



**SEAGOVILLE, TEXAS
CITY COUNCIL MEETING AGENDA
MONDAY, APRIL 3, 2023**

**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**

Adjourn

REGULAR SESSION - 7:00 P.M.

ROUTINE ANNOUNCEMENTS, RECOGNITIONS, and PROCLAMATIONS

Call to Order

Invocation

Pledge of Allegiance

Proclamation – National Public Safety Telecommunications Week

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 March 20, 2023 (City Secretary)**

REGULAR AGENDA-

- 2. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving a Work Order No. 8 agreement with Garver, LLC, in accordance with the City's March 24, 2021, Master Agreement for Professional Services with Garver, LLC, for the Bruce Central Park bridge removal and replacement, in an amount not to exceed Thirty Five Thousand Eighty Seven Dollars and Fifty Cents (\$35,087.50); authorizing the City Manager to execute said agreement; providing a repealing clause; providing a severability clause; and providing an effective date (Public Works Director)**
- 3. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas approving an agreement for consulting services on a water and wastewater cost of service and rate design study update with NewGen Strategies and Solutions, LLC.; in an amount not to exceed Fourteen Thousand Dollars and Zero Cents (\$14,000.00); authorizing the City Manager to sign; and providing an effective date (Public Works Director)**
- 4. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, awarding the contract for Bid Number 2023-02 City Mowing Maintenance to Good Earth Corporation in an amount not to exceed One Hundred Sixty Two Thousand Twenty Seven Dollars and Zero Cents \$162,027.00 for mowing services and authorizing the City Manager to execute the same; and providing for an effective date (Public Works Director)**
- 5. Discuss and consider approving an Ordinance authorizing the Issuance of City of Seagoville, Texas Certificates of Obligation, Series 2023; prescribing the terms thereof; providing for the payment thereof; awarding the sale thereof; making other provisions regarding such certificates and matters incident thereto (Finance Director)**
- 6. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas authorizing execution of an agreement with Tyler Technology, Inc. for updated software services for the City's Municipal Court (Software as a Service); and providing an effective date (Director of Administrative Services)**
- 7. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, authorizing the exercise of eminent domain by the City of Seagoville, Texas, and for determining the necessity of acquiring real property for the construction of a 12-foot Wastewater Easement and Temporary Construction Easement (part 1) and a Variable Width Wastewater Easement and Temporary Construction Easement (part 2) for the East Malloy Bridge Road Wastewater Line Project, authorizing the appropriation of real property and/or the use of the power of eminent domain to acquire real property for public use, delegating authority to initiate condemnation proceedings to the City Attorney and City Manager and providing for an effective date (City Attorney)**

8. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, authorizing the exercise of eminent domain by the City of Seagoville, Texas, and for determining the necessity of acquiring real property for the construction of a 25-foot wide Sanitary Sewer Easement and a 55-foot wide Temporary Construction Easement for the Santorini Offsite Sanitary Sewer Project, authorizing the appropriation of real property and/or the use of the power of eminent domain to acquire real property for public use, delegating authority to initiate condemnation proceedings to the City Attorney and City Manager and providing for an effective date (City Attorney)

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

10. 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.

11. 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: receive legal advice related to the interlocal agreements (dispatch and jail services) with Sunnyvale**
- E. § 551.071. Consultation with City Attorney: receive legal advice related to La Pulga**

12. 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: receive legal advice related to the interlocal agreements (dispatch and jail services) with Sunnyvale**
- E. § 551.071. Consultation with City Attorney: receive legal advice related to La Pulga**

13. Discuss and consider approving an amendment to the City Manager’s Contract to provide for a one-year extension

Adjourn

Posted Friday, March 31, 2023, by 5:00 P.M.

Kandi Jackson
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, April 17, 2023, Regular City Council Meeting**
- **Monday, May 1, 2023, Regular City Council Meeting**
- **Monday, May 15, 2023, Regular City Council Meeting**
- **Monday, June 5, 2023, Regular City Council Meeting**

PROCLAMATION

Of the Mayor Of the City of Seagoville, Texas

WHEREAS, Public Safety Telecommunicators are the first and most critical contact our citizens have with emergency services;

WHEREAS, when an emergency occurs the prompt response of police officers, firefighters, and emergency medical personnel is critical to the protection of life and preservation of property; and

WHEREAS, Public Safety Telecommunicators work for the most part ‘behind the scenes’, where they work alongside as first responders, with fire, police and emergency medical personnel.

WHEREAS, the safety of our police officers and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the Seagoville Communications Center; and

WHEREAS, Public Safety Telecommunicators are the single vital link for our police officers, firefighters, and emergency medical personnel by monitoring their activities by radio, providing them information and insuring their safety; and

WHEREAS, each Public Safety Telecommunicator has exhibited compassion, understanding and professionalism during the performance of their job in the past year.

NOW, THEREFORE, IT IS PROCLAIMED by the Mayor and City Council of the City of Seagoville, Texas, **the week of April 9th through 15, 2023, to be National Public-Safety Telecommunications Week** in Seagoville, in honor of the men and women whose diligence and professionalism keep our city and citizens safe.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Seagoville to be affixed on this 3rd day of April 2023.

Mayor Dennis K. Childress

Consent Session Agenda Item: 1

Meeting Date: April 3, 2023

ITEM DESCRIPTION:

Consider approving City Council Meeting Minutes for March 20, 2023.

BACKGROUND OF ISSUE:

Approve City Council Meeting Minutes for March 20, 2023.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

EXHIBITS:

March 20, 2023, Work Session Meeting Minutes
March 20, 2023, Regular Meeting Minutes



**MINUTES OF CITY COUNCIL
WORK SESSION
MARCH 20, 2023**

The Work Session of the City Council of the City of Seagoville, Texas was called to order at 6:31 p.m. on Monday, March 20, 2023, 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	Absent
Mike Fruin	Councilmember	
Jon Epps	Councilmember	

The following staff members were also present: City Manager Patrick Stallings, Police Chief Ray Calverley, Assistant Police Chief Steve Davis, Police Officer James Sundeen, K-9 Officer Raider, Director of Health Mamata Bhandari, City Attorney Victoria Thomas, Works Director Chris Ryan, Director of Administrative Services Cindy Brown, and City Secretary Kandi Jackson.

B. Introduction of K-9 Officer Raider

Assistant Police Chief Davis and Officer Sundeen introduced K-9 Officer Raider and provided a demonstration.

C. Receive an update from Southeast Alliance Community Care Team

Cares Team, Behavioral Health Program Manager Melissa Carr provided an update concerning the Southeast Alliance Community Care Team.

D. Receive update concerning storm-generated bulk brush pickup

Director of Health Bhandari provided an update concerning the storm-generated bulk brush pickup.

Adjourned at 7:13 p.m.

APPROVED:

Mayor Dennis K. Childress

ATTEST:

Kandi Jackson, City Secretary



**MINUTES OF CITY COUNCIL
REGULAR SESSION
MARCH 20, 2023**

The Regular Session of the City Council of the City of Seagoville, Texas was called to order at 7:25 p.m. on Monday, March 20, 2023, 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	Absent
Mike Fruin	Councilmember	
Jon Epps	Councilmember	

The following staff members were also present: City Manager Patrick Stallings, Police Chief Ray Calverley, Assistant Police Chief Steve Davis, Public Works Director Chris Ryan, City Attorney Victoria Thomas, Director of Administrative Services Cindy Brown, and City Secretary Kandi Jackson.

Invocation – *Invocation was led by Mayor Childress.*

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

Mayor’s Report – *Mayor Childress stated the storms brought high winds that caused some damage. The damage is being taken care of and he is glad the citizens are safe.*

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.*

Nelda Villacan at 814 Hall Rd. stated her concerns about flooding in the alley between Hall Rd. and Johnnie Row.

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 February 27, 2023, and March 6, 2023 (City Secretary)**

2. Discuss and consider approving a Resolution of the City of Seagoville, Texas, authorizing continued participation with the Atmos Cities Steering Committee; and authorizing the payment of five (\$0.05) cents per capita to the Atmos Cities Steering Committee to fund regulatory and related activities related to Atmos Energy Corporation; and requiring delivery of this resolution and approved assessment fee to legal counsel for the steering committee (Director of Administrative Services)

Motion to approve the Consent Agenda as read – Magill, seconded by Fruin; motion passed with all ayes. 4/0

REGULAR AGENDA-

3. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, authorizing execution of an agreement with Oncor Electric Delivery Company, LLC (“Oncor”), regarding the construction, operation, and maintenance of a sanitary sewer line, water line crossing and portion of the Adonis Avenue Road crossing within Oncor’s easements; and providing an effective date (City Attorney)

City Attorney Thomas explained that this Resolution authorizes the execution of an agreement with Oncor Electric Delivery Company, LLC, regarding the construction, operation, and maintenance of a sanitary sewer line, water line crossing, and portion of the Adonis Avenue Road crossing within Oncor’s easements. She also stated that she provided the documents necessary for filing in the land records.

Motion to approve a Resolution of the City Council of the City of Seagoville, Texas, authorizing execution of an agreement with Oncor Electric Delivery Company, LLC (“Oncor”), regarding the construction, operation, and maintenance of a sanitary sewer line, water line crossing and portion of the Adonis Avenue Road crossing within Oncor’s easements; and providing an effective date and the documents necessary to file in the land records – Fruin, seconded by Magill; motion passed with all ayes. 4/0

4. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas awarding a contract to Felix Construction Company, an Arizona for-profit corporation, for the construction of Ard Road Pump Station Improvements Contract 2, in an amount not to exceed One Million Nine Hundred Fifty Four Thousand Two Hundred Eighty Three Dollars and Zero Cents (\$1,954,283.00); authorizing the City Manager to negotiate and execute any and all necessary documents; providing a repealing clause; providing a severability clause; and providing an effective date (Public Works Director)

Motion to approve a Resolution of the City Council of the City of Seagoville, Texas awarding a contract to Felix Construction Company, an Arizona for-profit corporation, for the construction of Ard Road Pump Station Improvements Contract 2, in an amount not to exceed One Million Nine Hundred Fifty Four Thousand Two Hundred Eighty Three Dollars and Zero Cents (\$1,954,283.00); authorizing the City Manager to negotiate and execute any and all necessary documents; providing a repealing clause; providing a severability clause; and providing an effective date – Magill, seconded by Fruin; motion passed with all ayes. 4/0

5. Discuss and consider approving a resolution of the City of Seagoville, Texas, authorizing the purchase of playground replacement equipment for C. O. Bruce Central Park in an amount not to exceed Six Thousand Three Hundred Ninety Five Dollars and Six Cents (\$6,395.06) from Cunningham Recreation; authorizing the City Manager to execute any and all necessary documents; providing a repealing clause; providing a severability clause; and providing an effective date (Public Works Director)

Motion to approve a Resolution of the City of Seagoville, Texas, authorizing the purchase of playground replacement equipment for C.O. Bruce Central Park in an amount not to exceed Six Thousand Three Hundred Ninety Five Dollars and Six Cents (\$6,395.06) from Cunningham Recreation; authorizing the City Manager to execute any and all necessary documents; providing a repealing clause; providing a severability clause; and providing an effective date – Hernandez, seconded by Magill; motion passed with all ayes 4/0

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

Mayor Pro Tem Magill stated he would like to address the talk from citizens concerning taxes. He stated while Dallas County raised taxes the City of Seagoville reduced taxes.

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

None.

8. Recessed Into Executive Session at 7:36 p.m.

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

A. § 551.071. Consultation with City Attorney: receive legal advice related to the Santorini Development

9. Reconvened Into Regular Session at 8:02 p.m.

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

A. § 551.071. Consultation with City Attorney: receive legal advice related to the Santorini Development

No action taken.

Adjourned at 8:03 p.m.

APPROVED:

Mayor Dennis K. Childress

ATTEST:

Kandi Jackson, City Secretary

Regular Session Agenda Item: 2

Meeting Date: April 3, 2023

ITEM DESCRIPTION:

Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, approving a Work Order No. 8 agreement with Garver, LLC, in accordance with the City's March 24, 2021, Master Agreement for Professional Services with Garver, LLC, for the Bruce Central Park bridge removal and replacement, in an amount not to exceed Thirty Five Thousand Eighty Seven Dollars and Fifty Cents (\$35,087.50); 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 Bruce Central Park bridge partially collapsed on or about August 22, 2022, staff first looked and repairing the current bridge but cost were not within the city's budget. This contract with Garver LLC will allow them to design and bid the Bruce Central Park bridge removal and replacement. At this time staff recommends contracting with Garver LLC, to ensure that we make the best possible decisions for our residents, businesses and visitors to our community.

FINANCIAL IMPACT:

\$35,087.50 for Professional Engineering Services
Estimated bid amount of \$150,000.00
Future Budget amendment needed

RECOMMENDATION:

Staff recommends approval.

EXHIBITS:

Resolution – Approving an agreement for Professional Services on a Task Order Basis

Agreement for Professional Services on a Task Order Basis Work Order #8

A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO. ____ - R - 2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, APPROVING A WORK ORDER NO. 8 AGREEMENT WITH GARVER, LLC, IN ACCORDANCE WITH THE CITY'S MARCH 24, 2021 MASTER AGREEMENT FOR PROFESSIONAL SERVICES WITH GARVER, LLC, FOR THE BRUCE CENTRAL PARK BRIDGE REMOVAL AND REPLACEMENT, IN AN AMOUNT NOT TO EXCEED THIRTY FIVE THOUSAND EIGHTY SEVEN DOLLARS AND FIFTY CENTS (\$35,087.50); AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in accordance with the City's Master Agreement for Professional Services with Garver, LLC ("Engineer") executed March 24, 2021, Engineer provides professional engineering services to the City of Seagoville ("City") on an "as needed" or "task order" basis as determined by the City; and

WHEREAS, the city has a need for engineering services, specifically to the Bruce Central Park bridge removal and replacement; and

WHEREAS, Engineer has agreed to provide said engineering services as set forth in Work Order No. 8, attached hereto as Exhibit "A"; and

WHEREAS, the City Council hereby finds that it is in the best interest of the City to approve the agreement Work Order No. 8 with Garver, LLC in an amount not to exceed \$35,087.50 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 the Work Order No. 8 agreement with Garver, LLC, attached hereto and incorporated herein by this reference as Exhibit "A", being entered into pursuant to the City's Master Agreement for Professional Services with Garver, LLC executed March 24, 2021, for engineering services specifically to the Bruce Central Park bridge removal and replacement , in an amount not to exceed thirty five thousand eighty seven dollars and fifty cents (\$35,087.50), and hereby authorizes the City Manager to execute said Work Order

No. 8 Agreement and all related documents necessary for the work contemplated by Work Order No. 8.

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 3rd day of April , 2023.

APPROVED:

DENNIS K. CHILDRESS, MAYOR

ATTEST:

KANDI JACKSON, CITY SECRETARY

APPROVED AS TO FORM:

VICTORIA THOMAS, CITY ATTORNEY

WORK ORDER NO. 8
City of Seagoville
Bruce Central Park Bridge Removal and Replacement
Project No. 23W05150

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 **On-Call Engineering Services**:

The Owner intends to utilize Garver for design and bidding services, for the removal of the Bruce Central Park pedestrian bridge and walkway replacement.

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

1.1 Garver shall provide the following Services:

Basic Services

1. General Items and Design Management

- 1.1. Kick-off Meeting – Attendance at preliminary kickoff meeting with Owner staff.
- 1.2. Research and Data Collection – Research existing construction records and record drawings, existing easement information, and other information available for the project area. Owner will provide all available existing record drawings, available GIS utilities for the area and available City Easements.
- 1.3. 100% Design Review Meeting – Conduct one (1) 1-hour workshop with the Owner to present and review the 100% design deliverable, discuss review comments, and confirm design path forward. Meeting minutes will be prepared and distributed by GARVER.
- 1.4. Team Management and Document Control – Manage all efforts of the project team, individual team members, and sub-consultants and maintain appropriate records and documentation of project decisions, modifications, activities, communication, correspondence, and schedules.

2. Final Design –100%

- 2.1. 100% Plans – Prepare all drawings listed in the sheet list below (1":20'). These plans will be to a 100% level and will include the existing bridge removal, proposed grading improvements, CMP culvert plan and profile, concrete walkway layout, and erosion control.
- 2.2. The following is the estimated sheet list:
 1. Cover sheet (Assume 1 sheet)
 2. General notes, legend, abbreviations (Assume 3 sheets)
 3. Key Map/Survey Control (Assume 1 sheet)
 4. Bridge Demolition/Removal Plan (Assume 1 sheet)
 5. CMP Culvert Plan and Profile sheets (Assume 1 sheet)
 6. Grading Layout (Assume 1 sheet)
 7. Erosion Control (Assume 1 sheet)
 8. Civil detail sheets (Assume 3 sheets)
- 2.3. 100% Front End Documents and Specifications – GARVER will prepare final front end documents and design specifications (100%). These will include all special technical specifications and the front-end documents including proposal forms, notice to bidders, bid forms, and bond forms. NCTCOG standard specifications will be utilized unless otherwise noted.
- 2.4. 100% OPCC – Prepare an estimate of construction quantities and develop an AACE Class 1 opinion of probable construction cost (OPCC).
- 2.5. 100% Comment Incorporation – Incorporate comments received on the 100% submittal and prepare bid ready documents.

Deliverables

The following will be submitted to the City:

- Two (2 half-size (11"x17")) copies and a digital copy in PDF format of the Final Design (100%) plans (ready for bid)

- One (8.5"x11") copies and a digital copy in PDF format of the Final Design (100%) specifications (ready for bid)
- AACE Class 1 OPCC

3. Bidding Services

The bidding period for bidders is anticipated to extend for a 60-day duration. The City will post advertisement for bids and coordinate publishing. During the bidding phase of the project, GARVER will:

- 3.1. Support the Contract Documents by answering technical questions.
- 3.2. Prepare agenda and facilitate one (1) pre-bid meeting.
- 3.3. Prepare a pre-bid meeting memorandum. Following City authorization, send pre-bid meeting summary with attendance record to the City for posting.
- 3.4. Attend the bid opening, prepare bid tabulation, evaluate bids and recommend award.

Additional Services

A. Surveys

1. Establish control points using Global Positioning System (GPS) methodology. Horizontal values will be based on the Texas State Plane Coordinate System, North American Datum of 1983, North Central Zone (4202) and scaled to surface using the grid to surface factor of 1.000136505 (0,0 base point). The vertical values will be established by a closed level loop and based on the North American Vertical Datum of 1988 (NAVD 88).
2. Topographic survey of the design area. This survey will include pavement edgers, curb and gutter, culverts, fences and gates, trees 6 inches and greater, tops and toes of slopes, spot elevations, surface locations of utilities and flowline elevations of sanitary and storm sewer manholes where accessible, and other surface features within the project area.
3. Provide a digital design survey drawing in Civil3D format showing visible surface features located, an ASCII point file, and a copy of field notes and field sketches.
4. No property or boundary will be located, researched or shown on this project.

1.2 In addition to those obligations set forth in the Agreement, Owner shall:

- 1.2.1 Give thorough consideration to all documents and other information presented by Garver and informing Garver of all decisions within a reasonable time so as not to delay the Services.
- 1.2.2 Make provision for the Personnel of Garver to enter public and private lands as required for Garver to perform necessary preliminary surveys and other investigations required under the applicable Work Order.
- 1.2.3 Obtain the necessary lands, easements, and right-of-way for the construction of the work. All costs associated with securing the necessary land interests, including property acquisition and/or easement document preparation, surveys, appraisals, and abstract work, shall be borne by the Owner outside of this Agreement, except as otherwise described in the Services under Section 1.1.
- 1.2.4 Provide legal, accounting, and insurance counseling services necessary for the project and such auditing services as Owner may require.
- 1.2.5 Furnish permits, permit fees, and approvals from all governmental authorities having jurisdiction over the project and others as may be necessary for completion of the project.

Extra Work

City and ENGINEER agree that the following services are beyond the Scope of Services described in the tasks above. However, Garver can provide these services, if needed, upon the City’s written request. Any additional amounts paid to the Garver as a result of any material change to the Scope of the Project shall be agreed upon in writing by both parties before the services are performed. These additional services include the following:

The following services are not included as part of the basic services and will be performed at the request of the Owner and with additional compensation as agreed upon by the Owner and Garver:

- A. Establishing property boundaries
- B. Submitting permits to all government entities
- C. Preparing all levels of traffic control plans
- D. Environmental Information Document
- E. Bridge removal and disposal methodology
- F. Public outreach
- G. Emergency response planning
- H. Hazard mitigation planning
- I. Sound attenuation
- J. Funding assistance
- K. Evaluation of condition or structural integrity of existing facilities
- L. Startup assistance
- M. Operations support services
- N. Warranty assistance services
- O. Utility location services
- P. Coatings analysis
- Q. Operational audit/optimization
- R. Environmental handling and documentation, including wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items
- S. Stormwater permitting
- T. Modeling of the water system
- U. Redesign or substantial engineering or surveying. Any change order negotiation or coordination by Garver will be considered Extra Work.
- V. Construction administration and observation services

SECTION 2 – PAYMENT

For the Services set forth above, Owner will pay Garver as follows:

The table below presents a summary of the fee amounts and fee types for this Work Order

WORK DESCRIPTION – BASIC SERVICES	FEE AMOUNT	FEE TYPE
General Items and Design Management	\$2,392.00	LUMP SUM
Final Design	\$25,696.00	LUMP SUM
Bidding Services	\$2,492.00	LUMP SUM
TOTAL FEE	\$30,580.00	LUMP SUM

WORK DESCRIPTION – ADDITIONAL SERVICES	FEE AMOUNT	FEE TYPE
Surveying Services	\$4,507.50	LUMP SUM
TOTAL FEE	\$4,507.50	LUMP SUM

The lump sum amount to be paid under this Work Order is **\$35,087.50**.

Any unused portion of the fee, due to delays beyond Garver's control, will be increased six percent (6%) annually with the first increase effective on or about July 1st, 2023.

Additional Services (Extra Work). For services not described or included in Section 2, but requested by the Owner in writing or otherwise permitted under Section 4, the Owner will pay Garver as expressly set forth in the applicable Amendment, plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel. A detailed breakdown of these expenses can be provided, upon request, with the applicable amendment.

SECTION 3 – APPENDICES

- 3.1 The following Appendices are attached to and made a part of this Work Order:
 - 3.1.1 Appendix A – Executed Master Services Agreements

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.

The City of Seagoville

GARVER, LLC

By: _____
Signature

By: _____
Signature

Name: _____
Printed Name

Name: Lance Klement
Printed Name

Title: _____

Title: North Texas Water Team Leader

Date: _____

Date: _____

Attest: _____

Attest: _____

EXHIBIT A



THIS MASTER AGREEMENT FOR PROFESSIONAL SERVICES (“**Agreement**”) is made as of the Effective Date by and between the **City of Seagoville** (hereinafter referred to as “**Owner**”), and **Garver, LLC** (hereinafter referred to as “**Garver**”). Owner and Garver may individually be referred to herein after as a “**Party**” and/or “**Parties**” respectively.

RECITALS

WHEREAS, Owner is in need of certain professional engineering Services as further set forth in the applicable Work Order.

WHEREAS, Garver will provide professional Services as further described herein.

NOW THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS GARVER

In addition to other defined terms used throughout this Agreement, when used herein, the following capitalized terms have the meaning specified in this Section

“**Effective Date**” means the date last set forth in the signature lines below.

“**Damages**” means any and all damages, liabilities, or costs (including reasonable attorneys’ fees recoverable under applicable law).

“**Hazardous Materials**” means any substance that, under applicable law, is considered to be hazardous or toxic or is or may be required to be remediated, including: (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” or any words of similar import pursuant to applicable law; or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any governmental instrumentality, or which may be the subject of liability for damages, costs or remediation.

“**Personnel**” means affiliates, directors, officers, partners, members, employees, and agents.

“**Work Order**” means a document executed by both Parties reflecting Owner’s request for professional engineering Services in the form of Exhibit A.

2. SCOPE OF SERVICES

2.1. Services. Owner hereby engages Garver to perform the professional engineering services as may be requested by Owner under a Work Order(s) (the “**Services**”). Execution of the applicable Work Order by Owner constitutes Owner’s written authorization to proceed with the Services set forth in such Work Order. In consideration for such Services, Owner agrees to pay Garver in accordance with Section 3 below.



3. PAYMENT

- 3.1. Fee. For the Services described under Section 2.1, Owner will pay Garver in accordance with this Section 3 and the applicable Work Order. Owner represents that funding sources necessary to pay Garver in accordance with the terms of this Agreement will be in place prior to execution of the applicable Work Order.
- 3.2. Invoicing Statements. Garver shall invoice Owner on a monthly basis. Such invoice shall include supporting documentation reasonably necessary for Owner to know with reasonable certainty the proportion of Services accomplished.
- 3.3. Payment.
- 3.3.1. Due Date. Owner shall pay Garver all undisputed amounts thirty (30) days after receipt of an invoice. Owner shall provide notice in writing of any portion of an invoice that is disputed in good faith within fifteen (15) days of receipt of an invoice. Garver shall promptly work to resolve any and all items identified by Owner relating to the disputed invoice. All disputed portions shall be paid promptly upon resolution of the underlying dispute.
- 3.3.2. If any undisputed payment due Garver under this Agreement is not received within forty-five (45) days from the date of an invoice, Garver may elect to suspend Services under this Agreement without penalty.
- 3.3.3. Payments due and owing that are not received within thirty (30) days of an invoice date will be subject to interest at the lesser of a one percent (1%) monthly interest charge (compounded) or the highest interest rate permitted by applicable law.

4. AMENDMENTS

- 4.1. Amendments. Garver shall be entitled to an equitable adjustment in the cost and/or schedule for circumstances outside the reasonable control of Garver, including modifications in the scope of Services, applicable law, codes, or standards after the Effective Date ("Amendment"). As soon as reasonably possible, Garver shall forward a formal Amendment to Owner with backup supporting the Amendment to establish any such equitable adjustment. All Amendments should include, to the extent known and available under the circumstances, documentation sufficient to enable Owner to determine: (i) the factors necessitating the possibility of a change; (ii) the impact which the change is likely to have on the cost to perform the Services; and (iii) the impact which the change is likely to have on the schedule. All Amendments shall be effective only after being signed by the designated representatives of both Parties. Garver shall have no obligation to perform any additional work created by such Amendment until a mutually agreeable Amendment is executed by both Parties.

5. OWNER'S RESPONSIBILITIES

- 5.1. Owner's responsibilities shall include the following:
- 5.1.1. Those responsibilities set forth in the applicable Task Order.
- 5.1.2. Pay Garver in accordance with Section 3 and the applicable Work Order.



- 5.1.3. Owner shall be responsible for all requirements and instructions that it furnishes to Garver pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Garver pursuant to this Agreement. Garver may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items as further set forth in the applicable Work Order.
- 5.1.4. Owner shall give prompt written notice to Garver whenever Owner observes or otherwise becomes aware of the presence at the project site of any Hazardous Materials or any relevant, material defect, or nonconformance in: (i) the Services; (ii) the performance by any contractor providing or otherwise performing construction services related to the Work Order; or (iii) Owner's performance of its responsibilities under this Agreement.
- 5.1.5. Owner shall include "Garver, LLC" as an indemnified party under the contractor's indemnity obligations included in the construction contract documents, if any.
- 5.1.6. Owner will not directly or indirectly solicit any of Garver's Personnel during performance of this Agreement and for a period of one (1) year beyond completion of this Agreement.

