

**Report :** Operational Services Manager  
**To:** Community and Resources Committee  
**Subject:** Freshspring Bond  
**Date:** 6<sup>th</sup> September 2021

**PURPOSE OF REPORT:**

For members to consider the recommendation of the Bideford Harbour Board Working Group and return a £3,000 bond to the SS Freshspring Society to enable further improvements to the ship

**1. INTRODUCTION**

The SS Freshspring was built in 1946 and is the only surviving example of the 14 Freshwater class carriers and of a small steam driven cargo ship of her day. She is recognised as being of national historical significance and has been placed on the National Register of Historic vessels.

In 2016 an agreement was made between Torrington District Council and the Freshspring Trust for the vessel to have a long-term berth in the Bideford Harbour. This was to enable the Trust to restore the vessel back to working condition. Due to the condition the vessel at that time the authority required a bond in case the ship became unseaworthy while in the Bideford Harbour.

**2. REPORT**

A request has been made by the by Mr John Puddy who is the Chairman of the Freshspring Trust for the bond to be returned to the Trust. This would further fund the project to help continue to improve the vessel back to its original form and allow for it to be open to the public.

Since arriving in Bideford five years ago significant work has been undertaken in restoring the Freshspring and this has been undertaken by many volunteers as well as local businesses. The overall condition of the vessel has improved significantly since its arrival, which was the initial concern and why the bond was initially requested by the authority. When the agreement between the authority and the Freshspring Society was being drafted the sum of nine thousand pounds was required to be paid into a bond by the society which would be jointly held by TDC and the Freshspring Society. This would be paid in three annual instalments of three thousand pounds.

Only one instalment has ever been received by the trust and has not been pursued by the authority. The sum to be returned if agreed by members would be for three thousand pounds and members need to decide whether they are confident that the restoration will continue for the bond to be returned or that it should be paid in full.

At the 24<sup>th</sup> June 2021 Bideford Harbour Board, members agreed the bond should be returned to the Fresh spring Trust to enable further repair work to be undertaken.



### **3. IMPLICATIONS**

#### **Financial Implications**

No known financial implications arising at the time of writing this report.

#### **Human Resources Implications**

No known resource implications arising from this report.

#### **Sustainability/Biodiversity Implications**

The Harbour Authority is committed to working with colleagues and Partner organisations in supporting all relevant environmental protection legislation.

#### **Equality/Diversity**

No other vessel within the Harbour jurisdiction has been asked to provide a bond while mooring within the Harbour area.

#### **Risk Management**

There is a risk that once the bond is removed the financial burden would pass to Torridge District Council to remove the SS Freshspring if it were to fall into disrepair. While this is unlikely to happen, it would be prudent that the Harbour Board receive annual updates from the trust on work undertaken. In addition, the authority as part of the agreement (section 4) requires the trust to have insurance and indemnify Torridge against all losses, liabilities, costs, and claims while the vessel is in the jurisdiction of the harbour Authority.

#### **Compliance with Policies and Strategies**

Bideford Harbour Authority seeks to comply with all Torridge District Council policies and Strategies.

### **4. RECOMMENDATIONS**

Bideford Harbour Board Working Group recommend to Community and Resources Committee that:

1. The £3,000 bond be returned to the Freshspring trust on the condition that annual inspections /surveys undertaken by the trust and the Harbour Master to ensure the vessel does not deteriorate which would be to the detriment to the harbour area. Condition reports should be presented at the end of the reporting year to the Bideford Harbour Board Working Group.
2. The Council should reserve the right to insist that the bond be reinstated for the ship to remain in the Harbour area if any defects were not rectified within a defined time scale.



## **SUPPORTING INFORMATION**

Letter from the Chairman of the SS Freshspring trust - Appendix 1

Agreement between TDC and the Freshspring Trust - Appendix 2

Consultations: Date of Consultation 24<sup>th</sup> August 2021  
Officers Consulted –Sean Kearney, David Heyes,  
Staci Dorey, Richard Haste, Councillor Hicks,

Reporting Officer Richard Haste  
:



## Appendix 1

### **Steamship Freshspring Trust**

The Steamship Freshspring Society (Now Trust, SSFT) was created in 2013 to preserve the historic *SS Freshspring* for the nation. In 2016, the Trust gained a grant of £155,000 from the National Heritage Memorial Fund, to carry out considerable works on the hull to ensure she was safe to tow and to remain in a permanent berth in Bideford. She arrived in October 2016 after a brief layover at Appledore Shipyard.

