

STATE OF TEXAS:

COUNTY OF FISHER:

FISHER COUNTY COMMISSIONER COURT MINUTES

May 30th, 2019

Be it remembered that on Thursday, the 30th day of May 2019 the Commissioners' Court of Fisher County, Texas, convened in Special Session in the Commissioners' Courtroom, Fisher County Courthouse, Roby Texas

Ken Holt, County Judge

Pat Thomson, County Clerk

Gordon Pippin, Commissioner #1

Dexter Elrod, Commissioner #2

Preston Martin, Commissioner #3

Kevin Stuart, Commissioner #4

And the proclamation having been made the Court was in session, the following business came on to be considered:

Order 1 – CALL MEETING TO ORDER & ESTABLISH QUORUM – All Present

Order 2- Motion Commissioner Pippin, second by Commissioner Martin to approve purchase of Senior Citizens a 2019 Ford Van from Wilson Motors for \$21,539.50(see attached). This motion having been put to a vote prevailed, the vote being unanimous.

Order 3-Motion by Commissioner Elrod, second by Commissioner Pippin to approve Amended Lease Agreement with Fisher County Red Dirt, LLC for use of Sheriff Posse Arena in Rotan (see attached). This motion having been put to vote prevailed, the vote being unanimous.

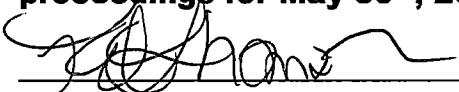
Order 4-Motion by Commissioner Pippin, second by Commissioner Martin to declare that the van purchase for Senior Citizens is an emergency budget amendment. This motion having been put to a vote prevailed, the vote being unanimous.

Order 5-Motion by Commissioner Pippin, second by Commissioner Elrod to adjourn. This motion having been put to vote prevailed, the vote being unanimous.

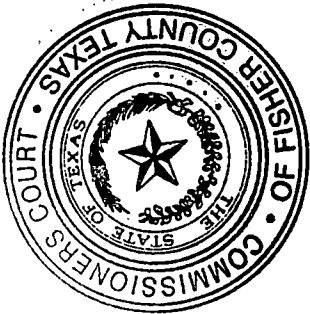
State of Texas:

County of Fisher:

I, Pat Thomson, Fisher County Clerk, attest that the foregoing is a true and accurate accounting of the Commissioner Court's authorized proceedings for May 30th, 2019



**Pat Thomson
County Clerk and Ex-Officio Member
Of Commissioners' Court, Fisher County, Texas**



NOTICE OF SPECIAL MEETING OF
COMMISSIONER COURT OF FISHER COUNTY, TEXAS

Notice is hereby given that a regular meeting of the above named Commissioner Court will be held on the 30th Day of May, 2019, 10:30 AM in the County Courthouse, Roby, Texas, at which time the following subjects will be discussed, to-wit:

New Items for Discussion or Approval

1. Senior Citizen's Van
2. Lease Agreement with Fisher County Red Dirt LLC

The Commissioner's Court reserves the option to go into closed meeting according to Ch. 551 of the Texas Government Code.

Commissioners Court of Fisher County, Texas
By County Judge Ken Holt

I, the undersigned, County Clerk, do hereby certify that the above notice of meeting of the above named Commissioner Court, is a true and correct copy of said notice, and that I posted a true and correct copy of said in the bulletin board at the courthouse door of Fisher County, Texas on 28th day of May, 2019 10:25 AM. Said notice remained so posted continuously for at least 72 hours immediately preceding the date of said meeting.



Pat Thomson, County Clerk
Fisher County, Texas



LEASE AGREEMENT

THIS LEASE is made between Fisher County, Texas, a political subdivision, hereafter called "Lessor," whose address for purposes of notice under this lease is Fisher County Judge, P.O. Box 306, Roby, Texas 79543 and may also be contacted by e-mail at ken.holt@co.fisher.tx.us and Fisher County Red Dirt, LLC, a Texas Limited Liability Company, hereafter called "Lessee," whose address for purposes of notice under this lease is 831 CR 23, Rotan, Texas 79546, and may also be contacted by e-mail at rsmallw2@yahoo.com.