6. GENERAL

6.1. Standards of Performance.

- 6.1.1. Industry Practice. Garver shall perform any and all Services required herein in accordance with generally accepted practices and standards employed by the applicable United States professional services industries as of the Effective Date practicing under similar conditions and locale. Such generally accepted practices and standards are not intended to be limited to the optimum practices, methods, techniques, or standards to the exclusion of all others, but rather to a spectrum of reasonable and prudent practices employed by the United States professional services industry.
- 6.1.2. Owner shall not be responsible for discovering deficiencies in the technical accuracy of Garver's services. Garver shall promptly correct deficiencies in technical accuracy without the need for an Amendment unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- 6.1.3. On-site Services. Garver and its representatives shall comply with Owner's and its separate contractor's project specific safety programs, which have been provided to Garver in writing in advance of any site visits.
- 6.1.4. Relied Upon Information: Garver may use or rely upon design elements and information ordinarily or customarily furnished by others including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- 6.1.5. Aside from Garver's direct subconsultants, Garver shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Garver have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any such contractor, or the safety precautions and programs incident thereto, for security or safety at the project site, nor for any failure of a contractor to comply with laws and regulations applicable to that contractor's services.



Garver shall not be responsible for the acts or omissions of any contractor for whom it does not have a direct contract. Garver neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the construction contract documents applicable to the contractor's work, even when Garver is performing construction phase services.

6.1.6. Garver is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, research, or enforcement of construction insurance or surety bonding requirements. Garver's Services expressly do not include providing advice pertaining to insurance, legal, finance, surety-bonding, or similar services. In no event is Garver acting as a "municipal advisor" as set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission.

6.2. Instruments of Service.

6.2.1. Deliverables. All reports, specifications, record drawings, models, data, and all other information provided by Garver or its subconsultants, which is required to be delivered to Owner under the applicable Work Order (the "**Deliverables**"), shall become the property of Owner subject to the terms and conditions stated herein.

6.2.2. Electronic Media. Owner hereby agrees that all electronic media, including CADD files ("**Electronic Media**"), are tools used solely for the preparation of the Deliverables. Upon Owner's written request, Garver will furnish to Owner copies of Electronic Media to the extent included as part of the Services. In the event of an inconsistency or conflict in the content between the Deliverables and the Electronic Media, however, the Deliverables shall take precedence in all respects. Electronic Media is furnished without guarantee of compatibility with the Owner's software or hardware. Because Electronic Media can be altered, either intentionally or unintentionally, by transcription, machine error, environmental factors, or by operators, it is agreed that, to the extent permitted by applicable law, Owner shall indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from and against any and all claims, liabilities, damages, losses, and costs, including, but not limited to, costs of defense arising out of changes or modifications to the Electronic Media form in Owner's possession or released to others by Owner. Garver's sole responsibility and liability for Electronic Media is to furnish a replacement for any non-functioning Electronic Media for reasons solely attributable to Garver within thirty (30) days after delivery to Owner.

6.2.3. Property Rights. All property rights of a Party, including copyright, patent, and reuse ("**Intellectual Property**"), shall remain the Intellectual Property of that Party. Garver shall obtain all necessary Intellectual Property from any necessary third parties in order to execute the Services. Any Intellectual Property of Garver or any third party embedded in the Deliverables shall remain so embedded and may not be separated therefrom.

6.2.4. License. Upon Owner fulfilling its payment obligations under this Agreement, Garver hereby grants Owner a license to use the Intellectual Property, but only in the operation and maintenance of the project for which it was provided. Use of such Intellectual Property for modification, extension, or expansion of the project or on any other project, unless under the direction of Garver, shall be without liability to Garver and Garver's subconsultants. To the extent permitted by applicable law, Owner shall, to the extent allowed by law, indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from and against any and all claims, liabilities, damages, losses, and costs,



including but not limited to costs of defense arising out of Owner's use of the Intellectual Property contrary to the rights permitted herein.

6.3. Opinions of Cost.

6.3.1. Since Garver has no control over: (i) the cost of labor, materials, equipment, or services furnished by others; (ii) the contractor or its subcontractor(s)' methods of determining prices; (iii) competitive bidding; (iv) market conditions; or (v) similar material factors, Garver's opinions of project costs or construction costs provided pursuant to the applicable Work Order, if any, are to be made on the basis of Garver's experience and qualifications and represent Garver's reasonable judgment as an experienced and qualified professional engineering firm, familiar with the construction industry in the locale and general area. Garver cannot and does not guarantee that proposals, bids, or actual project or construction costs will not vary from estimates prepared by Garver.

6.3.2. Owner understands that the construction cost estimates developed by Garver do not establish a limit for the construction contract amount. If the actual amount of the low construction bid or resulting construction contract exceeds the construction budget established by Owner, Garver will not be required to re-design the Services without additional compensation. In the event Owner requires greater assurances as to probable construction cost, then Owner agrees to obtain an independent cost estimate.

6.4. Underground Utilities. Except to the extent expressly included as part of the Services, Garver will not provide research regarding utilities or survey utilities located and marked by their owners. Furthermore, since many utility companies typically will not locate and mark their underground facilities prior to notice of excavation, Garver is not responsible for knowing whether underground utilities are present or knowing the exact location of such utilities for design and cost estimating purposes. In no event is Garver responsible for damage to underground utilities, unmarked or improperly marked, caused by geotechnical conditions, potholing, construction, or other contractors or subcontractors working under a subcontract to this Agreement.

6.5. Design without Construction Phase Services.

6.5.1. Garver shall be responsible only for those construction phase Services expressly set forth in a Work Order, if any. With the exception of such expressly required Services, Garver shall have no responsibility or liability for any additional construction phase services, including review and approval of payment applications, design, shop drawing review, or other obligations during construction. Owner assumes all responsibility for interpretation of the construction contract documents and for construction observation and supervision and waives any claims against Garver that may be in any way connected thereto.

6.5.2. Owner agrees, to the fullest extent permitted by law, to indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from any loss, claim, or cost, including reasonable attorneys' fees and costs of defense, arising or resulting from the performance of such construction phase services by other persons or entities and from any and all claims arising from modifications, clarifications, interpretations, adjustments, or changes made to the construction contract documents to reflect changed field or other conditions, except to the extent such claims arise from the negligence of Garver in performance of the Services.



6.5.3. If the Owner requests in writing that Garver provide any specific construction phase services or assistance with resolving disputes or other subcontractor related issues, and if Garver agrees to provide such services, then Garver shall be compensated for the work as an Amendment in accordance with Sections 4 and 10.2.

6.6. Hazardous Materials. Nothing in this Agreement shall be construed or interpreted as requiring Garver to assume any role in the identification, evaluation, treatment, storage, disposal, or transportation of any Hazardous Materials. Notwithstanding any other provision to the contrary in this Agreement and to the fullest extent permitted by law, Owner shall indemnify and hold Garver and Garver's subconsultants, and their Personnel harmless from and against any and all losses which arise out of the performance of the Services and relating to the regulation and/or protection of the environment including without limitation, losses incurred in connection with characterization, handling, transportation, storage, removal, remediation, disturbance, or disposal of Hazardous Material, whether above or below ground.

6.7. Confidentiality. Owner and Garver shall consider: (i) all information provided by the other Party that is marked as "Confidential Information" or "Proprietary Information" or identified as confidential pursuant to this Section 6.7 in writing promptly after being disclosed verbally; and (ii) all documents resulting from Garver's performance of Services to be Confidential Information. Garver understands that Owner is a public entity and that its records are public and subject to the Texas Public Information Act. Accordingly, Garver and Owner agree that except as may otherwise be legally required, Confidential Information shall not be discussed with or transmitted to any third parties, except on a "need to know basis" with equal or greater confidentiality protection or written consent of the disclosing Party. Confidential Information shall not include and nothing herein shall limit either Party's right to disclose any information provided hereunder which: (i) was or becomes generally available to the public, other than as a result of a disclosure (excepting disclosure by Owner pursuant to the Texas Public Information Act) by the receiving Party or its Personnel; (ii) was or becomes available to the receiving Party or its representatives on a non-confidential basis, provided that the source of the information is not bound by a confidentiality agreement or otherwise prohibited from transmitting such information by a contractual, legal, or fiduciary duty; (iii) was independently developed by the receiving Party without the use of any Confidential Information of the disclosing Party; or (iv) is required to be disclosed by applicable law or a court order. All confidentiality obligations hereunder shall expire three (3) years after completion of the Services.

7. INSURANCE

7.1. Insurance.

7.1.1. Garver shall procure and maintain insurance as set forth in Exhibit B until completion of the Service.

7.1.2. Garver shall name Owner as an additional insured on Garver's General Liability policy to the extent of Garver's indemnity obligations provided in Section 9 of this Agreement.

7.1.3. Upon request, Garver shall furnish Owner a certificate of insurance evidencing the insurance coverages required in Exhibit B.

8. DOCUMENTS



- 8.1. Audit. Garver will retain all pertinent records for a period of three (3) years beyond completion of the Services. Owner may have access to such records during normal business hours with three (3) business days advanced written notice. In no event shall Owner be entitled to audit the makeup of lump sum or other fixed prices (e.g., agreed upon unit or hour rates).
- 8.2. Delivery. After completion of the Services, and prior to final payment, Garver shall deliver to the Owner all Deliverables required under the applicable Work Order.

9. INDEMNIFICATION / WAIVERS

9.1. Indemnification.

- 9.1.1. Garver Indemnity. Subject to the limitations of liability set forth in Section 9.2, Garver agrees to indemnify and hold Owner, and Owner's Personnel harmless from Damages due to bodily injury (including death) or third-party tangible property damage to the extent such Damages are caused by the negligent acts, errors, or omissions of Garver or any other party for whom Garver is legally liable, in the performance of the Services under this Agreement.
- 9.1.2. Owner Indemnity. To the extent allowed by law and subject to the limitations of liability set forth in Section 9.2, Owner agrees to indemnify and hold Garver and Garver's subconsultants and their Personnel harmless from Damages due to bodily injury (including death) or third-party tangible property damage to the extent caused by the negligent acts, errors, or omissions of Owner or any other party for whom Owner is legally liable, in the performance of Owner's obligations under this Agreement.
- 9.1.3. In the event claims or Damages are found to be caused by the joint or concurrent negligence of Garver and the Owner, they shall be borne by each Party in proportion to its own negligence.

9.2. Waivers. Notwithstanding any other provision to the contrary, the Parties agree as follows:

- 9.2.1. THE PARTIES AGREE THAT ANY CLAIM OR SUIT FOR DAMAGES MADE OR FILED AGAINST THE OTHER PARTY WILL BE MADE OR FILED SOLELY AGAINST GARVER OR OWNER RESPECTIVELY, OR THEIR SUCCESSORS OR ASSIGNS, AND THAT NO PERSONNEL SHALL BE PERSONALLY LIABLE FOR DAMAGES UNDER ANY CIRCUMSTANCES.
- 9.2.2. MUTUAL WAIVER. TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER OWNER, GARVER, NOR THEIR RESPECTIVE PERSONNEL SHALL BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES, AND OWNER HEREBY RELEASES GARVER, AND GARVER RELEASES OWNER, FROM ANY SUCH LIABILITY.
- 9.2.3. LIMITATION. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE WORK ORDER TO BOTH THE OWNER AND GARVER, OWNER HEREBY AGREES THAT GARVER'S AND ITS PERSONNEL'S TOTAL LIABILITY UNDER THE AGREEMENT SHALL BE LIMITED TO ONE HUNDRED PERCENT (100%) OF GARVER'S COLLECTABLE INSURANCE PROCEEDS UP TO THE LIMITS EXPRESSLY SET FORTH IN EXHIBIT B.
- 9.2.4. NO OTHER WARRANTIES. NO OTHER WARRANTIES OR CAUSES OF ACTION OF ANY KIND, WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING ALL



WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE) SHALL APPLY. OWNER'S EXCLUSIVE REMEDIES AND GARVER'S ONLY OBLIGATIONS ARISING OUT OF OR IN CONNECTION WITH DEFECTIVE SERVICES (PATENT, LATENT OR OTHERWISE), WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, SHALL BE THOSE STATED IN THE AGREEMENT.

9.2.5. THE LIMITATIONS SET FORTH IN SECTION 9.2 APPLY REGARDLESS OF WHETHER THE CLAIM IS BASED IN CONTRACT, TORT, OR NEGLIGENCE INCLUDING GROSS NEGLIGENCE, STRICT LIABILITY, WARRANTY, INDEMNITY, ERROR AND OMISSION, OR ANY OTHER CAUSE WHATSOEVER.

10. DISPUTE RESOLUTION

10.1. Dispute Resolution.

10.1.1. Owner and Garver agree to negotiate any dispute between them in good faith during the thirty (30) days after notice of such dispute. If negotiations are unsuccessful in resolving the dispute, then the parties may exercise their rights at law in litigation.

10.2. Litigation Assistance. This Agreement does not include costs of Garver for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by Owner, unless litigation assistance has been expressly included as part of Services. In the event Owner requests such services of Garver, this Agreement shall be amended in writing by both Owner and Garver to account for the additional services and resulting cost in accordance with Section 4.

11. TERMINATION

11.1. Termination for Convenience. Owner shall have the right at its sole discretion to terminate this Agreement for convenience at any time upon giving Garver ten (10) days' written notice. In the event of a termination for convenience, Garver shall bring any ongoing Services to an orderly cessation. Owner shall compensate Garver in accordance with the applicable Work Order for: (i) all Services performed and reasonable costs incurred by Garver on or before Garver's receipt of the termination notice, including all outstanding and unpaid invoices, and (ii) all costs reasonably incurred to bring such Services to an orderly cessation.

11.2. Termination for Cause. This Agreement may be terminated by either Party in the event of failure by the other Party to perform any material obligation in accordance with the terms hereof. Prior to termination of this Agreement for cause, the terminating Party shall provide at least seven (7) business days written notice and a reasonable opportunity to cure to the non-performing Party. In all events of termination for cause due to an event of default by the Owner, Owner shall pay Garver for all Services properly performed prior to such termination in accordance with the terms, conditions and rates set forth in this Agreement.

11.3. Termination in the Event of Bankruptcy. Either Party may terminate this Agreement immediately upon notice to the other Party, and without incurring any liability, if the non-terminating Party has: (i) been adjudicated bankrupt; (ii) filed a voluntary petition in bankruptcy or had an involuntary petition filed against it in bankruptcy; (iii) made an assignment for the



benefit of creditors; (iv) had a trustee or receiver appointed for it; (v) becomes insolvent; or (vi) any part of its property is put under receivership.

12. MISCELLANEOUS

- 12.1. Governing Law. This Agreement is governed by the laws of the State of Texas, without regard to its choice of law provisions.
- 12.2. Successors and Assigns. Owner and Garver each bind themselves and their successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; neither Owner nor Garver shall assign, sublet, or transfer their interest in this Agreement without the written consent of the other.
- 12.3. Independent Contractor. Garver is and at all times shall be deemed an independent contractor in the performance of the Services under this Agreement.
- 12.4. No Third-Party Beneficiaries. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than Owner and Garver. This Agreement does not contemplate any third-party beneficiaries.
- 12.5. Entire Agreement. This Agreement, the exhibit(s) hereto, and all Work Orders (such Work Orders, however, shall not contain modifications to the terms and conditions of this Agreement, but rather will contain only scope and fee additions) that may be issued in relation to the Services together constitutes the entire agreement between Owner and Garver and supersedes all prior written or oral understandings and shall be interpreted as having been drafted by both Parties. This Agreement may be amended, supplemented, or modified only in writing by and executed by both Parties.
- 12.6. Severance. The illegality, unenforceability, or occurrence of any other event rendering a portion or provision of this Agreement void shall, to the extent reasonably possible while preserving the purpose and intent of the Agreement, not affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision of this Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void.
- 12.7. Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together constitute one Agreement. Delivery of an executed counterpart of this Agreement by fax or transmitted electronically in legible form, shall be equally effective as delivery of a manually executed counterpart of this Agreement.

13. EXHIBITS

- 13.1. The following Exhibits are attached to and made a part of this Agreement:

Exhibit A – Form of Work Order
Exhibit B – Insurance

Owner and Garver, by signing this Agreement, acknowledges that they have independently assured themselves and confirms that they individually have examined all Exhibits, and agrees that all of the aforesaid Exhibits shall be considered a part of this Agreement and agrees to be bound to the terms, provisions, and other requirements thereof, unless specifically excluded.



Acceptance of this proposed Agreement is indicated by an authorized agent of the Owner signing in the space provided below. Please return one signed original of this Agreement to Garver for our records.

IN WITNESS WHEREOF, Owner and Garver have executed this Agreement effective as of the date last written below.

City of Seagoville

Garver, LLC

By: _____

Signature

By: _____

Signature

Name: _____

Printed Name

Name: _____

Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

Attest: _____

Attest: _____



**EXHIBIT B
(INSURANCE)**

Pursuant to Section 7.1 of the Agreement, Garver shall maintain the following schedule of insurance until completion of the Services:

	Statutory Limit
Worker's Compensation	
Automobile Liability	
Combined Single Limit (Bodily Injury and Property Damage)	\$500,000
General Liability	
Each Occurrence	\$1,000,000
Aggregate	\$2,000,000
Professional Liability	
Each Claim Made	\$1,000,000
Annual Aggregate	\$2,000,000
Excess of Umbrella Liability	
Per Occurrence	\$1,000,000
General Aggregate	\$1,000,000
_____	_____
_____	_____
_____	_____
_____	_____

Regular Session Agenda Item: 3

Meeting Date: April 3, 2023

ITEM DESCRIPTION:

Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas approving an agreement for consulting services on a water and wastewater cost of service and rate design study update with NewGen Strategies and Solutions, LLC.; in an amount not to exceed Fourteen Thousand Dollars and Zero Cents (\$14,000.00); authorizing the City Manager to sign; and providing an effective date.

BACKGROUND OF ISSUE:

Staff obtained an agreement from NewGen Strategies and Solutions, LLC. for the purpose of providing a water and wastewater cost of service and rate design study update. The study will provide an update to year 2 of our five-year forecast of water and wastewater revenue requirements and accompanying rate scenarios which will meet the City's revenue recovery objectives. NewGen will examine the utility's capital requirements for both planned development and replacement needs in suggesting rates sufficient to provide continuous and adequate service to the City's utility customer.

FINANCIAL IMPACT:

Funding will be used from the FY2023 Water and Sewer Budget.

RECOMMENDATION:

Staff recommends approving the agreement.

EXHIBITS:

Resolution – Approving an Agreement for Consulting Services on Water and Wastewater Cost of Service and Rate Design Study Update

Exhibit A – Open Services Agreement – Water and Sewer Rate Projection for FY 2024

THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS APPROVING AN AGREEMENT FOR CONSULTING SERVICES ON A WATER AND WASTEWATER COST OF SERVICE AND RATE DESIGN STUDY UPDATE WITH NEWGEN STRATEGIES AND SOLUTIONS, LLC.; IN AN AMOUNT NOT TO EXCEED FOURTEEN THOUSAND DOLLARS AND ZERO CENTS (\$14,000.00); AUTHORIZING THE CITY MANAGER TO SIGN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council for the City of Seagoville, Texas desires to enter into an Agreement for the purpose of providing a water and wastewater cost of service and rate design study update; and,

WHEREAS, NewGen Strategies and Solutions, LLC. has provided a proposal for the purpose of providing a water and wastewater cost of service and rate design study update for compensation in the amount not to exceed \$14,000.00 and on the terms and conditions set forth in Exhibit "A" attached hereto (the "Agreement"); and,

WHEREAS, the City Council for the City of Seagoville, Texas has reviewed the Agreement and has determined it to be in the best interest of the City of Seagoville to enter into said agreement.

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

SECTION 1. The City Council hereby approves the agreement attached hereto as Exhibit A, with NewGen Strategies and Solutions, LLC. Under the terms and conditions of which NewGen Strategies and Solutions, LLC will provide a water and wastewater cost of service and rate design study update in the amount not to exceed \$14,000.00 is approved, and the City Manager is authorized to execute the same on behalf of the City.

SECTION 2. That any prior Resolutions of the City Council of the City of Seagoville, Texas, in conflict with the provisions contained in this Resolution are hereby repealed and revoked.

SECTION 3. That if any article, paragraph, subdivision, clause or provision of this Resolution, as hereby amended, be adjudged invalid or held unconstitutional for any reason, such judgement or holding shall not affect the validity of this Resolution as a whole or any part or provision thereof, as amended hereby, other than the part so declared to be invalid or unconstitutional.

SECTION 4. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Seagoville, Texas, and it is

accordingly resolved.

DULY PASSED by the City Council of the City of Seagoville, Texas, on the 3rd day of April, 2023.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria Thomas, City Attorney



275 W. Campbell Rd.
Suite 440
Richardson, TX 75080
Phone: (972) 680-2000

March 15, 2023

Mr. Chris Ryan
Water Utilities Director
City of Seagoville, TX
702 North Highway 175
Seagoville, TX 75159

Re: **Open Services Agreement – Water and Sewer Rate Projection for FY 2024**

Dear Mr. Ryan:

Based on our conversations, it is our understanding that the City of Seagoville, Texas (City) is interested in engaging NewGen Strategies and Solutions, LLC (NewGen) to assist the City with updating the Water and Sewer Rate Analysis Study (Study) previously conducted by our Project Team. As part of this engagement, NewGen will assist the City as requested and directed by the City Manager or other designated City staff.

This open services agreement is meant to simplify the administration of our consulting services and allow NewGen to work on an “on-call” basis with the City and provide services as may be requested.

This assistance may include, but is not limited to, the following:

- Updating the previously prepared water and sewer model reflective of budgeted expenses in Fiscal Year (FY) 2024;
- Prepare a projection of expenses for a five-year period inclusive of FY 2024 and beyond;
- Determine the adequacy of current water and sewer fees as compared to projected expenses and develop recommendations for fee adjustment;
- Preparing a regional comparison of water and sewer charges to determine the City’s overall competitive position;
- Prepare presentation materials for the City Council detailing the analysis conducted and results of the Project Team’s work;
- Participation and/or presentation in meetings with customers, decision-makers, and/or key stakeholders as may be requested; and
- Other services as may be requested.

As services are requested and performed, NewGen will invoice the City on a monthly basis for actual hours worked at our then applicable hourly billing rates, plus out of pocket expenses incurred at cost.

Costs incurred by NewGen under this agreement, inclusive of out-of-pocket expenses will not exceed \$14,000 without prior written authorization of the City. NewGen shall not be required to furnish services or incur expenses above \$14,000 without prior written authorization and additional funding committed by the City. This agreement is subject to cancellation by the City with thirty (30) days prior written notice provided to NewGen. In the event of cancellation, all labor and expense charges incurred by NewGen

Mr. Chris Ryan
March 15, 2023
Page 2

through the date of cancellation will be considered due at the time notice of cancellation is delivered, regardless of work product and/or engagement status.

NewGen’s hourly billing rates, effective through December 31, 2023, are as follows:

**NewGen Strategies and Solutions
2023 Billing Rates**

Position	Hourly Billing Rate
Partner	\$250 – \$385
Principal	\$235 – \$385
Senior Manager	\$210 – \$265
Manager	\$185 – \$210
Senior Consultant	\$160 – \$185
Consultant	\$150 – \$160
Administrative Services	\$120

Note: Billing rates are subject to change based on annual reviews and salary increases.

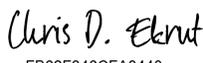
All payments made under this engagement should be remitted to:

NewGen Strategies and Solutions, LLC
 275 W. Campbell Rd. Suite 440
 Richardson, Texas 75080

By executing this letter, you agree that the services rendered by NewGen will be performed in accordance with instructions or specifications received by the City and will be provided with the degree of skill and judgment exercised by recognized professionals performing services of similar nature and consistent with the applicable industry best practices.

If this letter and its terms and conditions are acceptable, please execute via DocuSign or physically and return via email or mail to our Richardson, Texas office. If you should have any questions regarding this letter and/or require additional information, please contact Chris Ekrut at (972) 232-2234.

Very truly yours,

DocuSigned by:


FB62F346CFA8440...
Chris D. Ekrut
Chief Financial Officer
NewGen Strategies and Solutions

Mr. Chris Ryan
March 15, 2023
Page 3

City of Seagoville, Texas (\$14,000 Open Services)

Accepted By: _____ Title: _____
(Signature)

Printed Name: _____ Date: _____

Regular Session Agenda Item: 4

Meeting Date: April 3, 2023

ITEM DESCRIPTION:

Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, awarding the contract for Bid Number 2023-02 City Mowing Maintenance to Good Earth Corporation in an amount not to exceed One Hundred Sixty Two Thousand Twenty Seven Dollars and Zero Cents \$162,027.00 for mowing services and authorizing the City Manager to execute the same; and providing for an effective date.

BACKGROUND OF ISSUE:

Staff advertised for and received bids for mowing services in certain city parks, and on medians and other rights-of-way, along with trash removal. Good Earth Corporation submitted the lowest qualified bid; therefore, Staff recommends the bid be awarded to Good Earth Corporation. The contract allows for two (2) additional terms of one (1) year each if the City Manager determines such renewal is in the best interest of the City.

FINANCIAL IMPACT:

Budgeted in parks \$162,027.00

RECOMMENDATION:

Staff recommends approval.

EXHIBITS:

Resolution – Approving an Agreement with Good Earth Corporation for mowing services
Agreement – with Good Earth for mowing services

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, AWARDING THE CONTRACT FOR BID NUMBER 2023-02 CITY MOWING MAINTENANCE TO GOOD EARTH CORPORATION IN AN AMOUNT NOT TO EXCEED ONE HUNDRED SIXTY TWO THOUSAND TWENTY SEVEN DOLLARS AND ZERO CENTS \$162,027.00 FOR MOWING SERVICES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City Administration advertised for and received bids Bid Number 2023-02, for mowing maintenance services in specific city properties, and on medians and other rights-of-way, along with trash removal; and

WHEREAS, City Administration has determined that Good Earth Corporation was the lowest responsible bidder and/or the bidder who provides the goods or services at the best value for the municipality and, therefore, recommends the contract be awarded to Good Earth Corporation, and

WHEREAS, the City Council of the City of Seagoville finds it to be in the public interest to award the above-described contract to Good Earth Corporation as recommended.

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

SECTION 1. The contract for Bid Number 2023-02 for performance of all work necessary for the mowing maintenance of city parks, city medians, city rights-of-way, TxDOT and Highway 175 rights-of-way, and other lots along with removal of all trash and litter prior to all moving in the City of Seagoville for a one year period (the “Mowing Maintenance Contract”) is hereby awarded to Good Earth Corporation for compensation in in an amount not to exceed One Hundred Sixty Two Thousand Twenty Seven Dollars and Zero Cents (\$162,027.00) and the City Manager is hereby authorized to execute the contract with Good Earth Corporation, in substantially the form attached hereto as Exhibit 1.

SECTION 2. The City Manager further is authorized to renew the Contract for two (2) additional terms of one (1) year each if the City Manager determines, in his discretion, that such renewal is in the best interest of the City and further provided funds have been budgeted for the costs related to such renewal(s) of the Contract for the fiscal year to which such renewal would apply.

