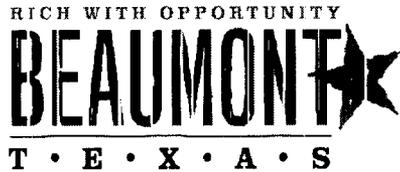




**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS JULY 29, 2014 1:30 P.M.**

CONSENT AGENDA

- * Approval of minutes – July 22, 2014
- * Confirmation of committee appointments
- A) Approve a six month contract for the purchase of sodium hydroxide from TDC, LLC, of Houston for use by the Water Utilities Department
- B) Authorize the City Manager to execute all documents necessary with the Texas Department of Transportation to receive grant funding to assist in highway safety enforcement
- C) Approve a change order for the contract with ARC Abatement of Houston for the asbestos abatement and demolition of the Castle Motel located at 1125 N. 11th Street



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer

MEETING DATE: July 29, 2014

REQUESTED ACTION: Council consider a resolution approving a six (6) month contract for the purchase of sodium hydroxide from TDC, LLC., of Houston in the estimated amount of \$215,000 for use by the Water Utilities Department.

BACKGROUND

Sodium hydroxide is used to purify the City's water supply. The Water Utilities Department expects to purchase approximately five hundred (500) dry tons of this material during the term of this contract.

Formal bids were requested from eight (8) vendors for a six (6) month contract to supply sodium hydroxide. Four (4) bids were received. Low bid of \$215,000 was submitted by TDC, LLC, of Houston. This represents a \$10/ton decrease in the price of this material over last contract. TDC, LLC is the current contract holder. There are no local vendors of this commodity.

FUNDING SOURCE

Water Utilities Fund.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

WHEREAS, bids were solicited for a six (6) month contract for the purchase of Sodium Hydroxide for use by the Water Utilities Department; and,

WHEREAS, TDC, LLC, of Houston, Texas, submitted a bid for an estimated total expenditure of \$215,000 in the unit amounts shown below:

VENDOR	UNIT PRICE PER DRY TON	ESTIMATED COST 500 DRY TONS
TDC, LLC Houston, TX	\$430.00	\$215,000.00

; and,

WHEREAS, City Council is of the opinion that the bid submitted by TDC, LLC, of Houston, Texas, should be accepted;

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

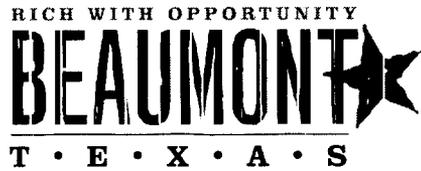
THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the bid submitted by TDC, LLC, of Houston, Texas, for a six (6) month contract for the purchase of Sodium Hydroxide in the unit prices shown above for an estimated total expenditure of \$215,000 be accepted by the City of Beaumont; and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute a contract with TDC, LLC for the purposes described herein.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 29th day of July, 2014.

- Mayor Becky Ames -



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: James P. Singletary, Chief of Police

MEETING DATE: July 29, 2014

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to execute all documents necessary with the Texas Department of Transportation to receive grant funding to assist in highway safety enforcement.

BACKGROUND

In January, 1999, the City Council passed a resolution authorizing the city to apply for grant funds for a traffic safety "Safe and Sober S. T. E. P." project. The Police Department has successfully applied for and the City Council approved several traffic safety grants since that one. This grant application will provide funding for a program which occurs between October 1, 2014 and September 30, 2015.

FUNDING SOURCE

City would receive grant funding in an amount not to exceed \$75,470.94 with a city contribution of \$25,149.48.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

WHEREAS, the City of Beaumont has been notified by the Texas Department of Transportation that it is eligible to receive funding to assist in highway safety enforcement; and,

WHEREAS, the City of Beaumont recognizes that the safety and security of the motoring public is of paramount importance to the City; and,

WHEREAS, the City of Beaumont strives to enhance the safety of the motoring public; and,

WHEREAS, grant funding through the Texas Department of Transportation would assist in enhancing the safety of the motoring public and reducing motor vehicle crashes which often result in loss of life or personal injury; and,

WHEREAS, traffic safety enforcement and encouragement of safe driving habits are a significant goal of the Beaumont Police Department; and,

WHEREAS, the City of Beaumont has been notified by the Texas Department of Transportation that it is eligible to participate in a Texas Traffic Safety Program and receive federal reimbursement grant funding in an amount not to exceed Seventy-Five Thousand Four Hundred Seventy and 94/100 Dollars (\$75,470.94) pursuant to the project titled "STEP-Comprehensive" for occupant protection enforcement, reduction of alcohol and drug related driving incidents, speeding enforcement, and speeding related crashes; and,

WHEREAS, the City of Beaumont has agreed to contribute Twenty-Five Thousand One Hundred Forty-Nine and 48/100 Dollars (\$25,149.48) as its portion of the costs for the project titled "STEP-Comprehensive" which is for the period of October 1, 2014 to September 30, 2015;

**NOW, THEREFORE, BE IT RESOLVED BY THE
CITY COUNCIL OF THE CITY OF BEAUMONT:**

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted, and,

THAT the City of Manager of the City of Beaumont be, and is hereby, authorized to execute all documents necessary to apply for and receive funding for the project "STEP-Comprehensive" and take such action as necessary to implement the project which occurs between October 1, 2014 and September 30, 2015; and,

BE IT FURTHER RESOLVED THAT the City Manager is authorized to accept and disburse the federal reimbursement grant funding in an amount not to exceed Seventy-Five Thousand Four Hundred Seventy and 94/100 Dollars (\$75,470.94) and take such other actions and execute such documents as may be necessary and appropriate to implement the purpose and objectives of the "STEP-Comprehensive" project recognizing the City's contribution match of Twenty-Five Thousand One Hundred Forty-Nine and 48/100 Dollars (\$25,149.48).

PASSED BY THE CITY COUNCIL of the City of Beaumont this the ____ day of _____,

_____.

-Mayor Becky Ames-

Texas Traffic Safety eGrants

Fiscal Year 2015

Organization Name: City of Beaumont - Police Department

Legal Name: City of Beaumont

Payee Identification Number: 17460002789023

Project Title: STEP- 2015 Comprehensive

ID: 2015-Beaumont-S-1YG-0101

Period: 10/01/2014 to 09/30/2015

TEXAS TRAFFIC SAFETY PROGRAM GRANT AGREEMENT

THE STATE OF TEXAS
THE COUNTY OF TRAVIS

THIS AGREEMENT IS MADE BY and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the Department and the, **City of Beaumont** hereinafter called the Subgrantee, and becomes effective then fully executed by both parties. For the purpose of this agreement, the Subgrantee is designated as a(n) **Local Government**.

AUTHORITY: Texas Transportation Code, Chapter 723, the Traffic Safety Act of 1967, and the Highway Safety Performance Plan for the Fiscal Year 2015.

Name of the Federal Agency: **National Highway Traffic Safety Administration**

Contract Number: **585EG114**

CFDA Number: **20.6**

CFDA Title: **State and Community Highway Safety Grant Program**

Funding Source: **Section 402**

DUNS: **073901118**

Project Title: **STEP- 2015 Comprehensive**

This project is **Not Research and Development**

Grant Period: This Grant becomes effective on **10/01/2014** or on the date of final signature of both parties, whichever is later, and ends on **09/30/2015** unless terminated or otherwise modified.

Total Awarded: **\$100,620.42**

Amount Eligible for Reimbursement by the Department: **\$75,470.94**

Match Amount provided by the Subgrantee: **\$25,149.48**

RESOLUTION NO.

WHEREAS, the City of Beaumont has been notified by the Texas Department of Transportation that it is eligible to receive funding to assist in highway safety enforcement; and,

WHEREAS, the City of Beaumont recognizes that the safety and security of the motoring public is of paramount importance to the City; and,

WHEREAS, the City of Beaumont strives to enhance the safety of the motoring public; and,

WHEREAS, grant funding through the Texas Department of Transportation would assist in enhancing the safety of the motoring public and reducing motor vehicle crashes which often result in loss of life or personal injury; and,

WHEREAS, traffic safety enforcement and encouragement of safe driving habits are a significant goal of the Beaumont Police Department; and,

WHEREAS, the City of Beaumont has been notified by the Texas Department of Transportation that it is eligible to participate in a Texas Traffic Safety Program and receive federal reimbursement grant funding in an amount not to exceed Seventy-Five Thousand Four Hundred Seventy and 94/100 Dollars (\$75,470.94) pursuant to the project titled "STEP-2015 Comprehensive" for occupant protection enforcement, reduction of alcohol and drug related driving incidents, speeding enforcement, and speeding related crashes; and,

WHEREAS, the City of Beaumont has agreed to contribute Twenty-Five Thousand One Hundred Forty-Nine and 48/100 Dollars (\$25,149.48) as its portion of the costs for the project titled "STEP-2015 Comprehensive" which is for the period of October 1, 2014 to

September 30, 2015;

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

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted, and,

THAT the City Manager of the City of Beaumont be, and is hereby, authorized to execute all documents necessary to apply for and receive funding for the project "STEP-2015 Comprehensive" and take such action as necessary to implement the project which occurs between October 1, 2014 and September 30, 2015; and,

BE IT FURTHER RESOLVED THAT the City Manager is authorized to accept and disburse the federal reimbursement grant funding in an amount not to exceed Seventy-Five Thousand Four Hundred Seventy and 94/100 Dollars (\$75,470.94) and take such other actions and execute such documents as may be necessary and appropriate to implement the purpose and objectives of the "STEP-2015 Comprehensive" project recognizing the City's contribution match of Twenty-Five Thousand One Hundred Forty-Nine and 48/100 (\$25,149.48).

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 22nd day of July, 2014.

- Mayor Becky Ames -



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer

MEETING DATE: July 29, 2014

REQUESTED ACTION: Council consider a resolution approving a change order for the contract with ARC Abatement of Houston in the amount of \$44,982 for the asbestos abatement and demolition of the Castle Motel located at 1125 N. 11th Street.

