

AN ORDINANCE 2010-06-24-0631

**AUTHORIZING THE SAN ANTONIO FIRE DEPARTMENT
TO LEASE A VEHICLE TO THE SOUTHWEST TEXAS
REGIONAL ADVISORY COUNCIL (STRAC) TO
TRANSPORT REGIONAL ASSETS DURING AN
EMERGENCY RESPONSE.**

* * * * *

WHEREAS, in an effort to improve the City's ability to prevent, respond to, and recover from acts of terrorism and natural disasters within the region, it is advisable to lease a truck to the Southwest Regional Advisory Council (STRAC) for the purpose of transporting assets to a regional terrorist attack or an all-hazards disaster; **NOW THEREFORE:**

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

SECTION 1. The City Manager and her designee are hereby authorized to execute a lease, in substantially the same form as that attached hereto as **Exhibit I**, of a truck to the STRAC for the purpose of transporting assets to a regional terrorist attack or an all-hazards disaster.

SECTION 2. An in-kind transaction for the services authorized by this ordinance shall be recorded by the San Antonio Police Department.

SECTION 3. The financial allocations in this ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purposes of this ordinance.

RER
06/24/10
57

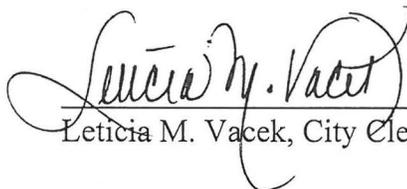
SECTION 4. This ordinance shall take effect immediately upon passage, provided that it is passed by eight or more affirmative votes; otherwise, this ordinance shall take effect ten days from the date of passage.

PASSED AND APPROVED this 24th day of June, 2010.



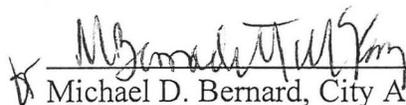
M A Y O R
JULIÁN CASTRO

ATTEST:



Leticia M. Vacek, City Clerk

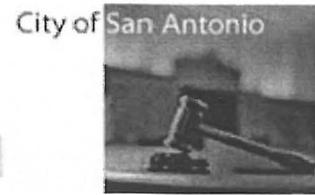
APPROVED AS TO FORM:



Michael D. Bernard, City Attorney



Request for
**COUNCIL
ACTION**



Agenda Voting Results - 57

Name:	7, 8, 9, 10, 11, 12, 13, 14, 16, 19, 20, 21, 22, 25, 26A, 26B, 26C, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42A, 42B, 43, 44, 47, 49, 51, 52, 53, 54, 55, 57, 58, 59, 61, 62A, 62B, 63, 64, 66						
Date:	06/24/2010						
Time:	03:30:59 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing the San Antonio Fire Department to lease a vehicle to the Southwest Texas Regional Advisory Council (STRAC) to transport regional assets during an emergency response. [Erik J. Walsh, Assistant City Manager; Charles N. Hood, Fire Chief]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor	x					
Mary Alice P. Cisneros	District 1		x			x	
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				x
Justin Rodriguez	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
John G. Clamp	District 10		x				



CMS or Ordinance Number: CN4600010475

TSLGRS File Code:1000-25

Document Title:
CONT - Lease agreement with STRAC
City provide use of 2010 International

Commencement Date:

7/1/2010

Expiration Date:

7/1/2020



CMS or Ordinance Number: OR00000201006240631

TSLGRS File Code: 1000-05

Document Title:

ORD - Lease agreement with STRAC

City provide use of 2010 International

Ordinance Date:
6/24/2010

LEASE AGREEMENT

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation ("CITY"), acting by and through its City Manager, and the Southwest Texas Regional Advisory Council ("STRAC").

WHEREAS, the Office of Emergency Management is designated as the representative agency of San Antonio and Bexar County; and

WHEREAS, the CITY has been provided certain funds to be used in support of the Regional Public Health Disaster Preparedness Program; and

WHEREAS, the CITY has adopted a budget for expenditures of such funds, and included therein is an allocation of funds for a project entitled "strengthen medical surge capabilities"; and

WHEREAS, it is now necessary to authorize the execution of an agreement with STRAC, through which the CITY will provide funds towards the purchase of a regional emergency response truck for the benefit and safety of the CITY's citizens, and the residents of the 22 county area which STRAC encompasses; **NOW THEREFORE**:

For and in consideration of the following mutual promises and obligations, and for the benefit of the citizens of the City of San Antonio, and to help with the expenses to be incurred by STRAC, and under the authority to enter such agreements set out in Chapter 791 of the Texas Local Government Code, the parties hereto agree as follows:

I. PURPOSE

- 1.1 The purpose of this Agreement is to set forth the terms and conditions by which STRAC may use funds received from the CITY under this Agreement.

