

TEXAS MUNICIPAL LEASE-PURCHASE AGREEMENT

THIS TEXAS MUNICIPAL LEASE-PURCHASE AGREEMENT **No.9138** (hereafter referred to as "Agreement") dated as of **June 16, 2020**, by and between **Government Capital Corporation**, a Texas corporation (herein referred to as "Lessor"), and **City of Seguin**, a political subdivision or agency of the State of Texas (hereinafter referred to as "Lessee").

WITNESSETH: In consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto agree as follows:

1. Term and Payments. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the property described in Exhibit A hereto (hereinafter, with all replacement parts, substitutions, proceeds, increases, additions, accessions, repairs and accessories incorporated therein or affixed thereto, referred to as the "Property") for the amounts to be paid in the sums (the "Lease Payments") and on the dates (the "Lease Payment Dates") set forth in Exhibit B hereto. Except as specifically provided in Section 2 hereof, the obligation of the Lessee to make the Lease Payments called for in Exhibit B hereto shall be absolute and unconditional in all events and shall not be subject to any set-off, defense, counterclaim or recoupment for any reason. The term of the lease hereunder shall commence upon the dated date of the lease and shall continue until the end of the Lessee's current fiscal period and thereafter for such additional fiscal periods as are necessary to complete the anticipated total lease term as set forth in Exhibit B, unless earlier terminated as provided herein. The interest is calculated on the basis of a 30/360-day year on the unpaid principal amounts from the Schedule Date of the EXHIBIT B.

2. Non-Appropriation and Right of Termination. The obligations of Lessee to make Lease Payments (called for in Exhibit B) and to make any other payments to Lessor (or to any other person) pursuant to this Agreement are subject to appropriation by the Lessee of funds that are lawfully available to be applied for such purpose. If Lessee fails to make such an appropriation prior to a fiscal period of Lessee for the Lease Payments scheduled in such a fiscal period, this Agreement shall terminate at the end of the last fiscal period immediately preceding the fiscal period for which funds have not been appropriated. The Lessee shall deliver notice to Lessor of such termination at least forty-five (45) days prior to such termination, but failure to give such notice shall not prevent the termination of this Agreement. Upon any such termination of this Agreement, all of Lessee's right, title and interest in and its obligations under this Agreement and to the Property shall terminate effective on the last day of the last fiscal period of Lessee for which such an appropriation was made.

3. Taxes. In addition to the Lease Payments to be made pursuant to Section 1 hereof, Lessee agrees to indemnify and hold Lessor harmless from and against and to pay Lessor, as additional rent, on demand, an amount equal to all licenses, assessments, sales, use, real or personal property, gross receipts or other taxes, levies, imposts, duties or charges, if any, together with any penalties, fines, or interest thereon imposed against or on Lessor, Lessee or the Property by any governmental authority upon or with respect to the Property or the purchase, ownership, rental, possession, operation, return or sale of, or receipt of payments for, the Property, except any Federal or State income taxes, if any, payable by Lessor. Lessee may contest any such taxes prior to payment provided such contest does not involve any risk of sale, forfeiture or loss of the Property or any interest therein.

4. Lessee's Covenants and Representations. Lessee covenants and represents as follows:

- (a) Lessee represents, and will provide an opinion of its counsel to the effect that, it has full power and authority to enter into this Agreement which has been duly authorized, executed, and delivered by Lessee and is a valid and binding obligation of Lessee enforceable in accordance with its terms, and all requirements for execution, delivery and performance of this Agreement have been, or will be, complied with in a timely manner;
- (b) Lessee has budgeted and appropriated for the current fiscal period sufficient funds to make the Lease Payments scheduled to come due in the current fiscal period and all other Payments expected to come due in the current fiscal period; Lessee currently expects to budget and appropriate sufficient funds to pay the Lease Payments coming due hereunder in each future fiscal period, but the decision whether to budget and appropriate funds for any future fiscal period is solely within the discretion of the then-current governing body of Lessee;
- (c) There are no pending or threatened lawsuits or administrative or other proceedings contesting the authority for, authorization of, performance of, or expenditure of funds pursuant to this Agreement;
- (d) Information supplied and statements made by Lessee in any financial statement or current budget prior to or contemporaneously with the Agreement are true and correct;
- (e) Lessee has an immediate need for, and expects to make immediate use of, substantially all the Property, which need is not temporary or expected to diminish in the foreseeable future.
- (f) No lease, rental agreement, lease-purchase agreement, payment agreement or contract for purchase to which Lessee has been a party at any time during the past ten (10) years has been terminated by Lessee as a result of insufficient funds being appropriated in any Fiscal Year. No event has occurred which would constitute an event of default under any debt, revenue bond or obligation which Lessee has issued during the past ten (10) years.
- (g) Lessee will pay the Lease Payment Due by check, wire transfer, or ACH only.

