City of Kingsville, Texas

AGENDA CITY COMMISSION

MONDAY, JULY 9, 2018 REGULAR MEETING

CITY HALL HELEN KLEBERG GROVES COMMUNITY ROOM 400 WEST KING AVENUE 6:00 P.M.

I. Preliminary Proceedings.

OPEN MEETING

INVOCATION / PLEDGE OF ALLEGIANCE — (Mayor Fugate)
MINUTES OF PREVIOUS MEETING(S)

None.

II. Public Hearing - (Required by Law).¹

None.

III. Reports from Commission & Staff.²

"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Proposed Development Report; Accounting & Finance - Financial & Investment Information, Investment Report, Quarterly Budget Report, Monthly Financial Reports, Utilities Billing Update: Police-Communications Update: Police & Fire Department - Grant Update, Police & Fire Reports; Streets Update; Public Works; Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Emergency Management, Administration -Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, SEP, Legislative Update, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor, Landfill Update, Wastewater Treatment Plant, Water And Wastewater Rate Study Presentation, Demolition Update, Planning Development Update, Golf Course Update, Municipal Court Update, Monthly Performance Report. No formal action can be taken on these items at this time."

Jesus A.

City Manager

Garza

IV. Public Comment on Agenda Items.3

1. Comments on all agenda and non-agenda items.

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Consent Agenda

Notice to the Public

The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.

CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:

(At this point the Commission will vote on all motions, resolutions and ordinances not removed for individual consideration.)

- 1. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Section 15-6-21-Definitions to include a definition for Winery. (Director of Planning & Development Services).
- 2. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter XV, Article 6, Zoning, amending Appendix A-Land Use Categories to add Winery. (Director of Planning & Development Services).
- 3. Motion to approve final passage of an ordinance amending the FY17-18 Budget for an increase in insurance premiums (for windstorm insurance). (Finance Director).
- 4. Motion to approve final passage of an ordinance amending the FY17-18 Budget to include previously awarded and accepted grants. (Finance Director).
- 5. Motion to approve final passage of an ordinance amending the FY17-18 Budget to accept a 2017 Operation Stonegarden Grant for the City of Kingsville Police Department. (Police Chief).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

- 6. Discuss and consider Health Insurance RFP #18-14 for Health Insurance Plan Services. (City Manager).
- 7. Discussion on Utility Rate Study performed by HDR Engineering. (City Manager).
- 8. Consider introduction of an ordinance amending the FY 17-18 budget to include the body armor and carrier replacement project for the Kingsville Police Department not completed in FY 16-17. (Police Chief).
- 9. Consider introduction of an ordinance amending the FY17-18 Budget to upgrade the Kingsville Police Department telephone system. (Finance Director).
- 10. Consider introduction of an ordinance amending the Fiscal Year 2017-2018 budget to accept and expend an Edward J Byrne Memorial Justice Assistance Grant-Local Solicitation (2017) for the purchase of KPD equipment. (Police Chief).
- 11. Consider a resolution authorizing the Mayor to enter into an Interlocal Agreement between the City of Kingsville, TX and the County of Kleberg, TX relating to the 2017 Byrne Justice Assistance Grant (JAG) Program Award. (Police Chief).

- 12. Consider a resolution authorizing the City of Kingsville Fire Chief to enter into a Memorandum of Understanding between the Texas A&M Engineering Extension Service, the sponsoring agency of Texas Task Force 1 and the City of Kingsville, Texas (as the participating agency/employer) (Contract #47-101766). (Fire Chief).
- 13. Consider accepting CBRAC Grant funds for EMS at the Kingsville Fire Department. (Fire Chief).
- 14. Consider a resolution authorizing the City Manager to enter into an Amended Service Agreement between the City of Kingsville (EMS and Fire Department) and Advanced Data Processing, Inc., a subsidiary of Intermedix Corporation, for ambulance billing. (Fire Chief).
- 15. Consider introduction of an ordinance amending the FY17-18 Budget for additional medical supplies for the Kingsville Fire Department. (Fire Chief).
- 16. Consider introduction of an ordinance amending the FY17-18 Budget for additional vehicle maintenance for the Kingsville Fire Department. (Fire Chief).
- 17. Consider introduction of an ordinance amending the FY17-18 Budget for emergency repairs required at the South Wastewater Treatment Plant. (Public Works Director).
- 18. Consider a resolution creating the City of Kingsville Finance and Audit Committee, designating responsibilities, providing for a method of appointing committee members, and establishing an effective date. (City Manager).

VII. Adjournment.

- 1. No person's comments shall exceed 5 minutes. Cannot be extended by Commission.
- No person's comments shall exceed 5 minutes without permission of majority of Commission.
- Comments are limited to 3 minutes per person. May be extended or permitted at other times in the meeting only with 5 affirmative Commission votes. The speaker must identify himself by name and address.
- Items being considered by the Commission for action except citizen's comments to the Mayor and Commission, no comment at this point without 5 affirmative votes of the Commission.

NOTICE

This City of Kingsville and Community Room are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 361/595-8002 or FAX 361/595-8024 or E-Mail mvalenzuela@cityofkingsville.com for further information. Braille Is Not Available. The City Commission reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Government Code, Section 551-071 (Consultation with Attorney), 551-072 (Deliberations about Real Property), 551-073 Deliberations about Gifts and Donations), 551-074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551-086 (Certain Public Power Utilities: Competitive Matters), and 551-087 (Economic Development).

I, the undersigned authority, do hereby certify that the Notice of Meeting was posted on the bulletin board located at the City of Kingsville City Hall, 400 West King Avenue, Kingsville, Texas, which is a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time:

<u>July 6, 2018</u> at <u>5:00 P.M.</u> and remained so posted continuously for at least 72 hours preceding the schedule time of said meeting.

Mary Valenzuela, TRMC, CMC, City Secretary
City of Kingsville, Texas

This public notice was removed from	n the official posting board at the Kingsville City Hall on the
following date and time:	
By:	
City Secretary's Office	_
City of Kingsville, Texas	

CONSENT AGENDA

AGENDA ITEM #1

City of Kingsville Planning and Development Services

TO:

Mayor and City Commissioners

CC:

Jesus A. Garza, City Manager

FROM:

Tom Ginter, Director

DATE:

June 1, 2018

SUBJECT:

Review of items concerning definition and zoning districts allowed for a winery.

Summary: this item pertains to a definition of a winery and determines where they cab permitted, special use permit or not allowed.

Background: Since our discussion on brewpubs the question about wineries has come up. The Planning and Zoning Commission has discussed this item. In the Hill Country they are prevalent and provide a tourist destination. While that may or may not happen here there is the desire to review this subject. I have given the Planning and Zoning Commission definitions and a recommendation as to where they could be permitted. Currently they are not listed in the Appendix a of Listed Uses.

Financial Impact: It is possible that if not a winery some other kind of business could be started that is related. A business startup would be a positive thing.

Recommendation: The Planning and Zoning Commission met on June 6 to review this ordinance change. The Planning and Zoning Commission made a motion to prove the following: definition of a winery is; where grapes and other fruit products, or vegetables can be grown and processed for the commercial purpose to produce wine or similar spirits. Processing includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery and warehousing. Retail sales and tasting facilities of wine and related promotional items may be permitted as part of the winery operations.



City of Kingsville Planning and Development Services

The Planning and Zoning Commission also determined that the land use of a winery be permitted in Agricultural, Industrial 1, Industrial 2 with a Special Use Permit required in Commercial 4.

The Planning and Zoning Commission voted 4 to 0 in favor of the definition and the zoning district uses allowed.



To: Planning and Zoning Commission Members

From: Tom Ginter, Director

Date: June 1, 2018

Subject: Agenda items #4 and #5

I presented to you at the last meeting information on wineries. I gave you examples of definitions and suggestions as to where they could be located.

Enclosed is a sheet which gives a number of definitions, my recommendation is to use the winery definition at least to start off with.

The other item refers as to where they could be located. This is obviously an agricultural operation so it would be allowed in agricultural. Since our agricultural zoning requires a minimum of 10 acres I believe that it would be appropriate for us to allow it in other zoning districts. I recommend that we also allow it in I1, I 2 and C4.

A machine by which mechanical energy supplied by the wind is changed to electric energy. (Boulder County, Colo.)

A wind-driven machine that converts wind energy into electrical power for the primary purpose of resale or off-site use. (Monterey County, Calif.)

Any device or assemblage which directly converts wind energy into usable thermal mechanical, or electrical energy, including such devises as windmills and wind turbines, towers and supporting structures and such directly connected facilities as generators, alternators, inverters, batteries and associated control equipment. (Schaumburg, Ill.)

Any mechanism or device designed for the purpose of converting wind energy into electrical or mechanical power. (Sioux Falls, S.Dak.)

An apparatus for converting the energy available in the wind to mechanical energy that can be used to power machinery (grain mills, water pumps) and to operate an electrical generator. (United States Department of Energy)

- wind energy conversion system, noncommercial A wind-driven machine that converts wind energy into electrical power for the primary purpose of on-site use and not for resale. (Monterey County, Calif.)
- wind turbine An alternate energy device which converts wind energy by means of a rotor to mechanical or electrical energy. A wind generator may also be deemed a windmill. (Warsaw, N.Y.)

A wind energy conversion device that produces electricity; typically three blades rotating about a horizontal axis and positioned up-wind of the supporting tower. (United States Department of Energy)

A machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution or transmission lines, or electrical substations. (Benton County, Wash.)

■ window Any opening in a wall or roof which functions or appears to function to admit light to a building or structure. (Hedwig Village, Tex.)

Any single window pane, or a series of adjacent window panes separated by a mullion(s) of 12 inches or less. Adjacent window panes set at different angles shall constitute separate windows regardless of the width of their mullion separation. (Sedona, Ariz.)

- window, casement A window which opens inward or outward from hinges at the side of the frame. (Carson City, Nev.)
- window, clerestory Windows located above storefront windows in commercial-type buildings. (Las Vegas, N.Mex.)
- window, double-hung A two-part window with an outside sash that slides down and an inside one that goes up. The movement of the sash is usually controlled by chains or cords on pulleys with a sash weight. (Carson City, Nev.)
- window, palladian A three-part window with a central, top-arched portion and rectangular windows on both sides. (Carson City, Nev.)
- wine-tasting room A facility in which wine products grown or processed on the owner's property may be tasted and sold. (Merced, Calif.)

An area devoted to the sampling and sales thereof of wine or beer produced on or off the premises. Sale of food is prohibited; however, incidental provision of food without compensation is allowed. (Mendocino County, Calif.)

m winery An agricultural processing facility used for: (1) the fermenting and processing of fruit juice into wine; or (2) the refermenting of still wine into sparkling wine. (Woodside, Calif.)

An agricultural processing plant used for the commercial purpose of processing grapes, other fruit products, or vegetables to produce wine or similar spirits. Processing includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery and warehousing. Retail sales and tasting facilities of wine and related promotional items may be permitted as part of the winery operations. (Monterey County, Calif.)

- winery, boutique [A] business [that]
 produces 100 to 5,000 cases per year.
 Maximum site area of two acres co-located with a residential development site, with up to 5,000 square feet of winery building area, including space allocated to bottling/crushing facilities, lab and office space, tasting room, and storage. A boutique winery shall provide at least two of the following four activities on site: crushing, fermentation, bulk aging/storing, and bottling. (Livermore, Calif.)
- winery, large [A] business [that] produces greater than 100,000 cases per year with no minimum site area. (Livermore, Calif.)
- winery, medium [A] business [that] produces 70,000 to 100,000 cases per year. Maximum site area of eight acres, with up to 50,000 square feet of building area, including space allocated to bottling/crushing facilities, lab and office space, tasting room, storage, an indoor events room, and a small outdoor event or picnic area. A winery must accomplish at least two of the following four activities on site: crushing, fermentation, bulk aging/storage, and bottling. (Livermore, Calif.)
- ym winery, small [A] business [that] produces 5,000 to 10,000 cases per year. Maximum site area of three acres, with up to 10,000 square feet of building area, including space allocated to bottling/crushing activities, lab and office space, tasting room, storage, an indoor events room, and a small outdoor event or picnic area. A winery shall provide at least two of the following four activities on site: crushing, fermentation, bulk aging/storing, and bottling. (Livermore, Calif.)
- wireless communications facilities (See telecommunications definitions)
- woodlands (See also riparian woodland) Generally, an ecosystem characterized by a more or less dense and extensive tree cover. More particularly, a plant community predominantly of healthy trees and other woody vegetation, well-stocked

Ingsville, TX Code of Ordinances [codes] - Sec. 1. - Land use chart. | Municode Libra... Page 13 of 14

	RI	RZ	R3	RH	MH	61	<u> ୯၁</u>	<u>c3</u>	<u> </u>	II	LI2	Ag.
Home crop production	Р	Р	Р	Р	Р	Р	Р	Р	P	Р	Р	Р
Breeding or raising of animals for food or sale (except as noted in health regulations)									•			Р
Dairy						un						Р
Ranch												Р
Beekeeping, commercial						-						P
Crop production for sale												Р
Orchard for home	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р
Orchard, commercial	5	·S	S	S								Р
Keeping animals or fowl commonly used for food fiber production or as beasts of burden							•					Р
Keeping dogs, cats, fish, or exotic caged birds (kennel excluded)	P	Р	Р	Р	Р	Р	S	Р	Р	Р	Р	Р
Farmers market, vegetable (fresh) stand, produce sales							S	Р	Р			Р
Domestic animal racetrack exhibit area, training ground, and the like												Р

- (f) The permit holder must check a purchaser's identification and keep records of purchases in a manner that enables the permit holder to comply with this section.
- (g) A bottle of distilled spirits sold on the permit holder's premises under Subsection (b) must bear a notice affixed to the bottle that:
 - (1) does not obscure the label approved by the Alcohol and Tobacco Tax and Trade
 - (2) states that the bottle is commemorative;

Bureau:

- (3) states the month and year the bottle is sold; and
- (4) is signed by an agent of the permit holder.

Sec. 14.06. REPORT OF CERTAIN SALES. A holder of a distiller's and rectifier's permit who sells distilled spirits to a holder of an industrial permit under Section 14.01(a)(8) shall keep records of those sales in a manner prescribed by the commission or administrator.

CHAPTER 15. DISTILLER'S AGENT'S PERMIT (DK)

Sec. 15.01. AUTHORIZED ACTIVITIES. The holder of a distiller's agent's permit may:

- (1) represent the holder of a distiller's and rectifier's permit;
- (2) solicit and take orders from a holder of a wholesaler's permit for the sale of distilled spirits manufactured by the permit holder represented by the agent; and
- (3) conduct free distilled spirits tastings for consumers on the premises of the holder of a package store permit.
 - Sec. 15.02. FEE. The annual state fee for a distiller's agent's permit is \$10.
- Sec. 15.03. EVIDENCE OF AGENCY OR EMPLOYMENT REQUIRED. A distiller's agent's permit may not be issued to a person until the person shows to the satisfaction of the commission that the person has been employed by or authorized to act as the agent of the permit holder the person proposes to represent.
- Sec. 15.04. SOLICITATION FROM HOLDER OF MIXED BEVERAGE OR PRIVATE CLUB PERMIT. A holder of a distiller's agent's permit may not solicit business directly or indirectly from a holder of a mixed beverage permit or a private club registration permit unless the distiller's agent is accompanied by the holder of a wholesaler's permit or the wholesaler's agent.
- Sec. 15.05. UNAUTHORIZED REPRESENTATION. A holder of a distiller's agent's permit in soliciting or taking orders for the sale of liquor may not represent that the permit holder is an agent of any person other than the person designated in the permit holder's application.
- Sec. 15.06. GRACE PERIOD. A person may engage in the activities specified in Section 15.01 for an initial grace period of five days during which the person shall procure a distiller's agent's permit from the commission.

*CHAPTER 16. WINERY PERMIT (G)

- Sec. 16.01. AUTHORIZED ACTIVITIES. (a) Except as provided by Section 16.011, the holder of a winery permit may:
- (1) manufacture, bottle, label, and package wine containing not more than 24 percent alcohol by volume;
 - (2) manufacture fruit brandy and:
- (A) use that brandy on the winery permit holder's permitted premises for fortifying purposes only; or
 - (B) sell that brandy to other winery permit holders;
- (3) import or buy fruit brandy from a permit holder authorized to manufacture fruit brandy and use that brandy on the winery permit holder's permitted premises for fortifying purposes only;

- (4) sell wine in this state to or buy wine from permit holders authorized to purchase and sell wine, including holders of wholesaler's permits, winery permits, and wine bottler's permits;
 - 5) sell wine to ultimate consumers:
 - (A) for consumption on the winery premises; or
- (B) in unbroken packages for off-premises consumption in an amount not to exceed 35,000 gallons annually;
 - (6) sell the wine outside this state to qualified persons;
 - (7) blend wines;
 - (8) dispense free wine for consumption on the winery premises; and
 - (9) purchase and import wine from the holder of a nonresident seller's permit.
- (b) The holder of a winery permit may manufacture and label wine for an adult in an amount not to exceed 50 gallons annually for the personal use of the adult. Any amount of wine produced under this subsection is included in the annual total amount that may be sold by the holder under Subsection (a)(5). An adult for whom wine is manufactured and labeled under this subsection is not required to hold a license or permit issued under this code.
- (c) The holder of a winery permit may conduct wine samplings, including wine tastings at a retailer's premises. A winery employee may open, touch, or pour wine, make a presentation, or answer questions at a wine sampling.
- (d) Without reference to the amendment of subsection (d) in HB 1264 (78th Legislature, Regular Session, 2003), HB 2593 (78th Legislature, Regular Session, 2003) repealed subsection (d).
- (e) The holder of a winery permit may dispense wine for consumption on the premises of the winery under Section 16.07.
- Sec. 16.011. PREMISES IN DRY AREA. A winery permit may be issued for premises in an area in which the sale of wine has not been authorized by a local option election. A holder of a permit under this section may engage in any activity authorized under Section 16.01 except that the permit holder may sell or dispense wine under that section only if the wine is:
 - (1) bottled in this state; and
- (2) at least 75 percent by volume fermented juice of grapes or other fruit grown in this state or a lesser percentage established by the commissioner of agriculture under Section 12.039, Agriculture Code [Refer to Appendix for this citation].
 - Sec. 16.02. FEE. The annual state fee for a winery permit is \$75.
- Sec. 16.03. IMPORTATION FOR BLENDING. The holder of a winery permit may, for blending purposes, import wines or grape brandy. The wine or grape brandy may be purchased only from the holders of nonresident seller's permits. The state tax on wines imported for blending purposes does not accrue until the wine has been used for blending purposes and the resultant product placed in containers for sale.
- Sec. 16.04. FEDERAL PERMIT REQUIRED. A winery permit may be granted only on presentation of a winemaker's and blender's basic permit of the federal alcohol tax unit.
- Sec. 16.05. OPERATING AGREEMENTS BETWEEN PERMIT HOLDERS. (a) The holder of a winery permit may engage in any activity authorized by that permit on the permitted premises of another winery permit holder under an agreement between the permit holders that is approved by the commission and that describes with specificity the nature, duration, and extent of the activities authorized by the agreement.
- (b) The commission shall adopt rules regulating the shared use of winery premises under this section to ensure administrative accountability of each permit holder and a strict separation between the businesses and operations of the permit holders.
- Sec. 16.06. PARTICIPATION IN CERTAIN OFF-PREMISES WINE EVALUATION ACTIVITIES. (a) For the purpose of participating in an organized wine tasting, wine evaluation, wine competition, or literary review, the holder of a winery permit may deliver wine produced and manufactured by the holder to locations that are not licensed under this code for the purpose of submitting

the wine to an evaluation at an organized wine tasting competition attended primarily by unlicensed persons or by a wine reviewer whose reviews are published if:

- (1) no charge of any kind is made for the wine, delivery, or attendance at the event; and
 - (2) the commission consents in writing to the delivery.
- (b) In connection with events authorized by Subsection (a) of this section, the holder of the winery permit may dispense wine to individuals attending the event and discuss with them the manufacture and characteristics of the wine.

Sec. 16.07. WINE SAMPLING. (a) The holder of a winery permit may conduct wine samplings, including wine tastings, on the permitted premises. The holder of the permit may collect a fee for the wine sampling.

- (b) A sampling event authorized by this section may not be advertised except by on-site communication or by direct mail.
- (c) A person other than the holder of a permit or the holder's agent or employee may not dispense or participate in the dispensing of wine under this section.
 - (d) A person authorized to dispense wine under this section:
 - (1) may serve a person more than one sample; and
 - (2) may not serve a sample to a minor or to an obviously intoxicated person.
- (e) A person who receives a sample may not remove the sample from the permitted premises.
- (f) For the purposes of this code and any other law of this state or a political subdivision of this state, the holder of a permit, during the sampling of wine under this section, is:
- (1) not the holder of a permit authorizing the sale of alcoholic beverages for onpremises consumption; and
- (2) not considered to have received any revenue from the on-premises sale of alcoholic beverages.
- Sec. 16.08. WINE FESTIVALS. (a) At an event that is approved by the commission, organized to celebrate and promote the wine industry in this state, and held in whole or in part on the premises of the holder of a winery permit, the permit holder may:
 - (1) sell wine to consumers for consumption on or off the holder's premises; and
 - (2) dispense wine without charge for consumption on or off the holder's premises.
- (b) The holder of a winery permit may sell wine to the holder of a temporary permit issued under Chapter 27, 30, or 33 for an event that is approved by the commission and organized to celebrate and promote the wine industry in this state.
- Sec. 16.09. DIRECT SHIPMENT TO CONSUMERS. (a) The holder of a winery permit may ship wine to the ultimate consumer, including ultimate consumers located in dry areas. Delivery must be by the holder of a carrier permit.
- (b) All wine shipped to an ultimate consumer by the holder of a winery permit must be in a package that is clearly and conspicuously labeled showing that:
 - (1) the package contains wine; and
 - (2) the package may be delivered only to a person described in Subsection (c).
- (c) Wine shipped by the holder of a winery permit may not be delivered to any person other than:
 - (1) the person who purchased the wine;
 - (2) a recipient designated in advance by such purchaser; or
 - (3) a person at the delivery address who is age 21 or over.
- (d) Wine may be delivered only to a person who is age 21 or over after the person accepting the package:
 - (1) presents valid proof of identity and age; and
 - (2) personally signs a receipt acknowledging delivery of the package.
 - (e) The holder of a winery permit may not:

- (1) sell or ship wine to a minor;
- (2) deliver wine to a consumer using a carrier that does not hold a carrier's permit under this code; or
- (3) deliver to the same consumer in this state more than nine gallons of wine within any 30-day period or more than 36 gallons of wine within any 12-month period.

CHAPTER 17. WINERY FESTIVAL PERMIT (GF)

- Sec. 17.01. AUTHORIZED ACTIVITIES. (a) The holder of a winery festival permit may sell wine at a civic or wine festival, farmers' market, celebration, or similar event.
- (b) The holder of a winery festival permit may not offer wine for sale under this chapter on more than four consecutive days at the same location.
- Sec. 17.02. QUALIFICATION FOR PERMIT. A winery festival permit may be issued only to the holder of a winery permit.
- Sec. 17.03. NOTICE OF SALES; PROCEDURES. (a) Before the holder of a winery festival permit offers wine for sale under this chapter, the permit holder must, in accordance with any rules adopted or procedures established by the commission, notify the commission of the date on which and location where the permit holder will offer wine for sale under this chapter.
 - Sec. 17.04. PERMIT FEE. The fee for a winery festival permit is \$50.
- Sec. 17.05. APPLICABILITY OF OTHER LAW. (a) The provisions of this code applicable to the sale of wine on the permitted premises of the holder of a winery permit apply to the sale of wine under this chapter.
- (b) The winery permit of the holder of a winery festival permit may be canceled or suspended for a violation occurring in connection with activities conducted under this chapter.

CHAPTER 18. WINE BOTTLER'S PERMIT (Z)

Sec. 18.01. AUTHORIZED ACTIVITIES. The holder of a wine bottler's permit may:

- (1) purchase and import wine only from the holders of nonresident seller's permits or their agents who are holders of manufacturer's agent's permits;
- purchase wine in this state from holders of wholesaler's, winery, or wine bottler's permits;
- (3) bottle, rebottle, label, package, and sell wine to permit holders in this state authorized to purchase and sell wine; and
 - (4) sell wine to qualified persons outside the state.
 - Sec. 18.02. FEE. The annual state fee for a wine bottler's permit is \$225.
- Sec. 18.03. PERMANENT RECORD. A holder of a wine bottler's permit shall keep a permanent record of each purchase and sale of wine. The record shall include the name of the person from whom the wine is purchased or to whom it is sold, the number of gallons purchased or sold, and the percentage of alcohol of the wine by volume.

CHAPTER 19. WHOLESALER'S PERMIT (W)

Sec. 19.01. AUTHORIZED ACTIVITIES. The holder of a wholesaler's permit may:

- (1) purchase and import liquor from distillers, brewers, wineries, wine bottlers, rectifiers, and manufacturers who are holders of nonresident seller's permits or from their agents who hold manufacturer's agents permits;
 - (2) purchase liquor from other wholesalers in the state;

ORDINANCE NO.2018	
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AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING SECTION 15-6-21-DEFINITIONS TO INCLUDE A DEFINITION FOR WINERY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, the City recently received a request from an individual in the community who is interested in establishing a brewpub, but there was no suitable definition for a brewpub or related zoning designations, which prompted the Planning and Zoning Commission and the City Commission to recommend such changes to the Code of Ordinances;

WHEREAS, while the City Planning and Zoning Commission considered that request they discussed the possible need for the definition and zoning category for a winery:

WHEREAS, the City Planning and Zoning Commission considered the definition and zoning category for a winery at a publicly posted meeting on June 6, 2018 and voted 4-0 for the changes stated herein;

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF KINGSVILLE BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

1.

THAT Sections 15-6-21 of Article 6: Zoning of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

§ 15-6-21 DEFINITIONS.

Utility shops or storage yards and buildings. An area or building used by utilities for the repair and/or storage of equipment, vehicles or supplies.

Winery. An area where grapes and other fruit products, or vegetables can be grown and processed for the commercial purpose to produce wine or similar spirits. Processing includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery and

warehousing. Retail sales and tasting facilities of wine and related promotional items may be permitted as part of the winery operations.

Work/live units. A work/live unit is a structure or a portion of a structure that combines a business use with a residential living use.

11.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

THAT nothing in this ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

INTRODUCED on this day on the <u>25th</u>	ِ day of	<u>June</u> , 201	8.	
PASSED AND APPROVED on this the	<u>9th</u>	_day of	July	, 2018.
EFFECTIVE:				
Sam R. Fugate, Mayor				

2

ATTEST:

. . .

Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

AGENDA ITEM #2

City of Kingsville Planning and Development Services

TO:

Mayor and City Commissioners

CC:

Jesus A. Garza, City Manager

FROM:

Tom Ginter, Director

DATE:

June 1, 2018

SUBJECT:

Review of items concerning definition and zoning districts allowed for a winery.

