

## **Combining Financial Statements**

### **Non-Major Governmental Funds**

#### **Special Revenue Funds**

Special revenue funds are used to account for specific revenues that are legally restricted to expenditure for particular purposes.

**Hotel/Motel Occupancy Tax Fund** -- This fund is used to account for the tax collected from local hotels and motels, which is used to promote tourism.

**Police Special Fund** -- This fund is used to account for restricted grant funds from the State for officer training and crime victims benefits.

City of Hearne, Texas  
Combining Balance Sheet  
Non-major Governmental Funds  
September 30, 2011

	<u>Special Revenue</u>		Total
	Hotel/Motel	Police	Non-major
	Tax	Special	Governmental
		Fund	Funds
<b>Assets</b>			
Taxes receivable	\$ 22,798	\$ -	\$ 22,798
Cash, restricted	42,930	12,643	55,573
Total assets	<u>\$ 65,728</u>	<u>\$ 12,643</u>	<u>\$ 78,371</u>
<b>Liabilities and fund balances</b>			
Liabilities:			
Accounts payable	17,278	-	17,278
Due to other funds	74,792	-	74,792
Total liabilities	<u>92,070</u>	<u>-</u>	<u>92,070</u>
Fund balances:			
Restricted for police	-	12,643	12,643
Unassigned (deficit)	(26,342)	-	(26,342)
Total fund balances (deficit)	<u>(26,342)</u>	<u>12,643</u>	<u>(13,699)</u>
Total liabilities and fund balances	<u>\$ 65,728</u>	<u>\$ 12,643</u>	<u>\$ 78,371</u>

City of Hearne, Texas  
Combining Statement of Revenues, Expenditures and Changes in Fund Balances  
Non-major Governmental Funds  
For the fiscal year ended September 30, 2011

	Special Revenue		Total
	Hotel/Motel Tax	Police Special Fund	Non-major Governmental Funds
Revenues:			
Hotel/motel occupancy taxes	\$ 121,395	\$ -	\$ 121,395
Investment income	84	-	84
Intergovernmental	6,523	2,150	8,673
Total revenues	128,002	2,150	130,152
Expenditures:			
Current:			
Public safety	-	1,090	1,090
Culture and recreation	80,636	-	80,636
Capital outlay	12,523	-	12,523
Debt service:			
Principal	51,269	-	51,269
Interest	9,782	-	9,782
Total expenditures	154,210	1,090	155,300
Net change in fund balances	(26,208)	1,060	(25,148)
Fund balances (deficit) at beginning of year	(133)	11,583	11,450
Fund balances (deficit) at end of year	\$ (26,341)	\$ 12,643	\$ (13,698)

**SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES  
IN FUND BALANCE – BUDGET AND ACTUAL**

*Special Revenue Funds*

City of Hearne, Texas  
Hotel/Motel Occupancy Tax Special Revenue Fund  
Schedule of Revenues, Expenditures and Changes in Fund Balances  
Budget and Actual  
For the fiscal year ended September 30, 2011

	Budgeted Amounts		Actual	Variance with Final Budget Over (Under)
	Original	Final		
Revenues:				
Hotel/motel occupancy taxes	\$ 121,575	\$ 121,575	\$ 121,395	\$ (180)
Investment income	500	500	84	(416)
Intergovernmental	-	6,523	6,523	-
Total revenues	<u>122,075</u>	<u>128,598</u>	<u>128,002</u>	<u>(596)</u>
Expenditures:				
Current:				
Culture and recreation:				
Economic development	65,000	68,435	80,636	12,201
Capital outlay	-	12,523	12,523	-
Debt service:				
Principal	55,050	51,270	51,269	(1)
Interest	17,025	9,782	9,782	-
Total expenditures	<u>137,075</u>	<u>142,010</u>	<u>154,210</u>	<u>12,200</u>
Excess (deficiency) of revenues over (under) expenditures	<u>(15,000)</u>	<u>(13,412)</u>	<u>(26,208)</u>	<u>(12,796)</u>
Other financing sources:				
Transfers in	<u>15,000</u>	<u>15,000</u>	<u>-</u>	<u>(15,000)</u>
Net change in fund balance	<u>-</u>	<u>1,588</u>	<u>(26,208)</u>	<u>(27,796)</u>
Fund balance (deficit) at beginning of year	<u>(133)</u>	<u>(133)</u>	<u>(133)</u>	<u>-</u>
Fund balance (deficit) at end of year	<u>\$ (133)</u>	<u>\$ 1,455</u>	<u>\$ (26,341)</u>	<u>\$ (27,796)</u>

**SCHEDULE OF REVENUES, EXPENSES AND CHANGES  
IN FUND NET ASSETS – BUDGET AND ACTUAL**

*Enterprise Funds*

City of Hearne, Texas  
Enterprise Fund  
Schedule of Revenues, Expenses, and Changes in Fund Net Assets  
Budget and Actual  
For the fiscal year ended September 30, 2011

