

**THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED
ORDINANCE OR RESOLUTION ADOPTED BY CITY COUNCIL.**

AN ORDINANCE

AUTHORIZING THE MASTER TAX-EXEMPT LEASE/PURCHASE AGREEMENT AND AN ESCROW AND ACCOUNT CONTROL AGREEMENT WITH SANTANDER BANK, N.A. AND FROST BANK; AUTHORIZING THE EXHIBITS AND RELATED SCHEDULES TO THE MASTER TAX-EXEMPT LEASE/PURCHASE AGREEMENT IN THE TOTAL AMOUNT OF \$8,670,289.04, FOR THE ACQUISITION OF: (1) VARIOUS COLLECTION TRUCKS FOR THE SOLID WASTE MANAGEMENT DEPARTMENT AND BREATHING EQUIPMENT AND CAMERAS FOR THE FIRE DEPARTMENT AT AN INTEREST RATE OF 1.49% FOR A FIVE (5) YEAR TERM AND (2) TOTERS FOR THE SOLID WASTE MANAGEMENT DEPARTMENT AND NOTEBOOK COMPUTERS FOR THE POLICE DEPARTMENT AT AN INTEREST RATE OF 1.18% FOR A THREE (3) YEAR TERM, TO PAY THE COSTS OF THE TRANSACTION; AUTHORIZING THE EXECUTION OF DOCUMENTS RELATED TO THE TRANSACTION; ENACTING OTHER PROVISIONS INCIDENT AND RELATED TO THE SUBJECT AND PURPOSE OF THIS ORDINANCE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

* * * * *

WHEREAS, the City of San Antonio, Texas (“City” or “Lessee”) is a home rule municipality, a political subdivision of, and is duly organized and existing pursuant to the Constitution and laws of the State of Texas (“State”); and

WHEREAS, pursuant to applicable law, the City Council of the City (“Council”) is authorized to acquire, dispose of, and encumber personal property, including, without limitation, rights and interest in property, and leases necessary to the functions or operations of the City; and

WHEREAS, a Request for Bid Tax-Exempt Lease/Purchase Financing (“RFB”), soliciting bids for a master equipment lease purchase financing provider was issued by the City on June 8, 2015; and

WHEREAS, five (5) firms submitted responsive bids on June 29, 2015, in response to the RFB, which were received by the City and evaluated by the Finance Department; and

WHEREAS, City Staff recommended that the City as Lessee enter into the 2015 Master Agreement (as defined herein and attached hereto as Exhibit A) with Santander Bank, N.A. as “Lessor” and an Escrow and Account Control Agreement (as defined herein and attached hereto as Exhibit B) among the Lessor, the Lessee, and Frost Bank, San Antonio, Texas (as “Escrow

Agent”), providing terms and conditions under which lease/purchase transactions shall be conducted by and among the parties; and

WHEREAS, the Lessee desires to acquire on or about August 12, 2015, various collection trucks and totes for the Solid Waste Management Department, breathing equipment and cameras for the Fire Department, and notebook computers for the Police Department (“Equipment”) for the total amount of \$8,670,289.04, as disclosed in Exhibits and (collectively, the “Schedules”) to the 2015 Master Agreement attached hereto as Exhibit C and incorporated by reference for all purposes; and

WHEREAS, Lessor shall act as lessor under the Schedule; and

WHEREAS, the Equipment is essential for the Lessee to perform its governmental and/or proprietary functions; and

WHEREAS, the Council hereby finds and determines that the adoption of this Ordinance and authorization for the execution and delivery of the 2015 Master Agreement, the Schedules, and the Escrow and Account Control Agreement are in the best interests of the City; **NOW THEREFORE**:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The terms and conditions of that certain Master Tax-Exempt Lease/Purchase Agreement (“2015 Master Agreement”) by and between the City and Santander Bank, N.A., a true and correct copy of which is attached hereto as **Exhibit A**, are hereby approved. The City Manager, the City Manager’s designee, the City’s Chief Financial Officer, and the City’s Director of Finance, acting on behalf of the City, are each hereby authorized eight (8) business days from the effective date of this Ordinance within which to negotiate and execute the 2015 Master Agreement, substantially according to the terms and conditions set forth in **Exhibit A** hereto. If the 2015 Master Agreement is not negotiated and executed within said eight (8) business days, or if the parties cannot agree to terms of such contract within such time, then there shall be no authority to execute the 2015 Master Agreement unless there is subsequent City Council approval.

SECTION 2. The terms and conditions of that certain Escrow and Account Control Agreement (“Escrow Agreement”) by and among the City; Frost Bank; and Santander Bank, N.A., a true and correct copy of which is attached hereto as **Exhibit B**, are hereby approved. The City Manager, the City Manager’s designee, the City’s Chief Financial Officer, and the City’s Director of Finance, acting on behalf of the City, are each hereby authorized eight (8) business days from the effective date of this Ordinance within which to negotiate and execute the Escrow Agreement, substantially according to the terms and conditions set forth in **Exhibit A** hereto. If the Escrow Agreement is not negotiated and executed within said eight (8) business days, or if the parties cannot agree to terms of such contract within such time, then there shall be no authority to execute the Escrow unless there is subsequent City Council approval.

SECTION 3. The Schedules to the 2015 Master Agreement, attached hereto as **Exhibit C**, is hereby approved and is incorporated by reference into this Ordinance for all purposes. The City

Manager, the City Manager's designee, the City's Chief Financial Officer and the City's Director of Finance, acting on behalf of the City, are each hereby authorized eight (8) business days from the effective date of this Ordinance within which to negotiate and execute the Schedules to the 2015 Master Agreement, substantially according to the terms and conditions set forth in **Exhibit C** hereto, which document is available for public inspection at the Office of the City Clerk. If the Schedules to the 2015 Master Agreement are not negotiated and executed within said eight (8) business days after the adoption of this Ordinance, or if the parties cannot agree to terms of such document within such time, then there shall be no authority to execute the Schedules to the 2015 Master Agreement unless there is subsequent City Council approval. The Mayor, City Manager, Chief Financial Officer, Director of Finance, City Attorney, and the City Clerk (each an "Authorized Officer"), acting on behalf of the City, are each hereby authorized to enter into, execute, and deliver such other documents and certificates relating to the Schedules to the 2015 Master Agreement as the Authorized Officer deems necessary and appropriate as specified in the Schedules to the 2015 Master Agreement, without further action by this Council. All other related contracts, certificates, and agreements necessary and incidental to the Schedules to the 2015 Master Agreement are hereby authorized, with the exception of adding future Schedules to the 2015 Master Agreement, other than the Schedules authorized by this Ordinance. Future Schedules to the 2015 Master Agreement shall require approval by Council.

SECTION 4. The aggregate original principal amount for the Equipment shall not exceed the amount set forth in the Schedules and shall bear interest as set forth in the Schedules, and the Schedules shall contain such options to purchase and/or prepay by the City as set forth therein.

SECTION 5. The City's obligations under the Schedules shall be subject to annual appropriation or renewal by the Council as set forth in the Schedules and the City's obligations under the Schedules shall not constitute a general obligation of the City or indebtedness under the Constitution or laws of the State.

SECTION 6. The Director of Finance is authorized to record and account for the Schedules in accordance with generally accepted accounting principles and all other applicable laws.

SECTION 7. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

SECTION 8. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

SECTION 9. This Ordinance shall be construed and enforced in accordance with the laws of the State and the United States of America.

SECTION 10. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of

such provision to other persons and circumstances shall nevertheless be valid, and the Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 11. Expenses not to exceed \$3,903,386.00 associated with this ordinance will be available in Fund 55005006, 2015 Equipment Acquisition-SWMD contingent upon the execution of a lease agreement. Principal and interest payments will be charged to Cost Center 5501010001 and General Ledgers 5404010 and 5404020, respectively.

SECTION 12. Expenses not to exceed \$4,325,758.00 associated with this ordinance will be available in Fund XXXXXXXX, 2015 Equipment Acquisition-Fire contingent upon the execution of a lease agreement. Principal and interest payments will be charged to Cost Center 2004010001 and General Ledgers 5404010 and 5404020, respectively.

SECTION 13. Expenses not to exceed \$441,145.00 associated with this ordinance will be available in Fund XXXXXXXX, 2015 Equipment Acquisition-Police contingent upon the execution of a lease agreement. Principal and interest payments will be charged to Cost Center 1703080001 and General Ledgers 5404010 and 5404020, respectively.

SECTION 14. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may subject to concurrence by the City Manager, the City Manager's designee, or the City's Chief Financial Officer, correct allocations to specific cost centers and fund numbers as necessary to carry out the purpose of this ordinance.

SECTION 15. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

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SECTION 16. This Ordinance is effective immediately, upon passage by eight (8) affirmative votes; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

PASSED AND ADOPTED by an affirmative vote of _____ members of the City Council of the City of San Antonio, Texas, this the 6th day of August, 2015.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek, City Clerk

(CITY SEAL)

I, the undersigned, City Attorney of the City of San Antonio, Texas, hereby certify that I read, passed upon, and approved as to form the foregoing Ordinance prior to its adoption and passage as aforesaid.

Martha G. Sepeda, Acting City Attorney
City of San Antonio, Texas

DRAFT

EXHIBIT A

DRAFT

EXHIBIT B

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EXHIBIT C