

City of Alvin, Texas

Paul Horn, Mayor

Glenn Starkey, Mayor Pro-tem, District D
Brad Richards, At Large Pos. 1
Joel Castro, At Large Pos. 2
Martin Vela, District A



Adam Arendell, District B
Keith Thompson, District C
Gabe Adame, District E

ALVIN CITY COUNCIL AGENDA THURSDAY, AUGUST 15, 2019 7:00 P.M. (Council Chambers)

Alvin City Hall, 216 West Sealy, Alvin, Texas 77511

Persons with disabilities who plan to attend this meeting that will require special services please contact the City Secretary's Office at 281-388-4255 or drobot@cityofalvin.com 48 hours prior to the meeting time. City Hall is wheel chair accessible and a sloped curb entry is available at the east, west, and south entrances to City Hall.

NOTICE is hereby given of a Regular Meeting of the City Council of the City of Alvin, Texas, to be held on **THURSDAY, AUGUST 15, 2019**, at 7:00 p.m. in the Council Chambers at: City Hall, 216 W. Sealy, Alvin, Texas.

REGULAR MEETING AGENDA

1. CALL TO ORDER

2. INVOCATION AND PLEDGE OF ALLEGIANCE

3. PRESENTATIONS

A. Parks and Recreation Departmental Update.

4. PUBLIC COMMENT

5. PUBLIC HEARING

A. Public hearing to receive comment on the proposed Fiscal Year 19-20 Annual Budget. This proposed budget is estimated to raise more total property taxes than last year's budget by \$74,455 which is a 0.68% increase from last year's budget. The estimated property tax revenue to be raised from new property added to the tax roll this year is \$337,232.

B. Public hearing to receive comment on the proposed tax rate of \$0.7780 per \$100 of valuation for the Fiscal Year 2019-2020 (2019 tax year).

6. CONSENT AGENDA: CONSIDERATION AND POSSIBLE ACTION: An item(s) may be removed from the Consent Agenda for full discussion by the request of a member of Council. Item(s) removed will automatically become the first item up for discussion under Other Business.

A. Consider approval of the July 30, 2019 joint City Council and Planning Commission Workshop minutes.

B. Consider approval of the August 1, 2019 City Council Workshop meeting minutes.

C. Consider approval of the August 1, 2019 City Council Regular meeting minutes

D. Accept resignation from Senior Citizen Board member, Judy Zavalla.

7. OTHER BUSINESS

- A. Consider the proposed Collective Bargaining Labor Agreement between the City of Alvin, Texas and the Alvin Police Officer's Association (APOA).
- B. Consider Addendum No.16 to the Contract for Refuse Collection and Disposal Services between the City of Alvin and Waste Connections of Texas (formerly Progressive Waste Solutions) to adjust rates paid to Waste Connections of Texas due to the net increase in the revised Consumer Price Index Rate for All Urban Consumers (CPI-U) for the Houston-Galveston-Brazoria, TX area, fuel cost adjustments, and operational costs pursuant to the agreement; and authorize the Mayor to sign.
- C. Consider Ordinance 19-T, amending Chapter 28, Comprehensive Fee Ordinance for the purpose of revising certain solid waste collection and disposal fees for residential, commercial, and roll-off containers; providing for a ten percent (10%) penalty for late payment; providing for an effective date of October 2019 billing cycles; and setting forth other provisions related thereto.
- D. Consider Resolution 19-R-33, adopting the 2019 Drought Contingency Plan Update for the City of Alvin.
- E. Consider an amendment to the Ambulance Billing and Related Professional Services Agreement with Advanced Data Processing, Inc. ("ADPI"), a subsidiary of R1 RCM Inc., a Delaware corporation ("ADPI"); and authorize the City Manager to sign the Agreement subject to legal review.

8. REPORTS FROM CITY MANAGER

- A. Items of Community Interest and review preliminary list of items for next Council meeting.

9. ITEMS OF COMMUNITY INTEREST

Pursuant to 551.0415 of the Texas Government Code reports or an announcement about items of community interest during a meeting of the governing body. No action will be taken or discussed.

- A. Hear announcements concerning items of community interest from the Mayor, Council members, and City staff, for which no action will be discussed or taken.

10. ADJOURNMENT

I hereby certify that a copy of this notice was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website: www.alvin-tx.gov, in compliance with Chapter 551, Texas Government Code, on MONDAY, August 12, 2019 at 5:00 P.M.

(SEAL)



Dixie Roberts, City Secretary

Removal Date: _____

**** All meetings of the City Council are open to the public, except when there is a necessity to meet in Executive Session (closed to the public) under the provisions of Chapter 551, Texas Government Code. The Council reserves the right to convene into executive session on any of the above posted agenda items that qualify for an executive session by publicly announcing the applicable section of the Open Meetings Act, including but not limited to sections 551.071 (litigation and certain consultation with the attorney), 551.072 (acquisition of interest in real property), 551.073 (contract for gift to city), 551.074 (certain personnel deliberations), or 551.087 (qualifying economic development negotiations).**

**Minutes
City of Alvin
Parks and Recreation Board Meeting
Public Services Facility Conference Room
1100 W. Hwy. 6
July 2, 2019
6:30 P.M.**

CALL TO ORDER

The meeting was called to order by Dwight Rhodes, Chair at 6:40 p.m.

ROLL CALL

Board members present were Dwight Rhodes, Chair; Terrie Beasley, Vice Chair; Randy Race, Milton Morgan, Kerry Ulm and Jamie Vaughn. **Staff member present:** Dan Kelinske, Director of Parks and recreation.

APPROVAL OF MINUTES

The minutes of the June 4, 2019 were unanimously approved.

PETITIONS/REQUEST FROM THE PUBLIC

There were no petitions or requests from the public.

CHAIRMAN REPORT

None

DIRECTOR REPORT

The director gave a review on the 2019 Department presentation; an update on upcoming events and an update on park projects/ improvements.

NEW BUSINESS

- Discussed and recommended Parks Department Goals and Objectives - Motion to approve by Terrie Beasley, second by Jamie Vaughn. Approved unanimously.

OLD BUSINESS

- Discussion continued on the Hike and Bike Phase III.

ITEMS OF COMMUNITY INTEREST

There were no items of community interest.

ADJOURNMENT

Dwight Rhodes, Chair, called to adjourn the meeting at 7:41 p.m.

Upcoming meeting: Parks and Recreation Board Meeting –August 6, 2019 at 6:30PM.

Parks and Recreation

City of Alvin - Departmental Update



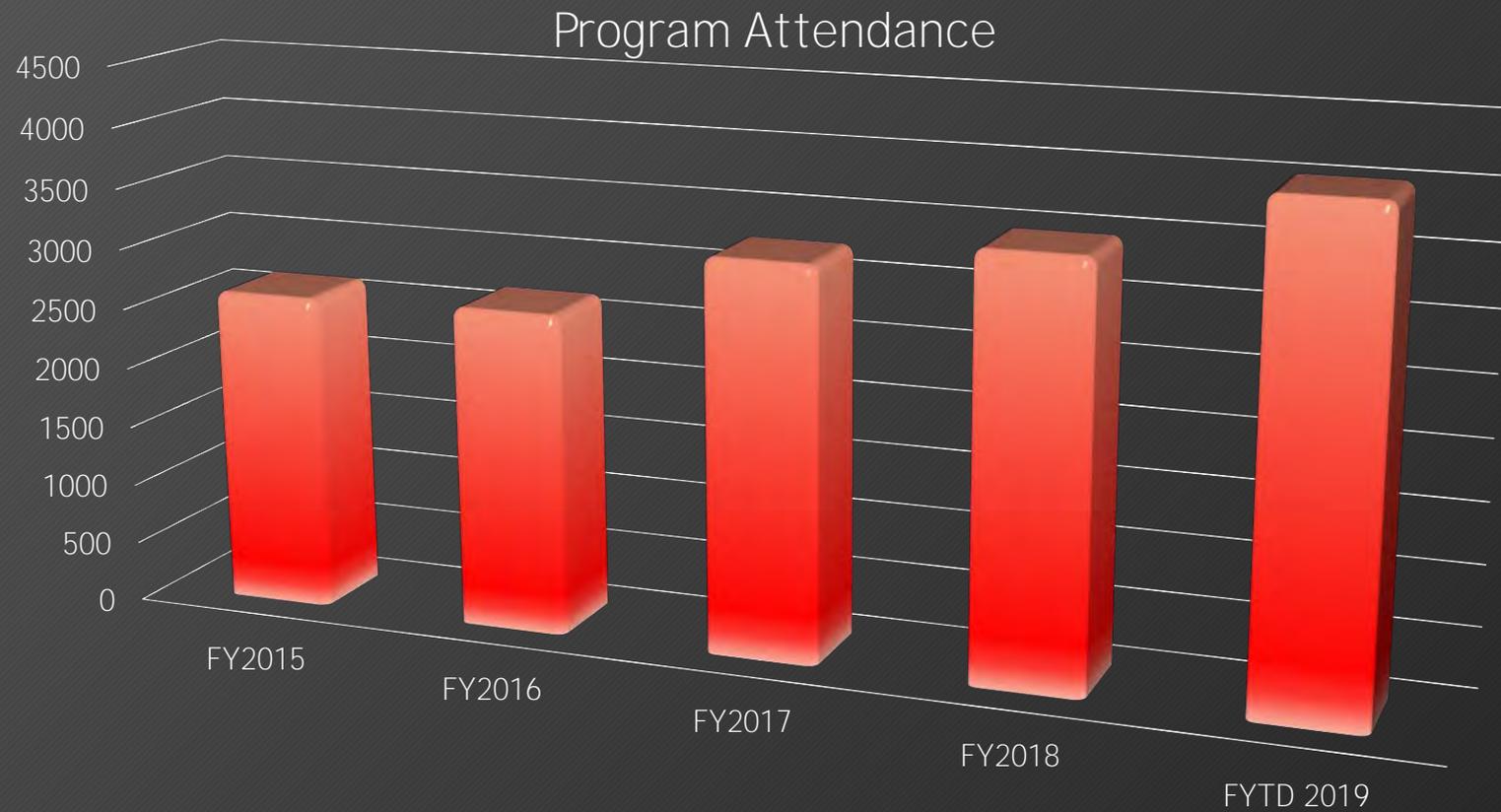
Department Profile



- Employs 11 full time, 4 part time and up to 20 seasonal part time staff members
- Maintain 11 developed parks, Bob Owen pool, Hike and Bike Trail, other city owned property and ROW
- Maintain 15 buildings with grounds
- Manage Community Service Work Program



Recreation Services



Recreation Services



- Continue to offer quality, cost effective and diverse recreation programming and events to our community members.
- Enhance Quality of Life!



Park Operations



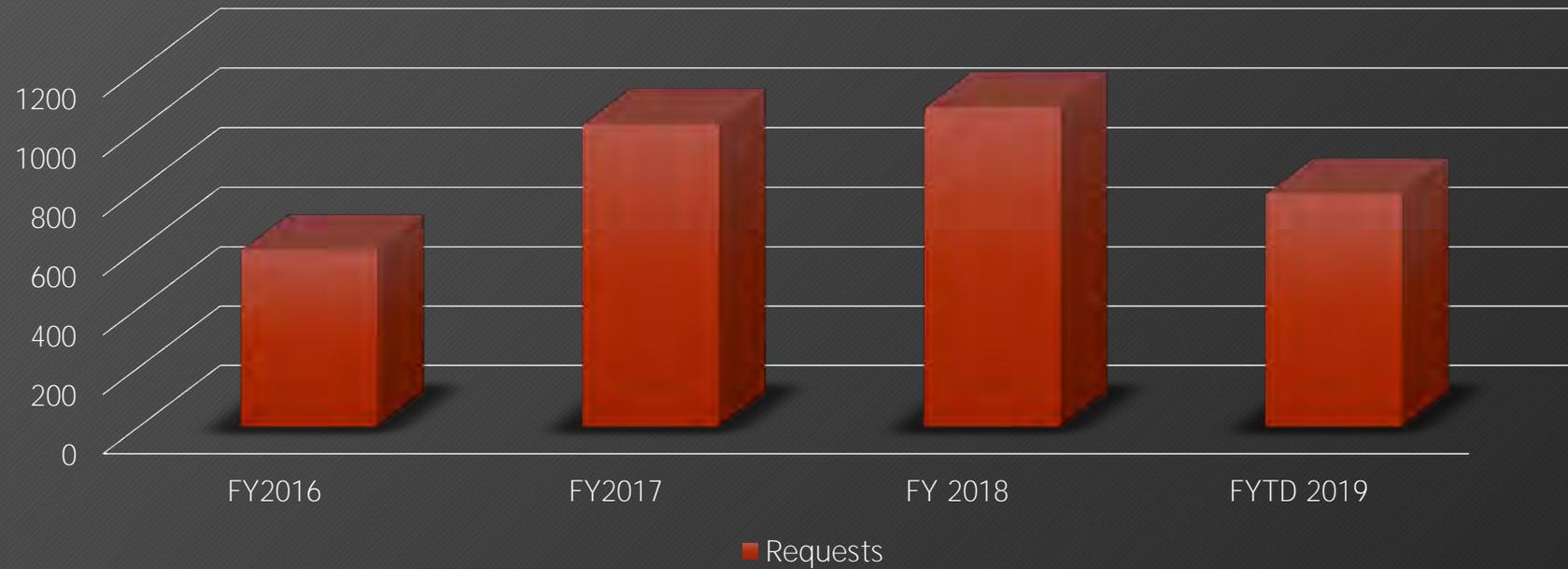
- Sand Volleyball Court



Facility Maintenance



Work Order Requests



Projects



Projects



Playground Build
Before



After



Projects



- Disc Golf Course



Projects

- Pearson Park Sidewalk
- Museum Expansion



Recognition & Awards



- 2011-2017 - **KaBoom! “Playful City” designation**
- 2015 - KaBoom! playground grant award
- 2016 - HGAC park planning Honorable Mention
- 2017 - HGAC park project Special Recognition
- 2018 - **National Oak Park voted “Best Park”**
- 2018 - NRPA photo contest winner
- 2019 - KaBoom! playground grant award
- 2019 - **National Oak Park voted “Best Park”**

 alvinparksandrecreation

 alvinparks

 Channel: Alvin Parks & Recreation



**MINUTES
CITY OF ALVIN, TEXAS
SENIOR CENTER
309 W. SEALY STREET
CITY COUNCIL/PLANNING COMMISSION
JOINT WORKSHOP
TUESDAY JULY 30, 2019
6:00 P.M.**

CALL TO ORDER

BE IT REMEMBERED that, on the above date, the City Council of the City of Alvin, Texas, met in a joint Workshop Session with the Planning Commission at 6:00 p.m. at the Alvin Senior Center. The following members of City Council were present: Paul A. Horn, Mayor; Glenn Starkey, Mayor Pro-Tem and Councilmembers: Gabe Adame, Joel Castro, Brad Richards, Keith Thompson and Martin Vela.

Planning Commission members present: Jake Starkey, Chairman; Nicole Kelinske, Secretary; Ashley Davis, Richard Garivey, Chris Hartman, Carrie Parker, and Randall Reed.

Staff members present: Junru Roland, City Manager; Suzanne Hanneman, City Attorney; Dixie Roberts, City Secretary; Michelle Segovia, City Engineer; and Larry Buehler, Director of Economic Development.

PLEDGE OF ALLEGIANCE

Mayor Horn led the pledge to the American Flag and Pledge to the Texas Flag.

WORKSHOP ITEMS:

Review of the City Charter, Article VIII – Municipal Planning.

Michelle Segovia reviewed the Municipal Planning Section of the Charter. Discussion was had on the possibility of City Council granting authority to the Planning Commission to review and approve minor changes to plats and variance requests on items that don't have any major impact such as front porch/car port setbacks. Members of City Council that were present felt that this would be a good practice and asked that the legalities and procedures to make these suggested changes be reviewed.

Review Chapter 21, Subdivisions and Property Development Process, in the Alvin Code of Ordinances.

Discussion was had on the legalities required for the approval of plats that meet the City's subdivision ordinance. Members of the Planning Commission voiced their concerns regarding updates that they feel need to be made in the subdivision ordinance, such as the greenspace requirements, lot sizes, amenities, etc. Council asked the Planning Commission to review Chapter 21 in detail and bring back any recommended changes along with an explanation of those suggested changes.

Review Chapter 24 ½, Manufactured Homes and Manufactured Home Parks, Article V, Recreational Vehicle Resorts and Parks, in the City of Alvin Code of Ordinances.

Discussion was had on the RV Resort ordinance and whether it needed to be amended or repealed in its entirety. The group discussed the amenities required within this ordinance and also discussed how a development like this would affect surrounding land values. Members of City Council asked the Planning Commission to review this Chapter/ordinance and make a recommendation to City Council on how to proceed.

Review proposed Development Guidelines.

Larry Buehler presented the Development Proposal Guidelines document to the group and asked that the Planning Commission review this document. Discussion was had changes that need to be made to the subdivision ordinance in an effort to enhance development in the City.

ADJOURNMENT

Mayor Horn adjourned the meeting at 7:48 p.m.

PASSED and APPROVED the __15__ day of __August__ 2019.

Paul A. Horn, Mayor

ATTEST: _____
Dixie Roberts, City Secretary

**MINUTES
CITY OF ALVIN, TEXAS
216 W. SEALY STREET
CITY COUNCIL WORKSHOP
THURSDAY AUGUST 1, 2019
6:00 P.M.**

CALL TO ORDER

BE IT REMEMBERED that, on the above date, the City Council of the City of Alvin, Texas, met in a Workshop Session at 6:00 p.m. in the first floor Conference Room at City Hall, with the following members present: Paul A. Horn, Mayor; Glenn Starkey, Mayor Pro-Tem and Councilmembers: Gabe Adame, Adam Arendell, Joel Castro, Brad Richards, Keith Thompson and Martin Vela.

Staff members present: Junru Roland, City Manager; Suzanne Hanneman, City Attorney; Michael Higgins, Chief Financial Officer; Dixie Roberts, City Secretary; Michelle Segovia, City Engineer; Rex Klesel, Fire Chief; Ron Schmitz, EMS Director/Emergency Management Coordinator; Priya Bhakta; CVB Director and Robert E. Lee, Police Chief.

WORKSHOP ITEMS:

Discuss FY 19-20 Proposed Budget

Mr. Roland reviewed the following budget highlights:

- Certified taxable assessed value (net TIRZ increment) are up 5%.
- Lowering property tax rate by 1 cent.
- Projecting a 3% increase in sales taxes.
- General Operating Fund Reserve at 40%.
- Additional Personnel
- Supplemental EMS Fund Revenue.
- Incorporates negotiated financial terms of the Collective Bargaining Agreement (CBA).
- Employees not covered under the CBA: Continuation of 2% tenure base pay plan for employees plus 3% increase effective first pay period in FY20.
- 3rd year of the 5-year water & wastewater rate schedule
- 20% Senior Citizen discount on water rates.
- No increase in residential & commercial solid waste rates.
- 3.224% contractual increase in solid waste cost from Waste Connections.
- Permit files electronic file storage project.

General Projects Fund

- Business incentive program - \$50,000
- Wayfinding Signage - \$198,000
- City Hall roof replacement - \$50,000
- HVAC control system for City Hall - \$92,000
- HVAC chiller replacement for PD - \$222,932
- Hazard Mitigation Action Plan Update - \$50,000
- Senior transportation - \$35,000
- Quarterly publication to residents - \$10,000
- Animal Adoption Center sign replacement - \$10,000

Utility Projects Fund

- Mini Excavator - \$30,000
- RZ Pump - \$19,500
- Small front-end loader - \$20,000
- I&I improvements - \$300,000

FY20 Bond Projects

Tax supported - \$4.9M

- Replace 25 – year Fire Ladder Truck
- Moller Road Storm Sewer & Pavement Improvement

Water & Sewer Revenue Bonds - \$16.6M

- Eastside Interception (construction)
- Lift Station 30 Expansion (construction)
- Wastewater plant #4 GST (design & construction)
- Waterline Improvements Phase III (construction)
- Peak Flow storage basin

ADJOURNMENT

Mayor Horn adjourned the meeting at 6:42 p.m.

PASSED and APPROVED the _____ day of _____ 2019.

Paul A. Horn, Mayor

ATTEST: _____
Dixie Roberts, City Secretary

**MINUTES
CITY OF ALVIN, TEXAS
216 W. SEALY STREET
REGULAR CITY COUNCIL MEETING
AND EXECUTIVE SESSION
THURSDAY AUGUST 1, 2019
7:00 P.M.**

CALL TO ORDER

BE IT REMEMBERED that, on the above date, the City Council of the City of Alvin, Texas, met in Regular and Executive Session at 7:00 P.M. in the Council Chambers at City Hall, with the following members present: Mayor Paul A. Horn; Mayor Pro-Tem Glenn Starkey; Councilmembers: Gabe Adame, Adam Arendell, Joel Castro, Brad Richards, Keith Thompson and Martin Vela.

Staff members present: Junru Roland, City Manager; Suzanne Hanneman, City Attorney; Dixie Roberts, City Secretary; Michelle Segovia, City Engineer; Dan Kelinske, Parks and Recreation Director; and Robert E. Lee, Police Chief.

INVOCATION AND PLEDGE OF ALLEGIANCE

Karl Kelso with Crossover for Christ Church gave the invocation.

Council member Castro led the Pledge of Allegiance to the American Flag; and Council member Thompson led the Pledge to the Texas Flag.

PUBLIC COMMENT

J.R., Dick Tyson, addressed the Council expressing concerns on the water and sewer rates in the proposed FY20 budget. He commented that Senate Bill 2 did not improve the property tax but impacts the fixed and lower income citizens.

PUBLIC HEARING

Public Hearing to receive comment on the final plat of Mustang Crossing Section 5 (being a Planned Unit Development [PUD] subdivision containing 14.79 acres of land, a partial replat of lots 26 and 27), and a final plat of Mustang Crossing Section 5B (being a PUD subdivision containing 2.9314 acres of land, a partial replat of lots 15 and 26) of Section 18, Hooper & Wade Survey, recorded in volume 6, page 152 and volume 32, page 2, all of the Deed Records of Brazoria County, Texas, located in the Hooper & Wade Survey, Abstract 488, in the City of Alvin, Brazoria County, Texas.
Mayor Horn opened the public hearing at 7:05 p.m.

Attorney A.G. Crouch opposed the final plat of Mustang Crossing Section 5. He explained that there is on going litigation involving the developer and his client who owns 10-acres behind Mustang Crossing. He stated that this development is causing flooding to his client's property, and also leaves him with no access to his property. He asked that the Council table consideration of the final plat so they may familiarize themselves with this litigation.

Frank Plank spoke in opposition of the final plat of Mustang Crossing Section 5. He explained that the development has caused him to not have access to his 10-acre tract.

Mayor Horn closed the public hearing at 7:10 p.m.

CONSENT AGENDA

Consider approval of the July 18, 2019 City Council meeting minutes.

Accept resignation from Planning Commission member, Darrell Dailey.

Darrell Dailey submitted his resignation from the Planning Commission for his term ending on December 31, 2019. This agenda item is the formal acceptance of his resignation.

With the resignation of Mr. Dailey, there are now nine (9) members on this Commission. The Charter states that there must be at least five (5) no more than eleven (11) residents serving on this board.

City Council will consider board appointments in December 2019. There are no current applicants for service on the Planning Commission. Advertisements for volunteers will begin the end of October.

Consider a final plat of Octavio Estates (located at 2127 County Road 367), being a total of 4.86 acres of land, out of lot 6, block 10, of Hall's Addition as per the plat recorded in volume 14, page 304, O.R.B.C.T., situated in the I.&G.N.R.R. Co. Survey, A-463, Brazoria County, Texas, City of Alvin E.T.J.

On July 1, 2019, the Engineering Department received the final plat of Octavio Estates for review. The property is located at 2127 County Road 367, in the City of Alvin's Extraterritorial Jurisdiction (ETJ) and is being platted into three lots for conveyance. This plat complies with all requirements of the City's Subdivision Ordinance.

The City Planning Commission unanimously approved the plat at their meeting on July 16, 2019. Staff recommends approval.

Consider a final plat of Perry Holdings Group (located across from 21000 E. Highway 6), being a subdivision of 3.407 acres in the I.&G.N.R.R. Survey, A-622, also being a partial replat of lot 7, of section 27 of the I.&G.N.R.R. Survey, A-622 as recorded in volume 116, page 297, Deed Records of Brazoria County, Texas.

On July 1, 2019, the Engineering Department received the final plat of Perry Holdings Group for review. The property is located on the south side of Highway 6 across the highway from Waste Management (21000 E. Highway 6), in the City of Alvin's Extraterritorial Jurisdiction (ETJ) and is being platted into three lots for conveyance. This plat complies with all requirements of the City's Subdivision Ordinance.

The City Planning Commission unanimously approved the plat at their meeting on July 16, 2019. Staff recommended approval.

Consider Resolution 19-R-31, finding that CenterPoint Energy Houston Electric, LLC's requested increase to its electric transmission and distribution rates and charges within the City should be denied; finding that the City's reasonable rate case expenses shall be reimbursed by the company; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and legal counsel.

