



**SEAGOVILLE, TEXAS
CITY COUNCIL MEETING AGENDA
THURSDAY, SEPTEMBER 12, 2019**

**City Council Chambers, City Hall
702 N. Hwy 175
Seagoville, Texas 75159**

WORK SESSION – 6:30 P.M.

Call to Order

- A. Discuss regular session agenda items**
- B. Discuss riprap/boulders for pond at C.O. Bruce Park**

Adjourn

REGULAR SESSION - 7:00 P.M.

ROUTINE ANNOUNCEMENTS, RECOGNITIONS, and PROCLAMATIONS

Call to Order

Invocation

Pledge of Allegiance

DISD – P-Tech present award to administration

Mayor's Report

Citizens Public Comment Period- *This portion of the meeting is to allow each speaker up to six (6) minutes to address the council on items not posted on the current agenda. Council may not discuss these items but may respond with factual data or policy information, or place the item on a future agenda. Citizens wishing to speak on posted agenda items will be called upon at that time. Anyone wishing to speak shall submit a Speaker Request Form to the City Secretary.*

CONSENT AGENDA- The Consent Agenda contains items which are routine in nature and will be acted upon in one motion.

- 1. Consider approving City Council Meeting minutes for August 26, 2019 (City Secretary)**
- 2. Approval of City of Seagoville's Financial Policies for Fiscal Year 2019-2020 (Finance Director)**

REGULAR AGENDA-

- 3. First Reading – Consider approval of Resolution No. 46-R-2019 approving an Economic Development Grant from the Seagoville Economic Development Corporation to JWWIV, LLC in the amount of \$430,000 to offset the purchase price for the sale of the property owned by the Seagoville Economic Development Corporation and located at 2108 N. Highway 175 and 2110 N. Highway 175, Seagoville, Dallas County, Texas (City Manager)**
- 4. Discuss and consider approval of a Resolution amending the City of Seagoville’s Investment Policy for Fiscal Year 2019-2020 (Finance Director)**
- 5. Discuss and consider approval of a Resolution of the City Council of the City of Seagoville, Texas, approving the adopted budget for the Seagoville Economic Development Corporation for the fiscal year October 1, 2019 through September 30, 2020; providing that expenditures for said fiscal year shall be made in accordance with that budget; and declaring an effective date (Finance Director)**
- 6. Discuss and consider approval of three (3) Hotel Occupancy Tax Grant Agreements with Seagoville Chamber of Commerce for Mayfest (\$12,500.00); Seagofest (\$12,500.00); and 4th of July Celebration (\$5,000.00) totaling Thirty Thousand (\$30,000.00) Dollars for the fiscal year October 1, 2019 through September 30, 2020 (Finance Director)**
- 7. Discuss and consider approval of an Ordinance of the City of Seagoville, Texas, approving and adopting a budget for the City for the fiscal year October 1, 2019 through September 30, 2020 and providing that expenditures for said fiscal year shall be made in accordance with said budget; providing a repealing clause; providing a severability clause, and declaring an effective date (Finance Director)**
- 8. Discuss and consider approval of an Ordinance of the City of Seagoville, Texas, adopting and levying ad valorem taxes for the fiscal year 2020 at a rate of \$0.788800 per one hundred dollars (\$100.00) assessed valuation on all taxable property within the corporate limits of the City as of January 1, 2019, to provide revenues for current expenses and interest and sinking fund requirements for all outstanding debt of the City; approving tax rolls; providing for due and delinquent dates together with penalties and interest; and declaring an effective date (Finance Director)**
- 9. Discuss and consider approval of a Resolution ratifying the budget for Fiscal Year 2019-2020 that will require raising more revenues by 4.73% or \$241,150 from property taxes than the previous year and of that amount, \$63,870 is tax revenue to be raised from new property added to the tax roll this year (Finance Director)**
- 10. Discuss and consider approval of an Ordinance approving a Water & Sewer Fund budget amendment for the fiscal year ended September 30, 2019 (Finance Director)**

11. Presentation of City of Seagoville’s Third Quarter Financial Report for Fiscal Year 2019 (Finance Director)

12. Discuss and consider an Ordinance of the City Council of the City of Seagoville, Texas, approving a negotiated settlement between the Atmos Cities Steering Committee (“ACSC”) and Atmos Energy Corp., Mid-Tex Division regarding the company’s 2019 rate review mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attached Exhibit establishing a benchmark for pensions and retiree medical benefits; approving an attached Exhibit regarding amortization of regulatory liability; requiring the company to reimburse ACSC’s reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC’s legal counsel (Director of Administrative Services)

13. Discuss and consider approving a Resolution of the City of Seagoville, Texas authorizing the City Manager to approve an Interlocal Cooperation Contract between Texas Department of Public Safety (“TXDPS”), an agency of the State of Texas, and the Municipal Court serving the City to implement the provisions of Chapter 706 of the Texas Transportation Code; providing a severability clause; providing a repealing clause; and providing an effective date (Municipal Court Administrator)

14. Second Reading – Consider approval of Resolution No. 46-R-2019 approving an Economic Development Grant from the Seagoville Economic Development Corporation to JWWIV, LLC in the amount of \$430,000 to offset the purchase price for the sale of the property owned by the Seagoville Economic Development Corporation and located at 2108 N. Highway 175 and 2110 N. Highway 175, Seagoville, Dallas County, Texas (City Manager)

15. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas approving an agreement with Halff Associates, Inc. for the purpose of providing surveying and engineering services for the Ard road pump station improvements phase 2; authorizing the City Manager to sign; and providing an effective date (Director of Water Utilities)

16. Receive Councilmember Reports/Items of Community Interest - as authorized by Section 551.0415 of the Texas Government Code.

17. Future Agenda Items – Council to provide direction to staff regarding future agenda items. These items will not be discussed and no action will be taken at this meeting.

Adjourn

Posted Monday, September 9, 2019 by 5:00 P.M.


Kandi Jackson, City Secretary



As authorized by Section 551.071(2) of the Texas Government Code, this meeting may be convened into closed executive session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item listed herein.

The City of Seagoville does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs or activities. If you have a request for services that will make this program accessible to you, please contact the City of Seagoville at least 72 hours in advance at (972) 287-6819. (TDD access 1-800-RELAY-TX)

DATES TO REMEMBER

- **Monday, September 16, 2019 Regular City Council Meeting**
- **Monday, October 7, 2019 Regular City Council Meeting**
- **Monday, October 21, 2019 Regular City Council Meeting**

Consent Session Agenda Item: 1

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Consider approving City Council Meeting minutes for August 26, 2019.

BACKGROUND OF ISSUE:

Approve City Council Meeting minutes for August 26, 2019.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends approval.

EXHIBITS:

August 26, 2019 Work Session Minutes
August 26, 2019 Regular Meeting Minutes



**MINUTES OF CITY COUNCIL
WORK SESSION
AUGUST 26, 2019**

The Work Session of the City Council of the City of Seagoville, Texas was called to order at 6:30 p.m. on Monday, August 26, 2019, at City Hall, 702 N. Hwy 175, Seagoville, Texas with a quorum present, to wit:

Dennis Childress	Mayor
Jon Epps	Mayor Pro Tem
Jose Hernandez	Councilmember
Rick Howard	Councilmember
Harold Magill	Councilmember
Mike Fruin	Councilmember

The following staff members were also present: City Manager Patrick Stallings, Police Chief Ray Calverley, City Attorney Nicole Corr, Finance Director Patrick Harvey, Library Director Liz Gant, Water Utilities Director Chris Ryan, Fire Chief Todd Gilcrease Director of Administrative Services Cindy Brown, and City Secretary Kandi Jackson.

A. Presentation of Financial Analysis of Sanitation Rates, Financial Status of the Drainage Fund, FY 2020 Budget as proposed

Finance Director Harvey presented the Financial Status of the Drainage Fund, FY 2020 Budget as proposed.

B. Storm Damage Cleanup Presentation

City Manager Stallings stated Republic Services came in under budget for the June storm damage cleanup. He invited Robyn Mota to provide an update to Council.

Manager Municipal Services, Mota presented the storm damage cleanup process and billing requirements performed by Republic Services.

Adjourned at 6:45 p.m.

APPROVED:

Mayor Dennis K. Childress

ATTEST:

Kandi Jackson, City Secretary



**MINUTES OF CITY COUNCIL
SPECIAL CALLED - REGULAR SESSION
AUGUST 26, 2019**

The Regular Session of the City Council of the City of Seagoville, Texas was called to order at 7:00 p.m. on Monday, August 26, 2019, at City Hall, 702 N. Hwy 175, Seagoville, Texas with a quorum present, to wit:

Dennis Childress	Mayor
Jon Epps	Mayor Pro Tem
Jose Hernandez	Councilmember
Rick Howard	Councilmember
Harold Magill	Councilmember
Mike Fruin	Councilmember

The following staff members were also present: City Manager Patrick Stallings, Police Chief Ray Calverley, Library Director Liz Gant, City Attorney Nicole Corr, Finance Director Patrick Harvey, Water Utilities Director Chris Ryan, Fire Chief Todd Gilcrease, Director of Administrative Services Cindy Brown, and City Secretary Kandi Jackson.

Invocation – *Invocation was led by Councilmember Magill.*

Pledge of Allegiance – *Pledge of Allegiance was led by Mayor Childress.*

Proclamation – Little Britches Preparatory School – *Mayor Childress presented a Proclamation to Ms. Davis with Little Britches Preparatory School.*

Mayor’s Report – *Mayor Childress stated the adoption of the tax rate will be held at the Council Meeting on Thursday, September 12, 2019.*

Citizens Public Comment Period- *This portion of the meeting is to allow each speaker up to six (6) minutes to address the council on items not posted on the current agenda. Council may not discuss these items but may respond with factual data or policy information, or place the item on a future agenda. Citizens wishing to speak on posted agenda items will be called upon at that time. Anyone wishing to speak shall submit a Speaker Request Form to the City Secretary.*

None.

CONSENT AGENDA- The Consent Agenda contains items which are routine in nature and will be acted upon in one motion.

1. Consider approving City Council Meeting minutes for August 19, 2019 (City Secretary)

Motion to approve City Council Meeting minutes for August 19, 2019 – Howard, seconded by Magill; motion passed with all ayes. 5/0

REGULAR AGENDA-

2. Conduct a second public hearing to receive citizen input on the proposed tax rate of \$0.78880 per \$100 valuation, which exceeds the effective tax rate calculated by the Dallas County Tax Assessor/Collector of \$0.716359 or 10.11%. This rate will raise more revenue from property taxes than last year's budget by an amount of \$589.460 (Finance Director)

Mayor Childress opened the public hearing at 7:04 p.m.

No one spoke for or against.

Mayor Childress closed the public hearing at 7:05 p.m.

3. Conduct a second public hearing to receive citizen input on the proposed FY 2019-2020 budget for all City funds. This budget will raise more property taxes than last year's budget by \$241,150 or 4.73%, and of that amount, \$63,870 is tax revenue to be raised from new property added to the tax roll this year (Finance Director)

Mayor Childress opened the public hearing at 7:05 p.m.

No one spoke for or against.

Mayor Childress closed the public hearing at 7:05 p.m.

4. Receive a presentation from the Texas Historical Commission (Library Director)

Library Director Gant introduced Lila Rakoczy with the Texas Historical Commission.

Military Sites and Oral History Program Coordinator Rakoczy presented Seagoville's role in the Enemy Alien Internment in Texas during World War II.

5. Receive recommendation from Halff Associates, Inc. concerning design/build contractor for Fire Station #2 (Halff Associates, Inc.)

Halff Associates, Inc., Project Manager LaFon made a recommendation to consider awarding the bid for design/build of Fire Station #2 to Grossman Design/Build.

6. Receive Councilmember Reports/Items of Community Interest - as authorized by Section 551.0415 of the Texas Government Code.

Councilmember Fruin stated he attended the Movie in the Park on Saturday and it was very successful.

7. Future Agenda Items – Council to provide direction to staff regarding future agenda items. These items will not be discussed and no action will be taken at this meeting.

None.

Adjourned at 7:16 p.m.

APPROVED:

Mayor Dennis K. Childress

ATTEST:

Kandi Jackson, City Secretary

Consent Session Agenda Item: 2

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Approval of City of Seagoville's Financial Policies for Fiscal Year 2019-2020.

BACKGROUND OF ISSUE:

The Financial Policies constitute the framework upon which the City conducts its financial operations and builds the annual budget. The attached policies are consistent with those enacted in prior years and include no current revisions. The purpose of the City's financial policies is to provide guidelines to enable City staff to achieve a long-term stable financial condition while conducting daily operations and providing services to the community. The scope of the policies cover accounting, auditing, financial reporting, internal controls, fiscal, financial condition and reserves, revenue management, expenditure control and capital financing/debt management. As an integral part of the annual budget and commencement of the fiscal year, Council is asked to reaffirm its commitment to the City's financial policies.

FINANCIAL IMPACT:

None

RECOMMENDATION:

None

EXHIBITS:

Financial Policies

City of Seagoville Financial Policies

Purpose Statement

The policies set forth below provide guidelines to enable the City staff to achieve a long-term, stable financial condition while conducting daily operations and providing services to the community. The City Manager and senior management follow these policies while developing the annual operating budget. The scope of these policies cover accounting, auditing, financial reporting, internal controls, fiscal, financial condition and reserve, revenue management, expenditure control and capital financing/debt management.

The long-range policies regarding financial management are as follows:

1. Exercise a discipline which allows the City to retain a sound financial condition.
2. Give recognition to the community's needs and ability to pay
3. Strive to retain the best possible rating on bonds

Accounting, Auditing and Financial Reporting

Accounting – The City's Director of Finance is responsible for establishing the chart of accounts and for properly recording financial transactions.

External Auditing – The City will be audited annually by outside independent accountants (auditors). The auditors must be a CPA firm and must demonstrate experience in the field of local government auditing. They must conduct the City's audit in accordance with generally accepted auditing standards and be knowledgeable in the Government Finance Officers Association (GFOA) Certificate of Achievement Program. The City will follow a five year rotation of outside independent auditors. The audited financial statements should be prepared within 180 days after the close of the fiscal year.

External Financial Reporting – The City will prepare and publish a Comprehensive Annual Financial Report (CAFR). The CAFR will be prepared in accordance with generally accepted accounting principles and will be presented annually to the Government Finance Officers Association (GFOA) for evaluation and awarding of the Certificate of Achievement for Excellence in Financial Reporting.

Interim Reporting – The Finance Department will prepare and issue timely reports on the City's fiscal status to the Mayor/Council and staff. This includes the following:

1. Monthly budget status reports to the City Manager and all Department Heads
2. Mid Year status report and fiscal year end projection of major funds (General and Water & Sewer funds)
3. Quarterly financial reports to Mayor and Council

Internal Controls

Written Procedures – The Director of Finance is responsible for developing written guidelines on accounting, cash handling and other financial matters which will be approved by the City Manager. The Finance Department will assist Department Directors, as needed, in tailoring such guidelines to fit each department's requirements.

Department Directors' Responsibility – Each Department Director is responsible to the City Manager to ensure that proper internal controls are followed throughout his or her department, that all guidelines on accounting and internal controls are implemented and that all independent auditor control recommendations are addressed.

Fiscal

Balanced Budget – Current available unrestricted operating revenue shall be sufficient to support current operating expenditures. Temporary shortages, or operating deficits, can and do occur, but they are not tolerated as extended trends. Measures are developed to provide additional revenue and/or reduced expenditures to eliminate operating deficits.

Long Range Planning – The budget process will be coordinated so as to identify major policy issues for City Council consideration in advance of the budget approval date so that proper decision analysis can be made.

Fixed Assets – Such assets will be reasonably safeguarded, properly accounted for and prudently used. The fixed asset inventory will be updated regularly.

Cash Management – The City's cash flow will be managed to maximize the investable cash in accordance with the City's investment policy.

Financial Condition and Reserve

Reserve Accounts – The General Fund unreserved undesignated fund balance should be adequate to handle unexpected decreases in revenues and a reasonable level for extraordinary unbudgeted expenditures. The General Fund balance policy should also be flexible enough to allow the City to weather economic downturns without raising taxes and/or reducing vital services. The General Fund is required to maintain a minimum 60 day reserve of budgeted expenditures.

City Enterprise Funds will compensate the General Fund for the general and administrative services thereby provided such as management, finance and personnel. The City will adopt annual utility rates which will generate revenues sufficient to cover operating expenses and meet the legal requirements of bond covenants. Rates will also fund adequate capital replacement of water distribution and sewerage collection systems. The Water and Sewer Fund is required to maintain a minimum of 60 days of budgeted expenses. These reserves are needed to protect against the possibility of temporary revenue shortfalls or unpredicted one-time expenditures.

Should either the General Fund reserve or the Water and Sewer Fund reserve fall below the minimum reserve requirement, revenue raising measures or expenditure reductions will be implemented to return the General Fund reserve and the Water and Sewer Fund reserve to the minimum level no later than the end of the following fiscal year.

Reserves (fund balance) will be used only for emergencies or to reduce balances in excess of current guidelines (60 days for the General Fund and 60 days for the Water and Sewer Fund), as long as they are spent for non-recurring items.

Revenue Management

Revenue Diversification – A diversified and stable revenue system will be maintained to shelter the City from short run fluctuations in any one revenue source.

Fees and Charges – The City will maximize utilization of user charges in lieu of property taxes for services that can be individually identified and where the costs are directly related to the level of service. There will be periodic review of fees and charges to ensure that fees provide adequate coverage of costs of service.

Use of One-time Revenues – One-time revenues will be used only for one-time expenditures. The City will avoid using temporary revenues to fund mainstream services.

Use of Unpredictable Revenue – The City will try to understand its revenue sources, and enact consistent collection policies so that assurances can be provided that the revenue base will materialize according to budgets and plans. Use of unpredictable revenue will depend upon management’s determination whether the revenue is considered a one time revenue or will recur annually.

Sufficiency – The benefits of revenue shall exceed the cost of producing the revenue.

Grants – Any potential grants shall be examined for matching requirements so that the source and availability of these funds may be determined before the grant application is made.

Utility Rates – The City shall review and adopt utility rates that shall generate revenues required to fully cover operating expenditures, meet the legal restrictions of all applicable bond covenants, and provide for an adequate level of working capital needs.

Expenditure Control

Appropriations – The City Manager’s level of budgetary control is at the fund level for all funds. Modifications within a respective fund’s operating categories (materials, supplies and services) and/or modifications within the personnel and capital categories may be made with the approval of the City Manager. When a budget amendment among funds is necessary, it must be approved by the City Council.

Purchasing – All purchases shall be in accordance with both the City’s purchasing policy and state law.

Prompt Payment – All invoices will be paid upon 30 days of receipt in accordance with state law. Procedures will be used to take advantage of all cost effective purchase discounts. Payments will be processed to maximize the City’s investable cash.

Department Directors’ Responsibility - Each Department Director is held accountable for meeting program objectives and monitoring the use of budget funds expended to ensure compliance with the annual appropriated budget approved by the City Council.

Capital Financing and Debt Management

Debt Capacity, Issuance and Management – Long term debt will not be used for operating purposes. Capital projects financed through bond proceeds shall be financed for a period not to exceed the useful life of the project. When appropriate, self-supporting revenues will pay debt service in lieu of property taxes. The Debt Service current fiscal year debt requirement shall not exceed debt service property tax, self-supporting revenue and balances carried forward from the prior year. Unspent capital project proceeds are transferred to debt service at the completion of the capital project.

The Finance Department will monitor all City debt annually with the preparation of the annual budget. The Finance Department will diligently monitor the City's compliance to its bond covenants. The Finance Department will maintain ongoing communications with bond rating agencies about the City's financial condition and follow a policy of full disclosure on every financial report. The City has and will continue to retain a Financial Advisor in connection with any debt issuance.

Regular Session Agenda Item: 3

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

First Reading – Consider approval of Resolution No. 46-R-2019 approving an Economic Development Grant from the Seagoville Economic Development Corporation to JWWIV, LLC in the amount of \$430,000 to offset the purchase price for the sale of the property owned by the Seagoville Economic Development Corporation and located at 2108 N. Highway 175 and 2110 N. Highway 175, Seagoville, Dallas County, Texas.

BACKGROUND OF ISSUE:

The SEDC owns the property located at 2108 and 2110 N. Highway 175, Seagoville, Dallas County, Texas. John Williams of JWWIV, LLC ("Company") desires to purchase and develop the property by constructing retail and commercial facilities to include tractor, trailer, mower and equipment sales and/or rentals. Since the development of the properties will provide business expansion and new business enterprise as well as result in the creation of new jobs in the City, the SEDC desires for the Company to construct the proposed facilities. The Company has advised that a contributing factor that would induce the construction on the properties would be an agreement for SEDC to provide an economic development grant to reduce the cost of the purchase of the property. The SEDC has held a public hearing on the economic development grant to Company in the amount of \$430,000.00 to offset the purchase price of the SEDC owned property located at 2108 and 2110 N. Highway 175, Seagoville, Dallas County, Texas.

Mr. Williams' is an established business owner here in the City of Seagoville. Based on Mr. Williams' professionalism, experience and success, staff recommends approval of this Grant.

FINANCIAL IMPACT:

Economic Development Incentive Grant in the amount of \$430,000.00

EXHIBITS:

Economic Development Incentive Agreement with accompanying form Restriction Agreement and Purchase and Sale Agreement

RESOLUTION NO. 46-R-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, APPROVING THE ECONOMIC DEVELOPMENT PROJECT BETWEEN THE SEAGOVILLE ECONOMIC DEVELOPMENT CORPORATION AND JWWIV, LLC AS REFLECTED IN THE TERMS AND CONDITIONS OF AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT, RESTRICTION AGREEMENT, AND REAL ESTATE PURCHASE AGREEMENT BETWEEN THE PARTIES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Seagoville Economic Development Corporation (“SEDC”) is authorized by the Development Corporation Act, Chapters 501-505 of the Texas Local Government Code (“Act”), to provide funding for projects which will result in the creation of new jobs and will promote new and expanding business enterprises within the City; and

WHEREAS, the SEDC has negotiated and intends to undertake a project which will result in the creation of new jobs and which will promote new and expanded business enterprises within the City with JWWIV, LLC under the terms and conditions set forth in an Economic Development Incentive Agreement attached hereto as Exhibit “A,” a Restriction Agreement attached hereto as Exhibit “B”, and a Real Estate Purchase Agreement attached hereto as Exhibit “C,” (the “Project”) and

WHEREAS, section 505.158 mandates that the SEDC may not undertake a project that requires an expenditure of more than \$10,000 until the governing body of the corporation’s authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings; and

WHEREAS, the City Council has determined that the Project contemplated by SEDC and JWWIV, LLC under the terms and conditions set forth in the Incentive Agreement, Restriction Agreement, and Real Estate Purchase Agreement will create new jobs and will promote new and expanded business enterprises within the City of Seagoville; and

WHEREAS, the City Council finds that the expenditure of funds pursuant by SEDC in undertaking the Project is authorized by the Act and that the Project should be approved and authorized; and

WHEREAS, the City Council has conducted two (2) readings of this resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:

Section 1. That the City Council hereby approves and authorizes the Project between the Seagoville Economic Development Corporation and JWWIV, LLC under the terms and conditions set forth in an Economic Development Incentive Agreement attached hereto as Exhibit “A,” a Restriction Agreement attached hereto as Exhibit “B”, and a Real Estate Purchase Agreement attached hereto as Exhibit “C.”

Section 2. That the City Council authorizes the SEDC to enter into any additional agreements necessary to undertake the Project in accordance with the terms and conditions set

forth in the Incentive Agreement, the Restriction Agreement, and the Real Estate Purchase Agreement.

Section 3. This resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

DULY RESOLVED AND ADOPTED First Reading and Second Reading of the City Council of the City of Seagoville, Texas, this the 12th day of September, 2019.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria Thomas, City Attorney
(TM110622 090419)

Exhibit "A"
Economic Development Agreement
(to be attached)

STATE OF TEXAS §
§ **ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT**
COUNTY OF DALLAS §

This Economic Development Incentive Agreement (“Agreement”) is made by and between the Seagoville Economic Development Corporation (“SEDC”) and JWWIV, LLC, a Texas limited liability company (“Company”) (each a “Party” and collectively the “Parties”), acting by and through their respective authorized officers.

WITNESSETH:

WHEREAS, Company was established in 2002 and currently employs approximately 15 full time employees at a minimum salary of \$41,600 annually at its Seagoville location; and

WHEREAS, Company intends to expand its business operations and desires to purchase the Property (as hereafter defined) from SEDC and intends to construct Improvements (as hereafter defined) on the Property and use the Improvements for the Required Uses (as hereafter defined); and

WHEREAS, the Company intends to make a Capital Investment of approximately Nine Hundred Thousand Dollars (\$900,000.00) in the Improvements to be located at the Improvements and/or on the Property; and

WHEREAS, Company has advised SEDC that a contributing factor that would induce Company to purchase the Property and construct the Improvements on the Property would be an agreement by SEDC to provide an economic development incentive grant to Company to defray the cost of the acquisition of the Property; and

WHEREAS, the Improvements will provide for new business enterprises in the City and will promote new or expanded business development in the City and will result in the creation of new jobs; and

WHEREAS, the Development Corporation Act, Chapter 501-505 of the Texas Local Government Code (the “Act”) authorizes the SEDC to provide economic development grants for the creation of new business opportunities and the creation and retention of primary jobs; and

WHEREAS, the SEDC has determined that the Purchase Grant (as hereafter defined) to be made hereunder is required or suitable to create and retain new jobs and develop new or expanded business enterprises and constitutes a “project”, as that term is defined in the Act; and

WHEREAS, the SEDC has determined that making the Purchase Grant to Company in accordance with this Agreement will further the objectives of SEDC, will benefit the City and the City’s inhabitants and will promote local economic development and stimulate business and commercial activity in the City.

NOW THEREFORE, in consideration of the foregoing, and other consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

Article I Definitions

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

“Bankruptcy or Insolvency” shall mean the dissolution or termination of Company’s existence, insolvency, employment of receiver for any part of Company’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors or the commencement of any proceedings under any bankruptcy or insolvency laws by or against Company and such proceedings are not dismissed within ninety (90) days after the filing thereof.

“Capital Investment” shall mean the aggregate of the total costs of design and construction of the Improvements (inclusive of all hard and soft costs) on the Property but not including costs related to the purchase of the Property.

“City” shall mean the City of Seagoville, Texas, a home rule municipality.

“Commencement Date” shall mean the later of: (i) the date the first final certificate of occupancy is issued by the City for any phase of the Improvements for the Required Uses; and (ii) the date said phase of the Improvement is open for business and serving the citizens of the City and its visitors for the Required Uses.

“Commencement of Construction” shall mean (i) the detailed plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Improvements, (ii) all necessary permits for the construction of the Improvements have been issued by the applicable governmental authorities and (iii) grading of the Property and construction of the vertical elements of the Improvements (whether located above or below ground) has commenced.

“Company” shall mean JWWIV, LLC, a Texas limited liability company and its successors and assigns.

“Completion of Construction” shall mean substantial completion and issuance of a final certificate of occupancy by City for occupancy of the Phase I Improvements and the Phase II Improvements.

“Completion of Phase I Construction” shall mean substantial completion and issuance of a final certificate of occupancy has been issued by the City for Occupancy of the Phase I Improvements.

“Construction Equipment Rental Business” shall mean a for-profit business entity opened to the public and operating on the Property, offering for rent small and large construction equipment, with the condition that the business entity must have, located on the Property, an equipment inventory of not less than five (5) pieces of small and heavy construction equipment offered for rental, such equipment to include a skidster, a backhoe, a jack hammer, and similar equipment.

“Construction Plans” shall mean the plans and specifications sufficient for the construction of the Improvements on the Property (including civil, architectural, grading and site plans) in accordance with the Zoning and any design plans approved by the City.

“Effective Date” shall mean the last date this Agreement has been signed by authorized representatives of all Parties.

“Employment Period” shall mean each twelve (12) consecutive month period following the Commencement Date during the term of this Agreement.

“Employment Positions” shall mean FTE Position Primary Jobs eligible for employee benefits that have been created, maintained, and filled at the Improvements per Employment Period from the Commencement Date and continuing until the Expiration Date. The number of FTE’s for an Employment Period shall be based on a weekly average account of FTE’s working at the Improvements during each calendar week during the Employment Period.

“Expiration Date” shall mean the fifth (5th) anniversary date of the Commencement Date except that, if Company has established and is operating a Construction Equipment Rental Business on the Property continuously for at least thirty (30) days prior to and on the fourth (4th) anniversary date of the Commencement Date, then “Expiration Date” shall mean the fourth (4th) anniversary date of the Commencement Date.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, adverse weather, government or de facto governmental action (unless caused by acts or omissions of such Party), fires, explosions or floods, strikes, slowdowns or work stoppages.

“FTE Position” or “FTE” means a position filled by individuals scheduled to work at the Improvements for a combined total of at least 2,080 hours during an Employment Period.

“Impositions” shall mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, authority on Company with respect to the Project or any property or any business owned by Company within the City.

“Improvements” shall mean a minimum of two (2) buildings constructed on the Property for the Required Uses and consisting of a total combined minimum area of 8,000 square feet, and shall further include other ancillary facilities such as reasonably required parking, drives, and landscaping, all as more fully described in submittals filed with the City from time to time in order to obtain building permits. The Improvements will be constructed in phases as defined herein and shall be comprised of the Phase I Improvements and the Phase II Improvements.

“Phase I Improvements” shall mean a portion of the Improvements to be constructed first and to be occupied and used by Company or a third-party to whom Company leases the premises for tractor and mower sales and service.

“Phase II Improvements” shall mean a portion of the Improvements to be constructed concurrently with or following the construction of the Phase I Improvements and to be occupied and used by Company or a third-party to whom Company leases the premises for trailer sales and service, parts sales, and related storage. The total combined minimum area of the Phase I Improvements and the Phase II Improvements shall be 8,000 square feet.

“Primary Jobs” shall have the same meaning as assigned by Section 501.002(12) of the Texas Local Government Code.

“Project” means Company’s purchase of the Property from the SEDC and Company’s construction of the Improvements thereon.

“Project Commencement Date” shall mean the date that is ten (10) business days after the date that the conditions precedent set forth in Section 6.14 of this Agreement have been fully satisfied.

“Property” shall mean the two parcels of real property consisting of a total of approximately 5.677 acres and being comprised of (i) an approximately 1.153 acre parcel described as Lot 2 Block 1 of Seagoville Place, commonly known as 2110 North U.S. Highway 175, and (ii) an approximately 4.524 acre parcel described as Lot 1, Block 1 of Replat of part of Seagoville Place, commonly known as 2108 North U.S. Highway 175, both being located in Seagoville, Dallas County, Texas and being depicted on Exhibit “A,” attached hereto and incorporated herein by reference. The two parcels may be later replatted as one parcel and, upon such event, the definition of “Property” shall refer to the one replatted parcel.

“Purchase Grant” shall mean an economic development incentive grant in the amount of Four Hundred Thirty Thousand Dollars (\$430,000.00) applied by SEDC to the purchase price of the Property upon the Closing of said purchase in accordance with the provisions of the Real Estate Purchase Agreement.

“Real Estate Purchase Agreement” means that certain Real Estate Purchase Agreement between the Parties, as amended from time to time, providing for the sale of the Property by SEDC to Company for the purchase price of \$430,000.00.

“Related Agreements” means any written agreement (not including this Agreement) by and between SEDC or City and Company or any entity affiliated with Company, including but not limited to the Real Estate Purchase Agreement and the Restriction Agreement.

“Required Uses” shall mean the development, use, and operation of the Improvements after Completion of Construction by Company for trailer, tractor, mower and equipment retail sales (including parts sales), service, rental, related storage, and provision and operation of related amenities, all open and available to the public and serving the citizens of the City.

“Restriction Agreement” shall mean that certain restriction agreement between the Parties restricting the development and use of the Property for the construction and operation of the Improvements for the Required Uses. The Restriction Agreement shall require Company to cause Commencement of Construction and Completion of Construction of the Improvements in accordance with the Agreement, grant SEDC a right of first refusal in the event Company offered to sell the Property to a third party prior to Commencement of Construction, and grant SEDC an option to repurchase the Property in the event Company fails to comply with the deadlines for Commencement of Construction and Completion of Construction set forth in the Restriction Agreement.

“Right of First Refusal” shall mean that certain Right of First Refusal Provision in the Restriction Agreement between SEDC and Company, setting forth the terms of agreement between the Parties regarding the grant of a right of first refusal to SEDC to purchase the Property.

“SEDC” shall mean the Seagoville Economic Development Corporation a Texas non-profit corporation organized as a Type B corporation pursuant to the Act.

“Zoning” means the rezoning of the Land by a planned development ordinance or other ordinance approved by the City subject to certain conditions consistent with the terms of this Agreement and which shall include but shall not necessarily be limited to development and area regulations, conceptual plan, permitted and prohibited uses, architectural design of buildings and structures, signage, building elevations, landscape plan and other submittals and approvals required by the applicable City ordinances and regulations.

Article II Term

The term of this Agreement shall begin on the Effective Date and continue until the Expiration Date, unless sooner terminated as provided herein.

Article III Economic Development Grant

3.1 Purchase Grant. Subject to the continued satisfaction of all terms and conditions of this Agreement and the Related Agreements by Company, and further subject to the obligations of Company to repay the Purchase Grant pursuant to Section 5.2 herein, SEDC agrees to provide Company with the Purchase Grant as set forth herein, said grant to be in the amount of \$430,000.00 applied by SEDC to the purchase price of the Property upon the Closing of Company's purchase of the Property in accordance with the provisions of the Real Estate Purchase Agreement.

3.2 Grant Limitations. Under no circumstances shall the obligations of SEDC hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Further, SEDC shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement by Company. None of the obligations of SEDC under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

3.3 Current Revenue. The Purchase Grant made hereunder shall be paid solely from lawfully available funds that have been appropriated by SEDC.

Article IV Conditions to Economic Development Grant

The obligations of SEDC to provide the Purchase Grant shall be conditioned upon the compliance and satisfaction of each of the terms and conditions of this Agreement by Company and each of the terms and conditions set forth below:

4.1 Good Standing. Company shall not have an uncured breach or default of this Agreement, or a Related Agreement.

4.2 Project Plans and Construction. Company shall cause the design, Commencement of Construction and Completion of Construction of the Improvements in accordance with the Terms of this Agreement and the Related Agreements. Company shall cause all necessary permits and approvals required by City and any applicable governmental authorities to be issued for the construction of the Improvements. This includes obtaining the City approval of the necessary Zoning for the Property, including concept plan approval for the construction and development of the Improvements. Prior to Commencement of Construction Company shall submit the Construction Plans for approval by City. Company shall, subject to events of Force Majeure, cause the Construction Plans to be submitted to the City for approval within thirty (30) business days

following the Project Commencement Date. Subject to the terms and conditions of this Agreement, Company agrees to design and construct, or cause to be designed and constructed, the Improvements in accordance with the applicable Zoning and the approved Construction Plans. Company shall, subject to events of Force Majeure, cause Commencement of Construction of the Facilities to occur on or before fifteen (15) business days following City approval of the Construction Plans; and subject to events of Force Majeure, Company shall cause Completion of Construction of the Phase I Improvements to occur within eighteen (18) months after the date of Commencement of Construction and completion of Construction of Phase II Improvements to occur within thirty-six (36) months after the date of Commencement of Construction.

4.3 Capital Investment. Company's Capital Investment for the Improvements as of the Completion of Construction shall be not less than Nine Hundred Thousand (\$900,000.00) Dollars. Company shall, not later than fifteen (15) calendar days after the date of Completion of Construction (as defined herein) of the Improvements, deliver to SEDC copies of all records, contracts, receipts, invoices, bills and such other information as SEDC may reasonably request to document compliance with the required Capital Investment. In the event the final total cost of the design and construction of the Improvements, as reasonably verified by SEDC, is less than Nine Hundred Thousand Dollars (\$900,000.00), the Company shall, at SEDC's option, pay the SEDC the difference in value between \$900,000.00 and the final total cost of the design and construction of the Improvements as reasonably verified by SEDC.

4.4 Required Uses. Beginning on the Commencement Date, and continuing thereafter until the Expiration Date or earlier termination, the Improvements shall not be used for any purpose other than the Required Uses and the Company shall not allow the operation of the Improvements in conformance with the Required Uses to cease for a period of more than thirty (30) consecutive days, except in connection with and to the extent of an event of Casualty or Force Majeure.

4.5 Continuous Occupancy and Operation. Company shall ensure that within eighteen months of the Commencement of Construction, a certificate of occupancy is issued by the City for the Required Uses in the Phase I Improvements and that Company or a third-party who has leased space within the Phase I Improvements continuously occupies the Phase I Improvements for the Required Uses and conducts a sales-tax generating business thereon until the Expiration Date. Company shall further ensure that within thirty-six (36) months of the Commencement of Construction, a certificate of occupancy is issued by the City for the Required Uses in the Phase II Improvements and that Company or a third-party who has leased space within the Phase II Improvements continuously occupies the Phase II Improvements for the Required Uses and conducts a sales tax generating business thereon until the Expiration Date.

4.6 Casualty and Condemnation. If the Improvements are damaged partially or destroyed by casualty, regardless of the extent of the damage or destruction, Company shall, subject to events of Force Majeure and the availability of adequate insurance proceeds, within two hundred seventy (270) days from the date of such casualty commence to repair, reconstruct or replace the damaged or destroyed portion of the Improvements, as applicable, and pursue the repair, reconstruction, or replacement with reasonable diligence so as to restore the Improvements to substantially their condition immediately prior to the Casualty.

4.7 Employment Positions. During the term of this Agreement, following the Commencement Date and continuing thereafter until the Expiration Date, Company shall maintain no fewer than five (5) Employment Positions at the Improvements. Company shall, within thirty (30) days after each anniversary date of the Commencement Date, supply SEDC with copies of employment records and such other information as may be reasonably requested by SEDC to document compliance with the required Employment Positions.

Article V Termination; Repayment

5.1 Termination. This Agreement shall terminate upon any one of the following:

- (a) by written agreement of the Parties;
- (b) on the Expiration Date;
- (c) upon written notice by either Party in the event the other Party breaches any of the terms or conditions of this Agreement or a Related Agreement and such breach is not cured within thirty (30) days after written notice thereof; provided however if such breach cannot reasonably be cured within such thirty (30) day period, such breaching party shall be allowed additional time (not to exceed thirty (30) additional days) to cure such breach so long as the breaching party begins the cure within the initial thirty (30) days and diligently pursues the cure to completion within sixty (60) days after written notice of such breach;
- (d) upon written notice by SEDC, if Company suffers an event of Bankruptcy or Insolvency;
- (e) upon written notice by SEDC, if any Impositions owed to City or the State of Texas by Company shall become delinquent and Company fails to cure such undisputed Imposition(s) within thirty (30) days after written notice thereof (provided, however Company retains the right to timely and properly protest and contest any such Impositions); and
- (f) upon written notice by either Party, if any subsequent Federal or State legislation or any non-appealable decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable.

5.2 Repayment. In the event the Agreement is terminated by SEDC pursuant to Sections 5.1(c), (d), (e), or (f), above, in addition to the SEDC's Option to Repurchase and its Right of First Refusal, as reflected in the Restriction Agreement, not later than the sixtieth (60th) day after said termination, Company shall refund to SEDC:

- (a) if Company fails to complete construction of Phase I Improvements within eighteen (18) months after Commencement of Construction and/or fails to secure a final certificate of occupancy for the Required Uses in the Phase I Improvements within eighteen (18) months of Commencement of Construction of the Phase I Improvements, an amount equal to fifty percent (50%) of the Purchase Grant; and
- (b) if, commencing eighteen (18) months after Completion of Construction of the Phase I Improvements, Company fails to create and/or maintain five (5) full-time Employment Positions as required by section 4.7 of this Agreement for any Employment Period, an amount equal to twenty-five percent (25%) of the Purchase Grant for each such Employment Period; and
- (c) if Company fails to complete construction of Phase I and Phase II Improvements within thirty-six (36) months of Commencement of Construction and/or fails to secure a final certificate of occupancy for Required Uses for Phase I and Phase II Improvements within thirty-six (36) months of Commencement of Construction, an amount equal to seventy-five percent (75%) of the Purchase Grant.

5.3 Right of Offset. SEDC may, at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to City or SEDC from Company, regardless of whether the amount due arises pursuant to the terms of this Agreement, a Related Agreement, or otherwise and regardless of whether or not the debt due SEDC or City has been reduced to judgment by a court.

5.4 Purchase Option and Repurchase of Property. The Parties have entered into that certain Restriction Agreement as of the Effective Date, the terms of which, among other things, grants SEDC an option, upon the occurrence of certain conditions specified in the Restriction Agreement, to repurchase the Property from the Company and a Right of First Refusal to repurchase the Property from Company under circumstances as set forth in the Restriction Agreement. Notwithstanding any provision of this Agreement to the contrary, if SEDC repurchases the Property from Company following the exercise of the Right, as defined in the Restriction Agreement, Company will not be required to pay SEDC the Purchase Grant directly in cash, it being understood and agreed that the Repurchase Price (as determined in the Restriction Agreement) provides for reduction of the amount to be paid by SEDC to Company to repurchase the Property from Company by an amount equal to the Purchase Grant.

Article VI Miscellaneous

6.1 Binding Agreement; Assignment. This Agreement shall be binding upon and inure to the benefit of the heirs, successors, affiliates, administrators, executors, and permitted assigns

of the respective Parties. This Agreement may not be assigned without the prior written consent of SEDC; provided however Company may collaterally assign or pledge Company's rights in the Property under this Agreement to Company's Lender as security for a loan for the Project.

6.2 Limitation on Liability. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the Parties. It is understood and agreed between the Parties that the Parties, in satisfying the conditions of this Agreement, have acted independently, and SEDC assumes no responsibilities or liabilities to third parties in connection with these actions. Company agrees to indemnify and hold harmless SEDC from all such claims, suits, and causes of actions, liabilities and expenses, including reasonable attorney's fees, of any nature whatsoever arising out of Company's performance of the conditions under this Agreement.

6.3 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

6.4 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received upon the earlier of (a) actual receipt or (b) three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the address set forth below, or such other address as is designated by the applicable Party from time to time, or on the day actually received as sent by courier or otherwise hand delivered.

If intended for SEDC, to

Patrick Stallings, Exec. Director
SEDC
702 N. Highway 175
Seagoville, Texas 75159
Facsimile No. (972) 287-3891

With a copy to:

Victoria Thomas, City Attorney
Nichols, Jackson, Dillard, Hager &
Smith, LLP
1800 Ross Tower
500 N. Akard
Dallas, Texas 75201

If intended for Company, to:

Attn: John Wesley Williams, IV
JWW IV, LLC
7431 CR 125
Terrell, Texas 75161
Email: Johnjr@rjtrailers.com

6.5 Entire Agreement. This Agreement is the entire Agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written Agreement between the Parties that in any manner relates to the subject matter of this Agreement, except as provided in any Exhibits attached hereto.

6.6 Governing Law. This Agreement shall be governed by the laws of the State of Texas, and venue for any action concerning this Agreement shall be in the State District Court of Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said Court.

6.7 Amendment. This Agreement may be amended by the mutual written agreement of the Parties.

6.8 Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

6.9 Recitals. The recitals to this Agreement are incorporated herein.

6.10 Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

6.11 Exhibits. Any exhibits to this Agreement are incorporated herein by reference for the purposes wherever reference is made to the same.

6.12 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

6.13 Employment of Undocumented Workers. During the term of this Agreement and for a period of five (5) years after the Closing and conveyance of the Property to Company, Company agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Company shall repay the amount of the Improvements Grant and any other funds received by Company from SEDC as of the date of such violation within one hundred twenty (120) days after the date Company is notified by SEDC of such violation, plus interest at the rate of six percent (6%) compounded annually from the date of violation until paid. Company is not liable for a violation of this section by a subsidiary, affiliate, or franchisee of Company or by a person with whom Company contracts.

6.14 Conditions Precedent. The obligations of the Parties are expressly subject to and conditioned on the following:

- (i) Company and SEDC having entered into the Real Property Purchase Agreement;
- (ii) Company and SEDC having entered into the Restriction Agreement; and

(ii) Zoning having occurred and a Zoning Ordinance amending the zoning classification of the Property to allow the uses anticipated by this Agreement and the Related Agreements having been approved by the City.

EXECUTED on this _____ day of _____, 2019.

**SEAGOVILLE ECONOMIC DEVELOPMENT
CORPORATION**

By: _____
Patrick Stallings
SEDC Executive Director and President

EXECUTED on this _____ day of _____, 2019.

**JWWIV, LLC,
a Texas Limited Liability Company**

By: _____
John W. Williams, IV
Manager

APPROVED AS TO FORM:

CITY ATTORNEY

EXHIBIT B
CONCEPT PLAN

WHEN RECORDED RETURN TO:

City of Seagoville
Attention: Patrick Stallings
702 N. Highway 175
Seagoville, Texas 75159

(Space Above For Recorder's Use Only)

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

STATE OF TEXAS § RESTRICTION AGREEMENT
§ (With Option to Repurchase and Right of First
COUNTY OF DALLAS § Refusal)

This **RESTRICTION AGREEMENT** ("Restriction Agreement") is made and entered into as of the Effective Date by and between the **Seagoville Economic Development Corporation** ("SEDC"), a Texas non-profit corporation, and **JWWIV, LLC**, its successors and assigns (collectively "Developer") a Texas limited liability company (SEDC and Developer sometimes hereafter collectively referred to as "Parties" or separately as "a Party" or "the Party")

RECITALS

WHEREAS, as of the Effective Date, pursuant to the Real Estate Purchase Agreement, Developer has purchased the Property from SEDC; and

WHEREAS, SEDC has, as a condition of the conveyance of the Property to Developer, restricted the use of the Property and required Developer to develop the Property with the Improvements in accordance with the terms and conditions set forth herein; and

WHEREAS, Developer desires to grant SEDC (i) an option to repurchase the Property in the event Developer fails to cause Commencement of Construction (hereinafter defined) of the Improvements in accordance this Restriction Agreement and (ii) a Right of First Refusal ("ROFR"), in each case subject to the terms and conditions hereafter set forth;

NOW, THEREFORE, in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Article I
Property Subject to Declaration

For the term specified in Section 6.2, the Property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Developer and any subsequent owners of all or any part of the Property (as hereinafter defined) subject to the terms of this Restriction Agreement.

Article II
Definitions

For purposes of this Restriction Agreement, the following words and phrases shall have the following meanings unless the context clearly indicates a different meaning:

“City” means the City of Seagoville, a Texas home rule municipality located in Dallas County, Texas and Kaufman County, Texas.

“Commencement of Construction” means (i) the detailed plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Improvements, (ii) all necessary permits for the construction of the Improvements have been issued by the applicable governmental authorities and (iii) grading of the Property and construction of the vertical elements of the Improvements (whether located above or below ground) has commenced.

“Completion of Construction” shall mean substantial completion and issuance of a final certificate of occupancy by City for occupancy of the Phase I Improvements and the Phase II Improvements (as those terms are defined in the Economic Development Incentive Agreement).

"Construction Plans" means the plans and specifications sufficient for the construction of the Improvements on the Property (including civil, architectural, grading and site plans) in accordance with the Zoning and any design plans approved by the City.

“Economic Development Incentive Agreement” means that certain Economic Development Agreement between SEDC and Developer relating to the SEDC’s provision of the Purchase Grant and Developer’s agreement to the conditions related thereto.

“Effective Date” means the date this Restriction Agreement is signed by the Parties.

“Force Majeure” means any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, City delay of permits or other approvals, government or de facto governmental action (unless caused by acts of omissions of the Party), fires, explosions or floods, strikes, slowdowns or work stoppages, adverse weather conditions, transportation delays or difficulties, shortages of materials or labor, financial institution shutdowns, electronic funds transfer delays or difficulties, and economic disruptions.

“Improvements” shall mean a minimum of two (2) buildings constructed on the Property for the Required Uses and consisting of a total combined minimum area of 8,000 square feet, and

shall further include other ancillary facilities such as reasonably required parking, drives, and landscaping, all as more fully described in submittals filed with the City from time to time in order to obtain building permits. The Improvements will be constructed in phases as defined herein and shall be comprised of the Phase I Improvements and the Phase II Improvements, as those terms are defined in the Economic Development Incentive Agreement.

"Option Commencement Date" means the date ninety (90) days after the Project Commencement Date, as such date may be extended by an event of Force Majeure.

"Option Period" means that period of time commencing on the Option Commencement Date, and ending on the earlier of (a) Commencement of Construction of the Project, or (b) the Option Termination Date; provided, however, such dates may be extended due to an event of Force Majeure.

"Official Records" means the Official Public Records of Dallas County, Texas.

"Option Termination Date" means the fourth (4th) anniversary of the Option Commencement Date, as may be extended by an event of Force Majeure.

"Project" means, collectively, (i) the Sale of the Property from the SEDC to the Company and (ii) the construction of the Improvements thereon.

"Project Commencement Date" shall have the same meaning as set forth in the Economic Development Agreement.

"Property" means the two parcels of real property consisting of a total of approximately 5.677 acres and being comprised of : (i) an approximately 1.153 acres parcel described as Lot 2 Block 1 of Seagoville Place, commonly known as 2110 North U.S. Highway 175, and (2) an approximately 4.524 acres parcel described as Lot 1, Block 1 of Replat of part of Seagoville Place, commonly known as 2108 North U.S. Highway 175, both being located in Seagoville, Dallas County, Texas. The two parcels may be later replatted as one parcel and, upon such event, the definition of "Property" shall refer to the one replatted parcel.

"Purchase Grant" means the economic development grant provided by SEDC to Developer to reduce the purchase price for the Property as defined in the Real Estate Purchase Agreement and the Economic Development Incentive Agreement.

"Real Estate Purchase Agreement" shall mean that certain Real Estate Purchase Agreement, as amended or assigned, by and between SEDC and Developer relating to the sale of the Property by SEDC to Developer.

"Repurchase Price" means an amount equal to the purchase price for the Land at the closing of the transaction contemplated in the Real Estate Purchase Agreement, less an amount equal to the total of the following:

- (a) the amount of the Purchase Grant; and

- (b) an amount equal to all closing costs paid or incurred by SEDC at the closing of the transactions contemplated in the Real Estate Purchase Agreement, as outlined in the settlement statement for the transaction.

“Required Uses” shall mean the development, use, and operation of the Improvements after Completion of Construction by Company for trailer, tractor, mower and equipment retail sales (including parts), service, and/or rental, related storage, and provision and operation of related amenities, all open and available to the public and serving the citizens of the City.

Article III Repurchase Option

3.1 **Grant of Repurchase Option.** In consideration of TEN AND NO/100 DOLLARS (\$10.00), in hand paid by SEDC to Developer and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Developer, and subject as hereinafter provided, Developer hereby grants to SEDC during the Option Period an option to repurchase the Property upon the terms and conditions set forth in this Article III (the “Option”).