BACKGROUND

The contract for the asbestos abatement and demolition of the Castle Motel was awarded by Council on July 15, 2014 to ARC Abatement in Resolution Number 14-154 in the amount of \$242,298. A fire on Saturday, July 19th destroyed a number of the structures. Due to the fire damage, the scope of work has changed and the buildings have been deemed an imminent danger to the public by the City. ARC Abatement has submitted a new quote for completing the entire project with a total amount of \$197,316. This is a cost savings to the City in the amount of \$44,982.

FUNDING SOURCE

General Fund.

RECOMMENDATION

Approval of the resolution.

RESOLUTION NO.

WHEREAS, on July 15, 2014, the City Council of the City of Beaumont, Texas, passed Resolution No. 14-154 awarding a contract in the amount of \$242,298 to ARC Abatement, of Houston, Texas for asbestos abatement and demolition of the Castle Motel located at 1125 N. 11th Street; and,

WHEREAS, on July 19, 2014, there was a fire at the hotel which destroyed most of the structures; and,

WHEREAS, due to the fire damage, the scope of the work has changed and the buildings have been deemed an imminent danger to the public by the City; and,

WHEREAS, a Change Order in the amount of (\$44,982.00) is required to allow for the modification in the scope of the work of asbestos abatement and demolition of the Castle Motel as a result of the fire, thereby decreasing the contract amount to \$197,316;

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

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to execute a Change Order for modified work described above, thereby decreasing the contract amount by (\$44,982.00) for a total contract amount of \$197,316.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 29th day of July, 2014.

- Mayor Becky Ames -



**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS JULY 29, 2014 1:30 P.M.**

AGENDA

CALL TO ORDER

- * Invocation Pledge Roll Call
- * Presentations and Recognition
- * Public Comment: Persons may speak on scheduled agenda items 6-10/Consent Agenda
- * Consent Agenda

GENERAL BUSINESS

1. Consider an ordinance approving the rezoning of property from RS (Residential Single Family Dwelling) to GC-MD (General Commercial-Multiple Family Dwelling) District or a more restrictive district for the property at 5945 College Street
2. Consider an ordinance approving the rezoning of property from PUD (Planned Unit Development) to LI (Light Industrial) District or a more restrictive district at 4965 Fannett Road
3. Consider an ordinance approving a specific use permit to allow the expansion of Greenlawn Cemetery onto property zoned GC-MD (General Commercial – Multiple Family Dwelling) District
4. Consider an ordinance approving a revised specific use permit to allow warehousing and a wholesale pharmacy in a GC-MD-2 (General Commercial - Multiple Family Dwelling-2) District
5. Consider an ordinance approving the removal of one and one-half lots from the Oaks Historical District at 2345 Calder
6. Consider approving a resolution authorizing a change order to the contract with Brystar Contracting, Inc., related to the Wastewater Treatment Plant Holding Pond Project and Dredging of Ponds 1 and 2 Project
7. Consider a resolution approving the appointment of Grant Peter Boston as an Assistant City Attorney II and setting his starting compensation

WORK SESSION

- * Review and discuss amending the Neighborhood Empowerment Zone Abatement policies and establishing a new zone to include the Central Business District
- 8. Consider an ordinance amending the Neighborhood Empowerment Zone Abatement policies
- 9. Consider an ordinance establishing Neighborhood Empowerment Zone Number Five

COMMENTS

- * Councilmembers/City Manager comment on various matters
- * Public Comment (Persons are limited to 3 minutes)

EXECUTIVE SESSION

- * Consider matters related to the purchase, exchange, lease or value of real property in accordance with Section 551.072 of the Government Code, to wit:

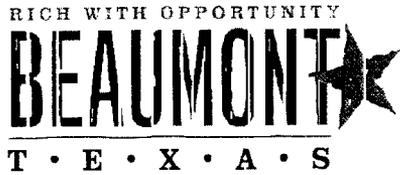
625 Orleans Street, Hotel Beaumont

- 10. Consider a resolution authorizing the City Manager to execute an Earnest Money Contract for the sale of the Hotel Beaumont

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Mitchell Normand at 880-3777 three days prior to the meeting.

July 29, 2014

Consider an ordinance approving the rezoning of property from RS (Residential Single Family Dwelling) to GC-MD (General Commercial-Multiple Family Dwelling) District or a more restrictive district for the property at 5945 College Street



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Chris Boone, ^{CB} Director of Planning and Community Development

MEETING DATE: July 29, 2014

REQUESTED ACTION: Council consider an ordinance to rezone a property from RS (Residential Single Family Dwelling) to GC-MD (General Commercial-Multiple Family Dwelling) District or a more restrictive district for the property at 5945 College Street.

BACKGROUND

Jeff Williams on behalf of Blanche Investments, Inc. has applied for a zone change from RS (Residential Single Family Dwelling) to GC-MD (General Commercial-Multiple Family Dwelling) District to correct the split zoning of a property located at 5945 College Street.

Most of us recognize the property as Games People Play, consisting of a practice range and golf retail shop. While the shop and practice tees are located in the GC-MD portion of the property, more than half of the range is located in an RS district.

At a Joint Public Hearing held July 21, 2014, the Planning Commission recommended 6:0 to approve rezoning the property from RS (Residential Single Family Dwelling) to GC-MD (General Commercial-Multiple Family Dwelling) District.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of ordinance.

**APPLICATION FOR AMENDMENT
OF THE ZONING ORDINANCE
BEAUMONT, TEXAS**
(Chapter 28, City Codes)

TO: THE PLANNING COMMISSION AND CITY COUNCIL, CITY OF BEAUMONT, TEXAS

APPLICANT'S NAME AND ADDRESS: JEFF Williams 7795 Deerchase, 77713

APPLICANT'S PHONE #: 781-6508 cell FAX #: 866-0804

NAME OF OWNER: Blanche Investments, Inc.

ADDRESS OF OWNER: 5945 College St.

LOCATION OF PROPERTY: Same

LEGAL DESCRIPTION OF PROPERTY:

LOT NO. 2 OR TRACT _____

BLOCK NO. K PLAT _____

ADDITION Thomas H. Langham Subdivision SURVEY C. Williams, Abstract 59

NUMBER OF ACRES 22.32 NUMBER OF ACRES _____

For properties not in a recorded subdivision, submit a copy of a current survey or plat showing the properties proposed to be changed, and a complete legal field note description.

CURRENT ZONING DISTRICT: R-S

ZONING DISTRICT REQUESTED: GC-MD

HAS THE REQUEST BEEN MADE BEFORE? NO IF SO, DATE: _____

ACTION: _____

SUBMIT A LETTER STATING REASONS FOR REQUEST.

ATTACH THE APPROPRIATE APPLICATION FEE:

LESS THAN 1/2 ACRE.....	\$250.00
1/2 ACRE OR MORE AND LESS THAN 5 ACRES.....	\$450.00
5 ACRES OR MORE.....	<u>\$650.00</u>

I HEREBY ACKNOWLEDGE THAT THE APPLICATION IS MADE FOR THE REQUESTED DISTRICT OR A MORE RESTRICTIVE DISTRICT.

SIGNATURE OF APPLICANT: Jeff Williams DATE: 6/5/14

SIGNATURE OF OWNER: Jeff Williams

PLEASE TYPE OR PRINT AND SUBMIT TO:

PLANNING DIVISION, ROOM 201
CITY HALL, 801 MAIN STREET
BEAUMONT, TX 77701
P.O. BOX 3827 77704
(409) 880-3764
FAX (409) 880-3133

FILE NUMBER: _____
DATE RECEIVED: _____
RECEIPT NUMBER: _____

06/12/14

Dear Zoning Commission and City Council,

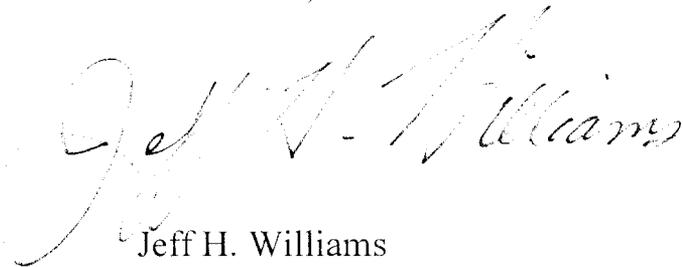
My name is Jeff H. Williams. I am owner of Games People Play, Inc, 5945 College Street, Beaumont. TX.

GPP resides on an approximate 39 acre tract of land. Larger businesses requiring more commercial acreage than GPP does would be the highest and best use of the tract.

The northern portion of our tract is 17.0361 acres zoned GC-MD.
The southern portion of our tract is 22.32 acres zoned R-S.

I am requesting the southern portion of the tract, 22.32 acres be rezoned to GC-MD that adjoins our 17.3061 acres zoned GC-MD.

Thank You,

A handwritten signature in cursive script that reads "Jeff H. Williams". The signature is written in black ink and is positioned to the left of the typed name.

Jeff H. Williams
President, GPP, Inc.
5945 College Street
Beaumont, TX. 77707

jw@gppgolf.com
409-781-6508 cell

ORDINANCE NO.

ENTITLED AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF BEAUMONT, TEXAS, AND IN PARTICULAR THE BOUNDARIES OF THE ZONING DISTRICTS, AS INDICATED UPON THE ZONING MAP OF BEAUMONT, TEXAS, BY CHANGING THE ZONING OF PROPERTY PRESENTLY ZONED RS (RESIDENTIAL SINGLE FAMILY DWELLING) DISTRICT TO GC-MD (GENERAL COMMERCIAL-MULTIPLE FAMILY DWELLING) DISTRICT FOR PROPERTY LOCATED AT 5945 COLLEGE STREET, BEAUMONT, JEFFERSON COUNTY, TEXAS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL AND PROVIDING A PENALTY.

BE IT ORDAINED BY THE CITY OF BEAUMONT:

Section 1.

That Chapter 28 of the Code of Ordinances of Beaumont, Texas, and in particular the boundaries of the zoning districts, as indicated upon the Zoning Map of the City of Beaumont, referred to in Section 28.01.005(b) thereof, is hereby amended by changing the zoning of property presently zoned RS (Residential Single Family Dwelling) District to GC-MD (General Commercial-Multiple Family Dwelling) District for property located at 5945 College Street, as described in Exhibit "A" and shown on Exhibit "B," attached hereto, and the official zoning map of the City of Beaumont is hereby amended to reflect such changes.

Section 2.

