



**SEAGOVILLE, TEXAS
CITY COUNCIL MEETING AGENDA
MONDAY, NOVEMBER 7, 2022**

**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. Receive Charter Review Committee Presentation**

Adjourn

REGULAR SESSION - 7:00 P.M.

ROUTINE ANNOUNCEMENTS, RECOGNITIONS, and PROCLAMATIONS

Call to Order

Invocation

Pledge of Allegiance

Presentation of the Government Finance Officers Association Award

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 October 17, 2022 (City Secretary)**

REGULAR AGENDA-

- 2. First Reading - Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving the Amended and Restated Economic Development Project between the Seagoville Economic Development Corporation, on the one hand, and KRR Malloy Bridge Residential, LLC, a Texas Limited Liability Company, and KRR Malloy Bridge Retail, LLC, a Texas Limited Liability Company, on the other hand as reflected in the terms and conditions of an Amended and Restated Economic Development Incentive Agreement between the parties in substantially the form of that attached hereto as Exhibit "A"; and providing an effective date (City Manager)**
- 3. Receive a presentation of City of Seagoville's 4th Quarter Financial Report for Fiscal Year End 2022 (Finance Director)**
- 4. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas approving Work Order No. 6, in an amount not to exceed Three Hundred Fifty-Six Thousand Four Hundred Fifty-Nine Dollars and Zero Cents (\$356,459.00) for Professional Engineering Services for West Simonds Road, issued under the Master Agreement for Professional Services with Garver, LLC; authorizing the City Manager to execute said Work Order; providing a repealing clause; providing a severability clause; and providing an effective date (Public Works Director)**
- 5. Discuss and consider approving a Resolution of the City of Seagoville, Texas, approving an Agreement for Professional Engineering Services on a defined scope of services basis with Halff Associates, Inc. for assistance with the implementation of City's Storm Water Management Plan for Fiscal Year 2023 in an amount not to exceed Sixty Six Thousand Dollars and Zero Cents (\$66,000.00); authorizing the City Manager to execute said agreement; providing a repealing clause; providing a severability clause; and providing an effective date (Public Works Director)**
- 6. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving an Agreement for Professional Engineering Services on a Task Order Basis with Halff Associates, Inc. and Task Order No. 1 issued thereunder for General Engineering Consulting Services for Fiscal Year 2023 in a total amount not to exceed Sixty Thousand Dollars (\$60,000); authorizing the City Manager to execute said agreement and Task Order No. 1; providing a repealing clause; providing a severability clause; and providing an effective date (Public Works Director)**
- 7. Discuss and consider approving a Resolution of the City of Seagoville, Texas, authorizing the purchase of an articulating swing arm brush cutter and a grapple bucket in an amount not to exceed Twenty Five Thousand Nine Hundred Fifty Dollars and Seventy-Nine Cents (\$25,950.79) from ASCO Equipment; authorizing the City Manager to execute any and all necessary documents and disburse the funds for said purchase, and providing an effective date (Public Works Director)**

8. Discuss and consider approving a Resolution of the City of Seagoville, Texas, authorizing the purchase of a hydro jetting machine trailer in an amount not to exceed Eighty Five Thousand Three Hundred Eighty Five Dollars and Twenty Five Cents \$85,385.25, from Kinloch Equipment and Supply, Inc; authorizing the City Manager to execute any and all necessary documents and disburse the funds for said purchase; and providing an effective date (Public Works Director)

9. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Dallas County, Texas, authorizing the exercise of eminent domain by the City Council of the City of Seagoville, Texas; for property generally described as a non-exclusive perpetual variable width City of Seagoville municipal water main and wastewater (sanitary sewer) easement and temporary construction easement on Parcel No. 4 of the M.L. Swing Survey, Abstract Number 1420, City of Seagoville, Dallas County, Texas and more specifically described and depicted in Exhibit 'A'; providing the necessity and public purpose for the acquisition of said easements upon, under, over, through and across approximately 0.019 acres thereon for the city's east Malloy Bridge Road Wastewater Project; authorizing the City Attorney to file proceedings in eminent domain to acquire said property; and providing an effective date (City Attorney)

10. Second Reading - Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving the Amended and Restated Economic Development Project between the Seagoville Economic Development Corporation, on the one hand, and KRR Malloy Bridge Residential, LLC, a Texas Limited Liability Company, and KRR Malloy Bridge Retail, LLC, a Texas Limited Liability Company, on the other hand as reflected in the terms and conditions of an Amended and Restated Economic Development Incentive Agreement between the parties in substantially the form of that attached hereto as Exhibit "A"; and providing an effective date (City Manager)

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

12. 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.

13. Recess into Executive Session

Council will recess into executive session pursuant to Texas Government Code:

- A. § 551.074. Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee to wit: City Manager**
- B. § 551.074. Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee to wit: City Secretary**
- C. § 551.074. Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee to wit: City Attorney**
- D. § 551.071. Consultation with City Attorney, to seek the advice of its attorney about pending litigation: Shayla Logan v. Chief of Police, Ray Calverley, Captain Steve Davis, and Officer Kevin Yoes ID 180, City of Seagoville, Civil Action No. 3:21-cv-3079 in the United States District Court for the Northern District of Texas**
- E. § 551.071. Consultation with City Attorney: receive legal advice related to the Charter Review Commission Report**

14. Reconvene Into Regular Session

Council will reconvene into open session, and take action, if any, on matters discussed in Executive Session.

- A. § 551.074. Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee to wit: City Manager**
- B. § 551.074. Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee to wit: City Secretary**
- C. § 551.074. Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee to wit: City Attorney**
- D. § 551.071. Consultation with City Attorney, to seek the advice of its attorney about pending litigation: Shayla Logan v. Chief of Police, Ray Calverley, Captain Steve Davis, and Officer Kevin Yoes ID 180, City of Seagoville, Civil Action No. 3:21-cv-3079 in the United States District Court for the Northern District of Texas**

E. § 551.071. Consultation with City Attorney: receive legal advice related to the Charter Review Commission Report

Adjourn

Posted Friday, November 4, 2022, 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, November 17, 2022, Regular City Council Meeting**
- **Monday, December 5, 2022, Regular City Council Meeting**
- **Monday, December 19, 2022, Regular City Council Meeting**
- **Monday, January 2, 2023, Regular City Council Meeting**

**REPORT OF THE 2022
HOME RULE CHARTER REVIEW COMMITTEE
CITY OF SEAGOVILLE, TEXAS**

Members:

**Tommy Lemond, Chair
Philip Pelayo, Vice Chair
Cheri Childress
Nancy Ashley
Martin Ashley
Barbara Sherman
Shelley Sipriano
Faith Hernandez
Reba Groblebe
Ritha Edwards**

**Patrick Stallings, City Manager
Kandi Jackson, City Secretary
Victoria W. Thomas, City Attorney
John Oliver, Assistant City Attorney**

To: Mayor Childress and Members of the City Council of the City of Seagoville

Subject: Report of the City of Seagoville Charter Review Committee

Date: November 7, 2022

Copy: Patrick Stallings, City Manager

Mayor Childress and Members of Council:

Please accept this report on behalf of the 2022 Home Rule Charter Review Committee of the City of Seagoville, Texas (the “Committee”). Established by the City Council of the City of Seagoville, the Committee was tasked with evaluating the provisions of the Home Rule Charter to determine what, if any, amendments were necessary or desirable. The Committee commenced its work on July 14, 2022 and met approximately four (4) times until its last meeting on July 29, 2022, when the Committee completed its review. All meetings were held at the Seagoville City Hall, were duly and properly noticed under the Texas Open Meetings Act, and were open to the public. All the agendas and minutes for the Committee may be found on the City’s website. This report sets forth the Committee’s findings and recommendations to the City of Seagoville City Council. The members of the Committee would like to thank Vice-Chairman Philip Pelayo for keeping the minutes for each meeting and would additionally like to thank Chairman Tommy Lemond and Mr. Pelayo for their service and assistance during this process.

I. Charge of the Committee and Proposals of the Committee

The Committee was tasked with performing a thorough review of the entire City Charter and thereafter with presenting the Council with the Committee’s recommended ballot propositions for necessary or desirable amendments to the Charter. The members of the Committee, having fully and faithfully accomplished their charge, have duly discussed and deliberated these specific, proposed Home Rule Charter amendments as well as numerous other possible charter revisions. As a result of its review of these matters, the Committee recommends the following proposed amendments to the Home Rule Charter of the City of Seagoville, Texas, to be submitted to the voters at the May 6, 2023 general election. In each proposal of the Committee, the Committee’s recommended amendment language is shown in red, as additional text and/or as a strike-through of existing text.

II. Proposals of the Committee

Proposal 1 – Procedure for Special Election Abandoning the City’s Form of Government

The Committee discussed and is recommending that the Council put forward for consideration by the voters the following amendments which would provide for a modernized and

pragmatic procedure for accomplishing any desired change to the City's form of government:

Section 1.01(b) Form of Government

(b) After the City of Seagoville has elected, either by the voluntary act of the City Council or by vote of a majority at the election hereinafter prescribed, such plan or form of government may be abandoned only upon the filing of a petition with the City Secretary, signed by not less than ~~fifty~~^{twenty} percent (~~20~~⁵⁰%) of the total number of legal qualified electors voting for Mayor at the last preceding City election, requesting the ~~City Council~~^{Mayor} to call a special election for the abandonment of the ~~Council-Manager~~^{City Manager} form of government, whereupon it shall be the duty of the ~~City Council~~^{Mayor} within ~~thirty ten~~⁽³⁰⁾~~(10)~~ business days after the filing of such petition to ~~issue a proclamation calling~~ a special election for such purpose, and such election shall be held on the next uniform election date for the City that provides at least one hundred and twenty (120) days from the date of the ordinance or resolution calling for the election ~~within thirty (30) days~~ after the filing of such petition. ~~The resolution or ordinance calling such election~~^{Such proclamation} shall state that the election is called in order to submit the question of the abandonment of the ~~Council-Manager~~^{City Manager} form of government as previously adopted and instituted by the City. ~~Notice of such election~~^{Such proclamation} shall be posted and published in accordance with the requirements of state law. one time at least ten (10) days before the date of such election in a newspaper of general circulation within the City, and shall also be posted in at least five (5) conspicuous places within such City not less than ten (10) days preceding such election.

Proposal 2 – Rights and Privileges of Annexed Citizens

The Committee communicated personal experiences and shared anecdotes from citizens who experienced annexation by the City. Specifically, the Committee discussed how citizens who experienced annexation did not receive full or equal municipal services that other citizens enjoyed in what was described as contradictory to the entitlement of all the rights and privileges expressed in Section 1.03(2). Therefore, the Committee recommends supplementing Section 1.03(2) of the Home Rule Charter with the following language reflecting the sentiment of the Committee regarding annexation:

Section 1.03(2) Extension of Boundaries

(2) When any additional territory has been so annexed, same shall be a part of the City and the property situated therein shall bear taxes levied by the City, and the citizens thereof shall be entitled to all the rights and privileges of the other citizens of said City, and shall be bound by the acts, ordinances, resolutions, and regulations of the City. The rights and privileges entitled to citizens annexed by the City do not necessarily include full municipal services as they may be afforded to other citizens of the City.

Proposal 3 – Fire Department Modernization

The Committee described Section 2.13 Fires in the Home Rule Charter as antiquated and outdated. The Committee recommends Section 2.13 Fires be amended to mirror that of the language set forth in Section 2.15 Police Department as follows:

Section 2.13 ~~Fires~~ Fire Department

The City Council shall have the power, by ordinance or otherwise, to provide for a fire rescue department and regulation thereof; and to provide, by ordinance or resolution, such regulation to protect the public against conflagrations or threat thereof within the City. The head of the fire department of said City shall be known and designated as “Fire Chief”; and the Council shall budget for personnel and operation thereof.

Proposal 4 – Five-Year City Contract Durations

This proposed change would allow the City to enter into any contract for professional or personal services for a period of time not to exceed five (5) years. The Committee discussed and agreed that the Home Rule Charter constrains the City’s contracting capabilities and weakens the City’s negotiating powers thereby costing the taxpayer money. In order to save the taxpayer money and align with the contracting climate of the present day, the Committee is proposing the following amendment:

Section 2.17 Contracts

(a) The City may enter into a contract which may bind the City to pay for personal or professional services to be rendered for the performance of a specific act or for a specific period of time for a period of time not to exceed two (52) years. ~~except municipal solid waste and public utilities which may not exceed five (5) years.~~

Proposal 5 – Expansion of City Council, Grant the Mayor the Right to Vote on All Matters Considered by the City Council, and Substitution of District with Place

The Committee is recommending that the number of Councilmembers be increased from five (5) to six (6) and that the Mayor be given the right to vote on all matters considered by the City Council with a vote equal to any one individual Councilmember. These proposed changes would require various sections of the Home Rule Charter to be amended. There was discussion amongst the various Committee members on the expected growth of the City in terms of population and density. The Committee agreed the City Council should be expanded to provide for another Councilmember place, which would align with other neighboring cities. Further, the Committee agreed and decided to recommend that the Mayor be granted the right to vote on all matters considered by the City Council. Additionally, the Committee recommends that the language in the Home Rule Charter be revised and updated to reflect the reality that Councilmembers represent places, not districts:

Section 3.01 Mayor and City Councilmembers

(a) Composition: The “City Council” shall be composed of a “Mayor” and ~~five-six (65)~~ at large places “Councilmembers,” and said City Council shall be elected at large by a majority vote. In

reference to matters in this Charter that refer to the vote of the City Council or Councilmembers, such reference does ~~not~~ include the Mayor who may vote with Councilmembers on all matters considered by the City Council. ~~unless the voting is permitted in Section 3.05 of this Charter.~~

(b) *Eligibility: Only qualified voters of the City residing within the City of Seagoville the respective district as provided herein shall be eligible to hold the office of Councilmember or Mayor.* ~~Only qualified voters residing in the City, as provided herein, shall be eligible to hold the office of the Mayor.~~ No person may be eligible, elected or appointed to a position of Mayor and/or City Council who has served as a City employee within one (1) year prior to the appointment or election date.

(c) *Date of Election: The regular election of Councilmembers and Mayor shall be held on the uniform election day in May or on a uniform date as provided by the Texas Election Code.*

(d) *Runoff: In the event no candidate for a given office shall have received the necessary majority, the City Council shall, at the first regular Council meeting following the completion of the official canvass, call a runoff election to be held in accordance with the requirements of the Texas Election Code, in accordance with the Texas Election Code. At the runoff election, the ballot shall list in that order the names of the two candidates receiving at the first election the first and second highest number of votes for given office. Should one of the candidates withdraw, die or become ineligible, a second election shall not be held and the other shall be declared elected to office.*

(e) *Term of Office: At the first election under this Charter, the Councilmembers from odd place being 1, 3 and 5 shall be elected for a two (2) year term, [.] At the second election under this Charter, Councilmembers from even-numbered districts places, being 2, 4 and 46, and the Mayor shall be elected for a two (2) year term.*

(Ordinance 22-16 adopted 7/18/16; Ordinance 26-2018 adopted 11/19/18)

Section 3.05 Mayor, Mayor Pro-Tem and Deputy Mayor Pro-Tem

(a) *The Mayor shall preside at all meetings of the City Council, and shall be recognized as head of the City Government for all ceremonial purposes, and by the Governor for purposes of military law, but shall have no regular administrative duties. The Mayor may participate in the discussion of all matters coming before the City Council. The Mayor shall ~~not~~ be entitled to vote as a member thereof on all legislative or any other matters. ~~except in order to break a tie vote of the City Council.~~ He/she shall sign resolutions/ordinances and conveyances made or entered into by the City and all bonds issued under the provisions of this Charter; and such other documents that he/she may be authorized by Council or by law. The Mayor shall not have power to veto any legislative or other matter.*

(b) *The City Council shall elect a Mayor Pro-tem at the first meeting as provided herein.*

(c) *The Mayor Pro-tem shall be a Councilmember elected by the City Council at the first regular meeting after each election of Councilmembers and/or Mayor. The Mayor Pro-tem shall act as Mayor during the disability or absence of the Mayor, and in this capacity shall have the rights conferred upon the Mayor.*

Section 4.01 City Manager

The City Council shall appoint, upon an affirmative vote of ~~five~~ (5) members of the City Council, a City Manager who shall be the Chief Executive Officer of the municipal government and shall be responsible for the efficient administration of all departments.

Section 4.04 Powers and Duties of City Manager

(a) The City Manager shall hold his office for an indefinite period and shall be suspended or removed at the will and pleasure of the City Council upon an affirmative vote of ~~four~~ (5) members of the full City Council. The action of the Council in suspending or removing the City Manager shall be final, since it is the intention of this section to vest all authority and fix all responsibility for such suspension or removal wholly in the City Council. In no event shall a City Manager be terminated within ninety (90) days after a general election, except for misconduct, malfeasance, or misfeasance.

Proposal 6 – Qualifications of City Council Expanded

The Committee is proposing the following amendments expanding the qualifications of the City Council to include those required of board, commission, or committee members described under Section 3.19(f) of the Home Rule Charter:

Section 3.02 Qualifications of City Council

In addition to any other qualifications prescribed by law, the Mayor and each Councilmember shall:

- 1) have resided in ~~their district~~ the City of Seagoville for a minimum of one (1) year prior to and on the date of the election and shall reside in that district during the term of office;
- 2) be a qualified voter within the City at the time of election;
- 3) not in arrears on City taxes, utility service charges, or other obligations owed to the City;
- 4) not be convicted of a felony or class A misdemeanor, unless the conviction has been expunged or the resulting disability removed; and
- 5) not be an adverse party to pending litigation against the City.

Proposal 7 – Investigations and Disciplinary Hearings

In reviewing the Home Rule Charter, the Committee acknowledged the limitations of authority imposed on City Council. However, the Committee deemed it sensible to include an amendment allowing the City Council to investigate and/or hold disciplinary hearings for any Councilmember, including the Mayor, who violates Section 3.08(c). More specifically, the Committee recognized that the Home Rule Charter does not explicitly provide for a procedure to address such violations, especially serial violations. Therefore, the Committee recommends the following amendment:

Section 3.08 Limitations of Authority

(a) Except where authorized by law or by this Charter, Mayor or Councilmember shall not hold any other City office or City employment during his or her term as Mayor or Councilmember. No former Mayor or Councilmember shall hold any compensated appointive office, receive any appointment or City employment with the City until one (1) year after the expiration of the term for which they were elected ~~or appointed~~ to the City Council. No person may be eligible ~~for, or appointed to~~ a position of Mayor and/or City Council who has served as a City employee within one (1) year prior to the ~~appointment or~~ election date.

(b) Members of the City Council shall not in any way dictate the appointment or removal of the City administrative officers or employees whom the City Manager or any of the City Manager's subordinates are empowered to appoint. The City Council, at a meeting called for that purpose, may express its views fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

(c) Except for the purpose of inquiries and investigations as provided by this Charter, the City Council shall deal with the City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. The City Council shall not give orders to any such officer or employee either publicly or privately except as otherwise provided in this Charter.

(d) The City Council may investigate and hold a public hearing into any allegation of violation by member of the City Council of any of the provisions of Section 3.08 of the Charter, at the conclusion of which the City Council may provide appropriate sanction should it determine the allegation to be supported by the evidence. The City Council may appoint a person, board, commission, or committee to carry out an investigation and produce an investigative report and recommendation to the City Council and/or assist in the holding of such public hearing. For serial or what are determined to be serious violations of Section 3.08, the sanction provided by the City Council may include suspension or removal of the offending member of City Council.

Proposal 8 – City Manager Granted Authority to Sign All Checks or Vouchers

The Committee recognized that the Home Rule Charter only specifically identifies the City Finance Director as the individual with authority to sign or execute all checks or vouchers given by the City. The Committee discussed multiple hypothetical situations where the City Finance Director would be unavailable or incapacitated. Therefore, the Committee is recommending that Sections 4.04 and 5.02 be amended to also grant the City Manager authority to sign all checks or vouchers given by the City to address the concerns raised by the Committee:

Section 4.04(g) Powers and Duties of City Manager (New Subsection)

(g) The City Manager shall have the authority to sign all checks or vouchers given by the City.

Section 5.02 City Finance Director

The Finance Director of the City shall be appointed by the City Manager and shall perform the duties of the City Treasurer as imposed by State law or obligation of the City. He/she shall receive for his/her services such compensation as the City Council may fix. The Finance Director and the

City Manager~~He/she~~ shall *each have the authority to* sign all checks or vouchers given by the City and perform any other duties required by the general laws of the State of Texas and by ordinance adopted by City Council.

Proposal 9 – Depository Clarification

The Committee is proposing the following amendments to Section 6.08 of the Home Rule Charter to (1) clarify that the City may select more than one depository and (2) to remove uncertain superfluous language within the same section:

Section 6.08 Depository

The City Council is authorized to select one or more depositories ~~a depository~~ for City funds in accordance with Chapter 105 of the TEXAS LOCAL GOVERNMENT CODE, as amended, ~~not to follow all the terms and provisions of the same.~~

Proposal 10 – Ease Restrictions on City Employment

The Committee discussed at length and in detail their concerns with Section 9.03 Nepotism as currently written in the Home Rule Charter. The Committee acknowledged the original intent and purpose of Section 9.03. However, the Committee considered Section 9.03 to be too restrictive. The Committee settled on the following recommended amendments to Section 9.03 Nepotism of the Home Rule Charter to ease said restrictions:

Section 9.03 Nepotism

No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor or any Councilmember or the City Manager ~~or other City employee~~ shall be employed by or contracted with for the City. This shall not apply to the following:

(1) Any person continuously employed or contracted six (6) months prior to election or appointment of Mayor, Councilmember or City Manager; or

(2) Any person who is a seasonal employee or intern of the City.

(3) Any person related to a department head within the prohibited degree may be employed by the City, but the person must serve under a department head to whom they are not related within the prohibited degree to.

Proposal 11 – Non-Substantive Corrections to Charter

The Home Rule Charter does not provide a straightforward way to correct typographical or other non-substantive errors within the Home Rule Charter itself. The Committee is recommending that the Council put forward for consideration by the voters the following amendment and new section to the Home Rule Charter, which would require a majority vote of the City Council for correction of said typographical or non-substantive errors:

Section 12.04 Non-Substantive Corrections (New Section)

In the event that typographical, grammatical, gender-specific or other non-substantive errors in this Charter are identified, the Council may, by a majority vote, correct the same, provided that no such correction may alter the substantive meaning of any provision of this Charter.

Proposal 12 – Define Fiscal Year for Accounting and Budget Purposes

The Committee recommends adding the following language amending Section 6.05 to explicitly state when the fiscal year begins and ends:

Section 6.05 Budget

The City Manager, as the Budget Officer, shall, in accordance with State law, prepare each year a municipal budget to cover the proposed expenditures of the City for the succeeding fiscal year. The fiscal year, for accounting and budget purposes, begins on October 1st of each calendar year and ends on September 30th of the following calendar year. Such budget shall be prepared in conformity with the provisions of State law, together with any amendments thereto enacted. No public money shall ever be spent or appropriated, except in case of an emergency or public calamity, unless funds are currently in the possession of the City to cover said expenditures or appropriations. No expenditures shall ever be made by the City except upon checks drawn upon the account, for which a previous appropriation shall have been made, signed by the Mayor and City Manager or designee. Such budget shall, upon and after presentation, be presented to the Council and the public, in an open, called meeting for the purpose in accordance with State law. A proposed or preliminary budget shall be filed with the City Secretary and City Council for public review on a date established by State law and by rules adopted by the City Council. If, by the first day of October, the City Council has not adopted a budget, the budget from the preceding year shall remain in effect until such time as the Council adopts a budget, but such adoption shall be no later than the second regular meeting in October.

Proposal 13 – Resignation of Office

The Committee recommends amending Section 3.01(b) Mayor and City Councilmembers, Eligibility, of the Home Rule Charter with the addition of a provision that would deem the office of any member of the Council automatically forfeited should that Councilmember lack any qualification prescribed by law:

Section 3.01(b)

(b) Eligibility: Only qualified voters of the City and residing within the respective district as provided herein shall be eligible to hold the office of Council for each district. Only qualified voters residing in the City, as provided herein, shall be eligible to hold the office of the Mayor. No person may be eligible, elected or appointed to a position of Mayor and/or City Council who has served as a City employee within one (1) year prior to the appointment or election date. Any member of the City Council shall automatically resign office should they lack any qualification of office prescribed by law.

Proposal 14 – Holding Other Office (New Section)

The Committee recommends that the City Council put forward for consideration by the voters the following amendment supplementing the Home Rule Charter with a new section titled Section 3.22 Running for Other Office. The Committee identified and reasoned that under the current language of the Home Rule Charter any Councilmember who was currently not up for election could run for another Councilmember’s position without putting their own elected position at risk. This topic was extensively discussed by the Committee on more than one occasion. After much deliberation, the Committee agreed and concluded the City would benefit from the addition of Section 3.22 Running for Other Office written as follows:

Section 3.22 Running for Other Office

If any member of the City Council shall announce their candidacy, or shall in fact become a candidate, of any City Council office other than the office then held, at any time when the unexpired term of the office then held shall exceed one year and 30 days, such announcement or such candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law in the same manner as other vacancies for such office are filled.

Proposal 15 – Substitute Freeholder with Landowner

The Committee proposes the following amendment to Section 9.02 substituting the word “freeholder” with “landowner” in order to simplify, modernize, and remove archaic language in the Home Rule Charter:

Section 9.02 Jurors

In any action or proceeding in which the City of Seagoville may be party at interest, no person shall be an incompetent judge, justice, witness or juror by reason of his/her being an inhabitant, ~~freeholder~~ landowner or taxpayer of the City of Seagoville.

Respectfully submitted this the ___ day of November, 2022.

**The 2022 City of Seagoville, Texas
Home Rule Charter Review Committee**

By: 
Tommy Lemond, Chairman

|



GOVERNMENT FINANCE OFFICERS ASSOCIATION

*Distinguished
Budget Presentation
Award*

PRESENTED TO

**City of Seagoville
Texas**

For the Fiscal Year Beginning

October 01, 2021

Christopher P. Morill

Executive Director



**The Government Finance Officers Association
of the United States and Canada**

presents this

CERTIFICATE OF RECOGNITION FOR BUDGET PREPARATION

to

**Finance Department
City of Seagoville, Texas**



The Certificate of Recognition for Budget Preparation is presented by the Government Finance Officers Association to those individuals who have been instrumental in their government unit achieving a Distinguished Budget Presentation Award. The Distinguished Budget Presentation Award, which is the highest award in governmental budgeting, is presented to those government units whose budgets are judged to adhere to program standards

Executive Director

Christopher P. Morill

Date: **May 26, 2022**

Consent Session Agenda Item: 1

Meeting Date: November 7, 2022

ITEM DESCRIPTION:

Consider approving City Council Meeting Minutes for October 17, 2022.

BACKGROUND OF ISSUE:

Approve City Council Meeting Minutes for October 17, 2022.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

EXHIBITS:

October 17, 2022, Work Session Meeting Minutes
October 17, 2022, Regular Session Meeting Minutes



**MINUTES OF CITY COUNCIL
WORK SESSION
OCTOBER 17, 2022**

The Work Session of the City Council of the City of Seagoville, Texas was called to order at 6:30 p.m. on Monday, October 17, 2022, at City Hall, 702 N. Hwy 175, Seagoville, Texas with a quorum present, to wit:

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

The following staff members were also present: City Manager Patrick Stallings, Police Chief Ray Calverley, Community Development Director Ladis Barr, Police Support Services Manager Christine Wirth, Director of Administrative Services Cindy Brown, and City Secretary Kandi Jackson.

A. Discuss Regular Session Agenda Items

1. Consider approving City Council Meeting Minutes for October 3, 2022 (City Secretary)

No questions.

2. Consider approving a Resolution of the City of Seagoville, Texas designating the Daily Commercial Record as the official newspaper for the City of Seagoville, Texas; providing for repeal of any and all Resolutions in conflict; providing for severability clause; and providing an effective date (City Secretary)

In response to a question from Mayor Pro Tem Magill, City Secretary Jackson stated the Library receives a copy of the newspapers.

3. Consider approving a Resolution of the City of Seagoville, Texas finding that Oncor Electric Delivery Company LLC'S ("ONCOR" or "Company") application to change rates within the City should be denied; finding that the City's reasonable rate case expenses shall be reimbursed by the Company; finding that the meeting at which this Resolution is passed is open to the public as required by law; requiring notice of this Resolution to the Company and Legal Counsel (Director of Administrative Services)

Director of Administrative Services Brown stated this Resolution finds that Oncor Electric Delivery Company LLC'S application to change rates within the City should be denied; finding that the City's reasonable rate case expenses shall be reimbursed by the Company.

4. First Reading - Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving the economic development project between the Seagoville Economic Development Corporation and Billy L. and Joan Nabors, Inc., d/b/a Billy L. Nabors Demolition for the demolition of structures located on property owned by Seagoville Economic Development Corporation and located at 101 N. Kaufman Street in the City of Seagoville, as reflected in the terms and conditions of an agreement for demolition services between the parties; and providing an effective date (City Manager)

City Manager Stallings stated this Resolution ratifies the Seagoville Economic Development Corporation's action to approve an agreement with Billy L. Nabors Demolition for the demolition of 101 N. Kaufman. He stated this will allow for the demolition of the building but there will be a small wall that will need to be built for the electrical services and that work will be contracted out to other professionals.

5. Discuss Republic Services Performance (Councilmember Fruin)

City Manager Stallings stated Item #5 will be discussed during Regular Session.

6. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas authorizing the City Manager to enter into a Service Agreement with Motorola Solutions, Inc., a Delaware Corporation ("Motorola"); approving the terms and conditions of the Agreement between the City of Seagoville and Motorola which is attached hereto as Exhibit "A"; repealing all Resolutions in conflict; providing an effective date (Police Support Services)

Police Support Services Manager Wirth stated this Resolution authorizes the City Manager to enter into a Service Agreement with Motorola Solutions, Inc. a Delaware Corporation, approving the terms and conditions of the Agreement.

Councilmember Fruin asked if there was a price increase this year. Police Support Services Manager Wirth stated yes, there is a price increase this year and she would have to research to find out the exact amount of the increase and let him know.

7. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, authorizing the City Manager to enter into an Annual Agreement (also referred to as the Work Order) attached hereto as Exhibit “A” with the City of Garland, Texas (“Garland”) in accordance with and governed by the Master Interlocal Radio Service Agreement between the City of Seagoville and Garland; repealing all Resolutions in conflict; providing an effective date (Police Support Services)

Police Support Services Manager Wirth stated this Resolution authorizes the City Manager to enter into an Annual Agreement with the City of Garland in accordance with and governed by the Master Interlocal Radio Service Agreement. She also stated there is not a price increase for this agreement this year, but there is a price decrease.

8. Discuss and consider approving an Ordinance of the City of Seagoville, Texas, amending the Comprehensive Zoning Ordinance and map of the City of Seagoville, as amended, by granting a change in zoning from Agricultural (AG) to Commercial (C), on approximately 5.004± acres located in the J. Merchant Survey No. 335, Abstract 310, commonly referred to as 1485 South Highway 175, in the City of Seagoville, Kaufman County, Texas, and being depicted and described by metes and bounds in Exhibit “A” attached hereto and incorporated herein; providing for a repealing clause; providing for a savings clause; providing for a severability clause; providing for a penalty of fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense; and providing for an effective date (Community Development)

City Manager Stallings stated the owner of the property submitted a request in writing to withdraw this Item from the Agenda.

9. Discuss and consider approving an Ordinance of the City of Seagoville, Texas, amending the Comprehensive Zoning Ordinance and map, as previously amended, by changing the zoning from "LR-SUP" Local Retail with a Special Use Permit, for a tobacco store, to "LR-SUP-Amended" Local Retail with a Special Use Permit Amended to provide for an additional Special Use Permit for prepackaged beverages, subject to special conditions on approximately 0.386± acres located at 611 North U.S. Highway 175, being described as Tracts L, M, and the east half of Lot 2 in the Town & Country Shopping Center revised, in the City of Seagoville, Texas; providing for special conditions; providing for the repeal of all Ordinances in conflict; providing a severability clause; providing for a penalty of fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense; and providing an effective date (Community Development)

Community Development Director Barr stated this Ordinance approves amending the Comprehensive Zoning Ordinance and map, by changing the zoning from "LR-SUP" Local Retail with a Special Use Permit, for a tobacco store, to "LR-SUP-Amended" Local Retail with a Special Use Permit Amended to provide for an additional Special Use Permit for prepackaged beverages, subject to special conditions on approximately 0.386 ± acres located at 611 North U.S. Highway 175, being described as Tracts L,M, and the east half of Lot 2 in the Town & Country Shopping Center revised.

10. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving a Pre-Development and Professional Services Reimbursement Agreement by and between the City of Seagoville, Texas, and Shepherd Place Homes, Inc., a Texas for profit corporation; and providing an effective date (City Attorney)

Director of Administrative Services Brown stated this Resolution approves a Pre-Development and Professional Services Reimbursement Agreement by and between the City of Seagoville, Texas and Shepherd Placed Homes, Inc. She also stated this is just a reimbursement agreement.

11. Second Reading - Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving the economic development project between the Seagoville Economic Development Corporation and Billy L. and Joan Nabors, Inc., d/b/a Billy L. Nabors Demolition for the demolition of structures located on property owned by Seagoville Economic Development Corporation and located at 101 N. Kaufman Street in the City of Seagoville, as reflected in the terms and conditions of an agreement for demolition services between the parties; and providing an effective date (City Manager)

City Manager Stallings stated this is just the second reading for the Seagoville Economic Development Agreement for the demolition of 101 N. Kaufman Street.

Adjourned at 6:45 p.m.

APPROVED:

Mayor Dennis K. Childress

ATTEST:

Kandi Jackson, City Secretary



**MINUTES OF CITY COUNCIL
REGULAR SESSION
OCTOBER 17, 2022**

The Regular Session of the City Council of the City of Seagoville, Texas was called to order at 7:00 p.m. on Monday, October 17, 2022, at City Hall, 702 N. Hwy 175, Seagoville, Texas with a quorum present, to wit:

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

The following staff members were also present: City Manager Patrick Stallings, Police Chief Ray Calverley, Community Development Director Ladis Barr, Police Support Services Manager Christine Wirth, Director of Administrative Services Cindy Brown, and City Secretary Kandi Jackson.

Invocation – *Invocation was led by Mayor Pro Tem Magill.*

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

Mayor’s Report – *None.*

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 October 3, 2022 (City Secretary)**
- 2. Consider approving a Resolution of the City of Seagoville, Texas designating the Daily Commercial Record as the official newspaper for the City of Seagoville, Texas; providing for repeal of any and all Resolutions in conflict; providing for severability clause; and providing an effective date (City Secretary)**

3. Consider approving a Resolution of the City of Seagoville, Texas finding that Oncor Electric Delivery Company LLC'S ("ONCOR" or "Company") application to change rates within the City should be denied; finding that the City's reasonable rate case expenses shall be reimbursed by the Company; finding that the meeting at which this Resolution is passed is open to the public as required by law; requiring notice of this Resolution to the Company and Legal Counsel (Director of Administrative Services)

Motion to approve the Consent Agenda as read – Magill, seconded by Howard; motion passed with all ayes. 5/0

REGULAR AGENDA-

4. First Reading - Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving the economic development project between the Seagoville Economic Development Corporation and Billy L. and Joan Nabors, Inc., d/b/a Billy L. Nabors Demolition for the demolition of structures located on property owned by Seagoville Economic Development Corporation and located at 101 N. Kaufman Street in the City of Seagoville, as reflected in the terms and conditions of an agreement for demolition services between the parties; and providing an effective date (City Manager)

Mayor Childress read, First Reading - Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving the economic development project between the Seagoville Economic Development Corporation and Billy L. and Joan Nabors, Inc., d/b/a Billy L. Nabors Demolition for the demolition of structures located on property owned by Seagoville Economic Development Corporation and located at 101 N. Kaufman Street in the City of Seagoville, as reflected in the terms and conditions of an agreement for demolition services between the parties; and providing an effective date.

5. Discuss Republic Services Performance (Councilmember Fruin)

Councilmember Fruin stated that there are issues with Republic Services' performance. He stated that any complaints made to Republic Services concerning their performance issues fall on deaf ears. He stated that he spoke with other cities, and they are having the same performance issues that the City of Seagoville seems to have. He also stated that he wanted to see Republic Services get caught up with pickups in a month and he wanted to know what plan Republic Services has to make the problem better.

Mayor Pro Tem Magill stated he personally has had no problems, but he has seen others that have had problems. He also stated that he understands there are staffing problems in all businesses at this time.

Republic Services General Manager Scott Hempel stated they have had staffing problems and they are deploying extra trucks on the weekends to help get caught and make the problem better. He also apologized the performance issues.

6. **Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas authorizing the City Manager to enter into a Service Agreement with Motorola Solutions, Inc., a Delaware Corporation (“Motorola”); approving the terms and conditions of the Agreement between the City of Seagoville and Motorola which is attached hereto as Exhibit “A”; repealing all Resolutions in conflict; providing an effective date (Police Support Services)**

Motion to approve a Resolution of the City Council of the City of Seagoville, Texas authorizing the City Manager to enter into a Service Agreement with Motorola Solutions, Inc., a Delaware Corporation (“Motorola”); approving the terms and conditions of the Agreement between the City of Seagoville and Motorola which is attached hereto as Exhibit “A”; repealing all Resolutions in conflict; providing an effective date – Hernandez, seconded by Epps; motion passed with all ayes. 5/0

7. **Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, authorizing the City Manager to enter into an Annual Agreement (also referred to as the Work Order) attached hereto as Exhibit “A” with the City of Garland, Texas (“Garland”) in accordance with and governed by the Master Interlocal Radio Service Agreement between the City of Seagoville and Garland; repealing all Resolutions in conflict; providing an effective date (Police Support Services)**

Motion to approve a Resolution of the City Council of the City of Seagoville, Texas, authorizing the City Manager to enter into an Annual Agreement (also referred to as the Work Order) attached hereto as Exhibit “A” with the City of Garland, Texas (“Garland”) in accordance with and governed by the Master Interlocal Radio Service Agreement between the City of Seagoville and Garland; repealing all Resolutions in conflict; providing an effective date – Fruin, seconded by Magill; motion passed with all ayes. 5/0

8. **Discuss and consider approving an Ordinance of the City of Seagoville, Texas, amending the Comprehensive Zoning Ordinance and map of the City of Seagoville, as amended, by granting a change in zoning from Agricultural (AG) to Commercial (C), on approximately 5.004± acres located in the J. Merchant Survey No. 335, Abstract 310, commonly referred to as 1485 South Highway 175, in the City of Seagoville, Kaufman County, Texas, and being depicted and described by metes and bounds in Exhibit “A” attached hereto and incorporated herein; providing for a repealing clause; providing for a savings clause; providing for a severability clause; providing for a penalty of fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense; and providing for an effective date (Community Development)**

Mayor Childress stated Item #8 was withdrawn from the Agenda.

