

Agenda Section	Regular Agenda
Section Number	VI.F
Subject	Consider, discuss and act upon awarding banking contract.
To	Mayor and Council Members
From	Ben White, City Manager
Date	May 9, 2017
Attachment(s)	1. Bank Bid Talley Sheet 2. Excerpts from Independent Bank's Proposal 3. Excerpts from First National Bank of Trenton's Proposal
Related Link(s)	http://www.farmersvilletx.com/government/agendas_and_minutes/city_council_meetings.php
Consideration and Discussion	City Council discussion as required.
Action	<ul style="list-style-type: none"> • Motion/second/vote <ul style="list-style-type: none"> <input type="checkbox"/> Approve <input type="checkbox"/> Approve with Updates <input type="checkbox"/> Disapprove • Motion/second/vote to continue to a later date. _____ <ul style="list-style-type: none"> <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove • Move item to a future agenda. _____ • No motion, no action



TO: Mayor and City Council
FROM: Daphne Hamlin, Finance Director
DATE: May 4th, 2017
SUBJECT: Bank Bids

Mayor, City Council, we have received (2) two bids for the City of Farmersville Banking Services. I have enclosed the required banking service requirements received from both Independent Bank and First National Bank of Trenton for your review and consideration. Also, available upon request First National Bank of Trenton provided their 2016 audited financial statements.

Bank Bid Talley Sheet

Banking Requirements		Bank Bid Talley Sheet	First National Bank Trenton
Consolidated account structure	Independent Bank	Offer the Now Account free of service charges Now account .05 x 60bp=.65%. (Ex. April \$103.12)	Available free of charge Now Account .05% (Ex. April \$8.04).
Wire transfer service	Wire transfer agreement on file		Wire transfer agreement on File
Automated daily balance report	Online Banking service available		PC based internet and telephone report
Investment of idle funds and safekeeping of City Securities	Does not offer repurchase. Offer CD exceeding FDIC coverage. Time deposit rate negotiated at time of investment need. Offer a minimum of 10 bps above current rate. Safekeeping service through TIB. Pricing structure is listed. Please see attached		Does not offer repurchase. Uses TIB for safekeeping. Provided free of charge
Standard disbursing services	Payment upon presentation		Payment upon presentation
Standard deposit services	See Bank Funds availability policy (attached)		See Bank Funds availability policy (attached)
Reporting and Account Analysis	Monthly statements activity and images are available in online banking for a minimum of twelve moths. E-statements containing images are available for 60 days		Monthly account analysis statement available for each account. Monthly statements available including images of both front and back of all checks written. E statements containing images available for 12 months
Account Executive	Shannon Palmer/Branch Services Supervisor started banking 2009. Johnny Bratcher banking since 1975		Terri Lowe/Vice President with FNB since 2006

Bank Bid Talley Sheet

Banking Requirements		Independent Bank	First National Bank Trenton
Direct Deposit		ACH must be submitted and approved by 5:00 pm on one business day processing	ACH must be submitted and approved by Noon to be processed on the same day
Stop Payments		Manually or online no service fee	Manually or online no service fee
Collateralization of Deposits		Agrees to collateralize deposits	Agrees to collateralize deposits
Lockbox Services		Applicable pricing from the vendor will be assessed	Service free of charge
Checks and Deposit slips		Free of Charge	Free of Charge

April 28, 2017



City of Farmersville
205 S Main St
Farmersville, TX 75442

Dear Ms. Hamlin and friends at the City of Farmersville,

Independent Bank is pleased to have the opportunity to submit a proposal for comprehensive banking services to the City of Farmersville. Independent Bank is prepared to offer a full array of both traditional and cutting edge banking products and services that will bring added value in the forms of convenience, time savings, increased employee productivity, decreased liability, greater peace of mind and other significant benefits to the City.

Independent Bank is a full-service commercial bank with over \$ 8.1 billion in assets with banking offices conveniently located in Farmersville, and in the neighboring communities of Princeton, Lavon, and Anna. Independent Bank has nearly 600 employees in over 80 locations throughout the states of Texas and Colorado to serve the banking needs of the District, its employees, local residents and businesses.

Independent Bank has been serving the communities of North Texas since 1913 and enjoys the reputation of being a leading independent, community-oriented, responsive and solid local financial institution. Independent Bank is well-positioned to serve the depository needs of the District, as we currently contract state-wide with nearly 50 school districts, regional municipalities and public entities for banking services. Independent Bank is a state-chartered bank and is regulated by the Texas Department of Banking and the FDIC. Our organization is staffed by a team of dedicated, experienced and innovative professionals and we trust that you will enjoy the benefit of working with local decision makers who are interested in building long-term and mutually beneficial banking relationships.

We are grateful for the opportunity to submit this proposal. We look forward to serving you and developing a meaningful banking partnership in order to realize the financial goals of the City of Farmersville.

If you have any questions regarding this proposal, please feel free to call me at 972-782-6181 or e-mail me at jbratcher@ibttx.com. Thank you in advance for your favorable consideration of our proposal. We will always look forward to exceeding your expectations.

Sincerely,

Johnny Bratcher
Executive Vice President/Regional President
NMLS #709983

ATTACHMENT A - BANKING SERVICES CHARGES

Any and all anticipated service charges must be shown on this form to be applicable under the agreement. Add additional lines as required.

Service Unit	Unit Charge	Cost of Service
Account Maintenance	Per month	0
Daily Balance Reporting	Per month	0
Zero Balanced Accounts		0
Master Account	Per month	0
Subsidiary Accounts	Per month	0
Credits Posted	Per transaction	0
Debits Posted	Per transaction	0
Encoding charge	Per transaction	0
ACH Processing	Per transaction	0
Origination of file	Per tape	0
ACH deletions	Per transaction	0
ACH entries	Per transaction	0
Returned checks	Per transaction	0
Controlled Disbursement	Per account/per month	0
Reconciliation	Per month	0
Sort list tape	Per transaction	0
Sort and list	Per transaction	0
Items Deposited		0
Deposits	Per transaction	0
Commercial deposits	Per transaction	0
Group I items	Per transaction	0
Group II items	Per transaction	0
Group I11 items	Per transaction	0
Group IV items	Per transaction	0
Stop payments	Per transaction	0
Wire Transfers		0
Incoming	Per transaction	0
Outgoing	Per transaction	0
Investment Safekeeping		0
Safekeeping interest/credit	Per transaction	See Section D
Safekeeping receipt deposit	Per transaction	See Section D
Safekeeping outgoing	Per transaction	See Section D
Securities DVP FRB	Per transaction	See Section D
Securities DVP NY	Per transaction	See Section D
Check Printing	Per transaction	0 if ordered thru Bank vendor
Extra Statements	Per transaction	0
Disposable Bank Bags	Per Item	0 if ordered thru Bank Vendor
Lockbox	Per month	Vendor Priced
Cutbacks	Per transaction	Vendor Priced
Special handling		Vendor Priced

- audited financial statements for the most recent fiscal year,
- a copy of the current call report, and
- a statement regarding any recent or foreseen merger or acquisition.

All current financial information for Independent Bank can be found on our website at the following link in the Investor Relations section.

<http://investor.independent-bank.com/financials.cfm>

UBPR & Call Report Information:

https://www2.fdic.gov/idaspc/confirmation_outside.asp?inCert1=3076

See attachments regarding our most recent acquisition.

REQUIRED BANKING SERVICES

Section lists all the services to be provided by the bank under this agreement. Attachment A lists each of these services. The bank should use this Attachment to provide the specific price for each service.

Consolidated Account Structure

The bank is to provide a master consolidation account and zero balance accounts from which daily balance detail reporting is available. The City's current account structure contains the following accounts:

Account Title
City of Farmersville Operating Account
City of Farmersville Money Market Account
City of Farmersville Interest and Sinking Account

Independent Bank will offer the NOW Account, an interest bearing non-analyzed checking account for all of the City's DDA accounts. The rate may be negotiated during any extension terms. Interest would pay at the account level.

Independent Bank is proposing Public Fund NOW accounts free of service charges. The depository accounts shall be NOW Checking Accounts which will earn the NOW Rate plus 60 basis points. Rate as of April 17, 2017 is $0.05\% + 0.60\% = 0.65\%$. This will apply to all accounts for the City.

Accounts can be structured as ZBA's as necessary to meet the City's needs. Money Markets accounts are available; however, with the proposed NOW account structure will not be necessary as the City will earn interest on all accounts.

B. Wire Transfer Services

The City currently generates approximately 100 incoming and 25 outgoing wires each month. A standard wire transfer agreement will be executed with the bank. This proposal should include a copy of your standard transfer procedures and wire transfer agreement. The City requires adequate security provisions and procedures. If the wire transfer requests are available on line, full information should be submitted detailing the use.

With a wire transfer agreement on file, outgoing wire transfer requests may be initiated through online banking. In the event that the system is unavailable, back-up methods utilizing secure email, phone, or in-person strategies are available. Online wires are recommended to be processed under a dual control method. Dual Control requires two online users to approve the wire before it is sent. The first user can input the wire and approve the wire and then the second user can approve the wire as the secondary approval and the wire will be sent. If wires are not processed online under dual control, upon receipt of an outgoing wire transfer, call-back verification is facilitated by the Bank to the City's designee. With their approval, the wire requested will be processed.

The City may view pending incoming wire transactions via online banking. An email notification is available with a one hour delivery time of initiating the transaction.

Independent Bank will conduct a thorough training on the online wire system upon implementation.

C. Automated Daily Balance Reporting

The City requires an automated PC-based reporting system for access to the closing ledger and available balances. Stipulate the time at which the access is available and describe the system to be used. Reporting should include balance and detail reporting. Samples of the reports are to be included in the proposal.

By utilizing Independent Bank's Online Banking services, the City will have access to a computer based, cash management and balance reporting tool.

Online Banking allows you to:

- **View real-time, running balances on accounts**
- **Review account activity on all Independent Bank accounts**
- **Research check items and view check images**
- **Research deposit items and view deposit images**
- **Add Stop Payments**
- **Research and manage existing Stop Payments**
- **Access online bank statements**
- **Transfer funds between Independent Bank accounts, one-time and recurring**
- **Download transactions to MS-Excel, Quicken, QuickBooks, and Microsoft OFX**

- Facilitate Direct Deposit of Employee Payroll via ACH Origination: Payroll
- Facilitate other Payments via ACH Origination: Payments
- Facilitate Collections via ACH Origination: Collections
- Facilitate Tax Payments via ACH Origination: Payments
- Manage Users – accounts and access rights
- Establish secure messages or email alerts on accounts and transactions
- Manually enter or Upload Positive Pay files
- Manage Positive Pay exception items
- Research and prepare Positive Pay/Account Reconciliation reports
- Facilitate Wire Transfers
- Establish and Facilitate Bill Payments

In the event the online banking system is unavailable, information may be obtained by contacting the Farmersville Branch of Independent Bank. Information will be available by phone, fax, email, or printed in person to accommodate the City's needs. However, Independent Bank's Online Banking system has a strong record of 'up-time'.

Daily balance information is available in real-time via Online Banking.

Please visit the below link for guides and user manual for screen shot samples in Online Banking Commercial Users Guide UUX-Treasury.

<https://www.independent-bank.com/home/treasury-management-forms-and-reports.html>

D. Investment of Idle Funds and Safekeeping of City Securities

All certificates of deposit bought by the City will be bought on a competitive basis. The City has no obligation to invest its funds with or through the bank. If the bank is proposing overnight repurchase agreements, an executed Master Repurchase Agreement is required. In order to fulfill GASB III requirements for reporting, if a repurchase agreement is executed with the bank itself, the collateral must be held in the trust department of the bank in a separate account.

Independent Bank does not offer Repurchase Agreements.

In regards to securing idle funds invested in Certificates of Deposit, the Bank does utilize FHLB Letters of Credit and the CDARS program to collateralize any Certificates of Deposit exceeding allowed FDIC coverage.

Time Deposit rates can be negotiated at time of investment needed. Independent Bank will offer at a minimum of 10 bps above our then current rates.

All securities will be handled on a delivery versus payment (DVP) basis as they are cleared into and out of the account. There will be approximately ten securities in safekeeping at any time. All clearing and safekeeping will

be in the bank or its correspondent. All correspondent and safekeeping arrangement will be stipulated in the proposal.

Independent Bank can offer safekeeping services through The Independent Banker's Bank (TIB). Transactions will not be available online. The deadline for settlement instructions on a 'cash' (same-day) settlement is 10:30 am Central Time. The fee for late instruction is \$20 per transaction. Pricing is applied by TIB and their pricing will apply to the District. Pricing structure is listed below:

\$0.50 per Asset plus \$0.02 per \$10M Par Value

\$6.00 per pledge change

\$2.00 for each credit advice

\$6.00 for P&I paydown

\$3.00 monthly charge

E. Standard Disbursing Services

Standard disbursing services for all accounts are required to include the payment of all checks upon presentation.

Agreed. Independent Bank will pay all City of Farmersville checks upon presentation free of charge.

F. Standard Deposit Services

The bank must guarantee immediate credit on all incoming wire transfers and U.S. Treasury checks upon receipt and all other checks based on the bank's published availability schedule. The Bank should specify in their proposal their deposit requirements and commercial and retail deposit locations, including night deposit services and procedures.

Independent Bank's Funds Availability policy is included. See Attachments. However, it should be noted that the Bank will not place holds on the City's funds.

The Farmersville Branch daily cut-off time is 6:00 pm Central Time, Monday through Friday excluding Bank Holidays. Any deposits made in the Remote Deposit system have a 6:00 pm Central Time cut-off.

The Primary location for the City will be the Farmersville Branch located at 223 McKinney St, Farmersville, TX 75442, night deposit is available and night drop bags can be provided to the City at no charge. The City will drop off after our deposits in the night drop. The next business morning the branch will open the night drop in dual control and work the deposits. Receipts and bags can be picked up later that day.

G. Reporting and Account Analysis

Monthly account analysis reports must be provided by the bank on a timely basis for each account and on a total account basis. A sample account analysis format must be provided as part of the proposal. Samples of monthly statements should also be provided. The monthly statements are to be received within ten business

days of the next month.

If desired, Independent Bank may furnish an analysis-styled report of activity and services provided. However, a traditional account analysis report is not applicable as Independent Bank is not proposing an earnings credit rate or charging the City for activity or services. A sample analysis statement is included. The Bank's monthly statement cut-off date is the last day of every month. We allow 3 to 5 days for processing and mailing of paper statements. Monthly statement activity and images are available in online banking for a minimum of twelve months. E-Statements containing images are available for 60 (sixty) days. CD- ROMs are available upon request.

H. Account Executive

An account executive must be assigned to the account to coordinate the account services and expedite the solution of any problem. A trained and competent backup for the account executive, familiar with the account, should be assigned in the proposal. Stipulate the name and a brief biography of the account executive to be assigned to the City's account.

The City should direct any day-to-day operational or other customer service requests to Shannon Palmer. Ms. Palmer will either personally handle the request or direct the request to the appropriate party or department. Should an escalation in customer service be required, Ms. Palmer shall include Regional President, Johnny Bratcher.

Depository officer as a primary contact.

Name Shannon Palmer

Title Branch Services Supervisor

Telephone # 972-782-6181

Fax # 972-784-6362

Email spalmer@ibtx.com

Shannon Palmer currently serves as Branch Services Supervisor for the Independent Bank Farmersville location. Shannon Palmer started in banking in 2009 at First Bank Farmersville, then after the merger continued on to work for Independent Bank. Palmer started off in a teller position and worked her way up to be Branch Services Supervisor. Palmer makes it a priority to serve her customers to the best of her ability and to form long lasting relationships within her community.

Depository representative as a backup.