CenterPoint Energy Houston Electric, LLC ("CenterPoint" or "Company") filed an application on April 5, 2019 with cities retaining original jurisdiction seeking to increase system-wide transmission and distribution rates by \$161 million per year. The Company asks the City to approve an increase in \$154 million in retail transmission and distribution rates (an increase of about 7.4%) and \$6.8 million in wholesale transmission rates (an increase of about 1.8%). According to CenterPoint, the impact on an average residential customer would be an increase of about \$2.38 per month.

The Council passed Resolution 19-R-19 on May 2, 2019, which suspended the May 10, 2019 effective date of the Company's rate increase for the maximum period permitted by law (90-days). This time period has permitted the City, through its participation with the Gulf Coast Coalition of Cities ("GCCC"), to determine that the proposed rate increase is unreasonable. Consistent with the recommendations of experts engaged by GCCC, CenterPoint's request for a rate increase should be denied.

The City of Alvin is a member of a coalition of political subdivisions in the Greater Houston area known as the Gulf Coast Coalition of Cities ("GCCC"). The Coalition has been in existence since the early 1990s. The GCCC represents the interests of its members on gas and electric utility matters before the Public Utility Commission, the Railroad Commission, the Electric Reliability Council of Texas and the courts. For the past 20 years, GCCC has protected the authority of municipalities over monopoly electric and natural gas providers and has defended the interests of the residential and small commercial customers within the cities. Cities are often the only consumer advocates that work to keep utility rates reasonable. The work undertaken by GCCC has saved ratepayers millions of dollars in unreasonable

charges. The GCCC has previously approved the hiring of Thomas Brocato and Chris Brewster of the Lloyd Gosselink law firm and consultants to intervene in matters related to the electric utility rate case filings, representing GCCC members' interests.

Current members include the following 39 cities: Alvin, Brazos Country, Brookshire, Bunker Hill Village, Clear Lake Shores, Deer Park, Dickinson, Friendswood, Fulshear, Galveston, Hedwig Village, Hilshire Village, Hunters Creek, Iowa Colony, Jersey Village, Kemah, Lake Jackson, La Marque, Manvel, Missouri City, Mont Belvieu, Morgan's Point, Nassau Bay, Oyster Creek, Piney Point Village, Pleak, Rosenberg, Santa Fe, Seabrook, Sealy, Simonton, South Houston, Spring Valley Village, Sugar Land, Taylor Lake Village, Texas City, Tiki Island, Webster, and Weston Lakes. Staff recommended approval of Resolution 19-R-31.

Council member Adame moved to approve the consent agenda as presented. Seconded by Council member Thompson; motion carried on a vote of 7 Ayes.

OTHER BUSINESS

Discuss and take a record vote to propose a tax rate of \$0.7780 per \$100 of assessed valuation, which is a tax increase of 2.79% above the Effective Tax Rate, to be adopted at a future meeting.

The tax rate adoption process consists of the comparison of three (3) rates: the effective tax rate, the rollback rate, and the city's proposed tax rate.

The effective tax rate (\$0.756909 per \$100 of assessed valuation) is a hypothetical benchmark tax rate. It is used to calculate the total tax rate needed to raise the same amount of property tax revenue from the same properties on the tax roll in both the 2018 tax year (FY19) and the 2019 tax year (FY20).

The rollback tax rate (\$0.837548 per \$100 of assessed valuation) is the highest tax rate that the City may adopt before voters are entitled to petition for an election to limit (or rollback) the proposed rate to the rollback rate.

The proposed tax rate (\$0.778000 per \$100 of assessed valuation) is the rate proposed to generate property tax revenues to be used for the general maintenance and operational costs of providing city services; and paying the annual principal and interest on bonds and other debt secured by property tax revenues. The additional revenue (above the effective tax rate) that will be generated is proposed to be used for the following projects and operational costs up for your consideration in FY20:

- *Funding additional public safety personnel (Patrol Officer & Fire Administrator Assistant)*
- *Extending the scope of the Business Incentive Program*
- *Funding the City's portion of the Senior Citizen transportation vehicle*
- *Funding various projects:*
 - *Wayfinding Signage*
 - *Improving various city facilities such as HVAC and roof replacements*
 - *Upgrading information technology equipment along with added network storage*

According to the Local Government Code, when a city initially proposes a tax rate that exceeds the lower of the rollback rate or the effective tax rate, the city council must vote to place a proposal to adopt the proposed rate on the agenda of a future meeting as an action item. If the motion passes, the governing body must schedule two public hearings on the city's proposed tax rate.

For FY20, staff is proposing to lower the City's current tax rate by 1 (one) cent – from \$0.7880 per \$100 of taxable assessed valuation to \$0.7780 per \$100 of taxable assessed valuation. Because the City's proposed tax rate exceeds the lower of the effective tax rate or the rollback tax rate, two (2) public hearings are required to be held before adopting the proposed tax rate.

The City Council will consider adopting the city's "final" tax rate at the regular meeting of the City Council on September 19, 2019, at 7:00 p.m.

Council member Thompson moved to approve the proposed a tax rate of \$0.7780 per \$100 of assessed valuation, which is a tax increase of 2.79% above the Effective Tax Rate, to be adopted at a future meeting. Seconded by Council member Starkey; motion carried on a vote of 7 Ayes.

Roll Call Vote:

Council member Thompson	Aye
Council member Vela	Aye
Council member Arendell	Aye
Council member Richards	Aye
Council member Castro	Aye
Council member Adame	Aye
Councilmember Starkey	Aye

Consider setting two (2) public hearings concerning the proposed tax rate on Thursday, August 15, 2019, at 7:00 p.m. and Thursday, September 5, 2019, at 7:00 p.m. in the City Council Chambers, City Hall, 216 West Sealy, Alvin, Texas.

The City's proposed tax rate exceeds the effective tax rate. As a result, the Local Government Code requires City Council to set two (2) public hearings on the proposed tax rate, prior to adoption. The second public hearing may not be held earlier than the third day after the date of the first public hearing. The City Council will consider adopting the final tax rate at the regular meeting of the City Council on September 19, 2019, at 7:00 p.m.

Council member Castro moved to approve setting two (2) public hearings concerning the proposed tax rate on Thursday, August 15, 2019, at 7:00 p.m. and Thursday, September 5, 2019, at 7:00 p.m. in the City Council Chambers, City Hall, 216 West Sealy, Alvin, Texas. Seconded by Council member Richards; motion carried on a vote of 7 Ayes.

Consider the vacation of the final plat of Mustang Crossing Section 5 (located northwest of the intersection of FM 1462 and Mustang Crossing Boulevard), being a Planned Unit Development (PUD) subdivision containing 14.79 acres of land located in the Hooper & Wade Survey, Abstract 488, in the City of Alvin, Brazoria County, Texas.

On May 30, 2019, the Engineering Department received a request from M/I Homes of Houston, LLC for the vacation of the final plat of Mustang Crossing Section 5 that was recorded on March 25, 2019. M/I Homes of Houston, LLC still owns all lots that are contained within the Section 5 plat and is requesting that the plat be vacated so that preexisting unimproved road easements through the property can be formally acknowledged and exchanged by ordinance (Ord. 19-Q).

The property is located at the northwest corner of the intersection of FM 1462 and Mustang Crossing Boulevard. This section consists of sixty-seven (67) single-family lots, two (2) reserves, and three (3) blocks.

This plat vacation complies with all requirements of the City's Subdivision Ordinance. The Planning Commission unanimously approved the plat vacation at their meeting on July 16, 2019. Staff recommended approval.

Council recessed into Executive Session at 7:15 p.m. in accordance to **Section 551.071(2)** of the Government Code: Attorney consultation to receive attorney advice and counsel in connection with the city's legal rights, duties, privileges, and obligations relating to the vacation of the final plat of Mustang Crossing Section 5 (located northwest of the intersection of FM 1462 and Mustang Crossing Boulevard), being a Planned Unit Development (PUD) subdivision containing 14.79 acres of land located in the Hooper & Wade Survey, Abstract 488, in the City of Alvin, Brazoria County, Texas.

The Council reconvened into regular session at 7:55 p.m.

Council member Thompson moved to approve the vacation of the final plat of Mustang Crossing Section 5 (located northwest of the intersection of FM 1462 and Mustang Crossing Boulevard), being a Planned Unit Development (PUD) subdivision containing 14.79 acres of land located in the Hooper & Wade Survey, Abstract 488, in the City of Alvin, Brazoria County, Texas. Seconded by Council member Starkey; motion carried on a vote of 7 Ayes.

Consider Ordinance 19-Q, an Ordinance of the City of Alvin, Texas, authorizing and approving the exchanges and conveyances of public rights-of-way within the proposed Mustang Crossing Subdivision; making findings of fact; and providing for related matters.

Ordinance 19-Q authorizes the exchange/conveyance of 0.6371 acres of unimproved platted roadway (rights-of-way) within the Mustang Crossing Subdivision for 3.34 acres of improved road rights-of-way within Mustang Crossing Sections 5 and 5B to serve the proposed lots. The rights-of-way being abandoned are further described in Exhibits A and B of Ordinance 19-Q.

Section 272.001 of the Texas Local Government Code enables the City to exchange public rights-of-way for other land to be used for public rights-of-way without a public sale.

The Planning Commission unanimously approved Ordinance 19-Q at their meeting on July 16, 2019. Staff recommended approval of Ordinance 19-Q.

Council member Starkey moved to approve Ordinance 19-Q, an Ordinance of the City of Alvin, Texas, authorizing and approving the exchanges and conveyances of public rights-of-way within the proposed Mustang Crossing Subdivision; making findings of fact; and providing for related matters. Seconded by Council member Thompson; motion carried on a vote of 7 Ayes.

Consider a final plat of Mustang Crossing Section 5 (located northwest of the intersection of FM 1462 and Mustang Crossing Boulevard), being a Planned Unit Development (PUD) subdivision containing 14.77 acres of land, being a partial replat of lots 26 and 27 of Section 18, Hooper & Wade Survey, recorded in volume 6, page 152 and volume 32, page 2, all of the Deed Records of Brazoria County, Texas. Located in the Hooper & Wade Survey, Abstract 488, in the City of Alvin, Brazoria County, Texas.

On May 30, 2019, the Engineering Department received the revised final plat of Mustang Crossing Section 5 for review. The property is located at the northwest corner of the intersection of FM 1462 and Mustang Crossing Boulevard. This section consists of sixty-seven (67) single-family lots, two (2) reserves, and three (3) blocks. The Mustang Crossing Subdivision currently consists of three previously platted sections containing 204 single-family residential lots of which approximately 196 have homes on them. This plat complies with all requirements of the City's Subdivision Ordinance.

The Planning Commission unanimously approved the Final Plat of Mustang Crossing Section 5 at their meeting on July 16, 2019. Staff recommended approval.

Council member Thompson moved to approve a final plat of Mustang Crossing Section 5 (located northwest of the intersection of FM 1462 and Mustang Crossing Boulevard), being a Planned Unit Development (PUD) subdivision containing 14.77 acres of land, being a partial replat of lots 26 and 27 of Section 18, Hooper & Wade Survey, recorded in volume 6, page 152 and volume 32, page 2, all of the Deed Records of Brazoria County, Texas. Located in the Hooper & Wade Survey, Abstract 488, in the City of Alvin, Brazoria County, Texas. Seconded by Council member Richards; motion carried on a vote of 7 Ayes.

Consider a final plat of Mustang Crossing Section 5B (located northwest of the intersection of FM 1462 and Mustang Crossing Boulevard), being a Planned Unit Development (PUD) subdivision containing 2.9314 acres of land, being a partial replat of lots 15 and 26 of Section 18, Hooper & Wade Survey, recorded in volume 6, page 152 and volume 32, page 2, all of the Deed Records of Brazoria County, Texas. Located in the Hooper & Wade Survey, Abstract 488, in the City of Alvin, Brazoria County, Texas.

On May 30, 2019, the Engineering Department received the final plat of Mustang Crossing Section 5B for review. The property is located at the northwest corner of the intersection of FM 1462 and Mustang Crossing Boulevard. This section consists of nine (9) single-family lots, three (3) reserves, and one (1) block. The Mustang Crossing Subdivision currently consists of three previously platted sections containing 204 single-family residential lots of which approximately 196 have homes on them. This plat complies with all requirements of the City's Subdivision Ordinance.

The Planning Commission unanimously approved the plat at their meeting on July 16, 2019. Staff recommended approval.

Council member Thompson moved to approve a final plat of Mustang Crossing Section 5B (located northwest of the intersection of FM 1462 and Mustang Crossing Boulevard), being a Planned Unit Development (PUD) subdivision containing 2.9314 acres of land, being a partial replat of lots 15 and 26 of Section 18, Hooper & Wade Survey, recorded in volume 6, page 152 and volume 32, page 2, all of the Deed Records of Brazoria County, Texas. Located in the Hooper & Wade Survey, Abstract 488, in the City of Alvin, Brazoria County, Texas. Seconded by Council member Adame; motion carried on a vote of 7 Ayes.

Consider a final plat of Rustic Country Acres (located at 2505 County Road 145), being a subdivision of 8.9999 acres in the A.C.H.&B. Railroad Company Survey, A-412, also being a partial replat of lots 18 and 19 out of section 25 of the A.C.H.&B. Railroad Company Survey, Abstract 412 as recorded by volume 8, page 622 of the deed records of Brazoria County, Texas.

On July 1, 2019, the Engineering Department received the final plat of Rustic Country Acres for review. The property is located at 2505 County Road 145, in the City of Alvin's Extraterritorial Jurisdiction (ETJ). Lot 2 was previously conveyed, in error, by Metes and Bounds Description without platting through the City of Alvin as required. The subdivision of this property without platting was discovered when the new owner of lot 2 applied to have electrical service to the property. Mr. Durr, the original owner of the entire property, is requesting a variance to the 60' lot width requirement and requesting that a lot width of 40' for lot 2 be approved. A lot width of 40' for lot 2 is the maximum width that can be attained and still keep all utilities that service Mr. Durr's home within lot 1 where his home is located.

The City Planning Commission unanimously approved the plat with the variance to lot width at their meeting on July 16, 2019. Staff recommended approval.

Councilmember Starkey moved to approve a final plat of Rustic Country Acres (located at 2505 County Road 145), being a subdivision of 8.9999 acres in the A.C.H.&B. Railroad Company Survey, A-412, also being a partial replat of lots 18 and 19 out of section 25 of the A.C.H.&B. Railroad Company Survey, Abstract 412 as recorded by volume 8, page 622 of the deed records of Brazoria County, Texas. Seconded by Council member Thompson; motion carried on a vote of 7 Ayes.

Consider Resolution 19-R-32, approving the Utility Conveyance and Security Agreement accepting the water distribution, wastewater collection and storm water facilities to serve Kendall Lakes, Section Seven; and authorize the Mayor to sign the Agreement.

This conveyance of utility facilities conforms with the initial Utility Services Contract dated August 5, 2004, with the developer, Skymark Land Development, Inc. Skymark contracted with the City to obtain water supply and wastewater treatment services for Municipal Utility District (MUD) No. 36 serving Kendall Lakes. The District contracted with Clearwater Utilities, Inc., in January 2017 for the water distribution, wastewater collection, and storm water facilities to serve Kendall Lakes, Section Seven. These services (water supply and wastewater treatment services) are now to be transferred to the City for ownership, operation, and maintenance. Staff recommended approval of the Resolution and acceptance of the Utility Conveyance.

Council member Thompson moved to approve Resolution 19-R-32, approving the Utility Conveyance and Security Agreement accepting the water distribution, wastewater collection and storm water facilities to serve Kendall Lakes, Section Seven; and authorize the Mayor to sign the Agreement. Seconded by Council member Richards; motion carried on a vote of 7 Ayes.

Consider an Engineering Services Agreement with LJA Engineering in an amount not to exceed \$396,250 for engineering design services for the Waterline Improvements Phase 2 Project; and authorize the City Manager to sign the Agreement upon legal review.

The Waterline Improvements Phase 2 Project was identified in the 2015 Utility Master Plan that was approved by City Council on March 3, 2016 and consists of the replacement/addition of approximately 15,200 linear feet of waterline in the area generally bounded by Highway 6, Bypass 35, Sealy Street, and Second Street.

The Engineering Services Agreement being considered will provide surveying and geotechnical data, preliminary and final engineering design, complete plan set with bid package, and construction phase services for this important water system rehabilitation CIP project. It is proposed that design services culminating in a final bid package will be complete

in a period of eight months. Approval of this Agreement will ensure that construction plans are available and ready for bid in April 2020.

This project is being funded by the 2019 Revenue Bonds that were authorized and approved by City Council on May 16, 2019. Staff recommended approval of this Agreement.

Council member Castro; moved to approve an Engineering Services Agreement with LJA Engineering in an amount not to exceed \$396,250 for engineering design services for the Waterline Improvements Phase 2 Project; and authorize the City Manager to sign the Agreement upon legal review. Seconded by Council member Thompson; motion carried on a vote of 7 Ayes.

REPORTS FROM CITY MANAGER

Items of Community Interest and review preliminary list of items for next Council meeting.

Mr. Junru Roland announced items of community interest; and he reviewed the preliminary list for the August 15, 2019 City Council meeting. He announced the August 8th budget workshop meeting.

ITEMS OF COMMUNITY INTEREST

Hear announcements concerning items of community interest from the Mayor, Council members, and City staff, for which no action will be discussed or taken.

Mrs. Roberts reviewed items of community interest.

Council member Thompson stressed the importance for the need of the Grand Parkway through Alvin; and he encouraged citizens to voice their opinion.

Council member Vela announced the last pool party of the summer will be on August 11th. He challenged Council to a Nerf War on August 23rd.

Council member Adame wished his daughter a happy birthday. He commended the staff for their work.

Council member Starkey commended the city staff. He cautioned about the high heat index and to be extra careful driving because school will be in session soon.

EXECUTIVE SESSION

Mayor Horn called for an executive session at 8:16 p.m. in accordance to the following:

Section 551.071(2) of the Government Code: Attorney consultation to receive attorney advice and counsel in connection with the city's legal rights, duties, privileges, and obligations related to the ongoing negotiations of a Collective Bargaining Agreement.

RECONVENE TO OPEN SESSION

Consider and take appropriate action, if any, regarding the proposed Collective Bargaining Labor Agreement between the City of Alvin, Texas and the Alvin Police Officer's Association (APOA).

Mayor Horn reconvened the meeting back into open session at 8:48 p.m.

Council member Starkey moved to place the proposed Collective Bargaining Labor Agreement between the City of Alvin, Texas and the Alvin Police Officer's Association (APOA) on the next agenda (August 15th Council meeting). Seconded by Council member Adame; motion carried on a vote of 7 Ayes.

ADJOURNMENT

Mayor Horn adjourned the meeting at 8:49 p.m.

PASSED and APPROVED the _____ day of _____ 2019.

Paul A. Horn, Mayor

ATTEST: _____
Dixie Roberts, City Secretary



AGENDA COMMENTARY

Meeting Date: 8/15/2019

Department: City Secretary

Contact: Dixie Roberts, City Secretary

Agenda Item: Accept resignation from Senior Citizen Board member, Judy Zavala.

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Plat Discussion & Direction Other

Summary: Judy Zavala submitted her resignation from the Senior Citizens Board for her term ending on December 31, 2019. This agenda item is the formal acceptance of her resignation.

With the resignation of Ms. Zavala, there are now six (6) members on this Board. The Alvin Code of Ordinances states that the board is to be comprised of seven (7) members. City Council will consider an appointment to this vacant position at the next meeting.

Funding Expected: Revenue Expenditure N/A **Budgeted Item:** Yes No N/A

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes No

Legal Review Required: N/A Required **Date Completed:** _____

Supporting documents attached:

- Notice of Resignation

Recommendation: Move to accept the resignation from Senior Citizen Board member, Judy Zavala.

Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager

From: Dan Kelinske
Sent: Monday, August 12, 2019 4:48 PM
To: Dixie Roberts <droboterts@cityhall.cityofalvin.com>
Subject: Judy Zavala resignation

On July 22, 2019, I received Judy Zavala's resignation letter from the senior board.

Dan

Sent from my Verizon LG Smartphone



AGENDA COMMENTARY

Meeting Date: 8/15/2019

Department: Legal Department

Contact: Suzanne Hanneman, City Attorney

Agenda Item: Consider the proposed Collective Bargaining Labor Agreement between the City of Alvin, Texas, and the Alvin Police Officer's Association (APOA).

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Plat Discussion & Direction Other

Summary: The current Contract was approved by Council on October 20, 2016 and goes through FY18-19. In January 2019, the City and the Association began negotiations for the new contract terms. The parties were able to reach and agreement. The highlights of the negotiation terms include the following:

- 3-year contract term – new contract will be effective 10/1/2019 through 9/30/2021, with two (2) years of “evergreen,” with final termination of 9/30/2023
- Return to the Tenure Base Pay Increase – additional increases on anniversary date or promotion date (whichever is most recent)
- Changes to the Base Pay Matrix (attached to the Agreement as Exhibit A)
- Increase of the night differential pay from \$0.70/hour to \$1.00/hour
- Include compensatory time as “hours worked” in the calculation of overtime
- Increase compensatory time cap from 40 to 60 hours

The APOA approved the proposed Collective Bargaining Agreement at their last meeting.

Staff recommends approval of the Collective Bargaining Agreement.

Funding Expected: Revenue Expenditure N/A **Budgeted Item:** Yes No N/A

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes No

Legal Review Required: N/A Required **Date Completed:** 8/12/2019 SLH

Supporting documents attached:

- 2019 Collective Bargaining Agreement and Exhibits

Recommendation: Move to approve the Collective Bargaining Labor Agreement between the City of Alvin, Texas and the Alvin Police Officer's Association (APOA).

Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager



COLLECTIVE BARGAINING LABOR AGREEMENT

Between the

CITY OF ALVIN, TEXAS

And the

ALVIN POLICE OFFICERS' ASSOCIATION
("APOA")

Fiscal Year 2019-2020 through Fiscal Year 2021-2022



City Hall • 216 West Sealy • Alvin, Texas 77511
www.cityofalvin.com

SIGNATURE & EXECUTION PAGE

**THE FOLLOWING INSTRUMENT HAS BEEN DULY NEGOTIATED, REVIEWED,
AND APPROVED BY EACH OF THE SIGNATORIES INDICATED BELOW:**

THE CITY OF ALVIN, TEXAS

(Approved by City Council action taken on _____, 2019)

By: _____

Paul Horn
Mayor

By: _____

Dixie Roberts
City Secretary

Dated: _____

THE ALVIN POLICE OFFICERS' ASSOCIATION ("APOA")

(Approved by APOA Membership as per Email Communication dated
_____, 2019)

By: _____

Justin Kelly
President, APOA

Jessica Gilbreath
Secretary, APOA

Dated: _____

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ARTICLE 1. PARTIES TO THE AGREEMENT

A. The following Agreement (“Agreement”) by and between the CITY OF ALVIN, TEXAS (“the City”), and the Alvin Police Officers Association (“the ASSOCIATION” or “the APOA”), is hereby recorded in accordance with the Fire and Police Employee Relations Act of the State of Texas, Chapter 174 of the Texas Local Government Code.

B. The CITY OF ALVIN, TEXAS, hereafter referred to as the “the CITY OF ALVIN,” the “CITY,” or the “EMPLOYER,” is a home rule municipality organized under the law of the State of Texas.

C. The ALVIN POLICE OFFICERS’ ASSOCIATION, hereafter referred to as “the ASSOCIATION,” or “APOA,” is an association, as such is the duly recognized bargaining agent as per Chapter 174 of the Texas Local Government Code (“TLGC”) for the purpose of representing qualifying members of the police bargaining unit covered under Chapter 174, TLGC.

D. References to the CITY and the ASSOCIATION jointly shall be to the “PARTIES.”

ARTICLE 2. PURPOSE OF THIS AGREEMENT

A. The CITY and the ASSOCIATION agree that the efficient and uninterrupted performance of the municipal police function is a primary purpose of this Agreement, as well as the establishment of fair and reasonable compensation and working conditions for the Police Officers of the City.

B. The Agreement has been reached through the process of collective bargaining with the City and its Police Officers. This Agreement, therefore, is intended to be, in all respects, in the public interest and to be in compliance with the requirements of Chapter 174, TLGC.

ARTICLE 3. RECOGNITION CLAUSE

A. The CITY OF ALVIN hereby recognizes the ALVIN POLICE OFFICERS’ ASSOCIATION (“APOA”) as the sole and exclusive bargaining agent for all police officers, in accordance with Chapter 174, TLGC, as well as the applicable provisions of Chapter 143, TLGC.

B. It is also the intention of the PARTIES that the terms of this Agreement shall be binding upon the successors and assignees of the PARTIES hereto during the active term of this Agreement.

ARTICLE 4. AUTHORITY AND TERM

A. **Term of the Agreement.** Except as otherwise provided for within, this Agreement shall cover a period of three (3) years starting on October 1, 2019 (FY2019-20) through September 30, 2022.

