



Economic Development Corporation  
Regular Meeting  
Agenda Packet  
June 1, 2016



**SANSOM PARK**  
**ECONOMIC DEVELOPMENT CORPORATION 4B**  
**Regular Session – 2:30 p.m.**  
**Wednesday, June 1, 2016**

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Notice is hereby given of a Regular Meeting of the Sansom Park Economic Development Corporation to be held on Wednesday, June 1, 2016, at 2:30 p.m. in the City Council chambers located within the building at Sansom Park City Hall, 5705 Azle Avenue, Sansom Park, Texas, 76114, for the purpose of considering the following agenda items:

1. Call Meeting to Order / Roll Call and General Comments
2. Discuss and consider approval of the Minutes from the May 4, 2016 Regular Meeting, as presented.
3. Discuss and consider approval of the Development Agreement between the Sansom Park Economic Development Corporation and Sarah Services.
4. Discuss and consider approval of a Contract for Professional Services of Dorothy Palumbo between the Bojorquez Law Firm and the Sansom Park Economic Development Corporation.
5. Discuss and consider action on hosting Quarterly Coffee Talk with the Business Community.
6. City Administrator Report
7. Consultant Report

### ADJOURNMENT

**Certification:**

I hereby certify that the above notice was posted on the bulletin board, at the Sansom Park City Hall, 5705 Azle Avenue, Sansom Park, Texas, 76114, on \_\_\_\_\_, \_\_\_\_\_, 2016 \_\_\_\_\_ am/pm and remained so posted at least 72 hours before said meeting was convened. **NOTICE:** Sansom Park City Hall is wheelchair accessible and special parking is available on the North side of the building. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact the City Secretary's Office a minimum of 24 hours before the meeting and every effort will be made to provide reasonable accommodations.

\_\_\_\_\_  
Wendy Blocker, City Secretary

Certification of Notice of Meeting was removed on \_\_\_\_\_, 2016 at \_\_\_\_\_ a.m./p.m. by \_\_\_\_\_



# Sansom Park Economic Development Corporation 4B

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## AGENDA REPORT

Meeting Date: June 1, 2016  
Agenda Item: 2

Staff Contact: Wendy Blocker, City Secretary  
E-mail: [wblocker@sansompark.org](mailto:wblocker@sansompark.org)  
Phone: 817-626-3791 ext.118

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**SUBJECT:** Consider approval of the minutes of the Regular meeting held on May 4, 2016, as presented.

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**BACKGROUND:**

Attached are the EDC minutes from the Regular meeting held on May 4, 2016, as presented.

**FINANCIAL IMPACT:**

There is none.

**RECOMMENDATION:**

Staff recommends EDC Board consideration of the minutes as presented.

**ATTACHMENTS:**

- May 4, 2016 Minutes



**The City of Sansom Park  
4B Economic Development Corporation  
Regular Meeting Minutes  
May 4, 2016 – 2:00 p.m.**

**Economic Development Board Members Present:**

Jim Barnett, Jr., President  
Jack Thompson, Director  
Coy Hart, Board Member  
Crystal Harris, Board Member  
Kenny Russell, Board Member  
Glenda Drexel, Board Member

**Economic Development Board Members Absent:**

Hector Lerma, Board Member

**Staff present:**

Greg Hutson, City Administrator  
Wendy Blocker, City Secretary

**Call to Order / Roll Call and General Comments**

President Jim Barnett, Jr. called the meeting of the Sansom Park 4B Economic Development Corporation to order at 2:03 p.m. and announced a quorum present with Member Hector Lerma absent.

**Discuss and consider approval of the Minutes from the March 23, 2016 Special Called Meeting, as presented.** Board Member Coy Hart made a motion to approve the minutes, second by Director Jack Thompson. The Board voted unanimously to approve the Minutes as presented. Motion Carried 6-0.

**Review and consider the Sansom Park EDC Bylaws/Board Members and approving any amendments if necessary.** President Barnett Jr. advised the Board that the EDC Bylaws have been in place since the corporation was established and there could be items that need updating. Board will review bylaws for possible amendments of the board member terms, positions and number of members. Director Jack Thompson also stated that the City Council is the governing body for the corporation. Member Kenny Russell agrees that with new businesses coming in having term limits on the members would allow others to serve if so desired. Board members will review the bylaws and discuss at a later date if any updates are requested and once the EDC prepares the revisions City Council would have to approve. No action at this time.

**Discuss and consider the hiring of Dorothy Palumbo of the Bojorquez Law Firm as the Sansom Park EDC Attorney.** President Barnett, Jr. advised that the City has been using Ms. Palumbo for any land use projects. Ms. Palumbo has worked in other local cities as the EDC development attorney and brought together many projects. This will allow the EDC to enhance the incentive packages for

new development agreements and for her to handle all contracts. Member Hart made a motion to hire Dorothy Palumbo, second by Kenny Russell. The Board voted unanimously to hire Dorothy Palumbo of the Bojorquez Law Firm as the Sansom Park EDC Attorney. Motion carried 6-0.

**Review and discuss the Traffic Count Study from April 2016.** President Barnett, Jr. stated that the current study reflects a decrease since the last study. This is due to construction going on near downtown and most are trying to avoid Hwy 199. TXDOT is currently working on future developments for Hwy 199 for traffic and drainage flow. They will work with North Central Texas Council of Governments (NCTCOG) and will prepare to have this reviewed in the next 18 months. This will be critical to our businesses on Hwy 199 and all future developments and should increase the ability of the anticipated fifty thousand (50,000) vehicles per day over the next 25 years forecast.

**City Administrator report/financials** Greg Hutson presented the financials to date sales tax has increased by 3.5%.

**Consultant report** Director Thompson reported that the business luncheon had 40 plus in attendance and Dan Kessler gave a great speech on the future plans for transportation in the DFW area. Also, two properties will be finalizing development agreements this month. More inquiries on open lots on Jacksboro Hwy. TEDC seminar in June and the board will need at least 3 members or staff to attend and receive the two year credit must register no later than May 27<sup>th</sup>.