That, in all other respects, the use of the property herein above described shall be subject to all of the applicable regulations of the underlying zoning district as well as those regulations contained in Chapter 28 of the Code of Ordinances of Beaumont, Texas, as amended.

Section 3.

That if any section, subsection, sentence, clause of phrase of this ordinance, or the

application of same to a particular set of persons or circumstances, should for any reason be held to be invalid, such invalidity shall not affect the remaining portions of this ordinance, and to such end, the various portions and provisions of this ordinance are declared to be severable.

Section 4.

That all ordinances or parts of ordinances in conflict herewith are repealed to the extent of the conflict only.

Section 5.

That any person who violates any provision of this ordinance shall, upon conviction, be punished, as provided in Section 1.01.009 of the Code of Ordinances of Beaumont, Texas.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 29th day of July, 2014.

- Mayor Becky Ames -

Ronald D. Fittz, P.E., R.P.L.S. (1946-1987)
Terry G. Shipman, P.E., Chairman
Billy J. Smith, Jr., President

Consulting Engineers and Land Surveyors
Donald R. King, P.E.
Walter J. Ksiazek, R.P.L.S.

**FIELD NOTE DESCRIPTION
FOR A
22.32 ACRE TRACT
OUT OF THE
C. WILLIAMS SURVEY, ABSTRACT 59
JEFFERSON COUNTY, TEXAS
JUNE 11, 2014**

That certain 22.32 acre tract out of the C. Williams Survey, Abstract 59, Jefferson County, Texas, and being out of a called 40.493 acre tract conveyed to Games People Play, Inc. as recorded in Clerks File No. 9604074 of the Official Public Records of Jefferson County, Texas, said 22.32 acres being more particularly described by metes and bounds as follows:

COMMENCING at a point in the west right-of-way line of Wendelin Drive for the northeast corner of a called 26.634 acre tract conveyed to the The Most Reverend W. J. Nold, Bishop of the Diocese of Galveston-Houston as recorded in Volume 1230, Page 344 of the Deed Records of Jefferson County, Texas and the southeast corner of the said 40.493 acre tract;

THENCE North 00°40'30" West along the said west right-of-way line of Wendelin Drive and the east line of the said 40.493 acre tract a distance of 20.00 feet to a point for the southeast corner of the said 22.32 acre tract and the **POINT OF BEGINNING**;

THENCE South 89°51'13" West along the south line of the said 22.32 acre tract a distance of 1292.22 feet to a point in the east line of a drainage ditch and the west line of the said 40.493 acre tract for the southwest corner of the said 22.32 acre tract;

THENCE North 00°36'53" East along the said east line of a drainage ditch and the west line of the said 40.493 and 20.32 acre tracts a distance of 762.72 feet to a point for the northwest corner of the said 40.493 and 22.32 acre tracts;

THENCE North 86°51'53" East along a north line of the said 40.493 and 22.32 acre tracts a distance of 263.30 feet to a point for an interior corner of the said 40.493 and 22.32 acre tracts;

THENCE South 00°23'11" East along an east line of the said 22.32 acre tract a distance of 26.06 feet to a point for an interior corner of the said 22.32 acre tract;

THENCE North 89°23'12" East along a north line of the said 22.32 acre tract a distance of 1012.07 feet to a point in the said west right-of-way line of Wendelin Drive and the said east line of the 40.493 acre tract for the northeast corner of the said 22.32 acre tract;

Fittz & Shipman, Inc.

Page 1 of 2
Project No. 01976.0289ZONING
Description

THENCE South 00°40'30" East along the said west right-of-way line of Wendelin Drive and the east line of the said 40.493 and 22.32 acre tracts a distance of 758.61 feet to the **POINT OF BEGINNING** and containing 22.32 acres of land, more or less.

File 2206-Z: Request for a rezoning from R-S (Residential Single Family Dwelling) to GC-MD (General Commercial - Multiple Family Dwelling) District or a more restrictive district.

Location: 5945 College Street

Applicant: Jeff Williams

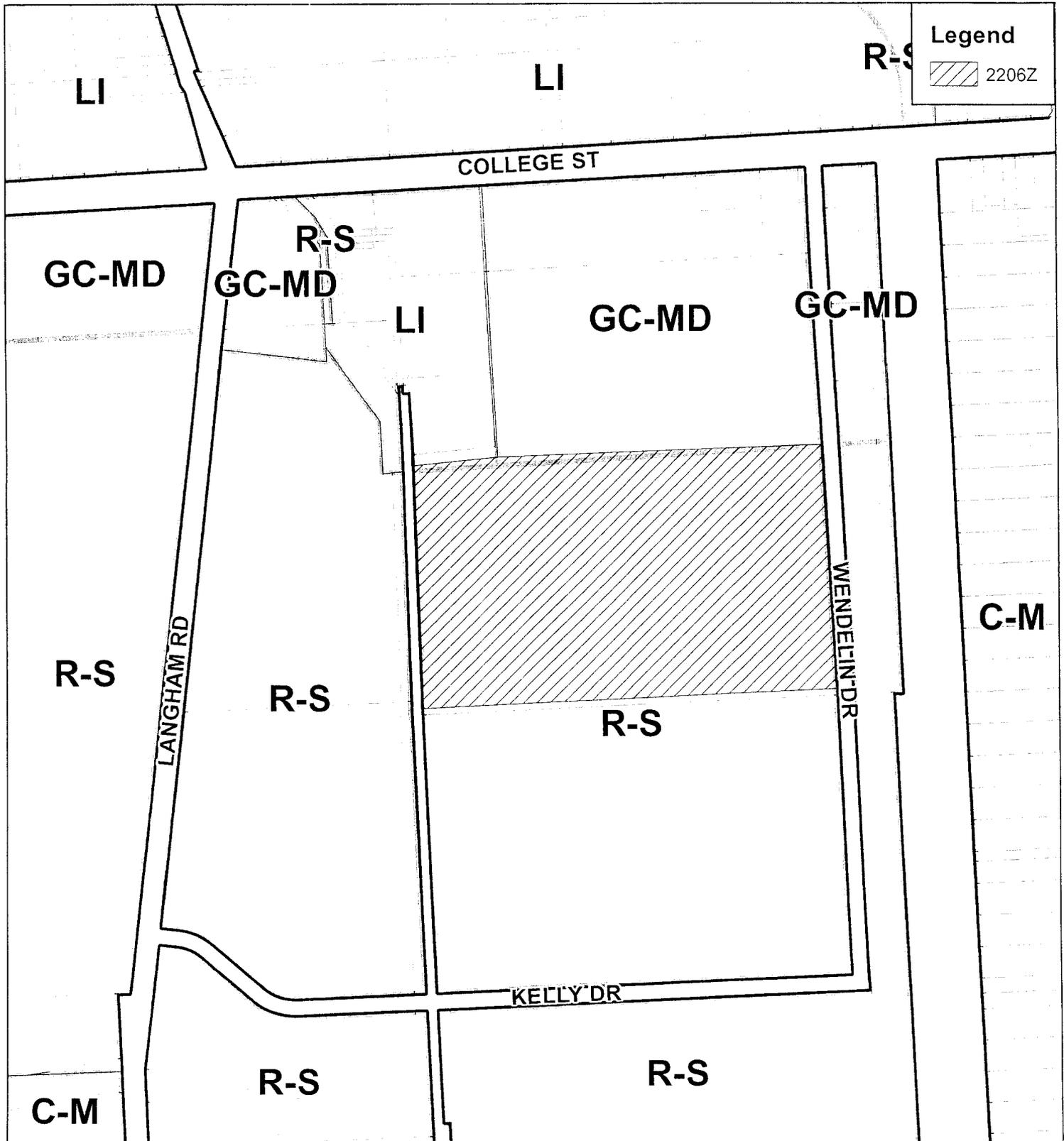
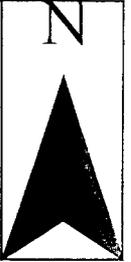
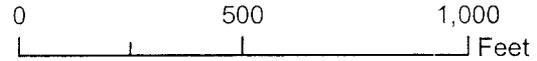
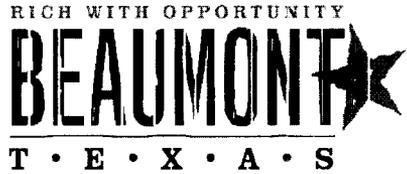


EXHIBIT "B"

July 29, 2014

Consider an ordinance approving the rezoning of property from PUD (Planned Unit Development) to LI (Light Industrial) District or a more restrictive district at 4965 Fannett Road



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Chris Boone, Director of Planning and Community Development

MEETING DATE: July 29, 2014

REQUESTED ACTION: Council consider an ordinance to rezone a property from PUD (Planned Unit Development) to LI (Light Industrial) District or a more restrictive district at 4965 Fannett Road.

BACKGROUND

B & L International, L.L.C. has applied for a zone change from PUD (Planned Unit Development) to LI (Light Industrial) District for their property located at 4965 Fannett Road.

In 2008 a request was made to rezone this property to a PUD for the purpose of building an apartment community. The development never came to fruition and the current owner is asking to return the property to LI.

At a Joint Public Hearing held July 21, 2014, the Planning Commission recommended 6:0 to approve rezoning the property from PUD (Planned Unit Development) to LI (Light Industrial) District.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of ordinance.

APPLICATION FOR AMENDMENT
OF THE ZONING ORDINANCE
BEAUMONT, TEXAS
(Chapter 28, City Codes)

TO: THE PLANNING COMMISSION AND CITY COUNCIL, CITY OF BEAUMONT, TEXAS

APPLICANT'S NAME AND ADDRESS: B+L International, LLC

APPLICANT'S PHONE #: 409-860-4900 FAX #: 409 860-4940

NAME OF OWNER: B+L International

ADDRESS OF OWNER: 9405 College St Suite A

LOCATION OF PROPERTY: 4965 Fannett Rd

LEGAL DESCRIPTION OF PROPERTY:

~~TRACT~~ AND
~~LOT NO.~~ OR TRACTS 1
16
~~PLAT~~
BLOCK NO. SP-9 PLAT _____
~~SURVEY~~
ADDITION S. STIVERS SURVEY JAS RONE

NUMBER OF ACRES _____ TOTAL NUMBER OF ACRES 154.613 AC

For properties not in a recorded subdivision, submit a copy of a current survey or plat showing the properties proposed to be changed, and a complete legal field note description.