B. **Automatic Renewal Provisions.** The following automatic renewal provisions shall also apply:

1. If during the third year of this Agreement, the PARTIES do not reach a new fully executed and approved agreement prior to midnight, September 30, 2022 (the end of this current Agreement), then the parties agree that the terms of this Agreement shall continue for the subsequent fiscal year in question, that is, FY 2022-23 (the 1st holdover year).
2. Further, if in the 1st holdover year, the APOA tenders a further notice of intent to bargain, and the PARTIES do not reach a new agreement prior to midnight, September 30, 2023, then all terms of this current Agreement shall continue to remain in full force and effect for another fiscal year, that is, FY 2023-24 (the 2nd holdover year).

C. **Final Termination of Contract.** The PARTIES further agree that this Agreement shall automatically terminate upon the earlier of one of the following conditions:

1. That a newly negotiated Agreement is approved and effectuated by and between the PARTIES at any time after January 1, 2022 but before September 30, 2022 (the end of FY 2022); or
2. As of midnight, on September 30, 2024.

ARTICLE 5. RELATIONSHIP TO OTHER LAWS, RULES & POLICIES

A. **Individual Civil Rights Not Affected.** Nothing in this Agreement is intended to detract from or otherwise affect any civil rights that an individual police officer, as an employee of the City, would otherwise have under state or federal law.

B. **Personnel Policy Manual.** The provisions of the City's Personnel Policy Manual, as amended from time to time by the City Council, shall apply to all Officers, except as otherwise specifically provided for in this Agreement.

C. **Departmental Policies and Procedures.** The provisions of the Police Department Policies and Procedures, as amended, shall continue to apply to all Officers, except as otherwise specifically provided for in this Agreement.

D. **Other Rules and Regulations.** The provisions of any other statutory or administrative rule, regulation, or policy pertaining to law enforcement operations and personnel management, as amended, shall continue to apply to all Officers, except as otherwise specifically provided for in this Agreement.

ARTICLE 6. MANAGEMENT RIGHTS

The PARTIES understand and agree that the CITY OF ALVIN, TEXAS, as a duly constituted home rule municipality under the Constitution and Laws of the State of Texas,

retains all those powers, privileges, rights, and authority conferred upon it by law, and nothing in this Agreement shall be construed or interpreted as being in derogation of, or delegation of, those powers, privileges, rights, and authority, other than what is legally required under Chapter 174 of the Texas Local Government Code and related case-law interpretations of the statute.

ARTICLE 7. NO STRIKE-NO LOCK OUT

A. The ASSOCIATION agrees that, during the term of this Agreement, it will not authorize, ratify, encourage, or otherwise support any strikes, slow-downs, picketing, or any other form of work stoppage or interference with the business of the City, and will cooperate with the City in preventing and/or halting any such action. The City agrees that it will not authorize, ratify, encourage, or otherwise support any lockout during the term of this Agreement.

B. The PARTIES understand and agree that the City may discipline and/or discharge any employee who instigates, participates, or gives leadership to any act or conduct prohibited by this Article. The City may also invoke any remedies authorized by Section 174.205 of the Texas Local Government Code, in the event of any strike, work stoppage, or slow-down.

ARTICLE 8. AUTHORIZED ASSOCIATION ACTIVITY

A. **Association President.** The President of the Association shall have the right to visit the premises of the Police Department on reasonable notice to the Chief for the purpose of administering this Agreement. Such visits shall be conducted in a manner so as not to interfere with the functions of the Department.

B. **Association Leave Pool.** On each January 1, the City will deduct four (4) hours of sick leave from each member of the Association to be contributed to a pool to be known as the "Association Leave Pool." This pool may be used by the Association to receive time off with pay to attend scheduled state and national association board meetings, conventions and training programs; labor and police related training programs; arbitration and grievance hearings of members by elected Association officials or representatives; and other Association-related activities.

C. **Member Right of Withdrawal.** During the December preceding the January deduction, any member desiring not to contribute to the association leave pool must make a written, no-deduction request to the City accounting office. The Officer must hand deliver such request to the City finance department.

D. **Utilization of Leave Pool.** The Association President shall notify the Chief in writing at least five (5) working days in advance of any requested use of the Association leave pool. Such requests by the Association shall not be unreasonably refused. The Chief may order any Association members using the leave pool to report for duty as assigned by the Chief during an emergency situation.

E. **Bulletin Boards.** The Association shall be permitted the exclusive right to an Association bulletin board at the Police Department in an area visible to members of the Association.

F. **Dues Deductions.** The City shall grant exclusive monthly check-off of Association dues, fees or assessments on a form attached as an exhibit to this Agreement to cover dues deductions for APOA and/or CLEAT only. *See Exhibit B.*

G. The City shall notify the Association of any member who revokes his or her membership within seven (7) working days of the date of revocation.

ARTICLE 9. WAGES, SALARIES, & COMPENSATION (Exhibit A)

A. **Base and Step Pay Matrix.** Pay will be determined by the Base Pay Matrix, attached as Exhibit A. Effective the first full pay period after September 30, 2019, all Officers governed by the APOA shall be categorized in the FY 2019-20 Base Pay Matrix according to their tenure. For the remaining period covered by this Agreement, all tenure-based increases from the Base Pay Matrix shall occur on the anniversary date of the individual officer's hire date or date of promotion, whichever is more recent.

1. Effective the first full pay period after September 30, 2019 (the first year), the Matrix reflects a two percent (2%) increase in base wages to the Police Officer paygrade, a two percent (2%) increase in base wages to the Sergeant paygrade, a two percent (2%) increase in base wages to the Lieutenant paygrade, and a two percent (2%) increase in base wages to the Captain paygrade.
2. Effective the first full pay period after September 30, 2020 (the second year), the Matrix reflects a two percent (2%) increase in base wages to the Police Officer paygrade, a two percent (2%) increase in base wages to the Sergeant paygrade, a two percent (2%) increase in base wages to the Lieutenant paygrade, and a two percent (2%) increase in base wages to the Captain paygrade.
3. Effective the first full pay period after September 30, 2021 (the third year), the Matrix reflects a two percent (2%) increase in base wages to the Police Officer paygrade, a two percent (2%) increase in base wages to the Sergeant paygrade, a two percent (2%) increase in base wages to the Lieutenant paygrade, and a two percent (2%) increase in base wages to the Captain paygrade.

B. **Specialist Pay.** Pay for Specialists shall be \$3,744.00 annually (\$1.80 per hour) for the Specialists currently receiving this pay on the effective date of this Agreement.

1. Upon promotion to a higher classification, a Specialist in the highest pay scale shall be moved to the pay step that is closest to his/her current pay, but not less than current pay. From this new step, the Officer will receive a one-step promotional bonus. The Officer will remain at this step until his/her tenure in the new position allows for further advancement within the pay steps.

2. Consistent with current and past practice, an officer will not receive more than one specialist assignment pay.
3. Officers who receive Specialist Pay at the time this Agreement is approved shall not lose their Specialist Pay, unless superseded by promotion to higher rank or the consequence of disciplinary action that results in demotion from the rank of specialist.

C. **Longevity Pay.** Longevity pay for Officers shall be paid in accordance with existing City policy for civilian personnel. Either party may reopen discussion on longevity pay if the City modifies its longevity pay policy.

D. The PARTIES acknowledge that the City’s projected annual revenues may fluctuate substantially during any fiscal year. The parties agree to initiate negotiations as to the wage and salary and certificate pay provisions in this Agreement if the City gives notice under this provision of the occurrence of either of the following two conditions:

1. Where the electorate of the City subjects the City to a rollback tax election which results in a reduction in revenue due to a reduction in the City’s tax rate; or
2. Where the City Council makes a good faith determination that because of an act of God or that the projected revenue to the City for a fiscal year would be unable to support the implementation of the wage rate agreed upon.

ARTICLE 10. CERTIFICATION AND EDUCATION PAY

A. The City shall compensate Officers possessing a TCOLE certificate in the amounts specified in the tables below as follows:

TCOLE Certificate	Monthly Stipend
Intermediate Certificate	\$50.00 per month
Advanced Certificate	\$100.00 per month
Master Peace Officer Certificate	\$150.00 per month

B. The City shall also compensate Officers possessing a Degree from a U.S. based accredited institution of higher learning in the amounts specified in the tables below as follows:

College Degree	Monthly Stipend
Associate Degree	\$30.00 per month
Bachelor’s Degree	\$60.00 per month
Master’s Degree	\$120.00 per month

ARTICLE 11.

SUPPLEMENTAL PAYS

A. **Night Shift Differential.** Patrol officers assigned to work a night shift shall receive an additional one dollar (\$1.00) per hour to their regular hourly rate of pay.

1. A night shift for purposes of this provision shall begin at 6:00 p.m. and end at 6:00 a.m.
2. This night shift differential does not apply to any duty hours that an Officer may work outside of the night shift period specified above.
3. Similarly, this night shift differential does not apply to any Officer who is not assigned to night shift, but who may work duty hours during a night shift at any given time.

B. **Step-Up Pay.** Any Officer performing duties above their normal pay grade (i.e., “step-up”) for a full shift shall receive a rate increase of one dollar (\$1.00) per hour during the temporary assignment. The Police Chief retains the discretion to determine whether and when a step-up pay assignment under this provision shall be implemented.

C. **Bilingual Stipend.** An Officer, upon being certified by the department as “bilingual,” shall receive a stipend of fifty dollars (\$50.00) per month beginning with the first pay period after certification. Certification standards will be maintained by the department and shall include a fluency/proficiency test.

D. **Training Officer Pay.** An Officer who is assigned by the Chief and who performs the specific duty of training and evaluating officers shall receive an additional \$5.00 per hour for those hours worked as a Training Officer.

E. **Call Out Pay.** Officers who are called to work outside their regular schedule, including attendance at court, shall be paid at least two (2) hours minimum. The City may assign tasks to those Officers during that period of time.

ARTICLE 12.

FRINGE BENEFITS

A. **Target Ammunition for Practice.** The City shall provide each Officer with a minimum of two hundred and fifty (250) rounds of practice ammunition annually. Such ammunition shall be controlled and distributed by the Department’s Firearm Proficiency Control Officer.

B. **Clothing and Equipment Allowance.**

1. The City shall furnish all uniforms, protective vests, hats, jackets, and raincoats without cost to the Officers. Protective vests shall be replaced every five (5) years.
2. The City shall repair or replace all uniforms and reasonable personal equipment lost or damaged in the line of duty of officers.

3. In addition, each Officer, including both uniformed and plainclothes, shall receive an allowance of \$155.00 per month, from the date of employment, for the purpose of:
 - a. cleaning, maintaining and repairing equipment assigned to or required of the officer; and
 - b. acquiring equipment required by the department related to performance of duties.
4. Each plainclothes Officer shall receive a clothing allowance of \$600.00 per fiscal year during the first pay period of each fiscal year.

C. **Continuous Duty Meal Break.** An Officer who is assigned to continuous duty for a period of twelve (12) hours, or more, shall be permitted to suspend patrol or other assigned duties, subject to immediate recall at all times, for forty-five (45) minutes for the purpose of having one meal during the tour of duty.

ARTICLE 13. FLSA OVERTIME PAY AND COMPENSATORY TIME

A. In accordance with the Fair Labor Standards Act provisions for Police Officers, there is hereby established a two-week pay period for determination of overtime pay. Work performed by an Officer in excess of eighty-two (82) hours in any given two-week pay period shall be compensated on the basis of 1.5 times the Officer's regular rate of pay in salary or compensatory time.

B. For purposes of this FLSA overtime provision hours actually worked, compensatory time, and vacation leave shall be considered as time worked for the purposes of qualifying for overtime.

C. The hourly overtime rate of pay shall be calculated in compliance with the FLSA requirements for such pay.

D. Accumulation of compensatory time shall be capped at sixty (60) hours.

E. The City reserves the authority to adjust both department-wide and individual officer work schedules in a manner calculated to avoid generating an overtime obligation for the City.

F. The City further reserves the authority to manage accrued overtime pay obligations and compensatory time accounts and to determine whether any such accrued obligations should be paid out or otherwise taken as leave time. Provided, however that:

1. The department will provide a minimum of 24-hours' notice to an Officer before requiring the Officer to take compensatory (contractual or FLSA) time off.

2. An Officer's written request to take up to forty (40) hours compensatory time, when submitted with thirty (30) days' notice to the department, and approved in writing by the Chief, shall not be rescinded because of minimum staffing. Approved requests shall be charged against the contractual compensation time account first, if any, and then against the FLSA compensatory time account.

G. The provisions contained herein override any civil service statutory provisions inconsistent with this Article as per the authority of Section 174.006, TLGC.

ARTICLE 14. CONTRACTUAL COMPENSATORY TIME FOR ON-CALL PAY

A. The Parties hereby agree to create a separate category of deferred compensation that is not otherwise mandated by FLSA law and identified herein as contractual compensatory time.

B. Contractual compensatory time shall apply to on-call pay as well as any other pays provided for in this Agreement that do not trigger a FLSA compensatory time calculation.

C. Contractual compensatory time shall be separately accounted for and reflected on individual payroll checks.

D. City Management reserves the right to determine whether and when to assign an Officer to a type of duty that would invoke the accrual of contractual compensatory time.

E. Officers who are required to be on-call and are released from restriction shall be compensated with four (4) hours of contractual compensatory time for each one-week period they are ordered to be under on-call restrictions.

F. Officers who are required to be on-call and cannot be released from on-call restrictions shall be compensated with 1.14 hours of contractual compensatory time for each twenty-four (24) hour period they are under the on-call restrictions.

G. The contractual comp time accounts existing at the conclusion of each fiscal year shall be paid out no later than the second full pay period after the end of the fiscal year on September 30th.

ARTICLE 15. PAID TIME OFF: HOLIDAYS, HOLIDAY BENEFIT, AND PREMIUM PAY FOR HOLIDAY HOURS WORKED

A. **Recognized Holidays.** The following holidays shall be treated as official holidays for Officers for purposes of this Agreement:

1. New Year's Day (January 1st);
2. Martin Luther King, Jr. Day;
3. President's Day;
4. Good Friday;

5. Memorial Day;
6. Independence Day (July 4th);
7. Labor Day;
8. Thanksgiving Day;
9. Thanksgiving Friday;
10. Christmas Eve (December 24th);
11. Christmas Day (December 25th);
12. New Year's Eve (December 31st); and
13. One (1) Floating Holiday.

B. **Holiday Benefit.** Officers shall receive ten (10) hours at their regular rate of pay for each holiday specified above.

C. **Premium Pay for Hours Worked on Holiday.** Officers who work on a specified holiday period, other than the Floating Holiday, shall earn a premium rate of pay of 1.5 times their regular rate of pay for the entirety of their shift so long as the shift begins on the calendar date of the specified holiday. This premium rate of pay will be in addition to the holiday benefit specified above.

1. For purposes of calculating Premium Pay under this Article, a specified holiday begins at 12:01 a.m. and ends at 12:00 midnight on the calendar date of the holidays specified above.
2. Officers who are scheduled to work, but who do not in fact work productive hours for whatever reason (such as shift exchange, vacation, sick leave, or unpaid leave, etc.) shall not receive Premium Pay under this Article but may, if applicable, apply comp time, sick leave, or vacation leave at the regular rate of pay for time missed from duty.
3. Overtime pay for FLSA purposes shall not be paid on top of or in addition to any Premium Pay under this Article.
4. In order to use the Floating Holiday, the Officer shall be employed on January 1 of each calendar year to accrue the Floating Holiday and shall take such holiday by December 31 of the same calendar year.
5. The date of the Floating Holiday is at the Officer's discretion with Department Director approval.
6. Payment of holiday benefit, as well as Premium Pay for holiday hours worked, shall be paid in the pay period following the specified holiday.

ARTICLE 16. PAID TIME OFF: VACATION LEAVE (Exhibit C-1)

A. Vacation leave for Officers shall be governed by the City's vacation leave provisions contained in the Personnel Policy Manual attached as Exhibit C-1, on the same terms and

conditions as provided to the remainder of eligible City employees in accordance with existing City policy.

B. If during the term of this Agreement, the City modifies the vacation leave policy, then either party may request to reopen this Article for further negotiations.

ARTICLE 17. PAID TIME OFF: SICK LEAVE (Exhibit C-2)

A. Sick leave for Officers shall be governed by the City's sick leave provisions contained in the Personnel Policy Manual attached as Exhibit C-2, on the same terms and conditions as provided to the remainder of eligible City employees in accordance with existing City policy.

B. If during the term of this Agreement, the City modifies the sick leave policy, then either party may request to reopen this Article for further negotiations.

ARTICLE 18. PAID TIME OFF: BEREAVEMENT LEAVE (Exhibit C-3)

A. Bereavement leave for Officers shall be governed by the City's bereavement leave provisions contained in the Personnel Policy Manual, attached as Exhibit C-3, on the same terms and conditions as provided to the remainder of eligible City employees in accordance with existing city policy.

B. If during the term of this Agreement, the City modifies the bereavement leave policy, then either party may request to reopen this Article for further negotiations.

ARTICLE 19. LINE OF DUTY ILLNESS AND INJURY LEAVE

A. The City shall provide an Officer a leave of absence for an illness or injury related to the Officer's line of duty. The leave is with full pay for a period commensurate with the nature of the line of duty illness or injury, as determined by an independent medical doctor or specialist. If necessary, the leave shall continue for at least one year.

B. The City may satisfy this obligation during its term through the utilization of workers' compensation coverage, short- or long-term disability compensation coverage, or through the use of other plans and programs, provided that the City shall provide for full salary continuation in the event that the plans or programs do not provide a full benefit.

C. At the end of the one-year period, the City's governing body has the option, to extend or not, the line of duty illness or injury leave at full or reduced pay. It shall be the Officer's responsibility to make timely application for such an extension in a timely fashion, and the decision of the City's governing body on the application shall be final and neither appealable or grievable.

D. If an Officer is temporarily disabled by a line of duty injury or illness, and if the year at full pay and any extensions granted by the governing body, if any, have expired, the Officer may use accumulated sick leave, vacation time, and other accrued benefits before the Officer is placed on temporary leave.

E. After recovery from a temporary disability, the Officer shall be reinstated at the same rank and with the same seniority the Officer had before going on temporary leave.

F. The City reserves the right at any time to order an Officer on temporary disability leave and receiving disability compensation to be evaluated and assessed by an appropriate health care specialist selected by the City, and at the City's expense, to determine an Officer's fitness for duty in the regularly assigned position.

ARTICLE 20. INSURANCE BENEFITS

A. The City agrees to provide Officers with health insurance coverage, life insurance, disability insurance, and any other related type of benefit on the same terms and conditions as provided to the remainder of City employees as that coverage may from time to time change.

B. The Association shall be notified in advance of the re-negotiation by the City of its health insurance benefits package and offered the opportunity to comment and locate and refer alternate vendors.

ARTICLE 21. PENSION BENEFITS

The City agrees to provide Officers with retirement benefits and savings plans on the same terms and conditions as provided to the remainder of City employees as that coverage may from time to time change.

ARTICLE 22. LINE OF DUTY DEATH BENEFIT

If an Officer dies in the course and scope of employment, the Officer's estate shall be paid for all of the deceased Officer's accrued sick leave, vacation leave, and compensatory time.

ARTICLE 23. OTHER ALLOWANCES

A. **Extra Jobs.** Officers shall be allowed to work extra-duty, security-related employment. The Chief of Police, or his designee, may deny such employment only upon offering a written justification of the denial to the Association.

B. **Lay-Off / Recall.** Seniority shall be the sole factor in layoff and recall, with layoff being accomplished beginning with the least senior officer and recall beginning with the most senior officer.

ARTICLE 24. PROBATIONARY PERIOD

A. Upon initial employment, beginning position Officers will serve a probationary period without right of appeal of one (1) year from the date of hire.

B. The probationary Officer will not be eligible for vacation benefits during the first six (6) months. Upon successful completion of the probationary period, benefits accrued will be

retroactive to the original date of employment. The Officer will be added, and has the option of adding his/her dependents, to the group health insurance plan after thirty (30) days of employment.

C. An Officer applicant that has five (5) or more years of prior experience as a police officer, if hired, shall, upon successful completion of the probationary period, be moved to the three (3) year pay in the scale, remaining there until tenure or promotions move him/her further up the scale.

D. During the probationary period, the Chief of Police may either confirm the hiring, extend the probationary period [not to exceed a total of fifteen (15) months unless this was a trainee appointment] to allow the Officer further time to prove ability to do the job, or dismiss the Officer.

E. No probationary Officer shall be confirmed until the Officer is performing at the “Meets Expectations” level or better. Normally, confirmation takes place after twelve (12) months of probation. When the Chief of Police determines that a probationary Officer is performing at the level that “Exceeds Expectations” or better, the Chief of Police may, subject to the approval of the City Manager, reduce the probationary period to as little as six (6) months.

ARTICLE 25. GRIEVANCES & GRIEVANCE PROCEDURES (Exhibit D)

A. **Scope of Grievance Procedure Generally.** The purpose of this grievance procedure is to establish effective machinery for the fair, expeditious, and orderly adjustment of grievances. Only matters involving the interpretation, application, or enforcement of the terms of this Agreement, promotion, demotion, suspension and termination of Officers shall constitute a grievance under the provisions of this Article.

B. **Contract Grievances.** Grievances involving the interpretation, application, or enforcement of a specific clause of this Agreement, or promotions shall be resolved in the following manner.

1. **Step 1.** The aggrieved Officer shall submit his/her written grievance to the Association Grievance Committee, with a copy to the Chief, within twenty (20) calendar days of when the Officer knew or should have known of the occurrence of the event giving rise to the grievance. *See Exhibit D.* The committee shall determine whether the grievance is valid. The committee shall judge each grievance in a fair and equitable manner and shall not discriminate against Officers who are not Association members. If, in its sole discretion, the grievance committee determines that the grievance is not valid, the committee shall give written notice of that determination to the aggrieved Officer.
2. **Step 2.** If the Association deems the grievance to be valid, the Association shall submit a written grievance to the Chief within twenty (20) calendar days of the date of the Officer filed the grievance with the Association. *See Exhibit D.* If the Chief does not respond in writing to this grievance within ten (10) calendar days of its receipt, the

grievance shall be deemed to be denied and the Association may progress to the next step. The grievance shall be deemed received by the Chief upon three (3) calendar days after the postmark on the letter containing the grievance, the date of the email sent to the Chief with the grievance attached, or unless otherwise indicated.

3. **Step 3.** If the grievance has not been resolved at Step 2, the Association shall submit the grievance in writing to the City Manager within ten (10) calendar days following the date that the Chief is required to respond. The City Manager shall respond in writing to this grievance within thirty (30) calendar days of its receipt. If the City Manager does not respond within thirty (30) calendar days, the grievance shall be deemed denied. The requirement in Steps 1 through 3 for written grievances and responses shall not preclude the aggrieved Officer and the appropriate management representative from orally discussing and resolving the grievance. The grievance shall be deemed received by the City Manager upon three (3) calendar days after the postmark on the letter containing the grievance, the date of the email sent to the City Manager with the grievance attached, or unless otherwise indicated.
4. **Step 4.** If the grievance has not been resolved at Step 3, the Association may submit the grievance to arbitration for adjustment pursuant to the procedure set forth in this Agreement by submitting the written request for arbitration to the City Manager within ten (10) calendar days of receipt of the denial of the grievance from the City Manager.
5. The burden of proof on any contract grievances shall lie with the ASSOCIATION.

C. **Disciplinary Grievances Actions.** Grievances involving disciplinary actions such as of demotion, suspension, and termination of Officers by the Chief of Police shall be resolved in the following manner:

1. The Chief shall have the authority to demote, temporarily suspend [not to exceed thirty (30) calendar days] or terminate any Officer for cause as set forth in the ordinances and rules and regulations of the City of Alvin and the Alvin Police Department.
2. The Chief may demote, suspend, or terminate an Officer and shall provide a written statement of charges to the Officer by personal service. The written statement shall point out the particular rule or rules alleged to have been violated by the Officer and the specific act or acts alleged to be in violation thereof. Said statement shall inform the Officer that he/she has ten (10) calendar days after receipt thereof to file a written notice of appeal with the City Manager. A copy of such statement of charges shall be promptly filed with the City Manager.
3. An Officer's appeal of the action of the Chief described in the preceding paragraph is to an Arbitrator pursuant to the arbitration procedures set forth in this Agreement. Approval of the Association for arbitration is not needed for a disciplinary appeal. An Officer shall submit his/her written notice of appeal to the City Manager within ten (10) calendar days of receipt of the Chief's disciplinary action.

4. Upon receipt of an Officer's written notice of appeal, the City Manager shall request a list of neutral arbitrators from the American Arbitration Association (AAA) to initiate the arbitration process.
5. The burden of proof on all disciplinary action grievances shall lie with the CITY.