	Budgeted Amounts		Actual	Variance with Final Budget Over (Under)
	Original	Final		
Operating revenues:				
Charges for sales and services:				
Water sales	\$ 1,068,994	\$ 1,457,954	\$ 1,355,737	\$ (102,217)
Electric sales	6,190,000	6,474,625	6,207,449	(267,176)
Sewer charges	675,000	675,000	554,532	(120,468)
Sanitation	36,000	658,767	646,838	(11,929)
Tap fees	1,500	1,500	-	(1,500)
Rental fees	-	148,358	148,357	(1)
Intergovernmental	-	70,069	242,708	172,639
Penalties	-	-	124,648	124,648
Miscellaneous revenue	212,300	240,131	95,178	(144,953)
Total operating revenues	<u>8,183,794</u>	<u>9,726,404</u>	<u>9,375,447</u>	<u>(350,957)</u>
Operating expenses:				
Wholesale utilities	3,970,000	5,419,510	5,093,174	(326,336)
Water department	409,478	495,683	508,137	12,454
Electric department	521,481	355,221	359,847	4,626
Sewer department	372,802	378,073	420,686	42,613
Sanitation department	68,825	60,479	63,551	3,072
Administrative and billing	656,082	737,971	729,801	(8,170)
Depreciation	-	612,515	612,514	(1)
Capital outlay	95,450	-	-	-
Total operating expenses	<u>6,094,118</u>	<u>8,059,452</u>	<u>7,787,710</u>	<u>(271,742)</u>
Operating income	<u>2,089,676</u>	<u>1,666,952</u>	<u>1,587,737</u>	<u>(79,215)</u>
Nonoperating revenues (expenses):				
Gain on sale of assets	1,000	6,759	1,976	(4,783)
Investment income	1,700	1,700	1,151	(549)
Debt service:				
Principal retirement	(230,052)	-	-	-
Interest expense	(326,548)	(450,563)	(450,560)	3
Total nonoperating revenues (expenses)	<u>(553,900)</u>	<u>(442,104)</u>	<u>(447,433)</u>	<u>(5,329)</u>
Income before transfers	<u>1,535,776</u>	<u>1,224,848</u>	<u>1,140,304</u>	<u>(84,544)</u>
Transfers in	-	-	-	-
Transfers out	(1,316,016)	(1,500,055)	(1,500,054)	1
Total other financing sources (uses)	<u>(1,316,016)</u>	<u>(1,500,055)</u>	<u>(1,500,054)</u>	<u>1</u>
Change in net assets	219,760	(275,207)	(359,750)	(84,543)
Net assets, beginning of the year	<u>3,636,534</u>	<u>3,636,534</u>	<u>3,636,534</u>	-
Net assets, end of the year	<u>\$ 3,856,294</u>	<u>\$ 3,361,327</u>	<u>\$ 3,276,784</u>	<u>\$ (84,543)</u>

City of Hearne, Texas  
Non-major Municipal Airport Enterprise Fund  
Schedule of Revenues, Expenses, and Changes in Fund Net Assets  
Budget and Actual  
For the fiscal year ended September 30, 2011

	Budgeted Amounts		Actual	Variance with
	Original	Final	GAAP	Final Budget
			Basis	Over (Under)
Operating revenues:				
Rental fees	\$ 28,000	\$ 28,000	\$ 22,025	\$ (5,975)
Intergovernmental	-	-	2,058	2,058
Miscellaneous revenue	150	150	1,482	1,332
Total operating revenues	28,150	28,150	25,565	(2,585)
Operating expenses:				
Airport	46,150	18,562	17,898	(664)
Depreciation	-	31,522	31,522	-
Total operating expenses	46,150	50,084	49,420	(664)
Change in net assets before transfers	(18,000)	(21,934)	(23,855)	(1,921)
Transfers in	-	7,369	7,369	-
Change in net assets	(18,000)	(14,565)	(16,486)	(1,921)
Net assets, beginning of the year	587,590	587,590	587,590	-
Net assets, end of the year	\$ 569,590	\$ 573,025	\$ 571,104	\$ (1,921)



**SUPPLEMENTARY INDIVIDUAL  
FUND SCHEDULES**

*General Fund*

City of Hearne, Texas  
General Fund  
Schedule of General Government Expenditures - Budget and Actual  
For the fiscal year ended September 30, 2011

	Budgeted Amounts		Actual	Variance with Final Budget Over (Under)
	Original	Final		
Legislative:				
Personnel	\$ 11,290	\$ 14,366	\$ 14,365	\$ (1)
Maintenance	2,700	2,225	2,224	(1)
Supplies	1,900	2,671	2,723	52
Other	5,100	5,552	5,549	(3)
Total City Council	20,990	24,814	24,861	47
Executive:				
Personnel	178,311	190,785	191,062	277
Maintenance	1,700	2,225	2,224	(1)
Supplies	650	2,874	2,787	(87)
Other	1,400	3,341	3,340	(1)
Total executive	182,061	199,225	199,413	188
Finance:				
Personnel	80,563	66,519	71,630	5,111
Maintenance	94,360	136,895	138,088	1,193
Supplies	14,800	10,784	10,697	(87)
Contract services	27,638	23,054	23,053	(1)
Other	68,000	40,226	34,882	(5,344)
Total finance	285,361	277,478	278,350	872
Court:				
Personnel	80,565	79,719	82,146	2,427
Maintenance	6,300	7,979	7,978	(1)
Supplies	3,200	8,940	4,938	(4,002)
Contract services	48,000	44,000	48,000	4,000
Other	1,000	1,282	1,282	-
Total court	139,065	141,920	144,344	2,424
Total general government	\$ 627,477	\$ 643,437	\$ 646,968	\$ 3,531