CURRENT ZONING DISTRICT: PUD

ZONING DISTRICT REQUESTED: LI

HAS THE REQUEST BEEN MADE BEFORE? _____ IF SO, DATE: _____

ACTION: _____

SUBMIT A LETTER STATING REASONS FOR REQUEST.

ATTACH THE APPROPRIATE APPLICATION FEE:

LESS THAN 1/2 ACRE.....\$250.00
1/2 ACRE OR MORE AND LESS THAN 5 ACRES.....\$450.00
5 ACRES OR MORE.....\$650.00

I HEREBY ACKNOWLEDGE THAT THE APPLICATION IS MADE FOR THE REQUESTED DISTRICT OR A MORE RESTRICTIVE DISTRICT.

SIGNATURE OF APPLICANT: [Signature] DATE: 6/10/11

SIGNATURE OF OWNER
(IF NOT APPLICANT): _____

PLEASE TYPE OR PRINT AND SUBMIT TO:

PLANNING DIVISION, ROOM 201
CITY HALL, 801 MAIN STREET
BEAUMONT, TX 77701
P.O. BOX 3827 77704
(409) 880-3764
FAX (409) 880-3133

FILE NUMBER: _____
DATE RECEIVED: _____
RECEIPT NUMBER: _____

B and L International L.L.C.
9405 College St., Suite A
Beaumont, Texas 77707
Phone: (409) 860-4900
Fax: (409) 860-4940

Date: July 1, 2014

Re: Request for Zoning Change

We are requesting a zoning change for our property located in the 4000 BLK of Fannett Rd. The property had originally been zoned light industrial and the prior owner had planned on building a large set of apartment houses on this property. That is why he rezoned it to planned unit development (PUD). We would like to return it to light industrial and plan to develop the property for that purpose.

Thank You,



B and L International L.L.C.

**FIELD NOTE DESCRIPTION
FOR A
156.555 ACRE TRACT
OUT OF THE
SAMUEL STIVERS SURVEY, ABSTRACT 51
AND THE
JAMES ROWE SURVEY, ABSTRACT 45
JEFFERSON COUNTY, TEXAS
APRIL 8, 2014**

That certain 156.555 acre tract out of the Samuel Stivers Survey, Abstract 51 and the James Rowe Survey, Abstract 45, Jefferson County, Texas, being the out of a called 256.555 acre tract (Tract I) conveyed to B&L International, LLC as recorded in Clerks File No. 2011020108 of the Official Public Records of Jefferson County, Texas, said 156.555 acres being more particularly described by metes and bounds as follows:

BEGINNING at a point in the southerly right-of way line of Highway No. 124 for the northeast corner of a called 1.470 acre tract conveyed to the Catholic Diocese of Beaumont as recorded in Volume 59, Page 162 of the Deed Records of Jefferson County, Texas and the most northerly northwest corner of the said 256.555 and 156.555 acre tracts;

THENCE North 70°26'10" East along the said southerly right-of-way line of Highway No. 124 and the most northerly line of the said 256.555 and 156.555 acre tracts a distance of 1034.98 feet to a point for the northwest corner of a called 0.450 acre tract (Tract II) described in said Clerks File No. 2011020108 and the most northerly northeast corner of the said 256.555 and 156.555 acre tracts;

THENCE South 00°20'14" East along the west line of the said 0.450 acre tract and an east line of the said 256.555 and 156.555 acre tracts a distance of 195.88 feet to a point for the southwest corner of the said 0.450 acre tract and an interior corner of the said 256.555 and 156.555 acre tracts;

THENCE North 87°02'53" East along the south line of the said 0.450 acre tract and a north line of the said 256.555 and 156.555 acre tracts a distance of 94.43 feet to a point in the west line of a called 4.42 acre tract conveyed to Ingraham Family Limited Partnership as recorded in Clerks File No. 2001030452 of the Official Public Records of Jefferson County, Texas for the southeast corner of the said 0.450 acre tract and an exterior corner of the said 256.555 and 156.555 acre tracts;

THENCE South 00°50'56" East along the west line of the said 4.42 acre tract and an east line of the said 256.555 and 156.555 acre tracts a distance of 798.52 feet to a point for the southwest corner of the said 4.42 acre tract and an interior corner of the said 256.555 and 156.555 acre tracts;

Fittz & Shipman, Inc.

Page 1 of 3
Project No. 13091.0001

THENCE North 87°10'13" East along the south line of the said 4.42 acre tract and a portion of the south line of a called 7.11 acre tract conveyed to Sage Automation, Inc. as recorded in Clerks File No. 2001030453 of the Official Public Records of Jefferson County, Texas being a north line of the said 256.555 and 156.555 acre tracts a distance of 528.72 feet to a point for the northwest corner of a called 100.000 acre tract conveyed to the City of Beaumont as recorded in Clerks File No. 20120177663 of the Official Public Records of Jefferson County, Texas and the most easterly northeast corner of the said 156.555 acre tract;

THENCE South 02°44'41" East along the west line of the said 100.000 acre tract and the east line of the said 156.555 acre tract a distance of 2635.45 feet to a point in the north line of the Schindler Estate called 20 acre tract and the south line of the said 256.555 acre tract for the southwest corner of the said 100.000 acre tract and the southeast corner of the said 156.555 acre tract;

THENCE South 87°08'07" West along the said north line of the Schindler Estate 20 acre tract and the south line of the said 256.555 and 156.555 acre tracts a distance of 493.79 feet to a point for the northwest corner of the said Schindler Estate 20 acre tract and an interior corner of the said 256.555 and 156.555 acre tracts;

THENCE South 02°40'29" East along the west line of the said Schindler Estate 20 acre tract and an east line of the said 256.555 and 156.555 acre tracts a distance of 1041.66 feet to a point in the northeasterly line of Hillebrandt Bayou for the most southerly corner of the said 256.555 and 156.555 acre tracts;

THENCE along the said northeasterly and easterly line of Hillebrandt Bayou and the southwesterly and westerly line of the said 256.555 and 156.555 acre tracts with the following courses and distances:

North 48°22'48" West a distance of 100.06 feet;
North 50°35'51" West a distance of 137.56 feet;
North 50°55'05" West a distance of 167.67 feet;
North 51°09'51" West a distance of 106.17 feet;
North 50°19'01" West a distance of 109.08 feet;
North 53°10'14" West a distance of 168.49 feet;
North 51°32'55" West a distance of 130.18 feet;
North 53°49'15" West a distance of 134.65 feet;
North 55°13'57" West a distance of 125.73 feet;
North 56°27'42" West a distance of 159.72 feet;
North 57°16'29" West a distance of 176.61 feet;
North 65°28'52" West a distance of 119.04 feet;
North 62°14'33" West a distance of 162.54 feet;
North 56°54'43" West a distance of 98.90 feet;
North 43°27'54" West a distance of 142.81 feet;
North 35°18'17" West a distance of 115.51 feet;
North 28°13'07" West a distance of 134.55 feet;
North 22°14'33" West a distance of 133.02 feet;
North 13°09'40" West a distance of 94.39 feet;
North 02°18'32" West a distance of 154.07 feet;
North 08°30'26" East a distance of 128.47 feet;
North 04°03'41" East a distance of 196.03 feet;
North 03°22'30" West a distance of 64.56 feet;
North 05°19'57" West a distance of 162.76 feet;
North 07°54'41" West a distance of 165.55 feet;

North 05°31'38" West a distance of 174.47 feet;
North 02°36'08" West a distance of 152.16 feet;
North 02°25'12" East a distance of 202.83 feet;
North 02°02'41" West a distance of 114.19 feet;
North 02°19'04" East a distance of 111.69 feet;
North 02°23'18" West a distance of 8.18 feet to a point for the southwest corner of a called 9.000 acre tract conveyed to Clyde D. Herbert as recorded in Film Code 102-80-2302 of the Real Property Records of Jefferson County, Texas and the most westerly northwest corner of the said 256.555 and 156.555 acre tracts;

THENCE South 84°06'35" East along the south line of the said 9.000 acre tract and a north line of the said 256.555 and 156.555 acre tracts a distance of 902.91 feet to a point for the southeast corner of the said 9.000 acre tract and an interior corner of the said 256.555 and 156.555 acre tracts;

THENCE North 01°11'45" West along the east line of the said 9.000 acre tract and a west line of the said 256.555 and 156.555 acre tracts a distance of 194.89 feet to a point for the most easterly northeast corner of the said 9.000 acre tract, the southeast corner of a called 1.596 acre tract conveyed to Margaret Hebert Callaway as recorded in Volume 2054, Page 33 of the Deed Records of Jefferson County, Texas and an angle point of the said 256.555 and 156.555 acre tracts;

THENCE North 01°21'54" West along the east line of the said 1.596 acre tract and a west line of the said 256.555 and 156.555 acre tracts a distance of 299.32 feet to a point for the most easterly northeast corner of the said 1.596 acre tract and an angle point of the said 256.555 and 156.555 acre tracts;

THENCE North 32°02'34" West along a northeasterly line of the said 1.596 acre tract and a westerly line of the said 256.555 and 156.555 acre tracts a distance of 135.88 feet to a point in the easterly right-of-way line of Stivers Road for the most northerly corner of the said 1.596 acre tract, the southwest corner of the said 1.470 acre tract and an angle point of the said 256.555 and 156.555 acre tracts;

THENCE North 56°27'55" East along the southerly line of the said 1.470 acre tract and a northerly line of the said 256.555 and 156.555 acre tracts a distance of 104.42 feet to a point for the southeast corner of the said 1.470 acre tract and an interior corner of the said 256.555 and 156.555 acre tracts;

THENCE North 33°17'39" West along the easterly line of the said 1.470 acre tract and a westerly line of the said 256.555 and 156.555 acre tracts a distance of 583.31 feet to the **POINT OF BEGINNING** and containing 156.555 acres of land, more or less.

Note: This description is based on recorded deeds. It is not based on an actual on the ground survey.

ORDINANCE NO.

