

City of Uvalde
CITY COUNCIL
AGENDA

SPECIAL MEETING
Monday, December 28, 2015
12:00 p.m.



COUNCILMEMBERS:

Don McLaughlin, Jr., Mayor
Margaret Palermo - District 1
John H. Flores, Jr. – District 2
Rogelio M. Munoz – District 3
Stephen E. Balke – District 4
Ernest W. “Chip” King, III – District 5

**CITY OF UVALDE, TEXAS
SPECIAL CITY COUNCIL MEETING
12:00 P.M., MONDAY, DECEMBER 28, 2015**

CITY HALL – COUNCIL CHAMBERS

AGENDA

1. CALL MEETING TO ORDER

2. INVOCATION

3. PLEDGE OF ALLEGIANCE

4. EXECUTIVE SESSION

The City Council of the City of Uvalde, Texas, will convene into executive session in accordance with the purposes permitted by the Open Meetings Act:

4A. Pursuant to Section 551.071 and Section 551.072, Texas Government Code, and Section 1.05, Texas Disciplinary Rules of Professional, to deliberate the acquisition, exchange and value of real property and to consult with legal counsel regarding legal issues related to a lease agreement, the acquisition of real property.

5. RECONVENE FROM EXECUTIVE SESSION

5A. Matters related to property lease and exchange with Glenn and Deborah McDonald:

1. Consider and act on Farm Lease Agreement
2. Consider and act on Real Property Exchange Agreement

6. ADJOURNMENT

Certificate: I certify that the above and foregoing notice was posted in compliance with 551.043, Texas Government Code at 10:00 a.m. on December 23, 2015.



Vince DiPiazza, City Manager

City Hall Municipal Building is wheelchair accessible with accessed and special parking available on the West Side of the Building. The Council Chamber is accessible by elevator to the second floor. Requests for special services must be received forty-eight (48) hours prior to meeting time by calling City Hall (830) 278-3315. In this Notice of Open Meeting, the posting of an agenda item as a matter to be discussed in open session is not intended to limit or require discussion of that matter in open session if it is otherwise appropriate to discuss the matter in executive session. If, during the discussion of any agenda item, a matter is raised that is appropriate for discussion in executive session the council may, as permitted by law, convene into executive session to deliberate on the matter.

The posting of an agenda item as a matter to be discussed in executive session is not intended to limit or require discussion of that matter in executive session. The council may discuss in open session any matter for which notice has been given in this notice of open meeting including an agenda item posted for executive session. In no event, however, will the council take action on any agenda item in executive session, whether it is posted for open or executive session discussion.

CERTIFICATION

I, the undersigned authority, do hereby certify that the attached agenda of meeting of the City of Uvalde City Council is a true and correct copy and that I posted a true and correct copy of said notice on two glass public notice cases at City Hall, readily accessible to the general public at all times, and said Notice was posted on the 23rd day of December 2015 and will remain so posted continuously for at least 72 hours preceding the scheduled time of said meeting in accordance with Chapter 551 of the Texas Government Code.



Susan M. Stewart, City Secretary

I certify that the attached agenda of items to be considered by the City Council was removed by me from the City of Uvalde City Hall glass public notice cases on the _____ day of _____, 2015.

Title: _____

FARM LEASE AGREEMENT

This Lease Agreement ("Lease") is entered into between Landlord and Tenant effective as of the first day of the Lease Term with respect to the lease of the Premises, all as defined and set forth below.

1. BUSINESS TERMS AND DEFINITIONS

1.1 *Business Terms.*

Commencement Date: _____, 2015

Landlord: The City of Uvalde, a home-rule municipality organized under the laws of the State of Texas.

Landlord's Mailing Address: PO Box 799, Uvalde, Uvalde County, Texas 78802.

Tenant: Glenn A. McDonald

Tenant's Mailing Address: 301 Saunders Lane, Uvalde, Uvalde County, Texas 78801.

Premises: The surface estate only in 60 acres, more or less, in Uvalde County, Texas, described in Exhibit A which is attached to and made a part of this Lease, together with all improvements on and rights and appurtenances to that land.

Base Rent: \$720 per Lease Year.

Lease Term: The period commencing on the Commencement Date, and expiring (except with respect to the renewal term described below), unless sooner terminated, _____, 2025. Provided Tenant has not been sent a Notice of Default Letter and is not in default under the terms of this Lease on _____, 2025, Tenant may renew this Lease, on the same terms and conditions for an additional term of ten (10) years, expiring on _____, 2035.

Permitted Use: Farming and agricultural purposes, and uses normally incident thereto, and no other purpose.

1.2 *Definitions.*

"Landlord" means Landlord and Landlord's agents, employees, invitees, licensees, or visitors.

"Rent" means Base Rent and Additional Rent.

"Tenant" means Tenant and Tenant's agents, employees, invitees, licenses, and visitors.

"Governmental Requirements" means any and all laws, statutes, ordinances, rules, regulations, orders, or determinations of any governmental authority, whether federal, state, county, city, or otherwise, pertaining to health, safety, or the environment, including without limitation: (i) the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 *et seq.*), as amended from time to time including without limitation as amended by the Used Oil Recycling Act of 1980, the Solid Waste Disposal Act Amendments of 1980, and the Hazardous and Solid Waste Disposal Act Amendments of 1980, and the Hazardous and Solid Waste Amendments of 1984 ("RCRA"), and regulations promulgated thereunder; (ii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42U.S.C. § 9601 *et seq.*), as amended from time to time, including without limitation as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), and regulations promulgated thereunder, (iii) the Toxic Substances Control Act (15 U.S.C. § 2601 *et seq.*), as amended from time to time; (iv) the Endangered Species Act (15 U.S.C. § 1531 *et seq.*), as amended from time to time; (v) laws, statutes, ordinances, rules, regulations, orders, or determinations relating to "wetlands", including without limitation those set forth in the Clean Water Act (33 U.S.C. § 1251 *et seq.*), as amended from time to time; (vi) the Texas Water Code, as amended from time to time; and (vii) the Texas Solid Waste Disposal Act (TEX. HEALTH & SAFETY CODE ANN. §§ 361.001-361.345), as amended from time to time.

"Hazardous Materials" means (I) any "hazardous waste" as defined by RCRA, and regulations promulgated thereunder; (ii) any "hazardous substance" as defined by CERCLA, and regulations promulgated thereunder; (iii) any toxic substance as defined under or regulated by the Toxic Substances Control Act; (iv) asbestos, polychlorinated biphenyls, radon, or explosive or radioactive materials; (v) underground and above ground storage tanks, whether empty, filled or partially filled with any substance, including without limitation any petroleum product or any other "hazardous substance"; (vi) any substance the presence of which on the Premises is prohibited by any Governmental Requirements; and (vii) any other substance which by any Governmental Requirements requires special handling or notification of any federal, state, or local governmental entity in its collection, storage, treatment, or disposal.

