluations identified in the Agreed Orders for the sewer system.
- 2.14. VEOLIA will provide laboratory testing and sampling presently required by plant performance portions of the permits listed in Appendix C, the Clean Water Act and/or any federal, state or local rules and regulations, statutes or ordinances, permit or license requirements or judicial and regulatory orders and decrees. VEOLIA shall additionally provide technical and analytical services to FREEPORT to assist FREEPORT in managing FREEPORT's Industrial Pretreatment Program including sampling, monitoring and preparation of the required reports.
- 2.15. VEOLIA will provide for the collection and hauling of solid waste, screenings, grit, sludge and scum ("Waste") to FREEPORT's existing or approved disposal sites. It shall be the sole right and responsibility of FREEPORT to designate, approve or select disposal sites to be used by VEOLIA for FREEPORT's waste materials. All Waste and/or byproduct treated and/or generated during VEOLIA's performance of services is and shall remain the sole and exclusive property of FREEPORT. All manifests or other documentation required for disposal of Waste shall be signed by or in the name of FREEPORT. Any change of disposal sites shall be the sole responsibility of Freeport to designate, approve or select landfill facilities to be used by VEOLIA for disposal of Freeport's waste materials. Any additional Cost to VEOLIA resulting from transportation or tipping fees shall be considered a Change in Scope and shall be passed-through directly to Freeport without mark-up by VEOLIA.
- 2.16. RESERVED.
- 2.17. RESERVED.
- 2.18. VEOLIA shall use commercially reasonable efforts consistent with the level of care and skill ordinarily exercised by other providers of such services operating under similar circumstances to control odors from the Facility so that no disruption of adjacent facilities occurs. VEOLIA, in conjunction with FREEPORT, shall develop a program that identifies procedures for certifying and documenting odor complaints, and shall establish procedures to address recurrent failures of the odor control program.
- 2.19. VEOLIA shall comply with the requirements of FREEPORT regarding affirmative action and provisions for minority hiring.

- 2.20. VEOLIA shall provide FREEPORT with a full accounting of all expenditures at intervals and in sufficient detail as may be determined by FREEPORT, and assist FREEPORT in the preparation of annual operating budgets.
 - 2.21. VEOLIA shall perform all Maintenance and Repairs for the treatment plants and lift stations, and submit a monthly accounting to Freeport, along with a detailed invoice, if Maintenance and Repair expenditures exceed the Maintenance and Repair Limit specified in Section 7.1.
3. VEOLIA's Scope of Services – Wastewater Treatment
 - 3.1 This Section shall apply to VEOLIA's OM&M services for FREEPORT's wastewater treatment system.
 - 3.2 Within the design capacity and capabilities of the wastewater treatment plant described in detail in Appendix B, VEOLIA will manage, operate and maintain the wastewater treatment plant designed to treat 2.25 million gallons a day so that effluent discharged from the Plant's outfalls meets the requirements specified in Appendix C-1. VEOLIA shall monitor all wastewater entering the Plant and treat all such wastewater in accordance with the terms of this Agreement and applicable law.
 - 3.3 Subject to the availability of funds within the Maintenance and Repair Limit, VEOLIA will perform all Maintenance and Repairs for the Wastewater portion of the Project, and submit a monthly accounting to FREEPORT, along with a detailed invoice, if Maintenance and Repair expenditures for the Project exceed the Maintenance and Repair Limit specified in Section 7.1.
 - 3.4 VEOLIA will pay all Costs incurred in normal Wastewater operations.
 4. VEOLIA's Scope of Services - Wastewater Collection System
 - 4.1 This Section shall apply to VEOLIA's maintenance and repair services for FREEPORT's wastewater collection system serving FREEPORT. The collection system is described in Appendix B. Any additional services or lines will constitute a change of scope. VEOLIA shall not be responsible for completing any new service connections unless FREEPORT agrees to pay for such service as a Change in Scope hereunder.
 - 4.2 VEOLIA shall provide modified support of the wastewater collection system by responding to callout situations where blockages require clearing and supervision of contractors retained to clean or repair broken lines.

- 4.3 Costs associated with the services described in this Section shall be charged to the Maintenance and Repair Limit specified in Section 7.1.
- 4.4 Sewer Back-Up Procedure. From and after the inception of the Term of this Agreement, VEOLIA shall establish (i) a routine, normal sewer line preventative maintenance program as described more fully in Appendix E, and (ii) corrective procedures to be implemented in the event of any personal injury or property damage resulting from a sewer back-up which will consist of the following:
- 4.4.1 Upon receipt of a citizen notice, VEOLIA will determine whether the cause of the sewer back-up was an obstruction in FREEPORT's lateral line or the citizen's house line;
- 4.4.2 If the obstruction is in FREEPORT's lateral line, VEOLIA will (i) remove the cause of the sewer line obstruction by implementation of its corrective procedures; (ii) document the approximate date and time of the obstruction and report the findings to FREEPORT; (iii) determine the extent of the personal injury or property damage, if any; (iv) contact a predetermined remediation company to clean up the sewer back-up and to minimize any damage, the cost of which will be paid by FREEPORT; and (v) provide notice to FREEPORT's insurance carrier of the potential loss claim;
- 4.4.3 If the sewer line back-up is the citizen's house line, VEOLIA will suggest the citizen contact a remediation service company and citizen's homeowner's insurance carrier; and
- 4.4.4 If the citizen files a claim against FREEPORT or VEOLIA, VEOLIA will notify FREEPORT and FREEPORT's independent insurance carrier who will make a determination of whether or not to pay the claim filed by the citizen.

After completing the procedure set forth in Subsections 4.4.1 through 4.4.4 above, VEOLIA shall have no further responsibility or liability to FREEPORT or the citizen(s) for the personal injury or property damage caused by the sewer back-up or the consequences thereof.