*As there was no further business, the President Barnett, Jr. adjourned the meeting at 2:54 p.m.*

**PASSED AND APPROVED ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.**

**APPROVED:**

\_\_\_\_\_  
Jim Barnett, Jr.,  
President

**ATTEST:**

\_\_\_\_\_  
Wendy Blocker  
City Secretary



# Sansom Park Economic Development Corporation 4B

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## AGENDA REPORT

Meeting Date: May 19, 2016

Agenda Item: 3

Staff Contact: Jack Thompson, Orasi

E-mail: jack@orasidevelopment.com

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**SUBJECT: Consider approval of the Development Agreement between the Sansom Park Economic Development Corporation and Sarah Services.**

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**BACKGROUND:**

The City has deeded land to the Sansom Park Economic Development Corporation which in turn has a real estate contract to sell the property and a development agreement with Sarah Services, Inc. for the purpose of constructing a shopping center at 5103 Azle Ave. During the closing process of the property, it was discovered the county owned a small parcel of the property being sold to Sarah Services. The EDC has worked with Tarrant County to get the parcel deeded to the EDC so it can be included into the land sale to Sarah Services. The time it took to work through the process with the County affected some performance dates in the development agreement. Those dates need to be changed so that Sarah Services has a reasonable time to meet the terms.

**The date changes are as follows:**

**SECTION 2 TERM**

**From October 2, 2017 to October 1, 2018**

**SECTION 4 AFFIRMATIVE CONVENANTS**

- (a) **Conveyance of the Property**  
**From October 5, 2015 to June 24, 2016**
- (c) **Qualified Expenditures**  
**From October 2, 2017 to October 1, 2018**
- (d) **Building Permit**  
**From October 3, 2016 to October 2, 2017**
- (e) **Certificate of Occupancy**  
**From October 2, 2017 to October 1, 2018**

**FINANCIAL IMPACT:**

There is none.

**RECOMMENDATION:**

Board consideration to approve the amendments of the date changes as presented.

**ATTACHMENTS:**

Development Agreement

## PERFORMANCE AGREEMENT

This **PERFORMANCE AGREEMENT** by and between *SARAH SERVICES, INC.*, a Texas corporation (hereinafter referred to as the "Developer"), and the *SANSOM PARK ECONOMIC DEVELOPMENT CORPORATION*, a Texas non-profit corporation (hereinafter referred to as the "SPEDC"), is made and executed on the following recitals, terms and conditions.

**WHEREAS**, SPEDC is an economic development corporation operating pursuant to Chapter 505 of the Texas Local Government Code, as amended (also referred to as the "Act"), and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

**WHEREAS**, Section 501.103 of the Texas Local Government Code, in pertinent part, defines the term "project" to mean "expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to: (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; (2) telecommunications and Internet improvements . . ."; and

**WHEREAS**, Section 505.158 of the Texas Local Government Code provides that "[f]or a Type B corporation authorized to be created by a municipality with a population of 20,000 or less, "project" also includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the corporation's board of directors to promote new or expanded business development." Further, the statute provides that "[a] Type B corporation may not undertake a project authorized by this section that requires an expenditure of more than \$10,000 until the governing body of the corporation's authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings"; and

**WHEREAS**, Section 501.158 of the Texas Local Government Code prohibits the provision of a direct incentive unless SPEDC enters into an Agreement with Developer providing at a minimum a schedule of additional payroll or jobs to be created or retained by SPEDC's investment; a schedule of capital investments to be made as consideration for any direct incentives provided by SPEDC to Developer; and a provision specifying the terms and conditions upon which repayment must be made should Developer fail to meet the agreed to performance requirements specified in this Agreement; and

**WHEREAS**, Developer has applied to SPEDC for financial assistance or other financial accommodations necessary for the construction of the Qualified Expenditures on the Property to be generally located at 5103 Azle Avenue, City of Sansom Park, Texas (also referred to as the "Property"); and

**WHEREAS**, the SPEDC's Board of Directors have determined the financial incentive provided to Developer for the Qualified Expenditures to be expended on the Property is consistent with and meets the definition of "project" as that term is defined in Sections 501.103

and 505.158 of the Texas Local Government Code; and the definition of “cost” as that term is defined by Section 501.152 of the Texas Local Government Code; and

**WHEREAS**, Developer agrees and understands that Section 501.073(a) of the Texas Local Government Code requires the City Council of the City of Sansom Park, Texas, to approve all programs and expenditures of the SPEDC, and accordingly this Agreement is not effective until City Council has approved this project at a City Council meeting called and held for that purpose.

**NOW, THEREFORE**, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged the SPEDC and Developer agree as follows:

**SECTION 1. FINDINGS INCORPORATED.**

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

**SECTION 2. TERM.**

This Agreement shall be effective as of the Effective Date as defined herein and shall continue thereafter until **October 1, 2018**, unless terminated sooner under the provisions hereof.

**SECTION 3. DEFINITIONS.**

The following words shall have the following meanings when used in this Agreement.

- (a) **Act.** The word “Act” means Chapters 501 to 505 of the Texas Local Government Code, as amended.
- (b) **Agreement.** The word “Agreement” means this Performance Agreement, together with all exhibits and schedules attached to this Performance Agreement from time to time, if any.
- (c) **City.** The word “City” means the City of Sansom Park, Texas, a Texas general-law municipality, whose address for the purposes of this Agreement is 5705 Azle Avenue, Sansom Park, Texas 76114.
- (d) **Clean-Up Costs.** The words “Clean-up Costs” means those expenditures made by the Developer to cleanup the Property which includes removal of debris, trash, existing structures, tires, vehicles, boats, or other rubbish, and which is consistent with Section 501.152 of the Act.



- (e) **Developer.** The word "Developer" means Sarah Services, Inc., a Texas corporation, its successors and assigns, whose address for the purposes of this Agreement is 2600 Azle Avenue, Fort Worth, Texas 76106.
- (f) **Effective Date.** The words "Effective Date" mean the date of the latter to execute this Agreement by and between the Developer and the SPEDC.
- (g) **Event of Default.** The words "Event of Default" mean and include any of the Events of Default set forth below in the section entitled "Events of Default."
- (h) **Property.** The word "Property" means Lots 1 through 12, Block 1 of the Robertson-Hunter Addition, an addition located within the City of Sansom Park, Tarrant County, Texas, and having a street address of 5103 Azle Avenue, Sansom Park, Tarrant County, Texas.
- (i) **Qualified Expenditures.** The words "Qualified Expenditures" mean those expenditures consisting of the construction of a minimum of 10,000 square feet of retail/restaurant space located on the Property, and those expenses which otherwise meet the definition of "project" as that term is defined by Sections 501.103 and 505.158 of the Act, and the definition of "cost" as that term is defined by Section 501.152 of the Act.
- (j) **Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, loan agreements, and all other instruments and documents, whether now or hereafter existing, executed in connection with this Agreement.
- (k) **SPEDC.** The word "SPEDC" means the Sansom Park Economic Development Corporation, a Texas non-profit corporation, its successors and assigns, whose corporate address for the purposes of this Agreement is 5705 Azle Avenue, Sansom Park, Texas 76114.
- (l) **Term.** The word "Term" means the term of this Agreement as specified in Section 2 of this Agreement.

