

DONATION AGREEMENT

This is a personal property Donation Agreement (the “Donation Agreement”) for a certain modular portable building, located at 1600 Orquida Lane, Rio Bravo, Texas, (“Property”), dated and effective as of this ____ day of _____, 2021, between **THE CITY OF LAREDO, a TEXAS HOME RULE MUNICIPAL CORPORATION (“CITY”)** and **WEBB COUNTY, TEXAS, a POLITICAL SUBDIVISION OF THE STATE OF TEXAS (“COUNTY”)**.

RECITALS

This Donation Agreement is made and entered into on the basis of the following facts and understandings of the parties hereto:

WHEREAS, the City is the owner of certain personal property consisting of a modular portable building which personal property is more particularly described on Exhibit A, attached hereto and incorporated herein and hereinafter referred to as the “Property”.

WHEREAS, the County agrees to utilize the Property public purposes;

WHEREAS, the City is makes no representations or warranties whatsoever regarding the condition, transfer and conveyance of the “Property” to the County and City is granting, transferring and donating to Donee the “Property” by execution of a Bill of Sale on an “**As is, where is**” and “**with all faults**” basis.

WHEREAS, the County has been given a full and complete opportunity to conduct its own investigations as to any matter, fact or issue that might influence County’s decision to accept the “Property” from the City. Accordingly, County is willing to accept the “Property” from the City without any representations or warranties whatsoever regarding the condition of the “Property”, by execution and delivery of a Bill of Sale from the City to Webb County, on an “**as is, where is**” and “**with all faults**” basis and subject to the terms and conditions provided in this Agreement.

AGREEMENT

1. DONATION.

1.1 **Donation of the Property.** Upon the terms, covenants, and conditions herein set forth, City agrees to donate to County the “Property” and County agrees to accept the donation of the “Property” from City.

1.2 **Transfer.** City agrees to donate the Property to County and County agrees to accept the Property from City by the execution of a bill of sale, subject to the terms and conditions in this Agreement and subject to the conditions provided below.

a) The County agrees the Property shall be used solely for public purposes.

b) In consideration of City's transfer of the Property to the County, County shall perform all of County's obligations hereunder including but not limited to the release set forth in Section 2.2 of this Donation Agreement.

1.3 **Title**. Title shall be transferred via a bill of sale or its equivalent, upon review and approval by Webb County.

1.4 **Further Assurances**. County and City agree to execute all instruments and documents and to take all actions reasonably necessary and appropriate to consummate the transfer and donation of the Property and shall use their best efforts to close do so in a timely manner.

2. **ACKNOWLEDGMENTS AND RELEASE**.

2.1 **COUNTY'S ACKNOWLEDGMENTS**. COUNTY ACKNOWLEDGES THAT IT IS ACCEPTING THE "PROPERTY" SOLELY IN RELIANCE ON COUNTY'S OWN INVESTIGATION, AND THE PROPERTY IS IN "AS IS, WHERE IS" CONDITION WITH ALL FAULTS AND DEFECTS, LATENT OR OTHERWISE. COUNTY EXPRESSLY ACKNOWLEDGES THAT, IN CONSIDERATION OF THE AGREEMENT OF CITY HEREIN, AND EXCEPT AS OTHERWISE SPECIFIED HEREIN, CITY MAKES AND HAS MADE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY AS TO CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, WITH RESPECT TO THE PROPERTY OR ANY MATTER RELATED THERETO, OR (WITHOUT LIMITATION) TO ANY OF THE FOLLOWING MATTERS:

- a) **Hazardous Materials**. Hazardous Materials and other environmental conditions, including without limitation, lead-based paint, asbestos and mold.
- b) **Physical Defects**. Physical and mechanical defects in or on any Property, including without limitation, the plumbing, heating, air conditioning and electrical systems and the roof, floor, ceilings, walls and other internal structural components of any buildings or improvements.
- c) **Floor Area**. The square footage contained in any buildings or improvements.
- d) **Taxes**. City represents that the property is tax exempt and there are no taxes due or owing on the Property.
- e) **Other Matters**. Any other matter relating to any Property or to the development or operation of any Property, including but not limited to, value, feasibility, cost, governmental permissions or entitlements.

2.2 **RELEASE.**

- a) **RELEASE.** COUNTY FULLY RELEASES AND DISCHARGES CITY FROM AND RELINQUISHES ALL RIGHTS, CLAIMS AND ACTIONS THAT DONEE MAY HAVE OR ACQUIRE AGAINST CITY WHICH ARISE OUT OF OR ARE IN ANY WAY CONNECTED WITH THE CONDITION OR THE PROPERTY, INCLUDING WITHOUT LIMITATION (A) ANY MATTER SET FORTH IN SECTION 2.1 ABOVE,
- b) **MEANING.** FOR PURPOSES OF THIS SECTION 2.2, ALL REFERENCES TO “CITY” SHALL INCLUDE: EMPLOYEES, DIRECTORS, ELECTED OFFICIALS, AND AGENTS, AND THE SUCCESSORS, PERSONAL REPRESENTATIVES AND ASSIGNS OF THE CITY’S EMPLOYEES, OFFICIALS, DIRECTORS, AND AGENTS.
- c) **EFFECTIVENESS.** THE PROVISIONS OF THIS SECTION 2 SHALL BE EFFECTIVE AS OF THE TRANSFER DATE AND SHALL SURVIVE THE TRANSFER DATE OR TERMINATION OF THIS DONATION AGREEMENT.

3. **GENERAL PROVISIONS**

- 3.1 **Successors and Assigns.** This Donation Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties. Notwithstanding the foregoing, County may not transfer, assign or encumber County’s rights under this Donation Agreement without City’s prior written approval.
- 3.2 **Entire Agreement.** This Donation Agreement contains the entire agreement between the parties concerning the Donation of the Property, and supersedes all prior written or oral agreements between the parties to this Donation Agreement. No addition to or modification of any term or provision shall be effective unless in writing, signed by both City and County.
- 3.3 **Time of Essence.** City and County hereby acknowledge and agree that time is strictly of the essence with respect to each term and condition of this Donation Agreement and that failure to timely perform any of the terms and conditions by either party shall constitute a breach and default under this Donation Agreement by the party failing to so perform.
- 3.4 **Partial Invalidity.** If any portion of this Donation Agreement shall be declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, that portion shall be deemed severed from this Donation Agreement and the remaining parts shall remain in full force as fully as though the invalid, illegal or unenforceable portion had never been part of this Donation Agreement.

- 3.5 **Governing Law.** The parties intend and agree that this Donation Agreement shall be governed by and construed in accordance with the laws of the State of Texas.
- 3.6 **No Third Parties Benefits.** No person other than Donor and Donee, and their permitted successors and assigns, shall have any right of action under this Donation Agreement and this Agreement is not intended and does not create any rights or interest in persons not a party hereto.
- 3.7 **Waivers.** No waiver by either party of any provision shall be deemed a waiver of any other provision or of any subsequent breach by either party of the same or any other provision.
- 3.8 **Captions.** The captions and Section numbers of this Donation Agreement are for convenience and in no way define or limit the scope or intent of the Sections of this Donation Agreement.
- 3.9 **Counterparts.** To facilitate execution, this Donation Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this instrument to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.
- 3.10 **No Presumption.** All the parties hereto and their attorneys have had full opportunity to review and participate in the drafting of the final form of this Donation Agreement and all documents attached as exhibits. Accordingly, such documents shall be construed without regard to any presumption or other rule of construction whereby any ambiguities within this Donation Agreement would be construed or interpreted against the party causing the document to be drafted.
- 3.11 **Notice** Any standard notices or other communication required or permitted under this Donation Agreement shall be in writing, and shall be:
- (a) Personally delivered, or
 - (b) Sent by certified or registered United States mail, postage prepaid, return receipt requested, or
 - (c) By overnight delivery by a reputable courier to the address of the party set forth in this Section. Such notice or communication shall be deemed given.

- (i) If sent by personal delivery or by overnight courier, when delivered in person,
- (ii) If sent by telecopier, when evidence of successful transmission by telecopier has been received by sender or,
- (iii) In the case of mailed notice, forty-eight (48) hours following deposit in the United States mail. Notice of change of address shall be given written notice in the manner in this Section.

If to the County: Webb County
 ATTN: Webb County Judge
 1000 Houston Street- 3rd Floor
 Laredo, Texas 78040

If to the Donor: City of Laredo
 ATTN: City Manager
 1110 Houston Street
 Laredo, Texas 78040

3.12 **Immunity.** Neither Webb County nor City waive or relinquish any immunity or defense on behalf of themselves, their commissioners, council members, officers, employees and agents as a result of the execution of this Agreement and performance of the functions and obligations described herein.

Donor:
CITY OF LAREDO
 A Texas municipal corporation.

Donee:
WEBB COUNTY
 A political subdivision of the State of Texas

 Robert A. Eads
 City Manager
 Signed this ____ day of _____, 2021.
 ATTEST:

 Tano E. Tijerina
 Webb County Judge
 Signed this ____ day of _____, 2021.
 ATTEST:

 Jose A. Valdez, Jr.
 City Secretary

 Margie Ramirez Ibarra
 Webb County Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

 Rene C. Benavides
 Acting City Attorney

 Nathan R. Bratton
 Director
 Civil Legal Division

*The Civil Legal Division may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).

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Exhibit “A”
Property Description

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