- 4.5 The scope of Veolia's services for capacity management, operations and maintenance of the Wastewater Collection System and Lift Stations are set forth in Appendix E, and includes those services authorized in TCEQ's approved Sanitary Sewer Overflow plan issued to the City of Freeport on February 24, 2015.
5. RESERVED.

6. FREEPORT's Duties

- 6.1 FREEPORT shall fund all necessary Capital Expenditures, which shall be performed by VEOLIA under an appropriate Change in Scope amendment to this Agreement. Priority shall be given to safety and the ADA related expenses described in Section 2.10. Any loss, damage, or injury resulting from FREEPORT's failure to provide capital improvements and/or funds in excess of the Maintenance and Repair Limit when reasonably requested by VEOLIA shall be the sole responsibility of FREEPORT.
- 6.2 FREEPORT shall keep in force all Project warranties, guarantees, easements and licenses that have been granted to FREEPORT and are not transferred to VEOLIA under this Agreement.
- 6.3 FREEPORT shall pay all sales, excise, *ad valorem*, property, franchise, occupational and disposal taxes, or other taxes associated with the Project other than taxes imposed upon VEOLIA's net income and/or payroll taxes for VEOLIA employees. In the event VEOLIA is required to pay any sales tax or use taxes on the value of the services provided by VEOLIA hereunder or the services provided by any subcontractor of VEOLIA, such payments shall be reimbursed by FREEPORT unless FREEPORT furnishes a valid and properly executed exemption certificate relieving FREEPORT and VEOLIA of the obligation for such taxes. In the event FREEPORT furnishes an exemption certificate which is invalid or not applicable to services by VEOLIA, FREEPORT shall indemnify VEOLIA for any taxes, interest, penalties, and increment costs, expenses or fees which it may incur as a result of VEOLIA's reliance on such certificate.
- 6.4 FREEPORT shall provide VEOLIA, within a reasonable time after request and on an "as available" basis, with the temporary use of any piece of FREEPORT's heavy equipment that is available so that VEOLIA may discharge its obligations under this Agreement in the most cost-effective manner.
- 6.5 FREEPORT shall provide all registrations and licenses for FREEPORT's vehicles, if any, used in connection with the Project.
- 6.6 FREEPORT shall provide for VEOLIA's exclusive use of all vehicles and equipment presently in full-time use at the Project.
- 6.7 FREEPORT shall provide for VEOLIA's entry into existing disposal sites for disposal of garbage, screenings, grit, sludge and scum and approve any proposed changes in VEOLIA's use of such facilities.
- 6.8 FREEPORT shall provide the Project with appropriate security personnel and/or devices to protect against any losses resulting from the theft, damage, or unauthorized use of property owned by FREEPORT and shall accept liability for

such losses except to the extent such losses are directly caused by the negligent acts or omissions of VEOLIA.

6.9 RESERVED.

6.10 RESERVED.

6.12 RESERVED.

6.13 FREEPORT shall continue to be responsible and pay for the general administration and enforcement of (i) the wastewater and collection system, (ii) FREEPORT's Industrial Pretreatment Program, (iii) new sewer connections unless VEOLIA is retained to perform such functions as a Change in Scope hereunder, and (iv) long-term System and Service Area planning. Typical administration costs associated with the above activities include costs such as the services of the auditor, lawyer, and liability insurance.

7. Compensation

7.1 VEOLIA's compensation under this Agreement shall consist of an Annual Fee. The Annual Fee for the period October 1, 2015 through September 30, 2016 shall be \$4,218,485. The Maintenance and Repair Limit portion included in the Annual Fee is \$302,901.

7.2 Veolia's Annual Fee also contains a line item of \$32,400 for Oyster Creek Agreement ("2015 Oyster Creek Budget"). The 2015 Oyster Creek Budget shall be increased (estimated by the City of Oyster Creek in August) and finalized in September 2015 and annually thereafter by the City of Oyster Creek. FREEPORT is responsible, annually, for the 2015 Oyster Creek Budget amount and any amount attributable to the Oyster Creek Agreement in excess of the 2015 Oyster Creek budget. For sake of clarity the intent of this Section is for FREEPORT to pay for the Oyster Creek Agreement, which is being administered by VEOLIA on FREEPORT's behalf.

7.3 If actual Maintenance and Repair expenditures are less than the Maintenance and Repair Limit for any Agreement year, VEOLIA will rebate the entire difference to FREEPORT in accordance with Section 8.3. If actual Maintenance and Repair expenditures exceed the Maintenance and Repair Limit, FREEPORT will pay the excess to VEOLIA in accordance with Section 8.3. VEOLIA will notify FREEPORT when actual Maintenance and Repair expenditures equal eighty percent (80%) of Maintenance and Repair Limit.

7.4 The services being provided under this Agreement are based on reasonably expected overtime for normal breakdowns or services required after hours. Any additional expenses including straight or overtime wages caused by severe weather, a disaster or unplanned event that may be recovered through billing any

third party including the State or Federal Government FEMA funds will be billed to FREEPORT for reimbursement.

- 7.5 The Annual Fee (and Maintenance and Repair Limit included therein) shall be increased in June 2016 and annually thereafter by multiplying the existing Annual Fee by the percentage increase in the Consumer Price Index for all Urban Consumers (U.S. City Average) as published by the U. S. Department of Labor Statistics for the twelve (12) months prior to the beginning of the period for which an adjusted Annual Fee is being calculated.