II. ITEM LEASED

- 2.1 This lease requires the CITY to provide STRAC the use of the 2010 International 4400 SBA 4X2 purchased by the City of San Antonio through grant funds under the 2007 Urban Area Security Initiative (UASI) Grant.

III. TERM

- 3.1 This Agreement shall commence upon execution and shall terminate ten years after the date this lease is executed by the parties. The lease shall terminate upon notice from the CITY that it has found that STRAC has not used the truck solely as described in Article II for responding to regional emergency events or for uses not consistent with the Governor's Division of Emergency Management Information Bulletin No. 1 of June 16, 2006, which is attached to this lease as Attachment "A" and incorporated herein. The parties may renew this lease on a year-to-year basis, without need for City Council approval, for as many years as the parties mutually agree to continue this lease.

- 3.2 STRAC further agrees to maintain the truck and provide all fuel, oil, fluids, and maintenance needed to keep the truck in good working order, to meet all service requirements to meet the heavy use provisions of any warranties on the truck while the truck is leased to STRAC, to comply with state safety inspection requirements, and to replace the truck's inspection sticker, as required by law.

IV. CONSIDERATION

- 4.1 In consideration of STRAC's performance, in a satisfactory and efficient manner as determined by CITY, of all services and activities set forth in this Agreement, CITY agrees to provide STRAC the use of the regional emergency response truck, identified as a 2010 International 4400 SBA 4X2 emergency response truck ("Truck"), which is to be used for responding to terrorist or "all hazard" incidents caused by weapons of mass destruction, as well as disasters and events caused by natural disasters, such as flooding, hurricanes, and wildland fires.

V. PUBLIC PURPOSE

- 5.1 For each year throughout the term of this Agreement, STRAC shall ensure that the truck is used for responding to emergencies as outlined in this agreement within the 22 county area which STRAC encompasses, including the CITY and Bexar County, and for training and other related uses.

VI. ACCOUNTING

- 6.1 Accounting for all expenditures shall be maintained by STRAC, in accordance with generally accepted accounting practices, and shall be subject to audit by the CITY or its contracted auditor. These records shall be maintained for a period of three years from the termination date of this Agreement. STRAC further agrees to provide CITY on the yearly anniversary date of the execution of this Agreement, for the term of this Agreement, a letter certifying that the use of the truck was for the public purpose set forth in Article V of this Agreement.

VII. LITERATURE AND SIGNS

- 7.1 Any literature, signs, or print advertising of any type appearing on any medium which refers to or which is paid for by funds received as a result of this Agreement shall contain the words, "Paid for by the City of San Antonio through funds provided from 2007 Urban Area Security Initiative (UASI) Grant."

VIII. ASSIGNMENT

- 8.1 This Agreement is not assignable, except upon mutual agreement in writing by CITY and STRAC, and funds received as a result of this Agreement shall only be used by the parties themselves.

IX. RETURN OF TRUCK TO THE CITY

- 9.1 If this Agreement terminates because the STRAC no longer uses the truck in connection with the public purpose of responding to regional emergency events as described in this Agreement, STRAC shall return the truck described in Article III of this Agreement to the CITY without further obligation. The CITY and STRAC may mutually agree in writing that it would be in the best interest of the public to effectively extend this Agreement for the use of the Truck, for public purposes consistent with responding to regional emergency events, through assignment and assumption of the obligations described herein by an appropriate entity, such as a volunteer fire department or regional authority. The CITY shall provide STRAC with written notice of the occurrence of one of the events described above and STRAC shall have 15 days from the date CITY delivers such notice to STRAC to provide CITY with said funds or Truck.

X. INSURANCE

- 10.1 Prior to the commencement this Agreement, STRAC shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the CITY's San Antonio Fire Department, which shall be clearly labeled "STRAC – Vehicle Lease" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The CITY will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must have the agent's signature and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the CITY. The CITY shall have no duty to perform under this Agreement until such certificate and endorsements have been received and approved by the CITY's San Antonio Fire Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.
- 10.2 The CITY reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by CITY's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will the CITY allow modification whereby City may incur increased risk.
- 10.3 STRAC's financial integrity is of interest to the CITY; therefore, subject to STRAC's right to maintain reasonable deductibles in such amounts as are approved by the CITY, STRAC shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at STRAC's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do

business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

TYPE	AMOUNTS
Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence</u>

- 10.4 STRAC agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:
- A. name CITY, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with CITY, with the exception of the workers' compensation and professional liability policies;
 - B. provide advance written notice directly to CITY of any suspension, cancellation, non-renewal, or material change in coverage, and not less than ten calendar days advance notice for nonpayment of premium;
 - C. provide for an endorsement that the "other insurance" clause shall not apply to the CITY where the CITY is an additional insured shown on the policy; and
 - D. provide for a waiver of subrogation in favor of the CITY.
- 10.5 Within 5 calendar days of a suspension, cancellation, or non-renewal of coverage, STRAC shall provide a replacement Certificate of Insurance and applicable endorsements to the CITY. CITY shall have the option to suspend STRAC's performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.
- 10.6 Nothing herein contained shall be construed as limiting in any way the extent to which STRAC may be held responsible for payments of damages to persons or property resulting from STRAC's or its subcontractors' performance of the work covered under this Agreement.
- 10.7 It is agreed that STRAC's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the CITY for liability arising out of operations under this Agreement.