ENTITLED AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF BEAUMONT, TEXAS, AND IN PARTICULAR THE BOUNDARIES OF THE ZONING DISTRICTS, AS INDICATED UPON THE ZONING MAP OF BEAUMONT, TEXAS, BY CHANGING THE ZONING OF PROPERTY PRESENTLY ZONED PUD (PLANNED UNIT DEVELOPMENT) DISTRICT TO LI (LIGHT INDUSTRIAL) DISTRICT FOR PROPERTY LOCATED AT 4965 FANNETT ROAD, BEAUMONT, JEFFERSON COUNTY, TEXAS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL AND PROVIDING A PENALTY.

BE IT ORDAINED BY THE CITY OF BEAUMONT:

Section 1.

That Chapter 28 of the Code of Ordinances of Beaumont, Texas, and in particular the boundaries of the zoning districts, as indicated upon the Zoning Map of the City of Beaumont, referred to in Section 28.01.005(b) thereof, is hereby amended by changing the zoning of property presently zoned PUD (Planned Unit Development) District to LI (Light Industrial) District for property located at 4965 Fannett Road, being Tract 16, Plat SP-9, S. Stivers Survey, Abstract 51 and Tract 1, Jas Rowe Survey, Abstract 45, Beaumont, Jefferson County, Texas, containing 154.613 acres, more or less, as shown on Exhibit "A," attached hereto, and the official zoning map of the City of Beaumont is hereby amended to reflect such changes.

Section 2.

That, in all other respects, the use of the property herein above described shall be subject to all of the applicable regulations of the underlying zoning district as well as those regulations contained in Chapter 28 of the Code of Ordinances of Beaumont, Texas, as amended.

Section 3.

That if any section, subsection, sentence, clause of phrase of this ordinance, or the application of same to a particular set of persons or circumstances, should for any reason be held to be invalid, such invalidity shall not affect the remaining portions of this ordinance, and to such end, the various portions and provisions of this ordinance are declared to be severable.

Section 4.

That all ordinances or parts of ordinances in conflict herewith are repealed to the extent of the conflict only.

Section 5.

That any person who violates any provision of this ordinance shall, upon conviction, be punished, as provided in Section 1.01.009 of the Code of Ordinances of Beaumont, Texas.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 29th day of July, 2014.

- Mayor Becky Ames -

File 2207-Z: Request for a rezoning from PUD (Planned Unit Development) to LI (Light Industrial) District or a more restrictive district.

Location: 4965 Fannett Road

Applicant: B&L International, L.L.C.

N

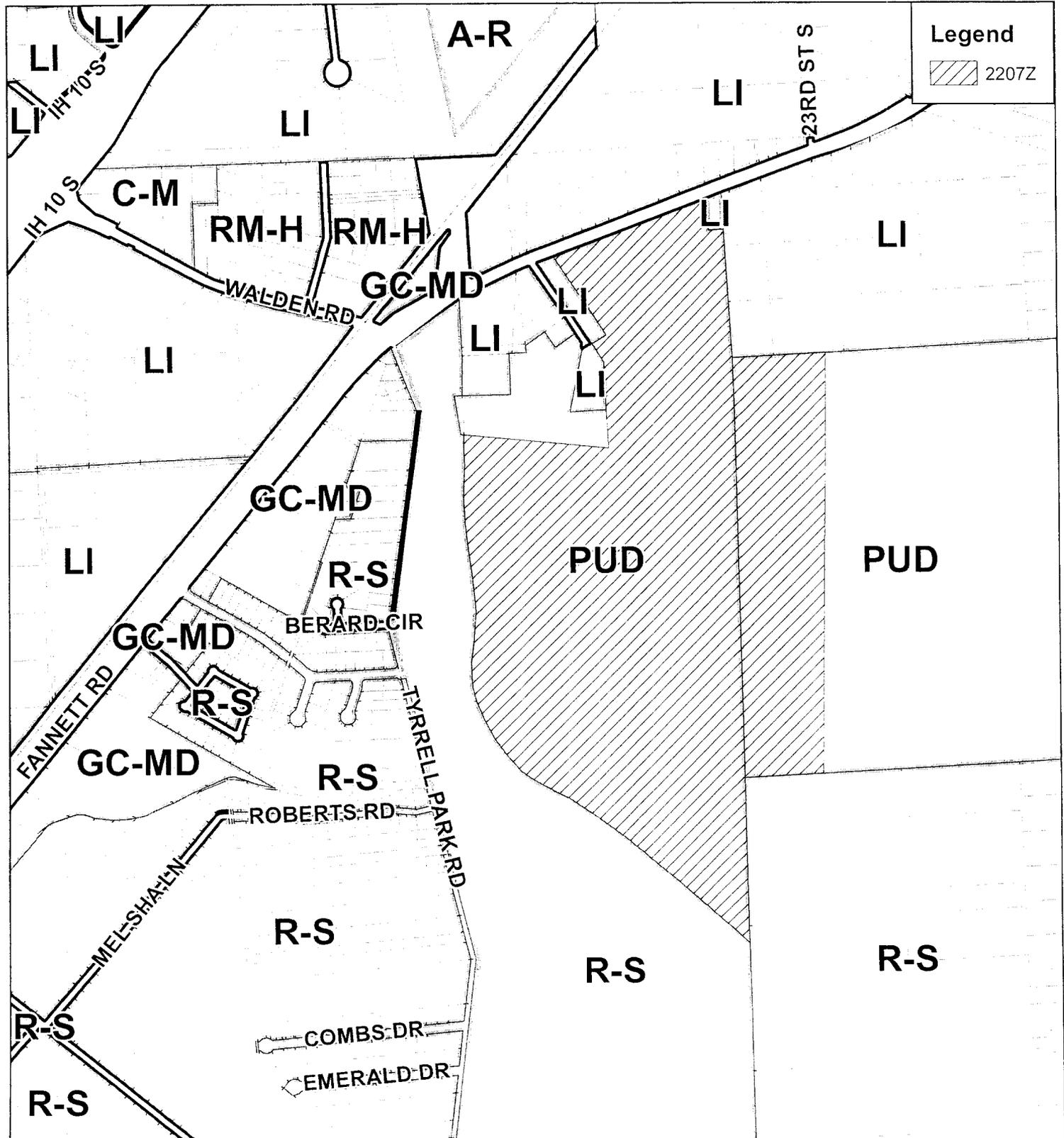
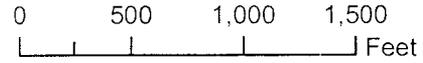
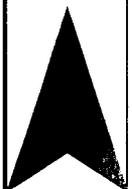


EXHIBIT "A"

July 29, 2014

Consider an ordinance approving a specific use permit to allow the expansion of Greenlawn Cemetery onto property zoned GC-MD (General Commercial – Multiple Family Dwelling) District



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Chris Boone, Director of Planning and Community Development

MEETING DATE: July 29, 2014

REQUESTED ACTION: Council consider an ordinance approving a specific use permit to allow the expansion of Greenlawn Cemetery onto property zoned GC-MD (General Commercial – Multiple Family Dwelling) District.

BACKGROUND

Mr. Donald Taft has applied for a specific use permit on behalf of Community Cemeteries, Inc., who owns and operates the cemetery known as Greenlawn Cemetery. CCI recently purchased this 0.6109 acre tract of land located at 4075 Magnolia Avenue for the expansion of the cemetery. Normal hours of operation for the cemetery are 8 a.m. to 5 p.m. seven (7) days per week. Landscaping will consist of a hedge at the perimeter of the property, to provide some privacy, and small trees for aesthetics.

A specific use permit is required in any zoning district to expand an existing cemetery.

At a Joint Public Hearing held July 21, 2014, the Planning Commission recommended 6:0 to approve a specific use permit to allow the expansion of Greenlawn Cemetery onto property zoned GC-MD (General Commercial – Multiple Family Dwelling) District.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of ordinance with the following conditions:

1. The applicant shall install and maintain an 8ft. privacy fence along the north property line.
2. The applicant shall work with the Traffic Division to develop a parking plan, acceptable to the City's Traffic Engineer.

3. The Property shall be graded, with storm water flow directed to streets and not adjacent Properties.
4. Sanitary sewer service to 4185 Magnolia will need to be relocated to tie into a manhole at the north side of Buchanan and the alley will need to be abandoned, subject to the approval of the Water Utilities Department.

SPECIFIC USE PERMIT APPLICATION
BEAUMONT, TEXAS

(Chapter 28, City Codes)

TO: THE PLANNING COMMISSION AND CITY COUNCIL, CITY OF BEAUMONT, TEXAS

APPLICANT'S NAME: Mr. Donald Taft

APPLICANT'S ADDRESS: 1395 Gladys Street, Beaumont, TX 77701

APPLICANT'S PHONE #: 409.833.8656 FAX #: 409.833.6795

NAME OF OWNER: Community Cemeteries, Inc.

ADDRESS OF OWNER: 1395 Gladys Street, Beaumont, TX 77701

LOCATION OF PROPERTY: 4075 Magnolia Ave., Beaumont, TX

LEGAL DESCRIPTION OF PROPERTY:

LOT NO. _____ OR TRACT 22 A

BLOCK NO. _____ PLAT D17

ADDITION _____ SURVEY A. Williams, Abstract No. 385

NUMBER OF ACRES _____ NUMBER OF ACRES 0.6109

For properties not in a recorded subdivision, submit a copy of a current survey or plat showing the properties proposed for a specific use permit, and a complete legal field note description.

PROPOSED USE: Internment of Human Remains - Cemetery ZONE: _____

ATTACH A LETTER describing all processes and activities involved with the proposed uses.

ATTACH A SITE PLAN drawn to scale with the information listed on the top back side of this sheet.

ATTACH A REDUCED 8 1/2" X 11" PHOTOCOPY OF THE SITE PLAN.

THE EIGHT CONDITIONS listed on the back side of this sheet must be met before City Council can grant a specific use permit. **PLEASE ADDRESS EACH CONDITION IN DETAIL.**

ATTACH THE APPROPRIATE APPLICATION FEE:

LESS THAN 1/2 ACRE.....	\$250.00
1/2 ACRE OR MORE AND LESS THAN 5 ACRES.....	\$450.00
5 ACRES OR MORE.....	\$650.00

I, being the undersigned applicant, understand that all of the conditions, dimensions, building sizes, landscaping and parking areas depicted on the site plan shall be adhered to as amended and approved by City Council.