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

DULY RESOLVED AND ADOPTED by the City Council of the City of Seagoville, Texas, this the 3rd day of April, 2023.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria Thomas, City Attorney
(033023vwtTM134299)

Exhibit A
[Mowing Maintenance Contract]

**Article III
Schedule of Work**

Contractor agrees to commence services under this Agreement upon Notice to Proceed from City.

**Article IV
Compensation**

The City shall compensate Contractor as set forth in the Bid Document attached as Exhibit A, in an amount not to exceed One hundred sixty-two thousand, twenty seven dollars and no cents (\$162,027.00).

**Article V
Suspension of Work**

The City shall have the right to immediately suspend work by Contractor if the City determines in its sole discretion that Contractor has, or will fail to perform, in accordance with this Agreement. In such event, any payments due Company shall be suspended until Contractor has taken satisfactory corrective action.

**Article VI
Availability of Funds**

If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, this Agreement shall be canceled and Professional may only be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of services delivered under this Agreement or which are otherwise not recoverable. The cost of cancellation may be paid from any appropriations for such purposes.

**Article VII
Insurance**

Contractor shall provide and maintain for the duration of this Agreement, and for the benefit of the City, insurance coverage as set forth in the Bid Specifications as set out in Exhibit "A." Contractor shall provide a signed Certificate of Insurance verifying that Contractor has obtained the required insurance coverage for the City prior to the Effective Date of this Agreement.

**Article VIII
Termination**

The City may terminate this Agreement, with or without cause, by giving Contractor thirty (30) days prior written notice to the other Party. In the event of such termination, Contractor shall be entitled to compensation for any services completed to the reasonable satisfaction of the City in accordance with this Agreement prior to such termination.

**Article IX
Indemnification**

9.1 **CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CITY; AND EACH OF ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES; FROM ANY AND ALL SUITS, ACTIONS, CLAIMS, LOSSES, OF DAMAGES OF ANY CHARACTER AND FROM ALL EXPENSES INCIDENTAL TO THE DEFENSE OF SUCH SUITS, ACTIONS OR CLAIMS BASED UPON, ALLEGED TO BE BASED UPON, OR ARISING OUT OF (1) ANY INJURY, DISEASE, SICKNESS, OR DEATH OF ANY PERSON OR PERSONS, (2) ANY DAMAGES TO ANY PROPERTY INCLUDING LOSS OF USE THEREOF, CAUSED BY ANY ACT OR OMISSION OF CONTRACTOR, OR ANY SUBCONTRACTOR OF THE CONTRACTOR, OR BY THEIR OFFICERS, AGENTS, SERVANTS, EMPLOYEES OR ANYONE ELSE UNDER CONTRACTOR'S DIRECTION AND CONTROL, AND ARISING OUT OF ANY PERSON OR PERSONS, (2) ANY DAMAGES TO ANY PROPERTY INCLUDING LOSS OF USE THEREOF, CAUSED BY ANY ACT OR OMISSION OF CONTRACTOR, OR ANY SUBCONTRACTOR OF THE CONTRACTOR, OR BY THEIR OFFICERS, AGENTS, SERVANTS, EMPLOYEES OR ANYONE ELSE UNDER THE CONTRACTOR'S DIRECTION AND CONTROL, AND ARISING OUT OR CAUSED BY THE PERFORMANCE OF ANY WORK OR SERVICES CALLED FOR BY THE CONTRACT OR FROM CONDITIONS CREATED BY THE PERFORMANCE OR NON-PERFORMANCE OF SAID WORK OR SERVICES, BUT NOT INCLUDING THE SOLE NEGLIGENCE OF ANY PARTY HEREIN INDEMNIFIED.**

9.2 **IN ANY AND ALL CLAIMS AGAINST ANY PARTY INDEMNIFIED HEREUNDER BY ANY EMPLOYEE OF CONTRACTOR, ANY SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION HEREIN PROVIDED SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR OR ANY SUBCONTRACTOR UNDER WORKMAN'S COMPENSATION OR OTHER EMPLOYEE BENEFIT ACTS.**

**Article X
Miscellaneous**

10.1 Entire Agreement. This Agreement constitutes the sole and only agreement between the Parties and supersedes any prior understandings written or oral agreements between the Parties with respect to this subject matter.

10.2 Assignment. Contractor may not assign this Agreement in whole or in part without the prior written consent of the City. In the event of an assignment by Contractor to which the City has consented, the assignee shall agree in writing with the City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

10.3 Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the Parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

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

10.5 Amendments. This Agreement may be amended by the mutual written agreement of the Parties.

10.6 Severability. 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 any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

10.7 Independent Contractor. It is understood and agreed by and between the Parties that Professional, in satisfying the conditions of this Agreement, is acting independently, and that the City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Contractor pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of the City. Contractor shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement.

10.8 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for City, to:

City of Seagoville, Texas
Attn: City Manager
702 N. Hwy 175
Seagoville, Texas 75159

With a copy to:

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

If intended for Contractor:

Good Earth Corporation
7922 Forney Road
Dallas, Texas 75227

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

10.10 Exhibits. The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

10.11 Audits and Records. Contractor agrees that during the term hereof, the City and its representatives may, during normal business hours and as often as deemed necessary, inspect, audit, examine and reproduce any and all of Contractor's records relating to the services provided pursuant to this Agreement for a period of one year following the date of completion of services as determined by City or date of termination if sooner.

10.12 Conflicts of Interests. Professional represents that no official or employee of City has any direct or indirect pecuniary interest in this Agreement.

10.13 Compliance with Federal, State & Local Laws. Contractor shall comply in performance of services under the terms of this Agreement with all applicable laws, ordinances and regulations, judicial decrees or administrative orders, ordinances, and codes of federal, state and local governments, including all applicable federal clauses.

10.14 Force Majeure. No Party will be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, acts of terrorism or any similar cause beyond the reasonable control of such party, provided that the non-performing party is without fault in causing such default or delay. The non-performing Party agrees to use commercially reasonable efforts to recommence performance as soon as possible.

10.15 Prohibition of Boycott of Israel. Contractor verifies that it does not boycott Israel and agrees that during the term of this Agreement it will not boycott Israel as that term is defined in Texas Government Code section 808.001, as amended.

10.16 Prohibition of Boycott of Energy Companies. Contractor verifies that it does not Boycott energy companies and agrees that during the term of this Agreement it will not boycott energy companies as these terms are defined in Texas Government Code Section 809.001, as amended. This section does not apply if Contractor is a sole proprietor, a non-profit entity, or a governmental entity; and only applies if: (i) Contractor has ten (10) or more fulltime employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement

10.17 Prohibition of Discrimination against Firearm Entities and Firearm Trade Associations. Contractor verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate during the term of the Agreement against a firearm entity or firearm trade association. This section only applies if: (i) Contractor has ten (10) or more fulltime employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement; and does not apply: (i)if Contractor is a sole proprietor, a non-profit entity, or a governmental entity; (ii) to a contract with a sole-source provider; or (iii) to a contract for which none of the bids from a company were able to provide the required certification.

(signature page to follow)

EXECUTED this _____ day of _____, 2023.

City of Seagoville, Texas

By: _____
Pat Stallings, City Manager

Approved as to form:

By: _____
Victoria Thomas, City Attorney

EXECUTED this _____ day of _____, 2023.

Good Earth Corporation

By: _____

Name: _____

Title: _____

EXHIBIT "A"
Bid Specifications

Regular Session Agenda Item: 5

Meeting Date: April 3, 2023

ITEM DESCRIPTION:

Discuss and consider approving an Ordinance authorizing the Issuance of City of Seagoville, Texas Certificates of Obligation, Series 2023; prescribing the terms thereof; providing for the payment thereof; awarding the sale thereof; making other provisions regarding such certificates and matters incident thereto.

BACKGROUND OF ISSUE:

The City of Seagoville, Texas (the “City”), acting through its City Council, is authorized pursuant to and in accordance with the provisions of Texas Local Government Code, Chapter 271, Subchapter C, as amended (the “Act”), to issue certificates of obligation to provide all or part of the funds to pay contractual obligations to be incurred for the construction of public works and the purchase of materials, supplies, equipment, machinery, buildings, land and rights-of-way for authorized needs and purposes and for the payment of contractual obligations for professional services, to wit: (i) a public safety facility consisting of an animal shelter, equipment, rights-of-way, or land, to facilitate animal control, quarantine and impoundment, provide services relating to animal disease recognition, control, and prevention and protect public health and safety; (ii) design and construct street and roadway improvements on Simonds Road within the City, including the road, street, sidewalks, curb, drainage and related improvements; and (iii) professional services rendered in connection with the above listed projects.

In connection with the FY2023 bond sale, City staff has been working with Hilltop Securities to provide financial advisory services, West and Associates for bond counsel and Moody’s financial rating services to navigate the bond financing process leading up to the development of this ordinance. Please note that there are blank spaces in the proposed ordinance due to additional details to be provided by the bond counsel.

FINANCIAL IMPACT:

After bond fees the City will receive approximately \$5,000,000 in proceeds.

RECOMMENDATION:

Staff recommends approval.

EXHIBITS:

Draft Ordinance

Exhibit A – Form of Certificate

Exhibit B – Form of Paying Agent/Registrar Agreement

Exhibit C - Bid Form

DRAFT

ORDINANCE NO. _____

ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF SEAGOVILLE, TEXAS CERTIFICATES OF OBLIGATION, SERIES 2023; PRESCRIBING THE TERMS THEREOF; PROVIDING FOR THE PAYMENT THEREOF; AWARDING THE SALE THEREOF; MAKING OTHER PROVISIONS REGARDING SUCH CERTIFICATES AND MATTERS INCIDENT THERETO.

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

ARTICLE I

FINDINGS AND DETERMINATIONS

Section 1.1: Findings and Determinations. The City Council hereby officially finds and determines that:

(a) The City of Seagoville, Texas (the “*City*”), acting through its City Council, is authorized pursuant to and in accordance with the provisions of Texas Local Government Code, Chapter 271, Subchapter C, as amended (the “*Act*”), to issue certificates of obligation to provide all or part of the funds to pay contractual obligations to be incurred for the construction of public works and the purchase of materials, supplies, equipment, machinery, buildings, land and rights-of-way for authorized needs and purposes and for the payment of contractual obligations for professional services, to wit: (i) a public safety facility consisting of an animal shelter, equipment, rights-of-way, or land, to facilitate animal control, quarantine and impoundment, provide services relating to animal disease recognition, control, and prevention and protect public health and safety; (ii) design and construct street and roadway improvements on Simonds Road within the City, including the road, street, sidewalks, curb, drainage and related improvements; and (iii) professional services rendered in connection with the above listed projects.

(b) The City Council authorized the publication of a notice of intention to issue its Certificates of Obligation, Series 2023 (the “*Certificates*”) to the effect that the City Council was tentatively scheduled to meet at 7:00 p.m. on April 3, 2023 at its regular meeting place to adopt an ordinance authorizing the issuance of the Certificates to be payable from (i) an ad valorem tax levied, within the limits prescribed by law, on the taxable property located within the City, and (ii) a limited (in an amount not to exceed \$1,000) subordinate pledge of certain revenues of the water and sewer system (“*System*”) after the payment of all operation and maintenance expenses thereof (the “*Net Revenues*”), to the extent that ad valorem taxes are ever insufficient or unavailable for such purposes, provided that the pledge of Net Revenues is and shall be subordinate in all respects to the pledge of Net Revenues to the payment of any obligation of the City, whether authorized heretofore or hereafter, which the City designates as having a pledge senior to the pledge of the Net Revenues to the payment of the Certificates.

(c) Such notice was published and posted on the City’s website at the times and in the manner required by the Act.

(d) No petition signed by at least five percent (5%) of the qualified voters of the City has been filed with or presented to any official of the City protesting the issuance of such Certificates on or before April 3, 2023, or the date of passage of this Ordinance.

(e) The City has determined that it is in the best interests of the City and that it is otherwise desirable to issue the Certificates to provide all or part of the funds to pay contractual obligations to be incurred for the purposes authorized by the Act.

ARTICLE II

DEFINITIONS AND INTERPRETATIONS

Section 2.1: Definitions. As used herein, the following terms shall have the meanings specified, unless the context clearly indicates otherwise:

“Act” shall mean Texas Local Government Code, Chapter 271, Subchapter C, as amended.

“Attorney General” shall mean the Attorney General of the State of Texas.

“Blanket Issuer Letter of Representations” means the Blanket Issuer Letter of Representations between the City, the Registrar and DTC.

“Certificate” or “Certificates” shall mean any or all of City of Seagoville, Texas Certificates of Obligation, Series 2023, authorized by this Ordinance.

“City” shall mean the City of Seagoville, Texas and, where appropriate, its City Council.

“City Council” shall mean the governing body of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Comptroller” shall mean the Comptroller of Public Accounts of the State of Texas.

“Debt Service Fund” shall mean the Certificates of Obligation, Series 2021 Debt Service Fund established by the City and described in section 5.2 of this Ordinance.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“Fiscal Year” shall mean the City’s then designated fiscal year, which currently is the twelve-month period beginning on the first day of October of a calendar year and ending on the last day of September of the next succeeding calendar year and each such period may be designated with the number of the calendar year in which such period ends.

“Interest Payment Date,” when used in connection with any Certificate, shall mean February 15, 2024, and each August 15 and February 15 thereafter until maturity or earlier redemption of such Certificate.

“MSRB” means the Municipal Securities Rulemaking Board.

“Ordinance” shall mean this Ordinance and all amendments hereof and supplements hereto.

“Outstanding”, when used with reference to the Certificates, shall mean, as of a particular date, all Certificates theretofore and thereupon delivered pursuant to this Ordinance except: (a) any Certificates canceled by or on behalf of the City at or before such date; (b) any Certificates defeased pursuant to the defeasance provisions of this Ordinance or otherwise defeased as permitted by applicable law; and (c) any Certificates in lieu of or in substitution for which a replacement Certificate shall have been delivered pursuant to this Ordinance.

“Paying Agent/Registrar” shall mean **U.S. Bank Trust Company, National Association** and its successors in that capacity.

“Paying Agent/Registrar Agreement” shall mean the agreement between the City and the Paying Agent/Registrar as described more particularly in Section 5.4 hereof.

“Purchaser” shall mean the entity or entities specified in Section 6.1 hereof.

“Record Date” shall mean the close of business on the 15th day of the calendar month immediately preceding the applicable Interest Payment Date.

“Register” shall mean the registration books for the Certificates kept by the Paying Agent/Registrar in which are maintained the names and addresses of, and the principal amounts registered to, each Registered Owner of Certificates.

“Registered Owner” or “Owner” shall mean the person or entity in whose name any Certificate is registered in the Register.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

Section 2.2: Interpretations. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Certificates and the validity of the levy of ad valorem taxes to pay the principal of and interest on the Certificates.

ARTICLE III

TERMS OF THE CERTIFICATES

Section 3.1: Amount, Purpose and Authorization. The Certificates shall be issued in fully registered form, without coupons, under and pursuant to the authority of the Act in the total authorized aggregate principal amount of **[FIVE MILLION ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$5,150,000.00)]** for the purpose of providing all or part of the funds to pay contractual obligations to be incurred for the purposes described in paragraph 1.1(a) hereof.

Section 3.2: Designation, Date and Interest Payment Dates. The Certificates shall be designated as the “City of Seagoville, Texas Certificates of Obligation, Series 2023,” and shall be dated April 1, 2023. The Certificates shall bear interest at the rates set forth in Section 3.3 below, from the later of the May 3, 2023 or the most recent Interest Payment Date to which interest has been paid or duly provided for, calculated on the basis of a 360-day year of twelve 30-day months, payable on February 15, 2024, and each August 15 and February 15 thereafter until maturity or earlier redemption.

If interest on any Certificate is not paid on any Interest Payment Date and continues unpaid for thirty (30) days thereafter, the Paying Agent/Registrar shall establish a new record date for the payment of such interest, to be known as a Special Record Date. The Paying Agent/Registrar shall establish a Special Record Date when funds to make such interest payment are received from or on behalf of the City. Such Special Record Date shall be fifteen (15) days prior to the date fixed for payment of such past due interest and notice of the date of payment and the Special Record Date shall be sent by United States mail, first class, postage prepaid, not later than five (5) days prior to the Special Record Date, to each affected Registered Owner as of the close of business on the day prior to mailing of such notice.

Section 3.3: Numbers, Initial Certificates, Denomination, Interest Rates and Maturities. The Certificates shall be issued bearing the numbers, in the principal amounts and bearing interest at the rates set forth in the following schedule and may be transferred and exchanged as set out in this Ordinance. The Certificates shall mature on August 15 in each of the years and in the amounts set out in such schedule. The Initial Certificate shall be numbered I-1 and all other Certificates shall be numbered in sequence beginning with R-1. Certificates delivered in transfer of or in exchange for other Certificates shall be numbered in order of their authentication by the Paying Agent/Registrar, shall be in the denomination of \$5,000 or integral multiples thereof and shall mature on the same date and bear interest at the same rate as the Certificate or Certificates in lieu of which they are delivered.

<u>Certificate Number</u>	<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
R-1	8/15/2024	\$105,000	
R-2	8/15/2025	175,000	
R-3	8/15/2026	180,000	
R-4	8/15/2027	190,000	
R-5	8/15/2028	200,000	

<u>Certificate Number</u>	<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
R-6	8/15/2029	210,000	
R-7	8/15/2030	215,000	
R-8	8/15/2031	225,000	
R-9	8/15/2032	235,000	
R-10	8/15/2033	245,000	
R-11	8/15/2034	260,000	
R-12	8/15/2035	270,000	
R-13*	8/15/2036	280,000	
R-14	8/15/2037	295,000	
R-15	8/15/2038	310,000	

[*Indicates Term Certificate]

Section 3.4: Execution of Certificates; Seal. (a) The Certificates shall be signed on behalf of the City by the Mayor or the Mayor Pro Tem and countersigned by the City Secretary, by their manual, lithographed, or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Certificates shall have the same effect as if each of the Certificates had been signed manually and in person by each of said officers, and such facsimile seal on the Certificates shall have the same effect as if the official seal of the City had been manually impressed upon each of the Certificates.

(b) If any officer of the City whose manual or facsimile signature shall appear on the Certificates shall cease to be such officer before the authentication of such Certificates or before the delivery of such Certificates, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Certificate shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Paying Agent/ Registrar’s Authentication Certificate substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Registrar. In lieu of the executed Paying Agent/ Registrar’s Authentication Certificate described above, the Initial Certificate delivered at the Closing Date shall have attached hereto the Comptroller’s Registration Certificate substantially in the form provided herein, manually executed by the Comptroller, or by his duly authorized agent, which certificate shall be evidence that the Initial Certificate has been duly approved by the Attorney General and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

Section 3.5: Redemption Prior to Maturity. (a) Optional Redemption. The Certificates maturing on and after August 15, 20__ are subject to redemption prior to maturity, at the option of the City, in whole or in part, on August 15, 20__, or any date thereafter, at par plus accrued interest to the date fixed for redemption.

Mandatory Redemption. The Certificates maturing on August 15 in the year 20__ (the “Term Certificate(s)”) are subject to mandatory sinking fund redemption in the following amounts (subject to reduction as hereinafter provided), on the following dates, in each case at a redemption

price equal to the principal amount of the Certificates or the portions thereof so called for redemption plus accrued interest to the date fixed for redemption:

	<u>Mandatory Redemption Dates</u>	<u>Principal Amounts</u>
Term Certificates Maturing		
August 15, 20__	August 15, 20__	\$_____
	August 15, 20__ (stated maturity)	\$_____

The particular Term Certificates to be redeemed shall be selected by the Registrar by lot or other customary random selection method, on or before August 15 of each year in which Term Certificates are to be mandatorily redeemed. The principal amount of Term Certificates to be mandatorily redeemed in each year shall be reduced by the principal amount of such Term Certificates that have been optionally redeemed and which have not been made the basis for a previous reduction.]

(b) Certificates may be redeemed in part only in integral multiples of \$5,000. If a Certificate subject to redemption is in a denomination larger than \$5,000, a portion of such Certificate may be redeemed, but only in integral multiples of \$5,000. In selecting portions of Certificates for redemption, each Certificate shall be treated as representing that number of Certificates of \$5,000 denomination which is obtained by dividing the principal amount of such Certificate by \$5,000. Upon presentation and surrender of any Certificate for redemption in part, the Paying Agent/Registrar, in accordance with the provisions of this Ordinance, shall authenticate and deliver in exchange therefor a Certificate or Certificates of like maturity and interest rate in an aggregate principal amount equal to the unredeemed portion of the Certificate so surrendered.

(c) Notice of any redemption, identifying the Certificates or portions thereof to be redeemed, shall be sent by United States mail, first class, postage prepaid, to the Registered Owners thereof at their addresses as shown on the Register, not less than thirty (30) days before the date fixed for such redemption. By the date fixed for redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the redemption price of the Certificates called for redemption. If such notice of redemption is given, and if due provision for such payment is made, all as provided above, the Certificates which are to be so redeemed thereby automatically shall be redeemed prior to their scheduled maturities, they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being Outstanding except for the purpose of being paid with the funds so provided for such payment.

Section 3.6: Manner of Payment, Characteristics, Execution and Authentication. The Paying Agent/Registrar is hereby appointed the agent for the Certificates. The Certificates shall be payable, shall have the characteristics and shall be executed, sealed, registered and authenticated, all as provided and in the manner indicated in the FORM OF CERTIFICATES set forth in Article IV of this Ordinance. If any officer of the City whose manual or facsimile signature shall appear on the Certificates shall cease to be such officer before the authentication of the Certificates or before the delivery of the Certificates, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

The approving legal opinion of West & Associates, L.L.P., Bond Counsel and Orrick, Herrington & Sutcliffe LLP, Houston, Texas, Special Tax Counsel, may be printed on the back of the Certificates over the certification of the City Secretary, which may be executed in facsimile but errors or omissions in the printing of the opinion shall have no effect on the validity of the Certificates.

The City may secure identification numbers through CUSIP Global Services, managed by S&P Global Market Intelligence on behalf of the American Bankers Association, and may authorize the printing of such numbers on the face of the Certificates. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Certificates shall be of no significance or effect in regard to the legality thereof and neither the City nor the attorneys approving said Certificates as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Certificates.

Section 3.7: Authentication. Except for the Certificates to be initially issued, which need not be authenticated by the Paying Agent/ Registrar, only such Certificates as shall bear thereon a certificate of authentication, substantially in the form provided in Article IV of this Ordinance, manually executed by an authorized representative of the Paying Agent/Registrar, shall be entitled to the benefits of this Ordinance or shall be valid or obligatory for any purpose. Such duly executed certificate of authentication shall be conclusive evidence that the Certificate so authenticated was delivered by the Paying Agent/Registrar hereunder.

Section 3.8: Ownership. The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Certificate is registered as the absolute owner of such Certificate for the purpose of making and receiving payment of the principal thereof and interest thereon and for all other purposes, whether or not such Certificate is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary. All payments made to the person deemed to be the Registered Owner of any Certificate in accordance with this Section shall be valid and effective and shall discharge the liability of the City and the Paying Agent/Registrar upon such Certificate to the extent of the sums paid.

Section 3.9: Registration, Transfer and Exchange. The Paying Agent/Registrar is hereby appointed the registrar for the Certificates. So long as any Certificate remains Outstanding, the Paying Agent/Registrar shall keep the Register at its office in **U.S. Bank Trust Company, National Association** in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of the Certificates in accordance with the terms of this Ordinance.

Each Certificate shall be transferable only upon the presentation and surrender thereof at the principal corporate trust office of the Paying Agent/Registrar, accompanied by an assignment duly executed by the Registered Owner or his authorized representative in form satisfactory to the Paying Agent/Registrar. Upon due presentation of any Certificate for transfer, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor, within seventy-two (72) hours after such presentation, a new Certificate or Certificates, registered in the name of the transferee or transferees, in authorized denominations and of the same maturity and aggregate principal amount and bearing interest at the same rate as the Certificate or Certificates so presented and surrendered.

All Certificates shall be exchangeable upon the presentation and surrender thereof at the principal corporate trust office of the Paying Agent/Registrar for a Certificate or Certificates, maturity and interest rate and in any authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of the Certificate or Certificates presented for exchange. The Paying Agent/Registrar shall be and is hereby authorized to authenticate and deliver exchange Certificates in accordance with the provisions of this Section. Each Certificate delivered by the Paying Agent/Registrar in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such Certificate is delivered.

All Certificates issued in transfer or exchange shall be delivered to the Registered Owners thereof at the principal corporate trust office of the Paying Agent/Registrar or sent by United States mail, first class, postage prepaid.

The City or the Paying Agent/Registrar may require the Registered Owner of any Certificate to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of such Certificate. Any fee or charge of the Paying Agent/Registrar for such transfer or exchange shall be paid by the City.

The Paying Agent/Registrar shall not be required to transfer or exchange any Certificate called for redemption in whole or in part during the forty-five (45) day period immediately prior to the date fixed for redemption; provided, however, that this restriction shall not apply to the transfer or exchange by the Registered Owner of the unredeemed portion of a Certificate called for redemption in part.

Section 3.10: Replacement Certificates. Upon the presentation and surrender to the Paying Agent/Registrar of a damaged or mutilated Certificate, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Certificate, of the same maturity, interest rate and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Registered Owner of such Certificate to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith and any other expenses connected therewith, including the fees and expenses of the Paying Agent/Registrar and the City.

If any Certificate is lost, apparently destroyed or wrongfully taken, the City, pursuant to the applicable laws of the State of Texas and ordinances of the City, and in the absence of notice or knowledge that such Certificate has been acquired by a bona fide purchaser, shall execute, and the Paying Agent/Registrar shall authenticate and deliver, a replacement Certificate of the same maturity, interest rate and principal amount, bearing a number not contemporaneously outstanding, provided that the Registered Owner thereof shall have:

- (a) furnished to the City and the Paying Agent/Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Certificate;
- (b) furnished such security or indemnity as may be required by the Paying Agent/Registrar and the City to save and hold them harmless;

(c) paid all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that may be imposed; and

(d) met any other reasonable requirements of the City and the Paying Agent/Registrar.

If, after the delivery of such replacement Certificate, a bona fide purchaser of the original Certificate in lieu of which such replacement Certificate was issued presents for payment such original Certificate, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Certificate from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

If any such mutilated, lost, apparently destroyed or wrongfully taken Certificate has become or is about to become due and payable, the City in its discretion may, instead of issuing a replacement Certificate, authorize the Paying Agent/Registrar to pay such Certificate.

Each replacement Certificate delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such replacement Certificate is delivered.

Section 3.11: Cancellation. All Certificates paid or redeemed in accordance with this Ordinance, and all Certificates in lieu of which exchange Certificates or replacement Certificates are authenticated and delivered in accordance herewith, shall be canceled and destroyed upon the making of proper records regarding such payment or redemption. The Paying Agent/Registrar shall periodically furnish the City with certificates of destruction of such Certificates.