On 14<sup>th</sup> October 2016 SSFT signed a legal Agreement with Torrington District Council (TDC) which regulated the terms and conditions under which the ship would be berthed at Bideford. Because TDC had previously been faced with the cost of removing abandoned boats from the harbour, part of the Agreement involved SSFT lodging £9,000 with TDC payable in three annual instalments of £3,000 as a Bond to act as 'surety' against potential removal costs. SSFT paid the first £3,000 on signing the Agreement but, although SSFT had set the funds aside to pay the balance, TDC never asked for the second or third payments.

SSFT expects to dry-dock the ship every 5/6 years to ensure that the ship remains in sound and seaworthy condition. In April 2021 the ship will be moved to Harland and Wolff's (H&W) shipyard at Appledore where H&W will jet wash the hull, carry out a full survey, make any repairs necessary and then repaint so that the ship can be returned to its berth on the quay in mid May. During the time the ship is at the shipyard, SSFT's volunteers will be working on the deck and other areas so that by the time the ship returns to Bideford it will be looking extremely smart and ready for re-opening to visitors at the end of May.

With the maintenance and restoration work that has been continuously undertaken since the ship arrived in Bideford, SSFT believes that it has more than adequately demonstrated that TDC is at no risk of having to remove the ship due to poor maintenance. SSFT therefore requests that TDC returns the £3,000 held and formally withdraws the requirement for a Bond under the Agreement.

#### Other information about the Trust

*SS Freshspring* is a 121ft long steam powered ex Royal Fleet Auxiliary water carrying vessel, completed in 1947 by the Lytham Shipbuilding and Engineering Co as the last of 14 and only remaining example of her class.

The ship is registered with National Historic Ships. Register no: 28 and is classed as being of extreme national importance.

#### National Historic Ships Statement of significance:

*SS Freshspring's form reflects absolutely her role as a seagoing RN water carrier, but perhaps of even greater significance is the fact that with her pre-Second World War configuration, she is an extremely rare survivor of the type of general cargo vessel that was the work-horse of the British (and indeed other nations' throughout the World) mercantile fleet from the early 1900's to the 1960's. The only other vessel of similar appearance and scale in the UK is SS Robin of 1890, a ship that will never become operational or float again.*

*It is recognised that the Trust's proposals to maintain and conserve the vessel's original form and*



*configuration, whilst opening her to the public, serves to enhance her significance.* By doing so, the Trust's aim is to preserve the past to inspire knowledge for the future.

The ship is well embedded in the local community of Bideford and surrounding area as a must see attraction. Bideford is an area of considerable historic maritime significance and *SS Freshspring* is the only vessel in the port which reflects the many ships that visited and used to regularly ply the Bristol Channel and the coasts of Britain. Local people have a passion for our estuary, its heritage and have embraced the ship, with large numbers volunteering in some capacity, from painters to cake makers to Administrators and Trustees. All are a committed team. Volunteering provides a route to reduce social isolation and loneliness among many people. It engages, promotes teamwork and creates a great sense of camaraderie. People learn new skills and our older members actually seem to get younger as a result of volunteering. Bideford is an area of high deprivation and the ship serves as a focal activity and meeting point, supporting the well-being of many people from the young to the very old.

Without the commitment of Torridge District Council to support *SS Freshspring* and granting her a long term berth, it is almost certain that the ship would have been demolished. Indeed, our initial funder, The National Heritage Memorial Fund were hugely supportive of this move to Bideford as a deprived area in need of activity.

On arrival we worked to accumulate a team of Volunteers to look after the ship and to continue her restoration. Our mainstream education and career promotion work has continued throughout. The Trust has been successful in gaining considerable grant aid both to continue works on the ship, such as a restored wheelhouse and to enhance our work in education and the promotion of engineering and seafaring careers.

We have one member of staff and we are appointing two more, with a focus on employing local people. At present we are engaging a Community Engagement Officer and a Community Learning Officer. Both posts will support our local community, wellbeing and work in schools.

In 2019, our last year of opening due to the pandemic, we had 3,500 people visit the ship.

We have some 60 Volunteers in a whole range of positions, All our Trustees are Local people and we have three Patrons, Earl Attlee, Rear Admiral Nigel Guild and Captain Kevin Slade. The Trust has a highly efficient Management Team and an employed Project Manager.