2. GRANT OF LEASE; USE

2.1 *Grant of Leasehold.* Subject to (i) Tenant's strict compliance with the terms, provisions, conditions, and covenants of this Lease, and (ii) all liens, encumbrances, easements, restrictions, and other matters now or hereafter of record affecting the Premises, Landlord leases the Premises to Tenant and Tenant leases the Premises from Landlord for the Lease Term. As long as Tenant is not in default under this Lease, Tenant will be entitled to farm program payments, if any, that accrue to the Premises during the Lease Term.

2.2 *Use.* Tenant covenants that Tenant will –

- (1) use the Premises only for the Permitted Use, and for no other purpose.
- (2) not commit or permit any waste on the Premises, nor use the Premises for any unlawful purpose.
- (3) comply, at Tenant's risk and expense, with all Governmental Requirements applicable to the use, condition, and occupancy of the Premises, including the rules and regulations of the United States Department of Agriculture, the Texas Agriculture Commissioner, TCEQ and EAA.
- (4) cultivate the Premises as a reasonably prudent Tenant would.

2.3 *Assignment.* Tenant may not assign this Lease nor sublet all or any portion of the Premises without the prior written consent of Landlord, which Landlord may withhold for any reason, or for no reason at all, in Landlord's sole discretion.

2.4 *Surrender.* Upon expiration or termination of the Lease Term Tenant covenants that Tenant will promptly vacate and surrender the Premises to Landlord in as good condition as when received, ordinary wear and tear excepted. All of Tenant's property left on the Premises after expiration of the Lease Term will be deemed to be abandoned property and may be handled, removed, or otherwise disposed of by Landlord at Tenant's risk and expense, and Landlord will never be liable to Tenant for any property or for the value of any property left on the Premises by Tenant.

2.5 *Holding Over.* If Tenant holds over after the expiration of the Lease Term with Landlord's written consent, the holding over will be a tenancy from month-to-month, terminable on 30 days' advance written notice by either party, at the monthly rental specified in the written consent. If Tenant holds over after the expiration of the Lease Term without Landlord's written consent, Tenant will be a tenant at the sufferance of Landlord, Tenant shall pay on the first day of each month during the holding over an amount equal to \$600.00 per month, and shall be liable for any damages suffered by Landlord because of Tenant's holding over. Landlord does not waive any of Landlord's remedies against Tenant in the event of a holding over without Landlord's written consent. A holding over will be on the same terms and conditions as provided in this Lease, except (i) the Lease Term; (ii) Base Rent; (iii) any express or implied covenant of quiet enjoyment, which is deleted and/or disclaimed; and (iv) the option to renew, which is deleted.

3. BASE AND ADDITIONAL RENT

3.1 *Payment of Base Rent.* Tenant agrees to and shall pay the Base Rent to Landlord, at Landlord's Mailing Address, in advance without prior demand, notice, deduction, or set-off, on the Commencement Date.

3.2 *Additional Rent.* The following items, as well as other all sums of money payable by Tenant to Landlord under this Lease except Base Rent are "Additional Rent," payable semi-annually with installments of Base Rent unless otherwise specifically provided in this section 3.2 or elsewhere in this Lease:

(a) *Personal Property Taxes.* Tenant agrees to and shall pay directly to the appropriate taxing authority when due all taxes imposed against Tenant's crops and personal property used or located on the Premises.

(b) *Utilities Charges.* Tenant will obtain and pay directly to the appropriate supplier the cost of all natural gas, electric power and other utilities and services used by Tenant. Landlord will not be liable for any interruption whatsoever in utilities services. No failure, interruption, or cessation of utilities services will be deemed an eviction of Tenant nor cause an abatement of rent or relieve Tenant from fulfillment of any of Tenant's obligations hereunder.

(c) *Repairs.* Tenant shall pay when due, directly to the service provider or by reimbursement to Landlord, whichever is applicable, the cost of all repairs required to be performed by Tenant pursuant to section 5.2 of this Lease.

3.3 *Late Charges.* If any installment of Base Rent or Additional Rent is not paid within 30 days of its due date, a late charge of 5.00% of the delinquent amount of Base Rent or Additional Rent will become immediately due and payable.

4. INSURANCE AND INDEMNITY

4.1 *Scope of Indemnities and Waivers.* All indemnities, waivers, and obligations to defend, wherever contained in this Lease, are independent of, and will not be limited by, each other or any insurance obligations in this Lease (whether or not complied with), and will survive the expiration or sooner termination of the Lease Term until all related claims against Landlord are fully and finally barred by applicable law. All applicable law affecting the validity or enforceability of any waiver, indemnity, or obligation to defend contained in this Lease is made a

part of such provision and will operate to amend such indemnity, waiver, or obligation to defend to the minimum extent necessary to bring the provision into conformity with applicable law and cause the provision, as modified, to continue in full force and effect. **ALL INDEMNITIES, WAIVERS, AND OBLIGATIONS TO DEFEND CONTAINED IN SECTION 4.2 WILL BE ENFORCED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW FOR THE BENEFIT OF THE BENEFICIARY THEREOF, EVEN IF THE APPLICABLE CLAIM IS CAUSED BY THE ACTIVE OR PASSIVE NEGLIGENCE OR SOLE, JOINT, CONCURRENT, OR COMPARATIVE NEGLIGENCE OF THE BENEFICIARY, AND REGARDLESS OF WHETHER LIABILITY WITHOUT FAULT OR STRICT LIABILITY IS IMPOSED ON OR ALLEGED AGAINST THE BENEFICIARY, BUT WILL NOT BE ENFORCED TO THE EXTENT THAT A COURT OF COMPETENT JURISDICTION HOLDS IN A FINAL JUDGMENT THAT A CLAIM WAS CAUSED BY THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF THE BENEFICIARY.**

4.2 *Indemnity and Waiver.* **TENANT WAIVES AS TO LANDLORD, AND WILL INDEMNIFY AND DEFEND LANDLORD AGAINST, ALL CLAIMS ARISING, OR ALLEGED TO HAVE ARISEN, FROM (A) INJURY SUFFERED BY ANY PARTY AND OCCURRING IN THE PREMISES; (B) INJURY CAUSED BY TENANT OR AN EMPLOYEE, AGENT, CONTRACTOR, LICENSEE, OR INVITEE OF TENANT AND OCCURRING OUTSIDE THE PREMISES; AND (C) HARM TO, IMPAIRMENT OR LOSS OF, OR IMPAIRMENT OR LOSS OF USE OF, PROPERTY, INCLUDING INCOMES, SUFFERED BY ANY PARTY INSIDE THE PREMISES OR CAUSED OR SUFFERED BY TENANT OR AN EMPLOYEE, AGENT, CONTRACTOR, LICENSEE, OR INVITEE OF TENANT AND OCCURRING OUTSIDE THE PREMISES.**

4.3 *Tenant's Insurance.* Tenant will, at Tenant's sole expense, procure and maintain fire and casualty insurance covering improvements on the Premises, and commercial general liability insurance covering the Premises in at least the amounts of \$1,000,000.00 per occurrence, \$1,000,000 aggregate, and \$150,000 property damage and will name Landlord as an additional insured.