SIGNATURE OF APPLICANT: [Signature] DATE: 06-25-14

SIGNATURE OF OWNER: [Signature] DATE: 06-25-14

PLEASE TYPE OR PRINT AND SUBMIT TO: CITY OF BEAUMONT
PLANNING DIVISION
801 MAIN STREET, ROOM 201
BEAUMONT, TX 77701

FILE NUMBER: 2209-P
DATE RECEIVED: 6/27/14

Phone - (409) 880-3764
Fax - (409) 880-3133

PLEASE MAKE NOTE ON REVERSE SIDE OF CONDITIONS TO BE MET REGARDING THE SITE PLAN AND LETTER OF PROPOSED USES AND ACTIVITIES.

Community Cemeteries, Inc.
1395 Gladys Street
Beaumont, Texas 77701
(409) 835-7379

June 24, 2014

City of Beaumont Planning and Zoning
801 Main Street, Room 201
Beaumont, Texas 77701

Re: Application for Specific User Permit at 4075 Magnolia Avenue, Beaumont, Texas

To Whom It May Concern:

Community Cemeteries, Inc. (CCI) owns and operates the cemetery known as Greenlawn Cemetery that is situated in the A. Williams Survey, Abstract No. 385 and located between Buchanan Street, Gill Street, and Magnolia Avenue in Beaumont. CCI recently acquired a 0.6109 acre tract of land, located at 4075 Magnolia Avenue that is situated immediately adjacent to its existing Greenlawn Cemetery property. This cemetery has been in continuous operation for at least 50 years or more. Normal hours of the cemetery is daytime only, seven days a week from 8:00 AM until 5:00 PM.

CCI is making application for a Specific Use Permit to allow development and use of this 0.6109 acre tract of land as a cemetery for internment and burial of human remains. As such, this intended use is compatible with adjacent property and does not diminish or impair the other property values within the immediate vicinity. This includes the Lucky Seven Supermarket and commercial retail property located adjacent to its tract south property line, and a small Church located adjacent to its north property line.

There is adequate utilities, access and drainage already existing to support the intended use of the property. The only additional work planned is to provide a culvert and driveway across the drainage ditch at the public alleyway on Buchanan to allow access to the property from Buchanan as shown on the attached Site Plan. A drive will be constructed from this alleyway across the property, opening at an existing curb cut, onto Magnolia Avenue that will allow for a hearse, pallbearers, and family car to park close to grave sites

City of Beaumont
June 24, 2014
Page 2

during memorial services. All other vehicular traffic will be directed to park along Buchanan or other private drives situated on cemetery property.

All drainage is surface drainage only with runoff flowing into the Magnolia and Buchanan storm water collector system. The site will be cleared during initial development with small hedge shrubbery planted along the perimeter of the property for aesthetics and to provide some level of privacy for families during memorial services. Other small trees will be planted as well to increase the beauty of the property.

No lighting is planned for this property since its use is during daylight hours only. Adequate nuisance prevention measures will be taken to prevent dust, noise and vibration from affecting adjacent property or public right-of-way. The proposed use is in accordance with the Comprehensive Plan.

Sincerely,

COMMUNITY CEMETERIES, INC.

A handwritten signature in black ink, appearing to read "Donald Taft", with a long horizontal line extending to the right.

Donald Taft
President

ORDINANCE NO.

ENTITLED AN ORDINANCE GRANTING A SPECIFIC USE PERMIT TO ALLOW THE EXPANSION OF A CEMETERY IN A GC-MD (GENERAL COMMERCIAL-MULTIPLE FAMILY DWELLING) DISTRICT AT 4075 MAGNOLIA AVENUE IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS.

WHEREAS, Donald Taft, on behalf of Community Cemeteries, Inc., has applied for a specific use permit to allow the expansion of a cemetery in a GC-MD (General Commercial-Multiple Family Dwelling) District at 4075 Magnolia Avenue, being Tract 22A, Plat D-17, A. Williams Survey, Abstract No. 385, Beaumont, Jefferson County, Texas, containing 0.6109 acres, more or less, as shown on Exhibit "A," attached hereto; and,

WHEREAS, the Planning and Zoning Commission of the City of Beaumont considered the request and is recommending approval of a specific use permit to allow the expansion of a cemetery in a GC-MD (General Commercial-Multiple Family Dwelling) District at 4075 Magnolia Avenue, subject to the following conditions:

- The applicant shall install and maintain an 8ft. privacy fence along the north property line.
- The applicant shall work with the Traffic Division to develop a parking plan, acceptable to the City's Traffic Engineer.
- The property shall be graded, with storm water flow directed to streets and not adjacent properties.
- In the event the alley is to be used for access, the sanitary sewer service to 4185 Magnolia will need to be relocated to tie into a manhole at the north side of Buchanan, subject to the approval of the Water Utilities Department.

; and,

WHEREAS, the City Council is of the opinion that the issuance of such specific use permit is in the best interest of the City of Beaumont and its citizens;

NOW, THEREFORE, BE IT ORDAINED

BY THE CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this ordinance are hereby, in all things, approved and adopted; and,

Section 1.

That a specific use permit to allow the expansion of a cemetery in a GC-MD (General Commercial-Multiple Family Dwelling) District at 4075 Magnolia Avenue, being Tract 22A, Plat D-17, A. Williams Survey, Abstract No. 385, Beaumont, Jefferson County, Texas, containing 0.6109 acres, more or less, as shown on Exhibit "A," attached hereto, is hereby granted to Community Cemeteries, Inc., its legal representatives, successors and assigns, as shown on Exhibit "B," attached hereto and made a part hereof for all purposes, subject to the following conditions:

- The applicant shall install and maintain an 8ft. privacy fence along the north property line.
- The applicant shall work with the Traffic Division to develop a parking plan, acceptable to the City's Traffic Engineer.
- The property shall be graded, with storm water flow directed to streets and not adjacent properties.
- In the event the alley is to be used for access, the sanitary sewer service to 4185 Magnolia will need to be relocated to tie into a manhole at the north side of Buchanan, subject to the approval of the Water Utilities Department.

Section 2.

That the specific use permit herein granted is expressly issued for and in accordance with each particular and detail of the site plan attached hereto as Exhibit "B" and made a part hereof for all purposes.

Section 3.

Notwithstanding the site plan attached hereto, the use of the property herein above and made a part hereof for all purposes.

Section 4.

Notwithstanding the site plan attached hereto, the use of the property herein above described shall be in all other respects subject to all of the applicable regulations contained in Chapter 28 of the Code of Ordinances of Beaumont, Texas, as amended, as well as comply with any and all federal, state and local statutes, regulations or ordinances which may apply.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 29th day of July, 2014.

- Mayor Becky Ames -

File 2209-P: Request for a specific use permit to allow the expansion of the Greenlawn Cemetery onto property zoned GC-MD (General Commercial – Multiple Family Dwelling) District.

Location: 4075 Magnolia Avenue

Applicant: Donald Taft

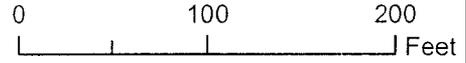
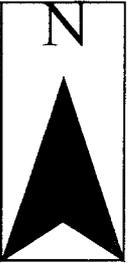
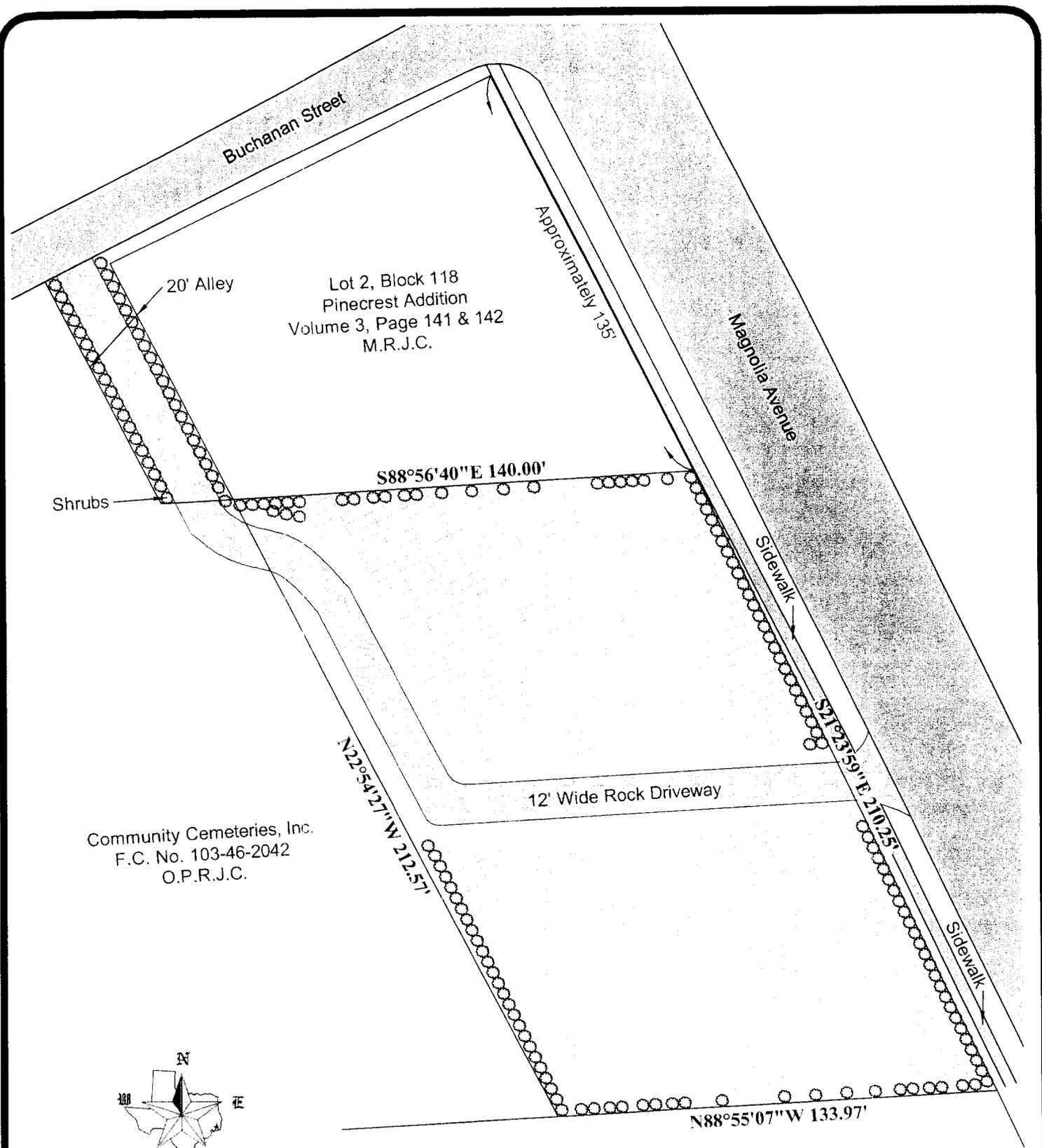


EXHIBIT "A"



Lot 2, Block 118
 Pinecrest Addition
 Volume 3, Page 141 & 142
 M.R.J.C.

