

RESOLUTION NO. 13 OF 2018

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NANTICOKE
AUTHORIZING THE SALE OF THE 1998 MACK RESCUE TRUCK AND
AUTHORIZING THE TRANSFER OF THE PROCEEDS OF SAID SALE TO
THE NANTICOKE FIRE DEPARTMENT RELIEF ASSOCIATION IN EXCHANGE
FOR THE RELIEF ASSOCIATION PURCHASING A NEWER RESCUE TRUCK
IN AN AMOUNT NOT TO EXCEED \$150,000.00 AND LEASING SAID TRUCK TO
THE CITY OF NANTICOKE FOR A PERIOD OF NOT LESS THAN
TEN (10) YEARS FOR THE CONSIDERATION OF \$1.00**

WHEREAS, the City of Nanticoke currently owns a 1998 Mack Rescue Truck which has become antiquated and the City wishes to sell said truck; and

WHEREAS, the Nanticoke Fire Department Relief Association has agreed to purchase a newer used rescue truck in an amount not to exceed \$150,000.00 and agrees to lease said truck to the City of Nanticoke for a period not less than ten (10) years for the consideration of \$1.00 in exchange for being provided the proceeds of the 1998 Mack Rescue Truck;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Nanticoke and it is hereby resolved by the authority of the same as follows:

1. The proper City Officials are hereby authorized to sell the 1998 Mack Rescue Truck to the highest bidders.
2. The proper City Officials are hereby authorized to enter into a ten-year lease agreement, substantially in the form attached hereto as Exhibit "A", relative to a newer used rescue truck which the Nanticoke Fire Department Relief Association will be purchasing in an amount not to exceed \$150,000.00.
3. In exchange for the City receiving this lease for the consideration of \$1.00, the City of Nanticoke agrees to transfer the net proceeds of the sale of the 1998 Mack Rescue Truck to the Nanticoke Fire Department Relief Association.

RESOLVED, this 19 day of Sept. 2018, by the City Council of the City of Nanticoke, Luzerne County, Pennsylvania.

ATTEST:

CITY OF NANTICOKE

Jennifer Polito, City Clerk

William Brown, Council President

EXHIBIT “A”

**VEHICLE LEASE AGREEMENT FOR
USED RESCUE TRUCK**

THIS VEHICLE LEASE AGREEMENT (the "Agreement") is made this 19 day of Sept. 2018 between the Nanticoke Fire Department Relief Association (the "Lessor") and the City of Nanticoke (the "Lessee").

Background

WHEREAS, Lessor desires to lease a used rescue truck, Vehicle Identification Number 4S7HTZB904C047047 (the "Vehicle") to Lessee; and

WHEREAS, Lessee desires to lease such Vehicle from Lessor subject to the terms and conditions contained herein.

Agreement

NOW, THEREFORE, in consideration of the mutual promises herein contained and intending to be legally bound hereby, the Lessor and Lessee agree as follows:

1. **LEASE.** Lessor hereby agrees to lease to Lessee and Lessee hereby agrees to lease from Lessor, the Vehicle, together with all accessories, additions, repairs, replacement parts affixed thereto, now or in the future.
2. **LEASE PAYMENT.** Lessee shall pay to Lessor as lease payment for the Vehicle, one dollar (\$1.00) within thirty (30) days of the execution of this Agreement, and such payment shall be the lease payment payable by Lessee to Lessor in respect to the Vehicle.
3. **TERM.** This Agreement shall continue in full force and effect for an initial term of ten (10) years from the date hereof, or as earlier terminated as provided herein. This Agreement shall automatically renew for successive one (1) year periods unless either party gives written notice to the other at least sixty (60) days prior to the expiration of the initial or any such renewal term of its intention not to renew this Agreement.

4. **MAINTENANCE AND REPAIRS.**

A. Lessee shall keep and maintain the Vehicle in good operating condition and working order, including appropriate preventative maintenance according to the recommendations of the MANUFACTURER, such that upon return of the Vehicle to Lessor upon termination of this Agreement, the Vehicle is in the same condition as at the date hereof, normal wear and tear excepted.

B. Lessee shall store and garage the Vehicle indoors at the Nanticoke City Fire Department Headquarters, 2 E Ridge St, Nanticoke, Pennsylvania, at all times except during actual usage.

C. Lessee shall be responsible for all costs related to the Vehicle including, without limitation, all oil, lubricants or other substances required and all washing, polishing, pump testing and storage to the extent necessary to maintain the Vehicle in good condition as required herein.