4.4 *Special Remedy.* Tenant's failure to obtain and maintain the required insurance coverage will constitute a material breach of, and a default under, this Lease. If Tenant fails to remedy such breach within 5 days after notice from Landlord, Landlord may, in addition to any other remedy available to Landlord, at Landlord's option, purchase such insurance at Tenant's expense, and Tenant will reimburse Landlord on demand for the cost thereof. Tenant will indemnify Landlord against any claims arising from Tenant's failure to purchase or maintain the insurance coverages required by section 4.3.

4.5 *General Insurance Requirements.* All policies of insurance required to be maintained by Tenant under this Lease must (I) be issued by carriers admitted to engage in the business of insurance in the State of Texas; (ii) be endorsed to be primary with all Landlord's policies being secondary, excess, and non-contributing; (iii) be endorsed to provide a waiver of subrogation in favor of Landlord; (iv) be endorsed to include Landlord as an "additional insured" (the additional insured status under the commercial general liability policy will be provided on ISO form CG 2026 1185); and (v) contain a provision for 30 days' prior written notice by the carrier to Landlord required for cancellation, non-renewal, or substantial modification). If requested by Landlord, Tenant will provide to Landlord a certified copy of any or all insurance policies and endorsements required by this Lease.

4.6 *Waiver of Subrogation.* **LANDLORD AND TENANT RELEASE EACH OTHER (AND ANY LIENHOLDER) FROM ALL CLAIMS OR LIABILITIES FOR DAMAGE TO THE PREMISES OR PROJECT, DAMAGE TO OR LOSS OF PERSONAL PROPERTY WITHIN THE PREMISES OR PROJECT, AND LOSS OF BUSINESS OR REVENUES, THAT ARE COVERED BY THE RELEASING PARTY'S PROPERTY INSURANCE (OR THAT WOULD HAVE BEEN COVERED BY THE REQUIRED INSURANCE, IF THE PARTY FAILS TO MAINTAIN THE PROPERTY COVERAGES REQUIRED BY THIS LEASE. THE PARTY INCURRING THE DAMAGE OR LOSS WILL BE RESPONSIBLE FOR ANY DEDUCTIBLE OR SELF-INSURED RETENTION UNDER ITS PROPERTY INSURANCE. LANDLORD AND TENANT WILL NOTIFY THE ISSUING PROPERTY INSURANCE COMPANIES OF THE RELEASE SET FORTH IN THIS SECTION AND WILL HAVE THE PROPERTY INSURANCE POLICIES ENDORSED, IF NECESSARY, TO PREVENT INVALIDATION OF COVERAGE. THIS RELEASE WILL NOT APPLY IF IT INVALIDATES THE PROPERTY**

INSURANCE COVERAGE OF THE RELEASING PARTY. **THE RELEASE IN THIS SECTION WILL APPLY EVEN IF THE DAMAGE OR LOSS IS CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR STRICT LIABILITY OF THE RELEASED PARTY, BUT WILL NOT APPLY TO THE EXTENT THE DAMAGE OR LOSS IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE RELEASED PARTY.**

5. CONDITION OF PREMISES; MAINTENANCE, ALTERATION, AND REPAIRS

5.1 *Disclaimer of Warranties; Acceptance of Property Condition.* Tenant acknowledges that Landlord has neither made nor makes any representation or warranty with respect to the condition of the Premises or their suitability for the Permitted Use, and **ALL IMPLIED WARRANTIES WITH RESPECT TO SUITABILITY, HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PREMISES OR ANY PART OR COMPONENT OF THE PREMISES ARE EXPRESSLY DISCLAIMED.** The taking of possession of the Premises by Tenant shall be conclusive evidence, as against Tenant, that Tenant accepts the Premises, and that the Premises were in good and satisfactory condition at the time possession was taken.

5.2 *Repairs and Maintenance.* Tenant will maintain in good repair and condition all above-ground components of wells on the Premises; Landlord will repair and maintain underground components of wells. Tenant will maintain in good repair, condition, and order (ordinary wear and tear excepted) every other part of the Premises and improvements, including pivot sprinklers and underground irrigation pipe. If any portion of the Premises or any mechanical system which Tenant is obligated to repair cannot be fully repaired, Tenant shall promptly replace such portion regardless of whether the benefit of the replacement extends beyond the Lease Term.

5.3 *Tenant's Failure to Repair or Maintain.* If Tenant fails to maintain and repair the Premises as required by this Lease, Landlord may, on 10 days' prior notice (except that no notice is required in the event of an emergency), enter the Premises and perform such maintenance or repairs in Tenant's behalf, and Tenant shall reimburse Landlord upon demand for all costs incurred by Landlord in performing such maintenance and repairs, together with interest at the rate of 18 percent per year from the date of demand until paid. Any such failure to repair or maintain by Tenant that remains so thirty (30) days after written notice from Landlord shall be an Event of Default allowing Landlord to immediately terminate this Lease and evict Tenant pursuant to section 6.2(b) hereof.

5.4 *Alterations.* Tenant shall not make or allow to be made any alterations, additions, or improvements to the Premises without Landlord's prior written consent. Consent will not be unreasonably withheld. Unless otherwise agreed to in writing by Landlord, any alterations, additions, or improvements made by Tenant shall be surrendered with the Premises and become the property of Landlord upon the expiration or sooner termination of this Lease, without compensation or credit to Tenant. Landlord may require Tenant to remove any alterations installed or made by Tenant upon termination of this Lease; in that event, Tenant agrees to remove such alterations and repair any damages caused to the Premises by the removal, each within ten (10) days from any written request from Landlord and the failure to do so by Tenant shall entitle Landlord to consequential damages. Tenant has no authority, express or implied, to create or cause any mechanic's or materialman's lien, charge, or encumbrance of any kind against the Premises or any part of it. Tenant shall promptly cause any such liens that have arisen by reason of any work claimed to have been undertaken by or through Tenant to be released by payment, bonding, or otherwise within 30 days following a request by Landlord, and shall indemnify Landlord against any losses, including, without limitation, attorney's fees and litigation costs, arising out of any such claim. Any and all alterations, additions, or improvements made by Tenant shall be accomplished in a good and workmanlike manner, in compliance with all applicable legal requirements.