8. Payment of Compensation

- 8.1 One-twelfth (1/12) of the Annual Fee for the current year shall be due and payable on the first of the month for each month that services are provided.
- 8.2 All other compensation to VEOLIA is due upon receipt of VEOLIA's invoice and payable within fifteen (15) days.
- 8.3 Any monies payable to Veolia pursuant to Section 7.3 will be paid within thirty (30) calendar days after the end of each month.
- 8.4 FREEPORT shall pay interest at an annual rate equal to the JPMorgan Chase Bank's prime lending rate plus three (3%) percent, said rate of interest not to exceed any limitation provided by law, on payments not paid and received within fifteen (15) calendar days of the due date, such interest being calculated from the due date of the payment. In the event the charges hereunder might exceed any limitation provided by law, such charges shall be reduced to the highest rate or amount within such limitation.

9. Scope Changes

- 9.1 A Change in Scope of services shall occur when and as VEOLIA's costs of providing services under this Agreement change as a result of:
 - 9.1.1 any change in Project operations, personnel qualifications or staffing or other cost which is a result of an Unforeseen Circumstance;
 - 9.1.2 increases or decreases in the user base;
 - 9.1.3 increases or decreases of not less than ten percent (10%) in the influent flow, project influent characteristics or loadings as demonstrated by a twelve month floating average compared to the twelve month period ending on the Commencement Date of this Agreement (baseline flow, project influent characteristics and loading information is located in Appendix C-4);

- 9.1.4 increases or decreases in rates or other related charges (including taxes) imposed upon VEOLIA by a utility provider and/or taxing authority - excluding taxes based on VEOLIA's net income.
- 9.1.5 FREEPORT's request of VEOLIA and VEOLIA's consent to provide additional services.
- 9.2 For Changes in Scope described in Sections 9.1.1 through, and including, 9.1.3, the Annual Fee shall be increased (or decreased) by an amount equal to VEOLIA's additional (reduced) Cost associated with the Change in Scope plus fifteen percent (15%). Modifications of the Annual Fee as a result of conditions described in Section 9.1.3 shall be retroactive to the beginning of the twelve-month comparison period.
- 9.3 For Changes in Scope described in Section 9.1.4, the Annual Fee shall be increased (or decreased) by an amount equal to VEOLIA's additional (reduced) Cost associated with such Change in Scope.
- 9.4 FREEPORT and VEOLIA shall negotiate an increase in VEOLIA's Annual Fee for Changes in Scope based on Section 9.1.5.

10. Indemnity, Liability and Insurance

- 10.1 VEOLIA hereby agrees to indemnify and hold FREEPORT harmless from any third party liability or damages for bodily injury, including death, property damages and pollution damages which are caused from VEOLIA's negligence or willful misconduct under this Agreement; provided, VEOLIA shall be liable only for that percentage of total damages that corresponds to its percentage of total negligence or fault.
- 10.2 FREEPORT agrees to indemnify and hold VEOLIA harmless from any liability or damage or bodily injury, including death, property damages and pollution damages which may arise from all causes of any kind other than VEOLIA's negligence or willful misconduct, including, but not limited to, breach of a FREEPORT warranty.
- 10.3 UNLESS COVERED BY THE INDEMNITIES CONTAINED IN SECTIONS 10.1 AND 10.2 ABOVE, NEITHER VEOLIA, NOR FREEPORT SHALL BE LIABLE TO THE OTHER IN ANY ACTION OR CLAIM FOR CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, LOSS OF PROFITS, LOSS OF OPPORTUNITY, LOSS OF PRODUCT OR LOSS OF USE. ANY PROTECTION AGAINST LIABILITY FOR LOSSES OR DAMAGES AFFORDED ANY INDIVIDUAL OR ENTITY BY THESE

TERMS SHALL APPLY WHETHER THE ACTION IN WHICH RECOVERY OF DAMAGES IS SOUGHT IS BASED ON CONTRACT, TORT (INCLUDING SOLE, CONCURRENT OR OTHER NEGLIGENCE AND STRICT LIABILITY OF ANY PROTECTED INDIVIDUAL OR ENTITY), STATUTE OR OTHERWISE. TO THE EXTENT PERMITTED BY LAW, ANY STATUTORY REMEDIES, WHICH ARE INCONSISTENT WITH THESE TERMS, ARE WAIVED.

- 10.4 VEOLIA shall be liable for those fines or civil penalties imposed by a regulatory or enforcement agency for violations occurring on or after the Commencement Date of this Agreement, of the effluent quality requirements provided for in Appendix C that are a result of VEOLIA's negligence. FREEPORT will assist VEOLIA to contest any such fines in administrative proceedings and/or in court prior to any payment by VEOLIA. VEOLIA shall pay the cost of any such contest.
- 10.5 FREEPORT shall be liable for those fines or civil penalties imposed by any regulatory or enforcement agencies on FREEPORT and/or VEOLIA that are not a result of VEOLIA's negligence or are otherwise directly related to the ownership of the Project and shall indemnify and hold VEOLIA harmless from the payment of any such fines and/or penalties.
- 10.6 TO THE FULLEST EXTENT PERMITTED BY LAW AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, VEOLIA'S LIABILITY FOR PERFORMANCE OR NON-PERFORMANCE OF ANY OBLIGATION ARISING UNDER THE AGREEMENT (WHETHER ARISING UNDER BREACH OF CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER THEORY OF LAW OR EQUITY) INCLUDING, BUT NOT LIMITED TO ITS INDEMNITY OBLIGATIONS SPECIFIED IN SECTION 10.1 OF THE AGREEMENT, SHALL NOT EXCEED ONE MILLION DOLLARS \$1,000,000 CUMULATIVELY FOR THE DURATION OF THE AGREEMENT, PROVIDED THAT THE FOREGOING LIMITATION SHALL NOT APPLY TO ANY LOSSES RESULTING FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF VEOLIA OR VEOLIA'S SUBCONTRACTORS, EMPLOYEES OR AGENTS IN BREACH OF VEOLIA'S OBLIGATIONS UNDER THIS AGREEMENT.
- 10.7 Each party shall obtain and maintain insurance coverage of a type and in the amounts described in Appendix D. Each party shall provide the other party with satisfactory proof of insurance.
- 10.8 The provisions of Sections 10.1 through 10.7 above shall survive the expiration or termination of the Agreement.