Name Johnny Bratcher

Title EVP/Regional President

Telephone # 972-782-6181

Fax # 972-784-6362

Email jbratcher@ibtx.com

Johnny Bratcher currently serves as an Executive Vice President for Independent Bank and currently oversees seven Independent Bank locations. Bratcher started his banking career in 1975 at the then First National Bank Farmersville, which through a merger of First Bank Farmersville in 2010 is now Independent Bank. Bratcher joined Independent Bank in 2001 and transferred back to Farmersville when First Bank Farmersville completed the merger in 2010. In the seven locations Bratcher oversees, Independent Bank serves as the depository for several Cities, School Districts and Special Utility Districts.

I. Direct Deposit

Describe the requirements and deadlines for computer tap for ACH transactions. The proposal should indicate when funds will be available in participating banks.

Independent Bank offers ACH Origination services. Transmission for ACH transactions is available through online banking. One-time and recurring ACH transactions may be initiated.

ACH Transactions must be submitted and approved by 5:00 pm Central Time, on Thursday to pay Friday payroll. One business day processing is required with 5:00 pm cut-off time.

Daylight Overdraft Provisions: Every effort will be made to eliminate daylight overdraft situations on the account. However, in case this situation does arise, the proposal should include any and all bank policies regarding daylight overdrafts charges or handling procedures.

The Bank does not currently track daylight overdrafts. If there is a true overdraft on the aggregated accounts level, the Bank will not charge the City on that overdraft for up to 5 (five) business days. If the overdraft continues beyond 5 days, a 5% per annum interest charge based on the outstanding balance will be assessed.

M. Stop Payments

The proposal must include a statement on the proposed stop payment process on an automated or manual basis.

Stop payments can be processed manually or online. The deadline for online banking submission of stop payment orders is 4:00 pm Central Time, Monday through Friday excluding Bank Holidays. The deadline for in-person submission of stop payment orders is 5:00 pm Central Time, Monday through Friday excluding Bank Holidays. If the stop payment is initiated online no paper follow-up is required.

N. Collateralization of Deposits

The bank must agree to obtain and maintain acceptable collateral sufficient to cover all anticipated time and demand deposits, above the FDIC insured limit of \$250,000 . Securities used to pledge against time and demand deposits must be held in an independent third-party safekeeping institution outside the bank's holding company. The bank will execute a tri-party safekeeping agreement with the City and the Safekeeping bank for safekeeping of these securities. Collateral will be maintained at a minimum of 102% and marked to market at least once a month. Control will be shared jointly between the bank and the entity. Substitution will be approved by the City and not unduly withheld. Substitutions of collateral will be requested in writing and new collateral will be received before the existing collateral is released. The proposal will name the safekeeping bank for collateral.

Independent Bank will secure deposits in excess of FDIC coverage by way of pledging securities held for safekeeping with its correspondent bank, The Independent Banker's Bank (TIB), or by issuance of a letter of credit in favor of the City issued by the Federal Home Loan Bank (FHLB)(Preferred method).

Independent Bank agrees to collateralize deposits for the City up to the maximum anticipated collateral requirement.

O. Additional Services

If new services become available and are provided during the period of this contract, they will be charged at the banks then published rate.

Agreed.

V. **OTHER SERVICES**

The City is interested in obtaining service and cost information on additional services for possible use during the contract period. These services are not required but will be evaluated in terms of availability, feasibility, service levels, service providers and cost. The City will make its determination after receipt of proposals as to whether a service will be used. If the service is accepted later in the contract period the services and charges stipulated in the proposal will be applied.

A. Lockbox Services

The City may choose to utilize lockbox services for certain revenue collections. Describe the service including the lockbox location and a full description of the service

Independent Bank offers lockbox services through a third party provider located in the Dallas/Fort Worth metroplex. Services can be customized to fit the City of Farmersville's needs. Payments are sent to a centralized post office box with a Dallas address and collected daily for processing. As this is offered through a third party applicable pricing from the vendor will be assessed.

VI. Bank Compensation

Any net settlement on compensating balances will be made annually. If fees are chosen as the payment methodology, fees will be paid monthly after receipt of the account analysis.

Not Applicable.

Independent Bank is proposing interest bearing NOW accounts free from service charges.

IMPORTANT ACCOUNT INFORMATION FOR OUR CUSTOMERS
from

YOUR ABILITY TO WITHDRAW FUNDS

This policy statement applies to "transaction" accounts. Transaction accounts, in general, are accounts which permit an unlimited number of payments to third persons and an unlimited number of telephone and pre-authorized transfers to other accounts of yours with us. Checking accounts are the most common transaction accounts. Feel free to ask us whether any of your other accounts might also be under this policy.

Our policy is to make funds from your cash and check deposits available to you on the first business day after the day we receive your deposit. Electronic direct deposits will be available on the day we receive the deposit. Once the funds are available, you can withdraw them in cash and we will use the funds to pay checks that you have written.

Please remember that even after we have made funds available to you and you have withdrawn the funds, you are still responsible for checks you deposit that are returned to us unpaid and for any other problems involving your deposit.

For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. If you make a deposit on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit on a day we are not open, we will consider that the deposit was made on the next business day we are open. If we cash a check for you that is drawn on another bank, we may withhold the corresponding amount of funds that are already in your accounts. Those funds will be available at the time funds from the check we cashed would have been available if you had deposited it.

If we accept for deposit a check that is drawn on another bank, we may make funds from the deposit available for withdrawal immediately but delay your availability to withdraw a corresponding amount of funds that you have on deposit in another account with us. The funds in the other account would then not be available for withdrawal until the time periods that are described elsewhere in this disclosure for the type of check that you deposited.

Longer Delays May Apply

Case-By-Case Delays - In some cases, we will not make all of the funds that you deposit by check available to you on the first business day after the day of your deposit. Depending on the type of check that you deposit, funds may not be available until the second business day after the day of your deposit. The first \$200 of your deposits, however, will be available on the first business day.

If we are not going to make all of the funds from your deposit available on the first business day after we receive your deposit, we will notify you at

the time you make your deposit. We will also tell you when the funds will be available if we decide to take this action after you have left the premises, we will mail you the notice by the day after we receive your deposit.

If you will need the funds from a deposit right away, you should ask us when the funds will be available.

Safeguard Exceptions - In addition, funds you deposit by check may be delayed for a longer period under the following circumstances:

- * We believe a check you deposit will not be paid.
- * You deposit checks totaling more than \$5,000 on any one day.
- * You redeposit a check that has been returned unpaid.
- * You have overdrawn your account repeatedly in the last six months.
- * There is an emergency, such as failure of computer or communications equipment.

We will also notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the seventh business day after the day of your deposit.

Special Rules for New Accounts

If you are a new customer, the following special rules will apply during the first 30 days your account is open.

Funds from electronic direct deposits to your account will be available on the day we receive the deposit. Funds for deposits of cash, wire transfers, and the first \$5,000 of a day's total deposits of cashier's, teller's, traveler's, and federal, state and local government checks will be available on the first business day after the day of your deposit. If the deposit meets certain conditions, for example, the checks must be payable to you. The excess over \$5,000 will be available on the seventh business day after the day of your deposit. If your deposit of these checks (other than a U.S. Treasury check is not made in person to one of our employees, the first \$5,000 will not be available until the second business day after the day of your deposit.

Funds from all other deposits will be available on the seventh business day after the day of your deposit.



April 28, 2017

Daphne Hamlin
Finance Director
City of Farmersville
205 S. Main Street
Farmersville, TX 75442

Dear Ms. Hamlin:

Thank you very much for giving our Bank the opportunity to present a bid to provide the City of Farmersville with its banking services. The bank's 2016 audited financial statements are enclosed. In addition, the bank's most recent call report as of December 31, 2016 is also enclosed with the bid.

To my knowledge, the bank has no plans to engage in a merger or acquisition of another bank in the foreseen future. However, the bank's holding company, Trenton Bankshares, Inc. is being acquired by Captex Bancshares, Inc. A definitive agreement was signed between the two parties on July 27, 2016. Captex Bancshares, Inc. is a brand new holding company and is having to raise capital and go through regulatory approval before the transaction can close. Currently, they are awaiting final approval from the Federal Reserve. Once that approval is received, the transaction should close within 30 days. First National Bank of Trenton will continue to operate as a national bank but under a new holding company and ownership. This transaction should not affect the bank's Farmersville Branch or its ability to service the City, business as usual, and to the very best of its ability.

REQUIRED BANKING SERVICES:

- A. **Consolidated Account Structure:** Available free of charge.
- B. **Wire Transfer Services:** A standard Wire Transfer Agreement is on file with the City of Farmersville. Since the bank is the current depository for the City, the standard transfer procedures are already being followed by the City. Wire transfers are available in person, via telephone, and via facsimile free of charge.
- C. **Automated Daily Balance Reporting:** The Bank has both PC-based internet reporting, as well as telephone reporting. Both systems are available 24 hours a day, 7 days a week. Both are free of charge. Again, since the bank is the current depository of the City, the City is aware of the types of reporting available with both the PC-based internet reporting and the telephone reporting.
- D. **Investment of Idle Funds and Safekeeping of City Securities:** The Bank does not offer overnight repurchase agreements. The Bank does not have a trust department however, uses TIB for its safekeeping needs. TIB has been contacted, and it will not be a problem for the Bank to safe keep the City's securities there. The safekeeping receipts will be in the Bank's name in care of the City of Farmersville. The Bank will receive all the necessary correspondence for the City and will make the necessary entries as needed. This service is provided free of charge.

- E. **Standard Disbursing Services:** Standard disbursing services for all accounts will include the payment of all checks upon presentation. This service is provided free of charge.

- F. **Standard Deposit Services:** Enclosed is a copy of the Bank's Funds Availability Policy. The Bank has a full-service branch located in Farmersville at 201 South Highway 78. The bank's drive-thru hours are as follows: Monday-Thursday 8:00 a.m. to 5:30 p.m., Friday 8:00 a.m. to 6:00 p.m., and Saturday 8:30 a.m. to 12:00 p.m. The bank's lobby is open Monday-Thursday 9:00 a.m. to 5:00 p.m. and Friday 9:00 a.m. to 6:00 p.m. Terri Lowe is the branch manager and will be in charge of servicing the City's accounts. The phone number is 972-782-7054. The Bank does have night deposit services, which are accessible 24 hours a day, 7 days a week. All night deposit transactions are processed under dual control in the morning before the branch opens each business day. Locked bags are available. A Night Deposit Services Agreement must be signed to receive keys. Any item larger than a normal envelope size will require a key to deposit. These services are free of charge.

- G. **Reporting and Account Analysis:** The Bank has monthly account analysis statements available for each account and on a total account basis if service charges are assessed. However, the Bank is not charging the City for any services rendered. Therefore, there is no need for a monthly account analysis statement. However, the normal monthly statements will be sent on a timely basis and will include images of both front and back of all checks written.

- H. **Account Executive:** Terri Lowe will be the assigned account executive for the City's accounts. She will coordinate the account services and expedite solutions to any problems. She is a Vice President of the bank. She has been with the bank since 2006. The bank was originally awarded the City of Farmersville depository contract in November of 2007. Terri is very familiar with the City and their account services. Terri can be reached at the Farmersville location, phone number 972-782-7054. Kathy Lance, Executive VP and Chief Operations Officer of the bank, can also assist with any needs of the City, including expediting solutions to any problems that may arise. Kathy can be reached at the Melissa location, phone number 972-837-4915. For questions about wire transfers or ACH origination (payroll), Anna Morse, Bookkeeping Supervisor, can also assist. Anna can be reached at the Trenton location, phone number 903-989-2235. Last, Angela Sadler will be the contact for the request for proposal for banking services and if awarded, the depository contract. In addition, Angela will be the contact for any questions regarding safekeeping of the City's securities or pledging for the City's deposits. Angela is the Chief Financial Officer of First National Bank of Trenton and can also be reached at the Trenton location, phone number 903-989-2235.

- I. **Direct Deposit:** Direct deposit is available through the Bank and requires you to be set up to generate ACH transactions over the computer. This service is provided at no charge. ACH files must be received by noon to be processed on the same day.

Daylight Overdraft Provision: The Bank does not allow daylight overdrafts.

- J. **Stop Payments:** This service is provided on an automated and manual basis and is provided free of charge.

- K. **Collateralization of Deposits:** The Bank agrees to obtain and maintain acceptable collateral sufficient to cover all anticipated time and demand deposits, above the FDIC insured limit. Bank investment securities are used to pledge against time and demand deposits of the City. These securities are held in an independent, third party safekeeping institution outside the bank's holding company. The bank uses TIB for its

safekeeping needs. The bank executes a tri-party safekeeping agreement with the City and TIB for safekeeping these securities. All requirements of the City related to this collateral will be maintained. In addition, the bank would like approval from the City to use a letter of credit from the Federal Home Loan Bank of Dallas as sufficient collateral to cover the City's deposits. The bank plans to continue to use pledged securities as long as the securities are available to pledge. Receiving approval from the City for this alternative method just gives the bank more flexibility if securities are not available to pledge.

- L. **Additional Services:** New services will be addressed at the time they become needed or available and will be charged at the bank's then published rate.

OTHER SERVICES:

Other services not requested in this proposal will be addressed at the time they become needed or available and will be charged at the bank's then published rate if applicable.

- A. **Lockbox Services:** The Bank does have lockbox services, which are accessible 24 hours a day, 7 days a week. All lockbox transactions are processed under dual control in the morning before the branch opens each business day. Locked bags are available. A Lockbox Services Agreement must be signed to receive keys. Any item larger than a normal envelope size will require a key to deposit. These services are free of charge.

BANK COMPENSATION:

The bank will not require net settlement on compensating balances nor will fees need to be paid monthly after receipt of the account analysis. The bank will not charge the City for its depository services.

BANK DEPOSIT ACCOUNT STRUCTURE AND RATES:

The bank offers two interest bearing checking accounts for the Depository: the NOW account and the Money Market account. The Depository recommends that the District use the NOW account for its operating accounts, as the transactions are unlimited, and use the Money Market account for its investment funds, as these transactions are limited to six withdrawals each statement cycle. Sweep accounts are available so that the District can sweep its excess funds from the NOW accounts into the Money Market accounts daily if needed. The current, posted **NOW account rate is 0.05%**. The current, posted Money Market account rates are based on average daily balances and are as follows: **\$0.01 thru \$24,999.99 is 0.10%, \$25,000.00 thru \$199,999.99 is 0.15%, and \$200,000.00 and over is 0.30%.** The City's rates will be based on the current posted rates and changed during the contract as posted rates change. Attached is the complete rate sheet for the bank's current deposit rates, including CD rates and savings account rates.

If you have any questions or need additional information, please do not hesitate to contact me. I can be reached by phone at 903-989-2235 or by email at asadler@fnbtrenton.com. Thank you again for allowing First National Bank of Trenton – Farmersville Branch the opportunity to bid on the City's banking services.

Angela Sadler
CFO

Terri Lowe
VP/Branch Manager

First National Bank of Trenton

106 Hamilton
P. O. Box 4
Trenton, Texas 75490
903-989-2235

Regulation CC Funds Availability Disclosure

Funds Availability Disclosure

PURPOSE OF THIS DISCLOSURE

The information here describes our policy of holding deposited items in a transaction account before funds are made available to you for withdrawal. This is our Funds Availability Policy. In summary our policy is to make your funds available on the first Business Day after the day of deposit. Please refer to the section DETERMINING THE AVAILABILITY OF YOUR DEPOSIT for the complete policy.

For purposes of this disclosure, the terms "you"/"your" refer to the customer and the terms "our"/"we"/"us" refer to First National Bank of Trenton.

Generally, transaction accounts are accounts which would permit an unlimited number of payments by check to third persons, and also an unlimited number of telephonic and preauthorized transfers to third persons or other accounts you may have with us.