6. DEFAULTS AND REMEDIES

6.1 *Tenant's Default.* For each written notice of default that Landlord sends to Tenant in connection with Tenant's breach of any obligation or condition of this Lease, Tenant shall pay to Landlord, as additional Rent

the sum of \$250.00, to defray the administrative and legal costs of giving the notice, due and payable by Tenant within 10 days after demand. Each of the following is a default by Tenant under this Lease:

(a) *Failure to Pay Rent.* If Tenant fails to pay any installment of Rent required to be paid by Tenant hereunder, and such failure continues for a period of 30 days after written notice by Landlord to Tenant.

(b) *Breach of Covenants.* If Tenant fails to comply with any covenant, obligation or other express term required to be kept or performed by Tenant hereunder, other than a covenant to pay money, and such failure continues for a period of 30 days after written notice by Landlord to Tenant, or, if the failure cannot reasonably be cured within such 30-day period, if Tenant fails to commence corrective action within such 30-day period and diligently prosecutes it to completion.

(c) *Insolvency.* If Tenant becomes insolvent, makes an assignment for the benefit of creditors, or makes a transfer in fraud of creditors, or if a court of competent jurisdiction orders the appointment of a receiver for all or substantially all of Tenant's assets.

(d) *Groundwater.* No groundwater is let with this Lease and Tenant shall have no right to use any of Landlord's water.

6.2 *Landlord's Remedies.* If Tenant is in default, Landlord may, in addition to and cumulative of any other rights that Landlord may have at law or in equity, at Landlord's option, do any one or more of the following:

(a) *Reentry Without Terminating.* Without terminating the Lease, terminate Tenant's right to possession of the Premises, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy Landlord may have for possession or arrearages in Rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim of damages therefor, and Tenant agrees to pay Landlord upon demand the amount of all loss and damage which Landlord may suffer by reason of such reentry and reletting the Premises, including repair costs.

(b) *Termination of Lease.* Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to immediately surrender the Premises Landlord may, without prejudice to any other remedy Landlord may have for possession or arrearages in Rent, enter into and take possession of the Premises and expel Tenant and any other person claiming under Tenant without being liable for any claim for damages. Tenant agrees to pay on demand to Landlord the amount of loss suffered by Landlord for any reason due to Tenant's failure to immediately surrender the Premises upon termination of the Lease, including damages for Landlord's inability to relet the Premises due to such failure to surrender and Tenant agrees to pay Landlord upon demand the amount of all loss and damage which Landlord may suffer by reason of such reentry and reletting the Premises, including repair costs.

(c) *Suit for Rent.* If Landlord terminates Tenant's right to possession of the Premises under section 6.2(a), above, Tenant covenants and agrees that, in addition to Tenant's liability for payment of Rent and any other sum then due and owing under this Lease, Landlord may recover from Tenant all damages Landlord may suffer by reason of such breach, including the amount of all Rent, insurance, and other charges which Tenant would have periodically during the Lease Term prior to the reletting of the Premises. Tenant shall pay to Landlord as damages on the same day as payments of Base Rent are due the total amount of such Rent until such time as Landlord relets the Premises, or until such time as Landlord shall, prior to reletting, make a demand for final settlement. In addition, Landlord shall be entitled to either of the following means of recovering Landlord's damages:

(1) After the Premises have been relet, Tenant shall pay to Landlord on the first day of each of the remaining rental periods as damages for the breach of this Lease

the difference between the Rent provided for in this Lease for such period and the rent actually collected by Landlord for such period. If it is necessary for Landlord to bring suit to collect any such deficiency, Landlord has the right to allow such deficiencies to accumulate and to bring action on several or all of the deficiencies at one time, without prejudice to Landlord's right to sue for any subsequent deficiency or deficiencies. Any amount collected by Landlord from subsequent tenants for any rent period during the Lease Term in excess of Rent provided for in this Lease for such period shall be credited to Tenant in reduction of Tenant's liability for any rent period in which the amount collected by Landlord is less than that provided for in this Lease. If suit is filed, Landlord shall be entitled to reasonable attorney's fees from Tenant as may be found by a court of competent jurisdiction.

- (2) When Landlord desires, Landlord may demand final settlement, and Landlord shall have a right to, and Tenant agrees to pay, the difference between the Rent provided for in this Lease for the remainder of the Lease Term and the reasonable rental value of the Premises for such period as damages for the breach of this Lease. The damages provided for in this subparagraph shall be discounted to present value at the rate of 8.00% per annum.

6.3 *Remedies Cumulative.* All rights and remedies of Landlord herein or existing at law or in equity are cumulative and the exercise of one or more rights or remedies shall not exclude or constitute a waiver of any other right or remedy.

6.4 *Nonwaiver of Default.* Failure of Landlord to declare a default immediately upon its occurrence, or delay in taking any action in connection with an event of default, shall not constitute a waiver of the default, but Landlord shall have the right to declare the default at any time and take such action as is lawful or authorized under this Lease. Landlord may collect or receive rent due from Tenant without waiving or affecting any rights or remedies that Landlord may have at law or in equity or by reason of this Lease at the time of such payment.

7. LANDLORD'S RESERVATIONS

7.1 *Right of Entry.* Landlord reserves the right to enter into and upon the Premises at any time to inspect and to enjoy the rights reserved by Landlord in this Lease.

8. ENVIRONMENTAL PROVISIONS

8.1 *Limitations on Use.* Except in accordance with normal and usual agricultural practices (which, for purposes of this Lease, includes the maintenance of above-ground storage tanks for the bulk purchase of gasoline and diesel fuel for Tenant's farm and ranch implements), Tenant will not use, and will not permit any of Tenant's contractors, employees, licensees, or invitees to use, any portion of the Premises for the placement, storage, manufacture, disposal, or application of any Hazardous Materials. Tenant will store, manage, handle, and apply Hazardous Materials used in normal and customary agricultural practices and all pesticides, herbicides, and other chemical products, and provide safeguards against Hazardous Materials contamination for the Premises and all persons coming onto the Premises, in accordance with all applicable Governmental Requirements and all labelling restrictions on products used.

8.2 *Discovery and Removal of Hazardous Materials.* If Tenant or Landlord discovers Hazardous Materials on the Premises which are not being used, handled, stored, or applied in accordance with Governmental Requirements, Tenant will immediately undertake such removal and remediation as is necessary to correct any violation, at Tenant's expense (including the expense of any consultant retained by Landlord in connection therewith). Tenant warrants that Tenant or Tenant's agents will competently perform and supervise any such

removal or remediation that is determined to be necessary under the terms of this Lease.