Summary: this item pertains to a definition of a winery and determines where they cab permitted, special use permit or not allowed.

Background: Since our discussion on brewpubs the question about wineries has come up. The Planning and Zoning Commission has discussed this item. In the Hill Country they are prevalent and provide a tourist destination. While that may or may not happen here there is the desire to review this subject. I have given the Planning and Zoning Commission definitions and a recommendation as to where they could be permitted. Currently they are not listed in the Appendix a of Listed Uses.

Financial Impact: It is possible that if not a winery some other kind of business could be started that is related. A business startup would be a positive thing.

Recommendation: The Planning and Zoning Commission met on June 6 to review this ordinance change. The Planning and Zoning Commission made a motion to prove the following: definition of a winery is; where grapes and other fruit products, or vegetables can be grown and processed for the commercial purpose to produce wine or similar spirits. Processing includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery and warehousing. Retail sales and tasting facilities of wine and related promotional items may be permitted as part of the winery operations.



City of Kingsville Planning and Development Services

The Planning and Zoning Commission also determined that the land use of a winery be permitted in Agricultural, Industrial 1, Industrial 2 with a Special Use Permit required in Commercial 4.

The Planning and Zoning Commission voted 4 to 0 in favor of the definition and the zoning district uses allowed.



To: Planning and Zoning Commission Members

From: Tom Ginter, Director

Date: June 1, 2018

Subject: Agenda items #4 and #5

I presented to you at the last meeting information on wineries. I gave you examples of definitions and suggestions as to where they could be located.

Enclosed is a sheet which gives a number of definitions, my recommendation is to use the winery definition at least to start off with.

The other item refers as to where they could be located. This is obviously an agricultural operation so it would be allowed in agricultural. Since our agricultural zoning requires a minimum of 10 acres I believe that it would be appropriate for us to allow it in other zoning districts. I recommend that we also allow it in I1, I 2 and C4.

A machine by which mechanical energy supplied by the wind is changed to electric energy. (Boulder County, Colo.)

A wind-driven machine that converts wind energy into electrical power for the primary purpose of resale or off-site use. (Monterey County, Calif.)

Any device or assemblage which directly converts wind energy into usable thermal mechanical, or electrical energy, including such devises as windmills and wind turbines, towers and supporting structures and such directly connected facilities as generators, alternators, inverters, batteries and associated control equipment. (Schaumburg, Ill.)

Any mechanism or device designed for the purpose of converting wind energy into electrical or mechanical power. (Sioux Falls, S.Dak.)

An apparatus for converting the energy available in the wind to mechanical energy that can be used to power machinery (grain mills, water pumps) and to operate an electrical generator. (United States Department of Energy)

- wind energy conversion system, noncommercial A wind-driven machine that converts wind energy into electrical power for the primary purpose of on-site use and not for resale. (Monterey County, Calif.)
- wind turbine An alternate energy device which converts wind energy by means of a rotor to mechanical or electrical energy. A wind generator may also be deemed a windmill. (Warsaw, N.Y.)

A wind energy conversion device that produces electricity; typically three blades rotating about a horizontal axis and positioned up-wind of the supporting tower. (United States Department of Energy)

A machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution or transmission lines, or electrical substations. (Benton County, Wash.)

window Any opening in a wall or roof which functions or appears to function to admit light to a building or structure. (Hedwig Village, Tex.)

Any single window pane, or a series of adjacent window panes separated by a mullion(s) of 12 inches or less. Adjacent window panes set at different angles shall constitute separate windows regardless of the width of their mullion separation. (Sedona, Ariz.)

- window, casement A window which opens inward or outward from hinges at the side of the frame. (Carson City, Nev.)
- window, clerestory Windows located above storefront windows in commercial-type buildings. (Las Vegas, N.Mex.)
- w window, double-hung A two-part window with an outside sash that slides down and an inside one that goes up. The movement of the sash is usually controlled by chains or cords on pulleys with a sash weight. (Carson City, Nev.)
- window, palladian A three-part window with a central, top-arched portion and rectangular windows on both sides. (Carson City, Nev.)
- wine-tasting room A facility in which wine products grown or processed on the owner's property may be tasted and sold. (Merced, Calif.)

An area devoted to the sampling and sales thereof of wine or beer produced on or off the premises. Sale of food is prohibited; however, incidental provision of food without compensation is allowed. (Mendocino County, Calif.)

facility used for: (1) the fermenting and processing of fruit juice into wine; or (2) the refermenting of still wine into sparkling wine. (Woodside, Calif.)

An agricultural processing plant used for the commercial purpose of processing grapes, other fruit products, or vegetables to produce wine or similar spirits. Processing includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery and warehousing. Retail sales and tasting facilities of wine and related promotional items may be permitted as part of the winery operations. (Monterey County, Calif.)

- winery, boutique [A] business [that]
 produces 100 to 5,000 cases per year.
 Maximum site area of two acres co-located with a residential development site, with up to 5,000 square feet of winery building area, including space allocated to bottling/crushing facilities, lab and office space, tasting room, and storage. A boutique winery shall provide at least two of the following four activities on site: crushing, fermentation, bulk aging/storing, and bottling. (Livermore, Calif.)
- winery, large [A] business [that] produces greater than 100,000 cases per year with no minimum site area. (Livermore, Calif.)
- m winery, medium [A] business [that] produces 70,000 to 100,000 cases per year. Maximum site area of eight acres, with up to 50,000 square feet of building area, including space allocated to bottling/crushing facilities, lab and office space, tasting room, storage, an indoor events room, and a small outdoor event or picnic area. A winery must accomplish at least two of the following four activities on site crushing, fermentation, bulk aging/storage, and bottling. (Livermore, Calif.)
- winery, small [A] business [that] produces 5,000 to 10,000 cases per year. Maximum site area of three acres, with up to 10,000 square feet of building area, including space allocated to bottling/crushing activities, lab and office space, tasting room, storage, an indoor events room, and a small outdoor event or picnic area. A winery shall provide at least two of the following four activities on site: crushing, fermentation, bulk aging/storing, and bottling. (Livermore, Calif.)
- wireless communications facilities (See telecommunications definitions)
- woodlands (See also riparian woodland)
 Generally, an ecosystem characterized by
 a more or less dense and extensive tree
 cover. More particularly, a plant community predominantly of healthy trees and
 other woody vegetation, well-stocked

Fingsville, TX Code of Ordinances [codes] - Sec. 1. - Land use chart. | Municode Libra... Page 13 of 14

	RI	KJ	123	RU	MH	ĊI	<u>c</u> 2	<u>c3</u>	CY	II	I2	Ag
Home crop production	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р
Breeding or raising of animals for food or sale (except as noted in health regulations)									-			Р
Dairy												Р
Ranch												Р
Beekeeping, commercial						•						Р
Crop production for sale									•		W- 45 4444	Р
Orchard for home use	Р	Р	Р	P	Р	Р	Р	Р	Р	Р	Р	Р
Orchard, commercial	S	·S	S	S								Р
Keeping animals or fowl commonly used for food fiber production or as beasts of burden			-									Р
Keeping dogs, cats, fish, or exotic caged birds (kennel excluded)	P	P	P	P	Р	Р	S	Р	Р	Р	Р	Р
Farmers market, vegetable (fresh) stand, produce sales							S	Р	Р			Р
Domestic animal racetrack exhibit area, training ground, and the like												Р

- (f) The permit holder must check a purchaser's identification and keep records of purchases in a manner that enables the permit holder to comply with this section.
- (g) A bottle of distilled spirits sold on the permit holder's premises under Subsection (b) must bear a notice affixed to the bottle that:
- (1) does not obscure the label approved by the Alcohol and Tobacco Tax and Trade Bureau:
 - (2) states that the bottle is commemorative;
 - (3) states the month and year the bottle is sold; and
 - (4) is signed by an agent of the permit holder.

Sec. 14.06. REPORT OF CERTAIN SALES. A holder of a distiller's and rectifier's permit who sells distilled spirits to a holder of an industrial permit under Section 14.01(a)(8) shall keep records of those sales in a manner prescribed by the commission or administrator.

CHAPTER 15. DISTILLER'S AGENT'S PERMIT (DK)

Sec. 15.01. AUTHORIZED ACTIVITIES. The holder of a distiller's agent's permit may:

- (1) represent the holder of a distiller's and rectifier's permit;
- (2) solicit and take orders from a holder of a wholesaler's permit for the sale of distilled spirits manufactured by the permit holder represented by the agent; and
- (3) conduct free distilled spirits tastings for consumers on the premises of the holder of a package store permit.
 - Sec. 15.02. FEE. The annual state fee for a distiller's agent's permit is \$10.
- Sec. 15.03. EVIDENCE OF AGENCY OR EMPLOYMENT REQUIRED. A distiller's agent's permit may not be issued to a person until the person shows to the satisfaction of the commission that the person has been employed by or authorized to act as the agent of the permit holder the person proposes to represent.
- Sec. 15.04. SOLICITATION FROM HOLDER OF MIXED BEVERAGE OR PRIVATE CLUB PERMIT. A holder of a distiller's agent's permit may not solicit business directly or indirectly from a holder of a mixed beverage permit or a private club registration permit unless the distiller's agent is accompanied by the holder of a wholesaler's permit or the wholesaler's agent.
- Sec. 15.05. UNAUTHORIZED REPRESENTATION. A holder of a distiller's agent's permit in soliciting or taking orders for the sale of liquor may not represent that the permit holder is an agent of any person other than the person designated in the permit holder's application.
- Sec. 15.06. GRACE PERIOD. A person may engage in the activities specified in Section 15.01 for an initial grace period of five days during which the person shall procure a distiller's agent's permit from the commission.

*CHAPTER 16. WINERY PERMIT (G)

- Sec. 16.01. AUTHORIZED ACTIVITIES. (a) Except as provided by Section 16.011, the holder of a winery permit may:
- (1) manufacture, bottle, label, and package wine containing not more than 24 percent alcohol by volume;
 - (2) manufacture fruit brandy and:
- (A) use that brandy on the winery permit holder's permitted premises for fortifying purposes only; or
 - (B) sell that brandy to other winery permit holders;
- (3) import or buy fruit brandy from a permit holder authorized to manufacture fruit brandy and use that brandy on the winery permit holder's permitted premises for fortifying purposes only;

- sell wine in this state to or buy wine from permit holders authorized to purchase and sell wine, including holders of wholesaler's permits, winery permits, and wine bottler's permits;
 - sell wine to ultimate consumers: (5)

for consumption on the winery premises; or (A)

- in unbroken packages for off-premises consumption in an amount not to **(B)** exceed 35,000 gallons annually;
 - sell the wine outside this state to qualified persons; (6)
 - (7) blend wines:

dispense free wine for consumption on the winery premises; and (8)

purchase and import wine from the holder of a nonresident seller's permit. (9)

- The holder of a winery permit may manufacture and label wine for an adult in an amount not to exceed 50 gallons annually for the personal use of the adult. Any amount of wine produced under this subsection is included in the annual total amount that may be sold by the holder under Subsection (a)(5). An adult for whom wine is manufactured and labeled under this subsection is not required to hold a license or permit issued under this code.
- The holder of a winery permit may conduct wine samplings, including wine tastings at a retailer's premises. A winery employee may open, touch, or pour wine, make a presentation, or answer questions at a wine sampling.
- Without reference to the amendment of subsection (d) in HB 1264 (78th Legislature, (d) Regular Session, 2003), HB 2593 (78th Legislature, Regular Session, 2003) repealed subsection (d).
- The holder of a winery permit may dispense wine for consumption on the premises of the winery under Section 16.07.
- Sec. 16.011. PREMISES IN DRY AREA. A winery permit may be issued for premises in an area in which-the sale of wine has not been authorized by a local option election. A holder of a permit under this section may engage in any activity authorized under Section 16.01 except that the permit holder may sell or dispense wine under that section only if the wine is:
 - bottled in this state; and (1)
- at least 75 percent by volume fermented juice of grapes or other fruit grown in (2) this state or a lesser percentage established by the commissioner of agriculture under Section 12.039, Agriculture Code [Refer to Appendix for this citation].

Sec. 16.02. FEE. The annual state fee for a winery permit is \$75.

- Sec. 16.03. IMPORTATION FOR BLENDING. The holder of a winery permit may, for blending purposes, import wines or grape brandy. The wine or grape brandy may be purchased only from the holders of nonresident seller's permits. The state tax on wines imported for blending purposes does not accrue until the wine has been used for blending purposes and the resultant product placed in containers for sale.
- Sec. 16.04. FEDERAL PERMIT REQUIRED. A winery permit may be granted only on presentation of a winemaker's and blender's basic permit of the federal alcohol tax unit.
- Sec. 16.05. OPERATING AGREEMENTS BETWEEN PERMIT HOLDERS. (a) The holder of a winery permit may engage in any activity authorized by that permit on the permitted premises of another winery permit holder under an agreement between the permit holders that is approved by the commission and that describes with specificity the nature, duration, and extent of the activities authorized by the agreement.
- The commission shall adopt rules regulating the shared use of winery premises under this section to ensure administrative accountability of each permit holder and a strict separation between the businesses and operations of the permit holders.
- Sec. 16.06. PARTICIPATION IN CERTAIN OFF-PREMISES WINE EVALUATION ACTIVITIES. (a) For the purpose of participating in an organized wine tasting, wine evaluation, wine competition, or literary review, the holder of a winery permit may deliver wine produced and manufactured by the holder to locations that are not licensed under this code for the purpose of submitting

the wine to an evaluation at an organized wine tasting competition attended primarily by unlicensed persons or by a wine reviewer whose reviews are published if:

(1) no charge of any kind is made for the wine, delivery, or attendance at the event; and

(2) the commission consents in writing to the delivery.

(b) In connection with events authorized by Subsection (a) of this section, the holder of the winery permit may dispense wine to individuals attending the event and discuss with them the manufacture and characteristics of the wine.

Sec. 16.07. WINE SAMPLING. (a) The holder of a winery permit may conduct wine samplings, including wine tastings, on the permitted premises. The holder of the permit may collect a fee for the wine sampling.

- (b) A sampling event authorized by this section may not be advertised except by on-site communication or by direct mail.
- (c) A person other than the holder of a permit or the holder's agent or employee may not dispense or participate in the dispensing of wine under this section.
 - (d) A person authorized to dispense wine under this section:
 - (1) may serve a person more than one sample; and
 - (2) may not serve a sample to a minor or to an obviously intoxicated person.
- (e) A person who receives a sample may not remove the sample from the permitted premises.
- (f) For the purposes of this code and any other law of this state or a political subdivision of this state, the holder of a permit, during the sampling of wine under this section, is:
- (1) not the holder of a permit authorizing the sale of alcoholic beverages for onpremises consumption; and
- (2) not considered to have received any revenue from the on-premises sale of alcoholic beverages.
- Sec. 16.08. WINE FESTIVALS. (a) At an event that is approved by the commission, organized to celebrate and promote the wine industry in this state, and held in whole or in part on the premises of the holder of a winery permit, the permit holder may:
 - (1) sell wine to consumers for consumption on or off the holder's premises; and
 - (2) dispense wine without charge for consumption on or off the holder's premises.
- (b) The holder of a winery permit may sell wine to the holder of a temporary permit issued under Chapter 27, 30, or 33 for an event that is approved by the commission and organized to celebrate and promote the wine industry in this state.

Sec. 16.09. DIRECT SHIPMENT TO CONSUMERS. (a) The holder of a winery permit may ship wine to the ultimate consumer, including ultimate consumers located in dry areas. Delivery must be by the holder of a carrier permit.

- (b) All wine shipped to an ultimate consumer by the holder of a winery permit must be in a package that is clearly and conspicuously labeled showing that:
 - (1) the package contains wine; and
 - (2) the package may be delivered only to a person described in Subsection (c).
- (c) Wine shipped by the holder of a winery permit may not be delivered to any person other than:
 - (1) the person who purchased the wine;
 - (2) a recipient designated in advance by such purchaser; or
 - (3) a person at the delivery address who is age 21 or over.
- (d) Wine may be delivered only to a person who is age 21 or over after the person accepting the package:
 - (1) presents valid proof of identity and age; and
 - (2) personally signs a receipt acknowledging delivery of the package.
 - (e) The holder of a winery permit may not:

- (1) sell or ship wine to a minor;
- (2) deliver wine to a consumer using a carrier that does not hold a carrier's permit under this code; or
- (3) deliver to the same consumer in this state more than nine gallons of wine within any 30-day period or more than 36 gallons of wine within any 12-month period.

CHAPTER 17. WINERY FESTIVAL PERMIT (GF)

- Sec. 17.01. AUTHORIZED ACTIVITIES. (a) The holder of a winery festival permit may sell wine at a civic or wine festival, farmers' market, celebration, or similar event.
- (b) The holder of a winery festival permit may not offer wine for sale under this chapter on more than four consecutive days at the same location.
- Sec. 17.02. QUALIFICATION FOR PERMIT. A winery festival permit may be issued only to the holder of a winery permit.
- Sec. 17.03. NOTICE OF SALES; PROCEDURES. (a) Before the holder of a winery festival permit offers wine for sale under this chapter, the permit holder must, in accordance with any rules adopted or procedures established by the commission, notify the commission of the date on which and location where the permit holder will offer wine for sale under this chapter.
 - Sec. 17.04. PERMIT FEE. The fee for a winery festival permit is \$50.
- Sec. 17.05. APPLICABILITY OF OTHER LAW. (a) The provisions of this code applicable to the sale of wine on the permitted premises of the holder of a winery permit apply to the sale of wine under this chapter.
- (b) The winery permit of the holder of a winery festival permit may be canceled or suspended for a violation occurring in connection with activities conducted under this chapter.

CHAPTER 18. WINE BOTTLER'S PERMIT (Z)

- Sec. 18.01. AUTHORIZED ACTIVITIES. The holder of a wine bottler's permit may:
- (1) purchase and import wine only from the holders of nonresident seller's permits or their agents who are holders of manufacturer's agent's permits;
- (2) purchase wine in this state from holders of wholesaler's, winery, or wine bottler's permits;
- (3) bottle, rebottle, label, package, and sell wine to permit holders in this state authorized to purchase and sell wine; and
 - (4) sell wine to qualified persons outside the state.
 - Sec. 18.02. FEE. The annual state fee for a wine bottler's permit is \$225.
- Sec. 18.03. PERMANENT RECORD. A holder of a wine bottler's permit shall keep a permanent record of each purchase and sale of wine. The record shall include the name of the person from whom the wine is purchased or to whom it is sold, the number of gallons purchased or sold, and the percentage of alcohol of the wine by volume.

CHAPTER 19. WHOLESALER'S PERMIT (W)

- Sec. 19.01. AUTHORIZED ACTIVITIES. The holder of a wholesaler's permit may:
- (1) purchase and import liquor from distillers, brewers, wineries, wine bottlers, rectifiers, and manufacturers who are holders of nonresident seller's permits or from their agents who hold manufacturer's agents permits;
 - (2) purchase liquor from other wholesalers in the state;

ORDINANCE NO. 2018-

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING CHAPTER XV, ARTICLE 6, ZONING, AMENDING APPENDIX A-LAND USE CATEGORIES TO ADD WINERY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, the Planning & Zoning Commission has forwarded to the City Commission its reports and recommendations concerning the proposed zoning ordinance changes; and

WHEREAS, the item PASSED with a 4-0 vote of the Planning Commission on the requested zoning chart change with no abstentions; and

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Article 6: Zoning of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, Appendix A-Land Use Categories, Section 1-Land Use Chart shall be amended to read as follows:

Use Regulations and Districts

APPENDIX A. - LAND USE CATEGORIES

Sec. 1. - Land use chart.

The following chart shall set out the land uses within the city:

P = Permitted

S = Special use permit required

X = Special review required

= Not permitted (absence of any symbol)

Lar	nd Use	e Ch	art									
Agricultural and Related Uses	R1	R2	R3	R4	МН	C1	C2	С3	C4	11	12	Ag
Domestic animal racetrack exhibit area, training ground, and the like												Р
Winery									<u>s</u>	<u>P</u>	<u>P</u>	P

11.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.										
Effective Date:, 2018										
INTRODUCED on this the <u>25th</u> th day of <u>June</u> , 2018.										
PASSED AND APPROVED on this the day of, 2018.										
Sam R. Fugate, Mayor										

ATTEST:
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

AGENDA ITEM #3

City of Kingsville Finance Department

TO:

Mayor and City Commissioners

CC:

Jesus A. Garza, City Manager

FROM:

Deborah Balli, Director of Finance

DATE:

June 12, 2018

SUBJECT:

Budget Amendment Request - Insurance-Property/Liability

Summary:

This item authorizes the approval of a budget amendment to increase the Insurance-Property Liability line items in General Fund and Utility Fund.

Background:

In FY 17-18, the City of Kingsville approved \$462,420 in Insurance-Property/Liability for the General Fund and Utility Fund while the Expected Annual expenditures for FY17-18 are \$480,638.

	Original Budget	FY 18 Expected
		Annual
General Fund	\$235,000	\$240,319
Utility Fund	\$227,420	\$240,319
Total	\$462,420	\$480,638

Due to the increase in windstorm premiums an additional \$18,218 is being requested.



City of Kingsville Finance Department

Financial Impact:

This budget amendment will reduce General Funds Unassigned Fund Balance by \$5,319 and Utility Fund's Unrestricted Fund Balance will reduce by \$12,899.

The following line items will be increased.

City Special-GF	001-5-1030-33501	Insurance-Property/Liability	\$5,319
Water Construction	051-5-6001-33501	Insurance-Property/Liability	\$1,544
Water Production	051-5-6002-33501	Insurance-Property/Liability	\$3,003
Ground Maintenance	051-5-6101-33501	Insurance-Property/Liability	\$257
Collections	051-5-6201-33501	Insurance-Property/Liability	\$617
Meter Readers	051-5-6202-33501	Insurance-Property/Liability	\$876
WW North Plant	051-5-7001-33501	Insurance-Property/Liability	\$1,835
WW South Plant	051-5-7002-33501	Insurance-Property/Liability	\$570
WW Sewer	051-5-7003-33501	Insurance-Property/Liability	\$3,643
Engineering-PW-UF	051-5-8000-33501	Insurance-Property/Liability	\$554

Recommendation:

Staff recommends authorization of this budget amendment.



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AN ORDINANCE AMENDING THE FISCAL YEAR 2017-2018 BUDGET FOR AN INCREASE IN INSURANCE PREMIUMS.

WHEREAS, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

1

BE IT ORDAINED by the City Commission of the City of Kingsville that the Fiscal Year 2017-2018 budget be amended as follows:

CITY OF KINGSVILLE DEPARTMENT EXPENSES BUDGET AMENDMENT

Dept No.	Dept Name	Account Name	Account Number	Budget Increase		Budget Decrease	
Fund 001 General Fund							
Equity							
2		Unassigned Fund Balance	61002			\$	5,319
Expenses	_						
5-1030	City Special	Insurance-Property/Liability	33501	\$	5,319		
Fund 051 Utility Fund							
Equity	_						
2		Unrestricted Fund Balance	61004			\$	12,899
Expenses							
	Water						
6001	Construction	Insurance-Property/Liability	33501	\$	1,544		
5000	Water		22524		0.000		
6002	Production	Insurance-Property/Liability	33501	\$	3,003		
C101	Ground	Income a Dramanto / Linkilito	22504	۲	257		
6101	Maintenance	Insurance-Property/Liability	33501	\$	257		
6201	Collections	Insurance-Property/Liability	33501	\$	617		
6202	Meter Readers	Insurance-Property/Liability	33501	\$	876		
7001	WW North	Insurance-Property/Liability	33501	\$	1,835		
7002	WW South	Insurance-Property/Liability	33501	\$	570		
7003	WW Sewer	Insurance-Property/Liability	33501	\$	3,643		
	Engineering-						
8000	PW-UF	Insurance-Property/Liability	33501	\$	554		

[To amend the City of Kingsville FY 17-18 Budget to include the increased costs of Insurance Premiums (windstorm) as per the attached memo from the Director of Finance.]

II.

THAT	all	Ordinances	or parts	of Ordinance	es in conf	lict with t	this O	ordinance:	are repeal	ed to the
		such conflic							•	

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

INTRODUCED on this the 25th day of <u>June</u>, 2018.

Courtney Alvarez, City Attorney

PASSED AND APPROVED on th	is the day of	, 2018.
EFFECTIVE DATE:		
Sam R. Fugate, Mayor		
ATTEST:		
Mary Valenzuela, City Secretary		
APPROVED AS TO FORM:		

City of Kingsville Finance Department

TO: Mayor and City Commissioners

CC: Jesus A. Garza, City Manager

FROM: Deborah Balli, Director of Finance

DATE: June 15, 2018

SUBJECT: Budget Amendment Request – Grants

Summary:

This item authorizes the approval of a budget amendment to include 3 previously awarded grants into the FY 17-18 budget.

Background:

Fund 016 - PD - Stonegarden Grant

The following OPSG grants have been awarded to the City of Kingsville Police Department:

Grant Year	Resolution	Performance Period	Awarded Amount
OPSG 2015	Res. 2016-50	08/31/2017 - 10/31/2017 *extended	\$ 122,533.28
OPSG 2016	Res. 2017-38	01/01/2017 - 08/31/2018	\$ 194,421.56

Due to Hurricane Harvey the OPSG 2015 grant performance period was extended into FY 17-18. This budget amendment will include \$4,239 of the remaining OPSG 2015 personnel, fuel, equipment, and maintenance costs in the FY17-18 budget. In researching the OPSG grants it was found that the OPSG 2016 personnel, fuel, equipment, and maintenance costs were not included in the FY 17-18 budget. This budget amendment will include those costs in the FY 17-18 budget.

Fund 017 - PD - PD Grant Border Star - LBSP

Due to Hurricane Harvey the grant period for LBSP 2017 was extended into FY 17-19. This budget amendment will include the remaining \$14,539 LBSP 2017 personnel costs in FY 17-18.

Fund 085 - Certified Local Government Grant

The City accepted a Texas Historical Commission FY 2017 Certified Local Government Grant Award in the amount of \$15,000 for a National Register Nomination for Downtown. On Resolution 2017-56 the City Commission authorized the City Manager to enter to an amended contract for professional services with Hardy-Heck-Moore, Inc for a national register of historic places nomination. This Resolution outlined the



City of Kingsville Finance Department

City received a \$15,000 CLG grant for this project and the remaining amount of the contract of \$13,600 was set aside in CO 2016 for downtown revitalization. This budget amendment will transfer the funds from Fund 033 – CO 2016 to Fund 085 – Certified Local Government Grant and recognize the revenue and expenditures for the grant.

Financial Impact:

Fund 016 - PD - Stonegarden Grant

This budget amendment will increase personnel costs, fuel, equipment and maintenance costs in Fund 016. This budget amendment will also increase Federal Grant revenue resulting in a zero-net effect on fund balance.