D. Notwithstanding any provision of this Article, or of the collective bargaining Agreement, the Chief shall have authority to temporarily suspend an Officer for not less than thirty (30) working days, nor more than ninety (90) working days, when the Officer agrees to the suspension in writing. The Officer shall have no right to appeal such agreed suspension or alter the terms of the Agreement. If during the term of an agreed suspension, the Officer applies for unemployment compensation benefits, the Officer shall be deemed to have violated the agreement and voluntarily resigned from employment with the City.

E. All time limits set forth in this Article must be strictly observed. Failure of the grievant to comply with the time limits set forth will serve to declare the grievance settled and no further action may be taken. Failure of the City to respond within the time limits shall constitute a denial of the grievance, and the grievant may proceed to arbitration.

F. It shall be the responsibility of the City Manager to request a list of neutral arbitrators from the AAA to initiate the arbitration process.

ARTICLE 26. ARBITRATION PROCEDURES

A. Grievances not resolved by the grievance procedure shall be subject to binding arbitration. The sole function of the arbitrator in a grievance arbitration shall be to determine whether the City or the Association is correct with reference to the proper application and interpretation of this Agreement. The Arbitrator shall not have any authority to change, amend, modify, supplement or otherwise alter in any respect whatsoever, this Agreement or any part thereof.

B. All aspects of the arbitration shall be conducted in accordance with the labor arbitration rules of the AAA, except to the extent the parties agree otherwise. Each side is entitled to a one-time rejection of the first panel and may request a second panel within ten (10) calendar days from receipt of the panel. The party requesting the second panel must pay any expenses associated with requesting a new panel. The party requesting a second panel shall strike first for that panel selection. If there is no second panel requested, then the party who struck first on the previous arbitration appeal shall strike second. The second panel lists do not count for purposes of determining which party strikes first in a subsequent appeal. The parties shall make three alternating strikes and the one name that has not been struck by either party is selected as the arbitrator.

C. **Rules of Arbitration.** The following minimum rules related to any arbitration shall apply:

1. All arrangements of the date, time and location for the arbitration shall be mutually

agreed upon, except that the arbitrator shall have jurisdiction in the event of any disputes over arbitration arrangements.

2. The decision of the Arbitrator shall be final and binding on the parties to this Agreement, unless the Arbitrator was without jurisdiction, exceeded his jurisdiction, or if the order was procured by fraud or other unlawful means.
3. Arbitration expenses shall be paid by the losing party. These costs include AAA fees (except for a second panel request) and fees for the arbitrator. Such payment shall be made within thirty (30) days upon receipt of invoice. The losing party is determined by whether the Arbitrator sustains the action in whole for either party.
4. The Association shall bear the expense of any witness(es) called by the Association, and the City shall bear the expense of any witness(es) called by the City. Each party's case preparation and presentation shall be borne by that party. Each party may, at its own expense, tape record or prepare a stenographic record of the hearing. If a transcript of the proceeding is requested, then the requesting party shall pay for such transcript.
5. Officers subpoenaed to appear during working hours shall be treated as they would any other subpoena connected with their duties as a Peace Officer.

ARTICLE 27. STABILITY OF AGREEMENT; SAVINGS CLAUSE

A. **Stability of Agreement.** No agreement, understanding, alteration or variation of the agreements, terms or provisions herein contained shall bind the parties unless made and executed in writing by the parties hereto.

B. **No Implied Waiver.** The failure of the City or the Association to insist in any one or more instance, upon performance of any of the terms or conditions of this Agreement, shall not be considered as waiver or relinquishment of the right of the City or the Association to future performance of any such term or condition, and the obligations of the City and the Association to such future performance shall continue in full force and effect.

C. **Savings Clause.** Should any provision of this Agreement be found to be inoperative, void or invalid by a court of competent jurisdiction, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement, it being the intention of the parties that no portion of this Agreement, not any provisions herein, shall become inoperative or fail by reason of the invalidity of any other portion or provision.

ARTICLE 28. GLOSSARY

For purposes of this Agreement, the following definitions shall apply:

Agreement means this Collective Bargaining Labor Agreement.

Association or Union means the Alvin Police Officers Association, or its duly recognized

successors in interest.

Bargaining Agent refers to duly recognized association that serves as the exclusive bargaining agent for the sworn full-time police officers employed by the City of Alvin and as defined by Chapter 174 of the TLGC.

Bargaining Unit means all full time sworn police officers, except the Police Chief, as defined by Chapter 174 of the TLGC.

Budget (Fiscal) Year refers to the City's fiscal year commencing on October 1 of any given year and ending at twelve midnight on September 30 of the subsequent year.

Calendar Year refers to a year beginning on January 1 and ending on December 31 of that year.

CBA means a Collective Bargaining Agreement and, when specified, to this Agreement.

Chapter 174 refers to the provisions of Chapter 174 of the Texas Local Government Code, as amended, and which refer to the Fire and Police Employee Relations Act.

Chief or Police Chief means the Chief of Police for the City of Alvin, Texas.

City means the City of Alvin, Texas, acting through its City Management chain of authority.

City Manager means the City Manager of the City of Alvin, Texas.

City Management means the chain of authority within the City's administrative structure starting with the Chief of Police and progressing to the City Manager.

Compensatory Time refers to a rate of pay in hours that is equivalent to time and a half of the number of productive hours worked that are classified as compensatory time pursuant to FLSA, or pursuant to a specific provision of this Agreement that provides for pay in terms of compensatory hours.

Contractual Comp Time is deferred pay in hours, as specified in this Agreement, but which would not otherwise trigger an overtime pay obligation under the FLSA.

Department means the Police Department for the City of Alvin, unless otherwise specified.

Execution Date means the date on which this Agreement is fully and formally considered, ratified, and approved by both the Association and the City in accordance with the respective procedures for such approval. The Execution Date of this Agreement is not necessarily the same as the Effective Date of the Agreement, which is defined separately.

Effective Date means the date on which the terms and conditions contained in this Agreement are formally implemented as per the terms of this Agreement.

Fiscal Year means October 1 to September 30.

FLSA means the Fair Labor Standards Act.

Full Pay Period means a recurring bi-weekly (every other week) length of time over which employee time is recorded and paid. A full period starts on Monday of week 1 and ends Sunday of week 2.

Immediate Family Member has the same meaning as contained in the Family Medical Leave Act and is limited to the Officer, the Officer's spouse and any minor children, except as otherwise specifically provided for in this Agreement.

Labor Agreement means this Collective Bargaining Agreement negotiated between the parties.

Member refers to an Officer with the City of Alvin Police Department who is a bargaining unit member.

Officer or Police Officer means any sworn Police Officer of the City with the exception of the Chief of Police.

Overtime Pay refers to an Officer's regular rate of hourly pay, as that pay is to be calculated using FLSA standards, times 1.5.

Paid Time Off refers to any time period for which an Officer is entitled to receive pay without actually engaging in productive work hours.

Parties means the City of Alvin, Texas, and the Association jointly.

Pay Period means the standard pay period established by the City for payroll purposes.

Specialist means an Officer that receives specialist pay as of the effective date of this Agreement.

TLGC means the Texas Local Government Code.

END OF DEFINITIONS

Exhibit A

ALVIN POLICE OFFICERS ASSOCIATION
2019 – 2021 SALARY SCHEDULE (Proposed October 1, 2019)

POLICE OFFICER	Pct Inc	Starting	1 Year	2 Year	3 Year	4 Year	5 Year	6 Year	7 Year	8 Year	9 Year
Current (10/01/2018)	-	\$ 23.44	\$ 24.28	\$ 25.12	\$ 25.97	\$ 26.81	\$ 27.65	\$ 28.50	\$ 29.37	\$ 30.21	\$ 31.06
Effective Oct 2019	2%	\$ 23.91	\$ 24.77	\$ 25.62	\$ 26.49	\$ 27.35	\$ 28.20	\$ 29.07	\$ 29.96	\$ 30.81	\$ 31.68
Effective Oct 2020	2%	\$ 24.39	\$ 25.26	\$ 26.13	\$ 27.02	\$ 27.89	\$ 28.77	\$ 29.65	\$ 30.56	\$ 31.43	\$ 32.31
Effective Oct 2021	2%	\$ 24.87	\$ 25.77	\$ 26.66	\$ 27.56	\$ 28.45	\$ 29.34	\$ 30.24	\$ 31.17	\$ 32.06	\$ 32.96

SERGEANT	Pct Inc	Starting	1 Year	2 Year	3 Year	4 Year	5 Year	6 Year	7 Year
Current (10/01/2018)	-	\$ 29.45	\$ 30.72	\$ 31.38	\$ 32.01	\$ 32.65	\$ 33.28	\$ 33.94	\$ 34.58
Effective Oct 2019	2%	\$ 30.04	\$ 31.33	\$ 32.01	\$ 32.65	\$ 33.30	\$ 33.95	\$ 34.62	\$ 35.27
Effective Oct 2020	2%	\$ 30.64	\$ 31.96	\$ 32.65	\$ 33.30	\$ 33.97	\$ 34.62	\$ 35.31	\$ 35.98
Effective Oct 2021	2%	\$ 31.25	\$ 32.60	\$ 33.30	\$ 33.97	\$ 34.65	\$ 35.32	\$ 36.02	\$ 36.70

LIEUTENANT	Pct Inc	Starting	1 Year	2 Year	3 Year	4 Year	5 Year
Current (10/01/2018)	-	\$ 37.13	\$ 38.41	\$ 39.06	\$ 39.69	\$ 40.34	\$ 40.95
Effective Oct 2019	2%	\$ 37.87	\$ 39.18	\$ 39.84	\$ 40.48	\$ 41.15	\$ 41.77
Effective Oct 2020	2%	\$ 38.63	\$ 39.96	\$ 40.64	\$ 41.29	\$ 41.97	\$ 42.60
Effective Oct 2021	2%	\$ 39.40	\$ 40.76	\$ 41.45	\$ 42.12	\$ 42.81	\$ 43.46

CAPTAIN	Pct Inc	Starting	1 Year	2 Year	3 Year
Current (10/01/2018)	-	\$ 43.10	\$ 44.36	\$ 45.01	\$ 45.63
Effective Oct 2019	2%	\$ 43.96	\$ 45.25	\$ 45.91	\$ 46.54
Effective Oct 2020	2%	\$ 44.84	\$ 46.15	\$ 46.83	\$ 47.47
Effective Oct 2021	2%	\$ 45.74	\$ 47.08	\$ 47.76	\$ 48.42

Exhibit B

ALVIN POLICE OFFICER'S ASSOCIATION
PAYROLL DEDUCTION AUTHORIZATION FORM

I am hereby requesting and authorizing that the City of Alvin, Texas, deduct from my pay check two (2) times per month the amount/s listed below as of the date listed below and distribute as listed. These amounts are for the APOA and CLEAT dues, fees, and assessments in the amounts indicated:

APOA: _____

CLEAT: _____

TOTAL: _____

DATE: _____

NAME: _____

EMP ID#: _____

ADDRESS: _____

DOB: _____

SSN: _____

ATTN PAYROLL DEPT:

This authorization and request shall remain in effect until further modified or revoked by me on a later dated subsequent form.

EMPLOYEE SIGNATURE:

Exhibit C-1

RULE 25. VACATION LEAVE

- A. The City Council hereby authorizes and continues a recognition of a vacation leave benefit, as specified below. The City Council reserves its authority to modify this benefit at any time by resolution.
- B. Vacation Day - A “vacation day” for purposes of this benefit is defined as a ten (10) hour period for all full-time employees, unless otherwise specified.
- C. Eligibility to accrue Vacation Leave. Only regular full-time employees may accrue vacation leave under this authorization, regardless of their probationary status. Part-time and seasonal employees do not earn vacation leave.
- D. Vacation leave accrues only during periods in which the employee works or is otherwise on an approved paid leave status.
- E. Accrual Rate. An employee’s increase of vacation accrual begins with the first pay period of their 6th, 15th and 20th years of service.
- F. The accrual of vacation hours specified below shall be calculated on a pro-rata basis by pay period.

Anniversary Date in Calendar Year	Vacation Benefit as of Anniversary Date of Calendar Year
1 st through 5 th years	80 hours (2 weeks)
6 th through 14 th years	120 hours (3 weeks)
15 th through 19 th years	160 hours (4 weeks)
20 th year and above	200 hours (5 weeks)

- G. An employee may not utilize accrued vacation leave until he/she has successfully completed his/her initial employment probationary period.
- H. Employees are not required to take a full day of vacation; however, accrued vacation leave must be utilized in no less than one (1) hour increments.
- I. Employees may not “borrow” or receive an advance of unearned vacation time, except upon specific request, and approval from, the City Manager for good cause shown.
- J. Employees shall not receive payment of vacation in lieu of taking time off, except as otherwise provided in this Manual or as otherwise specifically authorized by the City Council.

- K.** Use and Scheduling of Vacation Leave. Whenever possible, employees are encouraged to submit their preferred vacation schedule to the appropriate supervisor as far in advance as possible to relieve any scheduling problems that may develop. To ensure proper payment of vacation pay, employees must make sure they have an approved vacation request on file before leaving for vacation. No more than thirty (30) consecutive days of vacation time may be taken.
- L.** Maximum Accruals. The maximum number of vacation hours that may be accrued is two hundred and forty (240) hours. All time in excess of two hundred and forty (240) hours will be forfeited each year on September 30. Employees will not be paid for vacation in excess of the maximum accrual or for vacation that is forfeited as of September 30th every year.
- M.** Compensation for Vacation Leave. Vacation leave shall be paid at the employee's base rate of pay at the time vacation leave is taken. It does not include overtime or any special forms of compensation.
- N.** Upon termination, retirement, resignation, death, or upon authorization and approval by the City Council, an employee shall be paid for accrued vacation leave using the employee's current straight time hourly rate in effect on the date of termination with the following exception:

 - Police - Old Vacation Hours will be paid using the straight time hourly rate of pay for such employee in effect on October 1, 1998.
- O.** Payment for vacation hours is subject to the limitations specified in this rule, including the maximum accrual cap. Employees terminated before completing a six (6) month probationary period will not receive payment for any vacation time.

**Excerpted from Personnel Policy Manual, City of Alvin, Texas
(Adopted July 18, 2019)**

Exhibit C-2

RULE 26. SICK LEAVE

- A.** The City Council hereby authorizes and continues a recognition of a sick leave benefit, as specified below. The City Council reserves its authority to modify this benefit at any time by resolution.
- B.** Eligibility to Accrue Sick Leave. All full-time employees begin accruing paid sick leave one (1) month from date of hire. Part-time and seasonal employees do not accrue sick leave.
 - 1.** Sick leave accrues only during pay periods in which the employee works or is otherwise on an approved paid leave status.
- C.** Accrual Rate. Sick leave for employees shall be computed on the basis of eight (8) hours for each full month employed in a calendar year so as to total ninety-six (96) hours per year.
- D.** Accrual of Sick Leave Unlimited. Employees will accrue sick leave hours so long as the employee holds a position with the City, but shall receive no payment or pay-out for accumulated sick leave at termination or separation from employment with the City.
- E.** Utilization. Accrued sick leave may be utilized under the following circumstances:
 - 1.** When an employee is unable to report to work because of illness or injury or other physical or mental disability that would prevent the employee from fulfilling the functions of his or her job duties; or,
 - 2.** When an employee's physical or mental condition is such that reporting to work would reasonably expose the employee's co-workers to the risk of illness or injury; or,
 - 3.** When state or federal law, such as the Family Medical Leave Act, otherwise allows an employee to utilize his or her own accrued sick leave time to care for other qualified members of the employee's immediate family, as such is defined in this Manual or other applicable law.
- F.** To take advantage of this benefit, employees must immediately notify the appropriate supervisor in accordance with the procedures adopted by their Department and provide appropriate documentation when required.
- G.** Documentation. Employees requesting paid sick leave must submit their request to their supervisor for approval.
- H.** An employee must present satisfactory proof of illness/injury that prevents him/her from working whenever the employee uses sick leave for three (3) or more consecutive work days, and at any other time if requested by the City.
- I.** An employee may also be required to present satisfactory proof of family relationship and/or satisfactory proof of a family member's illness, injury, and/or doctor/dentist appointment if the employee wishes to use accrued sick leave to care for a family member.

- J.** If the employee fails to present such proof in a timely manner, use of sick leave will be disallowed and no other paid leave may be used for the absence.
- K.** Abuse of Sick Leave Privileges. Because sick leave is a benefit that covers conditions or situation defined in this Manual, the City reserves the right to investigate and to act upon, employee conduct that constitutes an abuse or misuse of sick leave. An employee who utilizes sick leave benefits under false or improper pretenses is subject to disciplinary action, up to and including termination.
- L.** No Future Sick Leave Pay-Out Upon Termination or Separation. Except as otherwise provided in a separate labor agreement, or in carry-over policy for employees hired before and after 10/2/1998, City employees shall not be entitled to receive any future or further pay-out of accrued sick leave hours upon separation from employment, but shall continue to accrue such hours indefinitely for future utilization so long as the employee is employed by the City.

**Excerpted from Personnel Policy Manual, City of Alvin, Texas
(Adopted July 18, 2019)**

Exhibit C-3

RULE 28. BEREAVEMENT LEAVE

- A.** The City provides probationary and regular full-time employees paid time off for bereavement leave, up to a maximum of three (3) work days, in the event of a death(s) in the family. For the purpose of authorizing bereavement leave "family" is defined as current spouse, children, step-children, parents, step-parents, parents of the employee's spouse, brothers, sisters, grandchildren and grandparents by blood or marriage.
- B.** An employee may be required to provide proof of death/funeral/family relationship in support of bereavement leave. Bereavement leave pay is paid at the employee's base rate at the time of absence. It does not include overtime or any special forms of compensation.
- C.** Employees who wish to take bereavement leave must notify their supervisor immediately. Employees may take additional time off as vacation, comp time or, if no vacation or comp time is available, as authorized leave without pay upon approval of the Department Director.
- D.** Employees who wish to attend funerals or for bereavement leave for other than family as defined above, must use vacation or compensatory time.

**Excerpted from Personnel Policy Manual, City of Alvin, Texas
(Adopted July 18, 2019)**

Exhibit D

BARGAINING UNIT MEMBER STANDARD GRIEVANCE FORM

Grievance Submission by Member

Grievant must use this form, or one substantially like it, for filing grievances with the Association Grievance Committee and subsequent steps of the procedure.

Name	Address	City/State/Zip	Phone
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Division	Title/Rank	Station/Shift	Phone
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A. Factual Basis of the Grievance. Include date, time, place, and employees or individuals involved. If more space is needed, continue on a separate sheet of paper, and attach to this form.

B. Contract Articles, Terms, Etc. Believed to be Violated. Identify specific provisions of the Contract that you believe have been violated and explain why provisions apply to your complaint.

C. Remedy or Adjustment Sought. Specify what remedy or adjustment do you seek.

Employee Signature

Date

Association Representative

Date

ASSOCIATION GRIEVANCE COMMITTEE RULING

Grievance Committee's Submittal. Refer to Grievance cause number for employee's statement of facts.

Name	address	City/State	Phone
Division	Title/Rank	Station/Shift	Phone

Grievance Committee Statement

The Association Grievance Committee met and reviewed the attached contract grievance and reached the following Conclusion(s) on the Grievance.

GRIEVANCE COMMITTEE RECOMMENDATION

Forward for Adjustment _____ Reject Grievance _____

Grievance Committee Representative

Date

Association Representative

Date



AGENDA COMMENTARY

Meeting Date: 8/15/2019

Department: City Management

Contact: Junru Roland, City Manager

Agenda Item: Consider Addendum No.16 to the Contract for Refuse Collection and Disposal Services between the City of Alvin and Waste Connections of Texas (formerly Progressive Waste Solutions) to adjust rates paid to Waste Connections of Texas due to the net increase in the revised Consumer Price Index Rate for All Urban Consumers (CPI-U) for the Houston-Galveston-Brazoria, TX area, fuel cost adjustments, and operational costs pursuant to the agreement; and authorize the Mayor to sign.

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Discussion & Direction

Summary: The City’s contract with IESI (signed August 18, 2005), with a subsequent name change to Progressive Waste Solutions (August 12, 2012), for refuse collection and disposal service contains a provision for an annual adjustment of compensation paid to the contractor. The contract states that that the contractor shall be compensated in accordance with the CPI-U adjustment and an operating cost adjustment (including a fuel adjustment).

Waste Connections of Texas (formerly Progressive Waste Solutions) submitted their annual renewal letter evaluating the CPI-U and operational costs (including fuel adjustments) per their contract with the City. The adjustments used to calculate the percentage increase for FY20 are as follows:

CPI-U	+1.840%
Fuel adj.	-2.626%
Operating adj.	<u>+4.010%</u>
Net adjustment for FY20:	3.224%

Based on estimated FY19 end of year projections, the 3.224% contractual increase to the City is approximately \$60,052 for FY20.

History of Rate Contractual Rate Adjustments from Waste Connections of Texas	
Fiscal Year	Increase (decrease)
FY15	3.514%
FY16	(0.43%)
FY17	(0.807%)
FY18	1.61%
FY19	3.047%
FY20	3.224%

Should council approve the contractual rate increase of 3.224%, the effective date would be October 1, 2019. The current contract with Waste Connections ends September 30, 2020.

Funding Expected: Revenue ___ Expenditure x N/A ___ **Budgeted Item:** Yes x No ___ N/A ___

**ADDENDUM NO. 165 TO CITY OF ALVIN
CONTRACT FOR REFUSE COLLECTION
AND DISPOSAL SERVICES**

THIS FIFTEENTH ADDENDUM (“Addendum No. 165”) is entered into this _____ day of _____, 2018, by and between the City of Alvin, Texas, a home-rule city of the State of Texas (the “City”) and Waste Connections of Texas (the “Contractor”), the Parties to this Agreement.

WHEREAS, the City and IESI entered into a Contract for Refuse Collection and Disposal Services on or about August 18, 2005 (the “Original Agreement”); IESI changed its name to Progressive Waste Solutions June 20, 2012, and Waste Connections of Texas acquired Progressive Waste Solutions June 1, 2016; and

WHEREAS, the City and the Contractor entered into an Addendum No. 1 on or about September 12, 2006 (the “First Addendum”);

WHEREAS, the City and the Contractor entered into an Addendum No. 2 on or about March 15, 2007 (the “Second Addendum”);

WHEREAS, the City and the Contractor entered into an Addendum No. 3 on or about September 20, 2007 (the “Third Addendum”);

WHEREAS, the City and the Contractor entered into an Addendum No. 4 on or about July 21, 2008 (the “Fourth Addendum”);

WHEREAS, the City and the Contractor entered into an Addendum No. 5 on or about September 18, 2009 (the “Fifth Addendum”);

WHEREAS, the City and the Contractor entered into an Addendum No. 6 on or about September 2, 2010 (The “Sixth Addendum”);

WHEREAS, the City and the Contractor entered into an Addendum No. 7 on or about September 1, 2011 (the “Seventh Addendum”);

WHEREAS, the City and the Contractor entered into an Addendum No. 8 on or about August 16, 2012 (the “Eighth Addendum”);

WHEREAS, the City and the Contractor entered into an Addendum No. 9 on or about August 15, 2013 (the “Ninth Addendum”);

WHEREAS, the City and the Contractor entered into an Addendum No. 10 on or about August 21, 2014 (the “Tenth Addendum”);

WHEREAS, the City and the Contractor entered into an Addendum No. 11 on or about February 19, 2015 (the “Eleventh Addendum”);

WHEREAS, the City and the Contractor entered into an Addendum No. 12 on or about August 20, 2015 (the "Twelfth Addendum");

WHEREAS, the City and the Contractor entered into an Addendum No. 13 on or about September 1, 2016 (the "Thirteenth Addendum");

WHEREAS, the City and the Contractor entered into an Addendum No. 14 on or about July 6, 2017 (the "Fourteenth Addendum");

WHEREAS, the City and the Contractor entered into an Addendum No. 15 on or about August 16, 2018 (the "Fifteenth Addendum");

WHEREAS, the Original Agreement, and the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, ~~and Fourteenth~~, and Fifteenth Addendums to the Original Agreement are hereby collectively referred to as the "Agreement";

WITNESSETH:

NOW, THEREFORE, and in consideration of the mutual covenants and promises contained herein, City and Contractor hereby agree as follows:

I.

The Contract is amended by adding Addendum No. ~~165~~ with Exhibit "A" to the Agreement pursuant to Section 11, Compensation to Contractor, subsections (a) Rates, (b) CPI-U Adjustment, (c) Operating Cost Adjustment and (d) Landfill Cost Adjustment.

Commencing October 1, 201~~9~~8, the rates charged to the City for the services provided by the Contractor shall be those rates as outlined in Exhibit "A"; attached hereto.

II.

The ~~agreement~~-Agreement is amended by revising Section 15, Miscellaneous Provisions.

- (e) **Notices**. Any notices required to be given hereunder shall be deemed given to the parties when personally delivered or when mailed, postage prepaid, to the parties at the following respective addresses:

Notice to City

City of Alvin
216 West Sealy
Alvin, Texas 77511
(281) 388-4200

Attn: City Manager

Notice to Contractor

Waste Connections of Texas
P O Box 1508
Alvin, Texas 77512
Attn: Area Market Manager

III.