City of Hearne, Texas  
General Fund  
Schedule of Public Safety Expenditures - Budget and Actual  
For the fiscal year ended September 30, 2011

	Budgeted Amounts		Actual	Variance with Final Budget Over (Under)
	Original	Final		
Police:				
Personnel	\$ 858,768	\$ 837,335	\$ 837,851	\$ 516
Maintenance	37,000	66,382	68,475	2,093
Supplies	30,800	18,714	18,982	268
Other	8,990	13,558	13,555	(3)
Total police	935,558	935,989	938,863	2,874
Fire:				
Personnel	31,648	24,503	24,499	(4)
Maintenance	25,500	29,927	33,975	4,048
Supplies	29,900	39,109	33,137	(5,972)
Volunteer Fire Department	-	110,720	110,719	(1)
Other	3,525	1,517	1,517	-
Total fire	90,573	205,776	203,847	(1,929)
Total public safety	<u>\$ 1,026,131</u>	<u>\$ 1,141,765</u>	<u>\$ 1,142,710</u>	<u>\$ 945</u>

City of Hearne, Texas  
General Fund  
Schedule of Highways and Streets Expenditures - Budget and Actual  
For the fiscal year ended September 30, 2011

	<u>Budgeted Amounts</u>			Variance with
	<u>Original</u>	<u>Final</u>	<u>Actual</u>	<u>Final Budget</u> <u>Over (Under)</u>
Streets:				
Personnel	\$ 208,905	\$ 205,705	\$ 206,535	\$ 830
Maintenance	230,800	50,683	50,625	(58)
Supplies	44,460	67,810	67,651	(159)
Other	<u>300</u>	<u>60</u>	<u>60</u>	<u>-</u>
Total highways and streets	<u>\$ 484,465</u>	<u>\$ 324,258</u>	<u>\$ 324,871</u>	<u>\$ 613</u>

City of Hearne, Texas  
General Fund  
Schedule of Health and Welfare Expenditures - Budget and Actual  
For the fiscal year ended September 30, 2011

	Budgeted Amounts		Actual	Variance with Final Budget Over (Under)
	Original	Final		
Code enforcement:				
Personnel	\$ 11,041	\$ 11,041	\$ 9,756	\$ (1,285)
Maintenance	1,150	1,150	-	(1,150)
Supplies	425	425	-	(425)
Other	150	150	-	(150)
Total code enforcement	12,766	12,766	9,756	(3,010)
Animal control:				
Personnel	37,399	38,435	38,432	(3)
Maintenance	8,900	8,451	9,071	620
Supplies	5,010	4,423	4,162	(261)
Other	200	200	8	(192)
Total animal control	51,509	51,509	51,673	164
Total health and welfare	\$ 64,275	\$ 64,275	\$ 61,429	\$ (2,846)

City of Hearne, Texas  
General Fund  
Schedule of Culture and Recreation Expenditures - Budget and Actual  
For the fiscal year ended September 30, 2011

	Budgeted Amounts		Actual	Variance with Final Budget Over (Under)
	Original	Final		
Library:				
Personnel	\$ 118,177	\$ 110,000	\$ 110,420	\$ 420
Maintenance	13,650	7,231	8,126	895
Supplies	8,400	20,355	31,526	11,171
Other	800	599	597	(2)
Total library	<u>141,027</u>	<u>138,185</u>	<u>150,669</u>	<u>12,484</u>
Parks and recreation:				
Personnel	193,354	187,289	187,866	577
Maintenance	78,200	129,551	133,739	4,188
Supplies	20,800	21,061	20,878	(183)
Other	650	1,535	1,513	(22)
Total parks and recreation	<u>293,004</u>	<u>339,436</u>	<u>343,996</u>	<u>4,560</u>
Total culture and recreation	<u>\$ 434,031</u>	<u>\$ 477,621</u>	<u>\$ 494,665</u>	<u>\$ 17,044</u>

## **AUDIT SECTION**



**SEIDEL, SCHROEDER & COMPANY**  
CERTIFIED PUBLIC ACCOUNTANTS / BUSINESS ADVISORS

**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING  
AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF  
FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH  
GOVERNMENT AUDITING STANDARDS**

To the Honorable Mayor and  
Members of the City Council  
City of Hearne, Texas

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Hearne, Texas, (the "City") as of and for the year ended September 30, 2011, which collectively comprise the City's basic financial statements and have issued our report thereon dated April 12, 2012. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

**Internal Control Over Financial Reporting**

In planning and performing our audit, we considered the City's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the City's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies described in the accompanying schedule of findings and responses at 11-5 through 11-7 to be material weaknesses.