The parties agree as follows:

1. **AGREEMENT TO LEASE: DESCRIPTION OF THE PROPERTY.** The Lessor leases to the Lessee, and the Lessee rents from the Lessor, the following described commercial space: SURFACE ONLY of approximately 10 acres of land described in Exhibit A attached hereto and incorporated herein.
2. **TERM OF LEASE.** The term of the lease is as follows:

The term of this lease shall be a period of two 2-week periods as follows:

- a. Two weeks beginning May 19, 2019, and ending June 2, 2019 and;
- b. Two weeks beginning August 18, 2019, and ending September 1, 2019.
- c. Lessee shall be allowed to extend both dates for one month should inclement weather interfere with leased dates of May 19, 2019 – June 2, 2019 and August 18, 2019 – September 1, 2019.

The term of this lease may not be extended or renewed, unless otherwise agreed in writing by the Parties.

3. RENTAL.

- a. Lessee shall pay to Lessor as rent at the address set forth above, or at any other address that Lessor may designate, rent of ONE DOLLAR (\$1.00) in lawful money of the United States of America.
- b. All payments due from Lessee to Lessor under the terms of this lease, shall be paid promptly on or before the commencement date to Lessor at the Office of the Fisher County Treasurer or at any other place Lessor designates in writing. If payment is not received by Lessor by the commencement date, this lease shall be null and void.

4. SUBORDINATION. This lease and all rights of Lessee under it are and shall be subject to and subordinate to the rights of any mortgage holder now or hereafter having a security interest in the leased premises or any other encumbrances Lessor desires to place on the property.

5. LESSEE'S COVENANTS. Lessee further covenants and agrees as follows:

- a. To pay the rent when it comes due; to use the premises in a careful and proper manner for the express purpose of operating vehicular mud bog competition; to commit or permit no waste or damages to the premises; to conduct or permit no business or act that is a nuisance or may be in violation of any federal, state, or local law or ordinance; to surrender the premises on expiration or termination of this lease in clean condition and good repair, normal wear and tear excepted, provided, however, that all alterations,

additions, and improvements permanently attached and made by Lessee, its successors, sublessees, and assigns (excepting movable furniture, equipment, supplies, inventory, and special air-conditioning equipment installed by Lessee) shall become and remain the property of Lessor on the termination of Lessee's occupancy of the premises.

- b. To pay all costs of fuel, electricity, garbage, telephone, and all other utilities used on the premises. All those amount shall be paid within 10 days of becoming due. At its option, Lessor may pay any such utilities and demand reimbursement from Lessee, which reimbursement shall be paid to Lessor within 10 days of demand by Lessor.
- c. To maintain at all times during the lease term, at Lessee's sole expense, a comprehensive public liability insurance policy protecting Lessor against all claims or demands that may arise or be claimed on account of Lessee's use of the premises, in an amount of at least \$2,000,000 for injuries to persons in one accident, \$1,000,000 for injuries to any one person, and \$250,000 for damages to property. The insurance should cover all operations, events and uses for which the Property will be utilized, as well as the provisions of this Agreement. The insurance shall be written by a company or companies acceptable to Lessor, authorized to engage in the business of general liability insurance in the state of Texas. Lessee shall deliver to Lessor annual certificates demonstrating that insurance is paid up and copies of the insurance policies issued by the insurance companies. Lessee further agrees to maintain at all times during the lease term, at Lessee's sole expense, broad-coverage fire and casualty insurance on the

property and premises (including inventory) and to provide Lessor with a copy of the policy and a certificate issued by the insurance company demonstrating that insurance is paid up. Lessee shall include Lessor as additional insureds with respect to any policy of insurance required by this Agreement, as to the full limits of liability and coverage and shall include language providing that such insurance applies separately to each insured against whom claim is made or suit is brought and coverage to Lessor is no less broad than the coverage afforded to the named insured under the policies. Lessee shall obtain a certified statement by each insurance carrier containing a clause providing that the insurance carrier will give Lessor 30 days' written notice before any cancellation shall be effective. The insurance policies shall be provided by Lessee and shall be for the term of this Agreement. If Lessee fails to furnish policies or certificates showing policies to be paid in full as provided in the lease, Lessor, at Lessors' option, may obtain the insurance, and the premiums on that insurance will be deemed additional rental to be paid by Lessee to Lessor on demand. Proof of such insurance is required to be provided to Lessor prior to date Lessee takes possession of the premises and prior to the effective date of this agreement. In the alternative, Lessor may declare Lessee in material breach of this Agreement and terminate this Agreement, at Lessor's option.

d. To prohibit and refrain from engaging or in allowing any use of leased premises that will increase Lessor's premiums for insurance on the building without the express written consent of Lessor.

e. **TO THE EXTENT PERMITTED BY LAW, LESSEE SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS LESSOR, ITS AGENTS, EMPLOYEES, OFFICERS, DIRECTORS, AND SUBSIDIARIES AND THE FISHER COUNTY CHAMBER OF COMMERCE AND AGRICULTURE, ITS AGENTS, EMPLOYEES, OFFICERS, DIRECTORS, AND SUBSIDIARIES (THE "INDEMNIFIED PARTIES") FROM AND AGAINST ANY LOSSES, LIABILITIES, COSTS, EXPENSES, SUITS, ACTIONS, CLAIMS, CAUSES OF ACTION AND ALL OTHER OBLIGATIONS AND PROCEEDINGS WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ALL JUDGMENTS RENDERED AGAINST AND ALL FINES AND PENALTIES IMPOSED UPON LESSOR OR ANY OF THE INDEMNIFIED PARTIES, AND ANY REASONABLE ATTORNEY'S FEES OR OTHER COSTS OF DEFENSE ARISING OUT OF INJURIES OR DAMAGES TO ANY PERSONS OR PROPERTY, INCLUDING BUT NOT LIMITED TO DEATH OR DAMAGE TO REAL OR PERSONAL PROPERTY. THIS INDEMNITY SHALL INCLUDE ANY CLAIMS AGAINST INDEMNIFIED PARTIES BY LESSEE'S EMPLOYEES, AGENTS, OR SERVANTS. IF THIS INDEMNITY PROVISION ARE CONTRARY TO THE LAW FOUND TO GOVERN THIS AGREEMENT, THEN THE INDEMNITY OBLIGATIONS APPLICABLE HEREUNDER**

SHALL BE APPLIED TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW.

- f. In case of damage to the leased premises, to remedy said damage with repairs of at least the same kind, size, and quality, as quickly as possible at Lessee's sole expense
 - g. At Lessee's sole expense, to perform all maintenance and repair required to keep all equipment serving the leased premises in good operating condition during the term of this lease and to prevent the premises from becoming overgrown or unsightly.
 - h. Lessee is permitted to repair the announcer's booth on the Property, which repairs may be overseen and supervised by Lessor.
 - i. To permit Lessor to enter, inspect, and make such repairs to the leased property as Lessor may reasonably desire, at all reasonable times, and to permit Lessor, if Lessor so elects, to put on the leased premises a notice that Lessee may not remove stating that the premises are for rent one month preceding the expiration of this lease.
 - j. To refrain from placing, using or allowing to be placed or used any motorized vehicles (including, but not limited to, All Terrain Vehicles) on the Pavilion slab of the premises.
6. LESSOR'S COVENANTS. Lessor covenants and agrees as follows:
- a. Subject to the terms of this Agreement, to warrant and defend Lessee in the enjoyment and peaceful possession of the premises during the aforesaid term.

b. Subject to the terms of this Agreement, if the premises are destroyed or so damaged by fire, casualty, or other disaster that they become untenable, Lessor will have the option, at Lessor's sole discretion, to render the premises tenantable by repairs within 90 days from the date of damage with reasonable additional time, if necessary, for Lessor to adjust the loss with insurance companies insuring the premises, or for any other delay occasioned by conditions beyond the control of Lessor. If the premises are not rendered tenantable within that time, either party will have the right to terminate this lease by written notice to the other. In the event of such termination, the rent shall be paid only to the date of the damage. If the lease is not terminated, rent nevertheless shall be abated during the period of time from the date of damage to the date of physical occupancy by Lessee or date of complete restoration, whichever occurs first. In no event shall any such event extend the term of this Agreement.

7. DEFAULT IN PAYMENT OF RENT. If any rent required by this lease is not paid when due, Lessor will have the option to:
- a. Immediately terminate this lease, resume possession of the property, and recover immediately from Lessee the difference between the rent specified in the lease and the fair rental value of the property for the remainder of the term, reduced to present worth; or
 - b. Resume possession and re-lease or rent the property for the remainder of the term for the account of Lessee and recover from Lessee at the end of the term or at the time each payment of rent comes due under this lease, whichever

Lessor may choose, the difference between the rent specified in the lease and the rent received on the re-leasing or renting.

8. **DEFAULT IN PROVISION OF INSURANCE:** If insurance coverage and provision of proof of insurance are not provided as required by this Agreement, Lessor will have the right to immediately terminate this lease and resume possession of the premises.
9. **INSOLVENCY, BANKRUPTCY, ETC., OF LESSEE.** If Lessee is declared insolvent or adjudicated bankrupt; if Lessee makes an assignment for the benefit of creditors; if Lessee's leasehold interest is sold under execution or by a trustee in bankruptcy; or if a receiver is appointed for Lessee, Lessor, without prejudice to its rights hereunder and at its option, may terminate this lease and retake possession of the premises immediately and without notice to Lessee or any assignee, transferee, trustee, or any other person or persons, using force if necessary.
10. **LESSOR TO HAVE LIEN.** Lessor will have a lien against all goods, equipment, furniture, and other personal property of Lessee brought, stored, or kept on the leased premises during the lease term, in the aggregate amount of all rent, damages, and other sums that may at any time be owned by Lessee to Lessor under the lease. In the event of any default by Lessee, Lessor may foreclose the lien in the same manner that a mortgage would be foreclosed and, in that event, Lessee shall be obligated for all court costs and reasonable attorneys' fees.
11. **ELECTION BY LESSOR NOT EXCLUSIVE.** The exercise by Lessor of any right or remedy to collect rent or enforce its rights under this lease will not be a waiver or preclude the exercise of any other right or remedy afforded Lessor by this lease

agreement or by statute or law. The failure of Lessor in one or more instances to insist on strict performance or observations of one or more of the covenants or conditions of this lease or to exercise any remedy, privilege, or option conferred by this lease on or reserved to Lessor shall not operate or be construed as a relinquishment or future waiver of the covenant or condition or the right to enforce it or to exercise that remedy, privilege, or option; that right shall continue in full force and effect. The receipt by Lessor of rent or any other payment or part of payment required to be made by the lessee shall not act to waive or any other additional rent or payment then due. Even with the knowledge of the breach of any covenant or condition of this lease, receipt will not operate as or be deemed to be a waiver of this breach, and no waiver by Lessor of any of the provisions of this lease, or any of Lessor's rights, remedies, privileges, or options under this lease, will be deemed to have been made unless made by Lessor in writing.

No surrender of the premises for the remainder of the term of this lease will be valid unless accepted by Lessor in writing. Lessee will not assign or sublet this lease without Lessor's prior written consent. No assignment or sublease will relieve the assignor or sublessor of an obligation under this lease. Each assignee or sublessee, by assuming such status, will become obligated to perform every agreement of this lease to be performed by Lessee.