8.3 *Indemnity.* TENANT AGREES TO AND SHALL INDEMNIFY AND HOLD LANDLORD HARMLESS FROM AND AGAINST ANY LOSS, COSTS, LIABILITY, OR EXPENSE, INCLUDING REASONABLE ATTORNEY'S FEES AND LITIGATION COSTS, ARISING OUT OF THE PLACEMENT, STORAGE, APPLICATION, MANUFACTURE, DISPOSAL, HANDLING, REMOVAL, SPILL, ABATEMENT, OR REMEDIATION OF ANY HAZARDOUS MATERIALS BY TENANT, OR ANY REMOVAL, ABATEMENT, OR REMEDIATION OF HAZARDOUS MATERIALS REQUIRED TO BE PERFORMED OR PAID FOR BY TENANT UNDER THIS LEASE. Tenant's indemnity obligation under this section 9.3 will survive the expiration or termination of this Lease.

9. GENERAL PROVISIONS

9.1 *Notices.* Any notice or other communication required or permitted under this Lease must be in writing and will be effectively delivered if delivered personally or sent by certified mail, return receipt requested (postage prepaid), by overnight courier service (with all fees prepaid), or by facsimile to the intended recipient at the recipient's Mailing Address. Any such notice or other communication will be deemed to have been given if delivered in person, on the date delivered, if delivered by certified mail, return receipt requested, on the date deposited in a receptacle under the custody of the United States Postal Service, if sent by overnight courier service, on the date sent as shown by the bill of lading, and if transmitted by facsimile, on the date transmitted; and will be deemed to have been received, if delivered in person, on the date of personal delivery, if sent by certified mail, return receipt requested, on the second business day after mailing, if sent by overnight courier service, on the first business day after the date sent, or if transmitted by facsimile, upon confirmation of receipt (including electronic confirmation).

9.2 *Entire Contract.* This written lease agreement, including all Exhibits attached hereto, contains the entire agreement of Landlord and Tenant with respect to the subject matter hereof. The parties acknowledge and warrant to each other that they wish to have all the terms of their lease agreement defined in this Lease. Neither party wishes to enter into a transaction with the other in which any terms or obligations are the subject of alleged oral statements, or in which oral statements serve as the basis for creating rights or obligations different than or supplementary to the rights and obligations set forth in this Lease. Accordingly, the parties agree that this Lease supersedes and cancels any prior and/or contemporaneous discussions, leases or writings (whether described as representations, promises, inducements, agreements, or any other term) between the parties which might be taken to constitute agreements, representations, promises, inducements, or understandings with respect to the subject matter of this Lease. The parties agree and acknowledge that they have not placed, and will not place, any reliance on such discussions or writings.

9.3 *Amendment.* This Lease may not be altered, waived, amended, or extended except by an instrument in writing signed by Landlord and Tenant.

9.4 *Parties Bound.* This Lease binds and inures to the benefit of the parties and their respective successors and assigns.

9.5 *Severability.* The provisions of this Lease are severable. If a court of competent jurisdiction finds that any provision of this Lease is unenforceable, the remaining provisions will remain in effect without the unenforceable parts.

9.6 *Construction.* All provisions of this Lease have been negotiated by both parties at arm's length, and this Lease will not be construed for or against a party by reason of the authorship of any of its provisions.

9.7 *Counterparts.* If this Lease is executed in counterparts, all counterparts taken together will

constitute the contract. If this Lease is executed by facsimile signature, the facsimile signature will be deemed an original for all purposes of this Lease.

9.8 *Time of the Essence.* Time is of the essence of this Lease.

9.9 *Governing Law.* **THIS LEASE SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.**

9.10 *Attorney's Fees.* If on account of any breach or default by either party hereunder it becomes necessary for the other party to employ an attorney to enforce or defend any of the party's rights or remedies under this Lease, and should such party prevail in a final judgment, the party against whom enforcement was sought shall pay to the other party any reasonable attorney's fees incurred by reason of such proceedings.

9.11 *Estoppel Certificates.* Landlord and Tenant will, at any time and from time to time upon not less than 10 days' prior written request from the other party, execute, acknowledge, and deliver to the requesting party a statement in writing certifying that (I) this Lease is unmodified and in full force and effect (or, if there have been any modifications, stating the modifications and that the Lease is in full force and effect as modified), and the dates to which Rent and any other charges have been paid in advance, (ii) that, to the best of the certifying party's knowledge, no default hereunder on the part of either party exists (or specifying the default, if a default exists), and (iii) such other information concerning the Lease as the requesting party reasonably requires, it being intended that any such statement delivered pursuant to this section 9.11 may be relied upon by any prospective purchaser or mortgagee (including assignees) of the Premises.

LANDLORD:

The City of Uvalde,

By: _____

Name: _____

Title: City Manager, City of Uvalde, Texas

TENANT:

Glenn A. McDonald

REAL PROPERTY EXCHANGE AGREEMENT

THIS REAL PROPERTY EXCHANGE AGREEMENT (“Agreement”) dated _____, is between Glenn A. McDonald and wife Deborah McDonald, collectively referred to in this agreement as “First Party” and The City of Uvalde, Texas, referred to in this agreement as “Second Party”.

In consideration of the premises, mutual covenants, and agreements contained in this Agreement, First Party and Second Party covenant and agree as follows:

ARTICLE 1

EXCHANGE

Agreement to Exchange

1.01. Subject to the terms, provisions, and conditions set forth in this Agreement, First Party agrees to convey to Second Party the property described as 7.42 acres, more or less, to be surveyed, being out of Survey No. 70, Abstract No. 31, together with all and singular the rights and appurtenances, pertaining to the property to be conveyed to Second Party, including any right, title, and interest of First Party in and to adjacent streets, alleys, or rights-of-way, and any improvements, fixtures, and personal property situated on and attached to the property to be conveyed to Second Party (all of the property, rights, and appurtenances that First Party agrees to convey referred to as “Property A”). Subject to the terms, provisions, and conditions set forth in this Agreement, Second Party agrees to convey to First Party the property described 7.42 acres, more or less, to be surveyed, being out of Survey No. 70, Abstract No. 31, together with all and singular the rights and appurtenances pertaining to the property to be conveyed to First Party, any right, title, and interest of Second Party in and to adjacent streets, alleys, or right-of-way, and any improvements, fixtures, and personal property situated on and attached to the property to be conveyed to First Party (all of the property, rights, and appurtenances that Second Party agrees to convey referred to as “Property B”).

ARTICLE 2

REPRESENTATIONS AND WARRANTIES OF FIRST PARTY

First Party represents and warrants to Second Party the following:

Parties in Possession

2.01. Except for First Party, there are no parties in possession of any portion of Property A, whether as lessees, tenants at sufferance, trespassers, or otherwise.

Legal Actions

2.02. No suit, action, or other proceeding, including, without limitation, a condemnation or similar proceeding or assessment, is pending or threatened in any court or governmental agency against all or any part of Property A.