Section 3.12: Book-Entry Only System. (a) The Initial Certificate shall be registered in the name of the Purchaser. Except as provided in Section 3.12 hereof, all other Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

(b) With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such DTC Participant holds an interest in the Certificates, except as provided in this Ordinance. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Certificates, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any amount with respect to principal of, premium, if any, or interest on the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Register as the absolute Owner of such Certificate for the purpose of payment of principal of and interest on the Certificates, for the purpose of giving notices of redemption and other matters with respect to such

Certificate, for the purpose of registering transfer with respect to such Certificate, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Certificates only to or upon the order of the respective Owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payments of principal, premium, if any, and interest on the Certificates to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a Certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions of this Ordinance with respect to interest checks being mailed to the Owner of record as of the Record Date, the phrase "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

Section 3.13: Successor Securities Depository; Transfer Outside Book-Entry Only System. In the event that the City in its sole discretion, determines that the beneficial owners of the Certificates be able to obtain certificated Certificates, or in the event DTC discontinues the services described herein, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants, as identified by DTC, of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository or (ii) notify DTC and DTC Participants, as identified by DTC, of the availability through DTC of Certificates and transfer one or more separate Certificates to DTC Participants having Certificates credited to their DTC accounts, as identified by DTC. In such event, the Certificates shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Certificates shall designate, in accordance with the provisions of this Ordinance.

Section 3.14: Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificates are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Certificates, and all notices with respect to such Certificates, shall be made and given, respectively, in the manner provided in the Blanket Letter of Representations.

ARTICLE IV

FORM OF CERTIFICATES

The Certificates, including the Form of Comptroller's Registration Certificate, Form of Paying Agent/Registrar Authentication Certificate, and Form of Assignment, shall be in substantially the form set forth in **Exhibit A** hereto, with such omissions, insertions and variations as may be necessary or desirable, and not prohibited by this Ordinance.

ARTICLE V

SECURITY FOR THE CERTIFICATES

Section 5.1: Pledge and Levy of Taxes and Revenues. (a) To provide for the payment of principal of and interest on the Certificates, there is hereby levied, within the limits prescribed by law, for the current year and each succeeding year thereafter, while the Certificates or any part of the principal thereof and the interest thereon remain Outstanding and unpaid, an ad valorem tax upon all taxable property within the City sufficient to pay the interest on the Certificates and to create and provide a sinking fund of not less than 2% of the principal amount of the Certificates or not less than the principal payable out of such tax, whichever is greater, with full allowance being made for tax delinquencies and the costs of tax collection, and such taxes, when collected, shall be applied to the payment of principal of and interest on the Certificates by deposit to the Debt Service Fund and to no other purpose.

(b) The City hereby declares its purpose and intent to provide and levy a tax legally sufficient to pay the principal of and interest on the Certificates, it having been determined that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax. As long as any Certificates remain Outstanding, all moneys on deposit in, or credited to, the Debt Service Fund shall be secured by a pledge of security, as provided by law for cities in the State of Texas.

(c) In addition, pursuant to the authority of Chapter 1502, Texas Government Code, as amended, the City also hereby makes a limited (in an amount not to exceed \$1,000) subordinate pledge of the Net Revenues of the City's System to the payment of the principal of and interest on the Certificates, provided that the pledge of Net Revenues is and shall be subordinate in all respects to the pledge of Net Revenues to the payment of any obligation of the City, whether authorized heretofore or hereafter, which the City designates as having a pledge senior to the pledge of the Net Revenues to the payment of the Certificates. The City also reserves the right to issue, for any lawful purpose at any time, in one or more installments, bonds, certificates of obligation and other obligations of any kind, secured in whole or in part by a pledge of Net Revenues, that may be prior and superior in right to, on a parity with, or junior and subordinate to the pledge of Net Revenues securing the Certificates.

Section 5.2: Debt Service Fund. The Certificates of Obligation, Series 2031 Debt Service Fund (the "*Debt Service Fund*") is hereby created as a special fund solely for the benefit of the Certificates. The City shall establish and maintain such fund at an official City depository and shall keep such fund separate and apart from all other funds and accounts of the City. Any amount on deposit in the Debt Service Fund shall be maintained by the City in trust for the Registered Owners of the Certificates. Such amount, plus any other amounts deposited by the City into such fund and any and all investment earnings on amounts on deposit in such fund, shall be used only to pay the principal of, premium, if any, and interest on the Certificates.

Section 5.3: Further Proceedings. After the Certificates to be initially issued have been executed, it shall be the duty of the Mayor or Mayor Pro Tem to deliver the Certificates to be initially issued and all pertinent records and proceedings to the Attorney General for examination and approval. After the Certificates to be initially issued shall have been approved by the Attorney

General, they shall be delivered to the Comptroller for registration. Upon registration of the Certificates to be initially issued, the Comptroller (or a deputy lawfully designated in writing to act for the Comptroller) shall manually sign the Comptroller's registration certificate prescribed herein to be affixed or attached to the Certificates to be initially issued, and the seal of said Comptroller shall be impressed, or placed in facsimile, thereon.

CONCERNING THE PAYING AGENT/REGISTRAR

Section 5.4: Acceptance. **U.S. Bank Trust Company, National Association** is hereby appointed as the initial Paying Agent/Registrar for the Certificates pursuant to the terms and provisions of the Paying Agent/Registrar Agreement by and between the City and the Paying Agent/Registrar. The Paying Agent/Registrar Agreement shall be substantially in the form attached hereto as **Exhibit B**, the terms and provisions of which are hereby approved, and the Mayor is hereby authorized to execute and deliver such Paying Agent/Registrar Agreement on behalf of the City in multiple counterparts and the City Secretary is hereby authorized to attest thereto and affix the City's seal. Such initial Paying Agent/Registrar and any successor Paying Agent/Registrar, by undertaking the performance of the duties of the Paying Agent/Registrar hereunder, and in consideration of the payment of any fees pursuant to the terms of any contract between the Paying Agent/Registrar and the City and/or the deposits of money pursuant to this Ordinance, shall be deemed to accept and agree to abide by the terms of this Ordinance.

Section 5.5: Trust Funds. All money transferred to the Paying Agent/Registrar in its capacity as Paying Agent/Registrar for the Certificates under this Ordinance (except any sums representing Paying Agent/Registrar's fees) shall be held in trust for the benefit of the City, shall be the property of the City and shall be disbursed in accordance with this Ordinance.

Section 5.6: Certificates Presented. Subject to the provisions of Section 6.4, all matured Certificates presented to the Paying Agent/Registrar for payment shall be paid without the necessity of further instructions from the City. Such Certificates shall be canceled as provided herein.

Section 5.7: Unclaimed Funds Held by the Paying Agent/Registrar. Funds held by the Paying Agent/Registrar that represent principal of and interest on the Certificates remaining unclaimed by the Registered Owner thereof after the expiration of three years from the date such funds have become due and payable (a) shall be reported and disposed of by the Paying Agent/Registrar in accordance with the provisions of Title 6 of the Texas Property Code, as amended, to the extent such provisions are applicable to such funds, or (b) to the extent such provisions do not apply to the funds, such funds shall be paid by the Paying Agent/Registrar to the City upon receipt by the Paying Agent/Registrar of a written request therefor from the City.

The Paying Agent/Registrar shall have no liability to the Registered Owners of the Certificates by virtue of actions taken in compliance with this Section.

Section 5.8: Paying Agent/Registrar May Own Certificates. The Paying Agent/Registrar in its individual or any other capacity, may become the owner or pledgee of Certificates with the same rights it would have if it were not the Paying Agent/Registrar.

Section 5.9: Successor Paying Agents/Registrars. The City covenants that at all times while any Certificates are Outstanding it will provide a legally qualified bank, trust company, financial institution or other agency to act as Paying Agent/Registrar for the Certificates. The City reserves the right to change the Paying Agent/Registrar for the Certificates on not less than sixty (60) days' written notice to the Paying Agent/Registrar, as long as any such notice is effective not less than 60 days prior to the next succeeding principal or interest payment date on the Certificates. Promptly upon the appointment of any successor Paying Agent/Registrar, the previous Paying Agent/Registrar shall deliver the Register or a copy thereof to the new Paying Agent/Registrar, and the new Paying Agent/Registrar shall notify each Registered Owner, by United States mail, first class, postage prepaid, of such change and of the address of the new Paying Agent/Registrar. Each Paying Agent/Registrar hereunder, by acting in that capacity, shall be deemed to have agreed to the provisions of this Ordinance.

ARTICLE VI

PROVISIONS CONCERNING SALE AND APPLICATION OF PROCEEDS OF CERTIFICATES

Section 6.1: Sale of Certificates. The Certificates are hereby sold and shall be delivered to the Purchaser, _____ at a price of \$_____ (which is the par amount of the Certificates plus a premium on the Certificates of \$_____ less an underwriter's discount of \$_____), in accordance with the terms of the Official Bid Form of even date herewith, presented to and hereby approved by the City Council, which price and terms are hereby found and determined to be the most advantageous reasonably obtainable by the City and produced the lowest net effective interest rate. The Mayor or Mayor Pro Tem and other appropriate officials of the City are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Certificates.

Section 6.2: Approval, Registration and Delivery. The Mayor or Mayor Pro Tem is hereby authorized to have control and custody of the Certificates and all necessary records and proceedings pertaining thereto pending their delivery, and the Mayor or Mayor Pro Tem and other officers and employees of the City are hereby authorized and directed to make such certifications and to execute such instruments as may be necessary to accomplish the delivery of the Certificates and to assure the investigation, examination and approval thereof by the Attorney General and the registration of the initial Certificates by the Comptroller. Upon registration of the Certificates, the Comptroller (or the Comptroller's certificates clerk or an assistant certificates clerk lawfully designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificates prescribed herein to be attached or affixed to each Certificates initially delivered and the seal of the Comptroller shall be impressed or printed or lithographed thereon.

Section 6.3: Application of Proceeds of Certificates. Proceeds from the sale of the Certificates shall, promptly upon receipt by the City, be applied as follows:

- (1) Accrued interest, if any, shall be deposited into the Debt Service Fund created in Section 5.2 of this Ordinance;

(2) A portion of the proceeds shall be applied to pay expenses arising in connection with the issuance of the Certificates;

(3) The remaining proceeds shall be applied, together with other funds of the City, to provide funds to pay contractual obligations to be incurred for the purposes set forth in Section 3.1 of this Ordinance.

Section 6.4: Tax Exemption. The City intends that the interest on the Certificates shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended, (the “Code”) and all applicable temporary, proposed and final regulations (the “Regulations”) and procedures promulgated thereunder and applicable to the Certificates. For this purpose, the City covenants that it will monitor and control the receipt, investment, expenditure and use of all gross proceeds of the Certificates (including all property, the acquisition, construction or improvement of which is to be financed directly or indirectly with the proceeds of the Certificates) and take or omit to take such other and further actions as may be required by Sections 103 and 141 through 150 of the Code and the Regulations to cause the interest on the Certificates to be and remain excludable from the gross income, as defined in Section 61 of the Code, of the owners of the Certificates for federal income tax purposes. Without limiting the generality of the foregoing, the City shall comply with each of the following covenants:

(a) The City shall not use, permit the use of or omit to use gross proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with gross proceeds) in a manner which, if made or omitted, respectively, would cause the interest on any Certificate to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City shall have received a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Certificate, the City shall comply with each of the specific covenants in this Section.

(b) Except as permitted by Section 141 of the Code and the regulations and rulings thereunder, the City shall, at all times prior to the last stated maturity of the Certificates,

(1) exclusively own, operate, and possess all property the acquisition, construction, or improvement of which is to be financed directly or indirectly with gross proceeds of such series of the Certificates and not use or permit the use of such gross proceeds or any property acquired, constructed, or improved with such gross proceeds in any activity carried on by any person or entity other than a state or local government, unless such use is solely as a member of the general public, or

(2) not directly or indirectly impose or accept any charge or other payment for use of gross proceeds of such series of the Certificates or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with such gross proceeds.

(c) Except to the extent permitted by Section 141 of the Code and the regulations and rulings thereunder, the City shall not use gross proceeds of the Certificates to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, gross proceeds are considered to be “loaned” to a person or entity if (1) property acquired, constructed or improved with gross proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes, (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output, or similar contract or arrangement, or (3) indirect benefits, or burdens and benefits of ownership, of such gross proceeds or such property are otherwise transferred in a transaction which is the economic equivalent of a loan.

(d) Except to the extent permitted by Section 148 of the Code and the regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the final stated maturity or final payment of the Certificates, directly or indirectly invest gross proceeds of such Certificates in any investment (or use such gross proceeds to replace money so invested), if as a result of such investment the yield of all investments allocated to such gross proceeds whether then held or previously disposed of, exceeds the yield on the Certificates.

(e) Based on all of the facts and estimates now known or reasonably expected to be in existence on the date the Certificates are delivered, the City reasonably expects that the proceeds of the Certificates (to the extent any of such proceeds remain unexpended) will not be used in a manner that would cause the Certificates or any portion thereof to be “arbitrage bonds” within the meaning of Section 148 of the Code.

(f) At all times while the Certificates are Outstanding, the City will identify and properly account for all amounts constituting gross proceeds of the Certificates in accordance with the Regulations. The City will monitor the yield on the investments of the proceeds of the Certificates and, to the extent required by the Code and the Regulations, will restrict the yield on such investments to a yield which is not materially higher than the yield on the Certificates. To the extent necessary to prevent the Certificates from constituting “arbitrage bonds,” the City will make such payments as are necessary to cause the yield on all yield restricted nonpurpose investments allocable to the Certificates to be less than the yield that is materially higher than the yield on the Certificates.

(g) The City will not take any action or knowingly omit to take any action, if taken or omitted, would cause the Certificates to be treated as “federally guaranteed” obligations for purposes of Section 149(b) of the Code.

(h) The City represents that not more than fifty percent (50%) of the proceeds of the Certificates will be invested in nonpurpose investments (as defined in Section 148(f)(b)(A) of the Code) having a substantially guaranteed yield for four years or more within the meaning of Section 149(g)(3)(A)(ii) of the Code, and the City reasonably expects that at least eighty-five percent (85%) of the spendable proceeds of the Certificates will be used to carry out the governmental purpose of such Certificates within the three-year period beginning on the issue date of the Certificates.

(i) The City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the gross proceeds of the Certificates, if any, be rebated to the federal government. Specifically, the City will (i) maintain records regarding the receipt, investment and expenditure of the gross proceeds of the Certificates as may be required to calculate such excess arbitrage profits separately from records of amounts on deposit in the funds and accounts of the City allocable to other obligations of the City or moneys which do not represent gross proceeds of any obligations of the City and retain such records for at least six years after the day on which the last outstanding Certificate is discharged, (ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, not employed as an artifice or device to avoid, in whole or in part, the requirements of Section 148 of the Code, including any specified method of accounting required by applicable Regulations to be used for all or a portion of the gross proceeds, (iii) calculate, at such times as are required by applicable Regulations, the amount of excess arbitrage profits, if any, earned from the investment of the gross proceeds of the Certificates and (iv) timely pay, as required by applicable Regulations, all amounts required to be rebated to the federal government. In addition, the City will exercise reasonable diligence to assure that no errors are made in the calculations required by the preceding sentence and, if such an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, including interest thereon and penalty.

(j) The City will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Certificates that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in smaller profit or a larger loss than would have resulted if such arrangement had been at arm's length and had the yield on the issue not been relevant to either party.

(k) The City will timely file or cause to be filed with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Certificates on such form and in such place as the Secretary may prescribe.

(l) The City will not issue or use the Certificates as part of an "abusive arbitrage device" (as defined in Section 1.148-10(a) of the Regulations). Without limiting the foregoing, the Certificates are not and will not be a part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the Regulations, by (i) enabling the City to exploit the difference between tax exempt and taxable interest rates to gain a material financial advantage, or (ii) increasing the burden on the market for tax-exempt obligations.

(m) Proper officers of the City charged with the responsibility for issuing the Certificates are hereby directed to make, execute and deliver certifications as to facts, estimates or circumstances in existence as of the issue date and stating whether there are facts, estimates or circumstances that would materially change the City's expectations. On or after the issue date, the City will take such actions as are necessary and appropriate to assure the continuous accuracy of the representations contained in such certificates.

(n) The covenants and representations made or required by this Section are for the benefit of the Certificate holders and any subsequent Certificate holder, and may be relied upon by the Certificate holder and any subsequent Certificate holder and bond counsel to the City.

Notwithstanding any other provision of this Ordinance, the City's representations and obligations under the covenants and provisions of this Section 6.4 shall survive the defeasance and discharge of the Certificates for as long as such matters are relevant to the exclusion of interest on the Certificates from the gross income of the owners for federal income tax purposes.

Section 6.5: Reserved.

Section 6.6: Related Matters. In order that the City shall satisfy in a timely manner all of its obligations under this Ordinance, the Mayor, the Mayor Pro-Tem, City Secretary and all other appropriate officers, agents, representatives and employees of the City are hereby authorized and directed to take all other actions that are reasonably necessary to provide for the issuance and delivery of the Certificates, including, without limitation, executing and delivering on behalf of the City all certificates, consents, receipts, requests, notices, and other documents as may be reasonably necessary to satisfy the City's obligations under this Ordinance and to direct the transfer and application of funds of the City consistent with the provisions of this Ordinance.

ARTICLE VII

MISCELLANEOUS

Section 7.1: Defeasance. The Certificates may be discharged, defeased, redeemed or refunded in any manner now or hereafter permitted by law.

Section 7.2: Application of Chapter 1208, Government Code. Chapter 1208, Government Code, applies to the issuance of the Certificates and the pledge of the taxes and revenues granted by the City under Section 5.1 of this Ordinance, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Certificates are outstanding and unpaid such that the pledge of the combination of taxes and revenues granted by the City under Section 5.1 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the Registered Owners of the Certificates the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 7.3: Ordinance a Contract - Amendments. This Ordinance shall constitute a contract with the Registered Owners from time to time, be binding on the City, and shall not be amended or repealed by the City so long as any Certificate remains Outstanding except as permitted in this Section. The City may, without the consent of or notice to any Registered Owners, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Registered Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the consent of Registered Owners who own in the aggregate 51% of the principal amount of the Certificates then Outstanding,

amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Registered Owners of Outstanding Certificates, no such amendment, addition, or rescission shall (i) extend the time or times of payment of the principal of and interest on the Certificates, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of or interest on the Certificates, (ii) give any preference to any Certificate over any other Certificate, or (iii) reduce the aggregate principal amount of Certificates required to be held by Registered Owners for consent to any such amendment, addition, or rescission.

Section 7.4: Legal Holidays. In any case where the date interest accrues and becomes payable on the Certificates or principal of the Certificates matures or the date fixed for redemption of any Certificates or a Record Date shall be in the City a Saturday, Sunday, legal holiday or a day on which banking institutions are authorized by law to close, then payment of interest or principal need not be made on such date, or the Record Date shall not occur on such date, but payment may be made or the Record Date shall occur on the next succeeding day which is not in the City a Saturday, Sunday, legal holiday or a day on which banking institutions are authorized by law to close with the same force and effect as if (i) made on the date of maturity or the date fixed for redemption and no interest shall accrue for the period from the date of maturity or redemption to the date of actual payment or (ii) the Record Date had occurred on the fifteenth day of that calendar month.

Section 7.5: No Recourse Against City Officials. No recourse shall be had for the payment of principal of or interest on any Certificates or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Certificates.

Section 7.6: Further Proceedings. The Mayor, Mayor Pro-Tem, City Secretary and other appropriate officials of the City are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Ordinance.

Section 7.7: Severability. If any Section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 7.8: Power to Revise Form of Documents. Notwithstanding any other provision of this Ordinance, the Mayor or Mayor Pro Tem is hereby authorized to make or approve such revisions, additions, deletions, and variations to this Ordinance and in the form of the documents attached hereto as exhibits as, in the judgment of the Mayor or Mayor Pro Tem, and in the opinion of Bond Counsel to the City, may be necessary or convenient to carry out or assist in carrying out the purposes of this Ordinance, or as may be required for approval of the Certificates by the Attorney General of Texas; provided, however, that any changes to such documents resulting in substantive amendments to the terms and conditions of the Certificates or such documents shall be subject to the prior approval of the City Council

Section 7.9: Open Meeting. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the

general public at City Hall for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 7.10: Official Statement. The City Council hereby approves the form and content of the Preliminary Official Statement and the Notice of Sale and Bidding Instructions prepared for the initial offering and sale of the Certificates and hereby authorizes the preparation of a final Official Statement reflecting the terms of the Official Bid Form and other relevant matters. The use of such Official Statement in the reoffering of the Certificates by the Purchaser is hereby approved and authorized.

Section 7.11: Repealer. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 7.12: Continuing Disclosure Undertaking. (a) Annual Reports. The City will provide certain updated financial information and operating data to the MSRB annually in an electronic format as prescribed by the MSRB and available via the Electronic Municipal Market Access (“EMMA”) system at www.emma.msrb.org. The information to be updated includes all quantitative financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 7.10 of this Ordinance under **Tables number 1 through 6, and 8 through 20, and in APPENDIX “B”**. The City will update and provide this information within six months after the end of each fiscal year.

If the City changes its fiscal year, it will submit a notice of such change to the MSRB, and the date of the new fiscal year end prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB’s Internet Web site or filed with the SEC, as permitted by the SEC Rule. The updated information will include audited financial statements, if the City commissions an audit and it is completed by the required time. If audited financial statements are not available by the required time, the City will provide unaudited financial statements by the required time and audited financial statements when and if such audited statements become available. Any such financial statements will be prepared in accordance with the accounting principles described in APPENDIX B or such other accounting principles as the City may require to employ from time to time pursuant to State law or regulation.

(b) Notice of Certain Events. The City shall notify the MSRB in an electronic format prescribed by the MSRB, in a timely manner (not in excess of ten (10) days after the occurrence of the event), of any of the following events with respect to the Certificates:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;

- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;
- (vii) Modifications to rights of holders of the Certificates, if material;
- (viii) Certificate calls, if material, and tender offers;
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Certificates, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar event of the City;
- (xiii) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) Appointment of a successor Paying Agent/Registrar or change in the name of the Paying Agent/Registrar, if material;
- (xv) Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and
- (xvi) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For the purposes, any event described in the preceding paragraph (xii) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the United States Bankruptcy Code or any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

For the purposes, any event described in the preceding paragraphs (xv) and (xvi) - the City intends the words used in paragraphs (xv) and (xvi) and the definition of Financial Obligations in this Section to have the same meanings as when they are used in Rule and SEC Release No. 34-83885, dated August 20, 2018.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance this Section by the time required by such Section.

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an “obligated person” with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Texas law that causes Certificates no longer to be Outstanding.

The provisions of this Section are for the sole benefit of the holders and the beneficial owners of the Certificates, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE UNLIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall comprise a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, or status or type of principal payment of the City, if (1) the agreement, as so amended, would have permitted an underwriter to purchase or sell Certificates in the initial primary offering in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the holders of a majority in aggregate amount of the Outstanding Certificates consent to such amendment or (b) a person unaffiliated with the City (such as nationally recognized bond counsel) determines that the amendment will not materially impair the interests of the holders and beneficial owners of the Certificates. The City may also amend or repeal the provisions of

this continuing disclosure agreement if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Certificates in the primary offering of the Certificates. If any such amendment is made, the City will include in its next annual update an explanation in narrative form of the reasons for the change and its impact on the type of operating data or financial information being provided.

Section 7.13: No Personal Liability. No recourse shall be had for payment of the principal of or interest on any Certificates or for any claim based thereon, or on this Ordinance, against any official or employee of the City or any person executing any Certificates.

Section 7.14: Effective Date. This Ordinance shall be in force and effect from and after its passage on the date shown below.

[signature page follows]

PASSED AND APPROVED this April 3, 2023 at _____ a.m. / p.m.

CITY OF SEAGOVILLE, TEXAS

Mayor

ATTEST

City Secretary

(SEAL)

Exhibit A – Form of Certificate
Exhibit B – Form of Paying Agent/Registrar Agreement
Exhibit C – Official Bid Form

payment date to which interest has been paid or duly provided for. Interest on this Certificate is payable by check on August 15 and February 15, beginning on February 15, 2024, mailed to the registered owner of record as of the close of business on the last business day of the month next preceding each interest payment date.

THIS CERTIFICATE IS ONE OF A DULY AUTHORIZED SERIES OF CERTIFICATES (the “*Certificates*”) in the aggregate principal amount of \$_____ issued pursuant to an ordinance adopted by the City Council of the City on April 3, 2023 (the “*Ordinance*”) for the purpose of providing all or part of the funds to pay contractual obligations to be incurred for the construction of public works and the purchase of materials, supplies, equipment, machinery, buildings, land and rights-of-way for authorized needs and purposes and for the payment of contractual obligations for professional services, to wit: (ii) design and construct street and roadway improvements on Simonds Road within the city, including the road, street, sidewalks, curb, drainage and related improvements; and (iii) professional services rendered in connection with the above listed project.

⁴THIS CERTIFICATE shall not be valid or obligatory for any purpose or be entitled to any benefit under the Ordinance unless this Certificate is authenticated by the Paying Agent/Registrar by due execution of the authentication certificate endorsed hereon.

THE CITY RESERVES THE RIGHT, at its option, to redeem, prior to their maturity, Certificates maturing on and after August 15, 20__, in whole or in part, on August 15, 20__, or any date thereafter, at par plus accrued interest to the date fixed for redemption.

THE CERTIFICATES maturing on August 15 in the year 20__ (the “Term Certificate(s)”) are subject to mandatory sinking fund redemption in the following amounts (subject to reduction as hereinafter provided), on the following dates, in each case at a redemption price equal to the principal amount of the Certificates or the portions thereof so called for redemption plus accrued interest to the date fixed for redemption:

Term Certificates Maturing	<u>Mandatory Redemption Dates</u>	<u>Principal Amounts</u>
_____ 15, 20__	August 15, 20__	\$ _____
	August 15, 20__ (stated maturity)	\$ _____

The particular Term Certificates to be redeemed shall be selected by the Registrar by lot or other customary random selection method, on or before August 15 of each year in which Term Certificates are to be mandatorily redeemed. The principal amount of Term Certificates to be mandatorily redeemed in each year shall be reduced by the principal amount of such Term

⁴ In the initial Certificate, this paragraph shall read as follows:
 THIS CERTIFICATE shall not be valid or obligatory for any purpose or be entitled to any benefit under the Ordinance unless this Certificate is registered by the Comptroller of Public Accounts of the State of Texas by due execution of the registration certificate endorsed hereon.

Certificates that have been optionally redeemed and which have not been made the basis for a previous reduction.

CERTIFICATES MAY BE REDEEMED IN PART only in integral multiples of \$5,000. If a Certificate subject to redemption is in a denomination larger than \$5,000, a portion of such Certificate may be redeemed, but only in integral multiples of \$5,000. In selecting portions of Certificates for redemption, each Certificate shall be treated as representing that number of Certificates of \$5,000 denomination which is obtained by dividing the principal amount of such Certificate by \$5,000. Upon surrender of any Certificate for redemption in part, the Paying Agent/Registrar, in accordance with the provisions of the Ordinance, shall authenticate and deliver in exchange therefor a Certificate or Certificates of like maturity and interest rate in an aggregate principal amount equal to the unredeemed portion of the Certificate so surrendered.