Our plan has always been to dock the ship for survey and maintenance every five or six years. *Freshspring* has been in Bideford for almost five years and we have decided to support Harland and Wolff by booking the ship in to the Appledore yard, for survey, plating as required and a repaint of the hull. I believe that this highlights our determination that ship will never again become derelict and our determination to support our local economy.

WE would appreciate having the bond returned as the funds would be valuable to us to ensure we can continue to employ our essential staff for the longer term.



**Appendix 2**

**DATED** \_\_\_\_\_

- (1) TORRIDGE DISTRICT COUNCIL
- (2) SS FRESHSPRING SOCIETY

**"SS FRESHSPRING"**

\_\_\_\_\_  
AGREEMENT  
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Ref CWH/048357-127



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This Agreement is made the .... day of ..... 2016

**BETWEEN:**

Torrige District Council of Riverbank House, Bideford, Devon, EX39 2QG (hereinafter referred to "TDC") and

Steamship Freshspring Society of Little Cleave, Lower Cleave, Northam, Devon, EX39 2RH (hereinafter referred to as "SSFS").

Hereinafter referred to as the "Parties" or individually the "Party".

**WHEREAS:**

- A. TDC has agreed, subject to the terms and conditions of this Agreement, to provide facilities for the SS Freshspring at a nominated berth in Bideford subject always to the requirements and obligations of TDC for a determinable period of time provided always the Vessel remains in a seaworthy condition.
- B. SSFS is, in consideration of the mutual covenants contained in this Agreement, receipt and sufficiency of which are hereby acknowledged, willing to grant a first priority mortgage against the security of the Vessel to TDC in addition to the deposit of £9,000 (nine thousand pounds) into the account of TDC to be held to the order of both Parties. The sum shall be payable in accordance with clause 3.1.
- C. SSFS have acknowledged the importance of ensuring the Vessel is properly insured and also monitored on a regular basis by a qualified marine engineer surveyor who shall provide regular reports on the condition of the Vessel.

**NOW THEREFORE**

The Parties hereto have agreed and do hereby agree as follows:-

1	"Interpretation" Authorised Representative	-	Shall mean the representation of either Party who has been nominated by that Party and the extent of whose authority has been advised to the other Party or to any Regulatory Authority to sign or
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		countersign on its behalf as required by the terms of this Agreement.
2	"Consequential Loss"	Shall mean loss of profits or loss of use, time or hire of the Vessel or for pecuniary or economic losses of any nature arising in connection with the Vessel or any accident or damage to the Vessel whether direct or indirect for wages of crew, port charges, towage, salvage, dry docking, charter hire, general particular average expenses or any costs damages or expenses including but not limited to loss of opportunity, whether or not the same is or was foreseeable on the date of this Agreement and whether in contract, tort (including negligence) strict liability or breach of statutory duty or otherwise by TDC in connection with this Agreement.
3	"Certificate"	Means the certificate issued in accordance with the Merchant Shipping Loadline's Act 1995, Part IV that the Vessel is seaworthy for towing in coastal waters.
4.	"Harbour Authority"	Means the authority that controls the tidal waters between the old and new road bridges at Bideford spanning the River Torridge.
5.	"KM"	Means Keynvor Morelift Limited a marine contractor based in Appledore, North Devon.
6.	"Day or day"	Shall mean a Working Day unless specifically stated otherwise.
7.	"Regulatory Authority"	Shall mean the Maritime Coastguard Agency ("MCA") or any other agency with which the Parties must comply in accordance with statutory safety requirements.
8.	"Vessel"	Shall mean the SS Freshspring which is an ex-Royal Naval Auxiliary Water Tanker more particularly described in Schedule 1.



- 1.2 Index and Clause headings appearing in this Agreement are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- 1.3 In this Agreement in the absence of any contrary provision any reference to a statute, including any statutory modification or re-enactment of it, and any and every order, instrument, regulations, direction or plan made or issued under the statute or deriving validity from it.
- 1.4 References in this Agreement to TDC shall include TDC's successors in title, permitted assigns and personal representatives.

2. **Safety and Regulations:**

- 2.1 SSFS will procure and at all material times ensure that a satisfactory report is available from its appointed surveyor, R Pearce & Co Limited of Falmouth that the Vessel is, and remains in, a seaworthy state in accordance with all Regulatory Authorities requirements.
- 2.2 Prior to the Vessel carrying out its delivery voyage to Bideford SSFS shall produce and have approved by TDC, a Certificate showing that the Vessel has been approved for towing by a Regulatory Authority.
- 2.3 SSFS shall provide proof of insurance for the voyage and mooring alongside in Bideford prior to the commencement of the voyage in accordance with clause 4 herein.
- 2.4 SSFS shall arrange, procure and pay for a regular annual survey of the Vessel in order to evidence its on-going seaworthiness. A copy of that report shall be made available to TDC and, if so required, TDC may, providing 7 Days' notice is given to SSFS, conduct its own survey of the vessel at any reasonable time.