Contracts and Agreements

2.03. There are no contracts or agreements to which First Party is a party that affect the value or marketability of Property A other than as filed for record.

Compliances With Law

2.04. First Party has complied with all applicable laws, ordinances, regulations, statutes, rules, and restrictions relating to all or any part of Property A.

Access

2.05. There is full and free access to Property A to and from public highways, streets, or roads.

Real Estate Commissions

2.06. First Party has not incurred any liability for brokerage fees or agents' commissions in connection with this agreement other than as provided in Article 9.

Validity at Closing

2.07. The representations and warranties of First Party shall be true on the date of the Closing.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF SECOND PARTY

Second Party represents and warrants to the First Party the following:

Organization

3.01. Second Party is a home-rule municipality organized under the laws of the state of Texas.

Power and Authority

3.02. Second Party has all requisite power and authority to carry on its business as presently conducted, to enter into this Agreement, and to perform its obligations under

this Agreement, including the conveyance described in Paragraph 1.01. The execution, delivery, and performance of this Agreement and the transactions described in this Agreement have been duly and validly authorized by all requisite action on the part of Second Party. The execution, delivery, and performance of this Agreement and the transactions described in this Agreement will not violate or be in conflict with any provision of the charter, bylaws, or governing documents of Second Party, or any provision of any agreement or instrument to which Second Party is a party or by which Second Party is bound, or any statute, law, rule, regulation, judgment, decree, order, writ, or injunction applicable to Second Party.

Binding Obligation

3.03. This Agreement has been duly executed and delivered on behalf of Second Party. This Agreement constitutes a legal, valid, and binding obligation of Second Party.

Parties in Possession

3.04. Except for Second Party, there are no parties in possession of any portion of Property B, whether as lessees, tenants at sufferance, trespassers, or otherwise.

Legal Actions

3.05. No suit, action, or other proceeding, including, without limitation, a condemnation or similar proceeding or assessment, is pending or threatened in any court or governmental agency against all or any part of Property B.

Contracts and Agreements

3.06. There are no contracts or agreements to which Second Party is a party that affect the value or marketability of Property B other than as filed for record.

Compliances With Law

3.07. Second Party has complied with all applicable laws, ordinances, regulations, statutes, rules, and restrictions relating to all or any part of Property B.

Access

3.09. There is full and free access to Property B to and from a seventy-five foot access easement to a public street, or road.

Real Estate Commissions

3.11. Second Party has not incurred any liability for brokerage fees or agents' commissions in connection with this agreement other than as provided in Article 9.

Validity at Closing

3.12. The representations and warranties of Second Party shall be true on the date of the Closing.

ARTICLE 4

SURVEY, INSPECTION, AND TITLE TO PROPERTY A

Survey

4.01. Within thirty (30) days of the date of this Agreement, First Party shall deliver to Second Party at First Party's sole cost and expense a current plat of survey of Property A prepared by a licensed surveyor or registered engineer mutually agreeable to First Party and Second Party. The survey shall be staked on the ground. The plat of survey shall include:

- (a) the location of all improvements, highways, streets, roads, railroads, rivers, creeks, or other water courses, fences, easements, and rights-of-way on or adjacent to Property A, if any;
- (b) the surveyor's certification that there are no encroachments on Property A;
- (c) the number of total acres comprising Property A; and
- (d) a metes and bounds description of Property A.

Inspection

4.02. Within thirty (30) days of the date of this Agreement, Second Party shall have the right to:

- (a) enter and inspect all or any part of Property A;
- (b) conduct soil analysis, core drilling, or other tests of the surface or subsurface of Property A, provided that the tests do not unreasonably interfere with First Party's use of Property A; and
- (c) conduct an inventory of all personal property and fixtures on Property A.

First Party shall make all reasonable efforts to cooperate with Second Party's inspections of Property A.

Title Examination

4.03. Within twenty (20) days of the delivery of the survey, First Party shall deliver to Second Party copies of all title data in the possession of First Party, including, without limitation, title reports, title opinions, abstracts of title, ownership maps, and surveys pertaining to Property A.

Within sixty (60) days of the date of this Agreement, First Party shall cause to be delivered to Second Party a preliminary title report covering Property A prepared by Chicago Title.

Property Defects

4.04. Within thirty (30) days of Second Party's receipt of the preliminary title report, Second Party shall notify First Party in writing of all defects pertaining to Property A. First Party shall use all reasonable efforts to cure or eliminate all defects identified by Second Party. In the event that the notice of defects does not include any significant defects, as defined below, the parties may proceed with the Closing provided in Article 8. In the event that the notice of defects includes significant defects, First Party shall notify Second Party within thirty (30) days of receipt of the notice of defects specifying the acts taken to cure the significant defects and shall provide Second Party with copies of all instruments pertaining to the cure of the significant defects. If no significant defect remains after the notice from First Party to Second Party, the parties may proceed with the Closing provided in Article 8. If any significant defect remains after the notice from First Party to Second Party, within fifteen (15) days after Second Party's receipt of notice from First Party, Second Party shall notify First Party of Second Party's election to terminate this Agreement or to waive the remaining significant defects and proceed with the Closing provided in Article 8. In the event that a party fails to comply with a provision in this paragraph, the other party may elect to terminate this Agreement or to waive the failure and proceed with the Closing provided in Article 8. The term "significant defect" means an adverse and material lien, mortgage, claim, obligation, encumbrance, title defect, or condition, that, either alone or in combination with other defects, results in the unmarketability of title or unreasonably interferes with the intended use of the property.

ARTICLE 5

SURVEY, INSPECTION, AND TITLE TO PROPERTY B

Survey

5.01. Within thirty (30) days of the date of this Agreement, Second Party shall deliver to First Party at First Party's sole cost and expense a current plat of survey of Property B prepared by a licensed surveyor or registered engineer mutually agreeable to First Party and Second Party. The survey shall be staked on the ground. The plat of survey shall include:

- (a) the location of all improvements, highways, streets, roads, railroads, rivers, creeks, or other water courses, fences, easements, and rights-of-way on or adjacent to Property B, if any;
- (b) the surveyor's certification that there are no encroachments on Property B;
- (c) the number of total acres comprising Property B; and

- (d) a metes and bounds description of Property B.

Inspection

5.02. Within thirty (30) days of the date of this Agreement, First Party shall have the right to:

- (a) enter and inspect all or any part of Property B;
- (b) conduct soil analysis, core drilling, or other tests of the surface or subsurface of Property B, provided that the tests do not unreasonably interfere with Second Party's use of Property B; and
- (c) conduct an inventory of all personal property and fixtures on Property B.

Second Party shall make all reasonable efforts to cooperate with First Party's inspections of Property B.

