

PROMISSORY NOTE BETWEEN THE CITY OF SEGUIN AND THE SEGUIN ECONOMIC DEVELOPMENT CORPORATION

WHEREAS, the City of Seguin ("City"), through its Utility Fund, desires to loan a certain sum of money to the Seguin Economic Development Corporation (the "SEDC") for the purchase of approximately 60 acres of land lying between Guadalupe and Eighth Street to be used for economic development purposes; and

WHEREAS, the parcel of land lies within the City utility certificate of convenience and necessity for all three of its utilities; and

WHEREAS, ownership of the land by the SEDC would allow the SEDC to provide the land for industrial development that would assist in the creation of primary jobs and expanded business development in the City; and

WHEREAS, industrial development of this land would benefit the City's utility systems through gaining another industrial customer that may provide significant revenue to the systems; and

WHEREAS, although this loan is for the purpose of purchasing the above described land, said land is to be purchased free and clear and not subject to a security interest; and

WHEREAS, both the SEDC, through Resolution 2019-05, and the City of Seguin, through Resolution 2019-____ have approved entering into the terms of this promissory note.

NOW THEREFORE, on the ____ day of June, 2019, hereinafter known as the "Start Date", the Seguin Economic Development Corporation, has received as a single advance and promises to pay back the City of Seguin the principal sum of up to Two Million and no/100 Dollars (\$2,000,000.00) beginning as of the Start Date in the manner as follows:

- 1. PAYMENTS:** The balance of this Note shall be paid in eight installments as set forth below:

- a. First Payment due ___, 2020, in the amount of \$250,000.00;
- b. Second Payment due ___, 2021 in the amount of \$250,000.00;
- c. Third Payment due ___, 2022 in the amount of \$250,000.00;
- d. Fourth Payment due ___, 2023 in the amount of \$250,000.00;
- e. Fifth Payment due ___, 2024 in the amount of \$250,000.00;
- f. Sixth Payment due ___, 2025 in the amount of \$250,000.00;
- g. Seventh Payment due ___, 2026 in the amount of \$250,000; and
- h. Eighth and final Payment due ___, 2027 in the amount of remaining principal balance due (the "Final Due Date").

2. INTEREST DUE IN THE EVENT OF DEFAULT: In the event the SEDC fails to pay the note in full on the Final Due Date, unpaid principal shall accrue interest at the maximum rate allowed by law until the SEDC is no longer in default; otherwise no interest shall accrue.

3. PREPAYMENT: The SEDC may pre-pay this Note at any time without penalty.

4. ACCELERATION: If the SEDC is in default under this Note or is in default under another provision of this Note, and such default is not cured within sixty (60) days following written notice of such default, then the City may, at its option, declare all outstanding sums owed on this Note to be immediately due and payable.

5. ATTORNEYS' FEES AND COSTS: The SEDC shall pay all costs incurred by the City in collecting sums due under this Note after a default, including reasonable attorneys' fees. If the City or the SEDC sues to enforce this Note or obtain a declaration of its rights hereunder, the prevailing party in any such proceeding shall be entitled to recover its reasonable attorneys' fees and costs incurred in the proceeding (including those incurred in any bankruptcy proceeding or appeal) from the non-prevailing party.

6. WAIVER OF PRESENTMENTS: The SEDC waives presentment for payment, notice of dishonor, protest and notice of protest.

7. NON-WAIVER: No failure or delay by the City in exercising the City's rights under this Note shall be considered a waiver of such rights.

8. SEVERABILITY: In the event that any provision herein is determined to be void or unenforceable for any reason, such determination shall not affect the validity or enforceability of any other provision, all of which shall remain in full force and effect.

9. INTEGRATION: There are no verbal or other agreements which modify or affect the terms of this Note. This Note may not be modified or amended except by written agreement signed by the City and SEDC.

10. CONFLICTING TERMS: The terms of this Note shall control over any conflicting terms in any referenced agreement or document.

11. NOTICE: Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by facsimile, or (d) by a commercial overnight courier that guarantees next day delivery and provides a receipt, and such notices shall be made to the parties at the addresses listed below.

12. GOVERNING LAW: This note shall be governed under the laws in the State of Texas.

13. EFFECTIVE DATE: This note shall be effective as of the Start Date defined above.

City of Seguin, a Texas municipal corporation
205 N. River Street, Seguin, Texas 78155

By:

Douglas G. Faseler, City Manager

Seguin Economic Development Corporation, a Texas non-profit corporation
211 N. River Street, Seguin, Texas 78155

By:

Joshua Schneuker, Executive Director