3.2 **Time for Exercising Option.** Subject to Section 3.3, below, SEDC shall have the right, but not the obligation, to exercise the Option to repurchase the Property for the Repurchase Price in accordance with the provisions of Article V below during the Option Period by providing written notice to Developer upon the occurrence of any of the following:

(a) Developer has failed to obtain approval of the Construction Plans from City by the Option Commencement Date and said failure persists as of the date of SEDC’s exercise of the Option; or

(b) Thirty (30) days have elapsed since City notified Developer of City’s approval of the Construction Plans and Developer has failed to pay to City all building permit fees, impact fees, and other fees and charges which entitle Developer to receive from City a construction permit for construction of the Improvements; or

(c) Thirty (30) days have elapsed since City notified Developer of City’s approval of the Construction Plans and Developer has failed to cause Commencement of Construction to occur on the Property and said failure persists as of the date of SEDC’s exercise of the Option.

The dates and time periods set forth in this Section 3.2 are subject to extension as the result of a Force Majeure event.

3.3 **Force Majeure.** In the event of Force Majeure, Developer shall have such additional time to cause Commencement of Construction or Completion of Construction, as the case may be, so long as Developer is diligently and faithfully pursuing the same, to the extent reasonably possible given the nature of the Force Majeure and presents such documentation as may be reasonably required by SEDC to support the extension of the deadlines for Commencement of Construction or Completion of Construction. The commencement and termination dates of the Option Period shall be extended for the same number of days that the performance of Developer with respect to Commencement of Construction or Completion of Construction is extended by Force Majeure.

3.4 **Option Estoppel.** Upon the written request of Developer, SEDC, if true, agrees to execute and deliver an Estoppel Certificate, in recordable form, which, at the discretion of Developer, Developer may record in the Official Records confirming that, as of such date: (i) SEDC is unaware of any event which has occurred which would allow SEDC to exercise the Option or (ii) the Option has terminated (the "Option Estoppel").

3.5 **Sole Remedy.** SEDC's sole and exclusive remedy pursuant to this Restriction Agreement for Developer's failure to comply with the deadline for Commencement of Construction set forth herein shall be the exercise of the Option and repurchase of the Property or portion thereof in accordance with Article V, below; provided, however, such remedy shall be in addition to and cumulative of any remedies available to SEDC pursuant to the Economic Development Agreements.

Article IV Right of First Refusal

4.1 **Grant.** Subject to the terms and conditions hereinabove and hereinafter set forth, Developer hereby agrees that SEDC shall have, and hereby grants to SEDC, during the period commencing upon the Effective Date and ending upon the Commencement of Construction ("the ROFR Period"), a right of first refusal (the "ROFR") to purchase the Property, or portion thereof, on the terms and conditions set forth herein.

4.2 **Notice of Third-Party Offer.** If (i) Developer receives a bona fide offer for the purchase of any portion of Property that it intends to accept, or (ii) Developer receives any offer to purchase the Property or any portion thereof from any governmental exercise of the power of eminent domain with respect to the Property, Developer shall give notice thereof in writing to SEDC (the "Third Party Notice"). The Third Party Notice shall include a copy of any offer to be made or any offer received by Developer, the proposed purchaser, whether the purchase price is to be paid in cash, securities or evidenced by promissory notes, and the other material terms and conditions of such offer.

4.3 **SEDC's Exercise of ROFR.** For a period of thirty (30) days after receipt by SEDC of the Third Party Notice, SEDC shall have the right to repurchase the Property or portion thereof which is the subject of the Third Party Notice, upon the same terms and price as set forth in the Third Party Notice or for the Repurchase Price, whichever is deemed by SEDC to be more favorable to SEDC (the "ROFR Price"). The ROFR may be exercised by SEDC by providing written notice to Developer not later than thirty (30) days after SEDC's receipt of the Third Party Notice. SEDC's notice shall indicate acceptance of the terms set forth in the offer as recited in the Third Party Notice or the Repurchase Price, as applicable.

4.4 **SEDC Fails to Exercise ROFR.** In the event SEDC does not elect to exercise the ROFR during the thirty (30) day period following its receipt of the Third Party Notice:

(a) Developer may sell the Property, or portion thereof, at the price and on the terms and conditions described in the Third Party Notice during the one hundred eighty (180) day period following the date of the Third Party Notice; and

(b) SEDC shall execute and deliver an acknowledgement, in recordable form, evidencing its waiver of its ROFR with respect to such sale. Developer agrees not to sell the Property, or portion thereof, during the ROFR Period at any lower price, on any terms or conditions more favorable to the buyer than those set forth in the Third Party Notice or at any time after expiration of the one hundred eighty (180) day period described above without first giving SEDC the opportunity to exercise the ROFR at such different price, on such altered terms and conditions, or at such later time.

4.5 **No Release of Restrictions Required.** SEDC's failure to exercise the ROFR shall not constitute a release of the Option, SEDC's rights to repurchase the Property pursuant to the Option, the SEDC's right to recover pursuant to the Economic Development Incentive Agreement, or the obligations of any subsequent owner of the Property to comply with the obligations of this Restriction Agreement.

Article V

Terms of Sale Upon Exercise of Right

5.1 **Effect of Exercise of the Right.** Upon any timely exercise of the Option or ROFR (collectively, "the Right") by SEDC in accordance with the foregoing provisions, the conveyance of the Property, or portion thereof, to SEDC shall be in accordance with the provisions in this Article V.

5.2. **Title, Survey, and Environmental Reports.**

(a) Not later than the fifteenth (15th) business day after the exercise of the Right, Developer shall, at Developer's expense, deliver to SEDC the following items (collectively, "Title Commitment"):

(i) a current commitment for an Owner's Policy of Title Insurance from the Title Company for the portion of the Property to be conveyed to SEDC, setting forth the state of title to the Property or portion thereof together with any easements or restrictions (existing or created pursuant hereto) benefiting or burdening the Property, together with all exceptions or conditions to such title;

(ii) legible copies of all documents referenced in the Title Commitment;

(iii) any environmental studies or reports that Developer may have in its possession with respect to the Property;

(iv) copies of all leases and rental agreements creating a leasehold interest in any portion of the Property; and

(v) tax certificate(s) regarding the payment of ad valorem taxes for current and prior years.

(b) Upon any exercise of the ROFR, SEDC shall have the right, at its sole option, to cause a boundary or "as-built" survey of the Property to be made by a registered professional

Property surveyor selected by SEDC. Such survey shall be made at the sole cost and expense of SEDC.

(c) SEDC shall, not later than twenty (20) days after SEDC's receipt of the last of the Survey and Title Commitment, notify Developer and Title Company of any objections to the Survey or Title Commitment. If there are objections by SEDC, Developer shall in good faith attempt to satisfy them prior to Closing, but Developer shall not be obligated to incur any cost in doing so. If Developer delivers written notice to SEDC not later than the tenth (10th) calendar day after Developer's receipt of SEDC's objections that Developer is unable to satisfy such objections, SEDC may either waive such objections and accept title as Developer is able to convey or terminate the exercise of the Right by written notice to Developer and the Title Company.

5.3 **Closing.**

(a) The closing of the sale of the Property or portion thereof identified in the notice exercising the Right shall occur not later than sixty (60) calendar days following the date of exercise of the Right unless otherwise extended by written agreement of Developer and SEDC.

(b) At the closing, Developer shall deliver to SEDC:

(i) a special warranty deed, in form and substance substantially similar to the form used to convey the Property to Developer pursuant to the Purchase Agreement, conveying good and indefeasible title to the Property and/or the survey obtained by City (whichever is the most accurate description) to City, free and clear of any and all encumbrances except the Permitted Exceptions' provided, however, such deed shall not contain any reservation of oil, gas, or other minerals as may have been reserved by prior grantors;

(ii) possession of the Property described in the notice of the exercise of the Right, free of parties in possession.

(c) At closing SEDC shall pay in cash or by certified or cashier's check the Repurchase Price or the ROFR Price as determined by Section 4.3, whichever is applicable.

5.4 **Taxes.** Ad valorem taxes, assessments, and any other charges against the Property and/or Improvements conveyed to SEDC pursuant to this Article V shall be prorated as of the Closing Date for the current year, and paid by Developer at Closing in accordance with Texas Tax Code §26.11. Developer will be responsible for all such items which accrue prior to the Closing Date during its tenure of ownership, and SEDC will be responsible for all such items which accrue on and after the Closing Date. Taxes and assessments for all prior years for Developer's tenure of ownership shall be paid by Developer.

5.5 **Closing Costs.**

- (a) Developer will pay and be responsible for the following closing cost:
- (i) the cost of all tax certificates relating to all taxes and other assessments incurred or arising in relation to the Property;
 - (ii) all fees and premiums for Basic Owner's Title Policy, excluding any deletions from, or modifications of or endorsements to the Basic Owner's Title Policy;
 - (iii) one-half (1/2) of the Title Company's escrow fees;
 - (iv) all recording fees;
 - (v) all costs and expenses incurred by or on behalf of Developer, including Developer's attorney's fees;
 - (vi) all costs related to obtaining any releases of liens on the portion of the Property conveyed relating to any loans secured by a deed of trust lien on said property; and
 - (vii) such other incidental costs and fees customarily paid by sellers of real property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.
- (b) SEDC hereby agrees to pay and be responsible for the following closing cost:
- (i) all fees and premiums for the Survey;
 - (ii) one-half (1/2) of the Title Company's escrow fees;
 - (iii) all fees and premiums for any deletions from, or modifications of or endorsements, to the Basic Owner's Title Policy;
 - (iv) all costs and expenses incurred by or on behalf of SEDC, including SEDC's attorneys' fees; and
 - (v) such other incidental costs and fees customarily paid by purchasers of property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.

5.6 **Permitted Exceptions.** SEDC acknowledges and agrees that the Property conveyed pursuant to this Article V will be conveyed by Developer at closing subject only to such easements, conditions and restrictions (i) that were listed in the deed from the SEDC to Developer, (ii) utility easements granted by subdivision plat, (iii) easements granted by instrument subsequent to the purchase of the Property by Developer and approved by SEDC; and (iv) such other matters as SEDC may waive, or as Developer is not otherwise obligated to cure or remove.

5.7 **Conveyance As Is.** SEDC acknowledges and agrees that the Property conveyed pursuant to this Article V will be conveyed “AS IS” with all faults and defects, whether patent or latent, existing as of the Closing. Except with respect to the quality of the title being conveyed by Developer as set forth in the Special Warranty Deed, and in the bill of sale and assignment, SEDC acknowledges and agrees that Developer will be making no representations, warranties, guarantees, statements or information, express or implied, pertaining to the Property, its condition, or any other matters whatsoever, made to or furnished to SEDC by Developer or any employee or agent of Developer, except as specifically set forth in this Restriction Agreement.

Article VI Restrictions

6.1 **Use of Property; Buildings.** No building shall be constructed, reconstructed, erected, altered, or placed on any portion of the Property other than the Improvements or other structures that will be used in conformance with the Required Uses. The Improvements shall not be used for any purpose other than the Required Use.

6.2 **Term of Restrictions.** The restrictions set forth in Section 6.1, above, shall commence on the Effective Date and continue thereafter until the expiration of five (5) years following the Completion of Construction of the Improvements.

Article VII Miscellaneous

7.1 **Enforcement.** SEDC shall have the right, but not the obligation, to enforce this Restriction Agreement and any covenants and restrictions contained herein, as the same may be amended as herein provided. Subject to the limitation set forth in Section 6.1, above, enforcement of the provisions set forth in Section 6.1 contained herein may be exercised after failure of any person or persons violating or attempting to violate any covenants or restrictions to cure such violation or breach within two (2) thirty (30) day notice periods after receipt of written notice thereof, by proceeding at law or in equity, against any person or persons violating or attempting to violate any covenants or restrictions, to restrain violation or to recover damages, and failure to enforce any covenant, restriction or condition shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. This Restriction Agreement is not intended to restrict the rights of the City Council of the City of Seagoville to exercise its legislative duties and powers insofar as the Property is concerned. For further remedy, Developer, for itself, its successors, and assigns agrees that City, as a third party beneficiary to this Restriction Agreement, may withhold building permits, development approvals, certificates of occupancy and/or final inspection necessary for the lawful use of any portion of the Property not then in compliance with the Required Use. The rights of SEDC under this Restriction Agreement may not be waived or released except pursuant to an amendment or termination approved in accordance with the provisions hereof, except by expiration of the Term. The rights of SEDC, and the City as third party beneficiary hereof, to enforce the provisions of this Restriction Agreement are in addition to and cumulative of any remedies which SEDC or the City have pursuant to the provisions of the Economic Development Agreement.

7.2 **Amendment.** No amendment or termination of this Restriction Agreement shall be effective unless and until approved by Developer and SEDC; provided, however, SEDC may, without the consent of Developer, terminate and release the restrictions set forth in Section 6.1. In the event Developer, or subsequent owner of the Property desires to change, amend or alter the covenants, conditions or restrictions as set forth herein, Developer, or subsequent owner, as the case may be, shall file a written application for such change or amendment with SEDC, which shall approve or deny such application in whole or in part within thirty (30) days after receipt of such application. Any change or amendment approved by SEDC shall not be effective unless and until an instrument executed by SEDC's President or Executive Director is recorded in the Official Public Records in the office of the Dallas County Clerk.

7.3 **Notices.** All notices, requests, demands or other communications required or permitted hereunder shall be in writing and shall be deemed to have been fully and completely made when given by hand, by confirmed facsimile transmission, by overnight delivery by Federal Express or other reliable courier or the mailing of such by registered or certified mail, addressed as follows:

If intended for SEDC, to:

Patrick Stallings, Executive
Director/President
SEDC
702 N. Highway 175
Seagoville, Texas 75159
Facsimile No. (972) 287-3891

With a copy to:

Victoria Thomas
Nichols, Jackson, Dillard, Hager &
Smith, L.L.P.
1800 Ross Tower
500 North Akard
Dallas, Texas 75201
Facsimile No. (214) 965-0010

If intended for the Developer, to:

John Williams
JWWIV, LLC
7431 CR 125
Terrell, Texas 75161

Any party may at any time and from time to time by notice in writing to the other party hereto change the name or address of the person to who notice is to be given as hereinbefore provided.

7.4 **Successors and Assigns.** This Restriction Agreement shall bind, and inure to the benefit of, the parties and their respective successors and assigns.

7.5 **Governing Law.** This Restriction Agreement is entered into and is intended to be performed in the State of Texas, and the validity, enforceability, interpretation and construction hereof shall be determined and governed by the laws (other than conflict of laws provisions) of the State of Texas. Venue for any action under this Restriction Agreement shall be in the state district court of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

7.6 **Recording.** The parties agree that the SEDC may record this Restriction Agreement in the Official Public Records in the office of the Dallas County Clerk. SEDC agrees to execute and file a release of this Restriction Agreement, or the Restriction, Option, ROFR or other applicable portion of this Restriction Agreement, as appropriate, in said records upon request of Developer after the expiration or termination of this Restriction Agreement, or the Restriction, Option, ROFR, or other applicable portion of this Restriction Agreement.

7.7 **Covenants Run with the Property.** This Restriction Agreement and the restrictions, covenants, and conditions set forth herein are for the purpose of protecting the value and desirability of the Property and accomplishing certain public purposes of the City of Seagoville and, consequently, shall run with the Property and be binding on the Developer and all parties having all right, title, or interest in the Property, in whole or in part, and their heirs, successors and assigns. These covenants, conditions and restrictions shall be for the benefit of SEDC and the City of Seagoville, Texas. This Restriction Agreement is binding upon Developer and each and every subsequent owner, tenant, subtenant, licensee, manager, and occupant of all or any portion of the Property, but only during the term of such party's ownership, tenancy, license, management or occupancy of the Property, for which such party shall remain liable and shall be binding upon and inure to the benefit of SEDC, City, and their successors and assigns. It is expressly understood and agreed that acceptance of title to all or a portion of the Property shall automatically, and without further acknowledgement or confirmation from the owner, constitute such owner's assumption of the obligations of Developer hereunder.

7.8 **Severability.** Invalidation of any one of these covenants, conditions, or restrictions by judgment or court order shall in no way affect any other provisions, and all other provisions shall remain in full force and effect.

7.9 **Entire Agreement.** This Agreement and the Economic Development Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and no statement, promise, representation or modification hereof or to the Economic Development Agreement by any person, if any, and whether oral or written, shall be binding upon any party.

7.10 **Counterparts.** This Agreement may be executed by the parties hereto in separate counterparts; each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

(Signatures on Following Page)

SIGNED AND AGREED on this _____ day of _____, 2019.

SEAGOVILLE ECONOMIC DEVELOPMENT CORPORATION

By: _____
Patrick Stallings,
SEDC Executive Director/ President

SEDC's Acknowledgment

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Before me, the undersigned authority, this _____ day of _____, 2019, appeared Patrick Stallings, who acknowledged on his oath that he is the President and Executive Director of Seagoville Economic Development Corporation, a Texas non-profit corporation, and that he has signed the foregoing Restriction Agreement on behalf of Seagoville Economic Development Corporation after first having been duly authorized so to do.

Notary Public, State of Texas

My Commission expires:

SIGNED AND AGREED on this _____ day of _____, 2019.

JWWIV, LLC
a Texas Limited Liability Company

By: _____
John Williams, IV
Its: Manager

Developer's Acknowledgment

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Before me, the undersigned authority, this _____ day of _____, 2019, appeared John Williams, IV who acknowledged on his oath that he is the Manager of JWWIV, LLC, a Texas limited liability company, and that he has signed the foregoing Restriction Agreement on behalf of Seagoville Economic Development Corporation after first having been duly authorized so to do.

Notary Public, State of Texas

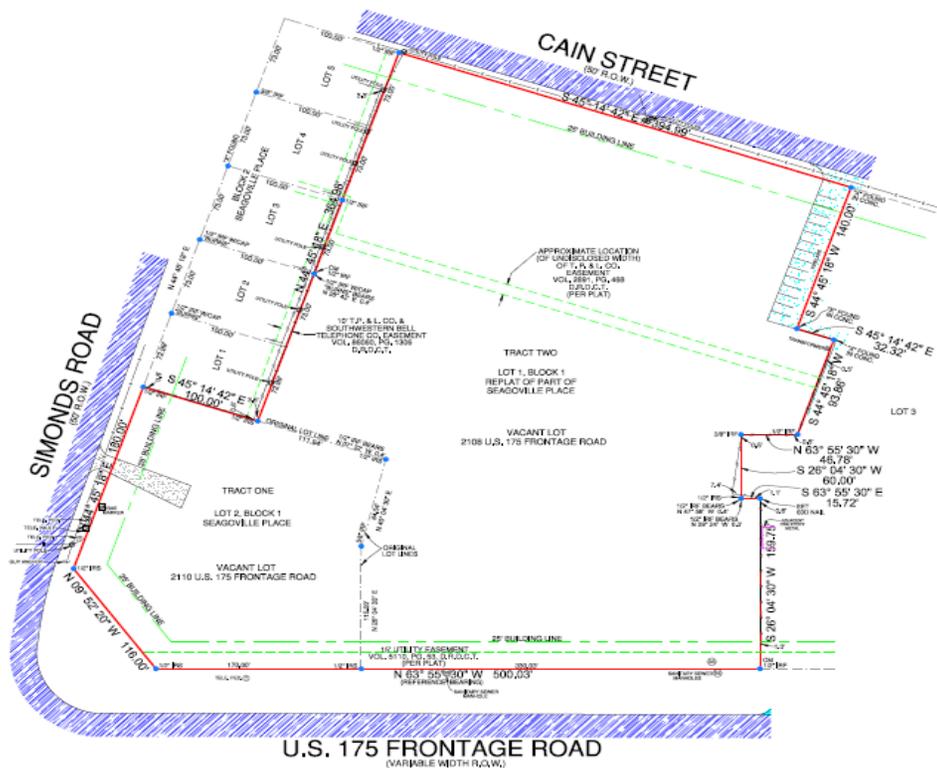
My Commission expires:

Exhibit "A" Depiction of Property

PROPERTY DESCRIPTION:

TRACT ONE: LOT 2, BLOCK 1, OF SEAGOVILLE PLACE, AN ADDITION TO THE CITY OF SEAGOVILLE, DALLAS COUNTY, TEXAS, ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 88036, PAGE 4275, OF THE PLAT RECORDS OF DALLAS COUNTY, TEXAS.

TRACT TWO: LOT 1, BLOCK 1, OF REPEAT OF PART OF SEAGOVILLE PLACE, AN ADDITION TO THE CITY OF SEAGOVILLE, DALLAS COUNTY, TEXAS, ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 88236, PAGE 211, OF THE PLAT RECORDS OF DALLAS COUNTY, TEXAS.



THIS SURVEY WAS CONDUCTED BY THE FOLLOWING:
 (DATE: 06/10/19) (BY: J.C. JONES, D.A.C.S.T.)

GENERAL NOTES:

1. THE BASIS OF BEARINGS FOR THIS SURVEY WERE DERIVED FROM DATA PROVIDED ON THE PLAT RECORDED IN VOL. 88036, Pgs. 4275 & 4276.
2. THERE ARE NO VISIBLE CORNERS OR PROFESSIONAL, EXCEPT AS SHOWN, FENCES MAY BE RELIED UPON.
3. THIS SURVEY IS FOR THE EXCLUSIVE USE OF THE NAMED CLIENT, MEMORANDUM COMPANY, THE COMPANY OR OWNER, AND IS MADE PURSUANT TO THAT ONE CERTAIN TITLE COMMITMENT UNDER THE NAME OF THE CLIENT.
4. AS OF THIS DATE, ALL EASEMENTS, RIGHTS OF WAY OR OTHER LOCATABLE MATTERS OF RECORD, MOBILE OR FIXED, WHICH WERE DERIVED FROM THE RECORDED PLAT, THE SURVEY, DEED, OR THE TITLE REPORT AND SURVEYING DOCUMENTS, ALL SUCH ITEMS WERE OBTAINED THROUGH THE RESEARCH PHASE OF THIS SURVEY OR PROVIDED BY THE CLIENT/COMPANY SURVEYING PERSONNEL. SURVEYING MENUS TO REPRESENTATION AS TO THE ACCURACY OR COMPLETENESS OF SUCH DATA AND ARE MADE NO ATTEMPT TO CORRECT OR MAKE ANY ADDITIONAL REPRESENTATION OR GUARANTEE.
5. THIS SURVEY IS NOT TO BE USED FOR CONSTRUCTION PURPOSES.
6. THIS SURVEY IS NOT TO BE USED FOR ADDRESS OR ZONING PURPOSES.
7. THE SURVEYING PERSONNEL HAVE CONDUCTED VISUAL INSPECTIONS OF THE LAND AND HAVE OBSERVED EVIDENCE, UTILITIES AND OTHER UNDERGROUND MATTERS THAT ARE NOT SHOWN ON THE SURVEY. SURVEYING PERSONNEL ARE NOT RESPONSIBLE FOR THE EXACT LOCATION OF BURIED AND UNLIT UTILITIES, NOR FOR ANY DAMAGE BY ANY CONSTRUCTION OR DESTRUCTION OR OTHER BAD UTILITIES.
8. UNLESS AS SHOWN IN THE SURVEY AND NOT TO SCALE AND MAY HAVE BEEN DERIVED FROM THE ACTUAL HORIZONTAL LOCATION FOR CLARITY.

2108 AND 2110 U.S. 175
FRONTAGE ROAD
CITY OF SEAGOVILLE
DALLAS COUNTY, TEXAS

GPI#: 019-36058	
BORROWER: SEAGOVILLE ECONOMIC DEVELOPMENT CORPORATION, A TEXAS NON PROFIT CORPORATION	
PREMIER JOB #: 19-03651	
TECH: AV	DATE: 06/10/19
FIELD: JC	FIELD DATE: 06/10/19



Premier
 Surveying & Title
 5700 W. Plaza Parkway
 Suite 1200
 Plano, Texas 75093
 Office: 972-652-9528
 Fax: 972-652-9528
 State Registration No. 153,46200



REAL ESTATE PURCHASE AGREEMENT

This **Real Estate Purchase Agreement** (“Agreement”) to buy and sell real property is entered between Seller and Purchaser as of the Effective Date as determined in Section 16(d), below.

Purchaser: JWWIV, LLC
Attn: John Williams, IV
7431 CR 125
Terrell, Texas 75161

Telephone: (214) 394-6748
Email: Johnjr@rjtrailers.com

Purchaser’s Attorney: _____

Telephone: () _____
E-mail: _____

Purchaser’s Broker: None

Seller: Seagoville Economic Development Corporation
Attn: Patrick Stallings, Executive Director/President
702 N. Highway 175
Seagoville, Texas 75024

Facsimile: (972) 287-3891
E-mail : pstallings@seagoville.us

Seller’s Broker: None

Seller’s Attorney: Victoria W. Thomas
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 N. Akard, Suite 1800
Dallas, Texas 75201

Telephone: (214) 965-9900
E-mail: vthomas@njdhs.com

Title Company: Town Square Title Company
Attn: Jessica Barton, Escrow Officer
310 N. 9th Street, Suite A
Midlothian, Texas 76065

Telephone: (972) 935-0800
Facsimile: (972) 938.1045
E-Mail: jbarton@townsquaretitle.com

Property **Tract 1:** Lot 2, Block 1 of the SEAGOVILLE PLACE ADDITION, an Addition to the City of Seagoville, Texas, according to the Map thereof recorded in Volume 85036, Page 4275, Deed Records, Dallas County, Texas; and

Tract 2: Lot 1, Block 1 of the REPLAT OF PART OF SEAGOVILLE PLACE ADDITION, an Addition to the City of Seagoville, Texas, according to the Map thereof recorded in Volume 96236, Page 211, Deed Records, Dallas County, Texas;

together with all right, title and interest of Seller, if any, in and to any (i) strips and gores between said tract and abutting properties, (ii) land lying in or under the bed of adjacent streets, alleys, roads or rights of way, (iii) easements or rights of way appurtenant to or otherwise benefitting said tract, (iv) utility capacities, commitments, reservations and other rights and capacities (including but not limited to storm water detention rights) related to said tract, (v) all permits and approvals relating to said tract. (vi) all development rights relating to said tract, (vii) all rights to credits, refunds and reimbursements associated with said tract, (viii) all water and drainage rights associated with said tract, (ix) all reversionary rights related to said tract, and (x) all other rights and appurtenances of any kind related to said tract.

Inspection Period: Commencing on the Effective Date and ending on the 60th day following the Effective Date.

Closing Date: Not later than the 30th day after the end of the Inspection Period, unless an earlier date is mutually agreed to by the parties in writing or as extended in accordance with the provisions of this Agreement.

Purchase Price **Four Hundred Thirty Thousand and No/100 Dollars (\$430,000.00)** cash at closing.

Incentive Grant An economic development incentive grant paid as a credit against the Purchase Price by Seller to Purchaser at Closing in an amount equal to **Four Hundred Thirty Thousand and No/100 Dollars (\$430,000.00)**. The Incentive Grant is also sometimes referred to herein and in the Incentive Agreement as the “Purchase Grant.”

Incentive Agreement That certain *Economic Development Incentive Agreement* (the “Incentive Agreement”) between the parties to be negotiated and effective between the parties prior to Closing substantially in the form attached hereto as Exhibit “A” but to be negotiated and finalized prior to Closing.

Restriction Agreement: That certain *Restriction Agreement* (the “Restriction Agreement”) between Seller and Purchaser to be effective at Closing setting forth the terms of agreement between the Parties regarding the use and development of the Property substantially in the form attached hereto as Exhibit “B”, but to be negotiated and finalized prior to Closing.

WHEREAS, Seller has adopted programs for promoting economic development; and

WHEREAS, the Development Corporation Act, Chapters 501-505 of the Texas Local Government Code (the “**Act**”), authorizes Seller to provide economic development grants for the creation and retention of primary jobs that are required for the development of research and development and manufacturing and industrial facilities, and for infrastructure suitable for new or expanded business enterprises; and

WHEREAS, Purchaser desires to purchase the Property and develop the Property pursuant to the Incentive Agreement and the Restriction Agreement to be signed before or at Closing, which development will include construction and operation one or more buildings with a minimum total area of 8,000 square feet, together with associated all driveways, parking areas, and landscaping, for Purchaser’s development, use, and operation of the Improvements after Completion of Construction for trailer, tractor, mower and equipment retail sales and/or rental and provision and operation of related amenities, all open and available to the public and serving the citizens of the City. (the “**Project**”) and

WHEREAS, Purchaser has advised Seller that a contributing factor that would induce Purchaser to purchase the Property and construct the Project would be an agreement by Seller to provide the Incentive Grant; and

WHEREAS, Seller has determined that the Project is required or suitable to promote or develop new or expanded business enterprises and will create and/or retain Primary Jobs within the City and constitutes a "project," as that term is defined in the Act; and

WHEREAS, Seller has determined that making the Incentive Grant to Purchaser (also sometimes referred to herein and in the Incentive Agreement as the “Purchase Grant”) in accordance with this Agreement and the Incentive Agreement will further the objectives of Seller,

will benefit the City of Seagoville, Texas (“the City”) and its inhabitants and will promote local economic development and stimulate business and commercial activity in the City;

NOW, THEREFORE, in consideration of the sum of Purchase Price and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Sale and Purchase.** Seller agrees to sell, and Purchaser agrees to purchase the Property for the Purchase Price and as provided in this Agreement, including any and all improvements located thereon.

2. **Title and Survey.**

(a) Seller has provided the most recent survey of the Property that Seller has in its possession. Seller shall not be required to obtain a new survey of the Property.

(b) Seller has provided Purchaser notice of payment of ad valorem taxes for the prior tax year.

(c) Not later than ten (10) days after the Effective Date, Seller shall, at Seller’s expense, deliver or caused to be delivered to Purchaser:

(i) a current commitment for an Owner’s Policy of Title Insurance for the Property from the Title Company issued to Purchaser in the amount of the Purchase Price, setting forth the state of title to the Property together with any easements or restrictions (existing or created pursuant hereto) benefiting or burdening the Property, together with all exceptions or conditions to such title;

(ii) legible copies of all documents referenced in the Title Commitment that are available to the Title Company;

(iii) any environmental or geotechnical studies or reports that Seller may have in its possession as of the Effective Date with respect to the Property;

(iv) notices or other documents regarding any uncured violation of applicable laws, rules, regulations, codes or ordinances regarding the Property, or relating to any actual or claimed existence, release or disposal of any toxic or hazardous substance or waste in, upon or affecting the Property, or relating to any pending or threatened litigation affecting the Property; and

(v) copies of any leases, rental agreements, licenses, or other similar agreements granting the any person or entity other than Seller the right to possession of the Property.

(d) Seller will deliver to Purchaser not later than three (3) days after requested in writing any other documents or information in Seller’s possession relating to the Property which may be reasonably requested by Purchaser.

(e) Not later than twenty (20) days after the Effective Date hereof, Purchaser, at Purchaser's sole option, cost and expense (even if the Closing does not occur), may have a survey (the "Survey") of the Property prepared by a duly licensed Texas Registered Public Land Surveyor. The Survey shall be staked on the ground, and the plat shall show the location of all improvements, highways, streets, roads, railroads, rivers, creeks, or other water courses, fences, easements, and rights-of-way on or adjacent to the Property, if any, and shall contain the surveyor's certification that there are no encroachments on the Property other than what are listed on the Title Report and shall set forth a metes and bounds description of the Property. Upon approval of the Survey by Seller, the legal description contained in said Survey shall be used by the Parties as the legal description contained in the Special Warranty Deed and all other documents related to this Agreement without the necessity of amending this Agreement. Notwithstanding the above, Seller shall deliver to Purchaser the most recent survey obtained by Seller with respect to the Property, and Purchaser may, at Purchaser's sole option and expense, and in lieu of obtaining a new survey, obtain a certificate from a surveyor subject to approval of the Title Company certifying that no changes have occurred since the prior survey. Purchaser shall pay all costs and expenses in connection with any Survey or survey modifications or certificates obtained by Purchaser in connection with the Property, and such obligation of Purchaser shall survive any termination of this Agreement.

(f) Purchaser shall, not later than five (5) days after Purchaser's receipt of the last of the Survey and Title Commitment, notify Seller and Title Company of any objections to the Survey or Title Commitment related to the Property. If there are objections by Purchaser, Seller may, but shall not be required to attempt to satisfy them prior to Closing. Seller shall not be required to incur any cost in connection with the satisfaction of Purchaser's title objections. If Seller delivers written notice to Purchaser not later than the fifth (5th) calendar day after Seller's receipt of Purchaser's objections that Seller is unable to satisfy such objections, or if Seller does not deliver written notice to Purchaser prior to the expiration of such five (5) day period stating that Seller will cure Purchaser's objections, Purchaser may either (i) waive such objections and accept title as Seller is able to convey, in which event, all matters set forth on the Title Commitment and Survey shall be deemed to have been approved by Purchaser and shall constitute "Permitted Exceptions" for purposes of this Agreement, or (ii) terminate this Agreement by written notice to Seller and the Title Company prior to the expiration of the Inspection Period without further liability to either Seller or Purchaser, except for obligations of Purchaser which survive termination of this Agreement.

3. **Inspection Period.**

(a) During the Inspection Period, Purchaser and its agents, employees, or contractors shall have the right to enter upon the Property during regular business hours upon reasonable notice to Seller and conduct such inspections, tests and studies as Purchaser may deem necessary; provided, any intrusive testing shall require the prior written consent of Seller, not to be unreasonably withheld. If for any reason Purchaser determines not to purchase the Property, Purchaser may terminate this Agreement by notifying Seller and Title Company in writing prior to the expiration of the Inspection Period. In such event, neither Party shall have any further claim against the other under this Agreement, except for obligations of Purchaser which survive termination of this Agreement. If Purchaser does not timely terminate this Agreement under this

Section 3, it shall have no further right to do so under this Section 3; and Purchaser shall have waived its right to terminate this Agreement within the Inspection Period.

(b) Purchaser may enter the Property to conduct its inspection but shall be solely responsible for any damages caused thereby, and any claims arising therefrom. Purchaser shall restore any such damages within five (5) days after any entry on to the Property by Purchaser or any of its employees, agents, contractors or consultants. Purchaser shall be responsible for and shall pay all costs, liabilities, damages and expenses arising in connection with any entry on to or inspections of the Property by Purchaser or any of its employees, agents, contractors or consultants. Purchaser's obligations under this paragraph shall survive any termination of this Agreement.

4. **Closing.** The closing of the sale of the Property in accordance with the terms of this Agreement (the "Closing") shall occur on or before the Closing Date at the Title Company or by mail or overnight delivery service, or at such other time as may be agreeable to the parties.

5. **Closing Deliverables.**

(a) At the Closing, Seller shall deliver to the Title Company:

(i) a special warranty deed, in form and substance reasonably acceptable to Seller and Purchaser, conveying good and indefeasible title to the Property to Purchaser, free and clear of any and all encumbrances except the Permitted Exceptions (as defined in Section 8 hereof);

(ii) the Incentive Agreement, signed by Seller;

(iii) the Restriction Agreement, signed by Seller;

(iv) such other documents as may be reasonably required by Title Company in order to cause Title Company to issue a Texas owner's policy of title insurance (or equivalent) in the amount of the Purchase Price, insuring such title to the Purchaser; and

(v) possession of the Property, free of parties in possession except as set out in Schedule B of the Title Commitment, as depicted in the Survey, and as provided by law in the lien in favor of taxing authorities for real property taxes not yet due and payable.

(b) At the Closing, Purchaser shall deliver to Seller through the Title Company:

(i) the Purchase Price (inclusive of the Incentive Grant provided by Seller pursuant to the Incentive Agreement and applied as a credit toward the Purchase Price);

(ii) the Incentive Agreement, signed by Purchaser;

(iii) the Restriction Agreement, signed by Purchaser; and

(iv) such other documents as may be reasonably required by the Title Company.

6. **Taxes.**

Purchaser understands and acknowledges that the Property is presently exempt from the assessment of ad valorem taxes, which status will change upon conveyance of the Property to Purchaser. Seller shall not be responsible for payment of property taxes assessed against the Property for periods after the date of Closing, if any become due and payable. Notwithstanding anything in this Section 6 to the contrary, if the Property has been the subject of special valuation and reduced tax assessments pursuant to the provisions of Chapter 23, Subchapter D, of the Texas Tax Code or under any other provision of law with respect to any period before the Closing, and if additional taxes, penalties, or interest are assessed pursuant to Texas Tax Code §23.55 or under the other provision of law, Purchaser will be responsible for the payment of these additional taxes that may be assessed by virtue of the change in ownership of the Property or the change in use of the Property following Closing.

7. **Closing Costs.**

(a) Seller hereby agrees to pay and be responsible for the following closing costs:

(i) All costs related to obtaining any release of mortgage and liens on the Property, including the costs of preparation and recording of any related releases of liens; and

(ii) All fees and premiums for the Basic Owners Title Policy (but no fees associated with any costs for any amendments and endorsements to the Owners Title Policy);

(iii) One-half of Title Company's escrow fees;

(iv) Costs for any tax certificates issued;

(v) Seller's attorneys' fees, if any; and

(vi) Such other incidental costs and fees customarily paid by sellers of property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.

(b) Purchaser hereby agrees to pay and be responsible for the following closing costs:

(i) All fees and/or premiums for any amendments to and endorsements to the Basic Owner's Title Policy which Purchaser requests

(ii) All fees and/or premiums for issuance of any title insurance policy for the benefit of any lender or mortgagee;

(iii) All costs and fees for the Survey;

- (iv) One-half of Title Company's escrow fees;
- (v) Recording fees for the special warranty deed and the Restriction Agreement;
- (vi) Purchaser's attorneys' fees; and
- (vi) Such other incidental costs and fees customarily paid by purchasers of property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.

8. **Permitted Exceptions.** The (i) lien for current taxes not yet due and payable, (ii) any matters shown on the Title Commitment which are promulgated by law to appear in any title insurance commitment or policy, (iii) any exceptions to title to which Purchaser does not timely object in accordance with Section 2(d) above or to which Purchaser objects but are subsequently waived by Purchaser, (iv) existing oil and gas leases and reservations of the mineral estate, (v) items shown on the Survey, and (vi) any deed of trust lien or other lien against the Property created at Closing, shall not be valid objections to title and shall be deemed to be "Permitted Exceptions". Subject to the foregoing, as a condition of Closing, Seller must resolve at Seller's sole cost, the items that are listed on Schedule C of the Title Commitment which are by their nature Seller's responsibility, remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date of this Agreement, and use due diligence to cure the title and survey objections that Seller has agreed in writing to cure pursuant to Section 2(d) above, if any.

9. **Representations and Covenants.**

(a) Seller represents and covenants that: (1) it has authority to enter into this Agreement, and that this Agreement represents the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms; (2) no other person has any interests in or claims against the Property (other than as reflected by the Title Commitment); (3) except as may be set forth in the documents delivered by Seller to Purchaser pursuant to Section 2, Seller has no actual knowledge of any uncured violation of applicable laws, rules, regulations, codes or ordinances with respect to the Property, nor of any existence, release or disposal of any toxic or hazardous substance or waste upon or affecting the Property, nor of any pending or threatened litigation affecting the Property; (4) there are no contracts or agreements relating to the Property that will affect the Property after Closing; (5) there are no unpaid assessments for public improvements against the Property except those which have been disclosed on the Title Commitment; (6) Seller has no knowledge of any proposed assessments against the Property, and the Property is not subject to assessments for any street paving or curbing heretofore laid except for those which have been disclosed on the Title Commitment, if any; (7) Seller has no knowledge of any public plans or proposals for changes in road grade, access or other municipal improvements which would result in any assessment against Purchaser or the Property, nor of any pending ordinance authorizing improvements, the cost of which might be assessed against Purchaser or the Property; and (8) Seller has not encumbered the Property, or taken any other action with respect

to the Property which Seller knows or should know will materially adversely affect the development, lease or other transactions contemplated by this Agreement.

(b) Purchaser represents that it has authority to enter into this Agreement and that this Agreement represents the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms. The only representations made by any Party concerning the Property and this Agreement are as set out in this Section 9.

(c) The representations set forth in this Section 9 shall survive Closing.

10. **Property Sold As Is.**

(a) Except as specifically provided for herein and in the documents delivered at Closing, Purchaser hereby acknowledges and agrees that the sale of the Property hereunder is and will be made on an **“as is, where is and with all faults”** basis. The occurrence of Closing shall constitute an acknowledgment by Purchaser that the Property was accepted without representation or warranty, express or implied (except as otherwise specifically set forth herein and except for the special warranties of title set forth in the special warranty deed).

(b) Except as otherwise specifically set forth in this Agreement and except for the special warranties of title set forth in the special warranty deed, Seller hereby specifically negates and disclaims any representations, warranties or guaranties of any kind or character, whether express or implied, oral or written, past, present, future or otherwise, of, as to, concerning or with respect to the Property, including without limitation (i) the nature and condition of the Property and the suitability thereof for any and all activities and uses which Purchaser may elect to conduct thereon, (ii) the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, condition or any other matter relating in any way to the Property, (iii) the compliance of the Property or its operation with any laws, ordinances or regulations of any government or other authority or body, (iv) the existence of any toxic or hazardous substance or waste in, on, under the surface of or about the Property, (v) geological conditions, including, without limitation, subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water and faulting, (vi) whether or not and to the extent to which the Property or any portion thereof is affected by any stream (surface or underground), body of water, flood prone area, floodplain, floodway or special flood hazard, (vii) drainage, (viii) zoning or land use restrictions rules and regulations to which the Property or any portion thereof may be subject, (ix) the availability of any utilities to the Property or any portion thereof including, without limitation, water, sewage, gas and electric and including the utility availability capacities allocated to the Property by the relevant governmental or regulatory authority, (x) usages of adjoining property, (xi) access to the Property or any portion thereof, (xii) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, durability, structural integrity, operation, leasing, title to, or physical or financial condition of the Property or any portion thereof, or any income, expenses, charges, liens, encumbrances, rights or claims on or affecting or pertaining to the Property or any part thereof, (xiii) the potential for further development of the Property, or (xiv) the merchantability of the Property or fitness of the Property for any particular purpose (Purchaser affirming that Purchaser has not relied on Seller’s skill or

judgment to select or furnish the Property for any particular purpose, and that Seller makes no warranty that the Property is fit for any particular purpose).

(c) Purchaser agrees that prior to the expiration of the Inspection Period it will have the opportunity to examine and investigate the Property and that, in purchasing the Property, Purchaser will rely solely upon its independent examination, study, inspection and knowledge of the Property, and Purchaser is relying solely upon its own examination, study, inspection, and, except for representations and warranties specifically set forth herein and, except for the special warranties of title set forth in the special warranty deed, knowledge of the Property and Purchaser's determination of the value of the Property and uses to which the Property may be put, and not on any information provided or to be provided by Seller.

(d) The provisions of this Section 10 shall survive the termination of this Agreement and the Closing.

11. **Reservation of Minerals; Waiver of Surface Rights.** Purchaser agrees that Seller, for itself and its successors and assigns, as their interests may appear, reserves from this conveyance unto Seller all oil, gas and other minerals owned by Seller located in and under and that may be produced from the Property to the extent not reserved by prior grantors. The following language regarding Seller's reservation of minerals and waiver of surface rights shall be included in substance in the special warranty deed:

“There is hereby reserved for Grantor and Grantor's successors and assigns, all of Grantor's interest in the oil and gas minerals that are in, on and under the Property and that may be produced from it (“**Grantor's Mineral Interest**”). Grantor hereby agrees that no wells will be drilled on the surface of the Property, and no facilities of any kind (including, but not limited to, roads, pipelines, flow lines, electric power lines, tank batteries or treaters) will be placed on the surface of the Property by Grantor or by any other third party acting pursuant to Grantor's consent or authority; provided, that such facilities are permitted at levels below 500 feet below the surface of the Property to the extent that such facilities do not, in any manner whatsoever, interfere with the surface or subsurface support of the surface of the Property, including any improvements thereon. Grantor further hereby agrees that Grantor shall not have the right to use the surface of the Property and Grantor hereby waives all rights to use the surface of the Property for any purpose, including, but not limited to the right of ingress and egress upon, across and over the surface of any of the Property for the purpose of mining, drilling, accessing, exploring, operating, treating, transporting or developing the Grantor's Mineral Interest or performing seismic or other testing on the Property; *provided, however*, nothing herein contained shall be construed as waiving or preventing Grantor from exploring for, developing or producing the Grantor's Mineral Interest or lands pooled or unitized therewith, by pooling, by directional or horizontal drilling (including, without limitation, fracturing and other completion techniques) under the Property from surface sites located on tracts other than the Property or by any other method that does not require ingress, egress or use of the surface of the Property; *provided further, however*, that the well bore for any oil or gas well or

any other equipment that enters the subsurface of the Property shall be and remain at a depth of at least 1,000 feet below the surface of the Property; *provided, however,* that those operations shall in no manner interfere with the surface or subsurface support of the Property, including any improvements thereon.”

12. **Conditions of Closing.** Closing on the sale of the Property shall be conditioned upon and subject to the following:

- (a) Purchaser and Seller having duly executed the Restriction Agreement and the Incentive Agreement;
- (b) The zoning ordinances of the City of Seagoville (“**City**”) having been amended, if necessary, so that Purchaser may develop and use the Property for the Required Use as defined in the Restriction Agreement. If the City’s zoning ordinances in effect on the Effective Date do not authorize the Property to be used for the Required Use, Seller grants Purchaser the right to file an application with the City to seek an amendment to the City’s zoning ordinances affecting the Property to allow the Property to be used for the Required Use. Seller agrees to reasonably cooperate with Purchaser in the application for any zoning ordinance amendment requested by Purchaser and shall execute all necessary and appropriate instruments as owner of the Property. The application for amending the zoning ordinances applicable to the use and development of the Property shall be made in the name of either Seller or Purchaser as required under governing law, prosecuted at the expense of Purchaser, and filed with the City on or before and filed with the City on or before the sixtieth (60th) day after the Effective Date. Unless Seller agrees in writing to extend the date by which the application for the rezoning of the Property is required to be filed with the City, Seller may terminate this Agreement if Purchaser fails to file the application for rezoning the Property with the City on or before the sixtieth (60th) day after the Effective Date.

If the rezoning of the Property as provided in Paragraph (b), above, has not been approved on or before the scheduled expiration of the Closing Date, the Closing Date shall be automatically extended for a period of thirty (30) days. If said rezoning have still not been approved by the end of said additional thirty (30) day period, Seller may either (i) extend the Closing Date for an additional thirty (30) day period or (ii) terminate this Agreement as Seller’s sole remedy.

13. **Incentive Agreement.** Prior to or on the Closing Date, Purchaser and Seller shall execute an Incentive Agreement in substantially the form as attached hereto as Exhibit “A”, which agreement shall provide for at least the following:

- (a) The Property shall be developed with construction of one or more buildings with a total combined minimum area of 8,000 square feet and all associated driveways, parking areas, and landscaping (the “Improvements”),
- (b) Subject to events of Force Majeure, Commencement of Construction of the Improvements shall occur not later than the dates established in the Incentive Agreement and the

Restriction Agreement and subject to events of Force Majeure, Purchaser shall cause Completion of Construction of the Improvements not later than the dates established in the Incentive Agreement and the Restriction Agreement.

(c) The Improvements shall be continuously occupied, operated, and used by Purchaser, its successors or assigns or a third-party to whom Purchaser leases a portion of the Improvements for the Required Uses as set forth in the Incentive Agreement and the Restriction Agreement.

(d) No fewer than five (5) people shall be employed as full-time employees at the Property during the term of the Incentive Agreement and the Restriction Agreement.

(e) Purchaser must, by Completion of Construction of the Improvements, have made a capital investment of not less than \$900,000.00 in the development of the Property (including the design and construction of the Improvements and related site improvements) and must additionally install all furniture, fixtures, equipment and other business personal property necessary for the required Uses (as defined in the Incentive Agreement and the Restriction Agreement) at the Property; and

(f) Repayment of all or a portion of the Purchase Grant if Purchaser is in default of the Incentive Agreement, as provided in the Incentive Agreement, including, but not limited to, compliance with the deadlines for Commencement of Construction and Completion of the Improvements and all other conditions set forth in the Incentive Agreement and/or the Restriction Agreement.

14. **Remedies.** If Purchaser defaults, Seller's sole remedy shall be to terminate this Agreement. If Seller defaults, Purchaser may, as Purchaser's sole and exclusive remedies, (i) seek specific performance or (ii) terminate this Agreement.

15. **Notices.** Notices must be in writing and may be hand delivered and/or mailed by certified mail with return receipt requested, or sent by facsimile transmission with confirmed receipt, to the addresses stated above. Notice given by delivery service shall be effective upon receipt at the address of the addressee; notice given by mail shall be effective upon depositing the notice in a receptacle of the United States Postal Service, postage prepaid and properly addressed, and notice sent by facsimile transmission shall be effective upon electronic confirmation of receipt. In addition, copies of notices shall be provided to the party's attorney at the addresses indicated above.

16. **Miscellaneous.**

(a) **Entireties.** This Agreement, the Restriction Agreement, and the Incentive Agreement contain the entire agreement of the parties pertaining to the purchase and sale of the Property. The parties agree there are no oral agreements, understandings, representations or warranties made by the parties that are not expressly set forth in this Agreement. Any prior written agreements, understandings, representations or warranties between the parties will be deemed merged into and superseded by this Agreement, unless it is clear from the written document that

the intent of the parties is for the previous written agreement, understanding, representation or warranty to survive the execution of this Agreement.

(b) Modifications and Waiver. This Agreement may be amended only by an instrument in writing signed by both Seller and Purchaser. This Agreement may be terminated only in accordance with the terms of this Agreement or by an instrument in writing signed by both Seller and Purchaser. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision, nor shall any waiver be a continuing waiver. Except as expressly provided in this Agreement, no waiver shall be binding unless executed in writing by the party making the waiver.

(c) Assignment. Neither Party may assign its rights under this Agreement without the prior written consent of the other Party.

(d) Effective Date. The Effective Date of this Agreement (“Effective Date”) shall be the date on which the following conditions have been satisfied:

(i) authorized representatives of the parties have signed this Agreement; and

(ii) a fully signed copy of this Agreement has been delivered to and receipted by the Title Company.

(e) Deadlines and Other Dates. All deadlines in this Agreement expire at 5:00 p.m. Central Time on the day of such deadline. If the final date of any period provided herein for the performance of an obligation or for the taking of any action falls on a Saturday, Sunday, or holiday, then the end of such period shall be extended to the next day that is not a Saturday, Sunday, or holiday.

(f) Brokers. Both parties represent and warrant they have worked with no broker relative to this transaction and that no brokerage commission is due and payable upon the Closing. To the extent allowed by law, each party agrees to indemnify, defend, and hold the other party harmless from and against any costs, expenses or liability for any compensation, commission, fee, or charges that may be claimed by any agent, finder or other similar party, other than the named Seller’s Broker, by reason of any dealings or acts of the indemnifying party.

(g) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original for all purposes and constitute one and the same instrument; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

(h) Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

(i) Law Governing. **THIS AGREEMENT SHALL BE EXCLUSIVELY AND IRREVOCABLY CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS; AND VENUE FOR ANY ACTION ARISING FROM THIS AGREEMENT SHALL EXCLUSIVELY AND IRREVOCABLY LIE IN THE STATE DISTRICT COURT OF DALLAS COUNTY, TEXAS. THE PARTIES AGREE TO SUBMIT TO THE PERSONAL AND SUBJECT MATTER JURISDICTION OF SAID COURT.** This provision shall survive the termination or expiration of this Agreement.

(j) Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the Closing shall survive.

(k) Time of the Essence. Time is of the essence with respect to each provision of this Agreement. Strict compliance with the times for performance is required.