DETERMINING THE AVAILABILITY OF YOUR DEPOSIT

The length of the delay varies depending on the type of deposit and is explained below. When we delay your ability to withdraw funds from a deposit, you may not withdraw the funds in cash, and we will not pay checks you have written on your account by using these funds. Even after we have made funds available to you and you have withdrawn the funds, you are still responsible for checks you deposit that are returned to us unpaid and for any other problems involving your deposit.

When we delay your ability to withdraw funds, the length of the delay is counted in Business Days from the day of your deposit. The term "Business Day" means any day other than Saturday, Sunday or federally declared legal holiday, and the term "Banking Day" means that part of any Business Day on which we are open to the public for carrying on substantially all of our banking functions.

If you make a deposit before 2:00 pm on a Business Day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after 2:00 pm or on a day that we are not open, we will consider the deposit made on the next Business Day we are open.

AVAILABILITY SCHEDULE

Same Day Availability. Funds from electronic direct deposits to your account will be available on the day we receive the deposit. In addition, funds from deposits of wire transfer will also be available on the day of deposit.

Next Day Availability. Funds from deposits of cash (if made in person to an employee of the Bank*), U. S. Treasury checks (if payable to you and deposited into your account), U. S. Postal Service Money Orders (if payable to you and deposited into your account, and the deposit is made in person to an employee of the Bank*), Federal Reserve Bank or Federal Home Loan Bank checks (if payable to you and deposited into your account, and the deposit is made in person to an employee of the Bank*), State or Local Government checks (if payable to you and deposited into your account, and the deposit is made in person to an employee of the Bank*), cashier's checks, certified, or teller's check (if payable to you and deposited into your account, and the deposit is made in person to an employee of the Bank*) and checks drawn on us unless, are available on the first Business Day after the day of your deposit.

Other Check Deposits. All other check deposits than those indicated above will be available on the 2nd Business Day after the day of deposit.

HOLDS ON OTHER FUNDS FOR CHECK CASHING

If we cash a check for you that is drawn on another financial institution, we may withhold the availability of a corresponding amount of funds that are already in your account. Those funds will be available at the time funds from the check we cashed would have been available if you had deposited it and we decided to delay availability on the deposit.

HOLDS ON OTHER FUNDS IN ANOTHER ACCOUNT

If we accept for deposit a check that is drawn on another financial institution, we may make funds from the deposit available for withdrawal immediately but delay your availability to withdraw a corresponding amount of funds that you have on deposit in another account with us. The funds in the other account would then not be available for withdrawal until the time periods that are described elsewhere in this disclosure for the type of check that you deposited and we decided to delay availability on the deposit.

LONGER DELAYS MAY APPLY

In some cases, we will not make all of the funds that you deposit by check available to you according to the previously stated availability schedule. Depending on the type of check that you deposit, funds may not be available until the 7th Business Day after the day of your deposit. The first \$200.00 of your deposits, however, may be available on the first Business Day.

If we are not going to make all of the funds from your deposit available to you according to the previously stated availability schedule, we will notify you at the time you make the deposit. We will also tell you when the funds will be available. If your deposit is not made directly to one of our employees, or if we decide to take this action after you have left the premises, we will mail you the notice by the day after we receive your deposit. If you will need the funds from a deposit right away, you should ask us when the funds will be available.

Funds you deposit by check may be delayed for a longer period under the following circumstances: (a) if we believe a check you deposit will not be paid; (b) if you deposit checks totaling more than \$5,000 on any one day; (c) if you redeposit a check that has been returned unpaid; (d) if you have overdrawn your account repeatedly in the last six months; or (e) if an emergency condition arises that would not enable us to make the funds available to you, such as the failure of computer or communications equipment.

First National Bank of Trenton Rate Sheet

1-Oct-14

Account Product Name	Minimum Opening Deposit	Interest Rate	Annual Percentage Yield
03 Month Certificate of Deposit	\$1,000.00	0.10%	0.10%
06 Month Certificate of Deposit	\$1,000.00	0.20%	0.20%
12 Month Certificate of Deposit	\$1,000.00	0.35%	0.35%
18 Month Certificate of Deposit	\$1,000.00	0.45%	0.45%
24 Month Certificate of Deposit	\$1,000.00	0.50%	0.50%
36 Month Certificate of Deposit	\$1,000.00	0.80%	0.80%
48 Month Certificate of Deposit	\$1,000.00	0.95%	0.95%
60 Month Certificate of Deposit	\$1,000.00	1.10%	1.11%
18 Month Variable Rate CD	\$500.00	0.30%	0.30%

Minimum opening deposit of \$1,000 required. Special Rate applicable to initial term only. At maturity, CD will automatically renew for the Renewal Term stated above, at the interest rate and APY in effect for CDs not subject to a Special Rate, unless the Bank has notified you otherwise.

The balance tiers for the accounts listed on this page are as follows: \$0 - \$9,999.99; \$10,000-\$24,999.99; \$25,000-\$199,999.99; \$200,000-and up.

Annual Percentage Yields offered within two or more consecutive tiers may be the same. When this is the case, this screen will show those multiple tiers as a single tier. Each tier shown reflects the current minimum balance required to obtain the applicable Annual Percentage Yield.

Rates subject to change at any time and are not guaranteed until CD is opened.

Penalty may be imposed for early withdrawal. Fees may reduce earning on the account.

Interest cannot remain on deposit and must be paid out when the following conditions are met:

- 1) the account has a maturity greater than 1 year
- 2) interest is not compounded at least annually
- 3) interest must be withdrawn at least annually, and
- 4) the APY disclosed is equal to the interest rate

Savings Account	\$100.00	0.10%	0.10%
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The Annual Percentage Yields (APY) and Interest Rates shown are offered on accounts accepted by the Bank and effective for the date shown above, unless otherwise noted. Rates are subject to change without notice.

Interest Rate vs. APY: The APY (Annual Percentage Yield) is a percentage rate that reflects the total amount of interest paid on the account, based on the interest rate and the frequency of compounding for a 365-day period. If you receive a periodic statement, that statement will include the APY earned on your account for the period covered by the statement.

Penalty may be imposed for early withdrawal. Fees may reduce earning on the account.

Member FDIC

NOW Account	\$1,500.00	0.05%	0.05%
FNB Select	\$1,500.00	0.05%	0.05%
Money Market Account			
Average Daily Balances of:	\$2,500.00	\$.00 - \$ 9,999.99	0.10%
		\$10,000.00 - \$ 24,999.99	0.10%
		\$25,000.00 - \$199,999.99	0.15%
		\$200,000.00 and up	0.30%

The Annual Percentage Yields (APY) and Interest Rates shown are offered on accounts accepted by the Bank and effective for the date shown above, unless otherwise noted. Rates are subject to change without notice.

Interest Rate vs. APY: The APY (Annual Percentage Yield) is a percentage rate that reflects the total amount of interest paid on the account, based on the interest rate and the frequency of compounding for a 365-day period. If you receive a periodic statement, that statement will include the APY earned on your account for the period covered by the statement.

The balance tiers for the accounts listed above are as follows: \$0-\$20,000.00; \$20,000.01-and up. Rates and Annual Percentage Yields offered within two or more consecutive tiers may be the same. When this is the case, this screen will show those multiple tiers as a single tier. Each tier shown reflects the current minimum balance required to obtain the applicable Annual Percentage Yield.

Penalty may be imposed for early withdrawal. Fees may reduce earning on the account.

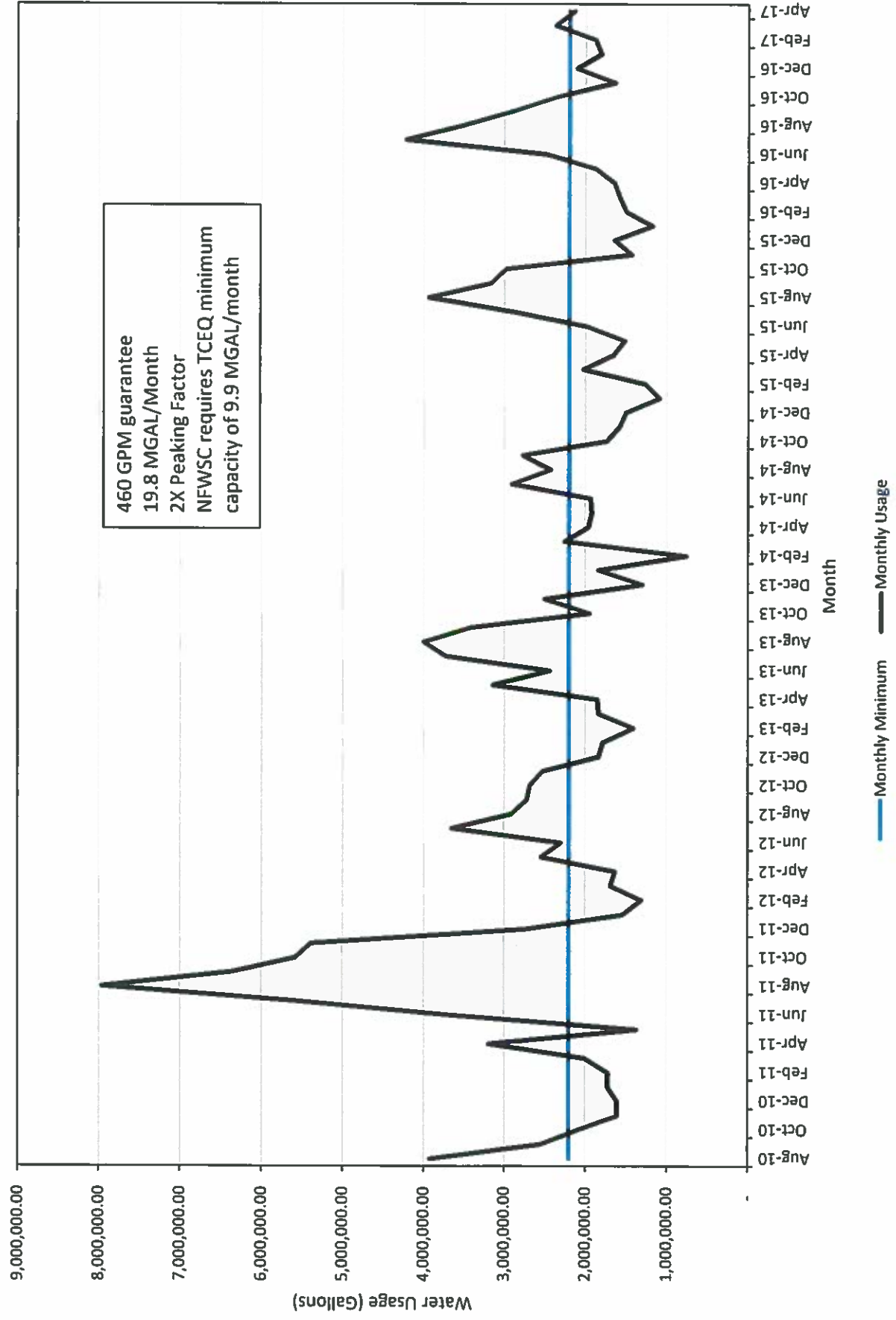
Member FDIC

For current rate information call (903)989-2235.



Agenda Section	Regular Agenda
Section Number	VI.G
Subject	Consider, discuss and act regarding the renegotiation of the N. Farmersville Water Contract minimums.
To	Mayor and Council Members
From	Ben White, City Manager
Date	May 9, 2017
Attachment(s)	<ol style="list-style-type: none"> 1. Monthly usage chart and data 2. Water Purchase and Sale Contract
Related Link(s)	http://www.farmersvilletx.com/government/agendas_and_minutes/city_council_meetings.php
Consideration and Discussion	City Council discussion as required.
Action	<ul style="list-style-type: none"> • Motion/second/vote <ul style="list-style-type: none"> <input type="checkbox"/> Approve <input type="checkbox"/> Approve with Updates <input type="checkbox"/> Disapprove • Motion/second/vote to continue to a later date. _____ <ul style="list-style-type: none"> <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove • Move item to a future agenda. _____ • No motion, no action

North Farmersville WSC Monthly Water Usage



Date	Rate per 1000 Gallons	Monthly Minimum	Monthly Usage
Aug-10	1.74	2,207,060.00	3,924,200.00
Sep-10	1.74	2,207,060.00	2,549,100.00
Oct-10	1.74	2,207,060.00	2,096,200.00
Nov-10	1.74	2,207,060.00	1,605,600.00
Dec-10	1.74	2,207,060.00	1,608,000.00
Jan-11	1.74	2,207,060.00	1,723,500.00
Feb-11	1.74	2,207,060.00	1,720,300.00
Mar-11	1.74	2,207,060.00	2,004,100.00
Apr-11	1.74	2,207,060.00	3,195,600.00
May-11	1.74	2,207,060.00	1,364,500.00
Jun-11	1.74	2,207,060.00	3,662,800.00
Jul-11	1.74	2,207,060.00	5,617,600.00
Aug-11	1.74	2,207,060.00	7,965,000.00
Sep-11	1.74	2,207,060.00	6,362,500.00
Oct-11	1.74	2,207,060.00	5,586,800.00
Nov-11	1.74	2,207,060.00	5,391,600.00
Dec-11	1.74	2,207,060.00	2,732,900.00
Jan-12	1.74	2,207,060.00	1,545,100.00
Feb-12	1.74	2,207,060.00	1,305,700.00
Mar-12	1.74	2,207,060.00	1,690,200.00
Apr-12	1.74	2,207,060.00	1,633,700.00
May-12	1.74	2,207,060.00	2,543,500.00
Jun-12	1.74	2,207,060.00	2,303,200.00
Jul-12	1.89	2,207,060.00	3,657,100.00
Aug-12	1.89	2,207,060.00	2,913,000.00
Sep-12	1.89	2,207,060.00	2,721,500.00
Oct-12	2.10	2,207,060.00	2,682,900.00
Nov-12	2.10	2,207,060.00	2,522,600.00
Dec-12	2.10	2,207,060.00	1,835,400.00
Jan-13	2.10	2,207,060.00	1,781,600.00
Feb-13	2.10	2,207,060.00	1,405,100.00
Mar-13	2.10	2,207,060.00	1,834,400.00
Apr-13	2.10	2,207,060.00	1,850,700.00
May-13	2.10	2,207,060.00	3,142,700.00
Jun-13	2.10	2,207,060.00	2,436,100.00
Jul-13	2.10	2,207,060.00	3,729,700.00
Aug-13	2.10	2,207,060.00	3,998,100.00
Sep-13	2.10	2,207,060.00	3,420,700.00
Oct-13	2.27	2,207,060.00	1,948,200.00
Nov-13	2.27	2,207,060.00	2,502,600.00
Dec-13	2.27	2,207,060.00	1,297,500.00
Jan-14	2.27	2,207,060.00	1,836,000.00
Feb-14	2.27	2,207,060.00	756,000.00
Mar-14	2.27	2,207,060.00	2,256,300.00
Apr-14	2.39	2,207,060.00	1,961,700.00
May-14	2.39	2,207,060.00	1,923,200.00

Jun-14	2.39	2,207,060.00	1,936,500.00
Jul-14	2.39	2,207,060.00	2,905,300.00
Aug-14	2.39	2,207,060.00	2,426,700.00
Sep-14	2.39	2,207,060.00	2,775,500.00
Oct-14	2.62	2,207,060.00	1,736,100.00
Nov-14	2.62	2,207,060.00	1,582,600.00
Dec-14	2.62	2,207,060.00	1,501,300.00
Jan-15	2.62	2,207,060.00	1,088,000.00
Feb-15	2.62	2,207,060.00	1,266,500.00
Mar-15	2.62	2,207,060.00	2,027,600.00
Apr-15	2.62	2,207,060.00	1,661,900.00
May-15	2.62	2,207,060.00	1,520,800.00
Jun-15	2.62	2,207,060.00	1,982,700.00
Jul-15	2.62	2,207,060.00	2,880,800.00
Aug-15	2.62	2,207,060.00	3,941,200.00
Sep-15	2.62	2,207,060.00	3,172,300.00
Oct-15	2.85	2,207,060.00	2,976,700.00
Nov-15	2.85	2,207,060.00	1,430,700.00
Dec-15	2.85	2,207,060.00	1,645,800.00
Jan-16	2.85	2,207,060.00	1,176,800.00
Feb-16	2.85	2,207,060.00	1,499,200.00
Mar-16	2.85	2,207,060.00	1,582,000.00
Apr-16	2.85	2,207,060.00	1,648,000.00
May-16	2.85	2,207,060.00	1,878,000.00
Jun-16	2.85	2,207,060.00	2,476,400.00
Jul-16	2.85	2,207,060.00	4,221,500.00
Aug-16	2.85	2,207,060.00	3,522,700.00
Sep-16	2.85	2,207,060.00	2,904,500.00
Oct-16	3.21	2,207,060.00	2,361,800.00
Nov-16	3.21	2,207,060.00	1,639,500.00
Dec-16	3.21	2,207,060.00	2,108,800.00
Jan-17	3.21	2,207,060.00	1,807,500.00
Feb-17	3.21	2,207,060.00	1,881,200.00
Mar-17	3.21	2,207,060.00	2,374,400.00
Apr-17	3.21	2,207,060.00	2,141,200.00

WATER PURCHASE AND SALE CONTRACT
North Farmersville Water Supply Corporation

THIS WATER PURCHASE AND SALE CONTRACT (the "Contract") is dated and entered into as of the 1st day of June, 2012, by and between **NORTH FARMERSVILLE WATER SUPPLY CORPORATION** (the "Purchaser"), a water supply corporation organized and established under the laws of the State of Texas, and the **CITY OF FARMERSVILLE, TEXAS**, (the "City").