#### **SECTION 4. AFFIRMATIVE COVENANTS.**

Developer and SPEDC covenant and agree that while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) **Conveyance of the Property.** SPEDC covenants and agrees to convey to Developer the Property, and Developer covenants and agrees to acquire the Property from SPEDC by **June 24, 2016** , in accordance with the terms of a real estate sales contract executed by and between the parties concerning the Property.

- (b) **Cleanup Costs of the Property.** Developer covenants and agrees to submit to the SPEDC invoices, receipts, or other documentation in a form acceptable to the SPEDC for the Cleanup Costs made to the Property by **October 5, 2015**.
- (c) **Qualified Expenditures.** Developer covenants and agrees to submit to the SPEDC invoices, receipts, or other documentation in a form acceptable to the SPEDC for the Qualified Expenditures made to the Property in a minimum amount of **One Million and No/100 Dollars (\$1,000,000.00)** by **October 1, 2018**.
- (d) **Building Permit.** In the event Developer obtains or causes to be obtained a building permit from the City by **October 2, 2017**, for the construction of the Qualified Expenditures located on the Property, the SPEDC covenants and agrees to provide to Developer financial assistance in the amount of **Twenty-Five Thousand and No/100 Dollars (\$25,000.00)** within thirty (30) days of Developer's receipt of said building permit.
- (e) **Certificate of Occupancy.** In the event Developer obtains or causes to be obtained a Certificate of Occupancy from the City by **October 1, 2018**, for a minimum of 10,000 square feet of retail/restaurant space located on the Property, the SPEDC covenants and agrees to provide to Developer financial assistance in the amount of **Twenty-Five Thousand and No/100 Dollars (\$25,000.00)** within thirty (30) days of Developer's receipt of said Certificate of Occupancy.
- (f) **Performance.** Developer and SPEDC agree to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements by and between the Developer and SPEDC.

#### **SECTION 5. CESSATION OF ADVANCES.**

If SPEDC has made any commitment to make any reimbursement to Developer, whether under this Agreement or under any other agreement, SPEDC shall have no obligation to advance or disburse financial assistance if: (i) Developer becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or (ii) an Event of Default occurs.

#### **SECTION 6. EVENTS OF DEFAULT.**

Each of the following shall constitute an Event of Default under this Agreement:

- (a) **General Event of Default.** Failure of Developer or SPEDC to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, or failure of Developer or SPEDC to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement by and between the Developer

and SPEDC is an Event of Default.

- (b) **False Statements.** Any warranty, representation, or statement made or furnished to the City and/or the SPEDC by or on behalf of Developer under this Agreement that is false or misleading in any material respect, either now or at the time made or furnished is an Event of Default.
- (c) **Insolvency.** Developer's insolvency, appointment of receiver for any part of Developer's property, any assignment for the benefit of creditors of Developer, any type of creditor workout for Developer, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Developer is an Event of Default.
- (d) **Ad Valorem Taxes.** Developer allows its ad valorem taxes on the Property and owed to City to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes and to cure such failure within thirty (30) days after written notice thereof from City and/or Tarrant County Central Appraisal District is an Event of Default.
- (e) **Other Defaults.** Failure of Developer or SPEDC to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of the Related Documents, or failure of Developer or SPEDC to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement by and between the SPEDC and Developer is an Event of Default.

#### **SECTION 7. EFFECT OF AN EVENT OF DEFAULT.**

In the event of default under Section 6 of this Agreement, the non-defaulting party shall give written notice to the other party of any default, and the defaulting party shall have thirty (30) days to cure said default. Should said default remain uncured as of the last day of the applicable cure period, and the non-defaulting party is not otherwise in default, the non-defaulting party shall have the right to immediately terminate this Agreement, enforce specific performance as appropriate, or maintain a cause of action for damages caused by the event(s) of default. In the event, Developer defaults and is unable or unwilling to cure said default within the prescribed time period, the amounts provided by SPEDC to Developer pursuant to Section 4 of this Agreement shall become immediately due and payable by Developer to SPEDC.

## SECTION 8. INDEMNIFICATION.

Developer shall indemnify, save, and hold harmless SPEDC and City, its directors, officers, agents, attorneys, and employees (collectively, the "Indemnitees") from and against: (i) any and all claims, demands, actions or causes of action that are asserted against any Indemnitee if the claim, demand, action or cause of action directly or indirectly relates to tortious interference with contract or business interference, or wrongful or negligent use of SPEDC's financial assistance by Developer or its agents and employees; (ii) any administrative or investigative proceeding by any governmental authority directly or indirectly related, to a claim, demand, action or cause of action in which SPEDC or the City is a disinterested party; (iii) any claim, demand, action or cause of action which directly or indirectly contests or challenges the Cleanup Costs of the Property or failure by Developer to cleanup the Property; (iv) any claim, demand, action or cause of action which directly or indirectly contests or challenges the legal authority of SPEDC or Developer to enter into this Agreement; and (v) any and all liabilities, losses, costs, or expenses (including reasonable attorneys' fees and disbursements) that any Indemnitee suffers or incurs as a result of any of the foregoing; provided, however, that Developer shall have no obligation under this Section to SPEDC with respect to any of the foregoing arising out of the gross negligence or willful misconduct of SPEDC or the breach by SPEDC of this Agreement. If any claim, demand, action or cause of action is asserted against any Indemnitee, such Indemnitee shall promptly notify Developer, but the failure to so promptly notify Developer shall not affect Developer's obligations under this Section unless such failure materially prejudices Developer's right to participate in the contest of such claim, demand, action or cause of action, as hereinafter provided. If requested by Developer in writing, as so long as no Default or Event of Default shall have occurred and be continuing, such Indemnitee shall in good faith contest the validity, applicability and amount of such claim, demand, action or cause of action and shall permit Developer to participate in such contest. Any Indemnitee that proposes to settle or compromise any claim, demand, action, cause of action or proceeding for which Developer may be liable for payment of indemnity hereunder shall give Developer written notice of the terms of such proposed settlement or compromise reasonably in advance of settling or compromising such claim or proceeding and shall obtain Developer's concurrence thereto.