(l) Employment of Undocumented Workers. During the term of this Agreement, and for a period of ten (10) years after the Closing and conveyance of the Property to Purchaser, Purchaser agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Purchaser shall pay the amount of the Purchase Grant and any other funds received by Purchaser from Seller as of the date of such violation within 120 days after the date Purchaser is notified by Seller of such violation, plus interest at the rate of 4% compounded annually from the date of violation until paid. Purchaser is not liable for a violation of this Section by a subsidiary, affiliate, or franchisee of Purchaser or by a person with whom Purchaser contracts. This Section 16(l) shall survive the Closing.

(Signatures on Following Page)

SIGNED AND AGREED this ____ day of _____, 2019.

PURCHASER:

JWWIV, LLC

By: _____

John Williams, IV
Manager

SIGNED AND AGREED this ____ day of _____, 2019.

SELLER:

Seagoville Economic Development Corporation

By: _____

Patrick Stallings
Executive Director/President

RECEIPT OF AGREEMENT

Title Company acknowledges receipt of a copy of this Agreement executed by both Purchaser and Seller on the ____ day of _____, 2019.

By: _____

Name: _____

Title: _____

Town Square Title Company
310 N. 9th Street, Suite A
Midlothian, Texas 76065

Regular Session Agenda Item: 4

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Discuss and consider approval of a Resolution amending the City of Seagoville's Investment Policy for Fiscal Year 2019-2020.

BACKGROUND OF ISSUE:

The Investment Policy for the City of Seagoville provides a list of authorized broker/dealers, local investment pool and financial institutions in Section XI – List of Attachments. Under the current Investment Policy, the list of authorized dealers is as follows:

- American National Bank
- Home Bank
- TexPool
- TexSTAR
- MultiBank Securities
- LOGIC

The above list of authorized broker/dealers is unchanged from the previous Investment Policy. No other changes are proposed.

FINANCIAL IMPACT:

None

RECOMMENDATION:

None

EXHIBIT:

Investment policy
Investment policy resolution

CITY OF SEAGOVILLE, TEXAS

INVESTMENT POLICY

September 2020

CITY OF SEAGOVILLE, TEXAS INVESTMENT POLICY

PREFACE

It is the policy of the City of Seagoville (the “City”) that after allowing for the anticipated cash flow requirements of the City and giving due consideration to the safety and risks of investments, all available funds shall be invested in conformance with these legal and administrative guidelines to obtain a market rate of return.

Effective cash management is recognized as essential to good fiscal management. An active cash management and investment policy will be pursued to take advantage of investment interest as a viable and material source of revenue for City funds. The City’s portfolio shall be designed and managed in a manner responsive to the public trust and consistent with state and local law. The City will invest public funds in a manner that will provide the highest rate of return with the maximum security while meeting the daily cash flow demands of the City.

The City is required under the Public Funds Investment Act (Chapter 2256 of the Texas Government Code) to adopt a formal written Investment Policy for the investment of public funds. These policies serve to satisfy the statutory requirement (including but not limited to the Public Funds Investment Act, Chapter 2256 of the Texas Government Code [PFIA] and the Public Funds Collateral Act, Chapter 2257 of the Texas Government Code) to define, adopt and review a formal investment strategy and policy.

**CITY OF SEAGOVILLE
INVESTMENT POLICY
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LIST

SAMPLE CERTIFICATION

CURRENT AUTHORIZED DEALERS

1. PURPOSE. The purpose of this investment policy (the “Policy”) is to set forth specific investment policy and strategy guidelines for the City in order to achieve the goals of safety and liquidity and achieve a market rate of return in all investment activities. On an annual basis, the City Council shall review the investment strategy and policy and shall approve Policy revisions, if any, by formal resolution.

2. SCOPE. The Investment Policy shall govern the investment of all financial assets considered to be part of the City entity, managed as separately invested assets and includes the following funds or fund types:

General Fund – used to account for resources traditionally associated with government, which are not required to be accounted for in another fund.

Special Revenue Funds – used to account for the proceeds from specific revenue sources which are restricted to expenditures for specific purposes.

Debt Service Fund – used to account for resources to be used for the payment of principal, interest and related costs on general obligation debt.

Capital Projects Funds – used to account for resources to enable the acquisition or construction of major capital facilities which are not financed by enterprise funds, internal service funds, or trust funds.

Enterprise Funds – used to account for operations that are financed and operated in a manner similar to private business enterprises.

This policy does not include funds governed by approved trust agreements, or assets administered for the benefit of the City by outside agencies under retirement or deferred compensation programs. Additionally, bond funds (including debt service and reserve funds) are governed by bond ordinances and are subject to the provisions of the Internal Revenue Code and applicable federal regulations governing the investment of bond proceeds.

3. INVESTMENT STRATEGY. The City maintains a comprehensive and proactive cash management program that is designed to monitor and control all City funds to ensure maximum utilization and yield a market rate of return. The basic and underlying strategy of this program is that all of the City’s funds are earning interest. It is the responsibility and obligation of the City to maintain a flexible approach and be prepared to modify the investment strategy as market conditions dictate. The investment strategy described is predicated on conditions as now exist and are subject to change. The investment strategy emphasizes low credit risk, diversification, and the management of maturities. The strategy also considers the expertise and time constraints of the investment officers. The allowable investment instruments as defined in Section 6 of this Policy reflect the avoidance of credit risk. Diversification refers to dividing investments among a variety of securities offering independent returns. This strategy uses local government investment pools to achieve diversification (PFIA 2256.005 (b)(3)). The management of maturities refers to structuring the maturity dates of the direct investments so that investments mature as cash needs require.

3.1 The primary investment strategy and objectives of the City as specified in this Policy (See Section 4.) are listed below, in their order of importance:

- Safety and preservation of principal (PFIA 2256.005(b)(2));
- Maintenance of sufficient liquidity to meet operating needs (PFIA 2256.005 (b)(2); and
- Achieve a market rate of return on the investment portfolio (PFIA 2256.005 (b)(3))

3.2 The list of investments authorized by this Policy intentionally excludes some investments allowed by state law. The restrictions limit possible credit risk and provide the maximum measure of safety. Within the investment objectives, the investment strategy is to utilize authorized investments for maximum advantage to the City. To increase the interest earnings

for funds identified as being available for investment over longer periods of time based upon a cash requirements projection, the City will consider the following strategies:

3.2.1 **Strategy No. 1. - Diversification** Diversifying the City's investment opportunities through the use of local government investment pools as authorized by the City Council. An investment pool is an entity created to invest public funds jointly on behalf its' participants and whose investment objectives in order of priority match those objectives of the City. Funds are usually available from investment pools on a same-day basis, meaning the pools have a high degree of liquidity. Because of the size and expertise of their staff, investment pools are able to prudently invest in a variety of the investment types allowed by state law. In this manner, investment pools achieve diversification. Funds that may be needed on a short-term basis but that are in excess of the amount maintained at the depository bank are available for deposit in investment pools.

3.2.2 **Strategy No. 2. - Ladder** Building a ladder of Investment Policy authorized securities with staggered maturities for all or part of the longer-term investable funds. The benefits of this ladder approach include the following:

- It is straight-forward and easily understood;
- It represents a prudent diversification method;
- All investments remain within the approved maturity horizon;
- It will normally allow the City to capture a reasonable portion of the yield curve; and
- It provides predictable cash flow with scheduled maturities and reinvestment opportunities.

3.2.3. **Strategy No. 3. – Investment Management Firm** At this time, the City does not use an investment management firm. Should the City determine a need, the following strategy will apply:

Pursuant to the Public Funds Investment Act (Texas Government Code 2256.003(4)(b)), the City may, at its discretion, contract with an investment management firm registered under the Investment Advisors Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for investment and non-discretionary management of its public funds or other funds under its control.

An appointed Investment Advisor shall act solely in an advisory and administrative capacity, within the guidelines of this Investment Policy. At no time shall the advisor take possession of securities or funds or otherwise be granted discretionary authority to transact business on behalf of the City. Any contract awarded by the City Council for investment advisory services may not exceed two years, with an option to extend by mutual consent of both parties (PFIA 2256.003(4)(b)).

Duties of the Investment Advisor shall include, but not be limited to, assistance in purchasing securities, securities clearance, producing required reports, pricing the portfolio, performing due diligence on broker/dealers, market monitoring and economic review.

Any Investment Advisor contracted by the City shall abide by the *Prudent Expert Rule*, whereby investment advice shall, at all times, be given with the judgment and care, under

circumstances then prevailing, which persons paid for their special prudence, discretion and intelligence in such matters exercise in the management of their client's affairs, not for speculation by the client or production of fee income by the advisor or broker, but for investment by the client with emphasis on the probable safety of the capital while considering the probable income to be derived.

3.2.4. **Strategy No. 4. – Fund Investment Strategy** The City will maintain portfolio(s) that utilize four specific investment strategy considerations designed to address the unique characteristics of the fund group(s) represented in the portfolio(s):

3.2.4.1 Investment strategies for general fund and enterprise funds have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. The secondary objective is to create a portfolio that will experience minimal volatility during economic cycles through diversification by security type, maturity date and issuer. All security types, as authorized by this policy, are considered suitable investments for the aforementioned funds.

3.2.4.2 Investment strategies for debt service funds shall have as the primary objective the assurance of investment liquidity adequate to cover the debt service obligation on the required payment date(s). These funds have predictable payment schedules. Therefore investment maturities shall not exceed the anticipated cash flow requirements.

3.2.4.3 Investment strategies for debt service reserve funds shall have as the primary objective the ability to generate a dependable revenue stream to the appropriate debt service fund. Managing the Debt Service Reserve Fund's portfolio maturities to not exceed the call provisions of the bond issue will reduce the investment's market risk if the City's bonds are called and the reserve fund liquidated. No investment maturity shall exceed the final maturity of the bond issue.

3.2.4.4 Investment strategies for special projects or capital projects funds will have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. Market conditions and arbitrage regulations will influence the investment of capital project funds.

3.2.5 **Strategy No. 5 - Hold until Maturity.** The strategy of the City is to maintain sufficient liquidity in its portfolio so that it does not need to sell a security prior to maturity. Should it become necessary to sell a security prior to maturity, where the sale proceeds are less than the current book value, the prior written consent of the City Manager must be obtained. Securities may be sold prior to maturity by the Investment Officer at or above their book value at any time. The result of all sales of securities prior to maturity shall be reported to the City Manager within two business days of the sale. The report shall provide the amount of proceeds from the sale, including accrued interest to the date of sale, less the current book value and the dollar amount of gain on the sale.

3.2.6 **Strategy No. 6 - Depository Bank Relationships.** This Policy shall further seek to maintain good depository bank relationships while minimizing the cost of banking services. The City will seek to maintain a depository contract that will be managed to a level that minimizes the cost of the banking relationship to the City, while allowing the City to earn an appropriate return on idle demand deposits.

3.2.7 **Strategy No. 7 - Maximizing Investable Cash Balances.** Procedures shall be established and implemented in order to maximize investable cash by decreasing the

time between the actual collection and the deposit of receipts, and by the controlling of disbursements.

4. INVESTMENT OBJECTIVES. Funds of the City shall be invested in accordance with all applicable Texas statutes, this Policy and any other approved, written administrative procedures. The four objectives of the City's investment activities shall be as follows (in the order of priority):

4.1 **Suitability.** Understanding the suitability of the investment to the financial requirements of the City is important. Any investment eligible in the Investment Policy is suitable for all City funds.

4.2 **Safety of Principal.** Safety of principal invested is the foremost objective in the investment decisions of the City. Each investment transaction shall seek to ensure the preservation of capital in the overall portfolio. The risk of loss shall be controlled by investing only in authorized securities, as defined in this Policy, by qualifying the financial institutions with whom the City will transact business and through portfolio diversification. Safety is defined as the undiminished return of the principal on the City's investments.

4.3 **Liquidity.** The investment portfolio shall be managed to maintain liquidity to ensure that funds will be available to meet the City's cash flow requirements and by investing in securities with active secondary markets. Investments shall be structured in such a manner as will provide the liquidity necessary to pay obligations as they become due. A security may be liquidated prior to its stated maturity to meet unanticipated cash requirements, or to otherwise favorably adjust the City's portfolio, in accordance with Section 2.2.5 above.

4.4 **Marketability.** Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash requirement.

4.5 **Diversification.** Investment maturities shall be staggered throughout the budget cycle to provide cash flow based on the anticipated needs of the City. Diversifying the appropriate maturity structure will reduce market cycle risk.

4.6 **Market Rate-of-Return (Yield).** The City's investment portfolio shall be designed to optimize a market rate-of-return on investments consistent with risk constraints and cash flow requirements of the portfolio. The investment portfolio shall be managed in a manner that seeks to attain a market rate of return throughout budgetary and economic cycles. The City will not attempt to consistently attain an unrealistic above market rate-of-return, as this objective will subject the overall portfolio to greater risk. Therefore, the City's rate of return objective is secondary to those of safety and liquidity. Rate of return (yield) is defined as the rate of annual income return on an investment, expressed as a percentage.

5. INVESTMENT RESPONSIBILITY. As provided in this policy, the daily operation and management of the City's investments are the responsibility of the following person(s).

5.1 **Delegation of Authority.** The City Manager and the Director of Finance are authorized to deposit, withdraw, invest, transfer or manage in any other manner the funds of the City. Management responsibility for the investment program is hereby delegated to the Director of Finance, who shall establish written procedures for the operation of the investment program, consistent with this Policy. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. All persons involved in investment activities will be referred to in this Policy as "Investment Officers", pursuant to Texas Government Code 2256.005(f) . No persons may engage in an investment transaction except as provided under the terms of this Policy and the procedures established by the

Director of Finance. The Director of Finance shall be responsible for all transactions undertaken, and shall establish a system of controls to regulate the activities of subordinate Investment Officials. The system of controls shall be designed to provide reasonable assurance that the assets of the City are protected from loss, theft or misuse. The concept of reasonable assurance recognizes that:

- (1) the cost of a control should not exceed the benefits likely to be derived; and
- (2) the valuation of costs and benefits requires estimates and judgments by management.

Commitment of financial and staffing resources in order to maximize total return through active portfolio management shall be the responsibility of the City Council.

5.2 Prudence. The standard of prudence to be applied by the Investment Officer shall be the "prudent person" rule (as set forth in Texas Government Code 2256.006(a-b), which states, "investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived." In determining whether the Investment Officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration the following:

- 5.2.1 the investment of all funds over which the Investment Officer had responsibility rather than a consideration as to the prudence of a single investment; and
- 5.2.2 whether the investment decision was consistent with the written investment Policy and procedures of the City.

5.3 Due Diligence. The Investment Officer acting in accordance with written policies and procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these deviations are reported in a timely manner and that appropriate action is taken to control adverse developments.

5.4 Ethical Standards and Conflicts of Interest. All City Investment Officers having a direct or indirect role in the investment of City funds shall act as custodians of the public trust avoiding any transaction which might involve a conflict of interest, the appearance of a conflict of interest, or any activity which might otherwise discourage public confidence. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair the ability to make impartial investment decisions. An Investment Officer who has a personal business relationship with the depository bank or with any entity seeking to sell an investment to the City shall file a statement disclosing that personal business interest. An Investment Officer has a personal business relationship with a business organization if any one of the following three conditions are met:

- a. The Investment Officer owns 10% or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization.
- b. Funds received by the Investment Officer from the business organization exceed 10% of the investment officers' gross income for the prior year.

- c. The Investment Officer has acquired from the business organization during the prior year investments with a book value of \$2,500 or more for their personal account (Texas Government Code 2256.005 (i)(1-3)).

5.5 An Investment Officer who is related within the second degree of affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the City Council.

5.6 Investment Training. The Investment Officers shall attend at least one training session of at least ten (10) hours relating to the officer's responsibility under the Public Funds Investment Act within twelve (12) months after assuming duties, and attend an investment training session not less than once every two years, receiving an additional eight (8) hours of training. Such training from an independent source shall be approved by the City Council and endorsed by one or more of the following entities: the Government Finance Officers Association of Texas, the Government Treasurers Organization of Texas, the Texas Municipal League, the North Central Texas Council of Governments, or the University of North Texas Center for Public Management (Texas Government Code 2256.008).

6. AUTHORIZED INVESTMENTS. As stated previously, safety of principal is the primary objective in investing public funds and can be accomplished by limiting two types of risk — credit risk and interest rate risk. Credit risk is the risk associated with the failure of a security issuer or backer to repay principal and interest in full. Interest rate risk is the risk that the value of a portfolio will decline due to an increase in the general level of interest rates. In order to provide for safety of principal as the City's primary objective, only certain investments are authorized as acceptable investments for the City. The following list of authorized investments for the City intentionally excludes some investments authorized by law. These restrictions are placed in order to limit possible risk and provide the maximum measure of safety to City funds.

6.1 Authorized and Acceptable Investments. The authorized list of investment instruments are as follows:

- (1) Obligations (including letters of credit) of the United States or its agencies and instrumentalities.
- (2) Direct obligations of the State of Texas, or its agencies and instrumentalities.
- (3) Other obligations, the principal of and interest on which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State of Texas or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States.
- (4) Collateralized Certificates of Deposit. A certificate of deposit issued by a depository institution that has its main office or a branch office in the state and is:
 - guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;
 - secured by obligations that are described by Section 2256.009(a) of the Public Funds Investment Act, including mortgage backed securities directly issued by a federal agency or instrumentality, but excluding those mortgage backed securities of the nature described in Section 2256.009(b) of the Act; or

- secured in any other manner and amount provided by law for deposits of the City.

This depository shall act as the custodian for the various certificates on behalf of the City.

(5) Eligible Local Government Investment Pools. Public funds investment pools which invest in instruments and follow practices allowed by the current law as defined in Section 2256.016 of the Texas Government Code, provided that:

- the investment pool has been authorized by the City Council;
- the pool shall have furnished the Investment Officer an offering circular containing the information required by Section 2256.016(b) of the Texas Government Code;
- the pool shall furnish the Investment Officer investment transaction confirmations with respect to all investments made with it;
- the pool shall furnish to the Investment Officer monthly reports containing the information required under Section 2256.016(c) of the Texas Government Code;
- the pool is continuously rated no lower than “AAA” or “AAA-m” or an equivalent rating by at least one nationally recognized rating service;
- the pool marks its portfolio to market daily;
- the pool’s investment objectives shall be to maintain a stable net asset value of one dollar (\$1.00); and
- the pool’s investment philosophy and strategy are consistent with this Policy.

(6) Regulated No-Load Money Market Mutual Funds. These investments are authorized, under the following conditions:

- the money market mutual fund is registered with and regulated by the Securities and Exchange Commission;
- the fund provides the City with a prospectus and other information required by the Securities Exchange Act of 1934 or the Investment Company Act of 1940;
- the fund has a dollar-weighted average portfolio maturity of ninety (90) days or less;
- the investment objectives include the maintenance of a stable net asset value of one dollar (\$1.00) per share; and
- the fund is continuously rated no lower than "AAA" or an equivalent rating by at least one nationally recognized rating service.

The City may not invest funds under its control in an amount that exceeds 10% of the total assets of any individual money market mutual fund.

(7) Repurchase Agreements, Reverse Repurchase Agreements, Bankers' Acceptances; Commercial Paper. These investments are authorized for the City only to the extent that they are contained in the portfolios of approved public funds investment pools in which the City invests, or as otherwise provided below.

- The direct investment in reverse repurchase agreements, bankers' acceptances, and commercial paper by the City is not authorized.
- Fully flexible repurchase agreements are authorized in this Policy, to the extent authorized under the Public Funds Investment Act (Texas Government Code 2256.001). The use of flex repos shall be limited to the investment of bond proceeds and the maturity date of any such agreement shall not exceed the expected proceeds draw schedule.

6.2 Investment Instruments NOT Authorized. The following instruments are eligible for investment by local government according to state law, but they have been intentionally prohibited for the City by this Policy: mortgage-related obligations, guaranteed investment contracts, options, financial futures contracts and, day trading of long-term securities. In addition to these restricted investments, state law specifically prohibits investment in the following securities:

- (1) Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.
- (2) Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.
- (3) Collateralized mortgage obligations that have a stated final maturity date of greater than ten years.
- (4) Collateralized mortgage obligations, the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

7. DIVERSIFICATION. Diversification of investment instruments shall be utilized to avoid incurring unreasonable risks resulting from over-concentration of investments in a specific maturity, a specific issue, or a specific class of securities. With the exception of U.S. Government securities, as authorized in this Policy, and authorized local government investment pools, no more than fifty percent (50%) of the total investment portfolio will be invested in any one security type. Diversification of the portfolio considers diversification by maturity dates and diversification by investment instrument.

7.1 Diversification by Maturities. The longer the maturity of investments, the greater their price volatility. Therefore, it is the City's policy to concentrate its investment portfolio in shorter-term securities in order to limit principal risks caused by change in interest rates. The City will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than two (2) years from the date of purchase. However, the above described obligations, certificates, or agreements may be collateralized using longer date instruments. The City shall diversify the use of investment instruments to avoid incurring unreasonable risks inherent in over-investing in specific instruments, individual financial institutions or

maturities. Maturity scheduling shall be managed by the Investment Officer so that maturities of investments shall be timed to coincide with projected cash flow needs.

7.2 Diversification by Investment Instrument. Diversification by investment instrument shall not exceed the following guidelines for each type of instrument:

	<u>Percentage of Portfolio (Maximum)</u>
U.S. Treasury Obligations	100%
U.S. Government Agency Securities and Instrumentalities of Government-Sponsored Corporations	80%
Authorized Local Government Investment Pools	100%
Fully Collateralized Certificates of Deposit	50%
SEC-Regulated No-Load Money Market Mutual Funds	10%

7.3 The City shall invest local funds in investments yielding a market rate-of-return while providing necessary protection of the principal consistent with the operating requirements of this section or written policies.

8. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS. At this time, the City does use Brokers or Dealers. Should the City determine a need for additional brokers or dealers, the following procedures and requirements will apply:

Financial institutions (federally insured banks) with and through whom the City invests shall be state or national banks domiciled in this state. No public deposit shall be made except in a qualified public depository as established by state laws. Brokers/Dealers authorized to provide investment services to the City may include only those authorized by the City Council. All banking services will be governed by a depository contract awarded by the City Council. In addition, the Director of Finance shall maintain a list of authorized security brokers/dealers, and investment pools that are authorized by the City Council.

8.1 All financial institutions with whom the City does business must supply the following as appropriate: (1) audited financial statements; (2) proof of National Association of Securities Dealers (NASD) certification; (3) proof of state registration and completed broker/dealer questionnaire; (4) certification of having read the City's investment policy signed by a qualified representative of the organization, acknowledging that the organization has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities arising out of investment transactions conducted between the City and the organization.

8.2 An annual review of the financial condition and registration of qualified bidders will be conducted by the Director of Finance. The review may include, but is not limited to, review of rating agency reports, review of call reports, and analyses of management, profitability, capitalization, and asset quality. Financial institutions and brokers/dealers desiring to conduct business with the City shall be required to provide any financial data requested by the City Manager or the Investment Officer. Upon completion of the annual review by the Director of Finance, the financial institutions and brokers/dealers desiring to conduct business with the City shall be approved by the City Council.

8.3 Selection criteria for federally insured financial institutions shall include the following: (1) the financial institution must be insured by the FDIC and (2) the financial institution must be incorporated under the laws of the State of Texas or of the United States of America.

8.4 The Investment Officer of the City is responsible for monitoring the investments made by a financial institution and/or broker/dealer to determine that they are in compliance with the provisions of the Investment Policy.

9. DELIVERY VERSUS PAYMENT. It is the policy of the City that all security transactions entered into with the City shall be conducted on a "**DELIVERY VERSUS PAYMENT**" (DVP) basis through the Federal Reserve System. By doing this, City funds are not released until the City has received, through the Federal Reserve wire, the securities purchased. The City shall authorize the release of funds only after receiving notification from the safekeeping bank that a purchased security has been received in the safekeeping account of the City. The notification may be oral, but shall be confirmed in writing (Texas Government Code 2256.005(b)(4)(e)).

10. COMPETITIVE BIDDING. It is the policy of the City to require competitive bidding for all individual security purchases and sales, excluding transactions with money market mutual funds, local government investment pools and when issued (new) securities, which are deemed to be made at prevailing market rates.

11. SAFEKEEPING AND COLLATERALIZATION.

11.1 **Safekeeping.** All securities owned by the City shall be held by its safekeeping agent, except the collateral for bank deposits. The collateral for bank deposits will be held in the City's name in the bank's trust department, or alternatively, in a Federal Reserve Bank account in the City's name, or a third-party bank, at the City's discretion. Original safekeeping receipts shall be obtained and held by the City. The City shall contract with a bank or banks for the safekeeping of securities either owned by the City as part of its investment portfolio or held as collateral to secure time deposits.

11.2 **Collateralization.** Consistent with the requirements of the Public Funds Collateral Act, it is the policy of the City to require full collateralization of all city funds on deposit with a depository bank. The market value of the investments securing the deposit of funds shall be at least equal to the amount of the deposits of funds reduced to the extent that the deposits are insured by the Federal Deposit Insurance Corporation (FDIC). Securities pledged as collateral shall be held in the City's name, in a segregated account at the Federal Reserve Bank/Federal Home Loan Bank or by an independent third party with whom the City has a current custodial agreement. The agreement is to specify the acceptable investment securities as collateral, including provisions relating to possession of the collateral, the substitution or release of investment securities, ownership of securities, and the method of valuation of securities. The safekeeping agreement must clearly state that the safekeeping bank is instructed to release purchased and collateral securities to the City in the event the City has determined that the depository bank has failed to pay on any matured investments in certificates of deposit, or has determined that the funds of the City are in jeopardy for whatever reason, including involuntary closure or change of ownership. A clearly marked evidence of ownership, e.g., safekeeping receipt, must be supplied to the City and retained by the City. The Investment Officer must be notified in writing of release of collateral or substitution of securities. Financial institutions serving as City depositories will be required to sign a "Depository Agreement" with the City and the City safekeeping agent. The collateralized deposit portion of the agreement shall define the City's rights to collateral in the event of default, bankruptcy, or closing and shall establish a perfected security interest in compliance with Federal and State regulations, including:

- the Agreement must be in writing;
- the Agreement has to be executed by the Depository and the City contemporaneously with the acquisition of the asset;

- the Agreement must be approved by the Board of Directors of the Loan Committee of the Depository and a copy of the meeting minutes must be delivered to the City; and
- the Agreement must be part of the Depository's "official record" continuously since its execution.

11.2.1 The City may accept the following securities as collateral for bank deposits (V.T.C.A., Government Code, Section 2256.001, et. seq, formerly Article 842a-2, Section 2, V.T.C.S., as amended);

- FDIC and FSLIC insurance coverage;
 - A bond, certificate of indebtedness, or Treasury Note of the United States, or other evidence of indebtedness of the United States that is guaranteed as to principal and interest by the United States;
 - Obligations, the principal and interest on which are unconditionally guaranteed or insured by the State of Texas;
 - A bond of the State of Texas or of a county, city, or other political subdivision of the State of Texas having been rated as investment grade (investment rating no less than "A" or its equivalent) by a nationally recognized rating agency with a remaining maturity of ten years or less;
 - Surety Bonds that meet the requirements of the Public Funds Investment Act; or
 - Federal Home Loan Bank Letters of Credit as defined by Chapter 116, Subchapter C of the Local Government Code and by Chapter 726, Acts of the 67th Legislature, Regular Session, 1981 (Article 2529b-1, Vernon's Texas Civil Statutes).

11.2.2 For certificates of deposit and other evidences of deposit, collateral shall be at 102% of market or par, whichever is lower. The market value of collateral will always equal or exceed the principal plus accrued interest of deposits at financial institutions.

11.2.2 Financial institutions, with which the City invests or maintains other deposits, shall provide monthly, and as requested by the Investment Officer, a listing of the collateral pledged to the City, marked to current market prices. The listing shall include total pledged securities itemized by name, type, description, par value, current market value, maturity date, and Moody's or Standard & Poor's rating, if applicable. The City and the financial institution shall jointly assume the responsibility for ensuring that the collateral is sufficient. All collateral shall be subject to inspection and audit by the Director of Finance, or designee, as well as the City's independent auditors.

12. INTERNAL CONTROL. The Director of Finance shall establish a system of written internal controls, which shall be reviewed annually by independent auditors. The controls shall be designed to prevent loss of public funds due to fraud, error, misrepresentation, unanticipated market changes, or imprudent actions. The internal controls are to be reviewed annually in conjunction with an external independent audit. This review will provide assurance of compliance with policies and procedures as specified by this Policy. The City, in conjunction with its annual financial audit, shall perform a compliance audit of management controls and adherence to the City's established investment policy.

13. PERFORMANCE. The City's investment portfolio shall be designed to obtain a market rate of return on investments consistent with risk constraints and expected cash flow of the City. The benchmark for performance that is appropriate for the City's cash flow cycle will be TexPool (a local government investment pool).

14. REPORTING. The Director of Finance shall submit a signed quarterly investment report that summarizes current market conditions, economic developments and anticipated investment conditions. The report shall summarize investment strategies employed in the most recent quarter, and describe the portfolio in terms of investment securities, maturities, risk characteristics, and shall explain the total investment return for the quarter.

14.1 Annual Report. Within 60 days of the end of the fiscal year, the Director of Finance shall present an annual report on the investment program and investment activity. This report may be presented as a component of the fourth quarter report to the City Manager and City Council. The reports prepared by the Director of Finance shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the City Council by that auditor.

14.2 Methods. The quarterly investment report shall include a succinct management summary that provides a clear picture of the status of the current investment portfolio and transactions made over the past quarter. This management summary will be prepared in a manner that will allow the City to ascertain whether investment activities during the reporting period have conformed to the investment policy. The report will be prepared in compliance with generally accepted accounting principles. The report will be provided to the City Manager and City Council. The report will include the following:

- A listing of individual securities held at the end of the reporting period. This list will include the name of the fund for which each individual investment was acquired;
- Unrealized gains or losses resulting from appreciation or depreciation by listing the beginning and ending book and market value of securities for the period. Market values shall be obtained from financial institutions or portfolio reporting services independent from the broker/dealer from which the security was purchased;
- Additions and changes to the market value during the period;
- Fully accrued interest for the reporting period;
- Average weighted yield to maturity of portfolio on entity investments as compared to applicable benchmarks;
- Listing of investments by maturity date;
- The percentage of the total portfolio which each type of investment represents; and
- Statement of compliance of the City's investment portfolio with State Law and the investment strategy and policy approved by the City Council.

15. INVESTMENT POLICY ADOPTION AND AMENDMENT. The City's Investment Policy shall be adopted and amended by resolution of the City Council only. The City's written policies and procedures for investments are subject to review not less than annually to stay current with changing laws, regulations and needs of the City. Any changes or modifications to this Investment Policy, if any, shall be approved, and adopted by a formal resolution of the City Council.

GLOSSARY OF TERMS

The Investment Policy contains specialized and technical terminology that is unique to cash management and investment activities. The following glossary of terms is provided to assist in understanding these terms.

Affinity. Related through marriage.

Agencies. See U.S. Agency securities.

Bankers' Acceptances. A draft or bill of exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer. When discounted and sold in the secondary market, bankers' acceptances become a short-term investment alternative.

Book Value. The cost of a security as recorded in the City's accounting records. For purposes of evaluating a sale of a security, it is a function of the original cost, the amortization of premium or discount, and the accrued interest. Specifically, it is the face value of the security plus the accrued interest plus any unamortized premium or minus any unamortized discount. Book value is often compared to market value, which is defined below.

Broker. A person or company that, for a fee or commission, brings buyers and sellers of securities together.

Certificate of Deposit. A time deposit with a specific maturity evidenced by a certificate.

Collateral. In general, assets which one party pledges as a guarantee of performance. Specifically, securities pledged by a bank to secure deposits of public monies. In the event of bank failure, the securities become the property of the public entity.

Collateralized Mortgage Obligations (CMO's). Securities based on a pool of home mortgages.

Commercial Paper. An unsecured promissory note issued primarily by corporations for a specific amount and maturing on a specific day. The maximum maturity for commercial paper is 270 days, but most frequently maturities do not exceed 30 days. Almost all commercial paper is rated by a rating service.

Consanguinity. Related by blood.

Coupon. The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value. Also, a certificate attached to a bond indicating interest due on a payment date.

Credit Risk. The uncertainty that the principal amount of an investment will be returned without loss of value to the default of the borrower.

CUSIP. A unique security identification number assigned to securities maintained and transferred on the Federal Reserve book-entry system.

Dealer. A person or company that endeavors to profit from buying and selling investments for its own account.

Delivery Versus Payment (DVP). A method of delivering securities that requires the simultaneous exchange of the security and the payment. It provides a safeguard against paying for securities before they are received.

Demand Deposits. Deposits at a financial institution that are available to the depositor upon the depositor's demand.

Depository Bank. The primary bank of the City. The relationship between the depository bank and the City is governed by

state law and by a depository contract that is approved by the City Council.

Discount. The difference between the cost price of a security and its value at maturity when quoted at lower than face value. A security selling below original offering price shortly after sale is also considered to be at a discount.

Discount Securities. Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g., U.S. Treasury Bills.

Diversification. The strategy of dividing investments among a variety of securities offering independent risks and yields. Diversification lessens the likelihood of losing the entire portfolio of investments and averages yields among the investment alternatives.

Discount. The difference between the cost of a security and its value at maturity, in cases where the cost is less than the value at maturity.

Federal Deposit Insurance Corporation (FDIC). A federal agency that insures bank deposits.

Federal Funds Rate. The rate of interest at which Federal funds are traded. This rate is currently set by the Federal Reserve through open-market operations.

Federal Home Loan Banks (FHLB). Created in 1932, this system consists of 12 regional banks, which are owned by private member institutions and regulated by the Federal Housing Finance Board. Functioning as a credit reserve system, it facilitates extension of credit through its owner members. Federal Home Loan Bank issues are joint and several obligations of the 12 Federal Home Loan Banks.

Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac). A stockholder-owned corporation that provides a continuous flow of funds to mortgage lenders, primarily through developing

and maintaining an active nationwide market in conventional mortgages.

Federal National Mortgage Association (FNMA or Fannie Mae). FNMA, a federal corporation, is the largest single provider of residential mortgage funds in the United States. It is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted.

Fully Flexible Repurchase Agreement ("flex repo"). A specialized contract designed for the short-term investment of proceeds available from the sale of municipal bonds, notes and certificates. Flex repos allow for incremental repurchases, with the buyer/issuer (the City) retaining the right to force the seller to repurchase all, or a portion of, the sold securities held under repurchase agreement, at any time before the maturity date of the agreement, at a fixed rate for the life of the agreement.

Hold Until Maturity. This investment strategy is intended to avoid interest rate risk by maintaining ownership of an investment until it matures. At maturity, the face value of the security is received, but in some cases where a security is sold before maturity, less than the face value and the book value is received. Please see interest rate risk defined below.

Interest Rate Risk. The uncertainty of the return of principal on fixed rate securities that are sold prior to maturity. When interest rates rise, the market value of fixed rate securities decreases.

Internal Control. Policies and procedures that are established to provide reasonable assurance that specific government objectives are achieved and that assets are safeguarded.

Investment. The purchase of securities which, upon analysis, promise safety of principal and a satisfactory return. These

factors distinguish investment from speculation.

Investment Objective. The aim, goal or desired end of action of the investment activity.

Investment Pool. An entity created to invest public funds jointly on behalf of the entities that participate in the pool and whose investment objectives in order of priority are safety, liquidity, and yield. (Sometimes called Local Government Investment Pool.)

Investment Strategy. The overall plan or method proscribed to achieve the investment objectives of the City.

Laddered Maturity. An investment strategy whereby investments are purchased to mature at regular intervals.

Liquidity. The measure of an investment's ability to be converted quickly and easily into cash without a substantial loss of value.

Local Government Investment Pool. See **Investment Pool.**

Market Rate of Return. A general term referring to the approximate interest rate that could be earned by an investor in a specific maturity range at any given point in time. For example, an investor seeking to earn a "market rate of return" while maintaining an investment portfolio with an average maturity of 90 days, would hope to earn approximately the same as a three-month agency discount note. If the investor earns a rate much higher than this, it might signal an inappropriate level of risk.

Market Risk. The uncertainty of the value of the City's portfolio arising from changes in the market conditions of investment securities.

Market Value. The price, including accrued interest, at which a security is trading for which it can be readily sold or purchased.

Maturity. The date upon which the principal or stated value of an investment becomes due and payable.

Money Market Mutual Fund. A mutual fund that purchases short-term debt instruments, such as Treasury Bills, commercial paper, and bankers' acceptances, and which strives to maintain a stable net asset value of \$1.00.

Mutual Fund. Investment companies that sell shares to investors, offering investors diversification and professional portfolio management. Prices generally fluctuate with the performance of the fund.

Net Asset Value. The ratio of the market value of the portfolio divided by the book value of the portfolio.

Par. The value of a security as expressed on its face (face value) without consideration of a discount or premium.

Pledge. The grant of a collateral interest in investment securities by the depository bank as assurance of the safety of City deposits.

Pooled Fund Group. The combination of various accounts and funds of the City in a single, internally-created investing entity.

Portfolio. The collection of securities held by an investor.

Principal. The capital sum of an investment, as distinguished from interest.

Premium. The difference between the cost price and the face value at maturity in cases where the cost price is higher than the face value.

Rate-of-Return. See **Yield.**

Repurchase Agreement (REPO). An investment arrangement in which the holder of a security sells that security to an investor (the City) with an agreement to repurchase the security at a fixed price and on a fixed date.

Reverse Repurchase Agreement. An investment arrangement by which the City sells a security to a third party, such as a bank or broker/dealer, in return for cash and agrees to repurchase the instrument from the third party at a fixed price and on a fixed date. The City would then use the cash to purchase additional investments. This type of investment is prohibited in the City's portfolio, except to the extent used by local government investment pools with which the City invests.

Safekeeping. An arrangement whereby a bank holds securities and other valuables for protection in exchange for a fee.

Safety. The assurance of the undiminished return of the principal of the City's investments and deposits.

Secondary Market. A market for the purchase and sales of outstanding securities following their initial distribution.

SEC Rule 15C3-1 (Uniform Net Capital Rule). Security and Exchange Commission requirement that member firms and non-member broker/dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1.

Security. A financial instrument that signifies an ownership interest, the right to an ownership interest, or creditor status.

Security Risks. The uncertainty of the value of a security dependent on its particular qualities.

Time Deposits. Deposits at the depository bank that are not due and payable until a specific date.

United States Agency Securities. Debt instruments issued by an executive department, an independent federal establishment, or a corporation or other entity established by Congress which is owned in whole or in part by the United States of America.

United States Treasury Securities. Debt instruments issued by the Treasury of the United States. **Treasury Bills** are issued for short-term borrowings (less than one year); **Treasury Notes** are issued for mid-term borrowings (Two - ten years); **Treasury Bonds** are issued for long-term borrowings (over ten years).

Yield. The rate of annual income return on an investment, expressed as a percentage.

**TEXAS PUBLIC FUNDS INVESTMENT ACT
CERTIFICATION BY BUSINESS ORGANIZATION**

[SAMPLE]

CITY OF SEAGOVILLE, TEXAS

This certification is executed on behalf of the City of Seagoville, Texas (the "City"), and _____ (the "Business Organization"), pursuant to the Public Funds Investment Act, Chapter 2256, Texas Government Code (the "Act") in connection with investment transactions conducted between the City and the Business Organization.

The undersigned Qualified Representative of the Business Organization hereby certifies on behalf of the Business Organization that:

1. The undersigned is a Qualified Representative of the Business Organization offering to enter an investment transaction with the Investor as such terms are used in the Public Funds Investment Act, Chapter 2256, Texas Government Code; and
2. The Qualified Representative of the Business Organization has received and reviewed the Investment Policy furnished by the City; and
3. The Qualified Representative of the Business Organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Business Organization and the City that are not authorized by the City's Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the City's entire portfolio or requires an interpretation of subjective investment standards.

Qualified Representative of Business Organization

Firm: _____

Signature

Printed Name: _____

Title: _____

Date: _____

Current Authorized Dealers:

American National Bank

Home Bank

TexPool

TexStar

MultiBank Securities

LOGIC

A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SEAGOVILLE, TEXAS, ADOPTING THE
INVESTMENT POLICY AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, on September 10, 2018, the City Council adopted an Investment Policy;
and

WHEREAS, it is necessary that the Investment Policy to be adopted annually by
resolution
of the City Council;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF SEAGOVILLE, TEXAS:**

SECTION 1. That the Investment Policy, attached hereto as Exhibit "A," is adopted by
the City Council of the City of Seagoville, Texas.

SECTION 2. This Resolution and the fees established herein shall take effect on the 1st
day of October, 2019, and it is accordingly so resolved.

DULY PASSED by the City Council of the City of Seagoville, Texas, on 12th day of
September, 2019.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria W. Thomas, City Attorney

Regular Session Agenda Item: 5

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Discuss and consider approval of a Resolution of the City Council of the City of Seagoville, Texas, approving the adopted budget for the Seagoville Economic Development Corporation for the fiscal year October 1, 2019 through September 30, 2020; providing that expenditures for said fiscal year shall be made in accordance with that budget; and declaring an effective date.

BACKGROUND OF ISSUE:

In a public meeting, on July 18, 2019, the Seagoville Economic Development Corporation (SEDC) proposed and adopted a budget for expenditures for Fiscal Year 2019 – 2020.

The budget is incorporated in the budget book and will be approved and adopted as part of the overall budget. This resolution will ratify the budget adopted by the SEDC.

FINANCIAL IMPACT:

None.

RECOMMENDATION:

Approval.

EXHIBITS:

FY 2020 SEDC Budget Summary
Resolution

**Seagoville Economic Development Corporation
Fund Summary FY 2020**

Account Description	Actual FY 2017	Actual FY 2018	Budget FY 2019	Projected FY 2019	Proposed FY 2020
Total Net Position October 1	1,401,915	1,833,353	2,409,176	2,409,176	2,465,394
Revenues					
Sales Tax Revenues	776,286	836,242	810,921	871,740	915,325
Rent Revenue	17,363	22,200	21,600	19,300	21,600
Reimbursement/Other	13	501	-	-	-
Interest Income	719	788	725	790	810
Total Revenue	794,381	859,731	833,246	891,830	937,735
Total Resources Available	2,196,296	2,693,084	3,242,422	3,301,006	3,403,129
Expenditures					
<u>Administrative & Operations</u>					
Administrative Cost	205,974	34,242	52,739	62,402	72,228
Operations	88,384	92,551	302,210	314,710	139,450
Total Administrative & Operations	294,358	126,793	354,949	377,112	211,678
<u>Economic Development Assistance</u>					
Kelley Harris Incentive	-	109,000	-	-	-
Project Cake	-	8,683	-	-	-
Land Incentive	-	-	-	450,000	-
Shorty's BBQ	-	34,432	-	-	-
Economic Development Grant - Actuant (Precision/Hays)	50,000	-	-	-	-
Total Economic Development Assistance	50,000	152,115	-	450,000	-
<u>City and Community Oriented Projects</u>					
Fireworks	5,000	5,000	5,000	5,000	5,000
Kidfish Event	105	-	3,500	3,500	3,500
Quality of Life Projects	-	-	100,000	-	200,000
Special Events Chamber of Commerce	-	-	-	-	-
Total City and Community Projects	5,105	5,000	108,500	8,500	208,500
<u>Debt Service</u>	13,479	-	-	-	-
<u>Facade Improvement Program</u>	-	-	-	-	-
Total Expenditures	362,942	283,908	463,449	835,612	420,178
Excess of Revenue over Expenditures	431,440	575,823	369,797	56,218	517,557
Total Net Position September 30	1,833,353	2,409,176	2,778,973	2,465,394	2,982,951
Invested in Capital Assets	836,654	825,393	825,393	825,393	825,393
Working Capital	996,699	1,583,783	1,953,580	1,640,001	2,157,558
Daily Operating Cost	806.46	347.38	972.46	1,033.18	579.94

A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, APPROVING THE ADOPTED BUDGET FOR THE SEAGOVILLE ECONOMIC DEVELOPMENT CORPORATION FOR THE FISCAL YEAR OCTOBER 1, 2019 THROUGH SEPTEMBER 30, 2020; PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH THAT BUDGET; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, after notice required by law, on July 18, 2019, the Seagoville Economic Development Corporation proposed and adopted a budget for expenditures for the Fiscal Year 2019-2020; and

WHEREAS, the City Council finds that the adopted budget by the Seagoville Economic Development Corporation for Fiscal Year 2019-2020 should be approved and adopted.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:

SECTION 1. The annual budget adopted by the Seagoville Economic Development Corporation for the Fiscal Year 2019-2020, attached hereto as Exhibit "A" and incorporated herein is hereby approved.

SECTION 2. All expenditures by the Seagoville Economic Development Corporation during the fiscal year shall be made in accordance with the budget approved, unless otherwise authorized by a duly enacted ordinance of the City.

SECTION 3. The City Council hereby approves, ratifies and restates approval of Resolution 19-02 authorizing expenditures by the Seagoville Economic Development Corporation for projects of Five Thousand Dollars (\$5,000.00) or less without review or further approval by City Council, provided such expenditures are for Quality of Life Grants or Grant Assistance Business Programs.

SECTION 4. This resolution shall take effect immediately from and after its passage.

DULY PASSED by the City Council of the City of Seagoville, Texas, on this 12th day of September 2019.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

APPROVED AS TO FORM

Kandi Jackson, City Secretary

Victoria W. Thomas TM 110686

Regular Session Agenda Item: 6

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Discuss and consider approval of three (3) Hotel Occupancy Tax Grant Agreements with Seagoville Chamber of Commerce for Mayfest (\$12,500.00); Seagofest (\$12,500.00); and 4th of July Celebration (\$5,000.00) totaling Thirty Thousand (\$30,000.00) Dollars for the fiscal year October 1, 2019 through September 30, 2020.

BACKGROUND OF ISSUE:

The Seagoville Chamber of Commerce requested three (3) grants during the August 19th public hearing. The City Council directed staff at the August 19th meeting to prepare the three (3) grant agreements for a combined total disbursement of \$30,000.00.

The attached three (3) agreements provide terms for the use of hotel occupancy tax funds by the Seagoville Chamber of Commerce. It addresses budget submission, reporting and banking requirements as well as action to be taken by the City in the event the agreement is breached.

FINANCIAL IMPACT:

Funds are available in the hotel/motel fund for this expenditure.

RECOMMENDATION:

Approval.

EXHIBITS:

N/A

Regular Session Agenda Item: 7

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Discuss and consider approval of an Ordinance of the City of Seagoville, Texas, approving and adopting a budget for the City for the fiscal year October 1, 2019 through September 30, 2020 and providing that expenditures for said fiscal year shall be made in accordance with said budget; providing a repealing clause; providing a severability clause; and declaring an effective date.

BACKGROUND OF ISSUE:

Public hearings were held August 19, 2019 and August 26, 2019 to receive input on the proposed budget for FY 19 - 20 as required by the Home Rule Charter and Truth-in-Taxation legislation.

The attached ordinance adopts the FY 19 - 20 budgets for the General Fund, Debt Service Fund, Utility Fund, Drainage (Storm Water) Fund, Hotel/Motel Tax Fund, Small Grants Fund, Revenue Recycling Fund, Municipal Court Fund, Street Maintenance Fund, Animal Shelter Operations Fund, TCLEOSE Fund, Technology Replacement, 2019 Street Projects Fund, New Fire Station Construction Fund, and Police Training Fund.

Steps for the Adoption of the Budget:

- A vote to adopt the budget must be a record vote.
- An adopted budget must contain a cover page stating a record vote of each member of the governing body by name, the property tax rates for the current and preceding fiscal year, the total amount of debt obligations, and the following statement in 18point font:

This budget will raise more revenue from property taxes than last year's budget by an amount of \$241,150, which is a 4.73 percent increase from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is \$63,870.

- The budget and cover page must be filed with the clerk and posted on the entity's website at least until the date of the first anniversary the budget is adopted.

FINANCIAL IMPACT:

This budget will raise more revenue from property taxes than last year's budget by an amount of \$361,936.

RECOMMENDATION:

Approval.

EXHIBIT:

Budget adoption ordinance.

AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS, APPROVING AND ADOPTING A BUDGET FOR THE CITY FOR THE FISCAL YEAR OCTOBER 01, 2019, THROUGH SEPTEMBER 30, 2020; AND PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Manager of the City of Seagoville, Texas has heretofore on the 19th day of August, 2019, filed with the City Secretary a proposed general budget for the City covering the fiscal year aforesaid; and

WHEREAS, the governing body of the City has this date concluded the necessary public hearing on said budget with prior notice thereof as required by law in accordance with Chapter 102.006 of the Local Government Code; and

WHEREAS, THIS BUDGET WILL RAISE MORE PROPERTY TAXES THAN LAST YEAR'S BUDGET BY \$241,150 OR 4.73%, AND OF THAT AMOUNT, \$63,870 IS TAX REVENUE TO BE RAISED FROM NEW PROPERTY ADDED TO THE TAX ROLL THIS YEAR; and

WHEREAS, after full consideration, the Council is of the opinion that the 2019-2020 Budget filed by the City Manager, as amended by any and all amendments stated in this Ordinance, should be adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:

SECTION 1. That said budget fund expenditures be attached to this ordinance as Exhibit "A" and made part hereof for all purposes.

SECTION 2. That said budget attached hereto as Exhibit "A" be, and the same is hereby amended as follows:

SECTION 3. That subject to the above-mentioned amendments, if any, said budget attached hereto as Exhibit "A" be, and the same is hereby, approved and adopted by the City Council as the official budget for the City for the fiscal year aforesaid.

SECTION 4. That expenditures during the fiscal year shall be made in accordance with the budget approved by this ordinance, unless otherwise authorized by a duly enacted ordinance of the City.

SECTION 5. That specific authority is given to the City Manager to make the following adjustments:

1. Transfer of budgeted appropriations from one account classification to another account classification within the same department.
2. Transfer of appropriations from designated appropriations to any individual department or activity.

SECTION 6. That the City Council hereby ratifies, adopts, and approves all actual expenditures and changes to the Fiscal 2019-2020 Budget; and hereby authorizes the same as if previously approved and adopted.

SECTION 7. That all provisions of the ordinances of the City of Seagoville, Texas in conflict with the provisions of this ordinance be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 8. That should any word, sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance which shall remain in full force and effect.

SECTION 9. That the necessity for making and approving a budget for the fiscal year as required by the laws of the State of Texas, requires that this ordinance shall take effect immediately from and after its passage as the law in such cases provides.