11. Term, Termination and Default

- 11.1 The initial term of this Agreement between FREEPORT and VEOLIA shall be ten (10) years commencing on the Commencement Date ("Initial Term"). Thereafter, this Agreement shall be automatically renewed for a successive term of ten (10) years each unless canceled in writing by either party no less than one hundred and twenty (120) days prior to expiration of the then current term.
- 11.2 A party may terminate this Agreement only for a material breach of the Agreement by the other party; only after giving written notice of breach; and, except in case of a breach by FREEPORT for non-payment of VEOLIA's invoices, in which case termination may be immediate by VEOLIA, only after allowing the other party thirty (30) days to cure or commence taking reasonable steps to cure the breach.
- 11.3 In the event that this Agreement is terminated for any reason prior to the ending date of the Initial Term, FREEPORT shall pay to VEOLIA any funds, including those identified in Sections 7.3, 8.1, 8.2 that have not been paid to VEOLIA through the date of termination.
- 11.4 Upon notice of termination by FREEPORT, VEOLIA shall assist FREEPORT in assuming operation of the Project. If additional Cost is incurred by VEOLIA at request of FREEPORT, FREEPORT shall pay VEOLIA such Cost within 15 days of invoice receipt.
- 11.5 Upon termination of this Agreement and all renewals and extensions of it, VEOLIA will return the Project to FREEPORT in the same condition as it was upon the Commencement Date of this Agreement, ordinary wear and tear excepted. Equipment and other personal property purchased by VEOLIA for use in the operation or maintenance of the Project shall remain the property of VEOLIA upon termination of this Agreement unless the property was directly paid for by FREEPORT or FREEPORT specifically reimbursed VEOLIA for the cost incurred to purchase the property or this Agreement provides to the contrary. In addition, upon termination or expiration of this Agreement, at the option of Freeport, any VEOLIA vehicle utilized at the Project shall be sold by VEOLIA to Freeport at VEOLIA's then remaining book value for said vehicle(s).
- 11.6 The Existing Agreement between FREEPORT and PSG shall terminate as of the Commencement Date of this Agreement and this Agreement between FREEPORT and VEOLIA shall replace the Existing Agreement in its entirety and neither PSG nor FREEPORT shall have any obligations to the other except any remaining payment obligations from FREEPORT to PSG under the Existing Agreement, including but not limited to Existing Agreement Sections 3.1, 3.3, 7.1 and 10.6, shall so survive and FREEPORT shall pay PSG on the Commencement Date for said payment obligations. FREEPORT and PSG waive all obligations in Section 5.4 in the Existing Agreement.

12. Disputes and Force Majeure

- 12.1 In the event activities by employee groups or unions cause a disruption in VEOLIA's ability to perform at the Project, FREEPORT, with VEOLIA's assistance or VEOLIA at its own option, may seek appropriate injunctive court orders. During any such disruption, VEOLIA shall operate the facilities using commercially reasonable efforts until any such disruptions cease.
- 12.2 Neither party shall be liable for its failure to perform its obligations under this Agreement if such failure is due to any Unforeseen Circumstances beyond its reasonable control or force majeure. However, this Section may not be used by either party to avoid, delay or otherwise affect any payments due to the other party.

13. VEOLIA's Scope of Services – Water Treatment

- 13.1. VEOLIA shall administer, on behalf of Freeport, the Brazosport Water Authority ("BWA") Water Supply Contract during the entire term of this Agreement including, but not limited to, responsibility for the take or pay provisions of Section 3.2 to said Water Supply Contract. VEOLIA shall pass-through the cost to FREEPORT, and FREEPORT shall pay to VEOLIA, the cost for the Water Supply Contract.
- 13.2. Within the design capacity and capabilities of the system, VEOLIA shall manage, operate, repair and maintain the existing Freeport potable water distribution system and deliver to Freeport customers the water received from BWA pursuant to the Water Supply Contract.
- 13.3. The delivery system shall consist of all existing and operational lines, booster and pump stations, storage tanks and water meters and shall end at 1the meter.
- 13.4. Maintenance of storage tanks shall not include painting or other exterior/interior coating.
- 13.5. VEOLIA shall administer on behalf of FREEPORT payments to the Sewage Treatment Contract between The City of Freeport and the city of Oyster Creek, Texas dated March 20, 2003 (referred to in this Agreement as "Oyster Creek Agreement") during the term of this Agreement. Veolia shall pass-through the cost to FREEPORT, and FREEPORT shall pay to VEOLIA, the cost of the Oyster Creek Agreement pursuant to Section 7.2 of this Agreement. For sake of clarity VEOLIA shall have no liability on the Oyster Creek Agreement and shall not be a party to the Oyster Creek Agreement.

- 13.6. VEOLIA shall provide Freeport with water meter reading service based on an average of 3,800 meters per month to be read. Meters shall be read monthly during the second half of the month.
- 13.7. Acting at the direction of Freeport, VEOLIA shall provide all customary water services, including, but not limited to,
- activating and deactivating water service;
 - replacing defective meters;
 - installation of new three-quarter inch (3/4") and one inch (1") taps. Larger sizes will be priced accordingly and paid for by City and the City shall, at its election, invoice the Customer.

The parties indicate their approval of this Agreement by their signatures below, and the parties warrant all corporate or governmental actions, approvals and consents necessary to bind the parties to the terms of this Agreement have been taken.