- 9. Discuss and consider approving an Ordinance of the City of Seagoville, Texas, amending the Comprehensive Zoning Ordinance and map, as previously amended, by changing the zoning from "LR-SUP" Local Retail with a Special Use Permit, for a tobacco store, to "LR-SUP-Amended" Local Retail with a Special Use Permit Amended to provide for an additional Special Use Permit for prepackaged beverages, subject to special conditions on approximately 0.386± acres located at 611 North U.S. Highway 175, being described as Tracts L, M, and the east half of Lot 2 in the Town & Country Shopping Center revised, in the City of Seagoville, Texas; providing for special conditions; providing for the repeal of all Ordinances in conflict; providing a severability clause; providing for a penalty of fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense; and providing an effective date (Community Development)**

Motion to approve an Ordinance of the City of Seagoville, Texas, amending the Comprehensive Zoning Ordinance and map, as previously amended, by changing the zoning from "LR-SUP" Local Retail with a Special Use Permit, for a tobacco store, to "LR-SUP-Amended" Local Retail with a Special Use Permit Amended to provide for an additional Special Use Permit for prepackaged beverages, subject to special conditions on approximately 0.386± acres located at 611 North U.S. Highway 175, being described as Tracts L, M, and the east half of Lot 2 in the Town & Country Shopping Center revised, in the City of Seagoville, Texas; providing for special conditions; providing for the repeal of all Ordinances in conflict; providing a severability clause; providing for a penalty of fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense; and providing an effective date- Fruin, seconded by Hernandez; motion failed. 0/5 (For: no one, Against: Howard, Hernandez, Magill, Fruin, and Epps)

- 10. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving a Pre-Development and Professional Services Reimbursement Agreement by and between the City of Seagoville, Texas, and Shepherd Place Homes, Inc., a Texas for profit corporation; and providing an effective date (City Attorney)**

Motion to approve a Resolution of the City Council of the City of Seagoville, Texas, approving a Pre-Development and Professional Services Reimbursement Agreement by and between the City of Seagoville, Texas, and Shepherd Place Homes, Inc., a Texas for profit corporation; and providing an effective date – Hernandez, seconded by Epps; motion passed with all ayes. 5/0

- 11. Second Reading - Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving the economic development project between the Seagoville Economic Development Corporation and Billy L. and Joan Nabors, Inc., d/b/a Billy L. Nabors Demolition for the demolition of structures located on property owned by Seagoville Economic Development Corporation and located at 101 N. Kaufman Street in the City of Seagoville, as reflected in the terms and conditions of an agreement for demolition services between the parties; and providing an effective date (City Manager)**

Motion to approve the Second Reading - Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving the economic development project between the Seagoville Economic Development Corporation and Billy L. and Joan Nabors, Inc., d/b/a Billy L. Nabors Demolition for the demolition of structures located on property owned by Seagoville Economic Development Corporation and located at 101 N. Kaufman Street in the City of Seagoville, as reflected in the terms and conditions of an agreement for demolition services between the parties; and providing an effective date – Magill, seconded by Epps; motion passed with all ayes. 5/0

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

None.

13. 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.

Mayor Pro Tem Magill requested more Police Department surveillance on Ard Rd. and Maci Ct.

Adjourned at 7:14 p.m.

APPROVED:

Mayor Dennis K. Childress

ATTEST:

Kandi Jackson, City Secretary

Regular Session Agenda Item: 2

Meeting Date: November 7, 2022

ITEM DESCRIPTION:

First Reading - Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving the Amended and Restated Economic Development Project between the Seagoville Economic Development Corporation, on the one hand, and KRR Malloy Bridge Residential, LLC, a Texas Limited Liability Company, and KRR Malloy Bridge Retail, LLC, a Texas Limited Liability Company, on the other hand as reflected in the terms and conditions of an Amended and Restated Economic Development Incentive Agreement between the parties in substantially the form of that attached hereto as Exhibit "A"; and providing an effective date.

BACKGROUND OF ISSUE:

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 promote and retain new and expanding business enterprises within the City. The SEDC has, with approval of this Council, entered into an Economic Development Incentive Agreement for a project which will promote and retain new and expanded business enterprises within the City with KRR Malloy Bridge Residential, LLC and KRR Malloy Bridge Retail, LLC, both Texas limited liability companies (collectively "Company"), under the terms and conditions set forth in that original Economic Development Incentive Agreement (the "Project"). The SEDC and Company desire to amend and restate the project and enter into an Amended and Restated Economic Development Incentive Agreement, in substantially the form attached hereto as Exhibit "A", which amendments would allow Company to sell a portion of the real property subject to the original agreement to Brookshire Grocery Company, LLC, a Texas limited liability company ("Brookshire") and which would further allow Brookshire's design, construction and operation thereon of a Super 1 Foods grocery store with gasoline kiosks to satisfy Company's obligations under the original Agreement for construction and operation of Commercial Retail Improvements on the property.

Section 505.158 of the Texas Local Government Code mandates that the SEDC may not undertake a project or an amended 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.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

EXHIBITS:

Resolution – Approving the Amended and Restated Agreement between the Seagoville Economic Development Corporation and KRR Companies

Agreement – Amended and Restated Agreement between the Seagoville Economic Development Corporation and KRR Companies

CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO. __-R-2021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, APPROVING THE AMENDED AND RESTATED ECONOMIC DEVELOPMENT PROJECT BETWEEN THE SEAGOVILLE ECONOMIC DEVELOPMENT CORPORATION, ON THE ONE HAND, AND KRR MALLOY BRIDGE RESIDENTIAL, LLC, A TEXAS LIMITED LIABILITY COMPANY, AND KRR MALLOY BRIDGE RETAIL, LLC, A TEXAS LIMITED LIABILITY COMPANY, ON THE OTHER HAND AS REFLECTED IN THE TERMS AND CONDITIONS OF AN AMENDED AND RESTATED ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN THE PARTIES IN SUBSTANTIALLY THE FORM OF THAT ATTACHED HERETO AS EXHIBIT “A”; 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 promote and retain new and expanding business enterprises within the City; and

WHEREAS, the SEDC has, with approval of this Council, entered into an Economic Development Incentive Agreement for a project which will promote and retain new and expanded business enterprises within the City with KRR Malloy Bridge Residential, LLC and KRR Malloy Bridge Retail, LLC, both Texas limited liability companies (collectively “Company”), under the terms and conditions set forth in that original Economic Development Incentive Agreement (the “Project”) and

WHEREAS, the SEDC and Company desire to amend and restate the project and enter into an Amended and Restated Economic Development Incentive Agreement, in substantially the form attached hereto as Exhibit “A”, which amendments would allow Company to sell a portion of the real property subject to the original agreement to Brookshire Grocery Company, LLC, a Texas limited liability company (“Brookshire”) and which would further allow Brookshire’s design, construction and operation thereon of a Super 1 Foods grocery store with gasoline kiosks to satisfy Company’s obligations under the original Agreement for construction and operation of Commercial Retail Improvements on the property; and

WHEREAS, section 505.158 of the Texas Local Government Code mandates that the SEDC may not undertake a project or an amended 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 amended and restated Project contemplated by SEDC and Company under the terms and conditions set forth in the Economic Development Incentive Agreement will promote and retain new and expanded business enterprises within the City of Seagoville; and

WHEREAS, the City Council finds that the expenditure of funds by SEDC in undertaking the amended and restated 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. The City Council hereby approves and authorizes the amended and restated Project between the Seagoville Economic Development Corporation, on the one hand, and KRR Malloy Bridge Residential, LLC and KRR Malloy Bridge Retail, LLC, both Texas limited liability companies (collectively, “Company”) on the other hand, under the terms and conditions set forth in an Amended and Restated Economic Development Incentive Agreement in substantially the form attached hereto as Exhibit “A”.

Section 2. 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 Economic Development Incentive 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 7th day of November 2022.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria Thomas, City Attorney
(082422vwt/TM131167)

Exhibit "A"
Amended and Restated Economic Development Incentive Agreement
(to be attached)

**AMENDED AND RESTATED ECONOMIC DEVELOPMENT
INCENTIVE AGREEMENT**

**State of Texas
County of Dallas**

This Amended and Restated Economic Development Incentive Agreement (“Agreement”) is made by and between KRR Malloy Bridge Residential, LLC, a Texas limited liability company (“KRR Residential”) and KRR Malloy Bridge Retail, LLC a Texas limited liability company (“KRR Retail”) (KRR Residential and KRR Retail, jointly and severally, may be referred to herein as “KRR” or “Company”) and the Seagoville Economic Development Corporation (the “SEDC”), each acting by and through their respective authorized representatives. SEDC and Company may be referred to herein each as a “Party” and collectively as the “Parties”.

RECITALS

WHEREAS, Company owns an approximately 22.155 acre parcel of vacant unimproved real property located at southeast corner of the intersection of U.S. Highway 175 and Malloy Bridge Road in the City of Seagoville, Texas (the “Property”); and

WHEREAS, Company and SEDC have previously entered into that certain Economic Development Incentive Agreement regarding the Property, executed December 2, 2021, by Company and executed June 29, 2021, by SEDC (the “Original Agreement”), and

WHEREAS, Company now desires to sell an approximately 6.926 acre portion of the above-described Property (the “Grocery Store Property”) to Brookshire Grocery Company, LLC, a Texas limited liability company (“Brookshire”), for construction and operation by Brookshire thereon of a minimum 48,460 square feet Super 1 Foods grocery store and

WHEREAS, Company and SEDC desire this construction and operation by Brookshire will satisfy Company’s obligation under the Original Agreement for construction and operation of the required commercial/retail improvements on the Property and desire to amend and restate the Original Agreement to that effect; and

WHEREAS, Company still desires to develop a remaining approximately 14.641 acres of the Property (the “Multifamily Property”) by constructing and operating thereon a multifamily residential development consisting of 225 new one, two, and three bedroom apartments and townhomes, with the remaining 0.588 acres of the Property assigned as trees and grass area, and

WHEREAS, Company further intends to install an off-site sanitary sewer line and related facilities which will, upon completion be dedicated to the City as public infrastructure and which will be constructed to allow for additional capacity for future developments and capacity for tie-ins by existing businesses; and

WHEREAS, Company has advised the SEDC that the total cost of the desired combined development remains over \$25,000,000.00; and

WHEREAS, the Parties have agreed that the Original Agreement between SEDC and Company should be amended and restated ad set forth herein to allow the proposed sale of the Grocery Store Property by Company to Brookshire and further to accept Brookshire’s construction and operation thereon of the Super 1 Foods grocery store as satisfaction of Company’s obligation under the Original Agreement for construction and operation of Commercial Retail Improvements on the terms and conditions set forth herein, and

WHEREAS, Company has advised SEDC that a contributing factor that would induce Company to proceed with the development and proposed sale would be approval and execution of this Amended and Restated Agreement by which SEDC agrees to provide an economic development grant to Company to defray a portion of the costs of such development on the terms herein stated, and

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

WHEREAS, the Development Corporation Act, Chapter 501-505, Texas Local Government Code (the “Act”) authorizes SEDC to provide economic development grants for business retention and/or expansion; and

WHEREAS, SEDC has determined that making the Grant to Company in accordance with this Amended and Restated 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 on the terms and conditions hereinafter set forth, and other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Article I Definitions

For purposes of this Amended and Restated Agreement each of the following terms shall have the meaning set forth herein unless the context clearly indicates otherwise:

“Bankruptcy of Insolvency” shall mean the dissolution or termination of Company’s existence as a going business, insolvency, appointment 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 proceeding under any bankruptcy or insolvency laws by or against Company and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“City” shall mean the City of Seagoville, Texas.

“Commencement Date” shall mean the later of: (i) the date upon which the final certificates of occupancy are issued by the City for both the Multifamily Residential Improvements and the Commercial Retail Improvements, each for their respective Required Uses and (ii) the date upon which both the Multifamily Residential Improvements and the Commercial Retail Improvements are open for business and serving the citizens of the City and its visitors, each for their respective Required Uses.

“Commencement of Construction” shall mean that (1) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Project, (2) all necessary permits for the Project have been issued by all applicable governmental authorities and (3) construction of the vertical elements (whether located above or below ground) of the Project has commenced.

“Company” shall mean jointly and severally, KRR Malloy Bridge Residential, LLC and KRR Malloy Bridge Retail LLC.

“Completion of Construction” shall mean that (1) Infrastructure Improvements have been fully and finally completed and accepted by the City, (2) the Multifamily Residential Improvements have been substantially completed, (3) a final permanent certificate of occupancy for the Multifamily Residential Improvements has been issued, (4) Company is open and conducting business during normal business hours leasing and operating the Multifamily Residential Improvements, (5) the Commercial Retail Improvements have been substantially completed, (6) a final permanent certificate of occupancy for the Commercial Retail Improvements has been issued, and (7) Brookshire is open and conducting business during normal business hours and operating the Commercial Retail Improvements as a Super 1 Food grocery store.

“Completion of Infrastructure Improvements Construction” shall mean full and final completion of the Infrastructure Improvements and approval of the same by City.

“Completion of Multifamily Residential Improvements Construction” shall mean substantial completion and mean issuance of a final certificate of occupancy by City for occupancy of the Multifamily Residential Improvements and Company is open and conducting business during normal business hours leasing and operating the Multifamily Residential Improvements.

“Completion of Commercial Retail Improvements Construction” shall mean substantial completion and issuance of a final certificate of occupancy by City for the Commercial Retail Improvements and Brookshire is open and conducting business during normal business hours and operating the Commercial Retail Improvements as a Super 1 Foods grocery store.

“Effective Date” shall mean the last date of execution hereof.

“Employment Positions” shall mean non-temporary full-time employment positions of the Company which are eligible for employee benefits and are created maintained and filled at the Multifamily Residential Improvements.

“Expiration Date” shall mean the fifth anniversary 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 public enemy war, terrorist act or threat thereof, riot, civil commotion, insurrection, government action or inaction (unless caused by

the intentionally wrongful acts or omissions of the Party, fires, earthquake, tornado, hurricane, explosions, floods, strikes, slowdowns, work stoppages epidemics or pandemics.

“Grant” shall mean an economic development grant in the amount equal to the costs incurred and paid by Company for the Infrastructure Improvements, not to exceed Six Hundred and Twenty-Five Thousand Dollars (\$625,000.00), to offset a portion of the costs paid and incurred by Company for the Project, said Grant or relevant portion thereof to be paid by SEDC on a reimbursement basis for Company’s verified expenses incurred in construction of the Infrastructure Improvements.

“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, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on the Company or any property or any business owned by Company within the City.

“Infrastructure Improvements” shall mean design, engineering, and construction, on and off the Property, of a City Engineer-approved ten (10) to twelve (12)-inch wastewater/sanitary sewer pipe with a twenty-four (24)-inch encasement and all related appurtenances to run under U.S. Highway 175 to then traverse along U.S. Hwy 175 Frontage Road and then through the City wastewater easement all as shown on Exhibit “A” attached hereto and incorporated herein by reference , to allow for wastewater and sanitary sewer drainage from the west side of U.S. Highway 175 to a newly installed sanitary sewer system on the east side of that Highway and to serve the Multifamily Residential Improvements (including clubhouse building) and the Commercial Retail Improvements and additionally to provide installation of additional sanitary manholes along the east side of the Project at the U.S. Highway 175 Frontage Road for access/tie-in by existing and future buildings and development. The Infrastructure Improvements will be dedicated to the City upon completion.

“Multifamily Residential Improvements” shall mean design, engineering, and construction on the Property of (1) nine apartment buildings (six to be three-story buildings and three to be two story buildings) containing a total of 213 apartment units consisting of one, two and three-bedroom units; (2) sufficient parking for all multifamily residential units including 81 garage parking spots and covered parking for select exterior spaces; (3) twelve three bedroom townhome units (1,746 net square feet each for a total SF of 20,952), each with a one-car garage; (4) a clubhouse/leasing facility with tenant amenities including a large fitness center, hospitality and conference room, indoor mail and kiosk room, and laundry facility ; (5) swimming pool with seating area and BBQ grills; (6) playground area; (7) walking trail in conjunction with multifamily residential apartment buildings; and (8) gated entrance and exit. Perimeter fencing will be six (6’) foot wrought iron. Masonry and slat fencing will separate the multifamily residential from the commercial retail portions of the Project. A six-foot wrought iron fence will be installed around the perimeter of the pool and the playground. The apartment unit mix will be as follows:

<u>Bedroom/Bath</u>	<u>Sq. Foot - Net</u>	<u>Quantity¹</u>	<u>SF Total</u>
1/1	678	15	10,170
1/1	935	24	22,440
2/2	1,143	24	27,432

2/2	1,053	48	50,544
2/2	1,039	24	24,936
2/2	1,287	24	30,888
2/2	1,096	30	32,880
312	1,306	24	31,344

“Commercial Retail Improvements” shall mean design, engineering, and construction on the Property of a minimum 48,460 square foot retail building to accommodate the operation thereon of a Super 1 Foods grocery store, with gasoline kiosks and including all related and required appurtenances such as landscaping, parking, and driveways.

“Project” shall mean (1) the design, construction, installation, equipping, and dedicated on the Property and/or off-site of the Infrastructure Improvements as generally shown on Exhibit “A” attached hereto and incorporated herein by reference and (2) design, construction, equipping and operation on the Property of the Multifamily Residential Improvements and (3) design, construction, equipping and operation on the Property of the Commercial Retail Improvements, both generally in accordance with the concept plan and renderings attached hereto and incorporated herein by this reference as Exhibit “B”. The Project shall include construction of necessary water and wastewater lines and related facilities, site plan and engineering services, construction of foundations, and all elements of buildings, all required fire lanes, sidewalks, trails, access, and interior streets, and finish out on multifamily residential buildings. As shown on Exhibit “B”, the Commercial Retail Improvements shall be placed on the Grocery Store Property located on approximately 6.926 acres located roughly at the rear of the development and the Multifamily Residential Improvements shall be located on the Multifamily Property, which is approximately 14.641 acres, with the remaining 0.588 acres of the Property assigned as tree and grass area.

“Property” shall mean an approximately 22.155 acre parcel of real property located at the southeast corner of the intersection of U.S. Highway 175 and Malloy Bridge Road in the City of Seagoville, Texas encompassing the Multifamily Property, owned by Company, the Grocery Store Property, to be sold by Company to Brookshire, and an unassigned tree and grass area.

“Related Agreement” shall mean any agreement (other than this Agreement) by and between the Company and the SEDC or the City.

“Required Uses” shall mean, (1) with regard to the Multifamily Residential Improvements, Company’s continuous operation, maintenance, and occupancy thereof as multifamily apartment and townhome dwelling facility with related amenities and, (2) with regard to the Retail Commercial Improvements, Brookshire’s continuous operation, maintenance, and occupancy thereof as a Super 1 Foods grocery store.

“SEDC” shall mean the Seagoville Economic Development Corporation.

Article II Term

The term of this Amended and Restated Agreement shall begin on the last date of execution hereof (the “Effective Date”) and continue until the Expiration Date unless sooner terminated as provided herein.

Article III Grant

3.1 Grant. SEDC agrees, subject to the continued satisfaction of all the terms and conditions of this Amended and Restated Agreement by Company and the obligation of the Company to repay pursuant to Article V hereof, to provide Company with the Grant as set forth herein.

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. SEDC shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement made by Company. None of the obligations of SEDC under this Agreement shall be pledged or otherwise encumbered by Company in favor of any commercial lender and/or similar financial institution.

3.3 Current Revenue. The Grant made hereunder shall be paid solely from lawfully available funds that have been appropriated by SEDC. SEDC shall have no obligation or liability to provide any Grant except as allowed by law. SEDC shall not be required to provide any of the Grant if prohibited under federal or state legislation or a decision of a court of competent jurisdiction.

3.4 Reimbursement Grant. This Grant is a reimbursement Grant. Under this Amended and Restated Agreement, City will provide Grant payments, up to the maximum Grant amount, for properly documented expenses incurred by Company in the design and construction of the Infrastructure Improvements. City will make Grant payments within thirty (30) days of receipt by City of Company’s written request for Grant payment accompanied by proper receipts and other evidence of payment indicating that Company expended the amount for which reimbursement is requested in construction of the Infrastructure Improvements. All requests for payment must be submitted on or before the Expiration Date.

Article IV Conditions to Grant

Company shall during the term of this Agreement satisfy and comply with the terms and conditions of this Agreement and specifically, each term and condition of this Article IV. The obligation of SEDC to provide the Grant or any portion thereof shall be conditioned upon Company’s compliance with and satisfaction of the terms and condition of this Agreement, including the Conditions Precedent set forth in Section 6.1 of this Agreement, and each of the conditions set forth in this Article IV.

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

4.2 Commencement of Construction. Commencement of Construction, as that term is defined herein shall occur not later than one (1) year after the Effective Date of this Agreement.

4.3 Completion of Construction of Infrastructure Improvements and Multifamily Residential Improvements. Completion of Infrastructure Improvements Construction and Multifamily Residential Improvements Construction as each of those terms is defined herein, shall occur not later than five (5) years after the Effective Date of this Agreement.

4.4 Dedication of Infrastructure Improvements. Within sixty (60) days of Completion of Infrastructure Improvements Construction, as defined herein, Company will dedicate to City the Infrastructure Improvements along with any related or necessary easements or rights-of-way upon, under, or on the Property to provide the City with unhindered access to the Infrastructure Improvements or such portion thereof as may be located on or near the Property, for installation, removal replacement, maintenance, repair, upgrade, construction, or reconstruction thereof.

4.5 Completion of Construction of Commercial Retail Improvements. Completion of Commercial Retail Improvements Construction, as defined herein, shall occur not later than five (5) years after the Effective Date of this Agreement. The Parties acknowledge that Brookshire will be performing the construction but agree that Company shall nonetheless remain responsible, under this Agreement, for repayment of the Grant for failure by Brookshire to meet the construction, ownership, required use and/or operation requirements of this Agreement.

4.6 Required Uses. During the term of this Agreement following Completion of Construction and continuing thereafter until expiration this Agreement or earlier termination Company and its authorized tenants and lessees shall continuously own and occupy the Multifamily Residential Improvements and they shall not be used during the term of this Agreement for any purpose other than the Required Uses as defined herein. Further, during the term of this Agreement following the Completion of Construction and continuing thereafter until expiration of this Agreement or earlier termination, Company warrants and guarantees that Brookshire shall continuously own and occupy the Commercial Retail Improvements which shall not be used during the term of this Agreement for any purpose other than the Required Uses as defined herein. Further, during the term of this Agreement, such occupation and use of the Multifamily Residential Improvements and of the Commercial Retail Improvements shall not cease for more than thirty (30) days except in connection with, and to the extent of an event of Force Majeure.

4.7 Continuous Ownership. During the term of this Agreement following the Effective Date and continuing thereafter until the Expiration Date the Multifamily Residential Improvements shall be continuously owned by Company and occupied by Company and its authorized tenants and lessees. Further, during the term of this Agreement following the Effective Date and continuing thereafter until the Expiration Date, Company agrees, warrants, and guarantees that the Commercial Retail Improvements shall continuously owned and occupied by Brookshire.

4.8 Capital Investment in the Project. Company's Capital Investment for the Infrastructure Improvements and the Multifamily Residential Improvements shall be not less than Twenty-Five Million (\$25,000,000.00) Dollars. SEDC shall have a right, during the term of this Agreement to request that Company provide proof of this Capital Investment. In the event of such request, Company shall, not later than fifteen (15) calendar days after the request by SEDC, deliver to SEDC copies of

all records, contract, receipts, invoices, bills, proofs of payment, and such other information as SEDC may reasonably request to document compliance with the required Capital Investment.

4.9 Capital Investment in Infrastructure Improvements. Company's Capital Investment for Infrastructure Improvements shall be not less than Six Hundred, Twenty-Five Thousand (\$625,000.00) Dollars. SEDC shall have a right, during the term of this Agreement, to request that Company provide proof of this Capital Investment. In the event of such request Company shall, not later than fifteen (15) calendar days after the request by SEDC, deliver to SEDC copies of all records, contracts, receipts, invoices, bills, proof of payment, and such other information as SEDC may reasonably request. In the event the final total cost of the design, and construction of the Infrastructure Improvements, as reasonably verified by SEDC, is less than Six Hundred Twenty-Five Thousand (\$625,000.00) Dollars, the Company shall, within thirty (30) days of receipt by Company of written demand by SEDC pay SEDC the difference in value between \$625,000.00 and the final total cost of the construction of the Infrastructure Improvements, as reasonably verified by SEDC.

Article V Termination; Repayment

5.1 Termination. This Agreement terminates on the Expiration Date, and may, prior to the Expiration Date, be terminated upon any one or more of the following:

- (a) by mutual written agreement of the Parties;
- (b) upon written notice by either Party, if the other Party defaults or breaches any of the terms or conditions of this Agreement or a Related Agreement and such default or breach is not cured within thirty (30) days after written notice thereof;
- (c) upon written notice by SEDC, if any Impositions owed to SEDC, City or the State of Texas by Company shall have become delinquent (provided, however, Company retains the right to timely and properly protest and contest any such taxes or Impositions), and such delinquency is not cured within thirty (30) days following Company's receipt of written notice thereof;
- (d) upon written notice by SEDC, if Company suffers an event of Bankruptcy or Insolvency; or
- (e) upon written notice by either Party, if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal, or unenforceable.

5.2 Repayment Following Termination Under Section 5.1(b). In the event the Agreement is terminated by SEDC pursuant to Section 5.1 (b):

- (a) due to a breach of an obligation or promise set forth in section 4.2 hereof, Company shall immediately refund to the SEDC an amount equal to one hundred percent (100%) of the value of the Grant received by Company;

- (b) due to a breach of an obligation or promise set forth in section 4.3 or section 4.4 hereof, Company shall immediately refund to the SEDC an amount equal to one hundred percent (100%) of the value of the Grant received by Company;
- (c) due to a breach of an obligation or promise set forth in section 4.5 hereof, Company shall immediately refund to the SEDC an amount equal to fifty percent (50%) of the value of the Grant received by Company; and
- (d) due to a breach of obligation or promise set forth in section 4.6, 4.7, 4.8 hereof, Company shall immediately refund to SEDC an amount equal to twenty-five percent (25%) of the Grant received by Company.

The repayment obligations of the Company set forth in this section 5.2 shall survive termination of this Agreement.

5.3 Repayment Following Termination pursuant to Section 5.1(c), (d), and/or (e). In the event the Agreement is terminated by SEDC pursuant to Section 5.1(c), (d), and/or (e), the Company shall immediately refund to SEDC an amount equal to one hundred percent (100%) of the value of the Grant paid by SEDC to the Company, plus interest at the rate of interest periodically announced by *Wall Street Journal* as the prime or base commercial lending rate, or if the *Wall Street Journal* shall cease to exist or cease to announce a prime or base lending rate, than at the annual rate of interest from time to time announced by Citibank (or by any other New York money center bank selected by the SEDC) as its prime or base commercial lending rate from the date on which the Grant is paid by SEDC until refunded by the Company. The repayment obligation of Company set forth in this Section 5.3 shall survive termination of this Agreement.

5.4 Offsets. SEDC may, at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to City and/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 has been reduced to judgment by a court.

Article VI Miscellaneous

6.1 Conditions Precedent. The obligations of SEDC under this Agreement are subject to and conditioned on the following:

- (i) Company has secured and presented SEDC with proof of adequate approved financing for the Project;
- (ii) Company has purchased the Property or title to the Property has otherwise been transferred to Company and a copy of the deed, bearing evidence of the recording thereof in the Dallas County land records, has been provided to SEDC;
- (iii) Company has sold the Grocery Store Property to Brookshire, and a copy of the deed, bearing evidence of the recording thereof in the Dallas County land records, has been provided to SEDC;
- (iv) The City Council of the City of Seagoville, Texas has by resolution, approved

- this Amended and Restated Incentive Agreement and the related Project and
- (v) The sixty (60) day period provided for under Texas Local Government Code section 505.160 passed and neither the SEDC nor the City has received a petition from more than ten (10%) percent of the registered voters of the City requesting that an election be held before the funding of the Project as contemplated by this Agreement is undertaken.

6.2 Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the Parties hereto.

6.3 Limitation of Liability. It is understood and agreed between the Parties that Company and SEDC, 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.

6.4 No Joint Venture. It acknowledged and agreed by the Parties that the terms hereof are not intended to 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 the 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 action, liabilities, and expenses, including reasonable attorneys' fees, of any nature whatsoever arising out of Company's performance of the conditions under this Agreement.

6.5 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations and provide all warranties and guarantees that are granted, provided, and/or assumed under this Agreement. The undersigned officers and/or agents of the Parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the Parties hereto.

6.6 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days after being placed in the 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 such Party may subsequently designate in writing), or on the day actually received if sent by courier or otherwise hand delivered.

If intended for SEDC, to:

Seagoville Economic
Development Corporation
Attn: Patrick Stallings, Exec.
Director 702 N. Highway 175
Seagoville. Texas 75159

With a copy to:

Victoria W. Thomas
Nichols. Jackson
Suite 1800 Ros s Tower
500 North Akard
Dallas. Texas 75201

If intended for Company:

KRR Malloy Bridge Residential, LLC and
KRR Malloy Bridge Retail, LLC
Attn: Joseph Kemp
1015 N. Duncanville Road
Duncanville, Texas 75116

6.7 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement. There is no other collateral oral or written agreement among the Parties that in any manner relates to subject matter of this Agreement.

6.8 Governing Law. The Agreement shall be governed by the laws of the State of Texas, without giving effect to any conflict of law rule or principle that might result in the application of the laws of another jurisdiction, and exclusive 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.

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

6.10 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 shall 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.

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

6.12 Successors and Assigns. This Agreement may not be assigned without the prior written consent of SEDC.

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

6.14 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.

6.15 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.

6.16 Employment of Undocumented Workers. During the term of this Agreement, Company agrees to not knowingly employ an undocumented worker and if convicted of a violation under 8 U.S.C. Section 1324a(f), Company shall repay the value or the costs incurred by the SEDC to provide the Grants herein and any other funds received by Company from SEDC of such violation, plus interest at the rate of 4% compounded annually from the date of violation until paid. Company is not liable for

a violation of this section in relation to any workers employed by Brookshire, or by subsidiary, affiliate, or franchisee of Company or by a person with whom the Company contracts.

Signature Page to Follow

EXECUTED on this ____ day of _____, 2022

KRR MALLOY BRIDGE RESIDENTIAL, LLC,
a Texas limited liability company

By: _____
Joseph Kemp, Manager

and

KRR MALLOY BRIDGE RETAIL, LLC,
A Texas limited liability company

By: _____
Joseph Kemp, Manager

ACKNOWLEDGMENT

STATE OF TEXAS COUNTY
OF DALLAS

Before me, the undersigned authority, a Notary Public in and for the State of Texas. on this day personally appeared. Joseph Kemp, Manager of KRR Malloy Bridge Residential. LLC and Manager of KRR Malloy Bridge Retail, LLC. both Texas limited liability companies, known or proven to me to be the person and agent whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of said KRR Malloy Bridge Residential. LLC and KRR Malloy Bridge Retail. LLC that he was duly authorized to perform the same by appropriate resolution of each of the said companies. and that he executed the same as the act of said KRR Malloy Bridge Residential. LLC and KRR Malloy Bridge Retail, LLC, jointly and severally, for the purpose and consideration therein expressed and in the capacity therein stated after first having been duly authorized so to do.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, 2022.

Notary Public

EXECUTED on this ____ day of _____, 2022.

**SEAGOVILLE ECONOMIC DEVELOPMENT
CORPORATION**

By: _____
Patrick Stallings, Executive Director

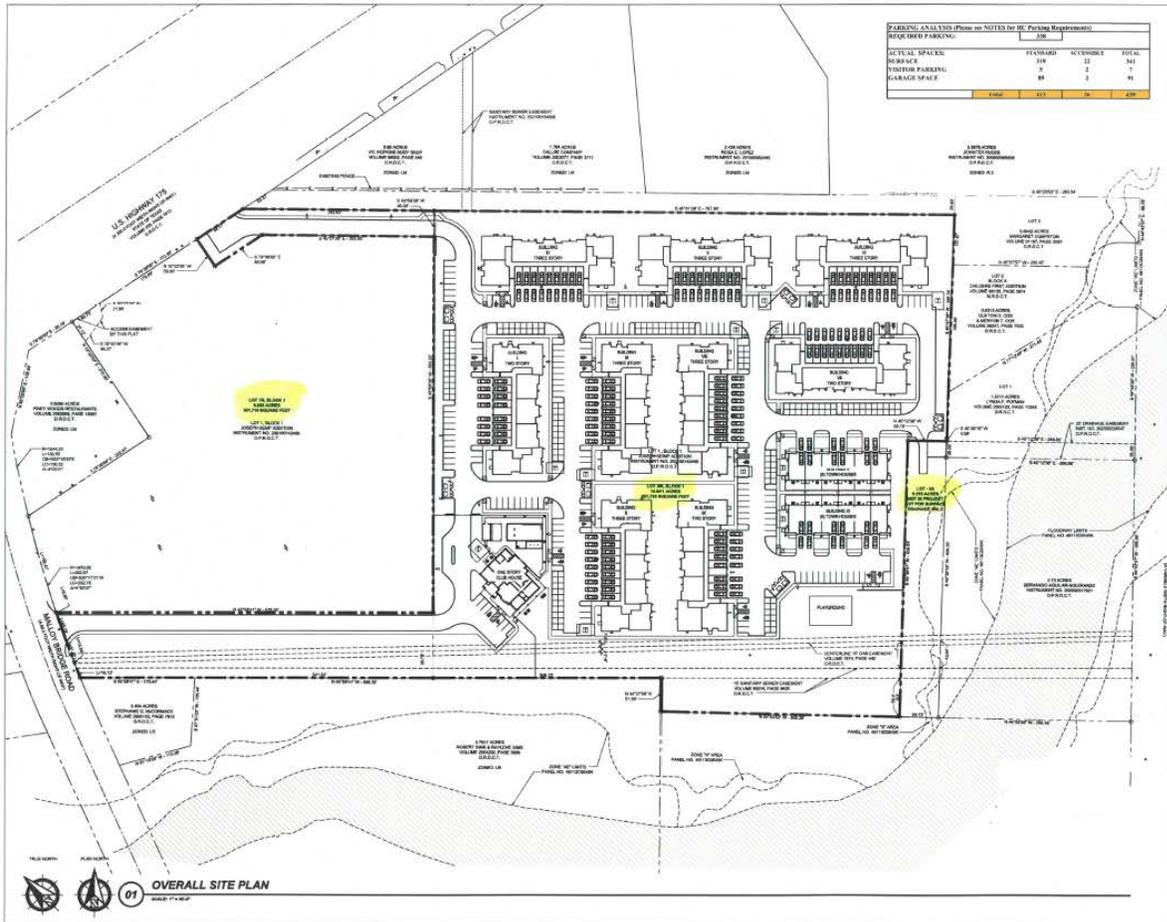
EXHIBIT "A"

Off-Site Sanitary Line

- Connection to existing sanitary manhole
- Sanitary sewer crossing (boring) under Hwy 175
- 2 new manholes and sanitary installation through utility easement



EXHIBIT "B"



AGENCY OF RECORD

Alma
ALLEN WATKINS ARCHITECT
MCKINNEY, TEXAS

ASSOCIATE ARCHITECT

RGM
Architects, LLC
2001 N. LAUREL STREET, SUITE 500
DALLAS, TEXAS 75201
VOICE: 214-650-0200
FAX: 214-650-0201
TX BUSINESS REGISTRATION # 9031

OWNER

KRR
KRR MALLOY BRIDGE, LLC
DUNCANVILLE, TEXAS 75116

NOT FOR REGULATORY APPROVAL,
PERMITTING, OR CONSTRUCTION
ALL ENHANCEMENTS FROM
SEPTEMBER 8, 2022

KRR MALLOY BRIDGE
RESIDENTIAL
100% REVIEW SET

100 SOUTH US HWY 175, DUNCANVILLE, TEXAS 75116

100% PROJECT # 202021-01

DATE ISSUED
SEPTEMBER 8, 2022

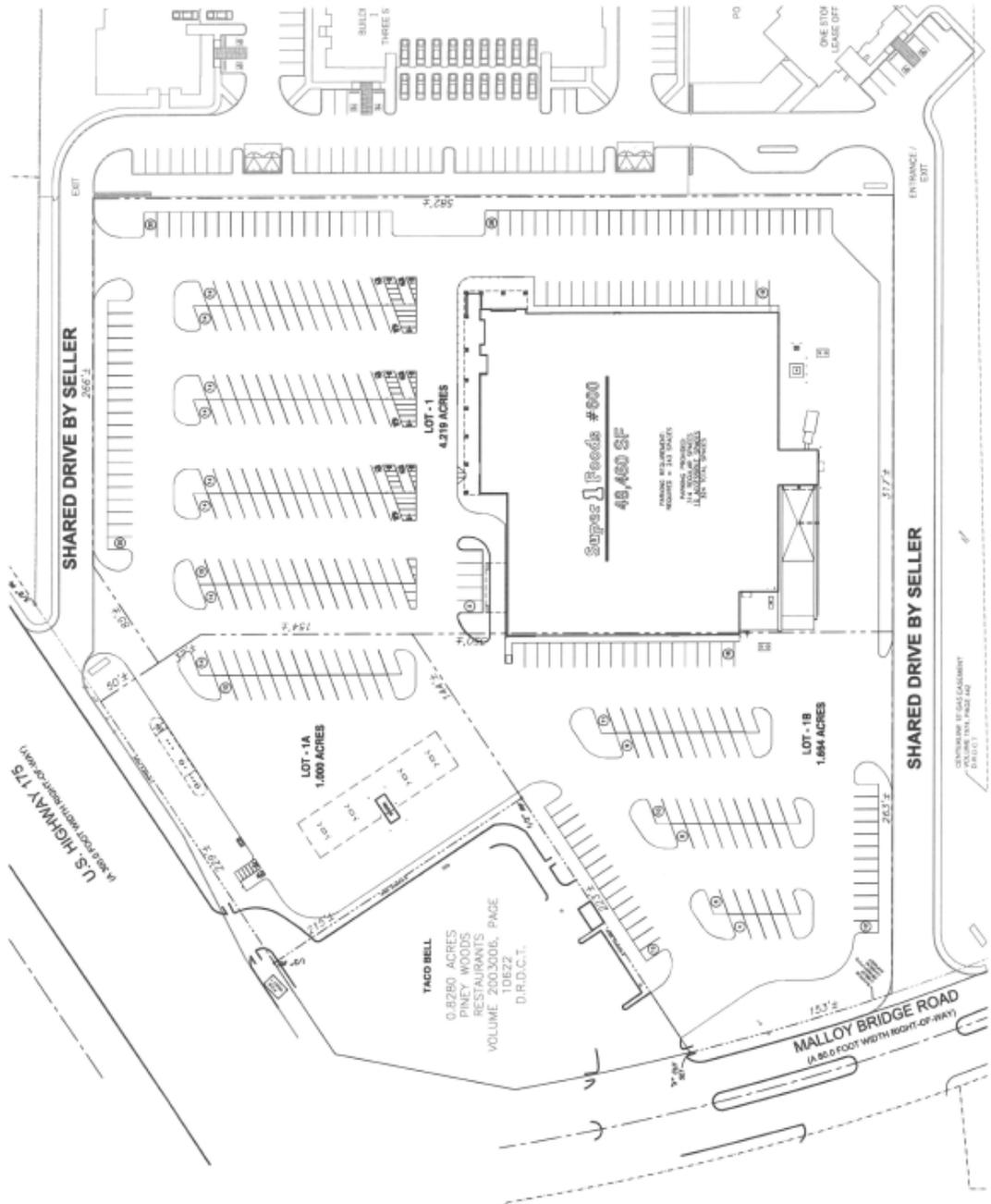
REVISIONS

No.	DATE	DESCRIPTION

SHEET TITLE
OVERALL SITE PLAN

SHEET NUMBER
AS100

01 OVERALL SITE PLAN
SCALE: 1"=40'

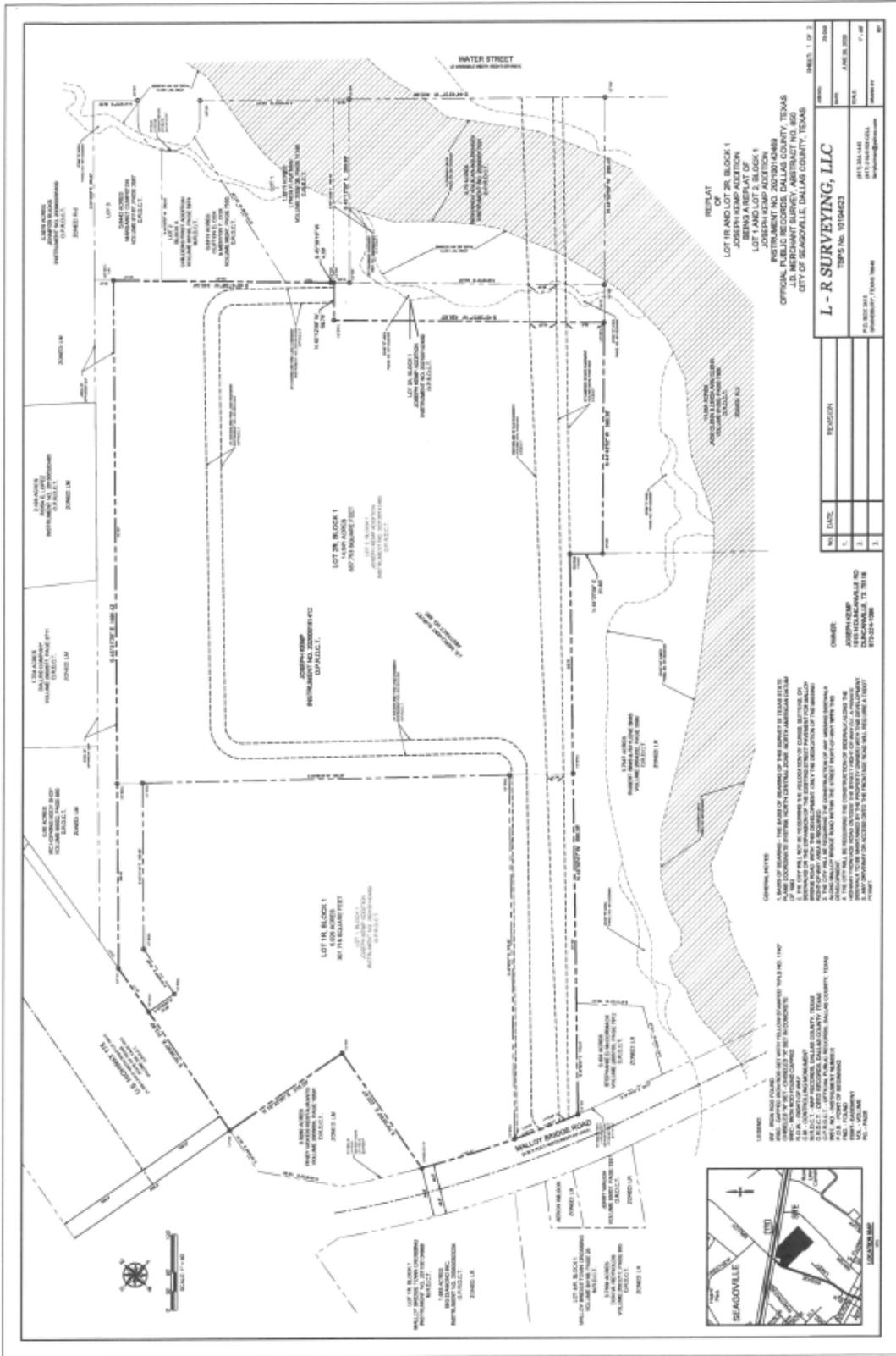


SITE STUDY - 1B
6.883 ACRES
4 PUMPS



108 S. U.S HWY 175
SEABROVILLE, TX.
11-23-2021

DATE: 11/23/2021
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT: [Name]



REPLAT OF
 LOT 18 AND LOT 19, BLOCK 1
 BEING A REPLAT OF
 LOT 1 AND LOT 2, BLOCK 1
 INSTRUMENT NO. 20030143489
 OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TEXAS
 CITY OF SEAGOVILLE, DALLAS COUNTY, TEXAS

NO.	DATE	REVISION
1		
2		
3		

OWNER:
 18111 CALDWAY RD
 SEAGOVILLE, TX 75158

DATE: 01/18/2023
 TIME: 10:00 AM
 DRAWN BY: [Name]

GENERAL NOTES:
 1. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
 2. THE CITY WILL NOT BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED HEREON.
 3. THE CITY WILL NOT BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED HEREON.
 4. THE CITY WILL NOT BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED HEREON.
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 9. THE CITY WILL NOT BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED HEREON.
 10. THE CITY WILL NOT BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED HEREON.