UPON CALLING FOR A VOTE FOR APPROVAL OF THIS ORDINANCE, THE MEMBERS OF THE CITY COUNCIL VOTED AS FOLLOWS:

	Aye	Nay
Dennis K. Childress, Mayor (only in event of tie)		
Rick Howard, Councilmember-Place 1		
Jose Hernandez, Councilmember – Place 2		
Harold Magill, Councilmember – Place 3		
Mike Fruin, Councilmember –Place 4		
Jon Epps, Councilmember – Place 5		

WITH ___ VOTING “AYE” AND ___ VOTING “NAY”, THIS ORDINANCE IS DULY PASSED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, ON THE 12TH DAY OF SEPTEMBER 2019.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria W. Thomas, City Attorney
(TM 110687 090619)

**EXHIBIT A
CITY OF SEAGOVILLE
2020 BUDGET
FUND EXPENDITURES**

Description	Amount
General	11,066,463
Debt Service	493,364
Water and Sewer Operations	8,607,354
Small Grants	1,150
Revenue Recycle	500
Municipal Court	7,972
Hotel/Motel	30,000
Street Maintenance	92,173
Animal Shelter Operations	3,000
Technology Replacement	17,500
TCLEOSE	1,000
2019 Street Projects	4,394,611
New Fire Station Construction	985,000
Storm Water	<u>372,660</u>
	<u><u>26,072,747</u></u>

Regular Session Agenda Item: 8

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Discuss and consider approval of an Ordinance of the City of Seagoville, Texas, adopting and levying ad valorem taxes for the fiscal year 2020 at a rate of \$0.788800 per one hundred dollars (\$100.00) assessed valuation on all taxable property within the corporate limits of the City as of January 1, 2019, to provide revenues for current expenses and interest and sinking fund requirements for all outstanding debt of the City; approving tax rolls; providing for due and delinquent dates together with penalties and interest; and declaring an effective date.

BACKGROUND OF ISSUE:

The attached ordinance establishes the City's ad valorem tax rate as \$0.788800.

(1) Language Required in the Motion Setting This Year's Tax Rate:

This year's proposed tax rate exceeds the effective tax rate. The vote on the ordinance, resolution, or order setting the tax rate must be a record vote. A motion to adopt the ordinance, resolution, or order must be made in the following form:

I move that the property tax rate be increased by the adoption of a tax rate of 0.788800, which is effectively a 9.18 percent increase in the tax rate.

(2) Statement Required in the Ordinance, Resolution, or Order Setting This Year's Tax Rate:

This year's levy to fund maintenance and operations expenditures exceeds last year's maintenance and operations tax levy. The following statements must be included in the ordinance, resolution, or order setting this year's tax rate. The statements must be in larger type than the type used in any other portion of the document.

THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE.

THE TAX RATE WILL EFFECTIVELY BE RAISED BY 9.18 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$3.75.

FINANCIAL IMPACT:

This rate will raise more revenue from property taxes than last year's budget by an amount of \$361,936.

EXHIBIT:

Tax rate adoption ordinance

AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS, ADOPTING AND LEVYING AD VALOREM TAXES FOR THE FISCAL YEAR 2020 AT A RATE OF \$0.788800 PER ONE HUNDRED DOLLARS (\$100.00) ASSESSED VALUATION ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY AS OF JANUARY 1, 2019, TO PROVIDE REVENUES FOR CURRENT EXPENSES AND INTEREST AND SINKING FUND REQUIREMENTS FOR ALL OUTSTANDING DEBT OF THE CITY; APPROVING THE TAX ROLLS; PROVIDING FOR DUE AND DELINQUENT DATES TOGETHER WITH PENALTIES AND INTEREST; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, following public notices duly posted and published in all things as required by law, public hearings were held by and before the City Council of the City of Seagoville, the subject of which was the proposed tax rate of the City of Seagoville for the fiscal year 2020, submitted by the City Manager in accordance with the provisions of law; and

WHEREAS, the City Council, upon full consideration of the matter, is of the opinion that the tax rate hereinafter set forth is proper and should be approved and adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:

SECTION 1. That there be and is hereby approved, adopted and levied for the fiscal year 2020 on all taxable property, real, personal and mixed, situated within the limits of the City of Seagoville, Texas and not exempt by the Constitution of the State and valid State laws, a tax of \$0.788800 on each One Hundred Dollars (\$100.00) assessed value of taxable property, and shall be appropriated and distributed as follows:

- (a) For the purpose of defraying the current expenses of the municipal government of the City, a tax of \$0.720498 on each One Hundred Dollars (\$100.00) assessed value of all taxable property.
- (b) For the purpose of creating a sinking fund to pay the interest and principal on all outstanding bonds of the City, not otherwise provided for, a tax of \$0.068302 on each One Hundred Dollars (\$100.00) assessed value of all taxable property, within the City which shall be applied to the payment of such interest and maturates of all outstanding bonds.

SECTION 2. THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATION THAN LAST YEAR'S TAX RATE. THE TAX RATE WILL EFFECTIVELY BE RAISED BY 9.18 PERCENT AND WILL RAISE TAXES FOR

MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$3.75.

SECTION 3. That all ad valorem taxes for the year shall become due and payable on October 1, 2019 and all ad valorem taxes for said year shall become delinquent if not paid before February 1, 2020. There shall be no discount for payment of taxes prior to said January 31, 2020. A delinquent tax shall incur a penalty of six percent (6%) of the amount of the tax for the first calendar month delinquent plus one percent (1%) for each additional month or portion of a month the tax remains unpaid prior to July 1, 2020. Provided, however, a tax delinquent on July 1, 2020, incurs a total penalty of twelve percent (12%) of the amount of delinquent tax without regard to the number of months the tax has been delinquent. A delinquent tax shall also accrue interest at the rate of one percent (1%) for each month or portion of a month the tax remains unpaid. Taxes for the year 2019 and taxes for all future years that become delinquent on or after February 1 but not later than May 1, that remain delinquent on July 1 of the year in which they become delinquent, incur an additional penalty in the amount of twenty percent (20%) of taxes, penalty and interest due, pursuant to Texas Property Tax Code Section 6.30 and 33.07, as amended. Taxes assessed against tangible personal property for the year 2019 and for all future years that become delinquent on or after February 1 of a year incur an additional penalty on the later of the date the personal property taxes become subject to the delinquent tax attorney's contract, or 60 days after the date the taxes become delinquent, such penalty to be in the amount of twenty percent (20%) of taxes, penalty and interest due, pursuant to Texas Property Tax Code Section 33.11. Taxes for the year 2019 and taxes for all future years that remain delinquent on or after June 1 under Texas Property Tax Code Sections 26.07(f), 26.15(e), 31.03, 31.031, 31.032 or 31.04 incur an additional penalty in the amount of twenty percent (20%) of taxes, penalty and interest due, pursuant to Texas Property Tax Code Section 6.30 and Section 33.08, as amended

SECTION 4. Taxes are payable in Seagoville, Texas, at the offices of the Dallas County Tax Assessor Collector and Kaufman County Tax Assessor Collector. The City shall have available all rights and remedies provided by law for the enforcement of the collection of taxes levied under this ordinance.

SECTION 5. That the tax rolls, as presented to the City Council, together with any supplement thereto, be and the same are hereby approved.

SECTION 6. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the provisions of this ordinance not in conflict which shall remain in full force and effect.

SECTION 7. All ordinances of the City of Seagoville, Texas in conflict with the provisions of this ordinance be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances shall remain in full force and effect.

SECTION 8. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and Charter in such cases provide.

DULY PASSED by the City Council of the City of Seagoville, Texas, on the 12th day of September, 2019.

UPON CALLING FOR A VOTE FOR APPROVAL OF THIS ORDINANCE, THE MEMBERS OF THE CITY COUNCIL VOTED AS FOLLOWS:

	Aye	Nay
Dennis K. Childress, Mayor (only in event of tie)		
Rick Howard, Councilmember-Place 1		
Jose Hernandez, Councilmember – Place 2		
Harold Magill, Councilmember – Place 3		
Mike Fruin, Councilmember –Place 4		
Jon Epps, Councilmember – Place 5		

WITH ___ VOTING “AYE” AND ___ VOTING “NAY”, AND AT LEAST 60% OF THE MEMBERS OF THE GOVERNING BODY VOTING IN FAVOR OF THE ORDINANCE, THIS ORDINANCE IS DULY PASSED BY THE CITY COUNCIL OF THE CITY OF SEAOGVILLE, TEXAS, ON THE 12TH DAY OF SEPTEMBER 2019.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria W. Thomas, City Attorney
TM110691 090619

Regular Session Agenda Item: 9

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Discuss and consider approval of a Resolution ratifying the budget for Fiscal Year 2019-2020 that will require raising more revenues by 4.73% or \$241,150 from property taxes than the previous year and of that amount, \$63,870 is tax revenue to be raised from new property added to the tax roll this year.

BACKGROUND OF ISSUE:

Section 102.007(c) of the Texas Government Code requires adoption of a budget that will require raising more revenue from property taxes than in the previous year, requires a separate vote to ratify the property tax increase reflected in the budget. A vote under this subsection is in addition to and separate from the vote to adopt the budget or a vote to set the tax rate.

This action will satisfy this requirement.

FINANCIAL IMPACT:

None.

RECOMMENDATION:

Approval.

EXHIBIT:

Resolution.

A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, RATIFYING THE BUDGET FOR THE FISCAL YEAR 2019-2020 THAT WILL REQUIRE RAISING MORE REVENUE FROM PROPERTY TAXES THAN PREVIOUS YEAR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, following public notice duly posted and published in all things as required by law, a public hearing was held, by and before the City Council of the City of Seagoville, the subject of which was the proposed budget for the City of Seagoville for Fiscal Year 2019 - 2020; and

WHEREAS, Section 102.007 (c) of the Texas Local Government Code requires a separate vote on a budget that will require raising more revenue from property taxes than the previous year and shall be ratified by a separate vote from the adoption of the budget or tax rate.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:

SECTION 1. The property tax increase reflected in the 2019-2020 Fiscal Year Budget, will raise more revenue from property taxes than the previous year.

SECTION 2. The property tax increase reflected in the 2019-2020 Fiscal Year budget approved by the City Council of the City of Seagoville is hereby ratified.

SECTION 3. This Resolution shall take effect immediately from and after its passage, as the law and charter in such cases provides.

UPON CALLING FOR A VOTE FOR APPROVAL OF THIS ORDINANCE, THE MEMBERS OF THE CITY COUNCIL VOTED AS FOLLOWS:

	Aye	Nay
Dennis K. Childress, Mayor (only in event of tie)		
Rick Howard, Councilmember-Place 1		
Jose Hernandez, Councilmember – Place 2		
Harold Magill, Councilmember – Place 3		
Mike Fruin, Councilmember –Place 4		
Jon Epps, Councilmember – Place 5		

WITH ___ VOTING "AYE" AND ___ VOTING "NAY", THIS RESOLUTION IS DULY PASSED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, ON THE 12TH DAY OF SEPTEMBER 2019.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria W. Thomas, City Attorney
TM1110693 090619

Regular Session Agenda Item: 10

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Discuss and consider approval of an Ordinance approving a Water & Sewer Fund budget amendment for the fiscal year ended September 30, 2019.

BACKGROUND OF ISSUE:

This request is for the approval of transferring resources from the Water and Sewer Fund reserve to be used to purchase a backhoe for the Water and Sewer Fund. The backhoe to be replaced is approximately 8 years old. Upon acquisition of the new backhoe, the 8-year-old backhoe will be transferred to Community Development – Streets to replace a backhoe purchased in FY 2005. The FY 2005 backhoe is currently out of service and in need of repair. Staff has contacted the HOLT Cat firm and this firm has provided the City a quote of \$34,834.69 to repair the FY 2005 backhoe. Alternately, HOLT Cat has provided Staff an option to trade in the FY 2005 backhoe and provided a quote to acquire a new backhoe. The sales price of a new backhoe is \$101,755 reduced by the trade in value of the FY 2005 backhoe of \$17,500. The acquisition price of a new backhoe would be \$84,255. HOLT Cat is a member of the Buy Board, and the acquisition of a new backhoe from this firm would meet the requirements of State Purchasing Law.

FINANCIAL IMPACT:

The originally estimated FY 2020 budget calculated Water and Sewer Fund reserves amounting to \$4,552,777 or 241.2 days of financial reserves. This reallocation of financial reserves brings the estimated FY 2020 Water and Sewer reserve to \$4,468,522 or 236.7 days of financial reserves. This revised number of days of financial reserve is above the City Council's expectation of 60 days.

RECOMMENDATION:

Staff recommends approval.

EXHIBIT:

Budget adoption ordinance, Quote for New Backhoe Acquisition

**City of Seagoville
Budget Summary
Water and Sewer Fund**

	Actual 2016-2017	Actual 2017-2018	Adopted 2018-2019	Projected 2018-2019	Proposed 2019-2020
Beginning Unrestricted Net Asset Balance	\$2,301,078	\$3,925,046	\$6,233,537	\$6,233,537	\$6,187,282
Revenues					
Water Services	\$3,273,533	\$3,782,109	\$3,517,634	\$3,552,810	\$3,693,520
Waste Water Service	3,426,901	3,457,593	3,120,468	3,245,287	3,276,490
Refunded Debt	-	200,000	-	-	-
Pension Reduction	-	102,821	-	-	-
Other Income	291,140	271,556	209,125	347,357	270,888
Total Revenues	\$6,991,575	\$7,814,079	\$6,847,227	\$7,145,454	\$7,240,898
Total Available Funds	\$9,292,653	\$11,739,125	\$13,080,764	\$13,378,991	\$13,428,180
Expenditures					
Operating and Debt Expenses:					
Administrative	\$173,781	\$174,293	\$172,809	\$182,744	\$185,199
Water	1,679,608	2,161,429	2,319,402	2,269,857	2,316,951
Sewer	1,436,763	2,157,888	2,422,788	2,363,903	2,545,735
Customer Service	201,159	220,182	222,500	226,383	225,850
Non-Departmental	19,527	53,158	93,363	97,709	103,591
Tuition Reimbursement Program	-	-	5,000	-	5,000
Transfers Out	352,304	352,304	352,304	352,304	352,304
Cityworks renewal fee (FY 2019)	-	29,883	15,250	17,100	18,925
Debt	599,467	152,988	516,559	543,288	1,135,900
	4,462,609	5,302,125	6,119,975	6,053,288	6,889,455
Capital Outlay:					
Backhoe Replacement	-	-	-	84,255	-
Transfer to Equipment Replacement	-	-	68,000	68,000	68,000
Replacement Vehicle	-	-	48,000	48,000	-
Zero Turn Mower	-	-	16,435	16,435	-
Water & Sewer Rate Study	-	-	-	-	27,500
Woodhaven Water line Project	313,323	-	-	-	-
Highway 175 Lift station service area condition assessment	-	27,232	103,895	150,000	128,895
Ace Hardware Major Sewer Repair	-	-	-	120,320	-
Jetter Truck	375,255	-	-	-	-
Professional Engineering Fees	150,549	106,541	-	32,310	-
Holt Cat Track Hoe	42,788	-	-	-	-
Replacement Meter Services Truck	23,083	-	-	-	-
Ard Road Pump Station Upgrades	-	-	300,000	150,000	300,000
Reserved for Smart Meter Acquisition	-	-	-	-	1,270,808
Capital Projects	-	69,690	532,000	469,100	275,000
	904,998	203,463	1,068,330	1,138,420	2,070,203
Total Expenditures and Capital	5,367,606	5,505,588	7,188,305	7,191,708	8,959,658
Ending Unrestricted Net Asset Balance	\$3,925,046	\$6,233,537	\$5,892,459	\$6,187,282	\$4,468,522
Required Reserve Balance (60 Days)	\$733,580	\$871,582	\$1,006,023	\$995,061	\$1,132,513
Amount over Required Reserve	\$3,191,467	\$5,361,954	\$4,886,435	\$5,192,221	\$3,336,009
<i>1 day of operations</i>	<i>\$12,226</i>	<i>\$14,526</i>	<i>\$16,767</i>	<i>\$16,584</i>	<i>\$18,875</i>
<i>Days of Reserve Balance</i>	<i>321.0</i>	<i>429.1</i>	<i>351.4</i>	<i>373.1</i>	<i>236.7</i>

AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS, AMENDING ORDINANCE 15-2018 WHICH ADOPTED THE OPERATING BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2018 AND ENDING SEPTEMBER 30, 2019; PROVIDING AMENDED APPROPRIATIONS FOR THE WATER AND SEWER FUND OF THE CITY; AUTHORIZING THE CITY MANAGER TO MAKE ADJUSTMENTS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council approved the 2018-2019 Operating Budget by Ordinance 15-2018 on September 30, 2018 appropriating the necessary funds out of the general revenues, grants and other revenues for the maintenance and operation of various funds, departments, activities and improvements of the City; and

WHEREAS, the Texas Local Government Code § 102.010, “Changes in Budget for Municipal Purposes”, allows a municipality to amend their budgets as deemed necessary for municipal purposes; and

WHEREAS, staff has identified an opportunity to acquire a new backhoe and has identified Water and Sewer fiscal reserves as a funding source to acquire the new backhoe; and

WHEREAS, the City Manager is submitting the amended budget of expenditures for conducting the affairs of the City for FY 2018-2019; and

WHEREAS, upon full consideration of the matter, Council made such amendments to the adopted budget which in their judgment are warranted and in the best interest of the taxpayer of the City of Seagoville and is proposed as recorded in Section 1, replacing Exhibit A of the Adopted Budget Ordinance 15-2018;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS SUBJECT TO THE APPLICABLE STATE LAWS AND THE CITY CHARTER:

SECTION 1. That the appropriations for the Fiscal Year beginning October 1, 2018 and ending September 30, 2019 for the operation of different funds and purposes of the City of Seagoville be amended as follows:

	As Previously		
	<u>Adopted</u>	<u>Amendment</u>	<u>Amended</u>
Water and Sewer Fund	\$6,119,975	\$84,255	\$ 6,204,230

SECTION 2. That all provisions of the ordinance of the City of Seagoville in conflict with provisions of this ordinance, be and the same are hereby repealed, and all other provisions of the ordinances of the City of Seagoville not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same should not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional.

DULY PASSED by the City Council of the City of Seagoville, Texas, on this the 12th day of September, 2019.

APPROVED:

MAYOR

ATTEST:

CITY SECRETARY

APPROVE TO FORM:

VICTORIA THOMAS, CITY ATTORNEY



DATE: August 15, 2019
 QUOTE #:243256-01

CITY OF SEAGOVILLE
 JESSE RUIZ

Christopher Simon
 972.313.5537

702 N HIGHWAY 175
 SEAGOVILLE, TEXAS 75159-1774

One (1) New Caterpillar Model: 420F2 Backhoe Loader

SALE PRICE	\$101,755
TRADE IN: CAT 420D	- \$17,500
QUOTE TOTAL	\$84,255

Quote through Buyboard Contract 515-16

WARRANTY

Standard Warranty: 12 Month/Unlimited Hours Total Machine
 Extended Warranty: 420-12 MO/8760 HR POWERTRAIN

MACHINE SPECIFICATIONS

DESCRIPTION	REF.#
CAT 420F2 - DCA2/ST/C4E/T4F/MP/6V/RC	558-4672
420F2 BHL ST, TIER 4, HRC	450-8448
COUNTERWEIGHT, 1015 LBS	337-9696
ENGINE, 74.5KW,C4.4 ACERT, T4F	450-8757
STICK, EXTENDABLE, 14FT	450-8730
RIDE CONTROL	398-2681
CAB, DELUXE WITH A/C AND HEAT	450-8683
SEAT, DELUXE FABRIC	433-4806
HYDRAULICS, MP, 6FCN/8BNK, ST	450-8530
PT, 4WD, POWERSHIFT	547-6095
COLD WEATHER PACKAGE, 120V HRC	398-2882
BUCKET-GP, 1.5 YD3, PO	337-7401
CUTTING EDGE, TWO PIECE,WIDE	9R-5320
TIRES, 12.5 80/19.5L-24, FS	380-8961
BELT, SEAT, 2" SUSPENSION	206-1747
STABILIZER PADS, FLIP-OVER	9R-6007
GUARD, STABILIZER	353-1389
PLATE GROUP - BOOM WEAR	423-7607
WORKLIGHTS (8) HALOGEN LAMPS	491-6734

DESCRIPTION	REF.#
BUCKET-HD, 24", 6.2 CFT	219-3387

STANDARD EQUIPMENT

BOOMS, STICKS AND LINKAGES

14'4" Center pivot excavator style backhoe
Pilot operated joystick hydraulic controls with pattern changer valve
Pilot operated stabilizer controls

Boom transport lock
Swing transport lock
Street pads stabilizer shoes
Anti-drift hydraulics

POWERTRAIN

Drive-line parking brake
High Ambient Cooling Package
Torque converter
Transmission—four speed synchro mesh with power shuttle & neutral safety

switch
Spin-on fuel, engine oil & transmission oil filters
Outboard planetary rear axles
Open Circuit Breather

HYDRAULICS

Load sensing, variable flow system with 43 gpm axial piston pump
6 micron hydraulic filter
O-ring face seal hydraulic fittings
Caterpillar XT-3 hose

Hydraulic oil cooler
Pilot control shutoff switch
PPPC, Flow-sharing hydraulic valves
Hydraulic suction strainer

ELECTRICAL

12 volt electrical start
150 ampere alternator
Horn and Backup Alarm
Hazard flashers/turn signals
Halogen head lights (4)
Halogen rear flood lights (4)
Stop and tail lights

Audible system fault alarm
Key start/stop system
880 CCA maintenance free battery
Battery disconnect switch
External/internal power receptacles(12v)
Diagnostic ports for engine and machine
Electronic Control Modules

POWERTRAIN

Differential lock
disk brake with dual pedals & interlock
Hydraulically boosted multi-plate wet indicator
ejection system & filter condition
integral precleaner, automatic dust
A dry-type axial seal air cleaner with Eco mode

Thermal starting aid system
Water separator with service indicator with Selective Catalytic Reduction(SCR)
US EPA Tier4 Final Emissions Compliant with ACERT technology.
Direct Injection Turbo Charged Engine, Cat C4.4, 74.5KW (Net 93HP / 69kW)

BOOMS, STICKS AND LINKAGES

Single Tilt Loader
Transmission neutralizer switch control
Self-leveling loader with single lever

Lift cylinder brace
Bucket level indicator
Cat Cushion Swing(tm) system (Boom, Stick and E-Stick)

Return-to-dig (auto bucket positioner)

ELECTRICAL

Remote jump start connector

OPERATOR ENVIRONMENT

Lighted gauge group
Interior rearview mirror
Rear fenders
ROPS canopy
2-inch retractable seat belt
Tilt steering column
Steering knob

Hand and foot throttle
Automatic Engine Speed Control
One Touch Low Idle
Floor mat and Coat Strap
Lockable storage area
Air suspension seat

OTHER STANDARD EQUIPMENT

Hydrostatic power steering
Standard Storage Box
Transport tie-downs
Ground line fill fuel tank with 44
gallon capacity
Ground line fill diesel exhaust fluid
tank with 5 gallon capacity
Rubber impact strips on radiator guards

Bumper
CD-ROM Parts Manual
Backhoe Safety Manual
Operations and Maintenance Manual
Lockable hood
Tire Valve Stem Protection
Long Life Coolant -30C (-20F)
Padlocks (2 on ST, 3 on IT)

Regular Session Agenda Item: 11

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Presentation of City of Seagoville's Third Quarter Financial Report for Fiscal Year 2019.

BACKGROUND OF ISSUE:

Patrick Harvey, Director of Finance presents the City's financial report for the third quarter of FY 2019.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

None

EXHIBITS:

None



Memo

Date: August 21, 2019
To: Pat Stallings, City Manager
From: Patrick Harvey, Director of Finance
Subject: June 2019 Financial Reports

This memo accompanies the June 2019 Revenue and Expense Reports for the City of Seagoville, and highlights selected financial activities for the first nine months of FY 2019. The first nine months of the fiscal year represents 75% of the total fiscal year, and this memo provides an explanation of variances from that standard.

General Fund

Revenues: General fund total revenue for the first nine months of the fiscal year is above budget expectations (actual 93.2% vs. expected 75.0%). The current year fiscal **Property tax** revenue collections are below last year's collection rate (96.7% vs. 106.0%) – this is due to a large local employer winning a case involving disputed property tax assessment. As a result, I anticipate that property taxes may fall short of budget expectations. **Sales Tax** revenue collections are above budget expectations (86.7%). This is due to the State Comptroller collection of overdue use taxes from a local business, and to the presence of new businesses in the City. In **Franchise Fee** revenue, the comparative collection trend for the first nine months of FY 2019 vs. FY 2018 appears below:

Description	FY 2019 Amount	FY 2018 Amount	Increase (Decrease)
ONCOR	\$ 365,872	\$ 328,830	\$ 37,042
ATMOS Gas	83,794	76,511	7,284
Suddenlink Cable	18,944	17,722	1,223
Telephone	21,678	21,464	214
Republic Services	33,407	34,717	(1,310)

Cable television franchise fee is generally received quarterly. The telephone franchise fee is also received quarterly.

Permits & Fees The first quarter of FY 2019, the City received \$17,242.70 for issuing 10 permits in Brook Valley #7 subdivision and \$16,362.60 for issuing six permits in other parts of the City for Residential Building permits. This compares to the first quarter of FY 2018, in which the City received \$2,547.50 for issuing 2 permits in Priest Acres subdivision, \$3,283.65

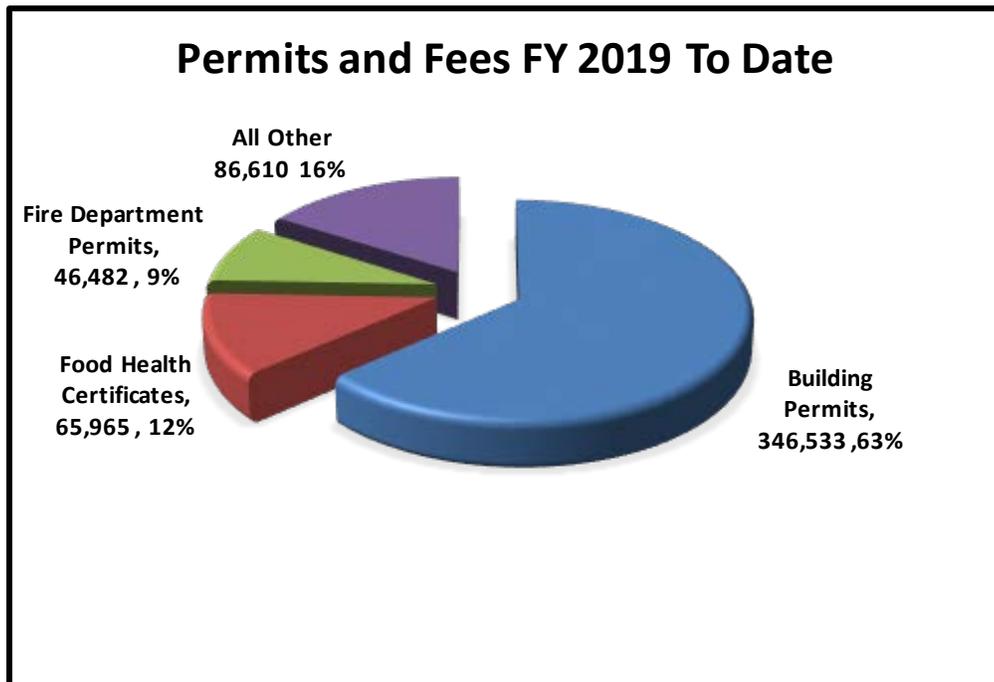
for issuing 3 permits in the Sandy Hill subdivision, \$1,072.15 for issuing a permit in the Stafford Addition subdivision, and \$4,563.25 for issuing six permits in other parts of the City.

The second quarter of FY 2019, the City received \$10,436.40 for issuing 8 permits in Brook Valley #7 subdivision, \$2,883.50 for issuing two permits for the Super One renovation project, \$2,858.55 for issuing a permit to Starbucks, \$9,510.50 for issuing 7 permits in other parts of the City, \$4,000.00 in plan review fees for Seagoville Farms, and \$73,729.90 for issuing 66 permits for Highland Meadows Phase 3.

During the third quarter of FY 2019, the City received \$1,486.55 for issuing a permit in Brook Valley #7 subdivision, \$1,178.55 for issuing a permit for the Super One renovation project, \$14,271.00 for issuing 11 permits in other parts of the City, \$7,534.65 for issuing 3 permits for Wal-Mart remodeling, and \$100,620.00 for issuing 69 permits for Highland Meadows Phase 3.

The following is a comparison of FY 2019 revenue vs. FY 2018:

Description	FY 2019 Amount	FY 2018 Amount	Increase (Decrease)
Building Permits	\$ 346,533	\$ 101,307	\$ 245,226
Inspection Fees	3,300	171,149	(167,849)
Food Health Certificates	65,965	61,391	4,574
Fire Department Permits	46,482	39,158	7,325
All Other	83,310	48,057	35,253



Sanitation revenue is up compared to budget (83.3% actual vs. 75.0% expected). This is in line with last year's revenue of 83.5%. **Senior Activities** revenue has approximately a 45-day lag between the end of the month and actual revenue received from the Dallas Council on Aging. **Fines** revenue reflects increased court enforcement activity from public safety contacts.

Total revenues for the first nine months of the fiscal year are \$8,869,026 or 93.2% of budget. This compares favorably to total General Fund revenues for the first nine months of the previous fiscal year (\$8,104,311).

Expenditures: Total General Fund expenditures are within budget expectations (73.7% actual vs. 75.0% expected).

City Secretary is above expectations due to the payment to Dallas County for the May 2019 election.

Finance is above expectations due to the payment for the annual audit and payments to Dallas Central Appraisal District for appraisal services.

Streets department is above budget expectations due to an increase in uniform purchases, minor equipment purchases such as LED lamps, tools and supplies for the sign shop (147.5% vs 75.0%), and Other Contract Maintenance which includes Asphalt for Sunnyvale and Motor Grader for Elizabeth Lane and Tunnell St, pest control services for Bearden Park and concrete medians, providing asphalt for Central Park as well as street sweeping various streets.

Information and Technology is above expectations due to the Annual Transfer to the Technology Replacement Fund and Civic Plus Annual Fees for Recurring Redesign fee increase and Custom Mobile App Annual Fee Renewal.

Non departmental is above expectations mainly due to the annual premium payment to TML for workers' compensation and property/casualty insurance. Postage, data processing supplies and memberships are also above budget expectations fiscal year to date. There was also an increase above budget of 112.15% vs 75% expected in **Legal fees** for Nichols, Jackson, Dillard, Hager.

Debt Payment (Quint) is the third annual payment of fifteen on the financing to acquire the quint fire vehicle.

Transfers and Reserves reflect the annual transfer to the Street Maintenance fund to provide resources for ongoing street projects (\$431,850). This transfer is made at the beginning of the fiscal year.

Water and Sewer Fund (Fund 20)

Revenues: Total Water and Sewer Fund revenues are slightly above budget expectations (79.6% vs. 75.0%). Water sales usually accelerate during the summer depending upon the weather conditions. **Penalties and Interest** is generated from late customer payment. **Pretreatment Sewer Revenue** is charged to a few of our industrial customers to cover the cost of wastewater pretreatment required by the state to ensure the prevention of harmful materials entering the water system. **Reconnection Fees** are higher than anticipated due to a renewed commitment to enforcement activities against delinquent customers. **Outside Contractor Tap Fees, Meter Installation Fees,**

Water Tap Fees and **Sewer Tap Fees** reflect development activity in Stafford Addition, Brook Valley 7, Highland Meadows Phase 3 and commercial activity for Starbucks, the Ag Barn and on S. Kaufman.

Expenditures: The year to date expenditure trend is within expectations (64.5% actual vs. 75.00% expected).

Non departmental is above expectations due to the annual premium payment to TML for workers' compensation and property/casualty insurance. Also in the category of non-departmental, the Halff engineering firm continues to work toward the completion of the City's Water Master Plan, budgeted in last fiscal year. The total amount paid under the contract is within the Council approval amount while the amounts paid began last fiscal year and will final this fiscal year.

Cityworks System Renewal payment plus added 4 standard logins and web hooks to current licensing. This system represents a major element of compliance with the EPA's administrative order.

Vehicles reflect insurance reimbursement from our insurance carrier TML for vehicle damage. This partially offsets the June 2019 purchase of two Ford F250 vehicles (Units 700 and 751) totaling \$78,306.

Other Funds

W&S Improvements (Fund 22) Expenditures reflect progress payments on the Highway 175 sewer line replacement project (\$469,062.75) and Ard Road Pump Station Improvements (\$39,485.00).

Street Maintenance (Fund 43) The expenditures include payment to C & M Concrete for Seagoville Road Repair project (\$143,754.68). Other expenditures include \$618,074.60 for East Malloy Bridge Road project and \$54,767.60 for various projects throughout the City. The remaining expenditure is financing costs connected to the Series 2019 bond sale. These costs, along with \$4,759,865 of bond proceeds will be transferred to a separate capital projects fund to better account for and report on resource inflows and outflows associated with bond funded street reconstruction projects. Fund 43 then will reflect only projects funded by the annual General Fund transfer.

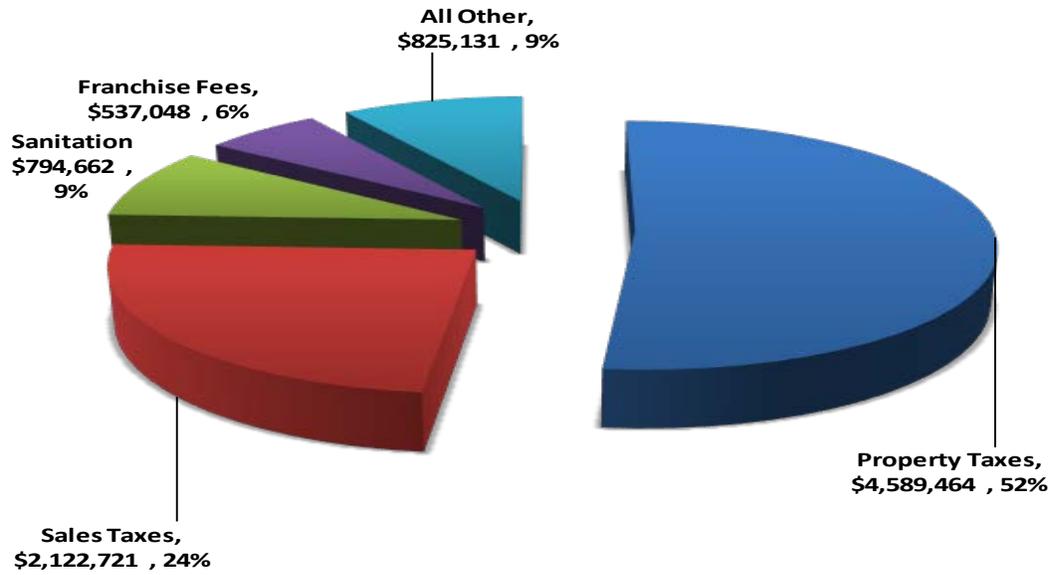
**GENERAL FUND
SUMMARY OF REVENUES AND EXPENDITURES
AS OF 6/30/18
75% OF BUDGET YEAR**

	Adopted Budget	Year to Date	% tage of Budget
REVENUES:			
Property Taxes	\$4,745,438	\$4,589,464	96.7%
Sales Taxes	2,447,978	2,122,721	86.7%
Franchise Fees	614,525	537,048	87.4%
Sanitation	954,350	794,662	83.3%
All Other	<u>757,595</u>	<u>825,131</u>	108.9%
TOTAL REVENUES	\$9,519,886	\$8,869,026	93.2%
Transfers In:	379,904	291,828	76.8%
EXPENDITURES:			
Public Safety	\$5,053,217	\$3,674,336	72.7%
Community Development	1,277,016	945,772	74.1%
Community Services	1,417,000	990,293	69.9%
General Government	962,302	752,005	78.1%
Non departmental	<u>391,055</u>	<u>344,123</u>	88.0%
TOTAL EXPENDITURES	\$9,100,590	\$6,706,530	73.7%
Use of Fund Balance	1,920,413	\$1,781,680	92.8%
Grant Equipment		-	
Christmas Toy Drive		-	

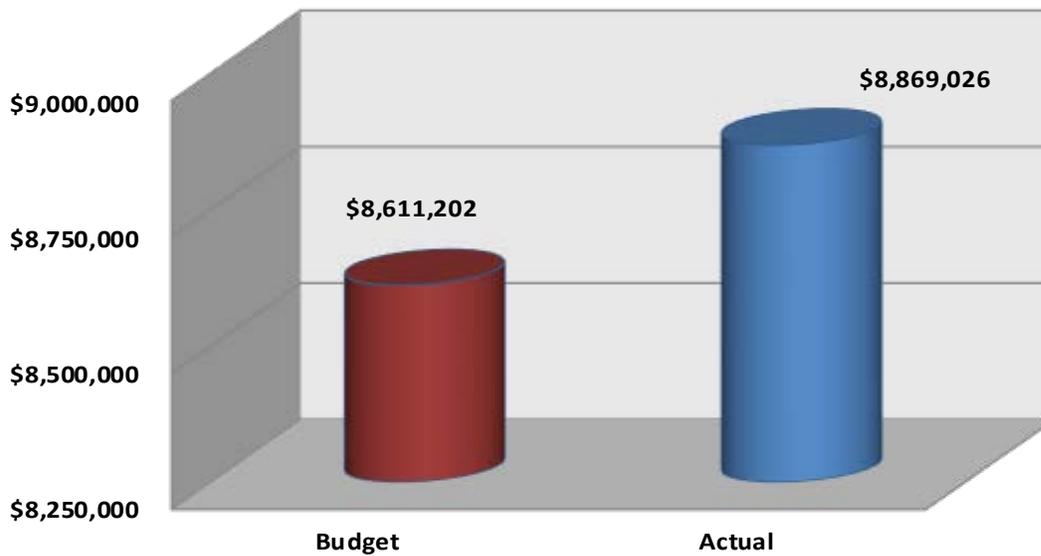
**GENERAL FUND
SUMMARY OF REVENUES
FOR FISCAL YEAR 2018-19
AS OF 6/30/19
75.00 % OF BUDGET YEAR**

	LAST YEAR			THIS YEAR		
	Annual Budget	Year-to-Date	% of Budget	Amended Budget	Year-to-Date	% of Budget
Revenues:						
Property Taxes	\$4,011,440	\$4,251,727	106.0%	\$4,745,438	\$4,589,464	96.7%
Sales Taxes	\$2,293,470	\$1,810,802	79.0%	\$2,447,978	\$2,122,721	86.7%
Franchise Fees	\$637,500	\$493,588	77.4%	\$614,525	\$537,048	87.4%
Permits & Fees	\$411,395	\$421,061	102.3%	\$368,595	\$545,590	148.0%
Sanitation	\$934,920	\$780,801	83.5%	\$954,350	\$794,662	83.3%
Senior Activities	\$29,000	\$39,044	134.6%	\$42,500	\$28,485	67.0%
Fines	\$192,500	\$184,858	96.0%	\$227,500	\$213,215	93.7%
Interest	\$2,500	\$18,607	744.3%	\$13,000	\$27,387	210.7%
Grants		\$79,865		\$100,000		0.0%
Miscellaneous	\$6,000	\$23,959	399.3%	\$6,000	\$10,453	174.2%
Total Revenues	\$8,518,725	\$8,104,311	95.1%	\$9,519,886	\$8,869,026	93.2%
Transfers In:	\$379,904	\$291,828	76.8%	\$379,904	\$291,828	76.8%

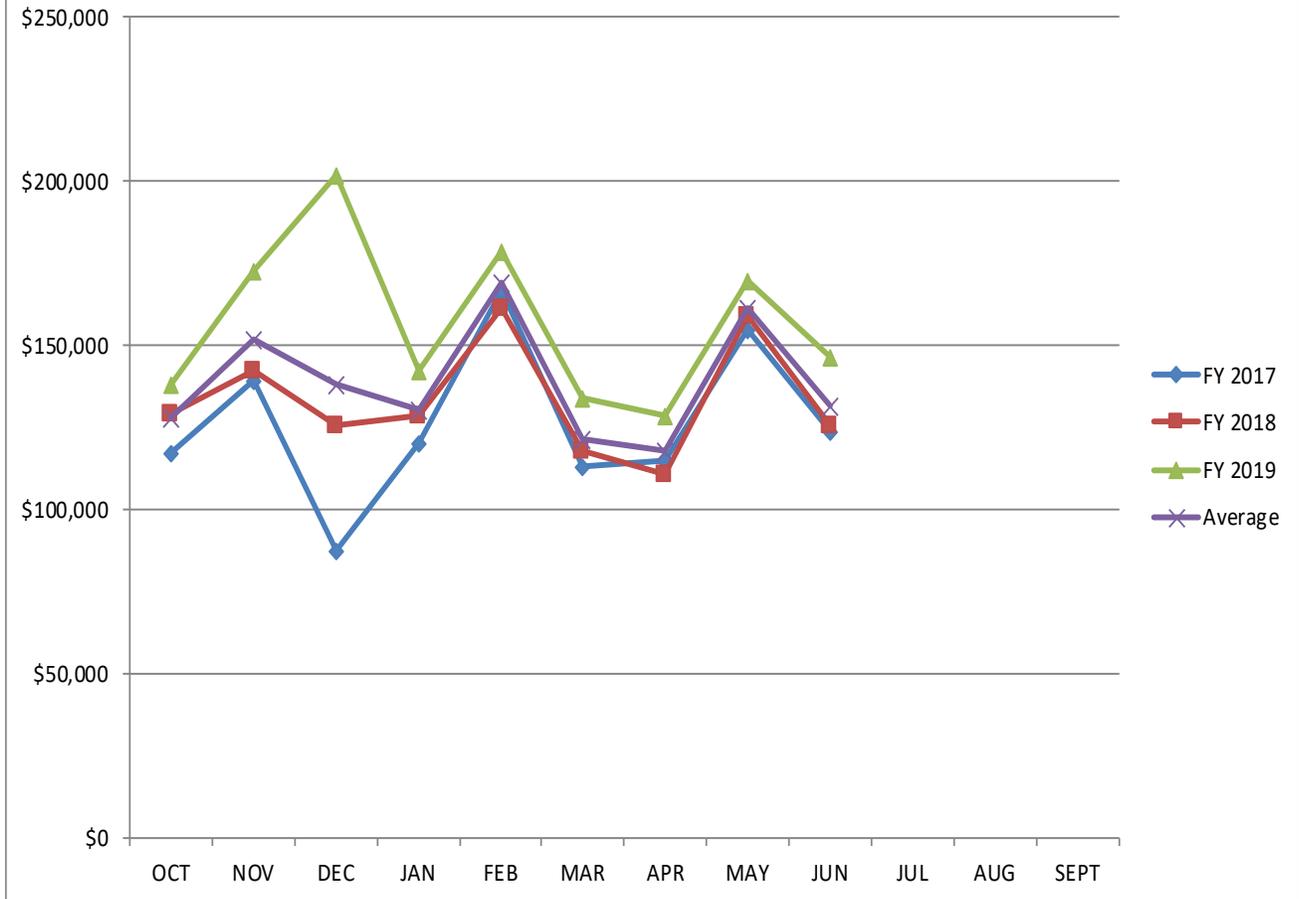
**General Fund Revenues
3rd Quarter, FY 2019
Total \$8,869,026**



**Year to Date Revenue Comparison
General Fund**

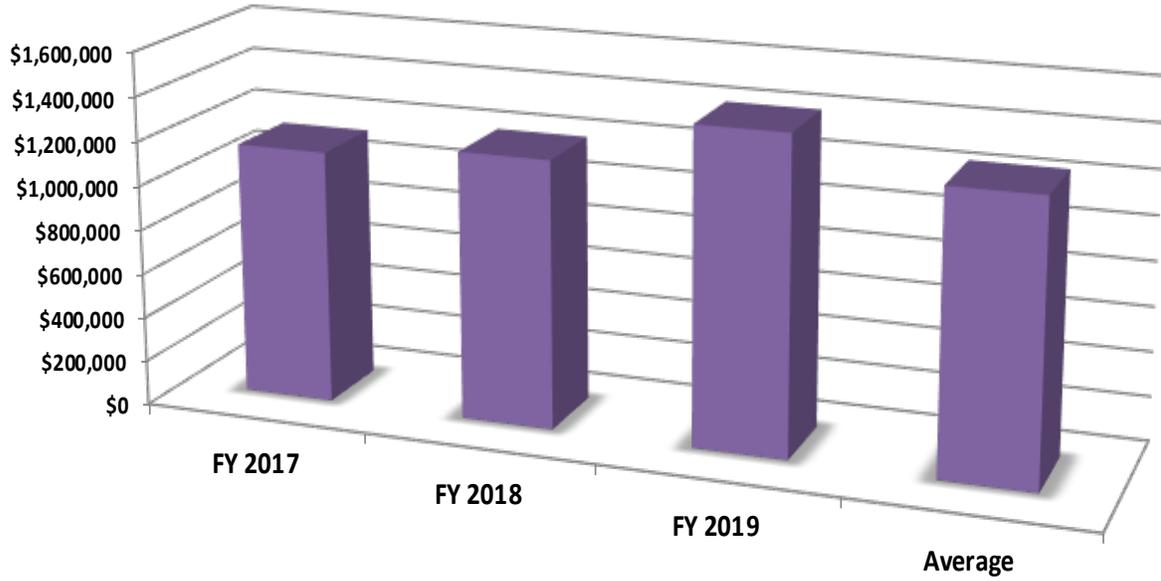


General Fund Sales Tax Comparison



	FY 2017	FY 2018	FY 2019	Three Year Average
OCT	117,255.97	129,581.47	138,378.74	128,405.39
NOV	139,335.95	142,707.74	173,057.45	151,700.38
DEC	87,836.00	125,490.04	201,730.66	138,352.23
JAN	120,436.32	128,533.63	142,638.91	130,536.28
FEB	167,079.94	161,739.81	178,469.13	169,096.29
MAR	113,468.05	117,942.89	134,151.31	121,854.08
APR	115,183.31	110,613.83	128,468.61	118,088.58
MAY	154,902.01	159,370.18	169,911.46	161,394.55
JUNE	123,730.29	125,678.24	146,585.42	131,997.98

Fiscal Year to Date Comparison - Sales Tax



	FY 2017	FY 2018	FY 2019	Three Year Average
Fiscal Year To Date	1,139,227.82	1,201,657.81	1,413,391.67	1,251,425.76



Sales & Use Tax Monthly Summary General Fund

June, 2019

History by Month					
Month	FY 16-17	FY 17-18	FY 18-19	Inc/(Dec) From Last Year	Percent +/-
October	\$ 117,255.97	\$ 129,581.47	\$ 138,378.74	\$ 8,797.27	6.8%
November	\$ 139,335.95	\$ 142,707.74	\$ 173,057.45	\$ 30,349.71	21.3%
December	\$ 87,836.00	\$ 125,490.04	\$ 201,730.66	\$ 76,240.62	60.8%
January	\$ 120,436.32	\$ 128,533.63	\$ 142,638.91	\$ 14,105.28	11.0%
February	\$ 167,079.94	\$ 161,739.81	\$ 178,469.13	\$ 16,729.33	10.3%
March	\$ 113,468.05	\$ 117,942.89	\$ 134,151.31	\$ 16,208.42	13.7%
April	\$ 115,183.31	\$ 110,613.83	\$ 128,468.61	\$ 17,854.78	16.1%
May	\$ 154,902.01	\$ 159,370.18	\$ 169,911.46	\$ 10,541.28	6.6%
June	\$ 123,730.29	\$ 125,678.24	\$ 146,585.42	\$ 20,907.19	16.6%
July	\$ 131,020.10	\$ 138,665.29	-		0.0%
August	\$ 143,683.22	\$ 155,884.05	-		0.0%
September	\$ 122,944.19	\$ 137,130.49	-		0.0%
Total General Fund	\$ 1,536,875.32	\$ 1,633,337.63	\$ 1,413,391.67	\$ 211,733.87	17.6%

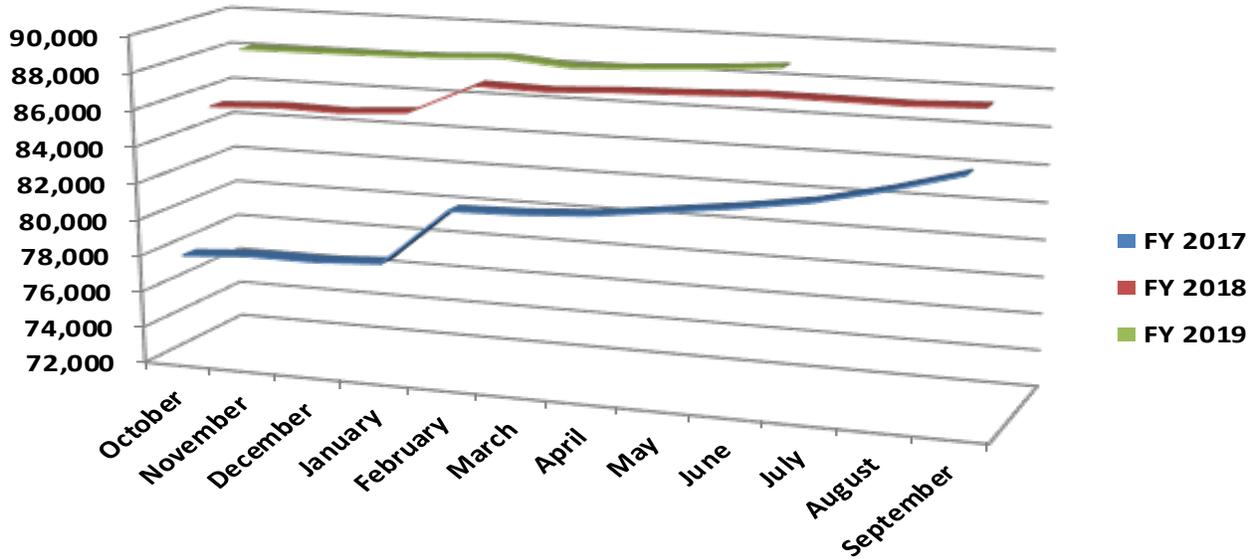
Actual to Budget					
GF Budget FY 2019				\$ 1,621,842	
	<u>PERCENT YTD</u>	<u>AMOUNT YTD</u>			
Target to Budget	75.00%	\$ 1,216,381.50			
Actual to Budget	87.15%	\$ 1,413,391.67			
Amount Over/(Under)		\$ 197,010.17			
Percent +/-		12.15%		<u>OVER/(UNDER)</u>	<u>% +/-</u>
September 30 Forecast			\$ 1,921,134	\$ 299,292	18.5%

Actual to Actual					
	FY 16-17	FY 17-18	FY 18-19	Inc/(Dec) From Last Year	Percent +/-
Year to Date	\$ 1,139,227.82	\$ 1,201,657.81	\$ 1,413,391.67	\$ 211,733.87	17.6%

Total Sales Tax & Distribution				
	General Fund	PTR	4B	Total
This Month	\$ 146,585.42	\$ 73,292.71	\$ 73,292.71	\$ 293,170.84
Year to Date	\$ 1,413,391.67	\$ 706,695.84	\$ 706,695.83	\$ 2,826,783.34

NOTE: SALES TAX IS RECEIVED FROM THE STATE TWO MONTHS AFTER THE ACTUAL SALE DATE.