## SECTION 9. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

- (b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Tarrant County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Tarrant County, Texas.
- (c) **Assignment.** This Agreement may not be assigned without the express written consent of the other party.
- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. Developer warrants and represents that the individual or individuals executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. SPEDC warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.
- (e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- (f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (g) **Notices.** Any notice or other communication required or permitted by this Agreement (hereinafter referred to as the "Notice") is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to Developer: Sarah Services, Inc.  
 2600 Azle Avenue  
 Fort Worth, Texas 76106  
 Attn: Jihad Meshmesh  
 Telephone: \_\_\_\_\_

if to SPEDC: Sansom Park Economic Development Corporation  
 5705 Azle Avenue  
 Sansom Park, Texas 76114  
 Attn: Greg Hutson  
 Telephone: (817) 626-3791 ext. 103  
 Facsimile: (817) 626-0023

- (h) **Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not

render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

- (i) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- (j) **Undocumented Workers.** Developer certifies that the Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of eight percent (8%), not later than the 120<sup>th</sup> day after the date the SPEDC notifies Developer of the violation.

**[The Remainder of this Page Intentionally Left Blank]**

THE PARTIES ACKNOWLEDGE HAVING READ ALL THE PROVISIONS OF THIS PERFORMANCE AGREEMENT, AND THE PARTIES AGREE TO ITS TERMS. THIS PERFORMANCE AGREEMENT IS EFFECTIVE AS OF THE EFFECTIVE DATE AS DEFINED HEREIN.

DEVELOPER:

SARAH SERVICES, INC.,  
a Texas corporation

By: \_\_\_\_\_

Name: Jihad Meshmesh

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2016,  
by Jerad Meshmesh, \_\_\_\_\_ of Sarah Services, Inc., a Texas corporation,  
on behalf of said corporation.

\_\_\_\_\_

Notary Public, in and for the State of Texas

SPEDC:

SANSOM PARK ECONOMIC  
DEVELOPMENT CORPORATION,  
a Texas non-profit corporation

By: \_\_\_\_\_

Name: Jim Barnett, Jr.

Title: President

Date Signed: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
*Wendy Blocker, City Secretary*

STATE OF TEXAS

COUNTY OF TARRANT

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2016,  
by Jim Barnett, Jr., President of the Sansom Park Economic Development Corporation, a  
Texas non-profit corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public, in and for the State of Texas





# Sansom Park Economic Development Corporation 4B

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## AGENDA REPORT

Meeting Date: June 1, 2016  
Agenda Item: 4

Staff Contact: Wendy Blocker, City Secretary  
E-mail: [wblocker@sansompark.org](mailto:wblocker@sansompark.org)  
Phone: 817-626-3791 ext.118

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**SUBJECT:** Consider approval of a Contract for Professional Services of Dorothy Palumbo between the Bojorquez Law Firm and the Sansom Park Economic Development Corporation.

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**BACKGROUND:**

At the May 4, 2016 EDC meeting the Board approved to hire Attorney Dorothy Palumbo for their land use attorney when needed. The attached contract outlines the fee schedule for Ms. Palumbo's professional services.

**FINANCIAL IMPACT:**

As needed basis when Board requests legal services.

**RECOMMENDATION:**

Staff recommends EDC Board approval of said Contract.

**ATTACHMENTS:**

- Bojorquez Law Firm Contract

## SANSOM PARK ECONOMIC DEVELOPMENT CORPORATION STANDARD TERMS OF ENGAGEMENT

This document establishes the standard terms of our engagement as your attorneys. Unless modified in writing by mutual consent, these terms will be an integral part of our agreement. Therefore, we ask that you carefully review this statement and contact us promptly if you have any questions. We suggest that you retain this document in your file.

### I. Our Relationship

#### 1. Identity of Client

The *Bojorquez Law Firm, P.C.* ("Firm") will be representing the interests of the *Sansom Park Economic Development Corporation* ("Sansom Park EDC") as an organization. The EDC Executive Director and/or President will be our primary client representatives. In the course of this relationship, you may designate other city officials or Sansom Park EDC members to receive legal services on the Sansom Park EDC's behalf.

#### 2. Nature of Representation

While in the future we may be directed to represent the Sansom Park EDC on other matters, our present relationship can be described as follows:

Serve as *General Counsel* to advise and advocate the Sansom Park EDC's interests in all aspects of *Municipal Law*.

#### 3. Economic Development and Predictability of Anticipated Outcomes

As General Counsel, it is imperative that you have a clear understanding of the legal services the Firm will provide. Any questions that you have should be dealt with promptly. We will provide services related only to matters as to which we have been specifically engaged. The Firm will at all times act on your behalf to the best of our ability. Any expressions on our part concerning the outcome of the Sansom Park EDC's municipal matters are expressions of our best professional judgment, but are not guarantees. Such opinions are necessarily limited by our knowledge of the facts and are based on the state of the law at the time they are expressed. We cannot guarantee the success of any given matter, but we will strive to represent your interests professionally and efficiently.

#### 4. Client Responsibilities

You agree to cooperate fully with the firm and to provide us promptly with all information known or available to you relevant to our representation. The Sansom Park EDC agrees to pay our invoices in accordance with these STANDARD TERMS OF ENGAGEMENT.

**5. Responsibilities of the Bojorquez Law Firm**

The Firm is committed to meeting the Sansom Park EDC's legal needs. In doing so, the Firm will: act competently and in a timely manner; protect the Sansom Park EDC's privileged information and ensure appropriate confidentiality; promote the Sansom Park EDC's interests; discuss the Sansom Park EDC's objectives and how they should best be achieved; and provide information about the work to be done, who will do it, when the work is expected to be completed and the way the services will be provided.

**6. Ancillary Services**

The Firm offers Planning, Municipal Court Consulting, Spanish Translation, and other types of ancillary services. These Law-related services would be provided in whole or in part by individuals who are not attorneys. Accordingly, these services are not legal services. As such, communications between the City and the Firm regarding such work may not be subject to the *Texas Rules of Disciplinary Conduct* governing the attorney-client relationship.