RECITALS

WHEREAS, Purchaser is a water supply corporation organized and established under the laws of the State of Texas for the purpose, in part, of constructing and operating a water supply distribution system serving residents within its boundaries, and to accomplish this purpose, in part, the Purchaser now desires to purchase an additional supplemental supply of treated water; and

WHEREAS, City owns and operates a water supply distribution system to serve the customers within its certificated area; and

WHEREAS, City is a member of the North Texas Municipal Water District, and has entered into a contract with the North Texas Municipal Water District for the acquisition and provision of potable water with a capacity currently capable of serving the present customers of the City's system, with enough additional supply to provide water to Purchaser as specified herein; and

WHEREAS, the City Council of the City of Farmersville has duly authorized the sale of potable water to the Purchaser as well as the execution of the Contract by the City Manager, attested by the City Secretary; and

WHEREAS, the Purchaser's Board of Directors duly authorized the purchase of water from the City and the execution of the contract by the President, attested by the Secretary;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the sufficiency of which are hereby acknowledged, and upon and subject to the terms and conditions hereinafter set forth, the parties hereto mutually undertake, promise, and agree as follows:

ARTICLE I
DELIVERY OF WATER

Section 1.01. Connection. Subject to the terms and conditions of this Contract, City will allow Purchaser to connect Purchaser's water system to the City's potable

water system at the locations described in this Contract (collectively referred to as the "Point of Delivery" or "Points of Delivery").

Section 1.02. Delivery. Subject to the terms and conditions of this Contract: City will deliver potable water from the North Texas Municipal Water District to Purchaser at (or through) the City's Point of Delivery; provided, however, such delivery is conditioned upon Purchaser: (i) allowing City to upgrade and install a new water meter and appropriate backflow prevention device, if not already so equipped, on Purchaser's side of each Point of Delivery; (ii) allowing the City to maintain and provide for the inspection of the backflow prevention device on Purchaser's side of each Point of Delivery; (iii) reimbursing the City for its costs of maintenance, inspection and repairs including future replacement of the backflow prevention device on Purchaser's side of each Point of Delivery within thirty (30) days after receipt of notice and invoice from the City; and, (iv) compliance with all applicable orders, rules, regulations, statutes and ordinances regarding the delivery and protection of the public drinking water supply.

Section 1.03. Volume. City agrees to provide a maximum flow rate of 500 gpm (gallons per minute). Purchaser agrees to purchase a minimum of **two million, two hundred and seven thousand, sixty (2,207,060)** gallons of water per month and **twenty-six million, four hundred eighty-four thousand, seven hundred and twenty (26,484,720)** gallons of water per year from City during the term of this Contract **whether such amount is actually taken nor not. The minimum gallon purchase amount shall be reviewed annually.**

This paragraph is based on an agreement between North Farmersville WSC and the City of Farmersville dated December 11, 2007 (See Note 1); furthermore this agreement is based on TCEQ requirements.

Section 1.04. Point of Delivery. The Points of Delivery, which are one (1) in number, will be located as follows:

- A. From an existing water main at a point located on State Highway 78 (east side) 901 feet north of the intersection of State Highway 78 and Sycamore.

Note 1: The total service pump capacity of the system plus the maximum hourly purchase rate must equal at least a minimum of 2 gallons per minute per connection or provide at least 1,000 gallons per minute and be able to meet peak hourly demands, whichever is less. The system requires 460 GPM based on 230 connections (230 x 2.0 = 460 GPM). The system purchases 26,000,000 gallons/year (49.5GPM) pretreated water from the City of Farmersville.

The water to be delivered shall be out of the existing main into the line of the Purchaser at the pressure which is maintained in the water supply system of the City. It is hereby specifically agreed that the Purchaser may utilize the pressure which is maintained in the City's system for the movement of the water herein contracted to be purchased through the distribution system of the Purchaser. If the pressure on the Purchaser's distribution system exceeds the pressure on the City's distribution system at the Point of Delivery, the Purchaser shall install and maintain, at its expense, such additional devices as may be necessary to prevent backflow of the water, subject to inspection and certification by City. Purchaser agrees to furnish, install, construct, maintain and operate, at its own cost and expense at the above Points of Delivery, all equipment and facilities necessary to receive and take water from the City's line. The equipment and facilities will be operated by Purchaser in accordance with the terms of this Agreement.

Section 1.05. Metering Station. The parties to this Contract acknowledge and agree that the metering stations located at the Points of Delivery will be located so City and Purchaser will both have unrestricted access to the metering station. Purchaser shall be responsible for the enclosure and security of the metering stations and the general maintenance and mowing of the grounds in and about the metering stations.

Section 1.06. Metering Equipment. In accordance with this Section:

- A. At each Point of Delivery, Purchaser at its own expense shall design, construct and install all facilities and equipment required for the Point of Delivery, including any required, tapping of the main, piping, meters, control devices and systems and appurtenances. The materials and equipment required will be determined by the City's Engineers. City shall at its own expense review and approve the design, equipment and materials submitted by Purchaser's Engineer. All such materials and equipment that are not on the Purchaser's side of the meter will become the property of the City.
- B. At each Point of Delivery, the City shall at its own cost design, construct and install the initial backflow prevention device required for the Point of Delivery. City further agrees to furnish, install and operate at each Point of Delivery the necessary metering equipment, including a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the Purchaser and to calibrate such metering equipment once every twelve (12) months. A meter shall meet current AWWA specifications for tolerance and testing. The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the six (6) months period previous to such test in accordance with the percentage of inaccuracy found by such test. If any meter fails to register for any period, the amount of water furnished during such period

shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure unless City and Purchaser shall agree upon a different amount. The metering equipment shall be read on or about the last business day of the month. An appropriate official of the Purchaser, at all reasonable times, shall have access to the meter for the purpose of verifying its readings. City shall maintain, repair and provide for inspection of the backflow prevention device and the meter(s), including calibration of such meter(s), at each Point of Delivery. Purchaser shall reimburse City for the cost of inspection, maintenance, calibration, and repairs including the future replacement of the backflow prevention device and the meter(s) at each Point of Delivery as may be necessary within thirty (30) days after Purchaser's receipt of notice and invoice of said costs and expenses from City.

Section 1.07. Water Conservation and Drought Contingency. Purchaser shall develop and implement a water conservation plan meeting the requirements of Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2 of the Texas Administrative Code. Purchaser shall implement, follow, and flow-down to its customers the City's drought contingency emergency response stages in accordance with the City's Water Management Plan. The Purchaser's Water Management Plan shall be reviewed and approved by the City of Farmersville's Director of Public Works before it is approved and implemented by the Purchaser.

Section 1.08. Water Quality. The water that the City delivers to Purchaser shall be potable water acquired from NTMWD that is suitable for public water supply and shall meet the quality criteria prescribed by the TCEQ Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems, 30 Tex. Admin. Code Chapter 290, subchapter F.

Section 1.09. Title. The title to the water shall transfer from the City to Purchaser on the discharge side of the meter located at the City's Point of Delivery. Each of the parties hereto hereby agrees to save and hold each other party hereto harmless from all claims, demands and causes of action which may be asserted by anyone on account of the transportation and delivery of said water while title remains in such party.

Section 1.10. Approvals. Unless otherwise required by law, each consent, approval, or other official action required of either party to this Contract, by any provision of this Contract, shall be deemed in compliance with this Contract when written evidence of such action, signed by the respective Authorized Representative is delivered to the party who is to receive evidence of such action. The parties to this Contract will cooperate with each other in the design and construction of the Points of Delivery and will not take any action or fail to take any action (including, without limitation, any exercise or denial of its consent or approval of any action proposed to be taken by the party or any of its agents hereunder), if taking or failing to take such action,

respectively, would unreasonably delay or obstruct the completion of the Point of Delivery.

Section 1.11. Backflow Prevention / Air Gap. The water delivered by the City to Purchaser will be delivered through a back flow prevention device / air gap into Purchaser's water system at a location upstream of any Purchaser's customer as required by TCEQ rules.

Section 1.12. Interruption in Service. City shall endeavor to provide Purchaser at least seventy-two (72) hours advance notice of the commencement of routine maintenance and inspections that may impact the City's delivery of water to Purchaser. City will notify Purchaser as soon as is practicable after the occurrence of a broken line, pump failure or other emergency that may impact the City's delivery of water to Purchaser. The City reserves the right to discontinue or limit service to the purchaser in times of emergency when the City's water supply is in jeopardy as determined by the City Manager. City will similarly notify Purchaser of any loss of pressure or requirement for the issuance of a "boil order." Purchaser shall be responsible for providing such notice to its customers as may be required by TCEQ. City shall not be responsible to Purchaser and Purchaser's customers or be liable for any claims or causes of action arising out of an event of failure on the part of the City to provide a constant flow of water to Purchaser regardless of the cause of such interruption of service.

Section 1.13. Purchaser System Issues. In the event of a pressure loss in Purchaser's system or request for a "boil-order," the Purchaser shall promptly notify the City of such failure or problem and shall also provide such notice as may be required by TCEQ. In the event that Purchaser is issued any citations or is made a party to an enforcement action of any kind, Purchaser shall immediately notify City and shall further indemnify and hold City harmless from and against any claims or actions so brought together with the payment of any costs, attorney's fees and fines as may be assessed. Finally, Purchaser shall promptly notify City, no later than forty-eight (48) hours, after the initiation of any enforcement action against Purchaser by TCEQ, or any other governmental agency or entity having jurisdiction over Purchaser and Purchaser's operations.

ARTICLE II PAYMENTS

Section 2.01. Connection Fee. The existing interconnection(s) shown below will be used to deliver water to the Purchaser's system. Any additional interconnection capability cost shall be negotiated separately on an "as needed" basis.

Meter	Type	Meter Size	Point of Distribution/Location	Enclosure
1	Dual Body Compound	6" High, 1.5" Low	SH 78 (east side), 901 feet north of the intersection of SH 78 and Sycamore	In-Ground Vault

Section 2.02. Rate.

- (a) Initial Rate. The initial rate paid by the Purchaser to City for potable water delivered by City to Purchaser shall be **one dollar and 89/100ths Dollars (\$1.89) per thousand gallons.**
- (b) Excessive Pumping Rate. An excessive pumping charge of an **additional 15%** shall be assessed for the potable water delivered by City to Purchaser **in excess of 7,000,000 gallons.**
- (c) Adjustment of Rates. City may adjust this initial rate and excessive pumping rate from time to time. City will use its best efforts to adjust rates once per year prior to the beginning of its fiscal year, but the City reserves the right to adjust rates from time to time and at any time the City deems necessary to offset increases in the cost of water asserted against City by NTMWD. City further reserves the right to require automatic adjustment of rates based upon adjustments in the power costs, chemical costs, production fees, water lease payments and other charges and assessments incurred by City in the provision of potable water. City will provide Purchaser with as much notice of a rate change as may be practical under the circumstances.
- (d) Separate Customer Class. Purchaser acknowledges that Purchaser is in a separate customer class from the other customers of the City.
- (e) Minimum Monthly Payments (Take or Pay). Purchaser agrees that in order to compensate the City for the services, the City is committed to provide Purchaser under this Contract, Purchaser shall pay the City a minimum monthly charge whether or not Purchaser actually takes or receives potable water from the City. The initial minimum monthly charge will be the take or pay amount for **two million, two hundred and seven thousand, sixty (2,207,060) gallons of water.** The minimum monthly charge may be increased, but not decreased, from fiscal year to fiscal year whenever the monthly average amount of water actually taken or delivered by the City to Purchaser exceeds the initial monthly volume set forth in this subsection. The monthly average will be determined by dividing the total amount of water delivered by the City to Purchaser during the preceding fiscal year divided by twelve.
- (f) All rates set by City under this Contract shall be consistent with AWWA rate-making methodologies, except to the extent those methodologies may be inconsistent with the express provisions of this section of the Contract. City reserves the right to charge rates to Purchaser for services provided under this Agreement based upon the utility basis, rather than the cash basis, but the City must elect the methodology to be used when adopting the first adjustment to the initial rate.

Section 2.03. Due Date. The monthly charges shall be paid in full on or before the twentieth (20th) day of the month.

Section 2.04. Other Charges. In the event any sales or use taxes, or taxes, assessments, production fees or charges of any similar nature are imposed on production, storing, delivering, gathering, impounding, taking, selling, using, or consuming the water received by Purchaser, the amount of tax, assessment, or charge shall be born by Purchaser, in addition to all other charges, and whenever City shall be required to pay, collect, or remit any tax, assessment, or charge on water received by Purchaser, then Purchaser shall promptly pay or reimburse City for the tax, assessment, or charge in the manner directed by City. Purchaser shall also reimburse the City for its costs of maintenance, inspection and repairs including future replacement of the backflow prevention device on Purchaser's side of each Point of Delivery within thirty (30) days after receipt of notice and invoice from the City.

Section 2.05. Default in Payments. All amounts due and owing to the City by the Purchaser shall, if not paid when due, bear interest at the Texas post-judgment interest rate under Texas law from the date when due until paid, provided that such rate shall never be usurious or exceed the maximum rate as permitted by law as set forth in Chapter 1204, as amended, Texas Government Code. If any amount due and owing by Purchaser to the City is placed with an attorney for collection, the Purchaser shall pay to City, in addition to all other payments provided by this Contract, including interest, the City's collection expenses, including court costs and attorneys' fees as may be ordered by the court or tribunal. The City may also, to the extent permitted by law, suspend delivery of water to Purchaser if Purchaser remains delinquent in any payments due hereunder for a period of sixty (60) days, and is not required to resume delivery of water while Purchaser is so delinquent. City may pursue all legal remedies against Purchaser to enforce and protect the rights of the City under this Contract.