5. Use and Licenses. Lessee shall pay and discharge all operating expenses and shall cause the Property to be operated by competent persons only. Lessee shall use the Property only for its proper purposes and will not install, use, operate or maintain the Property improperly, carelessly, or in violation of any applicable law, ordinance, rule or regulation of any governmental authority, or in a manner contrary to the nature of the Property or the use contemplated by its manufacturer. Lessee shall keep the property at the location stated on the Certificate of Acceptance executed by Lessee upon delivery of the Property until Lessor, in writing, permits its removal, and the Property shall be used solely in the conduct of the Lessee's operations. Lessee shall obtain, at its expense, all registrations, permits and licenses, if any, required by law for the installation and operation of the Property. Any license plates used on the Property shall be issued in the name of the Lessee. If a certificate of title is issuable with respect to the Property, it shall be delivered to the Lessor showing the interest of the Lessor.



6. Maintenance. Lessor shall not be obligated to make any repairs or replacements. At its own expense, Lessee shall service, repair and maintain the Property in as good condition, repair, appearance and working order as when delivered to Lessee hereunder, ordinary wear and tear from proper use alone excepted, and shall replace any and all parts thereof which may from time to time become worn out, lost, stolen, destroyed, or damaged beyond repair or rendered unfit for intended use, for any reason whatsoever, all of which replacements shall be free and clear of all liens, encumbrances and claims of others and shall become part of the Property and subject to this Agreement. Lessor may, at its option, discharge such costs, expenses and insurance premiums necessary for the repair, maintenance and preservation of the Property, and all sums so expended shall be due from Lessee in addition to rental payments hereunder.

7. Alterations.

(a) Lessee may, at its own expense, install or place in or on, or attach or affix to, the Property such equipment or accessories as may be necessary or convenient to use the Property for its intended purposes provided that such equipment or accessories do not impair the value or utility of the Property. All such equipment and accessories shall be removed by Lessee upon termination of this Agreement, provided that any resulting damage shall be repaired at Lessee's expense. Any such equipment or accessories not removed shall become the property of Lessor.

(b) Without the written consent of Lessor, Lessee shall not make any other alterations, modifications or improvements to the Property except as required or permitted hereunder. Any other alterations, modifications or improvements to the Property shall immediately become part of the Property, subject to the provisions hereof. Without the prior written consent of Lessor, Lessee shall not affix or attach any of the Property to any real property. The Property shall remain personal property regardless of whether it becomes affixed or attached to real property or permanently rests upon any real property or any improvement thereon.

8. Liens. Lessee shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, security interest, pledge, lien, charge, encumbrance or claim on or with respect to the Property, title thereto or any interest therein, except the respective rights of Lessor and Lessee hereunder.

9. Damage to or Destruction of Property. Lessee shall bear the entire risk of loss, damage, theft or destruction of the Property from any and every cause whatsoever, and no loss, damage, destruction or other event shall release Lessee from the obligation to pay the full amount of the rental payments or from any other obligation under this Agreement. In the event of damage to any item of the Property, Lessee will immediately place the same in good repair, with the proceeds of any insurance recovery applied to the cost of such repair. If Lessor determines that any item of Property is lost, stolen, destroyed or damaged beyond repair, Lessee, at the option of Lessee, will either (a) replace the same with like property in good repair or (b) on the next Lease Payment Date, pay Lessor (i) all amounts then owed by Lessee to Lessor under this Agreement, including the Lease Payment due on such date, and (ii) an amount equal to the applicable Option to Purchase Value set forth in Exhibit B.

10. Insurance. Lessee shall either be self-insured with regard to the Property or shall purchase and maintain insurance with regard to the Property. Lessee shall indicate on each Certificate of Acceptance executed in relation to this Agreement its election to be self-insured or company insured with regard to the Property listed on that Certificate of Acceptance. Whether Lessee is self-insured or company insured, Lessee shall, for the term of this Agreement, at its own expense, provide comprehensive liability insurance with respect to the Property, insuring against such risks, and such amounts as are customary for lessees of property of a character similar to the Property. In addition, Lessee shall, for the term of this Agreement, at its own expense, provide casualty insurance with respect to the Property, insuring against customary risks, coverage at all times not less than the amount of the unpaid principal portion of the Lease Payments required to be made pursuant to Section 1 as of the last preceding Payment Date specified in Exhibit B on which a Lease Payment was made. If insurance policies are provided with respect to the Property, all insurance policies shall be with insurers authorized to do business in the State where the Property is located and shall name both Lessor and Lessee as insured as their respective interest may appear. Insurance proceeds from casualty losses shall be payable solely to the Lessor, subject to the provisions of Section 9. Lessee shall, upon request, deliver to Lessor evidence of the required coverage together with premium receipts, and each insurer shall agree to give Lessor written notice of non-payment of any premium due and ten (10) days notice prior to cancellation or alteration of any such policy. Lessee shall also carry and require any other person or entity working on, in or about the Property to carry workmen's compensation insurance covering employees on, in or about the Property. In the event Lessee fails, for any reason, to comply with the requirements of this Section, Lessee shall indemnify, save harmless and, at Lessee's sole expense, defend Lessor and its agents, employees, officers and directors and the Property against all risk of loss not covered by insurance.