THE CITY OF FREEPORT

VEOLIA WATER NORTH AMERICA-CENTRAL, LLC

By: _____

By: John M. Wood

Name: _____

Name: John M. Wood

Title: _____

Title: Sr. Vice President

Date: _____

Date: September 2, 2015

CERTIFICATE OF COUNSEL

The undersigned, as counsel for the City of Freeport, Texas ("FREEPORT") in this transaction, hereby certifies that (s)he has examined the facts and circumstances surrounding the selection of Veolia Water North America-Central, LLC ("VEOLIA") and the award and letting of the foregoing contract to VEOLIA by FREEPORT, and has found that said selection, award and contracting process comply with the procurement laws of the State of Texas and FREEPORT and that the foregoing Agreement, once executed by FREEPORT, is a valid, legal and binding agreement of FREEPORT.

Counsel for FREEPORT

Date: _____

APPENDIX A

DEFINITIONS

- A.1 "Adequate Nutrients" means plant influent nitrogen, phosphorus and iron contents proportional to BOD₅ in the ratio of five (5) parts nitrogen, one (1) part phosphorus, and one-half (0.5) part iron for each one hundred (100) parts BOD₅.
- A.2 "Annual Fee" means a predetermined, fixed sum for VEOLIA's services. The Annual Fee includes Cost and profit.
- A.3 "Biologically Toxic Substances" means any substance or combination of substances contained in the plant influent in sufficiently high concentration so as to interfere with the biological processes necessary for the removal of the organic and chemical constituents of the wastewater required to meet the discharge requirements of FREEPORT's TCEQ permits. Biologically toxic substances include, but are not limited to, heavy metals, phenols, cyanides, pesticides and herbicides.
- A.4 "Capital Expenditures" means any expenditures for (1) the purchase of new equipment or facility items that cost more than One Thousand Dollars (\$1,000); or (2) major repairs which significantly extend equipment or facility service life and cost more than Two Thousand Dollars (\$2,000) or (3) expenditures that are planned, non-routine and budgeted by FREEPORT.
- A.5 "Commencement Date" shall mean October 1, 2015.
- A.6 "Cost" means all Direct Cost and indirect cost determined on an accrual basis in accordance with international financial reporting standards.
- A.7 "Direct Cost" means the actual cost incurred for the direct benefit of the Project including, but not limited to, expenditures for project management and labor, employee benefits, chemicals, lab supplies, repairs, repair parts, maintenance parts, safety supplies, gasoline, oil, equipment rental, legal and professional services, quality assurance, travel, office supplies, other supplies, uniforms, telephone, postage, utilities, tools, memberships and training supplies.
- A.8 "Maintenance" means those routine and/or repetitive activities required or recommended by the equipment or facility manufacturer or by VEOLIA to maximize the service life of the equipment, sewer, vehicles and facilities.
- A.9 "Maintenance and Repair Limit" means the total Maintenance and Repair expenditures that VEOLIA has included in the Annual Fee. Such expenditures exclude any labor costs for VEOLIA's staff assigned to the Project. VEOLIA's specialized maintenance personnel, not assigned at the Project, who provide such specialized services such as, but

not limited to, vibration, thermographic and electrical analyses, instrumentation maintenance and repair will be charged to the Maintenance and Repair Limit.

- A.10 "Project" means all equipment, vehicles, grounds, rights of way, sewers and facilities described in Appendix B and, where appropriate, the management, operations and maintenance of such.
- A.11 "Repairs" means those non-routine/non-repetitive activities required for operational continuity, safety and performance generally due to failure or to avert a failure of the equipment, sewer, vehicles or facilities or some component thereof.
- A.12 "Unforeseen Circumstances" shall mean any event or condition which has an effect on the rights or obligations of the parties under this Agreement, or upon the Project, which is beyond the reasonable control of the party relying thereon and constitutes a justification for a delay in or non-performance of action required by this Agreement, including but not limited to (i) an act of God, landslide, lightning, earthquake, tornado, fire, explosion, flood, failure to possess sufficient property rights, acts of the public enemy, war, blockade, terrorist acts, sabotage, insurrection, riot or civil disturbance, (ii) preliminary or final order of any local, province, administrative agency or governmental body of competent jurisdiction, (iii) any change in law, regulation, rule, requirement, interpretation or statute adopted, promulgated, issued or otherwise specifically modified or changed by any local, province or governmental body, (iv) labor disputes, strikes, work slowdowns or work stoppages, but excluding labor disputes, strikes, work slowdowns or work stoppages by employees of VEOLIA; (v) loss of or inability to obtain service from a utility necessary to furnish power for the operation and maintenance of the Project; (vi) the presence of Biologically Toxic Substances or Hazardous Wastes in the influent to the Treatment Facility; and (vii) violations of the City's Industrial Pretreatment Program discharge limits (if applicable) which are of such a quantity and quality so as to cause substantial disruption in the operations or biological activity of the Facility.

APPENDIX B

DESCRIPTION OF PROJECT

VEOLIA agrees to provide the services necessary for the management, operation and maintenance of the following:

- a. All equipment, vehicles, grounds and facilities now existing within the present property boundaries of or being used to operate Freeport's Central Wastewater Treatment Plant (Central WWTP) immediately south of State Highway 288 on the east bank of the Brazos River Diversion Canal and the Slaughter Road Wastewater Treatment Plant (Slaughter Road WWTP) located at 123 Slaughter Road, north of State Highway 36. Both of the plants are located in Brazoria County, Texas. The existing service area of the Central Plant is bounded by the Brazos River on the west, the Missouri- Pacific Railroad on the north, the Old Brazos River on the east and State Highway 288 on the South. The existing service area of the Slaughter Road Plant is as indicated in the Engineering Report prepared by Joy, Mercer & Associates dated December, 1993.
- b. All equipment, grounds and facilities now existing within the present property boundaries of 29 sewage lift stations (scope of work in accordance with Appendix E) and 10 water pumping stations described as follows:

Sewage Lift Stations:

Number	Designation	Address
1.	Slaughter Rd WWTP L.S.	123 Slaughter Road
2.	Kelly Lane L.S.	528 Kelly Lane
3.	Lift Station #1	401 East Fourth Street
4.	Lift Station #2	103 Cherry Street
5.	Lift Station #3	431 West Fourth Street
6.	Lift Station #4	1002 West Fifth Street
7.	Lift Station #5	1103 West Eleventh St
8.	Lift Station #6	1624 West Eleventh St
9.	Lift Station #7 Central	1931 West Eleventh St
10.	Lift Station #8	508 Dixie Drive
11.	Lift Station #9	1607 West Fourth Street
12.	Lift Station #10	402 South Gulf Blvd
13.	Lift Station #11	22 North Avenue "D"
14.	Lift Station #12	602 North Avenue "F"
15.	Lift Station #13	1303 North Avenue "O"
16.	Lift Station #14	1824 North Avenue "I"
17.	Riverside L.S. # 15	1205 North Gulf Blvd
18.	Lift Station #16	1902 West Second Ave
19.	Lift Station #17	226 South Avenue "I"

20.	Lift Station # 18	1702 N Velasco
21.	Lift Station #19	702 North Avenue "J"
22.	Lift Station #20	300 Brazos Landing
23.	Central Plant L.S.	931 Flood Gate
24.	Lift Station # 22	Hwy 523 & 332
25.	Lift Station # 23	State Hwy 332 3329
26.	Lift Station # 24	1605 State Hwy 332
27.	Lift Station # 25	State Hwy 332 1513
28.	Bridge Harbor #27	100 Swordfish Lane
29.	Lift Station # 28	Marlin Road 325
30.	Lift Station # 29	1129 Marlin
31.	Seamans Center#21	1123 Cherry Street

Water Plants, Wells and Booster Stations:

Number	Designation	Address
1.	Plt #3 Booster P.S.& Well#11	200 South Avenue "F"
2.	Booster Pump Station& Well #6	1223 West Eighth Avenue
3.	Well# 10 Slaughter Rd	3134 State Highway 36

- c. Approximately 263,000 linear feet of gravity sewers in the Central WWTP service area and approximately 9,600 linear feet in the Slaughter Road WWTP service area, 4,000 linear feet of force mains, and 583 manholes in service on the Commencement Date of this agreement.
- d. Currently operated existing linear feet of water distribution system piping and an average of 3,800 meters at the points of customer service. There are no known points of unmetered service.

APPENDIX C
PERMITS AND WASTEWATER TREATMENT CHARACTERISTICS

- C.1 VEOLIA will operate so that effluent will meet the requirement of TCEQ Permit No. 10882-001 (EPA ID No. TX0033332) issued on October 20, 2014 for the Central WWTP, and TCEQ Permit No. 10882-002 (EPA ID no. TX003341) issued on October 16, 2014 for the Slaughter Road WWTP, a full and complete copy of which is adopted by reference herein as of the date hereof. VEOLIA shall be responsible for meeting the effluent quality requirements of the Permit unless one or more of the following occurs: (1) the wastewater influent does not contain Adequate Nutrients to support operation of Project biological processes and/or contains Biologically Toxic Substances which cannot be removed by the existing process and facilities; (2) dischargers into FREEPORT's sewer system violate any or all regulations as stated in FREEPORT's Industrial Water and Sewer Ordinance(s) or as required by law; (3) the flow or influent BOD₅ and/or suspended solids exceeds the Project design parameters which are: (i) Central WWTP 2.25 million gallons of flow per day, 375 pounds of BOD₅ per day monthly average, 375 pounds of suspended solids per day on a monthly average and a daily peaking factor of 3.56 times flow and (ii) Slaughter Road WWTP 0.03 million gallons of flow per day, 5 pounds of BOD₅ per day monthly average, 5 pounds of suspended solids per day on a monthly average and a daily peaking factor of two times flow; (4) if the wastewater treatment facility and/or associated appurtenances is inoperable or can operate only at a reduced capacity on account of construction activities, fire, flood, adverse weather conditions, labor disputes or other causes beyond VEOLIA's control.
- C.2 In the event any one of the Project influent characteristics, suspended solids, BOD₅ or flow, exceeds the design parameters stated above, VEOLIA shall return the plant effluent to the characteristics required by TECQ in accordance with the following schedule after Project influent characteristics return to within design parameters.

<u>Characteristics Exceeding Design Parameters By</u>	<u>Recovery Period Maximum</u>
10% or Less	5 days
Above 10% Less than 20%	10 days
20% and Above	30 days

Notwithstanding the above schedule, if the failure to meet effluent quality limitations is caused by the presence of Biologically Toxic Substances or the lack of Adequate Nutrients in the influent, then VEOLIA will have a thirty (30) day recovery period after the influent is free from said substances or contains Adequate Nutrients.

- C.3 VEOLIA shall not be responsible for fines or legal action as a result of discharge violations within the period that influent exceeds design parameters, does not contain Adequate Nutrients, contains Biologically Toxic Substances or is inoperable, and the subsequent recovery period.

C.4 The Annual Fee for services under this Agreement is based upon the following:

(a) Project influent characteristics:

Parameter	Central WWTP	Slaughter WWTP	Units
Flow	0.93	0.0095	MGD
BOD ₅	1,004.98	2.6	Lbs/day
TSS	1,972.93	2.43	Lbs/day

The above characteristics are the actual twelve (12) months' average for the period ended. Any change of 10 percent (10%) or more in any of these characteristics, based upon a twelve (12) month moving average, will constitute a Change in Scope (See Section 9).

(b) Solids disposal characteristics:

VEOLIA's Annual Fee includes compensation for hauling by truck and disposing of solid waste, screenings, grit, sludge and scum in an amount based on its paying (existing fee) per (cubic yard) of eligible material at the Brazoria County Recycling facility which is approximately 15 road miles from the Project. Should these costs change such event shall be a Change in Scope (See Section 2.15).