- 10.8 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the CITY shall be limited to insurance coverage provided..
- 10.9 STRAC is responsible for all damage to its own equipment and/or property.

XI. INDEMNITY

- 11.1 **STRAC COVENANTS AND AGREES TO FULLY INDEMNIFY, DEFEND, AND HOLD HARMLESS, THE CITY AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS AND REPRESENTATIVES OF THE CITY, INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL OR BODILY INJURY, DEATH AND PROPERTY DAMAGE, MADE UPON THE CITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO STRAC'S ACTIVITIES UNDER THIS AGREEMENT, INCLUDING ANY ACTS OR OMISSIONS OF STRAC, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONTRACTOR OF STRAC, AND THEIR RESPECTIVE OFFICERS, AGENTS EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OF THE RIGHTS OR PERFORMANCE OF THE DUTIES UNDER THIS AGREEMENT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF CITY, ITS OFFICERS OR EMPLOYEES, IN INSTANCES WHERE SUCH NEGLIGENCE CAUSES PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE. IN THE EVENT STRAC AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**
- 11.2 **THE PROVISIONS OF THIS INDEMNITY ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. STRAC SHALL ADVISE THE CITY IN WRITING WITHIN TWENTY-FOUR HOURS OF ANY CLAIM OR DEMAND AGAINST CITY OR STRAC KNOWN TO STRAC RELATED TO OR ARISING OUT OF STRAC'S ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT STRAC'S COST. CITY SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT**

RELIEVING STRAC OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.

XII. COMPLIANCE OF LAW

- 12.1 STRAC shall provide all services required hereunder in accordance with all applicable federal, state, and local laws, rules, and regulations, including, but not limited to, the cooperative purchasing program participation set out in Section 271.102 of the Texas Local Government Code, which is deemed to satisfy any state law requirement of the CITY to seek competitive bids for the purchase of goods or services.

XIII. SEVERABILITY

- 13.1 If any provision of this Agreement is for any reason held to be unconstitutional, void, or invalid, the remaining provisions or sections contained herein shall remain in effect and the section so held shall be reformed to reflect the intent of the parties.

XIV. NOTICE

- 14.1 For the purposes of this Agreement, all official communications, including, but not limited to, notification, designation approval, consent, request, or submittal (collectively, "Notice") among the parties to this Agreement shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, or hand-delivered to the addresses set forth below.

- 14.2 Notice will be deemed given on the date it is mailed or on the date it is hand-delivered.

- 14.3 Notices mailed or delivered to STRAC shall be addressed:

STRAC
7500 US Hwy 90 W #200
San Antonio, Texas 78227

- 14.4 Notices mailed or delivered to the CITY shall be addressed:

City of San Antonio
San Antonio Fire Department
115 Auditorium Circle
P.O. Box 839966(78283)
San Antonio, Texas 78205-1183

- 14.5 Notice of changes of address by either party must be made in writing delivered to the other party's last known address within 5 business days of such change.

XV. ENTIRE AGREEMENT

15.1 The parties hereto expressly acknowledge and agree that, with regard to the subject matter of this Agreement and the transactions contemplated herein (1) there are no oral agreements between the parties hereto and (2) this Agreement, including the defined terms and all exhibits and addenda, if any, attached hereto, (a) embodies the final and complete agreement between the parties; (b) supersedes all prior and contemporaneous negotiations, offers, proposals, agreements, commitments, promises, acts, conduct, courses of dealings, representations, statements, assurances, and understandings, whether oral or written; and (c) may not be varied or contradicted by evidence of any such prior or contemporaneous matter or by evidence of any subsequent oral agreement of the parties hereto.

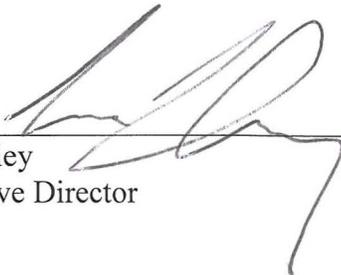
THIS AGREEMENT HAS BEEN EXECUTED ON July 1, 2010.

CITY OF SAN ANTONIO

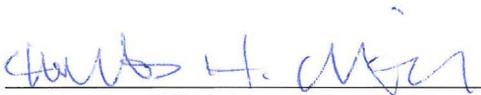
SOUTHWEST TEXAS REGIONAL
ADVISORY COUNCIL



Erik J. Walsh
Assistant City Manager



Eric Epley
Executive Director

Approved: 

City Attorney