CITY OF FREDERICKSBURG
CITY COUNCIL MEETING

MONDAY, NOVEMBER 6, 2017 ~ 6:00 p.m.

Law Enforcement Center ~ 1601 East Main Street

Linda Langerhans, Mayor
Charlie Kiehne, Council Member
Jerry Luckenbach, Council Member
Gary Neffendorf, Council Member
Bobby Watson, Council Member
Kent Myers, City Manager

(REQUEST ALL PAGERS AND PHONES BE TURNED OFF, EXCEPT EMERGENCY ON-CALL PERSONNEL)

A G E N D A

CALL TO ORDER

PLEDGE OF ALLEGIANCE

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7. **COUNCIL COMMENTS** - No discussion or action may take place

8. **ADJOURN**

CITY COUNCIL MEMO

DATE: October 31, 2017

TO: Fredericksburg City Council

FROM: Kelli Olfers

SUBJECT: Amendment to No Smoking Ordinance

Summary:

Tobacco use is the single most preventable cause of disease, disability, and death in the United States. Nearly one-half million Americans still die prematurely from tobacco use each year, and more than 16 million Americans suffer from a disease caused by smoking. Despite these risks, approximately 42.1 million U.S. adults currently smoke cigarettes. And the harmful effects of smoking do not end with the smoker. Secondhand smoke exposure causes serious disease and death, and even brief exposure can be harmful to health. Each year, primarily because of exposure to secondhand smoke, an estimated 7,330 nonsmoking Americans die of lung cancer and more than 33,900 die of heart disease. Coupled with this enormous health toll is the significant economic burden. Economic costs attributable to smoking and exposure to secondhand smoke now approach $300 billion annually. *Source:* CDC's *Best Practices for Comprehensive Tobacco Control Programs - 20*14

E-cigarette use among U.S. youth and young adults is now a major public health concern. E-cigarette use has increased considerably in recent years, growing an astounding 900% among high school students from 2011 – 2015. These products are now the most commonly used form of tobacco among youth in the United States, surpassing conventional tobacco products, including cigarettes, cigars, chewing tobacco, and hookahs. E-cigarettes contain nicotine, which can cause addiction and can harm the developing adolescent brain. Preventing tobacco use in any form among youth and young adults is critical to ending the tobacco epidemic in the United States. *Source:* Vivek H. Murthy, M.D., M.B.A., U.S. Surgeon General

Recommendation:

The Gillespie County Health Board requests that City Council approve the amendment to the SMOKING IN PUBLIC PLACES ordinance that includes e-cigarettes and vaping.

Background / Analysis:

On November 7, 2002, the Fredericksburg City Council passed ordinance number 12-018 SMOKING IN PUBLIC PLACES. This ordinance restricts smoking in all public places within the city limits as *"public place"* is defined in the ordinance. The Gillespie County Health Board has researched this topic this past year and concludes that the current ordinance needs to be updated to include items that were not in existence in 2002. This amendment will update this 15 year old ordinance to include e-cigarettes and vaping as part of the no smoking ordinance.

Attachments:

Please see attached ordinance.

Kelli Alfaro

Department Approval

City Manager Approval

The City of Fredericksburg

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS, AMENDING SECTION 20-180 OF ARTICLE V. - SMOKING IN PUBLIC PLACES, OF CHAPTER 20 OF THE CODE OF ORDINANCES, BY INCLUDING THE USE OF ELECTRONIC SMOKING DEVICES IN PUBLIC AS AN ACTIVITY THAT IS PROHIBITED.

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

Section 1. That, Section 20-180 "Definitions", of the Code of Ordinances is amended as follows:

Sec. 20-180. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bar means any commercial establishment that derives 51 percent or more of its annual gross sales receipts from the sale of alcoholic beverages as defined by the Texas Alcoholic Beverage Code and has a valid on-premises consumption license issued by the state alcoholic beverage commission or a portion of a commercial/food establishment that is physically separated from the rest of the establishment by an impermeable barrier exclusive of appropriate openings for ingress and egress and that portion of the establishment is independently ventilated and that portion of the establishment derives 51 percent or more of its annual gross sales receipts from the sale of alcoholic beverages as defined by the Texas Alcoholic Beverage Code and has a valid on-premises consumption license issued by the state alcoholic beverage commission.

Director means the director of the department designated by the city manager to enforce and administer this article or the director's designated representative.

Electronic Smoking Device means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to inhale or simulate smoking through the inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor, and any aerosol, liquid, or vapor used in such a device.

Employee means any person who is employed by any employer from direct or indirect monetary wages, commissions or profit, or is in a position that would lead one to believe that such person is so employed.

Employer means any person, partnership, corporation, association or other entity that employs one or more persons.

Enclosed means closed in by a roof and walls with appropriate openings for ingress and egress.

Food establishment means any operation engaged in the preparation or sale of prepared ready-to-eat food, if such operation accounts for more than 51 percent of annual gross sales receipts. For the purpose of this section a food establishment does not include an outdoor patio.

Governmental entity means a state, a municipality, county, school district, or appraisal district.

Health care facility means any hospital or institution that provides medical or surgical services for patients.

Independently ventilated means that the heating, ventilation and air conditioning system for a bar area does not allow for the mixing of air from the bar area to a public area or public place served by the same ventilation system or another ventilation system.

Movie theater means any establishment engaged in the business of exhibiting motion pictures to public. The same are regulated hereby even if meeting the definition of private club.

Outdoors means any area that is not enclosed.

Private club means any building, premises or portion thereof which is wholly owned or leased from other than a governmental entity by a non-profit corporation organized under chapter 501(c)(3) of the United States Internal Revenue Code, as amended.

Private office is an individual's office from which the public is not barred but to which the public goes primarily by invitation or appointment. Such office shall be an office in which there are no employees.

Public place means any enclosed area that is open to or is used by the general public, or that is a place of employment and includes, but is not limited to: retail stores, grocery stores, offices, professional, commercial or financial establishments, food establishments, movie theaters, public and private institutions of education, health care facilities, nursing and convalescent homes, residential treatment facilities, buildings owned or occupied by political subdivisions and public restrooms. For the purpose of this article, a public place does not include a private residence, bar, tobacco shop, hotel and motel rooms that are rented to guests, private clubs or outdoors or private offices. Any public places regulated by other statutes or other governmental administrative rules which conflict with or which preempt local regulation are exempt from the provisions hereof to the extent of such conflict or preemption.

Smoke or *Smoking* means inhaling, exhaling, lighting, or burning:

a) any cigar, cigarette, pipe, weed, plant, or other smoking material of any kind; or
b) any Electronic Smoking Device as defined in this Section.

~~means the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking material, equipment or device, and the lighting, emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind.~~

Tobacco means any tobacco, cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco, which may be utilized for smoking, chewing, inhalation or other means of ingestion or absorption.

Tobacco shop means any commercial establishment that derives 51 percent of its annual gross receipts from the sale of tobacco, Electronic Smoking Devices, and tobacco accessories.

Section 2. Severability or Invalidity. If any provision of this ordinance or the application hereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without defeating the purpose or objective of the provisions, and to this end, the provisions of this ordinance are declared to be severable.

Section 3. Repealer. All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

PASSED AND APPROVED on this the ____ day of November, 2017.

_____
Linda Langerhans, Mayor
City of Fredericksburg, Texas

ATTEST:

_____
Shelley Britton, City Secretary

APPROVED AS TO FORM:

_____
Daniel Jones, City Attorney

CITY COUNCIL MEMO

DATE: October 31, 2017

TO: Mayor and City Council

FROM: Steven Wetz, Chief of Police

SUBJECT: Revision of Discharge of Firearms Ordinance

Summary:

After discussion by council at a recent City Council Retreat on issues in our current ordinance, on the discharge of Firearms in the city limits, we offer the following recommendations for discussion on a new revision.

Recommendation:

Myself and City Attorney, Daniel Jones offer the attached revision of the ordinance for the Discharge of Firearms within the city limits, for your consideration.

Background / Analysis:

In reviewing the ordinance we have determined several areas that can be changed to meet currant city expectations. The ordinance was last updated in 1992, when the city's geographic composition was different than today. Many of the outlining areas that were once rural have now been developed and do not offer the ability to use the land for recreational hunting and the discharge of firearms.

We understand the need for people living in the city limits to have the ability to discharge firearms and air rifles in a controlled environment with proper safety requirements. We also understand the need for people to have the ability to protect themselves and their property from predation. Understanding those needs are the reasons for the exemptions in the ordinance. You may wish to use the first reading of this ordinance to review and change those exemptions.

Attachments:

Copy of the draft revision of the ordinance with recommended changes.

Department Approval

City Manager Approval

The City of Fredericksburg

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS, AMENDING SECTION SEC. 20-1. - DISCHARGE OF FIREARMS, OF CHAPTER 20 - OFFENSES AND MISCELLANEOUS PROVISIONS - OF THE CODE OF ORDINANCES, AND PROVIDING A PENALTY CLAUSE FOR VIOLATIONS.

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

Section 1. That, Section 20-1 "Discharge of firearms", of the Code of Ordinances, is deleted in its entirety and a replacement Section 20-1 is adopted as follows:

Sec. 20-1. - Discharge of firearms.

(a) In this Section:

(1) "firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

(2) "air gun" means any gun that discharges a pellet, BB, or similar projectile by means of compressed air, gas propellant, or a spring.

(3) "sport shooting range" means a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting.

(b) It shall be unlawful to discharge any firearm or air gun in the city limits.

(c) This Section shall not apply to:

(1) the discharge of a firearm in performance of official duties by:

(i) a licensed peace officer;

(ii) an animal control officer;

(iii) a person acting under direct orders of a licensed peace officer or animal control officer; or

(iv) a member of the state or federal military.

(2) the discharge of firearms or air guns at a sport shooting range.

(3) the discharge of blank cartridges for a show or theatrical production, for signal or ceremonial purposes in athletics or sports, or by military organizations.

(4) the discharge of a firearm or air gun when lawfully defending a person or property.

(5) the discharge of an air gun by a person that is 18 years of age or older while on the person's own property or with permission of the owner of the property.

(6) the discharge of an air gun by any person while under the direct supervision of a person that is 18 years of age or older and while on the person's own property or with permission of the owner of the property.

(7) the discharge of a firearm or air gun to destroy predatory animals on the person's own property or with written permission of the owner of the property, provided that the firearm discharged is:

(i) a rifle or pistol using a .22 caliber or smaller rimfire cartridge; or

(ii) a .410 bore or smaller shotgun.

(8) the discharge of a firearm or air gun at locations and times approved in advance, in writing, by the chief of police or his/her designee.

(d) Nothing in this Section shall be construed to relieve any person of any other applicable requirements of federal, state, or local law, rules, or regulations, including laws prescribing hunting licenses and regulations for the taking of any game or nongame species.

State Law reference— Authority of municipality to regulate firearms and explosives, V.T.C.A., Local Government Code § 229.001.

Section 2. Severability or Invalidity. If any provision of this ordinance or the application hereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without defeating the purpose or objective of the provisions, and to this end, the provisions of this ordinance are declared to be severable.

Section 3. Repealer. All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. Penalty. That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-6 of the Code of Ordinances. Each calendar day such violation shall continue, or be permitted to continue, shall be deemed a separate offense.

PASSED AND APPROVED on this the ____ day of _____, 2017.

_____
Linda Langerhans, Mayor
City of Fredericksburg, Texas

ATTEST:

_____
Shelley Britton, City Secretary

APPROVED AS TO FORM:

_____
Daniel Jones, City Attorney

CITY COUNCIL MEMO

DATE: November 6, 2017

TO: Mayor and City Council

FROM: Anna Hudson, Historic Preservation Officer

SUBJECT: Budget Amendment to Tourism fund for Historic Resource Survey

Summary:

The expansion of the historic district requires a detailed survey to inventory and rate each property in the potential district. As such, professional preservation consultant services are needed to do the field work and compile the information. $20,000 was allocated in the Development Services budget for the work, but another $20,000 will be needed for the survey. Given the direct impact historic preservation has on the local economy Tourism Funds are being requested to fund half of the survey project.

Recommendation:

Staff recommends amending the Tourism Fund to fund $20,000 towards the historic resource survey that will be used to determine the expansion are of the local historic district.

Background / Analysis:

At the City Council Retreat on October 17, 2017, Council agreed to move forward with a historic resource survey. Instead of waiting for potential funding from a state grant, Council recommended use of tourism funds to help pay for the survey. This will allow the survey to begin in a few weeks rather than waiting until Summer 2018.

The City of Fredericksburg

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Attachments:

1. Resolution authorizing use of Hotel Occupancy Tax revenue for historic preservation
2. Budget amendment spreadsheet

Anna Hudson

Department Approval

City Manager Approval

The City of Fredericksburg

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A RESOLUTION OF THE CITY OF FREDERICKSBURG, TEXAS, AUTHORIZING USE OF HOTEL OCCUPANCY TAX REVENUE FOR HISTORIC PRESERVATION

WHEREAS, the Texas Tax Code authorizes the use of revenue from the municipal hotel occupancy tax for historical restoration and preservation projects or activities that promote tourism and the convention and hotel industry; and

WHEREAS, the City of Fredericksburg ("City") desires to preserve features in the City which have historical, cultural, or architectural merit, and which attract visitors to the City, thereby promoting tourism and the convention and hotel industry in the City.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL of the City of Fredericksburg, Texas, that:

1. The City Council hereby finds that the completion of a historic resource survey in the City is a historical restoration and preservation project or activity that would promote tourism and the convention and hotel industry in the City; and

2. The City Council hereby authorizes the use of revenue from the municipal hotel occupancy tax for a historic resource survey, in an amount as hereafter directed by the City Council.

PASSED AND APPROVED this _____ day of November, 2017.

_____
Mayor

ATTEST:

_____
City Secretary

APPROVED AS TO FORM:

_____
City Attorney

FY 2018 Budget Amendment - November 6, 2017 Council Meeting

G/L Account	Description	2018 Budget	2018 Proposed	Amendment	Notes
Tourism Fund Expenditures					
NEW	Contract Professional Services - Historic Resource Survey	-	20,000.00	20,000.00	Historic Resource Survey will be Funded with Hotel Occupancy Tax Reserves
	Tourism Fund Expenditures	-	20,000.00	20,000.00	

CITY COUNCIL MEMO

DATE: November 6, 2017

TO: Mayor and City Council

FROM: Laura Hollenbeak, Director of Finance

SUBJECT: Resolution Approving the Acquisition and Financing of Equipment

Summary:

The 2018 adopted City Budget approved funding for lease purchase payments for the acquisition of equipment including a Front End Loader and a Dump Truck for the Street Department, two (2) Mowers for the Park Department, and an Ambulance for the EMS - Emergency Medical Services Department.

The purchase price of $666,240 will be financed. The financing was bid with the low bid received from City National Capital Finance with an interest rate of 1.69%. As part of the lease documentation, the City Council is required to adopt a Resolution authorizing the Lease Agreement with City National Capital Finance.

Furthermore, the adoption of this resolution will give authorization to the City Manager to execute all documents related to this lease agreement.

Recommendation:

Staff recommends that the Council adopt the resolution approving the acquisition and financing of equipment.

Background / Analysis:

The City of Fredericksburg

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Attachments:

Resolution approving the Acquisition and Financing of Equipment and Master Lease Purchase Agreement.

Laura Hollenbeak

Department Approval

City Manager Approval

The City of Fredericksburg

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A RESOLUTION OF THE CITY OF FREDERICKSBURG, TEXAS, APPROVING THE ACQUISITION AND FINANCING OF EQUIPMENT

WHEREAS, the City of Fredericksburg ("City") desires to procure equipment using lease purchase financing; and

WHEREAS, the City has previously awarded the right to provide said financing to *City National Capital Finance, LLC*, based on competitive bidding and procurement practices as required by Texas Law.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL of the City of Fredericksburg, Texas, that:

1. The City Council hereby approves the acquisition and financing of the equipment using financing provided by *City National Capital Finance, LLC* ; and

2. The City Council hereby approves the *Financing Documents*, copies of which are attached hereto as Exhibit A; and

3. The City Council hereby authorizes Kent Myers, in his capacity as City Manager, to execute the *Financing Documents* on behalf of the City.

PASSED AND APPROVED this _____ day of November, 2017.

_____
Mayor

ATTEST:

_____
City Secretary

APPROVED AS TO FORM:

_____
City Attorney

MASTER LEASE PURCHASE AGREEMENT

This Master Lease Purchase Agreement (this "Agreement"), dated as of October 27, 2017, is made and entered into by and between City National Capital Finance, Inc. ("Lessor"), and the City of Fredericksburg, a political subdivision of the State of Texas ("Lessee").

In consideration of the mutual covenants herein contained, the parties hereto agree as follows:

1. LEASE OF EQUIPMENT; FUNDING

1.1. Lease; Possession and Use. Lessor hereby agrees to sell, transfer and lease to Lessee, and Lessee hereby agrees to acquire, purchase and lease from Lessor the property described in each Lease Schedule (defined herein) executed and delivered by Lessor and Lessee, upon the terms and conditions set forth herein, together with all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto (the "Equipment"). Each Lease executed and delivered by Lessor and Lessee pursuant to this Agreement shall constitute a separate and independent lease and installment purchase of the Equipment described therein. This Agreement is not a commitment by Lessor to enter into any Lease and nothing in this Master Lease shall be construed to impose any obligation upon Lessor to enter into any proposed Lease. The decision whether Lessor enters into any Lease is within Lessor's sole discretion. As used herein, (i) "Lease Schedule" means a schedule substantially in the form attached as Exhibit A to this Agreement, together with all addenda, riders, attachments, certificates and exhibits thereto, as the same may from time to time be amended, modified or supplemented, and (ii) "Lease" means a Lease Schedule each together with this Agreement the terms and conditions of which are incorporated therein.

1.2. Funding. Unless otherwise provide in the applicable Lease Schedule, in order to provide financing to pay the costs to acquire and install the Equipment set forth in the applicable Lease Schedule (the "Purchase Price"), Lessor and Lessee shall execute and deliver an escrow agreement relating to such Schedule in form and substance and with an escrow agent satisfactory to Lessor (an "Escrow Agreement"). If all conditions set forth in Section 1.3 have been satisfied in full or waived, then Lessor will deposit or cause to be deposited into an escrow fund under the related Escrow Agreement, or pay to Lessee an amount (which may include estimated investment earnings thereon) equal to the Purchase Price for the Equipment to be financed under the related Lease Schedule.

1.3. Funding Requirements. The funding of the Purchase Price and the performance by Lessor of any of its obligations pursuant to any Lease, are subject to the satisfaction or waiver of the following:

(a) Lessor has received all of the following documents, which shall be reasonably satisfactory, in form and substance, to Lessor: (1) evidence of insurance coverage or self-insurance as required by the Lease; (2) an opinion of Lessee's counsel and/or bond counsel to Lessee; (3) waivers of third parties holders of interests in the real property where the Equipment will be located, as Lessor may deem necessary; (4) copies of resolutions by Lessee's governing body, duly authorizing the Lease and the Escrow Agreement and incumbency certificates for the person(s) executing the Lease and the Escrow Agreement; (5) such documents and certificates as Lessor may request relating to federal tax-exemption of interest payable under the Lease, including (without limitation) IRS Form 8038-G or 8038-GC and evidence of the adoption of a reimbursement resolution or other official action in the event that Lessee is to be reimbursed for expenditures that it has paid more than 60 days prior to the funding of the Purchase Price; (6) if the Purchase Price will be paid to Lessee (or vendor(s) or supplier(s) of the Equipment on behalf of Lessee), an acceptance certificate for the Equipment (substantially in the form attached as Exhibit B to this Agreement)(an "Acceptance Certificate"), and (7) such other documents and information previously identified by Lessor or otherwise reasonably requested by Lessor.

(b) Lessee has executed and delivered to Lessor the Lease Schedule, its related Payment Schedule and the related Escrow Agreement (if applicable);

(c) no Event of Default shall have occurred and be continuing under any Lease;

(d) no material adverse change shall have occurred in the financial condition of Lessee;

(e) the Equipment is reasonably satisfactory to Lessor and is free and clear of any Liens (defined herein) other than the respective rights of Lessor and Lessee as herein provided; and

(f) all representations of Lessee in the Lease remain true, accurate and complete.

1.4. Delivery, Installation and Acceptance of Equipment. Lessee shall order each Equipment, shall cause the Equipment to be delivered and installed at the locations specified under the applicable Lease Schedule and shall pay all taxes, delivery costs and installation costs, if any, in connection therewith. If the Purchase Price is deposited under an Escrow Agreement for the acquisition of the Equipment, such funds shall be disbursed as provided therein. The insufficiency of proceeds of any Lease to pay all costs of the Equipment subject thereto shall not affect Lessee's obligations under this Section. When the Equipment described in such Lease Schedule is delivered, installed and accepted, Lessee shall promptly execute and deliver to Lessor an Acceptance Certificate for the Equipment.