SEAGOVILLE, TEXAS
 18111 CALDWAY RD
 SEAGOVILLE, TX 75158

DATE: 01/18/2023
 TIME: 10:00 AM
 DRAWN BY: [Name]

Regular Session Agenda Item: 3

Meeting Date: November 7, 2022

ITEM DESCRIPTION:

Receive a presentation of City of Seagoville's 4th Quarter Financial Report for Fiscal Year End 2022.

BACKGROUND OF ISSUE:

Gail French, Director of Finance presents the City's 4th quarter financial report for FYE 2022.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

None

EXHIBITS:

September 2022 Financial Reports
Council Power Point Presentation



Memo

Date: November 1, 2022
To: Pat Stallings, City Manager
From: Gail French, Director of Finance
Subject: September 2022 Financial Reports

This memo accompanies the September 2022 Revenue and Expense Reports for the City of Seagoville, and highlights selected financial activities for the FY 2022.

General Fund

Revenues: General fund total revenue for the fiscal year is above budget expectations (actual 121.4% vs. expected 100%). The current year fiscal **Property tax** revenue collections are below last year's collection rate (106.6% vs. 113.2%). **Sales Tax** revenue collections are above budget expectations (126.4% vs. 100.0%). Sales tax revenues continued to hold strong and grow during the year. In **Franchise Fee** revenue, the comparative collection trend for FY 2022 vs. FY 2021 appears below:

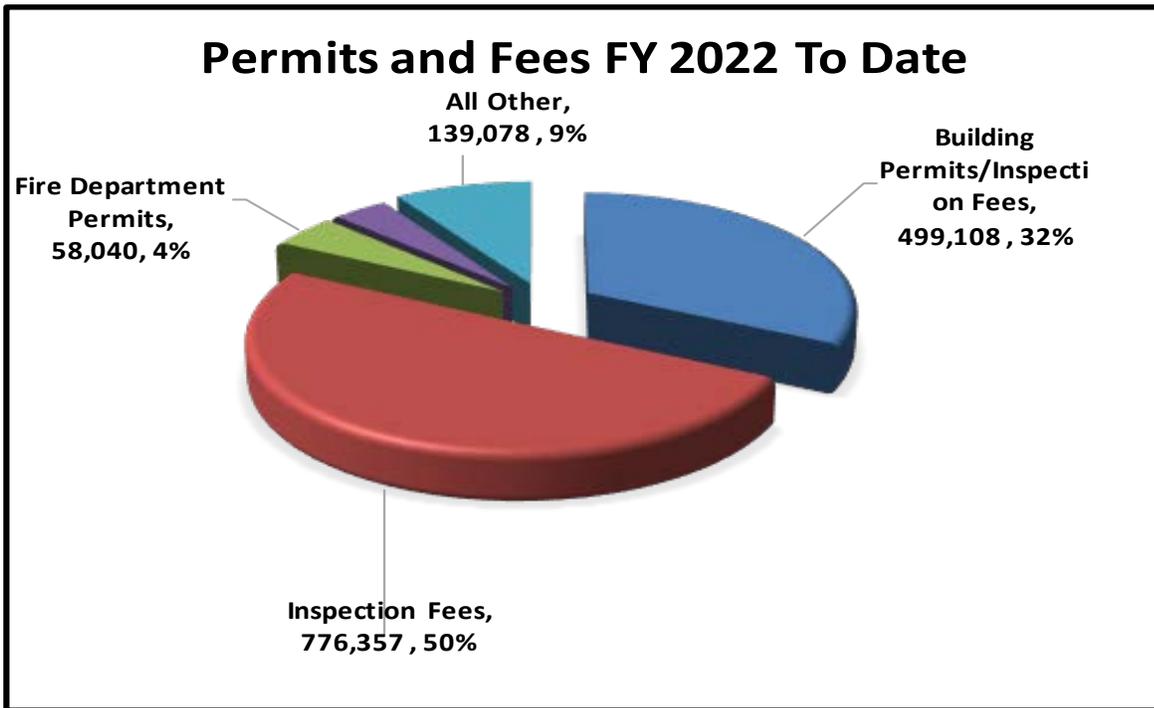
Description	FY 2022 Amount	FY 2021 Amount	Increase (Decrease)
ONCOR	\$ 451,237	\$ 436,248	\$ 14,989
ATMOS Gas	92,146	70,572	21,573
Suddenlink Cable	23,967	33,257	(9,290)
Telephone	18,480	15,637	2,843
Republic Services	76,751	69,058	7,693

Telephone Franchise Fees are up compared to this time last year despite state legislation reducing the amount of revenue available for cities to collect. **Franchise Fee** receipts in total are higher than budget expectations. **(108.7% vs. 100.00%)**

Permits & Fees There were approximately 949 permits issued for the fiscal year. 856 were for Residential permits issued for a total of \$371,791. 141 of those were for new construction (Seagoville Farms, Wellington Farms). There were 93 Commercial permits issued for a total of \$81,911.

The following is a comparison of FY 2022 revenue vs. FY 2021:

Description	FY 2022 Amount	FY 2021 Amount	Increase (Decrease)
Building Permits/Inspection Fees	\$ 499,108	\$ 674,913	\$ (175,805)
Food Health Certificates	776,357	25	776,332
Fire Department Permits	69,978	64,015	5,963
All Other	58,040	44,481	13,559
	139,078	115,970	23,109



Sanitation revenue is above budget expectations (110.8% actual vs. 100.0% expected). The FY 2022 YTD revenue amount exceeds the FY 2021 YTD revenue amount (\$1,223,291 vs. \$1,172,952).

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 fiscal year are \$14,596,968 or 121.4% of budget. This is \$1,037,810 higher than the total General Fund revenues for the previous fiscal year (\$13,559,158). This is mainly due to Property Taxes, Sales Taxes and Permit Fees received compared to last year.

Expenditures: Total General Fund expenditures are within budget expectations (95.1% actual vs. 100% expected).

Building Inspection & Services is above expectations due to emergency work done on the Library's ceiling (\$44,143), installation of a fence by the City Hall generator (\$4,290), and other work to caulk and seal the windows at City Hall to prevent leaking (\$4,400).

Information Technology is up due to an increase in Cyber Security protection and IT services from Baxter Consulting.

Non departmental is slightly above expectations mainly due to the annual premium payment to TML for workers' compensation and property/casualty insurance.

Sanitation increased slightly above expectations due to an increase in the number of residents receiving sanitation services. An increase from approximately 4995 residents to 5179 residents per month.

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

Use of Fund Balance Projects includes **Retention Pay** to Support department of **(\$20,000)**, the acquisition of a **vehicles** for the **Streets and Police**, departments **as well as the Construction inspector vehicle (\$350,005)**, **Firefighting equipment (\$131,832)** which includes the acquisition Upgrade current SCBA Air Packs & Bottles/25 New Masks/ 8 Radio Direct Interface Voice Amplifiers; Extra fire hose; Fire Pro X Thermal Imagers (4), and a TNT Battery powered Extrication Tools, Spreader, Cutter and Hydra Ram "Rabbit Tool", **Software Upgrade (\$57,608)** and **Bldg Insp Services (\$14,940)** for the replacement of tile in restrooms and **(\$29,807)** for A/C System removal and replacement.

Water and Sewer Fund (Fund 20)

Revenues: Total Water and Sewer Fund revenues are above budget expectations (108.7% vs. 100.0%). **Water** sales usually accelerate during the summer depending upon the weather conditions. **Penalties and Interest** generates from late customer payment. **Pretreatment Sewer Revenue** charges 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. **Penalty Fees** are higher than anticipated due to a renewed commitment to enforcement activities against delinquent customers.

Expenditures: The year-to-date expenditure trend is within expectations (99.7% actual vs. 100.00% expected).

Non departmental is above expectations due to the annual premium payment to TML for workers' compensation, property/casualty insurance and bad debt expense.

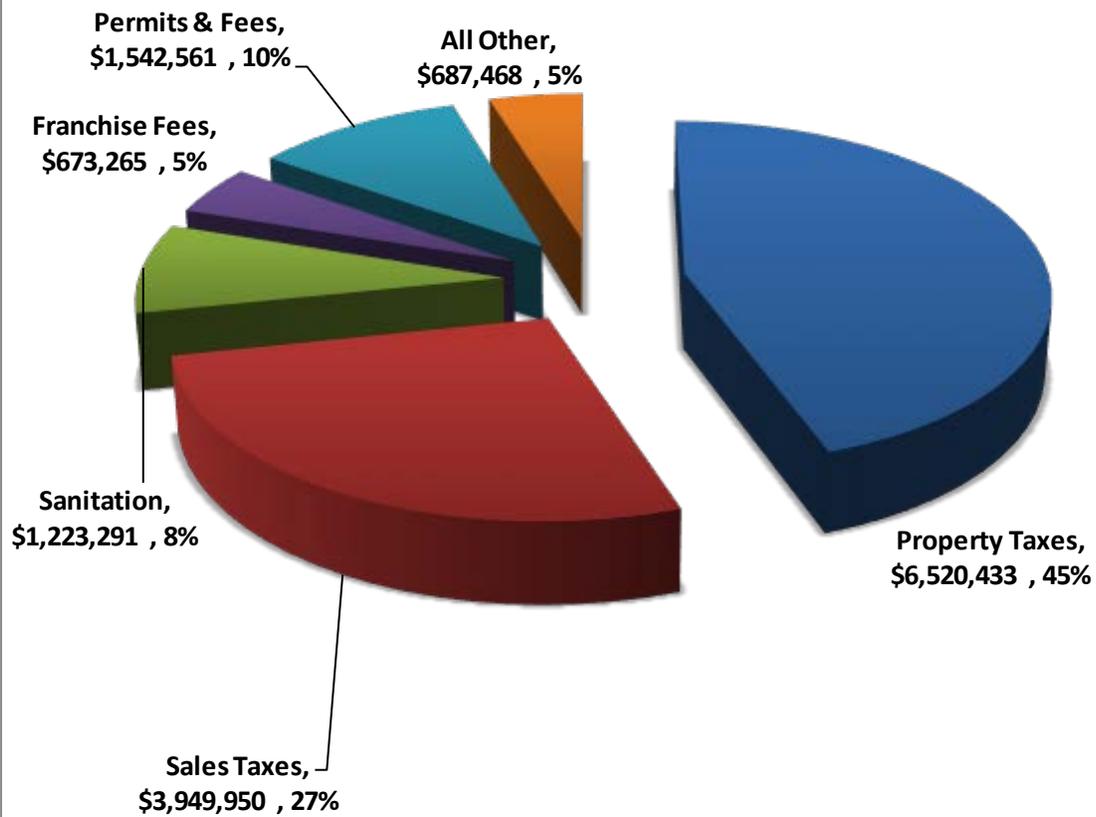
**GENERAL FUND
SUMMARY OF REVENUES AND EXPENDITURES
AS OF 9/30/22
100% OF BUDGET YEAR**

	Adopted Budget	Year to Date	% tage of Budget
REVENUES:			
Property Taxes	\$6,119,484	\$6,520,433	106.6%
Sales Taxes	3,125,108	3,949,950	126.4%
Franchise Fees	619,150	673,265	108.7%
Sanitation	1,104,000	1,223,291	110.8%
All Other	<u>1,056,404</u>	<u>2,230,029</u>	211.1%
TOTAL REVENUES	\$12,024,146	\$14,596,968	121.4%
Transfers In:	379,904	379,904	100.0%
EXPENDITURES:			
Public Safety	\$6,894,412	\$6,402,201	92.9%
Community Development	1,800,382	1,649,263	91.6%
Community Services	1,582,467	1,628,870	102.9%
General Government	1,159,476	1,150,121	99.2%
Non departmental	<u>450,913</u>	<u>479,484</u>	106.3%
TOTAL EXPENDITURES	\$11,887,650	\$11,309,939	95.1%
One Time Use of Fund Balance	2,033,409	1,848,004	90.9%

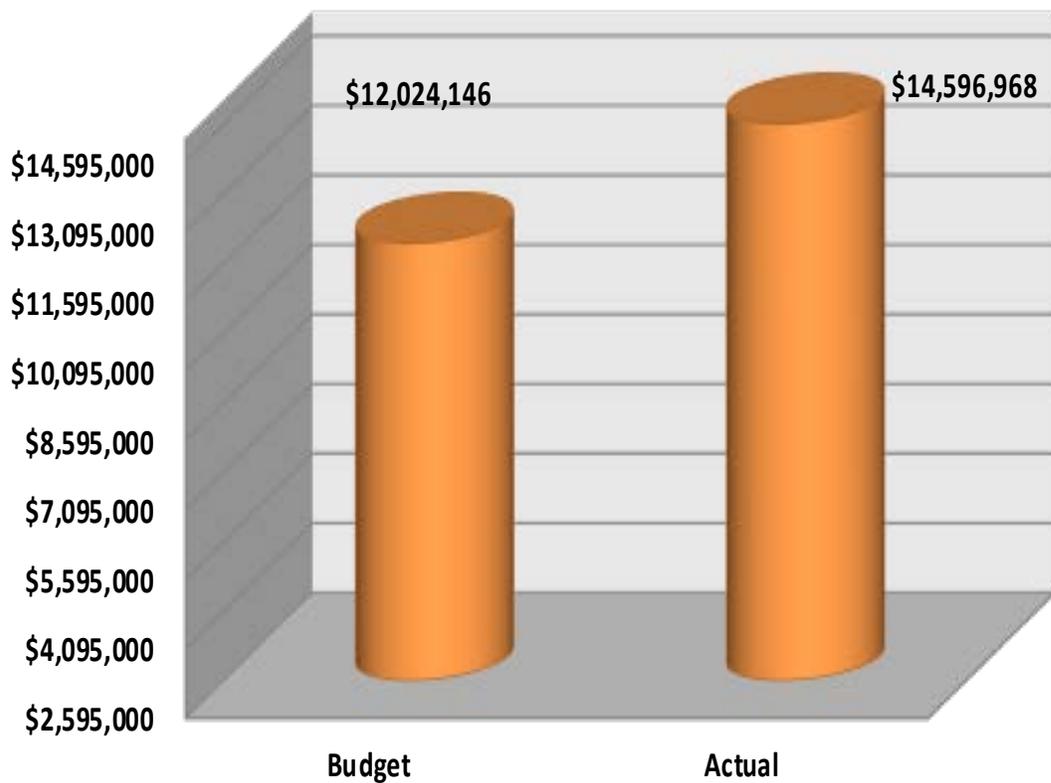
**GENERAL FUND
SUMMARY OF REVENUES AND EXPENDITURES
FOR FISCAL YEAR 2021-22
AS OF 9/30/22
100 % OF BUDGET YEAR**

	LAST YEAR			THIS YEAR		
	Annual Budget	Year-to-Date	% of Budget	Annual Budget	Year-to-Date	% of Budget
Revenues:						
Property Taxes	\$5,282,560	\$5,981,876	113.2%	\$6,119,484	\$6,520,433	106.6%
Sales Taxes	\$2,858,320	\$3,362,024	117.6%	\$3,125,108	\$3,949,950	126.4%
Franchise Fees	\$650,150	\$641,184	98.6%	\$619,150	\$673,265	108.7%
Permits & Fees	\$336,045	\$899,404	267.6%	\$436,655	\$1,542,561	353.3%
Sanitation	\$1,104,000	\$1,172,952	106.2%	1,104,000	\$1,223,291	110.8%
Senior Activities	\$40,100	\$96,832	241.5%	44,000	\$63,041	143.3%
Fines	\$243,625	\$420,526	172.6%	\$290,000	\$430,114	148.3%
Interest	\$25,000	\$6,780	27.1%	10,000	\$15,617	156.2%
SAFER Grant(Fire)	\$145,749	\$164,086	112.6%	\$145,749	\$111,504	76.5%
SEDC Capital Grant	\$100,000	-	0.0%	\$100,000	\$0	0.0%
SG&A Recovery SEDC	\$27,000	\$19,168	71.0%	\$27,000	\$27,000	100.0%
Covid Relief Rev		\$695,000				
Miscellaneous	\$3,000	\$10,366	345.5%	\$3,000	\$40,191	1339.7%
2021 Cov Fiscal Rcvy Grant		\$88,959				
Total Revenues	\$10,815,549	\$13,559,158	125.4%	\$12,024,146	\$14,596,968	121.4%

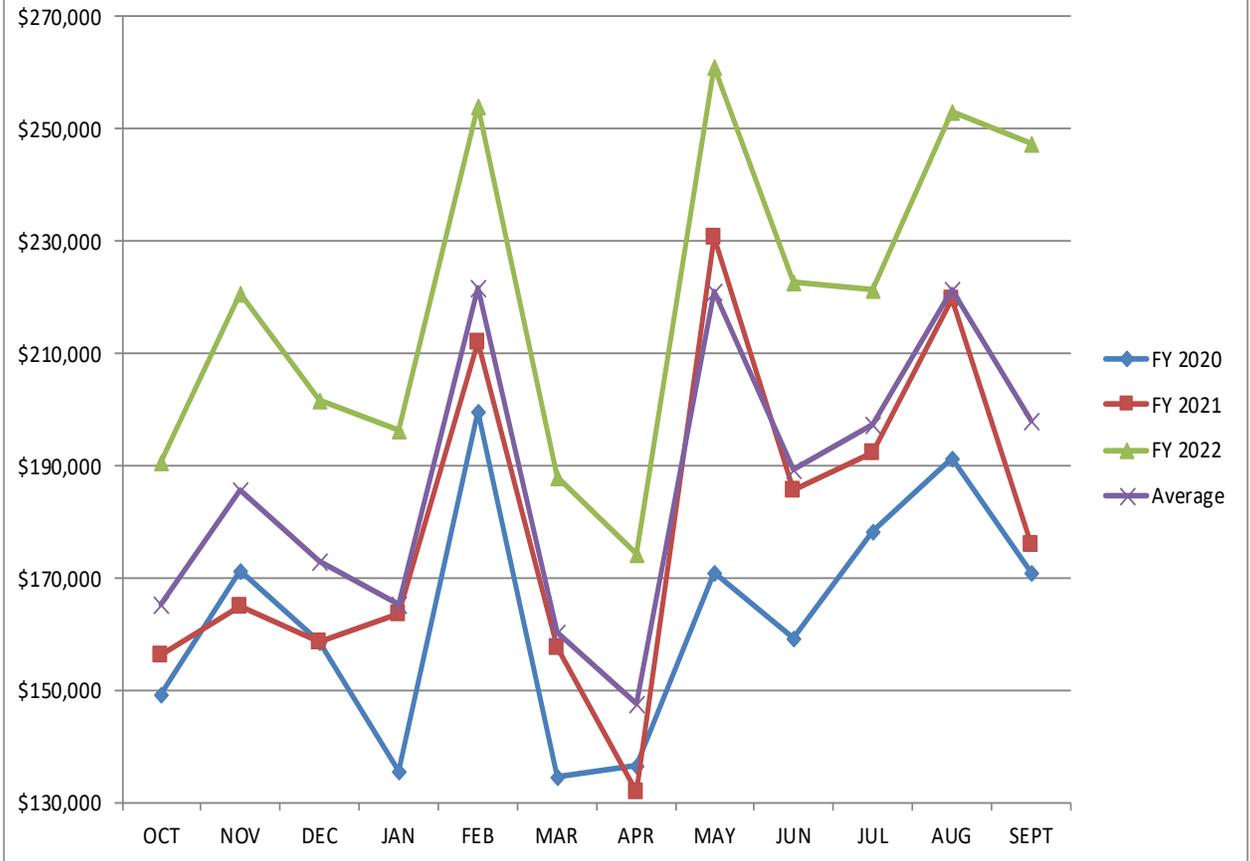
**General Fund Revenues
4th Quarter, FY 2022
Total \$14,596,968**



Year to Date Revenue Comparison General Fund

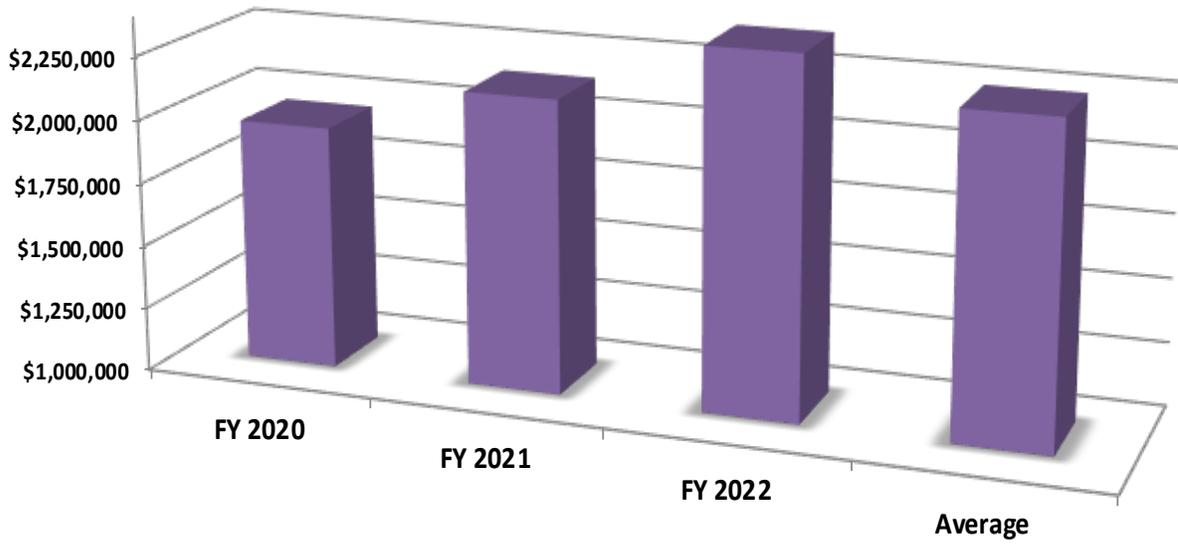


General Fund Sales Tax Comparison



	FY 2020	FY 2021	FY 2022	Three Year Average
OCT	149,232.47	156,466.05	190,825.92	165,508.15
NOV	171,421.83	165,176.32	220,810.91	185,803.02
DEC	158,776.26	158,595.92	201,749.86	173,040.68
JAN	135,551.38	163,822.10	196,537.55	165,303.68
FEB	199,771.70	212,017.52	254,002.15	221,930.45
MAR	134,785.46	157,843.43	188,038.12	160,222.33
APR	136,638.63	132,102.35	174,238.14	147,659.71
MAY	170,986.48	230,658.28	261,175.63	220,940.13
JUNE	159,418.41	185,749.46	222,722.87	189,296.91
JULY	178,499.43	192,486.72	221,516.96	197,501.03
AUG	191,408.19	219,679.89	253,274.98	221,454.35
SEPT	171,196.30	175,919.10	247,555.63	198,223.68

Fiscal Year to Date Comparison - Sales Tax



	FY 2020	FY 2021	FY 2022	Three Year Average
Fiscal Year To Date	1,957,686.52	2,150,517.11	2,632,448.70	2,246,884.11



Sales & Use Tax Monthly Summary General Fund

September, 2022

History by Month					
Month	FY 19-20	FY 20-21	FY 21-22	Inc/(Dec) From Last Year	Percent +/-
October	\$ 149,232.47	\$ 156,466.05	\$ 190,825.92	\$ 34,359.87	22.0%
November	\$ 171,421.83	\$ 165,176.32	\$ 220,810.91	\$ 55,634.59	33.7%
December	\$ 158,776.26	\$ 158,595.92	\$ 201,749.86	\$ 43,153.95	27.2%
January	\$ 135,551.38	\$ 163,822.10	\$ 196,537.55	\$ 32,715.45	20.0%
February	\$ 199,771.70	\$ 212,017.52	\$ 254,002.15	\$ 41,984.63	19.8%
March	\$ 134,785.46	\$ 157,843.43	\$ 188,038.12	\$ 30,194.69	19.1%
April	\$ 136,638.63	\$ 132,102.35	\$ 174,238.14	\$ 42,135.80	31.9%
May	\$ 170,986.48	\$ 230,658.28	\$ 261,175.63	\$ 30,517.36	13.2%
June	\$ 159,418.41	\$ 185,749.46	\$ 222,722.87	\$ 36,973.41	19.9%
July	\$ 178,499.43	\$ 192,486.72	\$ 221,516.96	\$ 29,030.24	15.1%
August	\$ 191,408.19	\$ 219,679.89	\$ 253,274.98	\$ 33,595.10	15.3%
September	\$ 171,196.30	\$ 175,919.10	\$ 247,555.63	\$ 71,636.53	40.7%
Total General Fund	\$ 1,957,686.52	\$ 2,150,517.11	\$ 2,632,448.70	\$ 481,931.59	22.4%

Actual to Budget					
GF Budget FY 2022				\$ 2,094,268	
	<u>PERCENT YTD</u>	<u>AMOUNT YTD</u>			
Target to Budget	100.00%	\$ 2,094,268.00			
Actual to Budget	125.70%	\$ 2,632,448.70			
Amount Over/(Under)		\$ 538,180.70			
Percent +/-		25.70%		<u>OVER/(UNDER)</u>	<u>% +/-</u>
September 30 Forecast			\$ 2,632,449	\$ 538,181	25.7%

Actual to Actual					
	FY 19-20	FY 20-21	FY 21-22	Inc/(Dec) From Last Year	Percent +/-
Year to Date	\$ 1,957,686.52	\$ 2,150,517.11	\$ 2,632,448.70	\$ 481,931.59	22.4%

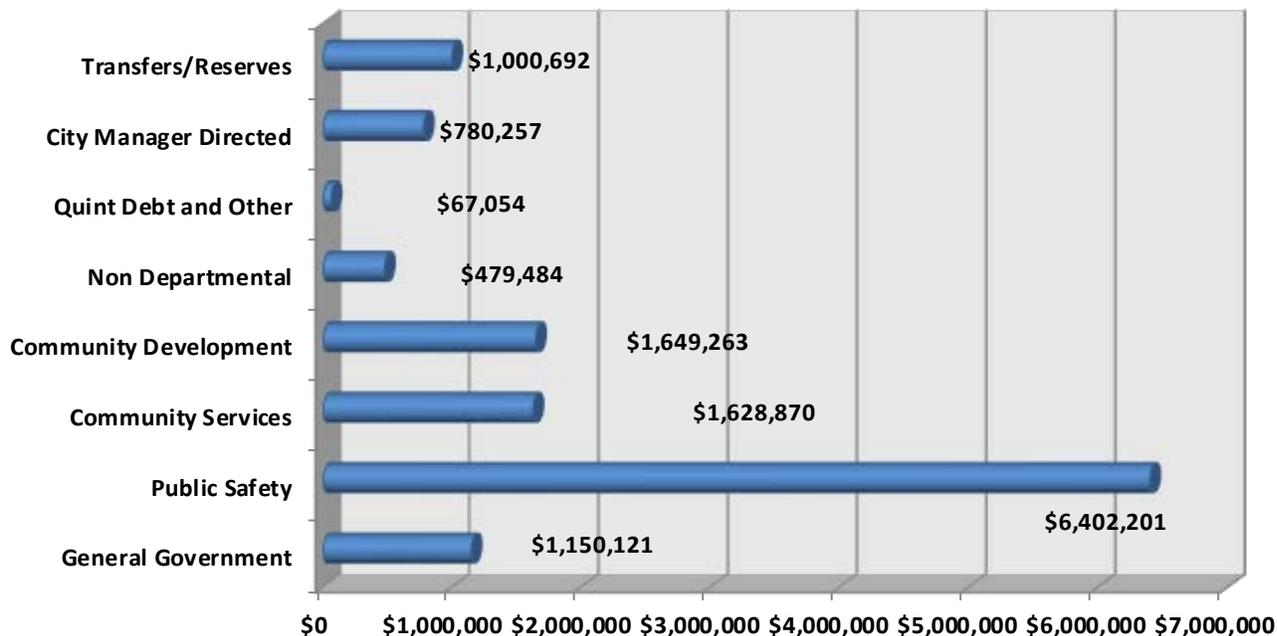
Total Sales Tax & Distribution				
	General Fund	PTR	4B	Total
This Month	\$ 247,555.63	\$ 123,777.81	\$ 123,777.81	\$ 495,111.25
Year to Date	\$ 2,632,448.70	\$ 1,316,224.35	\$ 1,316,224.35	\$ 5,264,897.40

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

**GENERAL FUND
SUMMARY OF REVENUES AND EXPENDITURES
FOR FISCAL YEAR 2021-22
AS OF 9/30/22
100 % OF BUDGET YEAR**

	LAST YEAR			THIS YEAR		
	Annual Budget	Year-to-Date	% of Budget	Annual Budget	Year-to-Date	% of Budget
Expenditures:						
City Council	\$9,450	\$3,020	32.0%	\$9,650	\$1,033	11%
City Manager	\$251,396	\$257,672	102.5%	\$268,913	\$263,847	98%
City Secretary	\$124,934	\$135,037	108.1%	\$149,173	\$150,114	101%
Finance	\$330,246	\$330,871	100.2%	\$388,341	\$383,988	99%
Animal Services	\$130,512	\$121,488	93.1%	\$181,507	\$175,223	97%
Code Enforcement	\$200,376	\$154,653	77.2%	\$207,761	\$164,063	79%
Bldg Inspection/Services	\$409,671	\$370,455	90.4%	\$472,169	\$530,003	112%
Health Inspection	\$117,217	\$112,521	96.0%	\$121,546	\$119,458	98%
Police	\$2,494,897	\$2,362,614	94.7%	\$2,973,531	\$2,794,744	94%
Planning	\$107,756	\$107,983	100.2%	\$122,965	\$62,220	51%
Fire	\$2,217,676	\$2,235,667	100.8%	\$2,643,920	\$2,621,701	99%
Municipal Court	\$179,520	\$181,875	101.3%	\$177,872	\$187,434	105%
Library	\$235,940	\$235,317	99.7%	\$237,960	\$224,813	95%
Senior Center	\$209,858	\$196,438	93.6%	\$210,708	\$188,782	90%
Streets	\$395,989	\$385,036	97.2%	\$464,405	\$432,882	93%
Sanitation	\$910,713	\$966,931	106.2%	\$955,927	\$1,027,840	108%
Support Services	\$868,543	\$541,678	62.4%	\$921,331	\$620,260	67%
Parks	\$334,193	\$284,364	85.1%	\$411,536	\$340,636	83%
Emergency Medical Service	\$170,709	\$174,994	102.5%	\$174,123	\$190,272	109%
Information Technology	\$139,118	\$137,358	98.7%	\$171,965	\$185,204	108%
Human Resources	\$164,273	\$140,843	85.7%	\$171,434	\$165,935	97%
Non Departmental	\$396,330	\$411,173	103.7%	\$450,913	\$479,484	106%
Total Expenditures	\$10,399,317	\$9,847,988.69	94.7%	\$11,887,650	\$11,309,939	95%
Debt Payment (Quint)	\$67,500	\$67,054	99.3%	\$67,500	\$67,054	99.3%
PEG Reserves	\$6,700	\$0		\$6,700	\$0	
Transfers and Reserves	\$1,177,000	\$1,020,485	87%	\$911,733	\$1,000,692	109.8%
Use of Fund Balance Projects	\$398,098	\$300,028	75.4%	1,047,476	780,257.48	74.5%

**General Fund Expenditures, Transfers and One Time
Fund Balance Outlays
4th Quarter FY 2022
Total \$13,157,943**



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 Services

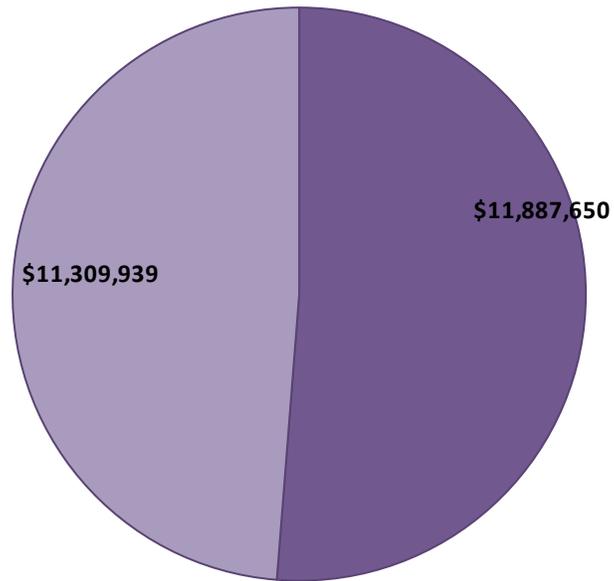
Transfers/Reserves

Transfers for Street Maintenance and Vehicle Replacement

**General Fund
Use of Fund Balance Projects
FY 2022**

	<u>Budget</u>	<u>Actual</u>
Firefighting Equipment	158,293.00	131,832.28
Software Upgrade	89,231.00	57,608.00
Street Dept Vehicle	34,000.00	56,010.35
Patrol Vehicle Purchases	230,475.00	228,604.00
Bldg Insp & Services	42,377.00	44,747.00
Retention Pay Support	20,000.00	20,000.00
Capital Outlay - Computer System	35,580.00	3,529.85
Animal Services Building Improvement	10,000.00	-
Emergency Siren Placement	25,000.00	-
Fire Veh Purchase	162,878.00	-
Parks Dept Equipment	21,449.00	21,449.00
Police Equipment	17,615.00	-
Engineering Fees	100,000.00	111,146.00
Tuition Reimbursement Program	5,000.00	-
Bldg Insp & Services Veh	31,391.00	65,391.00
Parks Dept Vehicle	64,187.00	
Total	<u>1,047,476.00</u>	<u>780,257.48</u>