NOTICE OF ANY SUCH REDEMPTION, identifying the Certificates or portions thereof to be redeemed, shall be sent by United States mail, first class, postage prepaid, to the Registered Owners thereof at their addresses as shown on the books of registration kept by the Paying Agent/Registrar, not less than thirty (30) days before the date fixed for such redemption. By the date fixed for redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the redemption price of the Certificates called for redemption. If such notice of redemption is given, and if due provision for such payment is made, all as provided above, the Certificates which are to be so redeemed thereby automatically shall be redeemed prior to their scheduled maturities, they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the purpose of being paid with the funds so provided for such payment.

THIS CERTIFICATE IS TRANSFERABLE only upon presentation and surrender at the principal corporate trust office of the Paying Agent/Registrar, accompanied by an assignment duly executed by the Registered Owner or its authorized representative, subject to the terms and conditions of the Ordinance.

THIS CERTIFICATE IS EXCHANGEABLE at the principal corporate trust office of the Paying Agent/Registrar for a Certificate or Certificates of the same maturity and interest rate and in the principal amount of \$5,000 or any integral multiple thereof, subject to the terms and conditions of the Ordinance.

THE PAYING AGENT/REGISTRAR is not required to accept for transfer or exchange any Certificate called for redemption, in whole or in part, during the forty-five (45) day period immediately prior to the date fixed for redemption; provided, however, that such limitation shall not apply to the transfer or exchange by the Registered Owner of an unredeemed portion of a Certificate called for redemption in part.

THE CITY OR PAYING AGENT/REGISTRAR may require the Registered Owner of any Certificate to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of a Certificate. Any fee or charge of the Paying Agent/Registrar for a transfer or exchange shall be paid by the City.

THE REGISTERED OWNER of this Certificate by acceptance hereof, acknowledges and agrees to be bound by all the terms and conditions of the Ordinance.

IT IS HEREBY DECLARED AND REPRESENTED that this Certificate has been duly and validly issued and delivered; that all acts, conditions and things required or proper to be performed, exist and to be done precedent to or in the issuance and delivery of this Certificate have been performed, exist and have been done in accordance with law; that the Certificates do not exceed any constitutional or statutory limitation; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied, within the limits prescribed by law, against all taxable property in the City and have been irrevocably pledged for such payment.

IT IS FURTHER DECLARED AND REPRESENTED that the revenues to be derived from a limited (in an amount not to exceed \$1,000) subordinate pledge of the revenues of the City's water and sewer system, after the payment of all operation and maintenance expenses thereof (the "Net Revenues") are pledged to the payment of the principal of and interest on the Certificates, provided that the pledge of Net Revenues is and shall be junior and subordinate in all respects to the pledge of Net Revenues to the payment of any obligation of the City, whether authorized heretofore or hereafter, which the City designates as having a pledge senior to the pledge of the Net Revenues to the payment of the Certificates. The City also reserves the right to issue, for any lawful purpose at any time, in one or more installments, bonds, certificates of obligation and other obligations of any kind, secured in whole or in part by a pledge of Net Revenues, that may be prior and superior in right to, on a parity with, or junior and subordinate to the pledge of Net Revenues securing the Certificates.

REFERENCE IS HEREBY MADE TO THE ORDINANCE, a copy of which is filed with the Paying Agent/Registrar, for the full provisions thereof, to all of which the Registered Owners of the Certificates assent by acceptance of the Certificates.

IN WITNESS WHEREOF, the City has caused its corporate seal to be impressed or placed in facsimile hereon and this Certificate to be signed by the Mayor or Mayor Pro Tem, countersigned by the City Secretary by their manual, lithographed or printed facsimile signatures.

CITY OF SEAGOVILLE, TEXAS

Mayor

(SEAL)

COUNTERSIGNED:

City Secretary

* * *

FORM OF COMPTROLLER'S REGISTRATION CERTIFICATE

The following form of Comptroller's Registration Certificate shall be attached or affixed to each of the Certificates initially delivered:

OFFICE OF THE COMPTROLLER §
OF PUBLIC ACCOUNTS § REGISTER NO. _____
THE STATE OF TEXAS §

I hereby certify that this certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and that this certificate has been registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS MY SIGNATURE AND SEAL OF OFFICE this _____.

Comptroller of Public Accounts
of the State of Texas

[SEAL]

* * *

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

The following form of authentication certificate shall be printed on the face of each of the Certificates other than those initially delivered:

AUTHENTICATION CERTIFICATE

This Certificate is one of the Certificates described in and delivered pursuant to the within mentioned Ordinance; and, except for the Certificates initially delivered, this Certificate has been issued in exchange for or replacement of a Certificate, Certificates, or a portion of a Certificate or Certificates of an issue which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

_____,
as Paying Agent/Registrar

By _____
Authorized Signature

Date of Authentication: _____

* * *

FORM OF ASSIGNMENT

The following form of assignment shall be printed on the back of each of the Certificates:

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto:

(Please print or type name, address, and zip code of Transferee)

(Please insert Social Security or Taxpayer Identification Number of Transferee)

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer such Certificate on the books kept for registration thereof, with full power of substitution in the premises.

DATED: _____

Signature Guaranteed:

NOTICE: Signature must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

Registered Owner

NOTICE: The signature above must correspond to the name of the Registered Owner as shown on the face of this Certificate in every particular without any alteration, enlargement or change whatsoever.

* * *

EXHIBIT B

PAYING AGENT/REGISTRAR AGREEMENT

See Tab __

EXHIBIT C
Official Bid Form

See Tab __

Regular Session Agenda Item: 6

Meeting Date: April 3, 2023

ITEM DESCRIPTION:

Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, authorizing execution of an agreement with Tyler Technology, Inc. for updated software services for the City's Municipal Court (Software as a Service); and providing an effective date.

BACKGROUND OF ISSUE:

On November 17, 2005, the City Council approved a purchase agreement with Tyler Technologies, Inc., INCODE Division, for software licenses and professional services for a municipal court case management system. The software relating to the City's municipal court case management system must be updated. Tyler Technology, Inc. has agreed to provide the required services, which shall include provision of proprietary software and system administration, management, and monitoring for the City's municipal court case management system on the terms and conditions set forth in the Software as a Service (SaaS) agreement attached hereto as Exhibit "A".

FINANCIAL IMPACT:

\$27,424.00 (one-time fees) + \$21,610.00 (Service Implementation) = \$49, 034.00

RECOMMENDATION:

Staff recommends approval.

EXHIBITS:

Resolution – Approving agreement w/Tyler Technology Inc. for updated software
Agreement – with Tyler Technology Inc. to update software

CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH TYLER TECHNOLOGY, INC. FOR UPDATED SOFTWARE SERVICES FOR THE CITY'S MUNICIPAL COURT (SOFTWARE AS A SERVICE); AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on November 17, 2005, the City Council approved a purchase agreement with Tyler Technologies, Inc., INCODE Division, for software licenses and professional services for a municipal court case management system; and

WHEREAS, the software relating to the City's municipal court case management system must be updated; and

WHEREAS, Tyler Technology, Inc. has agreed to provide the required services, which shall include provision of proprietary software and system administration, management and monitoring for the City's municipal court case management system on the terms and conditions set forth in the Software as a Service (SaaS) agreement attached hereto as Exhibit "A"; and

WHEREAS, City staff, including municipal court administrative personnel, have recommended approval of the SaaS agreement with Tyler Technology, Inc.; and

WHEREAS, the City Council of the City of Seagoville finds it to be in the public interest to authorize the proposed agreement with Tyler Technology, Inc.

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

SECTION 1. The City Manager is hereby authorized to sign on behalf of the City the Software as a Service (SaaS) Agreement with Tyler Technology, Inc., in substantially the form of that attached hereto and incorporated herein by this reference as Exhibit "A" and any further documents necessary for implementation of the update to the City's municipal court case management software system..

SECTION 2. This Resolution shall take effect immediately upon passage.

PASSED AND APPROVED this the 3rd day of April 2023.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria W. Thomas, City Attorney
(032923vwtTM134259)

EXHIBIT "A"
[Tyler SaaS Agreement]



SOFTWARE AS A SERVICE AGREEMENT

This Software as a Service Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Client selected Tyler to provide certain products and services set forth in the Investment Summary, including providing Client with access to Tyler's proprietary software products, and Tyler desires to provide such products and services under the terms of this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth in this Agreement, Tyler and Client agree as follows:

SECTION A – DEFINITIONS

- **“Agreement”** means this Software as a Service Agreement.
- **“Business Travel Policy”** means our business travel policy. A copy of our current Business Travel Policy is attached as Schedule 1 to Exhibit B.
- **“Client”** means the City of Seagoville, Texas.
- **“Data”** means your data necessary to utilize the Tyler Software.
- **“Data Storage Capacity”** means the contracted amount of storage capacity for your Data identified in the Investment Summary.
- **“Defect”** means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in our written proposal to you, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current Documentation.
- **“Defined Users”** means the number of users that are authorized to use the SaaS Services. The Defined Users for the Agreement are as identified in the Investment Summary. If Exhibit A contains Enterprise Permitting & Licensing labeled software, defined users mean the maximum number of named users that are authorized to use the Enterprise Permitting & Licensing labeled modules as indicated in the Investment Summary.
- **“Developer”** means a third party who owns the intellectual property rights to Third Party Software.
- **“Documentation”** means any online or written documentation related to the use or functionality of the Tyler Software that we provide or otherwise make available to you, including instructions, user guides, manuals and other training or self-help documentation.
- **“Effective Date”** means the date by which both your and our authorized representatives have signed the Agreement.
- **“Force Majeure”** means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.
- **“Investment Summary”** means the agreed upon cost proposal for the products and services attached as Exhibit A.



- **“Invoicing and Payment Policy”** means the invoicing and payment policy.
- **“Order Form”** means an ordering document that includes a quote or investment summary and specifying the items to be provided by Tyler to Client, including any addenda and supplements thereto.
- **“SaaS Fees”** means the fees for the SaaS Services identified in the Investment Summary.
- **“SaaS Services”** means software as a service consisting of system administration, system management, and system monitoring activities that Tyler performs for the Tyler Software, and includes the right to access and use the Tyler Software, receive maintenance and support on the Tyler Software, including Downtime resolution under the terms of the SLA, and Data storage and archiving. SaaS Services do not include support of an operating system or hardware, support outside of our normal business hours, or training, consulting or other professional services.
- **“SLA”** means the service level agreement.
- **“Support Call Process”** means the support call process applicable to all of our customers who have licensed the Tyler Software. A copy of our current Support Call Process is attached as [Schedule 1](#) to [Exhibit C](#).
- **“Third Party Hardware”** means the third party hardware, if any, identified in the Investment Summary.
- **“Third Party Products”** means the Third Party Software and Third Party Hardware.
- **“Third Party SaaS Services”** means software as a service provided by a third party, if any, identified in the Investment Summary.
- **“Third Party Services”** means the third party services, if any, identified in the Investment Summary.
- **“Third Party Software”** means the third party software, if any, identified in the Investment Summary.
- **“Third Party Terms”** means, if any, the end user license agreement(s) or similar terms for the Third Party Products or other parties’ products or services, as applicable.
- **“Tyler”** means Tyler Technologies, Inc., a Delaware corporation.
- **“Tyler Software”** means our proprietary software, including any integrations, custom modifications, and/or other related interfaces identified in the Investment Summary and licensed by us to you through this Agreement.
- **“we”, “us”, “our”** and similar terms mean Tyler.
- **“you”** and similar terms mean Client.

SECTION B – SAAS SERVICES

1. **Rights Granted.** We grant to you the non-exclusive, non-assignable limited right to use the SaaS Services solely for your internal business purposes for the number of Defined Users only. The Tyler Software will be made available to you according to the terms of the SLA. You acknowledge that we have no delivery obligations and we will not ship copies of the Tyler Software as part of the SaaS Services. You may use the SaaS Services to access updates and enhancements to the Tyler Software, as further described in Section C(9). The foregoing notwithstanding, to the extent we have sold you perpetual licenses for Tyler Software, if and listed in the Investment Summary, for which you are receiving SaaS Services, your rights to use such Tyler Software are perpetual, subject to the terms and conditions of this Agreement including, without limitation, Section B(4). We will make any such software available to you for download.

2. SaaS Fees. You agree to pay us the SaaS Fees. Those amounts are payable in accordance with our Invoicing and Payment Policy. The SaaS Fees are based on the number of Defined Users and amount of Data Storage Capacity. You may add additional users or additional data storage capacity on the terms set forth in Section H(1). In the event you regularly and/or meaningfully exceed the Defined Users or Data Storage Capacity, we reserve the right to charge you additional fees commensurate with the overage(s).
3. Ownership.
 - 3.1 We retain all ownership and intellectual property rights to the SaaS Services, the Tyler Software, and anything developed by us under this Agreement. You do not acquire under this Agreement any license to use the Tyler Software in excess of the scope and/or duration of the SaaS Services.
 - 3.2 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.
 - 3.3 You retain all ownership and intellectual property rights to the Data. You expressly recognize that except to the extent necessary to carry out our obligations contained in this Agreement, we do not create or endorse any Data used in connection with the SaaS Services.
4. Restrictions. You may not: (a) make the Tyler Software or Documentation resulting from the SaaS Services available in any manner to any third party for use in the third party's business operations; (b) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the SaaS Services; (c) access or use the SaaS Services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to us; or (d) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the SaaS Services, Tyler Software, or Documentation available to any third party other than as expressly permitted by this Agreement.
5. Software Warranty. We warrant that the Tyler Software will perform without Defects during the term of this Agreement. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect in accordance with the maintenance and support process set forth in Section C(9), below, the SLA and our then current Support Call Process.
6. SaaS Services.
 - 6.1 Our SaaS Services are audited at least yearly in accordance with the AICPA's Statement on Standards for Attestation Engagements ("SSAE") No. 18. We have attained, and will maintain, SOC 1 and SOC 2 compliance, or its equivalent, for so long as you are timely paying for SaaS Services. The scope of audit coverage varies for some Tyler Software solutions. Upon execution of a mutually agreeable Non-Disclosure Agreement ("NDA"), we will provide you with a summary of our compliance report(s) or its equivalent and shall provide Client with copies of the full reports upon written request if Client's auditor has requested the full reports. Every year thereafter, for so long as the NDA is in effect and in which you make a written request, we will provide that same information. If our SaaS Services are provided using a 3rd party data center, we will provide available compliance reports for that data center.

- 6.2 You will be hosted on shared hardware in a Tyler data center or in a third-party data center. In either event, databases containing your Data will be dedicated to you and inaccessible to our other customers.
- 6.3 Our Tyler data centers have fully-redundant telecommunications access, electrical power, and the required hardware to provide access to the Tyler Software in the event of a disaster or component failure. In the event of a data center failure, we reserve the right to employ our disaster recovery plan for resumption of the SaaS Services. In that event, we commit to a Recovery Point Objective (“RPO”) of 24 hours and a Recovery Time Objective (“RTO”) of 24 hours. RPO represents the maximum duration of time between the most recent recoverable copy of your hosted Data and subsequent data center failure. RTO represents the maximum duration of time following data center failure within which your access to the Tyler Software must be restored.
- 6.4 We conduct annual penetration testing of either the production network and/or web application to be performed. We will maintain industry standard intrusion detection and prevention systems to monitor malicious activity in the network and to log and block any such activity. We will, within a commercially reasonable timeframe, provide you with a written or electronic notification of any unauthorized access to your database(s) and record of the actions taken by us in the event that any unauthorized access to your database(s) is detected as a result of our security protocols. We will undertake an additional security audit, on terms and timing to be mutually agreed to by the parties, at your written request. You may not attempt to bypass or subvert security restrictions in the SaaS Services or environments related to the Tyler Software. Unauthorized attempts to access files, passwords or other confidential information, and unauthorized vulnerability and penetration test scanning of our network and systems (hosted or otherwise) is prohibited without the prior written approval of our IT Security Officer.
- 6.5 We shall test our disaster recovery plan on an annual basis. Our standard test is not client-specific. Should you request a client-specific disaster recovery test, we will work with you to schedule and execute such a test on a mutually agreeable schedule. At your written request, we will provide test results to you within a commercially reasonable timeframe after receipt of the request.
- 6.6 We will be responsible for importing back-up and verifying that you can log-in. You will be responsible for running reports and testing critical processes to verify the returned Data.
- 6.7 We provide secure Data transmission paths between each of your workstations and our servers.
- 6.8 Tyler data centers are accessible only by authorized personnel with a unique key entry. All other visitors to Tyler data centers must be signed in and accompanied by authorized personnel. Entry attempts to the data center are regularly audited by internal staff and external auditors to ensure no unauthorized access.
- 6.9 Where applicable with respect to our applications that take or process card payment data, we are responsible for the security of cardholder data that we possess, including functions relating to storing, processing, and transmitting of the cardholder data and affirm that, as of the Effective Date, we comply with applicable requirements to be considered PCI DSS compliant and have performed the necessary steps to validate compliance with the PCI DSS. We agree to supply the

current status of our PCI DSS compliance program in the form of an official Attestation of Compliance, which can be found at <https://www.tylertech.com/about-us/compliance>, and in the event of any change in our status, will comply with applicable notice requirements.

SECTION C – PROFESSIONAL SERVICES

1. Professional Services. We will provide you the various implementation-related services itemized in the Investment Summary and described in the Statement of Work.
2. Professional Services Fees. You agree to pay us the professional services fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy. You acknowledge that the fees stated in the Investment Summary are good-faith estimates of the amount of time and materials required for your implementation. We will bill you the actual fees incurred based on the in-scope services provided to you. Any discrepancies in the total values set forth in the Investment Summary will be resolved by multiplying the applicable hourly rate by the quoted hours.
3. Additional Services. The Investment Summary contains, and the Statement of Work describes, the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote.
4. Cancellation. If travel is required, we will make all reasonable efforts to schedule travel for our personnel, including arranging travel reservations, at least two (2) weeks in advance of commitments. Therefore, if you cancel services less than two (2) weeks in advance (other than for Force Majeure or breach by us), you will be liable for all (a) non-refundable expenses incurred by us on your behalf, and (b) daily fees associated with cancelled professional services if we are unable to reassign our personnel. We will make all reasonable efforts to reassign personnel in the event you cancel within two (2) weeks of scheduled commitments.
5. Services Warranty. We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will re-perform such services at no additional cost to you.
6. Site Access and Requirements. At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us.
7. Background Checks. For at least the past twelve (12) years, all of our employees have undergone criminal background checks prior to hire. All employees sign our confidentiality agreement and security policies. Tyler shall upon written request provide Client with written proof that its employees have undergone satisfactory criminal background checks.
8. Client Assistance. You acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts

to cooperate with and assist us as may be reasonably required to meet the agreed upon project deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).

9. Maintenance and Support. For so long as you timely pay your SaaS Fees according to the Invoicing and Payment Policy, then in addition to the terms set forth in the SLA and the Support Call Process, we will:

9.1 perform our maintenance and support obligations in a professional, good, and workmanlike manner, consistent with industry standards, to resolve Defects in the Tyler Software (subject to any applicable release life cycle policy);

9.2 provide support during our established support hours;

9.3 maintain personnel that are sufficiently trained to be familiar with the Tyler Software and Third Party Software, if any, in order to provide maintenance and support services;

9.4 make available to you all releases to the Tyler Software (including updates and enhancements) that we make generally available without additional charge to customers who have a maintenance and support agreement in effect; and

9.5 provide non-Defect resolution support of prior releases of the Tyler Software in accordance with any applicable release life cycle policy.

We will use all reasonable efforts to perform support services remotely. Currently, we use a third-party secure unattended connectivity tool called Bomgar, as well as GotoAssist by Citrix. Therefore, you agree to maintain a high-speed internet connection capable of connecting us to your PCs and server(s). You agree to provide us with reasonable access to the Tyler Software as we may reasonably require to perform remote services. We will, at our option, use the secure connection to assist with proper diagnosis and resolution, subject to any reasonably applicable security protocols. If we cannot resolve a support issue remotely, we may be required to provide onsite services. In such event, we will be responsible for our travel expenses, unless it is determined that the reason onsite support was required was a reason outside our control. Either way, you agree to provide us with full and free access to the Tyler Software, working space, adequate facilities within a reasonable distance from the equipment, and use of machines, attachments, features, or other equipment reasonably necessary for us to provide the maintenance and support services, all at no charge to us. We strongly recommend that you also maintain your VPN for backup connectivity purposes.

For the avoidance of doubt, SaaS Fees do not include the following services: (a) onsite support (unless Tyler cannot remotely correct a Defect in the Tyler Software, as set forth above); (b) application design; (c) other consulting services; or (d) support outside our normal business hours as listed in our then-current Support Call Process. Requested services such as those outlined in this section will be billed to you on a time and materials basis at our then current rates. You must request those services with at least one (1) weeks' advance notice.

SECTION D – THIRD PARTY PRODUCTS

1. Third Party Hardware. We will sell, deliver, and install onsite the Third Party Hardware, if you have purchased any, for the price set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
2. Third Party Software. As part of the SaaS Services, you will receive access to the Third Party Software and related documentation for internal business purposes only. Your rights to the Third Party Software will be governed by the Third Party Terms.
3. Third Party Products Warranties.
 - 3.1 We are authorized by each Developer to grant access to the Third Party Software.
 - 3.2 The Third Party Hardware will be new and unused, and upon payment in full, you will receive free and clear title to the Third Party Hardware.
 - 3.3 You acknowledge that we are not the manufacturer of the Third Party Products. We do not warrant or guarantee the performance of the Third Party Products. However, we grant and pass through to you any warranty that we may receive from the Developer or supplier of the Third Party Products.
4. Third Party Services. If you have purchased Third Party Services, those services will be provided independent of Tyler by such third-party at the rates set forth in the Investment Summary and in accordance with our Invoicing and Payment Policy.

SECTION E - INVOICING AND PAYMENT; INVOICE DISPUTES

1. Invoicing and Payment. We will invoice you the SaaS Fees and fees for other professional services in the Investment Summary per our Invoicing and Payment Policy, subject to Section E(2).
2. Invoice Disputes. If you believe any delivered software or service does not conform to the requirements in this Agreement, you will provide us with written notice within thirty (30) days of your receipt of the applicable invoice. The written notice must contain reasonable detail of the issues you contend are in dispute so that we can confirm the issue and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps and time periods for the same to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in dispute, and only those amounts, until we complete the action items outlined in the plan. If we are unable to complete the action items outlined in the action plan because of your failure to complete the items agreed to be done by you, then you will remit full payment of the invoice. We reserve the right to suspend delivery of all SaaS Services, including maintenance and support services, if you fail to pay an invoice not disputed as described above within fifteen (15) days of notice of our intent to do so. For the avoidance of doubt, Client reserves the right to invoke the Dispute Resolution Process of this Agreement if the parties are unable to agree on an action plan required by this section.

SECTION F – TERM AND TERMINATION

1. Term. The initial term of this Agreement is equal to the number of years indicated for SaaS Services in Exhibit A, commencing on the first day of the first month following the date Tyler makes the SaaS environment available to you, unless earlier terminated as set forth below. If no duration is indicated in Exhibit A, the initial term is one (1) year. Upon expiration of the initial term and thereafter upon the expiration of each additional renewal term, this Agreement will renew automatically for additional one (1) year renewal terms (each a renewal term) at our then-current SaaS Fees unless nonrenewed/terminated in writing by either party at least sixty (60) days prior to the end of the then-current renewal term, which nonrenewal/termination is not limited to the reasons set forth in the following section 2 but instead may be for any reason or for no reason at all. Your right to access or use the Tyler Software and the SaaS Services will terminate at the end of this Agreement.
2. Termination. This Agreement may be terminated by a party to this Agreement upon written notice to the other party as set forth below. In the event of termination, you will pay us for all undisputed fees and expenses related to the software, products, and/or services you have received, or we have reasonably incurred or delivered, prior to the effective date of termination. Disputed fees and expenses in all terminations other than your termination for cause must have been submitted as invoice disputes in accordance with Section E(2).
 - 2.1 Failure to Pay SaaS Fees. You acknowledge that continued access to the SaaS Services is contingent upon your timely payment of SaaS Fees. If you fail to timely pay the SaaS Fees, we may discontinue the SaaS Services and deny your access to the Tyler Software. We may also terminate this Agreement if you don't cure such failure to pay within forty-five (45) days of receiving written notice of our intent to terminate.
 - 2.2 For Cause. If you believe we have materially breached this Agreement, you will invoke the Dispute Resolution clause set forth in Section H(3). You may terminate this Agreement for cause in the event we do not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) day window set forth in Section H(3).
 - 2.3 Force Majeure. Either party has the right to terminate this Agreement if a Force Majeure event suspends performance of the SaaS Services for a period of forty-five (45) days or more.
 - 2.4 Lack of Appropriations. If you should not appropriate or otherwise make available funds sufficient to utilize the SaaS Services, you may unilaterally terminate this Agreement upon thirty (30) days written notice to us. You will not be entitled to a refund or offset of previously paid, but unused SaaS Fees. You agree not to use termination for lack of appropriations as a substitute for termination for convenience.
 - 2.5 Termination for Convenience. You may terminate this Agreement for convenience upon sixty (60) days advance written notice. If you terminate this Agreement for any reason other than cause, Force Majeure, or lack of appropriations, or if we terminate this Agreement during the initial term for your failure to pay SaaS Fees, you shall pay us the following early termination fees.
 - a. If you terminate during the first year of the initial term, 100% of the SaaS Fees through the date of termination plus 25% of the SaaS Fees then due for the remainder of the initial

- term;
- b. If you terminate during the second year of the initial term, 100% of the SaaS Fees through the date of termination plus 15% of the SaaS Fees then due for the remainder of the initial term;
- c. If you terminate after the second year of the initial term, 100% of the SaaS Fees through the date of termination plus 10% of the SaaS Fees then due for the remainder of the initial term or an applicable renewal term.

SECTION G – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

1. Intellectual Property Infringement Indemnification.

- 1.1 We will, at our expense, indemnify, defend, and hold harmless you, your officers and employees against any third party claim(s) that the Tyler Software or Documentation infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets or other intellectual property rights, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense. INDEMNIFIED ITEMS MAY INCLUDE COURT COSTS IF SO ORDERED BY A COURT OF COMPETENT JURISDICTION. OUR OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY US UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.
- 1.2 Our obligations under this Section G(1) will not apply to the extent the claim or adverse final judgment is based on your use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties, or your willful infringement.
- 1.3 If we receive information concerning an infringement or misappropriation claim related to the Tyler Software, we may, at our expense and without obligation to do so, either: (a) procure for you the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case you will stop running the allegedly infringing Tyler Software immediately. Alternatively, we may decide to litigate the claim to judgment, in which case you may continue to use the Tyler Software consistent with the terms of this Agreement.
- 1.4 If an infringement or misappropriation claim is fully litigated and your use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), we will, at our option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent. This section provides your exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims under this Agreement.

2. General Indemnification.

- 2.1 We will defend, indemnify and hold harmless you and your agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses

(including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent caused by our negligence or willful misconduct; or (b) our violation of PCI-DSS requirements or a law applicable to our performance under this Agreement. You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense. INDEMNIFIED ITEMS MAY INCLUDE COURT COSTS IF SO ORDERED BY A COURT OF COMPETENT JURISDICTION. OUR OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY US UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

2.2 To the extent permitted by applicable law, you will indemnify and hold harmless us and our agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for personal injury or property damage to the extent caused by your negligence or willful misconduct; or (b) your violation of a law applicable to your performance under this Agreement. We will notify you promptly in writing of the claim and will give you sole control over its defense or settlement. We agree to provide you with reasonable assistance, cooperation, and information in defending the claim at your expense.