A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies described in the accompany schedule of findings and responses at 11-1 through 11-4 to be significant deficiencies.



### Compliance and Other Matters

As part of obtaining reasonable assurance about whether the City's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in the accompanying schedule of findings and responses as items 11-8 through 11-9.

We noted certain matters that we reported to management of the City, in a separate letter dated April 12, 2012.

The City's response to the findings identified in our audit is described in the accompanying schedule of findings and responses. We did not audit the City's response, and accordingly, we express no opinion on it.

This report is intended solely for the information and use of the City Council, management, others within the organization and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

April 12, 2012

*Snider, Schaefer & Company*

CITY OF HEARNE  
SCHEDULE OF FINDINGS AND RESPONSES  
SEPTEMBER 30, 2011

***Significant deficiencies***

**11-1 Segregation of duties for accounts payable**

*Condition and Criteria:* Accounts payable invoices are received, coded, and posted by the Finance Assistant. She is also responsible for processing and mailing payments and reconciles the bank accounts. Exposure is limited as other persons review invoices for approval and she has no signature authority.

*Recommendation:* We recommend that the invoice coding continue to be reviewed by the Chief Financial Officer (CFO) to ensure accuracy.

*Response:* The coding of all Check Requests and Purchase Orders will continue to be reviewed by the CFO.

**11-2 Segregation of duties for general ledger**

*Condition and Criteria:* The City does not maintain proper segregation of duties related to journal entry posting. The majority of preparation and approval is performed by the CFO.

*Recommendation:* The City Manager should continue to review journal entries posted by the CFO. In addition, the City Manager should review all entries prepared by the CFO and posted by other personnel.

*Response:* The City Manager will review all journal entries prepared and/or posted by the CFO.

**11-3 Payroll**

*Condition and Criteria:* The City Secretary processes all payroll transactions. The direct deposit ACH transmittal is prepared and submitted by the City Secretary and reviewed by the City Manager.

The City of Hearne paid for unused vacation time totaling \$10,214. Section 502 of the City's Disclosure of Benefits regarding vacation and sick leave adopted March 13, 2000, paragraph 8, clearly states that, "The City will not reimburse for lost leave." There is no documentation of approval for these payments by the Council.

*Recommendation:* The City should follow its written policy not to pay unused vacation time. Any deviations should be approved by council.

*Response:* The City implemented a new process for payments of vacation time. The payments noted above were made prior to this issue being brought to our attention during the prior year audit. Payments subsequent to that date were approved by Council and we will continue to follow our new procedures.

#### 11-4 Documentation of council actions

*Condition and Criteria:* During a portion of the year, the council minutes did not include sufficient details to clearly document that specific transactions entered into by the City had been authorized by the council, including the acceptance of grant receipts and acquisition of capital assets. City council minutes now include greater detail to adequately describe and document all actions taken by the council.

*Recommendation:* Detail should continue to be included in council minutes to ensure that all actions taken by the council have been sufficiently documented.

*Response:* The City will ensure that minutes include sufficient details to clearly document Council actions.

#### ***Material Weaknesses***

##### 11-5 Inventory

*Condition and Criteria:* There is a lack of internal controls over the receiving and dispensing of inventory as there is no attendant at the warehouse to monitor inventory movement and ensure proper documentation is obtained for activity. To minimize the potential for theft, the City has installed security cameras that are monitored by the Police Dispatchers. Additionally, the City did not adjust the inventory general ledger balances to actual as of year-end. The City did not print its year-end inventory report and had to roll back the activity to arrive at a year-end balance.

*Recommendation:* Internal controls should be put in place to ensure that appropriate documentation is completed and retained for all inventory activity.

*Response:* The City will work to reduce its level of inventory and will retain all necessary documentation.

##### 11-6 Accounts Receivable

*Condition and Criteria:* Our review of the accounts receivable subledger as of year end identified significant balances over 90 days old. The City recently modified its disconnect policies in order to prevent future deterioration of the accounts receivable balance and avoid the significant write offs experienced in the past due to lenient collection practices. Subsequent to year-end, the City implemented a procedure to periodically review the accounts receivable subledger for collectability. The City has also hired a collection agency to pursue collection efforts on all old utility bills for which the Statute of Limitations has not expired.

*Recommendation:* The City should follow its new policies and procedures and also estimate and record adjustments to the allowance for doubtful accounts as deemed necessary.

*Response:* The City will follow its new policies and procedures.

#### 11-7 Utility billing and receipts

*Condition and Criteria:* The utility billing supervisor processes billings, adjustments and receipts. While adjustments are approved prior to posting, the City does not have a procedure in place to ensure that posted utility adjustments are reviewed by someone other than the individual making the adjustments.

*Recommendation:* Internal controls should be put in place to require review of adjustments posted by the utility billing supervisor. This review should be documented and retained as evidence.

*Response:* An independent review of the adjustments will be made by a member of management. The software vendor will be contacted to create a report that can be generated to allow for this review to take place.