Except as amended herein, all other terms and conditions of the Contract shall remain in full force and effect. To the extent of a conflict or inconsistency between or among the provisions of the Contract and Addendum No. 165, the provisions of Addendum No. 165 shall control. Addendum No. 165 may only be amended, modified or supplemented by written agreement and signed by all the parties

The Agreement and the 165th Addendum represent the entire agreement among the parties with respect to the matters that are the subject hereof.

IN WITNESS WHEREOF, the parties have made and executed Addendum No. 165 to the Contract for Refuse Collection and Disposal Services in multiple copies, each of which shall be an original, as of the date set forth in the preamble hereof.

CONTRACTOR:

Waste Connections of Texas

CITY:

City of Alvin, Texas

By: _____

Name: Abel Moreno
Title: District Manager

By: _____

Paul A. Horn
Mayor

ATTEST/SEAL

By: _____

Dixie Roberts
City Secretary

APPROVED AS TO FORM:

By: _____
Suzanne L. Hanneman
City Attorney



WASTE CONNECTIONS INC.
Connect with the Future®

May 30th 2019
City of Alvin
Attn: Junru Roland
216 West Sealy St
Alvin, TX 77511

RE: Annual Rate Adjustment

Dear Mr. Roland,

Waste Connections would like to sincerely thank you for the great opportunity we have had to serve the citizens and community of Alvin. We thoroughly enjoy and appreciate the relationship between Waste Connections and the City of Alvin.

Each year we evaluate the CPI-U, fuel, and landfill costs per our contract with the city. This year the CPI-U adjustment is 1.84%, and the landfill cost adjustment is 4.01%. Fuel has seen a drop from the base rate to **2.626%**. The total rate adjustment that will be implemented to the City of Alvin is 3.224%. I have enclosed further details of these adjustments with this letter.

We respect that council must approve this adjustment. With City Councils approval we would like to adjust these rates on the next billing cycle.

Should you have any questions or concerns regarding this adjustment or anything else, please feel free to contact me at the office at 281-331-0810.

Best Regards,

Abel Moreno
District Manager
Waste Connections of TX
abelm@wasteconnections.com



WASTE MANAGEMENT

24275 Katy Frwy. Suite 450
Houston, TX 77494
(713) 647-5459
(713) 647-5466 Fax

April 11, 2019

Waste Connections Lone Star, Inc.
2138 County Road
McKinney, Texas 75069

Subject: Coastal Plains Landfill

Dear Valued Customer:

Effective April 1, 2019, Waste Management of Texas, Inc. increased the disposal rates on all volume delivered under the current Solid Waste Disposal Agreement dated April 1, 2019. This letter will serve as notice that Waste Management of Texas, Inc. implemented the price adjustment for services charged to Waste Connections Lone Star, Inc. in accordance with the provisions of the Solid Waste Disposal Agreement effective April 1, 2019, under Article 5, Sections 5.1 (Exhibit C). Effective April 1, 2019, the Base Disposal Rates were increased as specified in Exhibit "C" and Exhibit "E" for the Contract Year. The Coastal Plains Landfill disposal rate change for MSW and Special Waste is as follows:

Rate Adjustment: 4.01%

The disposal rate adjustment includes all Municipal Solid Waste, Construction and Demolition Debris, and Special Waste as included under the Agreement between the parties. All other terms and conditions of the agreement including amendments remain in full force and effect and are confidential between parties. Should you have any questions, please do not hesitate to contact me at 713-647-5459 or by email at mthompson@wm.com.

Waste Management of Texas, Inc.

Mike Thompson

Sr. Area Manager, Third Party Landfill Revenue
Texas/Oklahoma Market Area (TEXOMA)

From everyday collection to environmental protection, Think Green. Think Waste Management.



AGENDA COMMENTARY

Meeting Date: 8/15/2019

Department: Finance

Contact: Michael Higgins, Chief Financial Officer

Agenda Item: Consider Ordinance 19-T, extending Chapter 28, Comprehensive Fee Ordinance, for the purpose of setting certain solid waste collection and disposal fees for residential, commercial, and roll-off containers; providing for a ten percent (10%) penalty for late payment; providing for an effective date of October 2019 billing cycles; and setting forth other provisions related thereto.

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Plat Discussion & Direction Other

Summary: The City’s ordinance requires that solid waste rates be increased, at minimum, based on the annual CPI-U index rate for the Houston-Galveston-Brazoria, Texas area. The ordinance also allows the consideration of other factors to determine if an additional increase in solid waste rates is warranted.

The City accounts for solid waste revenues and expenses in the Sanitation Fund. Over the past few years, the City has been able to sustain a “healthy” fund balance in the Sanitation fund as a result of the CPI-U provision in the City’s ordinance. For FY20, the CPI-U has increased by 1.84%. However, instead of increasing the residential and commercial solid waste rates by 1.84% in accordance with the CPI-U provision in the City’s ordinance, staff is recommending that Council approve and maintain the current solid waste rates for both residential and commercial businesses.

Should Council elect to apply the CPI-U adjustment per ordinance, then both residential and commercial rates will reflect a 1.84% increase, effective October 2019 billing cycles. Staff recommends approval of Ordinance 19-T.

Funding Expected: Revenue Expenditure N/A **Budgeted Item:** Yes No N/A

Funding Account: Various Accounts **Amount:** _____ **1295 Form Required?** Yes No

Legal Review Required: N/A Required **Date Completed:** 8/12/2019 SLH

Supporting documents attached:

- Ordinance 19-T

Recommendation: Move to approve Ordinance 19-T, extending Chapter 28, Comprehensive Fee Ordinance, for the purpose of setting certain solid waste collection and disposal fees for residential, commercial, and roll-off containers, providing for a 10% penalty for late payment; providing for an effective date of October 2019 billing cycles; and setting forth other provisions related thereto.

Reviewed by Department Head, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Attorney, if applicable

Reviewed by City Manager

ORDINANCE 19-T

AN ORDINANCE AMENDING CHAPTER 28, COMPREHENSIVE FEE ORDINANCE, OF THE CODE OF ORDINANCES, CITY OF ALVIN, TEXAS FOR THE PURPOSE OF SETTING CERTAIN SOLID WASTE COLLECTION AND DISPOSAL FEES FOR RESIDENTIAL, COMMERCIAL AND ROLL-OFF CONTAINERS; PROVIDING FOR A TEN PERCENT (10%) PENALTY FOR LATE PAYMENT; PROVIDING FOR AN EFFECTIVE DATE OF OCTOBER 2019 BILLING CYCLES; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVIN, TEXAS:

Section 1. That Section 28-2 of the Code of Ordinances, City of Alvin, Texas, is hereby amended by revising the Solid Waste Collection and Disposal fees as follows:

Sec. 28-2. In General.

...

SOLID WASTE COLLECTION AND DISPOSAL

- (1) Residential rates. The monthly charge for the collection, removal and disposal of garbage and trash on a once per week basis, bulky trash and brush (cut, bundled and tied) on a once per week basis and curbside recycling services shall be as follows:

Each single dwelling unit	\$11.10
Two-family residences, each unit	\$11.10
Apartment house with more than two (2) apartments, each unit	\$11.10
Manufactured home park, each unit.....	\$11.10

The charge for monthly curbside residential collection, removal and disposal of bulky trash and brush in bundles four (4) feet in length and weighing no more than fifty (50) pounds shall be one dollar and sixty-four cents (\$1.40) per residence.

The charge for collection, removal and disposal of brush in piles (not cut, bundled or tied) from residential customers shall be the unit price of twelve dollars and fifty cents (\$12.50) per cubic yard. Collection services for such brush shall be provided only upon request.

- (2) Business or commercial rates. The monthly charge for the collection, removal and disposal of all garbage and trash from each business or commercial establishment located within the corporate limits of the city shall be based on the frequency of collection from

commercial containers furnished by the city or its designated contractor, except in those instances where commercial establishments are allowed to use plastic carts.

In cases where the city has determined that the use of plastic carts by a business or commercial establishment shall be practicable, sanitary and not detrimental to the collection of garbage and trash, then the user of such plastic carts shall pay a monthly rate for once or twice per week curbside collection, limited to two (2) carts per collection day.

The following schedule of monthly charges for business or commercial establishments shall apply:

90-95 gallon cart minimum per cart:	
One collection per week	\$ 32.21
Two collections per week	\$ 47.74
Two-cubic-yard containers per month:	
One collection per week.....	\$ 69.82
Two collections per week.....	\$103.64
Three collections per week.....	\$124.58
Four collections per week.....	\$155.42
Three-cubic-yard containers per month:	
One collection per week	\$ 85.66
Two collections per week.....	\$133.15
Three collections per week.....	\$183.20
Four collections per week.....	\$230.19
Four-cubic-yard containers per month:	
One collection per week	\$100.09
Two collections per week	\$155.79
Three collections per week.....	\$211.53
Four collections per week.....	\$268.72
Six-cubic-yard containers per month:	
One collection per week	\$125.40
Two collections per week.....	\$209.94
Three collections per week.....	\$269.22
Four collections per week.....	\$359.05
Five collections per week	\$448.74
Six collections per week.....	\$538.55
Eight-cubic-yard containers per month:	
One collection per week	\$151.54
Two collections per week.....	\$266.06
Three collections per week.....	\$364.61
Four collections per week.....	\$492.26
Five collections per week	\$610.69
Six collections per week.....	\$735.26

Six-cubic yard compactor container per month:

One collection per week	\$ 233.57
Two collections per week	\$ 467.16
Three collections per week	\$ 700.72
Four collections per week	\$ 934.31
Five collections per week	\$1167.88
Six collections per week	\$1401.47

The charge for collection and disposal of heavy trash and brush in piles (not cut, bundled and tied) from commercial customers shall be the following unit price:

Brush piles, per cubic yard	\$ 12.50
Heavy trash, per cubic yard	\$ 12.50

Variations on the type and number of collection services referenced herein shall have the prior written approval of the city manager or designee. Additionally, special collection services not specified or provided for in this section shall have the prior written approval of the city manager or designee. In all such cases appropriate documentation shall be provided to the city manager or designee prior to obtaining the service(s). Charges for such service(s) shall be calculated with reference to the rates set forth herein or if none of the service categories is equivalent to the requested service, the charge shall be calculated with reference to the industry standard.

- (3) Rates for the collection, hauling and/or disposal of construction debris. Lumber, shingles, concrete and other materials generated by or resulting from building or remodeling operations or resulting from a general cleanup of vacant or improved property, just prior to its occupancy, will not be removed by the city or its designated contractor as part of the garbage collection services established in this chapter. The building contractor, owner, or occupant of the premises may utilize his/her own forces and equipment to dispose of such debris. However, to the extent that it is necessary to obtain the services of a third party to assist in the hauling and/or disposal of the debris, the building contractor, owner or occupant shall obtain roll-off containers from the city's designated contractor for the following rates:

City's designated contractor will handle all aspect of customer service with roll off and compactor containers for customers within the city. Customer charges will be based on haul rate, rental fees and tonnage rate, with a three-ton minimum. The contractor will submit ten percent (10%) of total charges as monthly rebate to city.

Roll-off containers:

Haul rates.....	\$198.38
Delivery rates.....	\$95.48
Daily rental	\$3.18
Disposal/ton**	\$24.74

Compactors:

Haul rates.....	\$253.55
Disposal/ton**	\$24.74

**Disposal--Three-ton minimum.

- (4) Beginning with the October 2015 billing cycles, and each year thereafter, the solid waste rates shall be increased, at a minimum, based on the annual CPI-U rate using the preceding April data of that year. The Council may also use other factors to determine any additional increase. The rates, set in subsections (1), (2) and (3) above, shall be automatically adjusted with the October billing cycles of each year.

*As used herein, "CPI-U" shall mean the revised consumer price index rate for all urban consumers (all items included) for the Houston-Galveston-Brazoria, TX area, based on the latest available figures from the Department of Labor's Bureau of Labor Statistics (the "bureau").

....

Section 2. That except as amended herein all other provisions of Chapter 28 of the Code of Ordinances, City of Alvin, Texas shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this ordinance and any other ordinance, the provisions of this ordinance shall control.

Section 3. Severability. Should any section or part of this Ordinance be held unconstitutional, illegal, invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 4. Publication. The City Secretary of the City of Alvin is hereby directed to publish this ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by *Chapter 52 of the Texas Local Government Code* and the *City of Alvin Charter*.

Section 5. Effective Date. This ordinance shall take effect beginning with the October 2019 billing cycles, that being after its passage in accordance with the provisions of *Chapter 52 of the Texas Local Government Code* and the *City of Alvin Charter*.

Section 6. Open Meetings Act. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and the public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapter 551 of the Texas Government Code*. Notice was also provided as required by *Chapter 52 of the Texas Local Government Code* and the *City of Alvin Charter*.

PASSED on the first and final reading on the _____ day of August 2019.

CITY OF ALVIN, TEXAS

ATTEST

By: _____
Paul A. Horn, Mayor

By: _____
Dixie Roberts, City Secretary



AGENDA COMMENTARY

Meeting Date: 8/15/2019

Department: Public Services

Contact: Brian Smith, Public Services Director

Agenda Item: Consider Resolution 19-R-33, adopting the 2019 Drought Contingency Plan Update for the City of Alvin.

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Plat Discussion & Direction Other

Summary: The Texas Commission on Environmental Quality (TCEQ) requires that the City updates its Drought Contingency Plan every five (5) years. Staff has made the revisions to the Drought Contingency Plan as requested by TCEQ for adoption by City Council. The last update to this plan was September 2014 by Resolution 14-R-33.

Purpose and Intent of Drought Contingency Plan: In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply in emergency conditions. The Drought Contingency Plan follows 1-5 stages of conditions during drought conditions and sets parameters for water usage. These parameters aid in the conservation of water usage during these times.

Funding Expected: Revenue Expenditure N/A **Budgeted Item:** Yes No N/A

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes No

Legal Review Required: N/A Required **Date Completed:** 8/12/2019 SLH

Supporting documents attached:

- Resolution 19-R-33
- Exhibit "A" 2019 Updated Drought Contingency Plan

Recommendation: Move to approve Resolution 19-R-33, adopting the 2019 Drought Contingency Plan Update for the City of Alvin.

Reviewed by Department Head, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Attorney, if applicable

Reviewed by City Manager

RESOLUTION 19-R-33

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ALVIN, TEXAS, ADOPTING THE 2019 UPDATED DROUGHT CONTINGENCY PLAN; AND PROVIDING FOR OTHER RELATED MATTERS THERETO.

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) requires municipal and wholesale water suppliers to submit an updated Drought Contingency Plan approved by the City Council every five (5) years; and

WHEREAS, as authorized under law, and in the interests of the citizens of Alvin, Texas, the City Council deems it expedient and necessary to update certain rules and policies for the orderly and efficient management of limited water supplies during drought and other water supply emergencies; and

WHEREAS, the updates for the Drought Contingency Plan have been completed and meet all of the requirements of TCEQ; and

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

Section 1. Findings. That the 2019 updated Drought Contingency Plan attached hereto as Exhibit “A” and made a part hereof for all purposes is hereby approved and adopted.

Section 2. Proceedings. That the City Manager or designee is authorized to submit the Plan to TCEQ as required by law and that the City Manager or designee is authorized to undertake necessary actions to implement the adopted plan.

Section 3. Effective Date. This Resolution shall take effect upon its adoption.

Section 4. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED on this the 15th day of August 2019.

CITY OF ALVIN, TEXAS

ATTEST:

By: _____
Paul A. Horn, Mayor

By: _____
Dixie Roberts, City Secretary



Drought Contingency Plan
City of Alvin
216 West Sealy, Alvin, Texas 77511
TX0200001
August 1, 2019

Section I: Declaration of Policy, Purpose, and Intent

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety, and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Alvin, Texas hereby adopts the following regulation and restrictions on the delivery and consumption of water through an ordinance.

Water uses regulated or prohibited under this Drought Contingency Plan are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section XI of this Plan.

Section II: Public Involvement

Opportunity for the public to provide input into the update of the Plan was provided by the City of Alvin by means of posted public meetings to inform the public that the City of Alvin is amending the current Drought Contingency Plan that was adopted in 2014.

Section III: Public Education

The City of Alvin will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of a Press Release and information on each water bill.

Section IV: Coordination with Regional Water Planning Groups

The service area of the City of Alvin is located within the Region H, Water Planning Group, and the City of Alvin has provided a copy of this Plan to the Region H, Water

Planning Group.

Section V: Authorization

The Director of Public Works, or his/her deignee is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The Director of Public Works or his/her designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

Section VI: Application

The provisions of this Plan shall apply to all persons, customers, and property utilizing water provided by the City of Alvin. The terms “person” and “customer” as used in the Plan, include individuals, corporations, partnerships, corporations, and all other legal entities.

Section VII: Definitions

For the purposes of this Plan, the following definitions shall apply:

Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Commercial and Institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation: those practices, techniques, and technologies that reduce the consumption of water, reduce the loss of waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer: any person, company, or organization using water supplied by the City of Alvin.

Domestic water use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even number addresses: street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use: water used for the irrigation and maintenance of landed areas, whether publicly or privately owned, including residential and commercial lawns, gardens,

golf courses, parks, rights-of-way, and medians.

Non-essential water use: water uses that are neither essential nor required for the protection of public, health, safety, and welfare, including:

- (a) irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- (b) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (c) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (d) use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (e) flushing gutters or permitting water to run or accumulate in any gutter or street;
- (f) use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi type pools;
- (g) use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (h) failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (i) use of water from hydrants for construction purposes or any other purposes other than firefighting.

Odd numbered address: street address, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Section VIII: Criteria for Initiation and Termination of Drought Response Stages

The Director of Public Works or his/her designee shall monitor water supply and demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified “triggers” are reached.

The triggering criteria described below are based on:

KNOWN SYSTEM CAPACITY LIMITS

Stage 1 Trigger – MILD Water Shortage Conditions

Requirements for initiation

Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in Section VII-Definitions, when total daily water demand equals or exceeds 5.4 million gallons per day for three (3) consecutive days.

Requirements for termination

Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.

Stage 2 Triggers – MODERATE Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan when:

- Total daily water demand equals or exceeds 6.0 million gallons per day for two (2) consecutive days.
- System water pressure approaching 40 psi in the distribution system as measured by the pressure gauges in the system.

Requirements for termination

Stage 2 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of five (5) consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

Stage 3 Triggers – SEVERE Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this Plan when:

- Total system water demand equals or exceeds 6.5 million gallons per day for two (2) consecutive days
- Net storage in water storage is continually decreasing on a daily basis and falls below 2.4 million gallons (60% capacity) for 48 hours.
- Water pressure approaching 35 psi in the distribution system as measured by the pressure gauges in the system.

Requirements for termination

Stage 3 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

Stage 4 Triggers – CRITICAL Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 4 of this Plan when:

- The imminent or actual failure of a major component of the system that would cause an immediate health or safety hazard.

- Total water demand is exceeding the total system capacity of 8.2 million gallons per day for a twenty-four (24) hour period.
- All available water supplies, such as ground storage tanks, level is so low that the pumps cannot pump the daily water demand and replenishment of the storage tanks has stopped.
- One well is out of service and usage goes above 6.0 million gallons per day for two consecutive days

Requirements for termination

Stage 4 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.

Stage 5 Triggers – EMERGENCY Water Shortage Conditions

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions for Stage 5 of this Plan when Director of Public Works, or his/her designee, determines that a water supply emergency exists based on:

1. Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
2. Natural or fabricated contamination of the water supply source(s).

Requirements for termination

Stage 5 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.

Section IX: Drought Response Stages

The Director of Public Works, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section VIII of this Plan, shall determine that a mild, moderate, severe, critical, or emergency water shortage condition exists and shall implement the following notification procedures:

Notification of the Public

The Director of Public Works, or his/her designee, shall notify the public by means of:

- **Publication in a newspaper of general circulation**
- **Public service announcements**
- **Signs posted in public places**
- **Take-home fliers at schools**

Additional Notification:

The Director of Public Works, or his/her designee, shall notify directly, or cause to be

notified directly, the following individuals and entities:

- **Mayor/members of the City Council**
- **Fire Chief(s)**
- **City and/or County Emergency Management Coordinator(s)**
- **TCEO (required when mandatory restrictions are imposed)**
- **Major water users**
- **Critical water uses, i.e., hospitals**
- **Parks/street superintendents and public facilities managers**

Direct notice will be given only as appropriate to respective drought stages.

Stage 1 Response – MILD Water Shortage Conditions

Target: Achieve a voluntary 10% reduction in daily water demand

Voluntary Water Use Restrictions for Reducing Demand:

- (a) Water customers are requested to voluntarily limit the irrigation of landed areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m. to midnight on designated watering days.
- (b) All operations of the City of Alvin shall adhere to water use restrictions prescribed for Stage 2 of the Plan.
- (c) Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

Stage 2 Responses – MODERATE Water Shortage Conditions

Target: Achieve 15% reduction in daily water demand

Water Use Restrictions for Demand Reduction:

Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

- (a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m., and between 8:00 p.m. and 12:00 midnight on designated watering days. However, irrigation of landscaped areas is permitted at any time if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.

- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public are contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
- (c) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m., and between 8:00 p.m. and 12:00 midnight.
- (d) Operation of any ornamental fountain or pond for aesthetic or scenic purpose is prohibited except where necessary to support aquatic life, or where such fountains or ponds are equipped with a recirculation system.
- (e) Use of water from hydrants shall be limited to firefighting related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City of Alvin.
- (f) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the City of Alvin, the facility shall not be subject to these regulations.
- (g) All restaurants are prohibited from serving water to patrons except upon request of the patron.
- (h) The following uses of water are defined as non-essential and are prohibited:
 1. Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 2. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
 3. Use of water for dust control;
 4. Flushing gutters or permitting water to run or accumulate in any gutter or street; and
 5. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Stage 3 Responses – SEVERE Water Shortage Conditions

Target: Achieve a 20% reduction in daily water demand.

Water Use Restrictions for Demand Reduction:

All requirements of Stage 2 shall remain in effect during Stage 3 except:

- (a) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight, and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times.
- (b) The watering of golf course tees is prohibited unless the golf course utilizes a water source other than that provided by the City of Alvin.
- (c) The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

Stage 4 Responses – CRITICAL Water Shortage Conditions

Target: Achieve a 25% reduction in daily water demand.

Water Use Restrictions for Reducing Demand:

All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except:

- (a) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. and 10:00 a.m. and between 8:00 p.m. and 12:00 p.m. and shall be by means of hand-held hoses, hand-held buckets, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems are prohibited at all times.
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited.
Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10:00 p.m.
- (c) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi type pools is prohibited.
- (d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- (e) No application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be proved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.

Stage 5 Responses – EMERGENCY Water Shortage Conditions

Target: Achieve a 30% reduction in daily water demand

Water Use Restrictions for Reducing Demand:

All requirements of Stage 2, 3, and 4 shall remain in effect during Stage 5 except:

- (a) Irrigation of landscaped areas is absolutely prohibited.
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.



AGENDA COMMENTARY

Meeting Date: 8/15/2019

Department: EMS

Contact: Ron Schmitz, EMS Director

Agenda Item: Consider an amendment to the Ambulance Billing and Related Professional Services Agreement with Advanced Data Processing, Inc. (“ADPI”), a subsidiary of R1 RCM Inc., a Delaware corporation; and authorize the City Manager to sign the Agreement subject to legal review.

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Plat Discussion & Direction Other

Summary: This amendment provides changes to the existing contract by replacing the previous parent company name of “Intermedix” with “R1 RCM Inc.,” reducing the fees to the City from 7.5% to 7.25%, adding a 3% fee for credit card payments, and an early termination fee. It also provides a three (3) year extension effective September 1, 2019, with an automatic renewable one (1) year periods.

Staff recommends approval of this amendment.

Funding Expected: Revenue Expenditure N/A **Budgeted Item:** Yes No N/A

Funding Account: _____ **Amount:** _____ **1295 Form Required?** Yes No

Legal Review Required: N/A Required **Date Completed:** 8/12/2019 SLH

Supporting documents attached:

- Amendment to the Ambulance Billing and Related Professional Services Agreement
- Original Agreement

Recommendation: Move to approve an amendment to the Ambulance Billing and Related Professional Services Agreement with Advanced Data Processing, Inc. (“ADPI”), a subsidiary of R1 RCM Inc., a Delaware corporation; and authorize the City Manager to sign the Agreement subject to legal review.

Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager

**FIRST AMENDMENT TO
AMBULANCE BILLING AND RELATED PROFESSIONAL SERVICES AGREEMENT**

THIS FIRST AMENDMENT (the "First Amendment") is made and entered into this 15th day of August, 2019 to become effective as of September 1, 2019 (the "Amendment Effective Date") by and between the **City of Alvin, a Texas Municipality, with EMS principal offices located at 709 E. House, Alvin, Texas 77511** ("Client") and **Advanced Data Processing, Inc.**, a subsidiary of R1 RCM Inc., a Delaware corporation ("ADPI").