Fund 017 - PD - PD Grant Border Star - LBSP

This budget amendment will increase personnel costs, fuel, equipment and maintenance costs in Fund 017. This budget amendment will also increase State Grant revenue resulting in a zero-net effect on fund balance.

Fund 085 - Certified Local Government Grant

This budget amendment will increase 033-5-6900-80085 Transfers to Fund 085 and increase 085-4-0000-75033 Transfers from Fund 033 in the amount of \$13,600 each. 085-4-0000-72005 Federal Grants and 085-5-1604-31400 Professional Services will increase in the amount of \$28,600. This will also have a zero net effect on fund balance.

Recommendation:

Staff recommends authorization of this budget amendment.



ORDINANCE NO.	2018-
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AN ORDINANCE AMENDING THE FISCAL YEAR 2017-2018 BUDGET TO INCLUDE PREVIOUSLY AWARDED AND ACCEPTED GRANTS.

WHEREAS, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

١.

BE IT ORDAINED by the City Commission of the City of Kingsville that the Fiscal Year 2017-2018 budget be amended as follows:

CITY OF KINGSVILLE DEPARTMENT EXPENSES BUDGET AMENDMENT

Dept No.	Dept Name	Account Name	Account Number	Budget Increase	Budget Decrease
Fund 016	- PD Stonegar	den Grant			
Revenue					
4-2100	Police	Federal Grants	72005	198,662	
Expenses	_				
5-2100	Police	Overtime 2015-PD-Stonegarden	11218	3,765	
5-2100	Police	TMRS-2015-Stonegarden	11418	343	
5-2100	Police	FICA-2015-Stonegarden	11518	131	
Expenses	_				
5-2100	Police	Overtime 2016-PD-Stonegarden	11222	116,918	
5-2100	Police	TMRS-2016-Stonegarden	11422	12,299	
5-2100	Police	FICA-2016-Stonegarden	11522	10,704	
5-2100	Police	Motor Oil & Gas	21500	14,962	
5-2100	Police	Minor Equipment	21600	39,540	
Fund 017	- PD Grant Bor	der Star - LBSP			
Revenue	_				
4-0000	-	State Grants	72010	14,539	
Expenses	_				
5-2100	Police	Overtime-PD-Borderstar	11201	12,460	
5-2100	Police	Retirement-TMRS	11400	1,123	
5-2100	Police	FICA	11500	956	
Fund 033	- CO Series 201	L6 - General			
Expenses	_				
5-1030	City Special	Downtown Revitalization Improvements	71216		13,600
5-6900	Fund Trsfrs	Transfer to Fund 085	80085	13,600	-

Fund 085	- Certified Loc	al Government Grant			
Revenue					
4-0000	Non-Dept	Federal Grants	72005	15,000	
4-0000	Non-Dept	Transfer From Fund 033	75033	13,600	
Expenses	_				
5-1604	Downtown	Professional Services	31400	28,600	

[To amend the City of Kingsville FY 17-18 Budget to include revenues and expenditures for 3 previously awarded and accepted grants as per the attached memo from the Finance Director.]

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

INTRODUCED on this the 25th day of <u>June</u>, 2018.

PASSED AND APPROVED on this the day of	, 2018.
EFFECTIVE DATE:	
Sam R. Fugate, Mayor	

Mary Valenzuela, City Secretary

ATTEST:

APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

City of Kingsville Police Department

TO:

Mayor and City Commissioners

CC:

Jesus A. Garza, City Manager

FROM:

Ricardo Torres, Chief of Police

DATE:

June 11, 2018

SUBJECT:

2017 Operation Stonegarden Grant #3194303 Acceptance and Budget

Amendment

Summary:

The Kingsville Police Department has been invited to participate in the 2017 OPSG and has been approved for participation during performance period.

Background:

The OPSG Program supports enhanced cooperation and coordination among Customs and Border Protection (CBP), United States Border Patrol (USBP), and Federal, state, local, tribal, and territorial law enforcement agencies. The OPSG Program provides funding to support joint efforts to secure the United States' borders along routes of ingress from international borders to include travel corridors in states bordering Mexico and Canada, as well as states and territories with international water borders. The program is also risk-driven, capability based strategic plans that outline high-priority needs relating to terrorism preparedness. For these plans to be effective, government officials and elected leaders, working with the whole community, must consider how to sustain current capability levels, while also addressing potential gaps.

Financial Impact:

The grant for "Operation Stonegarden" is a reimbursement type but does not require any cash match. We have been conditionally approved \$96,365.18 in funds to cover personnel costs, fuel and equipment.

Recommendation:

We would request a resolution for acceptance of funds by the grantee's authorized official the City Manager. We also request a budget amendment to begin using these funds as soon as practical. Please place this on the next available agenda. Thank you for your assistance regarding this matter.



ORDINANCE NO. 2018	-
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AN ORDINANCE AMENDING THE FISCAL YEAR 2017-2018 BUDGET TO ACCEPT A 2017 OPERATION STONEGARDEN GRANT FOR THE CITY OF KINGSVILLE POLICE DEPARTMENT.

WHEREAS, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

1.

BE IT ORDAINED by the City Commission of the City of Kingsville that the Fiscal Year 2017-2018 budget be amended as follows:

CITY OF KINGSVILLE DEPARTMENT EXPENSES BUDGET AMENDMENT

Dept No.	Dept Name	Account Name	Account Number	1	Budget Increase	Budget Decrease
Fund 016	- PD Stonegare	den Grant				
Revenue						
4-2100	Police	Federal Grants	72005	\$	96,366	
Expenses						
5-2100	Police	Overtime 2017-PD-Stonegarden	11219	\$	80,523	
5-2100	Police	TMRS-2017-Stonegarden	11419	\$	8,471	
5-2100	Police	FICA-2017-Stonegarden	11519	\$	7,372	

[To amend the City of Kingsville FY 17-18 Budget to include the 2017 Operation Stonegarden grant as per the attached memo from the Chief of Police.]

11.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

THAT this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.
INTRODUCED on this the 25 th day of <u>June</u> , 2018.
PASSED AND APPROVED on this the day of, 2018.
EFFECTIVE DATE:
Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

REGULAR AGENDA

City of Kingsville City Manager's Office

TO: Mayor and City Commissioners

FROM: Jesus A. Garza, City Manager

DATE: July 5, 2018

SUBJECT: RFP 18-14 Employee Health Care and Third-Party Administrator

Summary:

This item authorizes awarding RFP 18-14 for Employee Health Care and TPA (Third Party Administrator) services to administer a self-insured program for the City of Kingsville.

Background:

The City of Kingsville advertised for RFP 18-14 on April 29, 2018 and May 13, 2018. Six (6) potential vendors submitted proposals. All proposals received by the deadline of June 12, 2016 at 2:00 pm were opened. Proposals were received from Blue Cross Blue Shield of Texas, ENTRUST, Inc., Meritian Health, UMR Inc., Arsenal Pharmacy, and TML Multistate Intergovernmental Employee Benefits.

The City's consultants, Carlisle Insurance Agency, Inc., reviewed all proposals submitted in response to RFP 18-14. Each proposal was broken down for easier review and comparison. A copy of the documentation showing the proposal recommendation and analysis is attached. On July 6, 2018, a recommendation was submitted to the City of Kingsville advising to continue with ENTRUST, Inc. as the Third-Party Administrator using Gerber as the stop-loss carrier, as their proposal provides the best value to the City. A detailed summary of the renewal submitted by ENTRUST, Inc. is also attached

Financial Impact:

None at this time. The City can customize plan design benefits and stop loss amounts with the vendor and bring those options to Commission for consideration at a future meeting.

Recommendation:

Staff recommends that RFP 18-14 to be awarded to ENTRUST, Inc. of Houston Texas.





July 9, 2018

City of Kingsville P O Box 1458 Kingsville, TX 78363

Re: Medical Insurance Renewal Recommendation

Diana Gonzales:

The employee benefits department at Carlisle Insurance Agency, Inc., on behalf of the City of Kingsville, has analyzed the group medical proposals submitted by Entrust, UMR, Blue Cross Blue Shield, Meritain, and TML for the following criteria: benefit plan design, service and reputation of the vendor, overall cost benefit to the employee and the City of Kingsville.

Our recommendation is that the City of Kingsville renew their group medical insurance policy with Entrust using Gerber as the stop-loss carrier.

This recommendation is based on the following:

Entrust

- 1. Lower overall cost
- 2. Unique cost containing policy features (Spohn network per diem, Generic Prescription Carve Out)
- 3. Provides alternate plan benefit design options including calendar year deductible plans as well as the current benefit plan design
- 4. Possibly consider changing Specific Deductible to \$75,000 from \$100,000

UMR

- 1. Greater overall cost
- 2. Lower admin, but greater stop loss premium and expected claims and maximum liability
- 3. Large amount of assumptions, contingencies and additional fees
- 4. Did not provide alternate plan design options as requested in the request for proposals

Blue Cross Blue Shield

- 1. Greater overall cost
- 2. Lower admin, but greater stop loss premium and expected claims and maximum liability
- 3. Large amount of assumptions, contingencies and additional fees
- 4. Did not provide alternate plan design options or specific stop loss amounts as requested in the request for proposals

Meritain

- 1. Administrative Services Only
- 2. No Stop Loss quotes provided

TML

- 1. Administrative Services Only
- 2. No Stop Loss quotes provided

We further recommend that the City of Kingsville meet with the vendor to customize plan design benefits and stop loss amounts to maximize cost savings options that may be available.

Sincerely, CARLISLE INSURANCE AGENCY, INC.

Sarah Parkey





Needs Updated Claims thru July

\$743,122.20 3% \$19,894.32

\$723,227.88

Increase/Decrease Annual Fixed Cost Variance



CARLISLE UHC Choice Plus Option 3 9 (2) 4 Specific Stop Loss Review City of Kingsville (3) \$75 Christ ENTIRUST Health, Planned. \$100k Renewal Christus Spohn (2) ENTIRE ST. **Christus Spohn** Current 田

Option 2	UMR Everly Styces	UHC Choice Plus	Sun Life	12/15 - Med & Rx	\$75,000.00	\$74,172.70	\$890,072.40	
Option 1	高 BlueCross BlueShield	Blue Choice PPO	Blue Cross Blue Shield	12/15 - Med & Rx	\$75,000.00	\$92,840.36	\$1,114,084.32	
\$75k Renewal	LRUST Health Planned.	stus Spohn / PHCS	Gerber	2/15 - Med & Rx	\$75,000.00	\$69,423.53	\$833,082.36	

12/15 - Med & Rx

Gerber

Westport Insurance 12/15 - Med & Rx \$100,000.00

\$100,000.00

287

Contract Terms

Stop Loss Carrier Network

Specific Stop Loss Level

Third Party Administrator

Annual Specific Stop Loss Premium

Aggregate Premium Monthly Premium

Monthly Stop Loss Premium

\$48,701.89 \$584,422.68

\$46,490.12

12/15 - Med & Rx

Sun Life

\$100,000.00

\$62,686.20 \$752,234.40

Monthly Premium	\$1,796.62	\$1,242.71	\$1.242.71	\$1.456.78	\$1 917 16	\$3 548 55
				2	04.14.14	00.040.30
Annual Aggregate Premium	\$21,559.44	\$14,912.52	\$14,912.52	\$17.481.36	\$23,005,97	¢30 582 72
						7 ::30000
Annuai Stop Loss Premium	5579,440.88	\$599,335.20	\$847.994.88	\$1 121 565.6R	¢013 079 33	C 700 C073
Marian Caran Contract				DOI CONTRACTOR	20,010,010	71./10/20/¢
Variance Floir Current		3.4%	46.3%	95.3%	79 23	/01 3C
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increase / Decrease from Current		\$19,894.32	\$268.554.00	\$552 124 80	\$333 £37 AA	אר שבנ נטנט
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IMPARITURING CIARRIS FURIDING OPTION						
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\$1,796.62

Maximum Claims Funding Ontion						
TOTAL SURPLINE CONTRACTOR						
Total 287	\$384,307.16	\$402,169.64	\$405,594.99	\$293,410.69	\$388.566.43	\$402 546 20
Annual	\$4,611,685.92	\$4,826,035.68	\$4,867,139.88	\$3,520,928.28	\$4.662,797.16	\$4.830.554.40
Difference From Current		\$214,349.76	\$255,453.96	-\$1,090,757.64	\$51,111.24	\$218.868.48
Monthly Attachment Point	\$202,422.46	\$220.436.42	\$209.003	\$247 E21 7E	6950553	אר ממט רמבא
Annual Attachment Daint			Constant	C3:135(127)	00.210,5055	5382,909.25
אושת שוישו לושה	\$2,429,069.52	\$2,645,237.04	\$2,508,108.36	\$2,970,255.00	\$4,435,344.00	\$4,594,911.00
Variance		8.9%	3.3%	22.3%	87.6%	76C OB
Increase/Decrease		\$216.167.52	\$79.038.84	\$5.01 19E A9	200 C3	07.5.00
Maximum Stop Loss Quote	\$3.419.723.04	¢3 525 346 44	CO CAC CAC	D4:00:44	32,000,274.40	\$4,165,841.48
	10000 1000 1000	**:017/2000	55,040,111.44	\$4,101,820.68	\$5,348,422.32	\$5,377,728.12
Annual Admin Cost	\$143,787.00	\$143,787.00	\$143,787.00	\$98.085.12	\$131 457 48	¢121 AE7 A9
				TT TTOO (S.A.	Dt. 101(101)	04' /Ch'TCT¢

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\$991,781,88	%/LE	\$268.554.00	2010010	20 C.	\$3,790,564.44		%9	00 - 10 mod	\$221,054.40	
\$743,122.20	3%	\$19,894.32			\$3,679,033.44		3%	6445 533 40	05.62C,C114	
\$723,227.88					\$3,563,510.04					\$200K Laser
Annual Fixed Cost	Variance	Increase/Decrease		Maximum Plan Cost - Admin, Stop Loss,	Maximum Funding	Victoria	אמוימוורה	Increase/Decrease		

City of Kingsville Police Department

TO:

Mayor and City Commissioners

CC:

Jesus A. Garza, City Manager

FROM:

Ricardo Torres, Chief of Police

DATE:

May 22, 2018

SUBJECT:

Request for Budget Amendment

Summary:

The police department is requesting a budget amendment in the amount of \$32,050.50 for body armor for the officers of the department.

Background:

Last year as part of the budget process we identified some funds that were not used in the departments FY2016-2017 budget. The body armor which was being used by the officers of the department was reaching its useful end. After consulting with the City Manager and the Finance Department those funds were re-allocated for the purchase of the body armor and carriers. The order was originally placed on June 30th, 2017. Body armor unfortunately is manufactured for each individual officer and for that reason has a large backlog for the filling of orders. We did not receive the final piece of body armor until late March this year.

Financial Impact:

The body armor Summit Level IIIA Ballistic Panels Item #SAF-SBA-SM02-3A-M had a total cost of \$32,050.50.

Recommendation:

We request that the budget amendment be approved to cover the cost of body armor.



ORDINANCE NO. 2010-	INANCE NO. 2018-	
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AN ORDINANCE AMENDING THE FISCAL YEAR 2017-2018 BUDGET TO INCLUDE THE BODY ARMOR AND CARRIER REPLACMENT PROJECT FOR THE CITY OF KINGSVILLE POLICE DEPARTMENT NOT COMPLETED IN FY16-17.

WHEREAS, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

١.

BE IT ORDAINED by the City Commission of the City of Kingsville that the Fiscal Year 2017-2018 budget be amended as follows:

CITY OF KINGSVILLE DEPARTMENT EXPENSES BUDGET AMENDMENT

Dept No.	Dept Name	Account Name	Account Number	ı	Budget ncrease	Budget ecrease
Fund 001	- General Fund					
Equity						
2	_	Unassigned Fund Balance	61002			\$ 32,051
Expenses						
5-2102	Police	Uniforms & Personal Wear	21200	\$	32,051	

[To amend the City of Kingsville FY 17-18 Budget to include the purchase of body armor and carriers for the Kingsville Police Department ordered in FY 16-17 and received in FY 17-18 as per the attached memo from the Chief of Police.]

11.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

THAT this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.
INTRODUCED on this the 9 th day of <u>July</u> , 2018.
PASSED AND APPROVED on this the day of, 2018.
EFFECTIVE DATE:
Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

City of Kingsville Finance Department

TO: Mayor and City Commissioners

CC: Jesus A. Garza, City Manager

FROM: Deborah Balli, Director of Finance

DATE: June 28, 2018

SUBJECT: Budget Amendment Request – PD Phone System

Summary:

This item authorizes the approval of a budget amendment to dedicate funds received for cell tower rent to be used for a PD phone system upgrade.

Background:

Resolution 2017-91 was approved on December 11, 2017 authorizing the Mayor to enter into the First Amendment to Tower attachment lease agreement with GTP Acquisition Partners II, LLC. This agreement was signed on December 22, 2017. Terms of this agreement included a one-time payment of \$25,000 to the City of Kingsville. Since this payment was not known at the time of the FY17-18 budget a budget amendment is requested to include and appropriate these funds.

These funds will be used to upgrade the phone system at the Kingsville Police Department. The purchase and installation of a Mitel MiVoice Office telephone system is estimated to cost \$25,476.50. The \$25,000 one-time payment for the Cell Tower lease will be used to fund this project.

Financial Impact:

001-4-0000-58137 Rent – Cell Tower will increase by \$25,000 and Computers & Associated Equipment 001-5-2103-72600 will increase by \$25,000. The remaining \$476.50 will be covered the department's budget.

Recommendation:

Staff recommends authorization of this budget amendment.



ORD	INAN	CE N	NO.	201	8-

AN ORDINANCE AMENDING THE FISCAL YEAR 2017-2018 BUDGET TO UPGRADE THE KINGSVILLE POLICE DEPARTMENT PHONE SYSTEM.

WHEREAS, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

1.

BE IT ORDAINED by the City Commission of the City of Kingsville that the Fiscal Year 2017-2018 budget be amended as follows:

CITY OF KINGSVILLE DEPARTMENT EXPENSES BUDGET AMENDMENT

Dept No.	Dept Name	Account Name	Account Number	 Budget ncrease	Budget Decrease
Fund 001 -	General Fund				
Revenue					
4-0000		Rent - Cell Tower	58137	\$ 25,000	
Expenses					
5-2101	Police	Computers & Associated Equipment	72600	\$ 25,000	

[To amend the City of Kingsville FY 17-18 Budget to include an upgrade of the telephone system at the Kingsville Police Department as per the attached memo from the Finance Director.]

11.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

Ш.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

INTRODUCED on this the 9 th day of <u>July</u> , 2018.
PASSED AND APPROVED on this the day of, 2018.
EFFECTIVE DATE:
Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

City of Kingsville Police Department

TO:

Mayor and City Commissioners

CC:

Jesus A. Garza, City Manager

FROM:

Ricardo Torres, Chief of Police

DATE:

June 28, 2018

SUBJECT:

FY 17 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local

Solicitation Acceptance and Required MOU with Kleberg County

Summary:

The Kingsville Police Department applied for the FY 17 Edward Byrne Memorial Justice Assistance Grant (JAG) Program, Local Solicitation for the City of Kingsville Police Department and the Kleberg County Sheriff's Office. Our jurisdictions are considered disparate so the funding needs to be shared. The JAG legislation requires these counties to remain a partner with the local jurisdictions receiving funds and must be a signatory on the required Memorandum of Understanding (MOU).

Background:

In general, JAG funds awarded to a unit of local government under this FY 2017 solicitation may be used to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following:

- Law enforcement programs
- Prosecution and court programs
- Prevention and education programs
- Corrections and community corrections programs
- Drug treatment and enforcement programs
- Planning, evaluation, and technology improvement programs
- Crime victim and witness programs (other than compensation)
- Mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention



City of Kingsville Police Department

Financial Impact:

The Kingsville Police Department requested Silynx Clarus XPR Headsets for Harris XG-75 Portable Radios in the amount of \$5,220. 00.

The Kleberg County Sheriff's Department requested Ranger Green Ballistic Helmets and chinstraps with hardware and shipping for a total amount of \$5,997.94.

Total Grant Award is \$10,320.00 to be shared equally by both departments in the amounts of \$5,160.00.

The Kingsville Police Department has a cash match of \$60.00.

The Kleberg County Sheriff's Department has a cash match of \$837.94.

Recommendation:

We request a resolution to allow for the acceptance of expenditure of this grant project by the Chief of Police.



ORDI	NANC	E NO. 2	2018-
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AN ORDINANCE AMENDING THE FISCAL YEAR 2017-2018 BUDGET TO ACCEPT AND EXPEND AN EDWARD J BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT-LOCAL SOLICITATION (2017) FOR THE PURCHASE OF KPD EQUIPMENT.

WHEREAS, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

١.

BE IT ORDAINED by the City Commission of the City of Kingsville that the Fiscal Year 2017-2018 budget be amended as follows:

CITY OF KINGSVILLE DEPARTMENT EXPENSES BUDGET AMENDMENT

Dept No.	Dept Name	Account Name	Account Number	1	Budget Increase	ıdget rease
Fund 001 -	- General Fund	ı				
Expenses						
5-2104	PD-CID	Minor Equipment	21700			\$ 60
5-6900	Fund Trsfrs	Transfer to Fund 029	80029	\$	60	
Fund 029 -	JAG GRANT 2	017-DJ-BX-0902				
Revenues						
4-0000	_	Transfer From Fund 001	7001	\$	60	
4-0000		Contribution from County	58002	\$	838	
4-0000		Federal Grants	72005	\$	10,320	
Expenses	_					
5-2100	_	Minor Equipment	21700	\$	11,218	

[To amend the City of Kingsville FY 17-18 Budget to include an Edward J. Byrne Memorial Justice Assistance Grant-Local Solicitation (2017) for the purchase of headsets for the Kingsville Police Department and Helmets for the Kleberg County Sheriff's Department as per the attached memo from the Police Chief.]

11.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

INTRODUCED on this the 9th day of __July_, 2018.

PASSED AND APPROVED on this the _____ day of ______, 2018.

EFFECTIVE DATE:______

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

City of Kingsville Police Department

TO: Mayor and City Commissioners

CC: Jesus A. Garza, City Manager

FROM: Ricardo Torres, Chief of Police

DATE: June 28, 2018

SUBJECT: FY 17 Edward Byrne Memorial Justice Assistance Grant (JAG) Program – Local

Solicitation Acceptance and Required MOU with Kleberg County

Summary:

The Kingsville Police Department applied for the FY 17 Edward Byrne Memorial Justice Assistance Grant (JAG) Program, Local Solicitation for the City of Kingsville Police Department and the Kleberg County Sheriff's Office. Our jurisdictions are considered disparate so the funding needs to be shared. The JAG legislation requires these counties to remain a partner with the local jurisdictions receiving funds and must be a signatory on the required Memorandum of Understanding (MOU).

Background:

In general, JAG funds awarded to a unit of local government under this FY 2017 solicitation may be used to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following:

- Law enforcement programs
- Prosecution and court programs
- Prevention and education programs
- Corrections and community corrections programs
- Drug treatment and enforcement programs
- Planning, evaluation, and technology improvement programs
- Crime victim and witness programs (other than compensation)
- Mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention



City of Kingsville Police Department

Financial Impact:

The Kingsville Police Department requested Silynx Clarus XPR Headsets for Harris XG-75 Portable Radios in the amount of \$5,220. 00.

The Kleberg County Sheriff's Department requested Ranger Green Ballistic Helmets and chinstraps with hardware and shipping for a total amount of \$5,997.94.

Total Grant Award is \$10,320.00 to be shared equally by both departments in the amounts of \$5,160.00.

The Kingsville Police Department has a cash match of \$60.00.

The Kleberg County Sheriff's Department has a cash match of \$837.94.

Recommendation:

We request a resolution to allow for the acceptance of expenditure of this grant project by the Chief of Police.



OMB No. 1121-0329 Approval Expires 12/31/2018

U.S. Department of Justice Office of Justice Programs *Bureau of Justice Assistance*



The <u>U.S. Department of Justice</u> (DOJ), <u>Office of Justice Programs</u> (OJP), <u>Bureau of Justice Assistance</u> (BJA) is seeking applications for the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. This program furthers the Department's mission by assisting State, local, and tribal efforts to prevent or reduce crime and violence.

Edward Byrne Memorial Justice Assistance Grant Program FY 2017 Local Solicitation Applications Due: September 5, 2017

Eligibility

Only units of local government may apply under this solicitation. By law, for purposes of the JAG Program, the term "units of local government" includes a town, township, village, parish, city, county, borough, or other general purpose political subdivision of a state; or, it may also be a federally recognized Indian tribal government that performs law enforcement functions (as determined by the Secretary of the Interior). A unit of local government may be any law enforcement district or judicial enforcement district established under applicable State law with authority to independently establish a budget and impose taxes; for example, in Louisiana, a unit of local government means a district attorney or parish sheriff.

A JAG application is not complete, and a unit of local government may not receive award funds, unless the chief executive of the applicant unit of local government (e.g., a mayor) properly executes, and the unit of local government submits, the "Certifications and Assurances by Chief Executive of Applicant Government" attached to this solicitation as Appendix I.

In addition, as discussed further <u>below</u>, in order validly to accept a Fiscal Year (FY) 2017 JAG award, the chief legal officer of the applicant unit of local government must properly execute, and the unit of local government must submit, the specific certification regarding compliance with 8 U.S.C. § 1373 attached to this solicitation as <u>Appendix II</u>. (Note: this requirement does not apply to Indian tribal governments.) (The text of 8 U.S.C. § 1373 appears in <u>Appendix II</u>.)

Eligible allocations under JAG are posted annually on the JAG web page under "Funding."

Deadline

Applicants must register in the OJP Grants Management System (GMS) prior to submitting an application under this solicitation. All applicants must register, even those that previously registered in GMS. Select the "Apply Online" button associated with the solicitation title. All registrations and applications are due by 5 p.m. eastern time on September 5, 2017.

This deadline does **not** apply to the certification regarding compliance with 8 U.S.C. § 1373. As explained <u>below</u>, a unit of local government (other than an Indian tribal government) may not validly accept an award unless that certification is submitted to the Office of Justice Programs (OJP) on or before the day the unit of local government submits the signed award acceptance documents.

For additional information, see <u>How to Apply</u> in <u>Section D. Application and Submission</u> Information.

Contact Information

For technical assistance with submitting an application, contact the Grants Management System (GMS) Support Hotline at 888–549–9901, option 3, or via email at GMS.HelpDesk@usdoj.gov. The GMS. Support Hotline operates 24 hours a day, 7 days a week, including on federal holidays.

An applicant that experiences unforeseen GMS technical issues beyond its control that prevent it from submitting its application by the deadline must email the National Criminal Justice Reference Service (NCJRS) Response Center at grants@ncjrs.gov within 24 hours after the application deadline in order to request approval to submit its application. Additional information on reporting technical issues appears under "Experiencing Unforeseen GMS Technical Issues" in How to Apply in Section D. Application and Submission Information.