C.5 Whenever VEOLIA is excused from meeting the requirements of the TECQ permits, it will nevertheless use commercially reasonable efforts to meet those requirements.

APPENDIX D
INSURANCE COVERAGE

VEOLIA SHALL MAINTAIN:

1. Statutory workers compensation and employers liability insurance with limits of \$1,000,000 each accident, \$1,000,000 disease-each employee, and \$1,000,000 disease-policy limit for all of VEOLIA's employees at the Project as required by the State of Texas.
2. Commercial general liability insurance, insuring VEOLIA's negligence, in an amount of \$5,000,000 per occurrence combined single limits for bodily injury and/or property damage. FREEPORT will be added as an additional insured with respect to VEOLIA's duties and activities under the scope of this Agreement.

FREEPORT SHALL MAINTAIN:

1. Statutory workers compensation and employers liability insurance with limits of \$1,000,000 each accident, \$1,000,000 disease-each employee, and \$1,000,000 disease-policy limit for all of FREEPORT's employees associated with the Project as required by the State of Texas.
2. Property damage insurance for all property including collision and comprehensive coverage for all vehicles owned by FREEPORT and operated by VEOLIA under this Agreement. Any property, including vehicles, not properly or fully insured shall be the financial responsibility of FREEPORT. FREEPORT's property damage insurance shall contain a waiver of subrogation in favor of VEOLIA.
3. Automobile liability insurance covering bodily injury and property damage resulting from all owned, non-owned vehicles used by FREEPORT with limits of \$1,000,000 combined single limit. VEOLIA will be named as an additional insured with respect to FREEPORT's duties and activities under the scope of this Agreement.

FREEPORT and VEOLIA shall, within thirty (30) days after receipt of notice of cancellation of the insurance policies referenced above from the applicable insurers, the respective party or its designee will send a copy of such notice to the certificate holder of the certificate. Such notice is not a right or obligation within the policies, it does not alter or amend any coverage, it will not extend any policy cancellation date and it will not negate any cancellation of the policy. Failure to provide a copy of such notice to the certificate holder shall impose no obligation or liability of any kind upon the insurer or its agents or representatives. VEOLIA may self-insure to the extent permitted by law. With respect to workers compensation and employers liability coverage, each policy shall provide a waiver of subrogation in favor of the other party.

APPENDIX E
WASTEWATER COLLECTION SYSTEM AND LIFT STATIONS
SCOPE OF SERVICE

VEOLIA services include:

- E.1 Inspect manholes for condition and provide a list of manholes for rehabilitation to FREEPORT annually.
- E.2 RESERVED.
- E.3 Perform wastewater collection line cleaning on an annual basis for approximately twenty percent (20%) of the main lines and document efforts by data transfer to FREEPORT's GIS system.
- E.4 Perform digitally televised inspection of approximately twenty percent (20%) of the main lines annually, and document inspections by data transfer to FREEPORT's GIS system.
- E.5 Assess main line segment conditions from televised inspections and provide a prioritized list of line repairs or replacements to FREEPORT annually.
- E.6 Perform flow monitoring on an annual basis for approximately twenty percent (20%) of the main lines, and document monitoring by data transfer to FREEPORT's GIS system.
- E.7 Perform lift station fixed asset technical assessment on all lift stations and provide a recommended moving two-year fixed assets repair and replacement to FREEPORT annually.
- E.8 Conduct a public awareness program in discharge of fats, oils and greases to the sanitary sewer system.
- E.9 Conduct a root control program in main line segments identified with root intrusions during digitally televised inspections.
- E.10 All of the above in conformance with Texas Commission on Environmental Quality's agreements with the City of Freeport, Texas dated February 5, 2015 and letter agreement dated January 12, 2015.

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; AMENDING CHAPTER 71 OF THE CODE OF ORDINANCES OF SAID CITY TO DELETE FROM SECTION 71.51 OF SAID CODE THE INTERSECTION OF DIXIE DRIVE AND EIGHTH STREET AS A TWO-WAY STOP INTERSECTION AND ADDING SUCH INTERSECTION TO SECTION 71.50 OF SAID CODE OF ORDINANCES AS A FOUR-WAY STOP INTERSECTION; PROVIDING FOR THE ERECTION OF APPROPRIATE SIGNS AND SIGNALS BY OR AT THE DIRECTION OF THE CITY MANAGER OF SAID CITY; PROVIDING THAT ANY VIOLATION OF SAID CODE OF ORDINANCES, AS AMENDED BY THIS ORDINANCE, SHALL BE A MISDEMEANOR AND UPON CONVICTION ASSESSED A FINE NOT TO EXCEED TWO HUNDRED (\$200.00) DOLLARS; PROVIDING THAT EACH DAY ANY SUCH VIOLATION OCCURS AND EACH PART OF ANY DAY ANY SUCH VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE; CONTAINING A SAVINGS CLAUSE; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS DESCRIPTIVE CAPTION HAS BEEN PUBLISHED TWICE IN THE BRAZOSPORT FACTS.

WHEREAS, Item (1) of Subsection (a) of Section 542.202 of the Transportation Code authorizes a municipality, as a local authority, with respect to streets and highways under their jurisdiction, to regulate traffic by traffic-control devices; and,

WHEREAS, Subsection (b) of Section 544.002 of said Code authorizes a local authority to place and maintain any traffic-control device upon any street subject to its jurisdiction as may be deemed necessary to indicate and carry out the provisions of the Code or any local traffic ordinance but requires that all such traffic-control devices conform to the State Highway Department's Manual and specifications; and,

WHEREAS, the City Council of the City of Freeport, Texas, has determined and does here now declare that the adoption of this ordinance is necessary to the health, safety and general welfare of the inhabitants of said City and the members of the general public traveling upon the streets herein below named.