Year to Date Expenditure Comparison General Fund



Budget	Actual
\$11,887,650	\$11,309,939

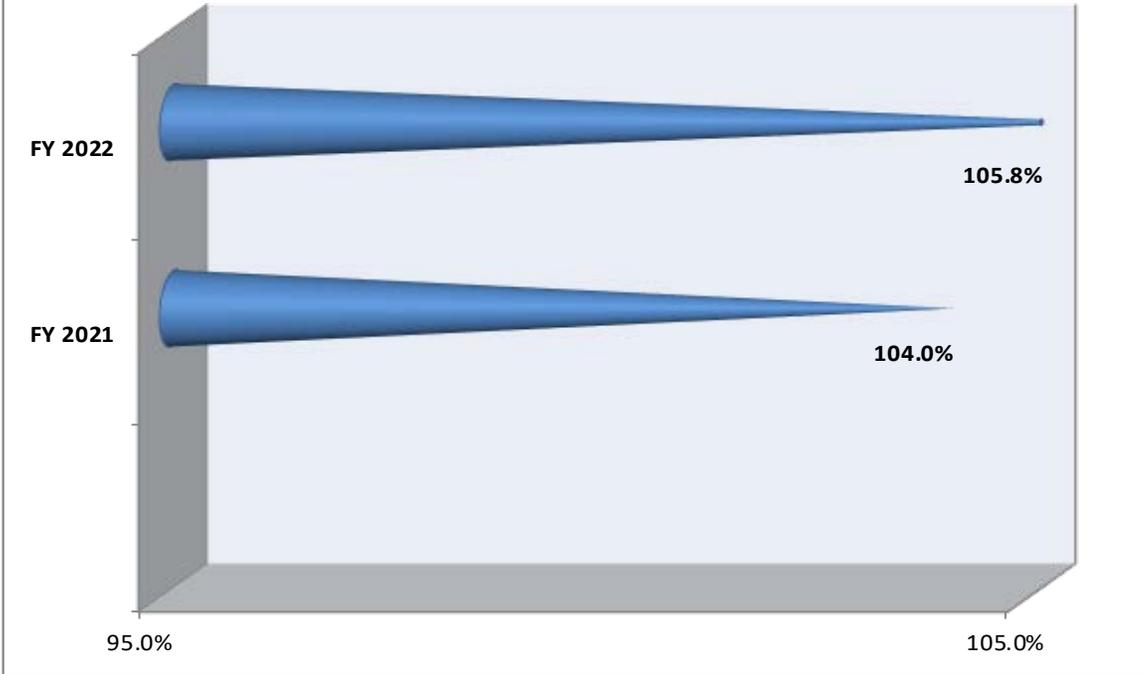
**WATER AND SEWER FUND
SUMMARY OF REVENUES AND EXPENDITURES
AS OF 9/30/22
100% OF BUDGET YEAR**

	Budget	Year to Date	% tage of Budget
REVENUES:			
Water Sales	\$3,794,159	\$4,013,902	105.8%
Sewer Sales	3,276,490	3,507,645	107.1%
All Other	<u>294,438</u>	<u>484,348</u>	164.5%
TOTAL REVENUES	\$7,365,087	\$8,005,895	108.7%
EXPENDITURES:			
Water Services	\$2,557,846	\$2,437,690	95.3%
Sewer Services	2,765,961	2,678,979	96.9%
Debt Service Transfer	1,131,077	1,131,077	100.0%
Non Departmental	162,191	300,405	185.2%
All Other	<u>529,619</u>	<u>577,253</u>	109.0%
TOTAL EXPENDITURES	\$7,146,694	\$7,125,405	99.7%
Use of Reserve	\$1,052,848	\$627,474	59.6%
Transfers Out	352,304	352,304	100.0%

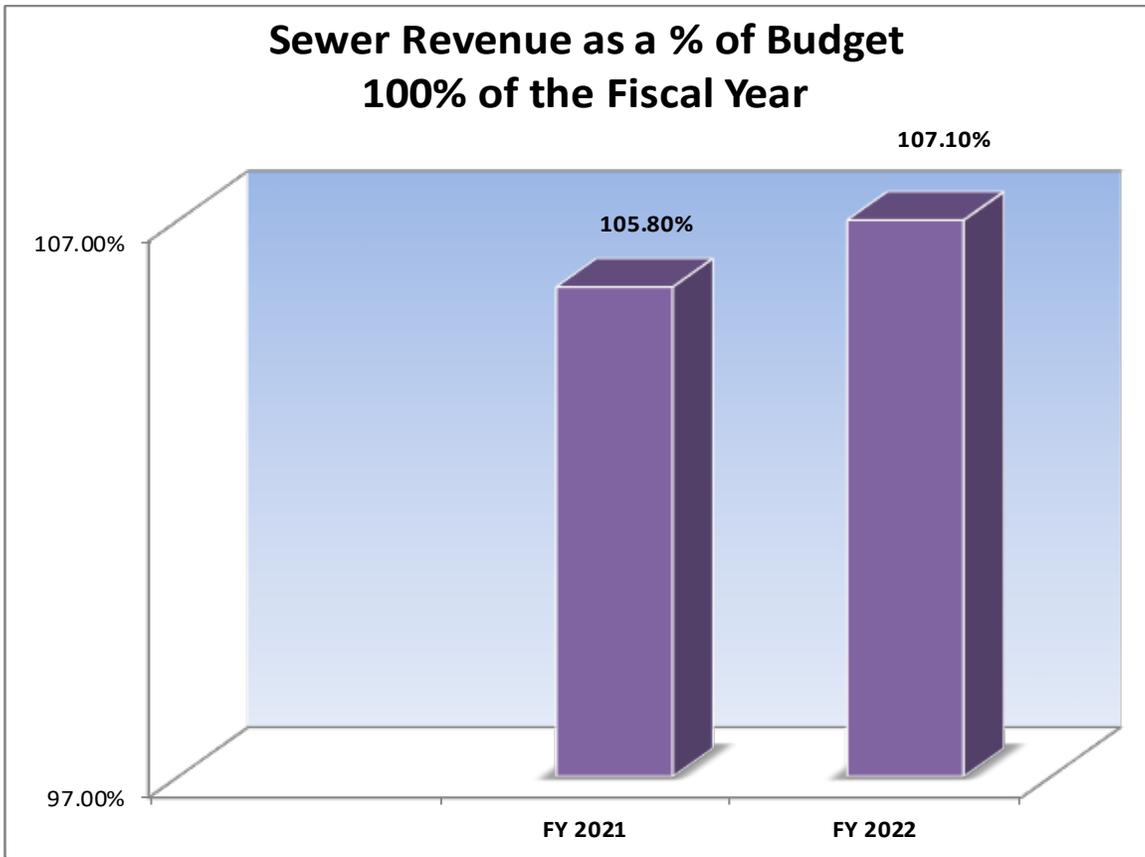
**WATER AND SEWER FUND
SUMMARY OF REVENUES AND EXPENDITURES
FOR FISCAL YEAR 2021-22
AS OF 9/30/22
100 % OF BUDGET YEAR**

	LAST YEAR			THIS YEAR		
	Annual Budget	Year-to-Date	% of Budget	Annual Budget	Year-to-Date	% of Budget
Revenues:						
Water Sales	\$3,693,520	\$3,839,475	104.0%	\$3,794,159	\$4,013,902	105.8%
Sewer Service	\$3,276,490	\$3,465,860	105.8%	\$3,276,490	\$3,507,645	107.1%
Outside Contractor Tap Fees		\$28,000	0.0%	\$0	\$29,450	0.0%
Penalties and Interest	\$135,000	\$243,767	180.6%	\$160,000	\$268,235	167.6%
Pretreatment Sewer Revenue	\$57,442	\$54,570	95.0%	\$60,938	\$57,442	94.3%
Reconnection Fees	\$50,000	\$28,160	56.3%	\$50,000	\$53,760	107.5%
Meter Installation	\$5,000	\$11,596	231.9%	\$5,000	\$21,185	423.7%
Online Payment Fee	\$7,500	\$8,514	113.5%	\$7,500	(\$515)	-6.9%
Interest Earnings	\$22,500	\$7,891	35.1%	\$10,000	\$16,225	162.3%
Miscellaneous	\$1,000	\$7,810	781.0%	\$1,000	\$3,567	356.7%
Bank and NSF Fees	\$0	\$1,144	0.0%	\$0	\$1,050	0.0%
Water Tap Fees	\$0	\$29,850	0.0%	\$0	\$15,660	0.0%
Sewer Tap Fees	\$0	\$21,700	0.0%	\$0	\$8,500	0.0%
Care-Flite Fees	\$0			\$0	\$9,789	0.0%
Total Revenues	\$7,248,452	\$7,748,337	106.9%	\$7,365,087	\$8,005,895	108.7%
Transfers In:			0.0%			
Expenditures:						
Utility Administration	\$196,760	\$195,445	99.3%	\$228,306	\$240,219	105.2%
Water Services	\$2,394,387	\$2,221,528	92.8%	\$2,557,846	\$2,437,690	95.3%
Sewer Services	\$2,677,059	\$2,489,656	93.0%	\$2,765,961	\$2,678,979	96.9%
Customer Services	\$252,442	\$272,170	107.8%	\$301,313	\$337,035	111.9%
Non Departmental	\$112,795	\$237,968	211.0%	\$162,191	\$300,405	185.2%
Debt Service Transfer	\$1,136,605	\$1,136,605	100.0%	\$1,131,077	\$1,131,077	100.0%
Total Expenditures	\$6,770,048	\$6,553,373	96.8%	\$7,146,694	\$7,125,405	99.7%
Transfers Out	\$1,152,304	\$980,182	85.1%	\$352,304	\$352,304	100.0%
Sewer and storm sewer trailer camera setup	\$174,749	\$174,292	0.0%	-	-	0.0%
Dean Kubota Skid-steer	\$65,774	\$70,724	0.0%	-	-	0.0%
2 Kubota 60" zero turn mowers	-		0.0%	\$21,450	21,448.20	100.0%
3 Vehicles W&S-Constr Inspect	-		0.0%	\$85,000	85,000.00	100.0%
Aqua Metrics	-		0.0%	-	\$44,598	0.0%
Cityworks System	\$18,925	17,759.55	93.8%	\$18,925		0.0%
Open Gov Software Support	-		0.0%	\$30,833	\$19,911	64.6%
Water Rate Study	-		0.0%	\$32,500	20,341.25	62.6%
Scada System	-		0.0%	\$96,940	96,940.00	100.0%
EPA Mandates	\$54,000	\$55,133		\$20,200	\$32,167	159.2%
Vehicles	\$68,000		0.0%	\$68,000	18,169.65	26.7%
Northern Basin Interceptor Eng	\$864,700	\$667,563		\$169,000	\$134,681	79.7%
Capital Projects	-		0.0%	\$400,000	5,280.00	1.3%
Lift Station Condition Assessment	\$110,000	\$99,719	93.3%	\$110,000	\$148,937	135.4%

Water Revenue as a % of Budget 100% of the Fiscal Year



Sewer Revenue as a % of Budget 100% of the Fiscal Year



OTHER FUNDS: FINANCIAL SUMMARY
FOR FISCAL YEAR 2021-22
AS OF 9/30/22
100% of Budget Year

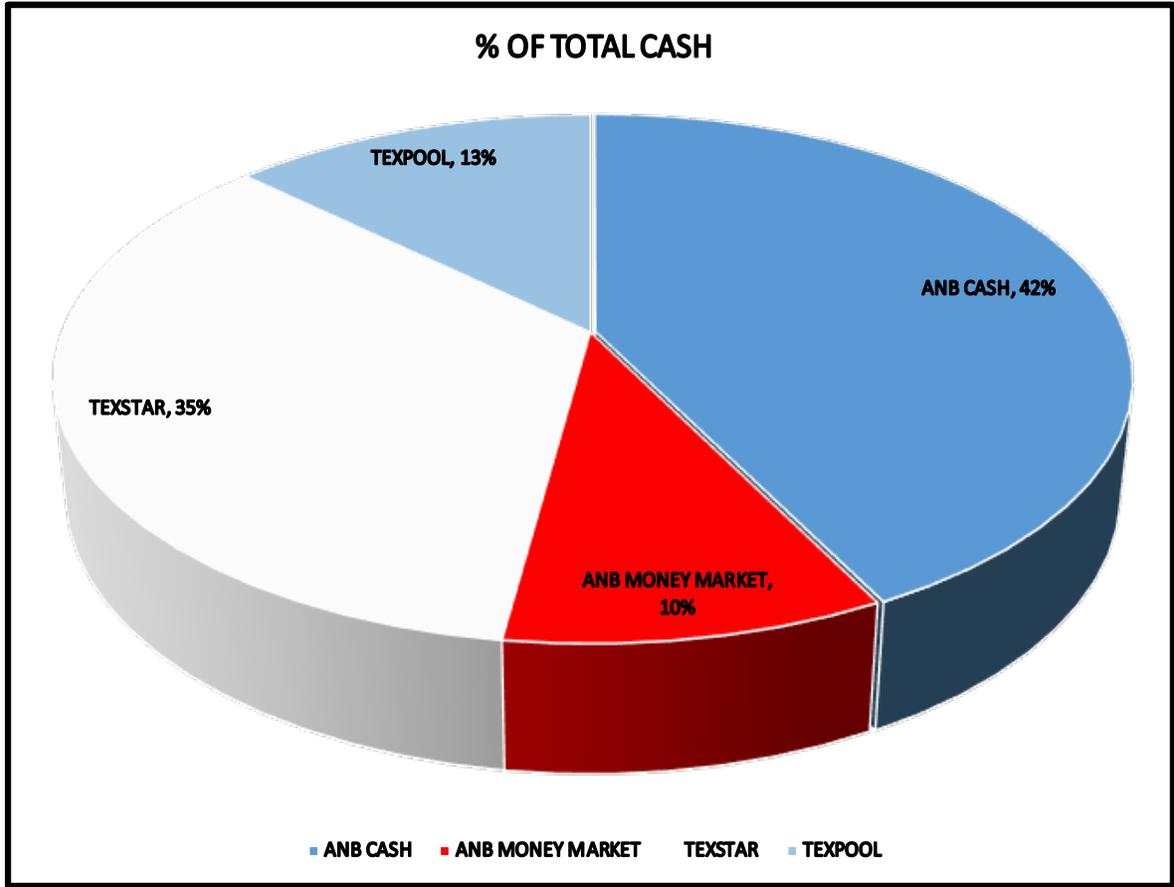
FUND #	FUND NAME	FY 2021 ACTUAL YEAR- TO-DATE REVENUES	FY 2022 ANNUAL REVENUE BUDGET	FY 2022 ACTUAL YEAR-TO- DATE REVENUES
ENTERPRISE FUNDS				
21	W&S Debt Service	\$1,136,631	\$1,131,427	\$1,131,456
22	W&S Improvements	\$631,226	\$400,000	\$5,280
61	Storm Water	\$237,142	\$238,665	\$243,709
SPECIAL REVENUE FUNDS				
29	Police Seizure State	-	-	-
32	Miscellaneous Grants	\$1,709	\$1,500	\$1,187
35	Recycle Revenue Fund	-	\$500	825
36	Municipal Court	\$19,053	\$14,350	\$21,187
38	Park Development	-	-	-
39	Hotel Motel Fund	\$26,370	\$27,500	\$54,081
42	Park Maintenance	1,550.00	\$2,000	\$2,780
45	Animal Shelter	\$3,357	\$3,000	\$3,262
46	Animal Shelter Building	\$2	\$2	\$297
47	Vehicle Replacement Fund	\$45,605	\$44,500	\$42,000
48	Technology Replacement	\$17,500	\$17,500	\$17,500
50	TLEOSE	\$1,875	\$2,000	\$1,625
56	Toy Drive Donations	\$0	\$0	\$1,190
58	Park Development Fund	\$0	\$0	\$46,000
73-79	Developers		-	\$105,000
DEBT SERVICE FUND				
2	General Debt Service	\$913,917	\$775,818	\$825,019
CAPITAL PROJECTS				
43	Street Maintenance	\$681,345	\$869,733	\$935,239
44	2019 Street Projects	\$1,584	\$600	\$624
54	2nd Fire Station	\$192,651	-	-
55	Covid Loc Fisc Rcv Fund	7.68	-	\$193,466
64	Police Station CIP	5,807,296.98	\$350	\$32,199

FY 2021 ACTUAL YEAR-TO-DATE EXPENDITURES	FY 2022 ANNUAL EXPENDITURE BUDGET	FY 2022 ACTUAL YEAR-TO-DATE EXPENDITURES
ENTERPRISE FUNDS		
\$1,160,709	\$1,131,077	\$1,131,252
\$658,879	\$400,000	\$304,573
\$172,493	\$65,260	\$255,173
SPECIAL REVENUE FUNDS		
244.08	-	-
\$1,535	\$1,500	\$639
-	\$500	\$388
\$7,885	\$8,145	\$7,775
-	-	\$55,193
21,000.00	\$27,000	27,000.00
2,000	-	\$23,008
-	\$3,000	-
-	-	-
72,269.73	\$38,813	\$84,671
\$19,460	\$17,500	\$8,155
\$4,195	\$1,000	\$1,321
\$0	\$0	\$0
\$0	\$0	\$12,338
-	-	\$24,500
DEBT SERVICE FUND		
\$869,144	\$858,184	\$859,184
CAPITAL PROJECTS		
\$868,088	\$300,000	\$715,966
\$1,720,745	-	\$863,554
\$802,229	-	-
-	-	175,773.00
\$215,175	\$5,500,000	\$36,967

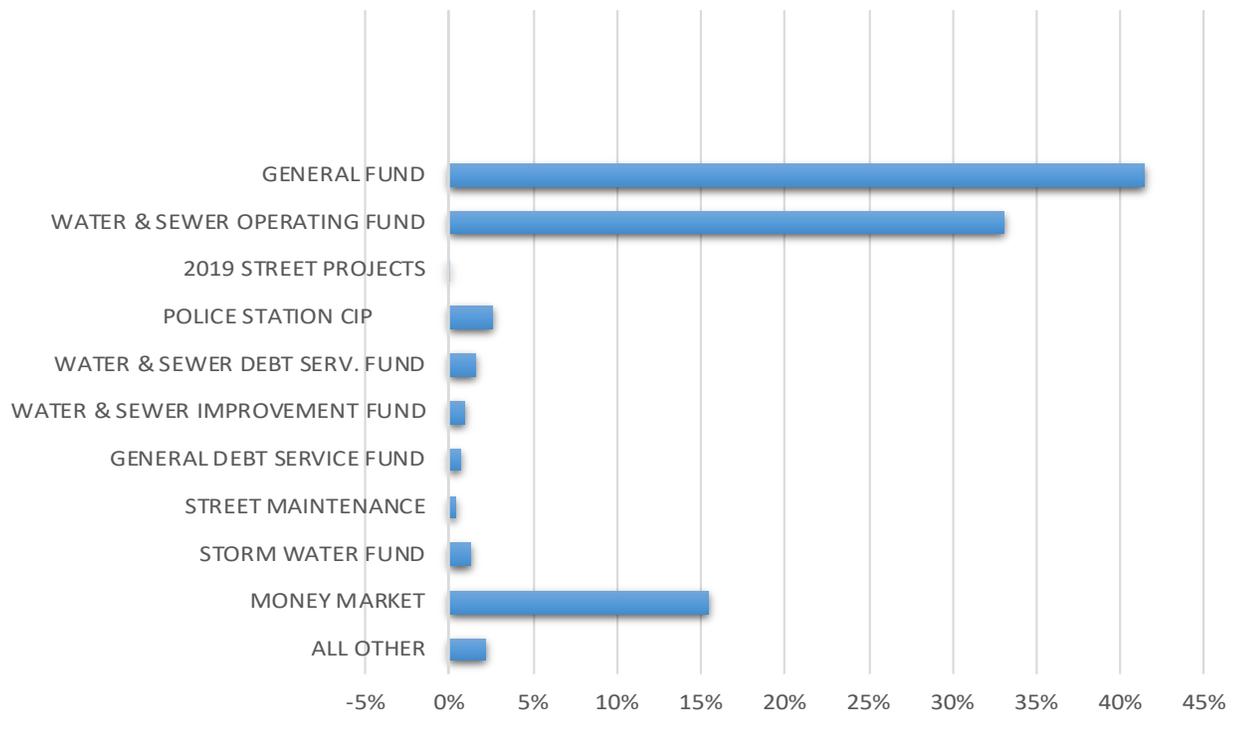
**CITY OF SEAGOVILLE
CASH REPORT
4th QUARTER FY 2022**

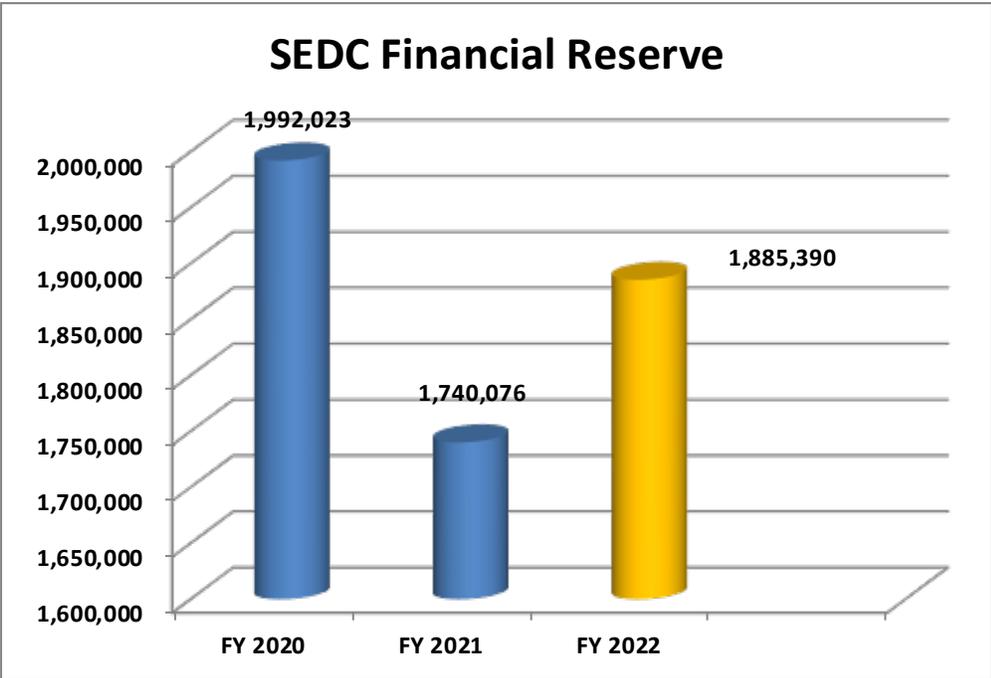
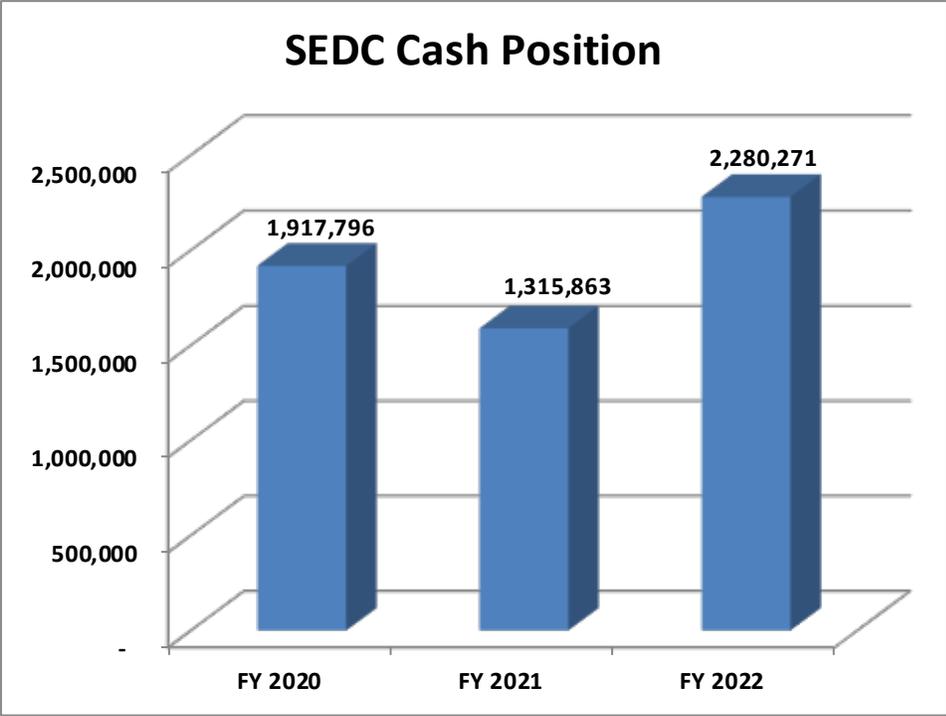
Bank Acct#	Bank Account Name	ACCT BALANCE AS OF JUN 30, 2022	CHANGES	ACCT BALANCE AS OF SEP 30, 2022
4600543237	SMART METER ACCOUNT MONEY MKT	-	-	-
*5157	GENERAL FUND MONEY MARKET ACCT	1,007,567.17	1,560.40	1,009,127.57
*5181	W&S MONEY MARKET ACCT	1,510,153.49	2,338.73	1,512,492.22
800008997	ANB Group Insurance Trust Bank	24.91	0.15	25.06
800000838	ANB PAYROLL FUND	11,526.48	2,409.00	13,935.48
4600130068	ANB ROOF	32,718.13	0.84	32,718.97
4600016705	ANB PEG	111,215.03	6,249.00	117,464.03
800007205	ANB PRIMARY	11,257,962.14	(464,235.67)	10,793,726.47
800013104	ANB ANIMAL SHELTER OPERATIONS	4,499.13	296.76	4,795.89
TOTALS	CASH ACCOUNTS	13,935,666.48	(451,380.79)	13,484,285.69
572915620	TEXSTAR- FY 2015 BONDS	148,512.94	703.40	149,216.34
572920190	TEXSTAR- 2019 BONDS	102,937.54	(64,234.73)	38,702.81
572920210	TEXSTAR- 2021 NEW POLICE STATION	5,159,275.48	(386,149.35)	4,773,126.13
572920211	TEXSTAR- 2021 CLFRF	2,092,643.91	1,927,202.25	4,019,846.16
449/1291300001	TEXPOOL-GENERAL FUND	1,600,993.70	8,196.88	1,609,190.58
449/1291300003	TEXPOOL-WATER AND SEWER	1,355,203.63	6,938.48	1,362,142.11
449/1291300004	TEXPOOL-WATER DEPOSIT FUND	326,000.80	1,669.04	327,669.84
449/1291300006	TEXPOOL-GOVT DEBT SVC	11,784.96	60.28	11,845.24
449/1291300007	TEXPOOL-WATER AND SEWER DEBT SVC	53,907.17	275.96	54,183.13
TOTALS	INVESTMENT ACCOUNTS	10,851,260.13	1,494,662.21	12,345,922.34
GRAND TOTAL		\$ 24,786,926.61	\$ 1,043,281.42	\$ 25,830,208.03

BANK	% OF TOTAL CASH
ANB CASH	42%
ANB MONEY MARKET	10%
TEXSTAR	35%
TEXPOOL	13%



% OF CASH BALANCE



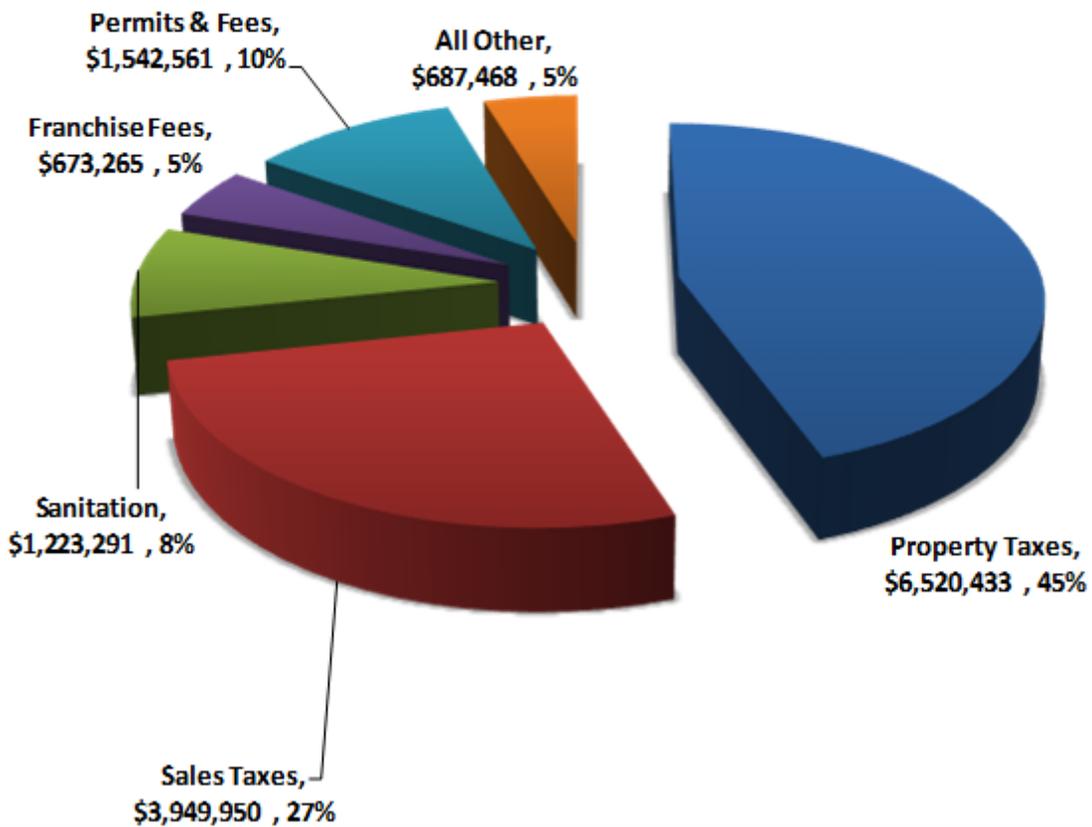




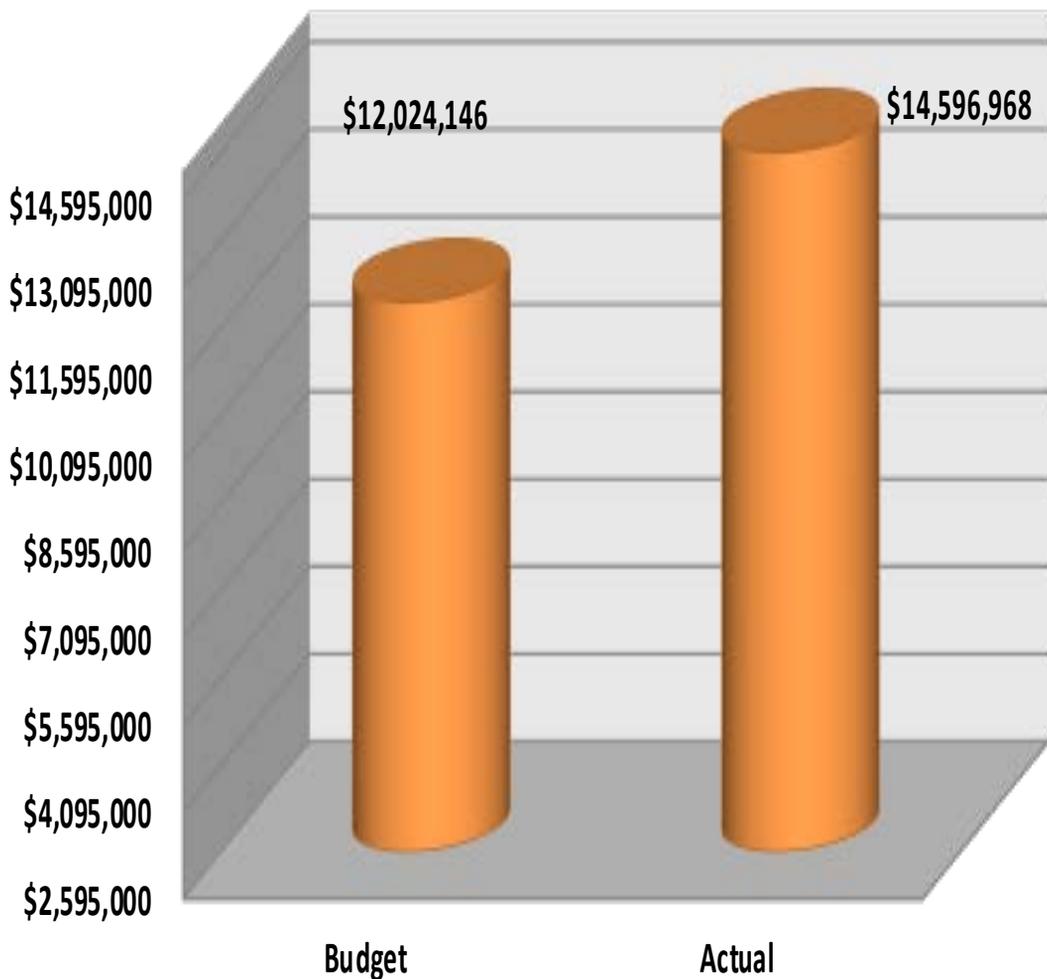
FY 2022 Financials

September 2022

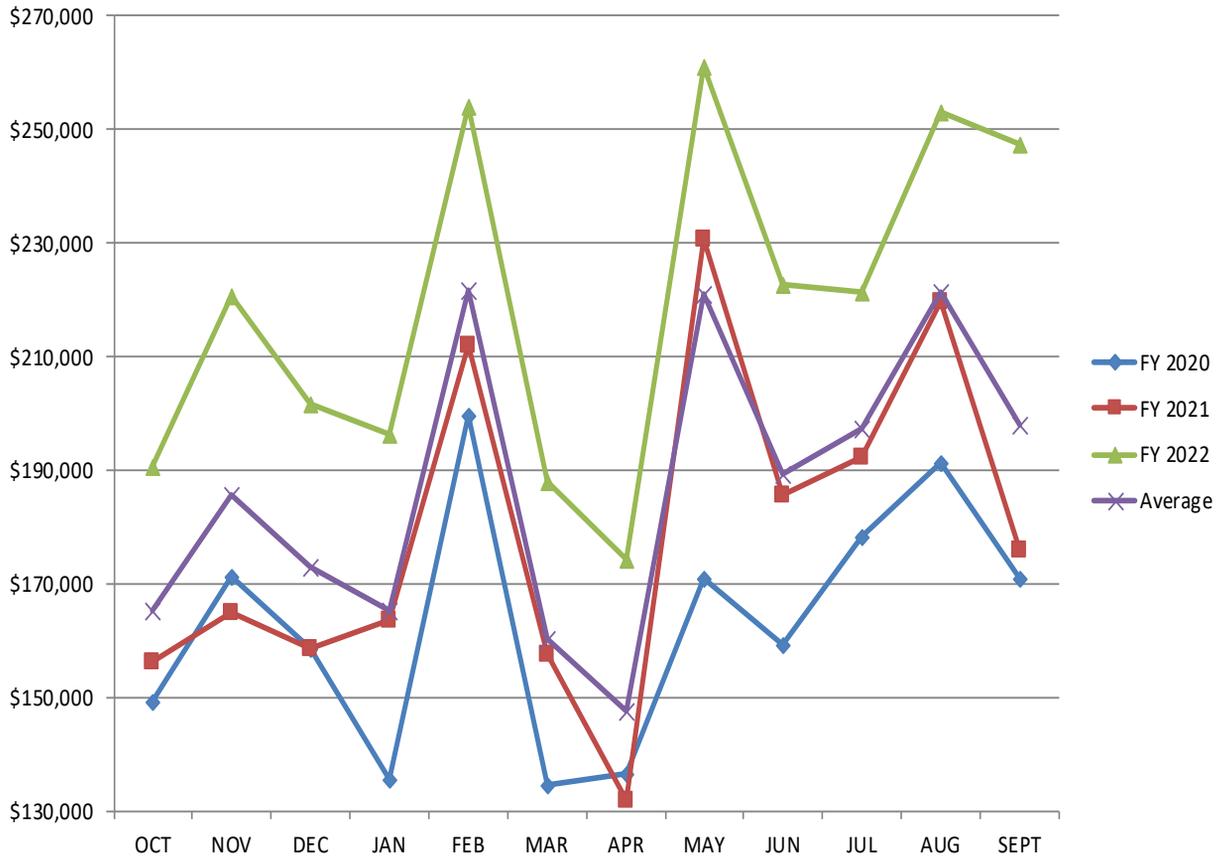
**General Fund Revenues
4th Quarter, FY 2022
Total \$14,596,968**



Year to Date Revenue Comparison General Fund

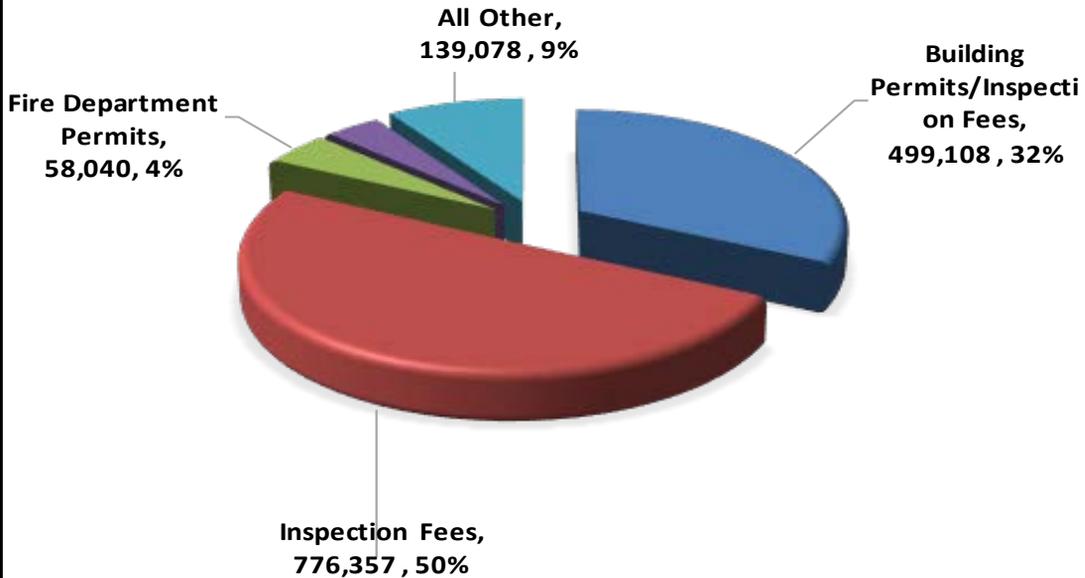


General Fund Sales Tax Comparison



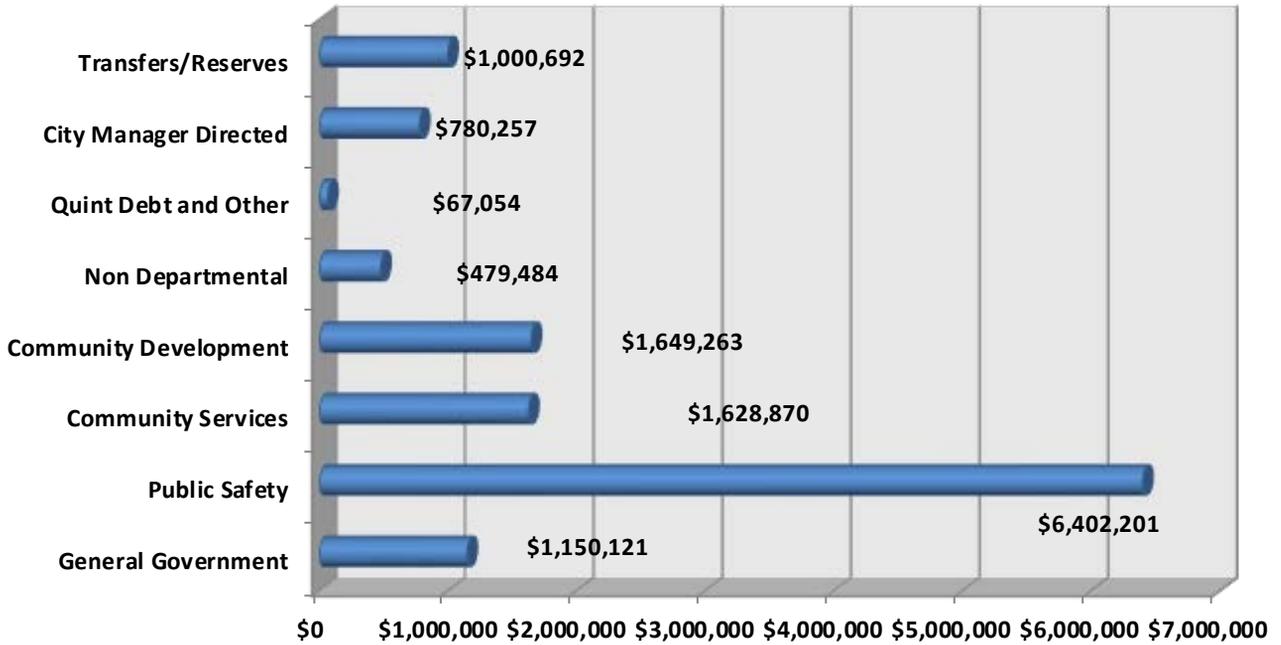
	FY 2020	FY 2021	FY 2022	Three Year Average
OCT	149,232.47	156,466.05	190,825.92	165,508.15
NOV	171,421.83	165,176.32	220,810.91	185,803.02
DEC	158,776.26	158,595.92	201,749.86	173,040.68
JAN	135,551.38	163,822.10	196,537.55	165,303.68
FEB	199,771.70	212,017.52	254,002.15	221,930.45
MAR	134,785.46	157,843.43	188,038.12	160,222.33
APR	136,638.63	132,102.35	174,238.14	147,659.71
MAY	170,986.48	230,658.28	261,175.63	220,940.13
JUNE	159,418.41	185,749.46	222,722.87	189,296.91
JULY	178,499.43	192,486.72	221,516.96	197,501.03
AUG	191,408.19	219,679.89	253,274.98	221,454.35
SEPT	171,196.30	175,919.10	247,555.63	198,223.68

Permits and Fees FY 2022 To Date



Permits and Fees are revenues generated by City oversight of a broad range of community development activities. Total permit and fees increased by \$643,157 for the year and continue to rise as developers continue to build in the City.