2. TERM

2.1. Term. The term of each Lease (the "Lease Term") shall commence on the Lease Date set forth in the applicable Lease Schedule and shall terminate upon payment of the all Rental Payments, unless sooner terminated pursuant to the Lease.

3. RENTAL PAYMENTS

3.1. Rental Payments. Lessee agrees to pay the rent payments ("Rental Payments") in the amounts and on the dates (each a "Payment Date") as specified in the Payment Schedule attached to each Lease Schedule. A portion of each Rental Payment is paid as interest as specified in the Payment Schedule for each Lease. All Rental Payments shall be paid to Lessor, at such places as Lessor may from time to time designate by written notice to Lessee. Lessee shall pay the Rental Payments with lawful money of the United States of America from moneys legally available therefor.

3.2. Current Expense. The obligations of Lessee, including its obligation to pay the Rental Payments due in any fiscal year shall constitute a current expense of Lessee for such fiscal year and shall not constitute an indebtedness of Lessee within the meaning of the Constitution and laws of the State of Texas (the "State"). THE RENTAL PAYMENTS ARE TO BE MADE ONLY FROM LESSEE'S LEGALLY AVAILABLE REVENUES APPROPRIATED ON AN ANNUAL BASIS, AND NEITHER LESSEE, THE STATE, NOR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF SHALL BE OBLIGATED TO PAY ANY SUMS DUE UNDER A LEASE FROM THE COMPELLED LEVY OF AD VALOREM OR OTHER TAXES EXCEPT FROM THOSE LEGALLY AVAILABLE REVENUES APPROPRIATED BY LESSEE ON AN ANNUAL BASIS. Nothing herein shall constitute a pledge by Lessee of the full faith and credit or taxing power of the Lessee. The person or entity in charge of preparing Lessee's budget will include in the budget request for each fiscal year the Rental Payments to become due during such fiscal year, and will use all reasonable and lawful means available to secure the appropriation of money for such fiscal year sufficient to pay all Rental Payments coming due therein. Lessor acknowledges that appropriation for Rental Payments is a governmental function which Lessee cannot contractually commit itself in advance to perform. Lessee reasonably believes that moneys in an amount

sufficient to make all Rental Payments can and will lawfully be appropriated and made available to permit Lessee's continued utilization of the Equipment in the performance of its essential functions during the applicable Lease Terms.

3.3. Unconditional Rental Payments. Subject to Section 3.4 hereof: (a) Lessee's obligation to make Rental Payments and any other payments hereunder shall be absolute and unconditional; (b) Lessee shall make these payments when due and shall not withhold any of these payments pending final resolution of any disputes; (c) Lessee shall not assert any right of set-off or counterclaim against its obligation to make these payments; (d) Lessee's obligation to make Rental Payments or other payments shall not be abated through accident, unforeseen circumstances, failure of the Equipment to perform as desired, damage or destruction to the Equipment, loss of possession of the Equipment or obsolescence of the Equipment; and (e) Lessee shall be obligated to continue to make payments required of it by this Agreement if title to, or temporary use of, the Equipment or any part thereof shall be taken under exercise of the power of eminent domain.

3.4. Nonappropriation. If during the then current fiscal year of Lessee, sufficient funds are not appropriated to make Rental Payments required under a Lease for the following fiscal year (an "Event of Nonappropriation"), Lessee shall be deemed not to have renewed such Lease for the following fiscal year, and the Lease shall terminate at the end of the then current fiscal year, and Lessee shall not be obligated to make Rental Payments under the Lease beyond the then current fiscal year for which funds have been appropriated. Upon an Event of Nonappropriation, Lessee shall return the Equipment subject to the Lease to Lessor in accordance with the requirements of Section 11.3. Lessee shall notify Lessor in writing no later than 30 days following an Event of Nonappropriation, but failure to provide such notice shall not operate to extend the Lease Term. If Lessee fails to return the applicable Equipment or otherwise comply with Section 11.3, the termination shall nevertheless be effective, but Lessee shall be responsible for the payment of damages in an amount equal to the amount of the Rental Payments that would thereafter have come due if the Lease had not been terminated and which are attributable to the number of days after which Lessee fails to comply with Lessor's instructions and for any other loss suffered by Lessor as a result of Lessee's failure to take such actions as required. In addition, Lessor may, by written instructions to any escrow agent who is holding proceeds of the Lease, instruct such escrow agent to release all such proceeds and any earnings thereon to Lessor.

3.5 Security Interest. As security for Lessee's obligations to pay all Rental Payments and all other amounts due and payable under each Lease and to perform and observe all covenants, agreements and conditions (direct or indirect, absolute or contingent, due or to become due or existing or hereafter arising) of Lessee under such Lease, Lessee hereby grants to Lessor a first priority, security interest in any and all of the Equipment (now existing or hereafter acquired) under each Lease, moneys and investments held from time to time the Escrow Fund under each Escrow Agreement and any and all proceeds of any of the foregoing. Lessee agrees to execute and deliver to Lessor all necessary documents to evidence and perfect such security interest, including, without limitation, Uniform Commercial Code financing statements and any amendments thereto and certificates of title or certificates of origin (or applications thereof) noting Lessor's interest thereon.

4. PURCHASE AND PREPAYMENT

4.1. End of Lease Term. Lessee shall have the option to purchase all of the Equipment under a Lease upon the expiration of the Lease Term and payment in full of all Rental Payments then due and all other amounts then owing under the Lease, and the payment of $1.00 to Lessor.

4.2. Optional Prepayment. Lessee shall have the option to prepay its obligations under any Lease in whole but not in part on any Payment Date as set forth in the applicable Payment Schedule , but

only if and to the extent the Lease Schedule provides for such prepayment. Lessee shall give written notice to Lessor of its intention to exercise its option not less than thirty (30) days prior to the Payment Date on which the option will be exercised and shall pay to Lessor not later than such Payment Date an amount equal to all Rental Payments and any other amounts then due or past due under such Lease, including the Rental Payment due on the Payment Date on which the option shall be effective, and the applicable Prepayment Price set forth in the applicable Payment Schedule (the "Prepayment Price").

4.3. Excess Proceeds. Lessee's obligations under a Lease shall be prepaid in part from the excess proceeds of the Lease on the terms set forth in any Escrow Agreement pursuant to which proceeds of the Lease are being held.

4.4. Release of Lessor's Interest. Upon timely receipt, in collected funds, of all amounts required for the purchase of the Equipment subject to any Lease pursuant to Section 4.1 or the prepayment in whole of any Lease pursuant to Section 4.2, such Lease shall terminate, all of Lessor's right, title and interest in and to the Equipment shall terminate, and Lessor shall deliver to Lessee all such documents and instruments as Lessee may reasonably request to evidence the termination of the Lease and Lessor's interest in the Equipment, without warranty by or recourse to Lessor.

5. REPRESENTATION, WARRANTIES AND COVENANTS.

5.1. Representations and Warranties. Lessee shall be deemed to make the following representations and warranties to Lessor with respect to each Lease, in each case as of the Lease Date for such Lease:

(a) Lessee is a state or political subdivision of the State within the meaning of Section 103(c) of the Internal Revenue Code of 1986, as amended (the "Code"), duly organized and existing under the Constitution and laws of the State, and is authorized under the Constitution and laws of the State to enter into this Agreement, the Lease and the transactions contemplated hereby and thereby, and to perform all of its obligations under this Agreement and the Lease.

(b) The execution and delivery of this Agreement and the Lease Schedule have been duly authorized by all necessary action of Lessee's governing body and such action is in compliance with all public bidding and other State and federal laws applicable to this Agreement and the acquisition and financing of the Equipment by Lessee.

(c) This Agreement and the Lease Schedule have been duly executed and delivered by and constitute the valid and binding obligations of Lessee, enforceable against Lessee in accordance with their respective terms.

(d) The execution, delivery and performance of this Agreement and the Lease Schedule by Lessee does not (i) violate any State or federal law or local law or ordinance, or any order, writ, injunction, decree, or regulation of any court or other governmental agency or body applicable to Lessee, or (ii) conflict with or result in the breach or violation of any term or provision of, or constitute a default under, any note, bond, mortgage, indenture, agreement, deed of trust, lease or other obligation to which Lessee is bound.

(e) There is no action, suit, proceeding, claim, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body pending or, to the best of Lessee's knowledge, threatened against or affecting Lessee, challenging Lessee's authority to enter into this Agreement or the Lease Schedule or any other action wherein an unfavorable ruling or finding would adversely affect the enforceability of this Agreement or the Lease Schedule.

(f) Lessee or Lessee's governing body has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Rental Payments during the current fiscal year, and such moneys will be applied in payment of all Rental Payments due and payable during such current fiscal year.

(g) Lessee has an immediate need for, and expects to make immediate use of, the Equipment, which need is not temporary or expected to diminish during the applicable Lease Term.

5.2. Tax Covenants.

(a) Lessee covenants and agrees that it will (i) complete and timely file an information reporting return with the Internal Revenue Service ("IRS") in accordance with Section 149(e) of the Code; (ii) not permit the Equipment to be directly or indirectly used for a private business use within the meaning of Section 141 of the Code including, without limitation, use by private persons or entities pursuant to contractual arrangements which do not satisfy IRS guidelines for permitted management contracts, as the same may be amended from time to time; (iii) invest and reinvest moneys on deposit in the any escrow fund related to each Lease from time to time in a manner that will not cause such Lease to be classified as an "arbitrage bond" within the meaning of Section 148(a) of the Code; (iv) rebate an amount equal to excess earnings in any such escrow fund to the federal government if required by, and in accordance with, Section 148(f) of the Code and make the determinations and maintain the records required by the Code; and (v) comply with all provisions and regulations applicable to establishing and maintaining the excludability of the interest component of the Rental Payments under each Lease from federal gross income pursuant to Section 103 of the Code.

(b) If Lessor either (i) receives notice, in any form, from the IRS; or (ii) reasonably determines, based on an opinion of independent tax counsel selected by Lessor that Lessor may not exclude the interest component of any Rental Payment under a Lease from federal gross income, then Lessee shall pay to Lessor, within thirty (30) days after Lessor notifies Lessee of such determination, the amount which, with respect to Rental Payments previously paid and taking into account all penalties, fines, interest and additions to tax (including all federal, state and local taxes imposed on the interest component of all Rental Payments under the Lease due through the date of such event) that are imposed on Lessor as a result of the loss of the exclusion, will restore to Lessor the same after tax yield on the transaction evidenced by such Lease (assuming tax at the highest marginal corporate tax rate) that it would have realized had the exclusion not been lost. Additionally, Lessee agrees that upon the occurrence of such an event, it shall pay additional rent to Lessor on each succeeding Rental Payment due date in such amount as will maintain such after tax yield to Lessor. Lessor's determination of the amount necessary to maintain its after-tax yield as provided in this subsection (b) shall be conclusive (absent manifest error).

6. INSURANCE; CASUALTY AND CONDEMNATION

6.1. Liability and Property Insurance. Lessee shall, at its own expense, procure and maintain continuously in effect during each Lease Term: (a) public liability insurance for death or injuries to persons, or damage to property arising out of or in any way connected to the Equipment sufficient to protect Lessor and its assigns from liability in all events, with a coverage of not less than $1,000,000 per occurrence unless specified differently in the related Lease Schedule, and (b) insurance against such hazards as Lessor may require, including, but not limited to, all-risk casualty and property insurance, in an amount equal to the greater of the full replacement cost of the Equipment or the applicable Prepayment Price.

6.2. Insurance Requirements. All insurance policies required by Section 6.1 shall be taken out and maintained with insurance companies acceptable to Lessor and shall contain a provision that thirty (30) days prior to any change in the coverage (including cancellation) the insurer must provide written notice to the insured parties. No insurance shall be subject to any co-insurance clause. Each liability insurance

policy shall be endorsed to name Lessor and its assigns as an additional insured party and each casualty and property insurance policy shall be endorsed to name Lessor and its assigns as loss payee, in each case regardless of any breach of warranty or other act or omission of Lessee. Lessee may self-insure against the risks described in Section 6.1 with the prior written consent of Lessor.

7. ADDITIONAL OBLIGATIONS

7.1. Use and Maintenance of Equipment. Lessee shall, at its own expense, maintain the Equipment in good condition and proper working order, and shall make all necessary repairs and replacements to keep the Equipment in such condition. The Equipment will be used by Lessee only for the purpose of performing Lessee's essential governmental functions. Lessee shall not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any manufacturer's guidelines or in violation of any applicable law or regulation or in a manner contrary to that contemplated by this Agreement. Lessee shall obtain and maintain all permits and licenses necessary for the installation and operation of the Equipment. Lessee shall have sole responsibility to maintain and repair the Equipment. Lessee shall keep (or in the case of Equipment constituting motor vehicles, house) the Equipment at the address specified in the related Lease Schedule; provided that Lessee may change the location at which any Equipment is kept (or housed) with thirty (30) days prior written notice to Lessor specifying the address of the new location. Lessee shall provide Lessor access at all reasonable times to examine and inspect the Equipment and provide Lessor with such access to the Equipment as may be reasonably necessary to perform maintenance on the Equipment in the event of failure by Lessee to perform its obligations hereunder. If Lessor reasonably determines that Lessee is not maintaining any of the Equipment in accordance with this Section, Lessor may (in addition to any other remedies it may have) require Lessee to enter into maintenance contracts for such Equipment in form approved by Lessor and with approved providers.

7.2. Taxes. Lessee shall pay all taxes, assessments and other charges which are assessed or levied against the Equipment or any part thereof, during the Lease Term, whether assessed against Lessee or Lessor. With respect to any taxes or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during the then current fiscal year of the Lease Term for such Equipment.

7.3. Modification of Equipment. Lessee will not, without the prior written consent of Lessor, affix or install any accessory equipment or device on any of the Equipment if such addition will change or impair the originally intended value, function or use of the Equipment.

7.4. Liens. Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or other claim with respect to the Equipment (each, a "Lien"), other than the respective rights of Lessor and Lessee as herein provided. Lessee shall promptly, at its own expense, take such actions as may be necessary duly to discharge or remove any such claim if the same shall arise at any time.

7.5. Financial Information. Lessee shall deliver to Lessor (i) its annual audited financial statements within 210 days after the end of each fiscal year, (ii) its annual budget the each fiscal year promptly following approval thereof, and (iii) such other financial statements and information relating to the ability of Lessee to satisfy its obligations under this Agreement and the Lease as may be reasonably requested by Lessor from time to time.

8. TITLE; NO WARRANTIES BY LESSOR

8.1. Title. During the Lease Term, legal title to all Equipment shall be in Lessee, subject to Lessor's interests under the applicable Lease Schedule and this Agreement. Upon an Event of Default or

an Event of Nonappropriation, title shall immediately vest in Lessor, free and clear of any right, title or interest of Lessee.

8.2. Personal Property. The Equipment is and shall at all times be and remain personal property and not fixtures.

8.3. No Warranties. LESSEE ACQUIRES AND LEASES THE EQUIPMENT UNDER EACH LEASE "AS IS." LESSEE ACKNOWLEDGES THAT LESSOR DID NOT MANUFACTURE THE EQUIPMENT UNDER ANY LEASE. LESSOR DOES NOT REPRESENT THE MANUFACTURER, SUPPLIER, OWNER OR DEALER, AND LESSEE SELECTED THE EQUIPMENT BASED UPON LESSEE'S OWN JUDGMENT. LESSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE OR AS TO THE EQUIPMENT'S VALUE, DESIGN, CONDITION, USE, CAPACITY OR DURABILITY. LESSEE AGREES THAT REGARDLESS OF CAUSE, LESSOR IS NOT RESPONSIBLE FOR, AND LESSEE WILL NOT MAKE ANY CLAIM AGAINST LESSOR FOR, ANY DAMAGES, WHETHER CONSEQUENTIAL, DIRECT, SPECIAL OR INDIRECT INCURRED BY LESSEE IN CONNECTION WITH THE EQUIPMENT UNDER ANY LEASE. NEITHER THE MANUFACTURER, SUPPLIER OR DEALER NOR ANY SALESPERSON, EMPLOYEE OR AGENT OF THE MANUFACTURER, SUPPLIER OR DEALER IS LESSOR'S AGENT OR HAS ANY AUTHORITY TO SPEAK FOR LESSOR OR TO BIND LESSOR IN ANY WAY. For and during the Lease Term under each Lease, Lessor assigns to Lessee any manufacturer's or Supplier's product warranties, express or implied, applicable to any Equipment and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's sole expense. Lessee agrees that (a) all Equipment will have been purchased by Lessor for the benefit of the Lessee in accordance with Lessee's specifications from suppliers selected by Lessee, (b) Lessor is not a manufacturer or dealer of any Equipment and has no liability for the delivery or installation of any Equipment, (c) Lessor assumes no obligation with respect to any manufacturer's or Supplier's product warranties or guaranties, (d) no manufacturer or Supplier or any representative of said parties is an agent of Lessor, (e) any warranty, representation, guaranty or agreement made by any manufacturer or supplier or any representative of said parties shall not be binding upon Lessor, and (f) the Lessor shall cause the supplier to identify the Lessee as an intended beneficiary of its warranty, if any.

9. RISK OF LOSS; CASUALTY

9.1. Risk of Loss. As between Lessee and Lessor, Lessee bears the entire risk of loss, theft, damage or destruction of any Equipment in whole or in part for any reason whatsoever. No loss to any Equipment shall relieve Lessee from the obligation to make any Rental Payments or to perform any other obligation under any Lease. Proceeds of any insurance recovery will be applied to Lessee's obligations under this Section 9.

9.2. Notice of Loss. If a casualty occurs to any Equipment, Lessee shall immediately notify Lessor of the same and Lessee shall, unless otherwise directed by Lessor, immediately repair the same.

9.3. Application of Proceeds. If Lessor determines that any item of Equipment has suffered a casualty loss is beyond repair, then Lessee shall either: (a) immediately replace such Equipment with similar equipment in good repair, condition and working order free and clear of any liens and deliver to Lessor a purchase order, bill of sale or other evidence of sale to Lessee covering the replacement equipment, in which event such replacement equipment shall automatically be Equipment under the applicable Lease, or (b) on the next scheduled Payment Date, pay Lessor (i) all amounts owed by Lessee under the applicable Lease, including the Rental Payment due on such date, plus (ii) an amount equal to the applicable Prepayment Price set forth in the Payment Schedule to the applicable Lease. If Lessee is making such

payment with respect to less than all of the Equipment under a Lease, then Lessor will provide Lessee with the pro rata amount of the Prepayment Price to be paid by Lessee with respect to the such Equipment.

9.4. Claims and Expenses. Lessee shall bear the risk of loss for, shall pay directly and shall defend against any and all claims, liabilities, proceedings, actions, expenses (including reasonable attorney's fees), damages or losses arising under or related to any Equipment, including, but not limited to, the possession, ownership, lease, use or operation thereof. These obligations of Lessee shall survive any expiration or termination of any Lease. Lessee shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses (including attorney's fees), damages or losses which arise directly from events occurring after any Equipment has been returned by Lessee to Lessor in accordance with the terms of the applicable Lease or which arise directly from the gross negligence or willful misconduct of Lessor.

10. ASSIGNMENT

10.1. Assignment by Lessor. Lessor may assign its rights, title and interest in and to any Lease, any Equipment or any Escrow Agreement (including the escrow fund thereunder), and/or may grant or assign a security interest in any Lease, its Equipment or any Escrow Agreement (including the escrow fund thereunder), in whole or in part, to any party at any time and from time to time without Lessee's consent. Any such assignee or lien holder (an "Assignee") shall have all of the rights of Lessor under the applicable Lease and Escrow Agreement. LESSEE AGREES NOT TO ASSERT AGAINST ANY ASSIGNEE ANY CLAIMS, ABATEMENTS, SETOFFS, COUNTERCLAIMS, RECOUPMENT OR ANY OTHER SIMILAR DEFENSES WHICH LESSEE MAY HAVE AGAINST LESSOR. Unless otherwise agreed by Lessee in writing, any such assignment transaction shall not release Lessor from any of Lessor's obligations under the applicable Lease. An assignment or reassignment of any of Lessor's right, title or interest in a Lease, its Equipment or any Escrow Agreement (including the Escrow Fund thereunder) shall be enforceable against Lessee only after Lessee receives a written notice of assignment that discloses the name and address of each such Assignee. Lessee shall keep a complete and accurate record of all such assignments in the form necessary to comply with Section 149(a) of the Code. Lessee agrees to acknowledge in writing any such assignments if so requested.