WHEREAS, Client and ADPI are parties to an Ambulance Billing and Related Professional Services Agreement effective as of April 4, 2013; and Addendum adding Ambulance Supplemental Payment Program made effective as of July 1, 2018 (the "Addendum" together with the Ambulance Billing and Related Professional Services Agreement referred to collectively as the "Agreement"); and

WHEREAS, R1 RCM Inc. acquired Intermedix Corporation in 2018; and

WHEREAS, the parties desire to make changes to and extend the Term of the Agreement.

NOW THEREFORE, in consideration of the foregoing, the mutual promises and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Wherever in the Agreement the term "Advanced Data Processing, Inc., a subsidiary of Intermedix ("Intermedix") appears, such term shall be replaced with ("ADPI").
2. Section 20 NOTICES shall be amended to read as follows:

To ADPI: Advanced Data Processing, Inc.
 c/o R1 RCM Inc.
 401 N. Michigan Avenue, Suite 2700
 Chicago, IL 60611
 Attn: Legal Department

3. Exhibit B Business Associate Addendum, Section 17 Notices shall be amended to read as follows:

If to Business Associate: Advanced Data Processing, Inc.
 c/o R1 RCM Inc.
 401 N. Michigan Avenue, Suite 2700
 Chicago, IL 60611
 Attn: Chief Privacy Officer

With copy to:
Advanced Data Processing, Inc.
c/o R1 RCM Inc.
401 N. Michigan Avenue, Suite 2700
Chicago, IL 60611
Attn: General Counsel

4. Section 5.01 Fees shall be deleted in its entirety and replaced with the following language:

- 5.01** Fees. ADPI shall be paid by Client a monthly amount representing fees for the Services provided by ADPI hereunder, computed as follows:
- (a) Five and Seventy-Five Hundredths percent (5.75%) of all monies collected by ADPI for EMS billing provided by Client less refunds ("Net Collections"), plus

- (b) One and Fifty Hundredths percent (1.50%) of all monies collected for use of ADPI-provided field data capturing and reporting system consisting of three (3) refreshed Pen-based Panasonic Toughbook Tablet Units, Field Automation Software, Administrative Reporting System, including training and support (referred heretofore as “TripTix®”), less refunds (“Net Collections”), plus
 - (c) Three percent (3%) for credit card processing fees, plus
 - (d) All amounts set forth in any Exhibit, attached hereto.
5. Schedule 2.01 Early Termination Fee shall be deleted in its entirety and replaced with the following language:

**Schedule 2.01
Early Termination Fees**

The early termination payments owed to ADPI with respect to each Product Unit are as follows:

Period	Amount
For an early termination during the first twenty-four (24) months from June 1, 2019:	\$4,400.00
For an early termination after 24 months:	\$0.

6. Client and ADPI hereby agree to extend the Term of the Agreement for an additional three (3) year period, commencing on the Amendment Effective Date (the “Initial Term”). Following the expiration of the Initial Term, this Agreement shall renew for successive, automatically renewable one (1) year periods (“Renewal Terms”; collectively, the Initial Term together with any Renewal Terms are the “Term”), unless either party provides the other party with written notice of termination of this Agreement as provided in Section 14.02 of the Agreement.
7. Capitalized terms not otherwise defined in this Amendment shall have the meanings ascribed to such terms in the Agreement. All terms and conditions of the Agreement are hereby ratified and shall remain in full force and effect except to the extent this Amendment expressly modifies or is inconsistent with the terms and conditions of the Agreement, in which case the terms of this Amendment shall be controlling.

IN WITNESS OF, the parties have executed this First Amendment to the above-referenced Agreement effective as of the Effective Date.

City of Alvin

Advanced Data Processing, Inc.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

**AGREEMENT BETWEEN
CITY OF ALVIN
AND
ADVANCED DATA PROCESSING, INC., a subsidiary of Intermedix
FOR AMBULANCE BILLING AND RELATED PROFESSIONAL SERVICES**

THIS AGREEMENT ("Agreement") is made and entered into this 4 day of April, 2013 ("Effective Date") by and between City of Alvin, a Texas Municipality, with EMS principal offices located at 709 E. House, Alvin, Texas 77511 ("Client") and Advanced Data Processing, Inc., a subsidiary of Intermedix, a Delaware Corporation with principal offices located at 6451 North Federal Highway, Suite 1000, Fort Lauderdale, Florida 33308 ("Intermedix").

RECITALS

WHEREAS, Client provides emergency and non-emergency medical services, including ambulance transport ("EMS"), for residents and visitors in its jurisdiction, and charges for such services; and

WHEREAS, Intermedix provides billing, collection and related consulting services and equipment for municipalities and other providers of EMS; and

WHEREAS, the parties hereto now wish to enter into an agreement, pursuant to which Intermedix will render the Services as hereinafter provided;

NOW THEREFORE, the parties hereto agree as follows:

AGREEMENT

1. ENGAGEMENT OF INTERMEDIX. During the Term of this Agreement, except for accounts referred to a collection agency as provided herein, Intermedix shall be exclusively responsible for the billing and collection of all charges and fees resulting from the delivery of EMS by Client, including but not limited to all charges and fees to private insurers, Medicare, Medicaid, other governmental programs, individual patients and their responsible parties (collectively, "Payors").

2. SCOPE OF SERVICES. Intermedix shall perform and carry out Services as specifically described in Exhibit A (the "Scope of Services"; collectively the Scope of Services and the SaaS Service (as defined in Section 3.01) are the "Services"), which is attached hereto and incorporated herein by this reference. Client reserves the right to request changes in the Scope of Services within Intermedix's capabilities, which changes shall be implemented upon mutual written agreement of the parties specifying such changes and any change in compensation attributable thereto.

3. RIGHT TO USE SAAS SERVICE AND RESTRICTIONS.

3.01 Right to Use. During the Term of this Agreement, Intermedix hereby grants to Client a limited, non-transferable, non-assignable right to access and use the following without the right to sublicense: (i) Intermedix's proprietary billing system software (the "SaaS Service") as part of the Services provided hereunder, via Internet connection, solely in support of the billing and collection with respect to the Client's EMS services; and (ii) any associated end-user documentation provided by Intermedix (the "Documentation") in support of Client's authorized access and use of the SaaS Service.

3.02 User Restrictions. Client shall not, and shall not permit others to, without the express written consent of Intermedix: (i) use, receive, reproduce, copy, market, sell, distribute, license, sublicense, lease, timeshare, or rent the SaaS Service, any other Service or any component thereof; (ii) modify, alter, translate or prepare derivative works based on the SaaS Service or Documentation is permitted; (iii) disassemble, decompile, decrypt or reverse engineer the SaaS Service or in any way attempt to discover or reproduce source code for the SaaS Service, or any portion thereof; or (iv) develop or license any third party programs, applications, tools or other products which interface or interact with the SaaS Service. Client agrees not to remove the copyright, trade secret or other proprietary protection legends or notices which appear on or in the SaaS Service, any other Service or the Documentation.

3.03 Hosting of Application. Intermedix shall establish and maintain a production version of the SaaS Service for Client's use, including any necessary physical links to the Internet via an Internet service provider or through a direct Internet connection. The SaaS Service shall reside on a server or cluster of servers which are physically located at Intermedix's place of business or at a third-party site. The SaaS Service may reside on a server or cluster of servers used for the applications of other Intermedix customers.

3.04 Internet Access. Client shall be responsible for providing its own Internet access necessary to provide the SaaS Service, and in no event shall Client be provided with direct access (by modem or otherwise) to the SaaS Service server, other than access that is available to third parties generally through the Internet. The parties acknowledge that, since the Internet is neither owned nor controlled by any one entity, Intermedix makes no guarantee that any given user will be able to access the SaaS Services at any given time. There are no assurances that access will be available at all times and uninterrupted, and Intermedix shall not be liable to Client for its inability to access the SaaS Service.

3.05 Limitation of Access to SaaS Service. Client's right to access and use the SaaS Service will vary depending upon the scope of the Services being provided by Intermedix. By way of example, if Intermedix is responsible for inputting Client's data, Client's access to the SaaS Service will not include the ability to input, delete, or otherwise change such data. Moreover, access to data shall be limited to the employees, representatives and agents of Intermedix and the authorized Users (as defined below) of Client. A complete and signed access form for each of Client's Users authorized to access the SaaS Services must be submitted to and approved by Intermedix. "User" means with respect to the SaaS Service or any other Intermedix product identified in an Exhibit: (i) any employee of Client or (ii) any medical professional who is authorized to perform medical services for Client within the applicable Client territory or

jurisdiction as of the Effective Date. Client shall not permit the access or use of the SaaS Service by a third party, other than Client's Users who have complied with the terms and conditions of this Agreement, whether to provide services for Client or otherwise, without Intermedix's prior written consent.

3.06 Reporting. Operational and financial data reports for Client will be available on the SaaS Services when the SaaS Service is available. The format and content of the data will be established and defined by Intermedix and such reports may be added, modified or deleted without notice to Client. Notwithstanding the foregoing, Client may request that specific, custom reports be made available to it at an additional charge to be negotiated between Intermedix and Client.

3.07 Acknowledgement with Respect to Reports. With respect to each report generated for Client as part of the SaaS Service, Client acknowledges and agrees: (i) such report represents a "snapshot" of a moment in time, and as such, the snapshot may not be accurate with respect to financial results on the whole; (ii) the underlying data may be subject to correction from time-to-time, which may change the results of the report or its interpretation; and (iii) the data represented in the report constitutes only a limited portion of all data available regarding Client's business. Accordingly, any particular report may not accurately represent the Client's then-current or future financial condition.

3.08 Third Party Software. The SaaS Service may incorporate software under a license to Intermedix from a third party ("Third Party Software"). If the licensor of any Third Party Software requires Client's agreement to the terms and conditions of such use through an End User License Agreement ("EULA"), Intermedix will provide such EULA to Client. In order to use the SaaS Service, Client agrees to be bound by all EULA(s) provided during the Term whether by hardcopy or displayed upon installation or use of the SaaS Service. Client's use of the SaaS Service subsequent to such notice(s) shall constitute Client's acceptance of the EULA(s). Client shall not use any Third Party Software embedded in, or provided in connection with the SaaS Service on a stand-alone basis or in any way other than as embedded in, provided in connection with, or for use with the SaaS Service and the applicable EULA.

3.09 Intellectual Property. Client agrees that the equipment, computer hardware and software, billing and collection processing, Services, SaaS Service and other related systems and equipment are the property and trade secrets of Intermedix, and that Client will not release any information regarding such Confidential Information (as such term is defined in Section 11.01) and/or trade secrets of Intermedix to any third party without the prior written consent of Intermedix. Client further agrees that, in connection with the use of certain data entry devices, Client may gain access to the intellectual property of third parties. Client understands and agrees that it may be required to enter into agreements with respect to such intellectual property in order to use such equipment. Client agrees to enter into such arrangements at Intermedix's request.

3.10 Audit Rights. From time to time and upon reasonable prior written notice, Intermedix may audit Client's use of the Services to help ensure that Client is in compliance with the terms and conditions of this Agreement, including, but not limited to, any payment terms. Any such audit will be conducted during regular business hours at the applicable facilities of Client. Client will identify and cooperate with Intermedix (or its representatives) to provide

Intermedix (or its representatives) with reasonable access to all relevant equipment, personnel and records.

4. CLIENT RESPONSIBILITY.

4.01 Generally. Client is responsible for all activity occurring under its User accounts and shall abide by all applicable laws and regulations in connection with its use of the SaaS Service. Client will immediately (and in no greater than twenty four (24) hours from Client's knowledge of the following) notify Intermedix and use best efforts to cease any further of the following: (i) any unauthorized use of a password or account or any other known or suspected breach of security; (ii) any copying or distribution of any content or other intellectual property of Intermedix related to the Services that is known or suspected by Client or its Users; (iii) any use of false identity information to gain access to or use the SaaS Service or (iv) any loss or theft of a hardware device on which a User has access to the SaaS Service (each of subsections (i) through (iv) a "Security Breach Event"). To the extent that any Security Breach Event involves Protected Health Information (as defined below), and is subject to the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191, 110 Stat. 1936), including the privacy and security rules promulgated thereunder ("HIPAA"), as amended by the Health Information Technology for Clinical Health Act (Pub. L. No. 111-5, 123 Stat. 115) (the "HITECH Act"), Client shall comply with all applicable requirements under such laws, including any applicable breach notification requirements (i.e. notifications to affected individuals, the Department of Health and Human Services ("HHS"), and prominent media outlets) (the "HIPAA Notifications") triggered by the Security Breach Event. "Protected Health Information" means Individually Identifiable Health Information (defined at 45 C.F.R. § 164.501), transmitted or maintained in any form or medium, concerning individuals for whom the Client has performed EMS.

4.02 Rights Following Notification. Upon Intermedix's receipt of notification given by the Client of a Security Breach Event, Intermedix shall have the right to immediately, without notice to Client, suspend Client's access to the SaaS Service until such time as the Security Breach Event has been fully resolved, and no longer presents a threat of inappropriate access to: (i) the SaaS Services, (ii) any other intellectual property rights of Intermedix or its affiliates or (iii) the personal data or Protected Health Information gathered by Client in the performance of EMS by the Client. To the extent that a Security Breach Event requires Client to provide HIPAA Notifications, any such notifications shall not include a reference to Intermedix or any of its affiliates unless such a reference is specifically required by HIPAA or other applicable law. Further, if Client intends to reference Intermedix in a HIPAA Notification based on its belief that such a reference is required by HIPAA or other applicable law, Client shall provide Intermedix written notice of its intent to do so no later than ten (10) days prior to Client's provision of each required HIPAA Notification (i.e. no later than ten (10) days prior to Client's provision of notifications to affected individuals, HHS, and/or prominent media outlets, as applicable).

4.03 Security. Client acknowledges that it is solely responsible for providing security software, including without limitation, firewalls and similar applications, to prevent unauthorized access to its computer systems, including malware prevention software on User's computers. Client is responsible for requiring its Users to use a password to access the SaaS Services in compliance with the SaaS Security Characteristics. The "SaaS Security Characteristics" means a

password to access the SaaS Services, which must be at least eight (8) characters in length, and contain three (3) of four (4) of the following characteristics: lowercase letter, uppercase letter, special character or a number. Intermedix shall use commercially reasonable efforts to maintain the security of the SaaS Services, but shall not be responsible for the Client's loss or dissemination of passwords or other breaches beyond Intermedix's reasonable control.

5. COMPENSATION AND METHOD OF PAYMENT.

5.01 Fees. Intermedix shall be paid by Client a monthly amount representing fees for the Services provided by Intermedix hereunder, computed as follows:

(a) Six percent (6%) of all monies collected by Intermedix for EMS billing provided by Client less refunds ("Net Collections"), plus

(b) One and five hundredths percent (1.5%) of all monies collected for use of Intermedix-provided filed data capturing and reporting system consisting of three (3) Pen-based Panasonic Tough-book Tablet Units, Field Automation Software, Administrative Reporting System, including training and support (referred heretofore as "TripTix®"), less refunds ("Net Collections").

(c) All amounts set forth in any Addenda, attached hereto.

5.02 Intermedix shall submit the monthly invoices for fees for the Services to City of Alvin EMS ATTN: Ron Schmitz, EMS Director of Operations, 709 E. House St. Alvin, Tx. 77511. Client shall pay the amount invoiced within thirty (30) days of receipt of such invoice. In the event Client disputes any part of the invoiced amounts, such dispute shall be raised in writing to Intermedix within such thirty (30) day period or the invoice shall conclusively be deemed to be accurate and correct. Intermedix shall respond to any such notice of dispute within thirty (30) days of receipt thereof. Any overdue amounts which are not the subject of a good faith notice of dispute shall accrue interest at the rate of twelve percent (12%) per annum.

5.03 Bank Accounts. Client agrees that it will be solely responsible for the cost and maintenance of any and all of Client's bank accounts, lock-box and/or remote deposit services. Client, should it elect to participate in any credit card acceptance program, agrees to assume and be responsible for all costs associated with such program.

5.04 Taxes. All amounts payable under this Agreement are exclusive of all sales, use, value-added, withholding and other taxes and duties. Client shall promptly pay, and indemnify Intermedix against, all taxes and duties assessed in connection with any such amounts, this Agreement and its performance by any authority within or outside of the U.S., except for taxes payable on Intermedix's net income.

6. COLLECTION EFFORTS.

6.01 Alternative Collection Arrangements. Intermedix will have the right, on Client's behalf, in its sole and complete discretion, to enter into an alternative collection arrangement with respect to any patient encounter performed by the Client if: (i) the total payments are for at least 80 percent of the amount of the bill; (ii) an insurance company offers at least 70% of the

total amount billed with a stipulation that the insured not be billed for the balance; or (iii) Intermedix is able to make arrangements for the payment of patient account that provide a substantially similar economic benefit to Client, as Intermedix determines in its sole and complete discretion.

6.02 Scope of Collection Efforts. If reasonable efforts have been made to collect a patient account of Client and such efforts have not been successful, Intermedix shall have the right to terminate collection efforts and close the account as an unpaid debt. As used herein “reasonable efforts” shall be defined to mean at least but not limited to one hundred twenty (120) days of active collection efforts in the ordinary course of business. In addition, Intermedix may terminate or suspend collection efforts in the event that Client has supplied Intermedix with materially incomplete or inaccurate billing and/or patient information. Absent contrary instructions from Client with respect to any patient encounter, the accounts that Intermedix has deemed to be uncollectible may be forwarded to a third-party collection agency for further collection effort.

6.03 Administrative Fee/Third Party Collection Costs. Client will be responsible for engaging any third party collection service for uncollectible accounts after Intermedix has exhausted its collection efforts. Client will be directly liable for all fees of third party collection agency.

6.04 Excluded Persons. If any refunds of patient accounts of Client are required to be refunded to or offset by any government and commercial payor as a result of Client’s violation of its obligations set forth in Exhibit A (Scope of Services), Section B.9. (an “Excluded Person Refund”), Intermedix shall not be required to refund to Client any commissions or fees earned or previously paid to Intermedix as a result of its collection of such Excluded Person Refund or otherwise include such Excluded Person Refunds in its calculation of Net Collections as set forth herein.

7. SYSTEM SUPPORT. Support and training of Client’s Users will be provided subject to and in accordance with the terms of the Scope of Services.

8. INDEPENDENT CONTRACTORS. Intermedix is an independent contractor of Client and not an employee or agent of Client; provided, however, to the extent necessary to fulfill its billing and collection efforts under this Agreement, Intermedix is authorized to sign *in an administrative capacity* for Client the following types of standard forms and correspondence only: -; letters to patients or their representatives verifying that an account is paid in full; forms verifying the tax-exempt status of Client; and insurance filings and related forms. Intermedix has no authority to sign any document that imposes any additional liability on Client. Intermedix shall retain full control over the employment, direction, compensation and discharge of all persons assisting in the performance of the Services. Intermedix shall be fully responsible for all matters relating to payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. Each party shall be responsible for its own acts and those of its agents and employees during the Term of this Agreement.

9. LIMITATION ON LIABILITY. INTERMEDIX'S TOTAL CUMULATIVE LIABILITY UNDER THIS AGREEMENT WITH RESPECT TO THE SAAS SERVICES, EQUIPMENT OR OTHER SERVICES DELIVERED UNDER THIS AGREEMENT WILL BE LIMITED TO THE TOTAL FEES PAID (LESS ANY REFUNDS OR CREDITS) BY CLIENT TO INTERMEDIX PURSUANT TO THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY. IN NO EVENT WILL INTERMEDIX BE LIABLE TO CLIENT UNDER, IN CONNECTION WITH, OR RELATED TO THIS AGREEMENT FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, WARRANTY, TORT, PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT INTERMEDIX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE FOREGOING LIMITATIONS OF LIABILITY ARE A CONDITION AND MATERIAL CONSIDERATION FOR THEIR ENTRY INTO THIS AGREEMENT.

10. INSURANCE. Intermedix shall procure and maintain for the duration of the Agreement, the following insurance coverage: (i) workers' compensation insurance in compliance with the applicable state and federal laws; (ii) general liability insurance in an amount no less than \$1,000,000 per occurrence; (iii) coverage for business interruption, destruction of data processing equipment and media, liabilities affecting accounts receivable, and valuable documents in an amount no less than \$100,000 aggregate; and (iv) liability coverage for all vehicles whether owned, hired or used in the amount of \$500,000.

11. CONFIDENTIALITY AND HIPAA BUSINESS ASSOCIATE OBLIGATIONS.

11.01 Confidential Information. Each party (the "Discloser") may disclose to the other party (the "Recipient") certain non-public information relating to the Discloser's business, including technical, marketing, financial, personnel, planning, medical records and other information that is marked confidential or which the Recipient should reasonably know to be confidential given the nature of the information and the circumstance of disclosure ("Confidential Information"). Confidential Information of each party shall also include the terms of this Agreement, but not the existence and general nature of this Agreement. Confidential Information will not include any information: (i) lawfully obtained or created by the Recipient independently of, and without use of, Discloser's Confidential Information and without breach of any obligation of confidence or violation of HIPAA or the HITECH Act; or (ii) that is in or enters the public domain without breach of any obligation of confidence. Client shall be responsible for any breach by any of its Users, employees or agents of any of the confidentiality obligations set forth herein.

11.02 Use and Disclosure. Except as expressly permitted by this Agreement or the BA Agreement (as applicable) and subject to applicable law, the Recipient will:

(a) not disclose Discloser's Confidential Information except: (i) to the employees or contractors of the Recipient to the extent that they need to know that Confidential Information for the purpose of performing the Recipient's obligations under this Agreement, and who are bound by confidentiality terms with respect to that Confidential Information no less restrictive than those contained in this Section 11.02; or (ii) as required to be disclosed by law, to

the extent required to comply with that legal obligation, provided that the Recipient will promptly notify the Discloser of such obligation;

(b) use the Discloser's Confidential Information only for the purpose of performing Recipient's obligations under this Agreement;

(c) use all reasonable care in handling and securing the Discloser's Confidential Information, and employ all reasonable data security measures that the Recipient ordinarily uses with respect to its own proprietary information of similar nature and importance; and

(d) use and disclose Confidential Information that contains Protected Health Information in accordance with the terms of the Business Associate Agreement attached hereto as Exhibit B (the "BA Agreement"), if applicable.

11.03 Return of Confidential Information. Subject to Intermedix's internal data retention policies and applicable law, the Recipient will return to the Discloser, and destroy or erase all of the Disclosure Confidential Information in tangible form, upon the expiration or termination of this Agreement, and the Recipient will promptly certify in writing to the Discloser that it has done so.

11.04 HIPAA Business Associate Exhibit/Changes In HIPAA. Each party agrees to the obligations set forth in the BA Agreement attached hereto as Exhibit B (the "BA Agreement"). Such BA Agreement constitutes the complete and exclusive agreement between the parties with respect to Intermedix's obligations regarding Protected Health Information, superseding and replacing any and all prior agreements, communications, representations, and understandings (both written and oral) regarding such subject matter; provided, however, that in the event of any additions, modifications or amendments to any statute or regulation including HIPAA or future federal regulations adopted pursuant thereto, then Intermedix and Client shall promptly enter into negotiations to revise the BA Agreement to reflect such changes. Upon the execution by the parties of a revised BA Agreement (a "Revised BA Agreement"), such Revised BA Agreement will supersede the current BA Agreement in its entirety and such current BA Agreement will no longer be of any force or effect.

11.05 Right to Injunctive Relief. The parties expressly acknowledge and agree that the breach, or threatened breach, by a party of any provision of this Article XI may cause the other party to be irreparably harmed and that the harmed party may not have an adequate remedy at law. Therefore, the parties agree that upon such breach, or threatened breach, the harmed party will be entitled to seek injunctive relief to prevent the other party from commencing or continuing any action constituting such breach without having to post a bond or other security and without having to prove the inadequacy of any other available remedies. Nothing in this paragraph will be deemed to limit or abridge any other remedy available to either party at law or in equity.

12. NON-SOLICITATION. For the Term of this Agreement and for one (1) year after its termination, Client or Intermedix shall not employ or hire any employee or former employees - who, pursuant to this Agreement, has had any contact with employees or representatives of either

party or has worked on Client's accounts, without the prior written consent of Client and Intermedix.

13. ATTACHMENTS. The following named attachments are made an integral part of this Agreement:

- (a) Scope of Services (Exhibit A attached hereto and made a part hereof);
- (b) Business Associate Agreement (Exhibit B attached hereto and made a part hereof);
- (c) Optional Services (Exhibit C attached hereto and made a part hereof); and
- (d) Addendum to Service Agreement – TripTix Program (Exhibit D attached hereto and made a part thereto).

14. TERM AND TERMINATION.

14.01 Term. This Agreement shall be effective for an initial three-(3) year period, commencing on the Effective Date unless terminated as provided in Section 14.02 below (the "Initial Term"). Following the expiration of the Initial Term, subject to the payment of all fees due hereunder, this Agreement shall renew for successive, automatically renewable one (1) year periods ("Renewal Terms"; collectively, the Initial Term together with any Renewal Terms are the "Term"), unless either party provides the other party with written notice of termination of this Agreement as provided in Section 14.02 below. All terms and conditions hereof shall remain in full force and effect during the Term unless this Agreement is amended in a writing executed by each Party hereto.