Section 2.06. Pledge of Gross Revenue. Purchaser represents and covenants to City that all payments to be made by it under this Contract shall constitute reasonable and necessary "operating expenses" of its utility system, and that all such payments will be made from the gross revenues of its utility system. Purchaser represents and has determined that the water supply to be obtained from City is absolutely necessary and essential to the present and future operation of its utility system, and, accordingly all payments required by this Contract to be made by Purchaser shall constitute reasonable and necessary operating expenses of the Purchaser's utility system as described above with the effect that the obligation to make such payments from gross revenues of such utility system or systems shall have priority over any obligation to make any payments from such revenues, whether of principal, interest, or otherwise, with respect to all bonds heretofore or hereafter issued by the Purchaser. Purchaser agrees throughout the term of this Contract to continuously operate and maintain its utility system and to fix and collect such rates and charges for water services to be supplied by its utility system as will produce gross revenues in an amount equal to at least all of its payments under this Contract.

Section 2.07. Payment under Protest. If Purchaser at any time disputes the amount to be paid by it to City, Purchaser shall nevertheless promptly make the disputed payment or payments, but if it is subsequently determined by agreement or court decision that the disputed amount paid by the Purchaser should have been less, or more, the City and/or Purchaser shall promptly revise the monthly payment in a manner that the other party, will recover the amount due within a specific time period.

Section 2.08. Rate Case. If a court, the TCEQ, or any federal or state regulatory authority finds that City's rates or policies for delivering water to Purchaser under this Contract are unreasonable or otherwise unenforceable, City has the option to terminate this Contract without liability to Purchaser. By signing this Contract, each party stipulates and agrees that the other party will be prejudiced if a party avoids the obligation to pay the rates for water specified in this Contract while accepting the benefits of obtaining water from the other party. Nothing in this Contract shall be construed as constituting an undertaking by a party to furnish water to the other party except pursuant to the terms of this Contract. Each party stipulates and agrees that the initial rates and surcharge and the manner of calculating same do not violate the public interest, and that the rates and policies are just and reasonable.

ARTICLE III

TERM OF CONTRACT, GOVERNMENTAL FUNCTION, AND INDEMNITY

Section 3.01. Term. This Contract shall be effective on the date it is signed by City's authorized representative, as shown on the signature page of this Contract, and shall continue in effect until September 30, 2013, unless this Contract is terminated earlier pursuant to its terms.

Section 3.02. Renewal. This Contract will automatically renew for successive terms of two (2) years unless the City or Purchaser gives written notice that the party issuing the notice objects to the renewal of this Contract. The notice of the objection to renewal must be given at least one (1) year prior to the termination date of this Contract.

Section 3.03. Termination. Upon termination, neither party will have any obligation to the other except each party will:

- (a) Remove its facilities from property owned or controlled by the other party; and
- (b) Pay or reimburse the other party all amounts that may be due upon the date of termination.

Section 3.04. Governmental Function. Purchaser and City specifically agree that the City's action in supplying and selling potable water to Purchaser by and through

this Contract is a governmental function of the City and that such action does not constitute a proprietary function.

Section 3.05. Indemnity. Purchaser does hereby agree to waive all claims, release, indemnify, defend and hold harmless City and all of its officials, officers, agents and employees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action which may arise by reason of injury to property or persons occasioned by willful misconduct, error, omission, or negligent act of Purchaser, its officers, agents, employees, invitees or other persons, arising out of or in connection with this agreement or any and all activity or use pursuant to this agreement, and Purchaser will, at its own cost and expense, defend and protect City from any and all such claims and demands. Also, Purchaser agrees to and shall indemnify, defend and hold harmless City and all of its officials, officers, agents and employees, in both their public and private capacities, from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs and attorney fees for injury to or death of any person or for damage to any property arising out of or in connection with this agreement or any and all activity or use pursuant to this agreement. Such indemnity shall apply whether the claims, losses, damages, causes of action, suits or liability arise from the negligence of the City, its officers, officials, agents or employees and whether said negligence is contractual, comparative negligence, concurrent negligence, gross negligence or any other form of negligence.

ARTICLE IV **METERING AND MEASUREMENT**

Section 4.01. Unit of Measurement. The unit of measurement for water delivered hereunder shall be 1,000 gallons of water, U. S. Standard Liquid Measure unless otherwise stated.

Section 4.02. Measuring Equipment. In accordance with Sections 1.06 and 1.07 of this Contract, the City shall, furnish, and install at least one water meter of standard type for measuring properly the quantity of water delivered under this Contract (the "delivery meter or meters") at each Point of Distribution. Such meter and other equipment so installed shall remain the property of the City. The Purchaser shall have access to such metering equipment at all reasonable times, but the reading, calibration, and adjustment thereof shall be done only by the employees or agents of the City. For the purpose of this Contract the original record or reading of the meter or meters shall be entered in the journal or other record book of the City in its office in which the records of the employees or agents of the party who take readings are or may be transcribed. Upon written request of the Purchaser, the City will give the Purchaser a copy of such journal or record book, or permit the Purchaser to have access to the same in the City's offices during reasonable business hours for inspection.

The City shall annually test its meter(s) for accuracy at each Point of Delivery, if requested in writing by Purchaser to do so, in the presence of a representative of Purchaser, and the parties shall jointly observe any adjustments which are made to the meters in case any adjustments shall be necessary, and if the check meters hereinafter provided for have been installed by Purchaser, the same shall also be calibrated by Purchaser in the presence of a representative of the City and the parties shall jointly observe any adjustment in case any adjustment is necessary. City will provide to Purchaser and Purchaser will provide to City a copy of the meter calibration test(s) for their respective inspection reports. If the Purchaser shall in writing request the City to calibrate its meters and the City shall give the Purchaser notice of the time when any such calibration is to be made and a representative of the Purchaser is not present at the time set, the City may proceed with calibration and adjustment in the absence of any representative of the Purchaser.

If either party at any time observes a variation between the delivery meter or meters and the check meter or meters, if any such check meter or meters shall be installed, such party will promptly notify the other party, and the parties hereto shall then cooperate to procure an immediate calibration test and joint observation of any adjustment and the said meter or meters shall then be adjusted to accuracy. Each party shall give the other party at least seventy-two (72) hours' notice of the time of all tests of meters so that the other parties may conveniently have a representative present.

If upon any test, the percentage of inaccuracy of City's metering equipment is found to be in excess of two percent (2%), registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half ($\frac{1}{2}$) of the time elapsed since the last date of calibration. If for any reason any meters are out of service or out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered during the period such meters are out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. For such purpose, the best data available shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise the amount of water delivered during such period may be estimated by (i) correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation, or (ii) estimating the quantity of delivery by calculating deliveries during the preceding periods under similar conditions when the meter or meters were registering accurately.

Purchaser may, at Purchaser's option and expense, install and operate a check meter to check each meter installed by the City, but the measurement of water for the purpose of this Contract shall be based solely on the readings of the City's meters, except in the cases hereinabove specifically provided to the contrary. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of the City, but the reading,

calibration and adjustment thereof shall be made only by the Purchaser. During any period when a check meter may be used under the provisions hereof for measuring the amount of water delivered, in which case the reading, calibration and adjustment thereof shall be made by the Purchaser with representation from the City.

If the Purchaser requests the City to test the City's meter, either more frequently than once every year required by this section or because the City's meter and the Purchaser's check meter show different readings, the Purchaser will pay the cost of the test if the test shows that the meter is accurate (within two percent registration), but if the test shows that the meter is not accurate (in excess of two percent (2%) registration), then the City will pay the costs for conducting the test.

ARTICLE V

DEFINITIONS; INTERPRETATIONS; AND CITY CONTRACT

Section 5.01. Definitions. In addition to the terms defined above, the capitalized words and phrases shall have the meanings assigned to them in the City Contracts, unless the context clearly requires otherwise.

Section 5.02. Interpretation. The table of contents and caption headings of this Contract are for reference purposes only and shall not affect its interpretation in any respect. Unless the context otherwise requires, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa. This Contract and all the terms and provisions shall be liberally construed to effectuate the purpose set forth herein and to sustain the validity of this Contract.

Section 5.03. NTMWD/City Contract. Purchaser acknowledges receipt of the NTMWD/City Contracts and the NTMWD/City Contracts are incorporated by reference into this Contract as if set forth verbatim herein. Purchaser acknowledges the following: (i) that Purchaser has read the NTMWD/City Contracts provided to it and is familiar with all of its terms, (ii) that this Contract is subject and subordinate in all respects to the NTMWD/City Contracts. Purchaser agrees that nothing contained in this Contract will be deemed to grant to Purchaser any rights that would conflict with any of the covenants, terms and conditions of the NTMWD/City Contract, except as set forth in Section 5.04 of this Contract, relating to the subordination of the City's rights to receive water. In the event of any inconsistencies between the terms of the NTMWD/City Contract and this Contract, the terms of the NTMWD /City Contract will control. To the extent applicable and except as expressly provided by this Contract or inconsistent with this Contract, the Purchaser shall have the same duties to the NTMWD save and except the obligation to make any payments NTMWD pursuant to the NTMWD/City Contract. Purchaser expressly acknowledges that it will take no action to adversely affect the tax exempt status of NTMWD's or City's bonds.

ARTICLE VI GENERAL PROVISIONS

Section 6.01. Participation by the Parties. The parties to this Contract each represent to the other that it is empowered by law to execute this Contract and other agreements and documents as are or may hereafter be required to accomplish the same; and that its execution of this Contract have been duly authorized by action of its governing body.

Section 6.02. Force Majeure. If by reason of Force Majeure any party hereto shall be rendered unable wholly or in part to carry out its obligations under this Contract, other than the obligation of the Purchaser to make the payments required under this Contract, then if such party shall give notice and full particulars of such Force Majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, "blue northers," storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply, inability on the part of NTMWD or City to deliver water for any reason, or on account of any other causes not reasonably within the control of the party claiming such inability.

Section 6.03. Modification. No change, amendment, or modification of this Contract shall be made or be effective that will affect adversely the prompt payment when due of all money required to be paid by the Purchaser under the terms of this Contract.

Section 6.04. Addresses and Notice. Unless otherwise provided herein, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made, or accepted by any party to the other party must be in writing and may be given or be served by depositing the same in the United States mail postage pre-paid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party, or by pre-paid telegram when appropriate, addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated herein, from and after the expiration of three days after it is so deposited. Notice given in any other manner shall be effective only if and when actually

received by the party to be notified. For the purposes of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the City:

Benjamin L. White
City Manager
205 S. Main Street
Farmersville, TX 75442

If to the Purchaser:

North Farmersville Water Supply Corporation
Attn: General Manager
P.O. Box 212
Farmersville, TX 75442

The City and the Purchaser shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least fifteen (15) days' written notice to the other party.

Section 6.05. State or Federal Laws, Rules, Orders, or Regulations. This Contract is subject to all applicable federal and State laws and any applicable permits, ordinances, rules, orders, and regulations of any local, state, or federal governmental authority having or asserting jurisdiction but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule, or regulation in any forum having jurisdiction. Each party represents that, to the best of their knowledge, no provisions of any applicable federal or State law, nor any permit, ordinance, rule, order, or regulation of either party will limit or restrict the ability of either party to carry out their respective obligations under or contemplated by this Contract.

Section 6.06. Severability. The parties hereto specifically agree that in case any one or more of the sections, subsections, provisions, clauses, or words of this Contract or the application of such sections, subsections, provisions, clauses, or words to any situation or circumstance should be, or should be held to be, for any reason, invalid or unconstitutional, under the laws or constitutions of the State or the United States of America, or in contravention of any such laws or constitutions, such invalidity, unconstitutionality, or contravention shall not affect any other sections, subsections, provisions, clauses, or words of this Contract or the application of such actions, subsections, provisions, clauses, or words to any other situation or circumstance, and it is intended that this Contract shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, subsection, provision, clause, or word had not been included herein, and the rights and obligations of the parties hereto shall be construed and remain in force accordingly.

Section 6.07. Waiver. Notwithstanding anything to the contrary contained in this Contract, any right or remedy or any default hereunder, except the right of the City to receive the payments from the Purchaser, which shall never be determined to be waived, shall be deemed to be conclusively waived unless asserted by a proper proceeding at law or in equity within two (2) years plus one (1) day after the occurrence of such default. No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto or of the performance by any other party of any duty or obligation hereunder shall be deemed a waiver thereof in the future, nor shall any such waiver or waivers be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, character or description, under any circumstances.

Section 6.08. Venue. All amounts due under this Contract, including, but not limited to, payments due under this Contract or damages for the breach of this Contract, shall be paid and be due in Collin County, Texas, which is the County in which the principal administrative offices of the City are located. It is specifically agreed among the parties to this Contract that Collin County, Texas, is the place of performance of this Contract; and in the event that any legal proceeding is brought to enforce this Contract or any provision hereof, the same shall be brought in Collin County, Texas.

Section 6.09. Succession and Assignment. This Contract is binding on and inures to the benefit of the parties hereto and their respective successors, representatives, and assigns. This Contract may not be assigned by either party hereto without prior written notice to and approval by the other party, which consent may be withheld without cause.

Section 6.10. Entire Contract. This Contract constitutes the entire agreement between the parties with respect to the matters described herein.

Section 6.11. Applicable Law. This Contract shall be governed by and construed in accordance with the laws of the State of Texas, and the obligations, rights, and remedies of the parties hereunder shall be determined in accordance with such laws without reference to the laws of any other state or jurisdiction, except for applicable federal laws, rules, and regulations.

Section 6.12. Counterparts. This Contract may be executed in counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

Section 6.13. Officers and Agents. No officer or agent of City or Purchaser is authorized to waive or modify any provision of the Contract. No modifications to or rescission of this Contract may be made except by a written documents signed by City's and Purchaser's authorized representatives.

Section 6.14. Recitals. City and Purchaser agree that the recitals in this Contract are true and correct and are incorporated into the terms of this Contract.

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governing bodies have caused this Contract to be duly executed as of the day and year first above written.

CITY OF FARMERSVILLE


By: 
Benjamin L. White
City Manager

Date Signed: 11 Jun 2012

CITY OF FARMERSVILLE ATTEST:



Edie Sims, City Secretary

NORTH FARMERSVILLE WATER SUPPLY CORPORATION

By: 
Name: KELLY HENDREX
Title: PRESIDENT

Date Signed: 6-11-2012

NORTH FARMERSVILLE WATER SUPPLY CORPORATION ATTEST:

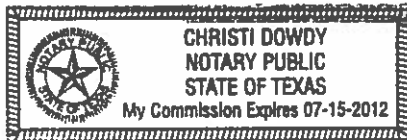
By: 
Name: SANDRA McCLAIN
Title: SEC/TREAS

THE STATE OF TEXAS,

COUNTY OF COLLIN

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared **Benjamin L. White**, City Manager of the **CITY OF FARMERSVILLE**, a Texas Municipal Corporation, known to me to be the person who's name is subscribed to the foregoing instrument, and acknowledged to me that he has executed the same on the City's behalf.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 11
DAY OF JUNE, 20 12.



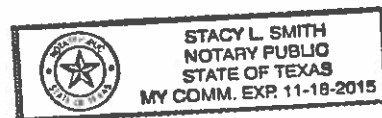
Christi Dowdy
Notary Public Collin County, Texas
My commission expires 7-15-2012

THE STATE OF TEXAS,
COUNTY OF COLLIN

This instrument was acknowledged before me on the 11th day of June, 20 12, by Kelly Hendrex in his capacity as President of **NORTH FARMERSVILLE WATER SUPPLY CORPORATION**, a Texas Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of **NORTH FARMERSVILLE WATER SUPPLY CORPORATION**.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 11th
DAY OF June, 20 12.