11. Lessee Gross Negligence. Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Property and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of Lessee or of third parties, and whether such property damage be to Lessee's property or the property of others, which is proximately caused by the negligent conduct of Lessee, its officers, employees and agents. Lessee hereby assumes responsibility for and agrees to reimburse Lessor for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorney's fees) of whatsoever kind and nature, imposed on, incurred by or asserted against Lessor that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part upon the negligent conduct of Lessee, its officers, employees and agents, to the maximum extent permitted by law.

12. No Warranty. ALL WARRANTIES, PROMISES AND SERVICE AGREEMENTS, IF ANY, RELATING TO THE PROPERTY THAT THE MANUFACTURERS OR THE PARTY WHO SUPPLIED THE PROPERTY TO LESSOR (THE "VENDOR") HAVE MADE TO LESSOR IN CONNECTION WITH OR AS PART OF THE CONTRACT BY WHICH LESSOR ACQUIRED THE PROPERTY ARE HEREBY ASSIGNED TO LESSEE. Lessee may communicate with Vendor and receive an accurate and complete statement of all such warranties, promises and service agreements, if any. All claims or actions on any warranty so assigned shall be made or prosecuted by Lessee, at its sole expense, upon prior written notice to Lessor. Lessor may, but shall have no obligation whatsoever to participate in such claim or action on such warranty, at Lessor's expense. Any recovery under such a warranty shall be made payable jointly to Lessee and Lessor. Lessee acknowledges that Lessee has selected the Vendor and that Lessee has directed Lessor to acquire the Property from Vendor in connection with this Agreement. Lessee further acknowledges that this Agreement is a "Finance Lease" within the meaning of the Uniform Commercial Code and that Lessee is entitled to the Vendor's warranties and promises described above, if any. LESSOR HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND ASSUMES NO OBLIGATION WITH RESPECT TO THE TITLE, MERCHANTABILITY, CONDITION, QUALITY OR FITNESS OF THE PROPERTY DESCRIBED IN EXHIBIT A FOR ANY PARTICULAR PURPOSE OR THE CONFORMITY OF THE PROPERTY TO ANY SPECIFICATION OR PURCHASE ORDER, OR AS TO THE PROPERTY'S DESIGN, DELIVERY, INSTALLATION OR OPERATION. All such risks shall be borne by Lessee without in any way excusing Lessee from its obligations under this Agreement, and Lessor shall not be liable to Lessee for any damages on account of such risks.

13. Option to Purchase. Provided Lessee has complied with the terms and conditions of this Agreement, Lessee shall have the option to purchase not less than all of the Property which is then subject to this Agreement, "as is" at the payment date, for the Option to Purchase Values set forth in Exhibit B by giving written notice to Lessor not less than sixty (60) days prior to the date specified in Exhibit B for the exercise of such option; provided that upon Lessee's timely payment of all Lease Payments specified in Exhibit B, Lessee shall be deemed to have properly exercised its option to purchase the Property and shall be deemed to have acquired all of Lessor's right, title and interest in and to the Property, free of any lien, encumbrance or security interest except such liens, encumbrances or security interest as may be created, or permitted and not discharged, by Lessee but without other warranties. Payment of the applicable Option to Purchase Value shall occur on the applicable Lease Payment Date specified in Exhibit B hereto, at which time Lessor shall, unless not required hereunder, deliver to Lessee a quitclaim bill of sale transferring Lessor's interest in the Property to Lessee free from any lien, encumbrance or security interest except such as may be created, or permitted and not discharged, by Lessee but without other warranties. Upon Lessee's actual or constructive payment of the Option to Purchase Value and Lessor's actual or constructive delivery of a quitclaim bill of sale covering the Property, this Agreement shall terminate except as to obligations or liabilities accruing hereunder prior to such termination.

14. Default and Lessor's Remedies.

(a) The occurrence of one or more of the following events shall constitute an Event of Default, whether occurring voluntarily or involuntarily, by operation of law or pursuant to any order of any court or governmental agency:

(1) Lessee fails to make any payment hereunder when due or within ten (10) days thereafter;

(2) Lessee fails to comply with any other covenant, condition or agreement of Lessee hereunder for a period of the ten (10) days after notice thereof;

(3) Any representation or warranty made by Lessee hereunder shall be untrue in any material respect as of the date made;

(4) Lessee makes, permits or suffers any unauthorized assignment, transfer or other disposition of this Agreement or any interest herein, or any part of the Property or any interest therein; or

(5) Lessee becomes insolvent; or admits in writing its inability to pay its debts as they mature; or applies for, consents to or acquiesces in the appointment of a trustee, receiver or custodian for the Lessee or a substantial part of its property; or, in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed for Lessee or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, moratorium, or any proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding is instituted by or against Lessee and, if instituted against Lessee, is consented to or acquiesced in by Lessee or is not dismissed within sixty (60) days.