**General Fund Expenditures, Transfers and One Time
Fund Balance Outlays
4th Quarter FY 2022
Total \$13,157,943**



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

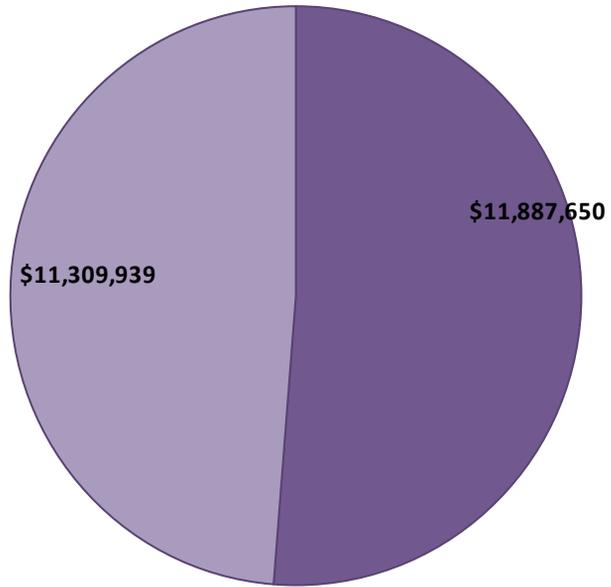
Public Safety

Police, Fire, Ambulance, Support Services, Animal Services

Transfers/Reserves

Transfers for Street Maintenance and Vehicle Replacement

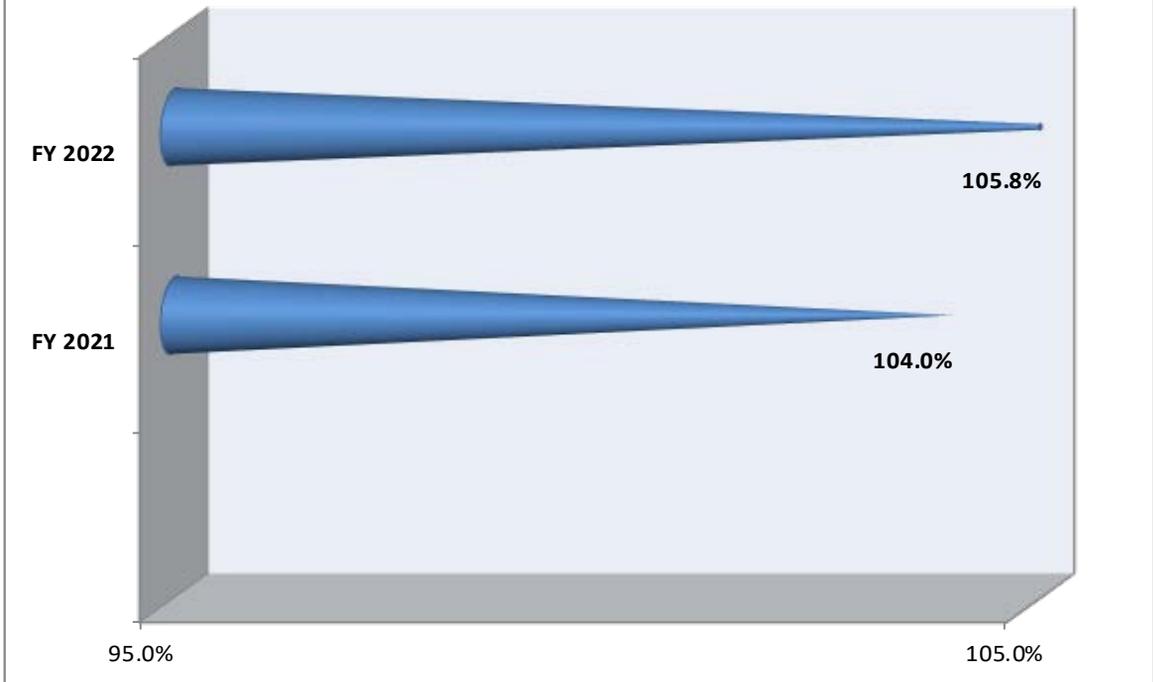
Year to Date Expenditure Comparison General Fund



Budget
\$11,887,650

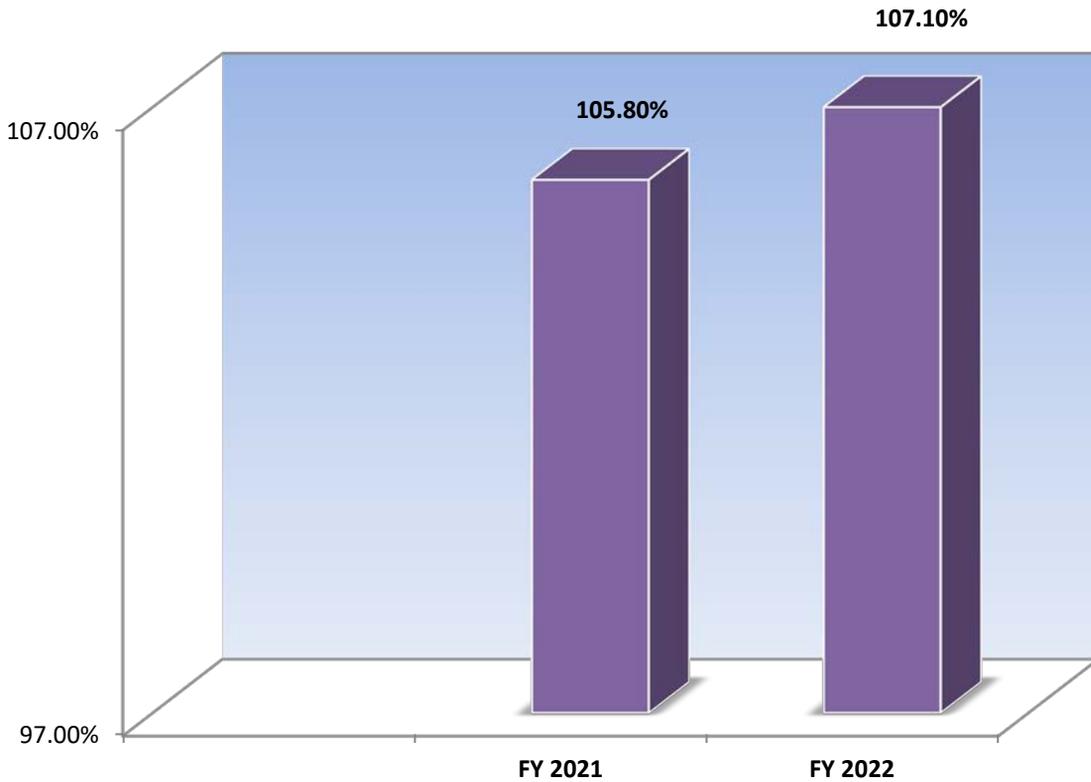
Actual
\$11,309,939

Water Revenue as a % of Budget 100% of the Fiscal Year



The Fiscal Year End water revenue is slightly above budget for the year.

Sewer Revenue as a % of Budget 100% of the Fiscal Year



FY 2022 sewer revenue was slightly above budget expectations.

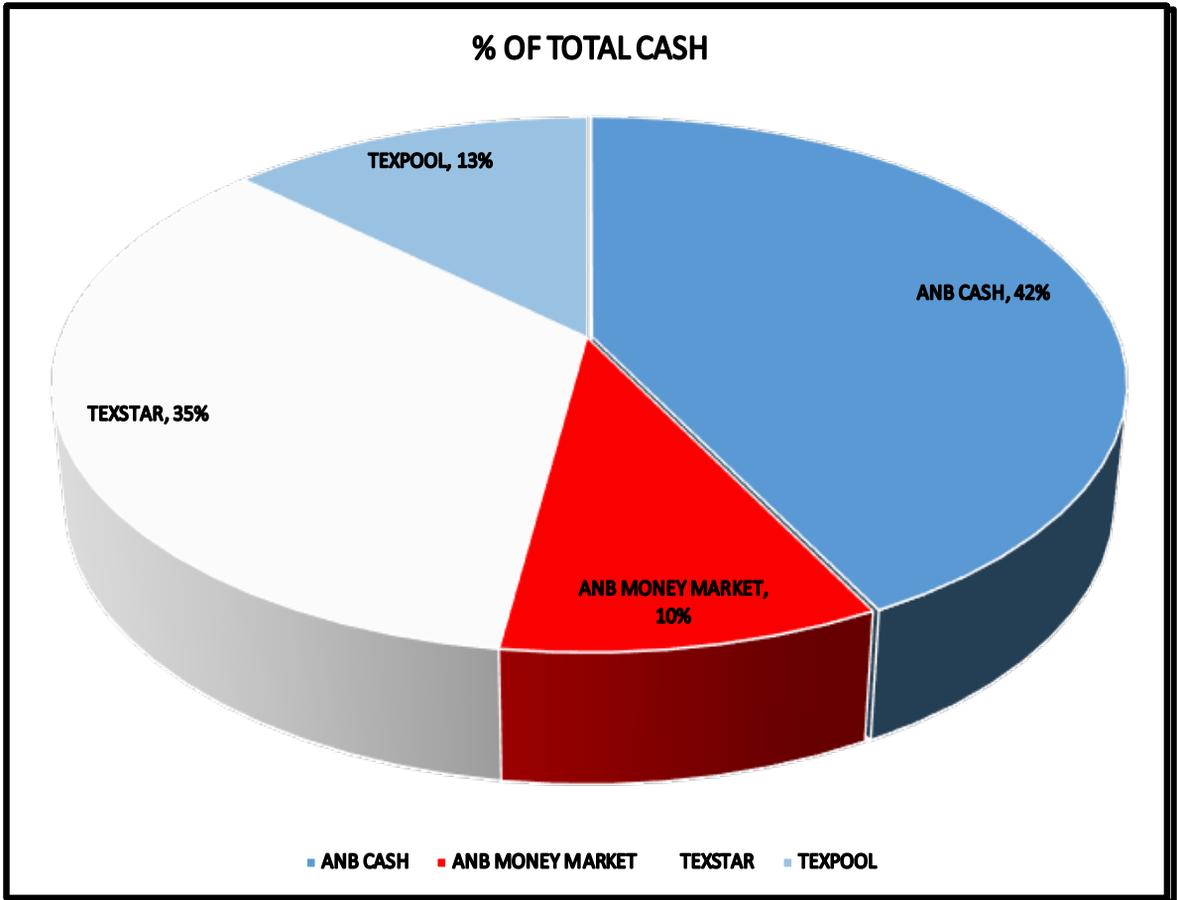
CITY OF SEAGOVILLE

CASH REPORT

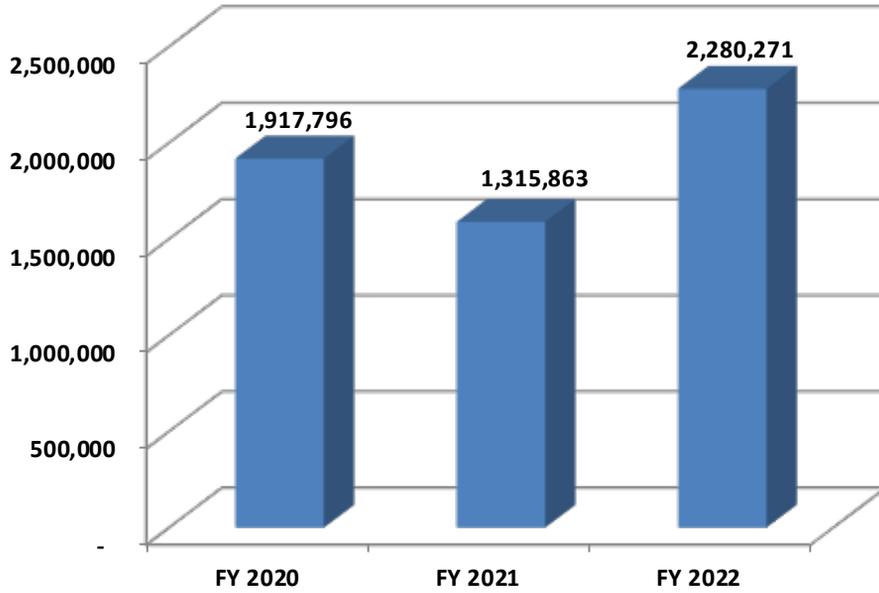
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449/1291300006	TEXPOOL-GOVT DEBT SVC	11,784.96	60.28	11,845.24
449/1291300007	TEXPOOL-WATER AND SEWER DEBT SVC	53,907.17	275.96	54,183.13
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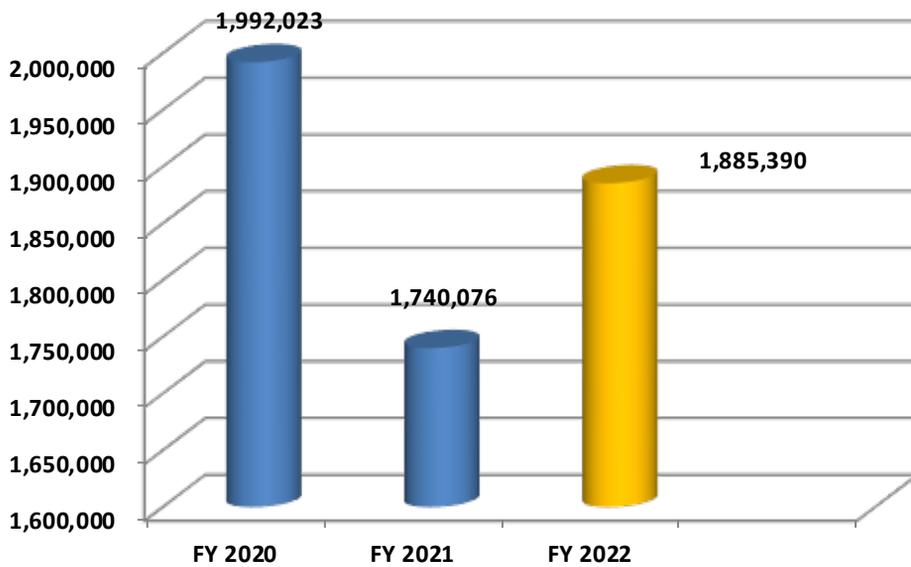
BANK	% OF TOTAL CASH
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ANB MONEY MARKET	10%
TEXSTAR	35%
TEXPOOL	13%



SEDC Cash Position



SEDC Financial Reserve



Regular Session Agenda Item: 4

Meeting Date: November 7, 2022

ITEM DESCRIPTION:

Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas approving Work Order No. 6, in an amount not to exceed Three Hundred Fifty-Six Thousand Four Hundred Fifty-Nine Dollars and Zero Cents (\$356,459.00) for Professional Engineering Services for West Simonds Road, issued under the Master Agreement for Professional Services with Garver, LLC; authorizing the City Manager to execute said Work Order; providing a repealing clause; providing a severability clause; and providing an effective date.

BACKGROUND OF ISSUE:

The City of Seagoville has contracted with Garver LLC, for Professional Engineering Services for the West Simonds Road project, the improvements for roadway design and related services for West Simonds Road from US 175 Frontage Road to Cloverhill Road. City staff has deemed that the reconstruction of West Simonds Road is beyond staff's capability and will need to be completely engineered before reconstruction can take place.

FINANCIAL IMPACT:

\$356,459.00

RECOMMENDATION:

The Public Works Department recommends approval of engineering for West Simonds Road.

EXHIBITS:

Resolution – Approving an agreement for Professional Services on a Task Order Basis
Agreement for Professional Services on a Task Order Basis Authorization #6
Garver Fee Spreadsheet- Attachment B

A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO. ___ - R - 2022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS APPROVING WORK ORDER NO. 6, IN AN AMOUNT NOT TO EXCEED THREE HUNDRED FIFTY-SIX THOUSAND FOUR HUNDRED FIFTY-NINE DOLLARS AND ZERO CENTS (\$356,459.00) FOR PROFESSIONAL ENGINEERING SERVICES FOR WEST SIMONDS ROAD, ISSUED UNDER THE MASTER AGREEMENT FOR PROFESSIONAL SERVICES WITH GARVER, LLC; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID WORK ORDER; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Seagoville and Garver, LLC, (“Garver”) have previously entered into a Master Agreement for Professional Services, executed March 24, 2021, under which Garver provides professional engineering services for the City on a task order basis; and

WHEREAS, Garver has presented Work Order No. 6 under that Master Agreement, covering engineering services for the West Simonds Road project in an amount not to exceed \$356,459.00; and

WHEREAS, the City Council finds that it is in the best interest of the City to approve Work Order No. 6, in an amount not to exceed \$356,459.00 and to authorize the City Manager to execute the same;

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

SECTION 1. The City Council hereby approves Work Order No. 6, attached hereto and incorporated herein by this reference as Exhibit “A”, issued under the City’s Master Agreement for Professional Services with Garver, LLC, for engineering services for Roadway Design for West Simonds Road from US 175 Frontage Road to Cloverhill Road, Project No. 22T46005, in an amount not to exceed three hundred fifty six thousand four hundred fifty nine dollars and zero cents (\$356,459.00); and hereby authorizes the City Manager to execute said Work Order No. 6.

SECTION 2. 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. 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 7th day of November, 2022.

APPROVED:

DENNIS K. CHILDRESS, MAYOR

ATTEST:

KANDI JACKSON, CITY SECRETARY

APPROVED AS TO FORM:

VICTORIA THOMAS, CITY ATTORNEY
(110322vwtTM132193)

EXHIBIT A
[Work Order No. 6 – Garver LLC Roadway Design for W. Simonds Road
From US 175 Frontage Road to Cloverhill Road]



WORK ORDER NO. 6
City of Seagoville
Roadway Design for W. Simonds Road from US 175 Frontage Road to Cloverhill Road
Project No. 22T46005

This WORK ORDER ("Work Order") is made by and between the **City of Seagoville** (hereinafter referred to as "**Owner**") and **Garver, LLC**, (hereinafter referred to as "**Garver**") in accordance with the provisions of the MASTER AGREEMENT FOR PROFESSIONAL SERVICES executed on March 24, 2021 (the "Agreement").

Under this Work Order, the Owner intends to make the following improvements for **W. Simonds Road from US 175 Frontage Road to Cloverhill Road**:

The Owner intends to utilize Garver on W. Simonds roadway reconstruction design, lump sum basis for providing plans to replace the existing asphalt road with a concrete road without curbs (will also include an asphalt alternate bid). The width of the new roadway will match the existing 26-foot wide asphalt road. Design will include concrete pavement up to, but not within, TxDOT right of way near the US 175 intersection. The existing driveways, drainage ditches, driveway culverts, and crossing culverts will not be modified.

Garver will provide professional services related to these improvements as described herein. Terms not defined herein shall have the meaning assigned to them in the Agreement.

SECTION 1 - SCOPE OF SERVICES

Task 1.0 Roadway Design and Construction Plan Development

Garver shall prepare construction plans, details, front end documents, and Opinion of Probable Cost (OPCC) for the following:

The design of W. Simonds Road from US 175 Service Road to Cloverhill Road (Approximately 4,530 linear feet):

The scope of services will include street reconstruction design by replacing the existing asphalt road with a concrete road without curbs. Width will match the existing width of 26-feet. No water or sanitary sewer line replacement, no drainage design, no driveway or driveway culverts replacement, no crossing culvert replacement, nor sidewalk/sidewalk ADA ramps are included in Work Order #6. Garver will refer to the North Central Texas Council of Government (NCTCOG) specifications (latest editions) and the TxDOT Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges for this project.

Garver will perform the following tasks during these reviews:

BASIC SERVICES (Lump Sum)

1. PRELIMINARY DESIGN PHASE (30%) (Roll Plot)
 - a. Show approximate lot line information based on Dallas County Tax records. Will attempt to find as many lot corners along W. Simonds Road as possible to develop existing right of way.
 - b. Provide typical roadway sections.



- c. Prepare plan view only drawing (Roll Plot 1"=40' H) for the concrete roadway (no curbs) matching the existing edge of road limits (26-foot wide). Existing driveways and the approximate right-of-way will also be shown. We will model the vertical and horizontal alignment and develop cross sections. No drainage design included in this scope.
 - d. Conduct QA/QC on plans.
 - e. Attend a schematic design meeting after topographic Surveying has been completed and the 27-foot wide preliminary road alignment has been designed.
2. PRELIMINARY DESIGN PHASE (60%)
- a. Incorporate City's 30% review comments into 60% design and add the following additional sheets.
 - b. Cover Sheet with Location Map and Index Sheet.
 - c. Provide City standard general notes sheet.
 - d. Provide typical roadway sections.
 - e. Provide horizontal and vertical control.
 - f. Provide removal plan sheets.
Prepare plan and profile sheet for the W. Simonds Road showing proposed roadway (11" x 17" - 1"=40' H / 1"=10' V).
 - g. Roadway cross sections on 50-foot intervals, center of all streets and center of any drives.
 - h. Conduct QA/QC on plans.
 - i. Submit three sets of preliminary construction plans (11" x 17" printed) for City staff review and comments.
 - j. Prepare quantities and opinion of probable cost based on 60% preliminary design (to include the cost of an asphalt road and concrete road option).
3. PRELIMINARY DESIGN PHASE (90%).
- a. Incorporate City's 60% review comments into 90% design and add the following additional sheets.
 - b. Revise quantities and prepare summary sheets.
 - c. Prepare Erosion Control Plan (show on Paving P/P sheets) (The Stormwater Pollution Prevention Plan, NOI & NOT will be prepared by the City.)
 - d. TCP-TMUTCD General notes and site-specific constraints. The awarded contractor shall be responsible for providing a full Traffic Control Plan and Phasing plan.
 - e. Signing and Pavement Marking
 - f. Paving details - City Standard Details.
 - g. Roadway cross sections on 50-foot intervals and center of all drives.
 - h. Draft Front end documents (fill in blanks from City Standards).
 - i. Conduct QA/QC on plans.
 - j. Submit three sets of preliminary construction plans (11" x 17" printed) for City staff review and comments.
 - k. Prepare opinion of probable cost based on 90% preliminary design (to include the cost of an asphalt road and concrete road option).
4. FINAL DESIGN PHASE
- a. Incorporate City's 90% review comments into Pre-final design
 - b. Develop final quantities and prepare summary sheets.
 - c. Prepare and provide OPCC per Pre-final design revisions.
 - d. Provide revised front end documents and review the description of each bid item, and prepare any new items, for inclusion into the Special Specifications.
 - e. Submit one set of Pre-final construction plans (11" x 17"), specifications, quantities and opinion of costs to City staff for final review.
 - f. Incorporate City review comments of Pre-final design into Final signed and sealed plans.



- g. Conduct QA/QC on plans.
- h. Prepare and provide final OPCC (to include the cost of an asphalt road and concrete road option).
- i. Submit final signed and sealed plans (11" x 17") and specifications to the City.

5. BIDDING PHASE

- a. Provide paper set of plans (11" x 17") and specifications to the City. Garver will be responsible for making and distributing all necessary PDF copies of bid documents for bidding purposes through www.civcastusa.com.
- b. Attend pre-bid conference meeting.
- c. Provide answers to questions that may arise in pre-bid meeting for City prepared Addendums, if needed.

6. CONSTRUCTION PHASE

- a. Attend the Pre-construction meeting at the City offices. City to provide the agenda outline and conduct the meeting.
- b. Provide responses to requests for information (RFI) or clarification to the City or contractor. This is limited to up to ten (10) submittals (max of two reviews per submittal).
- c. Provide 5 printed set of plans (11" x 17") and 2 sets of plans (22 x 34) and 3 sets of specifications to the City.
- d. Provide As-Builts in the form of one (1) PDF file to the City from marked up plans provided by the City and Contractor.

SPECIAL SERVICES:

- 1. Survey for Design (Lump Sum): Garver proposes to provide survey services for the design of the project.
 - a. All survey services will be based on NAD-83 State Plane Coordinate System – North Central Zone (4202), utilizing the Allterra Virtual Reference System (VRS) RTK Network. Survey shall reference the City of Seagoville Control Network, if applicable.
 - b. Project Control: Secondary Control Points shall be placed generally along project limits at an interval of approximately 500 LF. Control shall be located in stable locations (i.e. concrete, iron rods) located outside future construction areas.
 - c. Research: Basic research to identify recover affected Right-of-Way within project area. Research includes recovering sufficient monumentation to provide approximate limits of existing Right-of-Way.
 - d. Design Survey: Conduct field service necessary to provide the following services:
 - i. Cross sections surveyed minimum every 50 LF with points defining ditches (grade changes, flow-lines, toe of slopes, etc.).
 - ii. Identify all roadway material (concrete or asphalt).
 - iii. Street survey shall extend 20 feet beyond apparent ROW where possible (US Army Reserve property may be excepted due to access restrictions).
 - iv. Describe any wall or landscape edging material (CIP, paverstone, etc.).
 - v. Properties with irrigation will be marked in topo if visible.
 - vi. Sanitary Sewer cleanouts that are visible will be surveyed.
 - vii. Tie driveway joints; call out driveway material (concrete, asphalt, gravel, dirt, etc.)
 - viii. Horizontal and Vertical location (and owner) at ground level shall be provided for all visible utilities, including but not limited to: fire hydrants, valves, meters, manholes, pedestals, vaults, power poles, and light poles. Identify and survey flowline of any pipe drains coming out in the ROW.

Work Order #6

W. Simonds Road from SH 175 Frontage Rd. to Cloverhill Rd

Garver Project No. 22T46005



- ix. Tie three corners (front face) of all mailboxes (provide mailbox material [brick, wooden post, metal post, etc.]), tie three corners of utility box/ped; gas meters. Identify franchise utility marker by owner's name if available.
 - x. Provide rim and flowline/invert elevation and size information of all wastewater, storm, and culvert structures. Provide direction of pipes in manholes. Verify the Manhole Type.
 - xi. Provide rim elevations and top nut measure downs for all valves.
 - xii. Identify sliding fence gates
 - xiii. Trees grater that 4-inches
 - e. Provide Texas811 coordination to obtain subsurface locations of franchise utilities. Garver does not accept responsibility for unresponsiveness by Texas811 or locating utilities not marked by Texas811. Garver will be provide copies of Texas811 response tickets to the City if requested.
 - f. Coordinate with the City of Seagoville to obtain locations of subsurface public utilities (water and sanitary sewer).
 - g. Topographic data of the sanitary sewer lift station located at the south end of project; Survey shall also include approximate boundary (best-fit) of lift station.
 - h. All survey data shall be base mapped to include labeling of features and street names
2. Additional Survey
 - a. This item will only be utilized upon written approval by the City to obtain any additional unforeseen survey that may be needed to complete the design or right of way.
 3. Right of Way/Easement Documents
 - a. Provide up to ten (10) Right Of Way documents and up to ten (10) easement documents.
 4. Geotechnical Services
 - a. Field locates for up to 10 borings (500 foot spacing) approximately 10 feet deep.
 - b. Field Exploration and Laboratory Testing of representative soil samples for 10 borings: Moisture Content, Atterberg Limits, Passing No. 200 sieve, Swell Test, Soluble Sulfate, Lime/pH series, Standard Proctor Test., California Bearing Ratio (CBR).
 - c. Signed and sealed Traffic control plan and two days of traffic control for borings.
 - d. Provide design recommendations for preparation of pavement subgrades and suggested asphalt and concrete pavement sections as per City of Seagoville guidelines, or other applicable standards based on the traffic data. **Data such as growth rate and/or ESALs and roadway classification for the design of pavement sections shall be provided the City of Seagoville.**
 - e. Signed and Sealed geotechnical report.
 5. Traffic Counts
 - a. Obtain TxDOT traffic counts for W. Simonds road from US 175 to Cloverhill Road, not separate traffic counts will be obtained.
 6. **ADDITIONAL SERVICES:** If requested by the City, Garver will provide the following services on an hourly basis:
 - a. Prepare Detailed Traffic Control Plans and Phasing Narrative.
 - b. Drainage design (including driveway culverts, crossing culverts and ditch design).
 - c. TxDOT coordination.
 - d. Developing and submitting a set of additional plans for TxDOT review and approval.
 - e. Franchise Utility coordination
 - f. Sidewalk design and ADA ramp design



- g. Water line design
- h. Sanitary sewer design
- i. Traffic Counts
- j. TDLR review or submission
- k. Subsurface Utility Engineering (SUE)
- l. Resetting disturbed control points for construction
- m. Locating utilities not marked by TEXAS811 or the City
- n. Opening City manholes or water vaults that are bolted shut
- o. Providing survey control or ROW monuments other than iron rods
- p. Detailed construction staking.
- q. Storm sewer or sanitary TV work
- r. Signal design or pull box/ wiring relocation
- s. Landscaping/Irrigation design.
- t. Full time construction observation.
- u. Internal inspection of sanitary sewer lines.
- v. Trench excavation safety plan.
- w. Review of Contractor's monthly and final payment requests and preparation of monthly pay estimates.
- x. Prepare Change Orders or Addendums (unless to correct error on plans)
- y. Structural design
- z. HEC II & Hydraulic Studies
- aa. Public Meetings
- bb. Deed Research
- cc. Environmental investigation
- dd. Title searches, boundary surveys, or property surveys
- ee. Services in connection with condemnation hearings
- ff. On-Site safety
- gg. SWP3 - Review fees, NOI, NOT, & BMP's inspection during construction
- hh. Construction materials testing

CITY'S RESPONSIBILITY:

The CITY will provide information regarding objectives and requirements for the project. CITY to furnish copies of existing plans, plats and property ownership information in concerned areas at no cost to the CONSULTANT.

The CITY will designate a single representative to act in its behalf, with respect to the Project, who shall examine documents submitted by the Garver and, to the extent allowed by law, shall render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of the CONSULTANT'S services. The CITY shall be responsible for the construction administration, materials testing, inspection services required for the project.

- A. All of the City's plat, easement and construction plan files will be made available for use. City will provide copies at no cost. If easement information is not available within the City, the City will obtain that information from Dallas County.
- B. Access to all City manholes and clean-outs, access to all City right-of-way and easements. If manhole lids are bolted down the Garver's survey sub-consultant will contact the City's Utility Operation Department and schedule a time when they can meet with the Surveyor and remove the manhole lid.
- C. If public meetings are necessary, the City will take the steps required to notify the residents.
- D. Design manuals.

Work Order #6

W. Simonds Road from SH 175 Frontage Rd. to Cloverhill Rd

Garver Project No. 22T46005



- E. City standard General Notes.
- F. Obtain Right of Entry (ROE) from property owners for surveying on private property.
- G. Current standard construction details.
- H. Mark location of water and sanitary sewer locations prior to topographic survey.
- I. Franchise Utility coordination
- J. TxDOT coordination
- K. Construction materials testing.

SECTION 2 – PAYMENT

For the work described under SECTION 1 – SCOPE OF SERVICES, the Owner will pay GARVER as follows:

The table below presents a summary of the anticipated fee amounts and fee types per each Task for this Work Order.

WORK DESCRIPTION – BASIC SERVICES	FEE AMOUNT	FEE TYPE
Preliminary Design (30%)	\$41,455.00	LUMP SUM
Preliminary Design (60%)	\$58,835.00	LUMP SUM
Preliminary Design (90%)	\$47,354.00	LUMP SUM
Final Design	\$34,326.00	LUMP SUM
Bidding Services	\$12,986.00	LUMP SUM
Construction Phase Services	\$16,444.00	LUMP SUM
TOTAL BASIC SERVICES	\$211,400.00	LUMP SUM

WORK DESCRIPTION – SPECIAL SERVICES	FEE AMOUNT	FEE TYPE
Survey	\$46,806.00	LUMP SUM
Additional Survey	\$4,400.00	HOURLY NTE
Right of Way Documents (10 @ \$2,750.00)	\$27,500.00	NOT TO EXCEED
Easement Documents (10 @ \$2,750.00)	\$27,500.00	NOT TO EXCEED
Geotechnical Services	\$34,728.00	LUMP SUM
Reimbursables	\$4,125.00	NOT TO EXCEED
TOTAL SPECIAL SERVICES	\$145,059.00	VARIED

TOTAL FEE	\$356,459.00	VARIED
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The Owner represents that funding sources are in place with the available funds necessary to pay GARVER.

Work Order #6
W. Simonds Road from SH 175 Frontage Rd. to Cloverhill Rd

Garver Project No. 22T46005



The Owner will pay Garver for Services rendered for each Task listed above plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel. The total amount paid to Garver under this Work Order is not to exceed **\$356,459.00**.

Expenses other than salary costs that are directly attributable to performance of our Services will be billed as follows:

1. Direct cost for travel, long distance and wireless communications, outside reproduction and presentation material preparation, and mail/courier expenses.
2. Charges similar to commercial rates for reports, plan sheets, presentation materials, etc.

The Owner will pay GARVER, for time spent on the project, at the Lump Sum cost listed above except for "Additional Survey" which will be Hourly Not-To-Exceed and Right of Way and Easement document which will be paid per each document as listed above.

The Owner will pay GARVER on a monthly basis, based upon statements submitted by GARVER to the Owner for the scope of services described in this agreement. Payments not received within 60 days of invoice date will be subject to a one percent monthly simple interest charge.

Additional Services (Extra Work). For work not described or included in Section 1 – Scope of Services but requested by the Owner in writing, the Owner will pay GARVER, based upon a written scope and fee for each new task as approved by the Owner, plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel.

SECTION 3 – SCHEDULE

Typical review schedule will be adhered as follows, unless otherwise agreed upon with the Notice to Proceed:

1. Topographic Survey – 35 working days.
2. Preliminary Plans (30%) – 40 working days.
3. Preliminary Plans (60%) – 60 working days.
4. Preliminary Plans (90%) – 25 working days.
5. 100% Design Check Set – 10 working days
6. Signe/Sealed Plans and specifications – 15 working days
*City Review time will add additional time to the overall schedule and is not included in the working days listed above.

This Work Order may be executed in two (2) or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.



The effective date of this Work Order shall be the last date written below.

CITY OF SEAGOVILLE

GARVER, LLC

By: _____
Signature

By: _____
Signature

Name: _____
Printed Name

Name: Scott Forbes, PE
Printed Name

Title: _____
Date: _____

Title: Sr. Project Manager
Date: _____

Attest: _____

Attest: _____

**W. Simonds Road from SH 175 Frontage Road to Cloverhill Road
STREET RECONSTRUCTION (Pre-Design OPCC) (Concrete)**

10/19/2022

ITEM	DESCRIPTION	UNIT	BID QTY	UNIT COST	TOTAL COST
GENERAL					
1	Mobilization, Bonds, and Insurance	LS	1	\$ 110,703.01	\$ 110,703.01
2	Videotape Project Area	LS	1	\$ 5,000.00	\$ 5,000.00
3	Message Boards	MO	9	\$ 5,200.00	\$ 46,800.00
4	Flaggers Using Automated Flagging Assistance Devices	MO	9	\$ 5,000.00	\$ 45,000.00
5	Implementation of Storm Water Pollution Prevention Plan	LS	1	\$ 41,514.91	\$ 41,514.91
				SUBTOTAL	\$ 249,018.00
PAVING					
6	0	0	0	\$ -	\$ -
7	0	0	0	\$ -	\$ -
8	0	0	0	\$ -	\$ -
9	0	0	0	\$ -	\$ -
10	0	0	0	\$ -	\$ -
11	0	0	0	\$ -	\$ -
12	Backfill along edge (1-foot)	LF	9,960	\$ 1.00	\$ 9,960.00
13	Unclassified Excavation for conc road sec (Assumed (9 in cut for pavm't)	CY	3,735	\$ 24.00	\$ 89,640.00
14	9-in Thick 4,000 PSI Reinf. Conc. Street Pavement	SY	14,940	\$ 110.00	\$ 1,643,400.00
15	6" Lime Treated Stabilized Subgrade (conc Rd) (Hydrated Slurry)	SY	16,047	\$ 10.00	\$ 160,466.67
16	Hydrated Lime (6%) (27 lb/sy)	TON	217	\$ 220.00	\$ 47,658.60
17	Sediment Control Fence (Install, Maintain, and Remove)	LF	9,960	\$ 4.00	\$ 39,840.00
18	Rock Berm (Install, Maintain, and Remove)	LF	362	\$ 50.00	\$ 18,120.00
19	Pvmt Mrking TY 1 (W) 24" (SLD) (Include Prep and Sealer)	LF	60	\$ 15.00	\$ 900.00
20	Pvmt Mrking TY 1 (Y) 4" (SLD) (Include Prep and Sealer)	LF	9,960	\$ 3.00	\$ 29,880.00
21	Pvmt Mrking TY 1 (W) 4" (SLD) (Include Prep and Sealer)	LF	9,960	\$ 3.00	\$ 29,880.00
				SUBTOTAL	\$ 2,069,745.27
OTHER					
22	Adjust Existing Sanitary Sewer Manhole Frame and Cover to Prop Grade	EA	2	\$ 3,000.00	\$ 6,000.00
23	Construction Contingency to be Used at the Discretion of The City of Seagoville	LS	1	\$ -	\$ -
				SUBTOTAL	\$ 6,000.00

Subtotal	\$ 2,324,763.27
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Contingency (25%)	\$ 581,190.82
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Grand Total	\$ 2,905,954.08
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Regular Session Agenda Item: 5

Meeting Date: November 7, 2022

ITEM DESCRIPTION:

Discuss and consider approving a Resolution of the City of Seagoville, Texas, approving an Agreement for Professional Engineering Services on a defined scope of services basis with Halff Associates, Inc. for assistance with the implementation of City's Storm Water Management Plan for Fiscal Year 2023 in an amount not to exceed Sixty Six Thousand Dollars and Zero Cents (\$66,000.00); authorizing the City Manager to execute said agreement; providing a repealing clause; providing a severability clause; and providing an effective date.