14.02 Events Triggering Termination. This Agreement shall be subject to termination under the following conditions.

(a) Termination without Cause. Following the period one (1) year from the Effective Date of this Agreement, either Client or Intermedix may terminate this Agreement without cause upon six (6) months prior written notice to the other party.

(b) Termination with Cause. If Intermedix materially fails to perform any obligation required hereunder, and such default continues for thirty (30) calendar days after written notice from Client specifying the nature and extent of the failure to materially perform such obligation, this Agreement shall terminate upon the expiration of said thirty (30) calendar day period.

(c) If Client materially fails to perform any obligation required hereunder, and such default continues for thirty (30) calendar days after written notice from Intermedix specifying the nature and extent of the failure to materially perform such obligation, this Agreement shall terminate upon the expiration of said thirty (30) calendar day period.

(d) Termination Due to Bankruptcy. If Client or Intermedix: (i) apply for or consent to the appointment of a petition in bankruptcy; (ii) make a general assignment for the

benefit of creditors; (iii) file a petition or answer seeking reorganization or arrangement with creditors; or (iv) take advantage of any insolvency, or if any order, judgment, or decree shall be entered by any court of competent jurisdiction on the application of a creditor or otherwise adjudicating either party bankrupt or approving a petition seeking reorganization of either party or appointment of a receiver, trustee or liquidator of either party or all or a substantial part of its assets (subsections (i) through (iv), each a "Bankruptcy Event"), this Agreement shall terminate automatically and immediately upon written notice from the other party to the party who has incurred a Bankruptcy Event.

14.03 Rights Upon Termination. If this Agreement is terminated for any reason, including, without limitation, the breach of this Agreement by any party, Intermedix shall be entitled to recover when due and payable hereunder, all amounts owed to Intermedix hereunder accrued but unpaid as of the date of termination. Following termination of this Agreement, for a period of ninety (90) days (the "Transition Period"), Intermedix, at its sole discretion and upon written notice to Client of its election to do so, may continue its billing and collection efforts as to those accounts referred to Intermedix prior to the effective date of termination, subject to the terms and conditions of this Agreement, for the fee set forth in Article 5 above. At the end of the Transition Period, Intermedix shall return all records to Client in a commercially standard format on a commercially standard media as determined by Intermedix in its sole discretion; provided, however, that Intermedix may keep any copies of records in accordance with applicable law. The expiration or termination of this Agreement, for whatever reason, will not discharge or relieve either party from any obligation which accrued prior to such expiration or termination, will not relieve either party that has breached this Agreement from liability for damages resulting from such breach and will not destroy or diminish the binding force and effect of any of the provisions of this Agreement that expressly, or by reasonable implication, come into or continue in effect on or after expiration or termination hereof.

15. FORCE MAJEURE. Except for Client's obligation to pay, when due, the fees and compensation owed to Intermedix pursuant to the terms and conditions of this Agreement, neither Client nor Intermedix shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to a Force Majeure Event (as defined below), the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Force Majeure Event" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the non-performing party and includes, but is not limited to fire, flood, earthquakes, storms, lightning, natural disaster, epidemic, war, riot, civil disturbance, sabotage, terrorism and governmental actions. The non-performing party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

16. GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the State in which the Client is located, exclusive of its rules governing choice of law and conflict of laws.

17. GENERAL WARRANTIES AND DISCLAIMERS.

17.01 Corporate Authority. Each party warrants that it is a duly organized and validly existing corporation and has complete and unrestricted corporate power and authority to enter into this Agreement.

17.02 Disclaimer. THE WARRANTIES EXPRESSLY PROVIDED IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, WHICH WARRANTIES ARE HEREBY SPECIFICALLY DISCLAIMED. NO REPRESENTATIVE OF INTERMEDIX SHALL HAVE THE RIGHT TO MAKE WARRANTIES ON INTERMEDIX'S BEHALF UNLESS THOSE WARRANTIES ARE IN WRITING AND EXECUTED BY A DULY AUTHORIZED OFFICER OF INTERMEDIX.

18. EXPORT LAWS. Client shall comply with all then current export laws and regulations of the U.S. Government and the government of the country in which Client receives access to the Services.

19. ASSIGNMENT OF AGREEMENT. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Neither party shall assign this Agreement without the express written consent of the other party, and such consent shall not be unreasonably withheld. Notwithstanding the foregoing sentence, Intermedix may, upon notice to Client, assign this Agreement to any affiliate or any entity resulting from the sale, combination or transfer of all or substantially all of the assets or capital stock, or from any other corporate form of reorganization by or of Intermedix. Intermedix may subcontract any of its obligations under this Agreement, and may perform those obligations through personnel employed by or under contract with Intermedix.

20. NOTICES. Any notice directed to the parties' legal rights and remedies under this Agreement will be provided in writing and will reference this Agreement. Such notices will be deemed given if sent by: (i) facsimile, when complete transmission to the recipient is confirmed by the sender's facsimile machine; (ii) postage prepaid registered or certified U.S. Post mail, then five (5) working days after sending; or (iii) commercial courier, then at the time of receipt confirmed by the recipient to the courier on delivery. All notices to a party will be sent to its address set forth below, or to such other address as may be designated by that party by notice to the other party in accordance with this Section:

To Client:

City of Alvin
Attn: EMS Director
709 East House
Alvin, TX. 77511

To Intermedix:

Brad Williams
Vice President, Finance
Intermedix Corporation
6451 North Federal Highway, Suite 1000
Fort Lauderdale, Florida 33308

21. SEVERABILITY. If all or a part of a provision of this Agreement is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the remainder of that provision and all other provisions of this Agreement will not be affected.

22. ENTIRE AGREEMENT. This Agreement, including exhibits, attachments and written terms incorporated by reference, is the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and replacing any and all prior agreements, communications, and understandings (both written and oral) regarding such subject matter. Pre-printed terms and conditions on or attached to any Client purchase orders or other business forms shall be of no force or effect, even if Intermedix acknowledges or accepts them.

23. AMENDMENT/WAIVER. This Agreement may be modified, or any rights under it waived, only by a written document executed by both parties. Any failure of a party to exercise or enforce any of its rights under this Agreement will not act as a waiver of such rights.

24. ATTORNEYS FEES. Should either party institute any action or procedure to enforce this Agreement or any provision hereof, or for damages by reason of any alleged breach of this Agreement or of any provision hereof, or for a declaration of rights hereunder (including, without limitation, arbitration), the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including without limitation reasonable attorneys' fees, incurred by the prevailing party in connection with such action or proceeding.

25. CONSTRUCTION OF AGREEMENT. This Agreement has been negotiated by the parties and its provisions will not be presumptively construed for or against the other party. The headings and Section titles in this Agreement are for convenience only, and will not affect the construction or interpretation of this Agreement.

26. NO THIRD PARTY BENEFICIARIES. Except as expressly provided in this Agreement, nothing in this Agreement shall confer upon any person other than the parties and their respective successors and assigns, any rights, remedies, obligations or liabilities whatsoever.

27. COUNTERPARTS. The parties may execute this Agreement in one or more counterparts, each of which shall be an original, and which together shall constitute one instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their authorized representatives as of the Effective Date.

ADVANCED DATA PROCESSING, INC., a subsidiary of INTERMEDIX, a DELAWARE CORPORATION	CITY OF ALVIN EMS
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By: 
Name: Doug Shamon
Title: President

By: 
Name: Gary Appelt Scott Reed
Title: Mayor Pro-Tem

Exhibit A
Scope of Services

Base Services and Obligations:

- A. Intermedix shall provide revenue cycle management services for Client as described below. Intermedix shall, during the Term:
1. Prepare and submit initial claims and bills for Client promptly upon receipt thereof, and prepare and submit secondary claims and bills promptly after identification of the need to submit a secondary claim.
 2. Assist Client in identifying necessary documentation in order to process and bill the accounts.
 3. Direct payments to a lockbox or bank account designated by Client, to which Client alone will have signature authority.
 4. Pursue appeals of denials, partial denials and rejections when deemed appropriate by Intermedix.
 5. Respond to and follow up with Payors and respond to messages or inquiries from a Payor.
 6. Provide appropriate storage and data back-up for records pertaining to Client's bills and collections hereunder, accessible to Client at reasonable times.
 7. Maintain records of services performed and financial transactions.
 8. Meet, as needed, with representatives of Client to discuss results, problems and recommendations.
 9. Provide any Client-designated collection agency with the data necessary for collection services to be performed when an account is referred to such agency.
 10. Intermedix will support the provider in filing and maintaining required documentation and agreements with commonly-used Payors (e.g. Medicare, Medicaid, Champus, etc.). The Provider will maintain responsibility for enrollment, required documentation, and agreements with Out of State Payors, such as Out of State Medicaid programs, and other payors not commonly billed
 11. Provide reasonably necessary training periodically, as requested by Client, to Client's emergency medical personnel regarding the gathering of the necessary information and proper completion of run reports.

12. Utilize up-to-date knowledge and information with regard to coding requirements and standards, to comply with applicable federal, state and local regulations.
13. Provide a designated liaison for Client, patient and other Payor concerns.
14. Provide a toll free telephone number for patients and other Payors to be answered as designated by Client.
15. Facilitate proper security of confidential information and proper shredding of disposed materials containing such information.
16. Establish arrangements with hospitals to obtain/verify patient insurance and contact information.
17. Respond to any Client, Payor or patient inquiry or questions promptly.
18. Maintain appropriate accounting procedures for reconciling deposits, receivables, billings, patient accounts, adjustments and refunds.
19. Provide reasonable access to Client for requested information in order for Client to perform appropriate and periodic audits. Reasonable notice will be given to Intermedix for any planned audit and will be conducted during normal business hours of Intermedix, all at the Client's expense.
20. Provide timely reports facilitating required aspects of monitoring, evaluating, auditing and managing the Services provided.
21. Process refund requests and provide Client with documentation substantiating each refund requested.
22. Assign billing to patient account numbers providing cross-reference to Client's assigned transport numbers.
23. Maintain responsibility for obtaining missing or incomplete insurance information.
24. Provide accurate coding of medical claims based on information provided by Client.
25. Negotiate and arrange modified payment schedules for individuals unable to pay full amount when billed.

26. Retain accounts for a minimum of twelve (12) months (unless otherwise specified by mutual agreement) and after twelve (12) months turn over accounts for which no collection has been made (unless insurance payment is pending) to an agency designated by Client.
27. Permit real-time read only electronic look-up access by Client to Intermedix's SaaS Service to obtain patient data and billing information.
28. Maintain records in an electronic format that is readily accessible by Client personnel and that meets federal and state requirements for maintaining patient medical records.
29. Create, implement and comply with a Compliance Plan consistent with the Compliance Program Guidance for Third Party Medical Billing Companies 63 FR 70138; (December 18, 1998) promulgated by the Office of Inspector General of the Department of Health and Human Services (OIG).
30. Client represents and warrants that all of its employees, personnel and independent contractors involved in the delivery of EMS or otherwise performing services for Client: (i) hold the licensure or certification required to perform such services, (ii) have not been convicted of a criminal offense related to health care or been listed as debarred, excluded or otherwise ineligible for participation in a Federal health care program and (iii) are not excluded persons listed on any of the following: (a) the Office of the Inspector General List of Excluded Individuals and Entities; (b) the General Services Administration's Excluded Parties List; and (c) the Office of Foreign Asset Control's Specially Designated Nationals List.

B. *Client's Responsibilities and Obligations:*

1. From each person who receives EMS from Client ("Patient"), Client shall use its best efforts to obtain and forward the following information ("Patient Information") to Intermedix:
 - (i) the Patient's full name and date of birth;
 - (ii) the mailing address (including zip code) and telephone number of the Patient or other party responsible for payment ("Guarantor");
 - (iii) the Patient's social security number;
 - (iv) the name and address of the Patient's health insurance carrier, name of policyholder or primary covered party, and any applicable group and identification numbers;
 - (v) the auto insurance carrier address and/or agent's name and phone number if an automobile is involved;
 - (vi) the employer's name, address and Workers Compensation Insurance information if the incident is work related;
 - (vii) the Patient's Medicare or Medicaid HIC numbers if applicable;

(viii) the Patient's or other responsible party's signed payment authorization and release of medical authorization form or other documentation sufficient to comply with applicable signature requirements;

(ix) the call times, transporting unit, and crew members with their license level, i.e. EMT-B, EMT-I, or EMT-P;

(x) odometer readings or actual loaded miles flown such that loaded miles may be calculated;

(xi) physician certification statements (PCS) for non-emergency transports that are to be billed to Medicare pursuant to CMS regulations; and

(xii) any other information that Intermedix may reasonably require to bill the Patient or other Payor.

2. Client represents and warrants that all information provided to Intermedix shall be accurate and complete. Intermedix shall have no obligation to verify the accuracy of such information, and Client shall be solely responsible for such accuracy. Client agrees to indemnify and hold Intermedix, its agents, and employees harmless from any and all liabilities and costs, including reasonable attorneys' fees, resulting from (a) any inaccurate or misleading information provided to Intermedix that results in the actual or alleged submission of a false or fraudulent claim or (b) any other actual or alleged violation of local, state or federal laws., including but not limited laws applicable to Medicare, Medicaid or any other public or private Payor or enforcement agency.

3. Client will provide Intermedix with necessary documents required by third parties to allow for the electronic filing of claims by Intermedix on Client's behalf.

4. Client will provide Intermedix with its approved billing policies and procedures, including dispatch protocols, fee schedules and collection protocols. Client will be responsible for engaging any third party collection service for uncollectible accounts after Intermedix has exhausted its collection efforts.

5. Client will timely process refunds identified by Intermedix for account overpayments and provide to Intermedix confirmation, including copies of checks and other materials sent.

6. Client will provide a lock box or bank account address to Intermedix and will instruct the lock box or bank custodian agency to forward all documents to Intermedix for processing.

7. Client will provide Intermedix with daily bank balance reporting capabilities via the bank's designated web site.

8. Client will cooperate with Intermedix in all matters to ensure proper compliance with laws and regulations.

9. Client represents and warrants that all of its employees, personnel and independent contractors involved in the delivery of EMS or otherwise performing services for Client: (i) hold the licensure or certification required to perform such services, (ii) have not been convicted of a criminal offense related to health care or been listed as debarred, excluded or otherwise ineligible for participation in a Federal health care program and (iii) are not excluded persons listed on any of the following: (a) the Office of the Inspector General List of Excluded Individuals and Entities; (b) the General Services Administration's Excluded Parties List; and (c) the Office of Foreign Asset Control's Specially Designated Nationals List.

10. Client agrees that it will forward to Intermedix copies of checks, or other payment documentation requested by Intermedix relating to the subject matter of this Agreement, within 10 days of the date of receipt of those payments.

11. Client agrees to notify Intermedix in the event that their Electronic Patient Care Reporting (ePCR) vendor performs any system upgrades. Notification may be made in writing to support@Intermedix.com.

Exhibit B
Business Associate Addendum

This Business Associate Agreement (“Agreement”) supplements and is made part of the Underlying Agreement (as defined below).

This Business Associate Agreement (“Agreement”) is entered into between City of Alvin EMS (“Covered Entity”) and Advanced Data Processing, Inc., a subsidiary of Intermedix, a Delaware Corporation (“Business Associate”), effective as of the Effective Date of the Underlying Agreement (“Effective Date”).

WHEREAS, Covered Entity and Business Associate have entered into, or plan to enter into, a separate agreement, entitled Agreement for Ambulance Billing and Related Professional Services, as of the Effective Date, or other documented arrangement or other documented arrangement (the “Underlying Agreement”), pursuant to which Business Associate may provide services for Covered Entity that require Business Associate to access, create and/or use Protected Health Information (“PHI”) that is confidential under state and/or federal law; and

WHEREAS, Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed by Covered Entity to Business Associate, or collected or created by Business Associate pursuant to the Underlying Agreement, in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), and the regulations promulgated there under, including, without limitation, the regulations codified at 45 CFR Parts 160 and 164 (“HIPAA Regulations”); and the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, and its implementing regulations and guidance issued by the Secretary of the Department of Health and Human Services (“Secretary”) (the “HITECH Act”), and other applicable state and federal laws, all as amended from time to time; and

WHEREAS, the HIPAA Regulations require Covered Entity to enter into an agreement with Business Associate meeting certain requirements with respect to the Use and Disclosure of PHI, which are met by this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and the exchange of information pursuant to this Agreement, the parties agree as follows:

1. Definitions.

Capitalized terms used herein without definition shall have the meanings ascribed to them in the HIPAA Regulations or the HITECH Act, as applicable, unless otherwise defined herein.

2. Obligations of Business Associate.

a. Permitted Uses and Disclosures. Business Associate shall only Use or Disclose PHI for the purposes of (i) performing Business Associate’s obligations under the Underlying Agreement and as permitted by this Agreement; or (ii) as permitted or required by law; or (iii) as otherwise permitted by this Agreement. Further, Business Associate shall not Use or Disclose PHI in any manner that would constitute a violation of the HIPAA Regulations or the HITECH

Act if so used by Covered Entity, except that Business Associate may Use PHI (i) for the proper management and administration of Business Associate; or (ii) to carry out the legal responsibilities of Business Associate. Business Associate may Disclose PHI for the proper management and administration of Business Associate, to carry out its legal responsibilities or for payment purposes as specified in 45 CFR § 164.506(c)(1) and (3), including but not limited to Disclosure to a business associate on behalf of a covered entity or health care provider for payment purposes of such covered entity or health care provider, with the expectation that such parties will provide reciprocal assistance to Covered Entity, provided that with respect to any such Disclosure either (i) the Disclosure is Required by Law; or (ii) for permitted Disclosures when required by law, Business Associate shall obtain a written agreement from the person to whom the PHI is to be Disclosed that such person will hold the PHI in confidence and will not use and further disclose such PHI except as Required by Law and for the purpose(s) for which it was Disclosed by Business Associate to such person, and that such person will notify Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached.

b. Appropriate Safeguards. Business Associate shall implement administrative, physical, and technical safeguards that (i) reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI that it creates, receives, maintains or transmits on behalf of Covered Entity; and (ii) prevent the Use or Disclosure of PHI other than as contemplated by the Underlying Agreement and this Agreement.

c. Compliance with Security Provisions. Business Associate shall (i) implement and maintain administrative safeguards as required by 45 CFR § 164.308, physical safeguards as required by 45 CFR § 164.310 and technical safeguards as required by 45 CFR § 164.312; (ii) implement and document reasonable and appropriate policies and procedures as required by 45 CFR § 164.316; and (iii) be in compliance with all requirements of the HITECH Act related to security and applicable as if Business Associate were a “covered entity,” as such term is defined in HIPAA.

d. Compliance with Privacy Provisions. Business Associate shall only Use and Disclose PHI in compliance with each applicable requirement of 45 CFR § 164.504(e). Business Associate shall comply with all requirements of the HITECH Act related to privacy and applicable as if Business Associate were a “covered entity,” as such term is defined in HIPAA.

e. Duty to Mitigate. Business Associate agrees to mitigate, to the extent practicable and mandated by law, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

f. Encryption. To facilitate Business Associate’s compliance with this Agreement and to assure adequate data security, Covered Entity agrees that all PHI provided or transmitted to Business Associate pursuant to the Underlying Agreement shall be provided or transmitted in a manner which renders such PHI Unusable, Unreadable or Indecipherable to Unauthorized Individuals, through the use of a technology or methodology specified by the Secretary in the guidance issued under Section 13402(h)(2) of the HITECH Act on the HHS Web site. Covered Entity acknowledges that failure to do so could contribute to or permit a Breach triggering

notification obligations under the HITECH Act and further agrees that Business Associate shall have no liability for any Breach caused by such failure.

3. Reporting.

a. Security Incidents and/or Unauthorized Use or Disclosure. Business Associate shall report to Covered Entity a successful Security Incident or any Use and/or Disclosure of PHI other than as provided for by this Agreement or permitted by applicable law within a reasonable time of becoming aware of such Security Incident and/or unauthorized Use or Disclosure (but not later than ten (10) days thereafter), in accordance with the notice provisions set forth herein. Business Associate shall take (i) prompt action to cure any such deficiencies as reasonably requested by Covered Entity; and (ii) any action pertaining to such Security Incident and/or unauthorized Use or Disclosure required by applicable federal and state laws and regulations. If such successful Security Incident or unauthorized Use or Disclosure results in a Breach as defined in the HITECH Act, then Business Associate shall comply with the requirements of Section 3.b below.

b. Breach of Unsecured PHI. The provisions of this Section 3.b are effective with respect to the discovery of a Breach of Unsecured PHI occurring on or after September 23, 2009. With respect to any unauthorized acquisition, access, Use or Disclosure of Covered Entity's PHI by Business Associate, its agents or subcontractors, Business Associate shall (i) investigate such unauthorized acquisition, access, Use or Disclosure; (ii) determine whether such unauthorized acquisition, access, Use or Disclosure constitutes a reportable Breach under the HITECH Act; and (iii) document and retain its findings under clauses (i) and (ii). If Business Associate discovers that a reportable Breach has occurred, Business Associate shall notify Covered Entity of such reportable Breach in writing within thirty (30) days of the date Business Associate discovers such Breach. Business Associate shall be deemed to have discovered a Breach as of the first day that the Breach is either known to Business Associate or any of its employees, officers or agents, other than the person who committed the Breach, or by exercising reasonable diligence should have been known to Business Associate or any of its employees, officers or agents, other than the person who committed the Breach. To the extent the information is available to Business Associate, Business Associate's written notice shall include the information required by 45 CFR § 164.410. Business Associate shall promptly supplement the written report with additional information regarding the Breach as it obtains such information. Business Associate shall cooperate with Covered Entity in meeting Covered Entity's obligations under the HITECH Act with respect to such Breach.

4. Business Associate's Agents. To the extent that Business Associate uses one or more subcontractors or agents to provide services under the Underlying Agreement, and such subcontractors or agents receive or have access to PHI, Business Associate shall sign an agreement with such subcontractors or agents containing substantially the same provisions as this Agreement.

5. Rights of Individuals.

a. Access to PHI. Within ten (10) days of receipt of a request by Covered Entity, Business Associate shall make PHI maintained in a Designated Record Set available to Covered

Entity or, as directed by Covered Entity, to an individual to enable Covered Entity to fulfill its obligations under 45 CFR § 164.524. Subject to Section 5.b below, (i) in the event that any individual requests access to PHI directly from Business Associate in connection with a routine billing inquiry, Business Associate shall directly respond to such request in compliance with 45 CFR § 164.524; and (ii) in the event such request appears to be for a purpose other than a routine billing inquiry, Business Associate shall forward a copy of such request to Covered Entity and shall fully cooperate with Covered Entity in responding to such request. In either case, a denial of access to requested PHI shall not be made without the prior written consent of Covered Entity.

b. Access to Electronic Health Records. If Business Associate is deemed to use or maintain an Electronic Health Record on behalf of Covered Entity with respect to PHI, then, to the extent an individual has the right to request a copy of the PHI maintained in such Electronic Health Record pursuant to 45 CFR § 164.524 and makes such a request to Business Associate, Business Associate shall provide such individual with a copy of the information contained in such Electronic Health Record in an electronic format and, if the individual so chooses, transmit such copy directly to an entity or person designated by the individual. Business Associate may charge a fee to the individual for providing a copy of such information, but such fee may not exceed Business Associate's labor costs in responding to the request for the copy. The provisions of 45 CFR § 164.524, including the exceptions to the requirement to provide a copy of PHI, shall otherwise apply and Business Associate shall comply therewith as if Business Associate were the "covered entity," as such term is defined in HIPAA. At Covered Entity's request, Business Associate shall provide Covered Entity with a copy of an individual's PHI maintained in an Electronic Health Record in an electronic format and in a time and manner designated by Covered Entity in order for Covered Entity to comply with 45 CFR § 164.524, as amended by the HITECH Act.

c. Amendment of PHI. Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity.

d. Accounting Rights. This Section 5.d is subject to Section 5.e below. Business Associate shall make available to Covered Entity, in response to a request from an individual, information required for an accounting of disclosures of PHI with respect to the individual, in accordance with 45 CFR § 164.528, incorporating exceptions to such accounting designated under such regulation. Such accounting is limited to disclosures that were made in the six (6) years prior to the request and shall not include any disclosures that were made prior to the compliance date of the HIPAA Regulations. Business Associate shall provide such information as is necessary to provide an accounting within ten (10) days of Covered Entity's request. Such accounting must be provided without cost to the individual or to Covered Entity if it is the first accounting requested by an individual within any twelve (12) month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if Business Associate informs Covered Entity and Covered Entity informs the individual in advance of the fee, and the individual is afforded an opportunity to withdraw or modify the request. Such accounting obligations shall survive termination of this Agreement and shall continue as long as Business Associate maintains PHI.

e. Accounting of Disclosures of Electronic Health Records. The provisions of this Section 5.e shall be effective on the date specified in the HITECH Act. If Business Associate is deemed to use or maintain an Electronic Health Record on behalf of Covered Entity, then, in addition to complying with the requirements set forth in Section 5.d above, Business Associate shall maintain an accounting of any Disclosures made through such Electronic Health Record for Treatment, Payment and Health Care Operations, as applicable. Such accounting shall comply with the requirements of the HITECH Act. Upon request by Covered Entity, Business Associate shall provide such accounting to Covered Entity in the time and manner specified by Covered Entity and in compliance with the HITECH Act. Alternatively, if Covered Entity responds to an individual's request for an accounting of Disclosures made through an Electronic Health Record by providing the requesting individual with a list of all business associates acting on behalf of Covered Entity, then Business Associate shall provide such accounting directly to the requesting individual in the time and manner specified by the HITECH Act.

f. Agreement to Restrict Disclosure. If Covered Entity is required to comply with a restriction on the Disclosure of PHI pursuant to Section 13405 of the HITECH Act, then Covered Entity shall, to the extent necessary to comply with such restriction, provide written notice to Business Associate of the name of the individual requesting the restriction and the PHI affected thereby. Business Associate shall, upon receipt of such notification, not Disclose the identified PHI to any health plan for the purposes of carrying out Payment or Health Care Operations, except as otherwise required by law. Covered Entity shall also notify Business Associate of any other restriction to the Use or Disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522.