5. **INSURANCE.**

A. Lessee shall procure liability insurance for the Vehicle with no less than \$1,000,000.00 combined single limit coverage for bodily injury and property damage per occurrence and otherwise in form and from an insurer satisfactory to Lessor and shall maintain such insurance during the term of this Agreement. Prior to delivery of the Vehicle to Lessee, Lessee shall provide proof of insurance required under this paragraph 5. Lessor shall be named an additional insured on all insurance policies covering the Vehicle.

B. Lessee's insurance shall be endorsed to provide that insurer will notify Lessor immediately in the event the insurance should be materially altered or cancelled, and if Lessee shall not have obtained replacement insurance as required pursuant to this paragraph 5.

Lessor may, but shall not be obligated to, secure necessary insurance protection at Lessee's expense.

6. **LICENSING / REGISTRATION.** Lessee shall pay the costs of any and all required licensing and/or registration of the Vehicle.

7. **RETURN OF VEHICLE.**

A. Lessee shall immediately return the Vehicle at the end of the initial term or any renewal thereof or upon earlier termination of this Agreement as provide herein, in the same condition as at the date hereof, normal wear and tear excepted (the "Return Condition").

B. In the event that the Vehicle is in a condition other than the Return Condition upon the termination of this Agreement, Lessee shall pay the cost to repair (including replacement) the Vehicle to a condition equal to the Return Condition.

8. **USE OF VEHICLE.**

A. Lessee shall use the Vehicle solely for the firefighting, fire suppression, rescue, emergency medical services and fire prevention services of the City of Nanticoke Fire Department. Lessee shall also be permitted to use the Vehicle to promote the goodwill of the City of Nanticoke Fire Department through the use of the Vehicle at parades, conventions, community functions and the like.

B. Lessee shall permit only those safe, authorized, licensed and experienced individuals, employed by the City of Nanticoke and the qualified by the Chief of the Nanticoke Fire Department, to drive and operate the Vehicle.

C. Lessee shall not permit the Vehicle to be used in violation of any Federal, State or municipal statute laws, ordinances, rules or regulations or contrary to the provisions of any applicable insurance policy.

9. **INDEMNIFICATION.** Lessee shall defend, indemnify and hold harmless Lessor and the officers, directors and members of Lessor, from and against any damage, loss, theft or destruction of the Vehicle, and against all losses, liabilities, damages, injuries, claims, demands, costs and expenses of every kind and nature whether or not covered by insurance, including legal fees and disbursements, arising out of and in connection with the use, condition or operation of the Vehicle during the term of this Agreement. Lessor assumes no liability or responsibility for any acts or omissions of Lessee or of Lessee's agents or employees, or any other person's property damage.

10. **DEFAULT.** If Lessee fails to perform any of the terms, conditions or covenants contained in this Agreement, or if the Vehicle is levied upon or encumbered in any way or, if at any time, in the exclusive judgment of Lessor, its rights in the Vehicle in any way shall be prejudiced or rendered insecure, Lessor shall have the right to pursue an action to take immediate possession of the Vehicle and to terminate this Agreement.

11. **MISCELLANEOUS.**

A. This Agreement constitutes the entire agreement between the parties and shall be binding on their successors and assigns.

B. No subsequent amendment, modifications or waiver of any of the provisions hereof shall be effective unless in writing and signed by the parties hereto.

C. The written waiver by Lessor or Lessee of any breach of any term, covenant or condition herein stated shall not be deemed to be a waiver of any other breach, or of a subsequent breach of the same or any other term, covenant or condition herein contained.

D. Neither party may assign its rights under this Agreement without the prior written consent of the other party.

E. This Agreement shall be interpreted under and governed by the laws of the Commonwealth of Pennsylvania. If any provision hereof or the application of any provision to any person or circumstances is held invalid or unenforceable, the remainder hereof and the application of such provision to the other persons or circumstances shall remain valid and enforceable.

F. Any notice required or permitted to be given by one party to the other party under this Agreement shall be given in writing and shall be personally delivered or sent by U.S. Certified Mail, return receipt requested, postage prepaid and properly address to the following address or at such other address as may have been furnished in writing for such purpose:

If to Lessor: _____

If to Lessee: Donna Wall, City Manager
City of Nanticoke
15 East Ridge Street
Nanticoke, PA 18634

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

LESSOR:

By: Nanticoke Fire Department Relief Association

Name: _____

Title: _____

Name: _____

Title: _____

LESSEE:

By: City of Nanticoke

Name: _____

Title: _____