10.2. Assignment and Subleasing by Lessee. Neither this Agreement nor any Lease or any Equipment may be assigned, subleased, sold, transferred, pledged or mortgaged by Lessee.

11. EVENTS OF DEFAULT; REMEDIES

11.1. Events of Default Defined. The occurrence of any of the following events with respect to a Lease shall constitute an Event of Default under the Lease:

(a) Lessee's failure to pay any Rental Payment or other amount required to be paid to Lessor under the Lease within ten (10) days following the due date thereof, other than by reason of an Event of Nonappropriation;

(b) Lessee fails to perform or observe any of its obligations under Section 6, 7.4 or 10.2 hereof;

(c) With the exception of the above clauses (a) or (b), Lessee's failure to perform or abide by any condition, agreement or covenant with respect to the Lease for a period of thirty (30) days after written notice by Lessor to Lessee specifying such failure and requesting that it be remedied, unless Lessor shall agree in writing to an extension of time prior to its expiration;

(d) any statement, representation or warranty made by Lessee in the Lease or in any writing delivered by Lessee pursuant thereto or in connection therewith proves at any time to have been false, misleading or erroneous in any material respect as of the time when made; or

(e) Lessee applies for or consents to the appointment of a receiver, trustee, conservator or liquidator of Lessee or of all or a substantial part of its assets, or a petition for relief is filed by Lessee under any federal or state bankruptcy, insolvency, moratorium or similar law.

11.2. Remedies on Default. Upon the occurrence of any Event of Default with respect to a Lease, Lessor shall have the right, at its option and without any further demand or notice to one or more or all of the following remedies with respect to the Lease:

(a) Lessor, with or without terminating the Lease, may declare all Rental Payments payable under the Lease to the end of the then-current fiscal year of Lessee to be immediately due and payable by Lessee, whereupon such Rental Payments shall be immediately due and payable.

(b) Lessor may require Lessee to promptly return all Equipment to Lessor in the manner set forth in Section 11.3 (and Lessee agrees that it shall so return the Equipment), or Lessor may, at its option, enter upon the premises where any Equipment is located and repossess such Equipment without demand, without any court order or other process of law and without liability for any damage occasioned by such repossession; and Lessor may thereafter dispose of the Equipment. If Lessor terminates the Lease and disposes of any or all of the Equipment, Lessor shall apply the proceeds of any such disposition to pay the following items in the following order: (i) all costs and expenses (including, but not limited to, attorneys' fees) incurred in securing possession of the Equipment; (ii) all costs and expenses incurred in completing the disposition of the Equipment; (iii) any sales or transfer taxes incurred in the disposition of the Equipment; (iv) any Rental Payments payable under the Lease to the end of the then-current fiscal year of Lessee; (v) the outstanding principal component of Rental Payments under the Lease; and (vi) any other amounts then due under the Lease. Any disposition proceeds remaining after the requirements of clauses (i), (ii), (iii), (iv), (v) and (vi) have been met shall be paid to Lessee. No deficiency shall be allowed against Lessee, except with respect to any unpaid Rental Payments to the end of the then-current fiscal year of Lessee and unpaid costs and expenses incurred by Lessor in connection with the repossession and disposition of the Equipment.

(c) By written notice to any escrow agent that is holding proceeds of the Lease under an Escrow Agreement, Lessor may instruct such escrow agent to release all such proceeds and any earnings thereon to Lessor, such sums to be credited to payment of Lessee's obligations under the Lease; or

(d) Lessor may exercise any other remedy available, at law or in equity, with respect to such Event of Default. Lessee shall pay the reasonable attorneys' fees and expenses incurred by Lessor in exercising any remedy hereunder.

11.3. Return of Equipment; Release of Lessee's Interest. Upon termination of any Lease prior to the payment of all Rental Payments or the applicable Prepayment Price (whether as result of an Event of Nonappropriation or Event of Default) thereunder, Lessee shall, within ten (10) days after such termination, at its own expense: (a) perform any testing and repairs required to place the related Equipment in the condition required by Section 7; (b) if deinstallation, disassembly or crating is required, cause such Equipment to be deinstalled, disassembled and crated by an authorized manufacturer's representative or such other service person as is satisfactory to Lessor; (c) return such Equipment to a location in the continental United States specified by Lessor, freight and insurance prepaid by Lessee; and (d) comply with any additional return conditions specified in the Lease Schedule. Lessee shall execute and deliver to Lessor

such documents as Lessor may request to evidence the passage of legal title and ownership to Lessor and termination of Lessee's interest in the Equipment.

With respect to any provision of the Agreement requiring Lessee to return all or any portion of the Equipment to Lessor or to transfer title to all or any portion of the equipment to Lessor, Lessee agrees to voluntarily do so. In the event that Lessee fails or refuses to return or transfer the Equipment or title thereto voluntarily as set forth above, Lessor acknowledges that the Agreement does not and shall not create a right in Lessor to involuntarily dispossess Lessee of title to or possession of all or any item of the Equipment. .

11.4. Late Charge. To the extent permitted by applicable law, Lessee shall pay Lessor a charge on any Rental Payment not paid on the date such payment is due at a rate equal to the interest rate set forth in the applicable Lease Schedule plus 5% per annum or the maximum amount permitted by law, whichever is less (the "Default Rate"), from such date.

11.5. No Remedy Exclusive. Each of the rights and remedies under this Agreement and each Lease is cumulative and may be enforced separately or concurrently. No course of dealing or conduct between Lessor and Lessee shall be effective to amend, modify or change any provisions of this Agreement or any Lease. No failure or delay by Lessor to insist upon the strict performance of any term, covenant or agreement of the Agreement or any Lease, or to exercise any right, power or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, covenant or agreement or of any such breach, or preclude Lessor from exercising any such right, power or remedy at any later time or times.

11.6. Costs and Attorneys' Fees. Upon the occurrence of an Event of Default, Lessee agrees to pay to Lessor or reimburse Lessor for, in addition to all other amounts payable hereunder, all of Lessor's costs of collection, including reasonable attorneys' fees, whether or not suit or action is filed thereon. Any such costs shall be immediately due and payable upon written notice and demand given to Lessee, shall be secured by this Agreement until paid, and shall bear interest at the Default Rate. In the event suit or action is instituted to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial and on appeal of such suit or action or in any bankruptcy proceeding, in addition to all other sums provided by law.

12. MISCELLANEOUS PROVISIONS

12.1. Notices. All written notices to be given under this Agreement shall be given (a) personally, (b) by mail in registered or certified form, with postage prepaid, or (c) by overnight courier, charges prepaid, in each case to the party entitled thereto at its address specified beneath each party's signature, or at such address as the party may provide to the other parties hereto in writing from time to time, and to any assignee at its address as it appears on the registration books maintained by Lessee. Any such notice shall be deemed to have been received 72 hours after deposit in the United States mail, 24 hours after deposit with a courier, or, if given by other means, when delivered.

12.2. Binding Effect. This Agreement and each Lease hereunder shall be binding upon and shall inure to the benefit of Lessor and Lessee and their respective successors and assigns. Specifically, as used herein the term "Lessor" means, with respect to a Lease, any person or entity to whom Lessor has assigned its right to receive Rental Payments under such Lease.

12.3. Severability. In the event any provision of this Agreement or any Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

12.4. Entire Agreement; Amendments. Each Lease constitutes the entire agreement of the parties with respect to the subject matter thereof and supersedes all prior and contemporaneous writings, understandings, agreements, solicitation documents and representations, express or implied. Each Lease may be amended or modified only by written documents duly authorized, executed and delivered by Lessor and Lessee.

12.5. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions, Articles, Sections or clauses hereof.

12.6. Further Assurances and Corrective Instruments. Lessor and Lessee agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required to perfect, confirm, establish, reestablish, continue or complete the interests of Lessor in this Agreement and each Lease, to consummate the transactions contemplated hereby and thereby, and to carry out the purposes and intentions of this Agreement and each Lease.

12.7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

12.8. Usury. It is the intention of the parties hereto to comply with any applicable usury laws; accordingly, it is agreed that, notwithstanding any provisions to the contrary herein or in any Lease Schedule, in no event shall this Agreement or any Lease hereunder require the payment or permit the collection of interest or any amount in the nature of interest or fees in excess of the maximum amount permitted by applicable law. Any such excess interest or fees shall first be applied to reduce principal, and when no principal remains, refunded to Lessee. In determining whether the interest paid or payable exceeds the highest lawful rate, the total amount of interest shall be spread through the applicable Lease Term so that the interest is uniform through such term.

12.9. Waiver of Jury Trial. To the extent permitted by applicable law, Lessor and Lessee hereby waive any right to trial by jury in any action or proceeding with respect to, in connection with or arising out of this Agreement.

12.10. USA Patriot Act Compliance Notification. Lessor hereby notifies Lessee that pursuant to the requirements of the USA PATRIOT Act (the "Patriot Act"), it is required to obtain, verify and record information that identifies Lessee, which information includes the name and address of Lessee and other information that will allow Lessor to identify Lessor in accordance with the Patriot Act. Lessee shall, promptly upon Lessor's request, provide all documentation and other information that Lessor requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act.

12.11. Relationship of Parties. Lessee acknowledges and agrees that (i) this Agreement and each Lease and the transactions related thereto is an arm's-length commercial transaction between Lessor and Lessee, (ii) in connection therewith and with the discussions, undertakings, and procedures leading up to the consummation of this transaction, Lessor is and has been acting solely as a principal and is not acting as the agent, advisor or fiduciary of Lessee, (iii) Lessor has not assumed an advisory or fiduciary responsibility in favor of Lessee with respect to the transactions contemplated hereby or the discussions, undertakings, and procedures leading thereto (regardless of whether Lessor or any affiliate thereof has provided other services or is currently providing other services to Lessee on other matters) and Lessor has no obligation to Lessee with respect to the transactions contemplated hereby except the obligations expressly set forth in this Agreement and any Lease, and (iv) Lessee has consulted its own legal, financial, and other advisors to the extent it has deemed appropriate.

[The remainder of this page is intentionally blank. Signature page follows.]

IN WITNESS WHEREOF, Lessor has caused this Agreement to be executed in its corporate name by its duly authorized officer, and Lessee has caused this Agreement to be executed in its name by its duly authorized officer.

CITY OF FREDERICKSBURG

Lessee

By: _____
Name: Kent Myers
Title: City Manager

Address: 126 W. Main Street
Fredericksburg, TX 78624
Attention: Laura Hollenbeak

Telephone: (830) 990-2015
E-mail address: lhollenbeak@fbgtx.org

CITY NATIONAL CAPITAL FINANCE, INC.
Lessor

By: _____
Name:
Title:

Address: 25 West Flagler Street
Miami, FL 33130
Attn: Michael Powers
Senior Vice President

Telephone: (410) 458-5747
E-mail address:
mike.powers@cncapitalfinance.com

INCUMBENCY CERTIFICATE

The undersigned, the duly appointed and acting City Secretary of City of Fredericksburg ("Lessee") certifies as follows:

1. The individuals identified below are the duly elected or appointed officers of Lessee holding the offices set forth opposite their respective names.

2. The individuals identified below have the authority on behalf of Lessee to enter into that certain Master Lease Purchase Agreement dated as of October 27, 2017 between such entity and **CITY NATIONAL CAPITAL FINANCE, INC.**

Name	Title	Signature
Kent Myers	City Manager	

IN WITNESS WHEREOF, I have duly executed this certificate as of this ____ day of October, 2017.

By:_____
Name: Shelley Britton
Title: City Secretary

LEASE SCHEDULE NO. 1
to Master Lease Purchase Agreement

Dated: October 27, 2017

This Lease Schedule (this "Lease Schedule") relates to the Master Lease Purchase Agreement dated as of October 27, 2017 (the "Agreement") between the undersigned Lessor and Lessee, together with the terms and conditions of the Agreement incorporated herein by reference, constitutes a Lease. Unless otherwise defined herein, capitalized terms will have the same meaning ascribed to them in the Agreement. All terms and conditions of the Master Lease are incorporated herein by reference.

1. Equipment Description. As used in the Lease, "Equipment" means all of the property described in Exbibit 1 attached to this Lease Schedule and all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto.

2. Purchase Price. The Purchase Price for the Equipment is $666,240.00 which amount shall be deposited in the Escrow Fund established pursuant to that certain Escrow Agreement dated as of October 27, 2017 among Lessor, Lessee and City National Bank of Florida.

3. Rental Payments; Lease Term. The Rental Payments to be paid by Lessee to Lessor, the Lease Date of this Lease and the Lease Term of this Lease are set forth on the Payment Schedule attached to this Lease Schedule as Exhibit 2.

4. Essential Use; Current Intent of Lessee. Lessee represents that (a) the use of the Equipment is essential to Lessee's proper, efficient and economic functioning or to the services that Lessee provides to its citizens, (b) the Equipment will be used by Lessee only for the purpose of performing its governmental or proprietary functions consistent with the permissible scope of its authority and will not be used in a trade or business of any person or entity, and (c) the useful life of the Equipment is not less than the stated full Lease Term of this Lease. Lessee has determined that a present need exists for the Equipment which need is not temporary or expected to diminish in the near future. Lessee currently intends for the full Lease Term: to use the Equipment; and to continue this Lease.

5. Representations, Warranties and Covenants. Lessee hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Agreement are true and correct as though made on the date of execution of this Lease Schedule.

6. Bank Qualified. Lessee certifies that it has designated this Lease as a qualified tax-exempt obligation in accordance with Section 265(b)(3) of the Code, that it has not designated more than $10,000,000 of its obligations as qualified tax-exempt obligations in accordance with such Section for the current calendar year and that it reasonably anticipates that the total amount of tax-exempt obligations to be issued by Lessee during the current calendar year will not exceed $10,000,000.

IN WITNESS WHEREOF, Lessor has caused this Lease Schedule to be executed in its corporate name by its duly authorized officer, and Lessee has caused this Lease Schedule to be executed in its name by its duly authorized officer.

CITY OF FREDERICKSBURG

Lessee

By: _____
Name: Kent Myers
Title: City Manager

Address: 126 W. Main Street
Fredericksburg, TX 78624
Attention: Laura Hollenbeak

Telephone: (830) 990-2015
E-mail address: lhollenbeak@fbgtx.org

CITY NATIONAL CAPITAL FINANCE, INC.
Lessor

By: _____
Name:
Title:

Address: 25 West Flagler Street
Miami, FL 33130
Attn: Michael Powers
Senior Vice President

Telephone: (410) 458-5747
E-mail address:
mike.powers@cncapitalfinance.com

Exhibit 1

Equipment Description

(1) 2018 Ford F450, Horton Model 457 Type 1 Ambulance approx. $240,000.00
(1) Jacobsen HR600 Wide Area Mower approx. $58,692.00
(1) Jacobsen HR800 Wide Area Mower approx.. $81,103.00
(1) Caterpillar 930M Wheel Loader approx.. $181,140.42
(1) 2018 International 7400 SFA 6x4 Dump Truck approx.. $105,305.00

Exhibit 2

Payment Schedule

Interest Rate 1.690%

Payment Date	Payment Amount	Interest	Principal	Balance	Prepayment Amount
10/27/2017				$666,240.00	$666,240.00
10/27/2017	$225,812.01	$0.00	$225,812.01	$440,427.99	$440,427.99
10/27/2018	$225,812.01	$7,443.23	$218,368.78	$222,059.21	$222,059.21
10/27/2019	$225,812.01	$3,752.80	$222,059.21	$0.00	$0.00
TOTALS:	$677,436.03	$11,196.03	$666,240.00		

ESCROW AGREEMENT

This Escrow Agreement (this "Agreement"), dated as of October 27, 2017, by and among City National Capital Finance, Inc. (and any successors and permitted assigns "Lessor"), City of Fredericksburg, a body corporate and politic and a political subdivision existing under the laws of the State of Texas ("Lessee"), and City National Bank of Florida, in its capacity as escrow agent hereunder ("Escrow Agent").

Reference is made to that certain Lease Schedule No. 1 dated October 27, 2017 to that certain Master Lease Purchase Agreement dated as of October 27, 2017, each between Lessor and Lessee (hereinafter collectively referred to as the "Lease"), covering the acquisition and lease of certain Equipment described therein (the "Equipment"). It is a requirement of the Lease that the Purchase Price ($666,240.00) be deposited into a segregated escrow account under terms satisfactory to Lessor, for the purpose of fully funding the Lease, and providing a mechanism for the application of such amounts to the purchase of and payment for the Equipment.

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

1. Creation of Escrow Account.

(a) There is hereby created an escrow fund to be known as the "City of Fredricksburg Escrow Account" (the "Escrow Account") to be held by the Escrow Agent for the purposes stated herein, for the benefit of Lessor and Lessee, to be held, disbursed and returned in accordance with the terms hereof.

(b) The Escrow Agent shall place all escrow funds in a demand deposit account or as otherwise agreed upon between the parties.

(c) Unless the Escrow Account is earlier terminated in accordance with the provisions of paragraph (d) below, amounts in the Escrow Account shall be disbursed by the Escrow Agent in payment of amounts described in Section 2 hereof upon receipt of written instruction(s) from Lessor, as is more fully described in Section 2 hereof. If the amounts in the Escrow Account are insufficient to pay such amounts, Lessee shall deposit into the Escrow Account any funds needed to complete the acquisition of the Equipment. Any moneys remaining in the Escrow Account on or after the earlier of (i) ___ ____, 201_ ("Termination Date") and (ii) the date on which Lessee executes an Acceptance Certificate shall be applied as provided in Section 4 hereof.

(d) The Escrow Account shall be terminated at the earliest of (i) the final distribution of amounts in the Escrow Account or (ii) written notice given by Lessor of the occurrence of a default or termination of the Lease due to non-appropriation.

(e) The Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument nor as to the identity, authority, or right of any person executing the same; and its duties hereunder shall be limited to the receipt of such moneys, instruments or other documents received by it as the Escrow Agent, and for the disposition of the same in accordance herewith. In the event conflicting instructions as to the disposition of all or any portion of the Escrow Account are at any time given by Lessor and Lessee, the Escrow Agent shall abide by the instructions or entitlement orders given by Lessor without consent of the Lessee.

(f) Unless the Escrow Agent is guilty of gross negligence or willful misconduct with regard to its duties hereunder, Lessee agrees to and does hereby release and indemnify the Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this agreement; and in connection therewith, does to the extent permitted by law indemnify the Escrow Agent against any and all expenses; including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

(g) If Lessee and Lessor shall be in disagreement about the interpretation of the Lease, or about the rights and obligations, or the propriety of any action contemplated by the Escrow Agent hereunder, the Escrow Agent may, but shall not be required to, file an appropriate civil action including an interpleader action to resolve the disagreement. The Escrow Agent shall be reimbursed by Lessee for all costs in connection with such civil action, and shall be fully protected in suspending all or part of its activities under the Lease until a final judgment in such action is received.

(h) The Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. Lessee shall reimburse the Escrow Agent for all such reasonable costs and expenses. The Escrow Agent shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its willful misconduct.

(i) Lessee shall reimburse the Escrow Agent for all reasonable costs and expenses, including those of the Escrow Agent's attorneys, agents and employees incurred for non-routine administration of the Escrow Account and the performance of the Escrow Agent's powers and duties hereunder in connection with any Event of Default under the Lease, or in connection with any dispute between Lessor and Lessee concerning the Escrow Account.

(j) The Escrow Agent or any successor may at any time resign by giving mailed notice to Lessee and Lessor of its intention to resign and of the proposed date of resignation (the "Effective Date"), which shall be a date not less than 60 days after such notice is delivered to an express carrier, charges prepaid, unless an earlier resignation date and the appointment of a successor shall have been approved by the Lessee and Lessor. After the Effective Date, the Escrow Agent shall be under no further obligation except to hold the Escrow Account in accordance with the terms of this Agreement, pending receipt of written instructions from Lessor regarding further disposition of the Escrow Account.

(k) The Escrow Agent shall have no responsibilities, obligations or duties other than those expressly set forth in this Agreement and no implied duties responsibilities or obligations shall be read into this Agreement.

2. Acquisition of Equipment.

(a) Acquisition Contracts. Lessee will arrange for, supervise and provide for, or cause to be supervised and provided for, the acquisition of the Equipment, with moneys available in the Escrow Account. Lessee represents the estimated costs of the Equipment are within the funds estimated to be available therefor, and Lessor makes no warranty or representation with respect thereto. Lessor shall have no liability under any of the acquisition or construction contracts. Lessee shall obtain all necessary permits and approvals, if any, for the acquisition, equipping and installation of the Equipment, and the operation and maintenance thereof. Escrow Agent shall have no duty to monitor or enforce Lessee's compliance with the foregoing covenant.