6. Remuneration and Marketing.

a. Remuneration for PHI. This Section 6.a shall be effective with respect to exchanges of PHI occurring six (6) months after the date of the promulgation of final regulations implementing the provisions of Section 13405(d) of the HITECH Act. On and after such date, Business Associate agrees that it shall not, directly or indirectly, receive remuneration in exchange for any PHI of Covered Entity except as otherwise permitted by the HITECH Act.

b. Limitations on Use of PHI for Marketing Purposes. Business Associate shall not Use or Disclose PHI for the purpose of making a communication about a product or service that encourages recipients of the communication to purchase or use the product or service, unless such communication: (i) complies with the requirements of subparagraph (i), (ii) or (iii) of paragraph (1) of the definition of marketing contained in 45 CFR § 164.501; and (ii) complies with the requirements of subparagraphs (A), (B) or (C) of Section 13406(a)(2) of the HITECH Act, and implementing regulations or guidance that may be issued or amended from time to time. Covered Entity agrees to assist Business Associate in determining if the foregoing requirements are met with respect to any such marketing communication.

7. Governmental Access to Records. Business Associate shall make its internal practices, books and records relating to the Use and Disclosure of PHI available to the Secretary for purposes of determining Covered Entity's compliance with the HIPAA Regulations and the HITECH Act. Except to the extent prohibited by law, Business Associate agrees to notify Covered Entity of all requests served upon Business Associate for information or documentation

by or on behalf of the Secretary. Business Associate shall provide to Covered Entity a copy of any PHI that Business Associate provides to the Secretary concurrently with providing such PHI to the Secretary.

8. Minimum Necessary. To the extent required by the HITECH Act, Business Associate shall limit its Use, Disclosure or request of PHI to the Limited Data Set or, if needed, to the minimum necessary to accomplish the intended Use, Disclosure or request, respectively. Effective on the date the Secretary issues guidance on what constitutes "minimum necessary" for purposes of the HIPAA Regulations, Business Associate shall limit its Use, Disclosure or request of PHI to only the minimum necessary as set forth in such guidance.

9. State Privacy Laws. Business Associate shall comply with state laws to extent that such state privacy laws are not preempted by HIPAA or the HITECH Act.

10. Termination.

a. Breach by Business Associate. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under this Agreement, then Covered Entity shall promptly notify Business Associate. With respect to such breach or violation, Covered Entity shall (i) take reasonable steps to cure such breach or end such violation, if possible; or (ii) if such steps are either not possible or are unsuccessful, upon written notice to Business Associate, terminate its relationship with Business Associate; or (iii) if such termination is not feasible, report Business Associate's breach or violation to the Secretary.

b. Breach by Covered Entity. If Business Associate knows of a pattern of activity or practice of Covered Entity that constitutes a material breach or violation of Covered Entity's obligations under this Agreement, then Business Associate shall promptly notify Covered Entity. With respect to such breach or violation, Business Associate shall (i) take reasonable steps to cure such breach or end such violation, if possible; or (ii) if such steps are either not possible or are unsuccessful, upon written notice to Covered Entity, terminate its relationship with Covered Entity; or (iii) if such termination is not feasible, report Covered Entity's breach or violation to the Secretary.

c. Effect of Termination. Upon termination of this Agreement for any reason, Business Associate shall either return or destroy all PHI, as requested by Covered Entity, that Business Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such PHI. If Covered Entity requests that Business Associate return PHI, such PHI shall be returned in a mutually agreed upon format and timeframe. If Business Associate reasonably determines that return or destruction is not feasible, Business Associate shall continue to extend the protections of this Agreement to such PHI, and limit further uses and disclosures of such PHI to those purposes that make the return or destruction of such PHI not feasible. If Business Associate is asked to destroy the PHI, Business Associate shall destroy PHI in a manner that renders the PHI unusable, unreadable or indecipherable to unauthorized individuals as specified in the HITECH Act.

11. Amendment. The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement any new or modified standards or requirements of HIPAA, the HIPAA Regulations, the HITECH Act and other applicable laws relating to the security or privacy of PHI. Upon the request of Covered Entity, Business Associate agrees to promptly enter into negotiation concerning the terms of an amendment to this Agreement incorporating any such changes.

12. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

13. Effect on Underlying Agreement. In the event of any conflict between this Agreement and the Underlying Agreement, the terms of this Agreement shall control.

14. Survival. The provisions of this Agreement shall survive the termination or expiration of the Underlying Agreement.

15. Interpretation. This Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA Regulations and the HITECH Act. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with such laws.

16. Governing Law. To the extent this Agreement is not governed by federal law, this Agreement shall be construed in accordance with the laws of the State of -Texas.

17. Notices. All notices required or permitted under this Agreement shall be in writing and sent to the other party as directed below or as otherwise directed by either party, from time to time, by written notice to the other. All such notices shall be deemed validly given upon receipt of such notice by certified mail, postage prepaid, facsimile transmission, e-mail or personal or courier delivery:

If to Covered Entity:

City of Alvin EMS

Attn: Ron Schmitz, EMS Director of Operations

Telephone no: #281.388.4363

Facsimile no: #281.388.4361

Email Address: rschmitz@cityhall.cityofalvin.com

If to Business Associate:

Intermedix Corporation

6451 N. Federal Highway, Suite 1000

Ft. Lauderdale, Fl 33308

Attn: Gregg Bloom, Compliance Officer & Vice President

Telephone no: 954-308-8702

Facsimile no: 954-308-8725

Email Address: gregg.bloom@intermedix.com

Exhibit C
Optional Services

Intermedix will provide the following specific optional services by mutual written agreement between Intermedix and Client:

1. Provide HIPAA-compliant Notice of Privacy Practices to transported, billed patients as an insert into the initial billing notice mailed to these patients.

2. If Client has purchased TripTix® product pursuant to the terms and conditions of the Addendum to this Agreement, Intermedix shall provide TripTix® based reporting extract of data required by state or local regulatory authority's connectivity/interface in a format reasonably required by such authorities.

Exhibit D
(TripTix® Program)

This Exhibit D, effective as of the Effective Date of the Agreement, hereby sets forth terms and conditions that apply only to the Product and Product Units listed in this Exhibit D. In regards to the Product, to the extent the terms and conditions of the Agreement are in conflict with this Exhibit D, the terms of this Exhibit D shall control. Where not different or in conflict with the terms, conditions and definitions of this Exhibit D, all applicable terms, conditions, and definitions set forth in the Agreement are incorporated within this Exhibit D as if set forth herein. Capitalized terms used herein and not otherwise defined herein shall have the meaning given to such terms in the Agreement.

WHEREAS, Intermedix has developed the TripTix® solution or product running on personal tablet devices to enter medical records and data into and interact with its main billing and medical records system or SaaS Service (“Product” as more particularly defined herein) that Intermedix is willing to make available to Client to use during the Term of the Agreement, as well as subject to the terms and conditions set forth herein; and

WHEREAS, Client has expressed a desire to obtain a right to use the Product; and

WHEREAS, Client acknowledges that, in connection with the provision of the Product and the Product Unit, Intermedix is incurring significant per unit and, in some cases, per User out of pocket expenses;

NOW, THEREFORE, the parties agree as follows:

ARTICLE I. DEFINITIONS

1.01 Definitions. For purposes of this Exhibit D, the following definitions shall apply:

“Intellectual Property” shall mean all of Intermedix’s rights in and to the Product and Product Unit, including, without limitation, Intermedix’s copyrights, trademarks, trade dress, trade secrets, patents and patent applications (if any), and “know how” and any other proprietary information developed by Intermedix relevant to the Product and/or Product Unit, recognized in any jurisdiction in the world, now or hereafter existing, whether or not registered or registerable.

IP Indemnification. Intermedix agrees to indemnify Client for claims, losses and damages arising out of third party claims against Client infringement of Intermedix’s Services, to the extent covered by applicable insurance of Intermedix; provided that (i) Client gives a prompt written notice thereof to Intermedix; (ii) Client provides assistance to Intermedix and allows Intermedix to solely direct the defense and settlement of such action; and (iii) such claim does not arise from the use or the combination of the Services with other programs, data, software or hardware not supplied by Intermedix or from the use of the Services in excess of the rights granted hereunder.

To the extent covered by applicable insurance of Intermedix, Intermedix agrees to indemnify Client for claims, losses and damages arising out of third party claims against Client for infringement of issued U.S. patent, registered U.S. copyright or registered U.S. trademark by Intermedix's Services, provided that (i) Client gives a prompt written notice thereof to Intermedix; (ii) Client provides assistance to Intermedix and allows Intermedix to solely direct the defense and settlement of such action; and (iii) such claim does not arise from the use or the combination of the Services with other programs, data, software or hardware not supplied by Intermedix or from the use of the Services in excess of the rights granted hereunder.

"Product" shall mean, collectively, each TripTix® Product Unit (a tablet PC, personal digital assistant or similar device), the Software, a third party wireless card in the name of Intermedix and any Third-Party Intellectual Property Rights, as applicable.

"Product Unit" shall mean a single data collection device delivered pursuant to the terms and conditions of this Exhibit D containing one or more elements of the Product but shall not mean any ancillary devices or products provided by persons other than Intermedix.

"Software" means the copies of Intermedix's software programs as are contained in the Product, including any documentation included therewith. Intermedix may, at its sole discretion, provide corrections and modifications to the Software from time to time.

"Third-Party Interface Devices" shall mean those devices that interface with the Product to transfer information, including medical monitoring devices for which Third-Party Intellectual Property Royalty Payments are made.

"Third-Party Intellectual Property Rights" shall mean the Intellectual Property rights of any third-party used in connection with the Product.

"Third-Party Intellectual Property Royalty Payments" shall mean the payments to be made directly by Client or, indirectly, on Client's behalf, as consideration for the licensing of any Third-Party Intellectual Property Rights or use of any Third-Party Interface Devices.

"Users" shall mean: (i) any employees of Client and (ii) any medical professional who is authorized to perform medical services for Client in the area in which Client operates its emergency medical services as of the Addendum Effective Date.

ARTICLE II. PRICE AND PAYMENT

2.01 Adjustment to Rates of Compensation under the Agreement. The compensation due and owing Intermedix by Client shall be increased as described in Section 4.01 of the Agreement during the Term. Additionally, in the event that Client terminates this Exhibit D during the period eighteen (18) months following the Agreement Effective Date, it shall pay an early termination fee as set out on Schedule 2.01 hereto.

2.02 Product Fees. Per the required payments pursuant to the provisions of Article 5 of the Agreement, Client shall make the following payments: (i) one and five hundredths percent (1.5%) of all Net Collections for use of Intermedix provided field data

capturing and reporting system consisting of three (3) Product Units and; (ii) all Third-Party Intellectual Property Royalty Payments as further set out on Schedule 2.02 hereto.

2.03 Additional Services. The additional Services shall be provided to Client at no additional charge, as long as the Agreement is in effect, as set out on Schedule 2.03 hereto. Should the contractual relationship between the parties change, then terms and conditions of the Agreement and Product pricing shall be negotiated between the parties in good faith.

ARTICLE III. RIGHT TO USE PRODUCT AND PROPRIETARY RIGHTS

3.01 Right to Use. Commencing on the Effective Date and subject to the terms and conditions of this Exhibit D, Intermedix grants Client and its Users a non-exclusive, non-transferable right to use the Product during the Term. This right to use the Product during the Term does not constitute a sale of the Product or any portion or piece thereof.

3.02 Delivery and Acceptance. Intermedix will deliver to Client, the Product at mutually agreeable times, after or simultaneously with the Effective Date.

3.03 No Other Rights. Client's rights in the Product will be limited to those expressly granted in this Article III. All changes, modifications or improvements made or developed with regard to the Product by Intermedix, whether or not made or developed at Client's request, shall be and remain the property of Intermedix. Intermedix reserves all Intellectual Property rights and any other rights in and to the Product not expressly granted to Client hereunder.

3.04 Restrictions. Client acknowledges that Intermedix and its suppliers, including, without limitation, the suppliers of certain Third-Party Intellectual Property Rights, have, retain and own all right, title and interest in and to the Product, and all patent, copyright, trademark and service mark and trade name and the goodwill associated therewith, trade secret, inventions, technology, ideas, know-how, and all other intellectual property rights and all other rights pertaining thereto. All such right, title and interest shall be and remain the sole property of Intermedix. Client shall not be an owner of, or have any interest in the Product but rather, such Client only has a right to use the Product pursuant to this Addendum. Neither Client nor its Users shall: (i) remove any copyright, patent or other proprietary legends from the Product; (ii) sub-license, lease, rent, assign, transfer or allow any third-party any right to use the Product; (iii) alter, modify, copy, enhance or adapt any component of the Product; (iv) attempt to reverse engineer, covert, translate, decompile, disassemble or merge any portion of the Product with any other software or materials; (v) otherwise create or attempt to create any derivative works from this Product, or permit persons who are not Users any access to the Product or its operations, and any attempt to do any of the above shall void all warranties given Client by Intermedix and shall be a material breach of this Addendum.

3.05 Material Change to Product. If there is any material change in any rules, orders, laws or regulations governing the manner in which this Product operates or in the data provided by third parties (such as changes in the manner of operation of global

distribution systems or standards in wireless or non-wireless communications protocols); then upon written notice to Client, Intermedix will have the right, retroactive to the date of such material change, to modify the way in which this Product delivers data in order to comport with any change in law or regulations or functionality governing the Product. All data used by Intermedix for testing and development shall be supplied by Client at its expense to Intermedix promptly upon request by Intermedix to Client.

ARTICLE IV. PRODUCT UNITS

4.01 Generally. Client and Intermedix understand and agree that Intermedix shall make available one or more Product Units. Client understands and acknowledges that any of the aforementioned Product Units provided by Intermedix will be subject to the additional fee described in Section 2.02 of this Exhibit D. Also, in connection with the potential provision of such Product Units, Client agrees:

Client will be responsible for any loss or damage to such Product Units. Client agrees to pay: (i) the cost of repairs in excess of manufacturer extended warranty of any such Product Unit provided to it or (ii), if the Product Unit is irreparable, lost or stolen, for the replacement cost of the Product Unit. Client is responsible for repair or replacement costs not covered by extended warranty provided by Intermedix. Client agrees that Client may obtain insurance for such devices provided that Intermedix is named as a beneficiary under such insurance. Intermedix will use commercially reasonable efforts to provide Client with a replacement Product Unit within one (1) business day following the business day on which the request is made.

(a) Client agrees that it shall immediately (and in no greater than twenty four (24) hours from Client's knowledge of the following) notify Intermedix of any loss or theft of a Product Unit (a "Product Unit Loss Event"). Upon Intermedix's receipt of notification given by the Client of a Product Unit Loss Event, Intermedix shall have the right to immediately, without notice to Client, suspend Client's access to the Product and the Product Unit until such time as the Product Unit Loss Event has been fully resolved, and no longer presents a threat of inappropriate access to: (i) the Product, (ii) any other intellectual property rights of Intermedix or (iii) the personal data or Protected Health Information gathered by Client in the performance of EMS by the Client. To the extent that any Product Unit Loss Event involves Protected Health Information, and is subject to HIPAA, as amended by the HITECH Act, Client shall comply with all applicable requirements under such laws, including any applicable HIPAA Notification requirements triggered by the Product Unit Loss Event. To the extent that a Product Unit Loss Event requires Client to provide HIPAA Notifications, any such notifications shall not include a reference to Intermedix unless such a reference is specifically required by HIPAA or other applicable law. Further, if Client intends to reference Intermedix in a HIPAA Notification based on its belief that such a reference is required by HIPAA or other applicable law, Client shall provide Intermedix written notice of its intent to do so no later than ten (10) days prior to Client's provision of each

required HIPAA Notification (i.e. no later than ten (10) days prior to Client's provision of notifications to affected individuals, Health & Human Services, and/or prominent media outlets, as applicable). Client acknowledges that they are responsible for configuring the Product Unit security password configuration (the "Product Unit Security Configuration") and providing that Users provide adequate safeguard password security.

(b) Client may be required to enter into additional agreements with the makers of third-party devices(monitors, scanners, EKG machines, etc.) with respect to the transmission of information between the third party device and the Product Unit. Client understands and agrees that Intermedix will not be able to provide Product Units unless and until agreements are entered into with the third-party manufacturers of such third party devices. Client understands and agrees that its failure to enter into or reach agreements with such third-parties (and any and all consequences of such failure) shall not be deemed to be a default of Intermedix under this Exhibit D or any other arrangement between Client and Intermedix. Client further understands and agrees that the failure to enter into such agreements with these third parties may hinder Client's use of certain software features that might otherwise be available to it (for instance, a direct data connection between a third party device and the Product Unit).

Client may be required to obtain new or different medical or other equipment capable of communicating with the Product Unit. Client understands and agrees that such new or different medical or other equipment must be obtained at Client's sole cost and expense.

Client may request Intermedix to support additional medical or other devices. Client understands and agrees that the costs of developing an interface may be significant and may involve the payment of royalties to the third-party manufacturers of the device. Client further understands and agrees that Intermedix has no obligation to undertake the development of interfaces with additional medical or other devices.

Client agrees to indemnify and hold Intermedix, its agents, and employees harmless from any and all liabilities and costs, and against any claim, suit, fine, or damages, including loss of profits, reasonable attorneys' fees, or interest, or any incidental, indirect, special, or consequential damages incurred as a result of any loss or damage to a Product Unit, the failure to utilize and require that its Users utilize one or more Product Unit Security Configurations which comply with the SaaS Security Characteristics, or an actual or alleged violation of local, state or federal laws, including, but not limited to, laws applicable to Medicare, Medicaid, HIPAA, the HITECH Act, or any other public or private Payor or enforcement agency.

ARTICLE V. TERM AND TERMINATION

5.01 Generally. The term of this Exhibit D shall begin on the Effective Date and shall continue the termination or expiration of the Agreement, unless terminated as provided in Section 5.03 below.

5.02 Termination. Notwithstanding any other language herein or in the Agreement, a termination of this Exhibit D shall not operate to terminate the Agreement, but a termination of the Agreement shall operate as a termination of this Exhibit D.

5.03 Termination of Exhibit D.

If Intermedix, at any time, materially fails to perform any obligation required under this Exhibit D, or breaches any material term or condition of this Exhibit D, and such material default or breach, being curable, continues uncured for thirty (30) calendar days after written notice from Client to Intermedix specifying the nature and extent of the failure to materially perform such obligation, Client shall have the right to terminate this Exhibit D upon the expiration of said thirty (30) calendar day period, without any obligation to pay any early termination payment outlined in Schedule 2.01.

If Client, at any time, fails to materially perform any obligation required under this Exhibit D, or breaches any material term or condition of this Exhibit D, and such material default or breach, being curable, continues uncured for thirty (30) calendar days after written notice from Intermedix to Client specifying the nature and extent of the failure to materially perform such obligation, Intermedix shall have the right to terminate this Addendum upon the expiration of said thirty (30) calendar day period, and any early termination payment required by Client outlined in Schedule 2.01 shall be immediately due and payable to Intermedix.

Termination without Cause. Client may terminate this Exhibit D (but not the Agreement) at any time without cause by providing thirty (30) calendar days prior written notice to Intermedix, and making payment in full of the required early termination payment disclosed on Schedule 2.01 with respect to each Product Unit delivered pursuant to this Exhibit D, which shall be immediately due and payable as of the date of such written notice of termination. As of the effective date of such termination, Client shall return all Product Units to Intermedix and shall have no further right to access the Product provided hereunder.

Intermedix may terminate this Exhibit D at any time without cause upon six (6) months prior written notice to Client.

5.04 Obligations Following Termination. Any termination of this Exhibit D shall not release Client or Intermedix from any claim of the other accrued hereunder prior to the effective date of such termination. Upon termination of this Exhibit D, Intermedix shall remain the sole owner of the Product and all Intellectual Property and goodwill associated therewith, and Client shall assert no rights thereto. Upon termination of this Exhibit D for any reason, Client shall immediately discontinue use of the Product, and within ten (10) calendar days, return each of the Product Units and certify in writing to Intermedix that all copies, extracts or derivatives of any item comprising the Product, in whole or in part, in any form, have either been delivered to Intermedix or destroyed in accordance with Intermedix's instructions. All payments made by Client to Intermedix hereunder are non-refundable.

ARTICLE VI. LIMITED WARRANTY AND DISCLAIMER:

6.01 Product Warranty. Intermedix warrants that each Product Unit delivered to Client will be free from material defects when delivered.

6.02 Information/Disclaimer of Warranties with Respect to Data and Information Provided by Third Parties. Some information transmittable or accessible through any Product Unit may have been obtained through sources believed to be reliable (such as various Internet providers, real-time data provided by GPS systems or medical devices or other third party information sources). Client agrees that Intermedix shall not have any liability whatsoever for the accuracy, completeness, timeliness or correct sequencing of the information, or for any decision made or action taken by Client in reliance upon such information or the Product. Client further agrees that Intermedix shall have no liability whatsoever for the transmission, non-transmission or partial transmission of data through third-party data systems and that such transmission shall be undertaken at Client's sole risk, cost and expense.

6.03 Disclaimer. Intermedix and its third party suppliers do not warrant that any Product will meet Client's requirements or that access to the Product, or the operation of the Product, will be uninterrupted, error-free, that all errors will be timely corrected, or that the data and/or reports generated by the Product will be accurate in the event that any third party information providers have provided inaccurate information. THE WARRANTIES EXPRESSLY PROVIDED IN THIS EXHIBIT D AND THE AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, WHICH WARRANTIES ARE HEREBY SPECIFICALLY DISCLAIMED. NO REPRESENTATIVE OF INTERMEDIX SHALL HAVE THE RIGHT TO MAKE WARRANTIES ON INTERMEDIX'S BEHALF UNLESS THOSE WARRANTIES ARE IN WRITING AND EXECUTED BY A DULY AUTHORIZED OFFICER OF INTERMEDIX.

6.04 Exclusive Remedy. For any breach of the warranties set forth in Section 6.01, Intermedix, shall, following written notice thereof by Client, use diligence efforts, at Intermedix's sole expense, promptly to repair or replace the nonconforming Product or Product Unit. This is Intermedix's sole and exclusive liability, and Client's sole and exclusive remedy, for the breach of the above warranties. Intermedix shall have no obligation to replace any defective Product Unit which is not returned to Intermedix immediately following delivery or which has failed because of accident, abuse or misapplication.

Schedule 2.01
Early Termination Fee

The Initial Term Early Termination Payments with respect to each Product Unit are as follows:

	Period	Amount
(1)	For an Early Termination during the first eighteen (18) months from the beginning of the Term:	\$2,750.00
(2)	For an Early Termination during the remainder of the Term:	\$0.00

Schedule 2.02
Third-Party Intellectual Property Royalty Payments

In addition to the other compensation required under this Addendum C, Third-Party Intellectual Property Payments shall be made as follows:

Licensing/Royalty agreement to be executed between Client and the manufacturer of Client's defibrillating equipment when the manufacturer has cleared the Product Unit for direct interface between their equipment and Intermedix provided data devices.

Schedule 2.03

Additional Services

(1) Client has purchased TripTix product pursuant to the terms and conditions of this Addendum C and Intermedix shall provide TripTix based reporting extract of data required by state or local regulatory authorities' connectivity/interface in a format reasonably required by such authorities.

(2) Provide an interface to Client's Computer-Aided Dispatch ("CAD") system for the purpose of supplying to the TripTix software dispatch information in a format suitable as prescribed by Intermedix. Client agrees to pay any charges for this purpose as required by its CAD vendor and that Intermedix is not responsible for such charges, nor is Intermedix responsible for any lack of cooperation by the Client's CAD vendor in attempting to develop such interface for client. Should Client change CAD Vendor or substantially change CAD software version after initial implementation, Client shall be responsible for costs to implement the new CAD interface.