(b) Upon the occurrence of any Event of Default specified herein, Lessor may, at its sole discretion, exercise any or all of the following remedies:

(1) Enforce this Agreement by appropriate action to collect amounts due or to become due hereunder, by acceleration or otherwise, or to cause Lessee to perform its other obligations hereunder in which event Lessee shall be liable for all costs and expenses incurred by Lessor;

(2) Take possession of the Property, without demand or notice and without court order or any process of law, and remove and relet the same for Lessee's account, in which event Lessee waives any and all damages resulting therefrom and shall be liable for all costs and expenses incurred by Lessor in connection therewith and the difference, if any, between the amounts to be paid pursuant to Section 1 hereof and the amounts received and to be received by Lessor in connection with any such reletting;

(3) Terminate this Agreement and repossess the Property, in which event Lessee shall be liable for any amounts payable hereunder through the date of such termination and all costs and expenses incurred by Lessor in connection therewith;

(4) Sell the Property or any portion thereof for Lessor's account at public or private sale, for cash or credit, without demand on notice to Lessee of Lessor's intention to do so, or relet the Property for a term and a rental which may be equal to, greater than or less than the rental and term provided herein. If the proceeds from any such sale or rental payments received under a new agreement made for the periods prior to the expiration of this Agreement are less than the sum of (i) the costs of such repossession, sale, relocation, storage, reconditioning, reletting and reinstallation (including but not limited to reasonable attorneys' fees), (ii) the unpaid principal balance derived from Exhibit B as of the last preceding Lease Payment Date specified in Exhibit B, and (iii) any past due amounts hereunder (plus interest on such unpaid principal balance at the rate specified in Section 20 hereof, prorated to the date of such sale), all of which shall be paid to Lessor, Lessor shall retain all such proceeds and Lessee shall remain liable for any deficiency; or

(5) Pursue and exercise any other remedy available at law or in equity, in which event Lessee shall be liable for any and all costs and expenses incurred by Lessor in connection therewith. "Costs and expenses", as that term is used in this Section 14, shall mean, to the extent allowed by law: (i) reasonable attorneys' fees if this Agreement is referred for collection to an attorney not a salaried employee of Lessor or the holder of this Agreement; (ii) court costs and disbursements including such costs in the event of any action necessary to secure possession of the Property; and (iii) actual and reasonable out-of-pocket expenses incurred in connection with any repossession or foreclosure, including costs of storing, reconditioning and reselling the Property, subject to the standards of good faith and commercial reasonableness set by the applicable Uniform Commercial Code. Lessee waives all rights under all exemption laws.

(6) Under no circumstances shall Lessee be liable under this subsection 14 (b) for any amount in excess of the sum appropriated pursuant to Section 1 hereof for the previous and current fiscal years, less all amounts previously due and paid during such previous and current fiscal years from amounts so appropriated.

15. Termination. Unless Lessee has properly exercised its option to purchase pursuant to Section 13 hereof, lessee shall, upon the expiration of the term of this Agreement or any earlier termination hereof pursuant to the terms of this Agreement, deliver the Property to Lessor unencumbered and in at least as good condition and repair as when delivered to Lessee, ordinary wear and tear resulting from proper use alone excepted, by loading the Property, at Lessee's sole expense, on such carrier, or delivering the Property to such location, as Lessor shall provide or designate at or within a reasonable distance from the general location of the Property. If Lessee fails to deliver the Property to Lessor, as provided in this Section 15, on or before the date of termination of this Agreement, Lessee shall pay to Lessor upon demand, for the hold-over period, a portion of the total payment for the applicable period as set forth in Exhibit B prorated from the date of termination of this Agreement to the date Lessee either redelivers the Property to Lessor or Lessor repossesses the Property.

16. Assignment. Without Lessor's prior written consent, Lessee will not either **(i)** assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Agreement or the Property or any interest in this Agreement or the Property; or **(ii)** sublet or lend the Property or permit it to be used by anyone other than Lessee or Lessee's employees. Lessor may assign its rights, title and interest in and to this Agreement, the Property and any other documents executed with respect to this Agreement and/or grant or assign a security interest in this Agreement and the Property, in whole or in part. Any such assignees shall have all of the rights of Lessor under this Agreement. Subject to the foregoing, this Agreement inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto. No assignment or reassignment of any of Lessor's rights, title or interest in this Agreement or the Property shall be effective with regard to Lessee unless and until Lessee shall have received a copy of the document by which the assignment or reassignment is made, disclosing the name and address of such assignee. No further action will be required by Lessor or by Lessee to evidence the assignment. During the term of this Agreement, Lessee shall keep a complete and accurate record of all such assignments in form necessary to comply with the United States Internal Revenue Code of 1986, Section 149 (a), and the regulations, proposed or existing, from time to time promulgated thereunder.

17. Personal Property. The Property is and shall at all times be and remain personal property.

18. Title. Upon acceptance of the Property by Lessee hereunder, Lessee shall have title to the Property during the term of this Agreement; however, in the event of **(i)** an Event of Default hereunder and for so long as such Event of Default is continuing, or **(ii)** termination of this Agreement pursuant to the provisions of Section 2 hereof, title shall be reverted immediately in and shall revert to Lessor free of any right, title or interest of Lessee unless Lessor elects otherwise.

19. Lessor's Right to Perform for Lessee. If Lessee fails to make any payment or perform or comply with any of its covenants or obligations hereunder, Lessor may, but shall not be required to, make such payment or perform or comply with such covenants and obligations on behalf of Lessee, and the amount of any such payment and the expenses (including but not limited to reasonable attorneys' fees) incurred by Lessor in performing or complying with such covenants and obligations, as the case may be, together with interest thereon at the highest lawful rate, shall be payable by Lessee upon demand.