#### *Non-compliance*

#### 11-8 Budget

*Condition and Criteria:* The approval of budget amendments during April 2011 was not documented in the minutes.

*Recommendation:* Care should be taken to ensure that all necessary compliance matters are appropriately documented.

*Response:* The City will ensure that approval of all budget amendments are recorded in the council minutes.

#### 11-9 Competitive bids

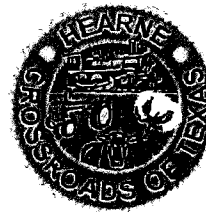
*Condition and Criteria:* The City contracted with a company to perform a number of street overlay projects during the year. While the cost of the overlay of the individual streets did not meet the bid requirements, the sum of all payments to the company was approximately \$231,000.

*Recommendation:* As the City had budgeted approximately \$232,000 for street improvements, bids should have been obtained.

*Response:* The City will advertise for bids and obtain Council approval in the future.

**Attachment B - Regulatory Agency Correspondence**

# City of Hearne



September 29, 2015

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P. O. Box 13087  
Austin, TX 78711-3087

Attention: SEP Coordinator, MC 219

RE: TCEQ Agreed Order – Docket 2013-1582 – MWD - E  
SEP – Tire Collection Event and Cleanup of Abandoned Tire Sites  
SEP – Household Hazardous Waste Collection  
SEP – Wastewater Treatment Assistance

Attached please find a copy of our Transmittal Letter addressed to Texas Association of RC & D Areas, Inc., as well as a copy of our three checks, numbered 17986, 17987, and 17988, each made payable to the same organization as a donation of the offset amount for each of the three Supplemental Environmental Projects (SEP) listed above.

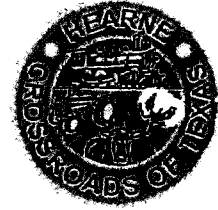
If you need any further information or if you have any questions or concerns regarding this request or the implementation of the Supplemental Environmental Projects, please contact our Public Works Director, Terry Thomas at (979) 412-0132.

Very Truly Yours;

E. Mark Matlock  
Chief Financial Officer

Enclosures

# City of Hearne



September 29, 2015

Texas Association of RC & D Areas, Inc.  
P. O. Box 2533  
Victoria, TX 77902

Attention: Jerry Pearce

RE: TCEQ Agreed Order – Docket 2013-1582 – MWD - E  
SEP – Tire Collection Event and Cleanup of Abandoned Tire Sites  
SEP – Household Hazardous Waste Collection  
SEP – Wastewater Treatment Assistance

Mr. Pearce:

On September 9, 2015, the Texas Commission on Environmental Quality placed in effect an Agreed Order between TCEQ and the City of Hearne. This Agreed Order includes three Supplemental Environmental Projects (SEP), each of which is listed above. The SEP Offset Amount for each SEP is \$10,800.00, for a total contribution of \$32,400.00 to TARCD from the City of Hearne. This enclosed contribution of \$32,400.00 is enclosed in the form of three checks, numbered 17986, 17987, & 17988, each in the amount of \$10,800.00. These checks are each made payable to Texas Association of RC & D Areas, Inc.

If you need any further information or if you have any questions or concerns regarding this request that is not addressed by the enclosed TCEQ documents, please contact our Public Works Director, Terry Thomas at (979) 412-0132.

Very Truly Yours;

E. Mark Matlock  
Chief Financial Officer

Enclosures

cc: Texas Commission on Environmental Quality, Enforcement Division

209 CEDAR STREET – HEARNE, TX 77859

Phone (979) 279-3461 FAX (979) 279-2431

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS  
COUNTY OF TRAVIS  
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY  
OF A TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
DOCUMENT, WHICH IS FILED IN THE PERMANENT RECORDS

SEP 17 2015

OF THE COMMISSION, GIVEN UNDER MY HAND AND THE  
SEAL OF OFFICE ON

*Bridget C. Bohan*  
BRIDGET C. BOHAN, CHIEF CLERK  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF HEARNE  
RN102835162

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2013-1582-MWD-E

I. JURISDICTION AND STIPULATIONS

On SEP 09 2015, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Hearne ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a waste water treatment facility located at the end of Farm-to-Market Road 50, approximately 7,500 feet south-southwest of the intersection of United States Highway 190 and United States Highway 79 and State Highway 6 in Robertson County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 20, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Forty Thousand Five Hundred Dollars (\$40,500) is assessed by the Commission in settlement of the violations alleged in



Section II ("Allegations"). Eight Thousand One Hundred Dollars (\$8,100) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Thirty-Two Thousand Four Hundred Dollars (\$32,400) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010046002 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on July 31, 2013 and shown in the table below:

Violation Table

Date	CBOD5 Daily Average Conc. 10 mg/L	CBOD5 Max. Conc. 25 mg/L	CBOD5 Average Loading 100 lbs/day	NH3N Daily Average Conc. 2 mg/L	NH3N Daily Max. Conc. 10 mg/L	NH3N Daily Average Conc. 20 lbs/day	<i>E. coli</i> Daily Max. 394 CFU/ 100 mL	Total Suspended Solids Daily Average Conc. 15 mg/L	Total Suspended Solids Daily Max. Conc. 40 mg/L
July 2012	C	C	C	C	C	C	1299.0	C	C
Dec 2012	C	C	C	C	C	C	1732.9	15.4	41
Mar 2013	55.5	409.2	231.98	12.1	66	46.88	2419.6	22.9	409.2
April 2013	C	C	C	C	C	C	2419.6	C	C
May 2013	C	C	C	4	22	22.23	461.1	C	C
CBOD5 = carbonaceous biochemical oxygen demand (five-day) mg/L = milligrams per liter    mL = milliliter    C = compliant Max. = maximum <i>E. coli</i> = <i>Escherichia coli</i> NH3N = Ammonia Nitrogen    Conc. = concentration lbs/day = pounds per day CFU = colony forming units									

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Hearne, Docket No. 2013-1582-MWD-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Thirty-Two Thousand Four Hundred Dollars (\$32,400) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachments A, B and C incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010046002, including specific correction actions that were implemented at the facility to achieve compliance and copies of the most current DMRs, demonstrating at least three consecutive months of compliance with all permitted limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language;

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to TEX. GOV'T CODE § 2001.144, the effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Bryan W. Shaw 9-15-15  
For the Commission

Pamela Marie J  
For the Executive Director

7/17/15  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Pee Wee Drake  
Signature

03/23/2015  
Date

Pee Wee Drake  
Name (Printed or typed)  
Authorized Representative of  
City of Hearne

City Manager  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

**Attachment A**  
**Docket Number: 2013-1582-MWD-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Hearne</b>
<b>Penalty Amount:</b>	<b>Thirty-Two Thousand Four Hundred Dollars (\$32,400)</b>
<b>SEP Offset Amount:</b>	<b>Ten Thousand Eight Hundred Dollars (\$10,800)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc.</b>
<b>Project Name:</b>	<b><i>Tire Collection Events and Cleanup of Abandoned Tire Sites</i></b>
<b>Location of SEP:</b>	<b>Robertson County - Brazos River Basin, Carrizo-Wilcox Aquifer</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**a. Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Tire Collection Events and Cleanup of Abandoned Tire Sites* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to coordinate with local city and county government officials and private entities ("Partner Entities") to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling ("Collection Events"), or to clean sites where tires have been disposed of illegally ("Site Cleanups").

Texas RC&D shall ensure that collected tires, debris, and waste are properly transported to and disposed at an authorized disposal site, and if a licensed hauler is needed for tires or other regulated waste collected from sites, Texas RC&D shall ensure that only properly licensed haulers are used for transport and disposal of tires and regulated wastes. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

City of Hearne  
Agreed Order - Attachment A

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide an environmental benefit by providing communities with a free and convenient means for safe and proper disposal of tires and by reducing the dangers and health threats associated with illegally dumped tires.

The health risks associated with illegal dumping are significant. Areas used for illegal tire dumping may be easily accessible to people, especially children, who are vulnerable to the physical hazards posed by abandoned tires. Rodents, insects, and other vermin attracted to dump sites may also pose health risks. Tire dump sites which contain scrap tires pose an ideal breeding ground for mosquitoes, which can breed 100 times faster in the warm, stagnant water standing in scrap tire casings. Severe illnesses, including West Nile Virus, have been attributed to disease-carrying mosquitoes. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of air, surface water, ground water, and soil. In addition, neighborhoods have been evacuated and property damage has been significant due to tire dump sites that caught fire. Illegal tire dumping can also impact drainage of runoff, making areas more susceptible to flooding when wastes block waterways. Open burning at tire dump sites can cause forest fires and erosion as fires burn away trees and undergrowth. Tire dumping has a negative impact on trees and wildlife, and runoff from tire dumpsites may contain chemicals that can contaminate wells and surface water used for drinking.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

City of Hearne  
Agreed Order - Attachment A

Texas Association of RC&D Areas, Inc.  
Ken Awtrey, Executive Director  
P.O. Box 635067  
Nacogdoches, Texas 75963-5067

### **3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount, as described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP. The Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087



**5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

**Attachment B**  
**Docket Number: 2013-1582-MWD-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Hearne</b>
<b>Penalty Amount:</b>	<b>Thirty-Two Thousand Four Hundred Dollars (\$32,400)</b>
<b>SEP Offset Amount:</b>	<b>Ten Thousand Eight Hundred Dollars (\$10,800)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc.</b>
<b>Project Name:</b>	<b><i>Household Hazardous Waste Collection</i></b>
<b>Location of SEP:</b>	<b>Robertson County - Brazos River Basin, Carrizo-Wilcox Aquifer</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment B.

**1. Project Description**

**a. Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Household Hazardous Waste ("HHW") Collection* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities (collectively known as "Partner Entities") to conduct events for residents to bring in HHW such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers for proper disposal (the "Project"). Where possible, the Project may also offer electronics collection, disposal, and recycling. The Third-Party Administrator shall work with Partner Entities to determine exactly which materials will be accepted and how they will be disposed of or recycled.