For assistance with any other requirement of this solicitation, applicants may contact the NCJRS Response Center by telephone at 1–800–851–3420; via TTY at 301–240–6310 (hearing impaired only); by email at grants@ncjrs.gov; by fax to 301–240–5830, or by web chat at https://webcontact.ncjrs.gov/ncjchat/chat.jsp. The NCJRS Response Center hours of operation are 10:00 a.m. to 6:00 p.m. eastern time, Monday through Friday, and 10:00 a.m. to 8:00 p.m. eastern time on the solicitation close date. Applicants also may contact the appropriate BJA State Policy Advisor.

Funding opportunity number assigned to this solicitation: BJA-2017-11301

Release date: August 3, 2017

Edward Byrne Memorial Justice Assistance Grant Program FY 2017 Local Solicitation CFDA #16.738

A. Program Description

Overview

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to States and units of local government. BJA will award JAG Program funds to eligible units of local government under this FY 2017 JAG Program Local Solicitation. (A separate solicitation will be issued for applications to BJA directly from States.)

Statutory Authority: The JAG Program statute is Subpart I of Part E of Title I of the Omnibus Crime Control and Safe Streets Act of 1968. Title I of the "Omnibus Act" generally is codified at Chapter 26 of Title 42 of the United States Code; the JAG Program statute is codified at 42 U.S.C. §§ 3750-3758. See also 28 U.S.C. § 530C(a).

Program-Specific Information

Permissible uses of JAG Funds - In general

In general, JAG funds awarded to a unit of local government under this FY 2017 solicitation may be used to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following:

- Law enforcement programs
- Prosecution and court programs
- Prevention and education programs
- Corrections and community corrections programs
- · Drug treatment and enforcement programs
- Planning, evaluation, and technology improvement programs
- Crime victim and witness programs (other than compensation)
- Mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams

Under the JAG Program, units of local government may use award funds for broadband deployment and adoption activities as they relate to criminal justice activities.

Limitations on the use of JAG funds

Prohibited and controlled uses of funds – JAG funds may not be used (whether directly or indirectly) for any purpose prohibited by federal statute or regulation, including those purposes specifically prohibited by the JAG Program statute as set out at 42 U.S.C. § 3751(d):

- (1) Any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.
- (2) Unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of such funds to provide such matters essential to the maintenance of public safety and good order—
 - (a) Vehicles (excluding police cruisers), vessels (excluding police boats), or aircraft (excluding police helicopters)
 - (b) Luxury items
 - (c) Real estate
 - (d) Construction projects (other than penal or correctional institutions)
 - (e) Any similar matters

For additional information on expenditures prohibited under JAG, as well as expenditures that are permitted but "controlled," along with the process for requesting approval regarding controlled items, refer to the <u>JAG Prohibited and Controlled Expenditures Guidance</u>. Information also appears in the <u>JAG FAQs</u>.

Cap on use of JAG award funds for administrative costs – A unit of local government may use up to 10 percent of a JAG award, including up to 10 percent of any earned interest, for costs associated with administering the award.

Prohibition of supplanting; no use of JAG funds as "match" – JAG funds may not be used to supplant State or local funds but must be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities. See the <u>JAG FAQs</u> on BJA's JAG web page for examples of supplanting.

Although supplanting is prohibited, as discussed under "What An Application Should Include," the leveraging of federal funding is encouraged.

Absent specific federal statutory authority to do so, JAG award funds may not be used as "match" for the purposes of other federal awards.

Other restrictions on use of funds – If a unit of local government chooses to use its FY 2017 JAG funds for particular, defined types of expenditures, it must satisfy certain preconditions:

Body-Worn Cameras (BWC)

A unit of local government that proposes to use FY 2017 JAG award funds to purchase BWC equipment or to implement or enhance BWC programs, must provide to OJP a certification(s) that the unit of local government has policies and procedures in place related to BWC equipment usage, data storage and access, privacy considerations, training, etc. The certification can be found at:

https://www.bja.gov/Funding/BodyWornCameraCert.pdf.

17000 Saint Clair Avenue Building 1 Cleveland, OH 44110 USA



Proposal Information

Created Date 8/25/2017

Quote Number 00001620

Prepared By

Joe Nagy

Phone (216) 738-2518

Email

jnagy@teamwendy.com

Customer Contact Information

Contact Name JD Longoria

Bill To Name Kleberg County Sheriff's Office

Bill To 1500 E. King St

Kingsville, Texas 78363

Product Code	Line Item Description	Product	Quantity	Sales Price	Total Price
21-EXT-51		Chinstrap Extender 4", Ranger Green - EXFIL, CAMFIT, CAM BUCKLE Retentions	7.00	\$4.99	\$34.93
73-71S-E71	SIZING TBD	EXFIL Ballistic Helmet, Size 1 M/L, Color Ranger Green	7.00	\$838.97	\$5,872.79
Shipping	FREIGHT CHARGES MAY VARY AT TIME OF SHIPMENT	Shipping	1.00	\$90.22	\$90.22

Grand Total \$5,997.94

Leadtime

3 DAYS ARO

Please contact Team Wendy with any questions regarding this proposal.

International Disclaimer

Team Wendy complies with all export requirements in accordance with the US Export Administration's Regulations (EAR). For all international customers, a signed End User Statement (EUS) is required to process each purchase order. All international orders are to be prepaid. All Team Wendy products are classified as EAR99 (No License Required) except for helmets. As of July 1, 2014 all hemets have an Export Control Classification Number (ECCN) of 1A613.c. A US Department of Commerce license may be required prior to fulfilling the order. The current license processing time is approximately 15-45 days after receipt of order.

International

License

Terms and Conditions

- 1. An order received and acknowledged by Team Wendy is considered final. Team Wendy has sole discretion on whether to accept any order cancellation(s) after an order acknowledgement has been sent to the customer. Team Wendy also reserves the right to charge back to the customer any planning and production costs associated with a cancelled order.
- 2. All prices listed in USD. Prices and availability are subject to change without notice. Errors will be corrected where discovered, and Team Wendy, reserves the right to revoke any stated offer and to correct any errors, inaccuracies or omissions (including after an order has been submitted).

17000 Saint Clair Avenue Building 1 Cleveland, OH 44110 USA



- 3. Credit card payments accepted, or Net 30 terms with credit approval. Customer agrees to pay 1.5% monthly (18% APR) for any late payments. A surcharge of 2% will be added to all credit card sales.
- 4. Shipping charges additional, EX-Works Factory. Team Wendy cannot guarantee specific delivery times or dates for carriers. Shipping and handling fees are non-refundable.
- 5. Team Wendy requires a minimum order of \$300.00 to drop-ship. Orders under \$300.00 requesting drop-shipment will be charged a \$25.00 drop-ship fee per order.
- 6. All international ordes must be paid in full prior to shipment. All international shipping related charges must be billed directly to customer to include freight, taxes, duties, etc. A \$35.00 Wire Transfer fee will be added to all orders paying via a bank/wire transfer.
- 7. Customer must contact Team Wendy within 10 days of receipt on shortages or discrepancies.
- 8. Product Returns:
 - Team Wendy will accept product returns due to manufacturing defects up to 30 days after date of delivery.
 - Stock returns will be accepted up to 30 days after date of delivery and are subject to a 25% restocking fee. All products must be
 unused and in their original packaging. Customer is responsible for all return shipping costs. After 30 days no stock returns will be
 accepted.
 - To initiate a return, please send an email to <u>returns@teamwendy.com</u>. A Team Wendy representative will respond within 2 business days. If the return is authorized, Team Wendy will provide a return label which will include a Return Material Authorization (RMA) number. Team Wendy products returned to Team Wendy without a return label and a Return Material Authorization (RMA) number will not be accepted for processing.
 - Refund, credit or exchange will be issued after product has been reviewed by the Team Wendy's Quality Assurance Department.
 - Product purchased through a distributor must be returned through that distributor. Team Wendy will direct distributor customers back to the distributor for assistance on returns.
- 9. Team Wendy's product warranties are as follows:
 - EXFIL Carbon and EXFIL LTP helmets carry a limited one (1) year warranty against any defect in materials and workmanship. Team Wendy will repair or replace the product at no charge during that time. This excludes normal wear and tear and does not cover any product which has been damaged due to misuse, abuse or improper storage. Refer to http://www.teamwendy.com/exfil-carbon-ltp-warranty/ for additional information.
 - EXFIL Ballistic Helmet carries a limited warranty against any defect in materials or workmanship. We will repair or replace the product at no charge per the below terms. This excludes normal wear and tear and does not cover any product which has been damaged due to misuse, abuse or improper storage. Refer to http://www.teamwendy.com/exfil-ballistic-warranty/ for additional information.
 - 1. Ballistic Package- up to five (5) years from date of delivery
 - 2. Liner, Retention, rail and shroud system(s)- up to one (1) year from date of delivery
 - 3. Exterior coating (paint)- up to one (1) year from date of delivery
 - All other Team wendy products not specifically noted above carry a one (1) year limited warranty against any defect. Team Wendy will
 repair or replace the product at no charge during that time. This excludes normal wear and tear in materials and workmanship.
 - To initate a warranty claim, please send an email to warranty@teamwendy.com and include a detailed description (along with any available photos) of the claimed product defect. A Team Wendy representative will respond within 2 business days. If the warranty claim is accepted, Team Wendy will provide a return label which will include a Return Material Authorization (RMA) number. Team Wendy products returned to Team Wendy on a warranty claim without first receiving a return label and a Return Material Authorization (RMA) number will not be accepted for processing.
- 10. Team Wendy reserves the right to request End User Statements (EUS) prior to shipment on any domestic order. End User Statements are mandatory on all international orders.
- 11. These commodities are controlled for export in accordance with US Export Administration Regulations (EAR).
- 12. US Law prohibits the export and re-export of Team Wendy products and technologies to individuals or entities identified by the US government as restricted or prohibited. These individuals or entities are normally listed on one of the following lists: Specially Designated Nationals List, Debarred List, Denied Parties List, Entity List and the Unverified List. Team Wendy will verify all international orders before shipment.
- 13. US law prohibits the export and re-export of Team Wendy products and technologies to the US embargoed/sanctioned countries.
- 14. Purchaser shall not re-export, re-sell or ortherwise allow any items supplied by Team Wendy to be transferred to any person or entity for which the Purchaser has knowledge that its items may be used in a manner prohibited by 15 CFR part 744.

Budget for Headsets on JAG Local Solication Grant for City of Kingsville

	l loi 128ppg	וכממשבנש מזו שלה במכנ	מו שמווכם ווים	Sauger 101 of the age of the Edge of the E	
	Price per unit	Number of units To	otal Cost	rice per unit Number of units Total Cost Grant Award City of Kingsville Portion Cash Match	Cash Match
Silynx Clarus XPR	\$ 580.00	\$ 6	9 \$5,220.00		5,120.00 \$ 100.00
Headsets for					
Harris XG-75 Portable					
Radios					



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

June 26, 2018

Chief Ricardo Torres City of Kingsville PO Box 1458 Kingsville, TX 78364

Dear Chief Torres:

On behalf of Attorney General Jefferson Sessions III, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 17 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation in the amount of \$10,320 for City of Kingsville.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Kandia M. Conaway, Program Manager at (202) 514-9205; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

Alan R. Hanson

Principal Deputy Assistant Attorney General

Enclosures

U.S. Department of Justice Office of Justice Programs Bureau of Justice Assistance 1. RECIPIENT NAME AND ADDRESS (Including Zip Code) City of Kingsville PO Box 1458 Kingsville, TX 78364	Grant 4. AWARD NUMBER: 2017-DJ-BX-0902 5. PROJECT PERIOD: FROM 10/01/2016 BUDGET PERIOD: FROM 10/01/2016					
2a. GRANTEE IRS/VENDOR NO. 746001514	6. AWARD DATE 06/26/2018 7 8. SUPPLEMENT NUMBER 00	. ACTION Initial				
2b. GRANTEE DUNS NO. 618308118	9. PREVIOUS AWARD AMOUNT	\$ 0				
3. PROJECT TITLE	10. AMOUNT OF THIS AWARD	\$ 10,320				
City of Kingsville and Kleberg County	11. TOTAL AWARD	\$ 10,320				
12. SPECIAL CONDITIONS THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH COON THE ATTACHED PAGE(S). 13. STATUTORY AUTHORITY FOR GRANT This project is supported under FY17(BJA - JAG State and JAG Local) Title including subpart 1 of part E (codified at 42 U.S.C. 3750 - 3758); see also 28 14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number) 16.738 - Edward Byrne Memorial Justice Assistance Grant Program 15. METHOD OF PAYMENT	: I of Pub. L. No. 90-351 (generally codified at 42 U.S.)					
GPRS						
AGENCY APPROVAL	GRANTEE ACCEPTAN					
16. TYPED NAME AND TITLE OF APPROVING OFFICIAL Alan R. Hanson Principal Deputy Assistant Attorney General	18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Ricardo Torres Chief					
17. SIGNATURE OF APPROVING OFFICIAL Olivina R Hansan	19. SIGNATURE OF AUTHORIZED RECIPIENT O	OFFICIAL 19A. DATE				
AGENCY	USE ONLY					
20. ACCOUNTING CLASSIFICATION CODES FISCAL FUND BUD. DIV. YEAR CODE ACT. OFC. REG. SUB. POMS AMOUNT X B DJ 80 00 00 10320	21. SDJUGT1522					

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.



U.S. Department of Justice Office of Justice Programs

Bureau of Justice Assistance

GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY

15716	Grant								
	PROJECT NUMBER								
	2017-DJ-BX-0902	PAGE 1 OF 1							
This project is supported under FY17(BJA - JAG State and JAG Locs subpart 1 of part E (codified at 42 U.S.C. 3750 - 3758); see also 28 U	al) Title I of Pub. L. No. 90-351 (generally codified at 42 U. S.C. 530C(a).	S.C. 3711 - 3797ff-5), including							
1. STAFF CONTACT (Name & telephone number)	2. PROJECT DIRECTOR (Name, address & te	elephone number)							
Kandia M. Conaway (202) 514-9205	Ricardo Torres Police Chief P.o. Box 1458 Kingsville, TX 78364-1458 (361) 592-4311 ext.5								
3a. TITLE OF THE PROGRAM BJA FY 17 Edward Byrne Memorial Justice Assistance Grant (JAG) I	ONRE	CODE (SEE INSTRUCTIONS VERSE)							
4. TITLE OF PROJECT									
City of Kingsville and Kleberg County									
5. NAME & ADDRESS OF GRANTEE City of Kingsville PO Box 1458 Kingsville, TX 78364	6. NAME & ADRESS OF SUBGRANTEE								
7. PROGRAM PERIOD	8. BUDGET PERIOD								
FROM: 10/01/2016 TO: 09/30/2020	FROM: 10/01/2016 TO:	09/30/2020							
9. AMOUNT OF AWARD	10. DATE OF AWARD								
\$ 10,320	06/26/2018								

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and units of local government, including tribes, to and local needs and conditions. Grant funds support a broad range of criminal justice related activities based on their own state can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following purpose areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; 7) crime victim and witness programs (other than compensation); and 8) mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams.

06/26/2018

12. SECOND YEAR'S BUDGET AMOUNT

14. THIRD YEAR'S BUDGET AMOUNT

This Local JAG award will be shared by the County and one or more jurisdictions identified as disparate within the current Fiscal Year eligibility list

11. SECOND YEAR'S BUDGET

13. THIRD YEAR'S BUDGET PERIOD

ww.bja.gov/Jag). JAC uipment purchases or blic/officer safety.	funding will be used to supp funded initiatives such as ove	ort criminal justice initiative rtime, task forces, drug prog	es that fall under one or n grams, information sharin	nore of the allowable progra g, etc. will be aimed at red	am areas above. Any acing crime and/or enhanci
CA/NCF					

RESOLUTION #2018-

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF KINGSVILLE, TX AND THE COUNTY OF KLEBERG RELATING TO THE 2017 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, this Agreement is made under the authority of Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code; and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement; and

WHEREAS, the CITY agrees to provide the COUNTY half (\$5,160.00) of the total eligible joint allocation (\$10,320.00) from the 2017 JAG Program-Local Solicitation; and

WHEREAS, the CITY and COUNTY believe it to be in their best interests to reallocate the JAG funds.

BE IT RESOLVED by the City Commission of the City of Kingsville, Texas:

1.

THAT the Mayor is authorized and directed as an act of the City of Kingsville, Texas to enter into an Interlocal Agreement between the City of Kingsville and Kleberg County relating to the 2017 Byrne Justice Assistance Grant (JAG) Program Award-Local Solicitation in accordance with Exhibit A hereto attached and made a part hereof.

11.

THAT all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

THAT this Resolution shall be and become effective on and after adoption.								
PASSED AND APPROVED by a majority vote of the City Commission on the 9th day of July , 2018.								
Sam R. Fugate, Mayor								
ATTEST:								
Mary Valenzuela, City Secretary								
APPROVED AS TO FORM:								
Courtney Alvarez, City Attorney								

INTERLOCAL AGREEMENT BETWEEN

THE CITY OF KINGSVILLE, TX AND THE COUNTY OF KLEBERG, TX

2017 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD

This Agreement is made and entered into this 9th day of July, 2018, by and between the County of Kleberg, acting by and through its governing body, the Kleberg County Commissioners Court, hereinafter referred to as COUNTY, and the City of Kingsville, acting by and through its governing body, the Kingsville City Commission, hereinafter referred to as CITY, both of Kleberg County, State of Texas, witnesseth:

WHEREAS, this Agreement is made under the authority of Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code; and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement; and

WHEREAS, the CITY agrees to provide the COUNTY half (\$5,160.00) of the total eligible joint allocation (\$10,320.00) from the FY17 Edward Byrne Memorial Justice Assistance Grant (JAG) Program, Local Solicitation; and

WHEREAS, the CITY and COUNTY believe it to be in their best interests to reallocate the JAG funds.

NOW THEREFORE, the COUNTY AND CITY agree as follows:

Section 1.

CITY agrees to pay COUNTY half of the total eligible joint allocation, said half is \$5,160.00, of the total JAG funds (said total is \$10,320.00).

Section 2.

COUNTY agrees to use half of the total eligible joint allocation, which is \$5,160.00, for the purchase of law enforcement helmets with chinstraps and hardware.

Section 3.

Nothing in the performance of this Agreement shall impose any liability for claims against COUNTY other than claims for which liability may be imposed by the Texas Tort Claims Act.

Section 4.

Nothing in the performance of this Agreement shall impose any liability for claims against CITY other than claims for which liability may be imposed by the Texas Tort Claims Act.

Section 5.

Each party to this agreement will be responsible for its own actions in providing services under this agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

Section 6.

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 7.

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

Section 8.

Each party represents that this Agreement has been duly passed and approved by the governing body of the party as required by the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code.

Section 9.

If any portion of this agreement, or its application to any person or circumstance, is held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this agreement shall not be affected and shall continue to be enforceable under the terms of this agreement.

Section 10.

The individuals executing this agreement on behalf of each party represent and warrant that they are each the duly authorized representatives of such party on whose behalf the individuals are signing, each with full power and authority to bind said party to each term and condition set forth in this agreement.

Section 11.

The parties enter into this Interlocal Agreement under the Texas Government Code Chapter 791 (Interlocal Cooperation Act). The parties agree that activities under this Agreement are "governmental functions and services" and that the parties are a "local government" as that term is defined in this Agreement and in the Interlocal Cooperation Act.

Section 12.

Two (2) copies of this Agreement are executed; each shall be deemed an original.

CITY OF KINGSVILLE, TEXAS	COUNTY OF KLEBERG, TEXAS				
Sam R. Fugate, Mayor	Rudy Madrid, County Judge				
ATTEST:	ATTEST:				
Mary Valenzuela, City Secretary	Stephanie Garza, County Clerk				
APPROVED AS TO FORM:	APPROVED AS TO FORM:				
Courtney Alvarez, City Attorney	Kira Talip, County Attorney				

AGENDA ITEM #12

City of Kingsville Fire Department

TO:

Mayor and City Commissioners

CC:

Jesus A. Garza, City Manager

FROM:

Adrian Garcia, Fire Chief

DATE:

July 9th, 2018

SUBJECT:

TEEX Texas Task Force 1 – Memorandum of Understanding (MOU)

Summary:

The Kingsville Fire Department is requesting to renew the Memorandum of Understanding (MOU) between TEEX Texas Task Force 1 (TXTF1) and the City of Kingsville Fire Department for the purposes of allowing FD personnel to participate with TXTF1 during State or Federal deemed disasters.

Background:

The MOU is being updated to reflect a new format, meeting current industry best practices and ensure organizational needs are being met for all parties involved. Primary change includes, the implementation of letters of endorsement that each member must get signed by their respective department head to participate.

Letters of endorsement once signed and submitted will be valid until October 31, 2023, but at any time an endorsement can be removed if the department no longer supports the employee's activities on the task force.

Financial Impact:

Minimal financial impact, due to coverage of employee while deployed. But, reimbursable payroll costs and backfill for each activated member is allowed through the MOU.

Recommendation:

Our recommendation is that the Commission renew the MOU with TEEX TXTF1.



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A RESOLUTION AUTHORIZING THE CITY OF KINGSVILLE FIRE CHIEF TO ENTER INTO A MEMORANDUM OF UNDERSTANDING BETWEEN THE TEXAS A&M ENGINEERING EXTENSION SERVICE, THE SPONSORING AGENCY OF TEXAS TASK FORCE ONE AND THE CITY OF KINGSVILLE, TEXAS (AS THE PARTICIPATING AGENCY/EMPLOYER); REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, when a disaster occurs in Texas and urban search and rescue assistance is needed, the State of Texas calls on its Texas Task Force One members to aid in such efforts;

WHEREAS, the State of Texas and the Federal government provide the option of allowing a participating employer, like the City of Kingsville, and a Texas Task Force One Member, who is a city employee, the opportunity to be a part of Texas Task Force One (TX-TF1) Urban Search and Rescue activities via a Memorandum of Understanding (MOU);

WHEREAS, the city employee/ TX-TF1 member will be asked to attend and need time off for training, meetings, and deployments;

WHEREAS, the City may seek reimbursement for certain payroll costs upon deactivation of a TX-TF1 member/city employee, as stated in the MOU;

WHEREAS, City Commission of the City of Kingsville finds it in the best interest of the citizens of Kingsville that this MOU be entered into so that one of our own, who has been invited to serve in this elite group, can use his skills to protect the health, safety, and welfare of the citizens of this city and state.

NOW THEREFORE, BE IT RESOLVED by the City Commission of the City of Kingsville, Texas:

1.

THAT the City of Kingsville Fire Chief is authorized and directed as an act of the City of Kingsville, Texas to enter into a Memorandum of Understanding Between The Texas A&M Engineering Extension Service, the Sponsoring Agency of Texas Task Force and The City of Kingsville (the Participating Agency/Employer) in accordance with Exhibit A hereto attached and made a part hereof.

11.

THAT all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

THAT this Resolution shall be and become effective on and after adopti	on.
PASSED AND APPROVED by a majority vote of the City Commission of 9th day of July, 2018.	on the
Sam R. Fugate, Mayor	
ATTEST:	
Mary Valenzuela, City Secretary	
APPROVED AS TO FORM:	
Courtney Alvarez, City Attorney	



Memorandum of Understanding Between



The Texas A&M Engineering Extension Service, The Sponsoring Agency of Texas Task Force 1, And

The Participating Agency/Employer

This Memorandum of Understanding (MOU) is entered into this 18th day of <u>June</u>, 2018 between Texas Task Force 1 (TX-TF1), a division of the Texas A&M Engineering Extension Service (TEEX), and the Participating Agency/Employer (Employer) <u>Kingsville FD</u>, located in <u>Kingsville</u>, Texas.

TEEX is the Sponsoring Agency, as that term is defined in 42 USC 5165f(a)(6), for TX-TF1, a Task Force as defined in 42 USC 5165f(a)(9), as a cooperating party under a Memorandum of Agreement dated December 8, 2008, between the Federal Emergency Management Agency (FEMA) and the State of Texas. Employer desires to provide personnel to serve in TX-TF1 as determined by TEEX. The parties therefore agree as follows:

I. PURPOSE

The purpose of this MOU is to delineate responsibilities and procedures for Urban Search and Rescue (US&R) activities under the authority of the State of Texas Emergency Management Plan, the Robert T. Stafford Disaster Relief and Emergency Act, Public law 93-288, as amended 42 U.S.C. 5121, et seq., and Title 44 CFR Part 208 – National Urban Search and Rescue Response System.

II. SCOPE

The provisions of this MOU apply to:

- A. US&R activities performed at the request of the State and the Federal government and provided at the option of the Employer and the Member. These activities may be in conjunction with, or in preparation of, a State or federal declaration of disaster; and
- B. Training activities mandated by the Department of Homeland Security (DHS)/FEMA and TEEX to maintain TX-TF1 operational readiness.

III. PERIOD OF PERFORMANCE

This MOU begins as of the date of the last signature and terminates October 31, 2023, or as described in section IX of this MOU.

IV. DEFINITIONS

For purposes of this MOU, the following definitions apply:

- A. Activation: The process of TEEX mobilizing Members to deploy to a designated disaster site.
- B. <u>Alert:</u> The process of TEEX informing Members that an event has occurred and that TX-TF1 may be activated at some point within the next 24-48 hours.

- C. <u>Backfill</u>: The assignment of personnel by the Employer to meet their minimum level of staffing to replace a deployed Member.
- D. <u>Deactivation</u>: The process of TEEX demobilizing Members upon notification from the State or DHS/FEMA to stand down.
- E. Member: A rostered TX-TF1 member.
- F. <u>Personnel Rehabilitation Period</u>: The period sometimes allowed by DHS/FEMA or the State for Members' rehabilitation to normal conditions of living following activation.
- G. <u>Reasonable Personal Costs:</u> Approved out-of-pocket expenses incurred by a Member in performance of his/her duties as a deployed Member.
- H. Rotational Model: Model used to determine which of the three teams (Red, White, Blue) is first up for deployment or on standby for the month.
- I. State: The State of Texas.
- J. <u>Task Force Sponsored Training:</u> Training and/or exercises performed at the direction, control, and funding of DHS/FEMA or TX-TF1.
- K. <u>Task Force Sanctioned Training:</u> Training and/or exercises performed at the direction, control, and funding of an Employer or Member in order to develop and maintain the US&R capabilities of the Member and TX-TF1. Task Force Sanctioned Training must be coordinated with TEEX/US&R staff and receive written authorization to conduct such training prior to the start of the training.