20. Interest on Default. If Lessee fails to pay any Lease Payment specified in Section 1 hereof within ten (10) days after the due date thereof, Lessee shall pay to Lessor interest on such delinquent payment from the due date until paid at the highest lawful rate.

21. Notices. Any notices to be given or to be served upon any party hereto in connection with this Agreement must be in writing and may be given by certified or registered mail, and shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail, and if given otherwise shall be deemed to have been given when delivered to and received by the party to whom it is addressed. Such notice shall be given to the parties at their respective addresses designated on the signature page of this Agreement or at such other address as either party may hereafter designate.

22. Security Interest. As security for Lessee's covenants and obligations hereunder, Lessee hereby grants to Lessor, and its successors, a security interest in the Property, all accessions thereto and proceeds therefrom, and, in addition to Lessor's rights hereunder, all of the rights and benefits of a secured party under the Uniform Commercial Code as in effect from time to time hereafter in the State in which the Property is located or any other State which may have jurisdiction over the Property. Lessee agrees to execute, acknowledge and deliver to Lessor in recordable form upon request financing statements or any other instruments with respect to the Property or this Agreement considered necessary or desirable by Lessor to perfect and continue the security interest granted herein in accordance with the laws of the applicable jurisdiction. Lessee hereby authorizes Lessor or its agent or assigns to sign and execute on its behalf any and all necessary UCC-1 forms to perfect the Purchase Money Security interests herein above granted to Lessor.

23. Tax Exemption. Lessee acknowledges and agrees that the Lease Payments have been calculated by Lessor assuming that the interest portion of each Lease Payment is exempt from Federal Income Taxation. Lessee represents, warrants and covenants that it will do or refrain from doing all things necessary or appropriate to insure that the interest portion of the Lease Payments is exempt from Federal Income Taxation, including, but not limited to, executing and filing all information statements required by Section 149(e) of the Internal Revenue Code of 1986, as amended, and timely paying, to the extent of available funds, amounts required to be rebated to the United States pursuant to Section 148(f) of the Internal Revenue Code of 1986, as amended.

24. Continuing Disclosure. Specifically and without limitation, Lessee agrees to provide audited financial statements, prepared by a certified public accountant not later than six (6) months after and as of the end of each fiscal year. Periodic financial statements shall include a combined balance sheet as of the end of each such period, and a combined statement of revenues, expenditures and changes in fund balances, from the beginning of the then fiscal year to the end of such period. These reports must be certified as correct by one of Lessee's authorized agents. If Lessee has subsidiaries, the financial statements required will be provided on a consolidated and consolidation basis.

25. Miscellaneous.

(a) Lessee shall, whenever requested, advise Lessor of the exact location and condition of the Property and shall give the Lessor immediate notice of any attachment or other judicial process affecting the Property, and indemnify and save Lessor harmless from any loss or damage caused thereby. Lessor may, for the purpose of inspection, at all reasonable times enter upon any job, building or place where the Property and the books and records of the Lessee with respect thereto are located.

(b) Lessee agrees to equitably adjust the payments payable under this Agreement if there is a determination for any reason that the interest payable pursuant to this Agreement (as incorporated within the schedule of payments) is not excludable from income in accordance with the Internal Revenue Code of 1986, as amended, such as to make Lessor and its assigns whole.

(c) Time is of the essence. No covenant or obligations hereunder to be performed by Lessee may be waived except by the written consent of Lessor, and a waiver of any such covenant or obligation or a forbearance to invoke any remedy on any occasion shall not constitute or be treated as a waiver of such covenant or obligation as to any other occasion and shall not preclude Lessor from invoking such remedy at any later time prior to Lessee's cure of the condition giving rise to such remedy. Lessor's rights hereunder are cumulative and not alternative.

(d) This Agreement shall be construed in accordance with, and governed by, the laws of the State in which the Property is located.

(e) This Agreement constitutes the entire agreement between the parties and shall not be modified, waived, discharged, terminated, amended, altered or changed in any respect except by a written document signed by both Lessor and Lessee.

(f) Any term or provision of this Agreement found to be prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without, to the extent reasonably possible, invalidating the remainder of this Agreement.

(g) The Lessor hereunder shall have the right at any time or times, by notice to Lessee, to designate or appoint any person or entity to act as agent or trustee for Lessor for any purposes hereunder.

(h) All transportation charges shall be borne by Lessee. Lessee will immediately notify Lessor of any change occurring in or to the Property, of a change in Lessee's address, or in any fact or circumstance warranted or represented by Lessee to Lessor, or if any Event of Default occurs.

(i) Use of the neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the masculine or feminine gender whenever and wherever appropriate.

(j) The captions set forth herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

(k) Lessor shall comply with the requirements of Chapter 2270 of the Texas Government Code as it pertains to this Contract.

(l) Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, where permitted by this Agreement.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the _____ day of _____ in the year 2020.