Three Year Comparison of Sanitation Revenue



**GENERAL FUND
SUMMARY OF EXPENDITURES
FOR FISCAL YEAR 2018-19
AS OF 6/30/19
75.00 % OF BUDGET YEAR**

	LAST YEAR			THIS YEAR		
	Annual Budget	Year-to-Date	% of Budget	Amended Budget	Year-to-Date	% of Budget
Expenditures:						
City Council	\$9,450	\$1,756	18.6%	\$9,450	\$893	9.4%
City Manager	\$213,681	\$164,456	77.0%	\$221,111	\$169,299	76.6%
City Secretary	\$100,410	\$72,303	72.0%	\$114,379	\$92,824	81.2%
Finance	\$361,436	\$301,437	83.4%	\$367,824	\$295,908	80.4%
Animal Control	\$114,339	\$80,173	70.1%	\$115,976	\$80,710	69.6%
Code Enforcement	\$181,758	\$153,124	84.2%	\$187,386	\$127,341	68.0%
Bldg Inspection/Services	\$342,274	\$257,363	75.2%	\$410,175	\$304,727	74.3%
Police	\$2,024,940	\$1,520,010	75.1%	\$2,155,240	\$1,590,062	73.8%
Planning	\$84,023	\$57,956	69.0%	\$96,428	\$73,460	76.2%
Fire	\$1,698,473	\$1,283,641	75.6%	\$1,860,266	\$1,359,653	73.1%
Municipal Court	\$169,508	\$122,077	72.0%	\$170,800	\$126,440	74.0%
Library	\$185,613	\$135,816	73.2%	\$224,275	\$164,856	73.5%
Senior Center	\$202,459	\$151,303	74.7%	\$214,645	\$149,269	69.5%
Streets	\$317,080	\$237,068	74.8%	\$325,862	\$273,328	83.9%
Sanitation	\$747,680	\$598,235	80.0%	\$807,280	\$549,729	68.1%
Support Services	\$662,229	\$457,439	69.1%	\$754,373	\$518,389	68.7%
Parks	\$241,985	\$183,250	75.7%	\$257,165	\$166,915	64.9%
Emergency Medical Service	\$164,080	\$123,060	75.0%	\$167,362	\$125,521	75.0%
Information Technology	\$81,679	\$63,460	77.7%	\$121,294	\$95,677	78.9%
Human Resources	\$114,584	\$88,457	77.2%	\$128,244	\$97,405	76.0%
Non Departmental	\$347,598	\$290,236	83.5%	\$391,055	\$344,123	88.0%
Total Expenditures	\$8,365,279	\$6,342,620	75.8%	\$9,100,590	\$6,706,530	73.7%
Debt Payment (Quint)	\$72,000	\$69,483	96.5%	\$72,000	\$67,054	93.1%
Grant Equipment		\$79,865				
Christmas Toy Drive		\$151				
Transfers and Reserves	\$461,350	\$449,350	97.4%	\$443,850	\$431,850	97.3%
Use of Fund Balance Projects	\$976,456	\$829,687	85.0%	\$1,404,563	1,282,776	91.3%

**General Fund
Use of Fund Balance Projects
FY 2019**

	<u>Budget</u>	<u>Actual</u>
Patrol Vehicle Purchases	110,490.00	95,881.15
Police Equipment	23,333.00	17,865.39
Animal Services Interior Lighting	6,550.00	4,837.78
City Hall LED Sign	100,000.00	
New Fire Station	935,000.00	935,000.00
Firefighting Equipment	36,500.00	26,733.42
Planning Equipment	17,795.00	
Building Inspection & Services Vehicle	30,425.00	28,969.33
Emergency Siren Placement	25,000.00	5,300.00
Vehicle Replacement Transfer	42,000.00	42,000.00
Tuition Reimbursement Program	15,000.00	1,000.00
Debt Payment - Roof Repair	47,470.00	35,602.38
Bruce Park Restroom Facility (NOTE)		89,586.14
Election Officers	15,000.00	
Total	<u>1,404,563.00</u>	<u>1,282,775.59</u>

Police Equipment

Handguns, Shotguns & Patrol Rifles	15,398.00	14,430.39
Three X-26P Tasers	3,435.00	3,435.00
New Detective Computer and CJIS Compliant Tablet	4,500.00	
	23,333.00	17,865.39

NOTE

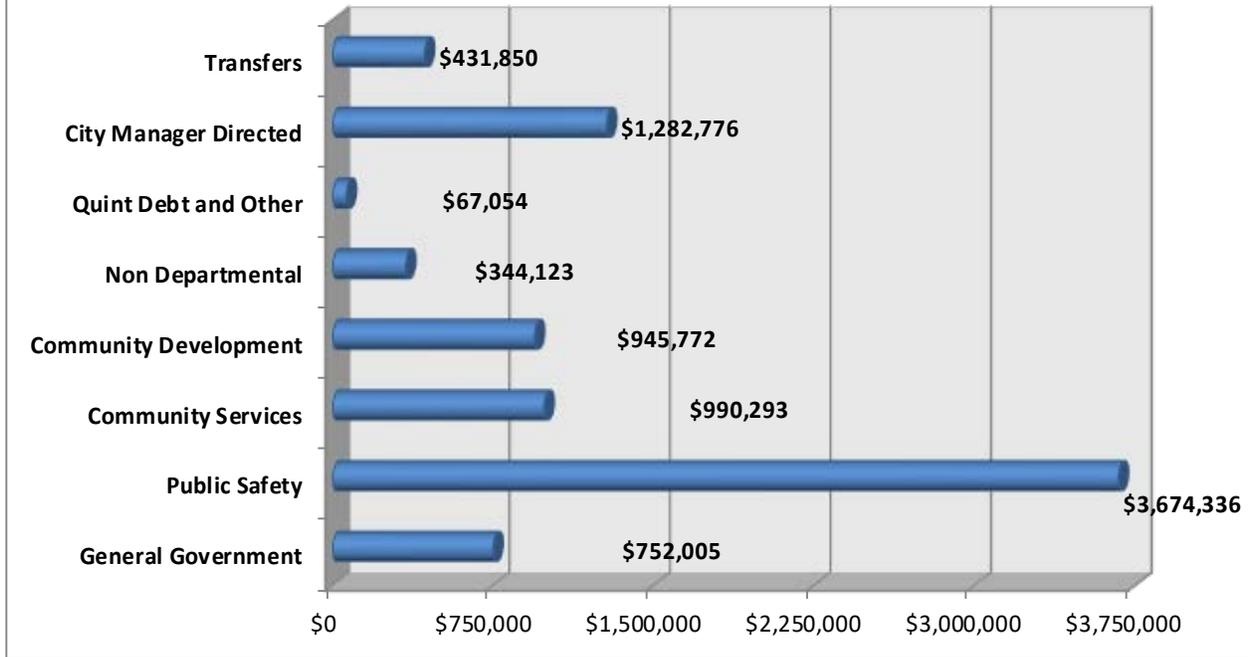
Construction of restroom facility planned for completion in FY 2018.
Operational March 1, 2019.

Patrol Vehicle Purchases represent the planned replacement of a patrol vehicle and the acquisition of a new vehicle for the detective position authorized in the FY 2019 budget.

Firefighting Equipment includes funding for the refurbishment of Engine 1 (\$32,500), acquisition of bunker gear (\$3,000) and technical rope rescue gear (\$1,000).

Debt Payment - Roof Repair provides funding for the monthly repayment for the roof repair at City Hall. Final payment is October 2019.

**General Fund Expenditures, Transfers
and One Time Fund Balance Outlays
3rd Quarter FY 2018
Total \$8,488,210**



General Government

City Council, City Manager, City Secretary, Information Technology, Human Resources and Finance

Community Development

Building Services, Code Enforcement, Streets, Parks, Planning

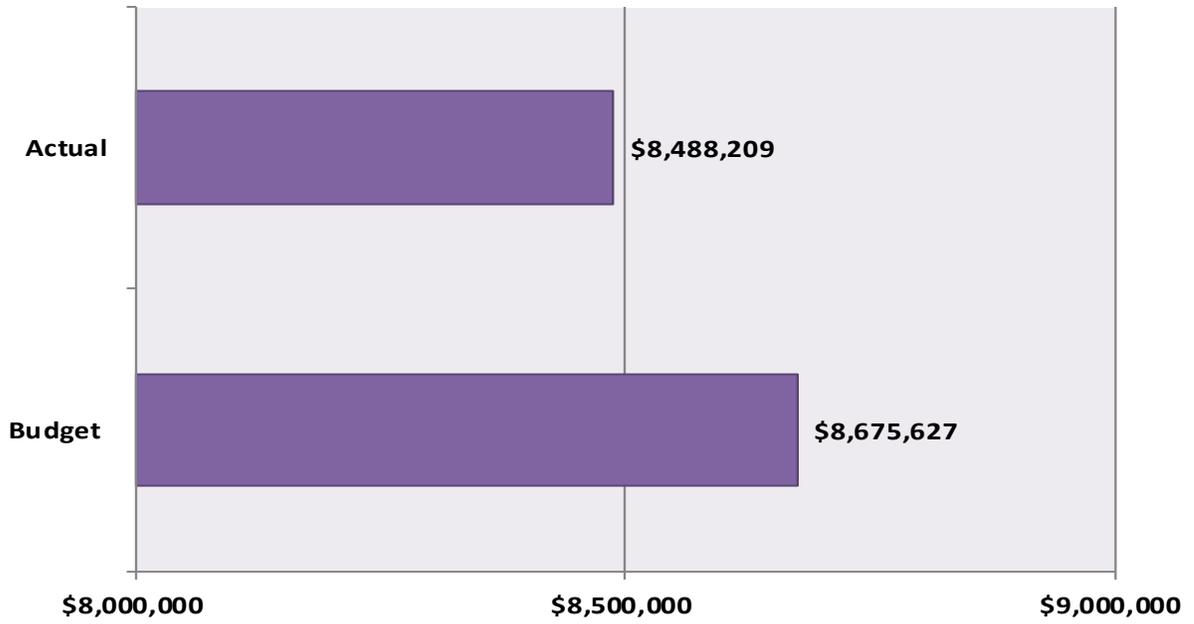
Community Services

Municipal Court, Library, Senior Center, Sanitation

Public Safety

Police, Fire, Ambulance, Support Services, Animal Control

Year to Date Expenditure Comparison General Fund



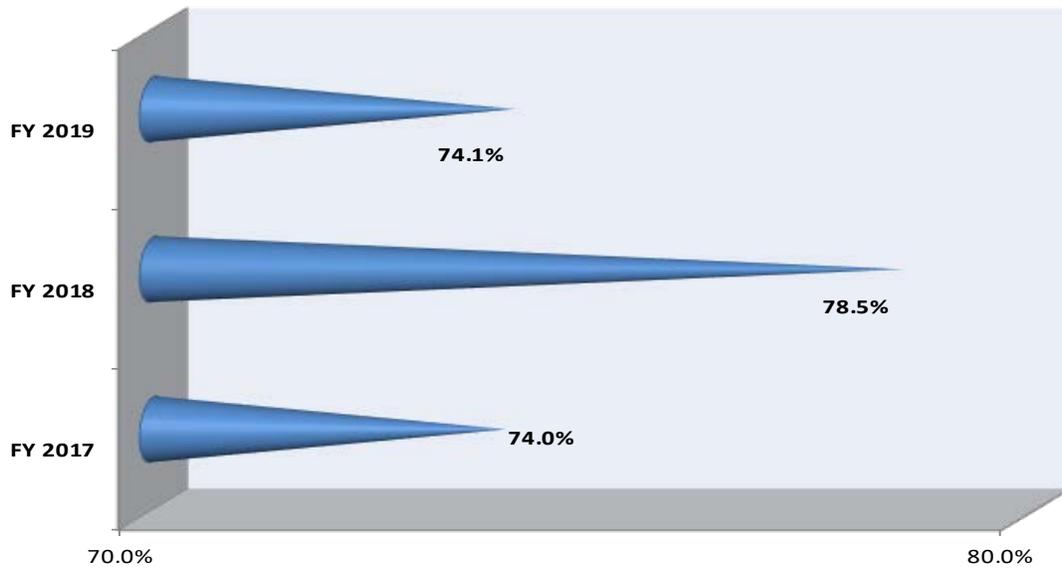
**WATER AND SEWER FUND
SUMMARY OF REVENUES AND EXPENDITURES
AS OF 6/30/18
75% OF BUDGET YEAR**

	Budget	Year to Date	% tage of Budget
REVENUES:			
Water Sales	\$3,517,634	\$2,608,040	74.1%
Sewer Sales	3,120,468	2,559,667	82.0%
All Other	<u>209,125</u>	<u>284,832</u>	136.2%
TOTAL REVENUES	\$6,847,227	\$5,452,538	79.6%
EXPENDITURES:			
Water Services	\$2,319,402	\$1,269,166	54.7%
Sewer Services	2,422,788	1,614,671	66.6%
Debt Service Transfer	516,559	407,466	78.9%
Non Departmental	98,363	108,588	110.4%
All Other	<u>395,309</u>	<u>308,523</u>	78.0%
TOTAL EXPENDITURES	\$5,752,421	\$3,708,415	64.5%
Use of Reserve	\$167,145	\$255,333	152.8%
Transfers Out	420,304	264,228	62.9%

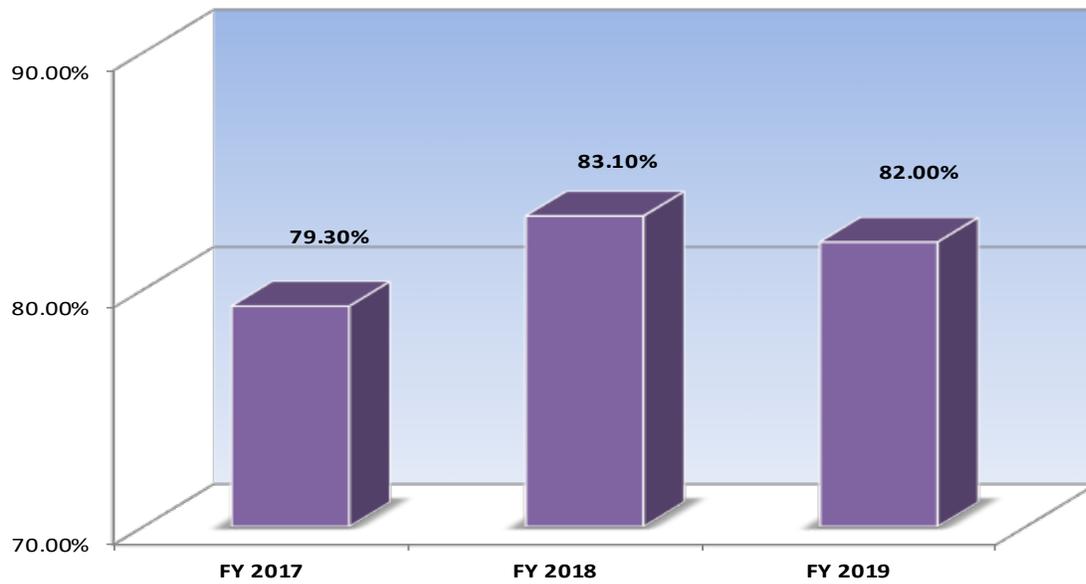
**WATER AND SEWER FUND
SUMMARY OF REVENUES AND EXPENDITURES
FOR FISCAL YEAR 2018-19
AS OF 6/30/19
75.00 % OF BUDGET YEAR**

	LAST YEAR			THIS YEAR		
	Annual Budget	Year-to-Date	% of Budget	Annual Budget	Year-to-Date	% of Budget
Revenues:						
Water Sales	\$3,517,634	\$2,762,645	78.5%	\$3,517,634	\$2,608,040	74.1%
Sewer Service	\$3,120,468	\$2,594,441	83.1%	\$3,120,468	\$2,559,667	82.0%
Outside Contractor Tap Fees	\$0	\$8,840	0.0%		\$17,940	0.0%
Penalties and Interest	\$110,000	\$105,755	96.1%	\$110,000	\$126,317	114.8%
Pretreatment Sewer Revenue	\$46,388	\$30,246	65.2%	\$46,388	\$33,748	72.8%
Reconnection Fees	\$35,000	\$47,060	134.5%	\$35,000	\$46,220	132.1%
Meter Installation	\$1,600	\$4,250	265.6%	\$1,600	\$6,250	390.6%
Online Payment Fee	\$4,500	\$5,524	122.8%	\$4,500	\$4,901	108.9%
Interest Earnings	\$2,000	\$16,837	841.8%	\$10,000	\$25,400	254.0%
Miscellaneous	\$450	\$2,298	510.7%	\$625	\$4,233	677.2%
Bank and NSF Fees	\$1,012	\$990	97.8%	\$1,012	\$979	96.7%
Water Tap Fees		\$10,600	0.0%		\$10,500	0.0%
Sewer Tap Fees		\$7,385	0.0%		\$6,000	0.0%
Insurance Recovery			0.0%		\$2,343	0.0%
Total Revenues	\$6,839,052	\$5,596,871	81.8%	\$6,847,227	\$5,452,538	79.6%
Expenditures:						
Utility Administration	\$171,194	\$129,594	75.7%	\$172,809	\$138,652	80.2%
Water Services	\$2,291,917	\$1,461,942	63.8%	\$2,319,402	\$1,269,166	54.7%
Sewer Services	\$2,410,063	\$1,603,091	66.5%	\$2,422,788	\$1,614,671	66.6%
Customer Services	\$212,384	\$161,929	76.2%	\$222,500	\$169,871	76.3%
Non Departmental	\$109,036	\$80,849	74.1%	\$98,363	\$108,588	110.4%
Debt Service Transfer	\$547,970	\$412,148	75.2%	\$516,559	\$407,466	78.9%
Total Expenditures	\$5,742,564	\$3,849,553	67.0%	\$5,752,421	\$3,708,415	64.5%
Transfers Out	\$352,304	\$264,228	75.0%	\$420,304	\$264,228	62.9%
Zero Turn Mower				\$16,435	\$16,435	100.0%
Cityworks System	\$30,000	\$26,680	88.9%	\$15,250	\$17,275	113.3%
Ace Hrdwr Sewer Maj Repair				\$0	\$120,313	
Vehicles	\$68,000		0.0%	\$48,000	\$72,509	151.1%
Lift Station Condition Assess				\$103,895	\$45,237	43.5%
Glenn Road Lift Station	\$70,125	\$27,232	38.8%			0.0%
Professional Engineering	\$115,200	\$61,941	53.8%			0.0%

Water Revenue as a % of Budget 75% of the Fiscal Year



Sewer Revenue as a % of Budget 75% of the Fiscal Year



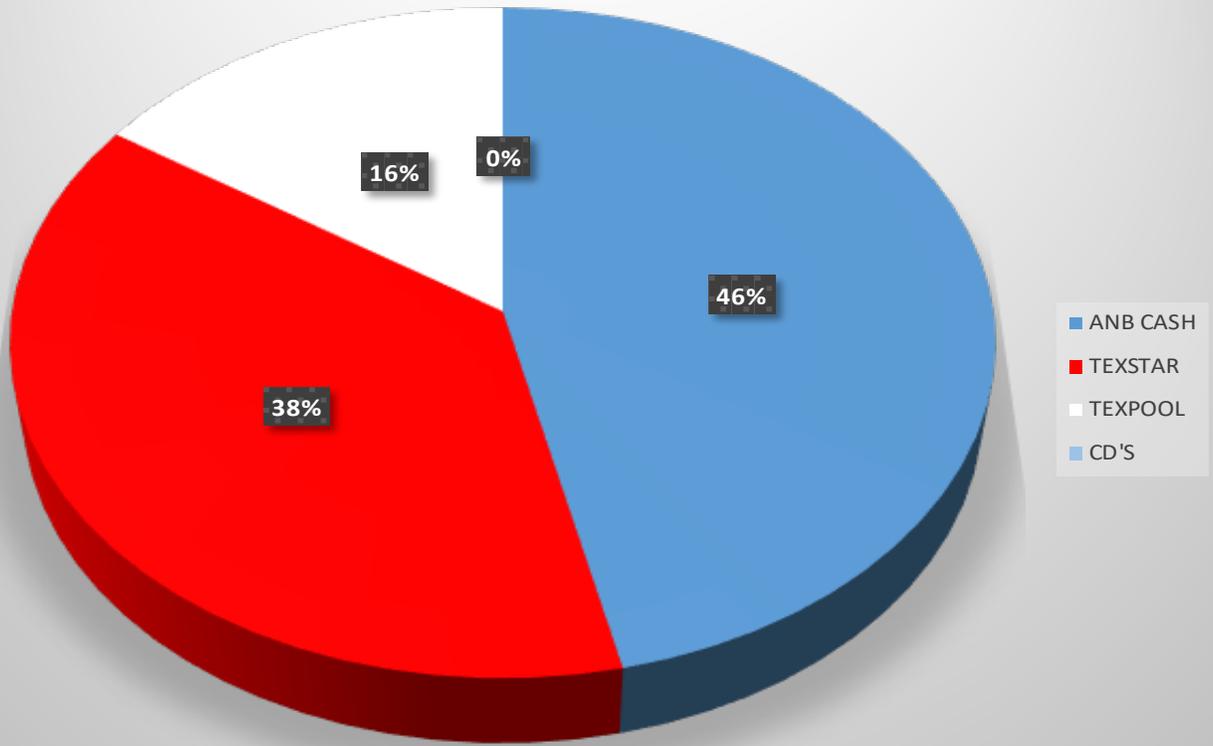
**OTHER FUNDS: FINANCIAL SUMMARY
FOR FISCAL YEAR 2018-19
AS OF 6/30/19
75.00 % OF BUDGET YEAR**

FUND #	FUND NAME	FY 2018 ACTUAL YEAR-TO-DATE REVENUES	FY 2019 ANNUAL REVENUE BUDGET	FY 2019 ACTUAL YEAR-TO-DATE REVENUES	FY 2018 ACTUAL YEAR-TO-DATE EXPENDITURES	FY 2019 ANNUAL EXPENDITURE BUDGET	FY 2019 ACTUAL YEAR-TO-DATE EXPENDITURES
ENTERPRISE FUNDS					ENTERPRISE FUNDS		
21	W&S Debt Service	\$412,688		\$408,281	\$64,894	\$516,559	\$75,813
22	W&S Improvements		\$832,000		\$52,090	\$1,037,000	\$504,308
61	Storm Water	\$81,695	\$1,213,585	\$164,932	\$44,652	\$1,213,585	\$83,378
SPECIAL REVENUE FUNDS					SPECIAL REVENUE FUNDS		
29	Police Seizure State				\$1,779		
32	Miscellaneous Grants	\$949	\$2,000	\$970	\$905	\$2,500	\$862
35	Recycle Revenue Fund		\$500	\$710	\$321	\$500	\$385
36	Municipal Court	\$7,782	\$9,500	\$9,607	\$6,673	\$7,972	\$6,938
38	Park Development			\$2,624			
39	Hotel Motel Fund	\$12,741	\$27,500	\$39,077	\$11,860	\$27,500	\$30,090
42	Park Maintenance	\$1,870	\$2,000	\$137,891			\$37,630
45	Animal Shelter	\$2,592	\$3,000	\$2,018	\$2,709	\$3,000	
46	Animal Shelter Bldg		\$2	\$2			
47	Vehicle Replacement Fund	\$42,547	\$44,600	\$50,005			
48	Technology Replacement	\$17,500	\$17,500	\$17,500	\$15,016	\$17,500	\$12,762
50	TLEOSE	\$2,076	\$2,000	\$2,053	\$1,505	\$1,000	
52	InterAgency PS Training		\$2,500			\$1,000	\$80
DEBT SERVICE FUND					DEBT SERVICE FUND		
2	General Debt Service		\$242,525			\$175,928	
CAPITAL PROJECTS					CAPITAL PROJECTS		
43	Street Maintenance	\$747,022	\$4,061,850	\$5,235,960	\$1,058,939	\$2,680,000	\$972,993
54	New Fire Station			\$935,000			\$4,791
65	Emergency Communications System			\$1,400,000			\$1,010,936

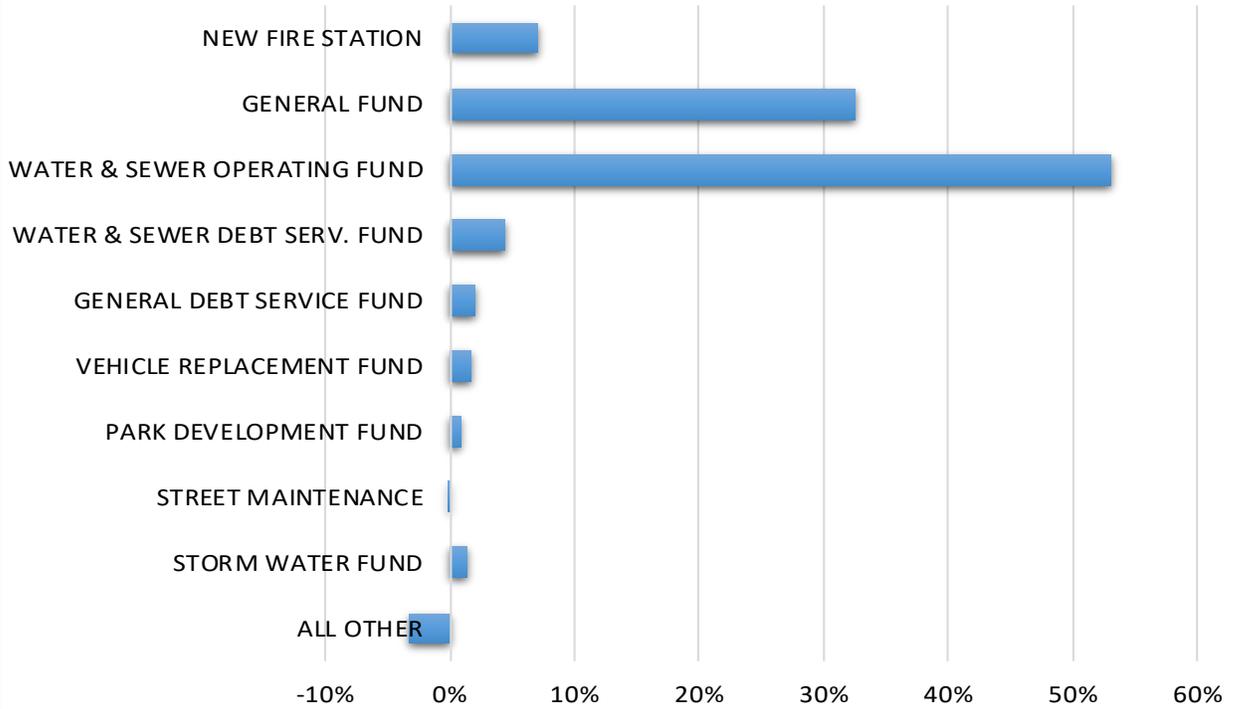
**CITY OF SEAGOVILLE
CASH REPORT
3rd QUARTER FY 2019**

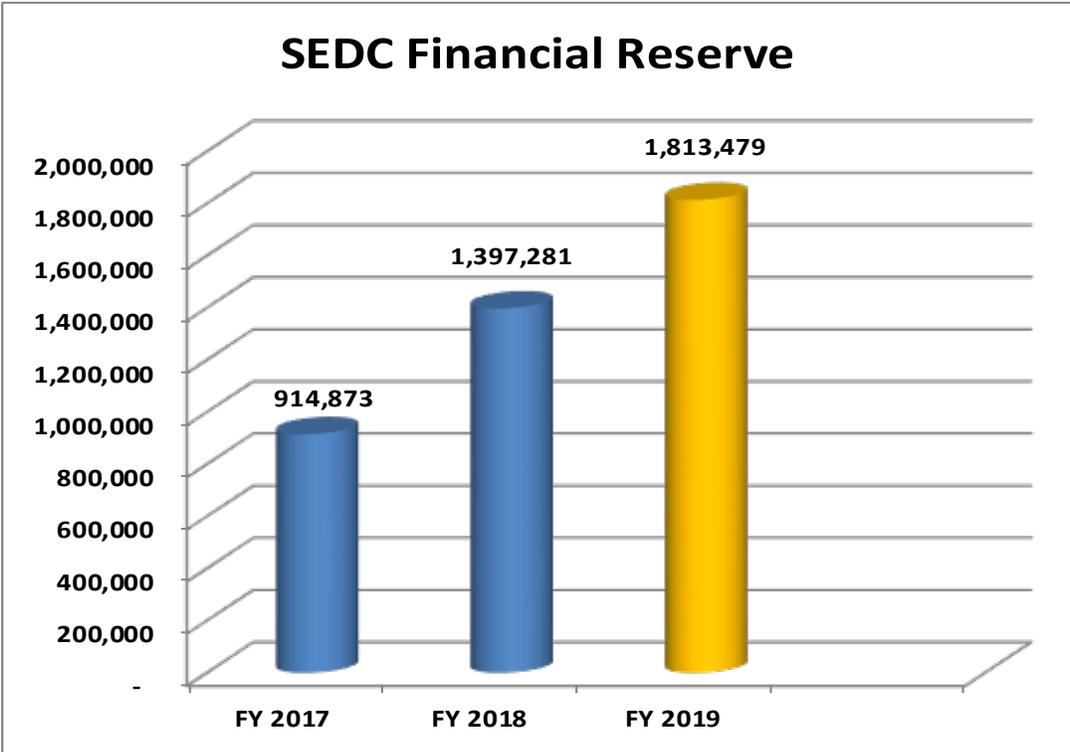
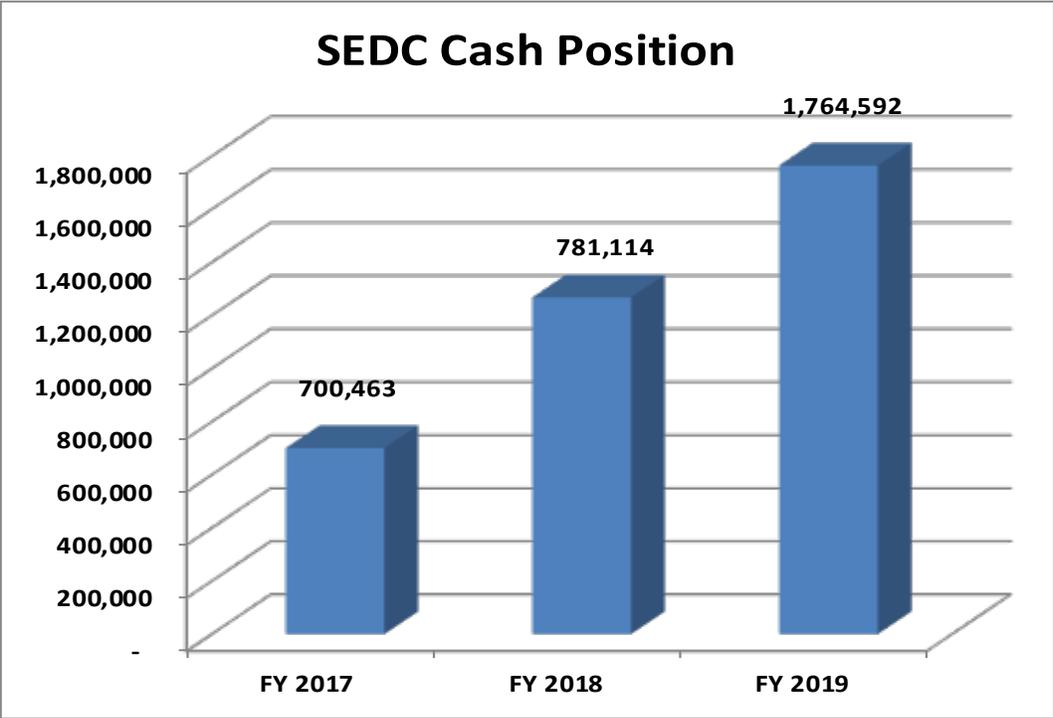
Bank Acct#	Bank Account Name	ACCT BALANCE AS OF MAR 31, 2019	CHANGES	ACCT BALANCE AS OF JUNE 30, 2019
800008997	ANB Group Insurance Trust Bank	54.26	0.59	54.85
800000838	ANB PAYROLL FUND	14,095.88	1,689.87	15,785.75
4600130068	ANB ROOF	60,386.17	(11,860.79)	48,525.38
4600016705	ANB PEG	100,787.15	12.57	100,799.72
800007205	ANB PRIMARY	10,020,757.92	(362,853.40)	9,657,904.52
800013104	ANB ANIMAL SHELTER OPERATIONS	4,493.43	0.56	4,493.99
TOTALS	CASH ACCOUNTS	10,200,574.81	(373,010.60)	9,827,564.21
572915620	TEXSTAR- FY 2015 BONDS	1,146,161.30	(511,475.25)	634,686.05
572920190	TEXSTAR- 2019 BONDS		6,012,254.70	6,012,254.70
572920191	TEXSTAR- 2019 EMERGENCY COM SYS		1,400,642.00	1,400,642.00
449/1291300001	TEXPOOL-GENERAL FUND	1,564,420.60	9,400.34	1,573,820.94
449/1291300003	TEXPOOL-WATER AND SEWER	1,324,245.44	7,957.13	1,332,202.57
449/1291300004	TEXPOOL-WATER DEPOSIT FUND	318,553.68	1,914.13	320,467.81
449/1291300006	TEXPOOL-GOVT DEBT SVC	11,515.94	69.19	11,585.13
449/1291300007	TEXPOOL-WATER AND SEWER DEBT SVC	52,675.92	316.61	52,992.53
CD# 9660135	CERTIFICATE OF DEPOSIT -PARK DEV	115,358.53	(115,358.53)	-
CD# 9660143	CERTIFICATE OF DEPOSIT- VEH REP	166,237.19	(166,237.19)	-
TOTALS	INVESTMENT ACCOUNTS	4,699,168.60	6,639,483.13	11,338,651.73
GRAND TOTAL		\$ 14,899,743.41	\$ 6,266,472.53	\$ 21,166,215.94

% OF TOTAL CASH



% OF CASH BALANCE



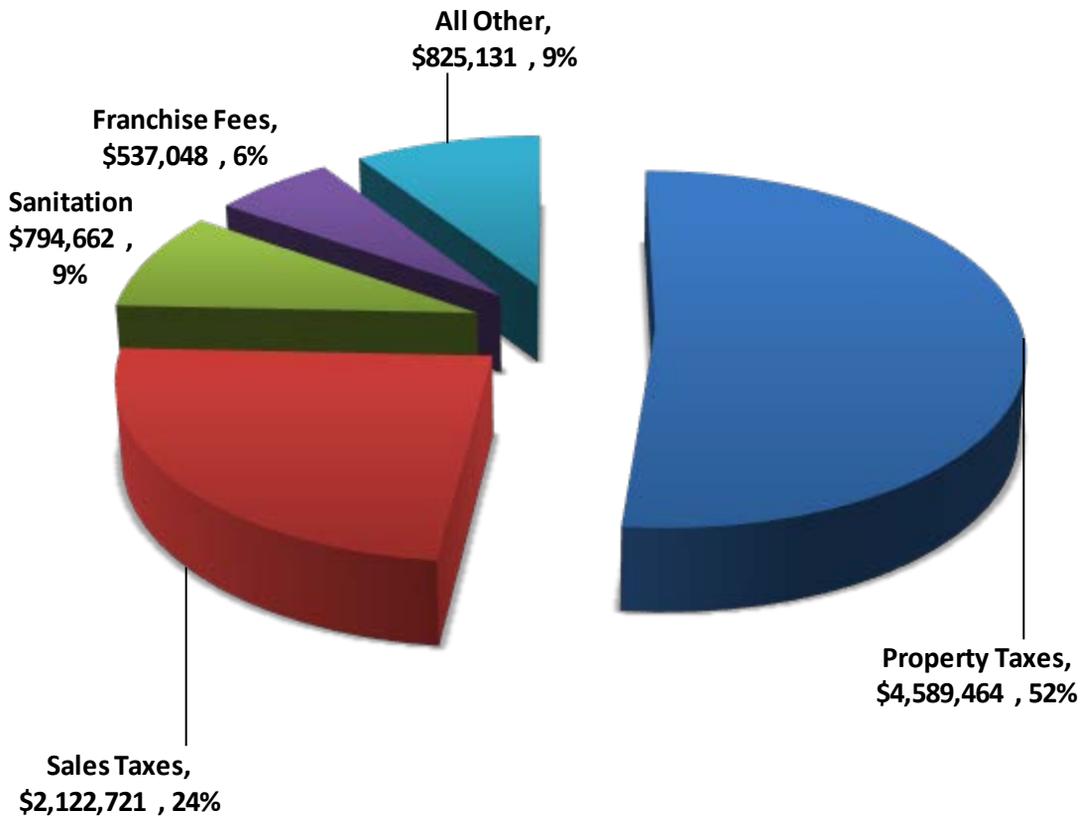




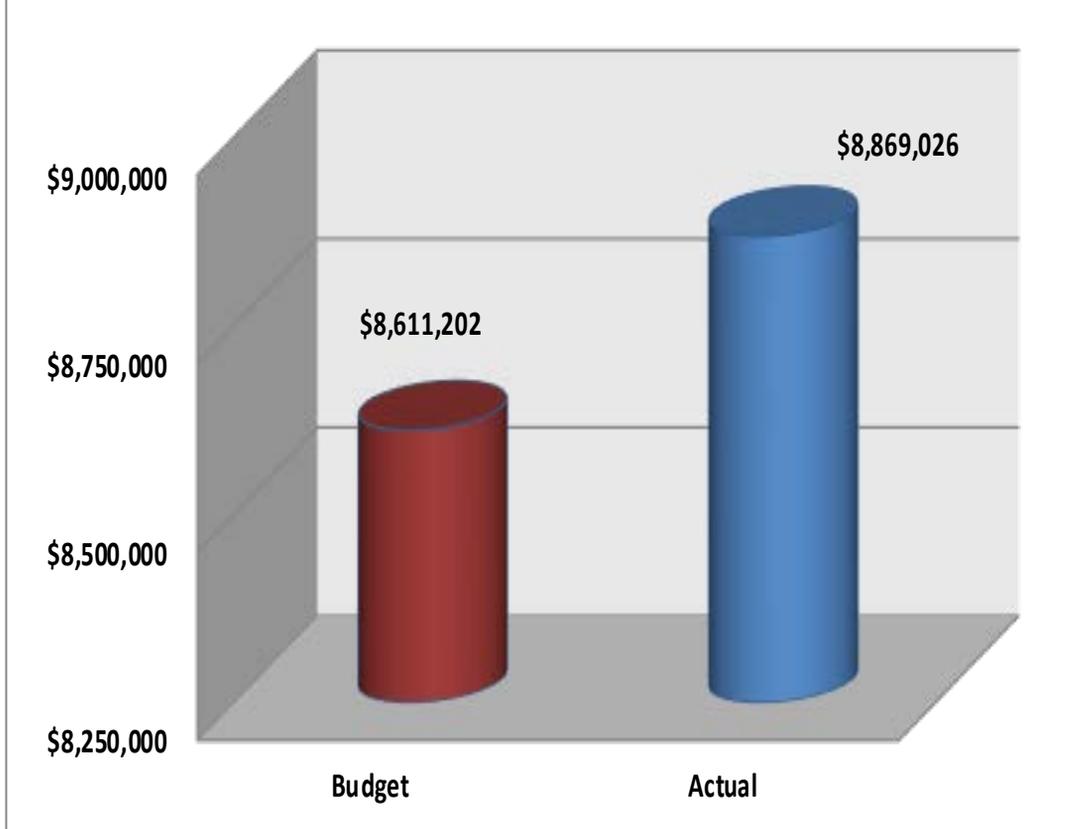
2019 Financials

June 2019

**General Fund Revenues
3rd Quarter, FY 2019
Total \$8,869,026**



Year to Date Revenue Comparison General Fund



The City's revenues did better than expected for the first nine months of the fiscal year

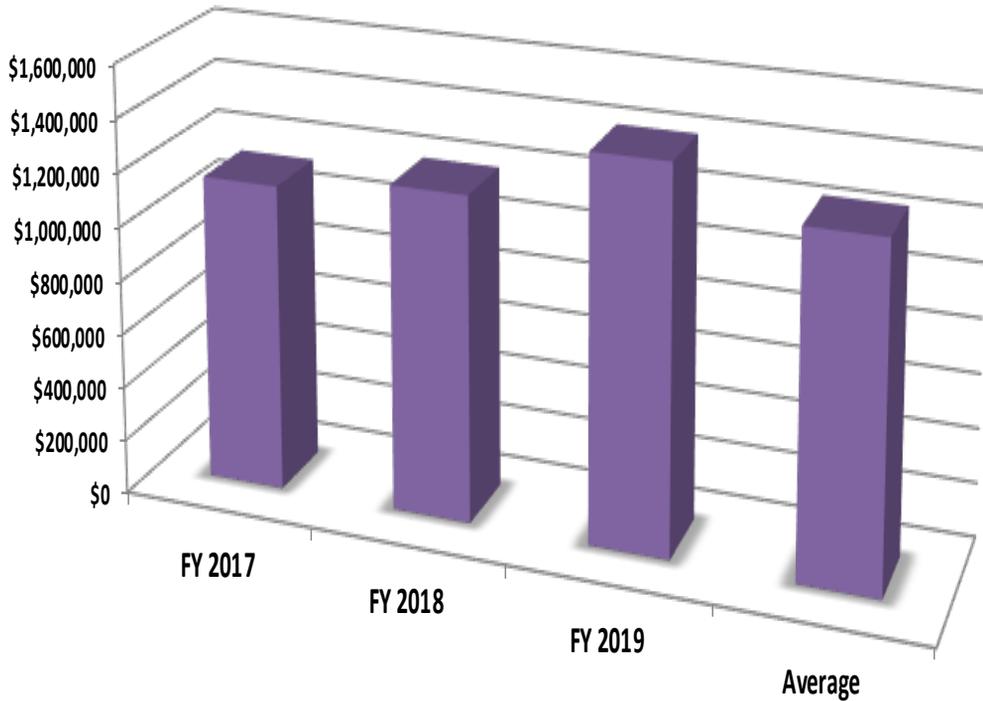
General Fund Sales Tax Comparison



	FY 2017	FY 2018	FY 2019	Three Year Average
OCT	117,255.97	129,581.47	138,378.74	128,405.39
NOV	139,335.95	142,707.74	173,057.45	151,700.38
DEC	87,836.00	125,490.04	201,730.66	138,352.23
JAN	120,436.32	128,533.63	142,638.91	130,536.28
FEB	167,079.94	161,739.81	178,469.13	169,096.29
MAR	113,468.05	117,942.89	134,151.31	121,854.08
APR	115,183.31	110,613.83	128,468.61	118,088.58
MAY	154,902.01	159,370.18	169,911.46	161,394.55
JUNE	123,730.29	125,678.24	146,585.42	131,997.98

**The current year sales tax revenue is up
compared to the two previous fiscal years**

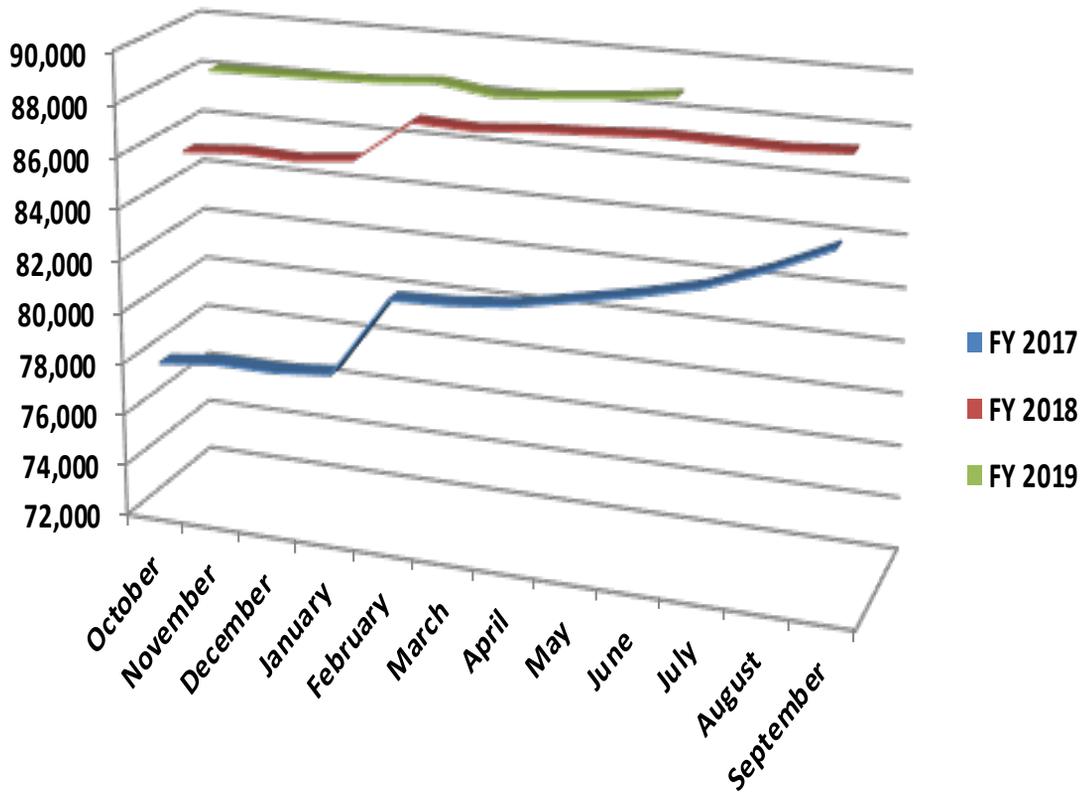
Fiscal Year to Date Comparison - Sales Tax



	FY 2017	FY 2018	FY 2019	Three Year Average
Fiscal Year To Date	1,139,227.82	1,201,657.81	1,413,391.67	1,251,425.76

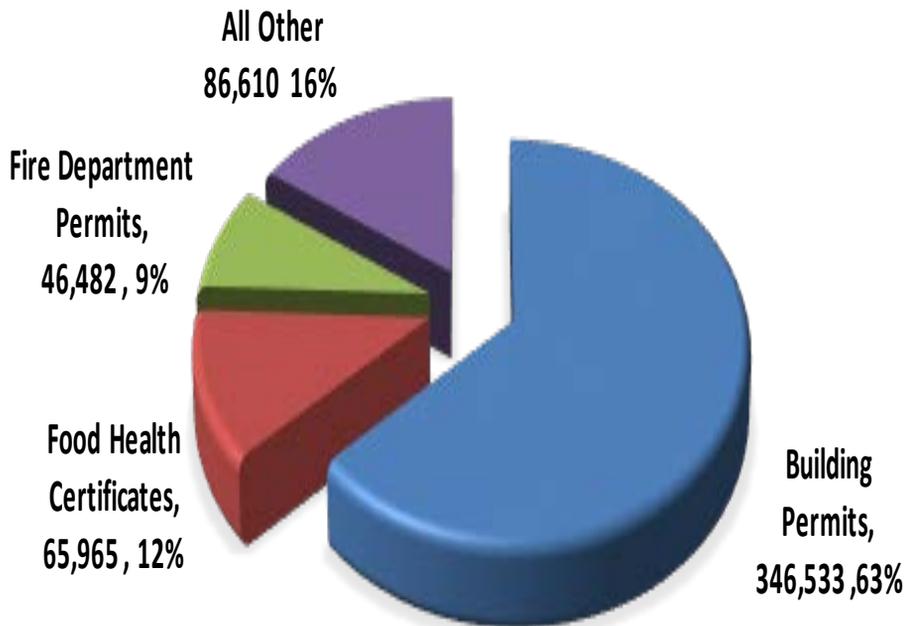
Sales tax receipts are up compared to the two previous fiscal years

Three Year Comparison of Sanitation Revenue



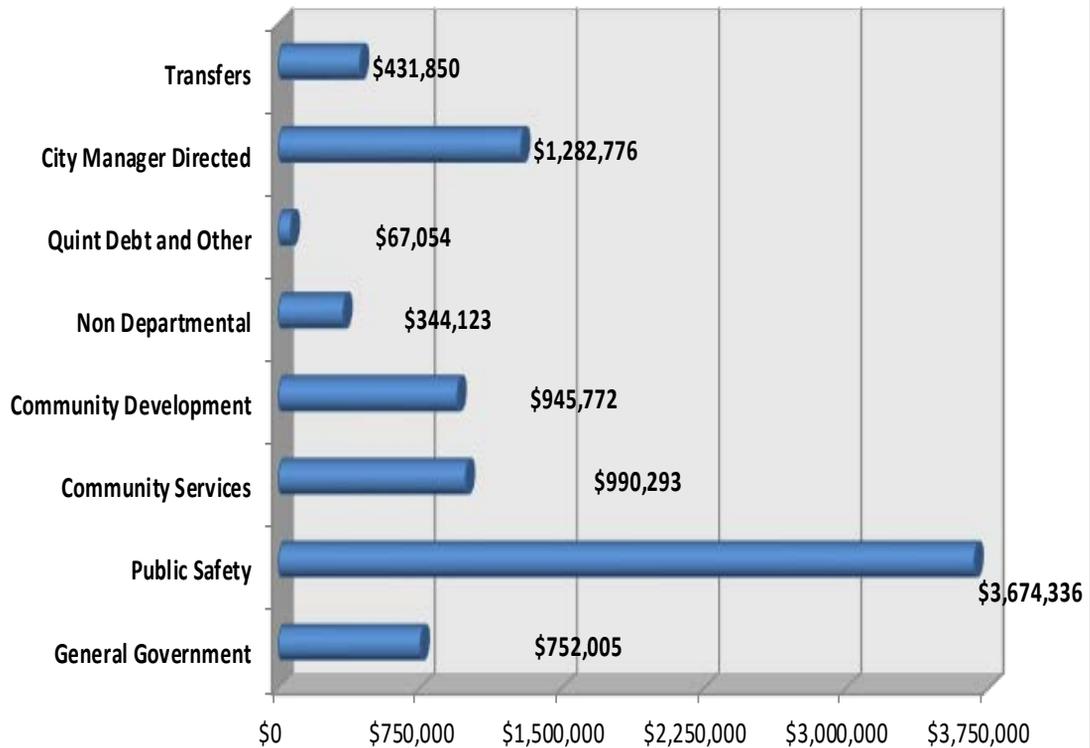
Sanitation Revenue is the City's third largest revenue source after Property and Sales Taxes. This year's revenue trend is ahead of the previous two years.

Permits and Fees FY 2019 To Date



Permits and Fees are revenues generated by City oversight of a broad range of community development activities.