V. RESPONSIBILITIES

A. TEEX shall:

- 1. Recruit and organize TX-TF1 according to guidelines prescribed in the National US&R Response System Operations Manual.
- 2. Ensure that each Member meets the necessary licensing, certification, or other professional qualification requirements of his/her assigned position.
- 3. Provide administrative, financial and personnel management to TX-TF1 and perform all financial requirements as set forth in this MOU.
- 4. Reimburse payroll costs to the Employer for each activated Member and allowable backfill costs as stated in Section VIII. A. Reimbursement of the Employer and the TX-TF1 Standard Pay Policy, Attachment A.
- 5. Provide training to Members consistent with the objectives of developing, upgrading, and maintaining individual skills, as identified in the position description requirements, necessary to maintain operational readiness.
- 6. Develop, implement, and exercise a notification and call-out system for Members.
- 7. Provide all personal protective equipment and uniforms required by TX-TF1.
- 8. Provide tools and equipment necessary to conduct safe and effective US&R operations as listed in the current approved cache list.
- 9. Maintain all tools and equipment in the US&R cache in a ready state.

- 10. Coordinate between DHS/FEMA, the State, the Employer, other relevant governmental and private entities, and the individual Members.
- 11. Maintain a primary contact list for all Members.
- 12. Maintain personnel files on all Members for the purposes of documenting training records, emergency notification, and other documentation as required by DHS/FEMA and the State.
- 13. Provide a roster of the Employer Members upon execution of this MOU and annually, in the month of July, see *Attachment D*.

B. The Employer shall:

- 1. Provide approval of its Members' participation in TX-TF1 training, meetings, and emergency response activities when fiscally reasonable to do so. Agency Chief approval is provided by signing the *Participating Agency Individual Member Letter of Endorsement, Attachment C*, at the time the Member's administrative documents are submitted.
- 2. Maintain a roster of all its personnel participating as Members.
- 3. Provide a primary point of contact to TEEX for the purpose of notification of TX-TF1 activities and other matters.
- 4. Pay deployed Members in accordance with Section VIII Administrative, Financial, and Personnel Management and Attachment A, the Texas Task Force 1 Standard Pay Policy.
- 5. Certify and submit personnel reimbursement claims and requested supporting documentation within 45 days of Deactivation of its Member(s).
- C. Participation Requirements for Members. Employer shall notify TEEX TX-TF1 if Employer reasonably believes that a Member does not meet any of the following:
 - 1. Members must be in good standing with the Employer.
 - 2. Members must be of good moral character and may not have been convicted of any felony or any other criminal offense involving moral turpitude.
 - 3. Members serving in a TX-TF1 position that requires the individual to hold a license, registration, certificate or other similar authorization to lawfully engage in an activity must hold such authorization, which must be current and validly issued.
 - 4. Members must follow all *TX-TF1 Standard Operating Guidelines (SOG)* that are available at https://texastaskforce1.org/home.
 - 5. Members must meet medical/fitness standards, and be physically capable of performing assigned duties required in the position description requirements for the assigned position in a wide range of environments per TX-TF1 SOG.
 - 6. Members must complete and/or provide documentation of the required immunizations specified in the Individual Letter of Endorsement.
 - 7. Members must maintain knowledge, skills, and abilities necessary to operate safely and effectively in the assigned position.
 - 8. Members must advise the Employer of TX-TF1 activities that may require time off work.

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- Members must notify TEEX of any change in the notification process, i.e. address or phone number changes, and maintain current personal profile in the "Task Force Personnel Records System."
- 10. Members must ensure availability for immediate call-out during the period the Member's assigned team is first on the rotational model for call-out. Members who are not on the team that is first on the rotational model may be requested to fill the position of another team member who is not available to deploy to ensure the team is fully staffed for the mission.
- 11. Members must respond immediately to call-out with acceptance or refusal of current mission request and arrive within 3 hours from time of call-out to the assigned point of assembly (POA).
- 12. Members must maintain all equipment issued by TX-TF1 in a ready state and advise TEEX immediately of any lost, stolen or damaged items
- 13. Members must be prepared to operate in the disaster environment for not less than 14 consecutive days.
- 14. Members must follow the *TX-TF1 Policies and Procedures* as published at www.texastaskforce1.org.

VI. PROCEDURES

A. Activation

- 1. Upon request from DHS/FEMA for disaster assistance, and/or determination that prepositioning TX-TF1 is prudent, TEEX shall request activation of TX-TF1 from the State.
- Upon request or permission from the State for disaster assistance, and/or determination that pre-positioning TX-TF1 is prudent, TEEX will follow the steps in section VI.B.
- 3. TEEX shall communicate an Alert and/or activation notices to Members through the paging and call-out system according to the current approved mobilization plan.
- B. Mobilization, Deployment and Demobilization
 - 1. TEEX shall notify Members of activation of TX-TF1.
 - 2. When TX-TF1 responds to such a mobilization request, the Members must arrive with all equipment and personal gear to the designated POA within 3 hours of activation notice.
 - 3. Upon arrival at the POA, the Members will be provided initial briefings, maps, food, housing and any other items essential to the initial set-up and support of TX-TF1.
 - 4. When TX-TF1 is activated, TEEX shall provide transportation for Members and all necessary equipment to the pre-designated point of departure (POD) for ground transportation or air transport.
 - 5. TEEX will provide transportation from the POD to the disaster site and transportation on the return trip.
 - 6. TEEX shall demobilize Members and equipment to the original POA upon completion of the US&R mission.

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C. Management

- 1. TEEX maintains overall management, command and control of all TX-TF1 resources and operations.
- 2. Tactical deployment of TX-TF1 will be under the direction of the local Incident Commander and the Task Force Leader(s) assigned to the incident.

VII. TRAINING AND EXERCISES

A. <u>DHS/FEMA-Sponsored Training and Exercises</u>

Periodically Members will be required to attend DHS/FEMA sponsored functional training. DHS/FEMA sponsored functional training will be performed at the direction, control and funding of DHS/FEMA in order to develop the technical skills of the Members.

B. <u>Task Force Sponsored Training</u>

Periodically Members will be requested or required to attend Task Force Sponsored Training. Task Force Sponsored Training will be performed at the direction, control and funding of TX-TF1 in order to develop the technical skills of Members.

C. <u>Task Force Sanctioned Training</u>

Periodically Members will be required and/or invited to attend Task Force Sanctioned Training. Task Force Sanctioned Training may be performed at the direction, control and funding of TEEX, the Employer, or the State in order to develop and maintain the US&R capabilities of TX-TF1.

D. Non-Sponsored and/or Non-Sanctioned Training and Exercises

Non-sponsored and/or non-sanctioned training and/or exercises may be performed at the direction, control and funding of the Employer or Member in order to develop and maintain the US&R capabilities of TX-TF1.

E. Minimum Training Requirements

Each Member must maintain the skills and abilities identified in the position description requirements. Each Member must attend one of the scheduled Full Scale exercises or Mobility Exercises and one Regional Training Event annually. Each Member must attend a minimum of 50% of the Task Force Sponsored Training and Task Force Sanctioned Training opportunities provided for his or her assigned TX-TF1 position. Failure to attend a minimum of 50% of those training opportunities will result in dismissal from TX-TF1. Exceptions may be granted at the discretion of TEEX or the Task Force Leader.

VIII. ADMINISTRATIVE, FINANCIAL, AND PERSONNEL MANAGEMENT

A. Reimbursement of the Employer

- TEEX shall reimburse the Employer for each of its employees activated as a Member for payroll and associated costs during the Members' participation in State and/or federal disaster deployments. This reimbursement will be in accordance with the TX-TF1 Pay Policy and will require the Employer to submit supporting documentation to TEEX prior to reimbursement.
- 2. TEEX shall reimburse the Employer for the cost of Backfilling Members while activated. This will consist of expenses generated by the replacement of a deployed Member on his/her normally scheduled duty period/day. Backfill costs incurred by the Employer will be reimbursable only to the extent that the costs are in excess of the costs that would have been incurred had the Member not been deployed. TEEX cannot pay for hours Backfilled other than those that coincide with a Member's scheduled on-duty hours. Backfill reimbursement is available only for positions that are normally Backfilled by the Employer.

3. TEEX shall reimburse the Employer for salaries and Backfill expenses of any deployed Member who would be required to return to regularly scheduled duty during the Personnel Rehabilitation Period described in the demobilization order. If the deployed Member's regularly scheduled shift begins or ends within the identified Personnel Rehabilitation Period, the Employer may give the deployed Member that time off with pay and Backfill his/her position. If Members use time from a paid leave bank during the Personnel Rehabilitation Period, or if a Member is not normally scheduled to work during the identified Personnel Rehabilitation Period, then no reimbursement will be made for that Member. TEEX will determine the Personnel Rehabilitation Period that will apply to each deployment based on the demobilization order for that deployment.

B. Other Reimbursements

- TEEX shall reimburse Members for Reasonable Personal Costs associated with operations and maintenance of TX-TF1 during a State or federal activation. Itemized receipts are required and should not include Texas Hotel Occupancy taxes, alcohol, tips, or gratuities. All receipts must be submitted to the TEEX Business Office within 15 days of Deactivation.
- TEEX shall reimburse Members for reasonable travel costs associated with approved training in accordance with established TX-TF1 travel policy. Itemized receipts are required and should not include Texas Hotel Occupancy taxes as they are not reimbursable. Receipts should be submitted to the TEEX Business Office within 15 days from the end of the trip.
- 3. TEEX shall reimburse on a replacement basis for emergency procurement of TX-TF1 materials, equipment and supplies purchased and used or consumed by Members in providing requested assistance. Advance approval by TX-TF1 leadership must be obtained and itemized receipts for such items must be submitted to TEEX. Such materials, equipment and supplies are the property of TEEX and must be returned to TEEX upon deactivation or return from training.
- 4. No Member or the Employer will be reimbursed for costs incurred by activations that are outside the scope of this MOU.
- 5. All financial commitments herein are made subject to availability of funds from the State and/or DHS/FEMA.
- 6. TEEX shall perform all duties of an employer in relation to a Member who is injured and eligible to receive benefits under *Chapter 501 of the Texas Labor Code*.

IX. CONDITIONS, AMENDMENTS, AND TERMINATION

- A. This MOU may be modified or amended only with the written agreement of both parties, and all amendments will be attached to this MOU.
- B. Any party, upon 30 day written notice, may terminate this MOU.
- C. TEEX complies with the provisions of Executive Order 11246 of Sept. 24, 1965, as amended and with the rules, regulations, and relevant orders of the Secretary of Labor. To that end, TEEX will not discriminate against any employee or Member on the grounds of race, color, religion, sex, or national origin. In addition the use of state or federal facilities, services, and supplies will be in compliance with regulations prohibiting duplication of benefits and guaranteeing nondiscrimination. Distribution of supplies, provisions of technical assistance and other relief assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on a basis prohibited by Texas or federal law or on a basis of economic status.

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X. LIABILITY AND WORKERS' COMPENSATION FOR FEDERAL ACTIVATION AND DHS/FEMA SANCTIONED OR SPONSORED TRAINING

- A. TEEX intends that participation under this MOU by a Member in exercises, pre-incident staging, major disaster or emergency response activities, or training events sponsored or sanctioned by DHS/FEMA constitute appointment into federal service to the extent authorized by Sec. 327 of the Stafford Act (42 USC 5165f).
- B. Specifically, TEEX intends that a Member participating in an activity described above:
 - 1. Be eligible for the benefits described in Sec. 327(h) of the Stafford Act (42 USC 5165f(h)) should the Member suffer personal injury, illness, disability, or death as a result of a personal injury sustained while acting in the scope of such federal service;
 - 2. Be considered to be an employee of the federal government for purposes of tort claim procedure as described in Sec. 327(i) of the Stafford Act (42 USC 5165f(i));
 - 3. Be considered in "service in the uniformed services" for purposes of employment and reemployment rights of individuals who have performed service in the uniformed services as described in Sec. 327(j) of the Stafford Act (42 USC 5165f(j));
 - 4. If he or she holds valid licenses, certificates, or permits required by TX-TF1, be deemed to be performing a federal activity when rendering aid involving such skill or assistance as described in Sec. 327(k) of the Stafford Act(42 USC 5165f(k)); and
 - 5. Be eligible for all other benefits and protections provided under the Stafford Act or elsewhere in federal law.

XI. LIABILITY AND WORKERS' COMPENSATION FOR STATE ACTIVATION /AND TRAINING

A. During any period in which TX-TF1 is activated by the State, or during any Task Force Sponsored Training or Task Force Sanctioned Training, Members who are not employees of a member of The Texas A&M University System or another agency of the State will be included in the coverage provided under *Chapter 501 of the Texas Labor Code* in the same manner as an employee, as defined by *Section 501.001*. Services with TX-TF1 by an activated Member who is a state employee are considered to be in the course and scope of the employee's regular employment with the State.

XII. LIABILITY AND WORKERS' COMPENSATION FOR NON-SPONSORED/SANCTIONED TRAINING

A. During non-TX-TF1 training and exercises, Members who are not employees of a member of The Texas A&M University System or another agency of the State will not be included in the same workers' compensation coverage afforded Members that are activated or attending DHS/FEMA or Task Force Sponsored Training or Task Force Sanctioned Training.

XIII. GENERAL PROVISIONS

- A. The substantive laws of the State (and not its conflicts of law principles) govern all matters arising out of or relating to this MOU and all of the transactions it contemplates.
- B. This MOU does not create a partnership or joint venture between TEEX and the Employer. Neither party may bind the other or otherwise act in any way as the representative of the other, unless otherwise expressly agreed to in a writing signed by authorized representatives of both parties before any such act or representation.
- C. Any provision of this MOU that conflicts with a law or regulation of the United States or the State is null and void to the extent of the conflict.

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D. Any notices required or permitted under this MOU will be deemed given (a) three business days after it is sent by certified or registered mail, return receipt requested, (b) the next business day after it is sent by overnight carrier, (c) on the date sent by facsimile or email transmission with confirmation of transmission and receipt, if sent during the recipient's normal business hours and if not, on the next business day, or (d) on the date of delivery if delivered personally, and in each case, addressed to the intended recipient at the address below or such other address as the intended recipient may specify in writing:

a.	TEEX:	TEEX TX-TF1, 200 Technology Way, College Station, TX 77845-3424
b.	Employer:	

- E. This MOU is assignable only with the written consent of both parties.
- F. Nothing in this MOU waives or relinquishes either party's right to claim any exemptions, privileges, and immunities as may be provided by law.
- G. The failure of either party at any time to require performance by the other party of any provision of this MOU will in no way affect the right to require such performance at any time thereafter nor will the waiver by either party of a breach of any provision be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.
- H. Each provision of this MOU is severable. If any provision is rendered invalid or unenforceable by statute or regulations or declared null and void by any court of competent jurisdiction, the remaining provisions will remain in full force and effect if the essential terms of this MOU remain valid, legal, and enforceable.
- I. If either party fails to fulfill its obligations under this MOU, when such failure is due to an act of God, or other circumstance beyond its reasonable control, including but not limited to fire, flood, civil commotion, riot, war, revolution, acts of foreign or domestic terrorism, or embargos, then the other party shall excuse the failure for the duration of the event and for such a time as is reasonable to enable the parties to resume performance under this MOU, provided however, that in no event will such time extend for more than 30 days.
- J. This MOU along with the following attachments constitutes the entire understanding between the parties as to the matters contained in this MOU, and supersedes all other written and oral agreements between the parties as to those matters:
 - > Attachment A, TX-TF1 Standard Pay Policy
 - Attachment B, TX-TF1 Pay Schedule by Position
 - > Attachment C, Individual Member Letter of Endorsement
 - Attachment D, Employer's TX-TF1 Member Roster

The parties may execute agreements, but those will not alter this MOU unless expressly stated in writing.

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This MOU is entered into by and between the following parties:

TEXAS A&M ENGINEERING EXTENSION SERVICE (TEEX):

	Jeff Saunders	
Authorized Signature	Printed Name	Date
200 Technology Way	College Station	TX, 77845-3424
Address	City	State, Zip
(979) 458-0857	37167167164025	antinormalizations
Phone Number	TX VIN	
EMPLOYER: Kingsville FD Employer N	lame	
Authorized Signature	Printed Name	Date
Address	City	State, Zip
Phone Number	Email	

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Attachment A

Texas Task Force 1 Standard Pay Policy

I. Scope

The provisions of this policy apply to all TX-TF1 members and Texas A&M Engineering Extension Service (TEEX) personnel assigned to the Urban Search and Rescue program.

II. Purpose

The purpose of this document is to delineate the policy and procedures for payment and/or reimbursement of payroll expenses to include salaries/wages and associated fringe benefits incurred during all federal and state activations of a TX-TF1 member.

III. Pay Rate

- A. TX-TF1 will reimburse the Employer for the participation of each of their activated TX-TF1 members at the current hourly rate or salary at the time of deployment and identified on the payroll printout provided by the Employer requesting salary reimbursement. TX-TF1 may also reimburse the Employer for the allocable portion of fringe benefits paid to or on behalf of the TX-TF1 member during the period of activation. Member work schedules, payroll policies, payroll and benefit documentation must be retained by the Employer for a period of three years following the final payment to TEEX by TDEM or DHS/FEMA in accordance with 2 CRF 200.333 Retention Requirements for Records. TEEX will notify Employers when payment has been made.
- B. As an affiliated member, TX-TF1 members not employed by an Employer will be paid at a rate identified with his/her TX-TF1 position on the TX-TF1 Pay Schedule by Position, Attachment B. The affiliated member's 40-hour workweek will begin upon activation. The affiliated member will receive the standard base rate of pay for the first 40 hours worked within each workweek of a deployment. Hours in excess of 40 hours each week will be paid at 1 ½ time the member's base rate of pay. Affiliated members are not eligible for Personnel Rehabilitation pay.
- C. TEEX employees who hold positions on TX-TF1 will be paid in accordance with Section IV below. Payroll printouts and fringe benefits documentation will be included in the reimbursement process.

IV. Deployment Work Shift

- A. Every day is considered a workday during the Deployment until the activation is over, and the Task Force returns to its original Point of Assembly (otherwise known as "portal to portal"). Therefore, Saturday, Sunday, holidays and other scheduled days off are also considered workdays during the period of activation.
- B. All individuals are assured pay for base hours of work, mobilization and demobilization, travel, or standby at the appropriate rate of pay for each workday.
- C. During the deployment period from activation through de-activation, all FLSA-exempt and non-FLSA exempt TX-TF1 members will receive the standard base rate of pay for all hours they are scheduled to be on duty during a work day. A work day is defined from midnight to midnight. Additional hours during this day not scheduled on duty will be compensated in accordance with 44 CFR 208.39 and Employer pay policies. Kelly days are considered off duty hours.
- D. 44 CFR 208.39 allows Participating Agency/Employers whose members follow the Public Safety Exemption 29 U.S.C. 207(k) have the option of converting deployed members to a standard FLSA 40 hour week during the deployment period. The conversion does not apply to backfill or rehab time.

V. Ordered Standby

Compensable standby shall be limited to those times when an individual is held, by direction or orders, in a specific location, fully outfitted and ready for assignment.

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Attachment B Texas Task Force 1 Pay Schedule by Position

TX-TF1 has adopted the following pay schedule for TX-TF1 members who are not employed by a Participation Agency/Employer:

ASSIGNMENT	F	IOURLY RATE	ASSIGNMENT	***************************************	HOURLY RATE	
, were a state						
LEADERS: Task Force Leader	\$	52.00	SPECIALISTS: Boat Operator & Bowman	\$	35.00	
MANAGERS:			Canine Specialist	\$	35.00	
Haz-Mat/WMD Manager	\$	40.00				
Logistics Manager	\$	40.00	Communications Specialist	\$	35.00	
and the state of t	, * .		Haz-Mat/WMD Specialist	\$	35.00	
Medical Team Manager	\$	108.00	,	т.		
			Heavy Rigging Specialist	\$	35.00	
Plans Team Manager	\$	40.00				
			Helo Search & Rescue Tech.	\$	35.00	
Rescue Team Manager	\$	40.00				
			Logistics Specialist	\$	35.00	
Safety Officer/Manager	\$	40.00				
			Medical Specialist	\$	35.00	
Search Team Manager	\$	40.00				
			Rescue Specialist	\$	35.00	
Water Manager	\$	40.00				
			Structural Specialist	\$	54.00	
SQUAD OFFICERS:						
Boat Squad Officer	\$	37.00	Technical Info Specialist	\$	35.00	
Rescue Squad Officer	\$	37.00	Technical Search Specialist	\$	35.00	

AGENDA ITEM #13

City of Kingsville Fire Department

TO: Mayor and City Commissioners

CC: Jesus A. Garza, City Manager

FROM: Adrian Garcia, Fire Chief

DATE: July 9th, 2018

SUBJECT: Acceptance of CBRAC Grant Check

Summary:

The Kingsville Fire Department is requesting approval to accept a \$3,100.20 grant from the Coastal Bend Regional Advisory Council (CBRAC) for the FY17 EMS County Grant disbursement and accept prior CBRAC grants in the amount of \$6,519.18.

Background:

The Kingsville FD is a member of the CBRAC and is eligible to receive this grant due to its membership in good standing with the organization.

Financial Impact:

If accepted, the grant will be deposited into Fund 027 – EMS Fund. The monies will be used to replace vital fire department equipment in FY 18-19. No other financial impacts identified.

Recommendation:

Our recommendation is that the Commission approve the request to accept the following grant funds.



AGENDA ITEM #14

City of Kingsville Fire Department

TO: Mayor and City Commissioners

CC: Jesus A. Garza, City Manager

FROM: Adrian Garcia, Fire Chief

DATE: July 9th, 2018

SUBJECT: Update Intermedix Agreement for EMS Toughbook Tablets

Summary:

The update to the Intermedix (IMX) Service Agreement will allow the Kingsville FD to obtain (3) CF-20 Panasonic Toughbook Tablet Units to include field automation software, administrative reporting system, training, and support throughout the duration of the agreement. The new tablet will replace internally purchased tablets, which are not completely compatible with the PCR TripTix software currently in use. If approved a new section will be added to our existing IMX agreement under section 5 Compensation and Method of Payment, 5.01 Fees, (b).

Background:

The new EMS Tablets will be replacing existing tablets that are not completely compatible with the PCR software, creating issues with inputting patient information and processing data through the software. In doing so, it creates delays in patient reporting to definitive care staff at our local hospital and interruptions may delay processing patient information to IMX, which is used to process payments.

Financial Impact:

The addition of the three (3) new tablets will cost an additional 1.53% of all monies collected in a monthly basis, which will be added to the 8.25% IMX service fee for a total of 9.78% of all monies collected in a monthly basis.

Recommendation:

It is our recommendation that the Commission approve the updated IMS agreement as written.



RESOLUTION #2018-

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDED SERVICE AGREEMENT BETWEEN THE CITY OF KINGSVILLE (EMS AND FIRE DEPARTMENT) AND ADVANCED DATA PROCESSING, INC., A SUBSIDIARY OF INTERMEDIX CORPORATION, FOR AMBULANCE BILLING; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Kingsville had previously entered into a Professional Services Agreement with Alexander Billing and Consulting, Inc. in March of 2006 and an extension of the agreement in 2011, entered into a new agreement with a subsidiary of Intermedix, Advanced Data Processing, Inc. on July 25, 2016 via Resolution #2016-52, and approved an addendum to the Agreement on January 23, 2017 via Resolution #2017-07;

WHEREAS, the update to the Agreement will allow the Kingsville Fire Department to obtain three CF-20 Panasonic Toughbook Tablet Units to include field automation software, administrative reporting system, training, and support throughout the duration of the Agreement;

WHEREAS, the new EMS Tablets will replace existing tablets that are not completely compatible with current software that creates issues with inputting patient information and processing data through the software;

WHEREAS, Intermedix would receive an additional 1.53% of all monies collected on a monthly basis, which would bring the service free from 8.25% to 9.78% of all monies collected on a monthly basis;

BE IT RESOLVED by the City Commission of the City of Kingsville, Texas:

1.

THAT the City Manager is authorized and directed as an act of the City of Kingsville, Texas to enter into an Amended Service Agreement between the City of Kingsville (EMS and Fire Department) and Advanced Data Processing, Inc., a subsidiary of Intermedix Corporation, for Ambulance Billing and Related Professional Services in accordance with Exhibit A hereto attached and made a part hereof.

II.

THAT all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

THAT this Resolution shall be and become effective on and after adoption.
PASSED AND APPROVED by a majority vote of the City Commission on the 9th day of July, 2018.
Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

AGREEMENT BETWEEN CITY OF KINGSVILLE EMS AND FIRE DEPARTMENT AND

ADVANCED DATA PROCESSING, INC., A SUBSIDIARY OF INTERMEDIX CORPORATION FOR AMBULANCE BILLING AND RELATED PROFESSIONAL SERVICES

THIS AGREEMENT ("Agreement") is made and entered into this 1st day of August, 2018 ("Effective Date") by and between City of Kingsville EMS and Fire Department, a Texas municipality, with principal offices located at 119 N. 10th Street, Kingsville, TX 78363 ("Client") and Advanced Data Processing, Inc., a subsidiary of Intermedix Corporation, a Delaware Corporation with principal offices located at 6451 North Federal Highway, Suite 1000, Fort Lauderdale, Florida 33308 ("Intermedix").

RECITALS

WHEREAS, Client provides emergency and non-emergency medical services, including ambulance transport ("EMS"), for residents and visitors in its jurisdiction, and charges for such services; and

WHEREAS, Intermedix provides billing, collection and related consulting services and equipment for municipalities and other providers of EMS; and

WHEREAS, The Centers for Medicare and Medicaid Services (CMS) allows States to establish alternative payment methodologies (herein referred as the "Ambulance Supplemental Payment Program") for certain classes of providers pursuant to 42 CFR 447.321, section 1902 (a)(30) of the Social Security Act, and

WHEREAS, Client has elected to partner with Intermedix and Intermedix's Consultant, Public Consulting Group, Inc., to develop, for a fee, an Ambulance Supplemental Payment Program.

WHEREAS, the parties hereto now wish to enter into an agreement, pursuant to which Intermedix will render the Services as hereinafter provided;

NOW THEREFORE, the parties hereto agree as follows:

AGREEMENT

1. **ENGAGEMENT OF INTERMEDIX**. During the Term of this Agreement, except for accounts referred to a collection agency as provided herein, Intermedix shall be exclusively responsible for the billing and collection of all charges and fees resulting from the delivery of EMS by Client, including but not limited to all charges and fees to private insurers, Medicare, Medicaid, other governmental programs, individual patients and their responsible parties (collectively, "Payors").

2. **SCOPE OF SERVICES**. Intermedix shall perform and carry out Services as specifically described in <u>Exhibit A</u> (the "Scope of Services"; collectively the Scope of Services, the Intermedix Billing System (as defined in Section 3.01) and the "Ambulance Supplemental Payment Program" "ASPP" are the "Services"), which is attached hereto and incorporated herein by this reference. Client reserves the right to request changes in the Scope of Services within Intermedix's capabilities, which changes shall be implemented upon mutual written agreement of the parties specifying such changes and any change in compensation attributable thereto.