3. **DISCLAIMER.** EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CLIENT UNDERSTANDS AND AGREES THAT TYLER DISCLAIMS ANY LIABILITY FOR ERRORS THAT RELATE TO USER ERROR.
4. **LIMITATION OF LIABILITY.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OUR LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO YOUR ACTUAL DIRECT DAMAGES, NOT TO EXCEED (A) DURING THE INITIAL TERM, AS SET FORTH IN SECTION F(1), TOTAL FEES PAID AS OF THE TIME OF THE CLAIM; OR (B) DURING ANY RENEWAL TERM, THE THEN-CURRENT ANNUAL SAAS FEES PAYABLE IN THAT RENEWAL TERM. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE PRICES SET FORTH IN THIS AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY AND TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, THE EXCLUSION OF CERTAIN DAMAGES, AND EACH SHALL APPLY REGARDLESS OF THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY REMEDY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTIONS G(1) AND G(2).
5. **EXCLUSION OF CERTAIN DAMAGES.** EXCEPT FOR THE INDEMNIFICATION PROVIDED BY US UNDER SECTIONS G(1) AND (G)2, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. **Insurance.** During the term of this Agreement, we agree to maintain the following coverages and levels of insurance: (a) Commercial General Liability policy of insurance for bodily injury, death and property damage including the property of the Client, its officers and employees (collectively

referred to as the “Client”) insuring against all claims, demands or actions relating to the products provided, the work and services provided by Tyler pursuant to this Agreement and with a minimum of at least \$1,000,000 per occurrence for injury to persons (including death), and for property damage and a \$2,000,000.00 aggregate including products and completed operations This policy shall be primary to any policy or policies carried by or available to the Client for claims arising out of this Agreement and only as between Tyler and the Client; (b) policy of Automobile Liability insurance covering any vehicles owned, non-owned and hired and/or operated by us, including our officers, agents and employees, and used in the performance of this Agreement with policy limits of at least \$1,000,000 combined single limit for bodily injury, death and property damage; (c) (c) Professional Liability of at least \$2,000,000 per claim and in the aggregate (including Cyber Protection with a sublimit of \$1,000,000). ; (d) Workers Compensation complying with applicable statutory requirements; and (e) a policy of Excess/Umbrella Liability coverage of at least \$5,000,000. If this coverage is provided on a claims-made basis, then it must be maintained for a period of two (2) years after acceptance of the deliverables and/or services provided in connection with this Agreement. We will add you as an additional insured to our Commercial General Liability and Automobile Liability policies, which will automatically add you as an additional insured to our Excess/Umbrella Liability policy as well. We will provide you with copies of certificates of insurance upon your written request. We agree to secure our insurance from a carrier with a minimum AM Best rating of A-:VII. Tyler’s insurer evidences Tyler’s insurance coverage using a standard Acord form. The coverage limits set forth on our certificate of insurance do not apply separately.

Tyler agrees to waive subrogation against the Client on claims under Tyler’s Commercial General Liability and Automobile Liability policies that arise out of or relate to this Agreement and only those between Tyler and Client, except to the extent that the damage is cause by Client. Tyler agrees to provide to the Client at least a thirty (30) day prior written notice for cancellation, non-renewal, and/or material changes of the policy.

A certificate of insurance and copies of policy endorsements evidencing the required insurance shall be submitted to the Client prior to commencement of services. On every date of renewal of the required insurance policies, Tyler shall cause a certificate of insurance and policy endorsements to be issued evidencing the required insurance herein and delivered to the Client. In addition, Tyler shall, after written request, provide the Client with certificates of insurance and policy endorsements within a commercially reasonable timeframe.

SECTION H – GENERAL TERMS AND CONDITIONS

1. Additional Products and Services. You may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, you may purchase additional products and services at our then-current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.
2. Optional Items. Pricing for any listed optional products and services in the Investment Summary will be valid for twelve (12) months from the Effective Date.
3. Dispute Resolution. You agree to provide us with written notice within thirty (30) days of becoming aware of a dispute. You agree to cooperate with us in trying to reasonably resolve all disputes,

including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with our appointed senior representative. Senior representatives will convene within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. If the parties fail to meet within the 45-day period or if we fail to resolve the dispute, then the parties shall participate in non-binding mediation in an effort to resolve the dispute. If the dispute remains unresolved after mediation, then either of us may terminate this agreement and/or assert our respective rights and remedies in a court of competent jurisdiction. Nothing in this section shall prevent you or us from seeking necessary injunctive relief or exercising any other applicable remedies during the dispute resolution procedures.

4. Taxes. The fees in the Investment Summary do not include any taxes, including, without limitation, sales, use, or excise tax. If you are a tax-exempt entity, you agree to provide us with a tax-exempt certificate. Otherwise, we will pay all applicable taxes to the proper authorities and you will reimburse us for such taxes. If you have a valid direct-pay permit, you agree to provide us with a copy. For clarity, we are responsible for paying our income taxes, both federal and state, as applicable, arising from our performance of this Agreement.
5. Nondiscrimination. We will not discriminate against any person employed or applying for employment concerning the performance of our responsibilities under this Agreement. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. We will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.
6. E-Verify. We have complied, and will comply, with the E-Verify procedures administered by the U.S. Citizenship and Immigration Services Verification Division for all of our employees assigned to your project.
7. Subcontractors. We will not subcontract any services under this Agreement without your prior written consent, not to be unreasonably withheld.
8. Binding Effect; No Assignment. This Agreement shall be binding on, and shall be for the benefit of, either your or our successor(s) or permitted assign(s). Neither party may assign this Agreement without the prior written consent of the other party; provided, however, your consent is not required for an assignment of the Agreement by us as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of our assets. Tyler agrees that such assignee assumes completely our obligations and liabilities.
9. Force Majeure. Except for your payment obligations, neither party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.

10. No Intended Third Party Beneficiaries. This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement. This provision does not affect the rights of third parties under any Third Party Terms.
11. Entire Agreement; Amendment. This Agreement represents the entire agreement between you and us with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Purchase orders submitted by you, if any, are for your internal administrative purposes only, and the terms and conditions contained in those purchase orders will have no force or effect. This Agreement may only be modified by a written amendment signed by an authorized representative of each party.
12. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.
13. No Waiver. In the event that the terms and conditions of this Agreement are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such party from enforcing each and every term of this Agreement thereafter.
14. Independent Contractor. We are an independent contractor for all purposes under this Agreement. It is understood and agreed by and between the Parties that we, in satisfying the conditions of this Agreement, are acting independently, and that you assume no responsibility or liabilities to any third party in connection with these actions. All products to be provided and the services to be performed by us pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of you. We shall supervise the performance of our services and shall be entitled to control the manner and means by which the services are to be performed, subject to the terms of this Agreement.
15. Notices. All notices or communications required or permitted as a part of this Agreement, such as notice of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; (c) upon receipt by sender of proof of email delivery; or (d) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth on the signature page hereto or such other address as the party may have designated by proper notice. The consequences for the failure to receive a notice due to improper notification by the intended receiving party of a change in address will be borne by the intended receiving party.
16. Client Lists. You agree that we may identify you by name in client lists. We may only identify you in marketing presentations and promotional materials with your advance written consent. Tyler shall remove Client's name from such lists within a commercially reasonable timeframe after written demand therefor by Client.

17. Confidentiality. Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (*e.g.*, social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement. This obligation of confidentiality will not apply to information that:

- (a) is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;
- (b) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
- (c) a party receives from a third party who has a right to disclose it to the receiving party; or
- (d) is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will to the extent allowed by law give us prompt notice and otherwise perform the functions required by applicable law.

18. Quarantining of Client Data. Some services provided by Tyler require us to be in possession of your Data. In the event we detect malware or other conditions associated with your Data that are reasonably suspected of putting Tyler resources or other Tyler clients' data at risk, we reserve the absolute right to move your Data from its location within a multi-tenancy Tyler hosted environment to an isolated "quarantined" environment without advance notice. Your Data will remain in such quarantine for a period of at least six (6) months during which time we will review the Data, and all traffic associated with the Data, for signs of malware or other similar issues. If no issues are detected through such reviews during the six (6) month period of quarantine, we will coordinate with you the restoration of your Data to a non-quarantined environment. In the event your Data must remain in quarantine beyond this six (6) month period through no fault of Tyler's, we reserve the right to require payment of additional fees for the extended duration of quarantine. We will provide an estimate of what those costs will be upon your request.

19. Business License. In the event a local business license is required for us to perform services hereunder, you will promptly notify us and provide us with the necessary paperwork and/or contact information so that we may timely obtain such license.

20. Governing Law. This Agreement will be governed by and construed in accordance with the laws of your state of domicile, without regard to its rules on conflicts of law. The Parties agree that exclusive venue for any action concerning this Agreement shall be in a state or federal court serving Dallas County, Texas.

21. Multiple Originals and Authorized Signatures. This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment

hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.

22. Cooperative Procurement. To the maximum extent permitted by applicable law, we agree that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. We reserve the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances of that cooperative procurement.
23. Data & Insights Solution Terms. Your use of certain Tyler solutions includes Tyler's Data & Insights data platform. Your rights, and the rights of any of your end users, to use Tyler's Data & Insights data platform is subject to the Data & Insights SaaS Services Terms of Service, available at <https://www.tylertech.com/terms/data-insights-saas-services-terms-of-service>. By signing a Tyler Agreement or Order Form, or accessing, installing, or using any of the Tyler solutions listed at the linked terms, you certify that you have reviewed, understand, and agree to said terms.
24. Order of Precedence. The provisions of this Agreement, inclusive of all exhibits, are intended to be read harmoniously. In the event any term or provision in any Exhibit or Schedule to this Agreement conflicts with the terms and conditions of this Agreement, the terms of this Agreement shall control.
25. Contract Documents. This Agreement includes the following exhibits which are incorporated herein by this reference:

Exhibit A	Investment Summary
Exhibit B	Invoicing and Payment Policy
	Schedule 1: Business Travel Policy
Exhibit C	Service Level Agreement
	Schedule 1: Support Call Process

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.

City of Seagoville, TX

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notices:

Tyler Technologies, Inc.
One Tyler Drive
Yarmouth, ME 04096
Attention: Chief Legal Officer

Address for Notices:

City of Seagoville
702 North Highway 175
Seagoville, TX 75159
Attention: Julissa Perez



Exhibit A
Investment Summary

The following Investment Summary details the software and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date, despite any expiration date in the Investment Summary that may have lapsed as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement. In the event of conflict between the Agreement and terms in the Comments section of this Investment Summary, the language in the Agreement will prevail.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK



Quoted By:
 Quote Expiration:
 Quote Name:

Audra Chandler
 01/02/23
 SaaS Flip

Sales Quotation For:

City of Seagoville
 702 N Highway 175
 Seagoville TX 75159-1799
 Julissa "Jules" Perez
 +1 (972) 287-6831
 jperez@seagoville.us

Tyler Annual Software – SaaS

Description	Annual
Municipal Justice powered by Incode	
Municipal Justice 9 Suite	
Collection Agency Export Interface	\$ 1,958
Criminal Case Manager	\$ 10,188
Centralized Cash Collections	\$ 1,659
CRIMES Interface through Sam Houston State University	\$ 5,245
System Software Non SQL Maintenance	\$ 1,106

TOTAL: **\$ 20,156**

Summary	One Time Fees	Recurring Fees
Total SaaS		\$ 20,156
Total Tyler Services		
Summary Total	\$ 0	\$ 20,156
Contract Total	\$ 20,156	

Comments

- Work will be delivered remotely unless otherwise noted in this agreement.
 - Expenses associated with onsite services are invoiced as incurred according to Tyler's standard business travel policy.
- SaaS is considered a term of one year unless otherwise indicated.

Client agrees that items in this sales quotation are, upon Client's signature or approval of same, hereby added to the existing agreement ("Agreement") between the parties and subject to its terms. Additionally, payment for said items, as applicable but subject to any listed assumptions herein, shall conform to the following terms, subject to payment terms in an agreement, amendment, or similar document in which this sales quotation is included:

- License fees for Tyler and third-party software are invoiced upon the earlier of (i) delivery of the license key or (ii) when Tyler makes such software available accessible.
- Fees for hardware are invoiced upon delivery.
- Fees for year one of hardware maintenance are invoiced upon delivery of the hardware.
- Annual Maintenance and Support fees, SaaS fees, Hosting fees, and Subscription fees are first payable when Tyler makes the software accessible to the Client (for Maintenance) or on the first day of the month following the date this quotation was signed (for SaaS, Hosting, and Subscription), and any such fees are prorated to align with the applicable term under the agreement, with renewals invoiced annually thereafter in accord with the Agreement.
- Fees for services included in this sales quotation shall be invoiced as indicated below.
 - o Implementation and other professional services fees shall be invoiced as delivered.
 - o Fixed-fee Business Process Consulting services shall be invoiced 50% upon delivery of the Best Practice Recommendations, by module, and 50% upon delivery of custom desktop procedures, by module.
 - o Fixed-fee conversions are invoiced 50% upon initial delivery of the converted data, by conversion option, and 50% upon Client acceptance to load the converted data into Live/Production environment, by conversion option. Where conversions are quoted as estimated, Tyler will invoice Client the actual services delivered on a time and materials basis.
 - o Except as otherwise provided, other fixed price services are invoiced upon complete delivery of the service. For the avoidance of doubt, where "Project Planning Services" are provided, payment shall be invoiced upon delivery of the Implementation Planning document. Dedicated Project Management services, if any, will be invoiced monthly in arrears, beginning on the first day of the month immediately following initiation of project planning.
 - o If Client has purchased any change management services, those services will be invoiced in accordance with the Agreement.
 - o Notwithstanding anything to the contrary stated above, the following payment terms shall apply to fees specifically for migrations: Tyler will invoice Client 50% of any Migration Services Fees listed above upon Client approval of the product suite migration schedule. The remaining 50%, by line item, will be billed upon the go-live of the applicable product suite. Tyler will invoice Client for any Project Management Fees listed above upon the go-live of the first product suite. Annual SaaS Fees will be invoiced upon availability of the hosted environment.

Any SaaS or hosted solutions added to an agreement containing Client-hosted Tyler solutions are subject to Tyler's SaaS Services terms found here:

<https://www.tylertech.com/terms/tyler-saas-services>.

Unless otherwise indicated in the contract or amendment thereto, pricing for optional items will be held
For six (6) months from the Quote date or the Effective Date of the Contract, whichever is later.

Customer Approval: _____ Date: _____

Print Name: _____ P.O.#: _____



Exhibit B Invoicing and Payment Policy

We will provide you with the software and services set forth in the Investment Summary of the Agreement. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

Invoicing: We will invoice you for the applicable software and services in the Investment Summary as set forth below. Your rights to dispute any invoice are set forth in the Agreement.

1. SaaS Fees. SaaS Fees are invoiced on an annual basis, beginning on the commencement of the initial term as set forth in Section F (1) of this Agreement. Your annual SaaS fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual SaaS fees will be at our then-current rates.
2. Other Tyler Software and Services.
 - 2.1 *VPN Device:* The fee for the VPN device will be invoiced upon installation of the VPN.
 - 2.2 *Implementation and Other Professional Services (including training):* Implementation and other professional services (including training) are billed and invoiced as delivered, at the rates set forth in the Investment Summary.
 - 2.3 *Consulting Services:* If you have purchased any Business Process Consulting services, if they have been quoted as fixed-fee services, they will be invoiced 50% upon your acceptance of the best practice recommendations, by module, and 50% upon your acceptance of custom desktop procedures, by module. If you have purchased any Business Process Consulting services and they are quoted as an estimate, then we will bill you the actual services delivered on a time and materials basis.
 - 2.4 *Conversions:* Fixed-fee conversions are invoiced 50% upon initial delivery of the converted Data, by conversion option, and 50% upon Client acceptance to load the converted Data into Live/Production environment, by conversion option. Where conversions are quoted as estimated, we will bill you the actual services delivered on a time and materials basis.
 - 2.5 *Requested Modifications to the Tyler Software:* Requested modifications to the Tyler Software are invoiced 50% upon delivery of specifications and 50% upon delivery of the applicable modification. You must report any failure of the modification to conform to the specifications within thirty (30) days of delivery; otherwise, the modification will be deemed to be in compliance with the specifications after the 30-day window has passed. You may still report Defects to us as set forth in this Agreement.

- 2.6 *Other Fixed Price Services*: Other fixed price services are invoiced as delivered, at the rates set forth in the Investment Summary. For the avoidance of doubt, where “Project Planning Services” are provided, payment will be due upon delivery of the Implementation Planning document. Dedicated Project Management services, if any, will be billed monthly in arrears, beginning on the first day of the month immediately following initiation of project planning.
- 2.7 *Annual Services*: Unless otherwise indicated in this Exhibit B, fees for annual services are due annually, in advance, commencing on the availability of the service. Your annual fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual fees will be at our then-current rates.
3. Third Party Products.
- 3.1 *Third Party Software License Fees*: License fees for Third Party Software, if any, are invoiced when we make it available to you for downloading.
- 3.2 *Third Party Software Maintenance*: The first year maintenance for the Third Party Software is invoiced when we make it available to you for downloading.
- 3.3 *Third Party Hardware*: Third Party Hardware costs, if any, are invoiced upon delivery.
- 3.4 *Third Party Services*: Fees for Third Party Services, if any, are invoiced as delivered, along with applicable expenses, at the rates set forth in the Investment Summary.
- 3.5 *Third Party SaaS*: Third Party SaaS Services fees, if any, are invoiced annually, in advance, commencing with availability of the respective Third Party SaaS Services. Pricing for the first year of Third Party SaaS Services is indicated in the Investment Summary. Pricing for subsequent years will be at the respective third party’s then-current rates.
4. Transaction Fees. Unless paid directly by an end user at the time of transaction, per transaction (call, message, etc.) fees are invoiced on a quarterly basis. Fees are indicated in Exhibit A and may be increased by Tyler upon notice of no less than thirty (30) days.
5. Expenses. The service rates in the Investment Summary do not include travel expenses. Expenses for Tyler delivered services will be billed as incurred and only in accordance with our then-current Business Travel Policy. Our current Business Travel Policy is attached to this Exhibit B as Schedule 1. Copies of receipts will be provided upon request; we reserve the right to charge you an administrative fee depending on the extent of your requests. Receipts for miscellaneous items less than twenty-five dollars and mileage logs are not available.
6. Credit for Prepaid Maintenance and Support Fees for Tyler Software. Client will receive a credit for the maintenance and support fees prepaid for the Tyler Software for the time period commencing on the first day of the SaaS Term.

Payment. Payment for undisputed invoices is due within forty-five (45) days of the invoice date. We prefer to receive payments electronically. Our electronic payment information is available by contacting AR@tylertech.com.



Exhibit B
Schedule 1
Business Travel Policy

1. Air Travel

A. Reservations & Tickets

The Travel Management Company (TMC) used by Tyler will provide an employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within \$100 (each way) of the lowest logical fare. If a net savings of \$200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted.

Employees are encouraged to make advanced reservations to take full advantage of discount opportunities. Employees should use all reasonable efforts to make travel arrangements at least two (2) weeks in advance of commitments. A seven (7) day advance booking requirement is mandatory. When booking less than seven (7) days in advance, management approval will be required.

Except in the case of international travel where a segment of continuous air travel is six (6) or more consecutive hours in length, only economy or coach class seating is reimbursable. Employees shall not be reimbursed for "Basic Economy Fares" because these fares are non-refundable and have many restrictions that outweigh the cost-savings.

B. Baggage Fees

Reimbursement of personal baggage charges are based on trip duration as follows:

- Up to five (5) days = one (1) checked bag
- Six (6) or more days = two (2) checked bags

Baggage fees for sports equipment are not reimbursable.

2. Ground Transportation

A. Private Automobile

Mileage Allowance – Business use of an employee’s private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee’s office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.

B. Rental Car

Employees are authorized to rent cars only in conjunction with air travel when cost, convenience, and the specific situation reasonably require their use. When renting a car for Tyler business, employees should select a “mid-size” or “intermediate” car. “Full” size cars may be rented when three or more employees are traveling together. Tyler carries leased vehicle coverage for business car rentals; except for employees traveling to Alaska and internationally (excluding Canada), additional insurance on the rental agreement should be declined.

C. Public Transportation

Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation are unavailable or impractical. The actual fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.

D. Parking & Tolls

When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

3. Lodging

Tyler’s TMC will select hotel chains that are well established, reasonable in price, and conveniently located in relation to the traveler’s work assignment. Typical hotel chains include Courtyard, Fairfield Inn, Hampton Inn, and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates.

“No shows” or cancellation fees are not reimbursable if the employee does not comply with the hotel’s cancellation policy.

Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.

Employees are not authorized to reserve non-traditional short-term lodging, such as Airbnb, VRBO, and HomeAway. Employees who elect to make such reservations shall not be reimbursed.

4. Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status within the continental U.S. are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. Per diem rates are available at www.gsa.gov/perdiem.

Per diem for Alaska, Hawaii, U.S. protectorates and international destinations are provided separately by the Department of State and will be determined as required.

A. Overnight Travel

For each full day of travel, all three meals are reimbursable. Per diems on the first and last day of a trip are governed as set forth below.

Departure Day

Depart before 12:00 noon	Lunch and dinner
Depart after 12:00 noon	Dinner

Return Day

Return before 12:00 noon	Breakfast
Return between 12:00 noon & 7:00 p.m.	Breakfast and lunch
Return after 7:00 p.m.*	Breakfast, lunch and dinner

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

Breakfast	15%
Lunch	25%
Dinner	60%

B. Same Day Travel

Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00 p.m.*

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

5. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If an employee's hotel charges for internet access it is reimbursable up to \$10.00 per day. Charges for internet access at airports are not reimbursable.

6. International Travel

All international flights with the exception of flights between the U.S. and Canada should be reserved through TMC using the "lowest practical coach fare" with the exception of flights that are six (6) or more consecutive hours in length. In such event, the next available seating class above coach shall be reimbursed.

When required to travel internationally for business, employees shall be reimbursed for photo fees, application fees, and execution fees when obtaining a new passport book, but fees related to passport renewals are not reimbursable. Visa application and legal fees, entry taxes and departure taxes are reimbursable.

The cost of vaccinations that are either required for travel to specific countries or suggested by the U.S. Department of Health & Human Services for travel to specific countries, is reimbursable.

Section 4, Meals & Incidental Expenses, and Section 2.b., Rental Car, shall apply to this section.



Exhibit C Service Level Agreement

I. Agreement Overview

This SLA operates in conjunction with, and does not supersede or replace any part of, the Agreement. It outlines the information technology service levels that we will provide to you to ensure the availability of the application services that you have requested us to provide. This SLA does not apply to any Third Party SaaS Services. All other support services are documented in the Support Call Process.

II. Definitions. Except as defined below, all defined terms have the meaning set forth in the Agreement.

Actual Attainment: The percentage of time the Tyler Software is available during a calendar quarter, calculated as follows: $(\text{Service Availability} - \text{Downtime}) \div \text{Service Availability}$.

Client Error Incident: Any service unavailability resulting from your applications, content or equipment, or the acts or omissions of any of your service users or third-party providers over whom we exercise no control.

Downtime: Those minutes during Service Availability, as defined below, when all users cannot launch, login, search or save primary data in the Tyler Software. Downtime does not include those instances in which only a Defect is present.

Emergency Maintenance: (1) maintenance that is required to patch a critical security vulnerability; (2) maintenance that is required to prevent an imminent outage of Service Availability; or (3) maintenance that is mutually agreed upon in writing by Tyler and the Client.

Planned Downtime: Downtime that occurs during a Standard or Emergency Maintenance window.

Service Availability: The total number of minutes in a calendar quarter that the Tyler Software is capable of receiving, processing, and responding to requests, excluding Planned Downtime, Client Error Incidents, denial of service attacks and Force Majeure.

Standard Maintenance: Routine maintenance to the Tyler Software and infrastructure. Standard Maintenance is limited to five (5) hours per week.

III. **Service Availability**

a. Your Responsibilities

Whenever you experience Downtime, you must make a support call according to the procedures outlined in the Support Call Process. You will receive a support case number.

b. Our Responsibilities

When our support team receives a call from you that Downtime has occurred or is occurring, we will work with you to identify the cause of the Downtime (including whether it may be the result of Planned

Downtime, a Client Error Incident, Denial of Service attack or Force Majeure). We will also work with you to resume normal operations.

c. Client Relief

Our targeted Attainment Goal is 100%. You may be entitled to credits as indicated in the Client Relief Schedule found below. Your relief credit is calculated as a percentage of the SaaS fees paid for the calendar quarter.

In order to receive relief credits, you must submit a request through one of the channels listed in our Support Call Process within fifteen days (15) of the end of the applicable quarter. We will respond to your relief request within thirty (30) day(s) of receipt.

The total credits confirmed by us will be applied to the SaaS Fee for the next billing cycle. Issuing of such credit does not relieve us of our obligations under the Agreement to correct the problem which created the service interruption.

Client Relief Schedule	
Actual Attainment	Client Relief
99.99% - 98.00%	Remedial action will be taken
97.99% - 95.00%	4%
Below 95.00%	5%

IV. Maintenance Notifications

We perform Standard Maintenance during limited windows that are historically known to be reliably low-traffic times. If and when maintenance is predicted to occur during periods of higher traffic, we will provide advance notice of those windows and will coordinate to the greatest extent possible with you.

Not all maintenance activities will cause application unavailability. However, if Tyler anticipates that activities during a Standard or Emergency Maintenance window may make the Tyler Software unavailable, we will provide advance notice, as reasonably practicable that the Tyler Software will be unavailable during the maintenance window.



Exhibit C Schedule 1 Support Call Process

Support Channels

Tyler Technologies, Inc. provides the following channels of software support for authorized users*:

- (1) On-line submission (portal) – for less urgent and functionality-based questions, users may create support incidents through the Tyler Customer Portal available at the Tyler Technologies website. A built-in Answer Panel provides users with resolutions to most “how-to” and configuration-based questions through a simplified search interface with machine learning, potentially eliminating the need to submit the support case.
- (2) Email – for less urgent situations, users may submit emails directly to the software support group.
- (3) Telephone – for urgent or complex questions, users receive toll-free, telephone software support.

** Channel availability may be limited for certain applications.*

Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website – www.tylertech.com – for accessing client tools, documentation, and other information including support contact information.
- (2) Tyler Search -a knowledge based search engine that lets you search multiple sources simultaneously to find the answers you need, 24x7.
- (3) Tyler Community –provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (4) Tyler University – online training courses on Tyler products.

Support Availability

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Tyler’s holiday schedule is outlined below. There will be no support coverage on these days.

New Year’s Day	Labor Day
Martin Luther King, Jr. Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day

For support teams that provide after-hours service, we will provide you with procedures for contacting support staff after normal business hours for reporting Priority Level 1 Defects only. Upon receipt of



such a Defect notification, we will use commercially reasonable efforts to meet the resolution targets set forth below.

We will also make commercially reasonable efforts to be available for one pre-scheduled Saturday of each month to assist your IT staff with applying patches and release upgrades, as well as consulting with them on server maintenance and configuration of the Tyler Software environment.