The Third-Party Administrator shall ensure that individuals qualified to make determinations regarding receiving, handling, and temporarily storing HHW are present at each event. The Third-Party Administrator shall use only licensed haulers and authorized disposal sites.

City of Hearne  
Agreed Order - Attachment B

The Third-Party Administrator shall ensure that, at least 45 days before each Collection Event, Form TCEQ-20459 Notification for a Household Hazardous Waste Collection Event (attached as Exhibit 3), as may be amended, is submitted to TCEQ in accordance with Chapter 335, Texas Administrative Code. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being made solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide a means of properly disposing of HHW which might otherwise be disposed of in regular landfills, storm drains, sewer systems, or other means detrimental to the environment. This SEP will provide assistance to help rid communities of the dangers and health threats associated with HHW, and will provide for proper and protective disposal or recycling of collected materials.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D Areas, Inc.  
Ken Awtrey, Executive Director  
P.O. Box 635067  
Nacogdoches, Texas 75963-5067

### 3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

### 4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment B, including full expenditure of the SEP Offset Amount, as described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the Project, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

### 5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

City of Hearne  
Agreed Order - Attachment B

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment B and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

**Attachment C**  
**Docket Number: 2013-1582-MWD-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Hearne</b>
<b>Penalty Amount:</b>	<b>Thirty-Two Thousand Four Hundred Dollars (\$32,400)</b>
<b>SEP Offset Amount:</b>	<b>Ten Thousand Eight Hundred Dollars (\$10,800)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc.</b>
<b>Project Name:</b>	<b><i>Wastewater Treatment Assistance</i></b>
<b>Location of SEP:</b>	<b>Robertson County - Brazos River Basin, Carrizo-Wilcox Aquifer</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment C.

**1. Project Description**

**a. Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Wastewater Treatment Assistance* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities to repair or replace failing or inadequately designed on-site wastewater treatment systems such as septic systems for low-income households (the "Project"). Low-income households fall at or below the 80 percent median income level for households in the county where they live.

The Third-Party Administrator shall ensure that all repairs, replacements, and installations are performed in compliance with local, state, and federal rules relating to on-site wastewater treatment systems. The Third-Party Administrator shall ensure that only properly licensed contractors are utilized for repair of existing on-site wastewater treatment systems and installation of new on-site wastewater treatment systems.

City of Hearne  
Agreed Order - Attachment C

An on-site wastewater treatment system is a system of treatment devices or disposal facilities that (1) is used for the disposal of domestic sewage, excluding liquid waste resulting from the processes used in industrial and commercial establishments; (2) is located on the site where the sewage is produced; and (3) produces not more than 5,000 gallons of waste a day. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide a benefit to the environment by preventing the release of sewage into the environment and by protecting human health. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through sewage in drinking water sources, direct contact from water in lawns or streets, and inhalation and skin absorption.

Sewage overflows may cause damage to the environment. Sewage overflows may reach rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause algae blooms, and kill fish and other organisms in aquatic habitats.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent

City of Hearne  
Agreed Order - Attachment C

shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D Areas, Inc.  
Ken Awtrey, Executive Director  
P.O. Box 635067  
Nacogdoches, Texas 75963-5067

### **3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment C, including full expenditure of the SEP Offset Amount, as described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the Project, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087



**5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment C and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

\*\* TEXAS ASSOCIATION OF RC&amp;D AREAS, INC. \*\*

017986

09/28/2015

DATE	I.D.	PO #	DESCRIPTION	AMOUNT
9/09/2015	201509280097		SEP - TIRE COLLECTION EVENT	10,800.00
SEP-TIRE COLLECTION EVENT & CLEANUP ABANDONED				
TIRE SITES DOCKET #2013-128/2-*MWD-E				

CHECK TOTAL 10,800.00

CK851191BP

DATA FLOW 806-371-7310

PRINTED IN U.S.A.

THIS DOCUMENT HAS LINEMARK™ LINES IN THE PAPER • HOLD TO LIGHT TO VIEW.

**CITY OF HEARNE**  
ACCOUNTS PAYABLE  
209 CEDAR STREET  
HEARNE, TX 77859  
(979) 279-3461

FIRST STAR BANK  
P.O. BOX 938  
HEARNE, TEXAS 77859

88-967/1119

17986

BANK	VENDOR I.D. #	DATE	CHECK #	NET AMOUNT
FSB	1943	09/28/2015	017986	\$***10,800.00

----- TEN THOUSAND EIGHT HUNDRED &amp; 00/100 DOLLARS -----

\*\* TEXAS ASSOCIATION OF RC&D AREAS, INC. \*\*  
JERRY PEARCE , EXECUTIVE DIREC  
P. O. BOX 2533  
VICTORIA, TX 77902

*Anna Honda*  
*Paul Pearce*

PAY  
THE  
ER  
OF



SECURITY FEATURES INCLUDED. DETAILS ON BACK.