3. ACCESS TO BILLING SYSTEM.

- Client, access to Intermedix billing system solely to view Client's accounts, run various reports, and access to all data associated with the billing and collection process which is wholly owned by Client ("Billing System"). During the Term of this Agreement, Intermedix will not in any way transfer to any third party or use in direct or indirect competition with Client any information or data posted by or for the benefit of Client on Intermedix's website and acknowledges that all such information is confidential ("Confidential Information"). Intermedix further acknowledges that its handling of information on behalf of Client is or may be subject to federal, state or local laws, rules, regulation and restrictions regarding the privacy of consumer information. Intermedix agrees to comply with all of such laws, rules and regulations and restrictions, as is commercially reasonably possible, at its sole cost and expense. This Access to Billing System Section and all obligations contained therein will survive any termination or expiration of this Agreement.
- 3.02 <u>User Restrictions</u>. Client shall not, and shall not permit others to, without the express written consent of Intermedix: (i) use, receive, reproduce, copy, market, sell, distribute, license, sublicense, lease, timeshare, or rent the Billing System, any other Service or any component thereof; (ii) modify, alter, translate or prepare derivative works based on the Billing System or Documentation is permitted; (iii) disassemble, decompile, decrypt or reverse engineer the Billing System or in any way attempt to discover or reproduce source code for the Billing System, or any portion thereof; or (iv) develop or license any third party programs, applications, tools or other products which interface or interact with the Billing System. Client agrees not to remove the copyright, trade secret or other proprietary protection legends or notices which appear on or in the Billing System, any other Service or the Documentation.
- 3.03 Internet Access. Client shall be responsible for providing its own Internet access necessary to provide the Billing System, and in no event shall Client be provided with direct access (by modem or otherwise) to the Billing System server, other than access that is available to third parties generally through the Internet. The parties acknowledge that, since the Internet is neither owned nor controlled by any one entity, Intermedix makes no guarantee that any given user will be able to access the Billing System at any given time. There are no assurances that access will be available at all times and uninterrupted, and Intermedix shall not be liable to Client for its inability to access the Billing System.
- 3.04 Reporting. Operational and financial data reports for Client will be available on the Billing System when the Billing System is available. The format and content of the data will be established and defined by Intermedix and such reports may be added, modified or deleted without notice to Client. Notwithstanding the foregoing, Client may request that

specific, custom reports be made available to it at an additional charge to be negotiated between Intermedix and Client.

- 3.05 Acknowledgement with Respect to Reports. With respect to each report generated for Client as part of the Billing System, Client acknowledges and agrees: (i) such report represents a "snapshot" of a moment in time, and as such, the snapshot may not be accurate with respect to financial results on the whole; (ii) the underlying data may be subject to correction from time-to-time, which may change the results of the report or its interpretation; and (iii) the data represented in the report constitutes only a limited portion of all data available regarding Client's business. Accordingly, any particular report may not accurately represent the Client's then-current or future financial condition.
- 3.06 Intellectual Property. Client agrees that the equipment, computer hardware and software, billing and collection processing, Services, Billing System and other related systems and equipment are the property and trade secrets of Intermedix, and that Client will not release any information regarding such Confidential Information (as such term is defined in Section 11.01) and/or trade secrets of Intermedix to any third party without the prior written consent of Intermedix. Client further agrees that, in connection with the use of certain data entry devices, Client may gain access to the intellectual property of third parties. Client understands and agrees that it may be required to enter into agreements with respect to such intellectual property in order to use such equipment. Client agrees to enter into such arrangements at Intermedix's request.
- 3.07 <u>Audit Rights</u>. From time to time and upon reasonable prior written notice, Intermedix may audit Client's use of the Services to help ensure that Client is in compliance with the terms and conditions of this Agreement, including, but not limited to, any payment terms. Any such audit will be conducted during regular business hours at the applicable facilities of Client. Client will identify and cooperate with Intermedix (or its representatives) to provide Intermedix (or its representatives) with reasonable access to all relevant equipment, personnel and records.

4. **CLIENT RESPONSIBILITY**.

Generally. Client is responsible for all activity occurring under its User accounts and shall abide by all applicable laws and regulations in connection with its use of the Billing System. Client will immediately (and in no greater than twenty four (24) hours from Client's knowledge of the following) notify Intermedix and use best efforts to cease any further of the following: (i) any unauthorized use of a password or account or any other known or suspected breach of security; (ii) any copying or distribution of any content or other intellectual property of Intermedix related to the Services that is known or suspected by Client or its Users; (iii) any use of false identity information to gain access to or use the Billing System or (iv) any loss or theft of a hardware device on which a User has access to the Billing System (each of subsections (i) through (iv) a "Security Breach Event"). To the extent that any Security Breach Event involves Protected Health Information (as defined below), and is subject to the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191, 110 Stat. 1936), including the privacy and security rules promulgated thereunder ("HIPAA"), as amended by the Health Information Technology for Clinical Health Act (Pub. L. No. 111-5, 123 Stat. 115) (the "HITECH Act"), Client shall comply with all applicable requirements under such laws, including any applicable breach notification requirements (i.e. notifications to affected individuals, the Department of Health and

Human Services ("HHS"), and prominent media outlets) (the "HIPAA Notifications") triggered by the Security Breach Event. "Protected Health Information" means Individually Identifiable Health Information (defined at 45 C.F.R. § 164.501), transmitted or maintained in any form or medium, concerning individuals for whom the Client has performed EMS.

- 4.02 Rights Following Notification. Upon Intermedix's receipt of notification given by the Client of a Security Breach Event, Intermedix shall have the right to immediately, without notice to Client, suspend Client's access to the Billing System until such time as the Security Breach Event has been fully resolved, and no longer presents a threat of inappropriate access to: (i) the Billing System, (ii) any other intellectual property rights of Intermedix or its affiliates or (iii) the personal data or Protected Health Information gathered by Client in the performance of EMS by the Client. To the extent that a Security Breach Event requires Client to provide HIPAA Notifications, any such notifications shall not include a reference to Intermedix or any of its affiliates unless such a reference is specifically required by HIPAA or other applicable law. Further, if Client intends to reference Intermedix in a HIPAA Notification based on its belief that such a reference is required by HIPAA or other applicable law, Client shall provide Intermedix written notice of its intent to do so no later than ten (10) days prior to Client's provision of notifications to affected individuals, HHS, and/or prominent media outlets, as applicable).
- 4.03 Security. Client acknowledges that it is solely responsible for providing security software, including without limitation, firewalls and similar applications, to prevent unauthorized access to its computer systems, including malware prevention software on User's computers. Client is responsible for requiring its Users to use a password to access the Billing System in compliance with the Billing Security Characteristics. The "Billing Security Characteristics" means a password to access the Billing System, which must be at least eight (8) characters in length, and contain three (3) of four (4) of the following characteristics: lowercase letter, uppercase letter, special character or a number. Intermedix shall use commercially reasonable efforts to maintain the security of the Billing System, but shall not be responsible for the Client's loss or dissemination of passwords or other breaches beyond Intermedix's reasonable control.

5. **COMPENSATION AND METHOD OF PAYMENT.**

- 5.01 Fees. Intermedix shall be paid by Client a monthly amount representing fees for the Services provided by Intermedix hereunder, computed as follows:
- (a) Eight and twenty-five hundredths percent (8.25%) of all monies collected by Intermedix for EMS billing provided by Client less refunds ("Net Collections"), plus
- (b) One and fifty-three hundredths percent (1.53%) of all monies collected for use of Intermedix-provided field data capturing and reporting system consisting of three (3) CF-20 Pen-based Panasonic Toughbook Tablet Units, Field Automation Software, Administrative Reporting System, including training and support (referred heretofore as "TripTix®"), less refunds ("Net Collections"), plus
 - (c) Additional three percent (3.0%) for credit card processing fees, plus

- (d) Thirteen percent (13%) of the Client's revenue from the Ambulance Supplemental Payment Program when the funding settlement is received, plus
 - (e) All amounts set forth in any Exhibit, attached hereto.
- 5.02 Intermedix shall submit the monthly invoices for fees for the Services to City of Kingsville EMS ATTN: Deborah Balli, Finance Director. Client shall pay the amount invoiced within thirty (30) days of receipt of such invoice. In the event Client disputes any part of the invoiced amounts, such dispute shall be raised in writing to Intermedix within such thirty (30) day period or the invoice shall conclusively be deemed to be accurate and correct. Intermedix shall respond to any such notice of dispute within thirty (30) days of receipt thereof. Any overdue amounts which are not the subject of a good faith notice of dispute shall accrue interest at the rate of twelve percent (12%) per annum.
- 5.03 Bank Accounts. Client agrees that it will be solely responsible for the cost and maintenance of any and all of Client's bank accounts, lock-box and/or remote deposit services. Client agrees to assume and be responsible for all costs associated with such program. Client agrees to utilize and be responsible for a lockbox or remote deposit capturing. Client agrees to give Intermedix access to the lockbox for payment posting verification. Client agrees to assume and be responsible for all credit card costs.
- 5.04 <u>Taxes</u>. All amounts payable under this Agreement are exclusive of all sales, use, value-added, withholding and other taxes and duties. Client shall promptly pay, and indemnify Intermedix against, all taxes and duties assessed in connection with any such amounts, this Agreement and its performance by any authority within or outside of the U.S., except for taxes payable on Intermedix's net income.

6. **COLLECTION EFFORTS.**

- 6.01 <u>Alternative Collection Arrangements</u>. Intermedix will have the right, on Client's behalf, in its sole and complete discretion, to enter into an alternative collection arrangement with respect to any patient encounter performed by the Client if: (i) the total payments are for at least 80 percent of the amount of the bill; (ii) an insurance company offers at least 70% of the total amount billed with a stipulation that the insured not be billed for the balance; or (iii) Intermedix is able to make arrangements for the payment of patient account that provide a substantially similar economic benefit to Client, as Intermedix determines in its sole and complete discretion.
- 6.02 <u>Scope of Collection Efforts</u>. If reasonable efforts have been made to collect a patient account of Client and such efforts have not been successful, Intermedix shall have the right to terminate collection efforts and close the account as an unpaid debt. As used herein "reasonable efforts" shall be defined to mean at least but not limited to one hundred twenty (120) days of active collection efforts in the ordinary course of business. In addition, Intermedix may terminate or suspend collection efforts in the event that Client has supplied Intermedix with materially incomplete or inaccurate billing and/or patient information. Absent contrary instructions from Client with respect to any patient encounter, the accounts that Intermedix has

deemed to be uncollectible may be forwarded to a third-party collection agency for further collection effort.

- 6.03 <u>Administrative Fee/Third Party Collection Costs.</u> Client will be responsible for engaging any third party collection service for uncollectible accounts after Intermedix has exhausted its collection efforts. Client will be directly liable for all fees of third party collection agency.
- 6.04 Excluded Persons. If any refunds of patient accounts of Client are required to be refunded to or offset by any government and commercial payor as a result of Client's violation of its obligations set forth in Exhibit A (Scope of Services), Section B.9. (an "Excluded Person Refund"), Intermedix shall not be required to refund to Client any commissions or fees earned or previously paid to Intermedix as a result of its collection of such Excluded Person Refund or otherwise include such Excluded Person Refunds in its calculation of Net Collections as set forth herein.
- 7. **SYSTEM SUPPORT.** Support and training of Client's Users will be provided subject to and in accordance with the terms of the Scope of Services.
- 8. **INDEPENDENT CONTRACTORS.** Intermedix is an independent contractor of Client and not an employee or agent of Client; <u>provided</u>, <u>however</u>, to the extent necessary to fulfill its billing and collection efforts under this Agreement, Intermedix is authorized to sign *in an administrative capacity* for Client the following types of standard forms and correspondence only; letters to patients or their representatives verifying that an account is paid in full; forms verifying the tax-exempt status of Client; and insurance filings and related forms. Intermedix has no authority to sign any document that imposes any additional liability on Client. Intermedix shall retain full control over the employment, direction, compensation and discharge of all persons assisting in the performance of the Services. Intermedix shall be fully responsible for all matters relating to payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. Each party shall be responsible for its own acts and those of its agents and employees during the Term of this Agreement.
- 9. LIMITATION ON LIABILITY. INTERMEDIX'S TOTAL CUMULATIVE LIABILITY UNDER THIS AGREEMENT WITH RESPECT TO THE BILLING SYSTEM, EQUIPMENT OR OTHER SERVICES DELIVERED UNDER THIS AGREEMENT WILL BE LIMITED TO THE TOTAL FEES PAID (LESS ANY REFUNDS OR CREDITS) BY CLIENT TO INTERMEDIX PURSUANT TO THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY. IN NO EVENT WILL INTERMEDIX BE LIABLE TO CLIENT UNDER, IN CONNECTION WITH, OR RELATED TO THIS AGREEMENT FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, WARRANTY, TORT, PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT INTERMEDIX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE FOREGOING LIMITATIONS OF LIABILITY ARE A CONDITION AND MATERIAL CONSIDERATION FOR THEIR ENTRY INTO THIS AGREEMENT.

10. **INSURANCE**. Intermedix shall procure and maintain for the duration of the Agreement, the following insurance coverage: (i) workers' compensation insurance in compliance with the applicable state and federal laws; (ii) general liability insurance in an amount no less than \$1,000,000 per occurrence; (iii) coverage for business interruption, destruction of data processing equipment and media, liabilities affecting accounts receivable, and valuable documents in an amount no less than \$100,000 aggregate; and (iv) liability coverage for all vehicles whether owned, hired or used in the amount of \$500,000.

11. CONFIDENTIALITY AND HIPAA BUSINESS ASSOCIATE OBLIGATIONS.

- 11.01 Confidential Information. Each party (the "Discloser") may disclose to the other party (the "Recipient') certain non-public information relating to the Discloser's business, including technical, marketing, financial, personnel, planning, medical records and other information that is marked confidential or which the Recipient should reasonably know to be confidential given the nature of the information and the circumstance of disclosure ("Confidential Information"). Confidential Information of each party shall also include the terms of this Agreement, but not the existence and general nature of this Agreement. Confidential Information will not include any information: (i) lawfully obtained or created by the Recipient independently of, and without use of, Discloser's Confidential Information and without breach of any obligation of confidence or violation of HIPAA or the HITECH Act; or (ii) that is in or enters the public domain without breach of any obligation of confidence. Client shall be responsible for any breach by any of its Users, employees or agents of any of the confidentiality obligations set forth herein.
- 11.02 <u>Use and Disclosure</u>. Except as expressly permitted by this Agreement or the BA Agreement (as applicable) and subject to applicable law, the Recipient will:
- (a) not disclose Discloser's Confidential Information except: (i) to the employees or contractors of the Recipient to the extent that they need to know that Confidential Information for the purpose of performing the Recipient's obligations under this Agreement, and who are bound by confidentiality terms with respect to that Confidential Information no less restrictive than those contained in this Section 11.02; or (ii) as required to be disclosed by law, to the extent required to comply with that legal obligation, provided that the Recipient will promptly notify the Discloser of such obligation;
- (b) use the Discloser's Confidential Information only for the purpose of performing Recipient's obligations under this Agreement;
- (c) use all reasonable care in handling and securing the Discloser's Confidential Information, and employ all reasonable data security measures that the Recipient ordinarily uses with respect to its own proprietary information of similar nature and importance; and
- (d) use and disclose Confidential Information that contains Protected Health Information in accordance with the terms of the Business Associate Agreement attached hereto as Exhibit B (the "BA Agreement"), if applicable.
- 11.03 <u>Return of Confidential Information</u>. Subject to applicable law and section 10.c of the BA Agreement, the Recipient will return to the Discloser, and destroy or erase all of

the Disclosure Confidential Information in tangible form, upon the expiration or termination of this Agreement, or as applicable as outlined in section 10.c of the BA Agreement, and if required, the Recipient will promptly certify in writing to the Discloser that it has done so.

- to the obligations set forth in the BA Agreement attached hereto as Exhibit B (the "BA Agreement"). Such BA Agreement constitutes the complete and exclusive agreement between the parties with respect to Intermedix's obligations regarding Protected Health Information, superseding and replacing any and all prior agreements, communications, representations, and understandings (both written and oral) regarding such subject matter; provided, however, that in the event of any additions, modifications or amendments to any statute or regulation including HIPAA or future federal regulations adopted pursuant thereto, then Intermedix and Client shall promptly enter into negotiations to revise the BA Agreement to reflect such changes. Upon the execution by the parties of a revised BA Agreement (a "Revised BA Agreement"), such Revised BA Agreement will supersede the current BA Agreement in its entirety and such current BA Agreement will no longer be of any force or effect.
- 11.05 Right to Injunctive Relief. The parties expressly acknowledge and agree that the breach, or threatened breach, by a party of any provision of this Section 11 may cause the other party to be irreparably harmed and that the harmed party may not have an adequate remedy at law. Therefore, the parties agree that upon such breach, or threatened breach, the harmed party will be entitled to seek injunctive relief to prevent the other party from commencing or continuing any action constituting such breach without having to post a bond or other security and without having to prove the inadequacy of any other available remedies. Nothing in this paragraph will be deemed to limit or abridge any other remedy available to either party at law or in equity.
- 12. **NON-SOLICITATION**. For the Term of this Agreement and for one (1) year after its termination, Client or Intermedix shall not employ or hire any employee or former employees who, pursuant to this Agreement, has had any contact with employees or representatives of either party or has worked on Client's accounts, without the prior written consent of Client and Intermedix.
- 13. **ATTACHMENTS**. The following named attachments are made an integral part of this Agreement:
 - a. Scope of Services (Exhibit A attached hereto and made a part hereof);
 - b. Business Associate Agreement (Exhibit B attached hereto and made a part hereof);
 - c. Optional Services (Exhibit C attached hereto and made a part hereof); and
 - d. TripTix Program (Exhibit D attached hereto and made a part thereto).

14. TERM AND TERMINATION.

14.01 Term. This Agreement shall be effective for an initial three-(3) year period, commencing on the Effective Date unless terminated as provided in Section 14.02 below (the

"Initial Term"). Following the expiration of the Initial Term, subject to the payment of all fees due hereunder, this Agreement shall renew for successive, automatically renewable one (1) year periods ("Renewal Terms"; collectively, the Initial Term together with any Renewal Terms are the "Term"), unless either party provides the other party with written notice of termination of this Agreement as provided in Section 14.02 below. All terms and conditions hereof shall remain in full force and effect during the Term unless this Agreement is amended in a writing executed by each Party hereto.

- 14.02 <u>Events Triggering Termination</u>. This Agreement shall be subject to termination under the following conditions.
- a. <u>Termination without Cause</u>. Following the initial term of this Agreement, either Client or Intermedix may terminate this Agreement without cause upon six (6) months prior written notice to the other party.
- b. <u>Termination with Cause</u>. If Intermedix materially fails to perform any obligation required hereunder, and such default continues for thirty (30) calendar days after written notice from Client specifying the nature and extent of the failure to materially perform such obligation, this Agreement shall terminate upon the expiration of said thirty (30) calendar day period.
- c. If Client materially fails to perform any obligation required hereunder, and such default continues for thirty (30) calendar days after written notice from Intermedix specifying the nature and extent of the failure to materially perform such obligation, this Agreement shall terminate upon the expiration of said thirty (30) calendar day period.
- d. <u>Termination Due to Bankruptcy</u>. If Client or Intermedix: (i) apply for or consent to the appointment of a petition in bankruptcy; (ii) make a general assignment for the benefit of creditors; (iii) file a petition or answer seeking reorganization or arrangement with creditors; or (iv) take advantage of any insolvency, or if any order, judgment, or decree shall be entered by any court of competent jurisdiction on the application of a creditor or otherwise adjudicating either party bankrupt or approving a petition seeking reorganization of either party or appointment of a receiver, trustee or liquidator of either party or all or a substantial part of its assets (subsections (i) through (iv), each a "Bankruptcy Event"), this Agreement shall terminate automatically and immediately upon written notice from the other party to the party who has incurred a Bankruptcy Event.
- 14.03 <u>Rights Upon Termination</u>. If this Agreement is terminated for any reason, including, without limitation, the breach of this Agreement by any party, Intermedix shall be entitled to recover when due and payable hereunder, all amounts owed to Intermedix hereunder accrued but unpaid as of the date of termination. Following termination of this Agreement, for a period of ninety (90) days (the "Transition Period"), Intermedix, at its sole discretion and upon written notice to Client of its election to do so, may continue its billing and collection efforts as to those accounts referred to Intermedix prior to the effective date of termination, subject to the terms and conditions of this Agreement, for the fee set forth in Section 5 above. At the end of the Transition Period, Intermedix shall return all records to Client in a commercially standard format on a commercially standard media as determined by Intermedix in its sole discretion; provided,

however, that Intermedix may keep any copies of records in accordance with applicable law. The expiration or termination of this Agreement, for whatever reason, will not discharge or relieve either party from any obligation which accrued prior to such expiration or termination, will not relieve either party that has breached this Agreement from liability for damages resulting from such breach and will not destroy or diminish the binding force and effect of any of the provisions of this Agreement that expressly, or by reasonable implication, come into or continue in effect on or after expiration or termination hereof.

- 15. **FORCE MAJEURE**. Except for Client's obligation to pay, when due, the fees and compensation owed to Intermedix pursuant to the terms and conditions of this Agreement, neither Client nor Intermedix shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to a Force Majeure Event (as defined below), the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Force Majeure Event" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the non-performing party and includes, but is not limited to fire, flood, earthquakes, storms, lightning, natural disaster, epidemic, war, riot, civil disturbance, sabotage, terrorism and governmental actions. The non-performing party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.
- 16. **GOVERNING LAW**. This Agreement will be governed by and construed in accordance with the laws of the State in which the Client is located, exclusive of its rules governing choice of law and conflict of laws.

17. GENERAL WARRANTIES AND DISCLAIMERS.

- 17.01 Corporate Authority. Each party warrants that it is a duly organized and validly existing corporation and has complete and unrestricted corporate power and authority to enter into this Agreement.
- 17.02 <u>Disclaimer</u>. THE WARRANTIES EXPRESSLY PROVIDED IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, WHICH WARRANTIES ARE HEREBY SPECIFICALLY DISCLAIMED. NO REPRESENTATIVE OF INTERMEDIX SHALL HAVE THE RIGHT TO MAKE WARRANTIES ON INTERMEDIX'S BEHALF UNLESS THOSE WARRANTIES ARE IN WRITING AND EXECUTED BY A DULY AUTHORIZED OFFICER OF INTERMEDIX.
- 18. **EXPORT LAWS**. Client shall comply with all then current export laws and regulations of the U.S. Government and the government of the country in which Client receives access to the Services.
- 19. **ASSIGNMENT OF AGREEMENT**. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Neither party shall assign this Agreement

without the express written consent of the other party, and such consent shall not be unreasonably withheld. Notwithstanding the foregoing sentence, Intermedix may, upon notice to Client, assign this Agreement to any affiliate or any entity resulting from the sale, combination or transfer of all or substantially all of the assets or capital stock, or from any other corporate form of reorganization by or of Intermedix. Intermedix may subcontract any of its obligations under this Agreement, and may perform those obligations through personnel employed by or under contract with Intermedix.

20. **NOTICES**. Any notice directed to the parties' legal rights and remedies under this Agreement will be provided in writing and will reference this Agreement. Such notices will be deemed given if sent by: (i) facsimile, when complete transmission to the recipient is confirmed by the sender's facsimile machine; (ii) postage prepaid registered or certified U.S. Post mail, then five (5) working days after sending; or (iii) commercial courier, then at the time of receipt confirmed by the recipient to the courier on delivery. All notices to a party will be sent to its address set forth below, or to such other address as may be designated by that party by notice to the other party in accordance with this Section:

To Client: City of Kingsville EMS & Fire Dept.

119 N. 10th Street Kingsville, TX 78363

Attn: Adrian Garcia, Fire Chief

To Intermedix: Intermedix Corporation

6451 North Federal Highway, Suite 1000

Fort Lauderdale, Florida 33308 Attn: Brad Williams, SVP

- 21. **SEVERABILITY**. If all or a part of a provision of this Agreement is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the remainder of that provision and all other provisions of this Agreement will not be affected.
- 22. **ENTIRE AGREEMENT**. This Agreement, including exhibits, attachments and written terms incorporated by reference, is the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and replacing any and all prior agreements, communications, and understandings (both written and oral) regarding such subject matter. Pre-printed terms and conditions on or attached to any Client purchase orders or other business forms shall be of no force or effect, even if Intermedix acknowledges or accepts them.
- 23. **AMENDMENT/WAIVER**. This Agreement may be modified, or any rights under it waived, only by a written document executed by both parties. Any failure of a party to exercise or enforce any of its rights under this Agreement will not act as a waiver of such rights.
- 24. **ATTORNEYS FEES**. Should either party institute any action or procedure to enforce this Agreement or any provision hereof, or for damages by reason of any alleged breach of this Agreement or of any provision hereof, or for a declaration of rights hereunder (including, without limitation, arbitration), the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including without limitation

reasonable attorneys' fees, incurred by the prevailing party in connection with such action or proceeding.

- 25. **CONSTRUCTION OF AGREEMENT**. This Agreement has been negotiated by the parties and its provisions will not be presumptively construed for or against the other party. The headings and Section titles in this Agreement are for convenience only, and will not affect the construction or interpretation of this Agreement.
- 26. **NO THIRD PARTY BENEFICIARIES**. Except as expressly provided in this Agreement, nothing in this Agreement shall confer upon any person other than the parties and their respective successors and assigns, any rights, remedies, obligations or liabilities whatsoever.
- 27. **COUNTERPARTS**. The parties may execute this Agreement in one or more counterparts, each of which shall be an original, and which together shall constitute one instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their authorized representatives as of the Effective Date.

ADVANCED DATA PROCESSING, INC., a subsidiary of INTERMEDIX CORPORATION, a DELAWARE CORPORATION		CITY OF KINGSVILLE EMS AND FIRE DEPARTMENT			
By:	Name:	Ву:	Name:		

Exhibit A Scope of Services

A. Base Services and Obligations:

Intermedix shall provide revenue cycle management services for Client as described below. Intermedix shall, during the Term:

- 1. Prepare and submit initial claims and bills for Client promptly upon receipt thereof, and prepare and submit secondary claims and bills promptly after identification of the need to submit a secondary claim.
- 2. Assist Client in identifying necessary documentation in order to process and bill the accounts.
- 3. Direct payments to a lockbox or bank account designated by Client, to which Client alone will have signature authority.
- 4. Pursue appeals of denials, partial denials and rejections when deemed appropriate by Intermedix.
- 5. Respond to and follow up with Payors and respond to messages or inquiries from a Payor.
- 6. Provide appropriate storage and data back-up for records pertaining to Client's bills and collections hereunder, accessible to Client at reasonable times.
 - 7. Maintain records of services performed and financial transactions.
- 8. Meet, as needed, with representatives of Client to discuss results, problems and recommendations.
- 9. Provide any Client-designated collection agency with the data necessary for collection services to be performed when an account is referred to such agency.
- 10. Intermedix will support Client in filing and maintaining required documentation and agreements with commonly-used Payors (e.g. Medicare, Medicaid, Champus, etc. Client will maintain responsibility for enrollment, required documentation, and agreements with Out of State Payers, such as Out of State Medicaid programs, and other payors not commonly billed
- 11. Provide reasonably necessary training periodically, as requested by Client, to Client's emergency medical personnel regarding the gathering of the necessary information and proper completion of run reports.