(b) Authorized Escrow Account Disbursements. It is agreed as between Lessee and Lessor that Disbursements from the Escrow Account shall be made for the purpose of paying (including the reimbursement to Lessee for advances from its own funds to accomplish the purposes hereinafter described) the cost of acquiring the Equipment.

(c) Requisition Procedure. No disbursement from the Escrow Account shall be made unless and until Lessor has approved such requisition. Prior to disbursement from the Escrow Account there shall be filed with the Escrow Agent a requisition for such payment in the form of Disbursement Request attached hereto as Schedule 1, stating each amount to be paid and the name of the person, firm or corporation to whom payment thereof is due and the manner of disbursement (check or wire).

Each such requisition shall be signed by an authorized representative of Lessee (an "Authorized Representative") and by Lessor, and shall be subject to the following conditions, which Escrow Agent shall conclusively presume have been satisfied at such time as a requisition executed by Lessee and Lessor is delivered to it:

1. Delivery to Lessor of an executed Disbursement Request in the form attached hereto as Schedule 1; and

2. Delivery to Lessor true and correct copies of invoices (and proofs of payment of such invoices, if Lessee seeks reimbursement) and bills of sale (if title to such Equipment has passed to Lessee) therefor as required by Section 5.01 of the Lease and any additional documentation reasonably requested by Lessor.

Lessee and Lessor agree that their execution of the form attached hereto as Schedule I and delivery of the executed form to Escrow Agent confirms that all of the requirements and conditions with respect to disbursements set forth in this Section 2 have been satisfied.

3. Deposit to Escrow Account. Upon satisfaction of the conditions specified in Section 3.04 of the Lease, Lessor will cause the Purchase Price to be deposited in the Escrow Account. Lessee agrees to pay any costs with respect to the Equipment in excess of amounts available therefor in the Escrow Account.

4. Excessive Escrow Account. Lessor shall provide Escrow Agent written instructions and a representation that one of the following conditions has been satisfied, (upon which representation Escrow Agent shall conclusively rely,) (a) the Termination Date; or (b) the date on which Lessee executes an Acceptance Certificate; or (c) upon a termination of the Escrow Account as otherwise provided herein. Upon receipt of such written instructions, any funds remaining in the Escrow Agreement shall be distributed by the Escrow Agent first, ten percent (10%) of the funds then remaining in the Escrow Account shall be disbursed to the Escrow Agent as its escrow agent fees ("Fees") and second, the remaining balance after deducting the Fees shall be disbursed to the Lessor and Lessor shall apply such funds to amounts owed by Lessee under the Lease.

5. Security Interest. The Escrow Agent and Lessee acknowledge and agree that the Escrow Account and all proceeds thereof are being held by Escrow Agent for disbursement or return as set forth herein. Lessee hereby grants to Lessor a first priority perfected security interest in the Escrow Account, and all proceeds thereof.

6. Control of Escrow Account. In order to perfect Lessor's security interest by means of control in (i) the Escrow Account established hereunder, (ii) all funds now or hereafter credited to the Escrow Account, (iii) all of Lessee's rights in respect of the Escrow Account, and (iv) all products, proceeds

and revenues of and from any of the foregoing personal property (collectively, the "Collateral"), Lessor, Lessee and Escrow Agent further agree as follows:

(a) All terms used in this Section 6 which are defined in the Commercial Code of the State of Florida ("Commercial Code") but are not otherwise defined herein shall have the meanings assigned to such terms in the Commercial Code, as in effect on the date of this Agreement.

(b) Escrow Agent will comply with all entitlement orders originated by Lessor with respect to the Collateral, or any portion of the Collateral, without further consent by Lessee.

(c) Provided that account investments shall be held in the name of the Escrow Agent, Escrow Agent hereby represents and warrants (a) that the records of Escrow Agent show that Lessee is the sole owner of the Collateral, (b) that Escrow Agent has not been served with any notice of levy or received any notice of any security interest in or other claim to the Collateral, or any portion of the Collateral, other than Lessor's claim pursuant to this Agreement, and (c) that Escrow Agent is not presently obligated to accept any entitlement order from any person with respect to the Collateral, except for entitlement orders that Escrow Agent is obligated to accept from Lessor under this Agreement and entitlement orders that Escrow Agent, subject to the provisions of paragraph (e) below, is obligated to accept from Lessee.

(d) Without the prior written consent of Lessor, Escrow Agent will not enter into any agreement by which Escrow Agent agrees to comply with any entitlement order of any person other than Lessor or, subject to the provisions of paragraph (e) below, Lessee, with respect to any portion or all of the Collateral. Escrow Agent shall promptly notify Lessor if any person requests Escrow Agent to enter into any such agreement or otherwise asserts or seeks to assert a lien, encumbrance or adverse claim against any portion or all of the Collateral.

(e) Except as otherwise provided in this paragraph (e) and subject to Section 1(b) hereof, Lessee may affect the form of deposit account for the Collateral within the Escrow Account, but will not, without the prior written consent of Lessor, withdraw any Collateral from the Escrow Account. Escrow Agent acknowledges that Lessor reserves the right, by delivery of written notice to Escrow Agent, to prohibit Lessee from effecting any withdrawals (including interest income), transfers or exchanges of any Collateral held in the Escrow Account. Further, Escrow Agent hereby agrees to comply with any and all written instructions delivered by Lessor to Escrow Agent (once it has had a reasonable opportunity to comply therewith) and has no obligation to, and will not, investigate the reason for any action taken by Lessor, the amount of any obligations of Lessee to Lessor, the validity of any of Lessor's claims against or agreements with Lessee, the existence of any defaults under such agreements, or any other matter.

(f) Lessee hereby irrevocably authorizes Escrow Agent to comply with all instructions and entitlement orders delivered by Lessor to Escrow Agent.

(g) Escrow Agent will not attempt to assert control, and does not claim and will not accept any security or other interest in, any part of the Collateral, and Escrow Agent will not exercise, enforce or attempt to enforce any right of setoff against the Collateral, or otherwise charge or deduct from the Collateral any amount whatsoever.

(h) Escrow Agent and Lessee hereby agree that any property held in the Escrow Account shall be treated as a financial asset under such section of the Commercial Code as corresponds with Section 8-102 of the Uniform Commercial Code, notwithstanding any contrary provision of any other agreement to which Escrow Agent may be a party.

(i) Escrow Agent is hereby authorized and instructed, and hereby agrees, to send to Lessor at its address set forth in Section 8 below, concurrently with the sending thereof to Lessee, duplicate copies of any and all monthly Escrow Account statements or reports issued or sent to Lessee with respect to the Escrow Account.

7. Information Required Under USA PATRIOT ACT. The parties acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on October 1, 2003 (Section 326 of the USA PATRIOT Act) all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Agreement agree that they will provide to the Escrow Agent such information as it may request, from time to time, in order for the Escrow Agent to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

8. Miscellaneous. Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease. This agreement may not be amended except in writing signed by all parties hereto. This agreement may be executed in one or more counterparts, each of which shall be deemed to be an original instrument and each shall have the force and effect of an original and all of which together constitute, and shall be deemed to constitute, one and the same instrument. Notices hereunder shall be made in writing and shall be deemed to have been duly given when personally delivered or when deposited in the mail, first class postage prepaid, or delivered to an express carrier, charges prepaid, or sent by facsimile with electronic confirmation, addressed to each party at its address below.

Notices and other communications hereunder may be delivered or furnished by electronic mail; provided that any formal notice be attached to an email message in PDF format; and provided further that any notice or other communication sent to an e-mail address shall be deemed received upon and only upon the sender's receipt of affirmative acknowledgement or receipt from the intended recipient. For purposes hereof no acknowledgement of receipt generated on an automated basis shall be deemed sufficient for any purpose hereunder or admissible as evidence of receipt.

If to Lessor: City National Capital Finance, Inc.
390 N. Orange Ave., Suite 2600
Orlando, FL 32801
Attention: Michael Powers

If to Lessee: City of Fredricksburg
126 W. Main Street
Fredericksburg, TX 78624
Attention: Laura Hollenbeak

If to Escrow Agent: City National Bank of Florida
25 West Flagler Street
Miami, FL 33130
Attention: Mayra Espinola.

9. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

10. Any bank or corporation into which the Escrow Agent may be merged or with which it may be consolidated, or any bank or corporation to whom the Escrow Agent may transfer a substantial amount of its escrow business, shall be the successor to the Escrow Agent without the execution or filing of any paper or any further act on the part of any of the parties, anything herein to the contrary notwithstanding. Any bank or corporation into which the Lessor may be merged or with which it may be consolidated, or any bank or corporation to whom the Lessor may transfer a substantial amount of its business, shall be the successor to the Lessor without the execution or filing of any paper or any further act on the part of any of the parties, anything herein to the contrary notwithstanding.

11. This Agreement may be amended, modified, and/or supplemented only by an instrument in writing executed by all parties hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Escrow Agreement as of the date first above written.

CITY NATIONAL CAPITAL FINANCE, INC.
as Lessor

By: _____
Name: _____
Title:

CITY OF FREDERICKSBURG
as Lessee

By: _____
Name: _____
Title:

CITY NATIONAL BANK OF FLORIDA
as Escrow Agent

By: _____
Name: _____
Title: _____

[Signature Page to Escrow Agreement]

WCSR 39842641v2

PAY PROCEEDS LETTER

October 27, 2017

City National Capital Finance, Inc.
25 West Flagler Street
Miami, FL 33130

Ladies and Gentlemen:

The undersigned, an authorized officer of City of Fredericksburg ("Lessee"), hereby authorizes City National Capital Finance, Inc. ("Lessor") to pay the proceeds of the financial accommodations provided to Lessee by Lessor evidenced by that certain Master Lease Purchase Agreement, dated as of October 27, 2017 and the related Lease Schedule No. 1, dated October 27, 2017 ,between Lessor and Lessee, to the following account of Lessee:

Account :	Amount of Deposit
City National Bank of Florida Account Number:	$666,240.00

City of Fredericksburg

By:_____
Name:
Title:

TAX CERTIFICATE

This Tax Certificate (this "Certificate") is executed and delivered as of October 27, 2017 (the "Lease Date") by City of Fredericksburg ("Lessee") in connection with that certain Master Lease Purchase Agreement dated as of October 27, 2017 (the "Agreement") by and between City National Capital Finance, Inc. ("Lessor") and Lease Schedule No. 1 dated as of October 27, 2017 between Lessor and Lessee (the "Lease Schedule," and together with the Agreement, the "Lease"). The terms capitalized herein but not defined herein shall have the meanings assigned to them in the Lease.

Section 1. In General.

1.1. This Certificate is executed for the purpose of establishing the reasonable expectations of Lessee as to future events regarding the financing of certain equipment (the "Equipment") to be acquired by Lessor and leased to Lessee pursuant to and in accordance with the Lease. As described in the Lease, Lessor shall apply $666,240.00 (the "Principal Amount") toward the acquisition of the Equipment and Lessee shall make Rental Payments under the terms and conditions as set forth in the Lease.

1.2. The individual executing this Certificate on behalf of Lessee is an officer of Lessee delegated with the responsibility of reviewing and executing the Lease, pursuant to the resolution or other official action of Lessee adopted with respect to the Lease, a copy of which has been delivered to Lessor.

1.3. The Lease is being entered into for the purpose of providing funds for financing the cost of acquiring, equipping and installing the Equipment which is essential to the governmental functions of Lessee, which Equipment is described in the Lease Schedule. The Principal Amount will be paid to Lessee on the date hereof.

1.4. Lessee will complete and timely file for each payment schedule issued under the Lease a Form 8038-G relating to such Lease with the Internal Revenue Service in accordance with Section 149(e) of the Internal Revenue Code of 1986, as amended (the "Code").

Section 2. Non-Arbitrage Certifications.

2.1. The Rental Payments due under the Lease will be made with monies retained in Lessee's general operating fund (or an account or subaccount therein). No sinking, debt service, reserve or similar fund or account will be created or maintained for the payment of the Rental Payments due under the Lease or pledged as security therefor.

2.2. There have been and will be issued no obligations by or on behalf of Lessee that would be deemed to be (i) issued or sold within fifteen (15) days before or after the Lease Date, (ii) issued or sold pursuant to a common plan of financing with the Lease and (iii) paid out of substantially the same source of funds as, or deemed to have substantially the same claim to be paid out of substantially the same source of funds as, the Lease.

2.3. Other than the Principal Amount, Lessee does not and will not have on hand any funds that are or will be restricted, segregated, legally required or otherwise intended to be used, directly or indirectly, as a substitute, replacement or separate source of financing for the Equipment.

2.4. No portion of the Principal Amount is being used by Lessee to acquire investments which produce a yield materially higher than the yield realized by Lessor from Rental Payments received under the Lease. As used in this certificate, the term "yield" means yield computed by the actuarial method using a 360-day year and semi-annual compounding, resulting in a discount rate which, when used in computing

the present worth of all payments of principal and interest to be paid on an obligation, produces an amount equal to the issue price, fair market value, present value or purchase price thereof, as applicable, and is determined in all respects in accordance with Section 148 of the Code.

2.5. The Principal Amount does not exceed the amount necessary for the governmental purpose for which the Lease was entered into. Such funds are expected to be needed and fully expended for payment of the costs of acquiring, equipping and installing the Equipment.

2.6. Lessee does not expect to convey, sublease or otherwise dispose of the Equipment, in whole or in part, at a date which is earlier than the final Payment Date under the Lease.

Section 3. Disbursement of Funds; Reimbursement to Lessee.

3.1. It is contemplated that the entire Principal Amount will be used to pay the acquisition cost of Equipment to the vendors or manufacturers thereof, provided that, if applicable, a portion of the Principal Amount may be used by Lessee as reimbursement for acquisition cost payments already made by it so long as the conditions set forth in Section 3.2 below are satisfied.

3.2. Lessee shall not use any portion of the principal amount in order to be reimbursed for Equipment acquisition cost payments already made by it unless each of the following conditions have been satisfied:

(a) Lessee adopted a resolution or otherwise declared its official intent in accordance with Treasury Regulation § 1.150-2 (the "Declaration of Official Intent"), wherein Lessee expressed its intent to be reimbursed from the proceeds of a borrowing for all or a portion of the cost of the Equipment, which expenditure was paid to the Vendor not earlier than sixty (60) days before Lessee adopted the Declaration of Official Intent;

(b) The reimbursement being requested will be made by a written allocation before the later of eighteen (18) months after the expenditure was paid or eighteen (18) months after the items of Equipment to which such payment relates were placed in service;

(c) The entire payment with respect to which reimbursement is being sought is a capital expenditure, being a cost of a type properly chargeable to a capital account under general federal income tax principles; and

(d) Lessee will use any reimbursement payment for general operating expenses and not in a manner which could be construed as an artifice or device under Treasury Regulation § 1.148-10 to avoid, in whole or in part, arbitrage yield restrictions or arbitrage rebate requirements.

Section 4. Use and Investment of Funds; Temporary Period.

4.1. Lessee has incurred or will incur, within six (6) months from the Lease Date, binding obligations to pay an amount equal to at least five percent (5%) of the Principal Amount toward the costs of the Equipment. An obligation is not binding if it is subject to contingencies within Lessee's control. The ordering and acceptance of the items of Equipment will proceed with due diligence to the date of final acceptance of the Equipment.

4.2. An amount equal to at least eighty-five percent (85%) of the Principal Amount will be expended to pay the cost of the Equipment by the end of the three-year period commencing on the Lease Date. No portion of the Principal Amount will be used to acquire investments that do not carry out the

governmental purpose of the Lease and that have a substantially guaranteed yield in excess of the yield on the Lease.

4.3. (a) Lessee covenants and agrees that it will rebate an amount equal to excess earnings on the Principal Amount to the Internal Revenue Service if required by, and in accordance with, Section 148(f) of the Code, and make the annual determinations and maintain the records required by and otherwise comply with the regulations applicable thereto. Lessee reasonably expects to cause the Equipment to be acquired by no later than 18 months from the Lease Date.

(b) Lessee will provide evidence to Lessor that the rebate amount has been calculated and paid to the Internal Revenue Service in accordance with Section 148(f) of the Code unless: (i) the entire Principal Amount is expended on the Equipment by the date that is the six-month anniversary of the Lease Date or (ii) the Principal Amount is expended on the Equipment in accordance with the following schedule: At least fifteen percent (15%) of the Principal Amount and interest earnings thereon will be applied to the cost of the Equipment within six months from the Lease Date; at least sixty percent (60%) of the Principal Amount and interest earnings thereon will be applied to the cost of the Equipment within 12 months from the Lease Date; and one hundred percent (100%) of the Principal Amount and interest earnings thereon will be applied to the cost of the Equipment by no later than 18 months from the actual Lease Date.

Section 5. **No Private Use; No Consumer Loan**.

5.1. Lessee will not exceed the private use restrictions set forth in Section 141 of the Code. Specifically, Lessee will not permit more than 10% of the Principal Amount to be used for a Private Business Use (as defined herein) if, in addition, the payment of more than ten percent (10%) of the Principal Amount plus interest earned thereon is, directly or indirectly, secured by (i) any interest in property used or to be used for a Private Business Use or (ii) any interest payments in respect of such property or derived from any payment in respect of property or borrowed money used or to be used for a Private Business Use.

In addition, if both (A) more than five percent (5%) of the Principal Amount is used as described above with respect to Private Business Use and (B) more than five percent (5%) of the Principal Amount plus interest earned thereon is secured by Private Business Use property or payments as described above, then the excess over such five percent (5%) (the "Excess Private Use Portion") will be used for a Private Business Use related to the governmental use of the Equipment. Any such Excess Private Use Portion of the Principal Amount will not exceed the portion of the Principal Amount used for the governmental use of the particular project to which such Excess Private Use Portion is related. For purposes of this paragraph 5.1, "Private Business Use" means use of bond proceeds or bond financed-property directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and excluding use as a member of the general public.

5.2. No part of the Principal Amount or interest earned thereon will be used, directly or indirectly, to make or finance any loans to non-governmental entities or to any governmental agencies other than Lessee.

Section 6. **No Federal Guarantee**.

6.1. Payment of the principal or interest due under the Lease is not directly or indirectly guaranteed, in whole or in part, by the United States or an agency or instrumentality thereof.

6.2. No portion of the Principal Amount or interest earned thereon shall be (i) used in making loans the payment of principal or interest of which are to be guaranteed, in whole or in part, by the United

States or any agency or instrumentality thereof, or (ii) invested, directly or indirectly, in federally insured deposits or accounts if such investment would cause the financing under the Lease to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

Section 7. Post-Issuance Compliance.

7.1 In the event an action takes place (or is anticipated to take place) that will cause the Equipment not to be used for qualified uses under Section 141 of the Code, Lessee will consult with bond counsel as soon as practicable about taking remedial action as described in Treasury Regulation Section 1.141-12. Lessee will take all actions necessary to ensure that the "nonqualified bonds" (as defined in Treasury Regulation Section 1.141-12) are properly remediated in accordance with the requirements of the Treasury Regulations. Lessee is familiar with the Internal Revenue Service's Voluntary Compliance Agreement Program pursuant to which issuers of tax-exempt debt may voluntarily resolve violations of the Code and applicable Treasury Regulations on behalf of the holders of such debt or themselves through closing agreements with the Internal Revenue Service.

7.2. Lessee will actively monitor the requirements of the Code and the Treasury Regulations (a) set forth in this certificate and confirm that such requirements are met no less than once per year; (b) related to the allocation and accounting of proceeds to capital projects and will maintain a list that specifies the allocation of proceeds of the Lease to the costs of the Equipment; and (c) related to arbitrage limitations, including yield restriction, rebate requirements and the investment of gross proceeds of the Lease. The office within Lessee that is currently responsible for such monitoring is the finance department.

Section 8. Miscellaneous.

8.1. Lessee shall keep a complete and accurate record of all owners or assignees of the Lease in form and substance satisfactory to comply with the registration requirements of Section 149(a) of the Code unless Lessor or its assignee agrees to act as Lessee's agent for such purpose.

8.2. Lessee shall maintain complete and accurate records establishing the expenditure of the Principal Amount and interest earnings thereon for a period of five (5) years after payment in full under the Lease.

8.3. To the best of the undersigned's knowledge, information and belief, the above expectations are reasonable and there are no other facts, estimates or circumstances that would materially change the expectations expressed herein.

[Signature Page Follows]

IN WITNESS WHEREOF, this Tax Certificate has been executed on behalf of Lessee as of the Lease Date.