Lessor: Government Capital Corporation

Authorized Signature
345 Miron Dr.
Southlake, TX 76092

Witness Signature: _____

Print Name: _____

Print Title: _____

Lessee: City of Seguin

Steve Parker, City Manager
205 N. River Street
Seguin, TX 78155

Witness Signature: _____

Print Name: _____

Print Title: _____

EXHIBIT A
DESCRIPTION OF PROPERTY

TEXAS MUNICIPAL LEASE-PURCHASE AGREEMENT No.9138 (THE "AGREEMENT")
BY AND BETWEEN

Lessor, Government Capital Corporation and **Lessee**, City of Seguin
dated as of June 16, 2020

QTY DESCRIPTION

- 1 2021 480Xi-260H Reclaimer / Stabilizer (48-inch / 1.2 m) "Hot Rod"**
- Cummins® 260 HP Intercooled Turbo Diesel Engine - Tier 4 (Gen 2) Performance
 - Magnum Duty Fairfield® Planetary Gear Box
 - Pulverize up to 12-inch (300 mm) thick asphalt
 - On-board Active Hydraulic Top-Hatch, Depth Control and Material Handling
 - Spray System with Interchangeable Nozzles
 - Dual-Frame ZipTec™ Enhanced Pulverizing System (PATENTED) - Integrated
 - Wireless Remote Control, Extra Bits, Blocks & Service Tools
 - Z-PRO™ X 48-inch (1.2 m) Cutter Head
 - VersaMount™ Universal Bucket Coupler w/Active Hydraulic Connection
 - Accu-Trak™ Wheel Assist with Power Steering
 - Wheel Assist Custom Trailer (US) . . . 2- 5/16" Ball Hitch
 - WA150 Gallon (Wheel Assist Mount) Water Supply System
- Options
- Starter Kit with extra full set of bits, belts, filters, planetary fluid and a grease gun

PROPERTY LOCATION:

City of Seguin
205 N. River Street
Seguin, TX 78155

EXHIBIT B

>> SCHEDULE OF PAYMENTS & OPTION TO PURCHASE PRICE <<
TEXAS MUNICIPAL LEASE-PURCHASE AGREEMENT No.9138 (THE "AGREEMENT")
BY AND BETWEEN

Lessor: Government Capital Corporation and **Lessee:** City of Seguin
Scheduled funding as of **June 23, 2020**

PMT NO.	PMT DATE MO. DAY YR	TOTAL PAYMENT	INTEREST PAID	PRINCIPAL PAID	OPTION TO PURCHASE after pmt on this line
1	6/23/2021	\$35,831.78	\$5,109.84	\$30,721.94	N/A
2	6/23/2022	\$35,831.78	\$4,149.78	\$31,682.00	\$103,495.90
3	6/23/2023	\$35,831.78	\$3,159.72	\$32,672.06	\$69,651.24
4	6/23/2024	\$35,831.78	\$2,138.72	\$33,693.06	\$35,156.76
5	6/23/2025	\$35,831.78	\$1,085.84	\$34,745.94	\$1.00
Grand Totals		\$179,158.90	\$15,643.90	\$163,515.00	

Interest Rate: 3.125%

INCUMBENCY, INSURANCE, AND ESSENTIAL USE CERTIFICATES

TEXAS MUNICIPAL LEASE-PURCHASE AGREEMENT No.9138 (THE "AGREEMENT")

BY AND BETWEEN

Lessor, Government Capital Corporation and **Lessee**, City of Seguin

dated as of June 16, 2020

I, Naomi Manski, do hereby certify that I am the duly elected or appointed and acting City Secretary (Keeper of the Records), of City of Seguin, a political subdivision or agency duly organized and existing under the laws of the State of Texas, that I or my designee have custody of the records of such entity, and that, as of the date hereof, the individual(s) named below are the duly elected or appointed officer(s) of such entity holding the office(s) set forth opposite their respective name(s). I further certify that (i) the signature(s) set opposite their respective name(s) and title(s) are their true and authentic signature(s), and (ii) such officers have the authority on behalf of such entity to enter into that certain Texas Municipal Lease-Purchase Agreement dated as of June 16, 2020, between such entity and Government Capital Corporation.

Name

Title

Signature

Douglas Faseler City Manager

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal of such entity hereto this _____ day of _____, 2020.

By Lessee:

Naomi Manski, City Secretary

Lessee certifies that property and liability insurance, if applicable, have been secured in accordance with the Agreement and such coverage will be maintained in full force for the term of the Agreement. "Lessor or its Assigns" should be designated as loss payee until Lessee is notified, in writing, to substitute a new loss payee. **The following information is provided about insurance—(PLEASE FILL IN THE INFORMATION BELOW)**

INSURANCE COMPANY/AGENT'S NAME: _____

INSURANCE COMPANY ADDRESS: _____

INSURANCE AGENT'S EMAIL ADDRESS: _____

PHONE NUMBER: _____

POLICY NUMBER: _____

I, Steve Parker, City Manager, of City of Seguin ("Lessee"), hereby certify that the Equipment, to be leased to the undersigned under the certain Lease Agreement, dated as of June 16, 2020, between such entity and Government Capital Corporation ("Lessor"), will be used by the undersigned Lessee for the following purpose:

(PLEASE FILL OUT PRIMARY USE BELOW)

PRIMARY USE--_____

The undersigned hereby represents that the use of the Equipment is essential to its proper, efficient and economic operation.