- 12. Utilize up-to-date knowledge and information with regard to coding requirements and standards, to comply with applicable federal, state and local regulations.
 - 13. Provide a designated liaison for Client, patient and other Payor concerns.
- 14. Provide a toll free telephone number for patients and other Payors to be answered as designated by Client.
- 15. Facilitate proper security of confidential information and proper shredding of disposed materials containing such information.
- 16. Establish arrangements with hospitals to obtain/verify patient insurance and contact information.
 - 17. Respond to any Client, Payor or patient inquiry or questions promptly.
- 18. Maintain appropriate accounting procedures for reconciling deposits, receivables, billings, patient accounts, adjustments and refunds.
- 19. Provide reasonable access to Client for requested information in order for Client to perform appropriate and periodic audits. Reasonable notice will be given to Intermedix for any planned audit and will be conducted during normal business hours of Intermedix, all at the Client's expense.
- 20. Provide timely reports facilitating required aspects of monitoring, evaluating, auditing and managing the Services provided.
- 21. Process refund requests and provide Client with documentation substantiating each refund requested.
- 22. Assign billing to patient account numbers providing cross-reference to Client's assigned transport numbers.
 - 23. Maintain responsibility for obtaining missing or incomplete insurance information.
- 24. Provide accurate coding of medical claims based on information provided by Client.
- 25. Negotiate and arrange modified payment schedules for individuals unable to pay full amount when billed.

- 26. Retain accounts for a minimum of twelve (12) months (unless otherwise specified by mutual agreement) and after twelve (12) months turn over accounts for which no collection has been made (unless insurance payment is pending) to an agency designated by Client.
- 27. Permit real-time read only electronic look-up access by Client to Intermedix's Billing System to obtain patient data and billing information.
- 28. Maintain records in an electronic format that is readily accessible by Client personnel and that meets federal and state requirements for maintaining patient medical records.
- 29. Create, implement and comply with a Compliance Plan consistent with the Compliance Program Guidance for Third Party Medical Billing Companies 63 FR 70138; (December 18, 1998) promulgated by the Office of Inspector General of the Department of Health and Human Services (OIG).

B. Client's Responsibilities and Obligations:

- 1. From each person who receives EMS from Client ("Patient"), Client shall use its best efforts to obtain and forward the following information ("Patient Information") to Intermedix:
 - (i) the Patient's full name and date of birth;
- (ii) the mailing address (including zip code) and telephone number of the Patient or other party responsible for payment ("Guarantor");
 - (iii) the Patient's social security number;
- (iv) the name and address of the Patient's health insurance carrier, name of policyholder or primary covered party, and any applicable group and identification numbers;
- (v) the auto insurance carrier address and/or agent's name and phone number if an automobile is involved;
- (vi) the employer's name, address and Workers Compensation Insurance information if the incident is work related;
 - (vii) the Patient's Medicare or Medicaid HIC numbers if applicable;
- (viii) the Patient's or other responsible party's signed payment authorization and release of medical authorization form or other documentation sufficient to comply with applicable signature requirements;
- (ix) the call times, transporting unit, and crew members with their license level, i.e. EMT-B, EMT-I, or EMT-P;

- (x) odometer readings or actual loaded miles transported such that loaded miles may be calculated;
- (xi) physician certification statements (PCS) for non-emergency transports that are to be billed to Medicare pursuant to CMS regulations; and
- (xii) any other information that Intermedix may reasonably require to bill the Patient or other Payor.
- 2. Client represents and warrants that all information provided to Intermedix shall be accurate and complete. Intermedix shall have no obligation to verify the accuracy of such information, and Client shall be solely responsible for such accuracy. Client agrees to indemnify and hold Intermedix, its agents, and employees harmless from any and all liabilities and costs, including reasonable attorneys' fees, resulting from (a) any inaccurate or misleading information provided to Intermedix that results in the actual or alleged submission of a false or fraudulent claim or (b) any other actual or alleged violation of local, state or federal laws., including but not limited laws applicable to Medicare, Medicaid or any other public or private Payor or enforcement agency.
- 3. Client will provide Intermedix with necessary documents required by third parties to allow for the electronic filing of claims by Intermedix on Client's behalf.
- 4. Client will provide Intermedix with its approved billing policies and procedures, including dispatch protocols, fee schedules and collection protocols. Client will be responsible for engaging any third party collection service for uncollectible accounts after Intermedix has exhausted its collection efforts.
- 5. Client will timely process refunds identified by Intermedix for account overpayments and provide to Intermedix confirmation, including copies of checks and other materials sent.
- 6. Client will provide a lock box or bank account address to Intermedix and will instruct the lock box or bank custodian agency to forward all documents to Intermedix for processing.
- 7. Client will provide Intermedix with daily bank balance reporting capabilities via the bank's designated web site.
- 8. Client will cooperate with Intermedix in all matters to ensure proper compliance with laws and regulations.
- 9. Client represents and warrants that all of its employees, personnel and independent contractors involved in the delivery of EMS or otherwise performing services for Client: (i) hold the licensure or certification required to perform such services, (ii) have not been convicted of a criminal offense related to health care or been listed as debarred, excluded or otherwise ineligible for participation in a Federal health care program and (iii) are not excluded persons listed on any

of the following: (a) the Office of the Inspector General List of Excluded Individuals and Entities; (b) the General Services Administration's Excluded Parties List; and (c) the Office of Foreign Asset Control's Specially Designated Nationals List.

- 10. Client agrees that it will forward to Intermedix copies of checks, or other payment documentation requested by Intermedix relating to the subject matter of this Agreement, within 10 days of the date of receipt of those payments.
- 11. Client agrees to notify Intermedix in the event that their Electronic Patient Care Reporting (ePCR) vendor performs any system upgrades. Notification may be made in writing in accordance to the Agreement Notices section 20.

Exhibit B Business Associate Agreement

This Business Associate Agreement ("BA Agreement") supplements and is made part of the Underlying Agreement (as defined below).

This BA Agreement is entered into between City of Kingsville EMS and Fire Department ("Covered Entity") and Advanced Data Processing, Inc., a subsidiary of Intermedix Corporation, a Delaware Corporation ("Business Associate"), effective as of the Effective Date of the Underlying Agreement.

WHEREAS, Covered Entity and Business Associate have entered into, or plan to enter into, an agreement or other documented arrangement (the "Underlying Agreement"), pursuant to which Business Associate may provide services for Covered Entity that require Business Associate to access, create and use Protected Health Information ("PHI") that is confidential under state and federal law; and

WHEREAS, Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed by Covered Entity to Business Associate, or collected or created by Business Associate pursuant to the Underlying Agreement, in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), and the regulations promulgated there under, including, without limitation, the regulations codified at 45 CFR Parts 160 and 164 ("HIPAA Regulations"); the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, and its implementing regulations and guidance issued by the Secretary of the Department of Health and Human Services (the "Secretary") (the "HITECH Act"); and other applicable state and federal laws, all as amended from time to time, including as amended by the Final Rule issued by the Secretary on January 17, 2013 titled "Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules under the Health Information Technology for Economic and Clinical Health Act and the Genetic Information Nondiscrimination Act; Other Modifications to the HIPAA Rules"; and

WHEREAS, the HIPAA Regulations require Covered Entity to enter into an agreement with Business Associate meeting certain requirements with respect to the Use and Disclosure of PHI, which are met by this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and the exchange of information pursuant to this Agreement, the parties agree as follows:

1. Definitions.

Capitalized terms used herein without definition shall have the meanings ascribed to them in the HIPAA Regulations or the HITECH Act, as applicable unless otherwise defined herein.

2. Obligations of Business Associate.

a. <u>Permitted Uses and Disclosures</u>. Business Associate shall only Use or Disclose PHI for the purposes of (i) performing Business Associate's obligations under the Underlying Agreement and as permitted by this Agreement; or (ii) as permitted or Required By Law; or (iii) as otherwise permitted by this Agreement. Business Associate shall not Use or further

Disclose PHI other than as permitted or required by this Agreement or as Required By Law. Further, Business Associate shall not Use or Disclose PHI in any manner that would constitute a violation of the HIPAA Regulations or the HITECH Act if so used by Covered Entity, except that Business Associate may Use PHI (i) for the proper management and administration of Business Associate; and (ii) to carry out the legal responsibilities of Business Associate. Business Associate may Disclose PHI for the proper management and administration of Business Associate, to carry out its legal responsibilities or for payment purposes as specified in 45 CFR § 164.506(c)(1) and (3), including but not limited to Disclosure to a business associate on behalf of a covered entity or health care provider for payment purposes of such covered entity or health care provider, with the expectation that such parties will provide reciprocal assistance to Covered Entity, provided that with respect to any such Disclosure either: (i) the Disclosure is Required By Law; or (ii) for permitted Disclosures when Required By Law, Business Associate shall obtain a written agreement from the person to whom the PHI is to be Disclosed that such person will hold the PHI in confidence and will not use and further disclose such PHI except as Required By Law and for the purpose(s) for which it was Disclosed by Business Associate to such person, and that such person will notify Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached.

- b. <u>Creation and Use of De-Identified Data</u>. Business Associate may deidentify any and all PHI, provided that any process or mechanism used to de-identify the data meets the requirements of 45 C.F.R 164.514(a)-(b). Business Associate may use or disclose (and permit others to use or disclose) such de-identified data on a perpetual unrestricted basis, but in no case shall Business Associate attempt to run or develop any keys, codes or algorithms that may be used to re-identify the data.
- c. <u>Appropriate Safeguards</u>. Business Associate shall implement administrative, physical and technical safeguards that (i) reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI that it creates, receives, maintains or transmits on behalf of Covered Entity; and (ii) prevent the Use or Disclosure of PHI other than as contemplated by the Underlying Agreement and this Agreement.
- d. <u>Compliance with Security Provisions</u>. Business Associate shall: (i) implement and maintain administrative safeguards as required by 45 CFR § 164.308, physical safeguards as required by 45 CFR § 164.310 and technical safeguards as required by 45 CFR § 164.312; (ii) implement and document reasonable and appropriate policies and procedures as required by 45 CFR § 164.316; and (iii) be in compliance with all requirements of the HITECH Act related to security and applicable as if Business Associate were a "covered entity," as such term is defined in HIPAA.
- e. <u>Compliance with Privacy Provisions</u>. Business Associate shall only Use and Disclose PHI in compliance with each applicable requirement of 45 CFR § 164.504(e). Business Associate shall comply with all requirements of the HITECH Act related to privacy and applicable as if Business Associate were a "covered entity," as such term is defined in HIPAA. To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s).

- f. <u>Duty to Mitigate</u>. Business Associate agrees to mitigate, to the extent practicable and mandated by law, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this Agreement.
- g. <u>Encryption</u>. To facilitate Business Associate's compliance with this Agreement and to assure adequate data security, Covered Entity agrees that all PHI provided or transmitted to Business Associate pursuant to the Underlying Agreement shall be provided or transmitted in a manner which renders such PHI unusable, unreadable or indecipherable to unauthorized persons, through the use of a technology or methodology specified by the Secretary in the guidance issued under section 13402(h)(2) of the HITECH Act. Covered Entity acknowledges that failure to do so could contribute to or permit a Breach requiring patient notification under the HITECH Act and further agrees that Business Associate shall have no liability for any Breach caused by such failure.

3. Reporting.

- Security Incidents and/or Unauthorized Use or Disclosure. Associate shall report to Covered Entity a successful Security Incident or any Use and/or Disclosure of PHI other than as provided for by this Agreement or permitted by applicable law within a reasonable time of becoming aware of such Security Incident and/or unauthorized Use or Disclosure (but not later than ten (10) days thereafter), in accordance with the notice provisions set forth herein. Business Associate shall take (i) prompt action to cure any such deficiencies as reasonably requested by Covered Entity, and (ii) any action pertaining to such Security Incident and/or unauthorized Use or Disclosure required by applicable federal and state laws and regulations. If such successful Security Incident or unauthorized Use or Disclosure results in a Breach as defined in the HITECH Act, then Covered Entity shall comply with the requirements of Section 3.b below. The Parties acknowledge and agree that this Section constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents as defined herein. "Unsuccessful Security Incidents" will include, but not be limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI.
- b. <u>Breach of Unsecured PHI</u>. The provisions of this Section 3.b are effective with respect to the Discovery of a Breach of Unsecured PHI occurring on or after September 23, 2009. With respect to any unauthorized acquisition, access, Use or Disclosure of Covered Entity's PHI by Business Associate, its agents or subcontractors, Business Associate shall (i) investigate such unauthorized acquisition, access, Use or Disclosure; (ii) determine whether such unauthorized acquisition, access, Use or Disclosure constitutes a reportable Breach under the HITECH Act; and (iii) document and retain its findings under clauses (i) and (ii). If Business Associate Discovers that a reportable Breach has occurred, Business Associate shall notify Covered Entity of such reportable Breach in writing within thirty (30) days of the date Business Associate Discovers such Breach. Business Associate shall be deemed to have discovered a Breach as of the first day that the Breach is either known to Business Associate or any of its employees, officers or agents, other than the person who committed the Breach, or by exercising reasonable diligence should have been known to Business Associate or any of its employees, officers or agents, other than the person who committed the Breach. To the extent the information is available to Business Associate, Business Associate's

written notice shall include the information required by 45 CFR § 164.410(c). Business Associate shall promptly supplement the written report with additional information regarding the Breach as it obtains such information. Business Associate shall cooperate with Covered Entity in meeting Covered Entity's obligations under the HITECH Act with respect to such Breach.

4. <u>Business Associate's Agents</u>. To the extent that Business Associate uses one or more subcontractors or agents to provide services under the Underlying Agreement, and such subcontractors or agents receive or have access to PHI, Business Associate shall sign an agreement with such subcontractors or agents containing substantially the same provisions as this Agreement.

5. Rights of Individuals.

- a. Access to PHI. Within ten (10) days of receipt of a request by Covered Entity, Business Associate shall make PHI maintained in a Designated Record Set available to Covered Entity or, as directed by Covered Entity, to an Individual to enable Covered Entity to fulfill its obligations under 45 CFR § 164.524. Subject to Section 5.b below, (i) in the event that any Individual requests access to PHI directly from Business Associate in connection with a routine billing inquiry, Business Associate shall directly respond to such request in compliance with 45 CFR § 164.524; and (ii) in the event such request appears to be for a purpose other than a routine billing inquiry, Business Associate shall forward a copy of such request to Covered Entity and shall fully cooperate with Covered Entity in responding to such request. In either case, a denial of access to requested PHI shall not be made without the prior written consent of Covered Entity.
- Access to Electronic Health Records. If Business Associate is deemed to use or maintain an Electronic Health Record on behalf of Covered Entity with respect to PHI, then, to the extent an Individual has the right to request a copy of the PHI maintained in such Electronic Health Record pursuant to 45 CFR § 164.524 and makes such a request to Business Associate, Business Associate shall provide such Individual with a copy of the information contained in such Electronic Health Record in an electronic format and, if the Individual so chooses, transmit such copy directly to an entity or person designated by the Individual. Business Associate may charge a fee to the Individual for providing a copy of such information, but such fee may not exceed Business Associate's labor costs in responding to the request for the copy. The provisions of 45 CFR § 164.524, including the exceptions to the requirement to provide a copy of PHI, shall otherwise apply and Business Associate shall comply therewith as if Business Associate were the "covered entity," as such term is defined in HIPAA. At Covered Entity's request, Business Associate shall provide Covered Entity with a copy of an Individual's PHI maintained in an Electronic Health Record in an electronic format and in a time and manner designated by Covered Entity in order for Covered Entity to comply with 45 CFR § 164.524, as amended by the HITECH Act.
- c. <u>Amendment of PHI</u>. Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity.
- d. <u>Accounting Rights</u>. This Section 5.d is subject to Section 5.e below. Business Associate shall make available to Covered Entity, in response to a request from an

Individual, information required for an accounting of disclosures of PHI with respect to the Individual, in accordance with 45 CFR § 164.528, incorporating exceptions to such accounting designated under such regulation. Such accounting is limited to disclosures that were made in the six (6) years prior to the request and shall not include any disclosures that were made prior to the compliance date of the HIPAA Regulations. Business Associate shall provide such information as is necessary to provide an accounting within ten (10) days of Covered Entity's request. Such accounting must be provided without cost to the Individual or to Covered Entity if it is the first accounting requested by an Individual within any twelve (12) month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if Business Associate informs Covered Entity and Covered Entity informs the Individual in advance of the fee, and the Individual is afforded an opportunity to withdraw or modify the request. Such accounting obligations shall survive termination of this Agreement and shall continue as long as Business Associate maintains PHI.

- e. Accounting of Disclosures of Electronic Health Records. The provisions of this Section 5.e shall be effective on the date specified in the HITECH Act. If Business Associate is deemed to use or maintain an Electronic Health Record on behalf of Covered Entity, then, in addition to complying with the requirements set forth in Section 5.d above, Business Associate shall maintain an accounting of any Disclosures made through such Electronic Health Record for Treatment, Payment and Health Care Operations, as applicable. Such accounting shall comply with the requirements of the HITECH Act. Upon request by Covered Entity, Business Associate shall provide such accounting to Covered Entity in the time and manner specified by Covered Entity and in compliance with the HITECH Act. Alternatively, if Covered Entity responds to an Individual's request for an accounting of Disclosures made through an Electronic Health Record by providing the requesting Individual with a list of all business associates acting on behalf of Covered Entity, then Business Associate shall provide such accounting directly to the requesting Individual in the time and manner specified by the HITECH Act.
- f. Agreement to Restrict Disclosure. If Covered Entity is required to comply with a restriction on the Disclosure of PHI pursuant to Section 13405 of the HITECH Act, then Covered Entity shall, to the extent necessary to comply with such restriction, provide written notice to Business Associate of the name of the Individual requesting the restriction and the PHI affected thereby. Business Associate shall, upon receipt of such notification, not Disclose the identified PHI to any health plan for the purposes of carrying out Payment or Health Care Operations, except as otherwise required by law. Covered Entity shall also notify Business Associate of any other restriction to the Use or Disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522.

6. Remuneration and Marketing.

a. Remuneration for PHI. This Section 6.a shall be effective with respect to exchanges of PHI occurring six (6) months after the date of the promulgation of final regulations implementing the provisions of Section 13405(d) of the HITECH Act. On and after such date, Business Associate agrees that it shall not, directly or indirectly, receive remuneration in exchange for any PHI of Covered Entity except as otherwise permitted by the HITECH Act.

- b. <u>Limitations on Use of PHI for Marketing Purposes</u>. Business Associate shall not Use or Disclose PHI for the purpose of making a communication about a product or service that encourages recipients of the communication to purchase or use the product or service, unless such communication: (1) complies with the requirements of subparagraph (i), (ii) or (iii) of paragraph (1) of the definition of marketing contained in 45 CFR § 164.501, and (2) complies with the requirements of subparagraphs (A), (B) or (C) of Section 13406(a)(2) of the HITECH Act, and implementing regulations or guidance that may be issued or amended from time to time. Covered Entity agrees to assist Business Associate in determining if the foregoing requirements are met with respect to any such marketing communication.
- 7. Governmental Access to Records. Business Associate shall make its internal practices, books and records relating to the Use and Disclosure of PHI available to the Secretary for purposes of determining Covered Entity's compliance with the HIPAA Regulations and the HITECH Act. Except to the extent prohibited by law, Business Associate agrees to notify Covered Entity of all requests served upon Business Associate for information or documentation by or on behalf of the Secretary. Business Associate shall provide to Covered Entity a copy of any PHI that Business Associate provides to the Secretary concurrently with providing such PHI to the Secretary.
- 8. <u>Minimum Necessary</u>. To the extent required by the HITECH Act, Business Associate shall limit its Use, Disclosure or request of PHI to the Limited Data Set or, if needed, to the minimum necessary to accomplish the intended Use, Disclosure or request, respectively. Effective on the date the Secretary issues guidance on what constitutes "minimum necessary" for purposes of the HIPAA Regulations, Business Associate shall limit its Use, Disclosure or request of PHI to only the minimum necessary as set forth in such guidance.
- 9. <u>State Privacy Laws</u>. Business Associate shall comply with state laws to extent that such state privacy laws are not preempted by HIPAA or the HITECH Act.

10. Termination.

- a. <u>Breach by Business Associate</u>. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under this Agreement, then Covered Entity shall promptly notify Business Associate. With respect to such breach or violation, Business Associate shall take reasonable steps to cure such breach or end such violation, if possible. If such steps are either not possible or are unsuccessful, upon written notice to Business Associate, Covered Entity may terminate its relationship with Business Associate.
- b. <u>Breach by Covered Entity</u>. If Business Associate knows of a pattern of activity or practice of Covered Entity that constitutes a material breach or violation of Covered Entity's obligations under this Agreement, then Business Associate shall promptly notify Covered Entity. With respect to such breach or violation, Covered Entity shall take reasonable steps to cure such breach or end such violation, if possible. If such steps are either not possible or are unsuccessful, upon written notice to Covered Entity, Business Entity may terminate its relationship with Covered Entity.

- c. <u>Effect of Termination</u>. Upon termination of this Agreement for any reason, Business Associate shall either return or destroy all PHI, as requested by Covered Entity, that Business Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such PHI. If Covered Entity requests that Business Associate return PHI, such PHI shall be returned in a mutually agreed upon format and timeframe. If Business Associate reasonably determines that return or destruction is not feasible, Business Associate shall continue to extend the protections of this Agreement to such PHI, and limit further uses and disclosures of such PHI to those purposes that make the return or destruction of such PHI not feasible. If Business Associate is asked to destroy the PHI, Business Associate shall destroy PHI in a manner that renders the PHI unusable, unreadable or indecipherable to unauthorized persons as specified in the HITECH Act.
- Amendment. The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement any new or modified standards or requirements of HIPAA, the HIPAA Regulations, the HITECH Act and other applicable laws relating to the security or confidentiality of PHI. Upon the request of Covered Entity, Business Associate agrees to promptly enter into negotiation concerning the terms of an amendment to this Agreement incorporating any such changes.
- 12. <u>No Third Party Beneficiaries</u>. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- 13. <u>Effect on Underlying Agreement</u>. In the event of any conflict between this Agreement and the Underlying Agreement, the terms of this Agreement shall control.
- 14. <u>Survival</u>. The provisions of this Agreement shall survive the termination or expiration of the Underlying Agreement.
- 15. <u>Interpretation</u>. This Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA Regulations and the HITECH Act. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with such laws.
- 16. <u>Governing Law.</u> This Agreement shall be construed in accordance with the laws of the State of Florida.
- 17. <u>Notices.</u> All notices required or permitted under this Agreement shall be in writing and sent to the other party as directed below or as otherwise directed by either party, from time to time, by written notice to the other. All such notices shall be deemed validly given upon receipt of such notice by certified mail, postage prepaid, facsimile transmission, e-mail or personal or courier delivery:

If to Covered Entity:

City of Kingsville EMS & Fire Dept.

119 N. 10th Street Kingsville, TX 78363

Attn: Adrian Garcia, Fire Chief Telephone no: 361-592-6445 Facsimile no: 361-595-4798

If to Business Associate:

Intermedix Corporation

6451 N. Federal Highway, Suite 1000

Ft. Lauderdale, FL 33308 Attn: Chief Compliance Officer

Telephone no: 954-308-8700 Facsimile no: 954-308-8725

Exhibit C Optional Services

Intermedix will provide the following specific optional services by mutual written agreement between Intermedix and Client:

- 1. For an additional fee, provide HIPAA-compliant Notice of Privacy Practices to transported, billed patients as an insert into the initial billing notice mailed to these patients.
- 2. If Client has purchased TripTix® product pursuant to the terms and conditions of the Addendum to this Agreement, Intermedix shall provide TripTix® based reporting extract of data required by state or local regulatory authorities' connectivity/interface in a format reasonably required by such authorities.

Exhibit D (TripTix® Program)

This Exhibit D, effective as of the Effective Date of the Agreement, hereby sets forth terms and conditions that apply only to the Product and Product Units listed in this Exhibit D. In regards to the Product, to the extent the terms and conditions of the Agreement are in conflict with this Exhibit D, the terms of this Exhibit D shall control. Where not different or in conflict with the terms, conditions and definitions of this Exhibit D, all applicable terms, conditions, and definitions set forth in the Agreement are incorporated within this Exhibit D as if set forth herein. Capitalized terms used herein and not otherwise defined herein shall have the meaning given to such terms in the Agreement.

WHEREAS, Intermedix has developed the TripTix® solution or product running on personal tablet devices to enter medical records and data into and interact with its main billing and medical records system or Billing System ("Product" as more particularly defined herein) that Intermedix is willing to make available to Client to use during the Term of the Agreement, as well as subject to the terms and conditions set forth herein; and

WHEREAS, Client has expressed a desire to obtain a right to use the Product; and

WHEREAS, Client acknowledges that, in connection with the provision of the Product and the Product Unit, Intermedix is incurring significant per unit and, in some cases, per User out of pocket expenses;

NOW, THEREFORE, the parties agree as follows:

ARTICLE I. DEFINITIONS

- 1.01 <u>Definitions</u>. For purposes of this Exhibit D, the following definitions shall apply:
- (a) "Addendum Effective Date" shall mean the date on which the last party to this Addendum executed it.
- (b) "Intellectual Property" shall mean all of Intermedix's rights in and to the Product and Product Unit, including, without limitation, Intermedix's copyrights, trademarks, trade dress, trade secrets, patents and patent applications (if any), and "know how" and any other proprietary information developed by Intermedix relevant to the Product and/or Product Unit, recognized in any jurisdiction in the world, now or hereafter existing, whether or not registered or registerable.
- (c) "Product" shall mean, collectively, each TripTix® Product Unit (a tablet PC, personal digital assistant or similar device), the Software, a third party wireless card in the name of Intermedix and any Third-Party Intellectual Property Rights, as applicable.

- (d) "Product Unit" shall mean a single data collection device delivered pursuant to the terms and conditions of this Exhibit D containing one or more elements of the Product but shall not mean any ancillary devices or products provided by persons other than Intermedix.
- (e) "Software" means the copies of Intermedix's software programs as are contained in the Product, including any documentation included therewith. Intermedix may, at its sole discretion, provide corrections and modifications to the Software from time to time.
- (f) "Third-Party Interface Devices" shall mean those devices that interface with the Product to transfer information, including medical monitoring devices for which Third-Party Intellectual Property Royalty Payments are made.
- (g) "Third-Party Intellectual Property Rights" shall mean the Intellectual Property rights of any third-party used in connection with the Product.
- (h) "Third-Party Intellectual Property Royalty Payments" shall mean the payments to be made directly by Client or, indirectly, on Client's behalf, as consideration for the licensing of any Third-Party Intellectual Property Rights or use of any Third-Party Interface Devices.
- (i) "Users" shall mean: (i) any employees of Client and (ii) any medical professional who is authorized to perform medical services for Client in the area in which Client operates its emergency medical services as of the Addendum Effective Date.