Stacy L. Smith
Notary Public Collin County, Texas
My commission expires 11/18/2015



Agenda Section	Regular Agenda
Section Number	VI.H
Subject	Update regarding the Islamic Association of Collin County.
To	Mayor and Council Members
From	Ben White, City Manager
Date	May 9, 2017
Attachment(s)	None
Related Link(s)	http://www.farmersvilletx.com/government/agendas_and_minutes/city_council_meetings.php
Consideration and Discussion	<ul style="list-style-type: none"> • DBI has sent comments to Halff Associates, Inc. • Preliminary Plat should go to Planning & Zoning on June 19th, if comments are addressed and approved by DBI they may be able to make the May 15th meeting. • City Council discussion as required.
Action	<ul style="list-style-type: none"> • Motion/second/vote <ul style="list-style-type: none"> <input type="checkbox"/> Approve <input type="checkbox"/> Approve with Updates <input type="checkbox"/> Disapprove • Motion/second/vote to continue to a later date. _____ <ul style="list-style-type: none"> <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove • Move item to a future agenda. _____ • No motion, no action

Agenda Section	Regular Agenda
Section Number	VI.I
Subject	Consider, discuss and act upon signage in regards to children at play.
To	Mayor and Council Members
From	Ben White, City Manager
Date	May 9, 2017
Attachment(s)	None
Related Link(s)	http://www.farmersvilletx.com/government/agendas_and_minutes/city_council_meetings.php
Consideration and Discussion	<ul style="list-style-type: none"> • Ben White to lead discussions. • City Council discussion as required.
Action	<ul style="list-style-type: none"> • Motion/second/vote <ul style="list-style-type: none"> <input type="checkbox"/> Approve <input type="checkbox"/> Approve with Updates <input type="checkbox"/> Disapprove • Motion/second/vote to continue to a later date. _____ <ul style="list-style-type: none"> <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove • Move item to a future agenda. _____ • No motion, no action

Agenda Section	Regular Agenda
Section Number	VI.J
Subject	Update regarding Home Rule status.
To	Mayor and Council Members
From	Ben White, City Manager
Date	May 9, 2017
Attachment(s)	None
Related Link(s)	http://www.farmersvilletx.com/government/agendas_and_minutes/city_council_meetings.php
Consideration and Discussion	<ul style="list-style-type: none"> • Ben White to lead discussions. • City Council discussion as required.
Action	<ul style="list-style-type: none"> • Motion/second/vote <ul style="list-style-type: none"> <input type="checkbox"/> Approve <input type="checkbox"/> Approve with Updates <input type="checkbox"/> Disapprove • Motion/second/vote to continue to a later date. _____ <ul style="list-style-type: none"> <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove • Move item to a future agenda. _____ • No motion, no action

Agenda Section	Regular Agenda
Section Number	VI.K
Subject	Update regarding drone video for advertising.
To	Mayor and Council Members
From	Ben White, City Manager
Date	May 9, 2017
Attachment(s)	None
Related Link(s)	http://www.farmersvilletx.com/government/agendas_and_minutes/city_council_meetings.php
Consideration and Discussion	<ol style="list-style-type: none"> 1. Outline and script complete. 2. Drone video for commercial and residential purposes is in development. 3. Stonebridge Videography/Bruce Quernemoen selected to produce 3 minute marketing video. Video and photo stills complete. 4. Stonebridge Videography came to Farmersville on Monday, 1 May to record video and take pictures. There was a follow-up session on May 2nd. 5. Stonebridge Videography currently working on video first draft. Probably will not have final voice on the draft version. <ul style="list-style-type: none"> • City Council discussion as required.
Action	<ul style="list-style-type: none"> • Motion/second/vote <ul style="list-style-type: none"> <input type="checkbox"/> Approve <input type="checkbox"/> Approve with Updates <input type="checkbox"/> Disapprove • Motion/second/vote to continue to a later date. _____ <ul style="list-style-type: none"> <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove • Move item to a future agenda. _____ • No motion, no action

Agenda Section	Regular Agenda
Section Number	VI.L
Subject	Consider, discuss and act upon Resolution #R-2017-0509-001 regarding TxDOT closures for City events.
To	Mayor and Council Members
From	Ben White, City Manager
Date	May 9, 2017
Attachment(s)	<ol style="list-style-type: none"> 1. R-2017-0509-001 2. TxDOT Road Closure Agreement
Related Link(s)	http://www.farmersvilletx.com/government/agendas_and_minutes/city_council_meetings.php
Consideration and Discussion	City Council discussion as required.
Action	<ul style="list-style-type: none"> • Provide staff direction for future action • Motion/second/vote <ul style="list-style-type: none"> <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove • Motion/second/vote to continue to a later date. _____ <ul style="list-style-type: none"> <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove • Move item to another agenda. _____ • No motion, no action

**CITY OF FARMERSVILLE
RESOLUTION # 2017-0509-001**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS, DECLARING THE ANTIQUE CAR SHOW, AUDIE MURPHY DAY PARADE, BUGTUSSLE ANTIQUE CAR TREK, OLD TIME SATURDAY, SCARE ON THE SQUARE, AND ANNUAL CHRISTMAS PARADE TO BE PUBLIC EVENTS THAT SERVE A PUBLIC PURPOSE; APPROVING THE TERMS AND CONDITIONS OF AN AGREEMENT FOR EACH SUCH EVENT BY AND BETWEEN THE TEXAS DEPARTMENT OF TRANSPORTATION AND THE CITY OF FARMERSVILLE FOR THE TEMPORARY CLOSURE OF STATE RIGHT-OF-WAY ON THE DATES OF EACH RESPECTIVE EVENT OVER THE NEXT FIVE YEARS, WHICH AGREEMENT IS ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT "A"; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State owns and operates a system of state highways for public use and benefit; and

WHEREAS, the Texas Department of Transportation ("TxDOT") is responsible for the maintenance and operation of the state highway system for public use and benefit; and

WHEREAS, McKinney Street within the corporate limits of the City of Farmersville, particularly between Johnson Street and Main Street, is a numbered highway within the state highway system designated as Business Highway 78; and

WHEREAS, the City of Farmersville has requested the temporary closure of Business Highway 78 (McKinney Street) between Johnson Street and Main Street for the purposes of conducting four recurring annual events specifically including the Audie Murphy Day Parade, Bugtussle Antique Car Trek, Old Time Saturday, and Annual Christmas Parade, which road closure is located within the City's incorporated area over the next five years; and

WHEREAS, the City of Farmersville has also requested the temporary closure of shorter length of Business Highway 78 (McKinney Street) that is situated between Washington Street (rather than Johnson Street) and Main Street for the purposes of conducting two recurring annual events specifically including the Antique Car Show and Scare on the Square, which road closure is located within the City's incorporated area over the next five years; and

WHEREAS, the six recurring annual events that are the subject of this Resolution – the Antique Car Show, Audie Murphy Day Parade, Bugtussle Antique Car Trek,

Old Time Saturday, Scare on the Square, and Annual Christmas Parade - are hereinafter referred to collectively as the "Events"; and

WHEREAS, the requested street closure for the Antique Car Show is planned from 9:45 a.m. to 4:00 p.m. on June 3, 2017 and thereafter on the first Saturday in June of 2018, 2019, 2020 and 2021; and

WHEREAS, the requested street closure for the Audie Murphy Day Parade is planned Parade from 9:00 a.m. to 11:00 a.m. on June 17, 2017 and on the Saturday nearest to June 20th of 2018, 2019, 2020 and 2021; and

WHEREAS, the requested street closure for the Bugtussle Antique Car Trek is planned from 9:45 a.m. to 4:00 p.m. on June 3, 2017 and thereafter on the first Saturday in June of 2018, 2019, 2020 and 2021; and

WHEREAS, the requested street closure for Old Time Saturday is planned from 9:00 a.m. to 11:00 p.m. on October 7, 2017 and on the first Saturday of October in 2018, 2019, 2020 and 2021; and

WHEREAS, the requested street closure for the Scare on the Square is planned from 6:00 p.m. to 9:00 p.m. on October 28, 2017 and on a date on or around October 31 in 2018, 2019, 2020 and 2021; and

WHEREAS, the requested street closure for the Annual Christmas Parade is planned from 6:00 p.m. to 9:00 p.m. on December 7, 2017 and at a similar time at the beginning of the Christmas Holiday Season in December of 2018, 2019, 2020 and 2021; and

WHEREAS, the Events are public events that provide support to various community service organizations within the City of Farmersville that organize and sponsor the Events (hereinafter referred to collectively as "Organizer") and promote the City of Farmersville; and

WHEREAS, the City Council hereby declares the Events as serving a public purpose by contributing to the support of such community service organizations and promoting the City of Farmersville and has determined that it would be in the best interest of the City and the safety of the Event participants to enter into the Agreement with TxDOT attached hereto and incorporated herein by reference as Exhibit "A".

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

SECTION 1. All of the above premises are true and correct legislative and factual findings of the City Council, and they are hereby approved, ratified and incorporated into the body of this resolution as if copied in their entirety.

SECTION 2. The City Council hereby declares the Antique Car Show, Audie Murphy Day Parade, Bugtussle Antique Car Trek, Old Time Saturday Parade, Scare on the Square, and Annual Christmas Parade as public events contributing to the support of the various community service organizations within the City of Farmersville that organize and sponsor the Events and which Events further serve a public purpose in promoting the City of Farmersville; and, based upon compliance with the following conditions being performed, authorizes the City Manager to execute the Agreements with Texas Department of Transportation attached hereto as Exhibits "A" through "F", to wit:

- a) Organizer shall send a letter, at Organizer's expense, approved by the City Manager to all residents along the route set forth in Exhibit "B" at least ten (10) days prior to the Event.
- b) Organizer shall provide the City of Farmersville a Waiver of Liability and Indemnification Agreement in the form approved by the City for any and all claims that may arise out of the Event.
- c) Organizer shall, at its own expense, procure, pay for and maintain during the Event public liability insurance with a minimum combined limits of \$1,000,000.00. Such insurance policy shall be written by companies duly licensed to write business in the State of Texas and approved by the City, and shall identify the City of Farmersville as an additional insured or co-insured and provide a waiver of subrogation in favor of the City. Organizer shall, at least ten (10) days prior to the Event, provide the City with a Certificate of Insurance on an "ACCORD" form executed by the insurer or its authorized agent stating the coverage, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference this agreement and be address as follows:

City of Farmersville
c/o City Manager
205 S. Main Street
Farmersville, TX 75442.

- d) Organizer shall provide signage announcing the road closures from North Main Street to Johnson Street and Johnson Street to South Main Street and all other impacted intersections identified in the attachments to Exhibits "A" through "F" to this Agreement and such other intersections as may be directed by the Chief of Police at least ten (10) days prior to the Event.
- e) Organizer shall place traffic cones across both sides of McKinney Street every three hundred (300') feet or less on the total route of the Event immediately following the barricading of McKinney Street and immediately preceding the re-opening of McKinney Street.

- f) Organizer shall provide a minimum of 1 licensed peace officer for traffic control along the route of the road closure during the entirety of the Event.
- g) The City shall have a designated representative at the beginning of the Event and may participate with the Organizer to address any safety concerns or cancellation due to weather or traffic conditions.
- h) Organizer shall provide and pay for all of the services required under Article 3 of the Agreement with Texas Department of Transportation, State of Texas, which Agreements are attached hereto as Exhibits "A" through "F".

SECTION 3. The City Council hereby approves the terms and conditions of the Agreements for the Temporary Closure of State Right-Of-Way between the Texas Department of Transportation and the City of Farmersville, attached hereto as Exhibits "A" through "F", and authorizes the City Manager to execute the same on behalf of the City.

SECTION 4. This Resolution shall take effect upon approval by Council as the law in such cases provides, and it is accordingly so resolved.

DULY PASSED by the City Council of the City of Farmersville, Texas, on the 9th day of May, 2017.

APPROVED:

Diane C. Piwko, Mayor

ATTEST:

Sandra Green, City Secretary

Exhibit "A"

STATE OF TEXAS §
COUNTY OF TRAVIS §

**AGREEMENT FOR THE TEMPORARY CLOSURE
OF STATE RIGHT OF WAY**

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State," and the City of Farmersville, Texas, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the "local government."

WITNESSETH

WHEREAS, the State owns and operates a system of highways for public use and benefit, including U.S. Business Highway 78, in Collin, County; and

WHEREAS, the local government has requested the temporary closure of US Business Highway 78 between Washington Street and Main Street for the purpose of Scare on the Square from 6:00 p.m. to 9:00 p.m. on October 28, 2017 and on a date on or around October 31 in 2018, 2019, 2020 and 2021, as described in the attached "Exhibit A," hereinafter identified as the "Event;" and

WHEREAS, the Event will be located within the local government's incorporated area; and

WHEREAS, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State's right of way will be performed within the State's requirements; and

WHEREAS, on the 9th day of May, 2017, the City Council passed Resolution / Ordinance No. 2017-0509-001, attached hereto and identified as "Exhibit B," establishing that the Event serves a public purpose and authorizing the local government to enter into this agreement with the State; and

WHEREAS, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

WHEREAS, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

Article 1. CONTRACT PERIOD

This agreement becomes effective upon final execution by the State and shall terminate upon completion of the Event on October 28, 2017 and on a date on or around October 31 in 2018, 2019, 2020 and 2021 or unless terminated or modified as hereinafter provided.

Article 2. EVENT DESCRIPTION

The physical description of the limits of the Event, including county names and highway numbers, the number of lanes the highway has and the number of lanes to be used, the proposed schedule of start and stop times and dates at each location, a brief description of the proposed activities involved, approximate number of people attending the Event, the number and types of animals and equipment, planned physical modifications of any manmade or natural features in or adjacent to the right of way involved shall be attached hereto along with a location map and identified as "Exhibit C."

Article 3. OPERATIONS OF THE EVENT

A. The local government shall assume all costs for the operations associated with the Event, to include but not limited to, plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signing.

B. The local government shall submit to the State for review and approval the construction plans, if construction or modifications to the State's right of way is required, the traffic control and signing plans, traffic enforcement plans, and all other plans deemed necessary by the State. The State may require that any traffic control plans of sufficient complexity be signed, sealed and dated by a registered professional engineer. The traffic control plan shall be in accordance with the latest edition of the Texas Manual on Uniform Traffic Control Devices. All temporary traffic control devices used on state highway right of way must be included in the State's Compliant Work Zone Traffic Control Devices List. The State reserves the right to inspect the implementation of the traffic control plan and if it is found to be inadequate, the local government will bring the traffic control into compliance with the originally submitted plan, upon written notice from the State noting the required changes, prior to the event. The State may request changes to the traffic control plan in order to ensure public safety due to changing or unforeseen circumstances regarding the closure.

C. The local government will ensure that the appropriate law enforcement agency has reviewed the traffic control for the closures and that the agency has deemed them to be adequate. If the law enforcement agency is unsure as to the adequacy of the traffic control, it will contact the State for consultation no less than 10 workdays prior to the closure.

D. The local government will complete all revisions to the traffic control plan as requested by the State within the required timeframe or that the agreement will be terminated upon written notice from the State to the local government. The local government hereby agrees that any failure to cooperate with the State may constitute reckless endangerment of the public and that the Texas Department of Public Safety may be notified of the situation as soon as possible for the appropriate action, and failing to follow the traffic control plan or State instructions may result in a denial of future use of the right of way for three years.

E. The local government will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.

F. The local government will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right of way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The local

government will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the local government shall provide to the State a letter of certification from the law enforcement agency that will be providing traffic control for the Event, certifying that they agree with the enforcement plan and will be able to meet its requirements.

G. The local government hereby assures the State that there will be appropriate passage allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the local government's traffic control plan.

H. The local government will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right of way and restore or repair the State's right of way, including, but not limited to, roadway and drainage structures, signs, overhead signs, pavement markings, traffic signals, power poles and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural and cultural environment in accordance with federal and state law, including landscape and historical features.

Article 4. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this agreement, all documents prepared by the local government will remain the property of the local government. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

Article 5. TERMINATION

A. This agreement may be terminated by any of the following conditions:

- (1) By mutual written agreement and consent of both parties.
- (2) By the State upon determination that use of the State's right of way is not feasible or is not in the best interest of the State and the traveling public.
- (3) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.
- (4) By satisfactory completion of all services and obligations as set forth herein.