IN WITNESS WHEREOF, I have set my hand this _____ day of _____, 2020.

By Lessee:

Steve Parker, City Manager

For Lessee: City of Seguin

[to be retyped on letterhead of lessee's counsel]

City of Seguin
205 N River Street, Seguin, Texas 78155
205 N River Street, Seguin, Texas 78155

Government Capital Corporation
345 Miron Drive
Southlake, TX 76092

Re: Municipal Lease-Purchase Agreement dated as of June 16, 2020, by and between Government Capital Corporation and City of Seguin

Ladies and Gentlemen:

I have acted as counsel to Lessee with respect to the Municipal Lease-Purchase Agreement described above (the Lease) and various related matters, and in this capacity have reviewed a duplicate original or certified copy of the Lease and the Exhibits attached thereto. Based upon the examination of these and such other documents as I deem relevant, it is my opinion that:

1. Lessee is a political subdivision or agency of the State of , duly organized, existing and operating under the Constitution and laws of the State.

2. Lessee is authorized and has power under applicable law to enter into the Lease, and to carry out its obligations thereunder and the transactions contemplated thereby.

3. The Lease has been duly authorized, approved, executed and delivered by and on behalf of Lessee, and is a valid and binding contract of Lessee enforceable in accordance with its terms, except to the extent limited by State and Federal laws affecting remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights.

4. The authorization, approval and execution of the Lease and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all applicable open meeting, public bidding and all other laws, rules and regulations of the State.

5. The execution of the Lease and the appropriation of moneys to pay the Lease Payments coming due thereunder do not result in the violation of any constitutional, statutory or other limitation relating to the manner, form or amount of indebtedness which may be incurred by Lessee.

6. There is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or governmental body, that challenges the organization or existence of Lessee; the authority of Lessee or its officers or its employees to enter into the Lease; the proper authorization, approval and/or execution of the Lease, Exhibits thereto and other documents contemplated thereby; the appropriation of moneys to make Lease Payments under the Lease for the current fiscal year of Lessee; or the ability of Lessee otherwise to perform its obligations under the Lease and the transactions contemplated thereby.

7. Resolution No. _____ of the governing body of Lessee, was duly and validly adopted by such governing body on _____, 20____, and such resolution has not been amended or repealed and remains in full force and effect.

This opinion may be relied upon by any entity to which Lessor has assigned the right to receive Lease Payments under the Lease, to the same extent as if this opinion were addressed to such entity.

Dated: _____, 20____.

Very truly yours,

CERTIFICATE OF ACCEPTANCE

PUBLIC PROPERTY FINANCE ACT CONTRACT NO.9138 (THE "FINANCE CONTRACT")

BY AND BETWEEN

Government Capital Corporation *and the Issuer*, City of Seguin

dated as of June 16, 2020

1. **ACCEPTANCE:** In accordance with the Finance Contract, the Issuer hereby certifies that all of the Property described herein (i) has been received by the Issuer, (ii) has been thoroughly examined and inspected to the complete satisfaction of the Issuer, (iii) had been found by the Issuer to be in good operating order, repair and condition, (iv) has been found to be of the size, design, quality, type and manufacture specified by the Issuer, (v) has been found to be and is wholly suitable for the Issuer's purposes, and (vi) is hereby unconditionally accepted by the Issuer, in the condition received, for all purposes of this Finance Contract, (vii) the Issuer hereby authorizes GCC to Pay supplying vendor(s) all available sums due and payable in conjunction with the property described in Exhibit A.

BY THE ISSUER:

Steve Parker, City Manager

FOR THE ISSUER: City of Seguin

ACCEPTED on this the _____ day of _____, 2020.

2. **PROPERTY:**

Asphalt Zipper see Exhibit A herein.

3. **USE:** The primary use of the Property is as follows: **(PLEASE FILL OUT PRIMARY USE BELOW)**

x _____

4. **INVOICING:** Invoices shall be sent to the following address, including to whose attention invoices should be directed:

City of Seguin
Attn Susan Caddell, Finance Director
PO Box 591
Seguin, Texas 78156-0591

RESOLUTION

A RESOLUTION REGARDING A LEASE PURCHASE AGREEMENT FOR THE PURPOSE OF FINANCING AN "ASPHALT ZIPPER".

WHEREAS, City of Seguin desires to enter into that certain Lease-Purchase Agreement No. 9138, by and between City of Seguin and Government Capital Corporation, for the purpose of financing an "**Asphalt Zipper**". The City desires to designate Steve Parker, City Manager, as an authorized signer of the Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF THE CITY OF SEGUIN:

Section 1. That the City enters into a Lease Purchase Agreement with Government Capital Corporation for the purpose of financing an "**Asphalt Zipper**".