ARTICLE II. PRICE AND PAYMENT

- 2.01 Adjustment to Rates of Compensation under the Agreement. The compensation due and owing Intermedix by Client shall be increased as described in Section 4.01 of this Exhibit D during the Term. Additionally, in the event that Client terminates this Exhibit D during the period twelve (12) months following the Agreement Effective Date, it shall pay an early termination fee as set out on Schedule 2.01 hereto.
- **2.02** Product Fees. In addition to the payments required pursuant to the provisions of Section 5 (Compensation and Method of Payment) of the Agreement, Client shall make the following payments: (i) all Third-Party Intellectual Property Royalty Payments as further set out on Schedule 2.02 hereto.
- 2.03 <u>Additional Services</u>. The additional Services shall be provided to Client at no additional charge, as long as the Agreement is in effect, as set out on Schedule 2.03 hereto. Should the contractual relationship between the parties change, then terms and conditions of the Agreement and Product pricing shall be negotiated between the parties in good faith.

ARTICLE III. RIGHT TO USE PRODUCT AND PROPRIETARY RIGHTS

3.01 Right to Use. Commencing on the Effective Date and subject to the terms and conditions of this Exhibit D, Intermedix grants Client and its Users a non-exclusive, non-transferable right to use the Product during the Term. This right to use the Product during the Term does not constitute a sale of the Product or any portion or piece thereof.

- 3.02 <u>Delivery and Acceptance</u>. Intermedix will deliver to Client, the Product at mutually agreeable times, after or simultaneously with the Effective Date.
- 3.03 No Other Rights. Client's rights in the Product will be limited to those expressly granted in this Article III. All changes, modifications or improvements made or developed with regard to the Product by Intermedix, whether or not made or developed at Client's request, shall be and remain the property of Intermedix. Intermedix reserves all Intellectual Property rights and any other rights in and to the Product not expressly granted to Client hereunder.
- Restrictions. Client acknowledges that Intermedix and its suppliers, including, without limitation, the suppliers of certain Third-Party Intellectual Property Rights, have, retain and own all right, title and interest in and to the Product, and all patent, copyright, trademark and service mark and trade name and the goodwill associated therewith, trade secret, inventions, technology, ideas, know-how, and all other intellectual property rights and all other rights pertaining thereto. All such right, title and interest shall be and remain the sole property of Intermedix. Client shall not be an owner of, or have any interest in the Product but rather, such Client only has a right to use the Product pursuant to this Addendum. Neither Client nor its Users shall: (i) remove any copyright, patent or other proprietary legends from the Product; (ii) sublicense, lease, rent, assign, transfer or allow any third-party any right to use the Product; (iii) alter, modify, copy, enhance or adapt any component of the Product; (iv) attempt to reverse engineer, covert, translate, decompile, disassemble or merge any portion of the Product with any other software or materials; (v) otherwise create or attempt to create any derivative works from this Product, or permit persons who are not Users any access to the Product or its operations, and any attempt to do any of the above shall void all warranties given Client by Intermedix and shall be a material breach of this Addendum.
- 3.05 <u>Material Change to Product</u>. If there is any material change in any rules, orders, laws or regulations governing the manner in which this Product operates or in the data provided by third parties (such as changes in the manner of operation of global distribution systems or standards in wireless or non-wireless communications protocols); then upon written notice to Client, Intermedix will have the right, retroactive to the date of such material change, to modify the way in which this Product delivers data in order to comport with any change in law or regulations or functionality governing the Product. All data used by Intermedix for testing and development shall be supplied by Client at its expense to Intermedix promptly upon request by Intermedix to Client.

ARTICLE IV. PRODUCT UNITS

- 4.01 Generally. Client and Intermedix understand and agree that Intermedix shall make available one or more Product Units. Client understands and acknowledges that any of the aforementioned Product Units provided by Intermedix will be subject to the additional fee described in Section 2.02 of this Exhibit D. Also, in connection with the potential provision of such Product Units, Client agrees:
- **4.02** Client will be responsible for any loss or damage to such Product Units. Client agrees to pay:

- (a) the cost of repairs in excess of manufacturer extended warranty of any such Product Unit provided to it or (ii), if the Product Unit is irreparable, lost or stolen, for the replacement cost of the Product Unit. Client is responsible for repair or replacement costs not covered by extended warranty provided by Intermedix. Client agrees that Client may obtain insurance for such devices provided that Intermedix is named as a beneficiary under such insurance. Intermedix will use commercially reasonable efforts to provide Client with a replacement Product Unit within one (1) business day following the business day on which the request is made.
- (b) Client agrees that it shall immediately (and in no greater than twenty four (24) hours from Client's knowledge of the following) notify Intermedix of any loss or theft of a Product Unit (a "Product Unit Loss Event"). Upon Intermedix's receipt of notification given by the Client of a Product Unit Loss Event, Intermedix shall have the right to immediately, without notice to Client, suspend Client's access to the Product and the Product Unit until such time as the Product Unit Loss Event has been fully resolved, and no longer presents a threat of inappropriate access to: (i) the Product, (ii) any other intellectual property rights of Intermedix or (iii) the personal data or Protected Health Information gathered by Client in the performance of EMS by the Client. To the extent that any Product Unit Loss Event involves Protected Health Information, and is subject to HIPAA, as amended by the HITECH Act, Client shall comply with all applicable requirements under such laws, including any applicable HIPAA Notification requirements triggered by the Product Unit Loss Event. To the extent that a Product Unit Loss Event requires Client to provide HIPAA Notifications, any such notifications shall not include a reference to Intermedix unless such a reference is specifically required by HIPAA or other applicable law. Further, if Client intends to reference Intermedix in a HIPAA Notification based on its belief that such a reference is required by HIPAA or other applicable law, Client shall provide Intermedix written notice of its intent to do so no later than ten (10) days prior to Client's provision of each required HIPAA Notification (i.e. no later than ten (10) days prior to Client's provision of notifications to affected individuals, Health & Human Services, and/or prominent media outlets, as applicable). Client acknowledges that they are responsible for configuring the Product Unit security password configuration (the "Product Unit Security Configuration") and providing that Users provide adequate safeguard password security.
- (c) Client may be required to enter into additional agreements with the makers of third-party devices (monitors, scanners, EKG machines, etc.) with respect to the transmission of information between the third party device and the Product Unit. Client understands and agrees that Intermedix will not be able to provide Product Units unless and until agreements are entered into with the third-party manufacturers of such third party devices. Client understands and agrees that its failure to enter into or reach agreements with such third-parties (and any and all consequences of such failure) shall not be deemed to be a default of Intermedix under this Exhibit D or any other arrangement between Client and Intermedix. Client further understands and agrees that the failure to enter into such agreements with these third parties may hinder Client's use of certain software features that might otherwise be available to it (for instance, a direct data connection between a third party device and the Product Unit).

- 4.03 Client may be required to obtain new or different medical or other equipment capable of communicating with the Product Unit. Client understands and agrees that such new or different medical or other equipment must be obtained at Client's sole cost and expense.
- **4.04** Client may request Intermedix to support additional medical or other devices. Client understands and agrees that the costs of developing an interface may be significant and may involve the payment of royalties to the third-party manufacturers of the device. Client further understands and agrees that Intermedix has no obligation to undertake the development of interfaces with additional medical or other devices.
- 4.05 Client agrees to indemnify and hold Intermedix, its agents, and employees harmless from any and all liabilities and costs, and against any claim, suit, fine, or damages, including loss of profits, reasonable attorneys' fees, or interest, or any incidental, indirect, special, or consequential damages incurred as a result of any loss or damage to a Product Unit, the failure to utilize and require that its Users utilize one or more Product Unit Security Configurations which comply with the Billing Security Characteristics, or an actual or alleged violation of local, state or federal laws, including, but not limited to, laws applicable to Medicare, Medicaid, HIPAA, the HITECH Act, or any other public or private Payor or enforcement agency.

ARTICLE V. TERM AND TERMINATION

- 5.01 <u>Generally</u>. The term of this Exhibit D shall begin on the Effective Date and shall continue the termination or expiration of the Agreement, unless terminated as provided in Section 5.03 below.
- 5.02 <u>Termination</u>. Notwithstanding any other language herein or in the Agreement, a termination of this Exhibit D shall not operate to terminate the Agreement, but a termination of the Agreement shall operate as a termination of this Exhibit D.

5.03 Termination of Exhibit D.

- (a) If Intermedix, at any time, materially fails to perform any obligation required under this Exhibit D, or breaches any material term or condition of this Exhibit D, and such material default or breach, being curable, continues uncured for thirty (30) calendar days after written notice from Client to Intermedix specifying the nature and extent of the failure to materially perform such obligation, Client shall have the right to terminate this Exhibit D upon the expiration of said thirty (30) calendar day period, without any obligation to pay any early termination payment outlined in Schedule 2.01.
- (b) If Client, at any time, fails to materially perform any obligation required under this Exhibit D, or breaches any material term or condition of this Exhibit D, and such material default or breach, being curable, continues uncured for thirty (30) calendar days after written notice from Intermedix to Client specifying the nature and extent of the failure to materially perform such obligation, Intermedix shall have the right to terminate this Addendum upon the expiration of said thirty (30) calendar day period, and any early termination payment required by Client outlined in Schedule 2.01 shall be immediately due and payable to Intermedix.

- (c) Termination without Cause. Client may terminate this Exhibit D (but not the Agreement) at any time without cause by providing thirty (30) calendar days prior written notice to Intermedix, and making payment in full of the required early termination payment disclosed on Schedule 2.01 with respect to each Product Unit delivered pursuant to this Exhibit D, which shall be immediately due and payable as of the date of such written notice of termination. As of the effective date of such termination, Client shall return all Product Units to Intermedix and shall have no further right to access the Product provided hereunder.
- (d) Intermedix may terminate this Exhibit D at any time without cause upon six (6) months prior written notice to Client.
- (e) Obligations Following Termination. Any termination of this Exhibit D shall not release Client or Intermedix from any claim of the other accrued hereunder prior to the effective date of such termination. Upon termination of this Exhibit D, Intermedix shall remain the sole owner of the Product and all Intellectual Property and goodwill associated therewith, and Client shall assert no rights thereto. Upon termination of this Exhibit D for any reason, Client shall immediately discontinue use of the Product, and within ten (10) calendar days, return each of the Product Units and certify in writing to Intermedix that all copies, extracts or derivatives of any item comprising the Product, in whole or in part, in any form, have either been delivered to Intermedix or destroyed in accordance with Intermedix's instructions. All payments made by Client to Intermedix hereunder are non-refundable.

ARTICLE VI. LIMITED WARRANTY AND DISCLAIMER:

- **6.01** Product Warranty. Intermedix warrants that each Product Unit delivered to Client will be free from material defects when delivered.
- Provided by Third Parties. Some information transmittable or accessible through any Product Unit may have been obtained through sources believed to be reliable (such as various Internet providers, real-time data provided by GPS systems or medical devices or other third party information sources). Client agrees that Intermedix shall not have any liability whatsoever for the accuracy, completeness, timeliness or correct sequencing of the information, or for any decision made or action taken by Client in reliance upon such information or the Product. Client further agrees that Intermedix shall have no liability whatsoever for the transmission, non-transmission or partial transmission of data through third-party data systems and that such transmission shall be undertaken at Client's sole risk, cost and expense.
- Product will meet Client's requirements or that access to the Product, or the operation of the Product, will be uninterrupted, error-free, that all errors will be timely corrected, or that the data and/or reports generated by the Product will be accurate in the event that any third party information providers have provided inaccurate information. THE WARRANTIES EXPRESSLY PROVIDED IN THIS EXHIBIT D AND THE AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, WHICH WARRANTIES ARE HEREBY

SPECIFICALLY DISCLAIMED. NO REPRESENTATIVE OF INTERMEDIX SHALL HAVE THE RIGHT TO MAKE WARRANTIES ON INTERMEDIX'S BEHALF UNLESS THOSE WARRANTIES ARE IN WRITING AND EXECUTED BY A DULY AUTHORIZED OFFICER OF INTERMEDIX.

6.04 Exclusive Remedy. For any breach of the warranties set forth in Section 6.01, Intermedix, shall, following written notice thereof by Client, use diligence efforts, at Intermedix's sole expense, promptly to repair or replace the nonconforming Product or Product Unit. This is Intermedix's sole and exclusive liability, and Client's sole and exclusive remedy, for the breach of the above warranties. Intermedix shall have no obligation to replace any defective Product Unit which is not returned to Intermedix immediately following delivery or which has failed because of accident, abuse or misapplication.

Schedule 2.01 Early Termination Fee

The Initial Term Early Termination Payments with respect to each Product Unit (CF-20) are as follows:

	Period	Amount
(1)	For an Early Termination during the first twelve (12) months from the beginning of the Term:	\$4,400.00
(2)	For an Early Termination during the remainder of the Term:	\$0.00

Schedule 2.02 Third-Party Intellectual Property Royalty Payments

In addition to the other compensation required under this Exhibit D, Third-Party Intellectual Property Payments shall be made as follows:

Licensing/Royalty agreement to be executed between Client and the manufacturer of Client's defibrillating equipment when the manufacturer has cleared the Product Unit for direct interface between their equipment and Intermedix provided data devices.

Schedule 2.03 Additional Services

- (1) Client has purchased TripTix product pursuant to the terms and conditions of this Exhibit D and Intermedix shall provide TripTix based reporting extract of data required by state or local regulatory authorities' connectivity/interface in a format reasonably required by such authorities.
 - (2) Training and Implementation Support.
- a. Training: Intermedix shall make TripTix training services available to Client. Following execution of this Agreement, and at no additional charge, all Users will be registered for the training modules appropriate to their role(s) on the Intermedix "TripTix Training Portal". All training will be conducted using the online portal which is available on-demand. This training is updated with each major release at no cost, and new Users will be added and able to receive training upon request at no additional cost.
- b. Implementation Support: An implementation specialist will be assigned to Client to provide administrative support during the implementation process, including up to eight (8) as-needed one (1) hour sessions utilizing a screen sharing application to assist in the administrative configuration of TripTix.
- c. Any additional or on-site training will be provided to Client at the rate of \$1,500.00 per trainer for up to eight (8) hours of training per day (the "Training Fee"). In the event training in any particular day exceeds eight (8) hours, the Training Fee will be prorated based on the number of hour(s) in excess of eight (8) hours worked by each trainer in that given day. Client shall also be responsible for reasonable travel and related expenses.
- (3) If Computer-Aided Dispatch ("CAD") to TripTix system integration is requested by Client, upon execution of this Agreement or if Client subsequently changes CAD vendor or substantially changes CAD software version after initial development and/or implementation, Client will submit request for integration or notices of any CAD vendor and/or software changes in writing to Intermedix and the following shall occur:
- a. Client shall provide standard required information to Intermedix regarding its CAD system; Intermedix and Client develop business requirements for integration;
 - b. Intermedix shall develop interface specifications;
- c. Intermedix shall prepare a quote to build interface to CAD system for the purpose of supplying to the TripTix software dispatch information in a format suitable as prescribed by Intermedix. Costs would include design, development and testing of software required. Intermedix is not responsible for any charges by Client's CAD vendor to supply required data nor is Intermedix responsible for any lack of cooperation by the Client's CAD vendor in attempting to develop such interface for Client.

AGENDA ITEM #15

City of Kingsville Fire Department

TO:

Mayor and City Commissioners

CC:

Jesus A. Garza, City Manager

FROM:

Adrian Garcia, Fire Chief / EMC

DATE:

July 9th, 2018

SUBJECT:

Budget Amendment to KFD Medical Supplies

Summary:

The Kingsville Fire Department is requesting a budget amendment to the department's Medical Supplies Account (001-5-220.0-2240.0) in the amount of \$5,000.00. The request comes due to various increases in medical supplies and medications that are required on our MICU's. If approved, the additional funding will allow us to maintain current MICU's to DSHS standards.

Background:

Due to nationwide medication shortages, high demand on medical supplies, continued increase in call volume, and cost increases have created a potential fund shortage to get us through the end of the fiscal year. If unable to maintain adequate supplies required by the DSHS, we will need to take drastic measures, such as removing a reserve MICU to repurpose the supplies onto the other frontline units.

Lastly, EMS calls are approximately 70%-75% of our overall call volume, which our department provides excellent EMS services to our Kingsville Community.

Financial Impact:

Requesting an additional \$5,000.00 dollars to get us through the remainder of the fiscal year.

Recommendation:

The following budget amendment request supports the goals set by the Kingsville Fire Department to insure the safety and continued operational effectiveness of our department's EMS operations. Our recommendation is that the Commission approve the budget request, so we may insure adequate required supplies for all three MICU's.



ORDIN	ANCE	NO.	2018-	
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AN ORDINANCE AMENDING THE FISCAL YEAR 2017-2018 BUDGET FOR ADDITIONAL MEDICAL SUPPLIES FOR THE KINGSVILLE FIRE DEPARTMENT.

WHEREAS, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

1.

BE IT ORDAINED by the City Commission of the City of Kingsville that the Fiscal Year 2017-2018 budget be amended as follows:

CITY OF KINGSVILLE DEPARTMENT EXPENSES BUDGET AMENDMENT

Dept No.	Dept Name	Account Name	Account Number	Budget Increase	Budget Decrease
Fund 001 -	General Fund				
Equity					
2	-	Unassigned Fund Balance	61002		\$ 5,000
Expenses	_				
5-2200	Fire	Medical Supplies	22400	\$ 5,000	

[To amend the City of Kingsville FY 17-18 Budget for additional medical supplies for the Kingsville Fire Department as per the attached memo from the Fire Chief.]

11.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

INTRODUCED on this the 9 th day of <u>July</u> , 2018.
PASSED AND APPROVED on this the day of, 2018.
EFFECTIVE DATE:
Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

AGENDA ITEM #16

City of Kingsville Fire Department

TO: Mayor and City Commissioners

CC: Jesus A. Garza, City Manager

FROM: Adrian Garcia, Fire Chief / EMC

DATE: July 9th, 2018

SUBJECT: Budget Amendment to KFD Vehicle Maintenance

Summary:

The Kingsville Fire Department is requesting a budget amendment to the department's Vehicle/Machinery Maintenance Account (001-5-220.0-4110.0) in the amount of \$15,000.00. The request comes due to various critical repairs and maintenance discrepancies to our aging KFD frontline fleet. If approved, critical repairs can be made to our frontline MICU's and Structural apparatus to full service and continue to provide EMS and fire protection services to our community.

Background:

Numerous operational issues have been communicated and identified by personnel of various EMS and structural apparatus this fiscal year. Issues encountered and deemed repairs: powering steering components, pump, wheel assemblies, wheel seals, air system leaks, electrical issues, and degradation of safety components to mention a few. In addition, multiple apparatus have shown an increase in cost maintenance and downtime over the past fiscal year, reducing service to our community.

Lastly, by maintaining our apparatus, we will insure the safety of our firefighters and continued service to our City of Kingsville community.

Financial Impact:

Repair costs have amounted over \$15,000.00 since January 2018 and continue to increase in attempts to keep frontline apparatus available. Unfortunately, if this current trend continues, existing funds will not be enough to cover repairs and maintain sufficient funds for the remainder of the FY.

Recommendation:

The following budget amendment request supports the goals set by the Kingsville Fire Department to insure the safety and continued operational effectiveness of our department's fleet. Our recommendation is that the Commission approve the budget request, so we may move forward with needed repairs.



ORDINANCE NO. 2018-

AN ORDINANCE AMENDING THE FISCAL YEAR 2017-2018 BUDGET FOR ADDITIONAL VEHICLE MAINTENANCE FOR THE KINGSVILLE FIRE DEPARTMENT.

WHEREAS, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

İ.

BE IT ORDAINED by the City Commission of the City of Kingsville that the Fiscal Year 2017-2018 budget be amended as follows:

CITY OF KINGSVILLE DEPARTMENT EXPENSES BUDGET AMENDMENT

Dept No.	Dept Name	Account Name	Account Number	Budget Increase			get Decrease
Fund 001 -	General Fund						
Equity							
2	_	Unassigned Fund Balance	61002			\$	15,000
Expenses	_						
5-2200	Fire	Vehicle Maintenance	41100	\$	15,000		

[To amend the City of Kingsville FY 17-18 Budget for additional vehicle maintenance for the Kingsville Fire Department as per the attached memo from the Fire Chief.]

11.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

INTRODUCED on this the 9 th day of <u>July</u> , 2018.
PASSED AND APPROVED on this the day of, 2018.
EFFECTIVE DATE:
Sam R. Fugate, Mayor
ATTEST:
Mary Valenzuela, City Secretary
APPROVED AS TO FORM:
Courtney Alvarez, City Attorney

AGENDA ITEM #17

City of Kingsville Public Works

TO: Mayor and City Commissioners

CC: Jesus A. Garza, City Manager

FROM: William Donnell, Public Works Director

DATE: July 2, 2018

SUBJECT: Budget Amendment Wastewater Treatment South Plant Division

Summary:

This budget amendment allocates funding to the current year Wastewater Treatment South Plant budget. The South Plant blowers required emergency repairs to return to TCEQ compliance status.

Background:

The front line Turblex blower was not operational waiting for repairs. The backup Spencer blower was working during this time but had to be shut down June 13th due to vibrations. This left the plant without air circulation. This prompted the expedition of all repairs to get a blower up and running soon as possible. The Turblex blower was put back in service June 21st and the Spencer was put back in service June 18th. The emergency repairs to the Spencer blower totaled \$34,756.00 and the emergency repairs to the Turblex blower totaled \$36,648.00. The total of cost of repairs for both blowers is \$71,404.00 and an additional amount of \$18,596.00 is requested for additional repairs and maintenance to complete the fiscal year, bringing the total request to \$90,000.

Financial Impact:

Total funding for Ground Storage Tank Fund 051-5-6002-71200 is \$130,000.00. This budget amendment for the Wastewater Treatment South Plant Division will reallocate \$90,000.00 in funding from Water Production replacement of the Ground Storage Tank Fund 051-5-6002-71200 to 051-5-7002-54300 (\$90,000.00) for emergency repairs required for the South Treatment Plant blowers and anticipated expenditures for the remainder of this fiscal year. Since we are using the ground storage funds for emergency repairs this year, we are also requesting the remaining \$40,000 in that fund be transferred over to Fund 054 and used next year towards the ground storage tank scheduled for placement in next year's budget. These funds will drop into Fund 054 fund balance and then be appropriated in FY 18-19.

Recommendation:

Staff recommends approval of this budget amendment to cover these unforeseen blower repairs at the Wastewater Treatment South Plant Division.



0	RD	IN	AN	CE	NO.	2018-	•

AN ORDINANCE AMENDING THE FISCAL YEAR 2017-2018 BUDGET TO REALLOCATE FUNDING FOR EMERGENCY REPAIRS REQUIRED AT THE SOUTH WASTEWATER TREATMENT PLANT.

WHEREAS, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

1.

BE IT ORDAINED by the City Commission of the City of Kingsville that the Fiscal Year 2017-2018 budget be amended as follows:

CITY OF KINGSVILLE DEPARTMENT EXPENSES BUDGET AMENDMENT

Dept No.	Dept Name	Account Name	Account Number	Budget Increase		Budget Decrease		
Fund 051 -	Fund 051 - Utility Fund							
Expenses								
5-6002	Water Production	Machinery/Equipment	71200			\$	130,000	
5-6900	Fund Trsfrs	Transfer to Fund 054	80054	\$	40,000			
5-7002	WW South Plant	Machinery/Equipment	71200	\$	90,000			
Fund 054 - UF Capital Projects								
Revenues								
4-0000	_	Transfer From Fund 051	75010	\$	40,000			

[To amend the City of Kingsville FY 17-18 Budget by reallocating funding from Water Production Division for replacement of the Ground Storage Tank project to the Waste Water South Plant Division for emergency repairs to the South Treatment Plant blowers to maintain TCEQ compliance. The remaining Ground Storage Tank budget will be transferred to UF Capital Projects to be appropriated in the FY18-19 budget as per the attached memo from the Public Works Director.]

11.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

INTRODUCED on this the 9th day of __July_, 2018.

PASSED AND APPROVED on this the __ day of ______, 2018.

EFFECTIVE DATE:_____

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

Courtney Alvarez, City Attorney

APPROVED AS TO FORM:

AGENDA ITEM #18

RESOLUTION OF THE CITY OF KINGSVILLE CREATING THE CITY OF KINGSVILLE FINANCE AND AUDIT COMMITTEE; DESIGNATING RESPONSIBILITIES; PROVIDING FOR A METHOD OF APPOINTING COMMITTEE MEMBERS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Kingsville has long recognized the importance of an audit committee to review the financial status of the City; and

WHEREAS, the City desires to expand the scope of this Committee to include other responsibilities and to change its name to the Finance and Audit Committee to reflect the change in responsibilities;

WHEREAS, the City of Kingsville desires to safeguard assets and the reliability of the financial systems, as well as maximize the efficiency and financial soundness of the City.

NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS THAT:

Section 1. The City of Kingsville hereby renames the four (4) member committee currently known as the "City of Kingsville Audit Committee" to hereafter be named the "City of Kingsville Finance and Audit Committee."

Section 2. That the City of Kingsville Finance and Audit Committee shall be responsible for performing the following and advising and making recommendations to the City Commission regarding the following issues:

- To review the annual audit.
- To review the quarterly budget reports.
- To participate in the selection of the independent auditor.
- To review the City's Fund Balance Policy and the Fund Transfer Policy.

Section 3. That the Kingsville City Commission shall designate one City Commission member to serve as a member of the City of Kingsville Finance and Audit Committee. The City Manager, the Finance Director, and the City Attorney shall also serve as Finance and Audit Committee members.

Section 4. That City of Kingsville Finance and Audit Committee members shall serve without compensation, SAVE AND EXCEPT reimbursement for actual and reasonable expenses incurred in the performance of their duties and employees of the City of Kingsville serving on the Committee shall receive no additional salary for so doing.

Section 5. That the members serving on the City of Kingsville Audit Committee at the time of this resolutions will continue to serve on the City of Kingsville Finance and Audit Committee until replaced or unable to serve.

Section 6. That all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

Section 7. That this Resolution shall be and become effective on and after adoption.

PASSED AND APPROVED by a m of Kingsville, Texas, this the 9th	ajority vote of the City Commission of the City _ day of <u>July</u> , 2018.
Sam R. Fugate, Mayor	_
ATTEST:	
Mary Valenzuela, City Secretary	
APPROVED AS TO FORM:	
Courtney Alvarez, City Attorney	_