B. The termination of this agreement shall extinguish all rights, duties, obligations, and liabilities of the State and local government under this agreement. If the potential termination of this agreement is due to the failure of the local government to fulfill its contractual obligations as set forth herein, the State will notify the local government that possible breach of contract has occurred. The local government must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the local government does not remedy the breach to the satisfaction of the State, the local government shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

Article 6. DISPUTES

Should disputes arise as to the parties' responsibilities or additional work under this agreement, the State's decision shall be final and binding.

Article 7. RESPONSIBILITIES OF THE PARTIES

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts

and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

Article 8. INSURANCE

A. Prior to beginning any work upon the State's right of way, the local government and/or its contractors shall furnish to the State a completed "Certificate of Insurance" (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period that the local government and/or its contractors are encroaching upon the State right of way.

B. In the event the local government is a self-insured entity, the local government shall provide the State proof of its self-insurance. The local government agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

Article 9. AMENDMENTS

Any changes in the time frame, character, agreement provisions or obligations of the parties hereto shall be enacted by written amendment executed by both the local government and the State.

Article 10. COMPLIANCE WITH LAWS

The local government shall comply with all applicable federal, state and local environmental laws, regulations, ordinances and any conditions or restrictions required by the State to protect the natural environment and cultural resources of the State's right of way.

Article 11. LEGAL CONSTRUCTION

In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Article 12. NOTICES

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified U.S. mail, postage prepaid, addressed to such party at the following respective addresses:

Local Government:	State:
City of Farmersville, Texas	Texas Department of Transportation
Attn: Benjamin L. White, PE, CPM City Manager	Dist. Transportation Operations
205 S. Main Street	4777 E. HWY 80
Farmersville, Texas 75442	Mesquite, TX 75150

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

Article 13. SOLE AGREEMENT

This agreement constitutes the sole and only agreement between the parties hereto and supersedes any prior understandings or written or oral agreements respecting the within subject matter.

IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

THE CITY OF FARMERSVILLE, TEXAS

Executed on behalf of the local government by:

By: _____ Date: _____
City Official

Typed or Printed Name and Title: Benjamin L. White, PE, CPM
City Manager

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____ Date: _____
District Engineer



May 9, 2017

Angela Green
Contract Specialist
Texas Department of Transportation
Dallas District
Transportation Operations

RE: Routine Traffic Control Event
US Business Highway 78 between Johnson Street and Main Street,
Farmersville, Texas

EVENT: Antique Car Show, Saturday, June 3, 2017 *(future dates for this event are scheduled on the first Saturday in June)*

Pursuant to 43 T.A.C. § 22.12(g)(4), the City of Farmersville plans to hold an event on June 3, 2017 which will require the temporary closure of US Business Highway 78 between Washington Street and Main Street ("Business 78"). This area of Business 78 is an arterial roadway through the City Square. The City of Farmersville plans to close the East Bound and West Bound sides of Business 78 from 9:45 a.m. to 4:00 p.m. on June 3, 2017. The Antique Car Show will be an annual event.

EVENT: Audie Murphy Day Parade, Saturday, June 17, 2017 *(future dates for this event are scheduled on the nearest Saturday to June 20th – Audie Murphy's Birthday)*

Pursuant to 43 T.A.C. § 22.12(g)(4), the City of Farmersville plans to hold a parade celebrating Audie Murphy Day on June 17, 2017. The parade route will require the temporary closure of US Business Highway 78 between Johnson Street and Main Street ("Business 78"). This area of Business 78 is an arterial roadway through the City Square. The City of Farmersville plans to close Business 78 from approximately 9:00 a.m. to 11:00 a.m. on June 17, 2017.

The parade is scheduled to begin at 10:00 a.m. and should take no longer than thirty minutes for the parade to enter onto Business 78, proceed around the City Square, and exit Business 78.

EVENT: Bugtussle Antique Car Trek, Saturday, August 26, 2017 *(future dates for this event are scheduled on the last Saturday in August)*

Pursuant to 43 T.A.C. § 22.12(g)(4), the City of Farmersville plans to hold an event on August 26, 2017 which will require the temporary closure of US Business Highway 78 between Johnson Street and Main Street ("Business 78"). This area of Business 78 is an arterial roadway through the City Square. The City of Farmersville plans to close the East Bound side of Business 78 from 8:00 a.m. to 10:30 a.m. on August 26, 2017. The Bugtussle Antique Car Trek is an annual event that has been coming through Farmersville for many years.

EVENT: Old Time Saturday, October 7, 2017 *(future dates for this event are scheduled on the first Saturday in October)*

Pursuant to 43 T.A.C. §22.12(g)(4), the City of Farmersville plans to hold an event on October 7, 2017 which will require the temporary closure of US Business Highway 78 between Johnson Street and Main Street ("Business 78"). This area of Business 78 is an arterial roadway through the City Square. The City of Farmersville plans to close both East Bound and West Bound sides of Business 78 from 9:00 a.m. to 11:00 p.m. on October 7, 2017.

Old Time Saturday is an annual event that helps build on Farmersville's tag line, "Discover a Texas Treasure". By holding events such as the Old Time Saturday, Farmersville looks for new opportunities for growth.

EVENT: Scare on the Square, date near Halloween / October 28, 2017 *(future dates for this event are scheduled on a date on or around October 31)*

Pursuant to 43 T.A.C. §22.12(g)(4), the City of Farmersville plans to hold an event on or around October 31st which will require the temporary closure of US Business Highway 78 between Washington Street and Main Street ("Business 78"). This area of Business 78 is an arterial roadway through the City Square. The City of Farmersville plans to close both East Bound and West Bound sides of Business 78 from 6:00 p.m. to 9:00 p.m. on or around October 31st.

EVENT: Annual Christmas Parade, December 07, 2017 *(future dates for this event are scheduled on the second Saturday in December)*

Pursuant to 43 T.A.C. §22.12(g)(4), the City of Farmersville plans to hold an event on or around December 7th, 2017 which will require the temporary closure of US Business Highway 78 between Johnson Street and Main Street ("Business 78"). This area of Business 78 is an arterial roadway through the City Square. The City of Farmersville plans to close both East Bound and West Bound sides of Business 78 from 6:00 p.m. to 9:00 p.m. on December 7th, 2017.

The City of Farmersville's Police Department will block off each end of Business 78 and man those locations to temporarily re-direct traffic, if any, around the City Square. The Police Department will utilize authorized law enforcement personnel for this routine traffic control event and assumes responsibility for traffic control to protect and direct all parties involved.

We look forward to your approval of these temporary closures under the direction of the City of Farmersville Police Department. Please feel free to contact me or City Manager Ben White at the number listed hereon if you need any further information. Thank you in advance for your consideration in this matter.

Best regards,

Paula Jackson
Assistant to the City Manager
City of Farmersville

STATE OF TEXAS §
COUNTY OF TRAVIS §

**AGREEMENT FOR THE TEMPORARY CLOSURE
OF STATE RIGHT OF WAY**

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State," and the City of Farmersville, Texas, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the "local government."

WITNESSETH

WHEREAS, the State owns and operates a system of highways for public use and benefit, including U.S. Business Highway 78, in Collin, County; and

WHEREAS, the local government has requested the temporary closure of US Business Highway 78 between Johnson Street and Main Street for the purpose of the Bugtussle Antique Car Trek from 8:00 a.m. to 10:30 a.m. on August 26, 2017 and on the last Saturday of August in 2018, 2019, 2020 and 2021, as described in the attached "Exhibit A," hereinafter identified as the "Event;" and

WHEREAS, the Event will be located within the local government's incorporated area; and

WHEREAS, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State's right of way will be performed within the State's requirements; and

WHEREAS, on the 9th day of May, 2017, the City Council passed Resolution / Ordinance No. 2017-0509-001, attached hereto and identified as "Exhibit B," establishing that the Event serves a public purpose and authorizing the local government to enter into this agreement with the State; and

WHEREAS, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

WHEREAS, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

Article 1. CONTRACT PERIOD

This agreement becomes effective upon final execution by the State and shall terminate upon completion of the Event on August 26, 2017 and on the last Saturday of August in 2018, 2019, 2020 and 2021 or unless terminated or modified as hereinafter provided.

Article 2. EVENT DESCRIPTION

The physical description of the limits of the Event, including county names and highway numbers, the number of lanes the highway has and the number of lanes to be used, the proposed schedule of start and stop times and dates at each location, a brief description of the proposed activities involved, approximate number of people attending the Event, the number and types of animals and equipment, planned physical modifications of any manmade or natural features in or adjacent to the right of way involved shall be attached hereto along with a location map and identified as "Exhibit C."

Article 3. OPERATIONS OF THE EVENT

A. The local government shall assume all costs for the operations associated with the Event, to include but not limited to, plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signing.

B. The local government shall submit to the State for review and approval the construction plans, if construction or modifications to the State's right of way is required, the traffic control and signing plans, traffic enforcement plans, and all other plans deemed necessary by the State. The State may require that any traffic control plans of sufficient complexity be signed, sealed and dated by a registered professional engineer. The traffic control plan shall be in accordance with the latest edition of the Texas Manual on Uniform Traffic Control Devices. All temporary traffic control devices used on state highway right of way must be included in the State's Compliant Work Zone Traffic Control Devices List. The State reserves the right to inspect the implementation of the traffic control plan and if it is found to be inadequate, the local government will bring the traffic control into compliance with the originally submitted plan, upon written notice from the State noting the required changes, prior to the event. The State may request changes to the traffic control plan in order to ensure public safety due to changing or unforeseen circumstances regarding the closure.

C. The local government will ensure that the appropriate law enforcement agency has reviewed the traffic control for the closures and that the agency has deemed them to be adequate. If the law enforcement agency is unsure as to the adequacy of the traffic control, it will contact the State for consultation no less than 10 workdays prior to the closure.

D. The local government will complete all revisions to the traffic control plan as requested by the State within the required timeframe or that the agreement will be terminated upon written notice from the State to the local government. The local government hereby agrees that any failure to cooperate with the State may constitute reckless endangerment of the public and that the Texas Department of Public Safety may be notified of the situation as soon as possible for the appropriate action, and failing to follow the traffic control plan or State instructions may result in a denial of future use of the right of way for three years.

E. The local government will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.

F. The local government will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right of way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The local

government will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the local government shall provide to the State a letter of certification from the law enforcement agency that will be providing traffic control for the Event, certifying that they agree with the enforcement plan and will be able to meet its requirements.

G. The local government hereby assures the State that there will be appropriate passage allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the local government's traffic control plan.

H. The local government will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right of way and restore or repair the State's right of way, including, but not limited to, roadway and drainage structures, signs, overhead signs, pavement markings, traffic signals, power poles and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural and cultural environment in accordance with federal and state law, including landscape and historical features.

Article 4. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this agreement, all documents prepared by the local government will remain the property of the local government. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

Article 5. TERMINATION

A. This agreement may be terminated by any of the following conditions:

- (1) By mutual written agreement and consent of both parties.
- (2) By the State upon determination that use of the State's right of way is not feasible or is not in the best interest of the State and the traveling public.
- (3) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.
- (4) By satisfactory completion of all services and obligations as set forth herein.

B. The termination of this agreement shall extinguish all rights, duties, obligations, and liabilities of the State and local government under this agreement. If the potential termination of this agreement is due to the failure of the local government to fulfill its contractual obligations as set forth herein, the State will notify the local government that possible breach of contract has occurred. The local government must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the local government does not remedy the breach to the satisfaction of the State, the local government shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

Article 6. DISPUTES

Should disputes arise as to the parties' responsibilities or additional work under this agreement, the State's decision shall be final and binding.

Article 7. RESPONSIBILITIES OF THE PARTIES

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts

and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

Article 8. INSURANCE

A. Prior to beginning any work upon the State's right of way, the local government and/or its contractors shall furnish to the State a completed "Certificate of Insurance" (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period that the local government and/or its contractors are encroaching upon the State right of way.

B. In the event the local government is a self-insured entity, the local government shall provide the State proof of its self-insurance. The local government agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

Article 9. AMENDMENTS

Any changes in the time frame, character, agreement provisions or obligations of the parties hereto shall be enacted by written amendment executed by both the local government and the State.

Article 10. COMPLIANCE WITH LAWS

The local government shall comply with all applicable federal, state and local environmental laws, regulations, ordinances and any conditions or restrictions required by the State to protect the natural environment and cultural resources of the State's right of way.

Article 11. LEGAL CONSTRUCTION

In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Article 12. NOTICES

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified U.S. mail, postage prepaid, addressed to such party at the following respective addresses:

Local Government:	State:
City of Farmersville, Texas	Texas Department of Transportation
Attn: Benjamin L. White, PE, CPM City Manager	Dist. Transportation Operations
205 S. Main Street	4777 E. HWY 80
Farmersville, Texas 75442	Mesquite, TX 75150

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

Article 13. SOLE AGREEMENT

This agreement constitutes the sole and only agreement between the parties hereto and supersedes any prior understandings or written or oral agreements respecting the within subject matter.

IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

THE CITY OF FARMERSVILLE, TEXAS

Executed on behalf of the local government by:

By: _____ Date: _____
City Official

Typed or Printed Name and Title: Benjamin L. White, PE, CPM
City Manager

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____ Date: _____
District Engineer

STATE OF TEXAS §
COUNTY OF TRAVIS §

**AGREEMENT FOR THE TEMPORARY CLOSURE
OF STATE RIGHT OF WAY**

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State," and the City of Farmersville, Texas, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the "local government."

WITNESSETH

WHEREAS, the State owns and operates a system of highways for public use and benefit, including U.S. Business Highway 78, in Collin, County; and

WHEREAS, the local government has requested the temporary closure of US Business Highway 78 between Johnson Street and Main Street for the purpose of Old Time Saturday from 9:00 a.m. to 11:00 p.m. on October 7, 2017 and on the first Saturday of October in 2018, 2019, 2020 and 2021, as described in the attached "Exhibit A," hereinafter identified as the "Event;" and

WHEREAS, the Event will be located within the local government's incorporated area; and

WHEREAS, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State's right of way will be performed within the State's requirements; and

WHEREAS, on the 9th day of May, 2017, the City Council passed Resolution / Ordinance No. 2017-0509-001, attached hereto and identified as "Exhibit B," establishing that the Event serves a public purpose and authorizing the local government to enter into this agreement with the State; and

WHEREAS, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

WHEREAS, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

Article 1. CONTRACT PERIOD

This agreement becomes effective upon final execution by the State and shall terminate upon completion of the Event on October 7, 2017 and on the first Saturday of October in 2018, 2019, 2020 and 2021 or unless terminated or modified as hereinafter provided.

Article 2. EVENT DESCRIPTION

The physical description of the limits of the Event, including county names and highway numbers, the number of lanes the highway has and the number of lanes to be used, the proposed schedule of start and stop times and dates at each location, a brief description of the proposed activities involved, approximate number of people attending the Event, the number and types of animals and equipment, planned physical modifications of any manmade or natural features in or adjacent to the right of way involved shall be attached hereto along with a location map and identified as "Exhibit C."

Article 3. OPERATIONS OF THE EVENT

A. The local government shall assume all costs for the operations associated with the Event, to include but not limited to, plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signing.

B. The local government shall submit to the State for review and approval the construction plans, if construction or modifications to the State's right of way is required, the traffic control and signing plans, traffic enforcement plans, and all other plans deemed necessary by the State. The State may require that any traffic control plans of sufficient complexity be signed, sealed and dated by a registered professional engineer. The traffic control plan shall be in accordance with the latest edition of the Texas Manual on Uniform Traffic Control Devices. All temporary traffic control devices used on state highway right of way must be included in the State's Compliant Work Zone Traffic Control Devices List. The State reserves the right to inspect the implementation of the traffic control plan and if it is found to be inadequate, the local government will bring the traffic control into compliance with the originally submitted plan, upon written notice from the State noting the required changes, prior to the event. The State may request changes to the traffic control plan in order to ensure public safety due to changing or unforeseen circumstances regarding the closure.