CITY OF FREDERICKSBURG

By: _____
Name:
Title:

CITY COUNCIL MEMO

DATE: November 1,, 2017

TO: Mayor and City Council

FROM: Kent Myers, City Manager

SUBJECT: Short-Term Rental Software Agreement

Summary:

The City needs to purchase software to assist in identifying all local properties that are involved with short-rentals (STRs) to ensure that they are permitted and to help us enforce our regulations. The software identified in the attachment agreement will enable us to track existing STRs and any new ones that may operate in the future. The City Attorney has reviewed the proposed agreement and made changes as noted.

Recommendation:

It is recommended that the City enter into a software license agreement with STR Helper at a total cost of $21,850.

Background / Analysis:

As we have discussed over the past several months, the City needs to take several steps to address the increasing problems that we are experiencing with STRs. We are currently working on a new STR ordinance that should be presented for discussion at the next Council meeting. This ordinance will include new fees that will enable the City to cover our costs for hiring a new code officer who will handle the enforcement of the new regulations. It will also cover our costs for the services outlined in the Exhibit A of the attached agreement.

The City of Fredericksburg

126 W. Main St. • Fredericksburg, Texas 78624-3708 • (830) 997-7521 • Fax (830) 997-1861

We are planning on starting the new STR registration process and enforcement of the new regulations on January 1. In order to prepare for the new registration and enforcement, we want to proceed with the purchase of the new software that will allow us to start migration of our GIS mapping data with the software system.

This week I contacted officials in several other communities to determine whether the proposed software was working for them and to see if they were satisfied with the services provided by STR Helper. I have included their responses below:

Susan Guthrie-City Manager of South Padre Island
The City just purchased the new STR Helper software and they are implementing the system now. STR Helper has been very helpful in identifying some 1600 STRs in the City. Since these STRs provide 43% of their HOT revenues, they want to make sure that all STRs are identified.

Kelly Oxley-Executive Assistant for Grand County Board of County Commissioners, Hot Sulphur Springs, Colorado
County has 800 units and STR Helper helped identify about 50% of these units. The company has been very responsive and they have bi-weekly meetings. Fees set at $150 per unit which covers their costs.

Philip Mosely-Director of Community Services in Big Bear Lake, California
Software is a good search engine that has saved a lot of staff time. Company has been very responsive, cooperative and supportive. Company has identified about 125 STRs that were not previously registered with the City.

Mitch Poulson-Executive Director of Bear Lake Regional Commission
They purchased software about a year ago. Company has been very responsive, helpful and effective. Software has reduced staff time particularly in generating notices of violation of city ordinances.

Attachments:

Department Approval **City Manager Approval**

The City of Fredericksburg

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STR Helper Software License Agreement

For

FREDERICKSBURG, TX

Bear Cloud Software STR Helper Software License Agreement

BY USING THE LICENSED SOFTWARE FROM BEAR CLOUD SOFTWARE, THE INDIVIDUAL IF ACTING ON BEHALF OF HIMSELF OR HERSELF ("INDIVIDUAL CUSTOMER") OR THE INDIVIDUAL WHO IS ACTING ON BEHALF OF AN EDUCATIONAL OR NONPROFIT INSTITUTION, GOVERNMENTAL AGENCY, OR OTHER ENTITY ("ENTITY CUSTOMER", THE INDIVIDUAL CUSTOMER AND ENTITY CUSTOMER TOGETHER ARE "CUSTOMER") IS AGREEING TO BE BOUND BY THIS SOFTWARE LICENSE AGREEMENT ("AGREEMENT"). IF CUSTOMER DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, CUSTOMER MAY NOT INSTALL, COPY, OR USE THE LICENSED SOFTWARE.

1. DEFINITIONS.

"**User Account**" means, collectively, the specific User ID, and authorization for each copy of the Licensed Software issued by Bear Cloud Software to Customer.

"**Affiliates**" or "**Affiliate**" means an entity, institution, or organization that controls, is controlled by, or is under common control with another entity, institution, or organization, with at least majority ownership.

"**Authorized Reseller**" means an authorized distributor, authorized reseller, or dealer of the Licensed Software.

"**Authorized User**" means an employee or contractor licensed to use STR Helper.

"**Documentation**" means the user manuals and supporting documentation in electronic form provided with the Licensed Software under this Agreement.

"**License Fee**" means the applicable fee for which Customer licenses the Licensed Software.

"**License Period**" means a perpetual term unless (a) terminated as provided below or (b) a specific fixed term is otherwise set forth in the License and User Account.

"**Licensed Software**" means the specific software licensed to Customer under the terms of this Agreement (as specified in the License and User Account issued to Customer), including any Updates and Upgrades thereto.

"**Bear Cloud Enhancements**" means enhancements to Bear Cloud Files in which the copyright is owned by Bear Cloud Software or distributed by Bear Cloud Software from time to time.

"**Bear Cloud Website**" means www.strhelper.com.

"**Update**" means a revision to the Licensed Software or patch that improves the functionality of the Licensed Software, and may contain new features or enhancements, which is not an Upgrade.

"**Upgrade**" means a subsequent version of the Licensed Software that Bear Cloud Software designates as a new release and makes generally commercially available or a different flavor of the Licensed Software that that Bear Cloud Software makes generally commercially available.

2. LICENSE AND OWNERSHIP.

2.1 License and User Accounts. that Bear Cloud Software shall issue Customer a "License and User Account" via email, fax, postal mail, or courier (e.g., FedEx, UPS, DHL) that sets forth the specific Licensed Software, the specific number of Concurrent Authorized Users for Entity Customers, and the User Account associated with the Licensed Software (the License and User Account or User ID). The License and User Account is hereby incorporated by reference into this Agreement. Certain of the licenses in Section 2.2 permit use by Authorized Users of Entity Customer and the Entity Customer is responsible for compliance of all such Authorized Users with the Agreement and shall be liable for the breach of the terms of this Agreement by such Authorized Users.

2.2 Single-User License. An Individual Customer whose License and User Account issued by Bear Cloud Software specifies the "License Type" as "Single User". A Single-User license is for a named individual who is identified as the Authorized User. Subject to the terms and conditions of this Agreement, Bear Cloud Software grants to Customer a transferable license, without the right to sublicense, to use the Licensed Software.

2.3 Documentation License. Subject to the terms and conditions of this Agreement, Bear Cloud Software grants to Customer a transferable license, without the right to sublicense, to use the Documentation in connection with Customer's authorized use of the Licensed Software. Customer may not reproduce or distribute the Documentation in any manner, whether physically or electronically, without the express written permission of Bear Cloud Software.

2.**4 User Account**. Bear Cloud Software shall issue to Customer a License and User Account for each copy of the Licensed Software. Customer is entirely responsible for any and all activities that occur under Customer's account.

2.5 License to Bear Cloud Enhancements. Subject to the terms and conditions of this Agreement, Bear Cloud Software grants to Customer a transferable license, without the right to sublicense, to use Bear Cloud Software Enhancements solely with the Software for Customer's internal business, research, or educational purposes. Notwithstanding any other provision in this Agreement to the contrary, Bear Cloud Software makes to Customer regarding the licensed software a warranty of merchantability and a warranty of fitness for the particular purposes for which the licensed software is sold.

2.6 Restrictions. Customer shall not, nor permit any person (including any Authorized User) to: (i) reverse engineer, reverse compile, decrypt, disassemble, or otherwise attempt to derive the source code of the Licensed Software (except to the extent that this restriction is expressly prohibited by law); (ii) modify, translate, or create derivative works of the Licensed Software; (iii) sublicense, resell, rent, lease, distribute, market, commercialize, or otherwise transfer rights or usage to the Licensed Software (except as expressly permitted under this Agreement); (iv) remove, modify, or obscure any copyright notices or other proprietary notices or legends appearing on or in the Licensed Software, or any portion thereof; (v) transfer, use, or export the Licensed Software in violation of any applicable laws, rules, or regulations of any government or governmental agency; (vi) use the Licensed Software or any system services accessed through the Licensed Software to disrupt, disable, or otherwise harm the operations, software, hardware, equipment, and/or systems of a business, institution, or other entity, including, without limitation, exposing the business, institution, or other entity to any computer virus, Trojan

horse, or other harmful, disruptive, or unauthorized component; or (vii) embed the Licensed Software in any third-party applications, unless otherwise authorized in writing in advance by an officer of Bear Cloud Software.

2.7 Ownership. The Licensed Software, Bear Cloud Software Enhancements, and Documentation contain copyrighted material and other proprietary material and information of Bear Cloud Software and/or its licensors. Bear Cloud Software and/or its licensors shall retain all right, title, and interest, including all intellectual property rights, in and to the Licensed Software, Bear Cloud Software Enhancements, and Documentation. Customer will not remove, alter, or destroy any form of copyright notice, proprietary markings, or confidential legends placed upon or contained within the Licensed Software, Bear Cloud Software Enhancements, or Documentation, or any component thereof.

3. TECHNICAL SUPPORT AND UPGRADES AND UPDATES.

3.1 Technical Support. Bear Cloud Software agrees to provide Customer with technical support services which include periodic distribution of bug fixes and minor enhancements as Updates scheduled by Bear Cloud Software. All registered users of the then-current release of STR Helper and the previous release of Bear Cloud Software are eligible for free limited technical support. Installation support inquiries by telephone will be accepted by Bear Cloud Software during normal business hours. Technical support email inquiries are accepted at any time and will be answered during normal Bear Cloud Software business hours. Bear Cloud Software will attempt to respond to inquiries within the same business day.

3.2 Updates and Upgrades. To receive and use an Upgrade, Customer must pay the applicable annual fees for that Upgrade and agree to Bear Cloud Software standard terms and conditions governing the use of that Upgrade.

4. TERM AND TERMINATION.

4.1 Term. This Agreement shall be for a term of one (1) year, beginning on the date of execution by the Parties ("Initial Term"). Following the Initial Term, the Agreement shall automatically renew for successive one (1) year periods ("Renewal Term"), up to a maximum of four (4) Renewal Terms and subject to termination as set forth in Paragraph 4.2 below. ~~Customers with a fixed-term License Period, this Agreement shall commence on the Effective Date and shall Continue in effect until the software renewal date.~~

4.2 Termination. ~~Upon renewal after the initial one year term~~During any Renewal Term, Customer may terminate this Aagreement ~~before the software renewal date~~ at any time for any reason or no reason at all upon 30 days' written notice to Bear Cloud Software, and upon such termination Customer shall receive a refund of any prepaid fees that remain unearned by Bear Cloud Software ~~fees due and owing~~ under the Agreement.~~.~~

4.3 Effect of Expiration or Termination. Upon expiration or termination of this Agreement, (i) the rights and licenses granted to Customer pursuant to this Agreement shall automatically and immediately terminate and (ii) Customer shall immediately cease using the Licensed Software. In addition, for a fixed-term License Period, upon expiration of the License Period, the User Account or User ID will expire and the Licensed Software will cease to function.

5. FEES AND PAYMENT.

Fees and Payment Terms. Customer licenses the Licensed Software from Bear Cloud Software. This Agreement is between Customer and Bear Could Software solely. The applicable license fee is specified and set forth in Exhibit A.

6. IMPLEMENTATION.

Customer agrees to supply Bear Cloud Software with city property data for software implementation.

~~Customer and Bear Cloud Software agree to maintain the confidentiality of any confidential or proprietary information of one party (the "disclosing party") received by the other party (the "receiving party") during the term of, or prior to entering into, this Agreement that the receiving party should know is considered confidential or proprietary by the disclosing party based on the circumstances surrounding the disclosure, including, without limitation, non-public technical and business information ("Confidential Information"). The Licensed Software is copyrighted and shall be deemed Bear Cloud Software Confidential Information. The Documentation is copyrighted material of Bear Cloud Software. This section shall not apply to any information that is or becomes publicly available through no breach of this Agreement by the receiving party or is independently developed by the receiving party without access to or use of the Confidential Information of the disclosing party. The foregoing confidentiality obligations will not restrict either party from disclosing Confidential Information of the other party pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the party required to make such a disclosure gives reasonable notice to the other party to enable the other party to seek a protective order or otherwise limit such disclosure. The receiving party of any Confidential Information of the disclosing party agrees not to use the disclosing party's Confidential Information for any purpose except as necessary to fulfill its obligations and exercise its rights under this Agreement. The receiving party shall protect the secrecy of and avoid disclosure and unauthorized use of the disclosing party's Confidential Information with no less than reasonable care. All the disclosing party's information remains the property of the disclosing party.~~

7. LIMITATION OF LIABILITY.

7.1 Consequential Damages Waiver. OTHER ~~THAAN~~THAN FOR A VIOLATION OF ANY INTELLECTUAL PROPERTY RIGHT OF ANY PERSON, IN NO EVENT SHALL ~~BEAR CLOUD SOFTWARE~~ EITHER PARTY OR ITS LICENSORS HAVE ANY LIABILITY FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE FORM OF THE ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY, OR OTHERWISE, EVEN IF ANY REPRESENTATIVE OF ~~BEAR CLOUD SOFTWARE~~ A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF THIS AGREEMENT OR ANY LIMITED REMEDY HEREUNDER.~~8.2 Limitation of Damages. IN NO EVENT SHALL BEAR CLOUD SOFTWARE'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED: (I) IF THE LICENSED SOFTWARE IS LICENSED FROM BEAR CLOUD SOFTWARE DIRECTLY, THE LICENSE FEES PAID BY CUSTOMER TO BEAR CLOUD SOFTWARE FOR THE LICENSED~~

~~SOFTWARE, OR (II) IF THE LICENSED SOFTWARE IS LICENSED THROUGH AN AUTHORIZED RESELLER, THE LICENSE FEES PAID BY CUSTOMER TO THE APPLICABLE AUTHORIZED RESELLER, AS APPLICABLE. IN NO EVENT WILL BEAR CLOUD SOFTWARE LICENSORS HAVE ANY LIABILITY FOR ANY CLAIM ARISING IN CONNECTION WITH THIS AGREEMENT.~~

~~8.3 Limitation of Remedies. THE PARTIES AGREE THAT THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF THIS AGREEMENT OR ANY LIMITED REMEDY HEREUNDER.~~

8. U.S. GOVERNMENT CUSTOMERS.

The Licensed Software under this Agreement is "commercial computer software" as that term is described in DFAR 252.227-014(a)(1). If acquired by or on behalf of a civilian agency, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms and this Agreement as specified in 48 C.F.R. 12.212 (Computer Software) and 12.111(Technical Data) of the Federal Acquisition Regulations ("FAR") and its successors. If acquired by or on behalf of any agency within the Department of Defense ("DOD"), the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement as specified in 48 C.F.R. 227.7202 of the DOD FAR Supplement and its successors.

9. BEAR CLOUD SOFTWARE REPRESENTATION AND WARRNTY.

Bear Cloud Software represents and warrants that neither the Licensed Software, Enhancements, Updates, Upgrades, Website and Documentation nor any parts thereof violate the intellectual property rights of any person.

10. INDEMNIFICATION.

Bear Cloud Software shall indemnify and hold harmless Customer from any claims, damages, attorneys' fees and costs threatened or incurred by Customer on account of any breach by Bear Cloud Software of any term hereof, including, without limitation, violation of any intellectual property rights by the Licensed Software, Enhancements, Updates, Upgrades, Website and Documentation nor any parts.

11. PREVAILING PARTY.

In the event of any dispute in connection with this Agreement, the substantially prevailing party in such dispute shall be entitled to an award of its reasonable attorneys' fees and costs.

Exhibit A

Checked items are covered under this license agreement

Standard Implementation Fee ($3,000.00) – This is a one-time fee changed to implement STR Helper's standard features.

Validation Fee – ($3,350) – This covers validation of up to 670 properties in the incorporated areas of Fredericksburg, TX. Incremental validations will be priced at $5/property.

Annual Software Fee ($12,500.00) – This fee covers the core STR Helper software features including registration, validation, compliance/monitoring module for a period of one year. All functions excluding the Registration Portal, Complaint Portal and the Calendaring Option are covered under this license.

Registration Portal ($1,500) – This provides access to the STR Helper Registration Portal for on-line registration and renewal, either as a standalone, or implemented through the ~~county~~ Customer web site for the period of one year.

Complaint Portal ($1,500) – This provides access to the STR Helper Complaint Portal, either as a standalone, or implemented through the ~~county~~Customer web site for the period of one year.

_____ _____

John Spuhler, CEO Bear Cloud Software Date

_____ _____ _____

~~Crested Butte, Colorado~~City of Fredericksburg, TX Title

Date:

CITY COUNCIL MEMO

DATE: October 31, 2017

TO: Mayor and City Council

FROM: Kent Myers, City Manager

SUBJECT: Request for Extension of Deadline for Phase 2-Former Texas Rangers Heritage Center

Summary:

The Former Texas Rangers Foundation has requested a 10-year extension in the deadline specified in their lease agreement with the City for completion of Phase II of their project. As indicated in the attached agreement with the Foundation, this phase includes the Heritage Center consisting of about 28,000 feet of space including educational exhibits, library and administrative offices.

Recommendation:

It is recommended that an extension of the current lease with the Former Texas Rangers Foundation be approved. However, it is also recommended that the Council consider the 10-year period that is being requested and determine if you are comfortable with an extension for such a lengthy period.

Background / Analysis:

Over the past five years the Foundation has been successful in raising funds and completing Phase I of the Heritage Center. This includes the Ring of Honor, pavilion, restrooms, parking, landscaping , statutes and campanile. This is a beautiful addition to our community that is enjoyed by both local residents and visitors.

The City of Fredericksburg

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The Former Texas Rangers Foundation has started fund raising activities related to Phase II but have not been successful in raising the amount (over $10 million) necessary to start this phase of their project. Their current lease with the City was approved in February, 2011 and required completion of Phase II within seven years (February, 2018). Since they will not be able to meet this deadline they are requesting a 10-year extension of their lease with a planned completion date of February, 2028.

Representatives from the Foundation will be present at Monday's Council meeting to provide you with an update on what they have accomplished to date and plans for the next phase of their project.

Attachments:

Economic Development Agreement with Former Texas Rangers Foundation
Request for Extension of Deadline for Phase II

Department Approval

City Manager Approval

The City of Fredericksburg

126 W. Main St. • Fredericksburg, Texas 78624-3708 • (830) 997-7521 • Fax (830) 997-1861

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Texas Rangers, Retired
Fredericksburg
VICE PRESIDENT
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Round Rock
J. Dell Stine
Wichita Falls
John Sturkie
Houston
Ralph Thomas
Houston
Ed Vaughan
Boerne
Honorable Ken Wise
Houston

FORMER TEXAS RANGERS FOUNDATION

"The Past is our Heritage; the Present is our Duty; the Future is our Responsibility"
– Texas Ranger Jerome Preiss 1924 - 2004

October 12, 2017

Mr. Kent Meyers
City Manager
126 W. Main St.
Fredericksburg, Texas 78624

Dear Kent,

I respectfully request to appear before the City Council on November 2, 2017 at their regular scheduled meeting.

The purpose of this is to request for an extension for completion of Phase II of the Heritage Center. The original Ground Lease calls for completion of Phase II on or before seven (7) years and is dated February 7, 2011. The completion date expires on February 7, 2018.

The F.T.R.F. Board of Directors requests an extension of the date from February 7, 2018 to February 7, 2028.

Thanks for your consideration and if you have any questions do not hesitate to contact me.

Respectfully submitted,

Joe B. Davis, President
Texas Ranger – Retired
Former Texas Rangers Foundation

All donations to the Former Texas Rangers Foundation are tax deductible according to IRS regulations for a 501(c)3 non-profit to the extent allowed by law. Thank you for your donation.
103 Industrial Loop, Ste 700 ★ P.O. Box 3195 ★ Fredericksburg, Texas 78624-3195 ★ TIN# 23-7150500
Phone: 830-990-1192 ★ Fax: 830-990-1121
www.TRHC.org ★ Email: Joe@FormerTexasRangers.org

CITY OF FREDERICKSBURG AND FORMER TEXAS RANGERS FOUNDATION CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT FIRST AMENDMENT

This is a First Amendment to the Chapter 380 Economic Development Agreement ("Agreement") made and entered into by and between the Former Texas Rangers Foundation ("Foundation"), organized under the laws of the State of Texas, and the City of Fredericksburg, Texas, a home rule city and municipal corporation ("City") on February 7, 2011.

For and in consideration of the project, the parties hereto have agreed to amend said Economic Development agreement and the related Ground Lease so as to redefine the improvements to be constructed in each phase of the Project. The City Council has approved the general Master Plan as the same is set forth on Exhibit "A" hereof, however, it is understood that there has been no approval of the same in accordance with the City's development ordinances.

Therefore, the parties therefore agree that section 1.02 is hereby amended as follows:

1. FOUNDATION'S OBLIGATIONS

1.02 **Operation of History and Education Center.** Foundation shall construct the following improvements upon the Property in the time periods as follows:

A. Phase I- improvements to consist of a group pavilion, outside amphitheater the Texas Rangers Ring of Honor and Campanile and related parking and landscaping as is shown on Exhibit "A". Such construction shall be complete and operating on or before July 1, 2015.