Incident Handling

Incident Tracking

Every support incident is logged into Tyler’s Customer Relationship Management System and given a unique case number. This system tracks the history of each incident. The case number is used to track and reference open issues when clients contact support. Clients may track incidents, using the case number, through Tyler’s Customer Portal or by calling software support directly.

Incident Priority

Each incident is assigned a priority level, which corresponds to the Client’s needs. Tyler and the Client will reasonably set the priority of the incident per the chart below. This chart is not intended to address every type of support incident, and certain “characteristics” may or may not apply depending on whether the Tyler software has been deployed on customer infrastructure or the Tyler cloud. The goal is to help guide the Client towards clearly understanding and communicating the importance of the issue and to describe generally expected response and resolution targets in the production environment only.

References to a “confirmed support incident” mean that Tyler and the Client have successfully validated the reported Defect/support incident.

Priority Level	Characteristics of Support Incident	Resolution Targets*
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client’s remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. For non-hosted customers, Tyler’s responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.

Priority Level	Characteristics of Support Incident	Resolution Targets*
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. For non-hosted customers, Tyler's responsibility for loss or corrupted data is limited to assisting the Client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack, which shall occur at least quarterly. For non-hosted customers, Tyler's responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

**Response and Resolution Targets may differ by product or business need*

Incident Escalation

If Tyler is unable to resolve any priority level 1 or 2 defect as listed above or the priority of an issue has elevated since initiation, you may escalate the incident to the appropriate resource, as outlined by each product support team. The corresponding resource will meet with you and any Tyler staff to establish a mutually agreeable plan for addressing the defect.

Remote Support Tool

Some support calls may require further analysis of the Client's database, processes or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Tyler's support team must have the ability to quickly connect to the Client's system and view the site's setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.

Regular Session Agenda Item: 7

Meeting Date: April 3, 2023

ITEM DESCRIPTION:

Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, authorizing the exercise of eminent domain by the City of Seagoville, Texas, and for determining the necessity of acquiring real property for the construction of a 12-foot Wastewater Easement and Temporary Construction Easement (part 1) and a Variable Width Wastewater Easement and Temporary Construction Easement (part 2) for the East Malloy Bridge Road Wastewater Line Project, authorizing the appropriation of real property and/or the use of the power of eminent domain to acquire real property for public use, delegating authority to initiate condemnation proceedings to the City Attorney and City Manager and providing for an effective date.

BACKGROUND OF ISSUE:

It is hereby determined that there is a public necessity, and that a public use and purpose for the welfare and convenience of the citizens requires the acquisition of title to land and improvements in the City of Seagoville (the “City”), for the public purpose of constructing a 12-foot Wastewater Easement and Temporary Construction Easement (Part 1) and a Variable Width Wastewater Easement and Temporary Construction Easement (Part 2) for the City’s East Malloy Bridge Road Wastewater Line Project (the “Project”). The City is authorized to acquire real property by consent or exercise the power of eminent domain on the property more fully described and depicted in Exhibit “A”, which is attached hereto and incorporated herein for all purposes, to wit: Parcel 3, for the construction of the project.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends approval.

EXHIBITS:

Resolution – Authorizing the Exercise of Eminent Domain by the City of Seagoville

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, AUTHORIZING THE EXERCISE OF EMINENT DOMAIN BY THE CITY OF SEAGOVILLE, TEXAS, AND FOR DETERMINING THE NECESSITY OF ACQUIRING REAL PROPERTY FOR THE CONSTRUCTION OF A 12-FOOT WASTEWATER EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT (PART 1) AND A VARIABLE WIDTH WASTEWATER EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT (PART 2) FOR THE EAST MALLOY BRIDGE ROAD WASTEWATER LINE PROJECT, AUTHORIZING THE APPROPRIATION OF REAL PROPERTY AND/OR THE USE OF THE POWER OF EMINENT DOMAIN TO ACQUIRE REAL PROPERTY FOR PUBLIC USE, DELEGATING AUTHORITY TO INITIATE CONDEMNATION PROCEEDINGS TO THE CITY ATTORNEY AND CITY MANAGER AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is hereby determined that there is a public necessity, and that a public use and purpose for the welfare and convenience of the citizens requires the acquisition of title to land and improvements in the City of Seagoville (the “City”), for the public purpose of constructing a 12-foot Wastewater Easement and Temporary Construction Easement (Part 1) and a Variable Width Wastewater Easement and Temporary Construction Easement (Part 2) for the City’s East Malloy Bridge Road Wastewater Line Project (the “Project”); and

WHEREAS, the City is authorized to acquire real property by consent or exercise the power of eminent domain on the property more fully described and depicted in Exhibit “A”, which is attached hereto and incorporated herein for all purposes, to wit: Parcel 3, for the construction of the Project; and

WHEREAS, the City Council of the City of Seagoville, Texas (the “City Council”) 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 real property by the use of the power eminent domain under the Texas Constitution and Texas Property Code.

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

SECTION 1. The City Council hereby finds and determines that a public necessity exists for the welfare of the City and its citizens and it is in the public interest to acquire real property for the public purpose of constructing the Project by use and right of the City’s power of eminent domain in accordance with the Texas Constitution and Texas Property Code; and, all appropriate improvements from the property described and depicted in Exhibit “A”, attached

hereto, and made a part hereof for all purposes; and, that the City Manager and City Attorney are authorized to take such actions that are granted under Texas law and this Resolution in conformity therein.

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 on this the 3rd day of April 2023.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria W. Thomas, City Attorney

EXHIBIT "A"

EXHIBIT "A"
**PART 1 – 12-FOOT WASTEWATER EASEMENT AND
TEMPORARY CONSTRUCTION EASEMENT**
**PART 2 – VARIABLE WIDTH WASTEWATER EASEMENT AND
TEMPORARY CONSTRUCTION EASEMENT**

Parcel No. 3
Owner: Ivan Alonso Martinez
M.L. Swing Survey, Abstract Number 1420
City of Seagoville, Dallas County, Texas

PART 1

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 Lot 1, Block A of Rosilla Sanchez Addition, an addition to the City of Seagoville, Dallas County, Texas, 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 by General Warranty Deed to Ivan Alonso Martinez, recorded in Instrument Number 202200094833 of the Official Public Records of Dallas County, Texas (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" in the common line of said Lot 1, Block A and 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.) and at the east corner of that tract of land described in Deed to Danny Greenhaw, recorded in Volume 98047, Page 2978 (O.P.R.D.C.T.), having grid coordinates of North=6,922,149.20, East=2,572,428.66;

THENCE South 45 degrees 31 minutes 39 seconds East, with said common line, passing a 1/2-inch found iron rod with cap stamped "CBG SURV" at the south corner of said "TRACT ONE" and the west corner of that tract of land described as "TRACT TWO" by said General Warranty Deed to Staphanie Noemy Solis, recorded in Instrument Number 2019-00238613 (O.P.R.D.C.T.) at a distance of 100.37 feet, continuing with the common line of said Lot 1, Block A and said "TRACT TWO", a total distance of 115.54 feet to a point for corner, from which a 5/8-inch found iron rod at the south corner of said "TRACT TWO" and in the west line of East Malloy Bridge Road (variable width right-of-way) bears South 45 degrees 31 minutes 39 seconds East, 84.60 feet;

THENCE South 67 degrees 18 minutes 28 seconds West, 13.02 feet, departing said common line, over and across said Lot 1, Block A to a point for corner;

THENCE North 45 degrees 31 minutes 39 seconds West, 110.45 feet, continuing over and across said Lot 1, Block A, to a point for corner in the common line of said Lot 1, Block A and said Greenhaw tract;

THENCE North 44 degrees 16 minutes 45 seconds East, 12.00 feet, with said common line, to the **POINT OF BEGINNING AND CONTAINING** 1,356 square feet, or 0.031 acres of land, more or less.

PART 2

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 Lot 1, Block A of Rosilla Sanchez Addition, an addition to the City of Seagoville, Dallas County, Texas, 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 by General Warranty Deed to Ivan Alonso Martinez, recorded in Instrument Number 202200094833 of the Official Public Records of Dallas County, Texas (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 west corner of said Lot 1, Block A, at the northwest corner of that tract of land described in Quit Claim Deed to Linda Jean Nordeck, recorded in Instrument Number 2016-00100344 (O.P.R.D.C.T.), 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.), having grid coordinates of North=6,922,176.57, East=2,572,314.07;

THENCE North 44 degrees 11 minutes 05 seconds East, 5.58 feet, with the common line of said Lot 1, Block A and said Lot 1, Block 1 to a point for corner, from which a 5/8-inch found iron rod with cap stamped "PATRICK RPLS 4593" at the northwest corner of that tract of land described in Deed to Danny Greenhaw, recorded in Volume 98047, Page 2978 (O.P.R.D.C.T.), the west corner 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.) and in said southeast line of Lot 1, Block 1;

THENCE South 79 degrees 20 minutes 31 seconds East, 44.01 feet, departing said common line, over and across said Lot 1, Block A to a point for corner in the common line of said Lot 1, Block A and said Greenhaw tract;

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

THENCE North 79 degrees 20 minutes 31 seconds West, 54.05 feet, departing said common line, over and across said Lot 1, Block A to a point for corner in the common line of said Lot 1, Block A and said Nordeck tract;

THENCE North 45 degrees 31 minutes 15 seconds West, 18.59 feet, with said common line, to the **POINT OF BEGINNING AND CONTAINING** 787 square feet, or 0.018 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.



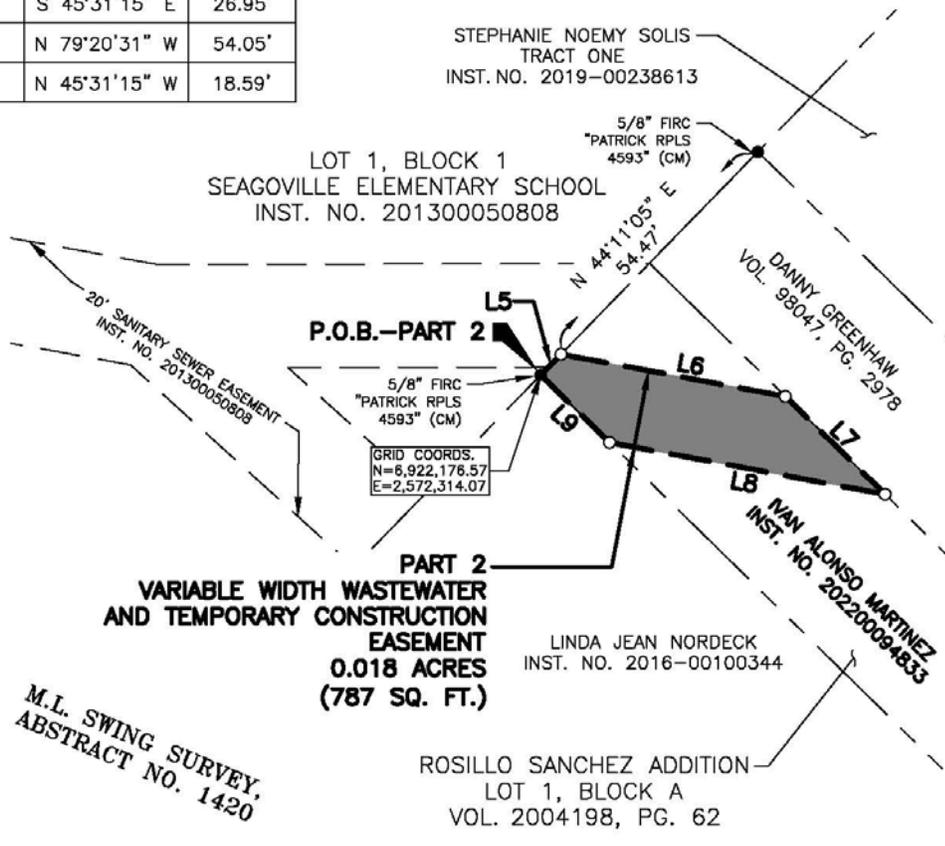
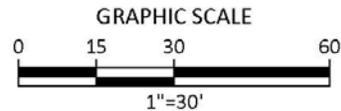
3/17/2023

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



LINE DATA		
LINE #	BEARING	DISTANCE
L5	N 44°11'05" E	5.58'
L6	S 79°20'31" E	44.01'
L7	S 45°31'15" E	26.95'
L8	N 79°20'31" W	54.05'
L9	N 45°31'15" W	18.59'

EXHIBIT "A"



M.L. SWING SURVEY,
ABSTRACT NO. 1420

MATCH LINE PAGE 4 OF 5

- LEGEND**
- P.O.B. POINT OF BEGINNING
 - P.O.C. POINT OF COMMENCING
 - FIR FOUND IRON ROD
 - FIRC FOUND IRON ROD W/CAP-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
3/17/2023



- 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.

I:\42505\42505001\142505001\142505001\142505001\FIR-42505-001.dwg
March 17, 2023, 2:12:20 PM, 312661

1201 NORTH BOWSER ROAD
RICHARDSON, TX 75081-2275
TEL (214) 346-6200
TBPELS SURVEYING FIRM #10029600

VARIABLE WIDTH WASTEWATER EASEMENT
AND TEMPORARY CONSTRUCTION EASEMENT
PARCEL 3
SITUATED IN THE
M.L. SWING SURVEY, ABSTRACT NO. 1420
CITY OF SEAGOVILLE, DALLAS COUNTY, TEXAS

PROJECT NO: 42505.001
DATE ISSUED: 3/17/2023
PAGE: 5 OF 5

Regular Session Agenda Item: 8

Meeting Date: April 3, 2023

ITEM DESCRIPTION:

Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, authorizing the exercise of eminent domain by the City of Seagoville, Texas, and for determining the necessity of acquiring real property for the construction of a 25-foot wide Sanitary Sewer Easement and a 55-foot wide Temporary Construction Easement for the Santorini Offsite Sanitary Sewer Project, authorizing the appropriation of real property and/or the use of the power of eminent domain to acquire real property for public use, delegating authority to initiate condemnation proceedings to the City Attorney and City Manager and providing for an effective date.

BACKGROUND OF ISSUE:

It is hereby determined that there is a public necessity, and that a public use and purpose for the welfare and convenience of the citizens requires the acquisition of title to land and improvements in the City of Seagoville (the “City”), for the public purpose of constructing a 25-foot Wide Sanitary Sewer Easement and 55-foot Wide Temporary Construction Easement for the City’s Santorini Offsite Sanitary Sewer Project (the “Project”). The City is authorized to acquire real property by consent or exercise the power of eminent domain on the property more fully described and depicted in Exhibit “A”, which is attached hereto and incorporated herein for all purposes, to wit: Parcel 193, for the construction of the Project.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends approval.

EXHIBITS:

Resolution – Authorizing the Exercise of Eminent Domain by the City of Seagoville

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, AUTHORIZING THE EXERCISE OF EMINENT DOMAIN BY THE CITY OF SEAGOVILLE, TEXAS, AND FOR DETERMINING THE NECESSITY OF ACQUIRING REAL PROPERTY FOR THE CONSTRUCTION OF A 25-FOOT WIDE SANITARY SEWER EASEMENT AND A 55-FOOT WIDE TEMPORARY CONSTRUCTION EASEMENT FOR THE SANTORINI OFFSITE SANITARY SEWER PROJECT, AUTHORIZING THE APPROPRIATION OF REAL PROPERTY AND/OR THE USE OF THE POWER OF EMINENT DOMAIN TO ACQUIRE REAL PROPERTY FOR PUBLIC USE, DELEGATING AUTHORITY TO INITIATE CONDEMNATION PROCEEDINGS TO THE CITY ATTORNEY AND CITY MANAGER AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is hereby determined that there is a public necessity, and that a public use and purpose for the welfare and convenience of the citizens requires the acquisition of title to land and improvements in the City of Seagoville (the “City”), for the public purpose of constructing a 25-foot Wide Sanitary Sewer Easement and 55-foot Wide Temporary Construction Easement for the City’s Santorini Offsite Sanitary Sewer Project (the “Project”); and

WHEREAS, the City is authorized to acquire real property by consent or exercise the power of eminent domain on the property more fully described and depicted in Exhibit “A”, which is attached hereto and incorporated herein for all purposes, to wit: Parcel 193, for the construction of the Project; and

WHEREAS, the City Council of the City of Seagoville, Texas (the “City Council”) 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 real property by the use of the power eminent domain under the Texas Constitution and Texas Property Code.

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

SECTION 1. The City Council hereby finds and determines that a public necessity exists for the welfare of the City and its citizens and it is in the public interest to acquire real property for the public purpose of constructing the Project by use and right of the City’s power of eminent domain in accordance with the Texas Constitution and Texas Property Code; and, all appropriate improvements from the property described and depicted in Exhibit “A”, attached hereto, and made a part hereof for all purposes; and, that the City Manager and City Attorney are authorized to take such actions that are granted under Texas law and this

Resolution in conformity therein.

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 on this the 3rd day of April 2023.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

Victoria W. Thomas, City Attorney

EXHIBIT "A"

FIELD NOTES
25' WIDE SANITARY SEWER EASEMENT

BEING a 1.15 acre tract of land situated in the John D. Merchant Survey, Abstract No. 850, Dallas County, Texas, and the John D. Merchant Survey, Abstract No. 310, Kaufman County, Texas, being part of a called 148.211 acre tract of land described in deed to The Estate of Douglas Charba, recorded in Volume 93216, Page 1043, Official Public Records of Dallas County, Texas (O.P.R.D.C.T.), and being more particularly described as follows:

COMMENCING at a 5/8" iron rod found in the west line of a called 7.705 acre tract described in deed to Manuel Martinez and Liduvina Martinez, recorded in recorded in Volume 2003201, Page 17178, O.P.R.D.C.T., being the northeast corner of a 4.00 acre tract of land described in deed to Pastor Shadrack Olusakin and Professor Ayoka Olusakin Properties, recorded in Document No. 202200055231, O.P.R.D.C.T., also being the south corner of a called 3.50 acre tract of land described in deed to The City of Seagoville, recorded in Volume 88187, Page 2575, O.P.R.D.C.T.;

THENCE North 32 Degrees 27 Minutes 37 Seconds East, along the west line of said 7.705 acre tract, a distance of 9.09 feet to a point;

THENCE South 80 Degrees 03 Minutes 11 Seconds East, over and across said 7.705 acre tract, a distance of 264.44 feet to a 5/8" iron rod with yellow cap stamped "Jones Carter" set in the east line of said 7.705 acre tract, being the west line of said 148.211 acre tract, and the **POINT OF BEGINNING** of the herein described tract;

THENCE North 21 Degrees 56 Minutes 29 Seconds East, along the west line of said 148.211 acre tract, a distance of 25.56 feet to a 5/8" iron rod with yellow cap stamped "Jones Carter" set;

THENCE over and across said 148.211 acre tract, the following courses;

South 80 Degrees 03 Minutes 11 Seconds East, a distance of 594.62 feet to a 5/8" iron rod with yellow cap stamped "Jones Carter" set;

South 14 Degrees 08 Minutes 40 Seconds East, a distance of 1419.56 feet to a point in the southeast line of said 148.211 acre tract, also being the northwest line of a called 47.478 acre tract of land described in deed to Francisco and Irene Miranda, Jesus and Veronica Trevizo, Pedro and Fidencia Pena, recorded in Document No. 2010-0020741, Official Public Records Kaufman County, Texas;

THENCE South 45 Degrees 07 Minutes 24 Seconds West, along the southeast line of said 148.11 acre tract, a distance of 29.08 feet to a 5/8" iron rod with yellow cap stamped "Jones Carter" set from which a TXDOT concrete monument found bears the following two courses:

South 45 Degrees 07 Minutes 24 Seconds West, a distance of 135.79 feet:

South 36 Degrees 01 Minutes 24 Seconds West, a distance of 967.57 feet to the southeast corner of said 148.211 acre tract:

THENCE over and across said 148.211 acre tract, the following courses;

North 14 Degrees 08 Minutes 40 Seconds West, a distance of 1418.21 feet to a 5/8" iron rod with yellow cap stamped "Jones Carter" set;

North 80 Degrees 03 Minutes 11 Seconds West, a distance of 583.72 feet to the **POINT OF BEGINNING** and containing 50,201 square feet or 1.15 acres of land more or less.

Bearings are based on the Texas State Plane Coordinate System, NAD 83, North Central Zone 4202.

 8/25/2022

Eduardo Martinez
Registered Professional Land Surveyor No. 5274

 **QUIDDITY**

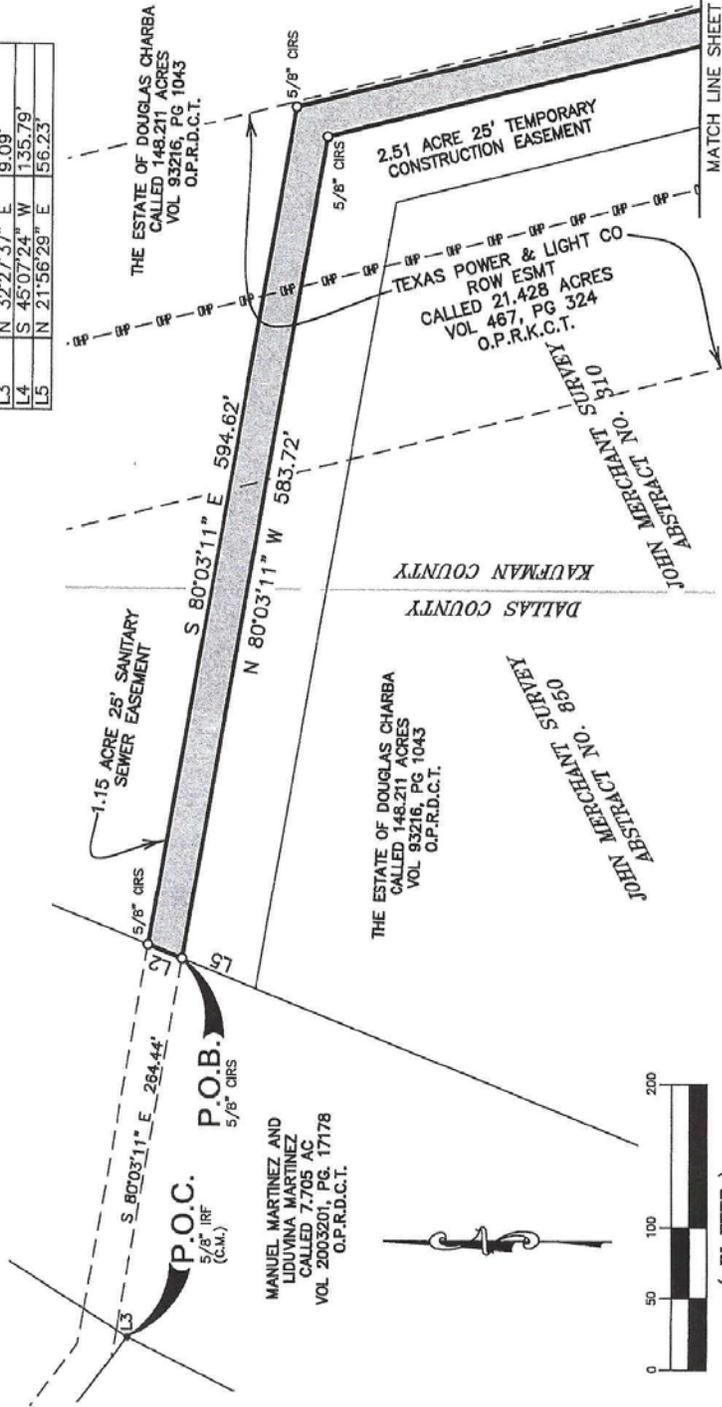
Telephone 972-488-3880 Ext. 7177
Texas Board of Engineers and Land Surveyors
Engineer Registration No. F-23290
Survey Registration No. 10046100



EXHIBIT "A"

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 45°07'24" W	29.08'
L2	N 21°56'29" E	25.56'
L3	N 32°27'37" E	9.09'
L4	S 45°07'24" W	135.79'
L5	N 21°56'29" E	56.23'



Bearings are based on the Texas State Plane Coordinate System, NAD 83, North Central Zone 4202.

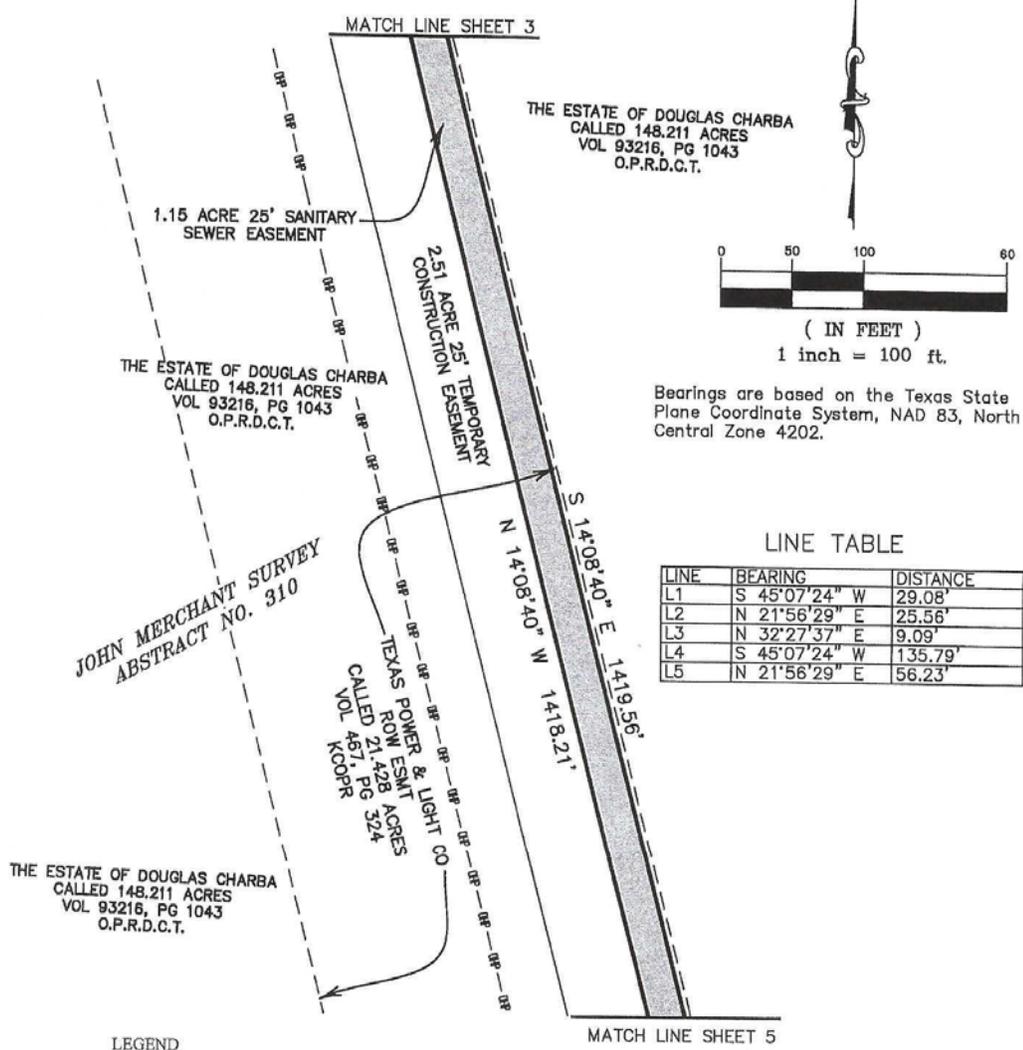


QUIDDITY
Texas Board of Professional Engineers and Land Surveyors
Registration Nos. F-33190 & 10645100
2805 Dallas Parkway, Suite 600 Plano, TX 75093 972-488-3880

LEGEND

- O.P.R.D.C.T.
- O.P.R.K.C.T.
- POB
- POC
- CMF
- IRP
- CURS
- OFFICIAL PUBLIC RECORDS
- DALLAS COUNTY, TEXAS
- OFFICIAL PUBLIC RECORDS
- KAUFMAN COUNTY, TEXAS
- POINT OF BEGINNING
- POINT OF COMMENCING
- IRON ROD FOUND
- CLAPPED IRON ROD SET WITH CAP
- STAMPED JONES CARTER

EXHIBIT "A"



Bearings are based on the Texas State Plane Coordinate System, NAD 83, North Central Zone 4202.

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 45°07'24" W	29.08'
L2	N 21°56'29" E	25.56'
L3	N 32°27'37" E	9.09'
L4	S 45°07'24" W	135.79'
L5	N 21°56'29" E	56.23'

LEGEND

- O.P.R.D.C.T. OFFICIAL PUBLIC RECORDS DALLAS COUNTY, TEXAS
- O.P.R.K.C.T. OFFICIAL PUBLIC RECORDS KAUFMAN COUNTY, TEXAS
- POB POINT OF BEGINNING
- POC POINT OF COMMENCING
- CM CONTROL MONUMENT
- IRF IRON ROD FOUND
- CIRS CAPPED IRON ROD SET WITH CAP STAMPED "JONES CARTER"



Texas Board of Professional Engineers and Land Surveyors
 Registration Nos. F-23290 & 10046100
 2805 Dallas Parkway, Suite 600 Plano, TX 75093 972-488-3880

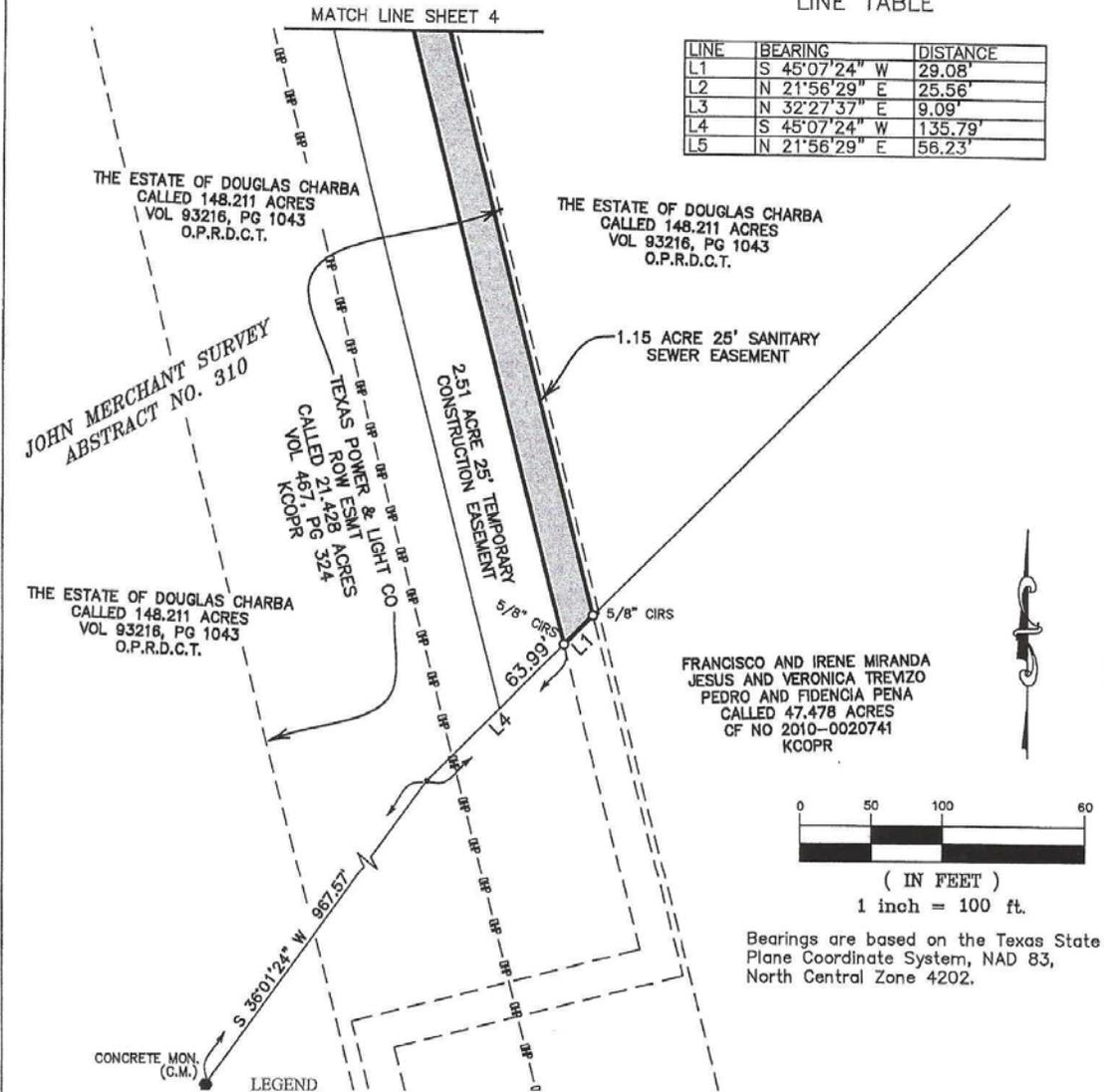
25' WIDE SANITARY SEWER EASEMENT

BEING 1.15 ACRES
 OUT OF THE
 JOHN MERCHANT SURVEY, ABSTRACT NO. 850
 DALLAS COUNTY
 JOHN MERCHANT SURVEY, ABSTRACT NO. 310
 KAUFMAN COUNTY
 CITY OF SEAGOVILLE

EXHIBIT "A"

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 45°07'24" W	29.08'
L2	N 21°56'29" E	25.56'
L3	N 32°27'37" E	9.09'
L4	S 45°07'24" W	135.79'
L5	N 21°56'29" E	56.23'



LEGEND

O.P.R.D.C.T. OFFICIAL PUBLIC RECORDS DALLAS COUNTY, TEXAS
 O.P.R.K.C.T. OFFICIAL PUBLIC RECORDS KAUFMAN COUNTY, TEXAS
 POB POINT OF BEGINNING
 POC POINT OF COMMENCING
 CM CONTROL MONUMENT
 IRF IRON ROD FOUND
 CIRF CAPPED IRON ROD SET WITH CAP STAMPED "JONES CARTER"

25' WIDE SANITARY SEWER EASEMENT
 BEING 1.15 ACRES
 OUT OF THE
 JOHN MERCHANT SURVEY, ABSTRACT NO. 850
 DALLAS COUNTY
 JOHN MERCHANT SURVEY, ABSTRACT NO. 310
 KAUFMAN COUNTY
 CITY OF SEAGOVILLE

JOB No. W5832-0013 JDB2/EM SHEET 5 OF 5

QUIDDITY

Texas Board of Professional Engineers and Land Surveyors
 Registration Nos. F-23290 & 10046100
 2805 Dallas Parkway, Suite 600 Plano, TX 75093 972-488-3880

Bearings are based on the Texas State Plane Coordinate System, NAD 83, North Central Zone 4202.

FIELD NOTES
55' WIDE TEMPORARY CONSTRUCTION EASEMENT

BEING a 2.51 acre tract of land situated in the John D. Merchant Survey, Abstract No. 850, Dallas County, Texas, and the John D. Merchant Survey, Abstract No. 310, Kaufman County, Texas, being part of a called 148.211 acre tract of land described in deed to The Estate of Douglas Charba, recorded in Volume 93216, Page 1043, Official Public Records of Dallas County, Texas (O.P.R.D.C.T.), and being more particularly described as follows:

COMMENCING at a 5/8" iron rod found in the west line of a called 7.705 acre tract described in deed to Manuel Martinez and Liduvina Martinez, recorded in recorded in Volume 2003201, Page 17178, O.P.R.D.C.T., being the northeast corner of a 4.00 acre tract of land described in deed to Pastor Shadrack Olusakin and Professor Ayoka Olusakin, recorded in Document No. 202200055231, O.P.R.D.C.T., also being the south corner of a called 3.50 acre tract of land described in deed to The City of Seagoville, recorded in Volume 88187, Page 2575, O.P.R.D.C.T.;

THENCE North 32 Degrees 27 Minutes 37 Seconds East, along the west line of said 7.705 acre tract, a distance of 9.09 feet to a point;

THENCE South 80 Degrees 03 Minutes 11 Seconds East, over and across said 7.705 acre tract, a distance of 264.44 feet to a 5/8" iron rod with yellow cap stamped "Jones Carter" set in the east line of said 7.705 acre tract, being the west line of said 148.211 acre tract, and the **POINT OF BEGINNING** of the herein described tract;

THENCE over and across said 148.211 acre tract, the following courses;

South 80 Degrees 03 Minutes 11 Seconds East, a distance of 583.72 feet to a 5/8" iron rod with yellow cap stamped "Jones Carter" set;

South 14 Degrees 08 Minutes 40 Seconds East, a distance of 1,418.21 feet to a 5/8" iron rod with yellow cap stamped "Jones Carter" set in the southeast line of said 148.211 acre tract, also being the northwest line of a called 47.478 acre tract of land described in deed to Francisco and Irene Miranda, Jesus and Veronica Trevizo, Pedro and Fidencia Pena, recorded in Document No. 2010-0020741, Official Public Records Kaufman County, Texas from which a TXDoT concrete monument found bears the following two courses:

South 45 Degrees 07 Minutes 24 Seconds West, a distance of 135.79 feet;

South 36 Degrees 01 Minutes 24 Seconds West, a distance of 967.57 feet to the southeast corner of said 148.211 acre tract:

THENCE South 45 Degrees 07 Minutes 24 Seconds West, along the southeast line of said 148.11 acre tract, a distance of 63.99 feet to a point for corner;

THENCE over and across said 148.211 acre tract, the following courses;

North 14 Degrees 08 Minutes 40 Seconds West, a distance of 1,415.26 feet to a point for corner;

North 80 Degrees 03 Minutes 11 Seconds West, a distance of 559.75 feet to a point for corner in the west line of said 148.211 acre tract;

THENCE North 21 Degrees 56 Minutes 29 Seconds East, along the west line of said 148.211 acre tract, a distance of 56.23 feet to the **POINT OF BEGINNING** and containing 109,366 square feet or 2.51 acres of land more or less.

Bearings are based on the Texas State Plane Coordinate System, NAD 83, North Central Zone 4202.

 8/25/2022

Eduardo Martinez
Registered Professional Land Surveyor No. 5274

 **QUIDDITY**

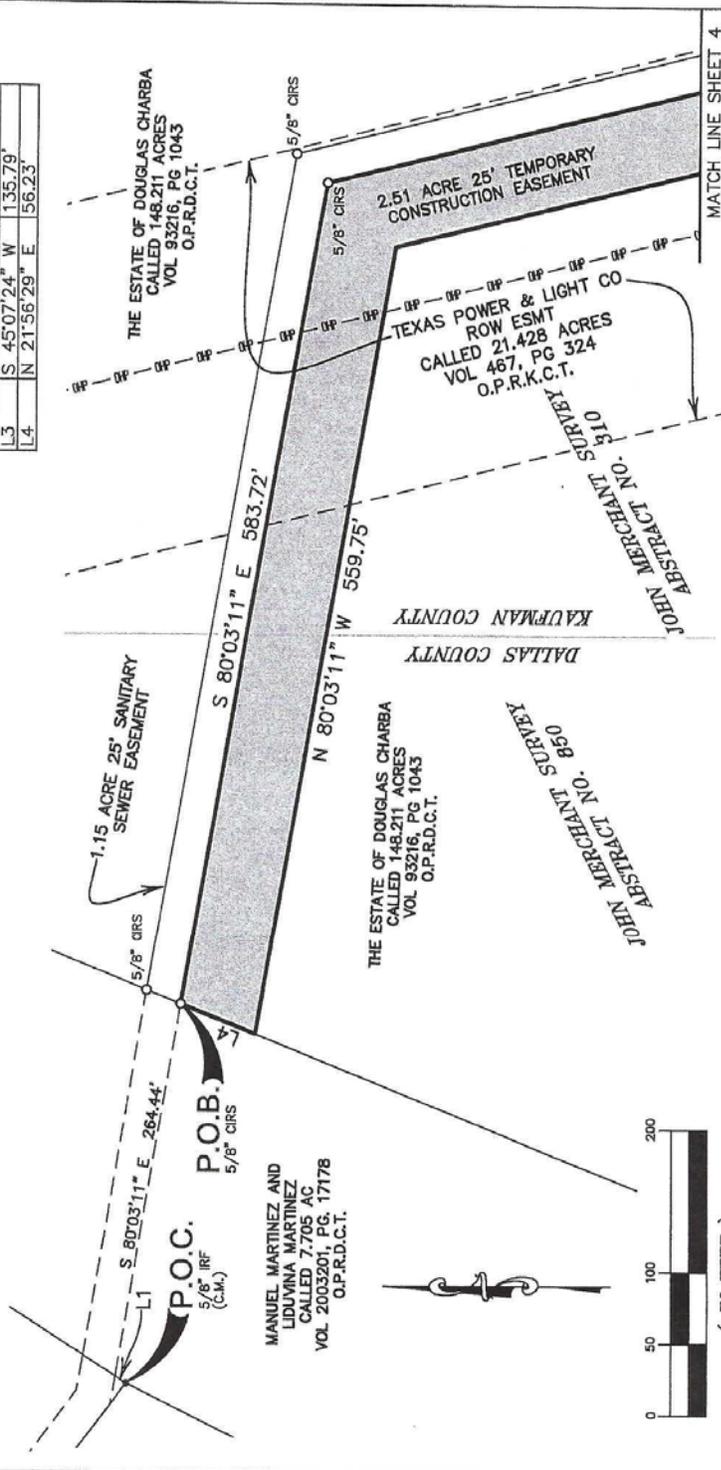
Telephone 972-488-3880 Ext. 7177
Texas Board of Engineers and Land Surveyors
Engineer Registration No. F-23290
Survey Registration No. 10046100



EXHIBIT "A"

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 32°27'37" E	9.09
L2	S 45°07'24" W	63.99'
L3	S 45°07'24" W	135.79'
L4	N 21°56'29" E	56.23'



1 inch = 100 ft.
(IN FEET)

Bearings are based on the Texas State Plane
Coordinate System, NAD 83, North Central Zone
4202.



QUIDDITY
Texas Board of Professional Engineers and Land Surveyors
Registration Nos. F-23250 & 10046300
2805 Dallas Parkway, Suite 800 - Plano, TX 75095 972-485-3880

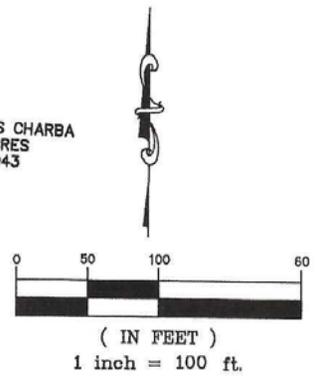
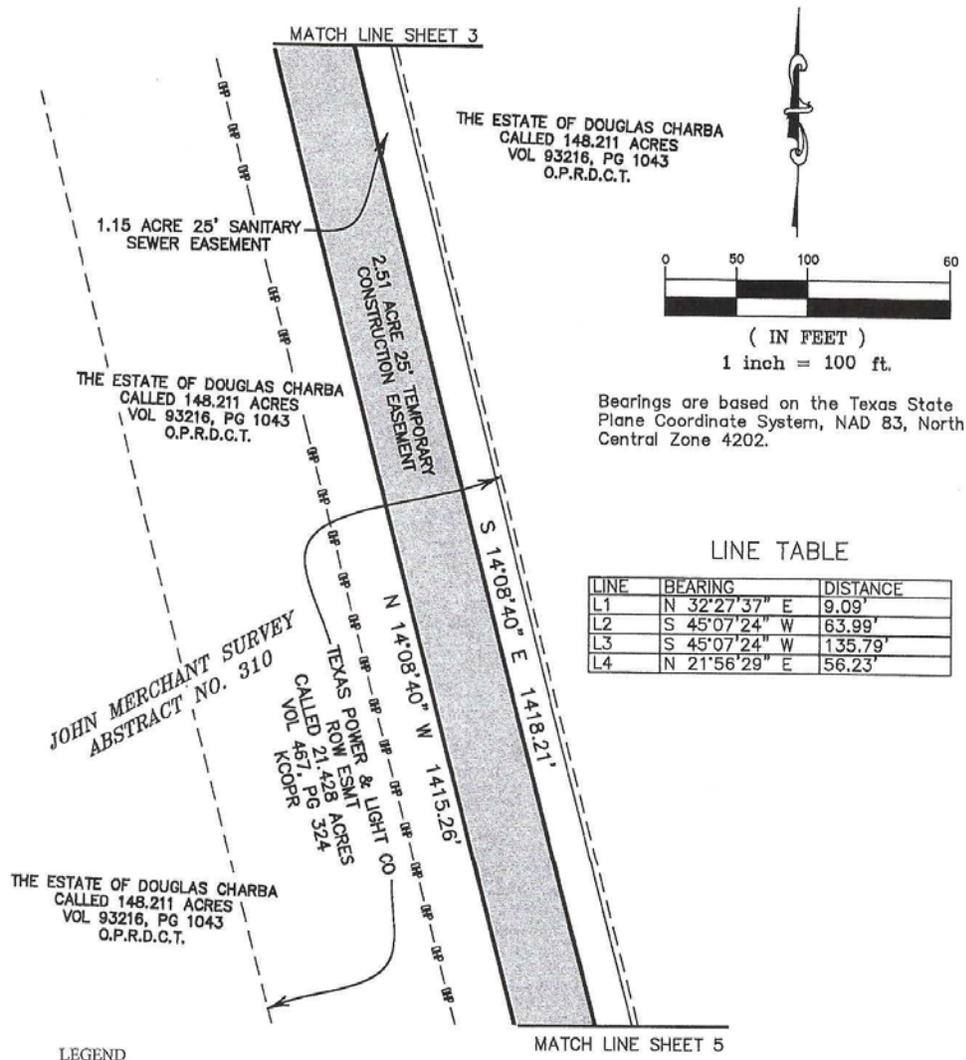
LEGEND

- O.P.R.D.C.T. OFFICIAL PUBLIC RECORDS
- DALLAS COUNTY, TEXAS
- OFFICIAL PUBLIC RECORDS
- KAUFMAN COUNTY, TEXAS
- POINT OF BEGINNING
- POINT OF COMMENCING
- CONTROL MONUMENT
- IRON ROD FOUND
- CAPPED IRON ROD SET WITH CAP
- STAMPED "JONES CARTER"

**55' WIDE TEMPORARY
CONSTRUCTION EASEMENT**

BEING 2.51 ACRES
OUT OF THE
JOHN MERCHANT SURVEY, ABSTRACT NO. 850
DALLAS COUNTY
JOHN MERCHANT SURVEY, ABSTRACT NO. 310
KAUFMAN COUNTY
CITY OF SEAGOVILLE

EXHIBIT "A"



Bearings are based on the Texas State Plane Coordinate System, NAD 83, North Central Zone 4202.

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LINE	BEARING	DISTANCE
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- O.P.R.D.C.T. OFFICIAL PUBLIC RECORDS DALLAS COUNTY, TEXAS
- O.P.R.K.C.T. OFFICIAL PUBLIC RECORDS KAUFMAN COUNTY, TEXAS
- POB POINT OF BEGINNING
- POC POINT OF COMMENCING
- CM CONTROL MONUMENT
- IRF IRON ROD FOUND
- CIRS CAPPED IRON ROD SET WITH CAP STAMPED "JONES CARTER"



Texas Board of Professional Engineers and Land Surveyors
Registration Nos. F-23290 & 10046100
2805 Dallas Parkway, Suite 600 Plano, TX 75093 972-488-3880

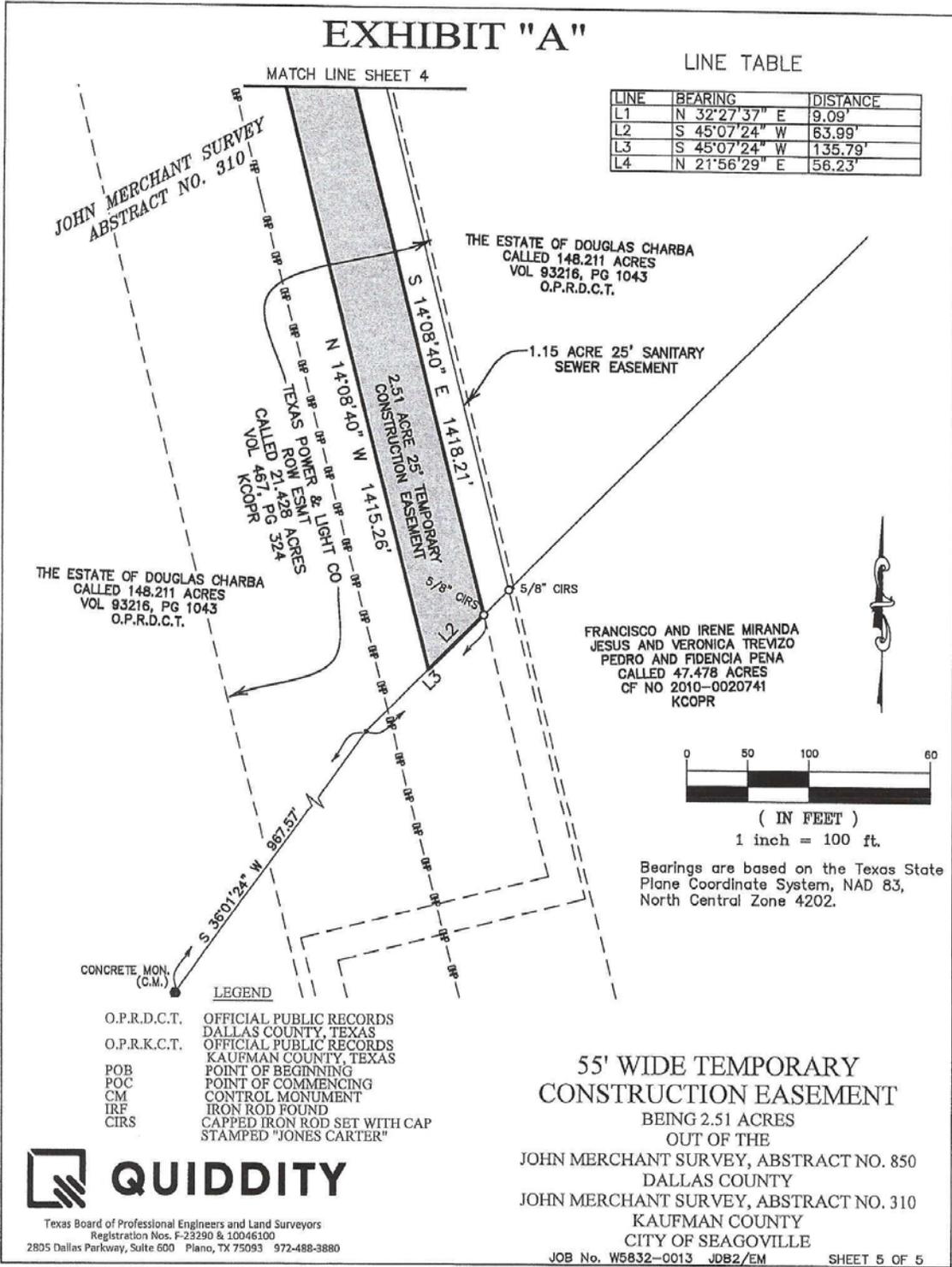
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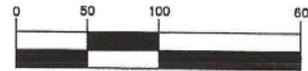
THE ESTATE OF DOUGLAS CHARBA
CALLED 148.211 ACRES
VOL 93216, PG 1043
O.P.R.D.C.T.

THE ESTATE OF DOUGLAS CHARBA
CALLED 148.211 ACRES
VOL 93216, PG 1043
O.P.R.D.C.T.

1.15 ACRE 25' SANITARY
SEWER EASEMENT

TEXAS POWER & LIGHT CO
CALLED 21,428 ACRES
VOL 467, PG 324
KCOPR

FRANCISCO AND IRENE MIRANDA
JESUS AND VERONICA TREVIJO
PEDRO AND FIDENCIA PENA
CALLED 47.478 ACRES
CF NO 2010-0020741
KCOPR



(IN FEET)
1 inch = 100 ft.

Bearings are based on the Texas State
Plane Coordinate System, NAD 83,
North Central Zone 4202.

CONCRETE MON.
(C.M.)

LEGEND

- O.P.R.D.C.T. OFFICIAL PUBLIC RECORDS DALLAS COUNTY, TEXAS
- O.P.R.K.C.T. OFFICIAL PUBLIC RECORDS KAUFMAN COUNTY, TEXAS
- POB POINT OF BEGINNING
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Texas Board of Professional Engineers and Land Surveyors
Registration Nos. F-23290 & 10046100
2805 Dallas Parkway, Suite 600 Plano, TX 75093 972-488-3880

Regular Session Agenda Item: 9

Meeting Date: April 3, 2023

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: 10

Meeting Date: April 3, 2023

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: 11

Meeting Date: April 3, 2023

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: receive legal advice related to the interlocal agreements (dispatch and jail services) with Sunnyvale
- E. § 551.071. Consultation with City Attorney: receive legal advice related to La Pulga

BACKGROUND OF ISSUE:

N/A

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

EXHIBITS:

N/A

Executive Session Agenda Item: 12

Meeting Date: April 3, 2023

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: receive legal advice related to the interlocal agreements (dispatch and jail services) with Sunnyvale
- E. § 551.071. Consultation with City Attorney: receive legal advice related to La Pulga

BACKGROUND OF ISSUE:

N/A

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

EXHIBITS:

N/A

Regular Session Agenda Item: 13

Meeting Date: April 3, 2023

ITEM DESCRIPTION:

Discuss and consider approving an amendment to the City Manager's Contract to provide for a one-year extension.

BACKGROUND OF ISSUE:

This will approve a one-year extension to the City Manager's Contract.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

EXHIBITS:

Contract – City Manager

without cause, subject to the terms of this Agreement.”

SECTION 2. Except as otherwise amended herein, the Agreement by and between the City of Seagoville, Texas, and Patrick Stallings dated August 19, 2019, as amended by the First, Second, and Third Amendments thereto, shall continue in full force and effect.

EXECUTED this the ____ day of April 2023.

CITY OF SEAGOVILLE, TEXAS

By: _____
Dennis K. Childress, Mayor

Approved as to form:

Victoria W. Thomas, City Attorney
(033023vwtTM132262)

EXECUTED this the ____ day of April 2023.

PATRICK STALLINGS, Employee