3. **Payment Terms:**

- 3.1 SSFS will, on signing this Agreement pay the sum of £3,000 (three thousand pounds) into an account nominated by TDC. Subsequent payments of £3,000 (three thousand pounds) shall be made on or before 30<sup>th</sup> October and 30<sup>th</sup> November 2016.



- 3.2 The monies held shall be released without any deduction or set off on reasonable request by TDC and can if necessary be used to assist and/or contribute to the maintenance or insurance of the Vessel, such request shall not be unreasonably withheld.
- 3.3 In consideration of the benefits being granted to SSFS, TDC is permitted to enter into a Mortgage Deed regulated by a Deed of Covenants by way of a first priority charge over the security of the Vessel. Additionally TDC shall be permitted to enter the charge at the Registrar General of Shipping and Seaman provided always the Vessel is first registered on Part 1 of the UK Registry.

4. **Insurance:**

- 4.1 From the date of this Agreement until termination, the Vessel, machinery and equipment on board, including all items owned by SSFS, will be at the risk of SSFS which shall at its own expense, at all material times, keep the same insured for a sum not less than the Vessel's market value.
- 4.2 The insurance will be placed with insurers carrying out business in the United Kingdom in accordance with the Institute of London Underwriters standard terms and conditions and in addition to full cover for hull and machinery insurance shall include, but not be limited to, cover for all wreck removal expenses (without a limit of liability), pollution and environmental expenses (of whatever kind and howsoever arising), claims by any third parties, including the Environment Agency in respect of damage and/or repair required to the Vessel, the relocation, modification and replacement of property belonging to TDC as a result of any claims or complaints by third parties in respect of damage, and a provision for TDC's legal costs to be paid in the event of any claim(s).
- 4.3 TDC and SSFS, shall be joint assured on the policy but at all material times the premium shall be paid by SSFS and they shall ensure the policy's timely renewal.
- 4.4 In the event of an actual constructive or arranged total loss of the Vessel TDC shall, in the first instance, be entitled to repayment of all sums due to it under this Agreement whereupon the balance will be payable to SSFS.
- 4.5 In the event of any claims being made under the terms of the insurance policies, SSFS shall procure that appointed contractors operate with due diligence as to all



damage and replace or repair any unfit materials or goods which have been destroyed or damaged, and remove and dispose of any debris and proceeds as a result of that damage.

- 4.6 SSFS undertakes to indemnify TDC against all losses and liabilities, costs claims and damages that may arise out of any damage to the environment as defined in the Environment Protection Act 1990 (as amended).

5. **Port Authority Rights:**

5.1 SSFS must allow the harbour master and any related Harbour or Regulatory Authority, its agents and workman access at all times to the Vessel, if so required, and SSFS shall not impede, fetter or interfere with the day to day work of these Authorities.

5.2 SSFS must also comply with any orders, directions or regulations implemented by the Harbour Authority and respond within 7 days to any notice that is served on it by that authority.

5.3 In the event of a claim by SSFS against TDC, any such claim shall exclude Consequential Loss.

6. **Warranties:**

6.1 SSFS warrant that it is the sole beneficial owner of all 64/64 shares in the Vessel and will not dispose, sell or otherwise transfer any shares in that Vessel without the prior written permission of TDC.

6.2 TDC warrants that it will provide services commensurate with a responsible district council and will at all material times provide adequate berthing and other facilities, provided always, that agreement is reached in respect of reasonable berthing (and other) dues that may be imposed by TDC, Regulatory Authorities, and/or the Harbour Authority.

6.3 SSFS warrant that KM is a qualified and properly certified marine contractor.

7. **Taxes and Duties:**



- 7.1 SSFS shall be responsible for any tax, duty, fee or similar charge in relation to the Vessel.
- 7.2 SSFS will also pay all fees, duties and expenses in connection with any finance agreement or mortgage facilities required by it in respect of the Vessel.
- 7.3 For the avoidance of doubt SSFS shall be responsible for any VAT or similar taxes that may arise in respect of the ownership and control of the Vessel.