**General Fund Expenditures, Transfers
and One Time Fund Balance Outlays
3rd Quarter FY 2019
Total \$8,488,210**



General Government

City Council, City Manager, City Secretary, Information Technology, Human Resources and Finance

Community Development

Building Services, Code Enforcement, Streets, Parks, Planning

Community Services

Municipal Court, Library, Senior Center, Sanitation

Public Safety

Police, Fire, Ambulance, Support Services, Animal Control

Year to Date Expenditure Comparison General Fund

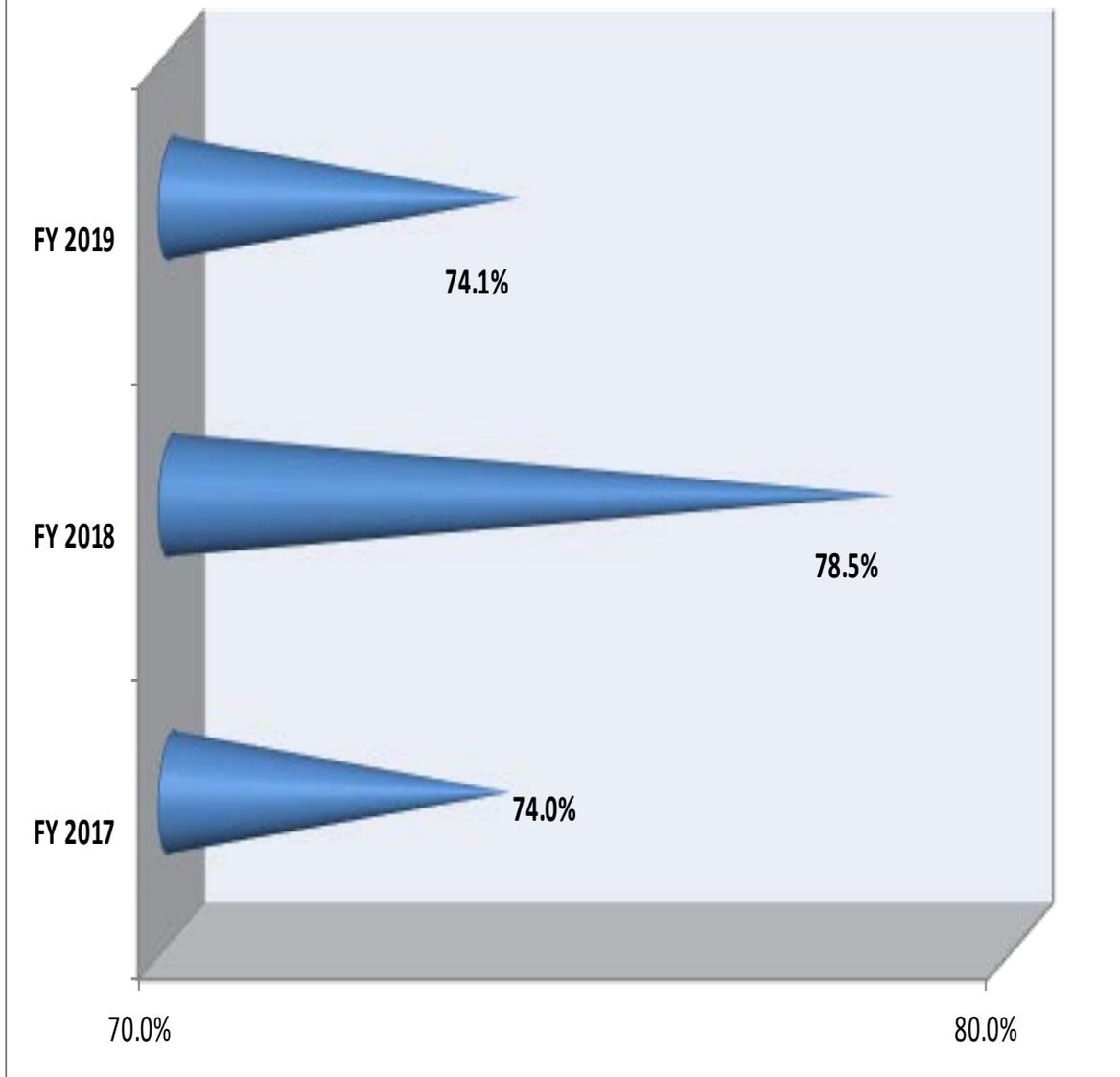


Spending for the fiscal year to date is less than expected.

**GENERAL FUND
SUMMARY OF REVENUES AND EXPENDITURES
AS OF 6/30/19
75% OF BUDGET YEAR**

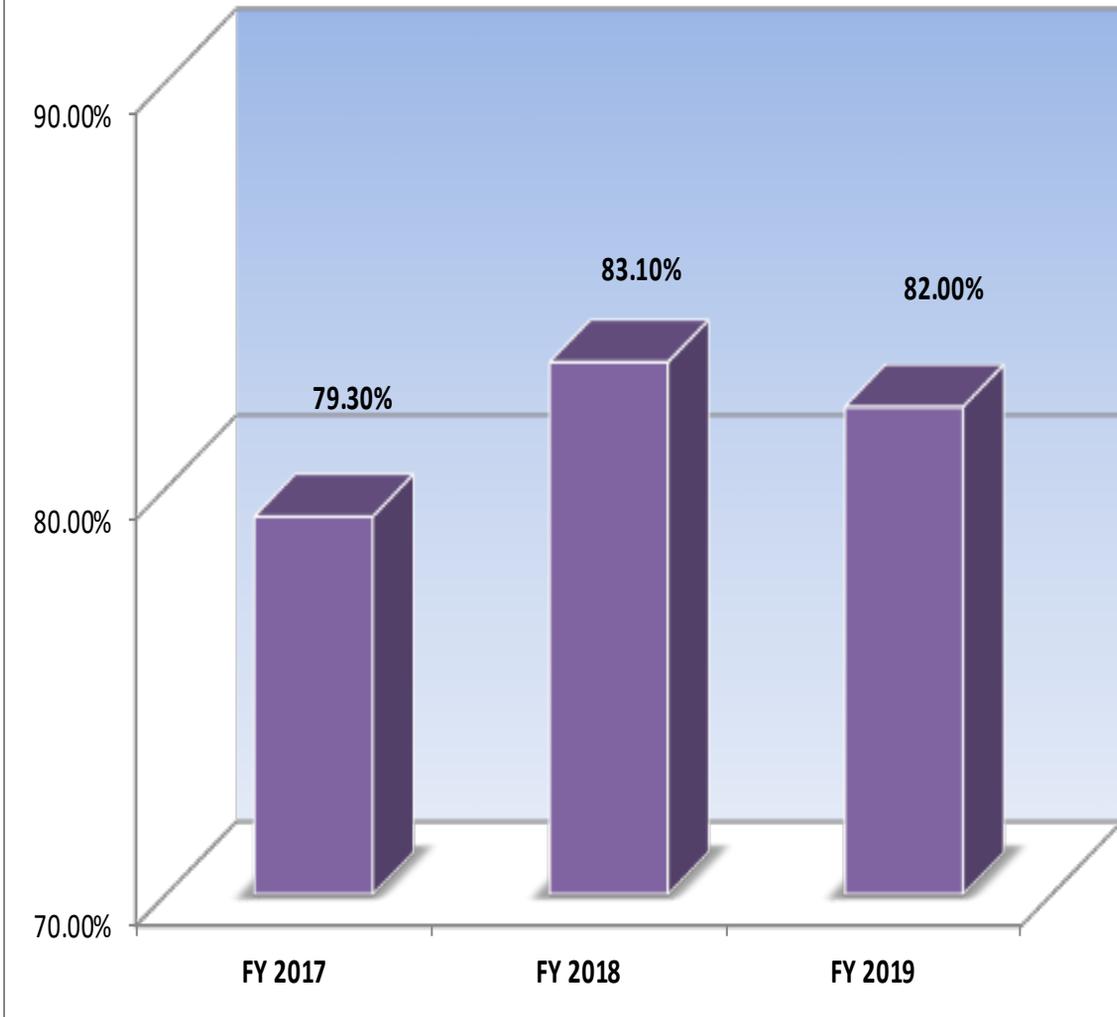
	Adopted Budget	Year to Date	% tage of Budget
REVENUES:			
Property Taxes	\$4,745,438	\$4,589,464	96.7%
Sales Taxes	2,447,978	2,122,721	86.7%
Franchise Fees	614,525	537,048	87.4%
Sanitation	954,350	794,662	83.3%
All Other	757,595	825,131	108.9%
	<hr/>	<hr/>	
TOTAL REVENUES	\$9,519,886	\$8,869,026	93.2%
Transfers In:	379,904	291,828	76.8%
 EXPENDITURES:			
Public Safety	\$5,053,217	\$3,674,336	72.7%
Community Development	1,277,016	945,772	74.1%
Community Services	1,417,000	990,293	69.9%
General Government	962,302	752,005	78.1%
Non departmental	391,055	344,123	88.0%
	<hr/>	<hr/>	
TOTAL EXPENDITURES	\$9,100,590	\$6,706,530	73.7%
Use of Fund Balance	1,920,413	\$1,781,680	92.8%

Water Revenue as a % of Budget 75% of the Fiscal Year



The current water revenue is within budget so far this fiscal year

Sewer Revenue as a % of Budget 75% of the Fiscal Year



The current year sewer revenue trend compares favorably to FY 2018 and exceeds FY 2019 budget expectations.

WATER AND SEWER FUND
SUMMARY OF REVENUES AND EXPENDITURES
AS OF 6/30/19
75% OF BUDGET YEAR

	Budget	Year to Date	% tage of Budget
REVENUES:			
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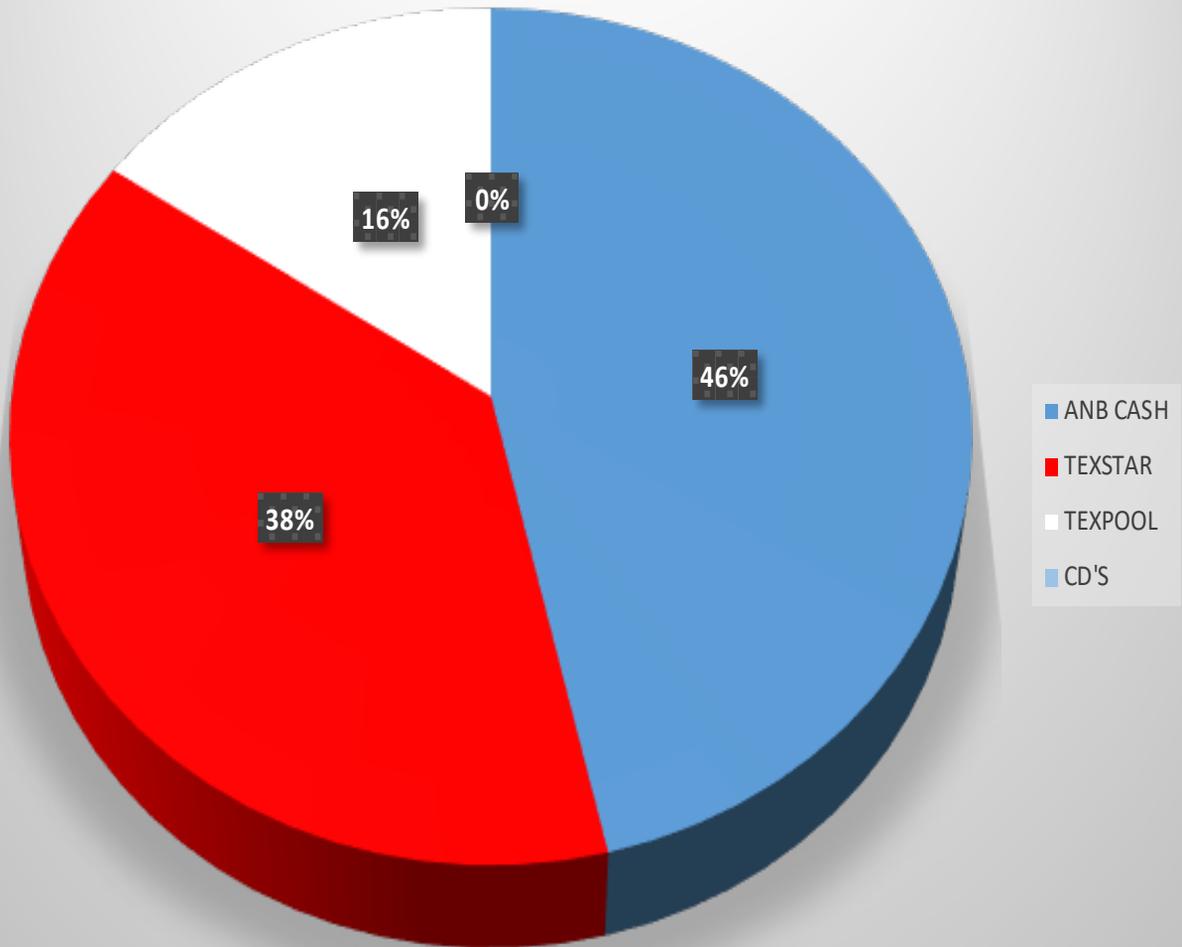
CITY OF SEAGOVILLE

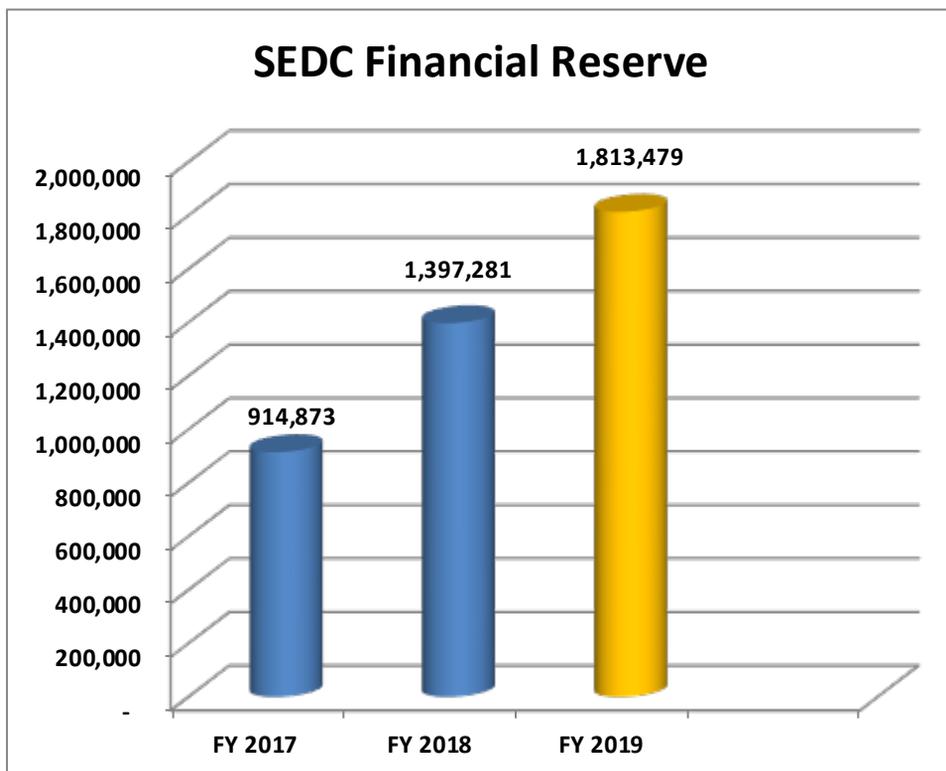
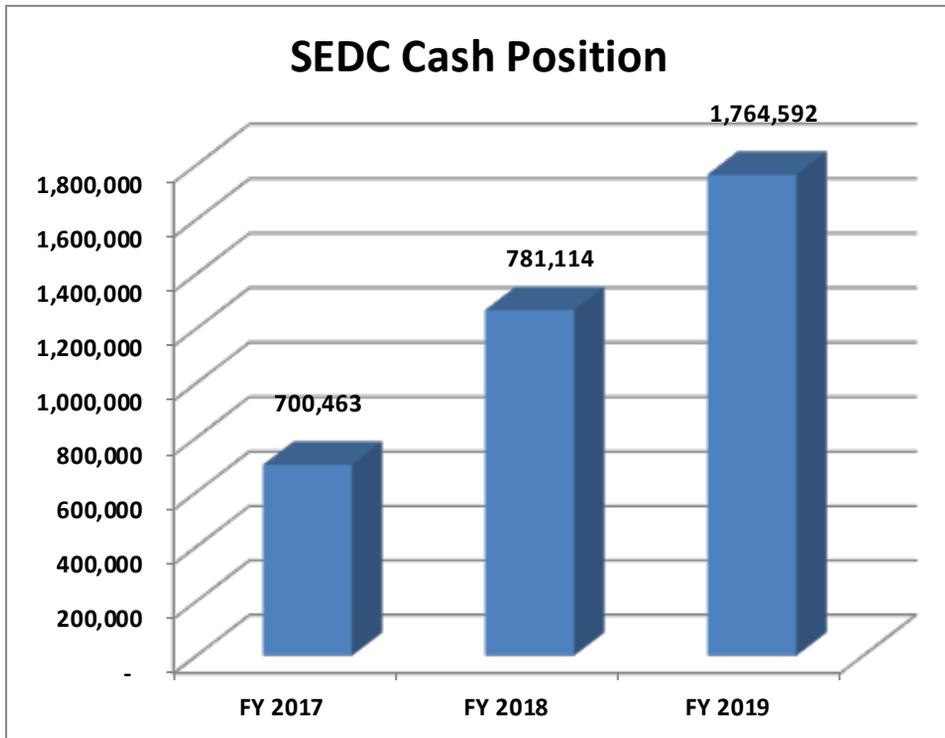
CASH REPORT

3rd QUARTER FY 2019

Bank Acct#	Bank Account Name	ACCT BALANCE AS OF MAR 31, 2019	CHANGES	ACCT BALANCE AS OF JUNE 30, 2019
800008997	ANB Group Insurance Trust Bank	54.26	0.59	54.85
800000838	ANB PAYROLL FUND	14,095.88	1,689.87	15,785.75
4600130068	ANB ROOF	60,386.17	(11,860.79)	48,525.38
4600016705	ANB PEG	100,787.15	12.57	100,799.72
800007205	ANB PRIMARY	10,020,757.92	(362,853.40)	9,657,904.52
800013104	ANB ANIMAL SHELTER OPERATIONS	4,493.43	0.56	4,493.99
TOTALS	CASH ACCOUNTS	10,200,574.81	(373,010.60)	9,827,564.21
572915620	TEXSTAR- FY 2015 BONDS	1,146,161.30	(511,475.25)	634,686.05
572920190	TEXSTAR- 2019 BONDS		6,012,254.70	6,012,254.70
572920191	TEXSTAR- 2019 EMERGENCY COM SYS		1,400,642.00	1,400,642.00
449/1291300001	TEXPOOL-GENERAL FUND	1,564,420.60	9,400.34	1,573,820.94
449/1291300003	TEXPOOL-WATER AND SEWER	1,324,245.44	7,957.13	1,332,202.57
449/1291300004	TEXPOOL-WATER DEPOSIT FUND	318,553.68	1,914.13	320,467.81
449/1291300006	TEXPOOL-GOVT DEBT SVC	11,515.94	69.19	11,585.13
449/1291300007	TEXPOOL-WATER AND SEWER DEBT SVC	52,675.92	316.61	52,992.53
CD# 9660135	CERTIFICATE OF DEPOSIT -PARK DEV	115,358.53	(115,358.53)	-
CD# 9660143	CERTIFICATE OF DEPOSIT- VEH REP	166,237.19	(166,237.19)	-
TOTALS	INVESTMENT ACCOUNTS	4,699,168.60	6,639,483.13	11,338,651.73
GRAND TOTAL		\$ 14,899,743.41	\$ 6,266,472.53	\$ 21,166,215.94

% OF TOTAL CASH





Regular Session Agenda Item: 12

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Discuss and consider an Ordinance of the City Council of the City of Seagoville, Texas, approving a negotiated settlement between the Atmos Cities Steering Committee (“ACSC”) and Atmos Energy Corp., Mid-Tex Division regarding the company’s 2019 rate review mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attached Exhibit establishing a benchmark for pensions and retiree medical benefits; approving an attached Exhibit regarding amortization of regulatory liability; requiring the company to reimburse ACSC’s reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC’s legal counsel.

BACKGROUND OF ISSUE:

The City is a member of the Atmos Cities Steering Committee ("ACSC"), a coalition of similarly-situated cities served by Atmos Mid-Tex (“ACSC Cities”) that have joined together to facilitate the review of, and response to, natural gas issues affecting rates charged in the Atmos Mid-Tex service area. The law firm of Lloyd Gosslink Rochelle & Townsend, PC, serves as legal counsel and consultants for the member cities of the ACSC with regard to the rate review process referred to as Rate Review Mechanism ("RRM"). ACSC coordinated its review of the Atmos Mid-Tex 2019 RRM filing through its Executive Committee, assisted by ACSC’s attorneys and consultants, to resolve issues identified in the Company’s RRM filing. After review, a settlement was negotiated. The Executive Committee, as well as ACSC’s counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$35.4 million applicable to ACSC Cities.

The model staff report provided by the ACSC's legal counsel and consultant's setting forth in detail the proposed Ordinance is attached as supporting documentation for your review.

FINANCIAL IMPACT:

N/A

EXHIBITS

Ordinance
Model Staff Report

CITY OF SEAGOVILLE, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY’S 2019 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHED EXHIBIT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; APPROVING AN ATTACHED EXHIBIT REGARDING AMORTIZATION OF REGULATORY LIABILITY; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE ACSC’S LEGAL COUNSEL.

WHEREAS, the City of Seagoville, Texas (“City”) is a gas utility customer of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of similarly-situated cities served by Atmos Mid-Tex (“ACSC Cities”) that have joined together to facilitate the review of, and response to, natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

WHEREAS, ACSC and the Company worked collaboratively to develop a new Rate Review Mechanism (“RRM”) tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program (“GRIP”) process instituted by

the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

WHEREAS, the current RRM tariff was adopted by the City in a rate ordinance in 2018; and

WHEREAS, on about April 1, 2019, Atmos Mid-Tex filed its 2019 RRM rate request with ACSC Cities based on a test year ending December 31, 2018; and

WHEREAS, ACSC coordinated its review of the Atmos Mid-Tex 2019 RRM filing through its Executive Committee, assisted by ACSC's attorneys and consultants, to resolve issues identified in the Company's RRM filing; and

WHEREAS, the Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$35.4 million applicable to ACSC Cities; and

WHEREAS, the attached tariffs (Exhibit A) implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and

WHEREAS, the settlement agreement sets a new benchmark for pensions and retiree medical benefits (Exhibit B); and

WHEREAS, the settlement agreement establishes an amortization schedule for regulatory liability (Exhibit C); and

WHEREAS, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:

Section 1. That, consistent with the City's authority under Section 103.001 of the Texas Utilities Code, the new tariffs attached hereto and incorporated herein as Exhibit A, are hereby adopted.

Section 2. That the ratemaking treatment for pensions and retiree medical benefits in Atmos Mid-Tex's next RRM filing shall be as set forth on Exhibit B, attached hereto and incorporated herein.

Section 3. That amortization of regulatory liability shall be consistent with the schedule found in attached Exhibit C attached hereto and incorporated herein.

Section 4. That Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2019 RRM filing.

Section 5. That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

Section 6. That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 7. That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

Section 8. That this Ordinance shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after October 1, 2019.

Section 9. That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs Mid-Tex Division, Atmos Energy

Corporation, 5420 LJB Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

PASSED AND APPROVED this 12th day of September, 2019.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

APPROVED AS TO FORM:

Kandi Jackson, City Secretary

Victoria Thomas, City Attorney
(TM 110694 090619)

EXHIBIT "A"
RATE TARIFF'S EFFECTIVE OCTOBER 1, 2019

**MID-TEX DIVISION
 ATMOS ENERGY CORPORATION**

RRC Tariff No:

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2019	PAGE:

Application

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 19.55 per month
Rider CEE Surcharge	\$ 0.05 per month ¹
Total Customer Charge	\$ 19.60 per month
Commodity Charge – All Ccf	\$0.17423 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2019.

EXHIBIT "A"
RATE TARIFF'S EFFECTIVE OCTOBER 1, 2019

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RRC Tariff No:

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2019	PAGE:

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 46.50 per month
Rider CEE Surcharge	\$ 0.02 per month ²
Total Customer Charge	\$ 46.52 per month
Commodity Charge – All Ccf	\$ 0.09924 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

EXHIBIT "A"
RATE TARIFF'S EFFECTIVE OCTOBER 1, 2019

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RRC Tariff No:

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2019	PAGE:

Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 845.50 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.3572 per MMBtu
Next 3,500 MMBtu	\$ 0.2616 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0561 per MMBtu

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailement Overpull Fee

Upon notification by Company of an event of curtailement or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailement or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

EXHIBIT "A"
RATE TARIFF'S EFFECTIVE OCTOBER 1, 2019

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RRC Tariff No:

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2019	PAGE:

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

EXHIBIT "A"
RATE TARIFF'S EFFECTIVE OCTOBER 1, 2019

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RRC Tariff No:

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2019	PAGE:

Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 845.50 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.3572 per MMBtu
Next 3,500 MMBtu	\$ 0.2616 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0561 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

EXHIBIT "A"
RATE TARIFF'S EFFECTIVE OCTOBER 1, 2019

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RRC Tariff No:

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2019	PAGE:

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

A transportation agreement is required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

EXHIBIT "A"
RATE TARIFF'S EFFECTIVE OCTOBER 1, 2019

**MID-TEX DIVISION
 ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2019	PAGE:

Provisions for Adjustment

The Commodity Charge per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

- Where
- i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification
 - $WNAF_i$ = Weather Normalization Adjustment Factor for the i^{th} rate schedule or classification expressed in cents per Ccf
 - R_i = Commodity Charge rate of temperature sensitive sales for the i^{th} schedule or classification.
 - HSF_i = heat sensitive factor for the i^{th} schedule or classification divided by the average bill count in that class
 - NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.
 - ADD = billing cycle actual heating degree days.
 - BL_i = base load sales for the i^{th} schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the j th customer in i th rate schedule is computed as:

$$WNA_j = WNAF_i \times q_{ij}$$

Where q_{ij} is the relevant sales quantity for the j th customer in i th rate schedule.

EXHIBIT "A"
RATE TARIFF'S EFFECTIVE OCTOBER 1, 2019

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2019	PAGE:

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>
Abilene	9.77	0.1487	88.49	0.7036
Austin	9.04	0.1537	201.48	1.0000
Dallas	13.07	0.2202	184.64	1.1385
Waco	8.77	0.1470	135.70	0.7744
Wichita Falls	11.40	0.1468	117.90	0.5943

Weather Normalization Adjustment (WNA) Report

On or before June 1 of each year, the company posts on its website at atmosenergy.com/mtx-wna, in Excel format, a *Weather Normalization Adjustment (WNA) Report* to show how the company calculated its WNAs factor during the preceding winter season. Additionally, on or before June 1 of each year, the company files one hard copy and an Excel version of the *WNA Report* with the Railroad Commission of Texas' Gas Services Division, addressed to the Director of that Division.

EXHIBIT "C"
2019 AMORITIZATION SCHEDULE FOR REGULATORY LIABILITY

ATMOS ENERGY CORP., MID-TEX DIVISION
PENSIONS AND RETIREE MEDICAL BENEFITS FOR CITIES APPROVAL
TEST YEAR ENDING DECEMBER 31, 2018

Line No.	Description	Shared Services		Mid-Tex Direct			Adjustment Total
		Pension Account Plan	Post-Employment Benefit Plan	Pension Account Plan	Supplemental Executive Benefit Plan	Post-Employment Benefit Plan	
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
	Proposed Benefits Benchmark - Fiscal Year 2019 Willis Towers						
1	Watson Report as adjusted (1) (2) (3)	\$ 2,744,088	\$ 2,267,927	\$ 4,724,119	\$ 193,211	\$ 2,621,842	
2	Allocation to Mid-Tex	43.48%	43.48%	73.88%	100.00%	73.88%	
	Proposed Benefits Benchmark Costs Allocated to Mid-Tex (Ln 1 x Ln 2)						
3		\$ 1,193,029	\$ 986,012	\$ 3,490,241	\$ 193,211	\$ 1,937,051	
4	O&M and Capital Allocation Factor	100.00%	100.00%	100.00%	100.00%	100.00%	
5	Proposed Benefits Benchmark Costs to Approve (Ln 3 x Ln 4) (3)	\$ 1,193,029	\$ 986,012	\$ 3,490,241	\$ 193,211	\$ 1,937,051	\$ 7,799,544
6							
7							
8	Summary of Costs to Approve (1):						
9							
10	O&M Expense Factor (WP_F-2.3, Ln 2)	81.35%	81.35%	38.28%	16.24%	38.28%	
11							
12							
13	Total Pension Account Plan	\$ 970,514		\$ 1,336,038			\$ 2,306,553
14	Total Post-Employment Benefit Plan		\$ 802,108			\$ 741,489	1,543,597
15	Total Supplemental Executive Benefit Plan				\$ 31,377		31,377
16	Total (Ln 13 + Ln 14 + Ln 15)	\$ 970,514	\$ 802,108	\$ 1,336,038	\$ 31,377	\$ 741,489	\$ 3,881,527

18 Notes:

- 19 1. Studies not applicable to Mid-Tex or Shared Services are omitted.
- 20 2. The Company is requesting that the benchmark amount approved by the RRM Cities for future periods include only the expense amount.
- 21 The amount attributable to capital would continue to be recorded to utility plant through the overhead process as described in the CAM.
- 22 3. SSU amounts exclude cost centers which do not allocate to Mid-Tex for rate making purposes.

EXHIBIT "C"
2019 AMORITIZATION SCHEDULE FOR REGULATORY LIABILITY

ATMOS ENERGY CORP., MID-TEX DIVISION
RATE BASE ADJUSTMENTS
TEST YEAR ENDING DECEMBER 31, 2018
AMORTIZATION OF REGULATORY LIABILITY

Line No.	Year Ended Dec. 31	Beginning of Year Rate Base Adjustment Amount (1)	Annual Amortization (2)	End of Year Rate Base Adjustment Amount
	(a)	(b)	(c)	(d)
1	2018	\$ 290,043,948	\$ -	290,043,948
2	2019	290,043,948	12,085,165	277,958,784
3	2020	277,958,784	12,085,165	265,873,619
4	2021	265,873,619	12,085,165	253,788,455
5	2022	253,788,455	12,085,165	241,703,290
6	2023	241,703,290	12,085,165	229,618,126
7	2024	229,618,126	12,085,165	217,532,961
8	2025	217,532,961	12,085,165	205,447,797
9	2026	205,447,797	12,085,165	193,362,632
10	2027	193,362,632	12,085,165	181,277,468
11	2028	181,277,468	12,085,165	169,192,303
12	2029	169,192,303	12,085,165	157,107,139
13	2030	157,107,139	12,085,165	145,021,974
14	2031	145,021,974	12,085,165	132,936,810
15	2032	132,936,810	12,085,165	120,851,645
16	2033	120,851,645	12,085,165	108,766,481
17	2034	108,766,481	12,085,165	96,681,316
18	2035	96,681,316	12,085,165	84,596,152
19	2036	84,596,152	12,085,165	72,510,987
20	2037	72,510,987	12,085,165	60,425,823
21	2038	60,425,823	12,085,165	48,340,658
22	2039	48,340,658	12,085,165	36,255,494
23	2040	36,255,494	12,085,165	24,170,329
24	2041	24,170,329	12,085,165	12,085,165

EXHIBIT "C"
2019 AMORITIZATION SCHEDULE FOR REGULATORY LIABILITY

25	2042	12,085,165	12,085,165	(0)
27				
28				
29	Revenue Related Tax Factor		6.71%	See WP_F-5.1
	Revenue Related Taxes on Annual			Amortization * Tax
30	Amortization (see WP_B-6.3)	\$	810,653	Factor
31	Related Taxes (see WP_B-6.3)	\$	<u>12,905,421</u>	Amortization + Taxes

32

33 Notes:

- 34 1. The beginning 2018 balance is the September, 2018 balance. The regulatory
35 liability for excess deferred taxes is an estimate. This estimate will be
36 finalized when the Company files its federal tax return in July, 2019. To the
37 extent that this estimate changes with the filing of the Company's tax return,
38 the Company will 'true-up' the amount in the 2020 RRM filing.
- 39 2. The annual amortization of a 24 year recovery period is based on the
40 Reverse South Georgia Method.
- 41 3. The Regulatory Liability is recorded to FERC Account 253, Sub Account 27909.

Attachment 1
Proof of Revenues

**ATMOS ENERGY CORP., MID-TEX DIVISION
RRM CITIES RATE REVIEW MECHANISM
PROOF OF REVENUES - SYSTEMWIDE
TEST YEAR ENDING DECEMBER 31, 2018**

Line No.	Customer Class (a)	Current (b)	Proposed (c)	Bills (d)	Ccf/MmBtu (e)
1	Residential				
2	Customer Charge	\$ 18.85	\$ 19.55	18,572,400	
3	Consumption Charge	0.14846	0.17423		876,575,629
4	Revenue Related Taxes				
5	Total Class Revenue				
6					
7	Commercial				
8	Customer Charge	\$ 43.50	\$ 46.50	1,492,740	
9	Consumption Charge	0.09165	0.09924		576,758,305
10	Revenue Related Taxes				
11	Total Class Revenue				
12					
13	Industrial & Transportation				
14	Customer Charge	\$ 784.00	\$ 845.50	9,804	
15	Consumption Charge Tier 1	\$ 0.3312	\$ 0.3572		10,724,328
16	Consumption Charge Tier 2	\$ 0.2425	\$ 0.2616		12,346,302
17	Consumption Charge Tier 3	\$ 0.0520	\$ 0.0561		22,335,700
18	Revenue Related Taxes				
19	Total Class Revenue				
20					
21	Total Excluding Other Revenue				
22					
23					
24	Revenue Related Tax Factor	6.7078%			

Current Revenues	Proposed Revenues	Increase
(f)	(g)	(h)
\$ 350,089,740	\$ 363,090,420	
130,136,418	152,725,772	
32,212,790	34,600,111	
<u>\$ 512,438,948</u>	<u>\$ 550,416,303</u>	<u>\$ 37,977,356</u>
\$ 64,934,190	\$ 69,412,410	
52,859,899	57,237,494	
7,901,436	8,495,470	
<u>\$ 125,695,525</u>	<u>\$ 135,145,374</u>	<u>\$ 9,449,849</u>
\$ 7,686,336	\$ 8,289,282	
3,551,897	3,830,730	
2,993,978	3,229,793	
1,161,456	1,253,033	
1,032,582	1,113,691	
<u>\$ 16,426,250</u>	<u>\$ 17,716,529</u>	<u>\$ 1,290,278</u>
<u>\$ 654,560,722</u>	<u>\$ 703,278,206</u>	<u>\$ 48,717,483</u>

Attachment 2

Bill Impact

**ATMOS ENERGY CORP., MID-TEX DIVISION
AVERAGE BILL COMPARISON - BASE RATES
TEST YEAR ENDING DECEMBER 31, 2018**

Line						CURRENT	PROPOSED	CHANGE
1	Rate R @ 47.5 Ccf							
2	Customer charge					\$ 18.85		
3	Consumption charge	47.5	CCF	X	\$ 0.14846 =	7.05		
4	Rider GCR Part A	47.5	CCF	X	\$ 0.27375 =	13.00		
5	Rider GCR Part B	47.5	CCF	X	\$ 0.27485 =	13.06		
6	Subtotal					\$ 51.96		
7	Rider FF & Rider TAX		\$ 51.96	X	0.06708 =	3.49		
8	Total					\$ 55.45		
9								
10	Customer charge						\$ 19.55	
11	Consumption charge	47.5	CCF	X	\$ 0.17423 =	8.28		
12	Rider GCR Part A	47.5	CCF	X	\$ 0.27375 =	13.00		
13	Rider GCR Part B	47.5	CCF	X	\$ 0.27485 =	13.06		
14	Subtotal					\$ 53.89		
15	Rider FF & Rider TAX		\$ 53.89	X	0.06708 =	3.61		
16	Total					\$ 57.50	\$ 2.05	
17								3.70%
18								
19	Rate C @ 367.6 Ccf							
20	Customer charge					\$ 43.50		
21	Consumption charge	367.6	CCF	X	\$ 0.09165 =	33.69		
22	Rider GCR Part A	367.6	CCF	X	\$ 0.27375 =	100.62		
23	Rider GCR Part B	367.6	CCF	X	\$ 0.19927 =	73.25		
24	Subtotal					\$ 251.06		
25	Rider FF & Rider TAX		\$ 251.06	X	0.06708 =	16.84		
26	Total					\$ 267.90		
27								
28	Customer charge						\$ 46.50	
29	Consumption charge	367.6	CCF	X	\$ 0.09924 =	36.48		
30	Rider GCR Part A	367.6	CCF	X	\$ 0.27375 =	100.62		
31	Rider GCR Part B	367.6	CCF	X	\$ 0.19927 =	73.25		
32	Subtotal					\$ 256.85		
33	Rider FF & Rider TAX		\$ 256.85	X	0.06708 =	17.23		
34	Total					\$ 274.08	\$ 6.18	
35								2.31%

**ATMOS ENERGY CORP., MID-TEX DIVISION
AVERAGE BILL COMPARISON - BASE RATES
TEST YEAR ENDING DECEMBER 31, 2018**

<u>Line</u>						<u>CURRENT</u>	<u>PROPOSED</u>	<u>CHANGE</u>
36	Rate I @ 4066 MMBTU							
37	Customer charge					\$ 784.00		
38	Consumption charge	1,500	MMBTU	X \$ 0.3312 =		496.80		
39	Consumption charge	2,566	MMBTU	X \$ 0.2425 =		622.14		
40	Consumption charge	0	MMBTU	X \$ 0.0520 =		-		
41	Rider GCR Part A	4,066	MMBTU	X \$ 2.6733 =		10,868.51		
42	Rider GCR Part B	4,066	MMBTU	X \$ 0.4491 =		1,825.85		
43	Subtotal					\$ 14,597.30		
44	Rider FF & Rider TAX			X 0.06708 =		979.16		
45	Total					<u>\$ 15,576.46</u>		
46								
47	Customer charge						\$ 845.50	
48	Consumption charge	1,500	MMBTU	X \$ 0.3572 =		535.80		
49	Consumption charge	2,566	MMBTU	X \$ 0.2616 =		671.14		
50	Consumption charge	0	MMBTU	X \$ 0.0561 =		-		
51	Rider GCR Part A	4,066	MMBTU	X \$ 2.6733 =		10,868.51		
52	Rider GCR Part B	4,066	MMBTU	X \$ 0.4491 =		1,825.85		
53	Subtotal					\$ 14,746.80		
54	Rider FF & Rider TAX			X 0.06708 =		989.19		
55	Total					<u>\$ 15,735.99</u>	\$ 159.53	
56								1.02%
57	Rate T @ 4066 MMBTU							
58	Customer charge					\$ 784.00		
59	Consumption charge	1,500	MMBTU	X \$ 0.3312 =		496.80		
60	Consumption charge	2,566	MMBTU	X \$ 0.2425 =		622.14		
61	Consumption charge	0	MMBTU	X \$ 0.0520 =		-		
62	Rider GCR Part B	4,066	MMBTU	X \$ 0.4491 =		1,825.85		
63	Subtotal					\$ 3,728.79		
64	Rider FF & Rider TAX			X 0.06708 =		250.12		
65	Total					<u>\$ 3,978.91</u>		
66								
67	Customer charge						\$ 845.50	
68	Consumption charge	1,500	MMBTU	X \$ 0.3572 =		535.80		
69	Consumption charge	2,566	MMBTU	X \$ 0.2616 =		671.14		
70	Consumption charge	0	MMBTU	X \$ 0.0561 =		-		
71	Rider GCR Part B	4,066	MMBTU	X \$ 0.4491 =		1,825.85		
72	Subtotal					\$ 3,878.29		
73	Rider FF & Rider TAX			X 0.06708 =		260.15		
74	Total					<u>\$ 4,138.44</u>	\$ 159.53	
75								4.01%

Attachment 3

RRM Monthly Savings Over GRIP and DARR Rates

ACSC Margin Advantage Over GRIP and DARR Residential Customers
Effective October 1, 2019

Group	Average Monthly Consumption	Customer Charge	Consumption Charge	Average Bill	Average Monthly Savings
ACSC/RRM	47.5 CCF	\$19.55	\$0.17423	\$27.83	X
Environs GRIP	47.5 CCF	\$19.84	\$0.18653	\$28.70	\$0.87
ATM GRIP	47.5 CCF	\$21.69	\$0.14846	\$28.74	\$0.92
DARR	47.5 CCF	\$21.25	\$0.14924	\$28.34	\$0.51

Regular Session Agenda Item: 13

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Discuss and consider approving a Resolution of the City of Seagoville, Texas authorizing the City Manager to approve an Interlocal Cooperation Contract between Texas Department of Public Safety (“TXDPS”), an agency of the State of Texas, and the Municipal Court serving the City to implement the provisions of Chapter 706 of the Texas Transportation Code; providing a severability clause; providing a repealing clause; and providing an effective date.

BACKGROUND OF ISSUE:

The City of Seagoville recognizes the mutual benefits of cooperation Interlocal Contract between Texas Department of Public Safety (“TXDPS”) and the Municipal Court Serving the City to deny the renewal of driver license as authorized under the provisions of Chapter 706 of Texas Transportation Code; and

TXDPS has a contract with a private vendor (“Vendor”) pursuant to Texas Transportation Code 706.008. The Vendor shall provide necessary goods and services to establish an automated system (referred to herein as the “FTA System”) whereby information regarding violators subject to the provisions of Texas Transportation Code, Chapter 706, may be accurately stored and accessed by TXDPS. Utilizing the FTA System as a source of information, TXDPS may deny renewal of a driver license to a person who is the subject of an FTA System entry; and

The City of Seagoville contracting with TXDPS shall pay monies to the Vendor based on a fee established by this Contract. TXDPS shall make no direct or indirect payments to the Vendor. The Vendor shall ensure that accurate information is available to TXDPS, the City of Seagoville and person seeking to clear their license at all reasonable times.

“Failure to Appear Program” or “FTA Program” means the implementation efforts of all parties, including those system components provided by TXDPS, political subdivisions and the Vendor, including the FTA System.

The City of Seagoville collecting fees pursuant to Texas Transportation Code 706.006 shall keep separate records of the funds and shall deposit the funds in the appropriate municipal or county treasury. The City of Seagoville may deposit such fees in an interest-bearing account and retain the interest earned thereon the city. The City of Seagoville shall keep accurate and complete records of funds received and disbursed in accordance with this Contract and the governing statutes; and

The City of Seagoville shall remit \$20.00 of each fee collected pursuant to Texas Transportation Code 706.006 to the Comptroller on or before the last day of each calendar quarter and retain \$10.00 of each fee to be allocated as follows: \$6.00 is for payment to the Vendor; and \$4.00 is credited to the general fund of the City of Seagoville or county treasury.

TXDPS has contracted with a Vendor to assist with the implementation of the FTA Program. The City of Seagoville shall pay the Vendor fee of \$6.00 per person for each violation which has been reported to the Vendor and for which the City of Seagoville has subsequently collected the statutorily required \$30.00 administrative fee. In the event that the person has been acquitted of the underlying charge, no payment shall be made to the Vendor or required of the City of Seagoville.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

Approval

EXHIBITS:

Resolution
Interlocal Cooperation Contract for the Failure to Appear Program

THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO.

A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS, AUTHORIZING THE CITY MANAGER TO APPROVE AN INTERLOCAL COOPERATION CONTRACT BETWEEN TEXAS DEPARTMENT OF PUBLIC SAFETY (“TXDPS”), AN AGENCY OF THE STATE OF TEXAS, AND THE MUNICIPAL COURT SERVING THE CITY TO IMPLEMENT THE PROVISIONS OF CHAPTER 706 OF THE TEXAS TRANSPORTATION CODE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Seagoville recognizes the mutual benefits of cooperation Interlocal Contract between Texas Department of Public Safety (“TXDPS”) and the Municipal Court Serving the City to deny the renewal of driver license as authorized under the provisions of Chapter 706 of Texas Transportation Code; and

WHEREAS, under said chapter, the governing body of said City is empowered to provide information necessary to deny renewal of the driver license of a person who fails to appear for a complaint or citation or fails to pay or satisfy a judgment ordering payment of a fine and cost in the manner ordered by the court in a matter involving any offense that a court has jurisdiction of under Chapter 4, Texas Code of Criminal Procedure.

WHEREAS, “Complaint” means the notice of an offense as defined in Article 27.14(d) or Article 45.019, Texas Code of Criminal Procedure; and

WHEREAS, TXDPS has a contract with a private vendor (“Vendor”) pursuant to Texas Transportation Code 706.008 TO provide necessary goods and services to establish an automated system (referred to herein as the “Failure to Appear System” or the “FTA System”) whereby information regarding violators subject to the provisions of Texas Transportation Code, Chapter 706, may be accurately stored and accessed by TXDPS; and

WHEREAS, the Municipal Court serving the City of Seagoville desires to utilize the services offered by TXDPS and its contracted Vendor with regard to the FTA System and implementation of the provisions of Chapter 706 of the Transportation Code;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:

Section 1. The City Council hereby authorizes the City Manager to execute the Interlocal Contract with the Texas Department of Public Safety (“TXDPS”) a copy of which is attached hereto and incorporated herein as Exhibit A.

Section 2. All resolutions of the City of Seagoville heretofore adopted which are in conflict with the provisions of the resolution be, and the same are hereby repealed, and all resolutions of the City of Seagoville not in conflict with the provisions hereof shall remain in full force and effect.

Section 3. If any article, paragraph, subdivision, clause or provision of this resolution, as hereby amended, be adjudged invalid or held unconstitutional for any reason, such judgment or holding shall not affect the validity of this resolution as a whole or any part or provision thereof, as amended hereby, other than the part so declared to be invalid or unconstitutional.

Section 4. This resolution shall take effect immediately from and after its passage and it is accordingly so resolved.

PASSED AND APPROVED by the City Council of the City of Seagoville, Texas this 12th day of September 2019.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria Thomas, City Attorney

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

512/424-2000

www.dps.texas.gov



STEVEN C. McCRAW
DIRECTOR
SKYLOR HEARN
FREEMAN F. MARTIN
RANDALL B. PRINCE
DEPUTY DIRECTORS



COMMISSION
STEVEN P. MACH, CHAIRMAN
A. CYNTHIA LEON

August 22, 2019

Dear Court Administrator:

Enclosed please find the revised contract offered by the Texas Department of Public Safety to accommodate Chapter 706 of the Texas Transportation Code. Please complete all of the appropriate entries on the contract and arrange for the approval and signature of the presiding official authorized to sign contractual documents in your jurisdiction (mayor, city manager, county judge, etc.).

Only one (1) original signed contract should be submitted for each political subdivision; if you require a final copy for the court, please indicate so when you return the document. Signed contracts should be returned to:

Texas Department of Public Safety
Attn: Enforcement and Compliance Service
P.O. Box 4087
Austin, Texas 78773-0320

After the contract has been returned to the Department it will be processed for the appropriate signatures.

Any questions regarding the contract should be forwarded to Enforcement and Compliance Service; Tijuana Pendergrass at (512) 424-5431.

Sincerely yours,

Frances Gomez, Manager
Enforcement and Compliance Service

“Failure to Appear Report” or “FTA Reports” means a notice sent by the political subdivision requesting person(s) be denied renewal in accordance with this Contract.

“Failure to Appear System” or “FTA System” means the goods and services, including all hardware, software, consulting services, telephone and related support services, supplied by the Vendor.

“FTA Software” means the computer software developed or maintained now or in the future by the Vendor to support the FTA System.

“Originating Court” means the court in which an applicable violation has been filed for which a person has failed to appear or failed to pay or satisfy a judgment and which has submitted an appropriate FTA Report.

“State” means the State of Texas.

“Political subdivision” means a municipality or county of the State of Texas.

Unless otherwise defined, terms used herein shall have the meaning assigned by Texas Transportation Code, Chapter 706, or other relevant statute. Terms not defined in this Contract or by other relevant statutes shall be given their ordinary meanings.

IV. Application and Scope of Contract

This Contract applies to each FTA Report submitted to and accepted by TXDPS or the Vendor by the Political Subdivision pursuant to the authority of Texas Transportation Code, Chapter 706.

V. Required Warning on Citation for Traffic Law Violations

A peace officer authorized to issue citations within the jurisdiction of the Political Subdivision shall issue a written warning to each person to whom the officer issues a citation for a traffic law violation. This warning shall be provided in addition to any other warnings required by law. The warning must state in substance that if the person fails to appear in court for the prosecution of the offense or if the person fails to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court, the person may be denied renewal of the person’s driver license. The written warning may be printed on the citation or on a separate instrument.

VI. FTA Report

If a person fails to appear or fails to pay or satisfy a judgment as required by law, the Political Subdivision may submit an FTA Report to the Vendor containing the following information:

- (1) the jurisdiction in which the alleged offense occurred;
- (2) the name of the Political Subdivision submitting the report;
- (3) the name, date of birth and Texas driver license number of the person who failed to

- appear or failed to pay or satisfy a judgment;
- (4) the date of the alleged violation;
- (5) a brief description of the alleged violation;
- (6) a statement that the person failed to appear or failed to pay or satisfy a judgment as required by law;
- (7) the date that the person failed to appear or failed to pay or satisfy a judgment; and
- (8) any other information required by TXDPS.

There is no requirement that a criminal warrant be issued in response to the person's failure to appear. The Political Subdivision must make reasonable efforts to ensure that all FTA Reports are accurate, complete and non-duplicative.

VII. Clearance Reports

The Political Subdivision that files the FTA Report has a continuing obligation to review the FTA Report and promptly submit appropriate additional information or reports to the Vendor or TXDPS. The clearance report shall identify the person, state whether or not a fee was required, advise TXDPS to lift the denial of renewal and state the grounds for the action. All clearance reports shall be submitted immediately, but no later than two (2) business days, from the time and date that the Political Subdivision receives appropriate payment or other information that satisfies the person's obligation to that Political Subdivision.

To the extent that a Political Subdivision utilizes the FTA Program by submitting an FTA Report, the Political Subdivision shall collect the statutorily required \$30.00 administrative fee. If the person is acquitted of the underlying offense for which the original FTA Report was filed, the Political Subdivision shall not require payment of the administrative fee.

A clearance report shall be submitted for the following circumstances:

- (1) the perfection of an appeal of the case for which the warrant of arrest was issued or judgment arose;
- (2) the dismissal of the charge for which the warrant of arrest was issued or judgment arose;
- (3) the posting of a bond or the giving of other security to reinstate the charge for which the warrant was issued;
- (4) the payment or discharge of the fine and cost owed on an outstanding judgment of the court; or
- (5) other suitable arrangement to pay the fine and cost within the court's discretion.

TXDPS will not continue to deny renewal of the person's driver license after receiving notice from the Political Subdivision that the FTA Report was submitted in error or has been destroyed in accordance with the Political Subdivision's record retention policy.

VIII. Quarterly Reports and Audits

The Political Subdivision shall submit to TXDPS quarterly reports in a format established by

TXDPS.

The Political Subdivision is subject to audit and inspection at any time during normal business hours and at a mutually agreed upon location by the State Auditor, TXDPS, and any other department or agency, responsible for determining that the Parties have complied with the applicable laws. The Political Subdivision shall provide all reasonable facilities and assistance for the safe and convenient performance of any audit or inspection.

If any of the transactions performed by the Political Subdivision do not conform to this Contract or to TXDPS standards, TXDPS may require the Political Subdivision to perform the transactions again at its own cost until acceptable to TXDPS.

The Political Subdivision shall keep all records and documents regarding this Contract for the term of this Contract and for four (4) years after the termination of this Contract.

IX. Accounting Procedures

The Political Subdivision collecting fees pursuant to Texas Transportation Code §706.006 shall keep separate records of the funds and shall deposit the funds in the appropriate municipal or county treasury. The Political Subdivision may deposit such fees in an interest-bearing account and retain the interest earned thereon for the Political Subdivision. The Political Subdivision shall keep accurate and complete records of funds received and disbursed in accordance with this Contract and the governing statutes.

The Political Subdivision shall remit \$20.00 of each fee collected pursuant to Texas Transportation Code §706.006 to the Comptroller on or before the last day of each calendar quarter and retain \$10.00 of each fee to be allocated as follows: \$6.00 is for payment to the Vendor; and \$4.00 is credited to the general fund of the municipal or county treasury.

X. Payments to Vendor

TXDPS has contracted with a Vendor to assist with the implementation of the FTA Program.