**7. Ethical Conflict of Interest Disclosure**

The representation of more than one municipal entity may present special ethical considerations under the *Texas Rules of Disciplinary Conduct*. The Firm may undertake representation of multiple municipal entities if the Sansom Park EDC agrees in writing after consultation about the risks of joint representation. The Sansom Park EDC may also consult with legal counsel other than the Firm regarding this representation.

A potential exists that conflicts of interest could arise with respect to the subject matter of this representation. Based on the information now available at this time, the Firm is not aware of any actual conflicts among the Sansom Park EDC and any other municipal entity. If the Sansom Park EDC becomes aware of anything that may suggest an actual conflict of interest, please bring it to the Firm's attention immediately.

If circumstances arise during the course of this matter that require or make it desirable that any of the clients obtain separate representation in this matter, the Firm would be free to continue to represent the remaining members of the client group in this matter. By signing these **STANDARD TERMS OF ENGAGEMENT** and accepting our joint representation, the Sansom Park EDC agrees that, if it becomes necessary or desirable for the Sansom Park EDC to retain other counsel, the Sansom Park EDC will not seek to disqualify the Firm from continuing to represent the remaining members of the client group.

**II. Fees, Billing and Administrative**

**1. Fees for Legal Services**

The charges for professional services provided by the Firm will typically be based upon the following: (1) the time devoted to the matter; (2) the novelty and difficulty of the questions presented; (3) the requisite experience, reputation and skill requested to deal with those questions; (4) time limitations imposed by the circumstances; (5) and the quality of the results obtained. Fees and costs for particular matters are unpredictable and we have made no commitment concerning maximum fees or costs. Unless otherwise indicated in writing, our fees for legal services are determined on the basis of the hourly rates of the respective

attorney that will perform the services. These rates may vary depending on the expertise and experience of the individual. We adjust these rates from time to time, increasing them as the individuals gain experience and expertise and to reflect current economic conditions. We will notify the client in writing if this fee structure is modified.

Currently, the standard billing rates for the Sansom Park EDC are detailed below:

<b>Principal Attorney:</b>	One hundred ninety-five dollars (\$195.00) per hour
<b>Of Counsel Attorney:</b>	One hundred eighty-five dollars (\$185.00) per hour
<b>Senior Associate Attorney:</b>	One hundred seventy-five dollars (\$175.00) per hour
<b>Associate Attorney:</b>	One hundred sixty-five dollars (\$165.00) per hour
<b>Municipal Court Prosecution:</b>	One hundred fifty-five dollars (\$155.00) per hour
<b>Land Planner:</b>	One hundred twenty-five dollars (\$125.00) per hour
<b>Municipal Court Consulting:</b>	One hundred twenty-five dollars (\$125.00) per hour
<b>Legal Secretary/Office Assistant:</b>	One hundred dollars (\$100.00) per hour
<b>Specialized Sub-Contractor:</b>	Negotiated
<b>Litigation:</b>	Negotiated

## 2. Rate Adjustment

Billing rates are subject to increase a maximum of ten percent (10%) annually. No rate increase will exceed ten percent without first obtaining consent from the designated primary client representative. The Sansom Park EDC will be notified in writing when a rate adjustment has occurred.

## 3. Other Charges and Handling Fees

All out-of-pocket expenses (such as long distance telephone charges, copying charges, travel expenses, courier expenses, etc.) incurred by the Firm in connection with representing you will be billed to you as a separate item on your monthly statement.

A 10% handling fee will be assessed on all out-of-pocket expenses incurred on behalf of the Sansom Park EDC for consulting and engineering fees, appraisal costs, and other professional requirements of a matter.

## 4. Billing Procedures & Terms of Payment

Our billing period begins on the 27<sup>th</sup> of the month and ends on the 26th day of the following month. We will render monthly statements to you for legal services and expenses. We usually mail these statements toward the beginning of the month, following the latest date covered in the statement. Each statement is payable within thirty (30) days of its stated date and must be paid in U.S. Dollars. If any statement is not paid within thirty (30) days after its stated date, interest at the rate of six percent (6%) per month (18% per annum) will accrue on the balance due. However, if at any time 18% per annum exceeds the highest interest rate permitted by applicable law, then the interest rate that will be applied to any overdue amounts will be reduced to the maximum rate permitted under applicable law. If you have any questions or concerns about any statement that we submit to you for payment, please

contact us at your earliest convenience so that we can resolve any problems without delay. If unresolved, overdue invoices may result in discontinuation of representation of the Sansom Park EDC. Typically, such issues can be resolved to the satisfaction of both sides with little inconvenience or formality.

**5. Fee Estimates**

We are often requested to estimate the amount of fees and costs likely to be incurred in connection with a particular matter. Your primary attorney will do his best to estimate fees and expenses for particular matters when asked to do so. However, an estimate is just that, and the fees and expenses required are ultimately a function of many conditions over which we have little or no control. Unless otherwise agreed in writing with respect to a specific matter, all estimates made by us shall be subject to your agreement and understanding that such estimates do not constitute maximum or fixed fee quotations and that the ultimate cost is frequently more or less than the amount estimated.

**6. Retainers**

Generally, there is no retainer for municipal clients. However, with substantial new matters for existing or new clients, the Firm may require a retainer. The retainer amount is not meant to be an estimate or limit of the fees and expenses required to complete the work on this matter, but is intended as the client's good faith deposit against a portion of such fees and expenses. The retainer will be placed in our Trust Account and we will bill our fees and disbursements against the retainer. We will advise the client if additional amounts are necessary to be placed in trust against which to bill future work. If our work is completed, and the Town's account is paid-in-full, yet a balance remains in the Town's retainer, we will refund the retainer to the Town upon request.

**7. Retention of Documents**

Although we will attempt to retain for a reasonable time copies of most documents generated by this Firm, we cannot be held responsible in any way for failure to do so, and we hereby expressly disclaim any such responsibility or liability. You must ultimately retain all originals and copies you desire among your own files for future reference.

**8. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, United States of America. Venue of any case or controversy arising under or pursuant to this Agreement shall be in *Williamson County*, Texas, United States of America.

**III. Termination of Services**

You have the right to terminate our services at any time upon providing written notice to us. Upon receipt of written notice from you, we will immediately cease to render additional services to the extent we can do so without jeopardizing your legal interests or our ethical obligations. We reserve the right to discontinue work on pending matters or terminate our attorney-client relationship with you at any time that payment of your account becomes delinquent. We also reserve the right to withdraw when obligated by the *Texas Rules of Disciplinary Conduct*. Additionally, in the event that you fail to follow our advice and counsel, persists in intentionally violating the law, or otherwise fail to cooperate reasonably with us, we reserve the right to withdraw from representing you immediately, with written notification, regardless of the then

status of your matter. No termination shall relieve you of the obligation to pay fees and expenses incurred prior to such termination. When a member of the firm is designated to serve as *Special Counsel*, that position is viewed as a municipal officer for purposes of termination in accordance with the Texas Local Government Code. Unless otherwise agreed in writing, representation will cease upon your payment in full of all fees due, and my firm's conveyance of your files to the destination you designate. The firm's files (work product), will be retained at the firm.

#### **IV. Internal Revenue Service (IRS) and Texas Workforce Commission (TWC) Status**

##### **1. Independent Contractor (IC)**

For purposes of federal income tax or social security withholdings, the firm is an IC responsible for payment of its own taxes, and not an employee of the City. The firm, and not the Sansom Park EDC, is obligated to arrange for the required federal withholdings of the firm's employees. Below is a summary of the IC versus employee requirements, and a good general overview of how our services will be provided.

##### **2. The Internal Revenue Service**

The IRS assesses three (3) factors of the employer/individual relationship: behavioral control, financial control, and relationship of the worker and firm to determine who is an employee and who is an Independent Contractor. (*see* IRS Form SS-8). Again, depending on the type of business and the services performed, not all sections of the form may apply, and the weight assigned to a specific factor may vary depending on the facts.

##### **3. The Texas Workforce Commission**

The TWC has adapted the old IRS twenty-factor test, known as the "direction or control" test to determine who is an employee and who is an IC (*see* TWC Form C-8). Depending on the type of business and the services performed, not all of the twenty common law factors may apply, and the weight assigned to a specific factor may vary depending upon the facts. Below are considerations for the TWC's twenty (20) factor test, which also generally address issues of behavioral control, financial control, and relationship of the worker and firm.

###### **i. Financial Control**

In general, an employee is usually paid for their time, whereas an independent contractor is usually paid by the job. An employee usually does not negotiate their pay, whereas an independent contractor usually negotiates their pay to ensure a profit. An employee is not expected to invest in the business they work for so the employer takes care of tax matters and expenses, whereas an independent contract is investing in their independent business so the IC takes care of all expenses and taxes.

###### **ii. Relationship of Worker & Business Entity**

In general, an employee does not usually advertise their services, whereas an IC does. An employee carries business cards that reflect the employer's name, whereas an IC carries business cards that reflect the IC's business name. An employee is primarily reached at the employer's phone number, whereas an IC is primarily reached at their business phone number.

**iii. Behavioral Control**

In general, an employer contracting for IC services is normally interested in the end result, not in the details of how the work is done. The employer should have no interest in how the IC allocates his or her time, or who the IC hires to assist (other than requiring proper licensure).

**V. Questions**

If during the course of our representation you have any questions about any aspect of our arrangements, please feel entirely free to raise those questions. The Firm wants all of our clients to have a clear and satisfactory understanding about every aspect of our billing and payment policies. Accordingly, we encourage an open and frank discussion of any or all of the matters mentioned in this document.

**VI. Acceptance of and Consent to the Standard Terms and Engagement**

If this arrangement is acceptable to you and the Sansom Park EDC, please sign these Terms and return it to Firm at your earliest convenience. We are truly honored that you are willing to make our firm part of your team.

**AGREED TO & ACCEPTED:**

by:

\_\_\_\_\_  
**Executive Director, Sansom Park Economic Development Corporation**

date: June \_\_\_\_, 2016

\_\_\_\_\_  
**Alan Bojorquez, Principal, Bojorquez Law Firm, PC**

date: June \_\_\_\_, 2016

*Please return a signed original of the STANDARD TERMS OF ENGAGEMENT to the Bojorquez Law Firm via mail, fax, overnight mail or email.*