Section 2. That the City of Seguin will designate Steve Parker, City Manager or his designee, as an authorized signer of the Lease Purchase Agreement Number 9138 dated as of June 16, 2020, by and between the City of Seguin and GCC as well as any other ancillary exhibit, certificate, or documentation needed for the Agreement.

Section 3. That should the need arise, if applicable, the City will use finance agreement proceeds for reimbursement of expenditures related to the Property, within the meaning of Treasury Regulation § 1.150-2, as promulgated under the Internal Revenue Code of 1986, as amended.

This Resolution has been PASSED upon Motion made by Board Member _____, seconded by Board Member _____ by a vote of _____ to _____ and is effective this _____, 2020.

Lessee: City of Seguin

Witness Signature

Don Keil
Mayor

Naomi Manski
City Secretary

Form **8038-GC**

(Rev. January 2012)

Department of the Treasury
Internal Revenue Service**Information Return for Small Tax-Exempt
Governmental Bond Issues, Leases, and Installment Sales**▶ **Under Internal Revenue Code section 149(e)**

OMB No. 1545-0720

Caution: If the issue price of the issue is \$100,000 or more, use Form 8038-G.

Part I Reporting Authority		Check box if Amended Return <input type="checkbox"/>	
1 Issuer's name <u>City of Seguin</u>		2 Issuer's employer identification number (EIN) <u>7 4 6 0 0 2 2 7 9</u>	
3 Number and street (or P.O. box if mail is not delivered to street address) <u>P.O. Box 591</u>		Room/suite	
4 City, town, or post office, state, and ZIP code <u>Seguin, TX 78156-0591</u>		5 Report number (For IRS Use Only) <div style="border: 1px solid black; width: 20px; height: 15px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 15px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 15px; display: inline-block;"></div>	
6 Name and title of officer or other employee of issuer or designated contact person whom the IRS may call for more information <u>Steve Parker, City Manager</u>		7 Telephone number of officer or legal representative <u>830-401-2450</u>	

Part II Description of Obligations Check one: a single issue <input checked="" type="checkbox"/> or a consolidated return <input type="checkbox"/>	
8a Issue price of obligation(s) (see instructions)	8a <u>\$163,515</u> <u>00</u>
b Issue date (single issue) or calendar date (consolidated). Enter date in mm/dd/yyyy format (for example, 01/01/2009) (see instructions) ▶	
9 Amount of the reported obligation(s) on line 8a that is:	
a For leases for vehicles	9a
b For leases for office equipment	9b
c For leases for real property	9c
d For leases for other (see instructions)	9d <u>\$163,515</u> <u>00</u>
e For bank loans for vehicles	9e
f For bank loans for office equipment	9f
g For bank loans for real property	9g
h For bank loans for other (see instructions)	9h
i Used to refund prior issue(s)	9i
j Representing a loan from the proceeds of another tax-exempt obligation (for example, bond bank)	9j
k Other	9k
10 If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box ▶ <input checked="" type="checkbox"/>	
11 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box (see instructions) ▶ <input type="checkbox"/>	
12 Vendor's or bank's name: <u>Government Capital Corporation</u>	
13 Vendor's or bank's employer identification number: <u>7 5 2 4 6 2 1 6 0</u>	

Signature and Consent	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person(s) that I have authorized above.		
	<div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div> Signature of issuer's authorized representative	<div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div> Date	<div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div> Steve Parker, City Manager Type or print name and title
Paid Preparer Use Only	Print/Type preparer's name		Preparer's signature
	Date		Check <input type="checkbox"/> if self-employed
	Firm's name ▶		Firm's EIN ▶
	Firm's address ▶		Phone no.

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

What's New

The IRS has created a page on IRS.gov for information about the Form 8038 series and its instructions, at www.irs.gov/form8038. Information about any future developments affecting the Form 8038 series (such as legislation enacted after we release it) will be posted on that page.

Purpose of Form

Form 8038-GC is used by the issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

Who Must File

Issuers of tax-exempt governmental obligations with issue prices of less than \$100,000 must file Form 8038-GC.

Issuers of a tax-exempt governmental obligation with an issue price of \$100,000 or more must file Form 8038-G, Information Return for Tax-Exempt Governmental Obligations.

Filing a separate return for a single issue. Issuers have the option to file a separate Form 8038-GC for any tax-exempt governmental obligation with an issue price of less than \$100,000.

An issuer of a tax-exempt bond used to finance construction expenditures must file a separate Form 8038-GC for each issue to give notice to the IRS that an election was made to

pay a penalty in lieu of arbitrage rebate (see the line 11 instructions).

Filing a consolidated return for multiple issues. For all tax-exempt governmental obligations with issue prices of less than \$100,000 that are not reported on a separate Form 8038-GC, an issuer must file a consolidated information return including all such issues issued within the calendar year.

Thus, an issuer may file a separate Form 8038-GC for each of a number of small issues and report the remainder of small issues issued during the calendar year on one consolidated Form 8038-GC. However, if the issue is a construction issue, a separate Form 8038-GC must be filed to give the IRS notice of the election to pay a penalty in lieu of arbitrage rebate.

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number										
				-				-		
or										
Employer identification number										
				-						

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ►	Date ►
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.