The Political Subdivision shall pay the Vendor a fee of \$6.00 per person for each violation which has been reported to the Vendor and for which the Political Subdivision has subsequently collected the statutorily required \$30.00 administrative fee. In the event that the person has been acquitted of the underlying charge, no payment shall be made to the Vendor or required of the Political Subdivision.

The Political Subdivision agrees that payment shall be made by the Political Subdivision to the Vendor no later than the last day of the month following the close of the calendar quarter in which the payment was received by the Political Subdivision.

TXDPS shall have no responsibility to pay the Vendor for any fees collected by the Political Subdivision.

XI. Non-Waiver of Fee

The Political Subdivision shall not waive the \$30.00 administrative fee for any person that has been submitted on an FTA Report, even if the person is deemed to be indigent, unless (i) the person is acquitted of the charges for which the person failed to appear or (ii) the FTA Report was submitted in error.

Failure to comply with this section shall result in (i) termination of this Contract for cause and (ii) the removal of all outstanding entries of the Political Subdivision in the FTA Report, resulting in the lifting of any denied driver license renewal status from TXDPS.

XII. General Terms and Conditions

A. Compliance with Law

The Political Subdivision understands and agrees that it shall comply with all local, state and federal laws in the performance of this Contract, including administrative rules adopted by TXDPS.

B. Governing Law

This Contract is entered into pursuant to Texas Government Code, Chapter 791, and is subject to the laws and jurisdiction of the State of Texas and shall be construed and interpreted accordingly.

C. Venue

Except as otherwise provided by Chapter 2260 of the Texas Government Code, venue for any litigation between the Parties shall be Travis County, Texas.

D. Chapter 2260, Texas Government Code

The Political Subdivision shall use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code and the applicable TXDPS administrative rules to attempt to resolve all disputes or contract claims arising under this Contract.

E. Litigation and Liability

In the event that the Political Subdivision is aware of litigation in which this Contract or Texas Transportation Code, Chapter 706 is subject to constitutional, statutory, or common-law challenge, or is struck down by judicial decision, the Political Subdivision shall make a good faith effort to notify TXDPS immediately.

Each Party to this Contract agrees that it shall have no liability whatsoever for the actions and/or omissions of the other Party's employees and officers, regardless of where the individual's actions and/or omissions occurred. Each Party is solely responsible for the actions and/or omissions of its employees and officers; however, such responsibility is only to the extent

required by Texas law. Where injury or property damage result from the joint or concurring acts and/or omissions of the Parties, any liability shall be shared by each Party in accordance with the applicable Texas law, subject to all defenses, including governmental immunity. These provisions are solely for the benefit of the Parties hereto and not for the benefit of any person or entity not a Party hereto; nor shall any provision hereof be deemed a waiver of any defenses available by law.

F. No Joint Enterprise

TXDPS is associated with the Political Subdivision only for the purposes and to the extent set forth herein, and with respect to the performance hereunder, the Political Subdivision is and shall be an independent contractor and shall have the sole right to supervise, manage, operate, control, and direct the performance of the details incident to its duties hereunder. Nothing contained herein shall be deemed or construed to create a partnership or joint venture, to create the relationships of an employer-employee or principal-agent, or to otherwise create any liability for TXDPS whatsoever with respect to the indebtedness, liabilities, and obligations of the Political Subdivision or any other party.

G. No Apparent Agency

Neither Party has authority for or on behalf of the other except as provided in this Contract. No other authority, power, partnership, or rights are granted or implied.

H. Contract Modification

No modifications, amendments or supplements to, or waivers of, any provision of this Contract shall be valid unless made in writing and signed by both Parties to this Contract.

I. Severability

If any provision of this Contract is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, such provision shall be fully severable. This Contract shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, and the remaining provisions shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance therefrom.

J. Non-Waiver of Defaults

Any failure of TXDPS, at any time, to enforce or require the strict keeping and performance of any provision of this Contract, shall not constitute a waiver of such provision, and shall not affect or impair same or the right of TXDPS at any time to avail itself of same. Any acceptance, payment, or use by TXDPS shall not constitute a waiver or otherwise impair or prejudice any right, power, privilege, or remedy available to TXDPS to enforce its rights, as such rights, powers, privileges, and remedies are specifically preserved.

K. Non-Incorporation

This Contract constitutes the entire agreement between the Parties with regard to the matters made the subject of this Contract. There are no verbal representations, inducements, agreements, understandings, representations, warranties, or restrictions between the Parties other than those specifically set forth herein.

L. Non-Assignment

Neither party shall assign its rights nor delegate its duties under this Contract without prior written consent of the other Party.

M. Headings

The headings, captions, and arrangements used in this Contract are, unless specified otherwise, for convenience only and shall not be deemed to limit, amplify, or modify the terms of this Contract, nor to affect the meaning thereof.

N. Interpretation Against the Drafter

Regardless of which Party drafted this Contract or the language at issue, any ambiguities in this Contract or the language at issue will not be interpreted against the drafting party.

O. Multiple Counterparts

This Contract may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. In making proof of this Contract, it shall not be necessary to produce or account for more than one such counterpart.

P. Effective Date of Contract

This Contract shall be in effect from and after the date that the final signature is set forth below. This Contract shall automatically renew on a yearly basis.

Q. Termination

1. Termination for Cause. Either Party may terminate this Contract if the other Party neglects or fails to perform or observe any of its material obligations herein, and such default continues for thirty (30) days following receipt of written notice of such default.
2. Termination for Convenience. Either Party, upon thirty (30) days written notice, may terminate this Contract in whole or in part.
3. Mutual Termination. This Contract may be terminated by mutual agreement and consent, in writing, of both Parties.

After termination, the local political subdivision has a continuing obligation to report dispositions and collect fees for all violators in the FTA System at the time of termination.

Failure to comply with this continuing obligation to report shall result in the removal of all outstanding entries of the Political Subdivision in the FTA Report, resulting in the lifting of any denied driver license renewal status from TXDPS.

R. Notice

Any notice required or permitted under this Contract shall be directed to the respective Parties at the addresses shown below and shall be deemed given: (1) when delivered in hand and a receipt granted; (2) when received if sent by certified mail, return receipt requested; (3) upon three business days after deposit in the U.S. mail; or (4) when received if sent by confirmed facsimile or confirmed email.

<u>Political Subdivision</u>	<u>Texas Department of Public Safety</u>
Attn: _____	Attn: Enforcement & Compliance Service
Address: _____	5805 North Lamar Boulevard
Address: _____	Austin, Texas 78752-0001
Fax: _____	(512) 424-5311 [fax]
Email: _____	Driver.Improvement@dps.texas.gov
Phone: _____	

Either of the Parties may change its address or designated individual(s) to receive notices by giving the other Party written noticed as provided herein, specifying the new address and/or individual and the date upon which it shall become effective.

XIII. Signature Authority

The signatory for the Political Subdivision hereby represents and warrants that he/she has full and complete authority to enter into this Contract on behalf of the Political Subdivision.

XIV. Certifications

The Parties certify that each Party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

The Parties certify that this Contract is authorized by the governing body of the Parties.

The Parties certify that each has the authority to enter into this Contract by authority granted in Texas Transportation Code, Chapter 706.

**TEXAS DEPARTMENT OF
PUBLIC SAFETY**

POLITICAL SUBDIVISION*

Driver License Division Director
Or Designee

Authorized Signature

Title

Date

Date

*An additional page may be attached if more than one signature is required to execute this Contract on behalf of the Political Subdivision. Each signature block must contain the person's title and date.

Regular Session Agenda Item:14

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Second Reading – Consider approval of Resolution No. 46-R-2019 approving an Economic Development Grant from the Seagoville Economic Development Corporation to JWWIV, LLC in the amount of \$430,000 to offset the purchase price for the sale of the property owned by the Seagoville Economic Development Corporation and located at 2108 N. Highway 175 and 2110 N. Highway 175, Seagoville, Dallas County, Texas.

BACKGROUND OF ISSUE:

The SEDC owns the property located at 2108 and 2110 N. Highway 175, Seagoville, Dallas County, Texas. John Williams of JWWIV, LLC ("Company") desires to purchase and develop the property by constructing retail and commercial facilities to include tractor, trailer, mower and equipment sales and/or rentals. Since the development of the properties will provide business expansion and new business enterprise as well as result in the creation of new jobs in the City, the SEDC desires for the Company to construct the proposed facilities. The Company has advised that a contributing factor that would induce the construction on the properties would be an agreement for SEDC to provide an economic development grant to reduce the cost of the purchase of the property. The SEDC has held a public hearing on the economic development grant to Company in the amount of \$430,000.00 to offset the purchase price of the SEDC owned property located at 2108 and 2110 N. Highway 175, Seagoville, Dallas County, Texas.

Mr. Williams' is an established business owner here in the City of Seagoville. Based on Mr. Williams' professionalism, experience and success, staff recommends approval of this Grant.

FINANCIAL IMPACT:

Economic Development Incentive Grant in the amount of \$430,000.00

EXHIBITS:

Economic Development Incentive Agreement with accompanying form Restriction Agreement and Purchase and Sale Agreement

RESOLUTION NO. 46-R-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, APPROVING THE ECONOMIC DEVELOPMENT PROJECT BETWEEN THE SEAGOVILLE ECONOMIC DEVELOPMENT CORPORATION AND JWWIV, LLC AS REFLECTED IN THE TERMS AND CONDITIONS OF AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT, RESTRICTION AGREEMENT, AND REAL ESTATE PURCHASE AGREEMENT BETWEEN THE PARTIES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Seagoville Economic Development Corporation (“SEDC”) is authorized by the Development Corporation Act, Chapters 501-505 of the Texas Local Government Code (“Act”), to provide funding for projects which will result in the creation of new jobs and will promote new and expanding business enterprises within the City; and

WHEREAS, the SEDC has negotiated and intends to undertake a project which will result in the creation of new jobs and which will promote new and expanded business enterprises within the City with JWWIV, LLC under the terms and conditions set forth in an Economic Development Incentive Agreement attached hereto as Exhibit “A,” a Restriction Agreement attached hereto as Exhibit “B”, and a Real Estate Purchase Agreement attached hereto as Exhibit “C,” (the “Project”) and

WHEREAS, section 505.158 mandates that the SEDC may not undertake a project that requires an expenditure of more than \$10,000 until the governing body of the corporation’s authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings; and

WHEREAS, the City Council has determined that the Project contemplated by SEDC and JWWIV, LLC under the terms and conditions set forth in the Incentive Agreement, Restriction Agreement, and Real Estate Purchase Agreement will create new jobs and will promote new and expanded business enterprises within the City of Seagoville; and

WHEREAS, the City Council finds that the expenditure of funds pursuant by SEDC in undertaking the Project is authorized by the Act and that the Project should be approved and authorized; and

WHEREAS, the City Council has conducted two (2) readings of this resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:

Section 1. That the City Council hereby approves and authorizes the Project between the Seagoville Economic Development Corporation and JWWIV, LLC under the terms and conditions set forth in an Economic Development Incentive Agreement attached hereto as Exhibit “A,” a Restriction Agreement attached hereto as Exhibit “B”, and a Real Estate Purchase Agreement attached hereto as Exhibit “C.”

Section 2. That the City Council authorizes the SEDC to enter into any additional agreements necessary to undertake the Project in accordance with the terms and conditions set

forth in the Incentive Agreement, the Restriction Agreement, and the Real Estate Purchase Agreement.

Section 3. This resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

DULY RESOLVED AND ADOPTED First Reading and Second Reading of the City Council of the City of Seagoville, Texas, this the 12th day of September, 2019.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria Thomas, City Attorney
(TM110622 090419)

Exhibit "A"
Economic Development Agreement
(to be attached)

STATE OF TEXAS §
§ **ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT**
COUNTY OF DALLAS §

This Economic Development Incentive Agreement (“Agreement”) is made by and between the Seagoville Economic Development Corporation (“SEDC”) and JWWIV, LLC, a Texas limited liability company (“Company”) (each a “Party” and collectively the “Parties”), acting by and through their respective authorized officers.

WITNESSETH:

WHEREAS, Company was established in 2002 and currently employs approximately 15 full time employees at a minimum salary of \$41,600 annually at its Seagoville location; and

WHEREAS, Company intends to expand its business operations and desires to purchase the Property (as hereafter defined) from SEDC and intends to construct Improvements (as hereafter defined) on the Property and use the Improvements for the Required Uses (as hereafter defined); and

WHEREAS, the Company intends to make a Capital Investment of approximately Nine Hundred Thousand Dollars (\$900,000.00) in the Improvements to be located at the Improvements and/or on the Property; and

WHEREAS, Company has advised SEDC that a contributing factor that would induce Company to purchase the Property and construct the Improvements on the Property would be an agreement by SEDC to provide an economic development incentive grant to Company to defray the cost of the acquisition of the Property; and

WHEREAS, the Improvements will provide for new business enterprises in the City and will promote new or expanded business development in the City and will result in the creation of new jobs; and

WHEREAS, the Development Corporation Act, Chapter 501-505 of the Texas Local Government Code (the “Act”) authorizes the SEDC to provide economic development grants for the creation of new business opportunities and the creation and retention of primary jobs; and

WHEREAS, the SEDC has determined that the Purchase Grant (as hereafter defined) to be made hereunder is required or suitable to create and retain new jobs and develop new or expanded business enterprises and constitutes a “project”, as that term is defined in the Act; and

WHEREAS, the SEDC has determined that making the Purchase Grant to Company in accordance with this Agreement will further the objectives of SEDC, will benefit the City and the City’s inhabitants and will promote local economic development and stimulate business and commercial activity in the City.

NOW THEREFORE, in consideration of the foregoing, and other consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

Article I Definitions

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

“Bankruptcy or Insolvency” shall mean the dissolution or termination of Company’s existence, insolvency, employment of receiver for any part of Company’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors or the commencement of any proceedings under any bankruptcy or insolvency laws by or against Company and such proceedings are not dismissed within ninety (90) days after the filing thereof.

“Capital Investment” shall mean the aggregate of the total costs of design and construction of the Improvements (inclusive of all hard and soft costs) on the Property but not including costs related to the purchase of the Property.

“City” shall mean the City of Seagoville, Texas, a home rule municipality.

“Commencement Date” shall mean the later of: (i) the date the first final certificate of occupancy is issued by the City for any phase of the Improvements for the Required Uses; and (ii) the date said phase of the Improvement is open for business and serving the citizens of the City and its visitors for the Required Uses.

“Commencement of Construction” shall mean (i) the detailed plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Improvements, (ii) all necessary permits for the construction of the Improvements have been issued by the applicable governmental authorities and (iii) grading of the Property and construction of the vertical elements of the Improvements (whether located above or below ground) has commenced.

“Company” shall mean JWWIV, LLC, a Texas limited liability company and its successors and assigns.

“Completion of Construction” shall mean substantial completion and issuance of a final certificate of occupancy by City for occupancy of the Phase I Improvements and the Phase II Improvements.

“Completion of Phase I Construction” shall mean substantial completion and issuance of a final certificate of occupancy has been issued by the City for Occupancy of the Phase I Improvements.

“Construction Equipment Rental Business” shall mean a for-profit business entity opened to the public and operating on the Property, offering for rent small and large construction equipment, with the condition that the business entity must have, located on the Property, an equipment inventory of not less than five (5) pieces of small and heavy construction equipment offered for rental, such equipment to include a skidster, a backhoe, a jack hammer, and similar equipment.

“Construction Plans” shall mean the plans and specifications sufficient for the construction of the Improvements on the Property (including civil, architectural, grading and site plans) in accordance with the Zoning and any design plans approved by the City.

“Effective Date” shall mean the last date this Agreement has been signed by authorized representatives of all Parties.

“Employment Period” shall mean each twelve (12) consecutive month period following the Commencement Date during the term of this Agreement.

“Employment Positions” shall mean FTE Position Primary Jobs eligible for employee benefits that have been created, maintained, and filled at the Improvements per Employment Period from the Commencement Date and continuing until the Expiration Date. The number of FTE’s for an Employment Period shall be based on a weekly average account of FTE’s working at the Improvements during each calendar week during the Employment Period.

“Expiration Date” shall mean the fifth (5th) anniversary date of the Commencement Date except that, if Company has established and is operating a Construction Equipment Rental Business on the Property continuously for at least thirty (30) days prior to and on the fourth (4th) anniversary date of the Commencement Date, then “Expiration Date” shall mean the fourth (4th) anniversary date of the Commencement Date.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, adverse weather, government or de facto governmental action (unless caused by acts or omissions of such Party), fires, explosions or floods, strikes, slowdowns or work stoppages.

“FTE Position” or “FTE” means a position filled by individuals scheduled to work at the Improvements for a combined total of at least 2,080 hours during an Employment Period.

“Impositions” shall mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, authority on Company with respect to the Project or any property or any business owned by Company within the City.

“Improvements” shall mean a minimum of two (2) buildings constructed on the Property for the Required Uses and consisting of a total combined minimum area of 8,000 square feet, and shall further include other ancillary facilities such as reasonably required parking, drives, and landscaping, all as more fully described in submittals filed with the City from time to time in order to obtain building permits. The Improvements will be constructed in phases as defined herein and shall be comprised of the Phase I Improvements and the Phase II Improvements.

“Phase I Improvements” shall mean a portion of the Improvements to be constructed first and to be occupied and used by Company or a third-party to whom Company leases the premises for tractor and mower sales and service.

“Phase II Improvements” shall mean a portion of the Improvements to be constructed concurrently with or following the construction of the Phase I Improvements and to be occupied and used by Company or a third-party to whom Company leases the premises for trailer sales and service, parts sales, and related storage. The total combined minimum area of the Phase I Improvements and the Phase II Improvements shall be 8,000 square feet.

“Primary Jobs” shall have the same meaning as assigned by Section 501.002(12) of the Texas Local Government Code.

“Project” means Company’s purchase of the Property from the SEDC and Company’s construction of the Improvements thereon.

“Project Commencement Date” shall mean the date that is ten (10) business days after the date that the conditions precedent set forth in Section 6.14 of this Agreement have been fully satisfied.

“Property” shall mean the two parcels of real property consisting of a total of approximately 5.677 acres and being comprised of (i) an approximately 1.153 acre parcel described as Lot 2 Block 1 of Seagoville Place, commonly known as 2110 North U.S. Highway 175, and (ii) an approximately 4.524 acre parcel described as Lot 1, Block 1 of Replat of part of Seagoville Place, commonly known as 2108 North U.S. Highway 175, both being located in Seagoville, Dallas County, Texas and being depicted on Exhibit “A,” attached hereto and incorporated herein by reference. The two parcels may be later replatted as one parcel and, upon such event, the definition of “Property” shall refer to the one replatted parcel.

“Purchase Grant” shall mean an economic development incentive grant in the amount of Four Hundred Thirty Thousand Dollars (\$430,000.00) applied by SEDC to the purchase price of the Property upon the Closing of said purchase in accordance with the provisions of the Real Estate Purchase Agreement.

“Real Estate Purchase Agreement” means that certain Real Estate Purchase Agreement between the Parties, as amended from time to time, providing for the sale of the Property by SEDC to Company for the purchase price of \$430,000.00.

“Related Agreements” means any written agreement (not including this Agreement) by and between SEDC or City and Company or any entity affiliated with Company, including but not limited to the Real Estate Purchase Agreement and the Restriction Agreement.

“Required Uses” shall mean the development, use, and operation of the Improvements after Completion of Construction by Company for trailer, tractor, mower and equipment retail sales (including parts sales), service, rental, related storage, and provision and operation of related amenities, all open and available to the public and serving the citizens of the City.

“Restriction Agreement” shall mean that certain restriction agreement between the Parties restricting the development and use of the Property for the construction and operation of the Improvements for the Required Uses. The Restriction Agreement shall require Company to cause Commencement of Construction and Completion of Construction of the Improvements in accordance with the Agreement, grant SEDC a right of first refusal in the event Company offered to sell the Property to a third party prior to Commencement of Construction, and grant SEDC an option to repurchase the Property in the event Company fails to comply with the deadlines for Commencement of Construction and Completion of Construction set forth in the Restriction Agreement.

“Right of First Refusal” shall mean that certain Right of First Refusal Provision in the Restriction Agreement between SEDC and Company, setting forth the terms of agreement between the Parties regarding the grant of a right of first refusal to SEDC to purchase the Property.

“SEDC” shall mean the Seagoville Economic Development Corporation a Texas non-profit corporation organized as a Type B corporation pursuant to the Act.

“Zoning” means the rezoning of the Land by a planned development ordinance or other ordinance approved by the City subject to certain conditions consistent with the terms of this Agreement and which shall include but shall not necessarily be limited to development and area regulations, conceptual plan, permitted and prohibited uses, architectural design of buildings and structures, signage, building elevations, landscape plan and other submittals and approvals required by the applicable City ordinances and regulations.

Article II Term

The term of this Agreement shall begin on the Effective Date and continue until the Expiration Date, unless sooner terminated as provided herein.

Article III Economic Development Grant

3.1 Purchase Grant. Subject to the continued satisfaction of all terms and conditions of this Agreement and the Related Agreements by Company, and further subject to the obligations of Company to repay the Purchase Grant pursuant to Section 5.2 herein, SEDC agrees to provide Company with the Purchase Grant as set forth herein, said grant to be in the amount of \$430,000.00 applied by SEDC to the purchase price of the Property upon the Closing of Company's purchase of the Property in accordance with the provisions of the Real Estate Purchase Agreement.

3.2 Grant Limitations. Under no circumstances shall the obligations of SEDC hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Further, SEDC shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement by Company. None of the obligations of SEDC under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

3.3 Current Revenue. The Purchase Grant made hereunder shall be paid solely from lawfully available funds that have been appropriated by SEDC.

Article IV Conditions to Economic Development Grant

The obligations of SEDC to provide the Purchase Grant shall be conditioned upon the compliance and satisfaction of each of the terms and conditions of this Agreement by Company and each of the terms and conditions set forth below:

4.1 Good Standing. Company shall not have an uncured breach or default of this Agreement, or a Related Agreement.

4.2 Project Plans and Construction. Company shall cause the design, Commencement of Construction and Completion of Construction of the Improvements in accordance with the Terms of this Agreement and the Related Agreements. Company shall cause all necessary permits and approvals required by City and any applicable governmental authorities to be issued for the construction of the Improvements. This includes obtaining the City approval of the necessary Zoning for the Property, including concept plan approval for the construction and development of the Improvements. Prior to Commencement of Construction Company shall submit the Construction Plans for approval by City. Company shall, subject to events of Force Majeure, cause the Construction Plans to be submitted to the City for approval within thirty (30) business days

following the Project Commencement Date. Subject to the terms and conditions of this Agreement, Company agrees to design and construct, or cause to be designed and constructed, the Improvements in accordance with the applicable Zoning and the approved Construction Plans. Company shall, subject to events of Force Majeure, cause Commencement of Construction of the Facilities to occur on or before fifteen (15) business days following City approval of the Construction Plans; and subject to events of Force Majeure, Company shall cause Completion of Construction of the Phase I Improvements to occur within eighteen (18) months after the date of Commencement of Construction and completion of Construction of Phase II Improvements to occur within thirty-six (36) months after the date of Commencement of Construction.

4.3 Capital Investment. Company's Capital Investment for the Improvements as of the Completion of Construction shall be not less than Nine Hundred Thousand (\$900,000.00) Dollars. Company shall, not later than fifteen (15) calendar days after the date of Completion of Construction (as defined herein) of the Improvements, deliver to SEDC copies of all records, contracts, receipts, invoices, bills and such other information as SEDC may reasonably request to document compliance with the required Capital Investment. In the event the final total cost of the design and construction of the Improvements, as reasonably verified by SEDC, is less than Nine Hundred Thousand Dollars (\$900,000.00), the Company shall, at SEDC's option, pay the SEDC the difference in value between \$900,000.00 and the final total cost of the design and construction of the Improvements as reasonably verified by SEDC.

4.4 Required Uses. Beginning on the Commencement Date, and continuing thereafter until the Expiration Date or earlier termination, the Improvements shall not be used for any purpose other than the Required Uses and the Company shall not allow the operation of the Improvements in conformance with the Required Uses to cease for a period of more than thirty (30) consecutive days, except in connection with and to the extent of an event of Casualty or Force Majeure.

4.5 Continuous Occupancy and Operation. Company shall ensure that within eighteen months of the Commencement of Construction, a certificate of occupancy is issued by the City for the Required Uses in the Phase I Improvements and that Company or a third-party who has leased space within the Phase I Improvements continuously occupies the Phase I Improvements for the Required Uses and conducts a sales-tax generating business thereon until the Expiration Date. Company shall further ensure that within thirty-six (36) months of the Commencement of Construction, a certificate of occupancy is issued by the City for the Required Uses in the Phase II Improvements and that Company or a third-party who has leased space within the Phase II Improvements continuously occupies the Phase II Improvements for the Required Uses and conducts a sales tax generating business thereon until the Expiration Date.

4.6 Casualty and Condemnation. If the Improvements are damaged partially or destroyed by casualty, regardless of the extent of the damage or destruction, Company shall, subject to events of Force Majeure and the availability of adequate insurance proceeds, within two hundred seventy (270) days from the date of such casualty commence to repair, reconstruct or replace the damaged or destroyed portion of the Improvements, as applicable, and pursue the repair, reconstruction, or replacement with reasonable diligence so as to restore the Improvements to substantially their condition immediately prior to the Casualty.

4.7 Employment Positions. During the term of this Agreement, following the Commencement Date and continuing thereafter until the Expiration Date, Company shall maintain no fewer than five (5) Employment Positions at the Improvements. Company shall, within thirty (30) days after each anniversary date of the Commencement Date, supply SEDC with copies of employment records and such other information as may be reasonably requested by SEDC to document compliance with the required Employment Positions.

Article V Termination; Repayment

5.1 Termination. This Agreement shall terminate upon any one of the following:

- (a) by written agreement of the Parties;
- (b) on the Expiration Date;
- (c) upon written notice by either Party in the event the other Party breaches any of the terms or conditions of this Agreement or a Related Agreement and such breach is not cured within thirty (30) days after written notice thereof; provided however if such breach cannot reasonably be cured within such thirty (30) day period, such breaching party shall be allowed additional time (not to exceed thirty (30) additional days) to cure such breach so long as the breaching party begins the cure within the initial thirty (30) days and diligently pursues the cure to completion within sixty (60) days after written notice of such breach;
- (d) upon written notice by SEDC, if Company suffers an event of Bankruptcy or Insolvency;
- (e) upon written notice by SEDC, if any Impositions owed to City or the State of Texas by Company shall become delinquent and Company fails to cure such undisputed Imposition(s) within thirty (30) days after written notice thereof (provided, however Company retains the right to timely and properly protest and contest any such Impositions); and
- (f) upon written notice by either Party, if any subsequent Federal or State legislation or any non-appealable decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable.

5.2 Repayment. In the event the Agreement is terminated by SEDC pursuant to Sections 5.1(c), (d), (e), or (f), above, in addition to the SEDC's Option to Repurchase and its Right of First Refusal, as reflected in the Restriction Agreement, not later than the sixtieth (60th) day after said termination, Company shall refund to SEDC:

- (a) if Company fails to complete construction of Phase I Improvements within eighteen (18) months after Commencement of Construction and/or fails to secure a final certificate of occupancy for the Required Uses in the Phase I Improvements within eighteen (18) months of Commencement of Construction of the Phase I Improvements, an amount equal to fifty percent (50%) of the Purchase Grant; and
- (b) if, commencing eighteen (18) months after Completion of Construction of the Phase I Improvements, Company fails to create and/or maintain five (5) full-time Employment Positions as required by section 4.7 of this Agreement for any Employment Period, an amount equal to twenty-five percent (25%) of the Purchase Grant for each such Employment Period; and
- (c) if Company fails to complete construction of Phase I and Phase II Improvements within thirty-six (36) months of Commencement of Construction and/or fails to secure a final certificate of occupancy for Required Uses for Phase I and Phase II Improvements within thirty-six (36) months of Commencement of Construction, an amount equal to seventy-five percent (75%) of the Purchase Grant.

5.3 Right of Offset. SEDC may, at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to City or SEDC from Company, regardless of whether the amount due arises pursuant to the terms of this Agreement, a Related Agreement, or otherwise and regardless of whether or not the debt due SEDC or City has been reduced to judgment by a court.

5.4 Purchase Option and Repurchase of Property. The Parties have entered into that certain Restriction Agreement as of the Effective Date, the terms of which, among other things, grants SEDC an option, upon the occurrence of certain conditions specified in the Restriction Agreement, to repurchase the Property from the Company and a Right of First Refusal to repurchase the Property from Company under circumstances as set forth in the Restriction Agreement. Notwithstanding any provision of this Agreement to the contrary, if SEDC repurchases the Property from Company following the exercise of the Right, as defined in the Restriction Agreement, Company will not be required to pay SEDC the Purchase Grant directly in cash, it being understood and agreed that the Repurchase Price (as determined in the Restriction Agreement) provides for reduction of the amount to be paid by SEDC to Company to repurchase the Property from Company by an amount equal to the Purchase Grant.

Article VI Miscellaneous

6.1 Binding Agreement; Assignment. This Agreement shall be binding upon and inure to the benefit of the heirs, successors, affiliates, administrators, executors, and permitted assigns

of the respective Parties. This Agreement may not be assigned without the prior written consent of SEDC; provided however Company may collaterally assign or pledge Company's rights in the Property under this Agreement to Company's Lender as security for a loan for the Project.

6.2 Limitation on Liability. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the Parties. It is understood and agreed between the Parties that the Parties, in satisfying the conditions of this Agreement, have acted independently, and SEDC assumes no responsibilities or liabilities to third parties in connection with these actions. Company agrees to indemnify and hold harmless SEDC from all such claims, suits, and causes of actions, liabilities and expenses, including reasonable attorney's fees, of any nature whatsoever arising out of Company's performance of the conditions under this Agreement.

6.3 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

6.4 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received upon the earlier of (a) actual receipt or (b) three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the address set forth below, or such other address as is designated by the applicable Party from time to time, or on the day actually received as sent by courier or otherwise hand delivered.

If intended for SEDC, to

Patrick Stallings, Exec. Director
SEDC
702 N. Highway 175
Seagoville, Texas 75159
Facsimile No. (972) 287-3891

With a copy to:

Victoria Thomas, City Attorney
Nichols, Jackson, Dillard, Hager &
Smith, LLP
1800 Ross Tower
500 N. Akard
Dallas, Texas 75201

If intended for Company, to:

Attn: John Wesley Williams, IV
JWW IV, LLC
7431 CR 125
Terrell, Texas 75161
Email: Johnjr@rjtrailers.com

6.5 Entire Agreement. This Agreement is the entire Agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written Agreement between the Parties that in any manner relates to the subject matter of this Agreement, except as provided in any Exhibits attached hereto.

6.6 Governing Law. This Agreement shall be governed by the laws of the State of Texas, and venue for any action concerning this Agreement shall be in the State District Court of Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said Court.

6.7 Amendment. This Agreement may be amended by the mutual written agreement of the Parties.

6.8 Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

6.9 Recitals. The recitals to this Agreement are incorporated herein.

6.10 Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

6.11 Exhibits. Any exhibits to this Agreement are incorporated herein by reference for the purposes wherever reference is made to the same.

6.12 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

6.13 Employment of Undocumented Workers. During the term of this Agreement and for a period of five (5) years after the Closing and conveyance of the Property to Company, Company agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Company shall repay the amount of the Improvements Grant and any other funds received by Company from SEDC as of the date of such violation within one hundred twenty (120) days after the date Company is notified by SEDC of such violation, plus interest at the rate of six percent (6%) compounded annually from the date of violation until paid. Company is not liable for a violation of this section by a subsidiary, affiliate, or franchisee of Company or by a person with whom Company contracts.

6.14 Conditions Precedent. The obligations of the Parties are expressly subject to and conditioned on the following:

- (i) Company and SEDC having entered into the Real Property Purchase Agreement;
- (ii) Company and SEDC having entered into the Restriction Agreement; and

(ii) Zoning having occurred and a Zoning Ordinance amending the zoning classification of the Property to allow the uses anticipated by this Agreement and the Related Agreements having been approved by the City.

EXECUTED on this _____ day of _____, 2019.

**SEAGOVILLE ECONOMIC DEVELOPMENT
CORPORATION**

By: _____
Patrick Stallings
SEDC Executive Director and President

EXECUTED on this _____ day of _____, 2019.

**JWWIV, LLC,
a Texas Limited Liability Company**

By: _____
John W. Williams, IV
Manager

APPROVED AS TO FORM:

CITY ATTORNEY

EXHIBIT B
CONCEPT PLAN

WHEN RECORDED RETURN TO:

City of Seagoville
Attention: Patrick Stallings
702 N. Highway 175
Seagoville, Texas 75159

(Space Above For Recorder's Use Only)

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

STATE OF TEXAS	§	RESTRICTION AGREEMENT
	§	(With Option to Repurchase and Right of First
COUNTY OF DALLAS	§	Refusal)

This **RESTRICTION AGREEMENT** ("Restriction Agreement") is made and entered into as of the Effective Date by and between the **Seagoville Economic Development Corporation** ("SEDC"), a Texas non-profit corporation, and **JWWIV, LLC**, its successors and assigns (collectively "Developer") a Texas limited liability company (SEDC and Developer sometimes hereafter collectively referred to as "Parties" or separately as "a Party" or "the Party")

RECITALS

WHEREAS, as of the Effective Date, pursuant to the Real Estate Purchase Agreement, Developer has purchased the Property from SEDC; and

WHEREAS, SEDC has, as a condition of the conveyance of the Property to Developer, restricted the use of the Property and required Developer to develop the Property with the Improvements in accordance with the terms and conditions set forth herein; and

WHEREAS, Developer desires to grant SEDC (i) an option to repurchase the Property in the event Developer fails to cause Commencement of Construction (hereinafter defined) of the Improvements in accordance this Restriction Agreement and (ii) a Right of First Refusal ("ROFR"), in each case subject to the terms and conditions hereafter set forth;

NOW, THEREFORE, in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Article I
Property Subject to Declaration

For the term specified in Section 6.2, the Property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Developer and any subsequent owners of all or any part of the Property (as hereinafter defined) subject to the terms of this Restriction Agreement.

Article II
Definitions

For purposes of this Restriction Agreement, the following words and phrases shall have the following meanings unless the context clearly indicates a different meaning:

“City” means the City of Seagoville, a Texas home rule municipality located in Dallas County, Texas and Kaufman County, Texas.

“Commencement of Construction” means (i) the detailed plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Improvements, (ii) all necessary permits for the construction of the Improvements have been issued by the applicable governmental authorities and (iii) grading of the Property and construction of the vertical elements of the Improvements (whether located above or below ground) has commenced.

“Completion of Construction” shall mean substantial completion and issuance of a final certificate of occupancy by City for occupancy of the Phase I Improvements and the Phase II Improvements (as those terms are defined in the Economic Development Incentive Agreement).

"Construction Plans" means the plans and specifications sufficient for the construction of the Improvements on the Property (including civil, architectural, grading and site plans) in accordance with the Zoning and any design plans approved by the City.

“Economic Development Incentive Agreement” means that certain Economic Development Agreement between SEDC and Developer relating to the SEDC’s provision of the Purchase Grant and Developer’s agreement to the conditions related thereto.

“Effective Date” means the date this Restriction Agreement is signed by the Parties.

“Force Majeure” means any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, City delay of permits or other approvals, government or de facto governmental action (unless caused by acts of omissions of the Party), fires, explosions or floods, strikes, slowdowns or work stoppages, adverse weather conditions, transportation delays or difficulties, shortages of materials or labor, financial institution shutdowns, electronic funds transfer delays or difficulties, and economic disruptions.

“Improvements” shall mean a minimum of two (2) buildings constructed on the Property for the Required Uses and consisting of a total combined minimum area of 8,000 square feet, and

shall further include other ancillary facilities such as reasonably required parking, drives, and landscaping, all as more fully described in submittals filed with the City from time to time in order to obtain building permits. The Improvements will be constructed in phases as defined herein and shall be comprised of the Phase I Improvements and the Phase II Improvements, as those terms are defined in the Economic Development Incentive Agreement.

"Option Commencement Date" means the date ninety (90) days after the Project Commencement Date, as such date may be extended by an event of Force Majeure.

"Option Period" means that period of time commencing on the Option Commencement Date, and ending on the earlier of (a) Commencement of Construction of the Project, or (b) the Option Termination Date; provided, however, such dates may be extended due to an event of Force Majeure.

"Official Records" means the Official Public Records of Dallas County, Texas.

"Option Termination Date" means the fourth (4th) anniversary of the Option Commencement Date, as may be extended by an event of Force Majeure.

"Project" means, collectively, (i) the Sale of the Property from the SEDC to the Company and (ii) the construction of the Improvements thereon.

"Project Commencement Date" shall have the same meaning as set forth in the Economic Development Agreement.

"Property" means the two parcels of real property consisting of a total of approximately 5.677 acres and being comprised of : (i) an approximately 1.153 acres parcel described as Lot 2 Block 1 of Seagoville Place, commonly known as 2110 North U.S. Highway 175, and (2) an approximately 4.524 acres parcel described as Lot 1, Block 1 of Replat of part of Seagoville Place, commonly known as 2108 North U.S. Highway 175, both being located in Seagoville, Dallas County, Texas. The two parcels may be later replatted as one parcel and, upon such event, the definition of "Property" shall refer to the one replatted parcel.

"Purchase Grant" means the economic development grant provided by SEDC to Developer to reduce the purchase price for the Property as defined in the Real Estate Purchase Agreement and the Economic Development Incentive Agreement.

"Real Estate Purchase Agreement" shall mean that certain Real Estate Purchase Agreement, as amended or assigned, by and between SEDC and Developer relating to the sale of the Property by SEDC to Developer.

"Repurchase Price" means an amount equal to the purchase price for the Land at the closing of the transaction contemplated in the Real Estate Purchase Agreement, less an amount equal to the total of the following:

- (a) the amount of the Purchase Grant; and

- (b) an amount equal to all closing costs paid or incurred by SEDC at the closing of the transactions contemplated in the Real Estate Purchase Agreement, as outlined in the settlement statement for the transaction.

“Required Uses” shall mean the development, use, and operation of the Improvements after Completion of Construction by Company for trailer, tractor, mower and equipment retail sales (including parts), service, and/or rental, related storage, and provision and operation of related amenities, all open and available to the public and serving the citizens of the City.

Article III Repurchase Option

3.1 **Grant of Repurchase Option.** In consideration of TEN AND NO/100 DOLLARS (\$10.00), in hand paid by SEDC to Developer and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Developer, and subject as hereinafter provided, Developer hereby grants to SEDC during the Option Period an option to repurchase the Property upon the terms and conditions set forth in this Article III (the “Option”).

3.2 **Time for Exercising Option.** Subject to Section 3.3, below, SEDC shall have the right, but not the obligation, to exercise the Option to repurchase the Property for the Repurchase Price in accordance with the provisions of Article V below during the Option Period by providing written notice to Developer upon the occurrence of any of the following:

(a) Developer has failed to obtain approval of the Construction Plans from City by the Option Commencement Date and said failure persists as of the date of SEDC’s exercise of the Option; or

(b) Thirty (30) days have elapsed since City notified Developer of City’s approval of the Construction Plans and Developer has failed to pay to City all building permit fees, impact fees, and other fees and charges which entitle Developer to receive from City a construction permit for construction of the Improvements; or

(c) Thirty (30) days have elapsed since City notified Developer of City’s approval of the Construction Plans and Developer has failed to cause Commencement of Construction to occur on the Property and said failure persists as of the date of SEDC’s exercise of the Option.

The dates and time periods set forth in this Section 3.2 are subject to extension as the result of a Force Majeure event.

3.3 **Force Majeure.** In the event of Force Majeure, Developer shall have such additional time to cause Commencement of Construction or Completion of Construction, as the case may be, so long as Developer is diligently and faithfully pursuing the same, to the extent reasonably possible given the nature of the Force Majeure and presents such documentation as may be reasonably required by SEDC to support the extension of the deadlines for Commencement of Construction or Completion of Construction. The commencement and termination dates of the Option Period shall be extended for the same number of days that the performance of Developer with respect to Commencement of Construction or Completion of Construction is extended by Force Majeure.

3.4 **Option Estoppel.** Upon the written request of Developer, SEDC, if true, agrees to execute and deliver an Estoppel Certificate, in recordable form, which, at the discretion of Developer, Developer may record in the Official Records confirming that, as of such date: (i) SEDC is unaware of any event which has occurred which would allow SEDC to exercise the Option or (ii) the Option has terminated (the "Option Estoppel").

3.5 **Sole Remedy.** SEDC's sole and exclusive remedy pursuant to this Restriction Agreement for Developer's failure to comply with the deadline for Commencement of Construction set forth herein shall be the exercise of the Option and repurchase of the Property or portion thereof in accordance with Article V, below; provided, however, such remedy shall be in addition to and cumulative of any remedies available to SEDC pursuant to the Economic Development Agreements.

Article IV Right of First Refusal

4.1 **Grant.** Subject to the terms and conditions hereinabove and hereinafter set forth, Developer hereby agrees that SEDC shall have, and hereby grants to SEDC, during the period commencing upon the Effective Date and ending upon the Commencement of Construction ("the ROFR Period"), a right of first refusal (the "ROFR") to purchase the Property, or portion thereof, on the terms and conditions set forth herein.

4.2 **Notice of Third-Party Offer.** If (i) Developer receives a bona fide offer for the purchase of any portion of Property that it intends to accept, or (ii) Developer receives any offer to purchase the Property or any portion thereof from any governmental exercise of the power of eminent domain with respect to the Property, Developer shall give notice thereof in writing to SEDC (the "Third Party Notice"). The Third Party Notice shall include a copy of any offer to be made or any offer received by Developer, the proposed purchaser, whether the purchase price is to be paid in cash, securities or evidenced by promissory notes, and the other material terms and conditions of such offer.

4.3 **SEDC's Exercise of ROFR.** For a period of thirty (30) days after receipt by SEDC of the Third Party Notice, SEDC shall have the right to repurchase the Property or portion thereof which is the subject of the Third Party Notice, upon the same terms and price as set forth in the Third Party Notice or for the Repurchase Price, whichever is deemed by SEDC to be more favorable to SEDC (the "ROFR Price"). The ROFR may be exercised by SEDC by providing written notice to Developer not later than thirty (30) days after SEDC's receipt of the Third Party Notice. SEDC's notice shall indicate acceptance of the terms set forth in the offer as recited in the Third Party Notice or the Repurchase Price, as applicable.

4.4 **SEDC Fails to Exercise ROFR.** In the event SEDC does not elect to exercise the ROFR during the thirty (30) day period following its receipt of the Third Party Notice:

(a) Developer may sell the Property, or portion thereof, at the price and on the terms and conditions described in the Third Party Notice during the one hundred eighty (180) day period following the date of the Third Party Notice; and

(b) SEDC shall execute and deliver an acknowledgement, in recordable form, evidencing its waiver of its ROFR with respect to such sale. Developer agrees not to sell the Property, or portion thereof, during the ROFR Period at any lower price, on any terms or conditions more favorable to the buyer than those set forth in the Third Party Notice or at any time after expiration of the one hundred eighty (180) day period described above without first giving SEDC the opportunity to exercise the ROFR at such different price, on such altered terms and conditions, or at such later time.

4.5 **No Release of Restrictions Required.** SEDC's failure to exercise the ROFR shall not constitute a release of the Option, SEDC's rights to repurchase the Property pursuant to the Option, the SEDC's right to recover pursuant to the Economic Development Incentive Agreement, or the obligations of any subsequent owner of the Property to comply with the obligations of this Restriction Agreement.

Article V Terms of Sale Upon Exercise of Right

5.1 **Effect of Exercise of the Right.** Upon any timely exercise of the Option or ROFR (collectively, "the Right") by SEDC in accordance with the foregoing provisions, the conveyance of the Property, or portion thereof, to SEDC shall be in accordance with the provisions in this Article V.

5.2. **Title, Survey, and Environmental Reports.**

(a) Not later than the fifteenth (15th) business day after the exercise of the Right, Developer shall, at Developer's expense, deliver to SEDC the following items (collectively, "Title Commitment"):

(i) a current commitment for an Owner's Policy of Title Insurance from the Title Company for the portion of the Property to be conveyed to SEDC, setting forth the state of title to the Property or portion thereof together with any easements or restrictions (existing or created pursuant hereto) benefiting or burdening the Property, together with all exceptions or conditions to such title;

(ii) legible copies of all documents referenced in the Title Commitment;

(iii) any environmental studies or reports that Developer may have in its possession with respect to the Property;

(iv) copies of all leases and rental agreements creating a leasehold interest in any portion of the Property; and

(v) tax certificate(s) regarding the payment of ad valorem taxes for current and prior years.

(b) Upon any exercise of the ROFR, SEDC shall have the right, at its sole option, to cause a boundary or "as-built" survey of the Property to be made by a registered professional

Property surveyor selected by SEDC. Such survey shall be made at the sole cost and expense of SEDC.

(c) SEDC shall, not later than twenty (20) days after SEDC's receipt of the last of the Survey and Title Commitment, notify Developer and Title Company of any objections to the Survey or Title Commitment. If there are objections by SEDC, Developer shall in good faith attempt to satisfy them prior to Closing, but Developer shall not be obligated to incur any cost in doing so. If Developer delivers written notice to SEDC not later than the tenth (10th) calendar day after Developer's receipt of SEDC's objections that Developer is unable to satisfy such objections, SEDC may either waive such objections and accept title as Developer is able to convey or terminate the exercise of the Right by written notice to Developer and the Title Company.

5.3 **Closing.**

(a) The closing of the sale of the Property or portion thereof identified in the notice exercising the Right shall occur not later than sixty (60) calendar days following the date of exercise of the Right unless otherwise extended by written agreement of Developer and SEDC.

(b) At the closing, Developer shall deliver to SEDC:

(i) a special warranty deed, in form and substance substantially similar to the form used to convey the Property to Developer pursuant to the Purchase Agreement, conveying good and indefeasible title to the Property and/or the survey obtained by City (whichever is the most accurate description) to City, free and clear of any and all encumbrances except the Permitted Exceptions' provided, however, such deed shall not contain any reservation of oil, gas, or other minerals as may have been reserved by prior grantors;

(ii) possession of the Property described in the notice of the exercise of the Right, free of parties in possession.

(c) At closing SEDC shall pay in cash or by certified or cashier's check the Repurchase Price or the ROFR Price as determined by Section 4.3, whichever is applicable.

5.4 **Taxes.** Ad valorem taxes, assessments, and any other charges against the Property and/or Improvements conveyed to SEDC pursuant to this Article V shall be prorated as of the Closing Date for the current year, and paid by Developer at Closing in accordance with Texas Tax Code §26.11. Developer will be responsible for all such items which accrue prior to the Closing Date during its tenure of ownership, and SEDC will be responsible for all such items which accrue on and after the Closing Date. Taxes and assessments for all prior years for Developer's tenure of ownership shall be paid by Developer.

5.5 **Closing Costs.**

- (a) Developer will pay and be responsible for the following closing cost:
 - (i) the cost of all tax certificates relating to all taxes and other assessments incurred or arising in relation to the Property;
 - (ii) all fees and premiums for Basic Owner's Title Policy, excluding any deletions from, or modifications of or endorsements to the Basic Owner's Title Policy;
 - (iii) one-half (1/2) of the Title Company's escrow fees;
 - (iv) all recording fees;
 - (v) all costs and expenses incurred by or on behalf of Developer, including Developer's attorney's fees;
 - (vi) all costs related to obtaining any releases of liens on the portion of the Property conveyed relating to any loans secured by a deed of trust lien on said property; and
 - (vii) such other incidental costs and fees customarily paid by sellers of real property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.
- (b) SEDC hereby agrees to pay and be responsible for the following closing cost:
 - (i) all fees and premiums for the Survey;
 - (ii) one-half (1/2) of the Title Company's escrow fees;
 - (iii) all fees and premiums for any deletions from, or modifications of or endorsements, to the Basic Owner's Title Policy;
 - (iv) all costs and expenses incurred by or on behalf of SEDC, including SEDC's attorneys' fees; and
 - (v) such other incidental costs and fees customarily paid by purchasers of property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.

5.6 **Permitted Exceptions.** SEDC acknowledges and agrees that the Property conveyed pursuant to this Article V will be conveyed by Developer at closing subject only to such easements, conditions and restrictions (i) that were listed in the deed from the SEDC to Developer, (ii) utility easements granted by subdivision plat, (iii) easements granted by instrument subsequent to the purchase of the Property by Developer and approved by SEDC; and (iv) such other matters as SEDC may waive, or as Developer is not otherwise obligated to cure or remove.

5.7 **Conveyance As Is.** SEDC acknowledges and agrees that the Property conveyed pursuant to this Article V will be conveyed “AS IS” with all faults and defects, whether patent or latent, existing as of the Closing. Except with respect to the quality of the title being conveyed by Developer as set forth in the Special Warranty Deed, and in the bill of sale and assignment, SEDC acknowledges and agrees that Developer will be making no representations, warranties, guarantees, statements or information, express or implied, pertaining to the Property, its condition, or any other matters whatsoever, made to or furnished to SEDC by Developer or any employee or agent of Developer, except as specifically set forth in this Restriction Agreement.

Article VI Restrictions

6.1 **Use of Property; Buildings.** No building shall be constructed, reconstructed, erected, altered, or placed on any portion of the Property other than the Improvements or other structures that will be used in conformance with the Required Uses. The Improvements shall not be used for any purpose other than the Required Use.

6.2 **Term of Restrictions.** The restrictions set forth in Section 6.1, above, shall commence on the Effective Date and continue thereafter until the expiration of five (5) years following the Completion of Construction of the Improvements.

Article VII Miscellaneous

7.1 **Enforcement.** SEDC shall have the right, but not the obligation, to enforce this Restriction Agreement and any covenants and restrictions contained herein, as the same may be amended as herein provided. Subject to the limitation set forth in Section 6.1, above, enforcement of the provisions set forth in Section 6.1 contained herein may be exercised after failure of any person or persons violating or attempting to violate any covenants or restrictions to cure such violation or breach within two (2) thirty (30) day notice periods after receipt of written notice thereof, by proceeding at law or in equity, against any person or persons violating or attempting to violate any covenants or restrictions, to restrain violation or to recover damages, and failure to enforce any covenant, restriction or condition shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. This Restriction Agreement is not intended to restrict the rights of the City Council of the City of Seagoville to exercise its legislative duties and powers insofar as the Property is concerned. For further remedy, Developer, for itself, its successors, and assigns agrees that City, as a third party beneficiary to this Restriction Agreement, may withhold building permits, development approvals, certificates of occupancy and/or final inspection necessary for the lawful use of any portion of the Property not then in compliance with the Required Use. The rights of SEDC under this Restriction Agreement may not be waived or released except pursuant to an amendment or termination approved in accordance with the provisions hereof, except by expiration of the Term. The rights of SEDC, and the City as third party beneficiary hereof, to enforce the provisions of this Restriction Agreement are in addition to and cumulative of any remedies which SEDC or the City have pursuant to the provisions of the Economic Development Agreement.

7.2 **Amendment.** No amendment or termination of this Restriction Agreement shall be effective unless and until approved by Developer and SEDC; provided, however, SEDC may, without the consent of Developer, terminate and release the restrictions set forth in Section 6.1. In the event Developer, or subsequent owner of the Property desires to change, amend or alter the covenants, conditions or restrictions as set forth herein, Developer, or subsequent owner, as the case may be, shall file a written application for such change or amendment with SEDC, which shall approve or deny such application in whole or in part within thirty (30) days after receipt of such application. Any change or amendment approved by SEDC shall not be effective unless and until an instrument executed by SEDC's President or Executive Director is recorded in the Official Public Records in the office of the Dallas County Clerk.