*City of Sansom Park Economic Development Corp.*

**Treasury Reports**

**For the period ending May 31, 2016**

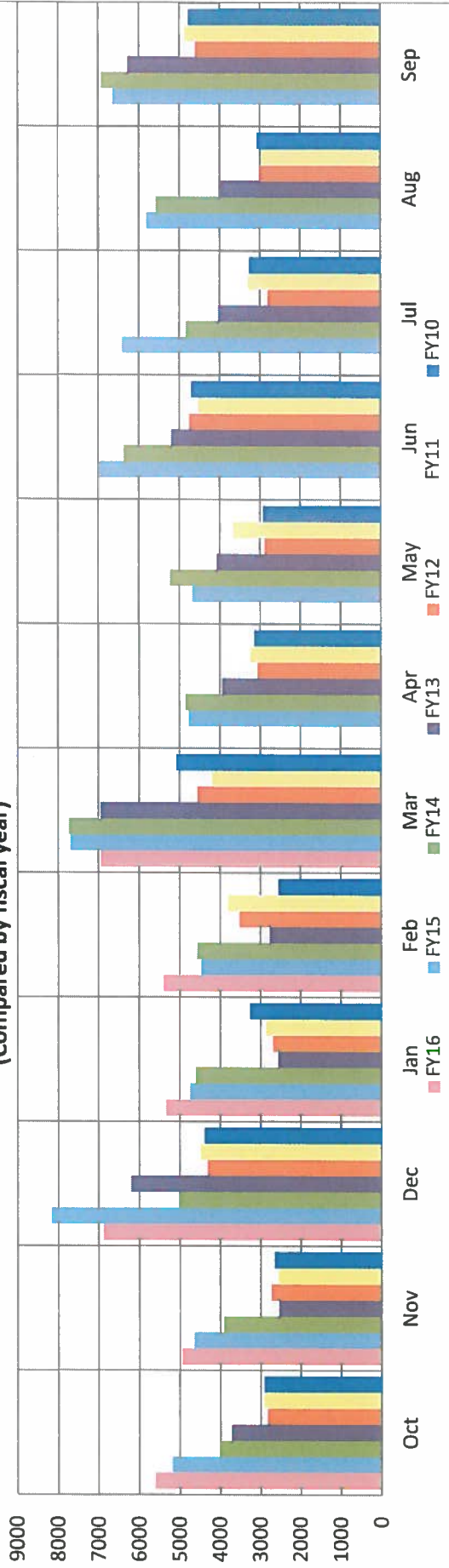


## EDC Bank Report

<b>04/30/2015 Balance</b>	\$	<b>96,921.67</b>
<i>Less Expenditures:</i>		
CK #1346-05/9/16 - Tarrany Count (Quit Claim 5103 Azle Ave)	\$	(100.00)
CK #1347-04/22/16 - Orasi (May)	\$	(3,333.33)
<i>Add Deposits/Revenue:</i>		
March Sales Tax		6,935.74
April Interest	\$	39.43
<b>05/31/2016 Balance</b>	<b>\$</b>	<b><u>100,463.51</u></b>
<b>Interest FYTD as of April</b>	<b>\$</b>	<b>183.11</b>

# EDC Sales Tax Comparison

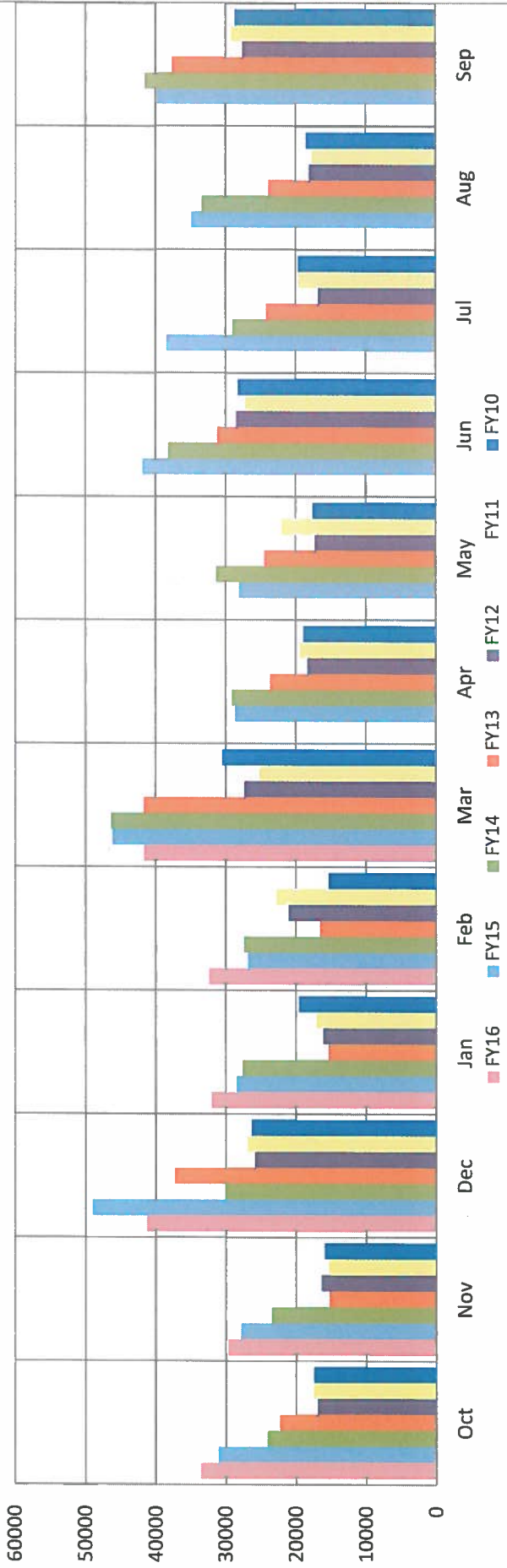
(Compared by fiscal year)



On **May 13, 2016** the EDC received a sales tax payment of \$6,935.74 This represents a **-\$757.74** or a **9.85% decrease** from the previous year period. Fiscal YTD sales tax payments equal \$35,085.62 compared to \$34,902.49 received during fiscal YTD 2015 representing a \$183.13 or a **.52% increase** in fiscal YTD sales tax receipts. .

Fiscal Year	2016	2015	2014	2013	2012	2011	2010
Oct	5,596.84	5,183.75	4,018.47	3,716.00	2,822.80	2,914.80	2,907.27
Nov	4,950.98	4,642.53	3,910.68	2,537.69	2,728.81	2,548.22	2,654.00
Dec	6,877.55	8,168.83	5,009.30	6,205.89	4,305.35	4,475.09	4,385.91
Jan	5,334.10	4,744.59	4,601.60	2,554.28	2,678.23	2,847.44	3,259.15
Feb	5,390.41	4,469.31	4,566.27	2,762.11	3,510.81	3,794.49	2,547.57
Mar	6,935.74	7,693.48	7,729.51	6,947.24	4,549.50	4,190.20	5,082.32
Apr		4,775.19	4,850.31	3,935.43	3,053.02	3,233.79	3,147.43
May		4,680.50	5,231.53	4,073.00	2,878.99	3,668.97	2,921.64
Jun		6,978.14	6,374.92	5,195.28	4,744.00	4,524.34	4,707.66
Jul		6,414.98	4,835.94	4,032.00	2,792.36	3,297.32	3,269.33
Aug		5,818.42	5,567.51	3,978.60	3,005.22	2,951.02	3,081.30
Sep		6,648.69	6,926.67	6,276.46	4,600.35	4,865.48	4,780.85
<b>Totals</b>	<b>35,085.62</b>	<b>70,218.41</b>	<b>63,622.71</b>	<b>52,213.97</b>	<b>41,669.42</b>	<b>43,311.16</b>	<b>42,744.42</b>
	<b>FY16</b>	<b>FY15</b>	<b>I/D</b>				
	35,085.62	34,902.49	0.52%				