B. Phase II- An approximate 28,000 square feet. Heritage Center to consist of educational center with approximately five galleries, interactive exhibits, library, curatorial area, administrative offices and related parking and landscaping. Such construction shall be complete and operating on or before seven (7) years from the date of the original agreement which is February 7, 2011.

Exhibits. The following Exhibit is attached and incorporated by reference for all purposes.

Exhibit "A": Master Plan (Architectural Site Plan)

Other than as amended hereby all other terms and conditions of the original economic development agreement shall remain as written and are hereby ratified and confirmed.

This agreement is executed this the ____ day of May, 2013.

FORMER TEXAS RANGERS FOUNDATION

By: _____
Joe Davis
President

CITY OF FREDERICKSBURG, TEXAS

By: _____
Kent Myers
City Manager

CITY OF FREDERICKSBURG AND FORMER TEXAS RANGERS FOUNDATION CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT

This Chapter 380 Economic Development Agreement ("Agreement") is made and entered into by and between the Former Texas Rangers Foundation ("Foundation"), organized under the laws of the State of Texas, and the City of Fredericksburg, Texas, a home rule city and municipal corporation ("City").

The City is authorized by Chapter 380 of the Texas Local Government Code to make grants of public resources to promote state and local economic development and to stimulate business and commercial activity in Fredericksburg.

The City, acting by and through City Council of the City of Fredericksburg, has authorized the City Manager to make a grant of the public resources hereinafter described, to Foundation to (i) locate its Texas Rangers Heritage Center related galleries and exhibits, curatorial facilities, related administrative offices, parking areas and plaza in Fredericksburg and make capital investments in the real Property hereinafter described, all with the intent to attract visitors and their related expenditures and together, these are referred to as the "Project".

Location of Texas Rangers Heritage Center in Fredericksburg will further state and local economic development and stimulate business and commercial activity in Fredericksburg, and will serve and further the public purposes for which the City exercises its economic development authority.

Foundation accepts the City's grant and agrees to carry out the Project, the terms of which are the subject of this agreement.

The parties therefore agree as follows:

1. FOUNDATION'S OBLIGATIONS

1.01 The Foundation will locate and construct its new Texas Rangers Heritage Center on the appropriate 11.87 acre tract hereinafter known as the "Property." The Property is described as being 11.87 acres of land more or less fronting US Highway 290 East and lying East of Fort Martin Scott and being more particularly described on Exhibit "A" attached hereto and made a part hereof and Barrons Creek, that will serve as the Texas Rangers Heritage Center. Such Heritage Center shall be constructed in accordance with the Master Plan to be approved by the parties hereto prior to the commencement of construction or as such Master Plan may be amended with approval of the parties.

following improvements upon the Property in the time periods as follows:

A. Phase I- More or less 28,500 square feet of improvements to consist of the educational center, galleries, exhibits, support building, related parking and the Texas Rangers Ring of Honor. Such construction shall be complete and operating on or before seven (7) years from the date hereof.

B. Phase II- An auditorium facility, approximately 16,000 square feet.

Throughout the term of the ground lease, which is executed by the parties in connection with this Project, the Foundation agrees to operate and maintain the Texas Rangers Heritage Center and to locate its administrative headquarters in the City of Fredericksburg within one year following the date of this agreement, and maintain its headquarters in the City during the term hereof. The Center shall be operated for and open to the public as is described in the accompanying ground lease.

1.03 **Compliance with this Agreement.** If Foundation fails to comply with the preceding sections 1.01 and 1.02 the City, as set forth in the ground lease, may terminate this agreement.

1.04 **Coordination of efforts.** In addition to its own efforts, Foundation shall make best efforts to work with surrounding organizations such as the City's manager of Fort Martin Scott and The Hill Country University Foundation (Texas Tech) and other appropriate organizations, to expand its effectiveness as a regional, history and education resource and enhance tourism. Projected economic impact from tourism for the Center is attached hereto as Exhibit "B."

Foundation shall make best efforts to employ residents of the Fredericksburg Area for its new full-time jobs with the understanding that to the extent possible, the Foundation will seek to utilize volunteers.

1.05 **Local Business Participation/ Equal Employment Opportunities.** In an effort to further stimulate and positively impact the local economy, Foundation shall use its best efforts to provide local businesses, on a non-discriminatory basis an equal opportunity to participate as suppliers for materials and services purchased by Foundation and they shall adhere to adhere to all applicable fair employment policies and practices.

1.06 **Compliance with City Regulations.** For the construction of leasehold improvements to the Property, or the construction or remodeling of any future facilities in the City's planning jurisdiction during the term of this Agreement, Foundation will comply with all City Code regulations, including water quality regulations in effect at the time any site plan application is filed, unless Foundation has negotiated an agreement with the City to comply with overall impervious cover limits and provide the currently

required water detention controls. This means Foundation will not assert possible Chapter 245 rights to avoid compliance with City regulations for any future development within the City's planning jurisdiction during the term of this agreement. If, during the term of this Agreement, Foundation's development does not comply with City regulations in effect at the time any site plan application is filed for such development, after proper notice and reasonable opportunity to cure the deficiency, this Agreement shall, at the option of the City, terminate by giving Foundation written notice of its election.

1.07 **Certificate of Compliance and Inspection.**

A. Foundation shall deliver to the City before September 30 of each year, beginning one year from the start of operations and continuing during the term of this agreement an accounting of visitation and use of the Center.

B. The City, and/or its representative(s) including third-parties contracted by the City, has the right to inspect all relevant records of Foundation as are reasonably necessary to verify compliance with all requirements of this Agreement. Inspections shall be preceded by at least two week's notice in writing to Foundation.

1.08 **Failure to Meet Obligations**. In the event that Foundation fail to fulfill its obligations under the performance terms above, after receipt of notice and expiration of the cure period described below, the City may, at its option, terminate this Agreement, whereupon the City shall require the payment of rent as set forth in the accompanying lease agreement, and Foundation shall not be entitled to receive any further payment forgiveness or installation of utilities or other of the City's obligations under this Agreement; provided, that the foregoing shall not be deemed or construed to release the City from its obligations for any prior year during which Foundation did fulfill its obligations under the performance guidelines above.

2. Party Obligations

2.01 **Economic Development Incentive**. As consideration for Foundation's performance of its obligations under this Agreement, City shall:

A. grant a long-term lease of 99 years to the Foundation of the above-described property at nominal rent (see attached ground lease);

B. at the city's cost:

a. relocate the existing public water and sanity sewer facilities west of the proposed buildings between U.S. Highway 290 right-of-way (ROW) and

the proposed buildings but not closer than 5' to the proposed buildings. It is understood that the Foundation will work with the City of its site development plan with the goal of locating the buildings so that such relocation shall not be required;

b. extend public water and sanitary sewer line to the property;

c. extend water and sanitary sewer services to the proposed building improvements requiring services;

d. provide and install water meters as required to service the proposed building improvements in the event the water and sewer lines described above are not required;

e. install a sanitary sewer lift station with enough capacity to serve the ultimate developed condition for the site;

f. extend electrical service to the proposed building improvements requiring service;

C. waive all fees associated with the development of the site including but not limited to impact fees, tap fees, platting fees, and park fees;

D. participate in one-half of the cost of the development of a more detailed study of the amount of 100 year floodplain area that is located on the site (if required);

E. contract for and pay for any archeological studies that need to be done on the site. This study will be performed by the City as necessary to accommodate a feasibility study by the Foundation. This shall be performed by the City in time to accommodate the Foundation's construction schedule.

The Foundation will be responsible for all flood study costs associated with revisions to the area located within the 100 year floodplain (CLOMR-F, LOMR-F).

The Foundation will provide its annual financial statement and financial project review to the City annually during the month of February until such time as the History and Education Center is open to the public and operations are commenced.

The City is not obligated to fulfill its obligations for any year in which the City has determined that Foundation have failed to fulfill an obligation or condition applicable to it for such year and has provided written notice to Foundation of such determination.

3. General Terms

(bb)

3.01 **Effective Date and Term**. The Effective Date of this agreement is February 7, 2011. This Agreement shall become enforceable upon its execution and delivery by the City and Foundation. Unless this agreement is terminated earlier in accordance with its terms, Foundation's obligations to perform under this agreement shall be completed on January 31, 2110 and may be extended upon mutual agreement.

3.02 **Payments Subject to Future Appropriation**. This Agreement shall not be construed as a commitment, issue, pledge or obligation of any specific taxes or tax revenues for payment to Foundation.

A. All payments or expenditures made by the City under this Agreement are subject to the City's appropriation of funds for such payments or expenditures to be paid in the budget year for which they are made.

B. The expenditures and forgiven payments under this Agreement, if paid, shall be made solely from annual appropriations of the City as may be legally set aside for the implementation of Article III, Section 52a of the Texas Constitution or Chapter 380 of the Local Government Code or any other economic development or financing program authorized by statute or home rule powers of the City under applicable Texas law, subject to any applicable limitations or procedural requirements.

C. In the event the City does not fulfill its obligations hereunder, the City shall not be liable to Foundation for such payments or expenditures unless and until appropriation of said funds is made; provided, however, that Foundation, in its sole discretion, shall have the right to terminate this Agreement and the City shall have no obligations under this Agreement for the year in respect to which said unappropriated funds or forgiveness of funds relate.

D. To the extent there is a conflict between this Section 3.02 and any other language or covenant in this Agreement, this Section 3.02 shall control.

3.03 **Representations and Warranties.** Each party hereto enters into this agreement based upon its own assessment of law and determination of the enforceability of the particular program under which the contributions of the City are made. Neither party shall be liable to the other in the event of the unenforceability of this agreement or any of the other agreements executed in connection herewith.

3.04 **Default**. If either the City or Foundation should default in the performance of any obligations of this Agreement, the other party shall provide such defaulting party written notice of the default, and a minimum period of ninety (90) days after the receipt of said notice to cure such default, prior to instituting an action for breach or pursuing any other remedy for default.

3.05 **Entire Agreement**. This Agreement contains the entire agreement between the parties. All prior negotiations, discussions, correspondence, and preliminary understandings between the parties and others relating hereto are superseded by this Agreement. This Agreement may only be amended, altered or revoked by written instrument signed by the City and Foundation.

3.06 **Binding Effect**. This Agreement shall be binding on and inure to the benefit of the parties and their respective successors and assigns.

3.07 **Assignment.** Foundation may not assign all or part of its rights and obligations to a third party without prior written approval of the City, which approval may be withheld for any reason, or no reason.

3.08 **Termination**. In the event Foundation elects not to proceed with the Project as contemplated by this Agreement, Foundation shall notify the City in writing, and this Agreement and the obligations on the part of both parties shall be deemed terminated and of no further force or effect.

3.09 **Notice**. Any notice and/or statement required or permitted to be delivered shall be deemed delivered by actual delivery, by facsimile with receipt of confirmation, or by depositing the same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses:

Former Texas Rangers Foundation
Joe Davis
President
P.O. Box 290229
Kerrville, Texas 78029-0229

CITY OF FREDERICKSBURG, TEXAS:
Gary Neffendorf
City Manager
124 West Main Street
Fredericksburg, Texas 78624

Either party may designate a different address at any time upon written notice to the other party.

3.10 **Interpretation**. Each of the parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute regarding its meaning or application, be interpreted fairly and reasonably

and neither more strongly for, nor against any party.

3.11 **Applicable Law**. This Agreement is made, and shall be construed and interpreted, under the laws of the State of Texas and venue shall lie in the State courts of Gillespie County, Texas.

3.12 **Severability**. In the event any provisions of this Agreement are illegal, invalid or unenforceable under present or future laws, and in that event, it is the intention of the parties that the remainder of this Agreement shall not be affected. It is also the intention of the parties that in lieu of each clause and provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

3.13 **Paragraph Headings**. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

3.14 **No Third Party Beneficiaries.** This Agreement is not intended to confer any rights, privileges or causes of action upon any third party.

3.15 **No Joint Venture**. It is acknowledged and agreed by the parties that the terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties. The City, its past and future officers, elected officials, employees and agents do not assume any responsibilities or liabilities to any third party in connection with Rangers facilities or the design, construction or operation of any portion of the facilities.

3.16 **Public and Confidential Information.** Information provided by or on behalf of Foundation under or pursuant to this Agreement that Foundation considers as proprietary shall be maintained as confidential to the extent allowed by law provided that the same has been designated as proprietary to the City in advance of any third party request for the same. If proprietary financial or trade secret information is requested under the Texas Public Information Act, the City shall follow the standards set out in the Act and under the Texas Attorney General's procedures for such requests, and Foundation shall be responsible for defending the confidentiality of such information. Other records and information provided to the City and its representatives to verify compliance with this Agreement shall be available for public inspection.

3.17 **Exhibits**. The following Exhibits are attached and incorporated by reference for all purposes.

Exhibit "A": Property Description
Exhibit "B": Economic Development Projections

FORMER TEXAS RANGERS FOUNDATION

By: _____
Joe Davis
President

CITY OF FREDERICKSBURG, TEXAS

By: _____
Gary Neffendorf
City Manager

CITY COUNCIL MEMO

DATE: October 31, 2017

TO: Mayor and City Council

FROM: Kent Myers, City Manager

SUBJECT: Ballot-Gillespie Central Appraisal District Board of Directors

Summary:

The Council should decide how to allocate the City's 348 votes for the Gillespie Central Appraisal District Board of Directors.

Recommendation:

It is recommended that the City Council approve the votes among the five nominees for the Board positions .

Background / Analysis:

Several weeks ago the nomination process was completed for positions on the Gillespie Central Appraisal District Board. Five people were nominated by the taxing entities including Nicole Bartel, Donald Davis, Tim Dooley, Tony Klein and James McAfee. Now it is time for the City Council to decide how to allocate the City's 348 votes for these positions. In the past the City has decided to divide its votes among the nominees. If you want to continue this practice, then the Council should vote to aware each of the five nominees 69.6 votes to each nominee.

Attachments:

The City of Fredericksburg

126 W. Main St. • Fredericksburg, Texas 78624-3708 • (830) 997-7521 • Fax (830) 997-1861

Letter from Gillespie Central Appraisal District

Department Approval

City Manager Approval

The City of Fredericksburg

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GILLESPIE CENTRAL APPRAISAL DISTRICT

1159 S. Milam St.
Fredericksburg, TX 78624
(830) 997-9807

October 23, 2017

Mayor Linda Langerhans
City of Fredericksburg
126 West Main Street
Fredericksburg, TX 78624

RE: Gillespie Central Appraisal District Board of Directors Ballot for 2018-2019

Dear Mayor Langerhans,

The terms of the current Directors of the Gillespie Central Appraisal District will expire on December 31, 2017. The governing bodies of voting taxing units within the appraisal district have nominated candidates for the 2018-2019 board.

Enclosed with this letter you will find the voting ballot. Next to your entity you will find the total votes you have to cast. You can split your votes however your entity decides. Please write the number of votes that you wish to cast under the name of each candidate.

Your entity needs to determine your vote by resolution and submit the ballot and resolution to the appraisal district before December 15, 2017. The chief appraiser will tally the votes and notify the entities of the results by December 31, 2017.

The Gillespie CAD Board of Directors has five elected positions. For your information, the following is a list of the 2016-2017 board members.

Tim Dooley, Chairman
James McAfee, Vice-Chairman
Tony Klein, Secretary
Donald Davis
Wayne Harrell

If you should have any questions on the process, please do not hesitate to contact me.

Sincerely;

Scott Fair

Scott Fair, RPA
Chief Appraiser

Gillespie Central Appraisal District Board of Directors BALLOT 2018-2019		Nominated by: Fredericksburg ISD City of Fredericksburg	Nominated by: Fredericksburg ISD City of Fredericksburg	Nominated by: Fredericksburg ISD City of Fredericksburg	Nominated by: Fredericksburg ISD Gillespie County City of Fredericksburg	Nominated by: Fredericksburg ISD City of Fredericksburg
Voting Entities	**Total Votes**	**Nicole Bartel**	**Donald Davis**	**Tim Dooley**	**Tony Klein**	**James McAfee**
		Place # of Votes under corresponding nominee				
Doss CCSD	**30**					
Harper ISD	**288**					
City of Fredericksburg	**348**					
Gillespie County	**1,318**					
Fredericksburg ISD	**3,016**					
TOTAL	**5,000**					

Please complete and return to GCAD before December 15, 2017.

Entity Name: _____

Signature: _____ **Date:** _____

CITY COUNCIL MEMO

DATE: November 6, 2017

TO: Mayor and City Council

FROM: Garret Bonn, P.E., CFM – Asst. City Engineer

SUBJECT: Annual Sidewalk Program – Contract Extension

Summary:

City Council awarded the Annual Sidewalk Contract to Hazelett Concrete Contractors in June of 2013. The contract allows for additional one year extensions for up to five years. During the FY 2017 budget year, the City Council agreed to extend the contract with Hazelett Concrete Contractors through September 30, 2017. Before Council is a one year contract extension with Hazelett Concrete Contractors for the Annual Sidewalk Project that would initially begin with a budget of $50,000 which could be increased at a later date.

Recommendation:

Hazelett Concrete Contractors has agreed to extend the current contract and honor the unit prices they bid in the 2013 bid/agreement.

City staff recommends extending the current sidewalk contract with Hazelett Concrete Contractors through September 30, 2018 with an initial budget of $50,000 which could be increased to the full FY 2018 budgeted amount of $100,000 with Council approval at a later date.

Background / Analysis:

Three bids were received on June 18, 2013 for the Annual Sidewalk Project. The bidders Included:

The City of Fredericksburg

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1) Hazelett Concrete Contractors - Fredericksburg, Texas
2) M & C Fonseca - Granite Shoals, Texas
3) Allen Keller Company - Fredericksburg, Texas

Bids were evaluated based on the Total Base Bid from each contractor's unit price bid submittal for approximate quantities of work included in the Bid Form.

As discussed at the October 16th meeting, the possibility of only authorizing $50,000 of the approved budget of $100,000 for the sidewalk project has been reviewed by the City Attorney and staff. The agreement section of the contract states that "the unit price will determine the quantity of sidewalk to be constructed for this year's budget for sidewalk improvements." Therefore, there are no issues with the City setting and modifying the budget at different amounts as long as the contractor is agreeable. City staff met with Hazelett Concrete Contractors since the last Council meeting and they have no objection to the reduced budget amount (will not impact unit pricing), however, they have asked that if it is determined additional work will not be authorized at a later date, they be given ample notice to allow them to pursue other work.

Attachments:

N/A

Department Approval **City Manager Approval**

The City of Fredericksburg

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CITY COUNCIL MEMO

DATE: November 6, 2017

TO: Mayor and City Council

FROM: Garret Bonn, P.E., CFM – Asst. City Engineer

SUBJECT: Report on Street Department Equipment Purchases For FY 2018

Summary:

Funding in the amount of $105,305, $181,140, and $33,900 was included in the approved FY 2018 City Budget for the purchase of a Tandem Dump Truck, Loader (Tool Carrier), and two (2) Portable Message Boards, respectively. The Dump Truck and Loader will be purchased as part of the lease purchase program which was approved at the October 16, 2017 Council Meeting and the Portable Message Boards will be split between six department budgets.

Recommendation:

No action by City Council is required at this time.

Background / Analysis:

As part of the approved FY 2018 Budget, funding for new Street Department equipment was provided and will be purchased as part of the lease purchase program and standard budget line items. The lease purchase equipment includes a new Tandem Dump Truck and a Rubber Tire Loader which is also commonly referred to as a Tool Carrier. The attached quotes were obtained from equipment suppliers utilizing Buyboard contracts so it meets State of Texas government procurement requirements. The purchase price for each piece of equipment will be:

The City of Fredericksburg

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- Tandem Dump Truck – $105,305.00 (matches budgeted price in lease purchase program)
- Loader (Tool Carrier) - $181,140.42 (matches budgeted price in lease purchase program)

Since the Portable Message Boards are intended to be utilized by various departments, the total purchase price of $33,900.00 for two message boards was split between the Street, Water, Emergency Management, Electric, Fire, Police departments ($5,650.00 each).