7.3 **Notices.** All notices, requests, demands or other communications required or permitted hereunder shall be in writing and shall be deemed to have been fully and completely made when given by hand, by confirmed facsimile transmission, by overnight delivery by Federal Express or other reliable courier or the mailing of such by registered or certified mail, addressed as follows:

If intended for SEDC, to:

Patrick Stallings, Executive
Director/President
SEDC
702 N. Highway 175
Seagoville, Texas 75159
Facsimile No. (972) 287-3891

With a copy to:

Victoria Thomas
Nichols, Jackson, Dillard, Hager &
Smith, L.L.P.
1800 Ross Tower
500 North Akard
Dallas, Texas 75201
Facsimile No. (214) 965-0010

If intended for the Developer, to:

John Williams
JWWIV, LLC
7431 CR 125
Terrell, Texas 75161

Any party may at any time and from time to time by notice in writing to the other party hereto change the name or address of the person to who notice is to be given as hereinbefore provided.

7.4 **Successors and Assigns.** This Restriction Agreement shall bind, and inure to the benefit of, the parties and their respective successors and assigns.

7.5 **Governing Law.** This Restriction Agreement is entered into and is intended to be performed in the State of Texas, and the validity, enforceability, interpretation and construction hereof shall be determined and governed by the laws (other than conflict of laws provisions) of the State of Texas. Venue for any action under this Restriction Agreement shall be in the state district court of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

7.6 **Recording.** The parties agree that the SEDC may record this Restriction Agreement in the Official Public Records in the office of the Dallas County Clerk. SEDC agrees to execute and file a release of this Restriction Agreement, or the Restriction, Option, ROFR or other applicable portion of this Restriction Agreement, as appropriate, in said records upon request of Developer after the expiration or termination of this Restriction Agreement, or the Restriction, Option, ROFR, or other applicable portion of this Restriction Agreement.

7.7 **Covenants Run with the Property.** This Restriction Agreement and the restrictions, covenants, and conditions set forth herein are for the purpose of protecting the value and desirability of the Property and accomplishing certain public purposes of the City of Seagoville and, consequently, shall run with the Property and be binding on the Developer and all parties having all right, title, or interest in the Property, in whole or in part, and their heirs, successors and assigns. These covenants, conditions and restrictions shall be for the benefit of SEDC and the City of Seagoville, Texas. This Restriction Agreement is binding upon Developer and each and every subsequent owner, tenant, subtenant, licensee, manager, and occupant of all or any portion of the Property, but only during the term of such party's ownership, tenancy, license, management or occupancy of the Property, for which such party shall remain liable and shall be binding upon and inure to the benefit of SEDC, City, and their successors and assigns. It is expressly understood and agreed that acceptance of title to all or a portion of the Property shall automatically, and without further acknowledgement or confirmation from the owner, constitute such owner's assumption of the obligations of Developer hereunder.

7.8 **Severability.** Invalidation of any one of these covenants, conditions, or restrictions by judgment or court order shall in no way affect any other provisions, and all other provisions shall remain in full force and effect.

7.9 **Entire Agreement.** This Agreement and the Economic Development Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and no statement, promise, representation or modification hereof or to the Economic Development Agreement by any person, if any, and whether oral or written, shall be binding upon any party.

7.10 **Counterparts.** This Agreement may be executed by the parties hereto in separate counterparts; each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

(Signatures on Following Page)

SIGNED AND AGREED on this _____ day of _____, 2019.

JWWIV, LLC
a Texas Limited Liability Company

By: _____
John Williams, IV
Its: Manager

Developer's Acknowledgment

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Before me, the undersigned authority, this _____ day of _____, 2019, appeared John Williams, IV who acknowledged on his oath that he is the Manager of JWWIV, LLC, a Texas limited liability company, and that he has signed the foregoing Restriction Agreement on behalf of Seagoville Economic Development Corporation after first having been duly authorized so to do.

Notary Public, State of Texas

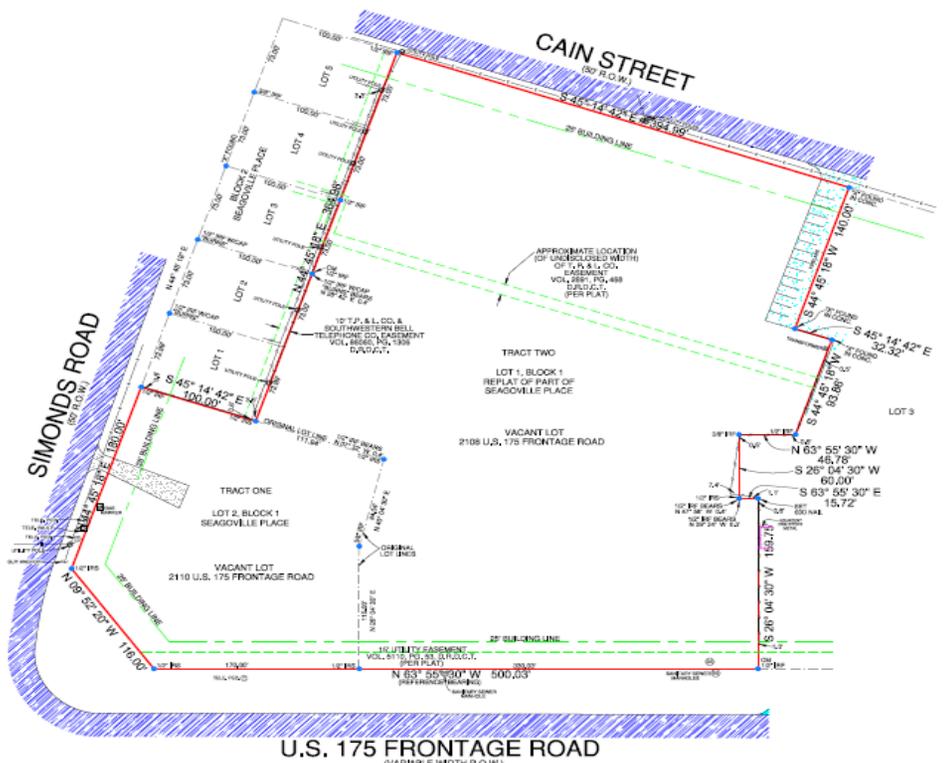
My Commission expires:

Exhibit "A" Depiction of Property

PROPERTY DESCRIPTION:

TRACT ONE: LOT 2, BLOCK 1, OF SEAGOVILLE PLACE, AN ADDITION TO THE CITY OF SEAGOVILLE, DALLAS COUNTY, TEXAS, ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 89036, PAGE 4275, OF THE PLAT RECORDS OF DALLAS COUNTY, TEXAS.

TRACT TWO: LOT 1, BLOCK 1, OF REPEAT OF PART OF SEAGOVILLE PLACE, AN ADDITION TO THE CITY OF SEAGOVILLE, DALLAS COUNTY, TEXAS, ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 86236, PAGE 211, OF THE PLAT RECORDS OF DALLAS COUNTY, TEXAS.



THIS SURVEY WAS CONDUCTED BY THE FOLLOWING:
CONTRACTOR: VOL. 211, PG. 106, D.A.C. 17

GENERAL NOTES:

1. THE BASIS OF BEARINGS FOR THIS SURVEY WERE DERIVED FROM DATA PROVIDED ON THE PLAT RECORDED IN VOL. 89036, PG. 4275, D.A.C. 17.
2. THERE ARE NO VISIBLE CORNERS OR PROFESSIONAL, EXCEPT AS SHOWN, PINNACLES MAY BE REQUIRED.
3. THIS SURVEY IS FOR THE EXCLUSIVE USE OF THE NAMED CLIENT, MEMORANDUM COMPANY, THE COMPANY OR OWNER, AND IS MADE PURSUANT TO THAT ONE CERTAIN TITLE COMMITMENT UNDER THE NAME OF THE CLIENT.
4. AS OF THIS DATE, ALL EASEMENTS, RIGHTS OF WAY OR OTHER LOCATABLE MATTERS OF RECORD, MOBILE OR FIXED, WHICH WERE DERIVED FROM THE RECORDED PLAT, THE SURVEY DATA, OR THE TITLE REPORT AND SURVEYING DOCUMENTS, ALL SUCH ITEMS WERE OBTAINED THROUGH THE RESEARCH PHASE OF THIS SURVEY OR PROVIDED BY THE CLIENT/COMPANY SURVEYING PERSONNEL. SURVEYING PERSONNEL DO NOT REPRESENT AS TO THE ACCURACY OR COMPLETENESS OF SUCH DATA AND ARE NOT RESPONSIBLE TO CORRECT OR MAKE ANY ADDITIONAL REPRESENTATION OR GUARANTEE.
5. THIS SURVEY IS NOT TO BE USED FOR CONSTRUCTION PURPOSES.
6. THIS SURVEY IS NOT TO BE USED FOR ADDRESS OR ZONING PURPOSES.
7. THE SURVEYING PERSONNEL HAVE CONDUCTED VISUAL INSPECTIONS OF THE LAND AND HAVE OBSERVED EVIDENCE, UTILITIES AND OTHER UNDERGROUND MATTERS THAT ARE NOT SHOWN ON THIS SURVEY. SURVEYING PERSONNEL DO NOT REPRESENT AS TO THE EXACT LOCATION OF BURIED AND UTILITY, NOR FOR ANY DAMAGE BY ANY CONSTRUCTION OR DESTRUCTION OR OTHER BAD UTILITIES.
8. UNLESS AS SHOWN IN THE SURVEY AND NOT TO SCALE AND MAY HAVE BEEN DERIVED FROM THE ACTUAL HORIZONTAL LOCATION FOR CLARITY.

2108 AND 2110 U.S. 175 FRONTAGE ROAD CITY OF SEAGOVILLE DALLAS COUNTY, TEXAS

GPR: 019-36058

BORROWER: SEAGOVILLE ECONOMIC DEVELOPMENT CORPORATION, A TEXAS NON PROFIT CORPORATION

PREMIER JOB #: 19-03651

TECH: AV DATE: 06/10/19

FIELD: JC FIELD DATE: 06/10/19



REAL ESTATE PURCHASE AGREEMENT

This **Real Estate Purchase Agreement** (“Agreement”) to buy and sell real property is entered between Seller and Purchaser as of the Effective Date as determined in Section 16(d), below.

Purchaser: JWWIV, LLC
Attn: John Williams, IV
7431 CR 125
Terrell, Texas 75161

Telephone: (214) 394-6748
Email: Johnjr@rjtrailers.com

Purchaser’s Attorney: _____

Telephone: () _____
E-mail: _____

Purchaser’s Broker: None

Seller: Seagoville Economic Development Corporation
Attn: Patrick Stallings, Executive Director/President
702 N. Highway 175
Seagoville, Texas 75024

Facsimile: (972) 287-3891
E-mail : pstallings@seagoville.us

Seller’s Broker: None

Seller’s Attorney: Victoria W. Thomas
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 N. Akard, Suite 1800
Dallas, Texas 75201

Telephone: (214) 965-9900
E-mail: vthomas@njdhs.com

Title Company: Town Square Title Company
Attn: Jessica Barton, Escrow Officer
310 N. 9th Street, Suite A
Midlothian, Texas 76065

Telephone: (972) 935-0800
Facsimile: (972) 938.1045
E-Mail: jbarton@townsquaretitle.com

Property **Tract 1:** Lot 2, Block 1 of the SEAGOVILLE PLACE ADDITION, an Addition to the City of Seagoville, Texas, according to the Map thereof recorded in Volume 85036, Page 4275, Deed Records, Dallas County, Texas; and

Tract 2: Lot 1, Block 1 of the REPLAT OF PART OF SEAGOVILLE PLACE ADDITION, an Addition to the City of Seagoville, Texas, according to the Map thereof recorded in Volume 96236, Page 211, Deed Records, Dallas County, Texas;

together with all right, title and interest of Seller, if any, in and to any (i) strips and gores between said tract and abutting properties, (ii) land lying in or under the bed of adjacent streets, alleys, roads or rights of way, (iii) easements or rights of way appurtenant to or otherwise benefitting said tract, (iv) utility capacities, commitments, reservations and other rights and capacities (including but not limited to storm water detention rights) related to said tract, (v) all permits and approvals relating to said tract. (vi) all development rights relating to said tract, (vii) all rights to credits, refunds and reimbursements associated with said tract, (viii) all water and drainage rights associated with said tract, (ix) all reversionary rights related to said tract, and (x) all other rights and appurtenances of any kind related to said tract.

Inspection Period: Commencing on the Effective Date and ending on the 60th day following the Effective Date.

Closing Date: Not later than the 30th day after the end of the Inspection Period, unless an earlier date is mutually agreed to by the parties in writing or as extended in accordance with the provisions of this Agreement.

Purchase Price **Four Hundred Thirty Thousand and No/100 Dollars (\$430,000.00)** cash at closing.

Incentive Grant An economic development incentive grant paid as a credit against the Purchase Price by Seller to Purchaser at Closing in an amount equal to **Four Hundred Thirty Thousand and No/100 Dollars (\$430,000.00)**. The Incentive Grant is also sometimes referred to herein and in the Incentive Agreement as the “Purchase Grant.”

Incentive Agreement That certain *Economic Development Incentive Agreement* (the “Incentive Agreement”) between the parties to be negotiated and effective between the parties prior to Closing substantially in the form attached hereto as Exhibit “A” but to be negotiated and finalized prior to Closing.

Restriction Agreement: That certain *Restriction Agreement* (the “Restriction Agreement”) between Seller and Purchaser to be effective at Closing setting forth the terms of agreement between the Parties regarding the use and development of the Property substantially in the form attached hereto as Exhibit “B”, but to be negotiated and finalized prior to Closing.

WHEREAS, Seller has adopted programs for promoting economic development; and

WHEREAS, the Development Corporation Act, Chapters 501-505 of the Texas Local Government Code (the “**Act**”), authorizes Seller to provide economic development grants for the creation and retention of primary jobs that are required for the development of research and development and manufacturing and industrial facilities, and for infrastructure suitable for new or expanded business enterprises; and

WHEREAS, Purchaser desires to purchase the Property and develop the Property pursuant to the Incentive Agreement and the Restriction Agreement to be signed before or at Closing, which development will include construction and operation one or more buildings with a minimum total area of 8,000 square feet, together with associated all driveways, parking areas, and landscaping, for Purchaser’s development, use, and operation of the Improvements after Completion of Construction for trailer, tractor, mower and equipment retail sales and/or rental and provision and operation of related amenities, all open and available to the public and serving the citizens of the City. (the “**Project**”) and

WHEREAS, Purchaser has advised Seller that a contributing factor that would induce Purchaser to purchase the Property and construct the Project would be an agreement by Seller to provide the Incentive Grant; and

WHEREAS, Seller has determined that the Project is required or suitable to promote or develop new or expanded business enterprises and will create and/or retain Primary Jobs within the City and constitutes a "project," as that term is defined in the Act; and

WHEREAS, Seller has determined that making the Incentive Grant to Purchaser (also sometimes referred to herein and in the Incentive Agreement as the “Purchase Grant”) in accordance with this Agreement and the Incentive Agreement will further the objectives of Seller,

will benefit the City of Seagoville, Texas (“the City”) and its inhabitants and will promote local economic development and stimulate business and commercial activity in the City;

NOW, THEREFORE, in consideration of the sum of Purchase Price and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Sale and Purchase.** Seller agrees to sell, and Purchaser agrees to purchase the Property for the Purchase Price and as provided in this Agreement, including any and all improvements located thereon.

2. **Title and Survey.**

(a) Seller has provided the most recent survey of the Property that Seller has in its possession. Seller shall not be required to obtain a new survey of the Property.

(b) Seller has provided Purchaser notice of payment of ad valorem taxes for the prior tax year.

(c) Not later than ten (10) days after the Effective Date, Seller shall, at Seller’s expense, deliver or caused to be delivered to Purchaser:

(i) a current commitment for an Owner’s Policy of Title Insurance for the Property from the Title Company issued to Purchaser in the amount of the Purchase Price, setting forth the state of title to the Property together with any easements or restrictions (existing or created pursuant hereto) benefiting or burdening the Property, together with all exceptions or conditions to such title;

(ii) legible copies of all documents referenced in the Title Commitment that are available to the Title Company;

(iii) any environmental or geotechnical studies or reports that Seller may have in its possession as of the Effective Date with respect to the Property;

(iv) notices or other documents regarding any uncured violation of applicable laws, rules, regulations, codes or ordinances regarding the Property, or relating to any actual or claimed existence, release or disposal of any toxic or hazardous substance or waste in, upon or affecting the Property, or relating to any pending or threatened litigation affecting the Property; and

(v) copies of any leases, rental agreements, licenses, or other similar agreements granting the any person or entity other than Seller the right to possession of the Property.

(d) Seller will deliver to Purchaser not later than three (3) days after requested in writing any other documents or information in Seller’s possession relating to the Property which may be reasonably requested by Purchaser.

(e) Not later than twenty (20) days after the Effective Date hereof, Purchaser, at Purchaser's sole option, cost and expense (even if the Closing does not occur), may have a survey (the "Survey") of the Property prepared by a duly licensed Texas Registered Public Land Surveyor. The Survey shall be staked on the ground, and the plat shall show the location of all improvements, highways, streets, roads, railroads, rivers, creeks, or other water courses, fences, easements, and rights-of-way on or adjacent to the Property, if any, and shall contain the surveyor's certification that there are no encroachments on the Property other than what are listed on the Title Report and shall set forth a metes and bounds description of the Property. Upon approval of the Survey by Seller, the legal description contained in said Survey shall be used by the Parties as the legal description contained in the Special Warranty Deed and all other documents related to this Agreement without the necessity of amending this Agreement. Notwithstanding the above, Seller shall deliver to Purchaser the most recent survey obtained by Seller with respect to the Property, and Purchaser may, at Purchaser's sole option and expense, and in lieu of obtaining a new survey, obtain a certificate from a surveyor subject to approval of the Title Company certifying that no changes have occurred since the prior survey. Purchaser shall pay all costs and expenses in connection with any Survey or survey modifications or certificates obtained by Purchaser in connection with the Property, and such obligation of Purchaser shall survive any termination of this Agreement.

(f) Purchaser shall, not later than five (5) days after Purchaser's receipt of the last of the Survey and Title Commitment, notify Seller and Title Company of any objections to the Survey or Title Commitment related to the Property. If there are objections by Purchaser, Seller may, but shall not be required to attempt to satisfy them prior to Closing. Seller shall not be required to incur any cost in connection with the satisfaction of Purchaser's title objections. If Seller delivers written notice to Purchaser not later than the fifth (5th) calendar day after Seller's receipt of Purchaser's objections that Seller is unable to satisfy such objections, or if Seller does not deliver written notice to Purchaser prior to the expiration of such five (5) day period stating that Seller will cure Purchaser's objections, Purchaser may either (i) waive such objections and accept title as Seller is able to convey, in which event, all matters set forth on the Title Commitment and Survey shall be deemed to have been approved by Purchaser and shall constitute "Permitted Exceptions" for purposes of this Agreement, or (ii) terminate this Agreement by written notice to Seller and the Title Company prior to the expiration of the Inspection Period without further liability to either Seller or Purchaser, except for obligations of Purchaser which survive termination of this Agreement.

3. **Inspection Period.**

(a) During the Inspection Period, Purchaser and its agents, employees, or contractors shall have the right to enter upon the Property during regular business hours upon reasonable notice to Seller and conduct such inspections, tests and studies as Purchaser may deem necessary; provided, any intrusive testing shall require the prior written consent of Seller, not to be unreasonably withheld. If for any reason Purchaser determines not to purchase the Property, Purchaser may terminate this Agreement by notifying Seller and Title Company in writing prior to the expiration of the Inspection Period. In such event, neither Party shall have any further claim against the other under this Agreement, except for obligations of Purchaser which survive termination of this Agreement. If Purchaser does not timely terminate this Agreement under this

Section 3, it shall have no further right to do so under this Section 3; and Purchaser shall have waived its right to terminate this Agreement within the Inspection Period.

(b) Purchaser may enter the Property to conduct its inspection but shall be solely responsible for any damages caused thereby, and any claims arising therefrom. Purchaser shall restore any such damages within five (5) days after any entry on to the Property by Purchaser or any of its employees, agents, contractors or consultants. Purchaser shall be responsible for and shall pay all costs, liabilities, damages and expenses arising in connection with any entry on to or inspections of the Property by Purchaser or any of its employees, agents, contractors or consultants. Purchaser's obligations under this paragraph shall survive any termination of this Agreement.

4. **Closing.** The closing of the sale of the Property in accordance with the terms of this Agreement (the "Closing") shall occur on or before the Closing Date at the Title Company or by mail or overnight delivery service, or at such other time as may be agreeable to the parties.

5. **Closing Deliverables.**

(a) At the Closing, Seller shall deliver to the Title Company:

(i) a special warranty deed, in form and substance reasonably acceptable to Seller and Purchaser, conveying good and indefeasible title to the Property to Purchaser, free and clear of any and all encumbrances except the Permitted Exceptions (as defined in Section 8 hereof);

(ii) the Incentive Agreement, signed by Seller;

(iii) the Restriction Agreement, signed by Seller;

(iv) such other documents as may be reasonably required by Title Company in order to cause Title Company to issue a Texas owner's policy of title insurance (or equivalent) in the amount of the Purchase Price, insuring such title to the Purchaser; and

(v) possession of the Property, free of parties in possession except as set out in Schedule B of the Title Commitment, as depicted in the Survey, and as provided by law in the lien in favor of taxing authorities for real property taxes not yet due and payable.

(b) At the Closing, Purchaser shall deliver to Seller through the Title Company:

(i) the Purchase Price (inclusive of the Incentive Grant provided by Seller pursuant to the Incentive Agreement and applied as a credit toward the Purchase Price);

(ii) the Incentive Agreement, signed by Purchaser;

(iii) the Restriction Agreement, signed by Purchaser; and

(iv) such other documents as may be reasonably required by the Title Company.

6. **Taxes.**

Purchaser understands and acknowledges that the Property is presently exempt from the assessment of ad valorem taxes, which status will change upon conveyance of the Property to Purchaser. Seller shall not be responsible for payment of property taxes assessed against the Property for periods after the date of Closing, if any become due and payable. Notwithstanding anything in this Section 6 to the contrary, if the Property has been the subject of special valuation and reduced tax assessments pursuant to the provisions of Chapter 23, Subchapter D, of the Texas Tax Code or under any other provision of law with respect to any period before the Closing, and if additional taxes, penalties, or interest are assessed pursuant to Texas Tax Code §23.55 or under the other provision of law, Purchaser will be responsible for the payment of these additional taxes that may be assessed by virtue of the change in ownership of the Property or the change in use of the Property following Closing.

7. **Closing Costs.**

(a) Seller hereby agrees to pay and be responsible for the following closing costs:

(i) All costs related to obtaining any release of mortgage and liens on the Property, including the costs of preparation and recording of any related releases of liens; and

(ii) All fees and premiums for the Basic Owners Title Policy (but no fees associated with any costs for any amendments and endorsements to the Owners Title Policy);

(iii) One-half of Title Company's escrow fees;

(iv) Costs for any tax certificates issued;

(v) Seller's attorneys' fees, if any; and

(vi) Such other incidental costs and fees customarily paid by sellers of property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.

(b) Purchaser hereby agrees to pay and be responsible for the following closing costs:

(i) All fees and/or premiums for any amendments to and endorsements to the Basic Owner's Title Policy which Purchaser requests

(ii) All fees and/or premiums for issuance of any title insurance policy for the benefit of any lender or mortgagee;

(iii) All costs and fees for the Survey;

- (iv) One-half of Title Company's escrow fees;
- (v) Recording fees for the special warranty deed and the Restriction Agreement;
- (vi) Purchaser's attorneys' fees; and
- (vi) Such other incidental costs and fees customarily paid by purchasers of property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.

8. **Permitted Exceptions.** The (i) lien for current taxes not yet due and payable, (ii) any matters shown on the Title Commitment which are promulgated by law to appear in any title insurance commitment or policy, (iii) any exceptions to title to which Purchaser does not timely object in accordance with Section 2(d) above or to which Purchaser objects but are subsequently waived by Purchaser, (iv) existing oil and gas leases and reservations of the mineral estate, (v) items shown on the Survey, and (vi) any deed of trust lien or other lien against the Property created at Closing, shall not be valid objections to title and shall be deemed to be "Permitted Exceptions". Subject to the foregoing, as a condition of Closing, Seller must resolve at Seller's sole cost, the items that are listed on Schedule C of the Title Commitment which are by their nature Seller's responsibility, remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date of this Agreement, and use due diligence to cure the title and survey objections that Seller has agreed in writing to cure pursuant to Section 2(d) above, if any.

9. **Representations and Covenants.**

(a) Seller represents and covenants that: (1) it has authority to enter into this Agreement, and that this Agreement represents the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms; (2) no other person has any interests in or claims against the Property (other than as reflected by the Title Commitment); (3) except as may be set forth in the documents delivered by Seller to Purchaser pursuant to Section 2, Seller has no actual knowledge of any uncured violation of applicable laws, rules, regulations, codes or ordinances with respect to the Property, nor of any existence, release or disposal of any toxic or hazardous substance or waste upon or affecting the Property, nor of any pending or threatened litigation affecting the Property; (4) there are no contracts or agreements relating to the Property that will affect the Property after Closing; (5) there are no unpaid assessments for public improvements against the Property except those which have been disclosed on the Title Commitment; (6) Seller has no knowledge of any proposed assessments against the Property, and the Property is not subject to assessments for any street paving or curbing heretofore laid except for those which have been disclosed on the Title Commitment, if any; (7) Seller has no knowledge of any public plans or proposals for changes in road grade, access or other municipal improvements which would result in any assessment against Purchaser or the Property, nor of any pending ordinance authorizing improvements, the cost of which might be assessed against Purchaser or the Property; and (8) Seller has not encumbered the Property, or taken any other action with respect

to the Property which Seller knows or should know will materially adversely affect the development, lease or other transactions contemplated by this Agreement.

(b) Purchaser represents that it has authority to enter into this Agreement and that this Agreement represents the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms. The only representations made by any Party concerning the Property and this Agreement are as set out in this Section 9.

(c) The representations set forth in this Section 9 shall survive Closing.

10. **Property Sold As Is.**

(a) Except as specifically provided for herein and in the documents delivered at Closing, Purchaser hereby acknowledges and agrees that the sale of the Property hereunder is and will be made on an **“as is, where is and with all faults”** basis. The occurrence of Closing shall constitute an acknowledgment by Purchaser that the Property was accepted without representation or warranty, express or implied (except as otherwise specifically set forth herein and except for the special warranties of title set forth in the special warranty deed).

(b) Except as otherwise specifically set forth in this Agreement and except for the special warranties of title set forth in the special warranty deed, Seller hereby specifically negates and disclaims any representations, warranties or guaranties of any kind or character, whether express or implied, oral or written, past, present, future or otherwise, of, as to, concerning or with respect to the Property, including without limitation (i) the nature and condition of the Property and the suitability thereof for any and all activities and uses which Purchaser may elect to conduct thereon, (ii) the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, condition or any other matter relating in any way to the Property, (iii) the compliance of the Property or its operation with any laws, ordinances or regulations of any government or other authority or body, (iv) the existence of any toxic or hazardous substance or waste in, on, under the surface of or about the Property, (v) geological conditions, including, without limitation, subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water and faulting, (vi) whether or not and to the extent to which the Property or any portion thereof is affected by any stream (surface or underground), body of water, flood prone area, floodplain, floodway or special flood hazard, (vii) drainage, (viii) zoning or land use restrictions rules and regulations to which the Property or any portion thereof may be subject, (ix) the availability of any utilities to the Property or any portion thereof including, without limitation, water, sewage, gas and electric and including the utility availability capacities allocated to the Property by the relevant governmental or regulatory authority, (x) usages of adjoining property, (xi) access to the Property or any portion thereof, (xii) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, durability, structural integrity, operation, leasing, title to, or physical or financial condition of the Property or any portion thereof, or any income, expenses, charges, liens, encumbrances, rights or claims on or affecting or pertaining to the Property or any part thereof, (xiii) the potential for further development of the Property, or (xiv) the merchantability of the Property or fitness of the Property for any particular purpose (Purchaser affirming that Purchaser has not relied on Seller’s skill or

judgment to select or furnish the Property for any particular purpose, and that Seller makes no warranty that the Property is fit for any particular purpose).

(c) Purchaser agrees that prior to the expiration of the Inspection Period it will have the opportunity to examine and investigate the Property and that, in purchasing the Property, Purchaser will rely solely upon its independent examination, study, inspection and knowledge of the Property, and Purchaser is relying solely upon its own examination, study, inspection, and, except for representations and warranties specifically set forth herein and, except for the special warranties of title set forth in the special warranty deed, knowledge of the Property and Purchaser's determination of the value of the Property and uses to which the Property may be put, and not on any information provided or to be provided by Seller.

(d) The provisions of this Section 10 shall survive the termination of this Agreement and the Closing.

11. **Reservation of Minerals; Waiver of Surface Rights.** Purchaser agrees that Seller, for itself and its successors and assigns, as their interests may appear, reserves from this conveyance unto Seller all oil, gas and other minerals owned by Seller located in and under and that may be produced from the Property to the extent not reserved by prior grantors. The following language regarding Seller's reservation of minerals and waiver of surface rights shall be included in substance in the special warranty deed:

“There is hereby reserved for Grantor and Grantor's successors and assigns, all of Grantor's interest in the oil and gas minerals that are in, on and under the Property and that may be produced from it (“**Grantor's Mineral Interest**”). Grantor hereby agrees that no wells will be drilled on the surface of the Property, and no facilities of any kind (including, but not limited to, roads, pipelines, flow lines, electric power lines, tank batteries or treaters) will be placed on the surface of the Property by Grantor or by any other third party acting pursuant to Grantor's consent or authority; provided, that such facilities are permitted at levels below 500 feet below the surface of the Property to the extent that such facilities do not, in any manner whatsoever, interfere with the surface or subsurface support of the surface of the Property, including any improvements thereon. Grantor further hereby agrees that Grantor shall not have the right to use the surface of the Property and Grantor hereby waives all rights to use the surface of the Property for any purpose, including, but not limited to the right of ingress and egress upon, across and over the surface of any of the Property for the purpose of mining, drilling, accessing, exploring, operating, treating, transporting or developing the Grantor's Mineral Interest or performing seismic or other testing on the Property; *provided, however*, nothing herein contained shall be construed as waiving or preventing Grantor from exploring for, developing or producing the Grantor's Mineral Interest or lands pooled or unitized therewith, by pooling, by directional or horizontal drilling (including, without limitation, fracturing and other completion techniques) under the Property from surface sites located on tracts other than the Property or by any other method that does not require ingress, egress or use of the surface of the Property; *provided further, however*, that the well bore for any oil or gas well or

any other equipment that enters the subsurface of the Property shall be and remain at a depth of at least 1,000 feet below the surface of the Property; *provided, however,* that those operations shall in no manner interfere with the surface or subsurface support of the Property, including any improvements thereon.”

12. **Conditions of Closing.** Closing on the sale of the Property shall be conditioned upon and subject to the following:

- (a) Purchaser and Seller having duly executed the Restriction Agreement and the Incentive Agreement;
- (b) The zoning ordinances of the City of Seagoville (“**City**”) having been amended, if necessary, so that Purchaser may develop and use the Property for the Required Use as defined in the Restriction Agreement. If the City’s zoning ordinances in effect on the Effective Date do not authorize the Property to be used for the Required Use, Seller grants Purchaser the right to file an application with the City to seek an amendment to the City’s zoning ordinances affecting the Property to allow the Property to be used for the Required Use. Seller agrees to reasonably cooperate with Purchaser in the application for any zoning ordinance amendment requested by Purchaser and shall execute all necessary and appropriate instruments as owner of the Property. The application for amending the zoning ordinances applicable to the use and development of the Property shall be made in the name of either Seller or Purchaser as required under governing law, prosecuted at the expense of Purchaser, and filed with the City on or before and filed with the City on or before the sixtieth (60th) day after the Effective Date. Unless Seller agrees in writing to extend the date by which the application for the rezoning of the Property is required to be filed with the City, Seller may terminate this Agreement if Purchaser fails to file the application for rezoning the Property with the City on or before the sixtieth (60th) day after the Effective Date.

If the rezoning of the Property as provided in Paragraph (b), above, has not been approved on or before the scheduled expiration of the Closing Date, the Closing Date shall be automatically extended for a period of thirty (30) days. If said rezoning have still not been approved by the end of said additional thirty (30) day period, Seller may either (i) extend the Closing Date for an additional thirty (30) day period or (ii) terminate this Agreement as Seller’s sole remedy.

13. **Incentive Agreement.** Prior to or on the Closing Date, Purchaser and Seller shall execute an Incentive Agreement in substantially the form as attached hereto as Exhibit “A”, which agreement shall provide for at least the following:

- (a) The Property shall be developed with construction of one or more buildings with a total combined minimum area of 8,000 square feet and all associated driveways, parking areas, and landscaping (the “Improvements”),
- (b) Subject to events of Force Majeure, Commencement of Construction of the Improvements shall occur not later than the dates established in the Incentive Agreement and the

Restriction Agreement and subject to events of Force Majeure, Purchaser shall cause Completion of Construction of the Improvements not later than the dates established in the Incentive Agreement and the Restriction Agreement.

(c) The Improvements shall be continuously occupied, operated, and used by Purchaser, its successors or assigns or a third-party to whom Purchaser leases a portion of the Improvements for the Required Uses as set forth in the Incentive Agreement and the Restriction Agreement.

(d) No fewer than five (5) people shall be employed as full-time employees at the Property during the term of the Incentive Agreement and the Restriction Agreement.

(e) Purchaser must, by Completion of Construction of the Improvements, have made a capital investment of not less than \$900,000.00 in the development of the Property (including the design and construction of the Improvements and related site improvements) and must additionally install all furniture, fixtures, equipment and other business personal property necessary for the required Uses (as defined in the Incentive Agreement and the Restriction Agreement) at the Property; and

(f) Repayment of all or a portion of the Purchase Grant if Purchaser is in default of the Incentive Agreement, as provided in the Incentive Agreement, including, but not limited to, compliance with the deadlines for Commencement of Construction and Completion of the Improvements and all other conditions set forth in the Incentive Agreement and/or the Restriction Agreement.

14. **Remedies.** If Purchaser defaults, Seller's sole remedy shall be to terminate this Agreement. If Seller defaults, Purchaser may, as Purchaser's sole and exclusive remedies, (i) seek specific performance or (ii) terminate this Agreement.

15. **Notices.** Notices must be in writing and may be hand delivered and/or mailed by certified mail with return receipt requested, or sent by facsimile transmission with confirmed receipt, to the addresses stated above. Notice given by delivery service shall be effective upon receipt at the address of the addressee; notice given by mail shall be effective upon depositing the notice in a receptacle of the United States Postal Service, postage prepaid and properly addressed, and notice sent by facsimile transmission shall be effective upon electronic confirmation of receipt. In addition, copies of notices shall be provided to the party's attorney at the addresses indicated above.

16. **Miscellaneous.**

(a) **Entireties.** This Agreement, the Restriction Agreement, and the Incentive Agreement contain the entire agreement of the parties pertaining to the purchase and sale of the Property. The parties agree there are no oral agreements, understandings, representations or warranties made by the parties that are not expressly set forth in this Agreement. Any prior written agreements, understandings, representations or warranties between the parties will be deemed merged into and superseded by this Agreement, unless it is clear from the written document that

the intent of the parties is for the previous written agreement, understanding, representation or warranty to survive the execution of this Agreement.

(b) Modifications and Waiver. This Agreement may be amended only by an instrument in writing signed by both Seller and Purchaser. This Agreement may be terminated only in accordance with the terms of this Agreement or by an instrument in writing signed by both Seller and Purchaser. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision, nor shall any waiver be a continuing waiver. Except as expressly provided in this Agreement, no waiver shall be binding unless executed in writing by the party making the waiver.

(c) Assignment. Neither Party may assign its rights under this Agreement without the prior written consent of the other Party.

(d) Effective Date. The Effective Date of this Agreement (“Effective Date”) shall be the date on which the following conditions have been satisfied:

(i) authorized representatives of the parties have signed this Agreement; and

(ii) a fully signed copy of this Agreement has been delivered to and receipted by the Title Company.

(e) Deadlines and Other Dates. All deadlines in this Agreement expire at 5:00 p.m. Central Time on the day of such deadline. If the final date of any period provided herein for the performance of an obligation or for the taking of any action falls on a Saturday, Sunday, or holiday, then the end of such period shall be extended to the next day that is not a Saturday, Sunday, or holiday.

(f) Brokers. Both parties represent and warrant they have worked with no broker relative to this transaction and that no brokerage commission is due and payable upon the Closing. To the extent allowed by law, each party agrees to indemnify, defend, and hold the other party harmless from and against any costs, expenses or liability for any compensation, commission, fee, or charges that may be claimed by any agent, finder or other similar party, other than the named Seller’s Broker, by reason of any dealings or acts of the indemnifying party.

(g) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original for all purposes and constitute one and the same instrument; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

(h) Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

(i) Law Governing. **THIS AGREEMENT SHALL BE EXCLUSIVELY AND IRREVOCABLY CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS; AND VENUE FOR ANY ACTION ARISING FROM THIS AGREEMENT SHALL EXCLUSIVELY AND IRREVOCABLY LIE IN THE STATE DISTRICT COURT OF DALLAS COUNTY, TEXAS. THE PARTIES AGREE TO SUBMIT TO THE PERSONAL AND SUBJECT MATTER JURISDICTION OF SAID COURT.** This provision shall survive the termination or expiration of this Agreement.

(j) Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the Closing shall survive.

(k) Time of the Essence. Time is of the essence with respect to each provision of this Agreement. Strict compliance with the times for performance is required.

(l) Employment of Undocumented Workers. During the term of this Agreement, and for a period of ten (10) years after the Closing and conveyance of the Property to Purchaser, Purchaser agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Purchaser shall pay the amount of the Purchase Grant and any other funds received by Purchaser from Seller as of the date of such violation within 120 days after the date Purchaser is notified by Seller of such violation, plus interest at the rate of 4% compounded annually from the date of violation until paid. Purchaser is not liable for a violation of this Section by a subsidiary, affiliate, or franchisee of Purchaser or by a person with whom Purchaser contracts. This Section 16(l) shall survive the Closing.

(Signatures on Following Page)

SIGNED AND AGREED this ____ day of _____, 2019.

PURCHASER:

JWWIV, LLC

By: _____

John Williams, IV
Manager

SIGNED AND AGREED this ____ day of _____, 2019.

SELLER:

Seagoville Economic Development Corporation

By: _____

Patrick Stallings
Executive Director/President

RECEIPT OF AGREEMENT

Title Company acknowledges receipt of a copy of this Agreement executed by both Purchaser and Seller on the ____ day of _____, 2019.

By: _____

Name: _____

Title: _____

Town Square Title Company
310 N. 9th Street, Suite A
Midlothian, Texas 76065

Regular Session Agenda Item: 15

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas approving an agreement with Halff Associates, Inc. for the purpose of providing surveying and engineering services for the Ard road pump station improvements phase 2; authorizing the City Manager to sign; and providing an effective date.

BACKGROUND OF ISSUE:

The City Council previously approved Phase 1 of the improvements and upgrades to the Ard road pump station to remain in compliance with the Texas Commission of Environmental Quality minimum capacity requirements. During the planning stages of Phase 1 it was determined a second phase would be needed and that phase is being presented tonight.

Halff has provided a proposal for surveying and engineering services to design the Ard Road pump station improvements Phase 2. Phase 2 will include an option for a new pump # 2, Structural bracing, generator, electrical building and electrical control plans.

Staff recommends approval of an Agreement with Halff for this purpose.

EXHIBITS:

Resolution
Halff's Standard Agreement for Professional Engineering Services
Exhibit A, Proposed Scope of Work and Fee

THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS APPROVING AN AGREEMENT WITH HALFF ASSOCIATES, INC. FOR THE PURPOSE OF PROVIDING SURVEYING AND ENGINEERING SERVICES FOR THE ARD ROAD PUMP STATION IMPROVEMENTS PHASE 2; AUTHORIZING THE CITY MANAGER TO SIGN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council for the City of Seagoville, Texas desires to enter into an Agreement for the purpose of providing surveying and engineering services to design the Ard road pump station upgrades; and,

WHEREAS, Halff Associates, Inc. has provided a proposal for purpose of providing surveying and engineering services to design the Ard road pump station improvements phase 2 in the amount of \$96,150.00; and,

WHEREAS, the City Council for the City of Seagoville, Texas has reviewed the Contract and has determined it to be in the best interest of the City of Seagoville to enter into said agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:

SECTION 1. The agreement attached hereto as Exhibit A, with Halff Associates, Inc., for surveying and engineering services related to the design of the Ard road pump station improvements phase 2, in an amount not to exceed \$96,150.00(ninety-six thousand, one hundred and fifty dollars) is approved, and the City Manager is authorized to execute the same on behalf of the City.

SECTION 2. That any prior Resolutions of the City Council of the City of Seagoville, Texas, in conflict with the provisions contained in this Resolution are hereby repealed and revoked.

SECTION 3. That if any article, paragraph, subdivision, clause or provision of this Resolution, as hereby amended, be adjudged invalid or held unconstitutional for any reason, such judgement or holding shall not affect the validity of this Resolution as a whole or any part or provision thereof, as amended hereby, other than the part so declared to be invalid or unconstitutional.

SECTION 4. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Seagoville, Texas, and it is accordingly resolved.

DULY PASSED by the City Council of the City of Seagoville, Texas, on the 12th day of September, 2019.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria Thomas, City Attorney



July 8, 2019

Patrick Stallings
City Manager
City of Seagoville
Seagoville City Hall
702 North Highway 175
Seagoville, TX 75159

**RE: City of Seagoville Ard Road Pump Station (Halff AVO No. 35440)
Modification of Scope**

Dear Mr. Stallings:

Halff Associates, Inc. is pleased to submit this proposal for modifications to the existing scope of work defined in its contract dated 3/11/19 in attachment A.

Scope of Work for Expansion of Electrical Building and electrical services:

The modified design effort includes:

- A. A pre-manufactured electrical building to accommodate both the existing and the new electrical equipment for this phase and future phases.
- B. The electrical building will be panelized or modular in construction.
- C. A larger electrical service, 2000 Amp, will be required to accommodate the installation of the 3 future 150 HP pump replacements at some time in the future. This upgraded service will be installed in this project.
- D. The electrical building design will include space to provide the ability to upgrade the emergency generator in future phases to match the new electrical service capacity to be installed in this project.
- E. The new electrical building will include interior as well as exterior lighting and HVAC equipment.
- F. The design of a new concrete pad for a transformer required by the larger service.

ENGINEERING FEES FOR SCOPE MODIFICATION

Effort will be invoiced monthly based on the percent of scope complete. A cost breakdown of the total fees is shown below:

Phase I Fee Summary			
Basic Engineering Services	Design Phase	Bid Phase	Construction Phase
Electrical Engineering	\$ 14,000.00		\$ 1,000.00
Structural Engineering	\$ 6,500.00		
Civil Engineering	\$ 2,200.00	\$ 400.00	
Total Design Phase Services	\$ 22,700.00		
Total Basic Engineering Services	\$ 24,100.00		
Additional Services			
Geotechnical Engineering	\$ 6,950.00		
Total Additional Services	\$ 6,950.00		

ADDITIONAL SERVICES:

- A. A single boring is expected to be necessary to provide adequate soil information. Depending on the geotechnical analysis either an elevated slab on piers or a stiffened slab on grade will be designed.

**ENGINEERING SCOPE OF SERVICES AND PROPOSED FEE FOR
 ARD ROAD PUMP STATION IMPROVEMENTS PHASE II**

Scope of Work for installation of Pump No. 2:

The modified design effort includes:

- A. The Project will include the replacement of pump no. 2 on the northern water storage tank and the pump discharge piping and associated valving between the phase I pipe and the proposed pump.
- B. Structural bracing will be used for the new pump.
- C. The electrical upgrades include a new generator to replace or supplement the existing generator. Supplemental generator power is envisioned to be in the form of an additional on-site generator or plug in switch for a portable generator.
- D. A new Automatic transfer switch for emergency power is anticipated.
- E. Pump No. 2's existing starter within the Electrical House will be replaced with a soft starter having 350% current limiting and stepped voltage.
- F. New feeders to the pump will replace the existing.
- G. Provisions for pump control valves will be incorporated into the design including power and control requirements.

- H. All controls and electrical equipment will be placed in proposed Pre-Manufactured Building
- I. Pump No. 2 and Pump Control Valves will be bid as an alternate bid Item.

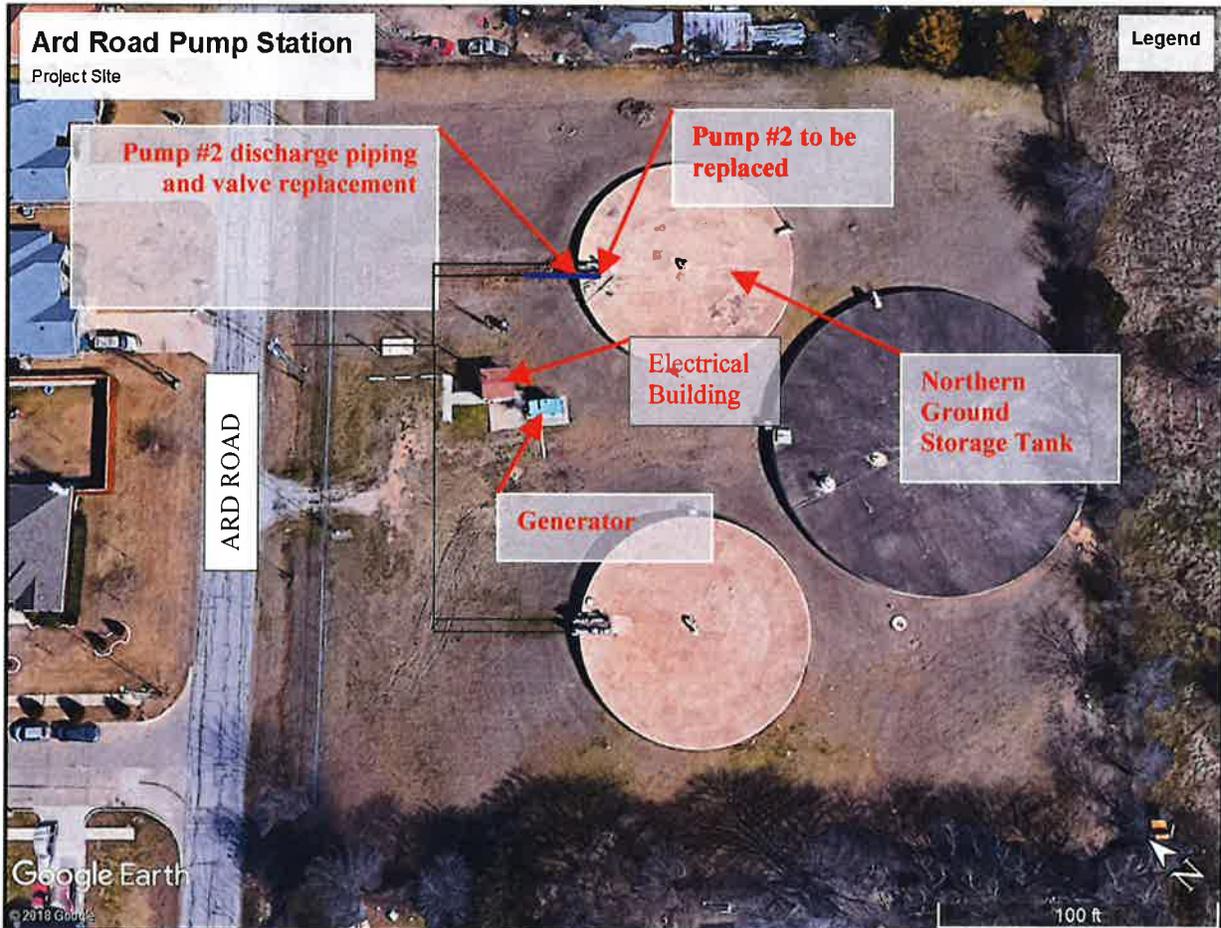


Figure 1

Phase II Fee Summary	
Basic Engineering Services	
A. Design Phase Services	\$ 48,900.00
B. Bid & Construction Phase Services	\$ 16,200.00
Budgeted Total	\$ 65,100.00

Total Engineering Fee Summary	
Basic Services	
Design Services	\$ 71,600.00
Bid/Construction Phase Services	\$ 17,600.00
Additional Services	\$ 6,950.00
Budget Total all scope modifications	\$ 96,150.00

Services not included in the task order that can be provided upon approval of additional budget

- A. Topographical Survey
- B. Boundary Surveys
- C. Easement/Right-of-Way Acquisition Services
- D. Significant design revisions following substantial completion of the Construction Documents
- E. Modifications to documents after documents are issued for construction.
- F. Design and/or modifications to systems not within the scope of the project.
- G. Design for additional power connections or circuiting to other devices / equipment.
- H. Design for upgraded controls / SCADA.
- I. Preparation or submittal of any design calculations.
- J. Filing fees and permits fees.
- K. Coordination with insurance companies, attorneys, or banking institutions.

The proposed scope and fee assume that the entire project will be advertised for bids in 2 construction contracts. Contract 1 will contain the yard piping and appurtenances. Contract 2 will include all electrical upgrades and pump installation with its associated valving and will connect to the piping installed in contract No. 1. Additional budget will be requested to assist the City in the bid and construction phases if additional bid packages are issued or if additional construction contracts are awarded for the project.

The total fee for the engineering services for this project with the amended scope is the sum of the original contract (\$104,700.00) and the scope modifications (\$96,150.00) or \$200,850.00.



The return of one signed copy will constitute acceptance of the proposal and the notice to proceed with the work herein.

Halff Associates Inc. is grateful for the opportunity to work with you and looks forward to the successful completion of this project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark L. Kestner Jr.", written over a horizontal line.

Mark L Kestner Jr PE
Sr. Project Manager

CC Phil DeChant, Public Works Director
Chris Ryan, Assistant Public Works Director

Signed

Date

Patrick Stallings
City Manager

Regular Session Agenda Item: 16

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Receive Councilmember Reports/ Items of Community Interest

BACKGROUND OF ISSUE:

Section 551.0415 of the Texas Government Code authorizes a quorum of the governing body of a municipality or county to receive reports about items of community interest during a meeting without having given notice of the subject of the report if no action is taken. Section 551.0415 defines an “item of community interest” to include:

- (1) expressions of thanks, congratulations, or condolence;
- (2) information regarding holiday schedules;
- (3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in status of a person’s public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and
- (6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

EXHIBITS:

N/A

Regular Session Agenda Item: 17

Meeting Date: September 12, 2019

ITEM DESCRIPTION:

Future Agenda Items

BACKGROUND OF ISSUE:

Council provides direction to staff regarding future agenda items. These items will not be discussed and no action will be taken at this meeting.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

EXHIBITS:

N/A