

USED EQUIPMENT PURCHASE AGREEMENT

BETWEEN

THE CITY OF SAN MARCOS AND THE CITY OF OAK RIDGE, TEXAS

THIS AGREEMENT ("Agreement") is made effective as of the date executed by both parties ("Effective Date"), and is between the City of San Marcos, Texas, a home-rule municipal corporation with offices at 630 E. Hopkins Street, San Marcos, Tx 78666 ("City"), and the City of Oak Ridge, Texas, a Type B General Law Municipality with offices at 8450 N. State Hwy. 34, Oak Ridge, Texas 75161 ("Transferee"), under the following circumstances:

Section 1. Equipment donated.

- 1.1 City agrees to sell the following equipment to the City of Oak Ridge:
- (a) 2013 Chevrolet Impala Police Cruiser, Vehicle Identification Number: 2G1WD5E31D1245519 more specifically described in Exhibit A attached hereto and incorporated herein.
 - (b) 2013 Chevrolet Impala Police Cruiser, Vehicle Identification Number: 2G1WD5E39D1243212 more specifically described in Exhibit A attached hereto and incorporated herein.
 - (c) 2012 Chevrolet Impala Police Cruiser, Vehicle Identification Number: 2G1WD5E39C1157896 more specifically described in Exhibit A attached hereto and incorporated herein.
- 1.2 Transferee represents that it is a Type B General Law Municipality.

Section 2. Removal of Equipment; Consideration; Transfer of Title.

2.1 **Removal of Equipment.** At a mutually acceptable time and date, but not later than fifteen (15) days after the Effective Date, Transferee will, at Transferee's sole cost, expense and risk, remove the police cars identified in Section 1.1 herein below ("Equipment") from City's offices at 2300 S. IH-35, San Marcos, Texas 78666 (the "Site").

2.2 **Consideration.** The consideration for the sale contemplated by this Agreement shall be that the Transferee agrees to use the Equipment for official use to further the public purposes stated in **Resolution No. 2018-__R**, approved by the San Marcos City Council on August 7, 2018. The monetary consideration agreed upon for this transaction is in the amount of \$5,000.00 per vehicle (\$15,000 total) payable by check or ACH transfer on the date of vehicle pickup.

2.3 **Transfer of Title.** Effective upon Transferee's removal of the Equipment from the Site, City hereby transfers, assigns and conveys to Transferee all of Transferor's right, title, and interest in and to the Equipment.

2.4 All costs associated with pickup, transport, refurbishing, repairing or restoring, and retitling the Equipment will be the responsibility of Transferee.

Section 3. Disclaimer of Warranties; Limitation of Liability.

3.1 TRANSFEEE HEREBY ACKNOWLEDGES RECEIPT OF THE EQUIPMENT AND THAT TRANSFEEE HAS EXAMINED THE EQUIPMENT TO INSPECT ITS CONDITION. THE TRANSFEEE ACKNOWLEDGES AND AGREES THAT THE EQUIPMENT IS SOLD ON AN AS-IS AND WHERE IS WITH ALL FAULTS, WITH NO GUARANTEES OR WARRANTIES, EXPRESS OR IMPLIED WHETHER OF TITLE, MERCHANTABILITY, ITS CONDITION, PERFORMANCE, OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE.

3.2 UNDER NO CIRCUMSTANCES WILL TRANSFEROR BE LIABLE TO TRANSFEEE OR ANY OTHER PERSON FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE EQUIPMENT OR ITS USE BY TRANSFEROR.

Section 4. Miscellaneous Provisions

4.1 Authority. Each of the persons executing this Agreement represent that he or she has full power and authority to execute this Agreement on behalf of the party that person represents.

4.2 Law and Venue. This Agreement shall be construed and enforced according to the laws of the State of Texas; and exclusive venue for any legal action arising under this Agreement shall lie in Hays County, Texas.

4.3 Immunity: The City's execution of and performance under this Agreement will not act as a waiver of any immunity of the City to suit or liability under applicable law. The parties acknowledge that the City, in executing and performing this Agreement, is a governmental entity acting in a governmental capacity.

4.4 Effective Date. This Agreement will become effective upon execution of both parties.

4.5 Amendment. No amendment of this Agreement will be effective until the amendment has been reduced to writing, each party has duly approved it, and is signed by the authorized representatives of the Parties. Any amendment will incorporate this Agreement in every particular not otherwise changed by the amendment.

4.6 Complete Agreement/Amendment. This Agreement represents a complete agreement of the parties and supersedes all prior written and oral matters related to this Agreement. This Agreement may be canceled, changed, modified or amended, in whole or in part, only by the written and recorded agreement by the City and the Transferee.

4.7 Binding Effect. This Agreement will be binding on and inure to the benefit of the Parties and their respective successors and assigns.

4.8 Interpretation. Each of the Parties have been represented by counsel of their choosing in the negotiation and preparation of this Agreement. In the event of any dispute regarding the interpretation of this Agreement, this Agreement will be interpreted fairly and reasonably and neither more strongly for nor against any Party based on draftsmanship.

4.9 Relationship of the Parties. This Agreement will not be construed as establishing a partnership or joint venture, joint enterprise, express or implied agency relationship between the parties. The City, its past, present or future officers, elected officials, employees or agents, do not assume any responsibility or liability to any third party in connection with this Agreement.

4.10 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, it is the intention of the Parties that the remainder of this Agreement not be affected and it is also the intention of the Parties that, in lieu of each 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.

4.11 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 paragraphs.

4.12 No Third-Party Beneficiaries. This Agreement is not intended to nor shall it be interpreted to confer any rights, privileges or causes of action upon any third party.

4.13 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument. A facsimile signature will be deemed to be an original signature for all purposes.

Exhibits. Exhibit A, Equipment Description, is attached to and incorporated into this Agreement for all purposes.

EXECUTED to be effective as of the ____ day of _____, 2018.

CITY OF OAK RIDGE

By: _____
Al Rudin
Mayor

CITY OF SAN MARCOS

By: _____
Bert Lumbreras
City Manager

EXHIBIT A

Equipment Description

Make/Model	2013 Chevrolet Impala 9C1 (1304)
VIN#	2G1WD5E31D1245519
Engine Make	GM 3.6L V-6
Mileage	31,733
Transmission	GM
Emergency Lighting	Tomar Scorpion Tomar 940 Control

Make/Model	2013 Chevrolet Impala 9C1 (1303)
VIN#	2G1WD5E39D1243212
Engine Make	GM 3.6L V-6
Mileage	42,392
Transmission	GM
Emergency Lighting	Tomar Scorpion Tomar 940 Control

Make/Model	2012 Chevrolet Impala 9C1 (1206)
VIN#	2G1WD5E39C1157896
Engine Make	GM 3.6L V-6
Mileage	31,164
Transmission	GM
Emergency Lighting	Tomar Scorpion Tomar 940 Control