Tandem Dump Truck

Loader (Tool Carrier)

The City of Fredericksburg

126 W. Main St. • Fredericksburg, Texas 78624-3708 • (830) 997-7521 • Fax (830) 997-1861

Portable Message Board (PMB)

Attachments:

2017 Caterpillar 930M QC Wheel Loader Quote
2018 Workstar 7400 SFA 6x4 Conv. Cab Dump Truck Quote
2 – Solar Tech Model MB-1548 Portable Message Boards

Department Approval

City Manager Approval

The City of Fredericksburg

126 W. Main St. • Fredericksburg, Texas 78624-3708 • (830) 997-7521 • Fax (830) 997-1861

SALES AGREEMENT

DATE Jun 16, 2017
Agreement Number: 194446

HOLT TEXAS LTD (HOLT), 3302 South W. W. White Road, San Antonio, TX 78220 Phone:(800) 275-4658

SOLD TO		SHIP TO
CUSTOMER	CITY OF FREDERICKSBURG	
STREET ADDRESS	126 W MAIN ST	<SAME>
CITY/STATE	FREDERICKSBURG, TX	COUNTY/COUNTRY GILLESPIE, UNITED STATES
POSTAL CODE	78624-3708	PHONE NO. 830 997 3459
CUSTOMER CONTACT: EQUIPMENT	GLENN KOENNECKE - 830 990 2090	
CUSTOMER CONTACT: PRODUCT SUPPORT	GLENN KOENNECKE - 830 990 2090	
INDUSTRY CODE:	LOCAL GOVERNMENT (PS93)	PRINCIPAL WORK CODE

F.O.B. AT: Austin - Machine Division
SHIP VIA:

CUSTOMER NUMBER	Sales Tax Exemption # (if applicable) - TYPE: N/A	CUSTOMER PO NUMBER	LKE (Yes / No)
0264950	TX MUNICIPALITY		

TERMS

PAYMENT TERMS: (Payment Terms are subject to Finance Company – OAC approval)

NET PAYMENT ON RECEIPT OF INVOICE	☑	NET ON DELIVERY	☐	FINANCIAL SERVICES	☐ CSC	☐ LEASE	☐ Net 30
CASH WITH ORDER	N/A	BALANCE TO FINANCE	N/A	CONTRACT INTEREST RATE	N/A	RELEASE NUMBER	

DESCRIPTION OF EQUIPMENT ORDERED / PURCHASED

MAKE: CATERPILLAR INC — MODEL: 930M QC — YEAR: 2017
ID NUMBER: HLK030673 — SERIAL NUMBER: 0KTG03211 — SMU: 0

930M WHEEL LOADER	430-2806	LIGHTS, AUX HALOGEN	488-1113
LANE 3 ORDER	0P-9003	COUNTERWEIGHT, HEAVY	333-6691
PREP PACK, UNITED STATES	430-2943	KIT,SERIALIZED TECHNICAL MEDIA	0P-2491
HYD,2V,COUPLER READY,STD LIFT	430-2832	SHIPPING/STORAGE PROTECTION	0P-2266
STEERING, STANDARD, DUAL MODE	333-6856	PACK, DOMESTIC TRUCK	0P-0210
DIFFERENTIAL, OPEN REAR	333-6529	RIDE CONTROL	430-2860
ENVIRONMENT, STANDARD	430-2855	CAMERA, REAR VIEW	377-5635
WEATHER, STANDARD	454-0609	QUICK COUPLER, FUSION	430-2977
ENGINE AR	430-3038	TOOLBOX AUX, NONE	519-8081
CAB, DELUXE	521-3244	CUTTING EDGE, BOLT ON, 4 PIECE - KTG3211BU	345-2758
SEAT, DELUXE	423-7201	BUCKET-MP, 2.7 YD3	362-0902
RADIO READY, BLUETOOTH,MIC,AUX	378-0951		
PRODUCT LINK, CELLULAR PL641	454-0589		
TIRES, 20.5R25 BS VJT * L3	357-8902		
FENDERS, STANDARD	366-8148		

TRADE-IN EQUIPMENT

MODEL: _____ YEAR: _____ SN.: _____
PAYOUT TO: _____ AMOUNT: _____ PAID BY: _____
MODEL: _____ YEAR: _____ SN.: _____
PAYOUT TO: _____ AMOUNT: _____ PAID BY: _____
MODEL: _____ YEAR: _____ SN.: _____
PAYOUT TO: _____ AMOUNT: _____ PAID BY: _____
MODEL: _____ YEAR: _____ SN.: _____
PAYOUT TO: _____ AMOUNT: _____ PAID BY: _____

ALL TRADE-INS ARE SUBJECT TO EQUIPMENT BEING IN "AS INSPECTED CONDITION" BY HOLT AT TIME OF DELIVERY. CUSTOMER HEREBY SELLS THE TRADE-IN EQUIPMENT DESCRIBED ABOVE TO HOLT AND WARRANTS IT TO BE FREE AND CLEAR OF ALL CLAIMS, LIENS, MORTGAGES AND SECURITY INTEREST EXCEPT AS SHOWN ABOVE.

TERMS OF SALE	
SELL PRICE	$180,750.00
EXT WARRANTY	Included
TOTAL PRICE	**$180,750.00**
SUB TOTAL	**$180,750.00**
HET (0.216%)	$390.42
TOTAL TAXES	**$390.42**
TOTAL QUOTED PRICE	**$181,140.42**

DISCLAIMER OF WARRANTIES AND WAIVER OF CLAIMS:

HOLT IS NOT A MANUFACTURER OF THE EQUIPMENT. ALTHOUGH HOLT MAY ADMINISTER WARRANTIES ISSUED BY THE MANUFACTURER, CUSTOMER ACKNOWLEDGES AND AGREES THAT: (1) ANY EXPRESS WARRANTIES BY THE MANUFACTURER FOR THE EQUIPMENT ARE NOT THE RESPONSIBILITY OF HOLT; AND (2) THE MANUFACTURER'S WARRANTY CONTAINS LIMITATIONS AND CUSTOMER MAY INCUR CERTAIN REPAIR, TRANSPORTATION OR OTHER CHARGES BY HOLT WHICH ARE NOT COVERED BY THE MANUFACTURER'S WARRANTY.

HOLT, BY VIRTUE OF HAVING SOLD THE EQUIPMENT UNDER THIS AGREEMENT, HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO CONDITION, COMPLIANCE WITH SPECIFICATIONS OR REGULATIONS, QUALITY, DURABILITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR USE OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT. HOLT IS NOT LIABLE FOR ANY DAMAGES (WHETHER ORDINARY, SPECIAL OR PUNITIVE) ARISING FROM ANY FAILURE OF THE EQUIPMENT TO OPERATE OR THE FAULTY OPERATION OF THE EQUIPMENT, OR THE INSTALLATION, OPERATION, REPAIR OR USE OF THE EQUIPMENT.

OTHER TERMS AND CONDITIONS

ADDITIONAL TERMS AND CONDITIONS SET FORTH ON THE REVERSE SIDE HEREOF OR ATTACHED HERETO (AS APPLICABLE) CONSTITUTE AN IMPORTANT PART OF THIS AGREEMENT AND ARE INCORPORATED HEREIN VERBATIM FOR ALL PURPOSES. PLEASE REVIEW SUCH OTHER TERMS AND CONDITIONS BEFORE SIGNING THIS AGREEMENT.

THESE TERMS AND CONDITIONS SUPERSEDE ALL OTHER TERMS AND CONDITIONS PRESENTED BY OR TO CUSTOMER UNLESS PROVIDED IN A DOCUMENT SIGNED BY AN AUTHORIZED REPRESENTATIVE OF BOTH PARTIES AND CONTAINING REFERENCE TO THIS SALES ORDER AGREEMENT.

EQUIPMENT WARRANTY

Customer acknowledges that he has received a copy of any warranty and has read and understood said warranty. All used equipment is sold as is where is and no warranty is offered or implied except as specified herein.

12 Month/Unlimited Hours Total Machine

36 month or 3,000 hour powertrain + hydraulics

INITIAL

CSA:

NOTES:

THIS AGREEMENT IS SUBJECT TO THE TERMS AND CONDITIONS ATTACHED

Date Jun 16, 2017
Wesley Woytasczyk(393)
ORDER RECEIVED BY

SALES MANAGER

SIGNATURE

TITLE

Date
CITY OF FREDERICKSBURG
CUSTOMER

By
SIGNATURE

TITLE

(80)

ADDITIONAL TERMS AND CONDITIONS

1. AGREEMENT: This Agreement becomes binding on Holt only upon Holt's execution of this Agreement, and subject to the availability of the Equipment from the manufacturer. Customer shall inspect the Equipment immediately upon its receipt, and shall be conclusively deemed to have accepted the Equipment in good and operating condition unless the Customer promptly notifies Holt of any defects, in writing and via telephone. Holt shall have the right, at its option, to either repair or replace the Equipment, or terminate this Agreement, in which event the Equipment shall be returned to Holt. Delays in delivery shall be excused if caused by any cause beyond the reasonable control of Holt.
2. TITLE TO EQUIPMENT: Title to the Equipment shall pass to the Customer only upon Holt's actual receipt of funds in the total amount of the Purchase Price and other sums due to Holt hereunder.
3. TAKEN IN TRADE: Customer does hereby irrevocably sell, assign, transfer and convey possession, ownership and title unto Holt to the Trade-in Equipment described above. Customer warrants that it is the sole owner of the Trade-in Equipment, has full power and authority to sell the Trade-in Equipment, and that there is no lien or any encumbrance of any kind or nature against the Trade-in Equipment , of record or otherwise.
4. TAXES: Customer shall promptly pay all taxes, fees, transportation and other costs, assessments and all governmental charges of any kind or character, and any penalties, fines or interest thereon relating to the Equipment.
5. CUSTOMER'S WARRANTIES AND USE: In addition to the other warranties contained herein, Customer warrants that (i) if Customer is an entity, it is duly organized and validly existing in good standing, and (ii) is duly authorized to execute, deliver and perform under this Agreement. Customer further agrees and warrants, at its cost, that: (1) the Equipment shall at all times be used solely for Customer's business and not for personal, family, or household use, and in accordance with the use, and/or instructional materials, solely for the purpose for which it was intended; (2) only Customer's employees (who must be skilled, trained and certified to do so) shall use the Equipment. Customer hereby further agrees and warrants that (i) any payments made pursuant to this Agreement are intended by the Customer to be a contemporaneous exchange for new value given to Customer and it is a substantially contemporaneous exchange and (ii) each payment made of a debt incurred by Customer under this Agreement is in the ordinary course of business or financial affairs of Customer and Holt, and such payment was made in the ordinary course of business or financial affairs of Customer and Holt, or made according to ordinary business terms.
6. LOSS AND DAMAGE: Customer assumes all liability and risk of, and shall be solely responsible for, all damage and loss to the Equipment from any cause whatsoever, whether or not such loss or damage is or could have been covered by insurance. Until the Equipment is paid in full, Customer shall promptly give Holt written notice of any loss or damage and reimburse Holt for the value of the Equipment if damaged or stolen. Holt's sole responsibility for shipments shall be to deliver the Equipment to a public carrier company.
7. SECURITY AGREEMENT: Customer hereby grants to Holt a continuing purchase money security interest in the Equipment and any and all additions, substitutions and all proceeds thereof to secure Customer's obligations hereunder whether now existing or hereafter created and all renewals, extensions and rearrangement of such liabilities. Customer appoints Holt as Customer's irrevocable attorney-in-fact to file, at Customer's cost, any financing statement (and any amendments, renewals and related instruments) on the Equipment: (i) to perfect a security interest in the Equipment, and/or (ii) to release, terminate, and void Customer's interest in the Equipment. The date of delivery, for purposes of filing any financing statement, shall be the date on which the Equipment is put into service and "made ready" or invoiced by Holt, whichever is later.
8. EVENTS OF DEFAULT: The following are events of default by Customer: (1) failure to pay any amount due hereunder or otherwise; (2) Customer's ceasing to do business, becoming insolvent, taking advantage of any law for the relief of debtors or filing bankruptcy, making an assignment for the benefit of creditors; (3) when Holt deems itself insecure with respect to Customer's performance; (4) Customer fails to perform any of Customer's other obligation hereunder or otherwise; (5) Customer's representation or warranty is false or misleading.
9. REMEDIES ON DEFAULT: In the event of any default by Customer, Holt is entitled to any one or more of the following remedies, without any notice of default: (a) take possession of the Equipment or any other equipment, including enter premises where its located; (b) terminate this Agreement; (c) seek specific performance or injunction or recover damages; (d) stop delivery of the Equipment or any other equipment; (e) surrender any insurance policies and receive the unearned premiums; (f) without terminating this Agreement, Holt may take possession of the Equipment and sell, relet or otherwise dispose of the Equipment as a secured party under UCC and deduct all expenses, costs, reasonable attorneys fees, and other charges incurred by Holt; (g) recover deficiency from Customer; and/or (h) perform by itself, or cause performance of, Customer's obligation, at Customer's cost. In no event shall Holt be required to sell or relet the Equipment, nor required to rebate or pay back any gain or profit as a result of leasing the Equipment. Holt's remedies hereunder shall not be exclusive, but shall be cumulative and in addition to all other remedies existing at law or in equity.
10. INDEMNITY: CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS HOLT AND HOLT'S PARTNERS, EMPLOYEES, AGENTS, REPRESENATIVES, SUCCESSORS AND ASSIGNS FROM ANY AND ALL CLAIM, EXPENSE, CAUSE OF ACTION, DAMAGE, LIABILITY, COST, PENALTY, TAX, ASSESSMENT, CHARGE, PUNITIVE DAMAGE OR EXPENSE BY REASON OF ANY ACT OR OMISSION OF CUSTOMER OR ITS EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, AFFILIATES OR INVITEES.
11. ASSIGNMENT: HOLT may assign any of its rights and obligations hereunder without notice, including, but not limited to, assignment of the HOLT equipment sale and/or trade-in purchase rights under this Agreement to CATD Exchange Services LLC. No assignee of HOLT, including CATD Exchange Services LLC., as qualified intermediary or the assignee's officers, directors, agents, or employees, shall be obligated to perform any covenant, condition or obligation required to be performed by HOLT hereunder. However, in the event any assignee agrees to assume the obligations of HOLT, Customer agrees that HOLT shall be released from all further liability hereunder. Neither this Agreement nor any of Customer's rights hereunder shall be assignable by Customer without the prior written consent of HOLT.
12. INSURANCE COVERAGES: Customer shall maintain Equipment insurance and General Liability insurance, Auto Liability insurance, and Workers Compensation and Employer's Liability Insurance, each with minimum $1,000,000 per occurrence and shall deliver to Holt a Certificate of Insurance evidencing same. Such insurance obtained by Customer shall be primary.
13. NOTICES: All notices hereunder shall be in writing and shall be deemed delivered if delivered personally or mailed, by certified mail, return receipt requested, to the respective addresses of the parties set forth above or any other address designated by written notice.
14. MISCELLANEOUS: This Agreement may only be modified by a written agreement signed by Holt. If any provision of this Agreement is hereafter held invalid or unenforceable, the remainder of the Agreement shall not be affected and the provisions are declared severable. If there is more than one Customer, the obligations of Customers hereunder are joint and several. Subject to the terms hereof, this Agreement shall be binding upon and inure to the benefit of Holt and Customer and their respective personal representatives, successors and assigns. This Agreement shall be governed by the laws of Texas, each party hereby irrevocably consents to submit to the exclusive jurisdiction of the courts of the state of Texas in either Dallas County or Bexar County, Texas. I agree and acknowledge that to the extent equipment is equipped with a telematics system (e.g., Product Link), that data concerning such equipment, including condition, and operation are being transmitted to Caterpillar Inc., and its affiliates. The full privacy statement applicable to the transfer of telematics information, including instructions on how to ask questions about telematics and how to revoke your consent, is available at: http://www.cat.com/en_US/support/operations/fleet-management-solutions/product-link/caterpillar-telematicsdataprivacystatement.html. **Right to a jury trial is hereby waived by all parties.**
15. ARBITRATION: Parties agree to submit to binding arbitration for any dispute arising out of or relating to this transaction. Either party may initiate arbitration which shall be conducted in accordance with commercial arbitration rules of the American Arbitration Association, in San Antonio, Bexar County, Texas. Each party shall bear its own costs and attorney's fees unless the arbitrators award such fees to a party, each party shall share equally the cost of the arbitration.

(81)

INTERNATIONAL®

October 17, 2017

Prepared For:
City of Fredericksburg
Glenn Koennecke
126 W Main St.
Fredericksburg, TX 78624-3708
(830)997 - 7521
Reference ID: 11/14 Yd Dump

Presented By:
LONGHORN INT'L TRCKS LTD
Richard Woerndell
4711 E 7TH ST
AUSTIN TX 78702 -
(512)389-1111

Thank you for the opportunity to provide you with the following quotation on a new International truck. I am sure the following detailed specification will meet your operational requirements, and I look forward to serving your business needs.

Model Profile
2018 7400 SFA 6X4 (SF525)

APPLICATION:	Construction Dump
MISSION:	Requested GVWR: 54000. Calc. GVWR: 52350 Calc. Start / Grade Ability: 21.65% / 1.43% @ 55 MPH Calc. Geared Speed: 77.4 MPH
DIMENSION:	Wheelbase: 183.00, CA: 108.00, Axle to Frame: 75.00
ENGINE, DIESEL:	{Cummins L9 300} EPA 2017, 300HP @ 2000 RPM, 860 lb-ft Torque @ 1300 RPM, 2200 RPM Governed Speed, 300 Peak HP (Max)
TRANSMISSION, AUTOMATIC:	{Allison 3500 RDS} 5th Generation Controls, Wide Ratio, 5-Speed with Overdrive, with PTO Provision, Less Retarder, Includes Oil Level Sensor, with 80,000-lb GVW and GCW Max, On/Off Highway
CLUTCH:	Omit Item (Clutch & Control)
AXLE, FRONT NON-DRIVING:	{Meritor MFS-14-143A} Wide Track, I-Beam Type, 14,000-lb Capacity
AXLE, REAR, TANDEM:	{Meritor MT-40-14X-4DFR} Single Reduction, 40,000-lb Capacity, 0.433"(11mm) Wall Housing Thickness, R Wheel Ends Gear Ratio: 4.63
CAB:	Conventional
TIRE, FRONT:	(2) 11R22.5 Load Range G HSR2 (CONTINENTAL), 498 rev/mile, 75 MPH, All-Position
TIRE, REAR:	(8) 11R22.5 Load Range G HDR2 (CONTINENTAL), 491 rev/mile, 75 MPH, Drive
SUSPENSION, REAR, TANDEM:	{Hendrickson RT-403} Walking Beam Type 52" Axle Spacing; 40,000-lb Capacity with Rubber Center Bushings
FRAME REINFORCEMENT:	Outer "C" Channel, Heat Treated Alloy Steel (120,000 PSI Yield); 10.813" x 3.892" x 0.312"; (274.6mm x 98.9mm x 8.0mm); 480.0" (12192mm) Maximum OAL
PAINT:	Cab schematic 100GM Location 1: 9219, Winter White (Std) Chassis schematic N/A

Code	Description
SF52500	Base Chassis, Model 7400 SFA 6X4 with 183.00 Wheelbase, 108.00 CA, and 75.00 Axle to Frame.
1570	TOW HOOK, FRONT (2) Frame Mounted
1CBU	FRAME RAILS Heat Treated Alloy Steel (120,000 PSI Yield); 10.125" x 3.580" x 0.312" (257.2mm x 90.9mm x 8.0mm); 480.0" (12192) Maximum OAL
1GBP	FRAME REINFORCEMENT Outer "C" Channel, Heat Treated Alloy Steel (120,000 PSI Yield); 10.813" x 3.892" x 0.312"; (274.6mm x 98.9mm x 8.0mm); 480.0" (12192mm) Maximum OAL
1LLA	BUMPER, FRONT Steel, Swept Back
	Includes : BUMPER, FRONT Powder Coated Gray (Argent) Color
1WGB	WHEELBASE RANGE 177" (450cm) Through and Including 226" (575cm)
2ARV	AXLE, FRONT NON-DRIVING {Meritor MFS-14-143A} Wide Track, I-Beam Type, 14,000-lb Capacity
	Notes : The following features should be considered when calculating Front GAWR: Front Axles; Front Suspension; Brake System; Brakes, Front Air Cam; Wheels; Tires.
3ADD	SUSPENSION, FRONT, SPRING Parabolic, Taper Leaf; 14,000-lb Capacity; with Shock Absorbers
	Includes : SPRING PINS Rubber Bushings, Maintenance-Free
	Notes : The following features should be considered when calculating Front GAWR: Front Axles; Front Suspension; Brake System; Brakes, Front Air Cam; Wheels; Tires.
4091	BRAKE SYSTEM, AIR Dual System for Straight Truck Applications
	Includes : BRAKE LINES Color and Size Coded Nylon : DRAIN VALVE Twist-Type : GAUGE, AIR PRESSURE (2) Air 1 and Air 2 Gauges; Located in Instrument Cluster : PARKING BRAKE CONTROL Yellow Knob, Located on Instrument Panel : PARKING BRAKE VALVE For Truck : QUICK RELEASE VALVE On Rear Axle for Spring Brake Release: 1 for 4x2, 2 for 6x4 : SLACK ADJUSTERS, FRONT Automatic (with Air Cam Brakes) : SLACK ADJUSTERS, REAR Automatic (with Air Cam Brakes) : SPRING BRAKE MODULATOR VALVE R-7 for 4x2, SR-7 with relay valve for 6x4/8x6
	Notes : Rear Axle is Limited to 46,000-lb GAWR with Code 04091 BRAKE SYSTEM, AIR and Standard Rear Air Cam Brakes Regardless of Axle /Suspension Ordered.
4619	TRAILER CONNECTIONS Four-Wheel, with Hand Control Valve and Tractor Protection Valve, for Straight Truck
4732	DRAIN VALVE {Berg} with Pull Chain, for Air Tank
	Includes : DRAIN VALVE Mounted in Wet Tank
4AZA	AIR BRAKE ABS {Bendix AntiLock Brake System} Full Vehicle Wheel Control System (4-Channel)
4EBD	AIR DRYER {Meritor Wabco System Saver 1200} with Heater
	Includes : AIR DRYER LOCATION Inside Left Rail, Back of Cab
4EXP	BRAKE CHAMBERS, FRONT AXLE {Bendix} 20 SqIn