BACKGROUND OF ISSUE:

The City of Seagoville has contracted with HALFF Associates, Inc., for its Storm Water Maintenance Plan and various other water and wastewater engineering issues. The services of a full-time engineer are not feasible at this point; however, staff finds it necessary many times throughout the year to consult with various professionals to ensure the best possible service for our community is provided. Approval of this Agenda Item will ensure that staff will have the ability to consult with extremely competent engineering professionals in the area of Stormwater to ensure that we make the best possible decisions for our residents, businesses, and visitors to our community.

FINANCIAL IMPACT:

Approved FY2023 Budget \$66,000.00 for Storm Water Management.

RECOMMENDATION:

Public Works Department recommends approval for assistance with the Stormwater Management Plan.

EXHIBITS:

Resolution – Approving Agreement for Professional Services on a Task Order Basis for Assistance with the City's Storm Water Management Plan

Agreement for Professional Services on a Task Order Basis for Assistance with the City's Storm Water Management Plan

THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO. ____ - R - 2022

A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS, APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES ON A DEFINED SCOPE OF SERVICES BASIS WITH HALFF ASSOCIATES, INC. FOR ASSISTANCE WITH THE IMPLEMENTATION OF CITY'S STORM WATER MANAGEMENT PLAN FOR FISCAL YEAR 2023 IN AN AMOUNT NOT TO EXCEED SIXTY SIX THOUSAND DOLLARS AND ZERO CENTS (\$66,000.00); AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City is in need of professional engineering assistance with implementation of its Storm Water Management Plan for fiscal year 2023; and

WHEREAS, Halff Associates, Inc. ("Halff") has provided a proposal for professional engineering services on a defined scope of services basis covering the needed engineering services; and

WHEREAS, the City Council for the City of Seagoville, Texas finds it to be in the best interest of the City to approve the proposed Agreement for Professional Services on a Defined Scope of Services Basis with Halff for compensation not to exceed Sixty-Six Thousand Dollars and no cents (\$66,000.00),

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

Section 1. The City Council hereby approves the Agreement for Professional Engineering Services on a Defined Scope of Services Basis with Halff Associates, Inc. for professional engineering assistance with implementation of the City's Storm Water Management Plan for Fiscal Year 2023 as set forth in Exhibit "1", including its exhibits "A" and "B", all of which are attached hereto and incorporated herein by this reference, for compensation in an amount not to exceed Sixty-Six Thousand Dollars and no cents (\$66,00.00) and hereby authorizes the City Manager to execute said Agreement.

Section 2. 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. 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. 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 7th day of November 7, 2021.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria Thomas, City Attorney
(110322vwtTM132194)

EXHIBIT 1
[Agreement for Professional Engineering Services on a Defined Scope Basis
With Halff Associates, Inc. – FY 2023 SWMP Implementation]

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES ON
A DEFINED SCOPE OF SERVICES BASIS**

This Agreement for Professional Engineering Services ("Agreement") is entered into by the City of Seagoville a Home Rule City of the State of Texas ("Client"), duly authorized to act by the City Council of said Client, and HALFF ASSOCIATES, INC., a Texas corporation, acting through a duly authorized officer ("Engineer"), relative to Engineer providing professional engineering services to Client. Client and Engineer may be collectively referred to as the "Parties" or individually as a "Party".

WITNESSETH:

For the mutual promises and benefits herein described, Client and Engineer agree as follows:

I. TERM OF AGREEMENT. This Agreement shall become effective on the date of its execution by both Parties and shall continue in effect thereafter until terminated as provided herein.

II. SERVICES TO BE PERFORMED BY ENGINEER. Engineer shall provide to Client basic engineering services as described in the Scope of Services attachment and fully incorporated herein as "**Exhibit A**" which services may include, but will not be limited to, those services normally rendered by an engineer to a Home Rule City. Engineer shall perform its obligations under this Agreement as an independent contractor and not as an agent or fiduciary of any other party.

III. COMPENSATION. Client agrees to pay monthly invoices or their undisputed portions within thirty (30) calendar days of receipt. Payment later than thirty (30) calendar days shall include interest at one percent (1%) per month or lesser maximum enforceable interest rate, from the date Client received the invoice until the date Engineer receives payment. Such interest is due and payable when the overdue payment is made.

It is understood and agreed by the Parties that Engineer's receipt of payment(s) from Client is not contingent upon Client's receipt of payment, funding, reimbursement, or any other remuneration from others.

Time-related charges will be billed as specified in this Agreement. Unless stated otherwise in this Agreement, direct expenses, subcontracted services, and direct costs will be billed at actual cost plus a service charge of ten percent (10%). Mileage will be billed at current IRS rates.

IV. CLIENT'S OBLIGATIONS. Client agrees that it will (i) designate a specific person to act as Client's representative, (ii) provide Engineer with any previous studies, reports, data, budget constraints, special Client requirements, or other pertinent information known to Client, when necessitated by a project, (iii) provide site access, and to provide those services described in the attached Scope of Services, assist Engineer in obtaining access to property necessary for performance of Engineer's work for Client, (iv) make prompt payments in response to Engineer's statements and (v) respond in a timely manner to requests from Engineer. Engineer is entitled to rely upon and use, without independent verification and without liability, all information and services provided by Client or Client's representatives.

V. TERMINATION OF WORK. Either Client or Engineer may terminate this Agreement at any time with or without cause upon giving the other Party ten (10) calendar days' prior written notice. Client agrees that termination of Engineer for Client's convenience shall only be utilized in good faith and shall not be utilized if either the purpose or the result of such termination is the performance of all or part of Engineer's services under this Agreement by Client or by another service provider. Following Engineer's receipt of such termination notice Client shall, within ten (10) calendar days of Client's receipt of Engineer's final invoice, pay Engineer for all services rendered and all costs incurred up to the date of Engineer's receipt of such notice of termination.

VI. OWNERSHIP OF DOCUMENTS. Upon Engineer's completion of services and receipt of payment in full, Engineer shall grant to Client a non-exclusive license to possess the final drawings and instruments produced in connection with Engineer's performance of the work under this Agreement, if any. Said drawings and instruments may be copied, duplicated, reproduced, and used by Client for the purpose of constructing, operating, and maintaining the improvements. Client agrees that such documents are not intended or represented to be suitable for reuse by Client or others for purposes outside the Scope of Services of this Agreement. Notwithstanding the foregoing, Client

understands and agrees that any and all computer programs, GIS applications, proprietary data or processes, and certain other items related to the services performable under this Agreement are and shall remain the sole and exclusive property of Engineer and may not be used or reused, in any form, by Client without the express written authorization of Engineer. Client agrees that any reuse by Client, or by those who obtain said information from or through Client, without written verification or adaptation by Engineer, will be at Client's sole risk and without liability or legal exposure to Engineer or to Engineer's employees, agents, representatives, officers, directors, affiliates, shareholders, owners, members, managers, attorneys, subsidiary entities, advisors, subconsultants or independent contractors or associates. Engineer may reuse all drawings, reports, data, and other information developed in performing the services described by this Agreement in Engineer's other activities. Under no circumstances shall delivery of electronic files for use by Client be deemed a sale by Engineer, and Engineer makes no warranties, either express or implied, of merchantability or fitness for any particular purpose. In no event shall Engineer be liable for any damages, including but not limited to indirect or consequential damages, as a result of Client's unauthorized use or reuse of the electronic files. Client is aware that differences may exist between the electronic files delivered and the printed hard-copy original documents. In the event of a conflict between the signed original documents prepared by Engineer and any electronic or other files or data provided, it is understood and agreed that the original signed or sealed hard-copy documents shall govern.

VII. NOTICES. Any notices to be given hereunder by either Party to the other may be affected either by personal delivery, in writing, or by registered or certified mail.

VIII. SOLE PARTIES AND ENTIRE AGREEMENT. This Agreement shall not create any rights or benefits to anyone except Client and Engineer and contains the entire Agreement between the Parties. Oral modifications to this Agreement shall have no force or effect.

IX. INSURANCE. Engineer shall, at its own expense, purchase, maintain and keep in force throughout the duration of this Agreement and for a period of four (4) years thereafter, professional liability insurance. The limits of liability shall be \$2,000,000 per claim and in the aggregate. Engineer shall submit to Client a certificate of insurance prior to commencing any work for Client.

X. PROMPT PERFORMANCE BY ENGINEER. All services provided by Engineer hereunder shall be performed in accordance with the degree of care and skill ordinarily exercised under similar circumstances by competent members of the engineering profession in the State of **Texas** applicable to such engineering services contemplated by this Agreement.

XI. CLIENT OBJECTION TO PERSONNEL. If at any time after entering into this Agreement Client has any reasonable objection to any of Engineer's personnel, or any personnel, professionals and/or consultants retained by Engineer, Engineer shall promptly propose substitutes to whom Client has no reasonable objection, and Engineer's compensation shall be equitably adjusted to reflect any difference in Engineer's costs occasioned by such substitution.

XII. ASSIGNMENT AND DELEGATION. Neither Client nor Engineer may assign their rights or delegate their duties without the written consent of the other Party. This Agreement is binding on Client and Engineer to the fullest extent permitted by law. Nothing herein is to be construed as creating any personal liability on the part of any Client officer, employee or agent.

XIII. JURISDICTION AND VENUE. This Agreement shall be administered under the substantive laws of the State of **Texas** (and not its conflicts of law principles) which shall be used to govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation, its validity, interpretation, construction, performance and enforcement. Exclusive venue shall lie in any court of competent jurisdiction in **Dallas County, Texas**.

XIV. INTEGRATION, MERGER AND SEVERABILITY. This Agreement and the Scope of Services, including fee and schedule are fully incorporated herein and represent the entire understanding of Client and Engineer. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The Agreement may not be modified or altered except in writing signed by both Parties. This Agreement constitutes, represents and is intended by the Parties to be the complete and final statement and expression of all the terms and arrangements between the Parties to this Agreement with respect to the matters provided for in this Agreement. This Agreement supersedes any and all prior or contemporaneous agreements, understandings, negotiations, and discussions between the Parties and all such matters are merged into this Agreement. Should any one or more of the provisions

contained in this Agreement be determined by a court of competent jurisdiction or by legislative pronouncement to be void, invalid, illegal, or unenforceable in any respect, such voiding, invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be considered as if the entirety of such void, invalid, illegal, or unenforceable provision had never been contained in this Agreement.

XV. EXCLUSIVITY OF REMEDIES. The Parties acknowledge and agree that the remedies set forth in this Agreement (Agreed Remedies) are and shall remain the Parties' sole and exclusive remedy with respect to any claim arising from, or out of, or related to, the subject matter of this Agreement. The Parties agree that Engineer is to have no liability or responsibility whatsoever to Client for any claim(s) or loss(es) of any nature, except as set forth in this Agreement. No Party shall be able to avoid the limitations expressly set forth in this Agreement by electing to pursue some other remedy.

XVI. TIMELINESS OF PERFORMANCE. Engineer shall perform its professional services with due and reasonable diligence consistent with sound professional practices.

XVII. DISPUTE RESOLUTION. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to schedule a series of no less than two (2) meetings of senior personnel of Client and Engineer in which the disagreement or conflict will be discussed. The first of such meetings will be scheduled as soon as possible following identification of such disagreement or conflict and the second meeting must occur within thirty (30) calendar days following the initial meeting. Subsequent meetings, if any, may be scheduled upon mutual agreement of the Parties. The Parties agree that these two (2) meetings are conditions precedent to the institution of legal proceedings unless such meetings will adversely affect the rights of one or more of the Parties as such rights relate to statutes of limitation or repose.

XVIII. PROJECT ENHANCEMENT/BETTERMENT. IF A COMPONENT OF CLIENT'S PROJECT IS OMITTED FROM ENGINEER'S CONTRACT DOCUMENTS DUE TO THE BREACH OF CONTRACT OR NEGLIGENCE OF ENGINEER, ENGINEER WILL NOT BE LIABLE TO CLIENT TO THE EXTENT OF ANY BETTERMENT OR ADDED VALUE TO THE PROJECT. SPECIFICALLY, CLIENT WILL BE RESPONSIBLE FOR THE AMOUNT IT WOULD HAVE PAID TO THE CONSTRUCTION CONTRACTOR (OR SUPPLIER OR SUBCONTRACTOR OR OTHER) FOR THE COMPONENT AS IF SUCH HAD BEEN INCLUDED IN ENGINEER'S CONTRACT DOCUMENTS. NOTWITHSTANDING THE FOREGOING, ENGINEER WILL BE RESPONSIBLE, IF AT ALL, TO THE EXTENT REASONABLE AND NECESSARY TO PLACE CLIENT IN THE SAME POSITION IT WOULD HAVE BEEN BUT FOR SUCH BREACH OR NEGLIGENCE, FOR THE REASONABLE (I) RETROFIT EXPENSE, (II) WASTE, OR (III) INTERVENING INCREASE IN THE COST OF THE COMPONENT FURNISHED THROUGH A CHANGE ORDER FROM THE CONTRACTOR. TO THE EXTENT THAT THE CONTRACTOR PROVIDED UNIT PRICING, CLIENT UNDERSTANDS AND AGREES THAT THE ISSUE OF INTERVENING UNIT COST INCREASES WOULD ONLY BE APPLICABLE TO NEWLY IDENTIFIED ITEMS, NOT INCREASES IN QUANTITY OF EXISTING ITEMS.

IF IT IS NECESSARY TO REPLACE A COMPONENT OF THE PROJECT DUE TO THE BREACH OF CONTRACT OR NEGLIGENCE OF ENGINEER, ENGINEER WILL NOT BE LIABLE TO CLIENT FOR THE ENHANCEMENT OR UPGRADE OF THE COMPONENT BEYOND THAT ORIGINALLY INCLUDED IN THE CONTRACT DOCUMENTS. IN ADDITION, IF THE COMPONENT HAS AN IDENTIFIABLE USEFUL LIFE THAT IS LESS THAN THE SYSTEM/STRUCTURE/IMPROVEMENT ITSELF, THE DAMAGES OF THE OWNER SHALL BE REDUCED TO THE EXTENT THAT THE USEFUL LIFE OF THE COMPONENT WILL BE EXTENDED BY THE REPLACEMENT THEREOF.

SHOULD THERE BE AN ALLEGATION OF ERROR, NEGLIGENCE, BREACH OR OTHER DEFICIENCY IN THE SERVICES OF ENGINEER OR ANY OF ITS CONSULTANTS, AND SHOULD SUCH ALLEGATION RELATE TO A CONDITION, COMPONENT, OR ITEM IN THE SERVICES OR THE PROJECT THAT IS ALLEGED OR OTHERWISE CLAIMED TO BE INACCURATE OR OMITTED FROM ENGINEER'S DRAWINGS, INSTRUMENTS OR OTHER DOCUMENTS PREPARED UNDER THIS AGREEMENT, IT IS UNDERSTOOD AND AGREED BY ALL PARTIES THAT ENGINEER AND ITS CONSULTANT'S LIABILITY, IF ANY, SHALL EXCLUDE ANY AND ALL DAMAGES, COSTS, OR EXPENSES THAT CREATE OR RESULT IN ADDED VALUE, UPGRADE, BETTERMENT OR ENHANCEMENT OF THE PROJECT AS SUCH RELATE TO THE INACCURATE OR OMITTED CONDITION, COMPONENT, OR ITEM AS ORIGINALLY DESIGNED.

XIX. AGREED REMEDIES

A. IT IS THE INTENT OF THE PARTIES TO THIS AGREEMENT THAT ENGINEER'S SERVICES UNDER THIS AGREEMENT SHALL NOT SUBJECT ENGINEER'S INDIVIDUAL EMPLOYEES, OFFICERS OR DIRECTORS TO ANY PERSONAL LEGAL EXPOSURE FOR CLAIMS AND RISKS ASSOCIATED WITH THE SERVICES THAT ARE EITHER PERFORMED OR PERFORMABLE UNDER THIS AGREEMENT.

B. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH CLIENT AND ENGINEER AND ACKNOWLEDGING THAT THE ALLOCATION OF RISKS AND LIMITATIONS OF REMEDIES ARE BUSINESS UNDERSTANDINGS BETWEEN THE PARTIES AND THESE RISKS AND REMEDIES SHALL APPLY TO ALL POSSIBLE LEGAL THEORIES OF RECOVERY, CLIENT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT OR ANY REFERENCE TO INSURANCE OR THE EXISTENCE OF APPLICABLE INSURANCE COVERAGE, THAT THE TOTAL LIABILITY, IN THE AGGREGATE, OF ENGINEER AND ENGINEER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS TO CLIENT OR TO ANYONE CLAIMING BY, THROUGH OR UNDER CLIENT, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO, THE SERVICES UNDER THIS AGREEMENT FROM ANY CAUSE OR CAUSES OF ENGINEER OR ENGINEER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS, SHALL NOT EXCEED ENGINEER'S FEE RECEIVED FOR THE SERVICES PERFORMED, ADJUSTED DOWNWARD TO ACCOUNT FOR SUBCONSULTANT/SUBCONTRACTOR FEES INCURRED AND REIMBURSABLE EXPENSES UNDER THIS AGREEMENT OR \$50,000, WHICHEVER IS LOWER. INCREASED LIMITS MAY BE NEGOTIATED FOR AN ADDITIONAL FEE.

C. NOTWITHSTANDING ANY OTHER PROVISION OF THE AGREEMENT, ENGINEER SHALL HAVE NO LIABILITY TO CLIENT FOR CONTINGENT, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, REVENUE OR PROFIT; OPERATING COSTS AND FACILITY DOWNTIME; OR OTHER SIMILAR BUSINESS INTERRUPTION LOSSES, HOWEVER, THE SAME MAY BE CAUSED.

D. CLIENT MAY NOT ASSERT ANY CLAIM AGAINST ENGINEER AFTER THE SHORTER OF (1) THREE (3) YEARS FROM SUBSTANTIAL COMPLETION OF SERVICES GIVING RISE TO THE CLAIM, OR (2) THE STATUTE OF LIMITATION PROVIDED BY LAW.

E. IT IS UNDERSTOOD AND AGREED BY BOTH PARTIES TO THIS AGREEMENT THAT THE FIRST TEN DOLLARS (\$10.00) OF REMUNERATION PAID TO ENGINEER UNDER THIS AGREEMENT SHALL BE IN CONSIDERATION FOR INDEMNITY/INDEMNIFICATION PROVIDED FOR IN THIS AGREEMENT.

XX. WAIVER. Any failure by Engineer to require strict compliance with any provision of this Agreement shall not be construed as a waiver of such provision, and Engineer may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.

XXI. SIGNATORIES. Client and Engineer mutually warrant and represent that the representation of each who is executing this Agreement on behalf of Client or Engineer, respectively, has full authority to execute this Agreement and bind the entity so represented.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties, having read and understood this Agreement, have executed such in duplicate copies, each of which shall have full dignity and force as an original, on the ____ day of _____, 20__.

HALFF ASSOCIATES, INC.

CLIENT: CITY OF SEAGOVILLE, Texas

By: 
Signature
Timothy E. Lackey
Printed Name
Vice President
Title
10/31/2022
Date

By: _____
Signature

Printed Name

Title

Date

EXHIBIT A
City of Seagoville, Texas
Task Order Authorization Agreement
For
Professional Engineering Services with Halff Associates, Inc.
Task Order Authorization No. 1
FY 2023 Seagoville SWMP Implementation Assistance
 October 31, 2022

The City of Seagoville has requested that Halff assist the City with implementation of its Storm Water Management Plan (SWMP) to meet the requirements of the small Municipal Separate Storm Sewer System (MS4) permit. Halff Associates will perform the following proposed services under the terms and conditions described in the **Agreement for Professional Engineering Services on a Task Order Basis (Agreement)**, dated _____, between Halff Associates and the City of Seagoville.

<p>Scope of Work:</p>	<p>Provide <u>general engineering consultation to the City of Seagoville in FY 2023 at the City's request for Stormwater Permit, MS4 compliance, and other Stormwater related matters.</u></p> <p><u>Typical Efforts may include:</u></p> <ol style="list-style-type: none"> 1. Council Presentation - Provide an update of Seagoville's stormwater management plan to City Council. 2. Staff Meetings – Lead meetings with City staff to review SWMP implementation requirements and schedule, BMP goals, responsibilities, and progress. Review and provide feedback for activities in progress. 3. Provide ongoing support and guidance throughout the year outside of regularly scheduled meetings. 4. Assist in development of public education and outreach materials 5. MS4 Map Updates <ul style="list-style-type: none"> - Compile relevant storm pipe system data from existing records. - Update MS4 Map in GIS and provide hard copy maps. 6. MCM 2, Illicit Discharge Detection <ul style="list-style-type: none"> - Provide assistance in dry-weather screening (BMP 2.7) 7. Prepare Annual Report. This report will document stormwater management activities conducted during the permit term
<p>Deliverables:</p>	<p><u>Typical Deliverables may include:</u></p> <ol style="list-style-type: none"> 1. Updated MS4 Map 2. Illicit Discharge Detection Documents 3. Annual Report

EXHIBIT A
City of Seagoville, Texas
Task Order Authorization Agreement
For
Professional Engineering Services with Halff Associates, Inc.

Items Furnished by City:	<u>Typical Items may include:</u> 1. Records, logs, documentation of stormwater activities performed.
Schedule:	As Needed
Fees:	This Task will be billed on a time and materials basis in accordance with the Agreement. The proposed budget for these services is as follows: Work Order #1 Total: \$ 66,000.00

Submitted:
HALFF ASSOCIATES, INC.

Approved:
CITY OF SEAGOVILLE, TEXAS

By: 
 Signature

By: _____
 Signature

Timothy E Lackey, PE
 Printed Name

Patrick Stallings
 Printed Name

Vice President
 Title

City Manager
 Title

October 31, 2022
 Date

 Date

EXHIBIT B

Labor Rate Schedule

Labor Category	Level	Billing Rate Range
Architect	I	100.00
	II	175.00
	III	183.00
	IV	223.00
	V	341.00
Engineer	I	122.00
	II	171.00
	III	203.00
	IV	258.00
	V	350.00
Scientist	I	100.00
	II	137.00
	III	178.00
	IV	223.00
	V	350.00
Landscape/ Planner	I	90.00
	II	130.00
	III	150.00
	IV	208.00
	V	350.00
Surveyor	I	108.00
	II	107.00
	III	142.00
	IV	208.00
	V	293.00
Field Tech	I	76.00
	II	94.00
	III	116.00
	IV	138.00
	V	200.00
Office Tech	I	74.00
	II	94.00
	III	118.00
	IV	207.00
	V	297.00
Administrative	I	78.00
	II	89.00
	III	350.00
	IV	153.00
	V	350.00
Specialist	I	103.00
	II	135.00
	III	182.00
	IV	224.00
	V	350.00
Intern		87.00

Regular Session Agenda Item: 6

Meeting Date: November 7, 2022

ITEM DESCRIPTION:

Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving an Agreement for Professional Engineering Services on a Task Order Basis with Halff Associates, Inc. and Task Order No. 1 issued thereunder for General Engineering Consulting Services for Fiscal Year 2023 in a total amount not to exceed Sixty Thousand Dollars (\$60,000); authorizing the City Manager to execute said agreement and Task Order No. 1; providing a repealing clause; providing a severability clause; and providing an effective date.

BACKGROUND OF ISSUE:

The City of Seagoville has contracted with HALFF Associates, Inc., for on-call consultation services and various other water and wastewater engineering issues. The services of a full-time engineer are not feasible at this point; however, staff finds it necessary many times throughout the year to consult with various professionals to ensure the best possible service for our community is provided. Approval of this agenda item will ensure that staff will have the ability to consult with extremely competent engineering professionals in the area of water and wastewater services to ensure that we make the best possible decisions for our residents, businesses, and visitors to our community.

FINANCIAL IMPACT:

Approved FY2023 Budget for professional services on a task order basis.

RECOMMENDATION:

Public Works Department recommends approval of professional engineering services for On-Call Consultation Services related to Water and Wastewater Engineering Services.

EXHIBITS:

Resolution – Approving an agreement for Professional Services on a Task Order Basis
Agreement for Professional Services on a Task Order Basis Authorization #1

A RESOLUTION OF THE CITY OF SEGOVILLE, TEXAS

RESOLUTION NO. ___ - R - 2022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEGOVILLE, TEXAS, APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES ON A TASK ORDER BASIS WITH HALFF ASSOCIATES, INC. AND TASK ORDER NO. 1 ISSUED THEREUNDER FOR GENERAL ENGINEERING CONSULTING SERVICES FOR FISCAL YEAR 2023 IN A TOTAL AMOUNT NOT TO EXCEED SIXTY THOUSAND DOLLARS (\$60,000); AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT AND TASK ORDER NO. 1; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has a need for general on-call engineering consultation services for fiscal year 2023; and

WHEREAS, Halff Associates, Inc. (“Halff”) has agreed to provide said on-call consultation services on an as needed basis; and

WHEREAS, the City Council finds that it is in the best interest of the City to approve an agreement for Professional Engineering Services on a Task Order Basis for on-call consultation services for fiscal year 2023 with Halff in an amount not to exceed Sixty Thousand Dollars and no cents (\$60,000), and authorizes the City Manager to execute the same;

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

SECTION 1. The City Council hereby approves the Agreement for Professional Engineering Services on a Task Order Basis with Halff Associates, Inc., attached hereto as Exhibit “1” including Task Order No. 1, attached thereto as its Exhibit A, for general engineering consultation services for the City’s fiscal year 2023 in an amount not to exceed Sixty Thousand and no/100 (\$60,000.00) Dollars; and hereby authorizes the City Manager to execute said Agreement and Task Order No. 1.

SECTION 2. 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. 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. 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 7^h day of November, 2022.

APPROVED:

DENNIS K. CHILDRESS, MAYOR

ATTEST:

KANDI JACKSON, CITY SECRETARY

APPROVED AS TO FORM:

VICTORIA THOMAS, CITY ATTORNEY
(110322vwtTM132198)

EXHIBIT "A"
**[PSA Halff Associates and Work Order No. 1 for General Engineering
Consulting Oncall Services FY 2023]**

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES ON A
TASK ORDER BASIS**

This Agreement for Professional Engineering Services ("Agreement") is entered into by the City of Seagoville a Home Rule City of the State of Texas ("Client"), duly authorized to act by the City Council of said Client, and HALFF ASSOCIATES, INC., a Texas corporation, acting through a duly authorized officer ("Engineer"), relative to Engineer providing professional engineering services to Client. Client and Engineer may be collectively referred to as the "Parties" or individually as a "Party".

WITNESSETH:

For the mutual promises and benefits herein described, Client and Engineer agree as follows:

I. TERM OF AGREEMENT. This Agreement shall become effective on the date of its execution by both Parties and shall continue in effect thereafter until terminated as provided herein.

II. SERVICES TO BE PERFORMED BY ENGINEER. Engineer shall provide to Client basic engineering services on an "as needed" or "task order" basis as determined by Client which services may include, but will not be limited to, those services normally rendered by an engineer to a similar client. It is anticipated that such services may include, but not be limited to, planning, surveying, project design, project development, and consultation regarding general engineering issues, review of documentation, GIS services, database services, and defined construction phase services to assist Client, as determined by Client. Engineer, upon specific written request by Client, will prepare a detailed fee schedule for Client's review and approval. Should Client request, Engineer may agree to assist Client in developing and preparing a Scope(s) of Services responsive to a particular Task Order. Such Task Orders shall be bound by and interpreted by the terms of this Agreement. Task Orders shall be numbered sequentially. Task Orders will be individual stand-alone proposals and when executed by both Parties shall incorporate the terms of this Agreement such that this Agreement shall be amended. Engineer shall perform its obligations under this Agreement as an independent contractor and not as an agent or fiduciary of any other party.

III. COMPENSATION. Client agrees that Engineer shall be paid for any services requested by Client at the hourly rates reflected on Exhibit A, attached hereto, plus reasonable and necessary reimbursable expenses (Direct Costs) incurred by Engineer in the performance of the requested services. Direct costs shall include, but are not limited to, long distance telephone, postage, equipment, expendables, mileage, subcontractors or special consultants, freight, testing fees, copies, and blueprints. See Exhibit B for the current Unit Pricing Schedule for direct costs. Direct Costs shall be billed at 1.1 times actual costs. If additional services, trips, or expenses are requested, Engineer will not provide such additional services until authorized by Client in writing to proceed.

Engineer agrees to submit monthly statements to Client for basic professional engineering services. These statements will be based upon Engineer's actual services performed and reimbursable expenses incurred, if any, and Client shall endeavor to make prompt payments. Each monthly invoice submitted by Engineer to Client shall be reasonably itemized to show the amount of work performed during that month broken down by the identity of the person(s) performing such work, the amount of time expended by such person(s) in performing that work, the billing rate for each such person, and a brief summary of the work performed by each such person. If Client fails to pay Engineer within thirty (30) calendar days of the receipt of Engineer's invoice, Engineer may, after giving ten (10) calendar days' written notice to Client, suspend professional engineering services until payment is received. Client agrees that Engineer shall be entitled to interest on accounts that are greater than forty-five (45) calendar days and such interest shall be reimbursed to Engineer at a rate of one percent (1%) per month. The assessment of interest on accounts receivable shall not preclude Engineer from suspending services as described above.

IV. CLIENT'S OBLIGATIONS. Client agrees that it will (i) designate a specific person to act as Client's representative, (ii) provide Engineer with any previous studies, reports, data, budget constraints, special Client requirements, or other pertinent information known to Client, when necessitated by a project, (iii) assist Engineer in obtaining access to property necessary for performance of Engineer's work for Client, (iv) make prompt payments in response to Engineer's statements, and (v) respond in a timely fashion to requests from Engineer. Engineer is entitled to rely upon and use, without independent verification and without liability, all information and services provided by Client or Client's representatives.

V. TERMINATION OF WORK. Either Client or Engineer may terminate this Agreement at any time with or without cause upon giving the other Party ten (10) calendar days' prior written notice. Client agrees that termination of Engineer for Client's convenience shall only be utilized in good faith and shall not be utilized if either the purpose or the result of such termination is the performance of all or part of Engineer's services under this Agreement by Client or by another service provider. Following Engineer's receipt of such termination notice Client shall, within ten (10) calendar days of Client's receipt of Engineer's final invoice, pay Engineer for all services rendered and all costs incurred up to the date of Engineer's receipt of such notice of termination.

VI. OWNERSHIP OF DOCUMENTS. Upon Engineer's completion of services and receipt of payment in full, Engineer shall grant to Client a non-exclusive license to possess the final drawings and instruments produced in connection with Engineer's performance of the work under this Agreement, if any. Said drawings and instruments may be copied, duplicated, reproduced, and used by Client for the purpose of constructing, operating, and maintaining the improvements. Client agrees that such documents are not intended or represented to be suitable for reuse by Client or others for purposes outside the Scope of Services of this Agreement. Notwithstanding the foregoing, Client understands and agrees that any and all computer programs, GIS applications, proprietary data or processes, and certain other items related to the services performable under this Agreement are and shall remain the sole and exclusive property of Engineer and may not be used or reused, in any form, by Client without the express written authorization of Engineer. Client agrees that any reuse by Client, or by those who obtain said information from or through Client, without written verification or adaptation by Engineer, will be at Client's sole risk and without liability or legal exposure to Engineer or to Engineer's employees, agents, representatives, officers, directors, affiliates, shareholders, owners, members, managers, attorneys, subsidiary entities, advisors, subconsultants or independent contractors or associates. Engineer may reuse all drawings, reports, data, and other information developed in performing the services described by this Agreement in Engineer's other activities. Under no circumstances shall delivery of electronic files for use by Client be deemed a sale by Engineer, and Engineer makes no warranties, either express or implied, of merchantability or fitness for any particular purpose. In no event shall Engineer be liable for any damages, including but not limited to indirect or consequential damages, as a result of Client's unauthorized use or reuse of the electronic files. Client is aware that differences may exist between the electronic files delivered and the printed hard-copy original documents. In the event of a conflict between the signed original documents prepared by Engineer and any electronic or other files or data provided, it is understood and agreed that the original signed or sealed hard-copy documents shall govern.

VII. NOTICES. Any notices to be given hereunder by either Party to the other may be affected either by personal delivery, in writing, or by registered or certified mail.

VIII. SOLE PARTIES AND ENTIRE AGREEMENT. This Agreement shall not create any rights or benefits to anyone except Client and Engineer and contains the entire Agreement between the Parties. Oral modifications to this Agreement shall have no force or effect.

IX. INSURANCE. Engineer shall, at its own expense, purchase, maintain and keep in force throughout the duration of this Agreement and for a period of four (4) years thereafter, professional liability insurance. The limits of liability shall be \$2,000,000 per claim and in the aggregate. Engineer shall submit to Client a certificate of insurance prior to commencing work for Client.

X. PROMPT PERFORMANCE BY ENGINEER. All services provided by Engineer hereunder shall be performed in accordance with the degree of care and skill ordinarily exercised under similar circumstances by competent members of the engineering profession in the **Texas** applicable to such engineering services contemplated by this Agreement.

XI. CLIENT OBJECTION TO PERSONNEL. If at any time after entering into this Agreement Client has any reasonable objection to any of Engineer's personnel, or any personnel, professionals and/or consultants retained by Engineer, Engineer shall promptly propose substitutes to whom Client has no reasonable objection, and Engineer's compensation shall be equitably adjusted to reflect any difference in Engineer's costs occasioned by such substitution.

XII. ASSIGNMENT. This Agreement is binding on the heirs, successors, and assigns of the Parties hereto. Neither this Agreement, nor any claims, rights, obligations, suits, or duties associated hereto, shall be assigned or assignable by either Client or Engineer without the prior written consent of the other Party. Further, nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Engineer and

Client and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of Engineer and Client and not for the benefit of any other party (no third party beneficiaries).

XIII. JURISDICTION AND VENUE. This Agreement shall be administered under the substantive laws of the State of Texas (and not its conflicts of law principles) which shall be used to govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation, its validity, interpretation, construction, performance, and enforcement. Exclusive venue shall lie in any court of competent jurisdiction in **Dallas County, Texas**.

XIV. INTEGRATION, MERGER AND SEVERABILITY. This Agreement and the authorized Task Orders are fully incorporated herein and represent the entire understanding of Client and Engineer. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The Agreement may not be modified or altered except in writing signed by both Parties. This Agreement constitutes, represents, and is intended by the Parties to be the complete and final statement and expression of all the terms and arrangements between the Parties to this Agreement with respect to the matters provided for in this Agreement. This Agreement supersedes any and all prior or contemporaneous agreements, understandings, negotiations, and discussions between the Parties and all such matters are merged into this Agreement. Should any one or more of the provisions contained in this Agreement be determined by a court of competent jurisdiction or by legislative pronouncement to be void, invalid, illegal, or unenforceable in any respect, such voiding, invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be considered as if the entirety of such void, invalid, illegal, or unenforceable provision had never been contained in this Agreement.

XV. EXCLUSIVITY OF REMEDIES. The Parties acknowledge and agree that the remedies set forth in this Agreement (Agreed Remedies) are and shall remain the Parties' sole and exclusive remedy with respect to any claim arising from, or out of, or related to, the subject matter of this Agreement. The Parties agree that Engineer is to have no liability or responsibility whatsoever to Client for any claim(s) or loss(es) of any nature, except as set forth in this Agreement. No Party shall be able to avoid the limitations expressly set forth in this Agreement by electing to pursue some other remedy.

XVI. TIMELINESS OF PERFORMANCE. Engineer shall perform its professional services with due and reasonable diligence consistent with sound professional practices.

XVII. DISPUTE RESOLUTION. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to schedule a series of no less than two (2) meetings of senior personnel of Client and Engineer in which the disagreement or conflict will be discussed. The first of such meetings will be scheduled as soon as possible following identification of such disagreement or conflict and the second meeting must occur within thirty (30) calendar days following the initial meeting. Subsequent meetings if any may be scheduled upon mutual agreement of the Parties. The Parties agree that these two (2) meetings are conditions precedent to the institution of legal proceedings unless such meetings will adversely affect the rights of one or more of the Parties as such rights relate to statutes of limitation or repose.

XVIII. PROJECT ENHANCEMENT/BETTERMENT. IF A COMPONENT OF CLIENT'S PROJECT IS OMITTED FROM ENGINEER'S CONTRACT DOCUMENTS DUE TO THE BREACH OF CONTRACT OR NEGLIGENCE OF ENGINEER, ENGINEER WILL NOT BE LIABLE TO CLIENT TO THE EXTENT OF ANY BETTERMENT OR ADDED VALUE TO THE PROJECT. SPECIFICALLY, CLIENT WILL BE RESPONSIBLE FOR THE AMOUNT IT WOULD HAVE PAID TO THE CONSTRUCTION CONTRACTOR (OR SUPPLIER OR SUBCONTRACTOR OR OTHER) FOR THE COMPONENT AS IF SUCH HAD BEEN INCLUDED IN ENGINEER'S CONTRACT DOCUMENTS. NOTWITHSTANDING THE FOREGOING, ENGINEER WILL BE RESPONSIBLE, IF AT ALL, TO THE EXTENT REASONABLE AND NECESSARY TO PLACE CLIENT IN THE SAME POSITION IT WOULD HAVE BEEN BUT FOR SUCH BREACH OR NEGLIGENCE, FOR THE REASONABLE (I) RETROFIT EXPENSE, (II) WASTE, OR (III) INTERVENING INCREASE IN THE COST OF THE COMPONENT FURNISHED THROUGH A CHANGE ORDER FROM THE CONTRACTOR. TO THE EXTENT THAT THE CONTRACTOR PROVIDED UNIT PRICING, CLIENT UNDERSTANDS AND AGREES THAT THE ISSUE OF INTERVENING UNIT COST INCREASES WOULD ONLY BE APPLICABLE TO NEWLY IDENTIFIED ITEMS, NOT INCREASES IN QUANTITY OF EXISTING ITEMS.

IF IT IS NECESSARY TO REPLACE A COMPONENT OF THE PROJECT DUE TO THE BREACH OF CONTRACT OR NEGLIGENCE OF ENGINEER, ENGINEER WILL NOT BE LIABLE TO CLIENT FOR THE ENHANCEMENT OR UPGRADE OF THE COMPONENT BEYOND THAT ORIGINALLY INCLUDED IN THE CONTRACT DOCUMENTS. IN

ADDITION, IF THE COMPONENT HAS AN IDENTIFIABLE USEFUL LIFE THAT IS LESS THAN THE SYSTEM/STRUCTURE/IMPROVEMENT ITSELF, THE DAMAGES OF THE OWNER SHALL BE REDUCED TO THE EXTENT THAT THE USEFUL LIFE OF THE COMPONENT WILL BE EXTENDED BY THE REPLACEMENT THEREOF.