12. ADDRESSES FOR PAYMENTS AND NOTICES. Lessee will pay to the County Treasurer of Fisher County, Texas the sum of one dollar (\$1.00) immediately and secure a receipt proving the rental fee has been recorded.

13. CAPTIONS. The captions and paragraphs or letters appearing in this lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of the sections or articles of this lease or affect this lease in any way.
14. VENUE, JURISDICTION, AND TEXAS LAW. The law of the State of Texas (without regard for conflicts of law principles that would apply the law of another state) will govern this Agreement, its validity, its interpretation and performance, and remedies for contract breach or any other claims related to or arising out of this Agreement. Any litigation arising out of or pertaining to this Agreement shall only be filed and prosecuted in the State District Court of Fisher County, Texas which shall be the exclusive venue for any such litigation, and each Party waives any defense of forum non conveniens and any right to remove said litigation to federal court.
15. ENTIRE AGREEMENT. This lease sets forth all the promises, agreements, conditions, and understandings between Lessor and Lessee relative to the leased premises. There are no other promises, agreements, conditions, or understandings, either oral or written, between them. No subsequent alteration, amendment, change, or addition to this lease will be binding on Lessor or Lessee unless in writing and signed by them and made a part of this lease by direct reference. The parties acknowledge that they have the legal authority to execute this Agreement and bind the parties thereto. The parties acknowledge that both parties have had the opportunity to negotiate this Agreement with the assistance of counsel, and this Agreement shall not be construed against either party as the drafter of this Agreement.
16. TERMS INCLUSIVE. As used herein, the terms "Lessor" and "Lessee" include the plural whenever the context requires or admits.

17. REPRESENTATIVES BOUND HEREBY. The terms of this lease will be binding on the respective successors, representatives, and assigns of the parties and shall inure to the benefit of the parties hereto and upon their respective heirs, executors, administrators, assigns, sub-lessees, and successors in interest.
18. LIMITATION OF WARRANTIES. **THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE. THE PROPERTY AND PREMISES ARE BEING PROVIDED AS IS.**
19. MINERAL INTERESTS. This lease is subordinate to any present or future oil, gas, or other mineral exploration agreements and leases. Lessor will not be liable to Lessee for any damages for actions attributable to those agreement, and Lessor will receive all consideration paid therefore.
20. LIMITATION OF RIGHTS. Lessor and Lessee agree that Lessee by this lease is not entitled to any interest in any mineral, wind, or water rights associated with the property.
21. SAVINGS CLAUSE. If any section, subsection, sentence, or clause of this Agreement shall be adjudged illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect the legality, validity, or enforceability of the Agreement as a whole or of any section, subsection, sentence, or clause hereof not so adjudged and this Agreement shall be reformed to exclude the illegal, invalid, or unenforceable provision.

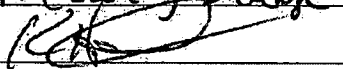
IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Lease Agreement

on 30 day of May, 2019.

LESSOR:

Fisher County, Texas

FISHER County Judge

By: 

Ken Holt, County Judge

LESSEE:

Fisher County Red Dirt, LLC

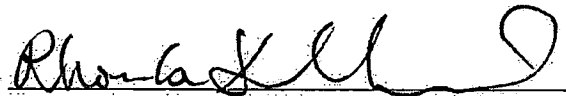
By: 

EXHIBIT A

Ten acres of land, more or less, off the North side of a 15 acre tract out of the Northeast One-Fourth (NE/4) of Section No. 111, Block No. 2, H & TC Ty. Co. Survey and out of Blocks Numbered 87, 114, 115, 137 and 138 of the Original Town of Rotan, Fisher County, Texas being the same land described in General Warranty Deed dated May 12, 2008, from the Fisher County Sheriff's Posse to Fisher County, Texas, recorded in Volume 810, Page 197, of the Official Public Records, Fisher County, Texas.