Community Cemeteries, Inc.
 F.C. No. 103-46-2042
 O.P.R.J.C.

Farid Abusaleh
 C.F. No. 2007002135
 O.P.R.J.C.

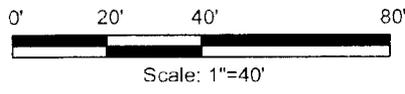
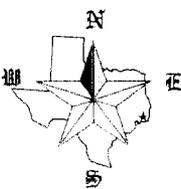


EXHIBIT - SITE PLAN
 SPECIFIC USE PERMIT
 COMMUNITY CEMETERIES, INC.

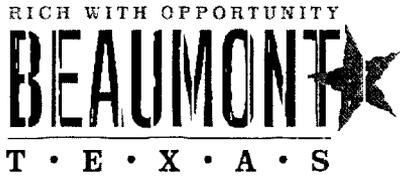
WORTECH
 LAND SURVEYORS, INC.

1480 Co. Rd. 2100, Suite 101
 Euless, Texas 75021
 Tel: 405.866.0183
 Fax: 405.866.1033
 www.wortech.com

EXHIBIT "B"

July 29, 2014

Consider an ordinance approving a revised specific use permit to allow warehousing and a wholesale pharmacy in a GC-MD-2 (General Commercial - Multiple Family Dwelling-2) District



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: ^{CB} Chris Boone, Director of Planning and Community Development

MEETING DATE: July 29, 2014

REQUESTED ACTION: Council consider an ordinance approving a revised specific use permit to allow warehousing and a wholesale pharmacy in a GC-MD-2 (General Commercial - Multiple Family Dwelling-2) District.

BACKGROUND

Phillip Long/ Long Architects, Inc. on behalf of Jim Brown/ Folsom Drive Properties, L.T.D is requesting a revised specific use permit for the property located at 6380 Folsom Drive to allow warehousing and a mail order pharmacy. Script Care has utilized the property as a professional office for benefits management since June of 2003.

The proposed expansion will include a 10,600 square foot warehouse to house Prescription Mart, Inc., a mail order pharmacy, providing prescription drugs in bulk supply. Delivery vehicles will drop off drugs and supplies approximately once per day, five days a week. The US Postal Service will pick up packages two times a day, five days a week and Fed Ex will pick up packages to be delivered once a day, five days a week. The maximum future employee count is expected to be around 30.

At a Joint Public Hearing held July 21, 2014, the Planning Commission recommended 5:0:1 (Messina) to approve a revised specific use permit to allow warehousing and a wholesale pharmacy in a GC-MD-2 (General Commercial-Multiple Family Dwelling-2) District.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of the ordinance.

**SPECIFIC USE PERMIT APPLICATION
BEAUMONT, TEXAS**

(Chapter 28, City Codes)

TO: THE PLANNING COMMISSION AND CITY COUNCIL, CITY OF BEAUMONT, TEXAS

APPLICANT'S NAME: Philip Long / Long Architects, Inc.

APPLICANT'S ADDRESS: 6465 Calder, Suite 206, Bmt TX 77706

APPLICANT'S PHONE #: 866-3443 FAX #: 866-3603

NAME OF OWNER: Jim Brown / Folsom Drive Property, LTD

ADDRESS OF OWNER: 6380 Folsom Dr, Bmt TX 77706

LOCATION OF PROPERTY: _____

LEGAL DESCRIPTION OF PROPERTY:

LOT NO. _____ OR TRACT 1-0 PLAT B5-4
BLOCK NO. _____ SURVEY W.B. Dyches
ADDITION _____ SURVEY Abstract No. 17
NUMBER OF ACRES _____ NUMBER OF ACRES 3.5813

For properties not in a recorded subdivision, submit a copy of a current survey or plat showing the properties proposed for a specific use permit, and a complete legal field note description.

PROPOSED USE: SUP to include warehousing, wholesale trade and durable goods ZONE: GC-MD-2

ATTACH A LETTER describing all processes and activities involved with the proposed uses.

ATTACH A SITE PLAN drawn to scale with the information listed on the top back side of this sheet.

ATTACH A REDUCED 8 1/2" X 11" PHOTOCOPY OF THE SITE PLAN.

THE EIGHT CONDITIONS listed on the back side of this sheet must be met before City Council can grant a specific use permit. PLEASE ADDRESS EACH CONDITION IN DETAIL.

ATTACH THE APPROPRIATE APPLICATION FEE:

LESS THAN 1/2 ACRE.....	\$250.00
1/2 ACRE OR MORE AND LESS THAN 5 ACRES.....	\$450.00
5 ACRES OR MORE.....	\$650.00

I, being the undersigned applicant, understand that all of the conditions, dimensions, building sizes, landscaping and parking areas depicted on the site plan shall be adhered to as amended and approved by City Council.

SIGNATURE OF APPLICANT: [Signature] DATE: JUNE 26, 2014

SIGNATURE OF OWNER: [Signature] DATE: 6.26.2014

PLEASE TYPE OR PRINT AND SUBMIT TO:

CITY OF BEAUMONT
PLANNING DIVISION
801 MAIN STREET, ROOM 201
BEAUMONT, TX 77701

FILE NUMBER: 2210-P
DATE RECEIVED: 6/27/14

Phone - (409) 880-3764
Fax - (409) 880-3133

PLEASE MAKE NOTE ON REVERSE SIDE OF CONDITIONS TO BE MET REGARDING THE SITE PLAN AND LETTER OF PROPOSED USES AND ACTIVITIES.

June 26, 2014

City of Beaumont, Texas
The Planning Commission and City Council
P. O. Box 3827
Beaumont, Texas 77704

Reference: Proposed New Building Addition located at 6380 Folsom Drive in Beaumont, Tx

To Whom It May Concern:

The purpose of this letter is to describe all processes and activities involved with the proposed uses for the New Building Addition located at 6380 Folsom Drive in Beaumont, Texas, to request a continuation of the landscape and fencing waivers issued by the City of Beaumont during the construction of the existing building, and to show how the Owners have been good neighbors and good citizens for approximately 12 years at the aforementioned address.

EXISTING BUILDING:

Script Care is a pharmacy benefits manager providing customer service to participants, plan sponsors, and pharmacy providers. The existing building, built in 2001, provides offices and support spaces for the Script Care staff. Departments of service include Administration, Managed Care, Commercial Accounts, Sales and Marketing, Information Systems, & Operations. The current staff is approximately 65 people. Services provided include:

1. Electronic Claims Processing
2. Compliance Monitoring
3. Prospective Drug Utilization Review
4. Generic Emphasis and Formulary Drug Programs
5. Fee for Service and Capitated Programs
6. Continuous Provider Support
7. Systematic Program Evaluation
8. Same-Day Eligibility File Updates
9. Extended Customer Service Hours
10. Personalized Identification Cards

PROPOSED NEW BUILDING:

Due to a long history of providing high quality service with notable team work and individual vision, and lead with excellent corporate management, Script Care has shown itself to be a top-notch Beaumont, Texas based company, and a national leader in their field of expertise. As a result of their hard work, the Owners are now in need of a new facility to accommodate a specific portion of their business. Prescription Mart, Inc. is a mail order pharmacy, providing prescription drugs in bulk supply. The operations include receiving the drugs from wholesale companies, stocking and storing the drugs, receiving and processing prescriptions, filling the prescriptions either manually or with an automated robotic system, verification of the prescriptions, and finally packaging and mailing the prescriptions. Delivery vehicles drop off drugs and supplies approximately once a day, five days a week. The US Postal Service picks up packages two times a day, five days a week, and Fed Ex picks up packages to be delivered once a day, five days a week. The facility is not intended for public use and can only be accessed through a secured entry at the reception area. The future maximum employee count will be around 30.

EIGHT CONDITIONS FOR SPECIFIC USE PERMIT

1. The specific use of the property will be compatible with, and not injurious to, the use and enjoyment of other properties, nor will it significantly diminish or impair property values within the immediate vicinity. All functions of the business will take place inside the building. The building will be of high quality and will compliment both the existing building on the property, and those of the surrounding buildings.
2. The establishment of the specific use will not impede the normal and orderly development and improvement of surrounding vacant property. The only vacant property abutting the property is owned by Drainage District 6 and is used as a retention/detention facility. It will likely remain as such for the foreseeable future.
3. The new facility is designed to fit into the existing site both aesthetically and physically such that it will look as if both buildings were built at the same time. All utilities required to accommodate the new facility are already on site and are of a size that they can accommodate the new building and the new parking. Fittz and Shipman, Inc. will be designing all of the building and site utilities, and will be producing new site drawings.
4. The existing driveway and parking was installed approximately 12 years ago, and has not caused any known inconvenience to vehicular or pedestrian traffic during that time. As a part of the new construction, the Owners will modify the entrance side of the drive at Folsom by removing the 5' radius and reconstructing it with a 25' radius; and they will modify the exit side of the drive by removing the 5' radius curb and installing a 10' radius one. This will make it even easier for employees and visitors to safely enter the parking lot from Folsom Drive.
5. The use of the building will not create any odors, fumes, dust, noise, or vibration.
6. The existing site improvements include four (4)- 30' tall light fixtures in the main parking lot, with each pole topped by two (2)- 400w metal halide fixtures. The fixtures are of high quality and include required light cut-off. The new project will include two (2) additional light poles that will be the same angle, type and height as the existing fixtures. There have been no complaints in the last 11 years concerning the site lighting that we are aware of. The existing building also currently has ground mounted lighting that illuminates the facade of the building, creating an attractive night time view of the facility. The new building will also have this lighting to further enhance the aesthetics of the site.
7. The existing building has extensive landscaping located on the street side of the building and extending down the left (west) side of the facility. For 12 years now the Owners have carefully maintained all of the landscaping in order to protect and maintain the aesthetics of the building. At the time of the original construction, the City of Beaumont waived the requirements for the installation of a landscape buffer and an 8' wood fence based on the fact that there will never be another building built on the right (east) side of the building, as it is a detainage/retainage facility owned by Drainage District 6. The Owner then decided to install a decorative 4' tall black metal fence along the east property line to enhance the property. We are requesting that no additional fencing be added to this project. Additional landscaping will be added at the new building and new parking areas.
8. The proposed use is in accordance with the Comprehensive Plan.