SHOULD THERE BE AN ALLEGATION OF ERROR, NEGLIGENCE, BREACH OR OTHER DEFICIENCY IN THE SERVICES OF ENGINEER OR ANY OF ITS CONSULTANTS, AND SHOULD SUCH ALLEGATION RELATE TO A CONDITION, COMPONENT, OR ITEM, IN THE SERVICES OR THE PROJECT THAT IS ALLEGED OR OTHERWISE CLAIMED TO BE INACCURATE OR OMITTED FROM ENGINEER'S DRAWINGS, INSTRUMENTS OR OTHER DOCUMENTS PREPARED UNDER THIS AGREEMENT, IT IS UNDERSTOOD AND AGREED BY ALL PARTIES THAT ENGINEER AND ITS CONSULTANT'S LIABILITY, IF ANY, SHALL EXCLUDE ANY AND ALL DAMAGES, COSTS, OR EXPENSES THAT CREATE OR RESULT IN ADDED VALUE, UPGRADE, BETTERMENT OR ENHANCEMENT OF THE PROJECT AS SUCH RELATE TO THE INACCURATE OR OMITTED CONDITION, COMPONENT, OR ITEM AS ORIGINALLY DESIGNED.

XIX. AGREED REMEDIES

A. IT IS THE INTENT OF THE PARTIES TO THIS AGREEMENT THAT ENGINEER'S SERVICES UNDER THIS AGREEMENT SHALL NOT SUBJECT ENGINEER'S INDIVIDUAL EMPLOYEES, OFFICERS OR DIRECTORS TO ANY PERSONAL LEGAL EXPOSURE FOR CLAIMS AND RISKS ASSOCIATED WITH THE SERVICES THAT ARE EITHER PERFORMED OR PERFORMABLE UNDER THIS AGREEMENT.

B. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH CLIENT AND ENGINEER AND ACKNOWLEDGING THAT THE ALLOCATION OF RISKS AND LIMITATIONS OF REMEDIES ARE BUSINESS UNDERSTANDINGS BETWEEN THE PARTIES AND THESE RISKS AND REMEDIES SHALL APPLY TO ALL POSSIBLE LEGAL THEORIES OF RECOVERY, CLIENT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT OR ANY REFERENCE TO INSURANCE OR THE EXISTENCE OF APPLICABLE INSURANCE COVERAGE, THAT THE TOTAL LIABILITY, IN THE AGGREGATE, OF ENGINEER AND ENGINEER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS TO CLIENT OR TO ANYONE CLAIMING BY, THROUGH OR UNDER CLIENT, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO, THE SERVICES UNDER THIS AGREEMENT FROM ANY CAUSE OR CAUSES OF ENGINEER OR ENGINEER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS, SHALL NOT EXCEED ENGINEER'S FEE RECEIVED FOR THE SERVICES PERFORMED, ADJUSTED DOWNWARD TO ACCOUNT FOR SUBCONSULTANT/SUBCONTRACTOR FEES INCURRED AND REIMBURSABLE EXPENSES, UNDER THIS AGREEMENT OR \$50,000, WHICHEVER IS LOWER. INCREASED LIMITS MAY BE NEGOTIATED FOR ADDITIONAL FEE.

C. NOTWITHSTANDING ANY OTHER PROVISION OF THE AGREEMENT, ENGINEER SHALL HAVE NO LIABILITY TO CLIENT FOR CONTINGENT, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, REVENUE OR PROFIT; OPERATING COSTS AND FACILITY DOWNTIME; OR OTHER SIMILAR BUSINESS INTERRUPTION LOSSES, HOWEVER, THE SAME MAY BE CAUSED.

D. CLIENT MAY NOT ASSERT ANY CLAIM AGAINST ENGINEER AFTER THE SHORTER OF (1) THREE (3) YEARS FROM SUBSTANTIAL COMPLETION OF SERVICES GIVING RISE TO THE CLAIM, OR (2) THE STATUTE OF LIMITATION PROVIDED BY LAW.

E. IT IS UNDERSTOOD AND AGREED BY BOTH PARTIES TO THIS AGREEMENT THAT THE FIRST TEN DOLLARS (\$10.00) OF REMUNERATION PAID TO ENGINEER UNDER THIS AGREEMENT SHALL BE IN CONSIDERATION FOR INDEMNITY/INDEMNIFICATION PROVIDED FOR IN THIS AGREEMENT.

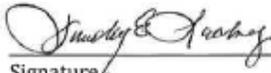
XX. WAIVER. Any failure by Engineer to require strict compliance with any provision of this Agreement shall not be construed as a waiver of such provision, and Engineer may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.

XXI. SIGNATORIES. Client and Engineer mutually warrant and represent that the representation of each who is executing this Agreement on behalf of Client or Engineer, respectively, has full authority to execute this Agreement and bind the entity so represented.

IN WITNESS WHEREOF, the Parties, having read and understood this Agreement, have executed such in duplicate copies, each of which shall have full dignity and force as an original, on the ____ day of _____, 20__.

HALFF ASSOCIATES, INC.

CLIENT: CITY OF SEAGOVILLE, TEXAS

By: 
Signature

Timothy E Lackey _____
Printed Name

Vice President _____
Title

10/31/2023
Date

By: _____
Signature

Printed Name

Title

Date

EXHIBIT A
City of Seagoville, Texas
Task Order Authorization Agreement
For
Professional Engineering Services with Halff Associates, Inc.

Task Order Authorization No. 1
General Engineering Consultation
October 31, 2022

The City of Seagoville has requested Halff's assistance on needs that may arise throughout the course of the year regarding engineering matters, or other services that Halff can provide. Halff Associates will provide on-call consultation services under the terms and conditions described in the **Agreement for Professional Engineering Services on a Task Order Basis (Agreement)**, dated _____, between Halff Associates and the City of Seagoville.

Scope of Work:	Provide general engineering consultation to Seagoville in FY 2023 at City's request. The period covers October 1, 2022 to September 30, 2023.
Items Furnished by Seagoville:	As Requested
Schedule:	As Needed
Fees:	This Task will be billed on a time and materials basis in accordance with the Agreement. The proposed budget for these services is as follows: Task Order #1 Total: \$ 60,000

Submitted:
HALFF ASSOCIATES, INC.

Approved:
CITY OF SEAGOVILLE, TEXAS

By:  _____
Signature

By: _____
Signature

Tim Lackey, PE
Printed Name

Patrick Stallings
Printed Name

Vice President
Title

City Manager
Title

October 5, 2021
Date

Date

EXHIBIT B

Labor Rate Schedule

Labor Category	Level	Billing Rate Range
Architect	I	100.00
	II	175.00
	III	183.00
	IV	223.00
	V	341.00
Engineer	I	122.00
	II	171.00
	III	203.00
	IV	258.00
	V	350.00
Scientist	I	100.00
	II	137.00
	III	178.00
	IV	223.00
	V	350.00
Landscape/ Planner	I	90.00
	II	130.00
	III	150.00
	IV	208.00
	V	350.00
Surveyor	I	108.00
	II	107.00
	III	142.00
	IV	208.00
	V	293.00
Field Tech	I	76.00
	II	94.00
	III	116.00
	IV	138.00
	V	200.00
Office Tech	I	74.00
	II	94.00
	III	118.00
	IV	207.00
	V	297.00
Administrative	I	78.00
	II	89.00
	III	350.00
	IV	153.00
	V	350.00
Specialist	I	103.00
	II	135.00
	III	182.00
	IV	224.00
	V	350.00
Intern		87.00

Regular Session Agenda Item: 7

Meeting Date: November 7, 2022

ITEM DESCRIPTION:

Discuss and consider approving a Resolution of the City of Seagoville, Texas, authorizing the purchase of an articulating swing arm brush cutter and a grapple bucket in an amount not to exceed Twenty Five Thousand Nine Hundred Fifty Dollars and Seventy-Nine Cents (\$25,950.79) from ASCO Equipment; authorizing the City Manager to execute any and all necessary documents and disburse the funds for said purchase, and providing an effective date.

BACKGROUND OF ISSUE:

In the FY 2022-23 budget process, the City Council approved the purchase of an articulating swing arm brush cutter and a grapple bucket. Pricing has been obtained from ASCO Equipment through Buy Board in compliance with local and state procurement requirements.

FINANCIAL IMPACT:

The requested purchase was approved through the FY2022 budget process. With the increase in vehicle cost and limited stock the budgeted amount of \$136,000 will not cover the complete purchase. The additional cost of \$32,590.65 will come from the Water/Sewer vehicle replacement fund.

RECOMMENDATION:

The Public Works Department recommends that Council approve this purchase to help us maintain a safe and reliable fleet of vehicles for our department.

EXHIBITS:

Resolution – Approving the purchase of an articulating swing arm brush cutter and grapple bucket

Proposal – Articulating swing arm cutter and grapple bucket.

THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO. __-R-2022

A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS, AUTHORIZING THE PURCHASE OF AN ARTICULATING SWING ARM BRUSH CUTTER AND A GRAPPLE BUCKET IN AN AMOUNT NOT TO EXCEED TWENTY FIVE THOUSAND NINE HUNDRED FIFTY DOLLARS AND SEVENTY NINE CENTS (\$25,950.79) FROM ASCO EQUIPMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS AND DISBURSE THE FUNDS FOR SAID PURCHASE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in the FY 2022-23 budget process, the City Council approved the purchase of an articulating swing arm brush cutter and a grapple bucket; and

WHEREAS, pricing has been obtained from ASCO Equipment through Buy Board in compliance with local and state procurement requirements; and

WHEREAS, the City Council authorizes the purchase of an articulating swing arm brush cutter and a grapple bucket in an amount not to exceed twenty five thousand nine hundred fifty dollars and seventy nine cents (\$25,950.79) and further authorizes the City Manager execute all documents necessary and to disburse the funds for said purchase.

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

Section 1. The City Council hereby authorizes the purchase of an articulating swing arm brush cutter and a grapple bucket, as set forth in the proposals attached hereto and incorporated herein by this reference as Exhibit "A", in a total amount not to exceed twenty five thousand nine hundred fifty dollars and seventy nine cents (\$25,950.79); and, further authorizes the City Manager execute all documents necessary and to disburse the funds for said purchase.

Section 2. This resolution shall take effect immediately from and after its passage and it is accordingly so resolved.

PASSED AND ADOPTED by the City Council for the City of Seagoville at a meeting on the 7th day of November 2022.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria W. Thomas, City Attorney
(110322vwtTM132195)

EXHIBIT A
[Proposals from Asco Equipment]



Proposal

Sep 27, 2022

CITY OF SEAGOVILLE

QUO-18151-K0G3Q6

Dealer :

Joshua Warner, (972) 563-2171

ASCO EQUIPMENT
 401 FARM-TO-MARKET 148
 TERRELL, Texas, 75160

Customer :

Justin Wilkerson
 702 H. HWY 175
 SEAGOVILLE, Texas, 75159-1774

Set 1 of 2				
Equipment Type	Product ID	Description	Equipment Tag	Price
Attachment	103870/103875	Skid Steer Attachment Articulating Swing Arm Brush Cutter	103870/103875 ZZZ	\$ 18,700.79
Equipment Specification				
Articulating Swing Arm Brush Cutter (103870 and 103875)				
BB #597-19				
Pricing Detail				
Purchase Price				\$ 18,700.79
Trade-In Amount				\$ 0.00
Net Purchase Price				\$ 18,700.79



Proposal

Sep 27, 2022

CITY OF SEAGOVILLE

QUO-18151-K0G3Q6

Dealer :

Joshua Warner, (972) 563-2171

Customer :

ASCO EQUIPMENT
401 FARM-TO-MARKET 148
TERRELL, Texas, 75160

Justin Wilkerson
702 H. HWY 175
SEAGOVILLE, Texas, 75158-1774

Set 2 of 2				
Equipment Type	Product ID	Description	Equipment Tag	Price
Attachment	106465	Skid Steer Attachment 106465 78" SD Scrap Grapple Bucket	106465 ZZZ	\$ 7,250.00
Equipment Specification				
78" Grapple Bucket Severe Duty				
BB# 597-19				
Pricing Detail				
Purchase Price				\$ 7,250.00
Trade-In Amount				\$ 0.00
Net Purchase Price				\$ 7,250.00



Proposal

Sep 27, 2022

CITY OF SEAGOVILLE

QUO-18151-K0G3Q5

Dealer :

Joshua Warner, (972) 563-2171
 ASCO EQUIPMENT
 401 FARM-TO-MARKET 148
 TERRELL, Texas, 75160

Customer :

Justin Wilkerson
 702 H. HWY 175
 SEAGOVILLE, Texas, 75159-1774

Proposal Summary

Pricing Summary		Finance Information		Shipping Information	
Total Purchase Price	\$ 25,950.79	Finance Option	Ask about Financing Option	Customer Reference #	justin w
Total Trade Allowance	\$ 0.00			Shipping Method	ASCO Truck
		Total Months		Quote Expiry Date	Oct 01, 2022
		Rate of Interest	%	Expected Delivery Date	Oct 31, 2022
Net Purchase Price	\$ 25,950.79	Finance Amount		Net due on delivery OR Approved Financing	

Notes

Terms & Conditions

This is not a finance offer. Financing is subject to customer credit approval and must be documented on official appropriate forms. Physical damage insurance is required on all financed equipment and IS NOT quoted here. This quote DOES NOT include any applicable taxes, delivery fees, or other applicable fees unless otherwise noted above. Net due on delivery or approved finance. A cancellation charge of 20% of total purchase price will be assessed and is hereby agreed to by the customer on all cancelled orders. All used equipment is sold AS IS WHERE IS. All used equipment quoted is subject to prior sale and is not guaranteed. Price, terms and delivery date are subject to approval by the management of the company. Quotation expires in 10 days unless otherwise noted.

DISCLAIMER OF WARRANTIES ON EQUIPMENT

Customer understands that ASCO is not the manufacturer of the Equipment and the only warranties offered in regard to the Equipment are those of the Manufacturer, not ASCO. Warranty remedies offered by the Manufacturer of the Equipment are Customer's exclusive remedies. ASCO HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES EITHER EXPRESSED OR IMPLIED, RELATED TO THE EQUIPMENT, INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF TITLE, MERCHANTABILITY, CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF. THE DISCLAIMER OF WARRANTIES CONTAINED IN THIS PARAGRAPH DOES NOT AFFECT THE TERMS OF ANY MANUFACTURER'S WARRANTY. Customer expressly waives any claim that it may have against ASCO based on any manufacturer product liability arising out of or related to the Equipment.

NOTICE TO CUSTOMER/ BUYER:

THE ADDITIONAL TERMS AND CONDITIONS SET FORTH ON FINAL PAGE OF THIS PROPOSAL (IN WHICH YOU ARE REFERRED TO AS THE BUYER) ARE A PART OF THIS PROPOSAL AND ARE INCORPORATED IN THIS PROPOSAL BY REFERENCE. DO NOT SIGN THIS PROPOSAL BEFORE YOU THOROUGHLY READ ALL PAGES OF THIS PROPOSAL YOU MAY CONSULT YOUR OWN ATTORNEY OR LEGAL ADVISOR BEFORE SIGNING THIS PROPOSAL. THIS PROPOSAL IS SUBJECT TO SELLER'S ACCEPTANCE AS SHOWN BELOW, AND IS A CONTRACT BETWEEN THE PARTIES UPON ACCEPTANCE BY SELLER.

This Proposal is dated to be effective on the latest date shown below the signature of each part

Proposed :

Accepted :

 Joshua Warner, (972) 563-2171

 Customer

 Branch Manager

 Date

 Title

 Date

**ADDITIONAL TERMS AND CONDITIONS
[MADE PART OF THE PROPOSAL FOR THE PURCHASE OF EQUIPMENT]**

1. These Terms and Conditions are part of the Proposal, which becomes a contract upon Seller's acceptance of the Proposal.
2. Buyer will pay ASCO the Total Sales Price for the Equipment as stated in the Proposal on or before the delivery of the Equipment. Seller reserves the right to require from Buyer a cash down payment (the "Cash Down Payment") to be paid by check or wire transfer of funds prior to the order or the delivery of the Equipment from the Manufacturer. Any required Cash Down Payment must be received within 3 business days after the date that such payment is requested; otherwise, Seller will have the option of terminating this Proposal, in which event neither party will any further duties or obligations hereunder. The balance of the Sales Price (after crediting the "Cash Down Payment," if any) will be paid by Buyer by check or wire transfer of funds immediately preceding the delivery of the Equipment, and upon Buyer being notified by ASCO that the Equipment is available for delivery. Any Cash Down Payment is non-refundable due to Buyer's inability to obtain financing, or for any other reason resulting from Buyer's inability or unwillingness to purchase the Equipment; however, Buyer will be entitled to a refund of the Cash Down Payment upon ASCO'S failure to perform its obligations under the Proposal or should the Manufacturer fail to fulfill the order within a reasonable period of time. The amount of the Cash Down Payment may vary depending on circumstances or financing related to each sale. If Buyer is obtaining financing for the purchase of the Equipment from a third party lender, such financing must be obtained within 3 business days from the date of this Proposal; and if such financing is not obtained, this Proposal may be terminated at the option of either party.
3. Any taxes related to the sale of the Equipment will be paid by Buyer at the time that such taxes become due.
4. If the Trade-in Equipment is not being delivered to Seller until after the effective date of this Proposal, Buyer represents and warrants to Seller that there will not be a material increase in the hours of use on the Trade-in Equipment or a material change in the condition of the Trade-in Equipment; and, if Seller determines in its sole opinion that such a material change has occurred, Seller will be entitled to reappraise the Trade-in Equipment at the time of receipt of such equipment and to adjust the Trade Allowance and Net Trade Allowance as stated in the Proposal. If Seller reappraises the Trade-in Equipment at an amount which is less than the original Trade Allowance by more than five percent (5%), Buyer may terminate this Proposal provided that such termination is made prior to the delivery of the Equipment; and, provided further that upon such termination, Seller has the option of retaining all or any portion of the Cash Down Payment as reimbursement for expenses incurred in regard to this transaction.
5. Seller is excused from performance under the terms of this Proposal if delivery is delayed, or rendered impractical or impossible by work stoppages, strikes, delays in transportation, inability to obtain labor or materials, and by any other cause or reason beyond the reasonable control of Seller, including but not limited to acts of God, disease, weather, and civil unrest or insurrection; and if Seller is unable to perform for the reasons stated in this paragraph, Buyer's sole remedy is termination of this Proposal and the return of its Cash Down Payment, if any..
6. Should Buyer default under the terms of this Proposal, ASCO may terminate this Proposal and retain the Cash Down Payment as liquidated damages; or, ASCO may seek such other relief as provided by law or in equity. Upon ASCO's failure to deliver the Equipment (other than its failure to timely deliver the Equipment due to the fault of Manufacturer or any third party, which shall not be a default by ASCO), Buyer may, as its sole remedies, terminate this Proposal and receive a refund of the Cash Down Payment; or, Buyer may enforce specific performance of ASCO'S obligations under this Proposal, provided that the Equipment can be obtained by ASCO from the Manufacturer within a reasonable period of time. An action for specific performance by either party must be initiated, if at all, within 90 days after the alleged breach of this Proposal. Until Buyer has fully paid for the Equipment, ASCO retains a lien on the Equipment in accordance with the Texas Business and Commerce Code and Buyer authorizes ASCO to perfect such lien by filing a financing statement with any governmental filing offices as required for perfecting such lien. *Under no circumstances will ASCO be liable to Buyer for any consequential, special, indirect, incidental, exemplary, or punitive damages, including without limitation, loss of profits, loss of business opportunity, or loss of prospective revenue, arising out of this Proposal or the Equipment to be provided under this Proposal. The prevailing party in any litigation shall be entitled to recover reasonable attorney's fees and court costs.*
7. This Proposal constitutes the entire agreement between the parties, and any modification or amendment must be in writing and signed by authorized representatives of both Buyer and Seller. Any different or additional terms or conditions proposed by Buyer in any other purchase order or document are objected to by Seller and will not be binding on ASCO unless agreed in writing by Seller's authorized managing agent.
8. This Proposal shall be construed and enforced in all respects in accordance with the laws of the State of Texas and the laws of the United States applicable to transactions in Texas, and venue for any lawsuits or legal proceedings related to this Proposal or the Equipment will be in Lubbock County, Texas.
9. Delivery: The risk of loss will pass to Buyer immediately upon the Equipment being: (i) picked up by Buyer or (ii) delivered to customer's location. The delivery of the Equipment as described above is subject to performance and delivery by the manufacturer of the Equipment (the "Manufacturer"), which the Seller and Buyer agree may cause the actual delivery date to vary, and which Seller is unable to control. If Seller has provided Buyer with an "estimated lead time" for delivery of the Equipment, Buyer agrees that the lead time has been provided by the Manufacturer of the Equipment and Buyer is given notice that such time may vary depending on circumstances which are beyond the control of Seller. Seller's delivery of the Equipment to Buyer by any date stated in the Proposal, if any, is subject to Manufacturer's delivery of the Equipment to Seller in accordance with the lead time provided solely by the Manufacturer.
10. Completion of Blanks. Buyer authorizes Seller to unilaterally insert the serial number(s) and/ or model numbers of the Equipment on the previous pages of this Proposal for the purpose of identifying the Equipment or correcting errors.
11. If the equipment is being ordered from the manufacturer, the price stated herein is an estimate; and, to reflect any increases due to material availability or other factors beyond the control of Seller, the price stated in this Proposal is subject to increase to reflect any price increase imposed by the manufacturer between the date of this Proposal and the delivery date of the Equipment to Buyer.
12. **All sales are expressly conditional on Buyer's agreement to these Terms and Conditions which are part of the Proposal.** Buyer's execution of this Proposal; or, any order or statement of intent by Buyer to purchase the Equipment and/ or any other products or services as described in this Proposal from ASCO; or, any directions by Buyer to proceed with procurement or shipment of the Equipment or any other products or services described in this Proposal; or, acceptance by Buyer of the Equipment, products and/ or services; or, payment of all or part of such Equipment, products and/ or Services as described in this Proposal; shall constitute assent to these Terms and Conditions by Buyer. **Any different or additional terms and conditions proposed by Buyer in a purchase order or any other document, are objected to by ASCO and will not be binding upon ASCO unless specifically assented to in writing by an authorized representative of ASCO.**

Buyer's Initials: _____

Regular Session Agenda Item: 8

Meeting Date: November 7, 2022

ITEM DESCRIPTION:

Discuss and consider approving a Resolution of the City of Seagoville, Texas, authorizing the purchase of a hydro jetting machine trailer in an amount not to exceed Eighty Five Thousand Three Hundred Eighty Five Dollars and Twenty Five Cents \$85,385.25, from Kinloch Equipment and Supply, Inc; authorizing the City Manager to execute any and all necessary documents and disburse the funds for said purchase; and providing an effective date.

BACKGROUND OF ISSUE:

The Sewer Department is requesting the council's approval to purchase a hydro jetting machine trailer in an amount not to exceed eighty-five thousand three hundred eighty-five dollars and twenty-five cents \$85,385.25, complete with all necessary emergency equipment. This purchase will replace our current jetting trailer, thus minimizing maintenance costs.

FINANCIAL IMPACT:

The requested purchase was approved through the FY2023 budget process. With the increase in cost and limited stock the budgeted amount of \$82,526 will not cover the complete purchase. The additional cost of \$2,859.25 will come from the Water/Sewer vehicle replacement fund.

RECOMMENDATION:

The Sewer Department recommends that Council approve this purchase.

EXHIBITS:

Resolution – Authorizing the purchase of a hydro jetting machine trailer

Quote – Kinloch Equipment & Supply, Inc. for hydro jetting machine trailer

THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO. __-R-2022

A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS, AUTHORIZING THE PURCHASE OF A HYDRO JETTING MACHINE TRAILER IN AN AMOUNT NOT TO EXCEED EIGHTY FIVE THOUSAND THREE HUNDRED EIGHTY FIVE DOLLARS AND TWENTY FIVE CENTS (\$85,385.25) FROM KINLOCK EQUIPMENT AND SUPPLY, INC.; AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS AND DISBURSE THE FUNDS FOR SAID PURCHASE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in the FY 2022-23 budget process, the City Council approved the purchase of a hydro jetting machine trailer; and

WHEREAS, pricing has been obtained from Kinloch Equipment and Supply, Inc. through Sourcewell in compliance with local and state procurement requirements; and

WHEREAS, the City Council authorizes the purchase of a hydro jetting machine trailer in an amount not to exceed eighty five thousand three hundred eighty five dollars and twenty five cents (\$85,385.25) and further authorizes the City Manager execute all documents necessary and to disburse the funds for said purchase.

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

Section 1. The City Council hereby authorizes the purchase of a hydro jetting machine trailer, as set forth on the quotation attached hereto and incorporated herein as Exhibit "A", from Kinlock Equipment & Supply, Inc., in an amount not to exceed eighty five thousand three hundred eighty five dollars and twenty five cents (\$85,385.25); and, further authorizes the City Manager execute all documents necessary and to disburse the funds for said purchase.

Section 2. This resolution shall take effect immediately from and after its passage and it is accordingly so resolved.

PASSED AND ADOPTED by the City Council for the City of Seagoville at a meeting on the 7th day of November, 2022.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria W. Thomas, City Attorney
(110322vwtTM132196)

Regular Session Agenda Item: 9

Meeting Date: November 7, 2022

ITEM DESCRIPTION:

Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Dallas County, Texas, authorizing the exercise of eminent domain by the City Council of the City of Seagoville, Texas; for property generally described as a non-exclusive perpetual variable width City of Seagoville municipal water main and wastewater (sanitary sewer) easement and temporary construction easement on Parcel No. 4 of the M.L. Swing Survey, Abstract Number 1420, City of Seagoville, Dallas County, Texas and more specifically described and depicted in Exhibit 'A'; providing the necessity and public purpose for the acquisition of said easements upon, under, over, through and across approximately 0.019 acres thereon for the city's east Malloy Bridge Road Wastewater Project; authorizing the City Attorney to file proceedings in eminent domain to acquire said property; and providing an effective date.

BACKGROUND OF ISSUE:

The City is authorized to acquire real property and interests therein by consent or exercise the power of eminent domain, including an interest for a non-exclusive, perpetual variable width City of Seagoville municipal water main and wastewater (sanitary sewer) easement and temporary construction easement upon, under, over, through and across approximately 0.019 acres described and depicted in Exhibit A, which is attached hereto and incorporated herein, for the construction and/or upgrade of sanitary sewer lines associated with the City's East Malloy Bridge Road Wastewater Project.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

EXHIBITS:

Resolution – Authorizing eminent domain for temporary construction easement of Parcel No. 4

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, DALLAS COUNTY, TEXAS, AUTHORIZING THE EXERCISE OF EMINENT DOMAIN BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS; FOR PROPERTY GENERALLY DESCRIBED AS A NON-EXCLUSIVE PERPETUAL VARIABLE WIDTH CITY OF SEAGOVILLE MUNICIPAL WATER MAIN AND WASTEWATER (SANITARY SEWER) EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT ON PARCEL NO. 4 OF THE M.L. SWING SURVEY, ABSTRACT NUMBER 1420, CITY OF SEAGOVILLE, DALLAS COUNTY, TEXAS AND MORE SPECIFICALLY DESCRIBED AND DEPICTED IN EXHIBIT 'A'; PROVIDING THE NECESSITY AND PUBLIC PURPOSE FOR THE ACQUISITION OF SAID EASEMENTS UPON, UNDER, OVER, THROUGH AND ACROSS APPROXIMATELY 0.019 ACRES THEREON FOR THE CITY'S EAST MALLOY BRIDGE ROAD WASTEWATER PROJECT; AUTHORIZING THE CITY ATTORNEY TO FILE PROCEEDINGS IN EMINENT DOMAIN TO ACQUIRE SAID PROPERTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City is authorized to acquire real property and interests therein by consent or exercise the power of eminent domain, including an interest for a non-exclusive, perpetual variable width City of Seagoville municipal water main and wastewater (sanitary sewer) easement and temporary construction easement upon, under, over, through and across approximately 0.019 acres described and depicted in Exhibit A, which is attached hereto and incorporated herein, for the construction and/or upgrade of sanitary sewer lines associated with the City's East Malloy Bridge Road Wastewater Project; and

WHEREAS, the City Council has hereby determined that there is a public necessity for, and that a public use and purpose for the welfare and convenience of the citizens requires, the acquisition of title to the above-described interest in land in the City; and

WHEREAS, the City Council of the City of Seagoville, Dallas County, Texas finds it to be in the public interest and to the benefit of the health, safety, and welfare of its citizens to acquire the necessary interests in said real property.

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

SECTION 1. The City Council of the City of Seagoville, Texas, hereby finds and determines that a public necessity exists for the welfare of the City and its citizens and further that it serves a public purpose and is in the public interest to acquire the real property interests generally described as a non-exclusive, perpetual variable width City of Seagoville water main and wastewater (sanitary sewer) easement and temporary construction easement upon, under,

over, through and across 0.019 acres Parcel 4 of the M.L. Swing Survey, Abstract Number 1420, City of Seagoville, Dallas County, Texas and more specifically described and depicted in Exhibit A, attached hereto and made a part hereof for all purposes, through negotiation or exercise of the City of Seagoville's constitutional and statutory authority of eminent domain under state law and said exercise of eminent domain authority is hereby authorized.

SECTION 2. That if it is later determined that there are any errors in the descriptions contained herein or if later surveys contain more accurate revised descriptions, the City Attorney or his designee is authorized to have such errors corrected or revisions made without the necessity of obtaining additional City Council approval authorizing the condemnation of the corrected or revised property interests.

SECTION 3. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED by the City Council of the City of Seagoville, Texas, on this the 7th day of November 2022.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria W. Thomas, City Attorney
(102122vwtTM132030)

EXHIBIT "A"

EXHIBIT "A" VARIABLE WIDTH WASTEWATER EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT

Parcel No. 4
Owner: Danny Greenhaw
M.L. Swing Survey, Abstract Number 1420
City of Seagoville, Dallas County, Texas

BEING a tract of land situated in the M.L. Swing Survey, Abstract Number 1420, City of Seagoville, Dallas County, Texas and being part of that tract of land described in Deed to Danny Greenhaw, recorded in Volume 98047, Page 2978 (O.P.R.D.C.T.), and being more particularly described as follows:

BEGINNING at a 5/8-inch found iron rod with cap stamped "PATRICK RPLS 4593" at the east corner of said Greenhaw tract and being the easternmost north corner of Lot 1, Block A of Rosillo Sanchez Addition, an addition to the City of Seagoville, Dallas County, Texas as recorded in Volume 2004198, Page 62 of the Plat Records of Dallas County, Texas (P.R.D.C.T.) and that tract of land described in Warranty Deed to Oscar J. Toscano and Maira E. Bernal, recorded in Instrument Number 2006-00088044 (O.P.R.D.C.T.) and in the southwest line of that tract of land described as "Tract One" by General Warranty Deed to Stephanie Noemy Solis, recorded in Instrument Number 2019-00238613 (O.P.R.D.C.T.), having grid coordinates of North=6,922,149.30, East=2,572,427.55;

THENCE South 44 degrees 16 minutes 45 seconds West, 12.00 feet, with the common southeast line of said Greenhaw tract and said Lot 1, Block A to a point for corner;

THENCE North 45 degrees 31 minutes 39 seconds West, 9.80 feet, departing said common line, over and across said Greenhaw tract to a point for corner;

THENCE North 79 degrees 20 minutes 31 seconds West, 32.30 feet, continuing over and across said Greenhaw tract to a point for corner in the common southwest line of said Greenhaw tract and said Lot 1, Block A;

THENCE North 45 degrees 31 minutes 15 seconds West, 26.95 feet, with said common line to a point for corner;

THENCE South 79 degrees 20 minutes 31 seconds East, 53.86 feet, departing said common line, over and across said Greenhaw tract to a point for corner in the common line of said Greenhaw tract and said "Tract One", from which a 5/8-inch found iron rod with cap stamped "PATRICK RPLS 4593" at the north corner of said Greenhaw tract, the west corner of said "Tract One" and in the southeast line of Lot 1, Block 1 of Seagoville Elementary School, an addition to the City of Seagoville, Dallas County, Texas, recorded in Instrument Number 201300050808 (P.R.D.C.T.) bears North 45 degrees 31 minutes 39 seconds West, 81.59 feet;

Page 1 of 3
9/20/2021

W:\RCH\42000s\42505\001\Survey\PropertyDescriptions\EXH-PARC-04-42505-001.docx

THENCE South 45 degrees 31 minutes 39 seconds East, 18.80 feet, with said common line, to the **POINT OF BEGINNING AND CONTAINING** 818 square feet, or 0.019 acres of land, more or less.

Notes:

1. Basis of Bearing is the North American Datum of 1983, Texas State Plane Coordinate System, North Central Zone (4202). All distances are surface distances. Surface Adjustment Scale Factor: 1.000136506
2. This metes and bounds description was prepared with an exhibit of even date.
3. The survey shown hereon was prepared without the benefit of a title commitment, therefore easements and other matters of record may not be shown.

I, Adam T. Johnson, Registered Professional Land Surveyor of the State of Texas, do hereby certify that the map shown hereon represents the described property as determined by a survey made on the ground under my direction and supervision in June, 2020, and that all corners are as shown.

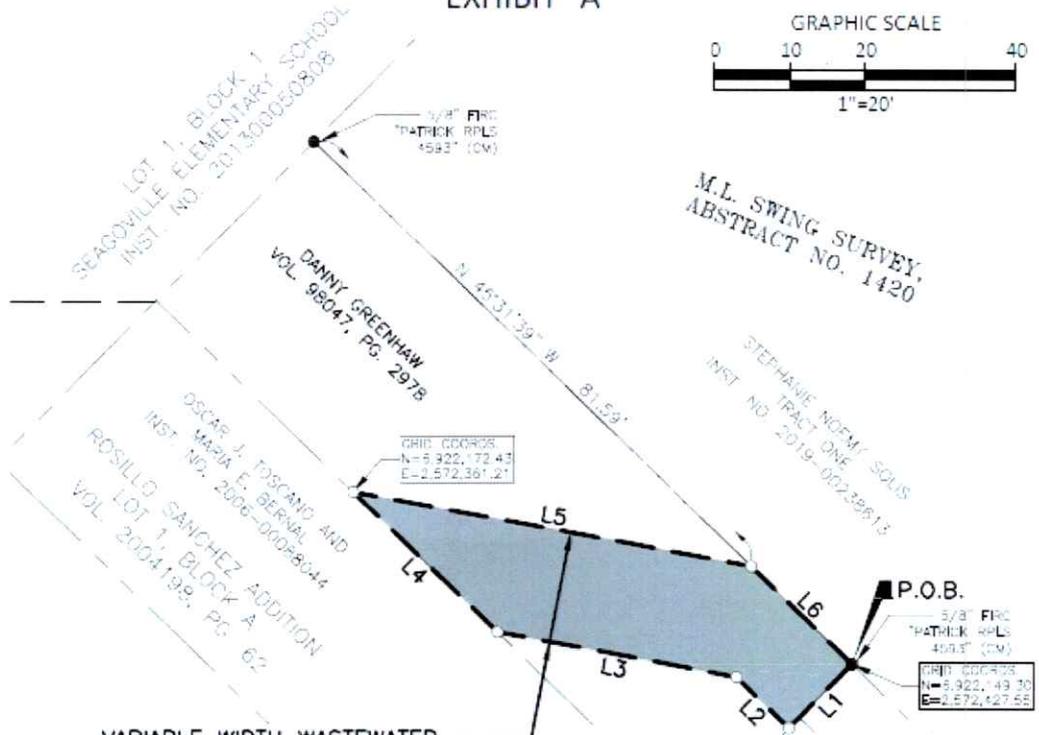
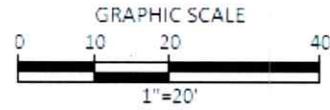


09/20/2021

Adam T. Johnson
Registered Professional Land Surveyor
Texas Registration Number 6664
TBPELS SURVEYING FIRM NO. 10029600



EXHIBIT "A"



VARIABLE WIDTH WASTEWATER AND TEMPORARY CONSTRUCTION EASEMENT
0.0188 ACRES
(818 SQ. FT.)

LINE DATA		
LINE #	BEARING	DISTANCE
L1	S 44°18'45" W	12.00'
L2	N 45°31'39" W	9.50'
L3	N 79°20'31" W	52.30'
L4	N 45°31'15" W	26.95'
L5	S 79°20'31" E	53.86'
L6	S 45°31'39" E	18.50'

- LEGEND**
- P.O.B. POINT OF BEGINNING
 - P.O.C. POINT OF COMMENCING
 - IRI FOUND IRON ROD
 - FIRE FOUND IRON ROD W/OAP-AS NOTED
 - VOL. VOLUME
 - PG. PAGE
 - DOC. NO. DOCUMENT NUMBER
 - INST. NO. INSTRUMENT NUMBER
 - C.M. CONTROLLING MONUMENT
 - FOUND MONUMENTS
 - POINT FOR CORNER
 - PROPERTY LINE
 - EASEMENT DEDICATION



Adam Johnson
9/20/21

- General Notes:**
- 1) Bearing basis for this drawing is the Texas Coordinate System of 1983, North Central Zone 4202, NAD83 (2011). Distances shown are surface and can be converted to grid by dividing by a scale factor of 1.000136506.
 - 2) A metes and bounds description of even date accompanies this exhibit.
 - 3) The survey shown hereon was prepared without the benefit of a title commitment, therefore easements and other matters of record may not be shown.

INSTRUMENT NO. 42505.001, DATE ISSUED 9/20/2021, PAGE 3 OF 3
 1201 NORTH DOWNEY ROAD, WICHAMON, TX 76092-2215
 TEL: (214) 346-6200
 *FIELD SURVEYING FROM #1022860

VARIABLE WIDTH WASTEWATER EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT
PARCEL 4
SITUATED IN THE
M.L. SWING SURVEY, ABSTRACT NO. 1420
CITY OF SEAGOVILLE, DALLAS COUNTY, TEXAS

PROJECT NO: 42505.001
DATE ISSUED: 9/20/2021

PAGE: 3 OF 3

Regular Session Agenda Item: 10

Meeting Date: November 7, 2022

ITEM DESCRIPTION:

Second Reading - Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving the Amended and Restated Economic Development Project between the Seagoville Economic Development Corporation, on the one hand, and KRR Malloy Bridge Residential, LLC, a Texas Limited Liability Company, and KRR Malloy Bridge Retail, LLC, a Texas Limited Liability Company, on the other hand as reflected in the terms and conditions of an Amended and Restated Economic Development Incentive Agreement between the parties in substantially the form of that attached hereto as Exhibit "A"; and providing an effective date.