8. **Termination Provision:**

- 8.1 If there is a breach by TDC of any provision of this Agreement, where such breach expressly entitles SSFS to terminate this Agreement, or there is a breach of any other material provision of this Agreement that is incapable of rectification within 30 Days then, SSFS may terminate this Agreement by written notice to TDC.
- 8.2 If SSFS fails to pay any sum due to TDC under the terms of this Agreement, or commits any breach of SSFS's obligations hereunder, TDC shall give to SSFS notice in writing specifying the breach complained of and the action which TDC reasonably considers necessary to rectify the breach. Failing compliance within 30 days of TDC's reasonable request, TDC may terminate this Agreement by written notice to SSFS.
- 8.3 In the event SSFS ceases trading or has a liquidator, receiver or administrator appointed, TDC shall be entitled to terminate this Agreement by giving notice to SSFS or to the liquidator or administrator (as the case may be) to the effect that, TDC shall be entitled to exercise its rights as first priority mortgagee and that the liquidator or administrator will not have a prior lien over the Vessel or its equipment, materials or machinery.

9. **Notices and Communications:**

- 9.1 Unless otherwise expressly agreed between the Parties all notices and communications required under this Agreement shall be given in writing and sent by e-mail or post and shall be addressed to TDC at:-

Riverbank House, Bideford, Devon, EX39 2QG

E-mail - [Jamie.hollis@torridge.gov.uk](mailto:Jamie.hollis@torridge.gov.uk)



Telephone - 01237 428701  
For the Attention of Mr Jamie Hollis

And to:  
SSFS at:

Little Cleave, Lower Cleave, Northam Devon EX39 2RH  
E-mail - [info@ssfreshspring.co.uk](mailto:info@ssfreshspring.co.uk)  
Telephone - 01237 479730  
For the Attention of .....

9.2 Any formal notice given under this Agreement shall be deemed to have been duly given or made to be sent by post, 4 Days after the date of posting and if sent by e-mail on the day of transmission.

10. **Law and Jurisdiction:**

10.1 The Agreement shall be construed and interpreted in accordance with English law.

10.2 Both Parties shall, in the event of any dispute, attempt to mediate the same and appoint an accredited mediator in order to resolve all issues arising out of that dispute. Failing a resolution, a dispute shall be submitted to and settled by arbitration proceedings. Such arbitration shall be conducted in Bideford (or such other place as may be agreed in writing between the Parties) by a single arbitrator to be appointed by agreement between the Parties or failing agreement on the arbitrator by three arbitrators, one to be appointed by each Party and another chosen by the two arbitrators appointed. Any such reference shall be a submission to arbitration in accordance with the Arbitration Act 1996 or any statutory variation, modification or re-enactment thereof and the time being in force. The arbitration shall be conducted under the rules of the London Maritime Arbitrators Association and any written award shall be in English and binding on both Parties.

10.3 The Parties agree that the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and for the avoidance of doubt the Parties do not intend the terms of this Agreement to be enforceable by any third party.

11. **Miscellaneous Provisions:-**



- 11.1 Neither of the Parties hereto shall be entitled to assign, transfer, novate or sub-contract any of its rights or duties hereunder without the written permission of the other Party.
- 11.2 SSFS shall at all material times be responsible for the sub-contractors and/or agents and remain at all times liable for their acts or omissions to act.
- 11.3 This Agreement shall not be amended or varied save unless the Parties expressly agree by their duly Authorised Representatives to amend the Agreement which must be evidenced in writing and expressly stated to amend this Agreement.
- 11.4 This Agreement constitutes the entire Agreement between TDC and SSFS in relation to the Vessel and neither Party places any reliance whatsoever on any representations, statements or understandings whether oral or in writing, made prior to the date of the execution of this Agreement other than those representations, agreements or statements expressly incorporated into this Agreement.
- 11.5 This Agreement may be executed in any number of counter parts, each of which is an original and all of which together refers to the same Agreement.
- 11.6 Save where agreed in writing, the Parties, shall keep the terms of this Agreement confidential as between the Parties.

**IN WITNESS** whereof the parties hereto have executed this agreement by the duly Authorised Representatives.

SIGNED .....

SIGNED .....

PRINTED NAME .....

PRINTED NAME .....

DATED .....

DATED .....

For and on behalf of TDC

For and on behalf of the SSFS

In the presence of:

In the presence of:-

SIGNED .....

SIGNED .....





PRINTED NAME .....

PRINTED NAME .....

DATED.....

DATED .....

For and on behalf of the TDC

For and on behalf of the SSFS



**SCHEDULE 1**