Title Examination

5.03. Within twenty (20) days of the delivery of the Survey, Second Party shall deliver to First Party copies of all title data in the possession of Second Party, including, without limitation, title reports, title opinions, abstracts of title, ownership maps, and surveys pertaining to Property B.

Within sixty (60) days of the date of this Agreement, Second Party shall cause to be delivered to First Party a preliminary title report covering Property B prepared by Chicago Title.

Property Defects

5.04. Within thirty (30) days of First Party's receipt of the preliminary title report, First Party shall notify Second Party in writing of all defects pertaining to Property B. Second Party shall use all reasonable efforts to cure or eliminate all defects identified by First Party. In the event that the notice of defects does not include any significant defects, as defined below, the parties may proceed with the Closing provided in Article 8. In the event that the notice of defects includes significant defects, Second Party shall notify First Party within thirty (30) days of receipt of the notice of defects specifying the acts taken to cure the significant defects and shall provide First Party with copies of all instruments pertaining to the cure of the significant defects. If no significant defect remains after the notice from Second Party to First Party, the parties may proceed with the Closing provided in Article 8. If any significant defect remains after the notice from Second Party to First Party, within fifteen (15) days after First Party's receipt of notice from Second Party, First Party shall notify Second Party of First Party's election to terminate this Agreement or to waive the remaining significant defects and proceed with the Closing provided in Article 8. In the event that a party fails to comply with a provision in this paragraph, the other party may elect to terminate this Agreement or to waive the failure and proceed with the Closing provided in Article 8. The term "significant defect" means an adverse and material lien, mortgage, claim, obligation,

encumbrance, title defect, or condition, that, either alone or in combination with other defects, results in the unmarketability of title or unreasonably interferes with the intended use of the property.

ARTICLE 6

USE OF PROPERTY

Use of Property A

6.01. During the period from the date of this Agreement to the date of the Closing, First Party shall:

- (a) use all reasonable efforts to cause Property A to be used, maintained, and operated in a manner consistent with the use of Property A on the date of this Agreement;
- (b) not commence any activity on Property A except for emergencies, activities required by law, and activities required under contracts in existence on the date of this Agreement;
- (c) promptly notify Second Party of any suit, action, or any legal proceedings involving all or any part of Property A that arises prior to the date of the Closing with respect to which First Party receives actual notice; and
- (d) promptly notify Second Party of any matter that arises prior to the date of the Closing that materially affects the value of Property A with respect to which First Party becomes aware.

Use of Property B

6.02. During the period from the date of this Agreement to the date of the Closing, Second Party shall:

- (a) use all reasonable efforts to cause Property B to be used, maintained, and operated in a manner consistent with the use of Property B on the date of this Agreement;
- (b) not commence any activity on Property B except for emergencies, activities required by law, and activities required under contracts in existence on the date of this Agreement;
- (c) promptly notify First Party of any suit, action, or any legal proceedings involving all or any part of Property B that arises prior to the date of the Closing with respect to which Second Party receives actual notice; and
- (d) promptly notify First Party of any matter that arises prior to the date of the Closing that materially affects the value of Property B with respect to which Second Party becomes aware.

ARTICLE 7

PROPERTY LOSS

Loss of Property A

7.01. If all or any part of Property A is destroyed by fire or other casualty or is taken in condemnation or eminent domain proceedings prior to the Closing, Second Party may elect to terminate this Agreement under Article 12 or, subject to the other provisions of this Agreement, to proceed with the Closing under Article 8.

Loss of Property B

7.02. If all or any part of Property B is destroyed by fire or other casualty or is taken in condemnation or eminent domain proceedings prior to the Closing, First Party may elect to terminate this Agreement under Article 12 or, subject to the other provisions of this Agreement, to proceed with the Closing under Article 8.

ARTICLE 8

CLOSING

Conditions to First Party's Obligations at Closing

8.01. The obligations of the First Party at the Closing are subject to the satisfaction of the following conditions:

(a) all representations and warranties of Second Party in this Agreement shall be true in all material respects;

(b) Second Party shall have performed and satisfied all covenants and agreements required by this agreement in all material respects; and

(c) First Party shall have received from Second Party an "estoppel letter" signed by the holders of any existing indebtedness secured by Property B, stating:

(i) that as of the date of the Closing no default exists under any promissory note, deed of trust, mortgage, or other instrument securing the payment of the indebtedness;

(ii) that all installments of principal and interest payable to the date of the Closing have been paid;

(iii) the amount of the unpaid balance of any indebtedness secured by Property B; and

(iv) that there have been no modifications or amendments to any promissory note, deed of trust, mortgage, or other instrument securing the indebtedness.

(d) First Party and Second Party agree on the terms of a Farming Agreement for sixty acres, more or less, owned by Second Party, which shall be executed at the Closing of this Agreement.

Conditions to Second Party's Obligations at Closing

8.02. The obligations of the Second Party at the Closing are subject to the satisfaction of the following conditions:

(a) all representations and warranties of First Party in this Agreement shall be true in all material respects;

(b) First Party shall have performed and satisfied all covenants and agreements required by this agreement in all material respects; and

(c) Second Party shall have received from First Party an "estoppel letter" signed by the holders of any existing indebtedness secured by Property A, stating:

(i) that as of the date of the Closing no default exists under any promissory note, deed of trust, mortgage, or other instrument securing the payment of the indebtedness;

(ii) that all installments of principal and interest payable to the date of the Closing have been paid;

(iii) the amount of the unpaid balance of any indebtedness secured by Property A; and

(iv) that there have been no modifications or amendments to any promissory note, deed of trust, mortgage, or other instrument securing the indebtedness.

(d) First Party and Second Party agree on the terms of a Farming Agreement for sixty acres, more or less, owned by Second Party, which shall be executed at the Closing of this Agreement.

8.02A. If closing has not occurred by February 28, 2016, either party may elect to terminate this agreement including terminating any obligation(s) either may have regarding the Farming Agreement referenced in sections 8.01(d) and 8.02(d). Either party's exercise of their right to terminate under this section supercedes the other party's right to extend the closing date.

Date of Closing

8.03. Subject to the conditions of Paragraph 8.01 and 8.02 and the termination provisions of Article 12, the closing ("Closing") shall occur ten (10) days after the later of the dates that Paragraphs 4.04 and 5.04 authorize the parties to proceed with the Closing. In the event that the conditions of Paragraph 8.01 have not been satisfied on the scheduled date of the Closing, First Party may elect to extend the date of the Closing for a period of thirty (30) days. In the event that the conditions of Paragraph 8.02 have not been satisfied on the scheduled date of the Closing, Second Party may elect to extend the date of the Closing for a period of thirty (30) days.