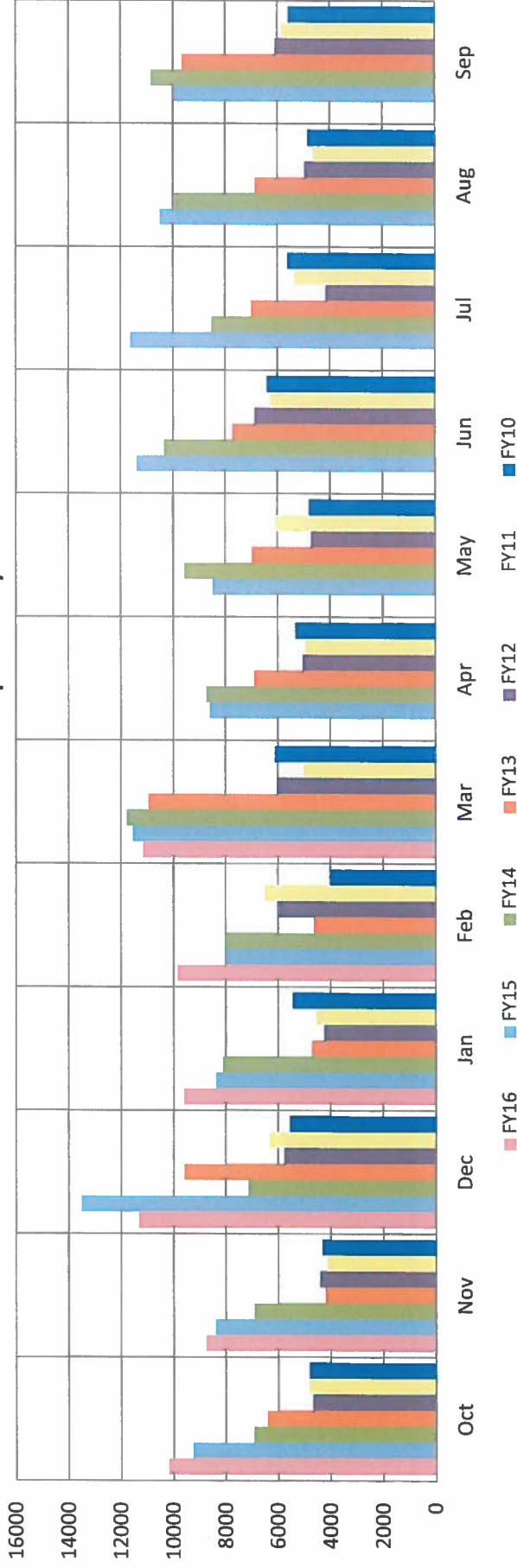
**General Fund Sales Tax Fiscal Year Comparison (Includes EDC & Streets)**



On **May 13, 2016** we received a sales tax payment of \$41,614.45. This represents a **\$-4,546.45** or a **9.85% decrease** from the previous year period. Fiscal YTD sales tax payments equal \$210,513.67 compared to \$209,415.00 received during fiscal YTD 2015 representing a \$1,098.67 or a **.52% increase** in fiscal YTD sales tax receipts.

Fiscal Year	2016	2015	2014	2013	2012	2011	2010
Oct	33,581.04	31,102.52	24,110.79	22,295.98	16,936.79	17,488.80	17,443.64
Nov	29,705.87	27,855.17	23,464.09	15,226.15	16,372.88	15,289.30	15,924.00
Dec	41,265.28	49,012.98	30,055.77	37,235.34	25,832.07	26,850.55	26,315.45
Jan	32,004.57	28,467.56	27,609.59	15,325.69	16,069.36	17,084.62	19,554.87
Feb	32,342.46	26,815.87	27,397.61	16,572.65	21,064.83	22,766.93	15,285.40
Mar	41,614.45	46,160.90	46,377.03	41,683.45	27,297.02	25,141.22	30,493.89
Apr		28,651.13	29,101.88	23,612.60	18,318.12	19,402.75	18,884.57
May		28,083.01	31,389.09	24,438.00	17,273.91	22,013.82	17,529.84
Jun		41,868.83	38,249.51	31,171.70	28,463.98	27,146.03	28,245.98
Jul		38,489.89	29,015.65	24,191.98	16,754.17	19,783.36	19,615.95
Aug		34,910.54	33,405.06	23,871.57	18,031.29	17,706.11	18,487.81
Sep		39,892.14	41,560.02	37,658.73	27,602.10	29,192.88	28,685.11
<b>Totals</b>	210,513.67	421,310.54	381,736.09	313,283.84	250,016.52	259,866.37	256,466.51
		<b>FY16</b>	<b>FY15</b>	<b>FY16</b>	<b>YTD I/D</b>		
		210,513.67	209,415.00	0.52%			

Crime Control Sales Tax Fiscal Year Comparison By Month



On **May 13, 2016** the CCPD received a sales tax payment of \$11,152.37. This represents a **\$-398.60** or a 3.45% **decrease** from the previous year period. Fiscal YTD sales tax payments equal \$60,845.96 compared to \$59,078.46 received during fiscal YTD 2015 representing a \$1,767.50 or a 2.99% **increase** in fiscal YTD sales tax receipts..

Fiscal Year	2016	2015	2014	2013	2012	2011	2010
Oct	10,183.03	9,252.71	6,925.62	6,413.59	4,663.79	4,821.71	4,803.97
Nov	8,749.09	8,385.99	6,902.65	4,189.29	4,398.94	4,117.54	4,309.82
Dec	11,319.54	13,526.00	7,139.20	9,584.72	5,759.77	6,331.19	5,540.80
Jan	9,596.48	8,373.89	8,107.56	4,714.64	4,239.00	4,525.45	5,429.30
Feb	9,845.45	7,988.90	8,030.30	4,640.59	5,961.07	6,499.03	3,980.41
Mar	11,152.37	11,550.97	11,772.40	10,944.29	6,033.42	5,018.55	6,101.14
Apr		8,598.81	8,724.97	6,890.38	5,024.26	4,940.13	5,307.93
May		8,487.55	9,556.91	6,966.97	4,711.85	6,083.67	4,780.21
Jun		11,386.80	10,338.00	7,718.25	6,855.98	6,272.71	6,394.51
Jul		11,622.45	8,523.37	6,993.61	4,138.53	5,356.97	5,594.96
Aug		10,493.53	9,953.90	6,857.28	4,948.70	4,624.02	4,831.51
Sep		9,974.37	10,838.59	9,653.71	6,093.85	5,849.90	5,576.51
<b>Totals</b>	<b>60,845.96</b>	<b>119,641.97</b>	<b>106,813.47</b>	<b>85,567.32</b>	<b>62,829.16</b>	<b>64,440.87</b>	<b>62,651.07</b>
			<b>FY16</b>	<b>FY15</b>	<b>YTD I/D</b>		
			60,845.96	59,078.46	2.99%		