C. The local government will ensure that the appropriate law enforcement agency has reviewed the traffic control for the closures and that the agency has deemed them to be adequate. If the law enforcement agency is unsure as to the adequacy of the traffic control, it will contact the State for consultation no less than 10 workdays prior to the closure.

D. The local government will complete all revisions to the traffic control plan as requested by the State within the required timeframe or that the agreement will be terminated upon written notice from the State to the local government. The local government hereby agrees that any failure to cooperate with the State may constitute reckless endangerment of the public and that the Texas Department of Public Safety may be notified of the situation as soon as possible for the appropriate action, and failing to follow the traffic control plan or State instructions may result in a denial of future use of the right of way for three years.

E. The local government will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.

F. The local government will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right of way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The local

government will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the local government shall provide to the State a letter of certification from the law enforcement agency that will be providing traffic control for the Event, certifying that they agree with the enforcement plan and will be able to meet its requirements.

G. The local government hereby assures the State that there will be appropriate passage allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the local government's traffic control plan.

H. The local government will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right of way and restore or repair the State's right of way, including, but not limited to, roadway and drainage structures, signs, overhead signs, pavement markings, traffic signals, power poles and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural and cultural environment in accordance with federal and state law, including landscape and historical features.

Article 4. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this agreement, all documents prepared by the local government will remain the property of the local government. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

Article 5. TERMINATION

A. This agreement may be terminated by any of the following conditions:

- (1) By mutual written agreement and consent of both parties.
- (2) By the State upon determination that use of the State's right of way is not feasible or is not in the best interest of the State and the traveling public.
- (3) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.
- (4) By satisfactory completion of all services and obligations as set forth herein.

B. The termination of this agreement shall extinguish all rights, duties, obligations, and liabilities of the State and local government under this agreement. If the potential termination of this agreement is due to the failure of the local government to fulfill its contractual obligations as set forth herein, the State will notify the local government that possible breach of contract has occurred. The local government must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the local government does not remedy the breach to the satisfaction of the State, the local government shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

Article 6. DISPUTES

Should disputes arise as to the parties' responsibilities or additional work under this agreement, the State's decision shall be final and binding.

Article 7. RESPONSIBILITIES OF THE PARTIES

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts

and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

Article 8. INSURANCE

A. Prior to beginning any work upon the State's right of way, the local government and/or its contractors shall furnish to the State a completed "Certificate of Insurance" (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period that the local government and/or its contractors are encroaching upon the State right of way.

B. In the event the local government is a self-insured entity, the local government shall provide the State proof of its self-insurance. The local government agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

Article 9. AMENDMENTS

Any changes in the time frame, character, agreement provisions or obligations of the parties hereto shall be enacted by written amendment executed by both the local government and the State.

Article 10. COMPLIANCE WITH LAWS

The local government shall comply with all applicable federal, state and local environmental laws, regulations, ordinances and any conditions or restrictions required by the State to protect the natural environment and cultural resources of the State's right of way.

Article 11. LEGAL CONSTRUCTION

In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Article 12. NOTICES

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified U.S. mail, postage prepaid, addressed to such party at the following respective addresses:

Local Government:	State:
City of Farmersville, Texas	Texas Department of Transportation
Attn: Benjamin L. White, PE, CPM City Manager	Dist. Transportation Operations
205 S. Main Street	4777 E. HWY 80
Farmersville, Texas 75442	Mesquite, TX 75150

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

Article 13. SOLE AGREEMENT

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IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

THE CITY OF FARMERSVILLE, TEXAS

Executed on behalf of the local government by:

By: _____ Date. _____
City Official

Typed or Printed Name and Title: Benjamin L. White, PE, CPM
City Manager

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____ Date. _____
District Engineer

STATE OF TEXAS §
COUNTY OF TRAVIS §

**AGREEMENT FOR THE TEMPORARY CLOSURE
OF STATE RIGHT OF WAY**

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State," and the City of Farmersville, Texas, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the "local government."

WITNESSETH

WHEREAS, the State owns and operates a system of highways for public use and benefit, including U.S. Business Highway 78, in Collin, County; and

WHEREAS, the local government has requested the temporary closure of US Business Highway 78 between Johnson Street and Main Street for the purpose of the Audie Murphy Day Parade from 9:00 a.m. to 11:00 a.m. on June 17, 2017 and on the Saturday nearest to June 20th of 2018, 2019, 2020 and 2021, as described in the attached "Exhibit A," hereinafter identified as the "Event;" and

WHEREAS, the Event will be located within the local government's incorporated area; and

WHEREAS, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State's right of way will be performed within the State's requirements; and

WHEREAS, on the 9th day of May, 2017, the City Council passed Resolution / Ordinance No. 2017-0509-001, attached hereto and identified as "Exhibit B," establishing that the Event serves a public purpose and authorizing the local government to enter into this agreement with the State; and

WHEREAS, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

WHEREAS, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

Article 1. CONTRACT PERIOD

This agreement becomes effective upon final execution by the State and shall terminate upon completion of the Event on June 17, 2017 and thereafter on the Saturday nearest to

June 20th of 2018, 2019, 2020 and 2021 or unless terminated or modified as hereinafter provided.

Article 2. EVENT DESCRIPTION

The physical description of the limits of the Event, including county names and highway numbers, the number of lanes the highway has and the number of lanes to be used, the proposed schedule of start and stop times and dates at each location, a brief description of the proposed activities involved, approximate number of people attending the Event, the number and types of animals and equipment, planned physical modifications of any manmade or natural features in or adjacent to the right of way involved shall be attached hereto along with a location map and identified as "Exhibit C."

Article 3. OPERATIONS OF THE EVENT

A. The local government shall assume all costs for the operations associated with the Event, to include but not limited to, plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signing.

B. The local government shall submit to the State for review and approval the construction plans, if construction or modifications to the State's right of way is required, the traffic control and signing plans, traffic enforcement plans, and all other plans deemed necessary by the State. The State may require that any traffic control plans of sufficient complexity be signed, sealed and dated by a registered professional engineer. The traffic control plan shall be in accordance with the latest edition of the Texas Manual on Uniform Traffic Control Devices. All temporary traffic control devices used on state highway right of way must be included in the State's Compliant Work Zone Traffic Control Devices List. The State reserves the right to inspect the implementation of the traffic control plan and if it is found to be inadequate, the local government will bring the traffic control into compliance with the originally submitted plan, upon written notice from the State noting the required changes, prior to the event. The State may request changes to the traffic control plan in order to ensure public safety due to changing or unforeseen circumstances regarding the closure.

C. The local government will ensure that the appropriate law enforcement agency has reviewed the traffic control for the closures and that the agency has deemed them to be adequate. If the law enforcement agency is unsure as to the adequacy of the traffic control, it will contact the State for consultation no less than 10 workdays prior to the closure.

D. The local government will complete all revisions to the traffic control plan as requested by the State within the required timeframe or that the agreement will be terminated upon written notice from the State to the local government. The local government hereby agrees that any failure to cooperate with the State may constitute reckless endangerment of the public and that the Texas Department of Public Safety may be notified of the situation as soon as possible for the appropriate action, and failing to follow the traffic control plan or State instructions may result in a denial of future use of the right of way for three years.

E. The local government will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.

F. The local government will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right of way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The local government will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the local government shall provide

to the State a letter of certification from the law enforcement agency that will be providing traffic control for the Event, certifying that they agree with the enforcement plan and will be able to meet its requirements.

G. The local government hereby assures the State that there will be appropriate passage allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the local government's traffic control plan.

H. The local government will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right of way and restore or repair the State's right of way, including, but not limited to, roadway and drainage structures, signs, overhead signs, pavement markings, traffic signals, power poles and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural and cultural environment in accordance with federal and state law, including landscape and historical features.

Article 4. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this agreement, all documents prepared by the local government will remain the property of the local government. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

Article 5. TERMINATION

A. This agreement may be terminated by any of the following conditions:

- (1) By mutual written agreement and consent of both parties.
- (2) By the State upon determination that use of the State's right of way is not feasible or is not in the best interest of the State and the traveling public.
- (3) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.
- (4) By satisfactory completion of all services and obligations as set forth herein.

B. The termination of this agreement shall extinguish all rights, duties, obligations, and liabilities of the State and local government under this agreement. If the potential termination of this agreement is due to the failure of the local government to fulfill its contractual obligations as set forth herein, the State will notify the local government that possible breach of contract has occurred. The local government must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the local government does not remedy the breach to the satisfaction of the State, the local government shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

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Should disputes arise as to the parties' responsibilities or additional work under this agreement, the State's decision shall be final and binding.

Article 7. RESPONSIBILITIES OF THE PARTIES

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

Article 8. INSURANCE

A. Prior to beginning any work upon the State's right of way, the local government and/or its contractors shall furnish to the State a completed "Certificate of Insurance" (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period that the local government and/or its contractors are encroaching upon the State right of way.

B. In the event the local government is a self-insured entity, the local government shall provide the State proof of its self-insurance. The local government agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

Article 9. AMENDMENTS

Any changes in the time frame, character, agreement provisions or obligations of the parties hereto shall be enacted by written amendment executed by both the local government and the State.

Article 10. COMPLIANCE WITH LAWS

The local government shall comply with all applicable federal, state and local environmental laws, regulations, ordinances and any conditions or restrictions required by the State to protect the natural environment and cultural resources of the State's right of way.

Article 11. LEGAL CONSTRUCTION

In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Article 12. NOTICES

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified U.S. mail, postage prepaid, addressed to such party at the following respective addresses:

Local Government:	State:
City of Farmersville, Texas	Texas Department of Transportation
Attn: Benjamin L. White, PE, CPM City Manager	Dist. Transportation Operations
205 S. Main Street	4777 E. HWY 80
Farmersville, Texas 75442	Mesquite, TX 75150

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

Article 13. SOLE AGREEMENT

This agreement constitutes the sole and only agreement between the parties hereto and supersedes any prior understandings or written or oral agreements respecting the within subject matter.

IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

THE CITY OF FARMERSVILLE, TEXAS

Executed on behalf of the local government by:

By: _____ Date. _____
City Official

Typed or Printed Name and Title: Benjamin L. White, PE, CPM
City Manager

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____ Date. _____
District Engineer

STATE OF TEXAS §
COUNTY OF TRAVIS §

**AGREEMENT FOR THE TEMPORARY CLOSURE
OF STATE RIGHT OF WAY**

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State," and the City of Farmersville, Texas, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the "local government."

WITNESSETH

WHEREAS, the State owns and operates a system of highways for public use and benefit, including U.S. Business Highway 78, in Collin, County; and

WHEREAS, the local government has requested the temporary closure of US Business Highway 78 between Johnson Street and Main Street for the purpose of the Annual Christmas Parade from 6:00 p.m. to 9:00 p.m. on December 7, 2017 and at the beginning of the Christmas Holiday Season in December of 2018, 2019, 2020 and 2021, as described in the attached "Exhibit A," hereinafter identified as the "Event;" and

WHEREAS, the Event will be located within the local government's incorporated area; and

WHEREAS, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State's right of way will be performed within the State's requirements; and

WHEREAS, on the 9th day of May, 2017, the City Council passed Resolution / Ordinance No. 2017-0509-001, attached hereto and identified as "Exhibit B," establishing that the Event serves a public purpose and authorizing the local government to enter into this agreement with the State; and

WHEREAS, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

WHEREAS, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

Article 1. CONTRACT PERIOD

This agreement becomes effective upon final execution by the State and shall terminate upon completion of the Event on December 7, 2017 and at the beginning of the Christmas

Holiday Season in December of 2018, 2019, 2020 and 2021 or unless terminated or modified as hereinafter provided.

Article 2. EVENT DESCRIPTION

The physical description of the limits of the Event, including county names and highway numbers, the number of lanes the highway has and the number of lanes to be used, the proposed schedule of start and stop times and dates at each location, a brief description of the proposed activities involved, approximate number of people attending the Event, the number and types of animals and equipment, planned physical modifications of any manmade or natural features in or adjacent to the right of way involved shall be attached hereto along with a location map and identified as "Exhibit C."

Article 3. OPERATIONS OF THE EVENT

A. The local government shall assume all costs for the operations associated with the Event, to include but not limited to, plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signing.

B. The local government shall submit to the State for review and approval the construction plans, if construction or modifications to the State's right of way is required, the traffic control and signing plans, traffic enforcement plans, and all other plans deemed necessary by the State. The State may require that any traffic control plans of sufficient complexity be signed, sealed and dated by a registered professional engineer. The traffic control plan shall be in accordance with the latest edition of the Texas Manual on Uniform Traffic Control Devices. All temporary traffic control devices used on state highway right of way must be included in the State's Compliant Work Zone Traffic Control Devices List. The State reserves the right to inspect the implementation of the traffic control plan and if it is found to be inadequate, the local government will bring the traffic control into compliance with the originally submitted plan, upon written notice from the State noting the required changes, prior to the event. The State may request changes to the traffic control plan in order to ensure public safety due to changing or unforeseen circumstances regarding the closure.

C. The local government will ensure that the appropriate law enforcement agency has reviewed the traffic control for the closures and that the agency has deemed them to be adequate. If the law enforcement agency is unsure as to the adequacy of the traffic control, it will contact the State for consultation no less than 10 workdays prior to the closure.

D. The local government will complete all revisions to the traffic control plan as requested by the State within the required timeframe or that the agreement will be terminated upon written notice from the State to the local government. The local government hereby agrees that any failure to cooperate with the State may constitute reckless endangerment of the public and that the Texas Department of Public Safety may be notified of the situation as soon as possible for the appropriate action, and failing to follow the traffic control plan or State instructions may result in a denial of future use of the right of way for three years.

E. The local government will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.

F. The local government will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right of way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The local government will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the local government shall provide

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G. The local government hereby assures the State that there will be appropriate passage allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the local government's traffic control plan.

H. The local government will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right of way and restore or repair the State's right of way, including, but not limited to, roadway and drainage structures, signs, overhead signs, pavement markings, traffic signals, power poles and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural and cultural environment in accordance with federal and state law, including landscape and historical features.

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- (1) By mutual written agreement and consent of both parties.
- (2) By the State upon determination that use of the State's right of way is not feasible or is not in the best interest of the State and the traveling public.
- (3) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.
- (4) By satisfactory completion of all services and obligations as set forth herein.

B. The termination of this agreement shall extinguish all rights, duties, obligations, and liabilities of the State and local government under this agreement. If the potential termination of this agreement is due to the failure of the local government to fulfill its contractual obligations as set forth herein, the State will notify the local government that possible breach of contract has occurred. The local government must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the local government does not remedy the breach to the satisfaction of the State, the local government shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

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A. Prior to beginning any work upon the State's right of way, the local government and/or its contractors shall furnish to the State a completed "Certificate of Insurance" (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period that the local government and/or its contractors are encroaching upon the State right of way.

B. In the event the local government is a self-insured entity, the local government shall provide the State proof of its self-insurance. The local government agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

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City of Farmersville, Texas	Texas Department of Transportation
Attn: Benjamin L. White, PE, CPM City Manager	Dist. Transportation Operations
205 S. Main Street	4777 E. HWY 80
Farmersville, Texas 75442	Mesquite, TX 75150

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IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

THE CITY OF FARMERSVILLE, TEXAS

Executed on behalf of the local government by:

By: _____ Date. _____
City Official

Typed or Printed Name and Title: Benjamin L. White, PE, CPM
City Manager

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____ Date. _____
District Engineer

VII. Requests to be Placed on Future Agendas

VIII. Adjournment