Place of Closing

8.04. The Closing shall be held at the offices of Chicago Title, Uvalde, Texas.

Obligations at Closing

8.05. At the Closing the following events shall occur, each being a condition precedent to the other events and each being deemed to have occurred simultaneously with the other events:

(a) First Party shall deliver to Second Party a duly executed and acknowledged special warranty deed in a form acceptable to Second Party's counsel conveying good and marketable title in fee simple to all of Property A, free and clear of any and all liens, encumbrances, conditions, easements, assessments, and restrictions, except for the following: those items appearing on Schedule B of the preliminary title report and approved/accepted by Second Party.

(b) First Party shall deliver to Second Party a Texas Owner's Title Policy at First Party's sole expense, issued by Chicago Title in Second Party's favor in the full amount of the value of Property A as determined by the parties, insuring Second Party's fee simple title to Property A subject only to those title exceptions listed in subparagraph (a) above, and the standard printed exceptions contained in the usual form of Texas Owner's Title Policy, provided, however:

- (i) the boundary and survey exceptions shall be deleted;
- (ii) the exception as to restrictive covenants shall be endorsed "None of Record"; and
- (iii) the exception as to the lien for taxes shall be limited to the year of closing and shall be endorsed "Not Yet Due and Payable."

(c) First Party shall deliver to Second Party exclusive possession of Property A.

(d) Second Party shall deliver to First Party a duly executed and acknowledged special warranty deed in a form acceptable to First Party's counsel conveying good and marketable title in fee simple to all of Property B, free and clear of any and all liens, encumbrances, conditions, easements, assessments, and restrictions, except for the following: those items appearing on Schedule B of the preliminary title report and approved/accepted by First Party.

(e) Second Party shall deliver to First Party a Texas Owner's Title Policy at First Party's sole expense, issued by Chicago Title in First Party's favor in the full amount of the value of Property B as determined by the parties, insuring First Party's fee simple title to Property B subject only to those title exceptions listed in subparagraph (a) above, and the standard printed exceptions contained in the usual form of Texas Owner's Title Policy, provided, however:

- (i) the boundary and survey exceptions shall be deleted;
- (ii) the exception as to restrictive covenants shall be endorsed "None of Record"; and

(iii) the exception as to the lien for taxes shall be limited to the year of closing and shall be endorsed "Not Yet Due and Payable."

(f) Second Party shall deliver to First Party exclusive possession of Property B.

ARTICLE 9

REAL ESTATE COMMISSIONS

It is understood and agreed that no brokers have been involved in the negotiation and completion of this Agreement.

ARTICLE 10

ESCROW

Escrow Deposit of First Party

10.01. For the purpose of securing the performance of First Party under this Agreement, First Party has delivered to Chicago Title the sum of \$1,000.00 to be paid to Second Party in accordance with the escrow instructions attached to and made a part of this Agreement as Exhibit C in the event of the breach of any of the covenants of this Agreement by First Party.

ARTICLE 11

INDEMNIFICATION

Indemnification by First Party

11.01. First Party shall indemnify and hold Second Party and Second Party's directors, officers, employees, attorneys, and agents harmless against any action, claim, liability, or expense (collectively referred to as "Claim") arising out of (a) First Party's ownership, use, or operation of Property A prior to the Closing, including, without limitation, a Claim presented after the Closing but covering matters occurring prior to the Closing, or (b) First Party's ownership, use, or operation of Property B after Closing.

Indemnification by Second Party

11.02. Second Party shall indemnify and hold First Party and First Party's directors, officers, employees, attorneys, and agents harmless against any action, claim, liability, or expense (collectively referred to as "Claim") arising out of (a) Second Party's ownership, use, or operation of Property B prior to the Closing, including, without limitation, a Claim presented after the Closing but covering matters occurring prior to the Closing, or (b) Second Party's ownership, use, or operation of Property A after Closing.

ARTICLE 12

TERMINATION OF AGREEMENT

Termination by First Party

12.01. First Party may terminate this Agreement in the event of the following:

- (a) the existence of a right to terminate under the circumstances stated in Paragraphs 5.04 or 7.02; or
- (b) the conditions stated in Paragraphs 8.01 and 8.03 have not been satisfied in all material respects or waived on the date of the Closing.

Termination by Second Party

12.02. Second Party may terminate this Agreement in the event of the following:

- (a) the existence of a right to terminate under the circumstances stated in Paragraphs 4.04 or 7.01; or
- (b) the conditions stated in Paragraphs 8.02 and 8.03 have not been satisfied in all material respects or waived on the date of the Closing.

ARTICLE 13

MISCELLANEOUS

Assignment of Contract

13.01. This Agreement may not be assigned without the prior written consent of the other party.

Survival of Provisions

13.02. The representations, warranties, and agreements of Articles 2, 3, and 11 shall survive and shall not be merged in the Closing.

Notices

13.03. Any notice required or permitted under this Agreement shall be in writing and shall be deemed to have been made when personally delivered, or if mailed, when received by the following person at the indicated address:

- (a) to First Party: Glenn A. McDonald
301 Saunders Lane
Uvalde, Texas 78801

with copy to: Stephen M. Gerdes II
218 N Getty Street
Uvalde, Texas 78801

(b) to Second Party: City of Uvalde
c/o Vince DiPiazza
P.O. Box 799
Uvalde, Texas 78801

with copy to: Paul J. Tarski
205 N Getty Street
Uvalde, Texas 78801

Applicable Law

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

Parties Bound

13.05. This Agreement shall be binding on and inure to the benefit of the parties to this Agreement and their respective heirs, executors, administrators, legal representatives, successors and assigns.

Severability of Provisions

13.06. To the extent permitted by law, a holding by any court that any provision in this Agreement is invalid, illegal, or unenforceable in any respect shall not affect any other provision, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been a part of this Agreement.

No Limitation of Remedies

13.07. Nothing in this Agreement shall be construed to limit any legal or equitable remedy of the parties.

Prior Agreements Superseded

13.08. This Agreement constitutes the entire understanding between the parties and supersedes any prior negotiations, discussions, agreements, and understandings between the parties with respect to the subject matter of this Agreement.

Time of Essence

13.09. Time is of the essence in this Agreement.

Expenses

13.10. Except as otherwise provided in this Agreement, all fees, costs, and expenses incurred in negotiating this Agreement or completing the transactions described in this Agreement shall be paid by the party incurring the fee, cost, or expense.

Amendments and Waivers

13.11. This Agreement may not be amended except in a writing specifically referring to this Agreement and signed by First Party and Second Party. A right created under this Agreement may not be waived except in a writing specifically referring to this Agreement and signed by the party waiving the right.

Counterparts

13.12. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

Executed _____, 2015.

Glenn A. McDonald

Deborah McDonald

City of Uvalde,

By: _____

Name: _____

Title: City Manager, City of Uvalde, Texas