⑈017986⑈ ⑆111909676⑆ 59 8567 6⑈

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS  
COUNTY OF TRAVIS  
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY  
OF A TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
DOCUMENT, WHICH IS FILED IN THE PERMANENT RECORDS  
SEP 17 2015  
OF THE COMMISSION, GIVEN UNDER MY HAND AND THE  
SEAL OF OFFICE ON  
*Bridget C. Bohan*  
BRIDGET C. BOHAN, CHIEF CLERK  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF HEARNE  
RN102835162

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2013-1582-MWD-E

I. JURISDICTION AND STIPULATIONS

On SEP 09 2015, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Hearne ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a waste water treatment facility located at the end of Farm-to-Market Road 50, approximately 7,500 feet south-southwest of the intersection of United States Highway 190 and United States Highway 79 and State Highway 6 in Robertson County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 20, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Forty Thousand Five Hundred Dollars (\$40,500) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). Eight Thousand One Hundred Dollars (\$8,100) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Thirty-Two Thousand Four Hundred Dollars (\$32,400) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010046002 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on July 31, 2013 and shown in the table below:

Violation Table

Date	CBOD5 Daily Average Conc. 10 mg/L	CBOD5 Max. Conc. 25 mg/L	CBOD5 Average Loading 100 lbs/day	NH3N Daily Average Conc. 2 mg/L	NH3N Daily Max. Conc. 10 mg/L	NH3N Daily Average Conc. 20 lbs/day	<i>E. coli</i> Daily Max. 394 CFU/ 100 mL	Total Suspended Solids Daily Average Conc. 15 mg/L	Total Suspended Solids Daily Max. Conc. 40 mg/L
July 2012	C	C	C	C	C	C	1299.0	C	C
Dec 2012	C	C	C	C	C	C	1732.9	15.4	41
Mar 2013	55.5	409.2	231.98	12.1	66	46.88	2419.6	22.9	409.2
April 2013	C	C	C	C	C	C	2419.6	C	C
May 2013	C	C	C	4	22	22.23	461.1	C	C
CBOD5 = carbonaceous biochemical oxygen demand (five-day) mg/L = milligrams per liter    mL = milliliter    C = compliant    Conc. = concentration Max. = maximum <i>E. coli</i> = <i>Escherichia coli</i> lbs/day = pounds per day NH3N = Ammonia Nitrogen    CFU = colony forming units									

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Hearne, Docket No. 2013-1582-MWD-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Thirty-Two Thousand Four Hundred Dollars (\$32,400) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachments A, B and C incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010046002, including specific correction actions that were implemented at the facility to achieve compliance and copies of the most current DMRs, demonstrating at least three consecutive months of compliance with all permitted limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language;

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to TEX. GOV'T CODE § 2001.144, the effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

  
For the Commission

  
For the Executive Director

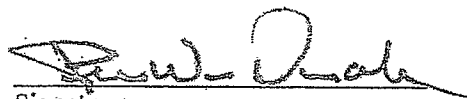
7/17/15  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

03/23/2015  
Date

Fee Wee Drake  
Name (Printed or typed)  
Authorized Representative of  
City of Hearne

City Manager  
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.



Attachment A  
Docket Number: 2013-1582-MWD-E  
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Hearne
Penalty Amount:	Thirty-Two Thousand Four Hundred Dollars (\$32,400)
SEP Offset Amount:	Ten Thousand Eight Hundred Dollars (\$10,800)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Tire Collection Events and Cleanup of Abandoned Tire Sites</i>
Location of SEP:	Robertson County - Brazos River Basin, Carrizo-Wilcox Aquifer

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. **Project Description**

a. **Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Tire Collection Events and Cleanup of Abandoned Tire Sites* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to coordinate with local city and county government officials and private entities ("Partner Entities") to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling ("Collection Events"), or to clean sites where tires have been disposed of illegally ("Site Cleanups").

Texas RC&D shall ensure that collected tires, debris, and waste are properly transported to and disposed at an authorized disposal site, and if a licensed hauler is needed for tires or other regulated waste collected from sites, Texas RC&D shall ensure that only properly licensed haulers are used for transport and disposal of tires and regulated wastes. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide an environmental benefit by providing communities with a free and convenient means for safe and proper disposal of tires and by reducing the dangers and health threats associated with illegally dumped tires.

The health risks associated with illegal dumping are significant. Areas used for illegal tire dumping may be easily accessible to people, especially children, who are vulnerable to the physical hazards posed by abandoned tires. Rodents, insects, and other vermin attracted to dump sites may also pose health risks. Tire dump sites which contain scrap tires pose an ideal breeding ground for mosquitoes, which can breed 100 times faster in the warm, stagnant water standing in scrap tire casings. Severe illnesses, including West Nile Virus, have been attributed to disease-carrying mosquitoes. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of air, surface water, ground water, and soil. In addition, neighborhoods have been evacuated and property damage has been significant due to tire dump sites that caught fire. Illegal tire dumping can also impact drainage of runoff, making areas more susceptible to flooding when wastes block waterways. Open burning at tire dump sites can cause forest fires and erosion as fires burn away trees and undergrowth. Tire dumping has a negative impact on trees and wildlife, and runoff from tire dumpsites may contain chemicals that can contaminate wells and surface water used for drinking.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to: