



**SEAGOVILLE, TEXAS
CITY COUNCIL MEETING AGENDAS
MONDAY, FEBRUARY 6, 2017**

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

WORK SESSION – 6:30 P.M.

Call to Order

- 1. Discuss Regular Session Agenda Items**
- 2. Police Department Annual Report on UCR Part I Crimes and Animal Shelter Statistics**
- 3. Board Member Attendance for Quarter Ending December 2016**
- 4. City Manager to Update the Council on City Secretary Hiring Process**

Adjourn

REGULAR SESSION – 7:00 P.M.

ROUTINE ANNOUNCEMENTS, RECOGNITIONS, and PROCLAMATIONS

Call to Order

Invocation

Pledge of Allegiance

Proclamation- Poison Prevention Week

Mayor's Report

Citizens Public Comment Period for Posted Agenda Items- Each speaker will be allowed six (6) minutes to address the council on any item on the agenda except for Public Hearing items. Those 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 January 9, 2017 (City Secretary)**

2. Consider approving a resolution authorizing the city manager to execute an election services contract with Dallas County for the conduct of a joint election to be held May 6, 2017 (City Secretary)

Considere la posibilidad de aprobar una resolución que autorice el gerente de la ciudad, para ejecutar un contrato de servicios electorales con el condado de Dallas para la realización conjunta de una elección que se celebrará el 6 de mayo de 2017 (Ciudad de la Secretaria)

3. Consider approving a resolution ordering the General Election to be held on May 6, 2017 (City Secretary)

Considere la posibilidad de aprobar una resolución ordenando la Elección General que se celebrará el 6 de mayo de 2017 (Ciudad de la Secretaria)

4. Consider approving a resolution authorizing the Mayor to accept the Police Department's 2017 Racial Profiling Report (Police Chief)
5. Consider approving a resolution authorizing the Mayor to execute a contract with the Dallas Area Agency on Aging for reimbursement of congregate meals, and a program grant for the Seagoville Senior Citizen Activities and Transportation Program (Library, Gant)

REGULAR AGENDA-

6. First Reading of a resolution authorizing the Seagoville Economic Development Corporation to enter into an economic development agreement with Sweet Dish LLC, concerning property located at 1920 North US Highway 175 (SEDC Chairman Cole)
7. Discuss and consider approving a resolution awarding a bid and authorizing the city manager to execute an agreement with Good Earth Corporation for mowing maintenance of parks, medians, rights-of-way, and other green spaces for a term of one (1) year, and authorizing two (2) one (1) year extensions (City Manager)
8. Discuss and consider approving a resolution authorizing the city manager to issue a purchase order and execute an agreement with C&M Concrete for repairs on Malloy Bridge Road, with pricing available through an Interlocal Cooperative Purchasing Agreement with the City of DeSoto (City Manager)
9. Discuss and consider approving an ordinance amending the Code of Ordinances, Chapter 19 "Utilities", Article 19.02 Solid Waste, by repealing in its entirety and replacing Article 19.02.008 Charges for Collection to provide new charges for the collection and disposal of solid waste within the city (Finance)

10. Discuss and consider approving a resolution in support of the Transportation Alternatives Set-Aside Program Project for the Mathis Street Sidewalk Project (Community Development)
11. Discuss and consider approving a resolution in support of the Transportation Alternatives Set-Aside Program Project for the Seagoville Road Sidewalk Project (Community Development)
12. Discuss and consider approving a resolution in support of the Transportation Alternatives Set-Aside Program Project for the Malloy Bridge Road Sidewalk Project (Community Development)
13. Discuss, and consider authorizing the Seagoville Economic Development Corporation to award a bid and enter into a construction services contract for interior finish out and renovations at 103 North Kaufman Street (SEDC, Chairman Cole)
14. Second Reading of a resolution, conduct a public hearing, discuss and consider approval of a resolution authorizing the Seagoville Economic Development Corporation to enter into an economic development agreement with Sweet Dish LLC, concerning property located at 1920 North US Highway 175 (SEDC, Chairman Cole)
15. Receive Councilmember Reports/Items of Community Interest- as authorized by Section 551.0415 of the Texas Government Code.
16. Receive Citizen Comments – Citizens may speak 6 minutes each on any matter not on the agenda, other than personnel matters or matters under litigation. The council may not discuss these items, but may respond with factual data or policy information, or place the item on a future agenda. Those wishing to speak shall submit a Speaker Request Form to the City Secretary.
17. Future Agenda Items – Council to provide direction to staff regarding future agenda items. These items will not be discussed and no action will be taken at this meeting.

Adjourn

Posted Thursday, February 2, 2017 by 5:00 P.M.


Christie Wilson, Interim 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, February 20, 2017, City offices closed in observance of President's Day.
- The next City Council meeting is March 6, 2017.

Work Session Agenda Item: 3

Meeting Date: February 6, 2017

Board Member Attendance for Quarter Ending December 2016 (City Secretary)

ITEM DESCRIPTION

Board Member Attendance Report

BACKGROUND OF ISSUE:

The Seagoville City Council's Rules of Procedure, Section VII. Boards, Commissions and Committees state in part D. that quarterly attendance reports will be submitted to the city secretary to provide to the City Council at the first meeting of each quarter.

The 2016 fourth quarter reports are attached.

FINANCIAL IMPACT:

N/A

EXHIBITS

Seagoville Economic Development
Keep Seagoville Beautiful
Library Advisory Board
Park Board
Animal Shelter Oversight Committee
Planning and Zoning Commission
Board of Adjustment

Seagoville Economic Development Corporation

Attendance Record

MEETING DATE	Barbara Sherman	Harold Magill	Stepper Sebastian	Jose Hernandez	Don Cole	Mike Fruin	Rosie Rueda
10/24/2016	X		X	X	X	Unexcused	
11/17/2016	Excused	X	Excused	X	X		Unexcused
12/8/2016	X	X	X	X	X		Unexcused
12/21/2016	X	X	X	X	X		X

Library Advisory Board

Attendance Record

MEETING DATE	Anthony Guttierrez	Reba Groblebe	Mary L. Graham	Judy Whitehead	Pat Bearden	Anne Sexton
10/18/2016		EXCUSED	X	X	X	X
11/15/2016	APPOINTED	X	EXCUSED	X	X	EXCUSED
12/20/2016	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled

Animal Shelter Oversight Committee

Attendance Record Fourth Quarter 2016

MEETING DATE	Sgt. Karl Bailey	Justin Harley	Dr. Ronnie Mohr	Bettye Baker	Todd Brisbon
9/20/2016	X	X	X	X	Absent
12/13/2016	X	Absent	X	X	Absent

PLANNING AND ZONING COMMISSION

Attendance Record January 2013 through January 2017

MEETING DATE	(Chair) Alexandria Perez	(Vice-Chair) James Sudduth	Catherine Braggs	Garry Adams	Michael Dupuis	Raymond Covert	(Vacant)
10/11/2016	Arrived after Mtng	Excused	Excused	X	X		
10/25/2016	X	X	Excused	X	X		
11/17/2016	X	X	Unexcused	Unexcused	X	X	
12/13/2016	X	X	Excused	X	Excused	X	

The Commission tentatively meets on the 2nd & 4th Tuesdays of each month.

Commissioner Colvert was appointed by City Council during their meeting held on November 14, 2016.

BOARD OF ADJUSTMENT / BUILDING AND STANDARDS COMMISSION

Attendance Record Fourth Quarter 2017

MEETING DATE	(Chairperson) Jerry Yearout	(Vice-Chair) George Edwards	Sidney Sexton	Mildred Thompson	Nancy Ashley	(Alternate #2) Lorin Mullens	(Alternate #1) Karl Boss
10/24/2016	Unexcused	X	X	X	X	X	

The Board tentatively meets on the 4th Monday of each month.

Regular Session

Routine Announcements, Recognitions and Proclamations

Meeting Date: February 6, 2017

Item Description

Call to Order

Invocation

Pledge of Allegiance

Proclamation- Poison Prevention Week

Mayor's Report

Citizens Public Comment Period for Posted Agenda Items- Each speaker will be allowed six (6) minutes to address the council on any item on the agenda except for Public Hearing items. Those wishing to speak shall submit a Speaker Request Form to the City Secretary.

EXHIBITS

Poison Prevention Week Proclamation & Request



Proclamation

WHEREAS, our society has become increasingly dependent on household chemicals to perform labor-saving, time-saving miracles and on medicine to provide health-giving, life-sustaining benefits; and

WHEREAS, these products, when not used as intended or directed, may be hazardous, particularly if children gain access to them; and

WHEREAS, over the past 55 years, the nation has been observing *Poison Prevention Week* to call attention to these hazards and how proper handling and disposal of these substances and proper use of safety packaging can help eliminate them; and

WHEREAS, the efforts of our community organizations, complemented by the efforts of the North Texas Poison Center have reduced childhood poisonings in Seagoville, Texas; and

WHEREAS, the North Texas Poison Center, a regional poison center, located at Parkland Memorial Hospital, provides the ultimate in human service programming, immediate, accessible emergency information to save lives of victims of poison-related emergencies; and

WHEREAS, these programs must continue as long as even one child swallows a household product or medicine by mistake;

NOW, THEREFORE, I, Dennis K. Childress, Mayor of the City of Seagoville, Texas do hereby proclaim the week of March 19-25, 2017 as

POISON PREVENTION WEEK IN SEAGOVILLE

in the City of Seagoville and urge the appropriate agencies in our local government to continue their cooperation with concerned citizens and community organizations, including our schools, to develop programs which will alert our people to the continued danger of misusing medicines and household products and to promote effective safeguards against accidental poisonings among young children.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Seagoville to be affixed this the 6th day of February, 2017.

Mayor Dennis K. Childress
The City of Seagoville, Texas

NORTH TEXAS POISON CENTER



February 9, 2017

Mayor Dennis K. Childress
702 North Highway 175
Seagoville, TX 75159

Dear Mayor Dennis K. Childress:

March 19-25, 2017 marks the 55th annual observance of Poison Prevention Week. This time is used to encourage our citizens to learn more about the dangers of accidental poisonings and to take more preventive measures.

On behalf of the North Texas Poison Center I am requesting that March 19-25, 2017 be proclaimed as "Poison Prevention Week" in Seagoville. Enclosed is a suggested proclamation.

Please have the proclamation sent to the following address:

Cristina Thomas
North Texas Poison Center
5201 Harry Hines Blvd.
Dallas, TX 75235

If you have any questions, please call me at 214-590-9016.

Sincerely,

A handwritten signature in cursive script that reads "Cristina Thomas".

Cristina Thomas
Public Health Educator

Consent Agenda Item: 1

Meeting Date: February 6, 2017

Item Description

Consider approving City Council meeting minutes for January 9, 2017. (City Secretary)

BACKGROUND OF ISSUE:

N/A

FINANCIAL IMPACT:

N/A

EXHIBITS

January 9, 2017 Work Session Meeting Minutes
January 9, 2017 Regular Session Meeting Minutes



**MINUTES OF CITY COUNCIL
WORK SESSION
JANUARY 9, 2017**

The Work Session of the City Council of the City of Seagoville, Texas was called to order at 6:30 p.m. on Monday, January 9, 2017, at City Hall, 702 N. Hwy 175, Seagoville, Texas with a quorum present, to wit:

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

The following staff members were also present: City Manager Patrick Stallings, Police Chief Ray Calverley, Community Development Director Ladis Barr, City Attorney Alexis Allen, Finance Director Patrick Harvey, Seagoville Economic Development Director Kirk Clennan, and Interim City Secretary Christie Wilson.

- 1. Call to Order**
- 2. Discuss Regular Session Agenda Items**

City Manager Pat Stallings advised the council that there are three contracts with Halff Associated on the regular agenda. These are for a Wastewater Master Plan (the first for Seagoville), assistance with the city's Storm Water Management Plan, and for consultation for major projects or issues for water and wastewater. He reviewed the cost for each contract.

- 3. Capital Street Projects Update**

City Manager Stallings provided a presentation on how the \$4M budgeted for capital expenditures on streets is being spent. [See Exhibit to Minutes.] There was further discussion on how some of the city's streets became in poor condition, citing poor construction, lack of crack sealing, and uncontrollable weather conditions. The city manager added that the city will be able to purchase concrete and asphalt through interlocal agreements with other cities. Councilmember Magill voiced his appreciation to Director Ladis Barr for his current efforts at ensuring proper construction of streets.

4. **Discuss cancelling or rescheduling the February 20, 2017 city council meeting due to the President's Day Holiday and provide direction to staff.**

Following a brief discuss the council decided to cancel the February 20th council meeting.

5. **Adjourned at 7:03 p.m.**

APPROVED:

Mayor Dennis K. Childress

ATTEST:

Christie Wilson, Interim City Secretary

Exhibit to Work Session Minutes,
January 9, 2017

City of Seagoville

Capital Street Projects

2016

Shady and Catherine

- The Shady and Catherine Street Project has been completed. The total cost for this project was \$1,008,392.00.
- Staff identified several construction issues that have now been addressed and repairs have been made.
- It is important to maintain these roadways through crack sealing in order to ensure their life expectancy. Costs associated with crack sealing are funded each year in street maintenance.

Robinwood Subdivision Street Project

- Dallas County completed the Robinwood Subdivision Street Project in mid 2016. The total cost of this project was \$391,185.
- It is important to maintain these roadways through crack sealing in order to ensure their life expectancy. Costs associated with crack sealing are funded each year in street maintenance.

Elizabeth and Tunnell Street Project

- This street project is on hold pending funding of the Woodhaven Subdivision Street Project.
- We have spent **\$29,998.00** on engineering services so far on this project.
- Staff is certain the Woodhaven Street Project will exceed the amount initially budgeted of \$537,000.00, however, we will not know the entire cost of this project until we receive bid proposals.

Woodhaven Subdivision Street Project

- This street project is pending the competitive bidding process. Staff anticipates this project to cost **\$1.5 Million Dollars** or more.
- We have spent \$20,475 so far for engineering services on this project.
- Awaiting the installation of a capital waterline project in this subdivision. Once completed the street project will be bid.
- This street project will be bid out in March of 2017. The cost of this project is expected to exceed the projected funding amount of \$750,000.

Malloy Bridge Road Street Projects

- All of the Malloy Bridge Road Street Projects have been completed.

Malloy Bridge to Crestview

Malloy Bridge to Cobb Road to Parson's Slough

Malloy Bridge to Ross to the Levee

Total Cost: \$196,547

- It is important to maintain this roadway through crack sealing in order to ensure the life expectancy of the road. Costs associated with crack sealing are funded each year in street maintenance.

Lasater and Simonds Street Project

- Lasater and Simonds Roads are due to be rebuilt by Dallas County in early Spring 2017. The anticipated start date is mid March of 2017.
- The total cost of this project is **\$160,071**, which has already been allocated and paid for.
- With all street projects it is important to provide annual maintenance such as crack sealing.

Shadybrook Concrete Repair

- This project is on hold pending the cost of the Woodhaven Project.
- We have spent **\$895.00** on engineering services for this project.

Stark Road

- This project was completed in 2015, with a total cost of **\$97,686**.

Ard Road Street Project

- This project was completed at a cost of **\$253,973**. There have been several cracking and surface issues with this street. This street was not designed by our City Engineer.
- Staff will be working to provide future maintenance such as crack sealing and some asphalt repair.

South Kaufman Street

- This project was a resurface from the Dallas County Line to 1389 on S. Kaufman Street. This project is complete, with a total cost of **\$86,291.**

Bowers, Elmo and Seago

- This project is on hold pending the completion of the Woodhaven Subdivision Project. The cost is estimated at \$178,000.
- We have spent **\$1,790.00** on engineering services for this project.

Sidewalks, Signs and Bond Fees

- Sidewalks \$11,646.00
- Signs and Markings \$10,780.00
- Bond Fees \$20,000.00
- Total \$42,426.00

Total Spending to Date

• Total Series 2015 Bonds	\$4,042,091.15	
• Total Outflows	\$2,289,729.00	
• Total Available Funds	\$1,752,362.15	
• Woodhaven	\$1,500,000.00	(\$750,000.00 Original Budget)
	Leaves:	
	\$ 252,362.15	
• Shadybrook	\$ 136,000.00	
• Elizabeth and Tunnel	\$ 537,000.00	
• Bowers/Elmo/Seago	\$ 178,000.00	(\$851,000 Unfunded)



**MINUTES OF CITY COUNCIL
REGULAR SESSION
JANUARY 9, 2017**

The Regular Session of the City Council of the City of Seagoville, Texas was called to order at 7:12 p.m. on Monday, January 9, 2017, at City Hall, 702 N. Hwy 175, Seagoville, Texas with a quorum present, to wit:

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

The following staff members were also present: City Manager Patrick Stallings, Police Chief Ray Calverley, Community Development Director Ladis Barr, City Attorney Alexis Allen, Finance Director Patrick Harvey, Seagoville Economic Development Director Kirk Clennan, and Interim City Secretary Christie Wilson.

ROUTINE ANNOUNCEMENTS, RECOGNITIONS, and PROCLAMATIONS

Call to Order

Invocation- Harold Magill

Pledge of Allegiance

Mayor's Report- Mayor Childress announced that there will only be one council meeting in February on the 6th [due to President's Day holiday on the 20th] and the next meeting after that will be March 6, 2017. He also added that three council places are up for election this year, and those are the Mayor, Place 2 and Place 4.

Citizens Public Comment Period for Posted Agenda Items- *No speakers.*

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 December 19, 2016. (City Secretary)**

Motion to approve- Epps; second by Howard; motion passed with all ayes.

REGULAR AGENDA-

- 2. Discuss and consider approving a resolution authorizing the city manager to execute an Agreement for Professional Services with Halff Associates, Inc. for creation of a Wastewater Master Plan as approved in the FY2016-2017 Municipal Budget (City Manager)**

City Manager Pat Stallings told the council that this contract is for the creation of the city's first ever Wastewater Master Plan. He noted that such a plan will help

the city stay in compliance with the EPA (Environmental Protection Agency) and the TCEQ (Texas Commission on Environmental Quality), as well helping the city plan for future development. Jayson Melcher with Halff Associates was on-hand to answer questions. He advised the council that the plan should take about nine months to complete.

Motion to approve- Howard; second by Magill; motion passed with all ayes.

3. **Discuss and consider approving a resolution authorizing the city manager to execute Work Order Authorization No. 1 with HALFF Associates, Inc. for Professional Services on a Task Order basis for assistance with the city's Storm Water Management Plan (SWMP) as approved in the FY2016-2017 Municipal Budget (City Manager)**

City Manager Stallings stated this contract is for assistance with the technical requirements involved in Storm Water management. Again, this is to help keep the city in compliance with State regulations. The contract amount is \$29,400 and will be paid for on a task order basis.

Motion to approve- Hernandez; second by Howard; motion passed with all ayes.

4. **Discuss and consider approving a resolution authorizing the city manager to execute Work Order Authorization No. 2 with HALFF Associates, Inc. for General On-call Water and Wastewater Engineering Consultation Services as approved in the FY2016-2017 Municipal Budget (City Manager)**

City Manager Stallings stated this contract gives staff the ability to consult with Halff engineers on projects and issues related to water and wastewater. The contract amount is \$26,000 and will be paid for on a task order basis. The city recently has major residential development and Halff engineers have been very helpful.

Councilmember Howard asked whether these three contracts inter-mingle the associated tasks. Mr. Melcher stated that the Work Order No. 2 is for specific projects that come up and puts Halff on-call until such time as the new Master Plan is in place. The City Manager added that Halff engineers have been very helpful with coordinating with Dallas Water Utilities and compliance with TCEQ regulations.

Motion to approve- Hernandez; second by Magill; motion passed with all ayes.

At this time Councilmember Hernandez made a motion to move Agenda items six (6) and seven (7) until after Executive Session; Councilmember Magill seconded the motion. All council members voted aye.

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

Councilmember Howard announced the Citizens Police Academy is trying to look into Crime Watch signs.

8. Executive Session was convened at 7:26 p.m.

A. Council shall convene into a closed executive session pursuant to Sections 551.071 and 551.087 of the of the Texas Government Code to deliberate commercial or financial information the City has received from a business prospect, and to deliberate the offer of a financial or other incentive to a business prospect, and to receive legal advice regarding the same [MG].

B. Council shall convene into a closed executive session pursuant to Section 551.074 of the Texas Government Code to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, to wit: Alternate Municipal Court Judge.

C. Council shall convene into a closed executive session pursuant to Section 551.071 of the Texas Government Code to seek legal advice from the city attorney regarding pending or contemplated litigation- Weaver loss claim.

D. Council shall convene into a closed executive session pursuant to Section 551.074 of the Texas Government Code to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, to wit: City Attorney.

E. Council shall convene into a closed executive session pursuant to Section 551.074 to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, to wit: City Manager.

9. Reconvened Open Session at 8:38 p.m.

A. Any action as a result of executive session regarding commercial or financial information the City has received from a business prospect and the offer of a financial or other incentive to a business prospect.

No action.

B. Any action as a result of executive session regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, to wit: Alternate Municipal Court Judge.

Motion to approve a two-year contract renewal with Alternate Judge Menchu-Hernandez; second by Magill; motion passed with all ayes.

C. Any action as a result of executive session regarding pending or contemplated litigation- Weaver, loss claim.

No action.

D. Any action as a result of executive session regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, to wit: City Attorney.

No action.

E. Any action as a result of executive session regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, to wit: City Manager.

No action.

6. Receive Citizen Comments – No speakers.

7. Future Agenda Items – None

10. Adjourn- 8:40 p.m.

APPROVED:

Mayor Dennis K. Childress

ATTEST:

Christie Wilson, Interim City Secretary

Consent Agenda Item: 2

Meeting Date: February 6, 2017

Consider approving a resolution authorizing the city manager to execute an election services contract with Dallas County for the conduct of a joint election to be held May 6, 2017 City Council Election (City Secretary)

ITEM DESCRIPTION

The Dallas County Elections Department will be conducting a meeting on February 3, 2017 with entities wishing to participate in the joint election. We have participated in joint elections since 2000. It is the recommendation of staff that we continue to contract with the Dallas County Elections Department for election services related to the May 6, 2017 City Council Election.

BACKGROUND OF ISSUE:

N/A

FINANCIAL IMPACT:

Funding is available in the City Secretary budget for election expenses.

EXHIBITS

Resolution

(A copy of the draft contract will be provided to you the night of the meeting.)

THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO. 05-R-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE A JOINT ELECTION AGREEMENT FOR ELECTION SERVICES BY AND BETWEEN THE CITY OF SEAGOVILLE AND DALLAS COUNTY ELECTIONS FOR THE 2017 GENERAL ELECTION; ATTACHING THE APPROVED FORM OF CONTRACT AS "EXHIBIT A"; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council for the City of Seagoville, Texas desires to enter into a Joint Election Agreement by and between the City of Seagoville, Texas and Dallas County Elections for election services related to the 2017 General Election; and,

WHEREAS, the funding for this Agreement was approved in the FY2016-2017 Elections budget; 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 Manager is hereby authorized, on behalf of the City of Seagoville, Texas, to sign an Agreement with Dallas County Elections, which is attached hereto and incorporated herein as Exhibit "A".

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

PASSED AND APPROVED by the City Council of the City of Seagoville, Texas, this the 6th day of February, 2017.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Christie Wilson, Interim City Secretary

APPROVED AS TO FORM:

Alexis Allen, City Attorney

Consent Agenda Item: 3

Meeting Date: February 6, 2017

***Consider approving a resolution ordering the General Election to be held on May 6, 2017
(City Secretary)***

ITEM DESCRIPTION

This year's General Election is on May 6, 2017 and includes the City Council offices of Mayor, Place 2 and Place 4. The filing period for those interested in having their name on the official ballot is from January 18, 2017 through 5 p.m. on Friday, February 17, 2017. The Election Order contains pertinent dates and times for early voting, as well as locations. It also designates the Dallas County Elections Administrator as the Early Voting Clerk.

BACKGROUND OF ISSUE:

N/A

FINANCIAL IMPACT:

Funding is available in the City Secretary budget for election expenses.

EXHIBITS

Resolution Ordering the May 6, 2017 General Election (Spanish and English)

CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO. 04-R-2017

ELECTION OF MUNICIPAL OFFICERS

MAY 6, 2017

ELECTION ORDER FOR JOINT ELECTION

BE IT REMEMBERED THAT on this 6th day of February, 2017, at a meeting of the City Council of the City of Seagoville, Texas, a quorum being present, the meeting was called to order and the Council issued the following order:

WHEREAS, the City has or will enter into an agreement with Dallas County and other political subdivisions to hold the election as a Joint Election;

NOW, THEREFORE, IT IS ORDERED that an election be held in the City of Seagoville, Texas on the 6th day of May, 2017, the same being the first Saturday of said month, for the following purpose:

To elect one Mayor for a two (2) year term, one Councilmember for Place 2 for a two (2) year term, and one Councilmember for Place 4 for a two (2) year term.

The candidate for each such office receiving a majority of all votes cast for all candidates for such office shall be elected to serve such term or until his or her successor is duly elected and qualified.

In the event any candidate for any one of said offices fails to receive a majority of all votes cast for all the candidates for such office, a run-off election shall be called as provided for by the Charter of the City and the State Election Code.

The polling place for said election shall be the Seagoville City Hall, 702 N. Hwy 175, Seagoville, Texas 75159.

The polls shall be open on Election Day from 7:00 a.m. to 7:00 p.m.

Qualified voters shall vote for a candidate for Mayor, Councilmember Place 2, and Councilmember Place 4.

The election shall be held as a Joint Election pursuant to a Joint Election Agreement and Election Services Contract by and between the City of Seagoville, Dallas County and other political subdivisions. (the "Agreement").

Notice of said election shall be published once in the official newspaper of the City not earlier than the 30th day or later than the 10th day before Election Day and shall be posted on the front window used to publish notice of City Council meetings not later than the 21st day before Election Day. (4.003) A copy of the published notice that contains the name of the newspaper and the date of publication shall be retained as a record of such notice, and the person posting the notice shall make a record at the time of posting stating the date and place of posting. (4.005).

Pursuant to the above mentioned Joint Election Agreement, the Dallas County Elections Administrator shall serve as Election Administrator for the election.

Presiding Election Judges and an Alternate Presiding Election Judge appointed to serve at said polling place shall be those election officials furnished by the Elections Administrator from the list of proposed election judges listed in an Attachment to the agreement or as otherwise selected pursuant to the terms of the agreement.

An Early Voting Ballot Board is hereby created pursuant to Section 87.001 of the Texas Election Code. The Early Voting Ballot Board shall be made up of members appointed in the manner stated in the agreement and the Presiding Judge and Alternate Presiding Judge of the Early Voting Ballot Board shall be the election officials listed in the agreement.

EARLY VOTING

Toni Pippins-Poole, Elections Administrator, is the appointed Early Voting Clerk in compliance with Section 271.006 of the Texas Election Code. Other deputy early voting clerks will be appointed as needed to process early voting mail and to conduct early voting at the branch locations. Early voting shall also be conducted at any County Branch Early Voting location.

Early Voting by personal appearance will be conducted on weekdays beginning Monday, April 24, 2017, and continuing through Friday, April 28, 2017, between 8:00 a.m. and 5:00 p.m.; Saturday, April 29, 2017, between 8:00 a.m. and 5:00 p.m.; Sunday, April 30, 2017, between 1:00 p.m. and 6:00 p.m.; Monday, May 1, 2017, between 7:00 a.m. and 7:00 p.m.; and, Tuesday, May 2, 2017, between 7:00 a.m. and 7:00 p.m. Any qualified voter for the Joint Election may vote early by personal appearance at either the main early voting location or at any of the branch locations.

MAIN EARLY VOTING POLLING PLACE:

DALLAS COUNTY RECORDS BUILDING:
Office of the Elections Department
509 Main Street
Dallas, Texas 75202

BRANCH EARLY VOTING POLLING PLACES:

CITY OF SEAGOVILLE
City Hall
702 N. Hwy 175
Seagoville, Texas 75159

Other branch early voting polling locations will be published by Dallas County Elections Department.

EARLY VOTING BY MAIL

Applications may be submitted by mail, carrier delivery, fax or email, and must be received by the Early Voting Clerk between January 1, 2017 and April 25, 2017.

Applications for early voting ballot by mail should be mailed to:

Toni Pippins-Poole, Early Voting Clerk
Dallas County Elections Department
Health and Human Service Building
2377 N. Stemmons Freeway, Suite 820
Dallas, TX 75207

Fax: 214-819-6303

Email: evapplications@dallascounty.org

All requests for early voting ballots by mail that are received by the City of Seagoville will be transported by runner on the day of receipt to Toni Pippins-Poole, Early Voting Clerk, Dallas County Elections Department, 8th floor, Health and Human Service Building, 2377 N. Stemmons Freeway, Dallas, Texas 75207.

PASSED AND APPROVED by the City Council of the City of Seagoville, Texas, this the 6th day of February, 2017.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Christie Wilson, Interim City Secretary

CIUDAD DE SEAGOVILLE, TEXAS

RESOLUCION NUM. 04-R-2017

ELECCION DE FUNCIONARIOS MUNICIPALES

6 de mayo, 2017

EL ORDEN DE ELECCION PARA LA ELECCION CONJUNTA

HAGASE A MANERA DE RECORDATORIO que en este dia 6 del mes de febrero del afio 2017, en una reunion del Ayuntamiento Municipal de Seagoville, Texas, estando presente el quorum, la reunion se llamo al orden y el Ayuntamiento promulgo el mandato a continuacion:

CONSIDERANDO QUE, el Ayuntamiento firmo o firmara un acuerdo con el Condado de Dallas y otras subdivisiones politicas para convocar las elecciones como Elecciones Conjuntas;

AHORA, POR LO TANTO, SE ANUNCIA EL MANDATO que se convoque las elecciones en el Municipio de Seagoville, Tejas el proximo 6 de mayo del 2017, ejerciendose la misma el primer sabado de dicho mes, para el proposito que se menciona a continuacion:

Para elegir a un alcalde por dos (2) años, un Concejal para colocar 2 de dos (2) años de plazo y un concejal de la Plaza 4 de dos (2) años.

El candidato para tal oficina recibiendo la mayoria de todos los votos contados entre todos los candidatos para dicha oficina debera ser electo para servir sus termino servicios o hasta que su sucesor(a) sea debidamente electo(a) y llene las cualidades establecidas.

En caso de que cualquier candidato para dicha gestión no logre acumular la mayoría de todos los votos contados entre todos los candidatos de dicha gestión, se llevará a cabo una segunda ronda de elecciones según se contempla en la Carta Constitutiva del Municipio y el Código Electoral del Estado.

Las casillas electorales para la antedicha elección se llevarán a cabo en el ayuntamiento de la Municipalidad de la Ciudad de Seagoville, 702 N. Hwy 175, Seagoville, Texas 75159.

Las casillas electorales abrirán sus puertas a partir de las 7:00 a.m. y cerrarán hasta las 7:00 p.m.

Los votantes calificados deberán votar por un candidato para alcalde, concejal, y el concejal del lugar 2 lugar 4.

Las elecciones se llevarán a cabo como una Elección Conjunta apegándose a un Convenio de Elecciones Conjuntas y al Contrato de Servicios Electorales firmados por y con la participación de la Ciudad de Seagoville, el Condado de Dallas y otras subdivisiones políticas (el "Convenio").

La notificación de dicha elección, se publicará una sola vez en el diario oficial del Municipio antes de 30 días, día o posterior a 10 días previo al día de la elección y se exhibirá en el lugar designado para las notificaciones públicas de las Reuniones del Ayuntamiento antes de 21 días previo al día de la elección. (4.003) Se deberá conservar, como una constancia de dicha notificación, un ejemplar de la notificación publicada que contenga el nombre del periódico y la fecha de su publicación, y la persona que publique dicha notificación tomará nota de la hora de dicha publicación, la fecha en la que se publicó y el lugar donde se publicó. (4.005)

De conformidad con el Convenio de Elección Conjunta arriba mencionado, el Administrador

Electoral del Condado de Dallas quedara facultado como el Administrador Electoral para dichas elecciones.

Los jueces asignados para que presidan las elecciones y un juez altemo que presida las elecciones y que preste sus servicios en dichas casillas electorales, seran aquellos funcionarios electorales que sean nombrados por el Administrador Electoral entre una lista de jueces electorales propuestos en el Anexo del convenio, o de alguna otra manera seleccionados de conformidad con las clausulas del convenio.

En cumplimiento con la Sección 87.001 del Código Electoral de Texas, por este medio se crea un Consejo Electoral para el Voto Anticipado. El Consejo Electoral para el Voto Anticipado debera constar de los integrantes nombrados de la manera manifestada en el convenio; y el juez que lo presida y un juez altemo que presida el consejo para las elecciones anticipadas, seran aquellos funcionarios electorales mencionados en el convenio.

VOTACION ANTICIPADA

Toni Pippins-Poole, el Administrador Electoral, es nombrado como secretario del voto anticipado apegandose a la Sección 271.006 del Código Electoral de Texas. Se nombraran a otros delegados de las elecciones anticipadas, segun se considere necesario, para procesar los votos anticipados por correo y llevar a cabo las elecciones anticipadas en las ramificaciones de las casillas electorales. Las elecciones anticipadas tambien podran ejercerse en cualquier casilla electoral del Condado para ejercer el voto anticipado.

La votación por apariencia temprana sera conducida entre dias habiles comenzando lunes 24 de abril del 2017 y continuara hasta el vienes 28 de abril del 2017, entre las 8:00 a.m. y las 5:00 p.m., el sabado 29 de abril del 2017 entre las 8:00 a.m. y las 5:00 p.m., el domingo 30 de abril del 2017 entre la 1:00 p.m. y las 6:00 p.m., el Junes 1 de mayo del 2017 entre las 7:00 a.m. y

7:00 p.m., y el martes 2 de mayo de 2017 entre las 7:00 a.m. y 7:00 p.m. Cualquier votante calificado para el conjunto de la elección puede votar temprano por la apariencia personal, ya sea en el principal lugar de votación anticipada o en cualquiera de las ubicaciones de las sucursales.

Mesas de votación anticipada PRINCIPAL LUGAR:

EDIFICIO DE REGISTROS DEL CONDADO DE DALLAS: la
oficina del Departamento de Elecciones
509 Main Street
Dallas, Texas 75202

sucursal los Sitios de Votación Adelantada:

CIUDAD DE SEAGOVILLE
702 N. Hwy 175
Seagoville, Texas 75159

Otra rama el voto anticipado los lugares de votación serán publicados por el Departamento de Elecciones del Condado de Dallas.

Votación Temprana POR CORREO

Las solicitudes pueden ser presentadas por correo, entrega de los transportistas, el fax o el correo electrónico, y deberá ser recibida por el oficinista de votación temprana entre el 1 de enero de 2017 y el 25 de abril de 2017.

Aplicaciones para la boleta electoral de votación temprana por correo debe enviarse a:

Toni Pippins-Poole, oficinista de votación anticipada de
Elecciones del Condado de Dallas Departamento de
Salud y Servicios Humanos de construir
2377 N. Stemmons Freeway, Suite 820
Dallas, TX 75207

Fax: 214-819-6303

Correo electrónico : Evapplications@dallascounty.org

todas las solicitudes de papeletas de votación anticipada por correo que sean recibidos por la ciudad de Seagoville será transportado por el corredor en el día de recepción de Toni Pippins-Poole, la Votación Temprana empleado, Departamento de Elecciones del Condado de Dallas, 8° piso, Edificio de Servicios Humanos y de Salud, 2377 N. Stemmons Freeway, Dallas, Texas 75207.

Pasado y aprobado por el Consejo Municipal de la ciudad de Seagoville, Texas, el día 6 de febrero, 2017.

Alcalde

Consent Agenda Item: 4

Meeting Date: February 6, 2017

Consider approving a resolution authorizing the Mayor to accept the Police Department's 2017 Racial Profiling Report (Police Chief)

ITEM DESCRIPTION

Submittal of the Seagoville Police Department's 2016 Racial Profiling Report as required by law.

BACKGROUND OF ISSUE:

In 2002, the State Legislature passed a law that requires Texas law enforcement agencies to submit their previous calendar year "racial profiling information" to their "governing body" before March 1, of the following year. For example, the 2016 Racial Profiling Report must be submitted to the City Council before March 1, 2017.

The Seagoville Police Department, in compliance with Senate Bill 1074 is in compliance with all aspects of the "Texas Racial Profiling Law" and reporting agencies. The Department's 2016 Racial Profiling Report has been provided to the City Council in a bound document and electronically submitted to TCOLE the Texas Commission on Law Enforcement.

FINANCIAL IMPACT:

There are no financial impacts concerning this report other than those associated with staff-time in preparing this report, and the requirement to equip all patrol vehicles regularly used to make traffic stops with audio and video equipment.

EXHIBITS

Resolution Approving Report
(Report provided separately.)

A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS

RESOLUTION NO. 06-R-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, AUTHORIZING THE MAYOR TO ACCEPT THE POLICE DEPARTMENT'S 2016 RACIAL PROFILING REPORT, PROVIDING FOR THE REPEAL OF ANY AND ALL RESOLUTIONS IN CONFLICT; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Seagoville, Texas, understands and supports applicable laws concerning racial profiling accountability; and

WHEREAS, the City Council of the City of Seagoville, Texas, supports the transparent open reporting and accounting of all police contacts covered within the Racial Profiling legislation; and

WHEREAS, the City Council of the City of Seagoville, Texas, authorizes the Mayor to accept the Police Department's 2016 Racial Profiling Report.

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

Section 1. The City Council of the City of Seagoville, Texas, authorizes the Mayor to accept the Police Department's 2016 Racial Profiling Report.

Section 2. The 2016 Racial Profiling Report will be filed with the Texas Commission on Law Enforcement within the mandated reporting time.

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

Section 4. That this Resolution shall take effect immediately from and after its passage as the law and Charter in such cases provide.

DULY ORDERED by the City Council of the City of Seagoville, Texas on the 6th day of February, 2017.

APPROVED:

Dennis K. Childress, Mayor

○
ATTEST:

Christie Wilson, Interim City Secretary

APPROVED AS TO FORM:

Alexis Allen, City Attorney

○

○

Consent Agenda Item: 5

Meeting Date: February 6, 2017

Consider approving a resolution authorizing the Mayor to execute a contract with the Dallas Area Agency on Aging for reimbursement of congregate meals, and a program grant for the Seagoville Senior Citizen Activities and Transportation Program (Library, Gant)

ITEM DESCRIPTION

SSCAT – DALLAS AREA AGENCY ON AGING CONTRACT FOR OLDER AMERICANS ACT PROGRAM

BACKGROUND OF ISSUE:

As in previous years, the City will be providing congregate meals to Seagoville seniors at our Community Center. Once again the Dallas Area Agency on Aging (DAAA) has and will help support the Senior Citizen Program in FY 2017 with a grant that provides for a portion of our operating costs including staff salaries. Additionally, this year DAAA will provide meal reimbursements to the City for all eligible seniors. The City Council will consider approval of a contract to renew the grant contract with DAAA for a period of one (1) year, from October 1, 2016 through September 30, 2017. The contract will also include the requirements for the meal reimbursement.

The City has received this grant on an annual basis since 1974 and it allows us to hire part-time staff to assist our full-time staff. It also provides funds for supplies. Visiting Nurses Association will provide the congregate meals for our seniors and we are prepared to serve approximately fifty-two senior citizens 60 years old and over on a daily basis. The amount of reimbursement will allow the program to operate on a break even or better basis. The full cost of the meals for eligible seniors is reimbursed through DAAA grant funds and participant contributions. Other non-eligible seniors may lunch as long as they pay full price for their lunch.

FINANCIAL IMPACT:

Of the total Congregate Meal Program expense, the Seagoville Senior Services Program will be responsible for \$5,283.80 in expenditures and indirect costs. The Senior Services Grant will provide \$25,450 or approximately thirteen percent of the City's Senior Center operating budget.

EXHIBITS

Resolution

Dallas Area Agency On Aging Contract For Older Americans Act Program

**CITY OF SEAGOVILLE, TEXAS
RESOLUTION NO. 09-R-2017**

A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS, AUTHORIZING THE MAYOR TO SIGN A CONTRACT WITH DALLAS AREA AGENCY ON AGING (DAAA) FOR THE REIMBURSEMENT OF CONGREGATE MEALS AND A PROGRAM GRANT FOR THE SEAGOVILLE SENIOR CITIZENS ACTIVITIES AND TRANSPORTATION (SSCAT) PROGRAM; PROVIDING FOR THE REPEAL OF ANY AND ALL RESOLUTIONS IN CONFLICT; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council is desirous of continuing the City's Congregate Meal Program for Seagoville Seniors; and

WHEREAS, the cost to the City for the congregate meals will be reimbursed; and

WHEREAS, DAAA is willing to continue providing grant funding to support the Seagoville Senior Citizens Programs; and

WHEREAS, the City Council has reviewed the contract, which is attached hereto as "Exhibit A".

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

SECTION 1. The City Council hereby authorizes the Mayor to sign a contract, attached hereto as Exhibit A and made a part hereof for all purposes, with Dallas Area Agency on Aging (DAAA) for the reimbursement of congregate meals for the SSCAT programs and for grant fund that support the Senior Citizens programs.

SECTION 2. All resolutions of the City of Seagoville heretofore adopted which are in conflict with the provisions of this resolution be, and the same are hereby repealed, and all resolutions of the City of Seagoville not in conflict with the provisions hereof shall remain in full force and effect.

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

SECTION 4. This resolution shall take effect immediately from and after its passage, and it is accordingly resolved.

DULY PASSED by the City Council of the City of Seagoville, Texas this 6th day of February, 2017.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Christie Wilson, Interim City Secretary

APPROVED AS TO FORM:

Alexis Allen, City Attorney

DALLAS AREA AGENCY ON AGING

CONTRACT FOR

OLDER AMERICANS ACT PROGRAM

STATE OF TEXAS

COUNTY OF DALLAS

I. AUTHORITY TO CONTRACT

The authority on which this contract is based derives from the Older Americans Act (OAA), as amended, and its regulations; Health and Human Services regulations on administration of grants; Title 2 Code of Federal Regulations (CFR) Part 200; 45 CFR 132F; 45 CFR 91, and 1321, et seq.; the Uniform Grant Management Standards (UGMS), Governor's Office of Budget and Planning, January 2001; and all applicable Texas Department of Aging and Disability Services (DADS) and Area Agencies on Aging (AAA) and Long-Term Care Ombudsman Program rules as published in Title 40 Texas Administrative Code (TAC) Chapters 81, 83, and 85; and, all state and local laws as pertains to this contract and its attachments.

II. CONTRACTING PARTIES

This contract is between the Dallas Area Agency on Aging, hereinafter referred to as DAAA, and **The City of Seagoville**, hereinafter referred to as SUBRECIPIENT. Whereas the State of Texas, acting through Texas Health and Human Services (HHS), has designated the Community Council of Greater Dallas to act as grantee for the Area Agency on Aging (AAA), to be known as the Dallas Area Agency on Aging; and whereas the AAA is the designated authority under the OAA to administer OAA funds, DAAA and SUBRECIPIENT hereto have severally and collectively agreed and by execution hereof are bound to the mutual obligations set forth herein and to performance and accomplishment of the tasks hereinafter described.

III. CONTRACT PERIOD

This agreement will become binding on the date of the signature by both parties. Notwithstanding this date, the term of the contract will begin on October 1, 2016, and end on September 30, 2017.

IV. CONTRACT EXTENSIONS

The parties to this contract may, by mutual agreement, extend this contract for a specified period. Any extension shall be in writing, with specific reference to this contract, and shall be subject to all of the terms and conditions of this contract and made a part thereof for all purposes.

V. AMENDMENTS TO THE CONTRACT

This agreement may be amended in writing upon mutual agreement by both parties or when dictated by implementation of laws and rules becoming effective within the contract period as pertains to the scope of this contract and its attachments. Amendment to this contract is also made upon submission to and approval by DAAA of an amended budget.

VI. SCOPE AND PROVISION OF SERVICES

SUBRECIPIENT agrees to provide the services and activities necessary to comply with their approved FY2017 Proposal for Services. SUBRECIPIENT'S approved FY2017 Proposal for Services is incorporated by reference into this Agreement as if set forth fully herein. The last approved budget, whether original or amended, shall be deemed applicable to this contract from the date of approval.

SUBRECIPIENT assures compliance with the following provisions relating to the services covered by this contract.

- a. **Eligibility** – The services covered by this contract serve only those individuals and groups eligible under the provisions of the Older Americans Act, as amended.
- b. **Residency** – No requirements as to duration of residence or citizenship as a condition of participation in the provision of services will be imposed on persons requesting services.
- c. **Prohibition of Means Test for Services** – SUBRECIPIENT shall provide all services funded by the Older Americans Act, as amended, without the use of any means test to determine eligibility for services.
- d. **Services to Private Membership Prohibited** – SUBRECIPIENT shall ensure that participation in nutrition site, senior center, adult day care or other support services under the Older Americans Act is not limited to membership in a specific private organization, group, association, or fraternal organization, nor show discriminating preference for such membership. Membership is never a prerequisite to receive an Older Americans Act funded service.

VII. TARGETING, OUTREACH AND COORDINATION

SUBRECIPIENT shall, in accordance with 42 U.S. Code (U.S.C.) Section 3026, and as addressed in the approved FY2017 Proposal for Services, assure it will use outreach efforts to identify individuals eligible for assistance under this contract, with special emphasis on: (1) older individuals with greatest economic need (with particular attention to low-income minority individuals); (2) older individuals who have greatest social need (with particular attention to low-income minority individuals); (3) older individuals with severe disabilities; (4) older individuals with limited English proficiency; (5) older individuals with Alzheimer's Disease and related disorders with neurological and organic brain dysfunction and the caretakers of such individuals; and (6) older individuals at risk for institutional placement.

SUBRECIPIENT shall establish procedures and mechanisms necessary to assure effective outreach and coordination within the local aging network to assure that various activities and programs operate pursuant to the Older Americans Act and 42 U.S.C. 3001 et seq. Outreach activities must be documented and must include, at a minimum, the type of outreach activities conducted and the number of contacts made.

SUBRECIPIENT shall be actively involved in the local aging network through coordination with other Title III contractors and social service agencies to plan, identify and assess the need for services. Where appropriate and feasible, SUBRECIPIENT will work cooperatively with other entities to develop collaborative programs. The DAAA is responsible for identifying focal points within the

region and these facilities are established to encourage the maximum collocation and coordination of services for older individuals. A list of the DAAA focal points is attached.

VIII. PERFORMANCE MEASURES

SUBRECIPIENT shall provide **Congregate Meals** to eligible participants. A unit of service is defined as **one meal**. The number of units of service under this project for the contract period shall be approximately **11,535 meals**. The number of unduplicated persons receiving services shall be approximately **250** eligible participants.

SUBRECIPIENT shall notify and request approval from DAAA for service delivery to vary from the number of contracted units of service or the number of unduplicated persons receiving the service by five percent or more (+/-5%)

IX. FUNDING OBLIGATIONS

SUBRECIPIENT acknowledges DAAA obligation hereunder for payment, in consideration of full and satisfactory performance of activities described in this contract, is limited to monies received from the Administration for Community Living (ACL), the State of Texas, and any other originating funding source.

SUBRECIPIENT understands that Texas Health and Human Services (HHS) operates on a reimbursement basis. Therefore, SUBRECIPIENT must have sufficient financial solvency to sustain said contract performance until adequate funds are received by DAAA to compensate said SUBRECIPIENT.

DAAA shall not be liable to SUBRECIPIENT for costs incurred or performance rendered unless such costs and performances are strictly in accordance with the terms of this contract, including but not limited to, terms governing SUBRECIPIENT'S promised performance and unit rates and/or reimbursement capitations specified.

DAAA shall not be liable to SUBRECIPIENT for any expenditures which are not allowable costs under 2 CFR Part 200, as amended, or for which expenditures have not been made in accordance with the fiscal guidelines and requirements outlined by HHS.

DAAA shall not be liable to SUBRECIPIENT for expenditures made in violation of regulations promulgated under the OAA, as amended, or in violation of HHS rules, UGMS, or this contract.

De-obligation of funds shall occur based on year-to-date expenses. SUBRECIPIENT shall incur 50% of the projected expenses identified in the project budget by March 31, 2017, and at the monthly incremental equivalent percentages thereafter, through 100% by September 30, 2017. Otherwise, the DAAA may de-obligate those funds, making them no longer available for use by SUBRECIPIENT. If necessary, a notification shall be issued by the DAAA reducing the allocation by the amount in question and requiring submission of a budget amendment.

X. COMPENSATION AND ACKNOWLEDGEMENT

DAAA agrees to make payment to SUBRECIPIENT in the amounts and upon the terms and provisions as set forth in SUBRECIPIENT'S budget, and all attachments to this contract, and SUBRECIPIENT agrees to accept such payments as full compensation for services performed hereunder. All payments shall be based on the performance information reported in the approved

budget, reimbursement requests, and programmatic reports.

DAAA will pay the SUBRECIPIENT on a **unit rate** basis for services rendered at a unit rate of **\$5.92** for Title III units. Title III compensation for the provision of services shall not exceed **\$53,931.20**. The SUBRECIPIENT will provide a match of at least **\$5,283.80**. The unit rate for meals purchased with match funds shall be **\$6.50**

The SUBRECIPIENT agrees to provide services under an "at risk" unit rate or cost reimbursement methodology in accordance with the rules and program instructions of HHS and DAAA. SUBRECIPIENT shall acknowledge funding and support by DAAA and HHS in all publicity and promotions relating to this project. The credit line should read:

"This (project, program, service) is supported, in part, by the Community Council of Greater Dallas/Dallas Area Agency on Aging and Texas Health and Human Services."

XI. PAYMENT METHODOLOGY

DAAA has no obligation to remit funds under the terms of this contract for services provided on a reimbursement basis, as defined in Section X, COMPENSATION, until SUBRECIPIENT has provided the service and reported such provision in a request for reimbursement. In the absence of written agreement to the contrary, DAAA will remit funds to SUBRECIPIENT subject to the appropriate administrative procedures and contingent upon receipt of funds from HHS and/or other funding sources.

SUBRECIPIENT shall report eligible units of service and actual allowable expenses to DAAA in the frequency and in such manner, using any and all prescribed forms, as may be prescribed by DAAA.

Final payment shall be based on the information contained in the reimbursement system 45 days following termination of this contract. This payment provision shall apply to final payment whether at completion of the contract period or in the event of early contract termination.

XII. REPORTING REQUIREMENTS

SUBRECIPIENT agrees to compile and submit all required fiscal and programmatic reports utilizing information management software provided by DAAA by the 6th day of the month following the month in which services were provided. SUBRECIPIENT agrees to maintain fiscal records to support reimbursement in conformity with the procedures established by HHS and DAAA. All fiscal and programmatic reports shall continue to be due throughout the entire contract period even though no additional services may be reimbursable under this contract.

SUBRECIPIENT shall complete and submit to DAAA, all requests for funds on a DAAA-prescribed form in accordance with the rules and policies of DAAA. A final program report shall be submitted to DAAA on or before the date established by DAAA with not less than 45 days advance notice to SUBRECIPIENT. The total of all program reports including the final program report shall support and be reconciled to all funds received during the contract period. Under no circumstances shall requests for funds be submitted later than October 31, for the previous fiscal year, or after the final program report is submitted unless indicated otherwise by a funding source.

XIII. MATCH REQUIREMENTS

SUBRECIPIENT shall provide a minimum match of ten percent (10%) of the total project costs, as

required by the OAA, as amended, and HHS rules.

Match shall be in accordance with 40 TAC §85.202. All match contributions shall be expended for goods and services necessary for and specifically identifiable in the approved FY 2017 Proposal for Services.

Match shall conform to the OAA regulations, 2 CFR Part 200, and HHS rules regarding match requirements or as required in requests for proposals issued by DAAA.

XIV. PROGRAM INCOME

Program income shall be administered in accordance with 40 TAC §85.202, UGMS Subpart C ____, 25 and all applicable HHS rules. SUBRECIPIENT shall use all program income and participant contributions collected under the approved FY 2017 Proposal for Services to further eligible program outcomes. All program income and participant contributions collected and expended shall be documented and managed according to HHS Rules and Regulations.

Program income received as contributions will be accounted for and deposited in accordance with the written policies and procedures established by SUBRECIPIENT in accordance with HHS rules and regulations. Units of service will be purchased with program income at a unit rate of \$6.50 per unit. The goal for program income shall be \$4,550.00.

XV. CONTRIBUTION POLICY

SUBRECIPIENT shall provide a voluntary opportunity for each eligible participant to contribute to the cost of services while protecting the individual's privacy. SUBRECIPIENT shall safeguard and account for such contributions, and use such contributions to expand and/or enhance program outcomes.

XVI. MAINTENANCE OF RECORDS

SUBRECIPIENT shall retain all financial records, supporting documents, statistical records, and all other records relating to its performance of this contract. SUBRECIPIENT shall use any and all standard forms promulgated by DAAA, as applicable. The DAAA shall require the use of all such forms for all subrecipients and/or service contractors, as applicable.

All of the aforesaid records shall be made available, with reasonable notice, at SUBRECIPIENT'S office, and shall be maintained for at least five (5) years after the termination of this agreement, or five years after any audit findings and other disputes or litigation relating to this agreement, if any, have been resolved. Multi-site SUBRECIPIENT may maintain all records at a designated central location (i.e., administrative headquarters) for purposes of this section.

XVII. ACCESSIBILITY OF RECORDS

SUBRECIPIENT shall give DAAA, ACL, the Comptroller General of the United States, and the State of Texas, through any authorized representatives, the access to and right to examine all records, books, papers, contracts, or other documents related to this contract. Such right of access shall continue as long as such records, or any of them, are in existence, but shall not be less than five (5) years following the end of this contract term or the resolution of any disputes relating to this contract, whichever is later. SUBRECIPIENT shall include the substance of this provision in all subcontracts.

SUBRECIPIENT agrees the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. SUBRECIPIENT understands acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. SUBRECIPIENT understands under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to: (1) evaluating the entity's performance under the contract or subcontract; (2) determining the state's rights or remedies under the contract; or (3) evaluating whether the entity has acted in the best interest of the state.

XVIII. SERVICE PROVIDER REVIEW

In accordance with HHS rules, DAAA shall conduct reviews of SUBRECIPIENT programmatic and fiscal activities on a regular and systematic basis to ensure compliance with established policies and regulations.

XIX. AUDIT REQUIREMENTS

SUBRECIPIENT shall have an independent audit for any fiscal year in which it receives \$750,000 or more in Federal funds combined. SUBRECIPIENT shall submit a copy of an annual audit of SUBRECIPIENT, performed by an independent certified public accounting firm within nine months after the end of SUBRECIPIENT'S fiscal year, to DAAA. The audit shall cover SUBRECIPIENT'S entire organization and be conducted in accordance with generally accepted auditing standards. Audits performed under this Section are subject to review and resolution by DAAA or its authorized representative.

The audit shall be conducted and submitted in accordance with the standards for financial and compliance audits contained in the Standards for Audits of Governmental Organizations, Programs, Activities and Functions, issued by the U.S. General Accounting Office; the Single Audit Act of 1984; Title 2 CFR, Part 200 and Nonprofit Organizations; and UGMS.

SUBRECIPIENT understands and agrees SUBRECIPIENT shall be liable to DAAA for any costs disallowed as a result of unresolved questioned costs revealed during the audit. All questioned costs relating to a DAAA program shall be resolved within one hundred eighty (180) calendar days following receipt of SUBRECIPIENT'S audit by DAAA, otherwise disallowance of questioned costs shall be implemented, and SUBRECIPIENT shall be liable to DAAA for such disallowed costs.

SUBRECIPIENT shall have the right to appeal any such disallowance of costs in accordance with 40 TAC §81.15, Appeal Procedures for Area Agency on Aging Contractors.

SUBRECIPIENT shall procure audit services no less frequently than every five years. In the event the same audit firm is utilized for more than five consecutive years, SUBRECIPIENT shall request the audit firm assign a different audit manager to the project. The ability to assign a different audit manager shall be a consideration in the procurement for audit services.

SUBRECIPIENTS receiving funding under the \$750,000 threshold are required to have an accounting of the previous year's operations on file during the annual review process.

XX. IDENTIFICATION OF HIGH RISK

DAAA may identify a contractor as high risk in accordance with the UGMS, Grant Administration, Section III, Subpart B, paragraph .12, 2 CFR Part 200, and HHS policies. DAAA may inform SUBRECIPIENT of the identification as high risk in writing. DAAA may state the effective date of the identification as high risk, the nature of the issues that led to the identification as high risk, and any special conditions or restrictions. The identification as high risk may remain in effect until DAAA determines SUBRECIPIENT has taken corrective action sufficient to resolve the issues that led to the identification as high risk.

XXI. PAYMENT SUSPENSION, PENALTIES AND CONTRACT TERMINATION

In the event monitoring/evaluation activities by HHS, DAAA or its agents disclose deficiencies in SUBRECIPIENT'S performance or its service providers supported under provisions of this contract, DAAA shall take appropriate remedial steps to resolve such non-compliance. Remedies such as a corrective action plan, training or other actions based on the identified risk may be required of SUBRECIPIENT by DAAA. Continued non-compliance or identification of unallowable or disallowable activities/actions/processes will result in sanctions or penalties or both in accordance with 40 TAC §81.13.

DAAA or SUBRECIPIENT may elect to terminate this contract upon ten (10) calendar days' written notice from the terminating party to the other party. SUBRECIPIENT, upon notification of termination, shall have the right to appeal such termination following procedures outlined by DAAA.

This contract also may be terminated upon the occurrence of any of the following events:

- a. Discontinuance of funding to DAAA from HHS;
- b. Failure of SUBRECIPIENT to comply with any or all of the terms and conditions of this contract and any attachments thereto; or
- c. Mutual agreement between DAAA and SUBRECIPIENT.

In the event of termination, SUBRECIPIENT shall submit final billings for units of service delivered pursuant to the contract. Final billings will be submitted to DAAA within fifteen (15) calendar days after date of termination. DAAA shall reimburse those units of service, delivered in accordance with the contract, prior to termination.

At the date of termination, DAAA may require SUBRECIPIENT to transfer title and deliver to DAAA or to another authorized contractor any property acquired by Federal or State funds or assigned to SUBRECIPIENT by DAAA for the purposes of this contract.

SUBRECIPIENT may dispose of property having a current value, at the time of termination, of less than \$500, in any manner, and DAAA shall make no recovery. DAAA shall provide instructions to SUBRECIPIENT regarding disposition of all property having a current value, at the time of termination, of \$500 or more, within fifteen (15) days following notice of termination.

XXII. RECAPTURE OF PAYMENTS

If SUBRECIPIENT has failed to comply with the terms of this contract that govern the use of monies pursuant to this contract, or if SUBRECIPIENT has received funds in excess of those actually

earned, DAAA may take appropriate action including the recapture of payment and/or withholding of funds.

XXIII. DATA USE AGREEMENT (Attachment A)

SUBRECIPIENT agrees to abide by the terms and conditions as agreed and signed in the Data Use Agreement (DUA) Attachment 1 attached.

XXIV. ASSURANCES & CERTIFICATIONS (Attachment B)

SUBRECIPIENT hereby provides all assurances required by law as set forth in Attachment B of this contract. All assurances and certifications contained in Attachment B are hereby incorporated by reference into this contract for all purposes as if set forth fully herein. SUBRECIPIENT must certify compliance with assurances and certifications will be accomplished.

SUBRECIPIENT shall use due diligence to ensure reasonable steps have been taken to meet the criteria or standards stated within each assurance. Failure to comply with an assurance shall subject SUBRECIPIENT to penalties, disallowance of funds, and other action, up to and including termination.

XXV. DEBARMENT & SUSPENSION (Attachment C)

As required by Federal Executive Order 12549, Debarment and Suspension and implemented at 2 CFR Part 200, for prospective participants in Federal assistance programs:

SUBRECIPIENT certifies Attachment C to the best of his or her knowledge and belief, on behalf of the organization, defined as the primary participant in accordance with 45 CFR Part 76, and its principals.

SUBRECIPIENT also agrees by signing and submitting Attachment C, that it will include, without modification, the clause titled "Certification Regarding Debarment, Suspension, in eligibility, and Voluntary Exclusion--Lower Tier Covered Transactions" in all lower tier covered transactions (i.e., transactions with sub-grantees and/or contractors) and in all solicitations for lower tier covered transactions in accordance with 45 CFR Part 76.

XXVI. LIABILITY TO THIRD PARTIES

DAAA does not assume any liability to third persons, nor will DAAA reimburse SUBRECIPIENT for its liability to third persons, with respect to loss due to death, bodily injury, or damage to property resulting in any way from the performance of this contract or any subcontract hereunder.

SUBRECIPIENT shall give DAAA or its representative immediate notice of any suit or action filed, or prompt notice of any claim made against SUBRECIPIENT arising out of the performance of this contract. SUBRECIPIENT shall furnish immediately to DAAA copies of all pertinent papers received by SUBRECIPIENT in connection with any such suit, action or claim. DAAA or HHS shall have the option to intervene in such actions to represent their interests.

XXVII. CODE OF CONDUCT

SUBRECIPIENT shall maintain a written code or standards of conduct, which shall govern the performance of its officers, employees or agents engaged in the award and administration of this contract supported by Federal funds if a conflict of interest, real or apparent, arises. Such a conflict

would arise when: the employee, officer or agent; any member of his immediate family; his/her partner; or an organization which employs, or is about to employ any of the above, has a financial or other interest in the entity selected for award.

SUBRECIPIENT'S officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value for any purpose that is or gives appearance of being motivated by a desire for private gain or favorable treatment for themselves or others, particularly those with whom they have family, business, or other personal ties.

No officer or member of SUBRECIPIENT and no other public official or officer or member of the Board of SUBRECIPIENT who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Contract which affects his personal or pecuniary interest, direct or indirect, in the Contract or the proceeds thereof.

XXVIII. INSURANCE AND LICENSING

SUBRECIPIENT shall secure licensing when appropriate, and shall maintain adequate liability insurance to protect health and safety of clients and employees that comply with all applicable state and federal statutes. Proof of licensing and insurance shall be made available to monitoring agents upon request.

XXIX. FORCE MAJEURE

To the extent that either party to this contract shall be wholly or partially prevented from the performance within the terms of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, invasion, insurrection, accident, order of court, judge, or civil authority, an act of God, or any cause reasonably beyond the party's control and not attributable to its neglect, that in such event the service delivery shall be provided according to emergency management plans.

XXX. CONTRACT NOTICES

Any notice required to be given pursuant to the provisions of this contract shall be in writing and shall be deemed given upon actual receipt or upon deposit in the United States Postal Service Post Office with the proper postage affixed and addressed to the parties indicated on Page 1 of the opening statement of this contract until due notice has been given of a change of address.

For DAAA:

Ken Goodgames
Chief Executive Officer
Community Council of Greater Dallas/
Dallas Area Agency on Aging
1341 W. Mockingbird Lane, Suite 1000W
Dallas, TX 75247

For SUBRECIPIENT:

Name & Title

Address

City, State, Zip

XXXI. POLITICAL ACTIVITY

No funds under this contract may be used in any way to attempt to pay any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an

officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of a federal grant, the making of a federal loan the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement. SUBRECIPIENT, if a recipient of Federal assistance exceeding \$100,000 through HHS, will comply with 31 U.S.C. Section 1352.

XXXII. SECTARIAN INVOLVEMENT

SUBRECIPIENT shall ensure that no funds under this contract are used, either directly or indirectly, in the support of any religious or anti-religious activity, worship, or instruction. This clause shall be interpreted in light of HHS rule 40 TAC §69.16 and 2 CFR Part 200.

XXXIII. RIGHT TO APPEAL

Any applicant to provide services whose application or Proposal for Services is denied or whose contract is terminated or not renewed (except as provided in 2 CFR Part 200) has a right to appeal such action. The applicant shall give notice of appeal to DAAA within 10 days after it receives DAAA's action letter. Appeals Procedures adopted by HHS and codified at 40 TAC §81.15 will be used as the appeals process.

XXXIV. INDEPENDENT CONTRACTOR

In performance of obligations under this contract, SUBRECIPIENT shall act as an independent contractor and not as an agent, representative or employee of DAAA. No employee, agent, or representative of SUBRECIPIENT shall be considered an employee of DAAA nor be eligible for any benefits, rights or privileges afforded to DAAA employees.

SUBRECIPIENT shall not subcontract or assign work to be performed under the terms of this contract to a third party without prior written notification to DAAA and prior written consent from the DAAA Director. SUBRECIPIENT, in subcontracting any of the performance herein, understands and assures that its subcontractor shall comply with the terms and conditions of the contract.

XXXV. ORAL AND WRITTEN AGREEMENT

All oral or written agreements made prior to this contract have been reduced to writing and are contained herein by the execution of this contract including any proposals submitted by SUBRECIPIENT. SUBRECIPIENT evidences its understanding and agrees that any prior agreement is terminated as of the effective date of this contract. Both parties agree that DAAA shall not be liable for any costs incurred by SUBRECIPIENT except to the extent provided in this contract. When 45 CFR, or its appendices, provide that a cost is allowable only when authorized in writing, the cost will not be allowable unless written approval from DAAA is obtained prior to the expenditure.

XXXVI. EMERGENCY MANAGEMENT

SUBRECIPIENT shall coordinate with the DAAA, the Texas Department of Public Safety, the Federal Emergency Management Agency (FEMA), county and local government entities and engage in those activities that meet the needs of the elderly during and after natural, civil defense, and/or man-made disasters.

In the event of a disaster, whether man-made, natural or of a civil defense nature, SUBRECIPIENT

will provide and coordinate appropriate resources to federal disaster relief agencies and may provide equipment and resources for the following activities: temporary shelter; nutrition services; food preparation; transportation and volunteers.

XXXVII. SEVERABILITY

The invalidity or unenforceability of any provision of this contract will not affect the validity or enforceability of any other provision of this contract.

XXXVIII. APPLICATION OF LAW & VENUE

All claims against DAAA by SUBRECIPIENT seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to the contract shall be filed in Dallas County.

In the case of claims requiring federal jurisdiction, filing shall be within the Federal court district in which alleged events occur or in which the DAAA administrative office resides.

XXXIX. SURVIVAL OF TERMS

The following portions of this Agreement shall survive termination: VI, XI, XII, XVII, XIX, XXI, XXII, XXV, XXIX, XXXIV, XXXV, XXXVII, and XXXVIII.

XXXX. ACCEPTANCE OF CONTRACT

I, the undersigned, certify that I have read and understand the terms of this contract and that this agency will abide by them. I further certify that I am authorized to sign for SUBRECIPIENT agency.

FOR SUBRECIPIENT:

Typed Name of Authorized Official

Signature of Official

Title of Authorized Official

Date

**FOR THE COMMUNITY COUNCIL OF
GREATER DALLAS/DALLAS AREA AGENCY
ON AGING:**

Ken Goodgames
Chief Executive Officer



Signature

11/5/17

Date

**DALLAS AREA AGENCY ON AGING
FOCAL POINTS**

<p>Brady Senior Center Barbara Herron, Director of Children, Family and Senior Services 537 S. Hall St.; 75226 (214) 826-8330 ext. 3003 \ FAX: (214) 826-8579 bherron@cccdallas.org</p>	<p>Good Street Active Senior Center/ Elmwood-King New Beginning Senior Center Lynn Bradshaw, Center Manager 3110 Bonnie View; 75216 (214) 819-1860</p>	<p>Pleasant Grove Senior Center Kathleen Kirby, Center Manager 7224 Umphress Rd.; 75217 (214) 398-5215</p>
<p>Concord Senior Center Princess Lacy, Center Manager 6808 Pastor Bailey Dr.; 75237 (214) 331-8522 ext. 6760</p>	<p>Hutchins Senior Center Vivian Rawlins, Manager 500 W. Hickman; Hutchins, TX 75141 (MAIL: P.O. Box 754) (972) 225-0439 \ FAX: (972) 225-5559 hutchinsctr@sbcglobal.net</p>	<p>North Dallas Senior Center Joyce Edwards, Center Manager 2255 N. Washington Ave.; 75204 (214) 819-1860</p>
<p>Deaf Action Center Heather Hughes, Executive Director 3110 Cedar Plaza Lane.; 75235 (214) 521-0407 \ FAX: (214) 521-3658 heather.hughes@dactexas.org</p>	<p>Irving-Heritage Senior Activity Center Ann Gillespie, Supervisor 200 S. Jefferson; Irving, TX 75060 (972) 721-2496 \ FAX: (972) 721-3744 agillespie@cityofirving.org</p>	<p>Seagoville Senior Center April Smigielski, Manager Seagoville Community Center 304 E. Farmers Rd. Seagoville, TX 75159 (972) 287-4113 \ FAX: (972) 287-9587 seniors@seagoville.us</p>
<p>DeSoto Senior Activity Center Nathan Busby, Center Manager 204 Lion St.; DeSoto, TX 75115 (972) 230-5825 \ FAX: (972) 230-5827 nbusby@ci.desoto.tx.us</p>	<p>Jefferson Senior Center Beatrice Carter, Center Manager 1617 W. Jefferson Blvd.; 75208 (972) 905-3589</p>	<p>Sunshine Senior Center Melissa Garcia, Center Manager 8341 Elam Road; 75217 (214) 398-6619 x 7</p>
<p>Duncanville Hopkins Senior Center Rashidah Madyun, Manager 206 James Collins Blvd; Duncanville, TX 75116 (972) 780-5073 rmadyun@ci.duncanville.tx.us</p>	<p>Jewish Community Center Anna Angorina, Manager 7900 Northaven Rd.; 75230 (214) 239-7119 \ FAX: (214) 368-4709 aangorina@jccdallas.org</p>	<p>The Summit Amanda Alms, Manager 2975 Esplanade; Grand Prairie, TX 75052 (972) 237-4141 / FAX: (972) 237-4122 aalms@gpdx.org</p>
<p>Walnut Street Senior Center Shirley Fu, Center Manager 3306 W. Walnut St, Suite 300; Garland TX 75042 (469) 609-8880</p>	<p>Lancaster Senior Life Center Theodora Walker, Manager 240 Veterans Memorial Parkway; Lancaster, TX 75134 (972) 218-3780 \ FAX: (972) 218-3694 twalker@lancaster-tx.com</p>	<p>West Dallas Senior Center Trepasco Cox, Center Manager 2828 Fish Trap Road; 75212 (214) 670-6350</p>
<p>Emeritus Center at Mountain View College Vakesa Townson, Center Manager 4849 W. Illinois Ave., Room W-124; 75211 (214) 860-3666</p>	<p>M.L.K. Senior Center Arnelle Munn, Center Manager 2901 Pennsylvania Ave.; 75215 (214) 670-8169</p>	<p>OTHER DESIGNATED AGENCIES</p>
<p>Garland-Carver Senior Center Shannon Stephens, Recreation Specialist 222 Carver; Garland, TX 75040 (972) 205-3305 \ FAX: (972) 205-3327 sstephen@ci.garland.tx.us</p>	<p>Mesquite-Evans Senior Center Heidi Lyon, Center Manager 1116 Hillcrest; Mesquite, TX 75149 (MAIL: PO Box 850137; 75185) (972) 285-6761 \ FAX: (972) 216-6397 hlyon@cityofmesquite.com</p>	<p>Metrocrest Services Tracy Eubanks, Chief Executive Officer 13801 Hutton Dr., Suite 150; Farmers Branch, TX 75234 (972) 446-2100</p> <p>The Senior Source Renae Perry, Operations Officer 3910 Harry Hines Blvd., 75219 (214) 823-5700 ext. 6159 rperry@theseniorsource.org</p>
<p>Garland Senior Activity Center D'Aun Muhlinghaus, Senior Services Specialist 600 W. Ave. A; Garland, TX 75040 (972) 205-2769 \ FAX: (972) 487-2417 DMuhling@garlandtx.gov</p>	<p>Mesquite-Goodbar Senior Center Sally Jo Parise, Supervisor 3000 Concord; Mesquite, TX 75150 (972) 279-6881 \ FAX: (972) 216-6397 sparise@cityofmesquite.com</p>	<p>Resource Center – Gray Pride LGBT Seniors 50+ 5750 Cedar Springs Rd.; Dallas TX 75235 (214)540-4418 graypride@myresourcecenter.org</p>

Regular Agenda Item: 6

Meeting Date: February 6, 2017

First Reading of a resolution authorizing the Seagoville Economic Development Corporation to enter into an economic development agreement with Sweet Dish LLC, concerning property located at 1920 North US Highway 175 (SEDC Chairman Cole)

ITEM DESCRIPTION

First Reading of a resolution authorizing the Seagoville Economic Development Corporation to enter into an economic development agreement with Sweet Dish LLC, concerning property located at 1920 North US Highway 175.

Two readings of the resolution are required. The second one, along with a Public Hearing, appears as item number 14 on this agenda.

BACKGROUND OF ISSUE:

Since November 2016, SEDC Staff, Legal Counsel and Project Sweet Dish Ownership have worked on development of 'Purchase/Sale,' 'Restrictions' and 'Economic Development Incentive' Agreements. These documents represent a performance-based incentive that grants roughly one-acre of real estate (the triangle) located at 1920 North US Highway 175 in return for the creation/maintenance of five (5) jobs, investment of \$550,000 and generation of \$5,000 in sales tax each year for three years. The SEDC Board unanimously recommended this project for approval. The Resolution provided for Council consideration will approve the project and will authorize the EDC to commence with actions necessary to finalize the agreements.

The proposed Economic Development, Purchase, Sale and Restrictions Agreement are attached.

FINANCIAL IMPACT:

\$120,000.00

EXHIBITS

Resolution
Real Estate Sales Agreement
Restriction Agreement
Economic Development Incentive Agreement

**CITY OF SEAGOVILLE, TEXAS
RESOLUTION NO. 10-R-2017**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN AGREEMENT BY AND BETWEEN THE SEAGOVILLE ECONOMIC DEVELOPMENT CORPORATION ("SEDC") AND SWEET DISH, LLC, ATTACHED AS EXHIBIT "A"; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the City Council has determined that the Agreement attached as Exhibit "A" will create new jobs and will promote new and expanded business enterprises within the City of Seagoville; and

WHEREAS, the City Council finds that the expenditure of funds pursuant to the Agreement is authorized by the Act and that the Agreement should be approved; and

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

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

Section 1. That the City Council hereby approves the Agreement attached hereto as Exhibit "A".

Section 2. That the City Council authorizes the SEDC to enter into any additional agreements necessary to effectuate the Agreement attached as Exhibit "A", including a land sale agreement and restriction agreement.

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 6th day of February, 2017.

CITY OF SEAGOVILLE, TEXAS

Dennis K. Childress, Mayor



ATTEST:

Christie Wilson, Interim City Secretary

APPROVED AS TO FORM:

Alexis Allen, City Attorney



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

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement ("Agreement") to buy and sell real property is entered between Seller and Purchaser as of the Effective Date as determined in Section 15(e) below.

Seller: Seagoville Economic Development Corporation, a Texas non-profit corporation

Seller's Address: Kirk Clennan, Executive Director
Seagoville Economic Development Corporation
105 N. Kaufman Street
Seagoville, Texas 75159
Facsimile No. (972) 287-9939

Seller's Attorney: Alexis G. Allen
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 N. Akard, Suite 1800
Dallas, Texas 75201
Facsimile: (214) 965-0010
Phone: (214) 965-9900
E-mail: aallen@njdhs.com

Purchaser: Sweet Dish, LLC, a Texas limited liability company

Purchaser's Address:

Purchaser's Attorney

Property: 1.0± acre tract of land out of Lot 3, Block A, Best Western/Seagoville Addition, an addition to the City of Seagoville, Dallas County, Texas, according to the plat thereof recorded in volume 99125, Page 40, Deed Records, Dallas County, Texas the boundaries of which are generally depicted on Exhibit "A," attached hereto and incorporated herein by reference; together with all right, title and interest of Seller, if any, in and to any (i) strips and gores between said tract and abutting properties, (ii) land lying in or under the bed of adjacent streets, alleys, roads or rights of way, (iii) easements or rights of way appurtenant to or otherwise benefiting said tract, (iv) utility capacities, commitments, reservations and other rights

and capacities (including but not limited to storm water detention rights) related to said tract, (v) all permits and approvals relating to said tract, (vi) all development rights relating to said tract, (vii) all rights to credits, refunds and reimbursements associated with said tract, (viii) all water and drainage rights associated with said tract, (ix) all reversionary rights related to said tract, and (x) all other rights and appurtenances of any kind related to said tract.

Restriction Agreement: That certain Restriction Agreement by and between Seller and Purchaser, the form of which is attached hereto as Exhibit "B," subject, however, to such modifications as may be reasonably requested by any lender providing financing with respect to the Property, provided such modifications do not require Seller subordinate its rights under the Restriction Agreement to such lender.

Economic Development Agreement: That certain *Economic Development Agreement* between the between Seller and Purchaser, the form of which is attached hereto as Exhibit "C," relating to the development by Purchaser of the Property.

Title Company:

Inspection Period: The period commencing on the Effective Date and ending _____

Earnest Money: None

Option Fee: \$100.00 (which amount shall be paid directly to Seller upon delivery of the signed Agreement, shall be non-refundable, except as may be otherwise expressly provided in this Agreement, but which shall be applied to the Purchase Price.)

Closing Date: _____, or such earlier date mutually agreed to by the Parties in writing.

Purchase Grant: An economic development incentive grant paid by Seller to offset the cost of construction of the Infrastructure as defined in the Economic Development Agreements and to be credited to the Purchase Price at Closing, being an amount equal to the Purchase Price less \$100.00.

Purchase Price: One Hundred and Seven Thousand, Six Hundred Dollars (\$107,600.00) and the Purchase Grant.

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

WHEREAS, the Development Corporation Act, Chapters 501-505 of the Texas Local Government Code (the "Act"), authorizes Seller to provide economic development grants for the creation and retention of primary jobs, and for infrastructure suitable for new or expanded business enterprises; and

WHEREAS, in consideration of the Economic Development Agreements, Purchaser has agreed to develop, construct, and operate the Bakery/Coffee Shop on the Property; and

WHEREAS, Purchaser has advised Seller that a contributing factor that would induce Purchaser to purchase the Property and construct the Bakery/Coffee Shop (as defined in the Economic Development Agreements) would be an agreement by Seller to provide the Purchase Grant; and

WHEREAS, Seller has determined that the Purchase Grant is required or suitable to promote or develop new or expanded business enterprises and will create and/or retain Primary Jobs (as defined in the Economic Development Agreement) and constitutes a "project," as that term is defined in the Act; and

WHEREAS, Seller has determined that making the Purchase Grant to Purchaser in accordance with this Agreement will further the objectives of Seller, will benefit the City of Seagoville and its inhabitants and will promote local economic development and stimulate business and commercial activity in the City of Seagoville;

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

1. **Sale and Purchase.** Seller agrees to sell, and Purchaser agrees to purchase, the Property as provided in this Agreement for the Purchase Price and subject to additional consideration set forth in this Agreement. Seller and Purchaser are sometimes collectively referred to herein as the "Parties" and each of the Parties is sometimes singularly referred to herein as a "Party".

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

(a) Not later than ten (10) days after the Effective Date, Seller shall, at Seller's expense, deliver to Purchaser:

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

- (ii) legible copies of all documents referenced in the Title Commitment;
- (iii) any environmental or geotechnical studies or reports that Seller may have in its possession or that are available to Seller as of the Effective Date with respect to the Property;
- (iv) tax certificate(s) regarding the payment of ad valorem taxes for current and prior years;
- (v) the most recent survey and plat of the Property that Seller has in its possession or that may be available to Seller. Seller shall not be required to obtain a new survey of the Property at Seller's expense;
- (vi) notices or other documents regarding any uncured violation of applicable laws, rules, regulations, codes or ordinances regarding the Property, or relating to any actual or claimed existence, release or disposal of any toxic or hazardous substance or waste in, upon or affecting the Property, or relating to any pending or threatened litigation affecting the Property; and
- (vii) any other documents or information in Seller's possession or control relating to the Property which may be reasonably requested by Purchaser.

(b) Purchaser shall, not later than ten (10) days after Purchaser's receipt of the Title Commitment, notify Seller and Title Company of any objections to the Survey (or Updated Survey, as the case may be) or Title Commitment related to the Property. If there are objections by Purchaser, Seller shall in good faith attempt to satisfy them prior to Closing, but Seller shall not be required to incur any cost to do so. If Seller delivers written notice to Purchaser not later than the fifth (5th) calendar day after Seller's receipt of Purchaser's objections that Seller is unable to satisfy such objections, Purchaser may either (i) waive such objections and accept title as Seller is able to convey or terminate this Agreement by written notice to Seller and the Title Company prior to the expiration of the Inspection Period or (ii) elect to extend the Closing Date, not to exceed an additional sixty (60) days, in order to provide Seller additional time to cure the objections. If Purchaser elects to extend the Closing Date, and Seller fails to cure the objection within such period, Purchaser may either waive the objection and proceed to Closing, or terminate this Agreement without further liability to either Party.

3. Inspection Period.

(a) During the Inspection Period, Purchaser and its agents, contractors, representatives, consultants or employees shall have the right to enter upon the Property during regular business hours upon reasonable notice and conduct such inspections, tests and studies as they may deem necessary. If for any reason or no reason Purchaser determines not to purchase the Property, Purchaser may terminate this Agreement by notifying Seller and Title Company in writing prior to the expiration of the Inspection Period. In such event, neither Party shall have

any further claim against the other under this Agreement. If Purchaser does not timely terminate this Agreement under this Section 3, it shall have no further right to do so under this Section 3; and Purchaser shall have waived its right to terminate this Agreement within the Inspection Period.

(b) Purchaser may enter the Property to conduct its inspection, but shall be solely responsible for any damages caused thereby. Purchaser shall repair any damage to the Property it causes or that is caused by its agents, contractors, representatives, consultants or employees, and shall indemnify and defend Seller and hold Seller harmless from and against any and all claims, liabilities or damages to the Property or against Seller caused by the intentional or negligent acts or omissions of Purchaser and/or Purchaser's authorized agents, contractors, representatives, consultants or employees during the Inspection Period or as a result of any inspection of the Property by such parties; provided, that no indemnity shall be required for Purchaser's discovery of any violations of any applicable law, statute, rule, regulation, code or ordinance during such inspection, or discovery of any pre-existing conditions present at the Property.

(c) The provisions of this Section 3 shall expressly survive any termination of this Agreement or the Closing for a period of six (6) months.

4. **Closing Date.** The closing of the sale of the Property shall occur on the Closing Date at the Title Company, or at such other time as may be agreeable to the Parties.

5. **Closing Deliverables.**

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

(i) a special warranty deed in form and substance reasonably acceptable to Seller and Purchaser, conveying good and indefeasible title to the Property to Purchaser, free and clear of any and all encumbrances except the Permitted Exceptions, excluding the mineral rights, such mineral rights being reserved by Seller;

(ii) such documents as may be reasonably required by the Title Company in order to cause the Title Company to issue a Texas Owner's Policy of Title Insurance (or equivalent) in the amount of the Purchase Price, insuring such title to the Purchaser, at Seller's expense;

(iii) the Restriction Agreement duly executed by Seller; and

(iv) possession of the Property, free of parties in possession.

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

- (i) the Purchase Price;
- (ii) the Restriction Agreement duly executed by Purchaser; and
- (iii) such other documents as may be reasonably required by the Title Company to close the contemplated transaction.

6. **Taxes.** Purchaser understands and acknowledges that the Property is presently exempt from the assessment of ad valorem taxes, which status will change upon conveyance of the Property to Purchaser. Seller shall not be responsible for payment of property taxes assessed against the Property for periods after the date of Closing, if any become due and payable.

7. **Closing Costs.**

(a) Seller hereby agrees to pay and be responsible for all costs and expenses incurred by or on behalf of Seller relating to the release of liens and other matters affecting title to the Property which Seller is obligated to cure and which are not otherwise Permitted Exceptions and Seller's attorney's fees.

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

- (i) all of the Title Company's escrow fees;
- (ii) all costs and expenses incurred by or on behalf of Purchaser, including Purchaser's attorneys' fees;
- (iii) all premiums and fees for the basic Owner's Policy of Title Insurance, any optional endorsements, deletions and amendments thereto, and all costs related to issuance of any mortgagee's title policy, if any;
- (iv) recording fees for the special warranty deed, the Restriction Agreement, and any other documents to be recorded at Closing except for those for which Seller is responsible for recording; and
- (v) such other incidental costs and fees customarily paid for closing transactions of a similar nature to the transaction contemplated herein.

8. **Conditions to Closing.**

(a) The Parties' respective obligations to close on the purchase of the Property shall be conditioned upon and subject to the following:

(1) Purchaser and Seller having duly executed the Restriction Agreement and Economic Development Incentive Agreement;

(2) The zoning of the Property being amended, if necessary, such that Purchaser may develop and use the Property for the Required Use as defined in the Restriction Agreement. If the Property is not zoned for such use as of the Effective Date, Seller agrees that Purchaser shall have the right to file an application with the City of Seagoville to seek an amendment to the zoning regulations affecting the Property to allow the Property to be used for the Required Use. Seller agrees to reasonably cooperate with Purchaser in the application for any zoning amendment requested by Purchaser and shall execute all necessary and appropriate instruments as owner of the Property. The application for rezoning the Property shall be made in the name of either Seller or Purchaser as required under governing law;

(3) The Property being replatted in accordance with applicable provisions of the City of Seagoville Subdivision Ordinance, as amended, so that the lot boundaries are generally as shown on Exhibit "A" and it constitutes one or more defined lots as determined by Purchaser. Seller agrees to reasonably cooperate and participate with Purchaser in the prosecution of any plat application for the replat of the Property so that the Property is identified as one or more separate and distinct lots as determined by Purchaser;

(4) There shall be no pending, threatened, or existing moratorium, action, or proceeding against Seller or the Property before any court or governmental authority that would prohibit or inhibit Purchaser from obtaining utility services or building permits and development approvals, or that would prevent, prohibit, delay, or inhibit the construction and development or operation of the Property by Purchaser;

(5) The Title Company shall be irrevocably committed to issue to Purchaser an Owner's Policy of Title Insurance on the Title Company's standard current form, in the amount of the Purchase Price, subject to no exceptions other than the Permitted Exceptions; and

(6) Seller's representations and warranties set forth herein shall, to the best of Seller's knowledge and belief, be true, correct, and complete and not intentionally misleading in any material respect as of Closing.

(b) If the conditions set forth in Paragraph (a)(2) and/or (a)(3) above have not been satisfied on or before the end of the Inspection Period, the Inspection Period shall be automatically extended for a period of thirty (30) days.

(c) If the conditions set forth in Paragraph (a)(2) and/or (a)(3) above have not been satisfied on or before the end of the Inspection Period, as so extended pursuant to Paragraph (b) above, the Inspection Period shall be automatically extended for an additional period of thirty (30) days.

(d) If the conditions set forth in Paragraph (a)(2) and/or (a)(3) have still not been approved by the end of the Inspection Period, as extended pursuant to Paragraph (c) above, then Seller, at Seller's sole option, may, by written notice to Purchaser on the last day of the Inspection Period, either (i) extend the Closing Date for an additional thirty (30) day period, (ii) waive the condition and proceed to Closing, or (iii) terminate this Agreement.

(e) If the Closing Date is extended for the additional thirty (30) day period pursuant to Paragraph (d) above, and at the end of such thirty (30) day period, the conditions set forth in Paragraph (a)(2) and/or (a)(3) above remain unsatisfied, then either Party may by written notice delivered to the other Party not later than the third (3rd) business day following the end of such thirty (30) day period, terminate this Agreement; provided, if neither Seller nor Purchaser so terminates this Agreement, the Parties shall be deemed to have waived the unsatisfied condition and shall proceed to Closing.

9. **Permitted Exceptions.** Purchaser acknowledges and agrees that the Property will be conveyed by Seller at closing subject to the Restriction Agreement and that the special warranty deed shall contain reference to same. The (i) lien for current taxes not yet due and payable, (ii) the Restriction Agreement, and (iii) appropriate matters appearing on Schedule B of the Title Commitment that were not cured and to which Purchaser failed to object or otherwise waived objection shall be deemed to be Permitted Exceptions. Notwithstanding anything to the contrary herein, as a condition of Closing, Seller must resolve at Seller's sole cost the items that are listed on Schedule C of the Title Commitment which are by their nature Seller's responsibility, remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date of this Agreement, and use due diligence to cure the title and survey objections that Seller has agreed to cure.

10. **Representations and Covenants.** Seller represents and covenants that: (a) it has authority to enter into this Agreement, and that this Agreement represents the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms; (b) no other person has any interests in or claims against the Property (other than as reflected by the Title Commitment); (c) except as may be set forth in the documents delivered by Seller to Purchaser pursuant to Section 2(a), it has no actual knowledge of any uncured violation of applicable laws, rules, regulations, codes or ordinances with respect to the Property, nor of any existence, release or disposal of any toxic or hazardous substance or waste upon or affecting the Property, nor of any pending or threatened litigation affecting the Property; and (d) it will not hereafter encumber the Property, or take any other action with respect to the Property which Seller knows will materially adversely affect the development, lease or other transactions contemplated by this Agreement. Purchaser represents that it has authority to enter into this Agreement and that this Agreement represents the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms. The only representations made by any Party concerning the Property and this Agreement are as set out in this Section 10. The representations set forth in this Section 10 shall survive Closing.

11. Property Sold As Is.

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

(b) Except as otherwise specifically set forth in this Agreement and except for the special warranties of title set forth in the special warranty deed, Seller hereby specifically negates and disclaims any representations, warranties or guarantees of any kind or character, whether express or implied, oral or written, past, present, future or otherwise, of, as to, concerning or with respect to the Property, including without limitation (i) the nature and condition of the Property and the suitability thereof for any and all activities and uses which Purchaser may elect to conduct thereon, (ii) the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, condition or any other matter relating in any way to the Property, (iii) the compliance of the Property or its operation with any laws, ordinances or regulations of any government or other authority or body, (iv) the existence of any toxic or hazardous substance or waste in, on, under the surface of or about the Property, (v) geological conditions, including, without limitation, archaeological, anthropological, or environmental (endangered species), subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water and faulting, (vi) whether or not and to the extent to which the Property or any portion thereof is affected by any stream (surface or underground), body of water, flood prone area, floodplain, floodway or special flood hazard, (vii) drainage, (viii) zoning or land use restrictions rules and regulations to which the Property or any portion thereof may be subject, (ix) the availability of any utilities to the Property or any portion thereof including, without limitation, water, sewage, gas, electric and telecommunications and including the utility availability capacities allocated to the Property by the relevant governmental or regulatory authority, (x) usages of adjoining property, (xi) access to the Property or any portion thereof, (xii) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, durability, structural integrity, operation, leasing, title to, or physical or financial condition of the Property or any portion thereof, or any income, expenses, charges, liens, encumbrances, rights or claims on or affecting or pertaining to the Property or any part thereof, (xiii) the potential for further development of the Property, or (xiv) the merchantability of the Property or fitness of the Property for any particular purpose (Purchaser affirming that Purchaser has not relied on Seller's skill or judgment to select or furnish the Property for any particular purpose, and that Seller makes no warranty that the Property is fit for any particular purpose).

(c) Purchaser agrees that, prior to the expiration of the Inspection Period, it will have the opportunity to examine and investigate the Property and that, in purchasing the Property, Purchaser will rely solely upon its independent examination, study, inspection and knowledge of the Property, and Purchaser is relying solely upon its own examination, study, inspection, and, except for representations and warranties specifically set forth herein and, except for the special warranties of title set forth in the special warranty deed, knowledge of the Property and

Purchaser's determination of the value of the Property and uses to which the Property may be put, and not on any information provided or to be provided by Seller.

(d) The provisions of this Section 11 shall survive the termination of this Agreement and the Closing.

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

"There is hereby reserved for Grantor and Grantor's successors and assigns, all of Grantor's interest in the oil and gas minerals that are in, on and under the Property and that may be produced from it ("Grantor's Mineral Interest"). Grantor, hereby agrees that no wells will be drilled on the surface of the Property, and no facilities of any kind (including, but not limited to, roads, pipelines, flow lines, electric power lines, tank batteries or treaters) will be placed on the surface of the Property by Grantor or by any other third party acting pursuant to Grantor's consent or authority; provided, that such facilities are permitted at levels below 1,000 feet below the surface of the Property to the extent that such facilities do not, in any manner whatsoever, interfere with the surface or subsurface support of the surface of the Property, including any improvements thereon. Grantor further hereby agrees that Grantor shall not have the right to use the surface of the Property and Grantor hereby waives all rights to use the surface of the Property for any purpose, including, but not limited to the right of ingress and egress upon, across and over the surface of any of the Property for the purpose of mining, drilling, accessing, exploring, operating, treating, transporting or developing the Grantor's Mineral Interest or performing seismic or other testing on the Property; provided, however, nothing herein contained shall be construed as waiving or preventing Grantor from exploring for, developing or producing the Grantor's Mineral Interest or lands pooled or unitized therewith, by pooling, by directional or horizontal drilling (including, without limitation, fracturing and other completion techniques) under the Property from surface sites located on tracts other than the Property or by any other method that does not require ingress, egress or use of the surface of the Property; provided further, however, that the well bore for any oil or gas well or any other equipment that enters the subsurface of the Property shall be and remain at a depth of at least 1,000 feet below the surface of the Property; provided, however, that those operations shall in no manner interfere with the surface or subsurface support of the Property, including any improvements thereon."

13. **Remedies.** If Purchaser defaults, Seller's sole remedy under this Agreement shall be to terminate this Agreement and retain the Option Fee. If Seller defaults, Purchaser's sole remedy shall be to terminate this Agreement and obtain a refund of the Option Fee (and receive reimbursement from Seller for any due diligence costs, legal fees and expenses, or other out of pocket costs incurred by Purchaser after the Effective Date of this Agreement in connection with this Agreement or the Property, not to exceed in the aggregate, however, \$50,000). No termination shall occur pursuant to a default until the non-defaulting Party has provided written notice of default not less than ten (10) days prior to the proposed date of termination and the defaulting Party has failed to cure the default. The remedies granted herein are independent of any remedies which may be available to the parties under the Economic Development Agreements.

14. **Notices.** Notices must be in writing and may be hand delivered and/or mailed by certified mail with return receipt requested, or sent by facsimile transmission, to the addresses stated above. Notice given by delivery service shall be effective upon receipt at the address of the addressee; notice given by mail shall be effective upon earlier of actual receipt or three (3) days after placing the notice in a receptacle of the United States Postal Service, postage prepaid and properly addressed, and notice sent by facsimile transmission shall be effective upon electronic confirmation of receipt. In addition, copies of notices shall be provided to the Party's attorney at the addresses indicated above.

15. **Miscellaneous.** This Agreement is subject to the following additional provisions and conditions:

(a) *Entireties.* This Agreement, the Restriction Agreement, and the Economic Development Agreements contain the entire agreement of the Parties pertaining to the purchase, sale, and development of the Property.

(b) *Modifications.* This Agreement may only be modified by a written document signed by both Parties.

(c) *Assignment.* Purchaser may not assign its rights under this Agreement, except (i) to any entity controlling, controlled by, or under common control with, Purchaser, or (ii) to any person or entity with the express written consent of Seller (which consent shall not be unreasonably withheld).

(d) *Time is of the Essence.* Time is of the essence with respect to the performance by the Parties of their respective obligations hereunder.

(e) *Effective Date.* The Effective Date of this Agreement shall be the last date on which the authorized representatives of all Parties have signed this Agreement, and the Title Company has acknowledged in writing its receipt of this Agreement as so signed.

(f) *Non-Business Day.* If the final date of any period provided herein for the performance of an obligation or for the taking of any action falls on a Saturday, Sunday, federal holiday, or a day on which Seller's main offices are not open for regular business, then the end of such period shall be extended to the next day that is not one of the foregoing described days.

(g) *Zoning.* Seller assumes no obligation to change the current zoning on the Property, but will reasonably cooperate in effecting such changes as set forth in Section 8(a)(3) above.

(h) *Brokers.* The Parties represent and warrant that they have not worked with any broker relative to this transaction and that no brokerage commission is due and payable upon the Closing. To the extent allowed by law, each Party shall indemnify each other from any claim for brokers' commissions relative to the sale of the property and alleged to be due by, through or under the indemnifying Party.

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

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

(k) *Law Governing.* This Agreement shall be construed under and in accordance with the laws of the State of Texas; and venue for any action arising from this Agreement shall be in the State District Court of Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court in any such action.

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

(m) *Employment of Undocumented Workers.* Purchaser understands, acknowledges, and agrees that Seller is off-setting a portion of the Purchase Price with an economic development grant in the form of the Purchase Grant. During the term of this Agreement, and for a period of five (5) years after the Closing and conveyance of the Property to Purchaser, Purchaser agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Purchaser shall pay the amount of the Purchase Grant and any other funds received by Purchaser from Seller as of the date of such violation within 120 days after the date Purchaser is notified by Seller of such violation, plus interest at the rate of 6% compounded annually from the date of violation until paid. Purchaser is not liable for a violation

of this section by a subsidiary, affiliate, or franchisee of Purchaser or by a person with whom Purchaser contracts. This Section 15(m) shall survive the Closing.

(Signatures on Following Page)

SIGNED AND AGREED this the _____ day of _____, 2016.

Seller:

Seagoville Economic Development Corporation,
a Texas non-profit economic development
corporation

By: _____
Kirk D. Clennan, Executive Director

SIGNED AND AGREED this the _____ day of _____, 2016.

Purchaser:

Sweet Dish, LLC.,
a Texas limited liability company

By:

By: _____

RECEIPT OF CONTRACT

Title Company acknowledges receipt of a copy of this Agreement executed by both
Seller and Purchaser on the ___ day of _____, 2016.

By: _____

Name: _____

Title: _____

Exhibit "A"
Survey of the Property

Exhibit "B"
Restriction Agreement

Exhibit C

Economic Development Agreement

WHEN RECORDED RETURN TO:

Nichols, Jackson, Dillard, Hager & Smith, LLP
Attention: Alexis G. Allen
500 N. Akard, Suite 1800
Dallas, Texas 75201

(Space Above For Recorder's Use Only)

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

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

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

RECITALS

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

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

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

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

Article I
Land Subject to Declaration

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

Article II
Definitions

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

“Bakery/Coffee Shop” shall have the same meaning as set forth in the Economic Development Agreement.

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

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

“Completion of Construction” means (i) substantial completion of construction of all the components of the Building and Improvements on the Land has occurred, and (ii) a final permanent certificate of occupancy has been issued by City for occupancy of the Bakery/Coffee Shop.

"Construction Plans" means the plans and specifications for the construction of the Bakery/Coffee Shop (including civil, architectural, grading and site plans) in accordance with the Zoning and any design plans approved by the City.

“Economic Development Agreement” means that certain Economic Development Agreement between SEDC and Sweet Dish, LLC, dated _____, 201__, relating to the Purchase and Sale of certain Property by SEDC to Developer in exchange for improving the Property subject with the Improvements (as defined in the Economic Development Agreement)(sometimes hereafter referred to as “the Project”), a true and correct copy of which is attached hereto as Exhibit “B”.

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

“Force Majeure” means any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, City delay of permits or other approvals, government or de facto governmental action (unless caused by acts of omissions of the Party), fires, explosions or floods, strikes,

slowdowns or work stoppages, adverse weather conditions, transportation delays or difficulties, shortages of materials or labor, financial institution shutdowns, electronic funds transfer delays or difficulties, and economic disruptions.

"Improvements" shall mean the buildings, facilities and other improvements to be built on the Property as part of the Bakery/Coffee Shop.

"Improvement Value" shall mean: (i) after commencement of Construction but prior to the Completion of Construction, the actual hard and soft costs incurred and paid by Sweet Dish (including any payments made directly to Sweet Dish's contractor(s) on Sweet Dish's behalf by Sweet Dish's interim construction lender, if any) to design, permit and construct the Improvements or so much thereof as have been completed at the time, or (ii) once the Completion of Construction has occurred, the fair market value of the Improvements constructed on the Property as determined by an appraiser selected by the parties, or, in the event the parties cannot agree upon an appraiser within ten (10) days after SEDC's exercise of the Option, each party shall select an appraiser who will determine the fair market value of such Improvements.

"Infrastructure" shall have the same meaning as set forth in the Economic Development Agreement.

"Land" means an approximately 1.0± acre tract of land out of Lot 3, Block A, Best Western/Seagoville Addition, an addition to the City of Seagoville, Dallas County, Texas, according to the plat thereof recorded in volume 99125, Page 40, Deed Records, Dallas County, Texas the boundaries of which are generally depicted on Exhibit "A," attached hereto and incorporated herein by reference.

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

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

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

"Option Price" means an amount equal to:

- (a) **\$107,600.00**; plus
- (b) the Improvement Value, if any, minus
- (c) an amount equal to all closing costs incurred by SEDC pursuant to the Purchase Agreement.

"Option Termination Date" means the third (3rd) anniversary of the Option Commencement Date, as may be extended by an event of Force Majeure.

"Project" means, collectively, the Bakery/Coffee Shop and the Infrastructure.

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

"Property" collectively means the Land and any Improvements and Infrastructure, or portion thereof, following construction thereof on the Land.

"Purchase Agreement" shall mean that certain *Purchase and Sale Agreement*, as amended or assigned, by and between SEDC and Developer, dated _____, relating to the sale of the Land by SEDC to Developer.

"Purchase Grant" means the economic development grant provided by SEDC to Developer to offset the costs of the Infrastructure and Improvements, and applied by Developer to reduce the purchase price for the Land upon the closing of the Purchase Agreement, which amount is **\$107,590**.

"Required Use" shall mean the development and use of the Property a retail bakery and coffee shop and incidental uses reasonably related thereto so long as consistent with all applicable zoning ordinances of the City of Seagoville, open to the public and serving the adjacent business community and the citizens of the City of Seagoville, Texas, as required by the Economic Development Agreement.

Article III Option

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

3.2 **Time for Exercising Option.** Subject to Section 3.3, below, the Option may be exercised by SEDC in its sole discretion by providing written notice to Developer upon the occurrence of the following:

(a) Any time after the Option Commencement Date, but in any event prior to the Option Termination Date, if (i) Developer has failed to obtain approval of the Construction Plans from City by the Option Commencement Date, and (ii) Developer has still failed to obtain City's approval of the Construction Plans as of the date of the exercise of the Option pursuant to this Paragraph (a); or

(b) Any time after the thirtieth (30th) day following the date City notifies Developer in writing that City has approved the Construction Plans but in any event prior to the Option Termination Date, if (i) Developer has failed to pay to City all building permit fees, impact fees, and other fees and charges which entitle Developer to receive from City a construction permit for construction of the Bakery/Coffee Shop, (ii) Developer has failed to cause Commencement of

Construction to occur on the Land and (iii) Commencement of Construction has in fact still not occurred on the date of the exercise of the Option pursuant to this Paragraph (b).

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

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

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

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

Article IV Right of First Refusal

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

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

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

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

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

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

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

Article V

Terms of Sale Upon Exercise of Right

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

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

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

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

- (ii) legible copies of all documents referenced in the Title Commitment;
- (iii) any environmental studies or reports that Developer may have in its possession with respect to the Property;
- (iv) copies of all leases and rental agreements creating a leasehold interest in any portion of the Property; and
- (v) tax certificate(s) regarding the payment of ad valorem taxes for current and prior years.

(b) Upon any exercise of the Right, SEDC shall have the right, at its sole option, to cause a boundary or "as-built" survey of the Property to be made by a registered professional land surveyor selected by SEDC. Such survey shall be made at the sole cost and expense of SEDC.

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

5.3 **Closing.**

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

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

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

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

5.4 **Taxes.** Ad valorem taxes, assessments, and any other charges against the Property and/or Improvements conveyed to SEDC pursuant to this Article V shall be prorated as of the Closing Date for the current year, and paid by Developer at Closing in accordance with Texas Tax Code

§26.11. Developer will be responsible for all such items which accrue prior to the Closing Date during its tenure of ownership, and SEDC will be responsible for all such items which accrue on and after the Closing Date. Taxes and assessments for all prior years for Developer's tenure of ownership shall be paid by Developer.

5.5 **Closing Costs.**

- (a) Developer will pay and be responsible for the following closing cost:
- (i) the cost of all tax certificates relating to all taxes and other assessments incurred or arising in relation to the Property;
 - (ii) all fees and premiums for Basic Owner's Title Policy, excluding any deletions from, or modifications of or endorsements to the Basic Owner's Title Policy;
 - (iii) one-half (½) of the Title Company's escrow fees;
 - (iv) all recording fees;
 - (v) all costs and expenses incurred by or on behalf of Developer, including Developer's attorney's fees;
 - (vi) all costs related to obtaining any releases of liens on the portion of the Property conveyed relating to any loans secured by a deed of trust lien on said property; and
 - (vii) such other incidental costs and fees customarily paid by sellers of real property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.
- (b) SEDC hereby agrees to pay and be responsible for the following closing cost:
- (i) all fees and premiums for the Survey;
 - (ii) one-half (½) of the Title Company's escrow fees;
 - (iii) all fees and premiums for any deletions from, or modifications of or endorsements, to the Basic Owner's Title Policy;
 - (iv) all costs and expenses incurred by or on behalf of SEDC, including SEDC's attorneys' fees; and
 - (v) such other incidental costs and fees customarily paid by purchasers of property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.

5.6 **Permitted Exceptions.** SEDC acknowledges and agrees that the Property conveyed pursuant to this Article V will be conveyed by Developer at closing subject only to such easements, conditions and restrictions (i) that were listed in the deed from the SEDC to

Developer, (ii) utility easements granted by subdivision plat, (iii) easements granted by instrument subsequent to the purchase of the Land by Developer and approved by SEDC; and (iv) such other matters as SEDC may waive, or as Developer is not otherwise obligated to cure or remove.

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

Article VI Restrictions

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

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

Article VII Miscellaneous

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

Agreement, constitutes SEDC's sole and exclusive remedy for any failure by Developer to Commence Construction or Complete Construction of the Improvements on the Land in accordance with this Restriction Agreement. The rights of SEDC under this Restriction Agreement may not be waived or released except pursuant to an amendment or termination approved in accordance with the provisions hereof, except by expiration of the Term. The rights of SEDC, and the City as third party beneficiary hereof, to enforce the provisions of this Restriction Agreement are in addition to and cumulative of any remedies which SEDC or the City have pursuant to the provisions of the Economic Development Agreement.

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

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

If intended for SEDC, to:

Kirk Clennan, Executive Director
Seagoville Economic Development
Corporation
105 N. Kaufman Street
Seagoville, Texas 75159
Facsimile No. (972) 287-9939

With a copy to:

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

If intended for the Developer, to:

Sweet Dish, LLC

With a copy to:

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

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

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

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

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

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

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

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

(Signatures on Following Page)

SIGNED AND AGREED on this _____ day of _____, 2016.

SEAGOVILLE ECONOMIC DEVELOPMENT CORPORATION

By: _____
Kirk Clennan, Executive Director

SEDC's Acknowledgment

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Acknowledged before me, the undersigned authority, this _____ day of _____, 2016, by Kirk Clennan, Executive Director of Seagoville Economic Development Corporation, a Texas non-profit corporation, on behalf of said corporation.

Notary Public, State of Texas

My Commission expires:

SIGNED AND AGREED on this ____ day of _____, 2016.

SWEET DISH, LLC

By: _____

Developer's Acknowledgment

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the ____ day of _____, 2016, by _____, _____ l of Sweet Dish, LLC, a Texas limited liability company, for and on behalf of said company.

Notary Public, State of Texas

My Commission expires:

Exhibit "A"
Depiction of Property

Exhibit "B"

**Copy of
Economic Development Agreement**

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

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

WITNESSETH:

WHEREAS, Company desires to develop, construct and operate a Bakery/Coffee Shop (hereinafter defined) on approximately 1.00 acres of land in Seagoville owned by the SEDC as described in Exhibit A (the “Land”); and

WHEREAS, the Company intends to make a Capital Investment of approximately \$550,000 in developing a bakery/coffee shop with a meeting room on the Land; and

WHEREAS, Company intends to purchase the Property (hereinafter defined) from SEDC pursuant to the Purchase and Sale Agreement (hereinafter defined) and intends to construct the Bakery/Coffee Shop, together with the required landscaping and parking (collectively, the “Improvements”); and

WHEREAS, SEDC desires Company construct the Improvements on the Property; and

WHEREAS, Company has advised SEDC that a contributing factor that would induce Company to construct the Improvements on the Property will be an agreement for SEDC to provide a Grant (hereinafter defined) to reduce the cost of the Purchase of the Property; and

WHEREAS, the Improvements will provide a suitable location for business meetings and will result in the creation and retention of new jobs; and

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

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

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

WHEREAS, SEDC has determined that making an economic development grant to Company in accordance with this Agreement will further the objectives of SEDC, will benefit

the City and the City's inhabitants and will promote local economic development and stimulate business and commercial activity in the City.

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

Article I Definitions

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

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

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

"Building" means a 3,091 square foot building constructed for retail/restaurant uses, built of masonry construction, as defined by Article 25.02 of the City of Seagoville Code of Ordinances.

"Capital Investment" shall mean the aggregate of: (i) the purchase cost of the Property; and (ii) the total costs of design and construction of the Improvements (inclusive of all hard and soft costs).

"City" shall mean the City of Seagoville, Texas, acting by and through its city manager, or designee.

"Closing" shall mean the closing of the purchase and sale of the Property pursuant to the Purchase and Sale Agreement.

"Commencement Date" shall mean the later of: (i) the date the first final permanent certificate of occupancy is issued by the City for the Bakery/Coffee Shop; and (ii) the date the Bakery/Coffee Shop is open for business and serving the citizens of the City and its visitors.

"Commencement of Construction" shall have the meaning set forth in the Restriction Agreement.

“Company” shall mean Sweet Dish, LLC, a Texas limited liability company.

“Company’s Lender” shall mean one or more lenders selected by Company (in its sole discretion) to provide a construction loan to construct the Project.

“Completion of Construction” shall have the meaning set forth in the Restriction Agreement.

“Construction Plans” shall mean the plans and specifications for the construction of the Bakery/Coffee Shop (including civil, architectural, grading and site plans) in accordance with the Zoning and any design plans approved by the City.

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

“Employment Positions” shall mean Full-Time Equivalent Position Primary Jobs eligible for employee benefits that have been created, maintained and filled at the Bakery/Coffee Shop, per Employment Period. The number of FTE’s for an Employment Period shall be based on a weekly average count of FTE’s working at the Bakery/Coffee Shop during each calendar week during the Employment Period.

“Expiration Date” shall mean the fifth (5th) anniversary date of the Commencement Date.

“Force Majeure” shall have the meaning set forth in the Restriction Agreement.

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

“Improvements” collectively means the building housing the Bakery/Coffee Shop, the common areas and all other structures, driveways, parking areas, and other improvements constructed or installed on the Property.

“Inspection Period” shall have the meaning assigned by the Purchase and Sale Agreement.

“Land” shall mean the real property described in **Exhibit “A”**.

“Purchase Grant” shall mean One Hundred Seven Thousand and Five Hundred Dollars (\$107,500.00), which reflects the difference between the Purchase Price of the Property of One Hundred Seven Thousand and Six Hundred Dollars (\$107,600.00) and the One Hundred Dollars (\$100.00) cash paid by Developer pursuant to the Purchase and Sale Agreement.

“Property” shall mean the real property described in Exhibit “A”.

“Project” means, collectively, (i) the Property and (ii) the Improvements following construction thereof.

“Purchase and Sale Agreement” means that certain Purchase and Sale Agreement between the Parties dated and effective on [REDACTED], relating to the purchase of the Property by Company from SEDC.

“Project Commencement Date” shall mean the date that is ten (10) business days after the date that the conditions precedent set forth in Section 7.14 of this Agreement have been fully satisfied.

“Required Use” shall mean the continued operation of the retail Bakery/Coffee Shop and related amenities open to the public and serving the adjacent business community and the citizens of the City.

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

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

“Sales Tax Certificate” shall mean one or more Sales Tax Area Reports that list the amount of Sales Tax Receipts (including any refunds, credits or adjustments) for the applicable calendar year, or if a Sales Tax Area Report is not available or to the extent a Sales Tax Area Report does not include particular Sales Tax Receipts, a certificate or other statement, containing the information required as set forth herein, in a form provided by the Company reasonably acceptable to the SEDC setting forth Sales Tax Receipts (including any refunds, credits or adjustments) for the applicable year, together with such supporting documentation required herein, and as the SEDC may reasonably request.

“Sales Tax Receipts” shall mean the City of Seagoville’s receipts of Sales and Use Tax from the State of Texas from (i) the Company’s collection of Sales and Use Tax

as a result of sales of Taxable Items for the applicable year at the Property, and (ii) from the Company's payments to vendors or directly to the State of Texas of Sales and Use Tax on purchases of Taxable Items Consummated at the Property. For clarity, Sales Tax Receipts does not include Sales and Use Taxes retained by the State of Texas, rather than paid to the City, as the State of Texas' administrative fee for collection of the Sales and Use Taxes pursuant to Texas Tax Code, Section 321.503.

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

Article II Term

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

Article III Bakery/Coffee Shop

3.1 Land Acquisition. SEDC intends to sell and convey, or cause to sell and convey, the Land to the Company subject to the Restriction Agreement. The purchase price for sale and transfer of the Land shall be One Hundred and Seven Thousand, Six Hundred Dollars, less an economic development grant provided by SEDC to Company to offset the purchase price, and shall be subject to the requirement that the Land be sold and conveyed to Company for One Hundred Dollars (\$100.00).

3.2 Zoning. The SEDC, as a condition precedent, shall submit an application to amend the zoning of the property in furtherance and implementation of this Agreement. SEDC shall use good faith efforts to obtain City approval of the Zoning. The Company and the City shall mutually cooperate in the processing of the Zoning in a reasonable manner, subject to the City's review and consideration in conformance with all notice and public hearing procedures required by state and local law. Notwithstanding anything to the contrary, nothing in this Agreement shall be deemed to be a commitment of the City to zone the Land in a certain way or to approve the Zoning, but is only a statement of the current intent of the Parties.

3.3 Construction Plans. Company shall cause all necessary permits and approvals required by City and any applicable governmental authorities to be issued for the construction of the Bakery/Coffee Shop. Prior to Commencement of Construction Company shall submit the Construction Plans for approval by City. Company shall, subject to events of Force Majeure, cause the Construction Plans to be submitted to the City for approval within ten (10) business days following the Project Commencement Date.

3.4 Construction of Bakery/Coffee Shop. Subject to the terms and conditions of this Agreement, Company agrees to design and construct, or cause to be designed and constructed, the Bakery/Coffee Shop in accordance with the Zoning and the approved Construction Plans. Company shall, subject to events of Force Majeure, cause Commencement of Construction of the Bakery/Coffee Shop to occur on or before **ten (10)** business days following City approval of the Construction Plans; and subject to events of Force Majeure, cause Completion of Construction of Bakery/Coffee Shop to occur within **six (6) months** after the date of Commencement of Construction.

3.5 Casualty and Condemnation. If the Bakery/Coffee Shop is damaged partially or destroyed by Casualty, regardless of the extent of the damage or destruction, Company shall, subject to events of Force Majeure and the availability of adequate insurance proceeds, within two hundred seventy (270) days from the date of such Casualty commence to repair, reconstruct or replace the damaged or destroyed portion of the Bakery/Coffee Shop, as applicable, and pursue the repair, reconstruction, or replacement with reasonable diligence so as to restore the Bakery/Coffee Shop to substantially the condition it was in before the Casualty.

3.6 Capital Investment. The Capital Investment shall, as of the Commencement Date be at least Five Hundred and Fifty Thousand Dollars (\$550,000.00).

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

Article IV Purchase Grant

4.1 Subject to the obligation of Company to repay the Grant pursuant to Section 6.2 herein, and the continued satisfaction of all the terms and conditions of this Agreement by Company, SEDC shall provide the Grant to Company of One Hundred Seven Thousand Five Hundred Dollars (\$107,500.00), in the form of a reduced price for the Purchase of the land

4.2 Not later than fifteen (15) calendar days after the date of Final Completion (as defined herein) of the Improvements, Company shall deliver to SEDC copies of all records, contracts, receipts, invoices, bills and such other information as SEDC may reasonably request to evidence the final costs for the design and construction of the Improvements. In the event the final total costs of the design and construction of the Improvements, as reasonably verified by SEDC, are less than Five Hundred and Fifty Thousand Dollars (\$550,000.00), the Parties shall determine as a percentage how much each has paid with respect to the actual costs for the design and construction of the Improvements. If after making the calculation in the preceding sentence it is determined that the company did not invest \$550,000.00 in Capital Improvements the Company shall, at SEDC's option, pay the SEDC the difference in value.

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

Article V Conditions to Economic Development Grant

The satisfaction by Company of the terms and conditions of this Agreement are subject to each of the following conditions:

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

5.2 Project Construction. Company shall cause the design, Commencement and Completion of Construction of the Improvements in accordance with the Restriction Agreement. This includes obtaining the City approval of the necessary zoning for the Land which shall include concept plan approval for the construction and development of the retail bakery/coffee shop establishment.

5.3 Capital Investment. The Capital Investment shall be at least Five Hundred and Fifty Thousand Dollars (\$550,000.00) as of the date of Completion of Construction of the Project.

5.4 Performance Criteria. Company shall open and operate a retail Bakery/Coffee Shop establishment with meeting space on the Property, and shall:

(a) Beginning on the Completion of Construction Date and continuing thereafter for a period of at least three (3) calendar years the Company shall create and maintain at least five (5) Full-Time Equivalent (FTE) Employment Positions. Company shall, within the first thirty (30) days of the end of each calendar year following the first full calendar year after completion of construction, and within thirty (30) days after each succeeding anniversary date thereof, supply SEDC with copies of employment records and such other information as may be reasonably requested by SEDC to document compliance with the required Employment Positions. The failure to maintain the required Employment Positions beginning on the Completion of Construction Date and continuing thereafter for a period of at least three (3) years thereafter shall require the Company to pay to the SEDC a sum equal to a proportional amount of the Purchase Grant provided to the Company, as detailed in Section 5.2, below. The failure to pay such amount within ten (10) business days after written demand by SEDC shall be considered a breach or default of this Agreement subject to termination and repayment of the Grant pursuant to Article VI hereof.

(b) The Company shall generate sales tax receipts in an amount equal to at least \$5,000 per year. The Company shall provide the SEDC with a Sales Tax Certificate within the first thirty (30) days of the end of each calendar year, following the first full calendar year after

completion of construction. At the request of the SEDC, the Company shall provide such additional documentation as may be reasonably requested by the SEDC to evidence, support and establish the Sales Tax Receipts (including Sales and Use Tax paid directly to the State of Texas pursuant to a direct payment permit) received by the City of Seagoville from the State of Texas. The Sales Tax Certificate shall at a minimum contain, include or be accompanied by a schedule detailing the amount of total sales and the amount of Sales and Use Tax collected and paid to the State of Texas as a result of the sale of Taxable Items by the Company at the Property for the preceding year. The SEDC retains the right to further investigate the sales tax receipts generated from the Property, as the SEDC deems appropriate and necessary. Failure to generate the required minimum Sales Tax Receipts for the preceding year shall be considered a breach or default of this Agreement subject to repayment of the Grant pursuant to Article VI hereof.

Article VI Termination

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

6.2 In the event the Agreement is terminated by SEDC pursuant to Sections 6.1(c), (d), (e), or (f), above, in addition to the SEDC's Option and Right of First Refusal, as reflected in the Restriction Agreement, the Company shall immediately repay to SEDC an amount proportional to its performance, as provided below:

- (a) If the Company fails to complete construction of the Improvements, or completes construction of Improvements but fails to open a retail/bakery restaurant within two (2) months of Completion of Construction, the

Company shall repay to the SEDC One Hundred Seven Thousand and Six Hundred Dollars (\$107,600.00), and upon payment of this amount to the SEDC, this Agreement shall terminate; and

- (b) If the Company completes Construction of the Improvements but fails to create and maintain five (5) Employment Positions and generate at least five thousand (\$5,000) in additional sales tax revenue within the first calendar year following Completion of Construction, the Company shall repay to the SEDC Thirty-five Thousand Eight Hundred and Sixty-seven Dollars (\$35,867.00); and
- (c) If the Company completes Construction of the Improvements but fails to create and maintain five (5) Employment Positions and generate at least five thousand (\$5,000) in additional sales tax revenue to the City within the second year following Completion of Construction, the Company shall repay to the SEDC Thirty-five Thousand Eight Hundred and Sixty-seven Dollars (\$35,867.00); and
- (d) If the Company completes Construction of the Improvements but fails to create and maintain five (5) Employment Positions and generate at least five thousand (\$5,000) in additional sales tax revenue to the City within the third year following Completion of Construction, the Company shall repay to the SEDC Thirty-five Thousand Eight Hundred and Sixty-seven Dollars (\$35,867.00)

Article VII Miscellaneous

7.1 Binding Agreement; Assignment. This Agreement shall be binding upon and inure to the benefit of the heirs, successors, affiliates, administrators, executors, and permitted assigns of the respective Parties. This Agreement may not be assigned without the prior written consent of SEDC; provided however Company may collaterally assign or pledge Company's rights in the Property under this Agreement to Company's Lender as security for a loan for the Project.

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

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

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

If intended for SEDC, to

Kirk Clennan, Executive Director
Seagoville Economic Development
Corporation
105 N. Kaufman Street
Seagoville, Texas 75159
Facsimile No. (972) 287-9939

With a copy to:

Alexis G. Allen
Nichols, Jackson, Dillard, Hager &
Smith, LLP
1800 Ross Tower
100 N. Akard
Dallas, Texas 75201

If intended for Company, to:

Attn: Sweet Dish, LLC
2602 McKinney Avenue, Suite 240
Dallas, Texas 75204
Phone: 214.414.3810

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

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

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

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

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

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

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

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

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

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

- (i) Company and SEDC having entered into the Sale and Purchase Agreement;
- (ii) Company and SEDC having entered into the Restriction Agreement;
- (iii) Zoning Ordinance having been approved by the City;

Regular Agenda Item: 7

Meeting Date: February 6, 2017

Discuss and consider approving a resolution awarding a bid and authorizing the city manager to execute an agreement with Good Earth Corporation for mowing maintenance of parks, medians, rights-of-way, and other green spaces for a term of one (1) year, and authorizing two (2) one (1) year extensions (City Manager)

ITEM DESCRIPTION

Consider approval of a Resolution approving an Agreement by and between the City of Seagoville, Texas and Good Earth Corporation in an amount not to exceed \$93,800.00 for mowing services.

BACKGROUND OF ISSUE:

City Administration advertised for and received bids for mowing services in city parks, medians and other rights-of-way, along with trash removal. The City received two bids and finds the lowest qualified bid to be from Good Earth Corporation, therefore, City Administration recommends the bid be awarded to Good Earth Corporation in an amount not to exceed \$93,800.00.

City Administration is seeking City Council approval to execute an Agreement between Good Earth Corporation for mowing services, with pricing as outlined in Exhibit A, which includes necessary deletions by the City Manager, in an amount not to exceed \$93,800.00.

FINANCIAL IMPACT:

Funding for mowing services is included in our current operating budget.

EXHIBITS

- Exhibit A. Good Earth Corporation Bid Pricing, Insurance and Herbicide License
- Exhibit B. Mowing Services Agreement
- Exhibit C. Resolution

Good Earth Corporation
 8020 Heinen Drive
 Dallas, Texas 75227
 214-381-5899

Parks and Streets Mowing
City of Seagoville

COPY

Location	Frequency	Unit Price	Extend Price	
C.O. Bruce Central Park Approx. 33 Acres 1701 N. Highway 175	36	\$ 750.00	\$ 27000.00	city
Putnam Park Approx. 0.46 Acres 100 Avenue C Street	36	\$ 70.00	\$ 2520.00	city
Bearden Park Approx. 17.9 Acres 500 May Road	36	\$ 537.00	\$ 19332.00	city
Casa Grande Park Approx. 3.0 Acres 800 Casa Grande Drive	36	\$ 150.00	\$ 5400.00	city
Heard Park Approx. 3.5 Acres 801 Shady Lane	36	\$ 175.00	\$ 6300.00	city
City Hall/Police Station Veterans Park Approx. 5.0 Acres 702/600 N. Highway 175	36	\$ 250.00	\$ 9000.00	contract
Vacant Lot (Adjacent to City Hall) Approx. 2.7 Acres 500 E. Farmers Road	36	\$ 135.00	\$ 4860.00	city
Inner Service Roads along Highway 175 East and West Bound City Limits to City Limits	18/10	\$ 4800.00	\$ 86400.00 48,000	contract

Center and Outer Medians East and West Bound From City Limits to City Limits Including Entry Signs	18/8/10	\$ 800.00	\$ 14400.00	Contract
Highway 175 Underpass Approx. 1.50 Acres Highway 175 @ Malloy Bridge Road	18/8/10	\$ 210.00	\$ 3780.00	Contract
Highway 175 Underpass Approx. 1.50 Acres Highway 175 @ Hall Street	18/8/10	\$ 210.00	\$ 3780.00	Contract
Highway 175 Underpass Approx. 1.50 Acres Highway 175 @ Seagoville Road	18/8/10	\$ 210.00	\$ 3780.00	Contract
Malloy Bridge Rd. Medians Approx. 1 Acres Highway 175 to Cypress Street	18/8	\$ 140.00	\$ 2520.00	City
Seagoville Road Medians Approx. 14.5 Acres Highway 175 to City Limits and Highway 175 to turn around in Kaufman County	18/8	\$ 420.00	\$ 7560.00	City
Oatman Park Approx. 0.8 Acres 708 Elmo Drive	36	\$ 70.00	\$ 2520.00	City
Vacant Lot Approx. 1.83 Acres 902 N. Kaufman St. NE Corner-Hall Road and Kaufman Street	16	\$ 91.50	\$ 1464.00	City
Animal Shelter Approx. 1.89 Acres 1330 E. Malloy Bridge Road Unfenced Area	36	\$ 94.50	\$ 3402.00	City

Good Earth Corporation

8020 Heinen Drive
Dallas, Texas 75227
214-381-5899

Sewer Lot Approx. 4.0 Acres 36 1330 E. Malloy Bridge Road Fenced Area	<u>\$ 200.00</u>	<u>\$ 7200.00</u>
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city

Petty White Park Approx. 19 Acres 36 15601 Clover Hill Drive	<u>\$ 450.00</u>	<u>\$ 16200.00</u>
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• Contract

Fire Ant Treatment as Needed Medians, Right-of-Ways, Parks, and/or Facilities per acre	20 <u>\$ 245.00</u>	<u>\$ 4900.00</u>
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• Contract

Additional Mowing as Needed Medians, Right-of-Ways, Parks and/or Facilities per acre	15 <u>\$ 50.00</u>	<u>\$ 130.00 (75)</u>
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• Contract

Grassy/Weed Spraying As Needed Medians, Right-of-Ways, Parks, Highway 175 Service Roads and/or Facilities per acre	5 <u>\$ 130.00</u>	<u>\$ 650.00</u>
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• Contract

NAME: Good Earth Corporation	TOTAL \$233,718.00 93,800. ⁰⁰
ADDRESS: 8020 Heinen Drive	
Dallas, Texas 75227	

NOTE: TRASH AND LITTER MUST BE REMOVED PRIOR TO ALL MOWINGS.

Applicators are required to keep certificates of completion for 12 months following renewal of a license. 4 TAC§7.24(s)

Regulations and statutory provisions governing pesticide applicator licensees and their use of pesticides may be found in Chapter 7, Title 4, of the Texas Administrative Code and Chapter 76 of the Texas Agriculture Code, respectively. TDA's web site provides convenient links to these laws. Failure to comply with these laws, including misuse of any pesticide, may result in revocation, suspension, modification, or probation of your license and/or assessment of monetary administrative penalties.

If you have any questions regarding your license, please contact our Austin headquarters toll free at (877) LIC-AGRI (877-542-2474), or visit our web site at www.TexasAgriculture.gov. For the hearing impaired, you may call Relay Texas (800) 735-2988 (voice) or (800) 735-2989 (TDD) or visit our web site.

TEXAS DEPARTMENT OF AGRICULTURE
P. O. BOX 12847 AUSTIN, TEXAS 78711-2847

**COMMERCIAL PESTICIDE APPLICATOR
LICENSE**

KEVIN POINTS

8020 HEINEN DR
DALLAS TX 75227

TDA Client No: 00491814
License No: 0644193
Effective Date: 10/31/2016
Expires: 10/31/2017



Front side

Categories: 3A

Descriptions:

1A Field Crop	3A Landscape Maint
1B Fruit, Nut, & Veg	3B Nursery Plant Prod
1C Pasture & Rangeland	4 Seed Treatment
1D Vertebrate Pest	5 Vegetation Mgmt
1E Farm Commodity Pest Control	6 Aquatic
1F Animal Health	7 Demonstr & Research
1G Citrus	8 Reg Pest Control
1H Livestock Prot Collar	9 Aerial Application
1I M-44 Device	11 Soil Fumigation
2 Forest Pest Control	12 Public Health Pest Control (Vector)

Back side

LAMINATION ADVISED: Please cut out along heavy black lines, placing front and back sides together, and laminate.

TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER
P. O. BOX 12847 AUSTIN, TEXAS 78711-2847
(877) LIC-AGRI (877-542-2474)
For the hearing impaired: (800) 735-2989 TDD (800) 735-2988 VOICE
www.TexasAgriculture.gov



COMMERCIAL PESTICIDE APPLICATOR LICENSE

This is to certify that the person whose name appears below has met the requirements of Texas Agriculture Code Chapter 76, relating to application of restricted-use or state-limited-use pesticides or regulated herbicides. This license is issued for purchase and application of restricted-use or state-limited-use pesticides or regulated herbicides to be used according to label directions consistent with the use categories listed below.

KEVIN POINTS
8020 HEINEN DR
DALLAS TX 75227

TDA Client No: 00491814
License No: 0644193
Effective Date: October 31, 2016
Expires: October 31, 2017
Categories:



3A

RESOLUTION NO. 07-R-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, APPROVING AN AGREEMENT BY AND BETWEEN THE CITY OF SEAGOVILLE, TEXAS, AND GOOD EARTH CORPORATION IN AN AMOUNT NOT TO EXCEED \$93,800.00 FOR MOWING SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City Administration advertised for and received bids for mowing services in city parks, and on medians and other rights-of-way, along with trash removal; and

WHEREAS, City Administration has determined that Good Earth Corporation submitted the lowest qualified bid and recommends the bid 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 bid as recommended.

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

SECTION 1. That the City Manager is hereby authorized to execute the Agreement with Good Earth Corporation, attached hereto as Exhibit A, including deletions determined to be necessary by the City Manager, in an amount not to exceed \$93,800.00 for mowing services.

SECTION 2. The City Manager is authorized to renew the contract described in Section 1, above, 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 and provided funds have been budgeted for the costs related to such contract renewal for the fiscal year in which such renewal is approved.

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 6th day of February, 2017.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Christie Wilson, Interim City Secretary

APPROVED AS TO FORM:

Alexis Allen, City Attorney

Vacant Lot (902 N. Kaufman Street)
Animal Shelter
Sewer Lot (1330 E. Malloy Bridge Road)

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 Ninety-Three thousand, eight hundred dollars (\$93,800.00).

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 ten (10) 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:

Alexis G. Allen, 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
8020 Heinen Drive
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.

(signature page to follow)

EXECUTED this _____ day of _____, 2017.

City of Seagoville, Texas

By: _____
Pat Stallings, City Manager

Approved as to form:

By: _____
Alexis G. Allen, City Attorney

EXECUTED this _____ day of _____, 2017.

Good Earth Corporation

By: _____

Name: _____

Title: _____

EXHIBIT "A"
Bid Specifications



**CITY OF SEAGOVILLE
INVITATION TO BID
Bid Number 2017-01-0103**

SCOPE AND INTENT

The City of Seagoville is accepting Competitive Sealed Bids for performing all work necessary for the mowing maintenance of city parks, city medians, city right-of-ways, TxDOT and Highway 175 right-of-ways, and other lots along with removal of all trash and litter prior to all mowing in the City of Seagoville, Dallas County, Texas. All pricing will remain fixed for a one (1) year term period and should be based upon the specifications and documents included in this bid. *Various official and unofficial sources were used to estimate quantities/acreage for this proposal. Every effort was made to ensure the accuracy of this data; however, no guarantee is given or implied as to the accuracy of said data.* Sealed bids addressed to the Honorable Mayor and City Council of the City of Seagoville, Texas will be received in the office of the City Secretary, at City Hall, 702 N. Highway 175, Seagoville, Texas, until 10:00 a.m. Local Time, Tuesday, January 31, 2017, and will be opened and read aloud in City Hall at that time. Any proposal received after the stated closing time will be returned unopened.

Plans, specifications, and bidding documents may be obtained from the City Secretary's Office at the City Hall, beginning at 10:00 a.m. on Wednesday, January 4, 2017.

PRE-BID CONFERENCE: A pre-bid conference will be held Tuesday, January 17, 2017, 10:00 a.m. Local Time, City Hall, City Council Conference Room, 702 N. Highway 175, Seagoville, TX 75159. Bidders are highly encouraged to attend.

SPECIFICATION INTENT: The City of Seagoville, Texas wishes to enter into one (all or none bid) one-year (1 year) term bid for the mowing maintenance of:

CITY PARKS, CITY MEDIANS, CITY RIGHT-OF-WAYS, TxDOT AND HIGHWAY 175 RIGHT-OF-WAYS, AND OTHER LOTS ALONG WITH REMOVAL OF ALL TRASH AND LITTER PRIOR TO ALL MOWING.

SPECIFICATION CONTACT : Any questions regarding these specifications or contracts may be directed to Ladis Barr, Community Development Director at (972) 287-6829 Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m. Questions, clarifications, and or requests for information will not be accepted after end of business day, Tuesday, January 24, 2017 (or within ten days of bid opening if bid opening date is changed) for items directly and or indirectly related to this bid, its service or its contents.