Code	Description
4EXU	BRAKE CHAMBERS, REAR AXLE {Bendix EverSure} 30/30 Spring Brake
4JCJ	BRAKES, FRONT, AIR CAM S-Cam; 16.5" x 5.0"; Includes 20 Sq. In. Long Stroke Brake Chambers
	Notes : The following features should be considered when calculating Front GAWR: Front Axles; Front Suspension; Brake System; Brakes, Front Air Cam; Wheels; Tires.
4NDB	BRAKES, REAR, AIR CAM S-Cam; 16.5" x 7.0"; Includes 30/30 Sq.In. Long Stroke Brake Chamber and Spring Actuated Parking Brake
	Notes : The following features should be considered when calculating Rear GAWR: Rear Axles; Rear Suspension; Brake System; Brakes, Rear Air Cam; Brake Shoes, Rear; Special Rating, GAWR; Wheels; Tires.
4SPA	AIR COMPRESSOR {Cummins} 18.7 CFM Capacity
5AAA	STEERING COLUMN Stationary
5CAL	STEERING WHEEL 2-Spoke, 18" Dia., Black
5PSA	STEERING GEAR {Sheppard M100} Power
7BEV	AFTERTREATMENT COVER Steel, Black
7BKS	EXHAUST SYSTEM Single Horizontal Aftertreatment Device, Frame Mounted Right Side Under Cab; for Single Vertical Tail Pipe, Frame Mounted Right Side Back of Cab
7WAZ	TAIL PIPE (1) Turnback Type, Non-Bright, for Single Exhaust
7WDM	EXHAUST HEIGHT 10'
7WDN	MUFFLER/TAIL PIPE GUARD (1) Non-Bright Aluminum
8000	ELECTRICAL SYSTEM 12-Volt, Standard Equipment
	Includes : DATA LINK CONNECTOR For Vehicle Programming and Diagnostics In Cab : HAZARD SWITCH Push On/Push Off, Located on Top of Steering Column Cover : HEADLIGHT DIMMER SWITCH Integral with Turn Signal Lever : HEADLIGHTS (2) Halogen, Round, with Chrome Plated Bezels : JUMP START STUD Located on Positive Terminal of Outermost Battery : PARKING LIGHT Integral with Front Turn Signal and Rear Tail Light : STARTER SWITCH Electric, Key Operated : STOP, TURN, TAIL & B/U LIGHTS Dual, Rear, Combination with Reflector : TURN SIGNAL SWITCH Self-Cancelling for Trucks, Manual Cancelling for Tractors, with Lane Change Feature : WINDSHIELD WIPER SWITCH 2-Speed with Wash and Intermittent Feature (5 Pre-Set Delays), Integral with Turn Signal Lever : WINDSHIELD WIPERS Single Motor, Electric, Cowl Mounted : WIRING, CHASSIS Color Coded and Continuously Numbered
8518	CIGAR LIGHTER Includes Ash Cup
8GXD	ALTERNATOR {Leece-Neville AVI160P2013} Brush Type; 12 Volt 160 Amp. Capacity, Pad Mount, with Remote Sense
8HAB	BODY BUILDER WIRING Back of Standard Cab at Left Frame or Under Extended or Crew Cab at Left Frame; Includes Sealed Connectors for Tail/Amber Turn/Marker/ Backup/Accessory Power/Ground and Sealed Connector for Stop/Turn
8MEZ	BATTERY SYSTEM {International} Maintenance-Free, (2) 12-Volt 1850CCA Total
8RKB	RADIO {Panasonic CQ120} AM/FM, Includes Multiple Speakers, Includes Auxiliary Input

Code	Description
	Includes : SPEAKERS IN CAB (2) Dual-Cone with Deluxe Interior : SPEAKERS IN CAB (4) Coaxial with Premium Interior
8TKB	STOP, TURN, TAIL & B/U LIGHTS {Truck Lite} Super 44, with LED Lights for Stop, Turn & Tail Lights and Truck Lite Super 40 for Backup Lights, with Power Module, "International" Termination and Less Junction Box
8TMG	TRAILER CONNECTION SOCKET 7-Way; Mounted at Rear of Frame, Wired for Turn Signals Combined with Stop, Compatible with Trailers That Use Combined Stop, Tail, Turn Lamps
8VAY	HORN, ELECTRIC Disc Style
8VUJ	BATTERY BOX Steel with Plastic Cover, 18" Wide, 2, 3, or 4 Battery Capacity, Mounted Right Side Back of Cab
8WCL	HORN, AIR Black, Single Trumpet, Air Solenoid Operated
8WGL	WINDSHIELD WIPER SPD CONTROL Force Wipers to Slowest Intermittent Speed When Park Brake Set and Wipers Left on for a Predetermined Time
8WPH	CLEARANCE/MARKER LIGHTS (5) {Truck Lite} Amber LED Lights, Flush Mounted on Cab or Sunshade
8WPZ	TEST EXTERIOR LIGHTS Pre-Trip Inspection will Cycle all Exterior Lamps Except Back-up Lights
8WRB	HEADLIGHTS ON W/WIPERS Headlights Will Automatically Turn on if Windshield Wipers are turned on
8WTK	STARTING MOTOR {Delco Remy 38MT Type 300} 12 Volt; less Thermal Over-Crank Protection
8WWJ	INDICATOR, LOW COOLANT LEVEL with Audible Alarm
8WXD	ALARM, PARKING BRAKE Electric Horn Sounds in Repetitive Manner When Vehicle Park Brake is "NOT" Set, with Ignition "OFF" and any Door Opened
8XAH	CIRCUIT BREAKERS Manual-Reset (Main Panel) SAE Type III with Trip Indicators, Replaces All Fuses
8XGT	TURN SIGNALS, FRONT Includes LED Side Turn Lights Mounted on Fender
9HAN	INSULATION, UNDER HOOD for Sound Abatement
9HAT	GRILLE Stationary, with Vendor Painted Grille & Headlight Bezels, Argent NAV 8752
9HBN	INSULATION, SPLASH PANELS for Sound Abatement
9WBC	FRONT END Tilting, Fiberglass, with Three Piece Construction; for WorkStar
10060	PAINT SCHEMATIC, PT-1 Single Color, Design 100
	Includes : PAINT SCHEMATIC ID LETTERS "GM"
10761	PAINT TYPE Base Coat/Clear Coat, 1-2 Tone
10WJH	PROMOTIONAL PACKAGE Government and Municipal Silver Package; Two Year Limited Subscription of On-Command Service Information (Formerly Fleet ISIS), and On-Command Parts Information (Formerly Fleet Parts Catalog), Requires Specific Feature Combinations
11001	CLUTCH Omit Item (Clutch & Control)
12703	ANTI-FREEZE Red, Extended Life Coolant; To -40 Degrees F/ -40 Degrees C, Freeze Protection
12EHU	ENGINE, DIESEL {Cummins L9 300} EPA 2017, 300HP @ 2000 RPM, 860 lb-ft Torque @ 1300 RPM, 2200 RPM Governed Speed, 300 Peak HP (Max)
12THT	FAN DRIVE {Horton Drivemaster} Direct Drive Type, Two Speed with Residual Torque Device for Disengaged Fan Speed
	Includes

Code	Description
	: FAN Nylon
12UWY	RADIATOR Cross Flow, Series System; 1228 SqIn Aluminum Radiator Core and 1167 SqIn Charge Air Cooler
	Includes : DEAERATION SYSTEM with Surge Tank : HOSE CLAMPS, RADIATOR HOSES Gates Shrink Band Type; Thermoplastic Coolant Hose Clamps : RADIATOR HOSES Premium, Rubber
12VBC	AIR CLEANER Single Element
	Includes : GAUGE, AIR CLEANER RESTRICTION Air Cleaner Mounted
12VXT	THROTTLE, HAND CONTROL Engine Speed Control; Electronic, Stationary, Variable Speed; Mounted on Steering Wheel
12VYP	ENGINE CONTROL, REMOTE MOUNTED - No Provision Furnished for Remote Mounted Engine Control
12WZE	EMISSION COMPLIANCE Federal, Does Not Comply with California Clean Air Idle Regulations
12XZG	FEDERAL EMISSIONS {Cummins L9} EPA, OBD and GHG Certified for Calendar Year 2017
13AVG	TRANSMISSION, AUTOMATIC {Allison 3500 RDS} 5th Generation Controls, Wide Ratio, 5-Speed with Overdrive, with PTO Provision, Less Retarder, Includes Oil Level Sensor, with 80,000-lb GVW and GCW Max, On/Off Highway
13WAW	OIL COOLER, AUTO TRANSMISSION {Modine} Water to Oil Type
13WBL	TRANSMISSION SHIFT CONTROL {Allison} Push-Button Type; for Allison 3000 & 4000 Series Transmission
13WLP	TRANSMISSION OIL Synthetic; 29 thru 42 Pints
13WUC	ALLISON SPARE INPUT/OUTPUT for Rugged Duty Series (RDS); General Purpose Trucks, Construction
13WYU	SHIFT CONTROL PARAMETERS Allison 3000 or 4000 Series Transmissions, 5th Generation Controls, Performance Programming
13XAA	PTO CONTROL, DASH MOUNTED For Customer Provided PTO; Includes Switch, Electric/Air Solenoid, Piping and Wiring
13XAM	PTO LOCATION Dual, Left and Right Side of Transmission
14GVY	AXLE, REAR, TANDEM {Meritor MT-40-14X-4DFR} Single Reduction, 40,000-lb Capacity, 0.433"(11mm) Wall Housing Thickness, R Wheel Ends . Gear Ratio: 4.63
	Includes : POWER DIVIDER LOCK Electric over Air Operated, Cab Control with Indicator Light : REAR AXLE DRAIN PLUG (2) Magnetic, For Tandem Rear Axle
	Notes : The following features should be considered when calculating Rear GAWR: Rear Axles; Rear Suspension; Brake System; Brakes, Rear Air Cam; Brake Shoes, Rear; Special Rating, GAWR; Wheels; Tires.
14UHC	SUSPENSION, REAR, TANDEM {Hendrickson RT-403} Walking Beam Type 52" Axle Spacing; 40,000-lb Capacity with Rubber Center Bushings
	Includes : CROSSMEMBER, SUSPENSION Stamped Steel Double Dogbone
	Notes : The following features should be considered when calculating Rear GAWR: Rear Axles; Rear Suspension; Brake System; Brakes, Rear Air Cam; Brake Shoes, Rear; Special Rating, GAWR; Wheels; Tires.
14WAL	SUSPENSION/REAR-AXLE IDENTITY for Meritor Tandem Rear Axles with Bar-Pin Beam Attachment Type Suspensions

Code	Description
15LMR	FUEL/WATER SEPARATOR {Racor 400 Series,} Unheated, with Primer Pump, and WIF Sensor
15LMW	LOCATION FUEL/WATER SEPARATOR Mounted Outside Left Rail, 34" Back of Cab
15SGD	FUEL TANK Top Draw, Non-Polished Aluminum, D-Style, 19" Tank Depth, 100 US Gal (379L), Mounted Left Side, Under Cab
15WDG	DEF TANK 7 U.S. Gal. 26.5L Capacity, Frame Mounted Outside Left Rail, Under Cab
16030	CAB Conventional Includes : ARM REST (2) Molded Plastic; One Each Door : COAT HOOK, CAB Located on Rear Wall, Centered Above Rear Window : CUP HOLDERS Two Cup Holders, Located in Lower Center of Instrument Panel : DOME LIGHT, CAB Rectangular, Door Activated and Push On-Off at Light Lens, Timed Theater Dimming, Integral to Console, Center Mounted : GLASS, ALL WINDOWS Tinted : GRAB HANDLE, CAB INTERIOR (1) "A" Pillar Mounted, Passenger Side : GRAB HANDLE, CAB INTERIOR (2) Front of "B" Pillar Mounted, One Each Side : INTERIOR SHEET METAL Upper Door (Above Window Ledge) Painted Exterior Color : STEP (4) Two Steps Per Door
16HBA	GAUGE CLUSTER English with English Electronic Speedometer Includes : GAUGE CLUSTER (6) Engine Oil Pressure (Electronic), Water Temperature (Electronic), Fuel (Electronic), Tachometer (Electronic), Voltmeter, Washer Fluid Level : ODOMETER DISPLAY, Miles, Trip Miles, Engine Hours, Trip Hours, Fault Code Readout : WARNING SYSTEM Low Fuel, Low Oil Pressure, High Engine Coolant Temp, and Low Battery Voltage (Visual and Audible)
16HGH	GAUGE, OIL TEMP, AUTO TRANS for Allison Transmission
16HKT	IP CLUSTER DISPLAY On Board Diagnostics Display of Fault Codes in Gauge Cluster
16HLJ	GAUGE, DEF FLUID LEVEL
16JNT	SEAT, DRIVER {National 2000} Air Suspension, High Back with Integral Headrest, Vinyl, Isolator, 1 Chamber Lumbar, with 2 Position Front Cushion Adjust, -3 to +14 Degree Angle Back Adjust Includes : SEAT BELT 3-Point, Lap and Shoulder Belt Type
16LUM	SEAT, PASSENGER {National} Non Suspension, High Back with Integral Headrest, Vinyl, with Fixed Back, with Under Seat Storage
16SDZ	MIRROR, CONVEX, HOOD MOUNTED {Lang Mekra} Right and Left Side; 7.44" Sq., Bright
16SNA	MIRRORS (2) {Lang Mekra} Rectangular, Black Heads, Brackets and Arms, Breakaway Type, 7.55" x 14.1" Integral Convex Both Sides, 102" Inside Spacing
16WCT	AIR CONDITIONER {Blend-Air} with Integral Heater & Defroster Includes : HEATER HOSES Premium : HOSE CLAMPS, HEATER HOSE Mubea Constant Tension Clamps : REFRIGERANT Hydrofluorocarbon HFC-134A
16WJS	INSTRUMENT PANEL Center Section, Flat Panel
16WKY	HVAC FRESH AIR FILTER
16WLM	HOURMETER, PTO for Customer Provided PTO; with Indicator Light and Hourmeter in Gauge Cluster Includes Return Wire for PTO Feedback Switch

Code	Description
16WRX	CAB INTERIOR TRIM Deluxe Includes : CAB INTERIOR TRIM PANELS Cloth Covered Molded Plastic, Full Height; All Exposed Interior Sheet Metal is Covered Except for the Following: with a Two-Man Passenger Seat or with a Full Bench Seat the Back Panel is Completely Void of Covering : CONSOLE, OVERHEAD Molded Plastic; With Dual Storage Pockets with Retainer Nets and CB Radio Pocket : DOOR TRIM PANELS Molded Plastic; Driver and Passenger Doors : FLOOR COVERING Rubber, Black : HEADLINER Soft Padded Cloth : INSTRUMENT PANEL TRIM Molded Plastic with Black Center Section : STORAGE POCKET, DOOR (1) Molded Plastic, Full-Length; Driver Door : SUN VISOR (2) Padded Vinyl with Driver Side Toll Ticket Strap, Integral to Console
16WSK	CAB REAR SUSPENSION Air Bag Type
27DUK	WHEELS, FRONT {Accuride 29169} DISC; 22.5x8.25 Rims, Powder Coat Steel, 5-Hand Hole, 10-Stud, 285.75mm BC, Hub-Piloted, Flanged Nut, with .472" Thick Increased Capacity Disc and Steel Hubs
28DUK	WHEELS, REAR {Accuride 29169} DUAL DISC; 22.5x8.25 Rims, Powder Coat Steel, 5-Hand Hole, 10-Stud, 285.75mm BC, Hub-Piloted, Flanged Nut, with .472" Thick Increased Capacity Disc and Steel Hubs
7372135415	(2) TIRE, FRONT 11R22.5 Load Range G HSR2 (CONTINENTAL), 498 rev/mile, 75 MPH, All-Position
7372135423	(8) TIRE, REAR 11R22.5 Load Range G HDR2 (CONTINENTAL), 491 rev/mile, 75 MPH, Drive
	Services Section:
40115	WARRANTY Standard for WorkStar 7300/7400 (4x2, 4x4, 6x4, 6x6), Effective with Vehicles Built January 2, 2015 or Later, CTS-2002U
1	Warren Dump Body. Quote # 7751

Financial Summary
2018 7400 SFA 6X4 (SF525)

(US DOLLAR)

Description	Price
Net Sales Price:	$105,305.00

Please feel free to contact me regarding these specifications should your interests or needs change. I am confident you will be pleased with the quality and service of an International vehicle.

Approved by Seller:

Official Title and Date

Authorized Signature

This proposal is not binding upon the seller without Seller's Authorized Signature

Accepted by Purchaser:

Firm or Business Name

Authorized Signature and Date

Official Title and Date

The TOPS FET calculation is an estimate for reference purposes only. The seller or retailer is responsible for calculating and reporting/paying appropriate FET to the IRS.

Quotation

Central Texas Equipment

Construction Equipment * Sales * Rental * Parts * Service

Date	QUOTE #
10/16/2017	6328

Customer
CITY OF FREDERICKSBURG 126 W. MAIN STREET FREDERICKSBURG, TX 78624

P.O. No.	Terms	Rep	FOB
	NET 30	JTW	OUR STORE

Qty	Item	Description	U/M	Cost	Total
2	MB1548	ONE (1) NEW SOLAR TECH MODEL MB-1548 SOLAR POWERED MESSAGE BOARD WITH 126"X76" FULL MATRIX DISPLAY BOARD, ON BOARD BATTERY CHARGER, INTERIOR BATTERY VANDAL GUARD, EXTERNAL VANDAL GUARD ON THE CONTROLLER BOX AND ALL OTHER STANDARD EQUIPMENT. BOTH UNITS COME WITH A MODEM & GPS (INCLUDES 5 YEARS OF SERVICE AND FREE SOFTWARE UPGRADES) ALL SOLARTECH MESSAGE BOARS COME WITH A 5 YEAR BUMPER TO BUMPER PARTS WARRANTY ON ENTIRE MACHINE. Current Lead Times: MB1548 - 1-2 weeks upon receipt of order PRICING IS PER BUYBOARD CONTRACT # 515-16, SECT.47 "OTHER CONSTRUCTION EQUIPMENT"		16,950.00	33,900.00

Price is valid for 30 days from date of quotation

Subtotal	$33,900.00
Sales Tax (0.0%)	$0.00
Total	$33,900.00

Web Site	Phone #	Fax #
www.ctegroup.net	512-442-2371	512-442-3051

Accepted By Signature: _____

CITY COUNCIL MEMO

DATE: November 6, 2017

TO: Mayor and City Council

FROM: Clinton Bailey, P.E., Director of Public Works and Utilities

SUBJECT: City of Fredericksburg Water Supply Update

Summary:

This agenda item will in include a presentation and discussion by City Staff regarding the City of Fredericksburg Water Supply.

Recommendation:

n/a

Background / Analysis:

City Staff will provide a brief presentation on the status of the City of Fredericksburg water supply including:

1. Local rainfall and drought conditions
2. City of Fredericksburg current water well levels, trends and history
3. Water conservation program

The City of Fredericksburg

126 W. Main St. • Fredericksburg, Texas 78624-3708 • (830) 997-7521 • Fax (830) 997-1861

4. Water demand and supply

Attachments: none

Department Approval

City Manager Approval

The City of Fredericksburg

126 W. Main St. • Fredericksburg, Texas 78624-3708 • (830) 997-7521 • Fax (830) 997-1861