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

First, Section 71.51 of Chapter 71 of the Code of Ordinances of the City of Freeport, Texas is hereby amended to delete therefrom as a two-way stop intersection the following intersection:

■Dixie Drive and Fourth Street.●

Second, Section 71.50 of Chapter 71 of the Code of Ordinances of the City of Freeport, Texas is hereby amended to add thereto as a four-way stop intersection the following:

■Dixie Drive and Eighth Street.●

Third, appropriate signs and signals conforming to the State Highway Department's Manual and specifications and giving notice of the regulations adopted by this ordinance shall be erected and posted by or at the direction of the City Manager as may be most appropriate conforming to the Texas Department of Transportation manual and specifications.

Fourth, any person violating the Code of Ordinances of the City of Freeport, Texas, as amended by this ordinance, shall be guilty of a misdemeanor and upon conviction therefor assessed a fine not to exceed Two Hundred (\$200.00) Dollars; and each day such violation occurs and each part of any day any such violation continues shall constitute a separate offense.

Fifth, no offense committed and no fine, forfeiture or penalty incurred prior to the effective date of this ordinance shall be affected by the adoption of this ordinance but the punishment for any offense committed and the recovery of any fines or forfeitures incurred prior to such date shall take place as if this ordinance had not been adopted.

Sixth, in the event any section or provision of this ordinance is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining sections and provisions of this ordinance and such remaining sections and provisions shall remain in full force and effect.

Seventh, this ordinance shall take effect and be in force from and after its descriptive caption has been published twice in the Brazosport Facts.

READ, PASSED AND ADOPTED this ____ day of _____, 2015.

Norma Moreno Garcia, Mayor,
City of Freeport, Texas

ATTEST:

Delia Munoz, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

Wallace Shaw, City Attorney,
City of Freeport, Texas

C\Freeport.Trf\4-WayStop@Dixie Dr. & 8th St-Ord

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; AMENDING CHAPTER 71 OF THE CODE OF ORDINANCES OF SAID CITY DELETING FROM SECTION 71.51 OF SAID CODE THE INTERSECTION OF DIXIE DRIVE AND FOURTH STREET AS A TWO-WAY STOP INTERSECTION AND ADDING SUCH INTERSECTION TO SECTION 71.53 OF SAID CODE OF ORDINANCE AS A THREE-WAY STOP INTERSECTION; PROVIDING FOR THE ERECTION OF APPROPRIATE SIGNS AND SIGNALS BY OR AT THE DIRECTION OF THE CITY MANAGER OF SAID CITY; PROVIDING THAT ANY VIOLATION OF SAID CODE OF ORDINANCES, AS AMENDED BY THIS ORDINANCE, SHALL BE A MISDEMEANOR AND UPON CONVICTION ASSESSED A FINE NOT TO EXCEED TWO HUNDRED (\$200.00) DOLLARS; PROVIDING THAT EACH DAY ANY SUCH VIOLATION OCCURS AND EACH PART OF ANY DAY ANY SUCH VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE; CONTAINING A SAVINGS CLAUSE; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS DESCRIPTIVE CAPTION HAS BEEN PUBLISHED TWICE IN THE BRAZOSPORT FACTS.

WHEREAS, Item (1) of Subsection (a) of Section 542.202 of the Transportation Code authorizes a municipality, as a local authority, with respect to streets and highways under their jurisdiction, to regulate traffic by traffic-control devices; and,

WHEREAS, Subsection (b) of Section 544.002 of said Code authorizes a local authority to place and maintain any traffic-control device upon any street subject to its jurisdiction as may be deemed necessary to indicate and carry out the provisions of the Code or any local traffic ordinance but requires that all such traffic-control devices conform to the State Highway Department's Manual and specifications; and,

WHEREAS, the City Council of the City of Freeport, Texas, has determined and does here now declare that the adoption of this ordinance is necessary to the health, safety and general welfare of the inhabitants of said City and the members of the general public traveling upon the streets herein below named.

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

First, Section 71.51 of Chapter 71 of the Code of Ordinances of the City of Freeport, Texas is hereby amended to delete therefrom as a two-way stop intersection the following intersection:

■Dixie Drive and Fourth Street..

Second, Section 71.53 of Chapter 71 of the Code of Ordinances of the City of Freeport, Texas is hereby amended to add thereto the as a three-way stop intersection the following:

■Dixie Drive and Fourth Street..

Third, appropriate signs and signals conforming to the State Highway Department's Manual and specifications and giving notice of the regulations adopted by this ordinance shall be erected and posted by or at the direction of the City Manager as may be most appropriate conforming to the Texas Department of Transportation manual and specifications.

Fourth, any person violating the Code of Ordinances of the City of Freeport, Texas, as amended by this ordinance, shall be guilty of a misdemeanor and upon conviction therefor assessed a fine not to exceed Two Hundred (\$200.00) Dollars; and each day such violation occurs and each part of any day any such violation continues shall constitute a separate offense.

Fifth, no offense committed and no fine, forfeiture or penalty incurred prior to the effective date of this ordinance shall be affected by the adoption of this ordinance but the punishment for any offense committed and the recovery of any fines or forfeitures incurred prior to such date shall take place as if this ordinance had not been adopted.

Sixth, in the event any section or provision of this ordinance is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining sections and provisions of this ordinance and such remaining sections and provisions shall remain in full force and effect.

Seventh, this ordinance shall take effect and be in force from and after its descriptive caption has been published twice in the Brazosport Facts.

READ, PASSED AND ADOPTED this ____ day of _____, 2015.

Norma Moreno Garcia, Mayor,
City of Freeport, Texas

ATTEST:

Delia Munoz, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

Wallace Shaw, City Attorney,
City of Freeport, Texas

C\Freeport.Trf\3-Way Stop@Dixie Dr. & 4th St-Ord