CONTRACT PERIOD: The term of the bid shall be for a period of one (1) year from when

successful bidder is expected to be available to provide service which is February 6, 2017 or date of City Council award, if subsequent thereto, with options to renew at the end of the period. Renewal shall be based on an evaluation by the Community Development Department (hereinafter referred to as "the Department") of the contractor's performance during the previous period, budget requirements, etc.

Prices shall be fixed for the initial one year period.

After completion of the initial one year term, the City and the Contractor may, upon mutual consent, renew the term bid for two additional one (1) year periods. Increases in contract pricing during the renewal periods shall not exceed the consumer price index of the Dallas/Fort Worth standard metropolitan statistical area for the previous twelve (12) month period. The city reserves the right to cancel the term bid upon thirty (30) days written notice.

APPLICABLE LAW:

This Contract is entered into subject to the Charter and ordinances of the City of Seagoville, as they may be amended from time to time, and is subject to and is to be construed, governed, and enforced under all applicable City of Seagoville, County of Dallas, State of Texas and federal United States of America laws. The parties to this contract agree and covenant that for all purposes, including performance and execution, that this contract will be enforceable in Seagoville, Texas; the County of Dallas; the State of Texas and the United States of America; and that if legal action is necessary to enforce this contract, exclusive venue will lie in Dallas County, Texas. The Contractor shall give all notices and comply with all federal, state and local laws, ordinances, rules and regulations, and lawful orders of any public authority bearing on the performances of the services. This agreement and the rights and obligations of the parties hereto shall be interpreted, construed and enforced in accordance with the laws of the City of Seagoville, County of Dallas, State of Texas and federal laws of the United States of America. The Contractor warrants and covenants to the City that all services will be performed in compliance with all applicable federal, state, county, and city health and safety codes, rules and ordinances including, but not limited to, the Texas Industrial Safety and Health Act, the Workers Right to Know Law, and the Immigration Reform and Control Act of 1986 (IRCA).

In submitting this proposal, all bidders shall have reviewed the storm water drainage ordinance and other applicable environmental ordinances of the city or state law requirements relative to the work to be performed under this proposal. A successful bidder shall be required to comply with all relevant requirements of said ordinances and statutes in the performance of its obligations under this proposal.

Additionally, this agreement shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform

Commercial Code as adopted in the State of Texas as effective and in force on the date of this agreement.

CONFLICT OF INTEREST:

No public official shall have interest in this contract, in accordance with Vernon's Texas Codes Annotated, Local Government Code, Title 5, Subtitle C, Chapter 171.

EMPLOYMENT ELIGIBILITY VERIFICATION:

The Immigration Reform and Control Act of 1986 (IRCA) makes it illegal for employers to knowingly hire or recruit immigrants who do not possess lawful work authorization and requires employers to verify their employees' work eligibility on a U.S. Department of Justice Form I-9. **THE CONTRACTOR/CONTRACTOR WARRANTS THAT CONTRACTOR/CONTRACTOR IS IN COMPLIANCE WITH IRCA AND WILL MAINTAIN COMPLIANCE WITH IRCA DURING THE TERM OF THE CONTRACT WITH THE CITY. CONTRACTOR/CONTRACTOR WARRANTS THAT CONTRACTOR/CONTRACTOR HAS INCLUDED OR WILL INCLUDE A SIMILAR PROVISION IN ALL WRITTEN AGREEMENTS WITH ANY SUBCONTRACTORS ENGAGED TO PERFORM SERVICES UNDER THIS CONTRACT.**

CONTRACTOR QUALIFICATIONS:

Contractors submitting bids certify to the City that they possess all necessary equipment, facilities, personnel and work experience to fulfill the terms of the Contract at the time of bid submission, and be ready to proceed on the starting date for the initial contract period.

The Contractor(s) shall be required to keep sufficient equipment and labor on hand to do a complete mowing of the areas specified by contract, as often as may be specified, should the growing season demand.

Bidder must submit with each bid, a list of all equipment, giving year, model and make of machines to be used and three (3) work references. The successful bidder will have modern, well-maintained equipment suitable for Park Maintenance. This equipment shall be of 2011 model year or newer (to help eliminate breakdowns and poor performance). All equipment shall be subject to inspection by City Representative.

GENERAL PROVISIONS

By his acceptance of the contract, the successful Contractor(s) shall warrant that he is familiar with and understands all provisions herein and warrants that he shall comply with them.

All operations described in these specifications shall be conducted by the Contractor(s)'s personnel and the expense of all such operations shall be the Contractor(s)'s.

- A. The Contractor(s) shall provide his/her own equipment, labor, fuel and any other materials necessary to complete the required work. The Contractor(s) shall be responsible for the maintenance and repair of his/her own equipment and the availability, presence and supervision of his/her own employees.
- B. There shall be no subcontractor(s) used by the Contractor(s) to fulfill any items or conditions of the contract without prior written consent of the Department.

A failure to adhere to the provisions of this contract by the Contractor(s) shall be deemed a material breach.

BID AWARD CRITERIA:

Award: The City of Seagoville shall award the bid to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the City. In determining the "best value", the following criteria will be considered as amended in section 252.043 of the Texas Local Government Code:

- 1) the purchase price;
- 2) the reputation of the bidder and of the bidder's goods or services;
- 3) the quality of the bidder's goods or services;
- 4) the extent to which the goods or services meet the municipality's needs;
- 5) the bidder's past relationship with the municipality;
- 6) the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and on-profit organizations employing persons with disabilities;
- 7) the long-term cost to the municipality to acquire the bidder's goods or services and;
- 8) any relevant criteria specifically listed in the request for bids or proposals.

The evaluation of bids and the determination of conformity and acceptability shall be based on information furnished by the Contractor with his bid, as well as other information reasonably available to the City.

The City reserves the right to reject any and all bids and to award a contract based on the specifications to either the best value bidder or the lowest responsible bidder.

The City will enter into one distinct contract, to be awarded, each in its entirety, to either the best value bid or the lowest responsible bidder.

The evaluation of bids and the determination of conformity and acceptability shall be based on information furnished by the

Contractor with his bid, as well as other information reasonably available to the City.

The City of Seagoville will award this entire bid whole and will not award the contract individually or as a group.

The successful bidder may not assign their rights and duties under this contract and award without written consent of the City. Such consent shall not relieve the assignor of liability in the event of default by their assignee.

GENERAL CONDITIONS:

The Contractor(s) will work under the direction of the Community Development Director or his representative (hereafter referred to as "the City Representative") who will determine the locations and frequency of the mowing, and the amount of the equipment necessary to carry on the work.

No payment, on any basis, will be made for unsatisfactory mowing and/or equipment. The determination of the City Representative shall be final on all work.

Contractor shall submit a detailed invoice at the end of each month reporting the number of mows per site and a total cost for the month. Payment by the City will be made each month within thirty (30) days of receipt of invoice.

The City of Seagoville reserves the right to delete areas from the contract without penalty at any given time.

DEFAULT OF CONTRACT:

Should the contractor be determined by the City Representative to be in breach of contract due to failure to perform to the specifications of the contract and/or non-performance of scheduled mowing, he shall have twenty-four (24) hours from receipt of written notice to man the job and perform as specified. If the contractor fails to meet these requirements it shall be the City's option to utilize another contractor to conduct the mowing operations at an hourly rate. The cost differential between the contractor's price and the alternates hourly rate shall be deducted from any monies owed the contractor.

INSURANCE:

The successful bidder will be required to furnish a certificate of insurance to cover liability as follows:

- ◆ Liability (Aggregate) \$2,000,000 (Aggregate)
- ◆ Automobile Liability \$1,000,000 Combined Single Limit Coverage
- ◆ Performance Bond Full Amount of Annual Bid

Certificates of insurance in the amounts specified shall be delivered to the Community Development Director prior to

commencement of any work per contract provisions.

An annual performance bond shall also be required for each subsequent year of the contract, and shall be presented not later than sixty (60) days prior to the anniversary date of the contract in each subsequent contract year, in the amount listed above.

Such performance bonds shall guarantee the performance of the Contractor(s) under the terms and conditions of the specifications contained herein and the contract for services between the parties.

**CONTRACTOR'S AND
SUBCONTRACTORS
INSURANCE:**

The Contractor shall not commence work under this contract until he has obtained, at his expense, all insurance required under the section of Federal Conditions and by the contractor documents, and such insurance has been approved by the City, nor shall the Contractor allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Such insurance shall remain in full force and effect on all phases of the work, whether or not the work is occupied or utilized by the City, until all work under the contract is completed and has been accepted by the City.

Nothing contained in the insurance requirements shall be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from his operations under the contract. Two (2) separate Accord Certificates of Insurance will be required showing all coverages naming the Texas Department of Transportation (TxDOT), and the City of Seagoville as "Additional Insured" parties. The Accord Certificate of Insurance will be required within fifteen (15) calendar days of receipt of notice request.

The Contractor shall obtain and maintain for the full period of the contract the following types of insurance in the form, minimum limits and amount herein specified or as may be otherwise required in the contract documents. The Contractor shall automatically renew any policy, which expires during the performance of this contract, and notify the City of such a renewal prior to expiration date. The City of Seagoville, and TxDOT, shall be named as an "Additional Insured" on all of the below named insurance policies.

1. Workers' Compensation Insurance Coverage.

A. Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance

coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity, which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage Contractors, office supply deliveries, and delivery of portable toilets.

B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

(1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(2) no later than seven (7) days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. The contractor shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.

G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

(1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011 (44) for all of its employees providing services on the project, for the duration of the project;

(2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) obtain from each other person with whom it contracts, and provide to the contractor:

(a) a certificate of coverage, prior to the other person beginning work on the project; and

(b) a new certificate of coverage showing extension of coverage, prior to the end of the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;

(6) notify the governmental entity in writing by certified

mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the governmental entity.

2. Public Liability and Property Damage Insurance (Note "Indemnity" clause hereinafter)

Before commencement of the work, the Contractor shall submit written evidence that he and all his subcontractors have obtained for the period of the contract full Comprehensive General Liability and Property Damage Insurance Coverage with a company licensed to do business in the State of Texas. This coverage shall protect the Contractor, the City, and each of the officers, agents and employees from claims for damages for bodily or personal injury, sickness or disease, including death, and from claims for damages to property, which may arise directly or indirectly out of, or in connection with the performance of work under this contract by the contractor, by any of his subcontractors, or by anyone directly or indirectly employed by either of them, or under the control of either of them, and the minimum amount of such insurance shall be as follows unless higher minimum amounts are otherwise required in the contract documents.

Public Liability Insurance in an amount not less the Five Hundred Thousand Dollars (\$500,000) for damages arising out of bodily injury or personal injury, sickness or disease, or death of one person and subject to the same limit for each person and in an amount not less than Two Million Dollars (\$2,000,000) in any one

occurrence and Property Damage Insurance in an amount not less than Five Hundred Thousand dollars (\$500,000) for all damages of others in any occurrence with an aggregate limit in the same amount.

The Property Damage portion of this coverage shall include, where applicable, explosion, collapse and underground exposure coverage. In addition, where completed Operations Insurance Coverage is applicable; such coverage will be maintained after completion and acceptance of the project for the full guarantee period.

3. Automobile Liability and Property Damage Insurance

Before commencement of the work, the Contractor shall submit written evidence that he and all his subcontractor(s) have obtained Automobile Liability and Property Damage Insurance Coverage on all self-propelled vehicles used in connection with the contract, whether owned, non-owned, or hired. The liability limits shall be not less than Five Hundred Thousand Dollars (\$500,000) for injury or death of one person and in an amount not less than One Million Dollars (\$1,000,000) in any one occurrence; and Property Damage limits of not less than Five Hundred Thousand Dollars (\$500,000) in any one occurrence.

4. Contractual Liability Coverage

Each and every policy for Liability Insurance carried by each Contractor and Subcontractor will include a "Contractual Liability Coverage" endorsement sufficiently broad to insure the provision titled "Indemnity" hereinafter set forth.

5. Indemnity

The Contractor shall defend, indemnify and hold harmless the City, and each of the officers, agents, servants and employees, from any and all suits, actions, claims, losses, or 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 the 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 of, occurring in connection with, resulting from, or caused by the performance of any work or services called for by the contract or from conditions created by the performance of non-performance of said work or services, but not including the sole negligence of any party herein indemnified.

6. Evidence of Insurance Coverage

Before commencement of any work, the Contractor shall submit written evidence that he and all his subcontractors have obtained the minimum insurance required by the contract documents. Such written evidence shall be in the form of a Certificate of Insurance

executed by the Contractor's insurance carrier showing such policies in force for the specified period or by furnishing a copy of the actual policy or policies. Each policy or certificate shall bear an endorsement or statement waiving right of cancellation or reduction in coverage without ten (10) days notice in writing to be delivered by registered mail to the City.

BID BOND:

THERE WILL BE NO BID BOND/GUARANTY REQUIRED FOR THIS BID.

PERFORMANCE BOND:

The Contractor(s) shall be required to furnish a performance bond in the amount of 100% of the contract price acceptable to the City only covering service periods of twelve (12) months at a time and the annual amount governing either the bid or renewal, whichever is applicable. The successful Contractor(s) shall have fifteen (15) days following notification from the City to provide such bond. The bond is not required with submission of bid but within fifteen (15) calendar days of bid award notice and should be prepared in the prescribed format herein attached.

An annual performance bond shall also be required for each subsequent year of the contract, and shall be presented not later than sixty (60) days prior to the anniversary date of the contract in each subsequent contract year, in an amount listed above.

Such performance bonds shall guarantee the performance of the Contractor(s) under the terms and conditions of the specifications contained herein and the contract for services between the parties; bond must also be authorized by a surety agency authorized to do business in the State of Texas.

I. Requirements

a. GLOSSARY OF TERMS:

- I. Production schedule** shall mean the time periods established by the City for the project year within which all prescribed maintenance activities for each area shall be completed. If the Contractor expects to vary from the schedule, he/she shall notify the Community Development Director twenty-four (24) hours in advance, so work completion can be inspected in a timely manner. **Note: Failure to provide Community Development Director an accurate schedule in good faith may result in termination of contract.**
- II. Concurrent** shall refer to all mowing, trimming, edging, and litter removal on any given item being completed on the same day. Should a given area be too large to complete in a single day, any areas that have been mowed must be trimmed, edged, and litter removed on the same day the mowing occurs.
- III. Monthly billing cycle** shall refer to each time period in the mowing schedule for the project year. Each time period is defined by a beginning and ending date, in which all prescribed maintenance activities for each area shall be completed.

- IV. **Inclement weather** shall mean rainy weather or when the condition of the soil is such that the rutting of property will not allow cutting of grass to be accomplished satisfactorily.
- V. **Trash and litter** shall mean any debris within the mowing project area such as paper, cans, bottles, limbs/brush, rocks, etc., which is not intended to be present as part of the landscape. Inclusive of entire project area including streets, sidewalks, curbs, hillsides, ditches, etc. (where tree/brush/shrub lines or mowing edge determines the area, the successful bidder will extract litter an additional three (3) feet, where tree/brush/shrub lines are in front of fence the fence will be the determining boundary). Removal of debris may require sweeping of hard surface areas such as sidewalks. **ALL TRASH AND LITTER IS TO BE REMOVED PRIOR TO ALL MOWING.**
- VI. **Chemical trimming** shall refer to the use of a herbicide (such as Roundup and/or an approved equal) as an alternative to the physical removal or cutting of plant material from areas to be trimmed. **NOTE: CHEMICAL TRIMMING WILL NOT BE ACCEPTED FOR THE EDGING OF SIDEWALKS AND/OR CURBS.**
- VII. **Clumped grass cuttings** shall refer to any accumulation of cut grass that on the day the mowing occurs exceeds 3" in height above surrounding surface of cut grass. Clumps are typically found in areas where mowing equipment has completed one row and has reversed direction. Property is to be re-mowed to remove clumped grass prior to leaving property.
- VIII. **Mowing project area** shall refer to specific geographic area(s) of the City designated to receive specified mowing and related services.
- IX. **Trimming** shall refer to the cutting or removal of all plant materials immediately adjacent to or under City structures, trees, poles, tables, signs, fences, shrub beds, or other structures.
- X. **Edging** shall refer to the vertical removal of any and all plant material which encroaches over or onto sidewalks, curbs, steps, driveways and pavements. Edges shall be vertical, minimum depth of 1", and minimum width of 1/4". This task must be done neatly to present a clean, crisp appearance, having a smooth line. Line trimmer use is accepted along fences and poles.
- XI. **Scalping** shall refer to any action which results in the mowing of any turf area below the 1" height down to and including the soil. 2" height down to and including the soil for project areas designated on a fourteen (14) day mowing cycle.
- XII. **Mono-filament trimming** shall refer to trimming grass around fences, building, tree wells and posts. Do not directly use around the trunks of trees.

b. GENERAL SPECIFICATIONS:

I. MAINTENANCE CYCLES

- 1. The areas and maintenance function cycles to be provided are listed in the **Itemized Pricing List**. The quantities of cycles per site per year shall be estimates only and shall not constitute a guaranteed amount to be paid to the Contractor. Mowing,

edging/trimming, and litter pickup are considered a singular maintenance cycle.

2. Contractors are cautioned not to submit their bid until specifications and sites have been carefully examined. Field observations are required to determine exact locations and boundaries of areas maintained. The Community Development Director is available to assist as needed to identify areas.

II. ADDITIONS / DELETIONS / SUBSTITUTIONS

1. The Community Development Director is designated as the Ordering Officer and will have the authority to add or delete work, subject to the Purchasing Procedures of the City of Seagoville.
2. All work added or deleted will be specified by location. Jointly, the Community Development Director and the Contractor shall examine areas added or deleted to determine the exact coverage. Such examinations shall be documented and signed by both representatives, and will be the basis for determining the final scope of work and payment due to the Contractor under the contract price.
3. All documentation pertaining to the additions or deletions to the work shall be maintained in a project file by the Community Development Director.
4. The Contractor shall advise the Community Development Director, in writing, of ANY changes that need to be made to the outlined maintenance program in this contract and shall not proceed with any work until such time as he has received written concurrence from the Community Development Director.

III. CITY CONTACTS

1. This contract will be monitored by the City of Seagoville staff listed below.

Community Development Director Ladis Barr 972-
287-6829

City Manager Pat Stallings 972-287-6807

IV. ACCOUNT MANAGER

1. The Contractor must assign a designated Account Manager whose primary duties should involve inspecting the work of subordinates in the field and ensuring contract compliance. He/she must also have effective written and oral communication skills. The Account Manager's duties, experience, and percentage of time the bid expects him/her to commit to this contract should be designated In writing by successful Contractor and included with the final bid. The Account Manager **cannot** be involved in a substantial portion of the Contractor's maintenance or administrative duties.

V. COMPLETION TIME ALLOTMENTS

1. Upon receipt of a **NOTICE TO PROCEED**, the Contractor will be allotted five (5) days to complete their entire maintenance cycle (Monday through Friday). The work completion time allotment should be considered a maximum, there is no minimum. Weather and/or growth conditions may cause cancellation or delay of a mowing cycle which will be solely determined by Community Development Director. The Community Development Director also has sole discretion over whether soil/turf/ or weather conditions are appropriate for maintenance. Failure of the Contractor to abide by the Community Development Director's decision and direction may result in termination of contract.

VI. FAILURE TO MAINTAIN PRODUCTION SCHEDULE

1. Failure on the part of the Contractor to maintain the required production rate for a Project Area shall be sufficient reason for the Community Development Director to have the work in question or portions thereof completed by **others** if the Contractor shall not cure the default within twenty-four (24) hours of written notice of the default. If others complete work, any additional cost caused by a higher priced Contractor will be deducted from the original contractor's next payment, if any. Failure to sustain the maintenance schedule shall be determined in the following manner:
 - a. All Project Areas shall be maintained according to the production schedule assigned. Final assessment of each area may be made by the Inspector on the morning following the end of each maintenance cycle. If the Contractor fails to meet the contract specifications within the time limits of the schedule, then that portion of the work may be removed from his responsibility and may be reassigned to another contractor.
 - b. Contractor shall correct any deficiencies in work within twenty-four (24) hours of written or verbal notification. In the event the Contractor fails to correct the default to the satisfaction of the City within the specified time, or such greater time as the City may permit, the City shall exercise all rights, including the right to terminate the Contract in whole or part. The Contractor shall pay all costs and attorney's fees incurred by the City in the enforcement of any provision herein or within this document.

VII. REMEDIES FOR NON-COMPLIANCE

1. Failure on the part of the Contractor during the term of this contract in one (1) or more area(s) would be reasonable cause for the Community Development Director or designee to issue a Notice-to-Cure (NTC) warning, in addition to liquidated damages as required. Area(s) can include, but are not limited to:

- a. Non-performance of service in accordance with the specifications herein.
 - b. Having more than two (2) failed inspections.
 - c. Failure to maintain work schedule.
 - d. Failure to show.
2. Furthermore, the Contractor shall conduct operations in a manner that reflects favorably on the City. Calls from citizens concerning poor performance will be verified and if deemed correct, the Contractor shall be notified. Continued performance issues will result in cancellation of the contract.

VIII. DAMAGES

1. Any damage to public or private property shall be reported immediately to the Community Development Director.
2. The City shall not be liable for any loss or damage sustained by the Contractor. The Contractor shall save the City whole and harmless from any and all claims for liability or damage of whatsoever nature and kind, including cost of court and attorney's fees, suffered or asserted to have been suffered by any person or to any property of any person whomsoever, growing out of or resulting from or in any way connected with the performance of work under this agreement. The Contractor shall exercise every necessary precaution for the safety of work site and the protection of any and all persons and/or property located adjacent to or making passage through the work site.
3. The Contractor shall be responsible for any property damage caused by the use of vehicles or other equipment while engaged in this contract.
4. The Contractor will be responsible for any damages to the irrigation system due to negligence on the part of the Contractor or the Contractor's representative.

IX. SUPERVISION

1. The Contractor shall personally supervise all work as specified in the contract. If the Contractor cannot or will not personally supervise the work a competent account manager is to be assigned the responsibilities of supervision of all work in progress as specified in the contract.
2. The Contractor will be required to designate, in writing, to the City, the name and cell phone of the account manager. The designated account manager may not commence work duties until approved by the City.
3. The designated Account Manager will be given full authority and power to act for the Contractor on items pertaining to overall work performance, management, coordination, and supervision, whenever work specified herein is being performed.

4. The designated Account Manager may also serve as the Quality Control Inspector; provided that his/her job performance is maintained at an acceptable level to the City.
5. The Account Manager will be required to have a copy of the contract in their possession at all time work is in progress for referral concerning questions of contracting responsibility.
6. The Contractor/Account Manager shall provide supervision of all work crews at all times while performing work under this contract. Personal supervision is not required provided that communication equipment or other means are provided that enable the work crew to communicate with the Contractor at all times. Each work crew shall have a designated person on the work site that has the authority to respond to inquiries about work details or priorities.
7. The Contractor shall provide to the City the percent of time the Contractor expects the field supervisor to commit to this contract in writing.

X. EMPLOYEES

1. Contractor will require all employees to report to work in clean uniforms in good conditions including shirt, pants, and OSHA approved safety vest. Uniforms shall have the Contractor's name in a manner clearly identifiable to the public. Contractor must ensure that employees properly wear a shirt at all times.
2. Contractor's employees must be courteous to the public at all times while at the work site.
3. Contractor shall remove any personnel that is incompetent or endangers persons or property.
4. Contractor's employees will not consume/possess alcohol or use/possess any illegal drugs, or be under the influence of such while on City property and/or carrying on the requirement of this contract. The Contractor shall immediately remove any such employee from the work site.
5. Conflicts, or potential conflicts due to required work and public use of a location, shall be reported to the Community Development Director.
6. Notification to Contractor of complaints concerning the aforementioned shall be in writing if time and circumstance permits. Otherwise, notification shall be verbal or by telephone, and shall be confirmed in writing as soon as possible.

XI. EQUIPMENT

1. Insufficient and/or inadequate equipment as determined by the City of Seagoville is a cause for rejection of bid.
2. Contractor equipment must be maintained in good operating condition and in sufficient quantities to adequately perform all services. The equipment used in this contract must be year model

2011 or newer. Turf type tires will be mandatory on all mowing equipment so as to avoid turf damage and rutting.

3. The contractor is responsible for performing scheduled maintenance on all equipment used on the contract. As part of this bid the contractor must submit proof of an active Preventative Maintenance Equipment Program. Proof of an active successful Preventative Maintenance Program will be used in evaluation of this bid. Copy of program must be included in submittals.
4. Responses shall include a complete list of machinery & equipment available in **The City of Seagoville Equipment** to determine whether or not the Contractor can adequately perform the necessary work. All machinery & equipment the Contractor anticipates committing to this contract if awarded should be included in the listing.
5. The City of Seagoville reserves the right to inspect the Contractor's equipment prior to award of a contract.

XII. VEHICLES

1. All vehicles utilized under this contract will be clean, free of mud, dirt, and grime, without noticeable rust spots and faded paint serviceable, and shall comply with safety standards required by the State of Texas.
2. All vehicles used by the Contractor will be identified with company name or logo, conspicuously displayed on door panels. Professionally done hand lettering, magnetic signs, or pressure sensitive decals may be used to comply with this specification.
3. All vehicles operating from a public road shall have a rotating amber caution light mounted on the top of the vehicle.
4. Insufficient and/or inadequate vehicles as determined by the City of Seagoville is a cause for rejection of bid.
5. Responses shall include a complete list of vehicles available in **The City of Seagoville Equipment List** to determine whether or not the Contractor can adequately perform the necessary work. All vehicles the Contractor anticipates committing to this contract if awarded should be included in the listing.
6. The City of Seagoville reserves the right to inspect the Contractor's vehicles prior to award of a contract.

XIII. INSPECTIONS

1. The Contractor is responsible for establishing and maintaining an adequate quality control system to satisfactorily inspect and ensure that all work performed in each service is in full compliance with the contract.
2. The Contractor shall designate a Quality Control Inspector, whose main duty shall be to verify contract conformity of all work

performed. They are expected to inspect each property listed in this bid package upon completion of maintenance.

3. The Community Development Director will make a quality inspection of completed areas within forty-eight (48) hours, following receipt of weekly form.
4. If completed areas do not meet contractual specifications:
 - a. The Community Development Director will contact the Contractor to rework areas.
 - b. Community Development Director will then re-inspect areas within twenty-four (24) hours of notification of completion.
 - c. Areas requiring re-inspection MAY NOT be considered for payment for that billing cycle.
5. The City may inspect required equipment, supplies and safety items at any time when in use on City property. Any individual, crew or equipment found deficient shall be removed from service immediately until faulty conditions have been corrected and passed by the City. No such removal will reduce the Contractor's obligation to perform all work required under this contract and within the time schedule.

XIV. PERFORMANCE EVALUATION MEETINGS

1. A "walk" of all properties will be conducted with the Contractor and the Community Development Director. If the Community Development Director deems necessary the meeting may occur monthly, weekly, or as often as determined necessary to discuss performance.
2. A meeting shall be held not later than one (1) normal workday after a contract deficiency is noticed. Mutual effort will be made to resolve any and all problems identified.

XV. SAFETY

1. The following requirements apply to the services provided in this contract:
 - a. All employees shall have proper safety devices and equipment including hearing and eye protection, and safety vests. All personal protective equipment shall meet OSHA and TxDOT safety standards.
 - b. The Contractor shall exercise extreme caution while working on medians, road sides and high traffic areas. The latest Texas Manual on Uniform Traffic Control Devices standards for barricading and coning work areas must be followed at a minimum. At all locations, contractor shall provide "Mower Ahead" signs at each end of the work zone prior to commencement of work and remove signs upon completion.

- c. Contractor will park vehicles and equipment off city streets where possible. Under no circumstances shall any vehicle or equipment be parked on the inside lane of any street. Any vehicle or equipment park in the far right lane of any street shall have safety flashers/directional light bars on and working properly. The area behind the parked unit must be coned off with safety cones spaced ten (10) feet apart and a minimum of one hundred (100) feet behind the unit. The vehicles shall be clearly identified with the Contractor's company name and telephone number.
- d. Contractors discovered working without necessary safety devices or equipment in place will be required to stop all work in progress until adequate equipment has been obtained and approved by the Community Development Director.
- e. The Contractor must be licensed by the Texas Structural Pest Control Board and/or Texas Department of Agriculture. A copy of the license and a listing of the license numbers shall be submitted.
- f. Any hazardous condition or any damage to City property is to be immediately reported to the Community Development Director.

XVI. MOWING DAMAGE / SAFETY

- 1. The Contractor(s) shall be responsible for any damage to the property during the maintenance operation.
- 2. The Contractor shall be responsible for replacement of all trees, shrubs, ground covers, valve boxes, valve box lids, which are destroyed/damaged by the Contractor, employees or agents of the Contractor during the maintenance operation. They shall be replaced in seven (7) days, unless it is a safety hazard. Safety hazards must be handled ASAP.
- 3. Trees and shrubs must not be bumped or marked by mowing or edging equipment. Damage to trees or tree collars will be assessed at one hundred dollars (\$100) for each instance. If damage is severe tree/shrubs will be replaced based on the sole discretion of the Community Development Director.
- 4. Mulch rings shall be reshaped within twenty-four (24) hours when dislodged by mowing equipment.
- 5. Any hazardous conditions and/or damage to City property will be reported to the Community Development Director prior to leaving the work site.

XVII. OZONE ALERT DAYS:

1. On ozone alert days, Contractors are required to refrain from mowing until after 10a.m., unless diesel powered equipment is used. The North Central Texas Council of Governments offers currentdailyozoneconditions@http://www.nctcog.org/trans/air/ozone. This webpage can be checked daily for current ozone conditions. It is the responsibility of the Contractor to be aware of ozone alert conditions. Failure to comply with these standards will be grounds for the following:
 - a. First Offense: Verbal Warning.
 - b. Second Offense: Written Warning
 - c. Third Warning: Contract Termination

XVIII. SPECIFICATIONS FOR LANDSCAPE SERVICES

1. Mowing:

- a. All turf areas will be mowed per the bid schedule. Mowing height shall be 2" unless otherwise directed by the Community Development Director.
- b. Bruising or rough cutting of the grass is not permitted. Mowers will be adjusted and operated so that the grass is cut at a uniform height.
- c. The turf will be cut in different directions to help prevent the grass from growing in one direction and becoming rutted.
- d. Mulching mowers are preferred to mowers that throw clippings into rows.
- e. Areas serviced will have a finished appearance with walks and curbs appearing to have been swept. The successful Contractor shall not blow litter, debris, leaves, clippings, etc. into the streets, drainage ways/drainage inlets, landscape beds, or other property.
- f. Removal of all litter from the entire property, and hauling such debris away.
- g. Litter must be removed from turf prior to mowing (1" X 1" and larger). This includes, but not limited to, bottles, cans, paper, brush, rocks, tree limbs, etc. which are not intended to be part of the landscape. Shredded litter must be removed the day of the complaint or a twenty-five dollars (\$25) penalty per day for each area identified per site will be deducted from the appropriate monthly billing. No separate pay item shall be allowed for litter control on sites that are being mowed.
- h. All concrete, asphalt areas, brick pavers, paved ends on medians, and or right-of-ways shall be weed/grass free and blown clean of all debris after each cycle.
- i. Weeds/grass growing in the expansion joints, within two (2) feet of the edge of the paved surface, must be removed or treated with an approved herbicide as needed.
- j. All mowing is to be accomplished Monday through Friday, weather permitting. It will be considered a breach of the contract if the schedule is repeatedly missed.

k. The Community Development Director reserves the right to cancel scheduled mowing cycles on a week-to-week basis, based upon need, prevailing weather conditions, and available funding.

2. Edging / Trimming:

Edging all turf along walks, curbs, plant beds, signs, poles, fire hydrants and other obstacles shall occur every time property is mowed. Trimming shall provide a sharp, clean definition between the turf and hard surface. All materials dislodged by edging must be removed from the site.

3. Litter:

a. Litter is defined as all trash, 1" X 1" and larger. This is to include trash, tires, brush (branches and small limbs), furniture and etc.

b. Where tree / brush / shrub lines or mowing edge determines the litter pick-up area, the Contractor will extract litter an additional three (3) feet.

c. Where tree / brush / shrub lines are in front of fence the fence will be the determining boundary.

d. Picked-up litter will be legally disposed of in accordance with all City, State, and Federal environmental guidelines.

XIX. SPECIAL SPECIFICATIONS:

1. Incidental items to this bid (No Extra Pay) are:

- a. Weeds shall be removed from landscape areas at both City Entry Signs.
- b. Weeds shall be removed from landscape areas at beds at City Hall, Police Station and Veterans Park.
- c. Weeds growing in expansion joints or concrete joints shall be removed from all walkways, parking lots at City Hall, Police Station and Veterans Park.
- d. Weeds growing in expansion joints, concrete joints, and median paving areas shall be removed from the entire median limits on Seagoville Road and Malloy Bridge Road.
- e. Weeds may be removed by an approved herbicide as needed, providing no threat to other landscape/turf exists.
- f. Bushes and hedges at City Hall shall be trimmed two (2) times within the twelve (12) month contract period.

TEXAS STATUTORY PERFORMANCE BOND
BOND NO. _____

KNOW ALL MEN BY THESE PRESENTS:

THAT,

(hereinafter called the Principal), as Principal, and _____, a corporation organized and existing under the laws of the State of _____ licensed to do business in the State of Texas and admitted to write bonds, as surety, (hereinafter called the Surety), are held and firmly bound unto City of Seagoville, 702 N. Highway 175, Seagoville, TX 75159 (hereinafter called the Obligee), in the amount of _____ Dollars (\$ _____) for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain contract with the Obligee, dated the _____ day of _____, _____ for _____, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, That _____ if the said Principal shall faithfully perform the work in accordance with the plans, specifications and contract documents, then this obligation shall be null and void; otherwise to remain in full force and effect;

PROVIDED. HOWEVER, That this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of said Chapter to the same extent as if it were copied at length herein.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this _____ day of _____, _____.

PRINCIPAL:

BY:

SURETY:

BY:

The Resident Agent of the Surety in Dallas County, Texas, for delivery of notice and service of the process is:

Name:

Address:

Surety:

Title:

NOTE: The Date of the Performance Bond **MUST BE** the date of the contract. If Resident Agent is not a corporation please give a person's name.

**Parks and Streets Mowing
City of Seagoville**

Location	Frequency	Unit Price	Extend Price
C.O. Bruce Central Park Approx. 33 Acres 1701 N. Highway 175	36	\$ _____	\$ _____
Putnam Park Approx. 0.46 Acres 100 Avenue C Street	36	\$ _____	\$ _____
Bearden Park Approx. 17.9 Acres 500 May Road	36	\$ _____	\$ _____
Casa Grande Park Approx. 3.0 Acres 800 Casa Grande Drive	36	\$ _____	\$ _____
Heard Park Approx. 3.5 Acres 801 Shady Lane	36	\$ _____	\$ _____
City Hall/Police Station Veterans Park Approx. 5.0 Acres 702/600 N. Highway 175	36	\$ _____	\$ _____
Vacant Lot (Adjacent to City Hall) Approx. 2.7 Acres 500 E. Farmers Road	36	\$ _____	\$ _____
Inner Service Roads along Highway 175 East and West Bound City Limits to City Limits	18	\$ _____	\$ _____

Center and Outer Medians
East and West Bound 18 \$ _____ \$ _____
From City Limits to City Limits Including Entry Signs

Highway 175 Underpass
Approx. 1.50 Acres 18 \$ _____ \$ _____
Highway 175 @ Malloy Bridge Road

Highway 175 Underpass
Approx. 1.50 Acres 18 \$ _____ \$ _____
Highway 175 @ Hall Street

Highway 175 Underpass
Approx. 1.50 Acres 18 \$ _____ \$ _____
Highway 175 @ Seagoville Road

Malloy Bridge Rd. Medians
Approx. 1 Acres 18 \$ _____ \$ _____
Highway 175 to Cypress Street

Seagoville Road Medians
Approx. 14.5 Acres 18 \$ _____ \$ _____
Highway 175 to City Limits and Highway 175
to turn around in Kaufman County

Oatman Park
Approx. 0.8 Acres 36 \$ _____ \$ _____
708 Elmo Drive

Vacant Lot
Approx. 1.83 Acres 16 \$ _____ \$ _____
902 N. Kaufman St.
NE Corner-Hall Road and Kaufman Street

Animal Shelter
Approx. 1.89 Acres 36 \$ _____ \$ _____
1330 E. Malloy Bridge Road Unfenced Area

Sewer Lot
Approx. 4.0 Acres 36 \$ _____ \$ _____
1330 E. Malloy Bridge Road Fenced Area

Petty White Park
Approx. 19 Acres 36 \$ _____ \$ _____
15601 Clover Hill Drive

Fire Ant Treatment as
Needed Medians, 20 \$ _____ \$ _____
Right-of-Ways, Parks, and/or Facilities per acre

Additional Mowing as
Needed Medians, 15 \$ _____ \$ _____
Right-of-Ways, Parks and/or Facilities per acre

Grassy/Weed Spraying As
Needed Medians, 5 \$ _____ \$ _____
Right-of-Ways, Parks, Highway 175 Service Roads and/or Facilities per acre

NAME: _____
ADDRESS: _____ **TOTAL** \$ _____

NOTE: TRASH AND LITTER MUST BE REMOVED PRIOR TO ALL MOWINGS.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO interested Party.

6 AFFIDAVIT I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

 Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day
 of _____, 20 _____, to certify which, witness my hand and seal of office.

 Signature of officer administering oath

 Printed name of officer administering oath

 Title of officer administering oath

ADD ADDITIONAL PAGES AS NECESSARY

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information in this section is being disclosed.

Name of Officer

This section (item 3 including subparts A, B, C, & D) must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more?

Yes No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4

Signature of vendor doing business with the governmental entity

Date



ADDITIONAL REMARKS SCHEDULE

<small>AGENCY</small> Guaranty Insurance Services, Inc / INSURICA		<small>NAMED INSURED</small> Good Earth Corporation 8020 Heinen Dr Dallas, TX 75227 Dallas	
<small>POLICY NUMBER</small> SEE PAGE 1		<small>EFFECTIVE DATE:</small> SEE PAGE 1	
<small>CARRIER</small> SEE PAGE 1	<small>NAIC CODE</small> SEE P 1		

ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
 FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance**

**Description of Operations/Locations/Vehicles:
 aggregate applies on GL; Waiver of Subrogation also applies to Auto and Work Comp.; Additional insured on auto; Alternate Employer endorsement on WC; GL is extended to mobile equipment; Endorsements Attached.**

Agenda Item: 8

Meeting Date: February 6, 2017

Discuss and consider approving a resolution authorizing the City Manager to issue a purchase order to C&M Concrete for concrete repair work on Malloy Bridge Road, with pricing available through an Interlocal Cooperative Purchasing Agreement with the City of DeSoto, Texas (City Manager)

Item Description

Staff is seeking City Council approval to award a concrete repair project to C&M Concrete in the amount of \$156,850.25.

BACKGROUND OF ISSUE:

Staff's inspection of Malloy Bridge Road revealed several areas within the concrete portion of the roadway that are failing. The City has exhausted their normal maintenance efforts such as crack sealing and pothole repair within the affected areas. Staff recommends the replacement of approximately 1,844.07 square yards of concrete on Malloy Bridge Road between US Highway 175 and Kaufman Street. If approved, these repairs will significantly improve the roadway surface for the motoring public.

This repair project is part of an ongoing effort to maintain our City's roadways.

FINANCIAL IMPACT:

This project will be funded through the General Fund from the Street Maintenance Program. The estimate provided by C&M Concrete was submitted under the terms, conditions, specifications and pricing provided to the City of DeSoto, Texas in their Contract for Concrete Improvements Bid (DST-1502-RFB).

The City of Seagoville has a current and valid Interlocal Agreement with the City of DeSoto, Texas for cooperative purchasing, which allows us to utilize their current bid for concrete improvements.

Total projected cost: \$156,850.25

EXHIBITS

- Exhibit A. Estimate #1318 in the amount of \$156,850.25 from C&M Concrete
- Exhibit B. Resolution authorizing the expenditure.

**CITY OF SEAGOVILLE, TEXAS
RESOLUTION NO. 08-R-2017**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER TO C&M CONCRETE FOR CONCRETE REPAIR ON MALLOY BRIDGE ROAD; PROVIDING AN EFFECTIVE DATE.

WHEREAS, C&M Concrete submitted an estimate to repair Malloy Bridge Road between U.S. Hwy. 175 and Kaufman Street under the terms, conditions, specifications, and pricing available through an Interlocal Cooperative Purchasing Agreement with the City of DeSoto for concrete improvements in the amount of \$156,850.25; and,

WHEREAS, funding for these repairs is approved in the FY2016-2017 Street Maintenance Program budget; and,

WHEREAS, the City Council for the City of Seagoville, Texas has reviewed the estimate, and has determined it to be in the best interest of the City of Seagoville to authorize C&M Concrete to repair Malloy Bridge Road.

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

SECTION 1. The City Manager is hereby authorized, on behalf of the City of Seagoville, Texas, to issue a purchase order to C&M Concrete in an amount not to exceed \$156,850.25 (one-hundred, fifty-six thousand, eight-hundred, fifty dollars and twenty-five cents), which is attached hereto and incorporated herein as Exhibit "A".

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

PASSED AND APPROVED by the City Council of the City of Seagoville, Texas, this the 6th day of February, 2017.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Christie Wilson, Interim City Secretary

APPROVED AS TO FORM:

Alexis Allen, City Attorney

**C&M Concrete**

Chris Bowen
 362 Linkview dr
 Duncanville TX 75137
 bowenchris1@aol.com

Estimate

Number: E1318

Date: January 12, 2017

Bill To:

Patrick Stalling
 City Of Seagoville
 702 N HWY 175
 Seagoville, TX 75159

Ship To:

Malloybridge

PO Number	Terms	Project
		streets

Description	Quantity	Rate	Amount
133' x 12'-6" x 8" 186.2 = sq yards	186.20	75.00	13,965.00
74' x 12'-6" x 8" = 103.6 = sq yards	103.60	75.00	7,770.00
74' x 12'-6" x 8" = 103.6 sq yards	103.60	75.00	7,770.00
140' x 12'-6" x 8" = 196.0	196.00	75.00	14,700.00
164 lf curb	164.00	25.00	4,100.00
151' x 12'-6" x 8" = 211.4 sq yards	211.00	75.00	15,825.00
151 lf curb	151.00	25.00	3,775.00
10' x 12'-6" x 8" = 14.0 sq yards	14.00	75.00	1,050.00
10 lf curb	10.00	25.00	250.00
125' x 12'-6" x 8" = 175.0 sq yards	175.00	75.00	13,125.00
73' x 12'-6" x 8" = 102.2 sq yards	102.20	75.00	7,665.00
33' x 5' x 8" = 18.3 yards	18.30	75.00	1,372.50
90' x 12'-6" = 126 sq yards	126.00	75.00	9,450.00
90 lf curb	90.00	25.00	2,250.00



C&M Concrete

Chris Bowen
362 Linkview dr
Duncanville TX 75137
bowenchris1@aol.com

Estimate

Number: E1318

Date: January 12, 2017

Bill To:

Patrick Stalling
City Of Seagoville
702 N HWY 175
Seagoville, TX 75159

Ship To:

Malloybridge

PO Number	Terms	Project
		streets

Description	Quantity	Rate	Amount
7' x 39' x 8" = 30.00 sq yard	30.00	75.00	2,250.00
20' x 25' x 8" = 333.33 sq yards	333.33	75.00	24,999.75
240 lf curb	240.00	25.00	6,000.00
88' x 25' x 8" = 244.44 sq yards	244.44	75.00	18,333.00
88 lf curb	88.00	25.00	2,200.00
This estimate is submitted under the terms, conditions, specifications and pricing of the City of DeSoto's Contract for Concrete Improvements (DST-1502-RFB)			
Total			\$156,850.25

Regular Agenda Item: 9

Meeting Date: February 6, 2017

Discuss and consider approving an ordinance amending the Code of Ordinances, Chapter 19 "Utilities", Article 19.02 Solid Waste, by repealing in its entirety and replacing Article 19.02.008 Charges for Collection to provide new charges for the collection and disposal of solid waste within the city (Finance)

ITEM DESCRIPTION

Consider adoption of sanitation fee pass through cost increase from Republic Services

BACKGROUND OF ISSUE:

Republic Services has been conducting business with the City of Seagoville for eighteen (18) years. Republic provides weekly trash collection, bi-weekly recycle collection, and monthly bulk collection. Recycled items include aluminum cans, grocery bags, plastic bottles and containers, chipboard and box board, steel and tin cans, newspaper, cardboard, glass, magazines, catalogs, empty aerosol cans, phone books, and paper egg cartons.

Republic agreed to forgo any rate increase in 2017. The rates (base rates) approved by Council in its December 14, 2015 meeting are as follows:

<u>Service</u>	<u>Base Rate</u>
Residential Trash Rate	\$10.54
Residential Recycling Rate	\$2.70
Additional Poly Cart	\$3.97
Commercial Trash Rate	\$18.29
Additional Commercial Trash Cart	\$10.89

The Contract between the City and Republic Services for solid waste collection, transportation and disposal services provides for an annual rate adjustment to reflect the changes in the Consumer Price Index (CPI) and disposal in Section 5.03 "Modification to Rates". Republic Services can annually provide for increase to the base rate indicated above for the following reasons:

1. Based on information reflected in the DFW Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the United States Department of Labor (the "CPI").
2. To reflect increases or decreases in the Contractor's (Republic Services) disposal rate at the Disposal Site(s). The Disposal Site is operated by the City of Dallas, Texas.

The Contract between the City and Republic Services divides the Base Rate into operations and disposal of which operations equal approximately 70% and disposal equals approximately 30%. Republic Services has determined that their operating cost (as indicated by the CPI) is increasing

2.10% and the disposal cost is increasing 11.37%. Therefore, Republic Services requests an increase to the base rate of 4.88% as shown below:

70% operating cost (2.1% CPI increase)	1.47%
30% disposal cost (11.37% increase)	<u>3.41%</u>
Total proposed base rate increase	<u>4.88%</u>

This is a comparison of the Republic Services proposed rates to the current rates:

<u>Service</u>	<u>Proposed Base Rate</u>	<u>Current Base Rate</u>	<u>Increase</u>
Residential Trash Rate	\$11.06	\$10.54	\$0.52
Residential Recycling Rate	\$2.83	\$2.70	\$0.13
Additional Poly Cart	\$4.17	\$3.97	\$0.20
Commercial Trash Rate	\$19.19	\$18.29	\$0.90
Additional Commercial Trash Cart	\$11.43	\$10.89	\$0.54

As Republic Services is passing along its increases to the City, Staff proposes that these increases be passed on to the customer.

This is a comparison of the proposed City customer rates to the current rates:

<u>Service</u>	<u>Proposed Base Rate</u>	<u>Current Base Rate</u>	<u>Increase</u>
Residential & Recycling Trash Rate	\$18.20	\$17.55	\$0.65
Additional Residential Trash	\$7.25	\$7.45	\$0.20
Commercial Trash Rate	\$25.65	\$24.75	\$0.90
Additional Commercial Trash Cart	\$25.29	\$24.75	\$0.54

FINANCIAL IMPACT:

If the proposed increased rates are approved, there is no financial impact. The proposed rate increase offsets the proposed cost increase.

If the proposed rates are not adopted, the General Fund will experience the following shortfall this fiscal year (based on number of accounts):

Commercial	
Regular accounts (198) * Shortfall (.90) * 6 months	\$1,069.20
Additional cart accounts (11) * Shortfall (.54) * 6 months	35.64
Residential	
Regular accounts (3,684) * Shortfall (.65) * 6 months	14,367.60
Additional cart accounts (162) * Shortfall (.54) * 6 months	524.88
TOTAL	\$15,997.32

EXHIBITS

Republic Services Notice of Rate Increase
Solid Waste Collection Services Contract, Section 5.03
Ordinance Amending Code of Ordinances Chapter 19



1450 E Cleveland Street, Hutchins, TX 75141
o 972.225.4207 f 4 80.718.4157 republicservices.com

January 9, 2017

Tanangelia Beatty
City of Seagoville
702 N. Highway 175
Seagoville, TX 75159-1774

Dear Ms. Beatty,

Republic Services would like to take this opportunity to thank you for allowing us to service the solid waste needs of the City over the past 14 years. In accordance with the terms of the Solid Waste Collection Services Contract with the City, Republic Services requests a rate adjustment to reflect the changes in the Consumer Price Index (CPI) and disposal.

We are requesting an annual rate increase of 4.93% as allowed by the contract, Section 5.03 Modification to Rates. Due to an increase in the landfill and recycle disposal rates, this request reflects 30% increase of the disposal at a blended rate of 11.52% and 70% increase of the CPI rate of 2.1% for operating costs. Attached for your review is a copy of the CPI Index, the City of Dallas increase in disposal rates communication and the new rate schedules. The effective date of the increase would be February 1, 2017.

Republic Services truly appreciates your business and looks forward to continuing our relationship with the City of Seagoville and its citizens. I will wait to hear from you on what steps are required to implement this adjustment. I can be reached on my cell at (972) 670-2997, via email at RMota@RepublicServices.com or at the office at (972) 338-2550.

Best Regards,

Robyn Mota
Municipal Services Manager

Enc. Rate Schedules
Consumer Price Index (CPI)
McCommas Landfill Communication

Contractor agrees to comply with such applicable ordinances and laws in performing the services under the Contract.

5.0 BASIS OF PRICES AND METHOD OF PAYMENT

5.01 Waste Materials Collection and Disposal Rates (Exhibits C, E and F)

5.01.1 The prices to be paid by the City for the collection and disposal of Waste Material from all Residential Units and Municipal Facilities shall be as shown on Exhibit C, as adjusted in accordance with Section 5.03, and shall be computed based upon the actual number of Residential Units and specific Municipal Facilities to which Contractor provided such services during each month of this Contract (the "Base Rates").

5.02 Additional Costs and Charges

5.02.1 Cost Recovery Fees.

5.02.1.1 Pass Through Tax/Cost Increases. Contractor may pass through certain cost increases directly to the City to adjust for increases in cost to Contractor due to the disposal facility being used, changes in local, state, or federal rules, ordinances or regulations, and changes in taxes, fees or other governmental charges (other than income or real property taxes).

5.02.1.2 Except as provided expressly herein, the charges for Contractor's service with respect to this work shall include all transportation costs and disposal fees.

5.03 Modification to Rates

5.03.1 All rates for Residential Solid Waste, Commercial Solid Waste, Industrial Solid Waste collection, transportation, and disposal services will be established by the City by ordinance upon the annual anniversary of the Effective Date (the "Rate Modification Date"). The Base Rates for the first year of the Initial Term beginning February 1, 2016 and ending January 31, 2017, are set forth in Exhibit C to this Contract. Contractor shall hold firm the Base Rates in Exhibit C set forth in this Contract during the first year of this Contract, with annual increases in the second (2nd) and subsequent years of this Contract. The Base Rates will automatically increase or decrease annually based upon the current DFW Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W): All Items index (1982-84=100) prepared by the United States Department of Labor (the "CPI"). The annual CPI increases shall be applied on each anniversary date of this Contract, so long as this Contract is in effect; provided, however, that no such increase shall be effective sooner than forty-five (45) days following written notice from Contractor to the City. In no event will the Base Rates decrease if the CPI is negative.

5.03.2 The Base Rates in Exhibit C shall also be increased or decreased, as the case may be, to reflect increases or decreases in Contractor's disposal rate at the Disposal Site(s). The following shall apply for purposes of calculating any adjustment to Contractor's fees under this subparagraph: On each anniversary of this Agreement (the "Rate Modification Date"), the Base Rates shall be increased by a combination of (1) the percentage increase in operating costs for the most recent twelve (12) month period immediately preceding the Rate Modification Date, and (ii) any increases in disposal costs. Contractor shall submit to City in writing its adjustment to the Base Rates and the supporting data for same, no less than 60 days prior to the request. The Base Rates shall be divided into operations and disposal of which operations equal approximately 70% of the Base Rates and disposal equals approximately 30% of the Base

Rates. The operations portion of the Base Rates will be adjusted by the actual increase in operating costs for the most recent twelve (12) month period prior to the Rate Modification Date; provided, however, that the operational portion of the increase of Base Rates will not exceed the CPI change for the same twelve-month period. The disposal portion of the Base Rates will be adjusted by the annual increase in disposal rates.

- 5.03.3 In addition to the above, Contractor may petition the City at any time for additional rate and price adjustments at reasonable times on the basis of unusual changes in its cost of operations, such as revised laws, ordinances, or regulations; changes in location of Disposal Sites, an increase in the number of Residential Units such as City growth or annexation; and for other reasons. Such rate adjustments shall be subject to the review and consent of the City.
- 5.04 City to Act as Collector – The City shall submit statements to and collect from all Residential Units and Small Commercial Accounts for services provided by Contractor pursuant to this Contract, including those accounts that are delinquent.
- 5.05 Delinquent and Closed Accounts Contractor shall discontinue Waste Material collection service at any Residential Unit as set forth in a written notice sent to it by the City. Upon further notification by the City, Contractor shall resume Waste Material collection on the next regularly scheduled collection day. The City shall indemnify and hold Contractor harmless from any claims, suits, damages, liabilities or expenses (including but not limited to expenses of investigation and attorney's fees) resulting from Contractor's discontinuing service at any location at the direction of the City.
- 5.06 Contractor Billings to City – Contractor shall bill the City for Solid Waste Material collection and disposal services rendered to Residential Units within ten (10) days following the end of the month and the City shall pay Contractor on or before the 15th day following the end of such month. Such billing and payment shall be based on the price rates and schedules set forth in the Contract Documents.
- 5.07 Audit – The City may request and be provided with an opportunity to audit of all relevant books and records of Contractor which are used to support the calculations of the charges invoiced to the City under this Contract. Such audits shall be paid for by the City and shall be conducted under mutually acceptable terms at Contractor's premises in a manner which minimizes any interruption in the daily activities at such premises. The scope of any such audit may encompass only the relevant books and records pertaining to charges which were invoiced to the City within ninety (90) days of any such audit request from the City.

6.0 COMPLIANCE WITH LAWS

Contractor shall conduct operations under this Contract in compliance with all applicable laws; provided, however, that the Contract shall govern the obligations of Contractor where there exist conflicting ordinances of the City on the subject.

7.0 NON-DISCRIMINATION

Contractor shall not discriminate against any person because of race, sex, age, creed, color, religion or national origin.

8.0 RISK ALLOCATION AND INDEMNITY

CITY OF SEAGOVILLE, TEXAS

ORDINANCE NO. 01-2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, DALLAS COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 19, "UTILITIES" BY AMENDING ARTICLE 19.02, SOLID WASTE, SECTION 19.02.008, CHARGES FOR COLLECTION, BY REPEALING IT IN ITS ENTIRETY AND REPLACING WITH A NEW SECTION 19.02.008, CHARGES FOR COLLECTION, TO PROVIDE FOR NEW COLLECTION FEES; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Seagoville has established charges for the collection and disposal of solid waste in Section 19.02.008 of the Code of Ordinances; and

WHEREAS, the City's contract with Republic Services for solid waste collection services provides that Republic Services would hold firm the base rates established in the contract established February 1, 2016 for the first year of the contract with annual increases in the second (2nd) and subsequent years of the contract, the current contract expiring January 31, 2018; and

WHEREAS, Republic Services has formally requested a rate adjustment to reflect changes in the Consumer Price Index (CPI) and disposal; and

WHEREAS, the City in its municipal services contract dated February 1, 2016 agreed to ensure that at all times during the term of the contract the City will charge, pursuant to an ordinance duly passed by the City's governing body, a sufficient rate from the City's solid waste customers to pay the amounts due under the contract ; and

WHEREAS, the City Council of the City of Seagoville, Texas, has determined that Section 19.02.008 of the Code of Ordinances should be amended to provide new charges for the collection of solid waste within the City;

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

SECTION 1. That the Code of Ordinances be, and the same is, hereby amended by amending Chapter 19, Article 19.02, Solid Waste, to provide new charges for the collection and disposal of solid waste within the City, which shall read as follows:

"ARTICLE 19.02 SOLID WASTE

Sec. 19.02.008 Charges for collection

(a) Residential curbside service. The minimum rate for residential customers obtaining curbside service from the city or its authorized collector will be eighteen dollars and twenty cents (\$18.20) per month. An extra residential trash cart will be seven dollars and forty-five cents (\$7.45) per month. This service will include one (1) household garbage pickup per week, one (1) recyclable pickup bi-weekly and large brush and large bulk item pickup on a once-a-month basis.

(b) Commercial curbside service. The minimum rate for commercial customers obtaining curbside collection service from the city or its authorized collector collecting less than two (2) cubic yards of garbage per week will be twenty-five dollars and sixty-five cents (\$25.65) per month. An extra commercial trash cart will be twenty-five dollars and twenty-nine cents (\$25.29) per month.

(c) Commercial dumpster service. The rate charged for commercial dumpster service shall entail a ten-percent city franchise fee. The rate charged for commercial dumpster service shall be assessed and collected from all commercial customers using such services as follows:

COMMERCIAL PRICING

Container COMMERCIAL CONTAINER:							
Sizes	1x/wk	2x/wk	3x/wk	4x/wk	5x/wk	6x/wk	Extra Pickup
2	\$58.35	\$103.35	\$166.73	\$218.20	\$332.05		\$64.89
3	\$70.01	\$136.71	\$185.08	\$266.76	\$342.49	-	\$82.35
4	\$80.01	\$168.39	\$260.08	\$338.44	\$420.14	-	\$94.12
6	\$120.03	\$241.74	\$324.02	\$416.79	\$526.31	-	\$141.19
8	\$145.27	\$263.30	\$416.79	\$550.18	\$708.56	\$839.14	\$170.88

ADDITIONAL CHARGES:

Containers with casters	\$2.28 per month
Containers with locks	\$1.13 per collection
or gates	\$1.13 per collection
Delivery, relocate and removal	\$75.00 per collection
Extra yardage	\$41.00 per yard
Container exchange/burned	\$200.00 per collection
Obstruction/return	\$25.00 per collection

INDUSTRIAL CONTAINERS:

ROLL-OFF CONTAINERS:

20 Cubic Yard Per Haul	\$453.05 per haul
30 Cubic Yard Per Haul	\$523.88 per haul
40 Cubic Yard Per Haul	\$585.02 per haul
Delivery and Exchange Daily	\$105.75
Container Rental	\$ 5.91

COMPACTORS:

6 Cubic Yard Compactor Charge	*See Below
8 Cubic Yard Compactor Charge	*See Below
30 Cubic Yard Compactor Charge	\$236.63 per haul plus disposal
35 Cubic Yard Compactor Charge	\$236.63 per haul plus disposal
42 Cubic Yard Compactor Charge	\$236.63 per haul plus disposal
Dry run and relocate	\$105.75 per collection

*Due to variations in equipment configurations, price will be negotiated with customer.

(f) Discount for persons over sixty-five (65), disabled, or blind: Two dollars (\$2.00) per month."

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

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

SECTION 4. This Ordinance shall take effect immediately from and after its passage, as the law and charter in such cases provide, however the sanitation rates established herein shall take effect the first billing after February 6, 2017.

DULY PASSED by the City Council of the City of Seagoville, Texas, on the 6th day of February, 2017.

APPROVED:

Dennis K. Childress, Mayor

ATTEST:

Christie Wilson, Interim City Secretary

APPROVED AS TO FORM:

Alexis G. Allen, City Attorney

Regular Agenda Item: 10

Meeting Date: February 6, 2017

Discuss and consider approving a resolution in support of the Transportation Alternatives Set-Aside Program Project for the Mathis Street Sidewalk Project (Community Development)

ITEM DESCRIPTION

Discuss and consider approving a Resolution in support of a Transportation Alternatives Set-Aside Program Grant Project to wit, Mathis Street Sidewalk Project.

BACKGROUND OF ISSUE:

The North Central Texas Council of Governments has announced a call for projects for the Transportation Alternatives Set-Aside Program. This grant specifically provides funding for sidewalks, pedestrian crossings and bicycle pavement etc. Staff has identified an area on Mathis Street that is in need of connecting sidewalks from the Seagoville Senior Citizens Home on Mathis Street to N. Kaufman St. This area is heavily traveled by senior citizens traveling on foot and in electric powered wheel chairs from the Senior Home to the Brookshire's Shopping Center. If approved and funded, this grant will allow the City to install sidewalks to improve pedestrian and handicapped mobility.

FINANCIAL IMPACT:

The total cost of this project is \$161,000.00. Per the Grant specifications the City would be required to provide 20% (\$32,000.00) in matching funds.

EXHIBITS

- Exhibit A. Resolution
- Exhibit B. Cost estimates provided by BSM Engineering

A RESOLUTION OF THE CITY OF SEAGOVILLE

RESOLUTION NO. 11-R-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, IN SUPPORT OF THE TRANSPORTATION ALTERNANTIVES SET-ASIDE PROGRAM PROJECT FOR THE MATHIS STREET SIDEWALK PROJECT, AUTHORIZING THE CITY MANAGER AS THE AUTHORIZED OFFICIAL FOR THE GRANT; PROVIDING FOR THE REPEAL OF ANY AND ALL RESOLUTIONS IN CONFLICT; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Regional Transportation Council, comprised of local elected officials, is the regional transportation policy board associated with the North Central Texas Council of Governments (NCTCOG) and the regional forum for cooperative decisions on transportation; and,

WHEREAS, the Regional Transportation Council approved on December 8, 2016 approximately \$23 million for the current Transportation Alternatives Set-Aside Program call for projects; and,

WHEREAS, the City of Seagoville intends to submit a transportation alternative project application for the Mathis Street Sidewalk Project to the North Central Texas Council of Governments (NCTCOG) prior to February 24, 2017 deadline; and,

WHEREAS, the Regional Transportation Council requires the submittal of a resolution as part of the Transportation Alternatives Set-Aside Project application submission.

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:

SECTION 1. The City of Seagoville supports the Mathis Street Sidewalk Project as applied for in the 2017 Transportation Alternative Set-Aside Call for Projects Application.

SECTION 2. The City of Seagoville will serve as the public sponsor and lead project contact on this project. The City of Seagoville agrees to designate a single point of contact for the project.

SECTION 3. The City of Seagoville commits to fund or pass through funds from other sources for a minimum local cash match of 20% of the total project cost.

SECTION 4. The City of Seagoville confirms that the City of Seagoville, not the Regional Transportation Council will be responsible for any cost overruns.

SECTION 5. The City of Seagoville understands and acknowledges that all awarded funding is provided on a reimbursement basis.

SECTION 6. The City of Seagoville confirms the project timeline is realistic and commits that if the project is selected for funding, an agreement will be executed within one year of selection and the project will advance to construction within three years from the date of selection.

DULY PASSED by the City Council of the City of Seagoville, Texas, on the 6th
day of February, 2017.

APPROVED:

DENNIS K. CHILDRESS, MAYOR

ATTEST:

CHRISTIE WILSON, INTERIM CITY SECRETARY

APPROVED AS TO FORM:

ALEXIS ALLEN, CITY ATTORNEY

**PRELIMINARY CONSTRUCTION COST ESTIMATE
 SIDEWALK IMPROVEMENTS
 along
 MATHIS STREET
 5' Wide Sidewalk, ADA Compliant**

CITY OF SEAGOVILLE, TEXAS

December, 2016

Estimated Quantity	Unit	Description	Unit Price	Amount
740	SY	5 foot Sidewalk, ADA compliant	\$ 70.00	\$ 51,800
300	LF	6 inch x 9 inch Toewall	20.00	6,000
85	CY	Excavation	60.00	5,100
400	SY	Remove and Replace Conc. Driveway	80.00	32,000
700	LF	42 inch Handrail	30.00	21,000
1	LS	Traffic Control		3,500
1	LS	Bonds and Insurance		3,500
1	LS	15% Contingency		18,100
CONSTRUCTION TOTAL				\$ 141,000
				\$ 16,000
				\$ 4,000
GRAND TOTAL				\$ 161,000

*Civil Engineering Fee
 Surveying Fee

*Note: Engineering Fee is for 24"x36" Construction Plans, details, and bid documents. Does not include construction observation.

This construction cost estimate is based on current unit prices from Burkham Construction Company.

Seagoville
 MathisStSidewalk12-16



SCALE 1" = 200'
 0 100 200 300 400



**5' WIDE CONC. SIDEWALK
 MATHIS STREET
 from KAUFMAN TO END
 City of Seagoville, Texas
 December 2016**

BSM	Consulting	TBPE #F000684
	City Engineers	
4111 East U.S. Hwy. 80, Suite 406 Mesquite, Texas 75150 (972) 681-4680 • bsm2@cawb.com		

Regular Agenda Item: 11

Meeting Date: February 6, 2017

Discuss and consider approving a resolution in support of the Transportation Alternatives Set-Aside Program Project for the Seagoville Road Sidewalk Project (Community Development)

Item Description

Discuss and consider approving a Resolution in support of a Transportation Alternatives Set-Aside Program Grant Project to wit, Seagoville Road Sidewalk Project.

BACKGROUND OF ISSUE:

The North Central Texas Council of Governments has announced a call for projects for the Transportation Alternatives Set-Aside Program. This grant specifically provides funding for sidewalks, pedestrian crossings, and bicycle pavement etc. Staff has identified an area on Seagoville Road from Seagoville North Elementary to City of Seagoville City limits right before entering into the City of Dallas that is need of sidewalk access. Numerous individuals including school children traverse this area on foot and bicycles. Without the use of sidewalks these individuals including school children are having to walk in the streets towards oncoming traffic or in the center median causing a safety concern. If approved and funded, this grant will allow the City to install sidewalks to improve pedestrian and bicycle mobility.

FINANCIAL IMPACT:

The total cost of this project is \$489,000.00. Per the Grant specifications, the City would be required to pay 20% (\$97,800.00) in matching funds.

EXHIBITS

Exhibit A. Resolution

Exhibit B. Cost estimates provided by BSM Engineering

A RESOLUTION OF THE CITY OF SEAGOVILLE

RESOLUTION NO. 12-R-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, IN SUPPORT OF THE TRANSPORTATION ALTERNATIVES SET-ASIDE PROGRAM PROJECT FOR THE SEAGOVILLE ROAD SIDEWALK PROJECT, AUTHORIZING THE CITY MANAGER AS THE AUTHORIZED OFFICIAL FOR THE GRANT; PROVIDING FOR THE REPEAL OF ANY AND ALL RESOLUTIONS IN CONFLICT; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Regional Transportation Council, comprised of local elected officials, is the regional transportation policy board associated with the North Central Texas Council of Governments (NCTCOG) and the regional forum for cooperative decisions on transportation; and,

WHEREAS, the Regional Transportation Council approved on December 8, 2016 approximately \$23 million for the current Transportation Alternatives Set-Aside Program call for projects; and,

WHEREAS, the City of Seagoville intends to submit a transportation alternative project application for the Seagoville Road Sidewalk Project to the North Central Texas Council of Governments (NCTCOG) prior to February 24, 2017 deadline; and,

WHEREAS, the Regional Transportation Council requires the submittal of a resolution as part of the Transportation Alternatives Set-Aside Project application submission.

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:

SECTION 1. The City of Seagoville supports the Seagoville Road Sidewalk Project as applied for in the 2017 Transportation Alternative Set-Aside Call for Projects Application.

SECTION 2. The City of Seagoville will serve as the public sponsor and lead project contact on this project. The City of Seagoville agrees to designate a single point of contact for the project.

SECTION 3. The City of Seagoville commits to fund or pass through funds from other sources for a minimum local cash match of 20% of the total project cost.

SECTION 4. The City of Seagoville confirms that the City of Seagoville, not the Regional Transportation Council will be responsible for any cost overruns.

SECTION 5. The City of Seagoville understands and acknowledges that all awarded funding is provided on a reimbursement basis.

SECTION 6. The City of Seagoville confirms the project timeline is realistic and commits that if the project is selected for funding, an agreement will be executed within one year of selection and the project will advance to construction within three years from the date of selection.

DULY PASSED by the City Council of the City of Seagoville, Texas, on the 6th
day of February, 2017.

APPROVED:

DENNIS K. CHILDRESS, MAYOR

ATTEST:

CHRISTIE WILSON, INTERIM CITY SECRETARY

APPROVED AS TO FORM:

ALEXIS ALLEN, CITY ATTORNEY

**PRELIMINARY CONSTRUCTION COST ESTIMATE
SIDEWALK IMPROVEMENTS
along
SEAGOVILLE ROAD
from SEAGOVILLE NORTH ELEM. SCHOOL to CITY LIMITS
5' Wide Sidewalk, ADA Compliant**

CITY OF SEAGOVILLE, TEXAS

January, 2017

Estimated Quantity	Unit	Description	Unit Price	Amount
4,500	SY	5' Wide Sidewalk, ADA compliant	\$ 54.00	\$243,800
750	CY	Excavation	60.00	45,000
14	EA	HC Ramp at Exist. Street Intersection	3,500.00	49,000
20	EA	Connection at Exist Driveways	1,000.00	20,000
1	LS	Traffic Control		16,000
1	LS	Bonds and Insurance		18,000
1	LS	10% Contingency		38,000
CONSTRUCTION TOTAL				\$ 429,000
*Civil Engineering Fee				\$ 46,000
Surveying Fee				\$ 14,000
GRAND TOTAL				\$ 489,000

*Note: Engineering Fee is for 24"x36" Construction Plans, details, and bid documents. Does not include construction observation.

This construction cost estimate is based on current unit prices from Burkham Construction Company.

Seagoville
SeagovilleRdSidewalk1-17

Drawing: Seago/W&SSMap/SeagovilleRd.SidewalkSchooltoCL

Regular Agenda Item: 12

Meeting Date: February 6, 2017

Discuss and consider approving a resolution in support of the Transportation Alternatives Set-Aside Program Project for the Malloy Bridge Road Sidewalk Project (Community Development)

ITEM DESCRIPTION

Discuss and consider approving a Resolution in support of a Transportation Alternatives Set – Aside Program Grant Project to wit, Malloy Bridge Road Sidewalk Project.

BACKGROUND OF ISSUE:

The North Central Texas Council of Governments has announced a call for projects for the Transportation Alternatives Set-Aside Program. This grant specifically provides funding for sidewalks, pedestrian crossings and bicycle pavement etc. Staff has identified an area on E. Malloy Bridge Road from the Villas of Seagoville to the Wal-Mart Shopping Center that is in need of sidewalk access. Numerous individuals traverse this area on foot and in electric powered wheel chairs causing a safety concern. If approved and funded, this grant will allow the City to install sidewalks to improve pedestrian and handicapped mobility.

FINANCIAL IMPACT:

The total cost of this project is \$76,000.00. Per the Grant specifications, the City would be required to pay 20% (\$15,200.00) in matching funds

EXHIBITS

- Exhibit A. Resolution
- Exhibit B. Cost estimates provided by BSM Engineering.

A RESOLUTION OF THE CITY OF SEAGOVILLE

RESOLUTION NO. 13-R-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, IN SUPPORT OF THE TRANSPORTATION ALTERNATIVES SET-ASIDE PROGRAM PROJECT FOR THE MALLOY BRIDGE ROAD SIDEWALK PROJECT, AUTHORIZING THE CITY MANAGER AS THE AUTHORIZED OFFICIAL FOR THE GRANT; PROVIDING FOR THE REPEAL OF ANY AND ALL RESOLUTIONS IN CONFLICT; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Regional Transportation Council, comprised of local elected officials, is the regional transportation policy board associated with the North Central Texas Council of Governments (NCTCOG) and the regional forum for cooperative decisions on transportation; and,

WHEREAS, the Regional Transportation Council approved on December 8, 2016 approximately \$23 million for the current Transportation Alternatives Set-Aside Program call for projects; and,

WHEREAS, the City of Seagoville intends to submit a transportation alternative project application for the Malloy Bridge Road Sidewalk Project to the North Central Texas Council of Governments (NCTCOG) prior to February 24, 2017 deadline; and,

WHEREAS, the Regional Transportation Council requires the submittal of a resolution as part of the Transportation Alternatives Set-Aside Project application submission.

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:

SECTION 1. The City of Seagoville supports the Malloy Bridge Road Sidewalk Project as applied for in the 2017 Transportation Alternative Set-Aside Call for Projects Application.

SECTION 2. The City of Seagoville will serve as the public sponsor and lead project contact on this project. The City of Seagoville agrees to designate a single point of contact for the project.

SECTION 3. The City of Seagoville commits to fund or pass through funds from other sources for a minimum local cash match of 20% of the total project cost.

SECTION 4. The City of Seagoville confirms that the City of Seagoville, not the Regional Transportation Council will be responsible for any cost overruns.

SECTION 5. The City of Seagoville understands and acknowledges that all awarded funding is provided on a reimbursement basis.

SECTION 6. The City of Seagoville confirms the project timeline is realistic and commits that if the project is selected for funding, an agreement will be executed within one year of selection and the project will advance to construction within three years from the date of selection.

DULY PASSED by the City Council of the City of Seagoville, Texas, on the 6th
day of February, 2017.

APPROVED:

DENNIS K. CHILDRESS, MAYOR

ATTEST:

CHRISTIE WILSON, INTERIM CITY SECRETARY

APPROVED AS TO FORM:

ALEXIS ALLEN, CITY ATTORNEY

**PRELIMINARY CONSTRUCTION COST ESTIMATE
SIDEWALK IMPROVEMENTS
along
MALLOY BRIDGE ROAD
5' Wide Sidewalk, ADA Compliant**

CITY OF SEAGOVILLE, TEXAS

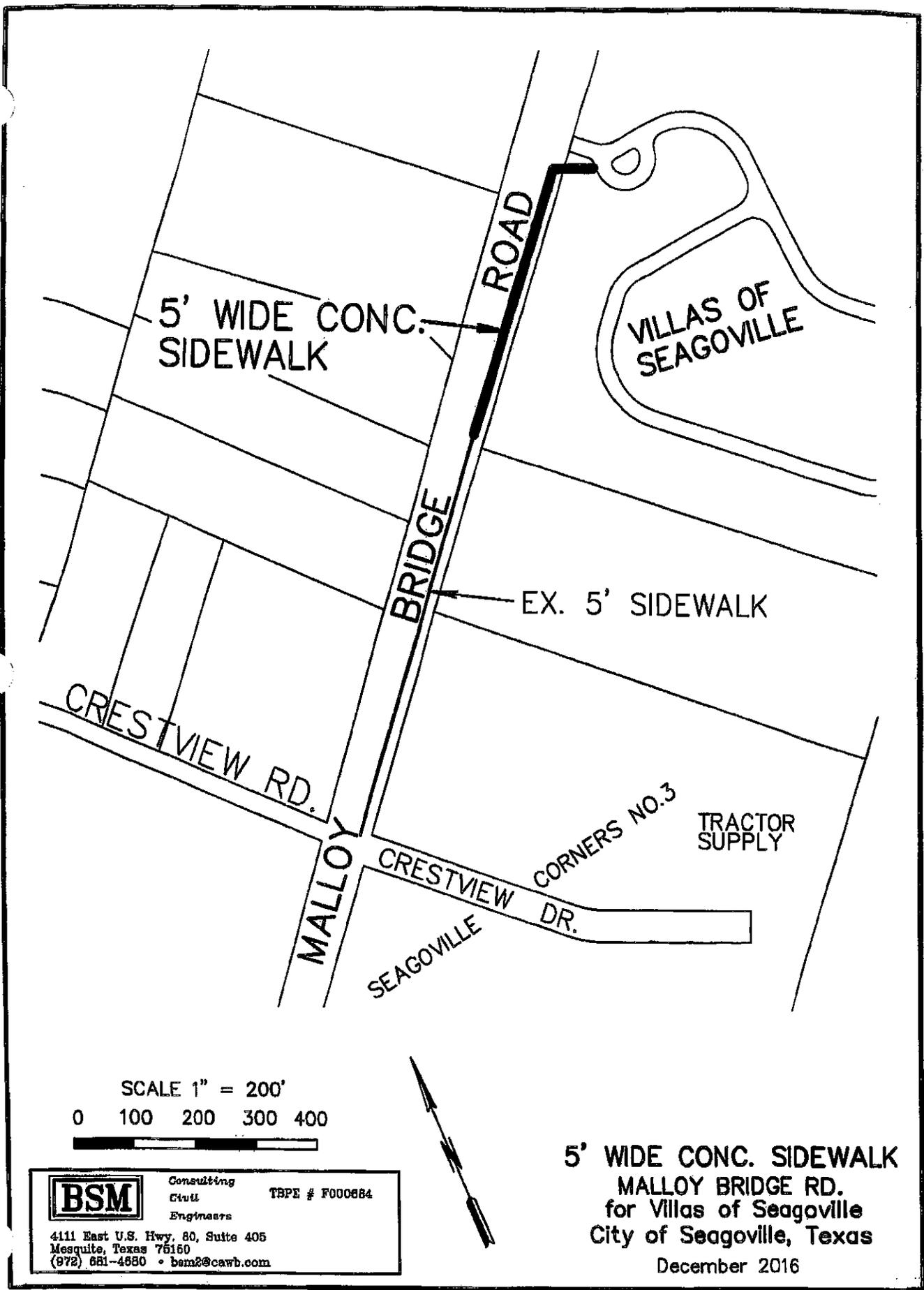
December, 2016

Estimated Quantity	Unit	Description	Unit Price	Amount
260	SY	5 foot Sidewalk, ADA compliant	\$ 70.00	\$ 18,200
470	LF	6 inch x 12 inch Toewall	25.00	11,750
90	CY	Excavation	60.00	5,400
470	LF	42 inch Handrail	30.00	14,100
1	LS	Traffic Control		2,500
1	LS	Bonds and Insurance		1,500
1	LS	15% Contingency		10,550
CONSTRUCTION TOTAL				\$ 64,000
*Civil Engineering Fee				\$ 8,000
Surveying Fee				\$ 4,000
GRAND TOTAL				\$ 76,000

*Note: Engineering Fee is for 24"x36" Construction Plans, details, and bid documents. Does not include construction observation.

This construction cost estimate is based on current unit prices from Burkham Construction Company.

Seagoville
MalloyBridgeSidewalk12-16



Regular Agenda Item: 13

Meeting Date: February 6, 2017

Discuss, and consider authorizing the Seagoville Economic Development Corporation to award a bid and enter into a construction services contract for interior finish out and renovations at 103 North Kaufman Street (SEDC, Chairman Cole)

BACKGROUND OF ISSUE:

Interior finish-out and renovations to 103 North Kaufman Street are required for a prospective tenant. This local business needs to be in their new location by Saturday, 1 April 2017. In order to meet this very tight timeframe, approval of this request is required so it can be included on the Monday, 6 February 2017 Seagoville City Council Agenda.

This item deals only with the interior finish-out and renovations to 103 North Kaufman Street. After many requests to contractors for a bid, the following two businesses have responded.

Ocelot Construction
Garrett Brothers

Their bids are attached for your review.

The SEDC Board will consider a Lease Agreement with this local, mail/package and publishing center during its March regularly scheduled meeting (unless a special-called meeting is required in mid- to late-February).

FINANCIAL IMPACT:

Between \$35,000 and \$82,000. "Cash – American National Bank – Checking" is the revenue line item that will be utilized to make these improvements.

RECOMMENDATION:

Motion not to exceed \$50,000 for 103 North Kaufman Street interior finish-out and renovations.

Kaufman Street Remodel-Seagoville

Proposal

GB Commercial Builders, LLC.
3023 E I30 #1100
Rockwall, TX 75087

To: Seagoville Economic Development Corporation

We propose to furnish labor material & equip. necessary to perform below scope of work.
Project: 103 N. Kaufman

Installation of plumbing for a complete bathroom.
Systems to include waste drain and vent, domestic water piping, and setting of the fixtures.
Extend plumbing vents (tying into the existing roof penetration) for the space.
Tie all plumbing into existing floor rough in space.
All DWV Piping shall be of sch 40 PVC pipe and fittings.
All water piping for the bathroom shall be of Zurn Pex pipe and fittings
All water piping shall be insulated with ½" closed cell insulation per code.
All water stops, p-traps and fittings needed to install the fixtures
Plumbing fixtures as follows:

- 1- American Standard White comfort height toilet with seat
- 1- 4" CC Commercial Lavatory faucet
- 1- Wall hung lavatory sink, with lavatory carrier.
- 1- Chromomite point of use water heater

5.5" foam insulation on roof and R19 batts on walls.

5/8" sheetrock on walls (per code) and extended firewall to roof.

2x6 walls and 2x8 ceiling joist.

Electrical for all additions (including HVAC).

HVAC to mimic unit 105.

Furnish & install 1 Trane 5-ton roof top unit, curb, economizer, 230 volt 3 phase gas or electric heat, sheet metal plenums.

Exposed ductwork to be round spiral pipe with duct mounted diffusers, 1 programmable thermostat, condensate drain to plumber provided location, crane fees, permit fees and start up.

Interior finish to mimic unit 105

This proposal includes Builders Risk Insurance (covering the entire building).

Cost of project ----- **\$81,298.84**

Thank you for the opportunity to bid on this project.

Tommy Garrett
GB Commercial Builders, LLC.
214-557-7210
Garry Garrett
214-534-0471

From: Don DeChant [<mailto:ddechant@ocelotconstruction.com>]

Sent: Tuesday, January 24, 2017 9:21 PM

To: SEDC Director <secdirector@seagoville.us>

Subject: Re: kaufman st

The 103 N Kaufman space will receive the following modifications for the budget number provided of 30 to 35K

1*New 200 amp 240v single phase interior panel mounted within the space. Feeder wire and conduit to be ran to the existing meter bank and tied into the existing meter for the 103 space

the earth ground is to be located at the meter base/bank location

2*Install draft stop walls between the roof trusses at the demising wall between the EDC and 103 space at the truss line. Framing and 2 layers of 5/8 sheetrock will be installed on the 103 side

Fire caulk or fire foam will be installed at all dissimilar material locations

3*Install 5/8 sheetrock on the bare metal stud wall floated, primed and painted

4* Install 6 inch pine D grade 3/4 thick V-groove wood ceiling primed and painted

5*Install ADA compliant single stall restroom at existing plumbing location

6* Roof deck spray foamed on interior side to equal an R-38 factor

7*Clean, grind and polish the existing concrete floor to a high gloss finish

8* Install a 3 ton self contained RTU with electric heat on the roof of the 103 space with supply and return ductwork. To include curb installation and roof repair as needed around the curb cut in

Engineering load calcs not included

9* Install lighting, lighting circuits and switches as needed to achieve a minimum 3 watts per sq ft. Fixture allowance is 110.00 per fixture. Fixture TBD

10* Prime and paint all existing walls

Thank you

Don DeChant

Ocelot Construction

469-628-8327

Regular Agenda Item: 14

Meeting Date: February 6, 2017

Second Reading, conduct a Public Hearing, discuss and consider approval of a resolution authorizing the Seagoville Economic Development Corporation to enter into an economic development agreement with Sweet Dish LLC, concerning property located at 1920 North US Highway 175 (SEDC, Chairman Cole)

ITEM DESCRIPTION

Second Reading, conduct a public hearing, discuss and consider approval of a resolution authorizing the Seagoville Economic Development Corporation to enter into an economic development agreement with Sweet Dish LLC, concerning property located at 1920 North US Highway 175 (SEDC, Chairman Cole)

BACKGROUND OF ISSUE:

Since November 2016, SEDC Staff, Legal Counsel and Project Sweet Dish Ownership have worked on development of 'Purchase/Sale,' 'Restrictions' and 'Economic Development Incentive' Agreements. These documents represent a performance-based incentive that grants roughly one-acre of real estate (the triangle) located at 1920 North US Highway 175 in return for the creation/maintenance of five (5) jobs, investment of \$550,000 and generation of \$5,000 in sales tax each year for three years. The SEDC Board unanimously recommended this project for approval. The Resolution provided for Council consideration will approve the project and will authorize the EDC to commence with actions necessary to finalize the agreements.

The proposed Economic Development, Purchase, Sale and Restrictions Agreement are attached.

FINANCIAL IMPACT:

\$120,000.00

EXHIBITS

Resolution

Real Estate Sales Agreement

Restriction Agreement

Economic Development Incentive Agreement

**CITY OF SEAGOVILLE, TEXAS
RESOLUTION NO. 10-R-2017**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN AGREEMENT BY AND BETWEEN THE SEAGOVILLE ECONOMIC DEVELOPMENT CORPORATION (“SEDC”) AND SWEET DISH, LLC, ATTACHED AS EXHIBIT “A”; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the City Council has determined that the Agreement attached as Exhibit “A” will create new jobs and will promote new and expanded business enterprises within the City of Seagoville; and

WHEREAS, the City Council finds that the expenditure of funds pursuant to the Agreement is authorized by the Act and that the Agreement should be approved; and

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

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

Section 1. That the City Council hereby approves the Agreement attached hereto as Exhibit “A”.

Section 2. That the City Council authorizes the SEDC to enter into any additional agreements necessary to effectuate the Agreement attached as Exhibit “A”, including a land sale agreement and restriction agreement.

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 6th day of February, 2017.

CITY OF SEAGOVILLE, TEXAS

Dennis K. Childress, Mayor

ATTEST:

Christie Wilson, Interim City Secretary

APPROVED AS TO FORM:

Alexis Allen, City Attorney

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

REAL ESTATE PURCHASE AGREEMENT

This **Real Estate Purchase Agreement** ("Agreement") to buy and sell real property is entered between Seller and Purchaser as of the Effective Date as determined in Section 15(e) below.

Seller: Seagoville Economic Development Corporation, a Texas non-profit corporation

Seller's Address: Kirk Clennan, Executive Director
Seagoville Economic Development Corporation
105 N. Kaufman Street
Seagoville, Texas 75159
Facsimile No. (972) 287-9939

Seller's Attorney: Alexis G. Allen
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 N. Akard, Suite 1800
Dallas, Texas 75201
Facsimile: (214) 965-0010
Phone: (214) 965-9900
E-mail: aallen@njdhs.com

Purchaser: Sweet Dish, LLC, a Texas limited liability company

Purchaser's Address:

Purchaser's Attorney

Property: 1.0± acre tract of land out of Lot 3, Block A, Best Western/Seagoville Addition, an addition to the City of Seagoville, Dallas County, Texas, according to the plat thereof recorded in volume 99125, Page 40, Deed Records, Dallas County, Texas the boundaries of which are generally depicted on Exhibit "A," attached hereto and incorporated herein by reference; together with all right, title and interest of Seller, if any, in and to any (i) strips and gores between said tract and abutting properties, (ii) land lying in or under the bed of adjacent streets, alleys, roads or rights of way, (iii) easements or rights of way appurtenant to or otherwise benefiting said tract, (iv) utility capacities, commitments, reservations and other rights

and capacities (including but not limited to storm water detention rights) related to said tract, (v) all permits and approvals relating to said tract, (vi) all development rights relating to said tract, (vii) all rights to credits, refunds and reimbursements associated with said tract, (viii) all water and drainage rights associated with said tract, (ix) all reversionary rights related to said tract, and (x) all other rights and appurtenances of any kind related to said tract.

Restriction Agreement: That certain Restriction Agreement by and between Seller and Purchaser, the form of which is attached hereto as Exhibit "B," subject, however, to such modifications as may be reasonably requested by any lender providing financing with respect to the Property, provided such modifications do not require Seller subordinate its rights under the Restriction Agreement to such lender.

Economic Development Agreement: That certain *Economic Development Agreement* between the between Seller and Purchaser, the form of which is attached hereto as Exhibit "C," relating to the development by Purchaser of the Property.

Title Company:

Inspection Period: The period commencing on the Effective Date and ending _____

Earnest Money: None

Option Fee: \$100.00 (which amount shall be paid directly to Seller upon delivery of the signed Agreement, shall be non-refundable, except as may be otherwise expressly provided in this Agreement, but which shall be applied to the Purchase Price.)

Closing Date: _____, or such earlier date mutually agreed to by the Parties in writing.

Purchase Grant: An economic development incentive grant paid by Seller to offset the cost of construction of the Infrastructure as defined in the Economic Development Agreements and to be credited to the Purchase Price at Closing, being an amount equal to the Purchase Price less \$100.00.

Purchase Price: One Hundred and Seven Thousand, Six Hundred Dollars (\$107,600.00) and the Purchase Grant.

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

WHEREAS, the Development Corporation Act, Chapters 501-505 of the Texas Local Government Code (the "Act"), authorizes Seller to provide economic development grants for the creation and retention of primary jobs, and for infrastructure suitable for new or expanded business enterprises; and

WHEREAS, in consideration of the Economic Development Agreements, Purchaser has agreed to develop, construct, and operate the Bakery/Coffee Shop on the Property; and

WHEREAS, Purchaser has advised Seller that a contributing factor that would induce Purchaser to purchase the Property and construct the Bakery/Coffee Shop (as defined in the Economic Development Agreements) would be an agreement by Seller to provide the Purchase Grant; and

WHEREAS, Seller has determined that the Purchase Grant is required or suitable to promote or develop new or expanded business enterprises and will create and/or retain Primary Jobs (as defined in the Economic Development Agreement) and constitutes a "project," as that term is defined in the Act; and

WHEREAS, Seller has determined that making the Purchase Grant to Purchaser in accordance with this Agreement will further the objectives of Seller, will benefit the City of Seagoville and its inhabitants and will promote local economic development and stimulate business and commercial activity in the City of Seagoville;

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

1. **Sale and Purchase.** Seller agrees to sell, and Purchaser agrees to purchase, the Property as provided in this Agreement for the Purchase Price and subject to additional consideration set forth in this Agreement. Seller and Purchaser are sometimes collectively referred to herein as the "Parties" and each of the Parties is sometimes singularly referred to herein as a "Party".

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

(a) Not later than ten (10) days after the Effective Date, Seller shall, at Seller's expense, deliver to Purchaser:

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

- (ii) legible copies of all documents referenced in the Title Commitment;
- (iii) any environmental or geotechnical studies or reports that Seller may have in its possession or that are available to Seller as of the Effective Date with respect to the Property;
- (iv) tax certificate(s) regarding the payment of ad valorem taxes for current and prior years;
- (v) the most recent survey and plat of the Property that Seller has in its possession or that may be available to Seller. Seller shall not be required to obtain a new survey of the Property at Seller's expense;
- (vi) notices or other documents regarding any uncured violation of applicable laws, rules, regulations, codes or ordinances regarding the Property, or relating to any actual or claimed existence, release or disposal of any toxic or hazardous substance or waste in, upon or affecting the Property, or relating to any pending or threatened litigation affecting the Property; and
- (vii) any other documents or information in Seller's possession or control relating to the Property which may be reasonably requested by Purchaser.

(b) Purchaser shall, not later than ten (10) days after Purchaser's receipt of the Title Commitment, notify Seller and Title Company of any objections to the Survey (or Updated Survey, as the case may be) or Title Commitment related to the Property. If there are objections by Purchaser, Seller shall in good faith attempt to satisfy them prior to Closing, but Seller shall not be required to incur any cost to do so. If Seller delivers written notice to Purchaser not later than the fifth (5th) calendar day after Seller's receipt of Purchaser's objections that Seller is unable to satisfy such objections, Purchaser may either (i) waive such objections and accept title as Seller is able to convey or terminate this Agreement by written notice to Seller and the Title Company prior to the expiration of the Inspection Period or (ii) elect to extend the Closing Date, not to exceed an additional sixty (60) days, in order to provide Seller additional time to cure the objections. If Purchaser elects to extend the Closing Date, and Seller fails to cure the objection within such period, Purchaser may either waive the objection and proceed to Closing, or terminate this Agreement without further liability to either Party.

3. **Inspection Period.**

(a) During the Inspection Period, Purchaser and its agents, contractors, representatives, consultants or employees shall have the right to enter upon the Property during regular business hours upon reasonable notice and conduct such inspections, tests and studies as they may deem necessary. If for any reason or no reason Purchaser determines not to purchase the Property, Purchaser may terminate this Agreement by notifying Seller and Title Company in writing prior to the expiration of the Inspection Period. In such event, neither Party shall have

any further claim against the other under this Agreement. If Purchaser does not timely terminate this Agreement under this Section 3, it shall have no further right to do so under this Section 3; and Purchaser shall have waived its right to terminate this Agreement within the Inspection Period.

(b) Purchaser may enter the Property to conduct its inspection, but shall be solely responsible for any damages caused thereby. Purchaser shall repair any damage to the Property it causes or that is caused by its agents, contractors, representatives, consultants or employees, and shall indemnify and defend Seller and hold Seller harmless from and against any and all claims, liabilities or damages to the Property or against Seller caused by the intentional or negligent acts or omissions of Purchaser and/or Purchaser's authorized agents, contractors, representatives, consultants or employees during the Inspection Period or as a result of any inspection of the Property by such parties; provided, that no indemnity shall be required for Purchaser's discovery of any violations of any applicable law, statute, rule, regulation, code or ordinance during such inspection, or discovery of any pre-existing conditions present at the Property.

(c) The provisions of this Section 3 shall expressly survive any termination of this Agreement or the Closing for a period of six (6) months.

4. **Closing Date.** The closing of the sale of the Property shall occur on the Closing Date at the Title Company, or at such other time as may be agreeable to the Parties.

5. **Closing Deliverables.**

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

(i) a special warranty deed in form and substance reasonably acceptable to Seller and Purchaser, conveying good and indefeasible title to the Property to Purchaser, free and clear of any and all encumbrances except the Permitted Exceptions, excluding the mineral rights, such mineral rights being reserved by Seller;

(ii) such documents as may be reasonably required by the Title Company in order to cause the Title Company to issue a Texas Owner's Policy of Title Insurance (or equivalent) in the amount of the Purchase Price, insuring such title to the Purchaser, at Seller's expense;

(iii) the Restriction Agreement duly executed by Seller; and

(iv) possession of the Property, free of parties in possession.

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

- (i) the Purchase Price;
- (ii) the Restriction Agreement duly executed by Purchaser; and
- (iii) such other documents as may be reasonably required by the Title Company to close the contemplated transaction.

6. **Taxes.** Purchaser understands and acknowledges that the Property is presently exempt from the assessment of ad valorem taxes, which status will change upon conveyance of the Property to Purchaser. Seller shall not be responsible for payment of property taxes assessed against the Property for periods after the date of Closing, if any become due and payable.

7. **Closing Costs.**

(a) Seller hereby agrees to pay and be responsible for all costs and expenses incurred by or on behalf of Seller relating to the release of liens and other matters affecting title to the Property which Seller is obligated to cure and which are not otherwise Permitted Exceptions and Seller's attorney's fees.

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

(i) all of the Title Company's escrow fees;

(ii) all costs and expenses incurred by or on behalf of Purchaser, including Purchaser's attorneys' fees;

(iii) all premiums and fees for the basic Owner's Policy of Title Insurance, any optional endorsements, deletions and amendments thereto, and all costs related to issuance of any mortgagee's title policy, if any;

(iv) recording fees for the special warranty deed, the Restriction Agreement, and any other documents to be recorded at Closing except for those for which Seller is responsible for recording; and

(v) such other incidental costs and fees customarily paid for closing transactions of a similar nature to the transaction contemplated herein.

8. **Conditions to Closing.**

(a) The Parties' respective obligations to close on the purchase of the Property shall be conditioned upon and subject to the following:

(1) Purchaser and Seller having duly executed the Restriction Agreement and Economic Development Incentive Agreement;

(2) The zoning of the Property being amended, if necessary, such that Purchaser may develop and use the Property for the Required Use as defined in the Restriction Agreement. If the Property is not zoned for such use as of the Effective Date, Seller agrees that Purchaser shall have the right to file an application with the City of Seagoville to seek an amendment to the zoning regulations affecting the Property to allow the Property to be used for the Required Use. Seller agrees to reasonably cooperate with Purchaser in the application for any zoning amendment requested by Purchaser and shall execute all necessary and appropriate instruments as owner of the Property. The application for rezoning the Property shall be made in the name of either Seller or Purchaser as required under governing law;

(3) The Property being replatted in accordance with applicable provisions of the City of Seagoville Subdivision Ordinance, as amended, so that the lot boundaries are generally as shown on Exhibit "A" and it constitutes one or more defined lots as determined by Purchaser. Seller agrees to reasonably cooperate and participate with Purchaser in the prosecution of any plat application for the replat of the Property so that the Property is identified as one or more separate and distinct lots as determined by Purchaser;

(4) There shall be no pending, threatened, or existing moratorium, action, or proceeding against Seller or the Property before any court or governmental authority that would prohibit or inhibit Purchaser from obtaining utility services or building permits and development approvals, or that would prevent, prohibit, delay, or inhibit the construction and development or operation of the Property by Purchaser;

(5) The Title Company shall be irrevocably committed to issue to Purchaser an Owner's Policy of Title Insurance on the Title Company's standard current form, in the amount of the Purchase Price, subject to no exceptions other than the Permitted Exceptions; and

(6) Seller's representations and warranties set forth herein shall, to the best of Seller's knowledge and belief, be true, correct, and complete and not intentionally misleading in any material respect as of Closing.

(b) If the conditions set forth in Paragraph (a)(2) and/or (a)(3) above have not been satisfied on or before the end of the Inspection Period, the Inspection Period shall be automatically extended for a period of thirty (30) days.

(c) If the conditions set forth in Paragraph (a)(2) and/or (a)(3) above have not been satisfied on or before the end of the Inspection Period, as so extended pursuant to Paragraph (b) above, the Inspection Period shall be automatically extended for an additional period of thirty (30) days.

(d) If the conditions set forth in Paragraph (a)(2) and/or (a)(3) have still not been approved by the end of the Inspection Period, as extended pursuant to Paragraph (c) above, then Seller, at Seller's sole option, may, by written notice to Purchaser on the last day of the Inspection Period, either (i) extend the Closing Date for an additional thirty (30) day period, (ii) waive the condition and proceed to Closing, or (iii) terminate this Agreement.

(e) If the Closing Date is extended for the additional thirty (30) day period pursuant to Paragraph (d) above, and at the end of such thirty (30) day period, the conditions set forth in Paragraph (a)(2) and/or (a)(3) above remain unsatisfied, then either Party may by written notice delivered to the other Party not later than the third (3rd) business day following the end of such thirty (30) day period, terminate this Agreement; provided, if neither Seller nor Purchaser so terminates this Agreement, the Parties shall be deemed to have waived the unsatisfied condition and shall proceed to Closing.

9. **Permitted Exceptions.** Purchaser acknowledges and agrees that the Property will be conveyed by Seller at closing subject to the Restriction Agreement and that the special warranty deed shall contain reference to same. The (i) lien for current taxes not yet due and payable, (ii) the Restriction Agreement, and (iii) appropriate matters appearing on Schedule B of the Title Commitment that were not cured and to which Purchaser failed to object or otherwise waived objection shall be deemed to be Permitted Exceptions. Notwithstanding anything to the contrary herein, as a condition of Closing, Seller must resolve at Seller's sole cost the items that are listed on Schedule C of the Title Commitment which are by their nature Seller's responsibility, remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date of this Agreement, and use due diligence to cure the title and survey objections that Seller has agreed to cure.

10. **Representations and Covenants.** Seller represents and covenants that: (a) it has authority to enter into this Agreement, and that this Agreement represents the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms; (b) no other person has any interests in or claims against the Property (other than as reflected by the Title Commitment); (c) except as may be set forth in the documents delivered by Seller to Purchaser pursuant to Section 2(a), it has no actual knowledge of any uncured violation of applicable laws, rules, regulations, codes or ordinances with respect to the Property, nor of any existence, release or disposal of any toxic or hazardous substance or waste upon or affecting the Property, nor of any pending or threatened litigation affecting the Property; and (d) it will not hereafter encumber the Property, or take any other action with respect to the Property which Seller knows will materially adversely affect the development, lease or other transactions contemplated by this Agreement. Purchaser represents that it has authority to enter into this Agreement and that this Agreement represents the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms. The only representations made by any Party concerning the Property and this Agreement are as set out in this Section 10. The representations set forth in this Section 10 shall survive Closing.

11. Property Sold As Is.

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

(b) Except as otherwise specifically set forth in this Agreement and except for the special warranties of title set forth in the special warranty deed, Seller hereby specifically negates and disclaims any representations, warranties or guarantees of any kind or character, whether express or implied, oral or written, past, present, future or otherwise, of, as to, concerning or with respect to the Property, including without limitation (i) the nature and condition of the Property and the suitability thereof for any and all activities and uses which Purchaser may elect to conduct thereon, (ii) the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, condition or any other matter relating in any way to the Property, (iii) the compliance of the Property or its operation with any laws, ordinances or regulations of any government or other authority or body, (iv) the existence of any toxic or hazardous substance or waste in, on, under the surface of or about the Property, (v) geological conditions, including, without limitation, archaeological, anthropological, or environmental (endangered species), subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water and faulting, (vi) whether or not and to the extent to which the Property or any portion thereof is affected by any stream (surface or underground), body of water, flood prone area, floodplain, floodway or special flood hazard, (vii) drainage, (viii) zoning or land use restrictions rules and regulations to which the Property or any portion thereof may be subject, (ix) the availability of any utilities to the Property or any portion thereof including, without limitation, water, sewage, gas, electric and telecommunications and including the utility availability capacities allocated to the Property by the relevant governmental or regulatory authority, (x) usages of adjoining property, (xi) access to the Property or any portion thereof, (xii) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, durability, structural integrity, operation, leasing, title to, or physical or financial condition of the Property or any portion thereof, or any income, expenses, charges, liens, encumbrances, rights or claims on or affecting or pertaining to the Property or any part thereof, (xiii) the potential for further development of the Property, or (xiv) the merchantability of the Property or fitness of the Property for any particular purpose (Purchaser affirming that Purchaser has not relied on Seller's skill or judgment to select or furnish the Property for any particular purpose, and that Seller makes no warranty that the Property is fit for any particular purpose).

(c) Purchaser agrees that, prior to the expiration of the Inspection Period, it will have the opportunity to examine and investigate the Property and that, in purchasing the Property, Purchaser will rely solely upon its independent examination, study, inspection and knowledge of the Property, and Purchaser is relying solely upon its own examination, study, inspection, and, except for representations and warranties specifically set forth herein and, except for the special warranties of title set forth in the special warranty deed, knowledge of the Property and

Purchaser's determination of the value of the Property and uses to which the Property may be put, and not on any information provided or to be provided by Seller.

(d) The provisions of this Section 11 shall survive the termination of this Agreement and the Closing.

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

"There is hereby reserved for Grantor and Grantor's successors and assigns, all of Grantor's interest in the oil and gas minerals that are in, on and under the Property and that may be produced from it ("Grantor's Mineral Interest"). Grantor, hereby agrees that no wells will be drilled on the surface of the Property, and no facilities of any kind (including, but not limited to, roads, pipelines, flow lines, electric power lines, tank batteries or treaters) will be placed on the surface of the Property by Grantor or by any other third party acting pursuant to Grantor's consent or authority; provided, that such facilities are permitted at levels below 1,000 feet below the surface of the Property to the extent that such facilities do not, in any manner whatsoever, interfere with the surface or subsurface support of the surface of the Property, including any improvements thereon. Grantor further hereby agrees that Grantor shall not have the right to use the surface of the Property and Grantor hereby waives all rights to use the surface of the Property for any purpose, including, but not limited to the right of ingress and egress upon, across and over the surface of any of the Property for the purpose of mining, drilling, accessing, exploring, operating, treating, transporting or developing the Grantor's Mineral Interest or performing seismic or other testing on the Property; provided, however, nothing herein contained shall be construed as waiving or preventing Grantor from exploring for, developing or producing the Grantor's Mineral Interest or lands pooled or unitized therewith, by pooling, by directional or horizontal drilling (including, without limitation, fracturing and other completion techniques) under the Property from surface sites located on tracts other than the Property or by any other method that does not require ingress, egress or use of the surface of the Property; provided further, however, that the well bore for any oil or gas well or any other equipment that enters the subsurface of the Property shall be and remain at a depth of at least 1,000 feet below the surface of the Property; provided, however, that those operations shall in no manner interfere with the surface or subsurface support of the Property, including any improvements thereon."

13. **Remedies.** If Purchaser defaults, Seller's sole remedy under this Agreement shall be to terminate this Agreement and retain the Option Fee. If Seller defaults, Purchaser's sole remedy shall be to terminate this Agreement and obtain a refund of the Option Fee (and receive reimbursement from Seller for any due diligence costs, legal fees and expenses, or other out of pocket costs incurred by Purchaser after the Effective Date of this Agreement in connection with this Agreement or the Property, not to exceed in the aggregate, however, \$50,000). No termination shall occur pursuant to a default until the non-defaulting Party has provided written notice of default not less than ten (10) days prior to the proposed date of termination and the defaulting Party has failed to cure the default. The remedies granted herein are independent of any remedies which may be available to the parties under the Economic Development Agreements.

14. **Notices.** Notices must be in writing and may be hand delivered and/or mailed by certified mail with return receipt requested, or sent by facsimile transmission, to the addresses stated above. Notice given by delivery service shall be effective upon receipt at the address of the addressee; notice given by mail shall be effective upon earlier of actual receipt or three (3) days after placing the notice in a receptacle of the United States Postal Service, postage prepaid and properly addressed, and notice sent by facsimile transmission shall be effective upon electronic confirmation of receipt. In addition, copies of notices shall be provided to the Party's attorney at the addresses indicated above.

15. **Miscellaneous.** This Agreement is subject to the following additional provisions and conditions:

(a) *Entireties.* This Agreement, the Restriction Agreement, and the Economic Development Agreements contain the entire agreement of the Parties pertaining to the purchase, sale, and development of the Property.

(b) *Modifications.* This Agreement may only be modified by a written document signed by both Parties.

(c) *Assignment.* Purchaser may not assign its rights under this Agreement, except (i) to any entity controlling, controlled by, or under common control with, Purchaser, or (ii) to any person or entity with the express written consent of Seller (which consent shall not be unreasonably withheld).

(d) *Time is of the Essence.* Time is of the essence with respect to the performance by the Parties of their respective obligations hereunder.

(e) *Effective Date.* The Effective Date of this Agreement shall be the last date on which the authorized representatives of all Parties have signed this Agreement, and the Title Company has acknowledged in writing its receipt of this Agreement as so signed.

(f) *Non-Business Day.* If the final date of any period provided herein for the performance of an obligation or for the taking of any action falls on a Saturday, Sunday, federal holiday, or a day on which Seller's main offices are not open for regular business, then the end of such period shall be extended to the next day that is not one of the foregoing described days.

(g) *Zoning.* Seller assumes no obligation to change the current zoning on the Property, but will reasonably cooperate in effecting such changes as set forth in Section 8(a)(3) above.

(h) *Brokers.* The Parties represent and warrant that they have not worked with any broker relative to this transaction and that no brokerage commission is due and payable upon the Closing. To the extent allowed by law, each Party shall indemnify each other from any claim for brokers' commissions relative to the sale of the property and alleged to be due by, through or under the indemnifying Party.

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

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

(k) *Law Governing.* This Agreement shall be construed under and in accordance with the laws of the State of Texas; and venue for any action arising from this Agreement shall be in the State District Court of Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court in any such action.

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

(m) *Employment of Undocumented Workers.* Purchaser understands, acknowledges, and agrees that Seller is off-setting a portion of the Purchase Price with an economic development grant in the form of the Purchase Grant. During the term of this Agreement, and for a period of five (5) years after the Closing and conveyance of the Property to Purchaser, Purchaser agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Purchaser shall pay the amount of the Purchase Grant and any other funds received by Purchaser from Seller as of the date of such violation within 120 days after the date Purchaser is notified by Seller of such violation, plus interest at the rate of 6% compounded annually from the date of violation until paid. Purchaser is not liable for a violation

of this section by a subsidiary, affiliate, or franchisee of Purchaser or by a person with whom Purchaser contracts. This Section 15(m) shall survive the Closing.

(Signatures on Following Page)

SIGNED AND AGREED this the _____ day of _____, 2016.

Seller:

Seagoville Economic Development Corporation,
a Texas non-profit economic development
corporation

By: _____
Kirk D. Clennan, Executive Director

SIGNED AND AGREED this the _____ day of _____, 2016.

Purchaser:

Sweet Dish, LLC.,
a Texas limited liability company

By:

By: _____

RECEIPT OF CONTRACT

Title Company acknowledges receipt of a copy of this Agreement executed by both Seller and Purchaser on the ___ day of _____, 2016.

By: _____

Name: _____

Title: _____

Exhibit "A"
Survey of the Property

Exhibit "B"

Restriction Agreement

Exhibit C

Economic Development Agreement

WHEN RECORDED RETURN TO:

Nichols, Jackson, Dillard, Hager & Smith, LLP
Attention: Alexis G. Allen
500 N. Akard, Suite 1800
Dallas, Texas 75201

(Space Above For Recorder's Use Only)

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

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

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

RECITALS

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

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

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

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

Article I
Land Subject to Declaration

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

Article II
Definitions

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

“Bakery/Coffee Shop” shall have the same meaning as set forth in the Economic Development Agreement.

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

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

“Completion of Construction” means (i) substantial completion of construction of all the components of the Building and Improvements on the Land has occurred, and (ii) a final permanent certificate of occupancy has been issued by City for occupancy of the Bakery/Coffee Shop.

"Construction Plans" means the plans and specifications for the construction of the Bakery/Coffee Shop (including civil, architectural, grading and site plans) in accordance with the Zoning and any design plans approved by the City.

“Economic Development Agreement” means that certain Economic Development Agreement between SEDC and Sweet Dish, LLC, dated _____, 201__, relating to the Purchase and Sale of certain Property by SEDC to Developer in exchange for improving the Property subject with the Improvements (as defined in the Economic Development Agreement)(sometimes hereafter referred to as “the Project”), a true and correct copy of which is attached hereto as Exhibit “B”.

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

“Force Majeure” means any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, City delay of permits or other approvals, government or de facto governmental action (unless caused by acts of omissions of the Party), fires, explosions or floods, strikes,

slowdowns or work stoppages, adverse weather conditions, transportation delays or difficulties, shortages of materials or labor, financial institution shutdowns, electronic funds transfer delays or difficulties, and economic disruptions.

"Improvements" shall mean the buildings, facilities and other improvements to be built on the Property as part of the Bakery/Coffee Shop.

"Improvement Value" shall mean: (i) after commencement of Construction but prior to the Completion of Construction, the actual hard and soft costs incurred and paid by Sweet Dish (including any payments made directly to Sweet Dish's contractor(s) on Sweet Dish's behalf by Sweet Dish's interim construction lender, if any) to design, permit and construct the Improvements or so much thereof as have been completed at the time, or (ii) once the Completion of Construction has occurred, the fair market value of the Improvements constructed on the Property as determined by an appraiser selected by the parties, or, in the event the parties cannot agree upon an appraiser within ten (10) days after SEDC's exercise of the Option, each party shall select an appraiser who will determine the fair market value of such Improvements.

"Infrastructure" shall have the same meaning as set forth in the Economic Development Agreement.

"Land" means an approximately 1.0± acre tract of land out of Lot 3, Block A, Best Western/Seagoville Addition, an addition to the City of Seagoville, Dallas County, Texas, according to the plat thereof recorded in volume 99125, Page 40, Deed Records, Dallas County, Texas the boundaries of which are generally depicted on Exhibit "A," attached hereto and incorporated herein by reference.

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

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

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

"Option Price" means an amount equal to:

- (a) **\$107,600.00**; plus
- (b) the Improvement Value, if any, minus
- (c) an amount equal to all closing costs incurred by SEDC pursuant to the Purchase Agreement.

"Option Termination Date" means the third (3rd) anniversary of the Option Commencement Date, as may be extended by an event of Force Majeure.

"Project" means, collectively, the Bakery/Coffee Shop and the Infrastructure.

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

"Property" collectively means the Land and any Improvements and Infrastructure, or portion thereof, following construction thereof on the Land.

"Purchase Agreement" shall mean that certain *Purchase and Sale Agreement*, as amended or assigned, by and between SEDC and Developer, dated _____, relating to the sale of the Land by SEDC to Developer.

"Purchase Grant" means the economic development grant provided by SEDC to Developer to offset the costs of the Infrastructure and Improvements, and applied by Developer to reduce the purchase price for the Land upon the closing of the Purchase Agreement, which amount is **\$107,590**.

"Required Use" shall mean the development and use of the Property a retail bakery and coffee shop and incidental uses reasonably related thereto so long as consistent with all applicable zoning ordinances of the City of Seagoville, open to the public and serving the adjacent business community and the citizens of the City of Seagoville, Texas, as required by the Economic Development Agreement.

Article III Option

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

3.2 **Time for Exercising Option.** Subject to Section 3.3, below, the Option may be exercised by SEDC in its sole discretion by providing written notice to Developer upon the occurrence of the following:

(a) Any time after the Option Commencement Date, but in any event prior to the Option Termination Date, if (i) Developer has failed to obtain approval of the Construction Plans from City by the Option Commencement Date, and (ii) Developer has still failed to obtain City's approval of the Construction Plans as of the date of the exercise of the Option pursuant to this Paragraph (a); or

(b) Any time after the thirtieth (30th) day following the date City notifies Developer in writing that City has approved the Construction Plans but in any event prior to the Option Termination Date, if (i) Developer has failed to pay to City all building permit fees, impact fees, and other fees and charges which entitle Developer to receive from City a construction permit for construction of the Bakery/Coffee Shop, (ii) Developer has failed to cause Commencement of

Construction to occur on the Land and (iii) Commencement of Construction has in fact still not occurred on the date of the exercise of the Option pursuant to this Paragraph (b).

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

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

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

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

Article IV Right of First Refusal

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

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

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

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

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

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

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

Article V Terms of Sale Upon Exercise of Right

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

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

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

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

- (ii) legible copies of all documents referenced in the Title Commitment;
- (iii) any environmental studies or reports that Developer may have in its possession with respect to the Property;
- (iv) copies of all leases and rental agreements creating a leasehold interest in any portion of the Property; and
- (v) tax certificate(s) regarding the payment of ad valorem taxes for current and prior years.

(b) Upon any exercise of the Right, SEDC shall have the right, at its sole option, to cause a boundary or "as-built" survey of the Property to be made by a registered professional land surveyor selected by SEDC. Such survey shall be made at the sole cost and expense of SEDC.

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

5.3 **Closing.**

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

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

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

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

5.4 **Taxes.** Ad valorem taxes, assessments, and any other charges against the Property and/or Improvements conveyed to SEDC pursuant to this Article V shall be prorated as of the Closing Date for the current year, and paid by Developer at Closing in accordance with Texas Tax Code

§26.11. Developer will be responsible for all such items which accrue prior to the Closing Date during its tenure of ownership, and SEDC will be responsible for all such items which accrue on and after the Closing Date. Taxes and assessments for all prior years for Developer's tenure of ownership shall be paid by Developer.

5.5 Closing Costs.

- (a) Developer will pay and be responsible for the following closing cost:
- (i) the cost of all tax certificates relating to all taxes and other assessments incurred or arising in relation to the Property;
 - (ii) all fees and premiums for Basic Owner's Title Policy, excluding any deletions from, or modifications of or endorsements to the Basic Owner's Title Policy;
 - (iii) one-half (½) of the Title Company's escrow fees;
 - (iv) all recording fees;
 - (v) all costs and expenses incurred by or on behalf of Developer, including Developer's attorney's fees;
 - (vi) all costs related to obtaining any releases of liens on the portion of the Property conveyed relating to any loans secured by a deed of trust lien on said property; and
 - (vii) such other incidental costs and fees customarily paid by sellers of real property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.
- (b) SEDC hereby agrees to pay and be responsible for the following closing cost:
- (i) all fees and premiums for the Survey;
 - (ii) one-half (½) of the Title Company's escrow fees;
 - (iii) all fees and premiums for any deletions from, or modifications of or endorsements, to the Basic Owner's Title Policy;
 - (iv) all costs and expenses incurred by or on behalf of SEDC, including SEDC's attorneys' fees; and
 - (v) such other incidental costs and fees customarily paid by purchasers of property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.

5.6 Permitted Exceptions. SEDC acknowledges and agrees that the Property conveyed pursuant to this Article V will be conveyed by Developer at closing subject only to such easements, conditions and restrictions (i) that were listed in the deed from the SEDC to

Developer, (ii) utility easements granted by subdivision plat, (iii) easements granted by instrument subsequent to the purchase of the Land by Developer and approved by SEDC; and (iv) such other matters as SEDC may waive, or as Developer is not otherwise obligated to cure or remove.

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

Article VI Restrictions

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

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

Article VII Miscellaneous

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

Agreement, constitutes SEDC's sole and exclusive remedy for any failure by Developer to Commence Construction or Complete Construction of the Improvements on the Land in accordance with this Restriction Agreement. The rights of SEDC under this Restriction Agreement may not be waived or released except pursuant to an amendment or termination approved in accordance with the provisions hereof, except by expiration of the Term. The rights of SEDC, and the City as third party beneficiary hereof, to enforce the provisions of this Restriction Agreement are in addition to and cumulative of any remedies which SEDC or the City have pursuant to the provisions of the Economic Development Agreement.

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

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

If intended for SEDC, to:

Kirk Clennan, Executive Director
Seagoville Economic Development
Corporation
105 N. Kaufman Street
Seagoville, Texas 75159
Facsimile No. (972) 287-9939

With a copy to:

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

If intended for the Developer, to:

Sweet Dish, LLC

With a copy to:

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

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

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

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

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

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

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

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

(Signatures on Following Page)

SIGNED AND AGREED on this _____ day of _____, 2016.

SEAGOVILLE ECONOMIC DEVELOPMENT CORPORATION

By: _____
Kirk Clelman, Executive Director

SEDC's Acknowledgment

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Acknowledged before me, the undersigned authority, this _____ day of _____, 2016, by Kirk Clelman, Executive Director of Seagoville Economic Development Corporation, a Texas non-profit corporation, on behalf of said corporation.

Notary Public, State of Texas

My Commission expires:

SIGNED AND AGREED on this ____ day of _____, 2016.

SWEET DISH, LLC

By: _____

Developer's Acknowledgment

STATE OF TEXAS §

§

COUNTY OF DALLAS §

This instrument was acknowledged before me on the _____ day of _____, 2016, by _____, _____ of Sweet Dish, LLC, a Texas limited liability company, for and on behalf of said company.

Notary Public, State of Texas

My Commission expires:

Exhibit "A"
Depiction of Property

Solo Page

EXHIBIT "A" TO RESTRICTION AGREEMENT (WITH OPTION TO REPURCHASE AND RIGHT OF FIRST REFUSAL): SEAGOVILLE ECONOMIC DEVELOPMENT CORPORATION AND SWEET DISH, LLC (TM 75918)

Exhibit "B"

**Copy of
Economic Development Agreement**

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

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

WITNESSETH:

WHEREAS, Company desires to develop, construct and operate a Bakery/Coffee Shop (hereinafter defined) on approximately 1.00 acres of land in Seagoville owned by the SEDC as described in Exhibit A (the “Land”); and

WHEREAS, the Company intends to make a Capital Investment of approximately \$550,000 in developing a bakery/coffee shop with a meeting room on the Land; and

WHEREAS, Company intends to purchase the Property (hereinafter defined) from SEDC pursuant to the Purchase and Sale Agreement (hereinafter defined) and intends to construct the Bakery/Coffee Shop, together with the required landscaping and parking (collectively, the “Improvements”); and

WHEREAS, SEDC desires Company construct the Improvements on the Property; and

WHEREAS, Company has advised SEDC that a contributing factor that would induce Company to construct the Improvements on the Property will be an agreement for SEDC to provide a Grant (hereinafter defined) to reduce the cost of the Purchase of the Property; and

WHEREAS, the Improvements will provide a suitable location for business meetings and will result in the creation and retention of new jobs; and

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

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

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

WHEREAS, SEDC has determined that making an economic development grant to Company in accordance with this Agreement will further the objectives of SEDC, will benefit

the City and the City's inhabitants and will promote local economic development and stimulate business and commercial activity in the City.

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

Article I Definitions

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

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

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

“Building” means a 3,091 square foot building constructed for retail/restaurant uses, built of masonry construction, as defined by Article 25.02 of the City of Seagoville Code of Ordinances.

“Capital Investment” shall mean the aggregate of: (i) the purchase cost of the Property; and (ii) the total costs of design and construction of the Improvements (inclusive of all hard and soft costs).

“City” shall mean the City of Seagoville, Texas, acting by and through its city manager, or designee.

“Closing” shall mean the closing of the purchase and sale of the Property pursuant to the Purchase and Sale Agreement.

“Commencement Date” shall mean the later of: (i) the date the first final permanent certificate of occupancy is issued by the City for the Bakery/Coffee Shop; and (ii) the date the Bakery/Coffee Shop is open for business and serving the citizens of the City and its visitors.

“Commencement of Construction” shall have the meaning set forth in the Restriction Agreement.

“Company” shall mean Sweet Dish, LLC, a Texas limited liability company.

“Company’s Lender” shall mean one or more lenders selected by Company (in its sole discretion) to provide a construction loan to construct the Project.

“Completion of Construction” shall have the meaning set forth in the Restriction Agreement.

“Construction Plans” shall mean the plans and specifications for the construction of the Bakery/Coffee Shop (including civil, architectural, grading and site plans) in accordance with the Zoning and any design plans approved by the City.

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

“Employment Positions” shall mean Full-Time Equivalent Position Primary Jobs eligible for employee benefits that have been created, maintained and filled at the Bakery/Coffee Shop, per Employment Period. The number of FTE’s for an Employment Period shall be based on a weekly average count of FTE’s working at the Bakery/Coffee Shop during each calendar week during the Employment Period.

“Expiration Date” shall mean the fifth (5th) anniversary date of the Commencement Date.

“Force Majeure” shall have the meaning set forth in the Restriction Agreement.

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

“Improvements” collectively means the building housing the Bakery/Coffee Shop, the common areas and all other structures, driveways, parking areas, and other improvements constructed or installed on the Property.

“Inspection Period” shall have the meaning assigned by the Purchase and Sale Agreement.

“Land” shall mean the real property described in Exhibit “A”.

“Purchase Grant” shall mean One Hundred Seven Thousand and Five Hundred Dollars (\$107,500.00), which reflects the difference between the Purchase Price of the Property of One Hundred Seven Thousand and Six Hundred Dollars (\$107,600.00) and the One Hundred Dollars (\$100.00) cash paid by Developer pursuant to the Purchase and Sale Agreement.

“Property” shall mean the real property described in Exhibit “A”.

“Project” means, collectively, (i) the Property and (ii) the Improvements following construction thereof.

“Purchase and Sale Agreement” means that certain Purchase and Sale Agreement between the Parties dated and effective on [REDACTED], relating to the purchase of the Property by Company from SEDC.

“Project Commencement Date” shall mean the date that is ten (10) business days after the date that the conditions precedent set forth in Section 7.14 of this Agreement have been fully satisfied.

“Required Use” shall mean the continued operation of the retail Bakery/Coffee Shop and related amenities open to the public and serving the adjacent business community and the citizens of the City.

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

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

“Sales Tax Certificate” shall mean one or more Sales Tax Area Reports that list the amount of Sales Tax Receipts (including any refunds, credits or adjustments) for the applicable calendar year, or if a Sales Tax Area Report is not available or to the extent a Sales Tax Area Report does not include particular Sales Tax Receipts, a certificate or other statement, containing the information required as set forth herein, in a form provided by the Company reasonably acceptable to the SEDC setting forth Sales Tax Receipts (including any refunds, credits or adjustments) for the applicable year, together with such supporting documentation required herein, and as the SEDC may reasonably request.

“Sales Tax Receipts” shall mean the City of Seagoville’s receipts of Sales and Use Tax from the State of Texas from (i) the Company’s collection of Sales and Use Tax

as a result of sales of Taxable Items for the applicable year at the Property, and (ii) from the Company's payments to vendors or directly to the State of Texas of Sales and Use Tax on purchases of Taxable Items Consummated at the Property. For clarity, Sales Tax Receipts does not include Sales and Use Taxes retained by the State of Texas, rather than paid to the City, as the State of Texas' administrative fee for collection of the Sales and Use Taxes pursuant to Texas Tax Code, Section 321.503.

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

Article II

Term

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

Article III

Bakery/Coffee Shop

3.1 Land Acquisition. SEDC intends to sell and convey, or cause to sell and convey, the Land to the Company subject to the Restriction Agreement. The purchase price for sale and transfer of the Land shall be One Hundred and Seven Thousand, Six Hundred Dollars, less an economic development grant provided by SEDC to Company to offset the purchase price, and shall be subject to the requirement that the Land be sold and conveyed to Company for One Hundred Dollars (\$100.00).

3.2 Zoning. The SEDC, as a condition precedent, shall submit an application to amend the zoning of the property in furtherance and implementation of this Agreement. SEDC shall use good faith efforts to obtain City approval of the Zoning. The Company and the City shall mutually cooperate in the processing of the Zoning in a reasonable manner, subject to the City's review and consideration in conformance with all notice and public hearing procedures required by state and local law. Notwithstanding anything to the contrary, nothing in this Agreement shall be deemed to be a commitment of the City to zone the Land in a certain way or to approve the Zoning, but is only a statement of the current intent of the Parties.

3.3 Construction Plans. Company shall cause all necessary permits and approvals required by City and any applicable governmental authorities to be issued for the construction of the Bakery/Coffee Shop. Prior to Commencement of Construction Company shall submit the Construction Plans for approval by City. Company shall, subject to events of Force Majeure, cause the Construction Plans to be submitted to the City for approval within ten (10) business days following the Project Commencement Date.

3.4 Construction of Bakery/Coffee Shop. Subject to the terms and conditions of this Agreement, Company agrees to design and construct, or cause to be designed and constructed, the Bakery/Coffee Shop in accordance with the Zoning and the approved Construction Plans. Company shall, subject to events of Force Majeure, cause Commencement of Construction of the Bakery/Coffee Shop to occur on or before **ten (10)** business days following City approval of the Construction Plans; and subject to events of Force Majeure, cause Completion of Construction of Bakery/Coffee Shop to occur within **six (6) months** after the date of Commencement of Construction.

3.5 Casualty and Condemnation. If the Bakery/Coffee Shop is damaged partially or destroyed by Casualty, regardless of the extent of the damage or destruction, Company shall, subject to events of Force Majeure and the availability of adequate insurance proceeds, within two hundred seventy (270) days from the date of such Casualty commence to repair, reconstruct or replace the damaged or destroyed portion of the Bakery/Coffee Shop, as applicable, and pursue the repair, reconstruction, or replacement with reasonable diligence so as to restore the Bakery/Coffee Shop to substantially the condition it was in before the Casualty.

3.6 Capital Investment. The Capital Investment shall, as of the Commencement Date be at least Five Hundred and Fifty Thousand Dollars (\$550,000.00).

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

Article IV Purchase Grant

4.1 Subject to the obligation of Company to repay the Grant pursuant to Section 6.2 herein, and the continued satisfaction of all the terms and conditions of this Agreement by Company, SEDC shall provide the Grant to Company of One Hundred Seven Thousand Five Hundred Dollars (\$107,500.00), in the form of a reduced price for the Purchase of the land

4.2 Not later than fifteen (15) calendar days after the date of Final Completion (as defined herein) of the Improvements, Company shall deliver to SEDC copies of all records, contracts, receipts, invoices, bills and such other information as SEDC may reasonably request to evidence the final costs for the design and construction of the Improvements. In the event the final total costs of the design and construction of the Improvements, as reasonably verified by SEDC, are less than Five Hundred and Fifty Thousand Dollars (\$550,000.00), the Parties shall determine as a percentage how much each has paid with respect to the actual costs for the design and construction of the Improvements. If after making the calculation in the preceding sentence it is determined that the company did not invest \$550,000.00 in Capital Improvements the Company shall, at SEDC's option, pay the SEDC the difference in value.

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

Article V Conditions to Economic Development Grant

The satisfaction by Company of the terms and conditions of this Agreement are subject to each of the following conditions:

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

5.2 Project Construction. Company shall cause the design, Commencement and Completion of Construction of the Improvements in accordance with the Restriction Agreement. This includes obtaining the City approval of the necessary zoning for the Land which shall include concept plan approval for the construction and development of the retail bakery/coffee shop establishment.

5.3 Capital Investment. The Capital Investment shall be at least Five Hundred and Fifty Thousand Dollars (\$550,000.00) as of the date of Completion of Construction of the Project.

5.4 Performance Criteria. Company shall open and operate a retail Bakery/Coffee Shop establishment with meeting space on the Property, and shall:

(a) Beginning on the Completion of Construction Date and continuing thereafter for a period of at least three (3) calendar years the Company shall create and maintain at least five (5) Full-Time Equivalent (FTE) Employment Positions. Company shall, within the first thirty (30) days of the end of each calendar year following the first full calendar year after completion of construction, and within thirty (30) days after each succeeding anniversary date thereof, supply SEDC with copies of employment records and such other information as may be reasonably requested by SEDC to document compliance with the required Employment Positions. The failure to maintain the required Employment Positions beginning on the Completion of Construction Date and continuing thereafter for a period of at least three (3) years thereafter shall require the Company to pay to the SEDC a sum equal to a proportional amount of the Purchase Grant provided to the Company, as detailed in Section 5.2, below. The failure to pay such amount within ten (10) business days after written demand by SEDC shall be considered a breach or default of this Agreement subject to termination and repayment of the Grant pursuant to Article VI hereof.

(b) The Company shall generate sales tax receipts in an amount equal to at least \$5,000 per year. The Company shall provide the SEDC with a Sales Tax Certificate within the first thirty (30) days of the end of each calendar year, following the first full calendar year after

completion of construction. At the request of the SEDC, the Company shall provide such additional documentation as may be reasonably requested by the SEDC to evidence, support and establish the Sales Tax Receipts (including Sales and Use Tax paid directly to the State of Texas pursuant to a direct payment permit) received by the City of Seagoville from the State of Texas. The Sales Tax Certificate shall at a minimum contain, include or be accompanied by a schedule detailing the amount of total sales and the amount of Sales and Use Tax collected and paid to the State of Texas as a result of the sale of Taxable Items by the Company at the Property for the preceding year. The SEDC retains the right to further investigate the sales tax receipts generated from the Property, as the SEDC deems appropriate and necessary. Failure to generate the required minimum Sales Tax Receipts for the preceding year shall be considered a breach or default of this Agreement subject to repayment of the Grant pursuant to Article VI hereof.

Article VI Termination

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

6.2 In the event the Agreement is terminated by SEDC pursuant to Sections 6.1(c), (d), (e), or (f), above, in addition to the SEDC's Option and Right of First Refusal, as reflected in the Restriction Agreement, the Company shall immediately repay to SEDC an amount proportional to its performance, as provided below:

- (a) If the Company fails to complete construction of the Improvements, or completes construction of Improvements but fails to open a retail/bakery restaurant within two (2) months of Completion of Construction, the

- Company shall repay to the SEDC One Hundred Seven Thousand and Six Hundred Dollars (\$107,600.00), and upon payment of this amount to the SEDC, this Agreement shall terminate; and
- (b) If the Company completes Construction of the Improvements but fails to create and maintain five (5) Employment Positions and generate at least five thousand (\$5,000) in additional sales tax revenue within the first calendar year following Completion of Construction, the Company shall repay to the SEDC Thirty-five Thousand Eight Hundred and Sixty-seven Dollars (\$35,867.00); and
 - (c) If the Company completes Construction of the Improvements but fails to create and maintain five (5) Employment Positions and generate at least five thousand (\$5,000) in additional sales tax revenue to the City within the second year following Completion of Construction, the Company shall repay to the SEDC Thirty-five Thousand Eight Hundred and Sixty-seven Dollars (\$35,867.00); and
 - (d) If the Company completes Construction of the Improvements but fails to create and maintain five (5) Employment Positions and generate at least five thousand (\$5,000) in additional sales tax revenue to the City within the third year following Completion of Construction, the Company shall repay to the SEDC Thirty-five Thousand Eight Hundred and Sixty-seven Dollars (\$35,867.00)

Article VII Miscellaneous

7.1 Binding Agreement; Assignment. This Agreement shall be binding upon and inure to the benefit of the heirs, successors, affiliates, administrators, executors, and permitted assigns of the respective Parties. This Agreement may not be assigned without the prior written consent of SEDC; provided however Company may collaterally assign or pledge Company's rights in the Property under this Agreement to Company's Lender as security for a loan for the Project.

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

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

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

If intended for SEDC, to

Kirk Clennan, Executive Director
Seagoville Economic Development
Corporation
105 N. Kaufman Street
Seagoville, Texas 75159
Facsimile No. (972) 287-9939

With a copy to:

Alexis G. Allen
Nichols, Jackson, Dillard, Hager &
Smith, LLP
1800 Ross Tower
100 N. Akard
Dallas, Texas 75201

If intended for Company, to:

Attn: Sweet Dish, LLC
2602 McKinney Avenue, Suite 240
Dallas, Texas 75204
Phone: 214.414.3810

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

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

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

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

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

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

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

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

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

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

- (i) Company and SEDC having entered into the Sale and Purchase Agreement;
- (ii) Company and SEDC having entered into the Restriction Agreement;
- (iii) Zoning Ordinance having been approved by the City;

Regular Agenda Item: 15

Meeting Date: ***February 6, 2017***

Receive Councilmember Reports/Items of Community Interest

ITEM DESCRIPTION

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

BACKGROUND OF ISSUE:

N/A

FINANCIAL IMPACT:

N/A

EXHIBITS

N/A

Regular Agenda Item: 16

Meeting Date: ***February 6, 2017***

Receive Citizen Comments

ITEM DESCRIPTION

Receive Citizen Comments – Citizens may speak 6 minutes each on any matter not on the agenda, other than personnel matters or matters under litigation. The council may not discuss these items, but may respond with factual data or policy information, or place the item on a future agenda. Those wishing to speak shall submit a Speaker Request Form to the City Secretary.

BACKGROUND OF ISSUE:

N/A

FINANCIAL IMPACT:

N/A

EXHIBITS

N/A

Regular Session Agenda Item: 17

Meeting Date: February 6, 2017

Future Agenda Items

ITEM DESCRIPTION

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.

BACKGROUND OF ISSUE:

N/A

FINANCIAL IMPACT:

N/A

EXHIBITS

N/A