BACKGROUND OF ISSUE:

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 promote and retain new and expanding business enterprises within the City. The SEDC has, with approval of this Council, entered into an Economic Development Incentive Agreement for a project which will promote and retain new and expanded business enterprises within the City with KRR Malloy Bridge Residential, LLC and KRR Malloy Bridge Retail, LLC, both Texas limited liability companies (collectively "Company"), under the terms and conditions set forth in that original Economic Development Incentive Agreement (the "Project"). The SEDC and Company desire to amend and restate the project and enter into an Amended and Restated Economic Development Incentive Agreement, in substantially the form attached hereto as Exhibit "A", which amendments would allow Company to sell a portion of the real property subject to the original agreement to Brookshire Grocery Company, LLC, a Texas limited liability company ("Brookshire") and which would further allow Brookshire's design, construction and operation thereon of a Super 1 Foods grocery store with gasoline kiosks to satisfy Company's obligations under the original Agreement for construction and operation of Commercial Retail Improvements on the property.

Section 505.158 of the Texas Local Government Code mandates that the SEDC may not undertake a project or an amended 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.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

EXHIBITS:

Resolution – Approving the Amended and Restated Agreement between the Seagoville Economic Development Corporation and KRR Companies
Agreement – Amended and Restated Agreement between the Seagoville Economic Development Corporation and KRR Companies

CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO. __-R-2021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, APPROVING THE AMENDED AND RESTATED ECONOMIC DEVELOPMENT PROJECT BETWEEN THE SEAGOVILLE ECONOMIC DEVELOPMENT CORPORATION, ON THE ONE HAND, AND KRR MALLOY BRIDGE RESIDENTIAL, LLC, A TEXAS LIMITED LIABILITY COMPANY, AND KRR MALLOY BRIDGE RETAIL, LLC, A TEXAS LIMITED LIABILITY COMPANY, ON THE OTHER HAND AS REFLECTED IN THE TERMS AND CONDITIONS OF AN AMENDED AND RESTATED ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN THE PARTIES IN SUBSTANTIALLY THE FORM OF THAT ATTACHED HERETO AS EXHIBIT “A”; 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 promote and retain new and expanding business enterprises within the City; and

WHEREAS, the SEDC has, with approval of this Council, entered into an Economic Development Incentive Agreement for a project which will promote and retain new and expanded business enterprises within the City with KRR Malloy Bridge Residential, LLC and KRR Malloy Bridge Retail, LLC, both Texas limited liability companies (collectively “Company”), under the terms and conditions set forth in that original Economic Development Incentive Agreement (the “Project”) and

WHEREAS, the SEDC and Company desire to amend and restate the project and enter into an Amended and Restated Economic Development Incentive Agreement, in substantially the form attached hereto as Exhibit “A”, which amendments would allow Company to sell a portion of the real property subject to the original agreement to Brookshire Grocery Company, LLC, a Texas limited liability company (“Brookshire”) and which would further allow Brookshire’s design, construction and operation thereon of a Super 1 Foods grocery store with gasoline kiosks to satisfy Company’s obligations under the original Agreement for construction and operation of Commercial Retail Improvements on the property; and

WHEREAS, section 505.158 of the Texas Local Government Code mandates that the SEDC may not undertake a project or an amended 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 amended and restated Project contemplated by SEDC and Company under the terms and conditions set forth in the Economic Development Incentive Agreement will promote and retain new and expanded business enterprises within the City of Seagoville; and

WHEREAS, the City Council finds that the expenditure of funds by SEDC in undertaking the amended and restated 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. The City Council hereby approves and authorizes the amended and restated Project between the Seagoville Economic Development Corporation, on the one hand, and KRR Malloy Bridge Residential, LLC and KRR Malloy Bridge Retail, LLC, both Texas limited liability companies (collectively, “Company”) on the other hand, under the terms and conditions set forth in an Amended and Restated Economic Development Incentive Agreement in substantially the form attached hereto as Exhibit “A”.

Section 2. 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 Economic Development Incentive 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 ____ day of _____ 2022.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria Thomas, City Attorney
(082422vwt/TM131167)

Exhibit "A"
Amended and Restated Economic Development Incentive Agreement
(to be attached)

**AMENDED AND RESTATED ECONOMIC DEVELOPMENT
INCENTIVE AGREEMENT**

**State of Texas
County of Dallas**

This Amended and Restated Economic Development Incentive Agreement (“Agreement”) is made by and between KRR Malloy Bridge Residential, LLC, a Texas limited liability company (“KRR Residential”) and KRR Malloy Bridge Retail, LLC a Texas limited liability company (“KRR Retail”) (KRR Residential and KRR Retail, jointly and severally, may be referred to herein as “KRR” or “Company”) and the Seagoville Economic Development Corporation (the “SEDC”), each acting by and through their respective authorized representatives. SEDC and Company may be referred to herein each as a “Party” and collectively as the “Parties”.

RECITALS

WHEREAS, Company owns an approximately 22.155 acre parcel of vacant unimproved real property located at southeast corner of the intersection of U.S. Highway 175 and Malloy Bridge Road in the City of Seagoville, Texas (the “Property”); and

WHEREAS, Company and SEDC have previously entered into that certain Economic Development Incentive Agreement regarding the Property, executed December 2, 2021, by Company and executed June 29, 2021, by SEDC (the “Original Agreement”), and

WHEREAS, Company now desires to sell an approximately 6.926 acre portion of the above-described Property (the “Grocery Store Property”) to Brookshire Grocery Company, LLC, a Texas limited liability company (“Brookshire”), for construction and operation by Brookshire thereon of a minimum 48,460 square feet Super 1 Foods grocery store and

WHEREAS, Company and SEDC desire this construction and operation by Brookshire will satisfy Company’s obligation under the Original Agreement for construction and operation of the required commercial/retail improvements on the Property and desire to amend and restate the Original Agreement to that effect; and

WHEREAS, Company still desires to develop a remaining approximately 14.641 acres of the Property (the “Multifamily Property”) by constructing and operating thereon a multifamily residential development consisting of 225 new one, two, and three bedroom apartments and townhomes, with the remaining 0.588 acres of the Property assigned as trees and grass area, and

WHEREAS, Company further intends to install an off-site sanitary sewer line and related facilities which will, upon completion be dedicated to the City as public infrastructure and which will be constructed to allow for additional capacity for future developments and capacity for tie-ins by existing businesses; and

WHEREAS, Company has advised the SEDC that the total cost of the desired combined development remains over \$25,000,000.00; and

WHEREAS, the Parties have agreed that the Original Agreement between SEDC and Company should be amended and restated ad set forth herein to allow the proposed sale of the Grocery Store Property by Company to Brookshire and further to accept Brookshire’s construction and operation thereon of the Super 1 Foods grocery store as satisfaction of Company’s obligation under the Original Agreement for construction and operation of Commercial Retail Improvements on the terms and conditions set forth herein, and

WHEREAS, Company has advised SEDC that a contributing factor that would induce Company to proceed with the development and proposed sale would be approval and execution of this Amended and Restated Agreement by which SEDC agrees to provide an economic development grant to Company to defray a portion of the costs of such development on the terms herein stated, and

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

WHEREAS, the Development Corporation Act, Chapter 501-505, Texas Local Government Code (the “Act”) authorizes SEDC to provide economic development grants for business retention and/or expansion; and

WHEREAS, SEDC has determined that making the Grant to Company in accordance with this Amended and Restated 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 on the terms and conditions hereinafter set forth, and other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Article I Definitions

For purposes of this Amended and Restated Agreement each of the following terms shall have the meaning set forth herein unless the context clearly indicates otherwise:

“Bankruptcy of Insolvency” shall mean the dissolution or termination of Company’s existence as a going business, insolvency, appointment 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 proceeding under any bankruptcy or insolvency laws by or against Company and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“City” shall mean the City of Seagoville, Texas.

“Commencement Date” shall mean the later of: (i) the date upon which the final certificates of occupancy are issued by the City for both the Multifamily Residential Improvements and the Commercial Retail Improvements, each for their respective Required Uses and (ii) the date upon which both the Multifamily Residential Improvements and the Commercial Retail Improvements are open for business and serving the citizens of the City and its visitors, each for their respective Required Uses.

“Commencement of Construction” shall mean that (1) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Project, (2) all necessary permits for the Project have been issued by all applicable governmental authorities and (3) construction of the vertical elements (whether located above or below ground) of the Project has commenced.

“Company” shall mean jointly and severally, KRR Malloy Bridge Residential, LLC and KRR Malloy Bridge Retail LLC.

“Completion of Construction” shall mean that (1) Infrastructure Improvements have been fully and finally completed and accepted by the City, (2) the Multifamily Residential Improvements have been substantially completed, (3) a final permanent certificate of occupancy for the Multifamily Residential Improvements has been issued, (4) Company is open and conducting business during normal business hours leasing and operating the Multifamily Residential Improvements, (5) the Commercial Retail Improvements have been substantially completed, (6) a final permanent certificate of occupancy for the Commercial Retail Improvements has been issued, and (7) Brookshire is open and conducting business during normal business hours and operating the Commercial Retail Improvements as a Super 1 Food grocery store.

“Completion of Infrastructure Improvements Construction” shall mean full and final completion of the Infrastructure Improvements and approval of the same by City.

“Completion of Multifamily Residential Improvements Construction” shall mean substantial completion and mean issuance of a final certificate of occupancy by City for occupancy of the Multifamily Residential Improvements and Company is open and conducting business during normal business hours leasing and operating the Multifamily Residential Improvements.

“Completion of Commercial Retail Improvements Construction” shall mean substantial completion and issuance of a final certificate of occupancy by City for the Commercial Retail Improvements and Brookshire is open and conducting business during normal business hours and operating the Commercial Retail Improvements as a Super 1 Foods grocery store.

“Effective Date” shall mean the last date of execution hereof.

“Employment Positions” shall mean non-temporary full-time employment positions of the Company which are eligible for employee benefits and are created maintained and filled at the Multifamily Residential Improvements.

“Expiration Date” shall mean the fifth anniversary 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 public enemy war, terrorist act or threat thereof, riot, civil commotion, insurrection, government action or inaction (unless caused by

the intentionally wrongful acts or omissions of the Party, fires, earthquake, tornado, hurricane, explosions, floods, strikes, slowdowns, work stoppages epidemics or pandemics.

“Grant” shall mean an economic development grant in the amount equal to the costs incurred and paid by Company for the Infrastructure Improvements, not to exceed Six Hundred and Twenty-Five Thousand Dollars (\$625,000.00), to offset a portion of the costs paid and incurred by Company for the Project, said Grant or relevant portion thereof to be paid by SEDC on a reimbursement basis for Company’s verified expenses incurred in construction of the Infrastructure Improvements.

“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, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on the Company or any property or any business owned by Company within the City.

“Infrastructure Improvements” shall mean design, engineering, and construction, on and off the Property, of a City Engineer-approved ten (10) to twelve (12)-inch wastewater/sanitary sewer pipe with a twenty-four (24)-inch encasement and all related appurtenances to run under U.S. Highway 175 to then traverse along U.S. Hwy 175 Frontage Road and then through the City wastewater easement all as shown on Exhibit “A” attached hereto and incorporated herein by reference , to allow for wastewater and sanitary sewer drainage from the west side of U.S. Highway 175 to a newly installed sanitary sewer system on the east side of that Highway and to serve the Multifamily Residential Improvements (including clubhouse building) and the Commercial Retail Improvements and additionally to provide installation of additional sanitary manholes along the east side of the Project at the U.S. Highway 175 Frontage Road for access/tie-in by existing and future buildings and development. The Infrastructure Improvements will be dedicated to the City upon completion.

“Multifamily Residential Improvements” shall mean design, engineering, and construction on the Property of (1) nine apartment buildings (six to be three-story buildings and three to be two story buildings) containing a total of 213 apartment units consisting of one, two and three-bedroom units; (2) sufficient parking for all multifamily residential units including 81 garage parking spots and covered parking for select exterior spaces; (3) twelve three bedroom townhome units (1,746 net square feet each for a total SF of 20,952), each with a one-car garage; (4) a clubhouse/leasing facility with tenant amenities including a large fitness center, hospitality and conference room, indoor mail and kiosk room, and laundry facility ; (5) swimming pool with seating area and BBQ grills; (6) playground area; (7) walking trail in conjunction with multifamily residential apartment buildings; and (8) gated entrance and exit. Perimeter fencing will be six (6’) foot wrought iron. Masonry and slat fencing will separate the multifamily residential from the commercial retail portions of the Project. A six-foot wrought iron fence will be installed around the perimeter of the pool and the playground. The apartment unit mix will be as follows:

Bedroom/Bath	Sq. Foot - Net	Quantity'	SF Total
1/1	678	15	10,170
1/1	935	24	22,440
2/2	1,143	24	27,432

2/2	1,053	48	50,544
2/2	1,039	24	24,936
2/2	1,287	24	30,888
2/2	1,096	30	32,880
312	1,306	24	31,344

“Commercial Retail Improvements” shall mean design, engineering, and construction on the Property of a minimum 48,460 square foot retail building to accommodate the operation thereon of a Super 1 Foods grocery store, with gasoline kiosks and including all related and required appurtenances such as landscaping, parking, and driveways.

“Project” shall mean (1) the design, construction, installation, equipping, and dedicated on the Property and/or off-site of the Infrastructure Improvements as generally shown on Exhibit “A” attached hereto and incorporated herein by reference and (2) design, construction, equipping and operation on the Property of the Multifamily Residential Improvements and (3) design, construction, equipping and operation on the Property of the Commercial Retail Improvements, both generally in accordance with the concept plan and renderings attached hereto and incorporated herein by this reference as Exhibit “B”. The Project shall include construction of necessary water and wastewater lines and related facilities, site plan and engineering services, construction of foundations, and all elements of buildings, all required fire lanes, sidewalks, trails, access, and interior streets, and finish out on multifamily residential buildings. As shown on Exhibit “B”, the Commercial Retail Improvements shall be placed on the Grocery Store Property located on approximately 6.926 acres located roughly at the rear of the development and the Multifamily Residential Improvements shall be located on the Multifamily Property, which is approximately 14.641 acres, with the remaining 0.588 acres of the Property assigned as tree and grass area.

“Property” shall mean an approximately 22.155 acre parcel of real property located at the southeast corner of the intersection of U.S. Highway 175 and Malloy Bridge Road in the City of Seagoville, Texas encompassing the Multifamily Property, owned by Company, the Grocery Store Property, to be sold by Company to Brookshire, and an unassigned tree and grass area.

“Related Agreement” shall mean any agreement (other than this Agreement) by and between the Company and the SEDC or the City.

“Required Uses” shall mean, (1) with regard to the Multifamily Residential Improvements, Company’s continuous operation, maintenance, and occupancy thereof as multifamily apartment and townhome dwelling facility with related amenities and, (2) with regard to the Retail Commercial Improvements, Brookshire’s continuous operation, maintenance, and occupancy thereof as a Super 1 Foods grocery store.

“SEDC” shall mean the Seagoville Economic Development Corporation.

Article II Term

The term of this Amended and Restated Agreement shall begin on the last date of execution hereof (the "Effective Date") and continue until the Expiration Date unless sooner terminated as provided herein.

Article III Grant

3.1 Grant. SEDC agrees, subject to the continued satisfaction of all the terms and conditions of this Amended and Restated Agreement by Company and the obligation of the Company to repay pursuant to Article V hereof, to provide Company with the Grant as set forth herein.

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. SEDC shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement made by Company. None of the obligations of SEDC under this Agreement shall be pledged or otherwise encumbered by Company in favor of any commercial lender and/or similar financial institution.

3.3 Current Revenue. The Grant made hereunder shall be paid solely from lawfully available funds that have been appropriated by SEDC. SEDC shall have no obligation or liability to provide any Grant except as allowed by law. SEDC shall not be required to provide any of the Grant if prohibited under federal or state legislation or a decision of a court of competent jurisdiction.

3.4 Reimbursement Grant. This Grant is a reimbursement Grant. Under this Amended and Restated Agreement, City will provide Grant payments, up to the maximum Grant amount, for properly documented expenses incurred by Company in the design and construction of the Infrastructure Improvements. City will make Grant payments within thirty (30) days of receipt by City of Company's written request for Grant payment accompanied by proper receipts and other evidence of payment indicating that Company expended the amount for which reimbursement is requested in construction of the Infrastructure Improvements. All requests for payment must be submitted on or before the Expiration Date.

Article IV Conditions to Grant

Company shall during the term of this Agreement satisfy and comply with the terms and conditions of this Agreement and specifically, each term and condition of this Article IV. The obligation of SEDC to provide the Grant or any portion thereof shall be conditioned upon Company's compliance with and satisfaction of the terms and condition of this Agreement, including the Conditions Precedent set forth in Section 6.1 of this Agreement, and each of the conditions set forth in this Article IV.

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

4.2 Commencement of Construction. Commencement of Construction, as that term is defined herein shall occur not later than one (1) year after the Effective Date of this Agreement.

4.3 Completion of Construction of Infrastructure Improvements and Multifamily Residential Improvements. Completion of Infrastructure Improvements Construction and Multifamily Residential Improvements Construction as each of those terms is defined herein, shall occur not later than five (5) years after the Effective Date of this Agreement.

4.4 Dedication of Infrastructure Improvements. Within sixty (60) days of Completion of Infrastructure Improvements Construction, as defined herein, Company will dedicate to City the Infrastructure Improvements along with any related or necessary easements or rights-of-way upon, under, or on the Property to provide the City with unhindered access to the Infrastructure Improvements or such portion thereof as may be located on or near the Property, for installation, removal replacement, maintenance, repair, upgrade, construction, or reconstruction thereof.

4.5 Completion of Construction of Commercial Retail Improvements. Completion of Commercial Retail Improvements Construction, as defined herein, shall occur not later than five (5) years after the Effective Date of this Agreement. The Parties acknowledge that Brookshire will be performing the construction but agree that Company shall nonetheless remain responsible, under this Agreement, for repayment of the Grant for failure by Brookshire to meet the construction, ownership, required use and/or operation requirements of this Agreement.

4.6 Required Uses. During the term of this Agreement following Completion of Construction and continuing thereafter until expiration this Agreement or earlier termination Company and its authorized tenants and lessees shall continuously own and occupy the Multifamily Residential Improvements and they shall not be used during the term of this Agreement for any purpose other than the Required Uses as defined herein. Further, during the term of this Agreement following the Completion of Construction and continuing thereafter until expiration of this Agreement or earlier termination, Company warrants and guarantees that Brookshire shall continuously own and occupy the Commercial Retail Improvements which shall not be used during the term of this Agreement for any purpose other than the Required Uses as defined herein. Further, during the term of this Agreement, such occupation and use of the Multifamily Residential Improvements and of the Commercial Retail Improvements shall not cease for more than thirty (30) days except in connection with, and to the extent of an event of Force Majeure.

4.7 Continuous Ownership. During the term of this Agreement following the Effective Date and continuing thereafter until the Expiration Date the Multifamily Residential Improvements shall be continuously owned by Company and occupied by Company and its authorized tenants and lessees. Further, during the term of this Agreement following the Effective Date and continuing thereafter until the Expiration Date, Company agrees, warrants, and guarantees that the Commercial Retail Improvements shall continuously owned and occupied by Brookshire.

4.8 Capital Investment in the Project. Company's Capital Investment for the Infrastructure Improvements and the Multifamily Residential Improvements shall be not less than Twenty-Five Million (\$25,000,000.00) Dollars. SEDC shall have a right, during the term of this Agreement to request that Company provide proof of this Capital Investment. In the event of such request, Company shall, not later than fifteen (15) calendar days after the request by SEDC, deliver to SEDC copies of

all records, contract, receipts, invoices, bills, proofs of payment, and such other information as SEDC may reasonably request to document compliance with the required Capital Investment.

4.9 Capital Investment in Infrastructure Improvements. Company's Capital Investment for Infrastructure Improvements shall be not less than Six Hundred, Twenty-Five Thousand (\$625,000.00) Dollars. SEDC shall have a right, during the term of this Agreement, to request that Company provide proof of this Capital Investment. In the event of such request Company shall, not later than fifteen (15) calendar days after the request by SEDC, deliver to SEDC copies of all records, contracts, receipts, invoices, bills, proof of payment, and such other information as SEDC may reasonably request. In the event the final total cost of the design, and construction of the Infrastructure Improvements, as reasonably verified by SEDC, is less than Six Hundred Twenty-Five Thousand (\$625,000.00) Dollars, the Company shall, within thirty (30) days of receipt by Company of written demand by SEDC pay SEDC the difference in value between \$625,000.00 and the final total cost of the construction of the Infrastructure Improvements, as reasonably verified by SEDC.

Article V Termination; Repayment

5.1 Termination. This Agreement terminates on the Expiration Date, and may, prior to the Expiration Date, be terminated upon any one or more of the following:

- (a) by mutual written agreement of the Parties;
- (b) upon written notice by either Party, if the other Party defaults or breaches any of the terms or conditions of this Agreement or a Related Agreement and such default or breach is not cured within thirty (30) days after written notice thereof;
- (c) upon written notice by SEDC, if any Impositions owed to SEDC, City or the State of Texas by Company shall have become delinquent (provided, however, Company retains the right to timely and properly protest and contest any such taxes or Impositions), and such delinquency is not cured within thirty (30) days following Company's receipt of written notice thereof;
- (d) upon written notice by SEDC, if Company suffers an event of Bankruptcy or Insolvency; or
- (e) upon written notice by either Party, if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal, or unenforceable.

5.2 Repayment Following Termination Under Section 5.1(b). In the event the Agreement is terminated by SEDC pursuant to Section 5.1 (b):

- (a) due to a breach of an obligation or promise set forth in section 4.2 hereof, Company shall immediately refund to the SEDC an amount equal to one hundred percent (100%) of the value of the Grant received by Company;

- (b) due to a breach of an obligation or promise set forth in section 4.3 or section 4.4 hereof, Company shall immediately refund to the SEDC an amount equal to one hundred percent (100%) of the value of the Grant received by Company;
- (c) due to a breach of an obligation or promise set forth in section 4.5 hereof, Company shall immediately refund to the SEDC an amount equal to fifty percent (50%) of the value of the Grant received by Company; and
- (d) due to a breach of obligation or promise set forth in section 4.6, 4.7, 4.8 hereof, Company shall immediately refund to SEDC an amount equal to twenty-five percent (25%) of the Grant received by Company.

The repayment obligations of the Company set forth in this section 5.2 shall survive termination of this Agreement.

5.3 Repayment Following Termination pursuant to Section 5.1(c), (d), and/or (e). In the event the Agreement is terminated by SEDC pursuant to Section 5.1(c), (d), and/or (e), the Company shall immediately refund to SEDC an amount equal to one hundred percent (100%) of the value of the Grant paid by SEDC to the Company, plus interest at the rate of interest periodically announced by *Wall Street Journal* as the prime or base commercial lending rate, or if the *Wall Street Journal* shall cease to exist or cease to announce a prime or base lending rate, than at the annual rate of interest from time to time announced by Citibank (or by any other New York money center bank selected by the SEDC) as its prime or base commercial lending rate from the date on which the Grant is paid by SEDC until refunded by the Company. The repayment obligation of Company set forth in this Section 5.3 shall survive termination of this Agreement.

5.4 Offsets. SEDC may, at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to City and/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 has been reduced to judgment by a court.

Article VI Miscellaneous

6.1 Conditions Precedent. The obligations of SEDC under this Agreement are subject to and conditioned on the following:

- (i) Company has secured and presented SEDC with proof of adequate approved financing for the Project;
- (ii) Company has purchased the Property or title to the Property has otherwise been transferred to Company and a copy of the deed, bearing evidence of the recording thereof in the Dallas County land records, has been provided to SEDC;
- (iii) Company has sold the Grocery Store Property to Brookshire, and a copy of the deed, bearing evidence of the recording thereof in the Dallas County land records, has been provided to SEDC;
- (iv) The City Council of the City of Seagoville, Texas has by resolution, approved

- this Amended and Restated Incentive Agreement and the related Project and
- (v) The sixty (60) day period provided for under Texas Local Government Code section 505.160 passed and neither the SEDC nor the City has received a petition from more than ten (10%) percent of the registered voters of the City requesting that an election be held before the funding of the Project as contemplated by this Agreement is undertaken.

6.2 Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the Parties hereto.

6.3 Limitation of Liability. It is understood and agreed between the Parties that Company and SEDC, 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.

6.4 No Joint Venture. It acknowledged and agreed by the Parties that the terms hereof are not intended to 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 the 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 action, liabilities, and expenses, including reasonable attorneys' fees, of any nature whatsoever arising out of Company's performance of the conditions under this Agreement.

6.5 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations and provide all warranties and guarantees that are granted, provided, and/or assumed under this Agreement. The undersigned officers and/or agents of the Parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the Parties hereto.

6.6 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days after being placed in the 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 such Party may subsequently designate in writing), or on the day actually received if sent by courier or otherwise hand delivered.

If intended for SEDC, to:

Seagoville Economic
Development Corporation
Attn: Patrick Stallings, Exec.
Director 702 N. Highway 175
Seagoville. Texas 75159

With a copy to:

Victoria W. Thomas
Nichols. Jackson
Suite 1800 Ros s Tower
500 North Akard
Dallas. Texas 75201

If intended for Company:

KRR Malloy Bridge Residential, LLC and
KRR Malloy Bridge Retail, LLC
Attn: Joseph Kemp
1015 N. Duncanville Road
Duncanville, Texas 75116

6.7 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement. There is no other collateral oral or written agreement among the Parties that in any manner relates to subject matter of this Agreement.

6.8 Governing Law. The Agreement shall be governed by the laws of the State of Texas, without giving effect to any conflict of law rule or principle that might result in the application of the laws of another jurisdiction, and exclusive 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.

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

6.10 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 shall 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.

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

6.12 Successors and Assigns. This Agreement may not be assigned without the prior written consent of SEDC.

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

6.14 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.

6.15 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.

6.16 Employment of Undocumented Workers. During the term of this Agreement, Company agrees to not knowingly employ an undocumented worker and if convicted of a violation under 8 U.S.C. Section 1324a(f), Company shall repay the value or the costs incurred by the SEDC to provide the Grants herein and any other funds received by Company from SEDC of such violation, plus interest at the rate of 4% compounded annually from the date of violation until paid. Company is not liable for

a violation of this section in relation to any workers employed by Brookshire, or by subsidiary, affiliate, or franchisee of Company or by a person with whom the Company contracts.

Signature Page to Follow

EXECUTED on this ____ day of _____, 2022

KRR MALLOY BRIDGE RESIDENTIAL, LLC,
a Texas limited liability company

By: _____
Joseph Kemp, Manager

and

KRR MALLOY BRIDGE RETAIL, LLC,
A Texas limited liability company

By: _____
Joseph Kemp, Manager

ACKNOWLEDGMENT

STATE OF TEXAS COUNTY
OF DALLAS

Before me, the undersigned authority, a Notary Public in and for the State of Texas. on this day personally appeared. Joseph Kemp, Manager of KRR Malloy Bridge Residential. LLC and Manager of KRR Malloy Bridge Retail, LLC. both Texas limited liability companies, known or proven to me to be the person and agent whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of said KRR Malloy Bridge Residential. LLC and KRR Malloy Bridge Retail. LLC that he was duly authorized to perform the same by appropriate resolution of each of the said companies. and that he executed the same as the act of said KRR Malloy Bridge Residential. LLC and KRR Malloy Bridge Retail, LLC, jointly and severally, for the purpose and consideration therein expressed and in the capacity therein stated after first having been duly authorized so to do.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, 2022.

Notary Public

EXECUTED on this ____ day of _____, 2022.

**SEAGOVILLE ECONOMIC DEVELOPMENT
CORPORATION**

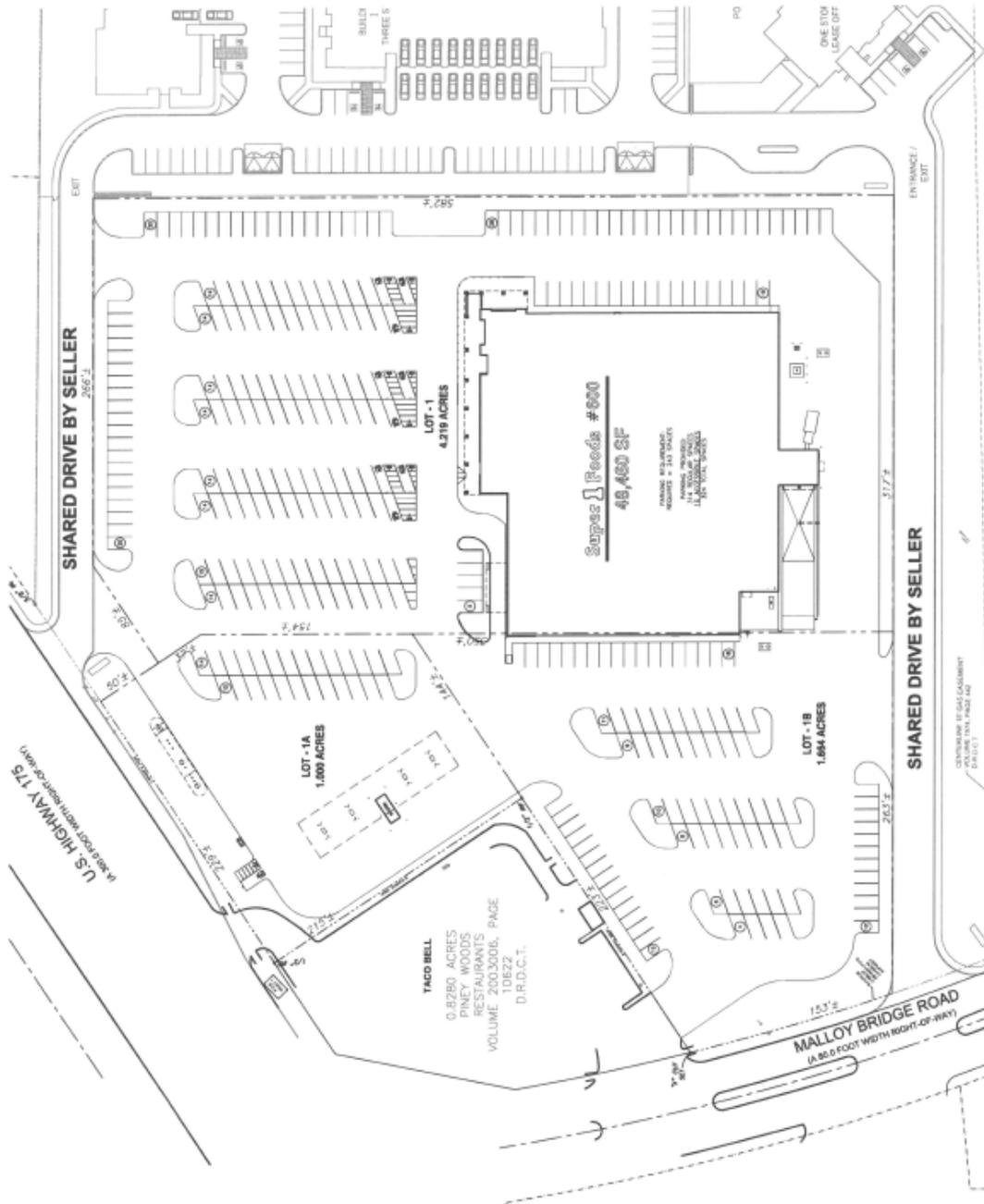
By: _____
Patrick Stallings, Executive Director

EXHIBIT "A"

Off-Site Sanitary Line

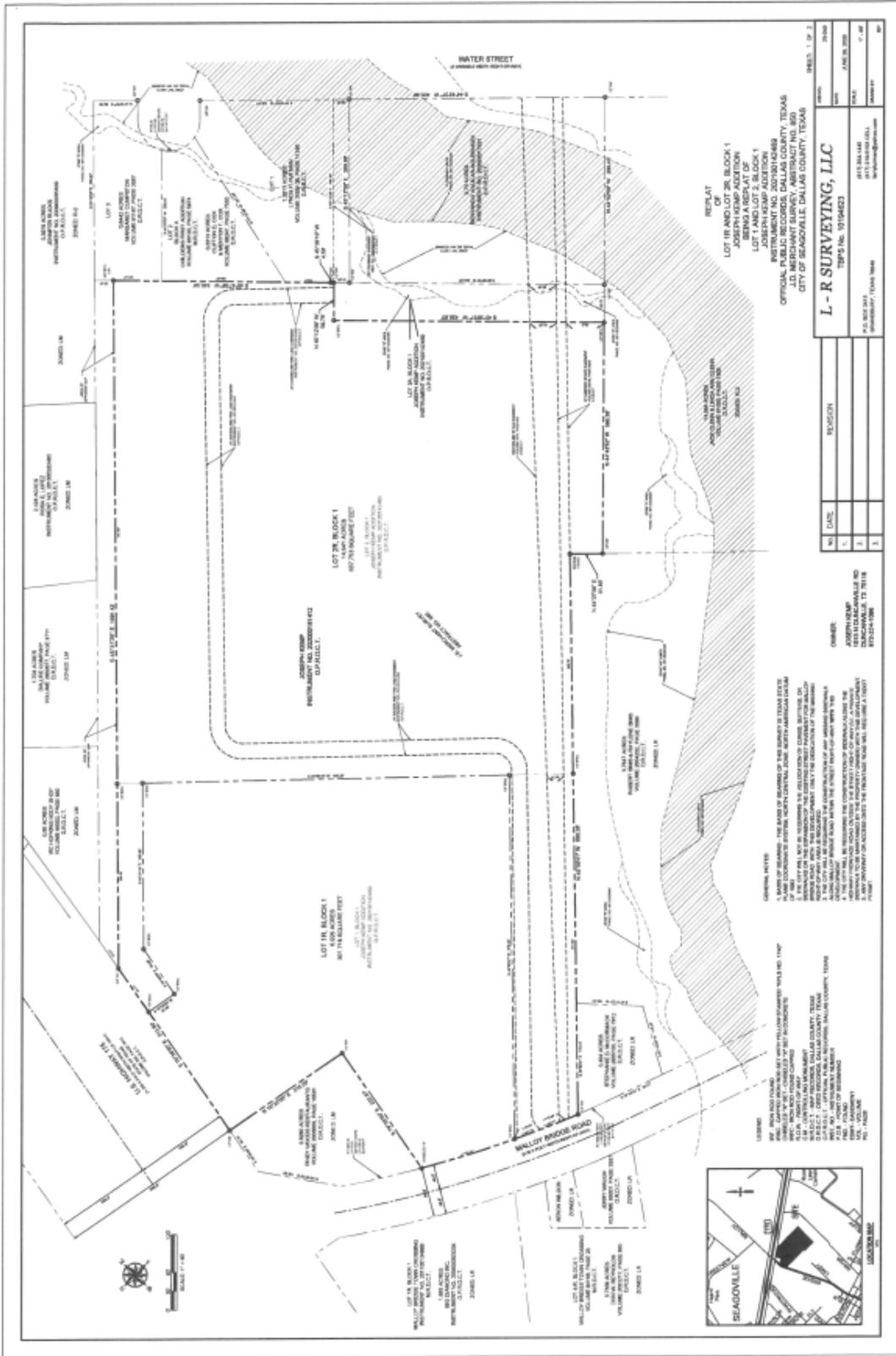
- Connection to existing sanitary manhole
- Sanitary sewer crossing (boring) under Hwy 175
- 2 new manholes and sanitary installation through utility easement





SITE STUDY - 1B
6.883 ACRES
4 PUMPS

108 S. U.S HWY 175
SEABROVILLE, TX.
11-23-2021



REPLAT OF
 LOT 18 AND LOT 19, BLOCK 1
 - BEING A REPLAT OF
 LOT 1 AND LOT 2, BLOCK 1
 INSTRUMENT NO. 20070143489
 OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TEXAS
 CITY OF SEAGOVILLE, DALLAS COUNTY, TEXAS

NO.	DATE	REVISION
1		
2		
3		

L-R SURVEYING, LLC
 415 S. HAWK CREEK
 FORT WORTH, TEXAS 76104
 TEL: 817.343.4444
 FAX: 817.343.4444
 WWW.LRSURVEYING.COM

OWNER:
 18111 CALDWAY RD
 SEAGOVILLE, TX 75158

GENERAL NOTES:
 1. THIS PLAT SHOWS THE BOUNDARIES OF THIS TRACT AS THEY EXIST.
 2. THIS PLAT WAS PREPARED BY THE SURVEYOR IN ACCORDANCE WITH THE SURVEYING ACT OF 1909 AND THE SURVEYING ACT OF 1924.
 3. THE SURVEYOR HAS NOT BEEN ADVISED OF ANY ENCUMBRANCES AFFECTING THIS TRACT.
 4. THE CITY WILL BE RESPONSIBLE FOR THE CONSTRUCTION OF ANY NECESSARY IMPROVEMENTS.
 5. THE CITY WILL BE RESPONSIBLE FOR THE CONSTRUCTION OF ANY NECESSARY IMPROVEMENTS.
 6. THE CITY WILL BE RESPONSIBLE FOR THE CONSTRUCTION OF ANY NECESSARY IMPROVEMENTS.
 7. THE CITY WILL BE RESPONSIBLE FOR THE CONSTRUCTION OF ANY NECESSARY IMPROVEMENTS.
 8. THE CITY WILL BE RESPONSIBLE FOR THE CONSTRUCTION OF ANY NECESSARY IMPROVEMENTS.
 9. THE CITY WILL BE RESPONSIBLE FOR THE CONSTRUCTION OF ANY NECESSARY IMPROVEMENTS.
 10. THE CITY WILL BE RESPONSIBLE FOR THE CONSTRUCTION OF ANY NECESSARY IMPROVEMENTS.



Regular Session Agenda Item: 11

Meeting Date: November 7, 2022

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 salutory 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 salutory 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: 12

Meeting Date: November 7, 2022

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

Executive Session Agenda Item: 13

Meeting Date: November 7, 2022

ITEM DESCRIPTION:

Recess into Executive Session

Council will recess into executive session pursuant to Texas Government Code:

- A. § 551.074. Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee to wit: City Manager**
- B. § 551.074. Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee to wit: City Secretary**
- C. § 551.074. Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee to wit: City Attorney**
- D. § 551.071. Consultation with City Attorney, to seek the advice of its attorney about pending litigation: Shayla Logan v. Chief of Police, Ray Calverley, Captain Steve Davis, and Officer Kevin Yoes ID 180, City of Seagoville, Civil Action No. 3:21-cv-3079 in the United States District Court for the Northern District of Texas**
- E. § 551.071. Consultation with City Attorney: receive legal advice related to the Charter Review Commission Report**

BACKGROUND OF ISSUE:

N/A

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

EXHIBITS:

N/A

Executive Session Agenda Item: 14

Meeting Date: November 7, 2022

ITEM DESCRIPTION:

Reconvene into Regular Session

Council will reconvene into open session, and take action, if any, on matters discussed in Executive Session.

- A. § 551.074. Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee to wit: City Manager
- B. § 551.074. Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee to wit: City Secretary
- C. § 551.074. Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee to wit: City Attorney
- D. § 551.071. Consultation with City Attorney, to seek the advice of its attorney about pending litigation: Shayla Logan v. Chief of Police, Ray Calverley, Captain Steve Davis, and Officer Kevin Yoes ID 180, City of Seagoville, Civil Action No. 3:21-cv-3079 in the United States District Court for the Northern District of Texas
- E. § 551.071. Consultation with City Attorney: receive legal advice related to the Charter Review Commission Report

BACKGROUND OF ISSUE:

N/A

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

EXHIBITS:

N/A