EXISTING FENCING AND LANDSCAPING WAIVERS:

With this letter, the Owner is requesting that the City of Beaumont keep the original landscaping and fencing waivers in place for the property, and that they not create any additional requirements for landscaping or fencing on the property.

The existing building has extensive landscaping located on the street side of the building and extending down the left (west) side of the facility. The right (east) side faces the Drainage District 6 property which is a detention/retention facility which will likely never be developed. Since the construction of the building 12 years ago, the Owners have meticulously maintained all the landscaping on the property in order to protect and maintain the aesthetics of the building, and to be a responsible neighbor.

At the time of the original construction, the City of Beaumont waived the requirements for the installation of a landscape buffer and an 8' wood fence along both the right (west) side and the back (north) side of the property. The Owner then decided to install a decorative 4' high black metal fence along the right (east) property line to enhance the property. That fence is still in good condition and it extends approximately 420' along the east side of the property.

Additional landscaping will be added at the new building and new parking areas, as previously stated in this letter. Please feel free to contact our office with any additional questions or comments.

Most sincerely,



Philip B. Long, A.I.A.
Long Architects, Inc.

ORDINANCE NO.

ENTITLED AN ORDINANCE ISSUING AN AMENDED SPECIFIC USE PERMIT TO ALLOW WAREHOUSING AND A WHOLESALE PHARMACY IN A GC-MD-2 (GENERAL COMMERCIAL-MULTIPLE FAMILY DWELLING-2) DISTRICT AT 6380 FOLSOM DRIVE IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS.

WHEREAS, on May 22, 2001, the City Council of the City of Beaumont, Texas passed Ordinance No. 01-038 granting a specific use permit to Jim Brown for Dunleith Partners, Ltd. to allow a 15,000 square foot office building in a GC-MD-2 (General Commercial-Multiple Family Dwelling-2) District, located on the North side of Folsom Drive, about one-half way between Dowlen Road and Major Drive, being a 3.5813 acre tract (156,000 square feet) of land out of the W. B. Dyches Survey, Abstract No. 17, located in Beaumont, Jefferson County, Texas, said tract being out of that certain 200.686 acre tract conveyed by Amoco Production Company to LaTex Investors, L.P. as recorded under County Clerk's File No. 2000021770 of the Official Public Records of Real Property, Jefferson County, Texas, subject to conditions; and,

WHEREAS, on August 27, 2002, the City Council of the City of Beaumont, Texas passed Ordinance No. 02-060 amending Ordinance No. 01-038 to allow a waiver of the thirty (30') foot wide landscape buffers on the East and West sides and waiving the ten (10') foot landscape buffer on the North side and requiring a six (6') foot landscape buffer on the North side of the parking lot of the property located at 6380 Folsom; and,

WHEREAS, Phillip Long, of Long Architects Inc., on behalf of Jim Brown/Folsom Drive Properties, L.T.D., wishes to amend the specific use permit to allow warehousing and a wholesale pharmacy in a GC-MD-2 (General Commercial-Multiple Family Dwelling-2) District at 6380 Folsom Drive, being Tract 1-O, Plat RS-4, W. B. Dyches, Abstract 17,

Beaumont, Jefferson County, Texas, containing 3.5813 acres, more or less, as shown on Exhibit "A," attached hereto and made a part hereof for all purposes; and,

WHEREAS, the Planning and Zoning Commission of the City of Beaumont considered the request to amend the specific use permit to allow warehousing and a wholesale pharmacy in a GC-MD-2 (General Commercial-Multiple Family Dwelling-2) District at 6380 Folsom Drive, being Tract 1-O, Plat RS-4, W. B. Dyches, Abstract 17, Beaumont, Jefferson County, Texas, containing 3.5813 acres, more or less as reflected in the site plan as shown on Exhibit "B," attached hereto and made a part hereof for all purposes; and,

WHEREAS, the City Council is of the opinion that the amendment of such specific use permit is in the best interest of the City of Beaumont and its citizens;

NOW, THEREFORE, BE IT ORDAINED BY THE
CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

Section 1.

That Ordinance No. 02-060 be amended by amending the specific use permit granted to Jim Brown/Folsom Drive Properties, L.T.D., their legal representatives, successors, and assigns for that certain tract shown on Exhibit "A," attached hereto and made a part hereof for all purposes, to allow warehousing and a wholesale pharmacy in a GC-MD-2 (General Commercial-Multiple Family Dwelling-2) District located at 6380 Folsom Drive.

Section 2.

Notwithstanding the site plan attached hereto as Exhibit "B," the use of the property herein above described shall be in all other respects, subject to all of the applicable regulations contained in Ordinance No. 02-060 and the regulations contained in Chapter 28 of the Code of Ordinances of the City of Beaumont, Texas, as amended, as well as comply with any and all federal, state and local statutes, regulations or ordinances which may apply.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 29th day of July, 2014.

- Mayor Becky Ames -

File 2210-P: Request for a revised specific use permit to allow warehousing and a wholesale pharmacy in a GC-MD-2 (General Commercial – Multiple Family Dwelling-2) District.

Location: 6380 Folsom Drive

Applicant: Phillip Long / Long Architects, Inc.

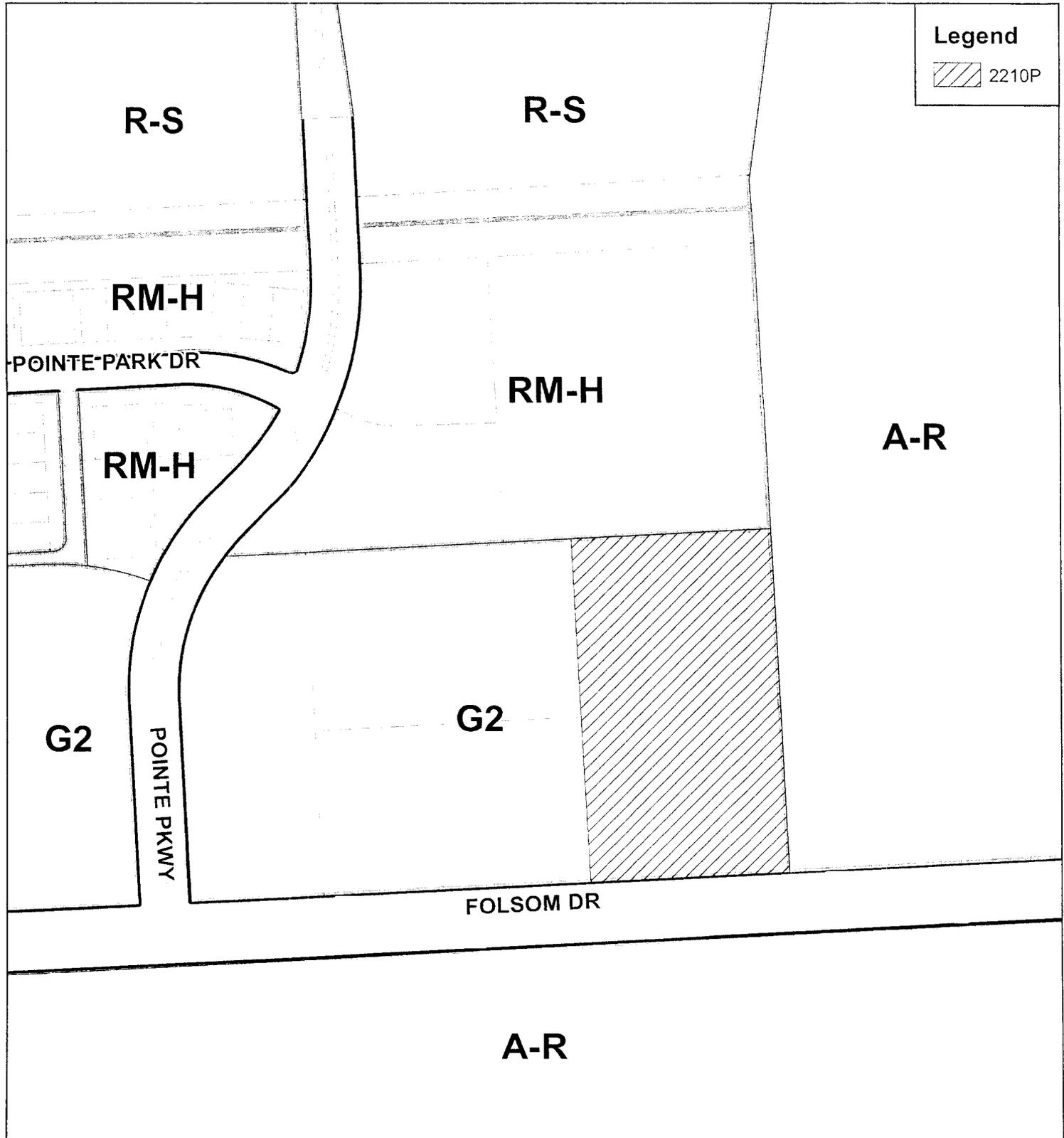
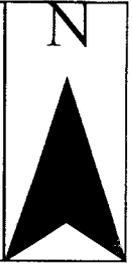
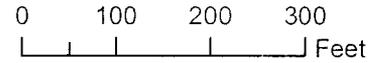
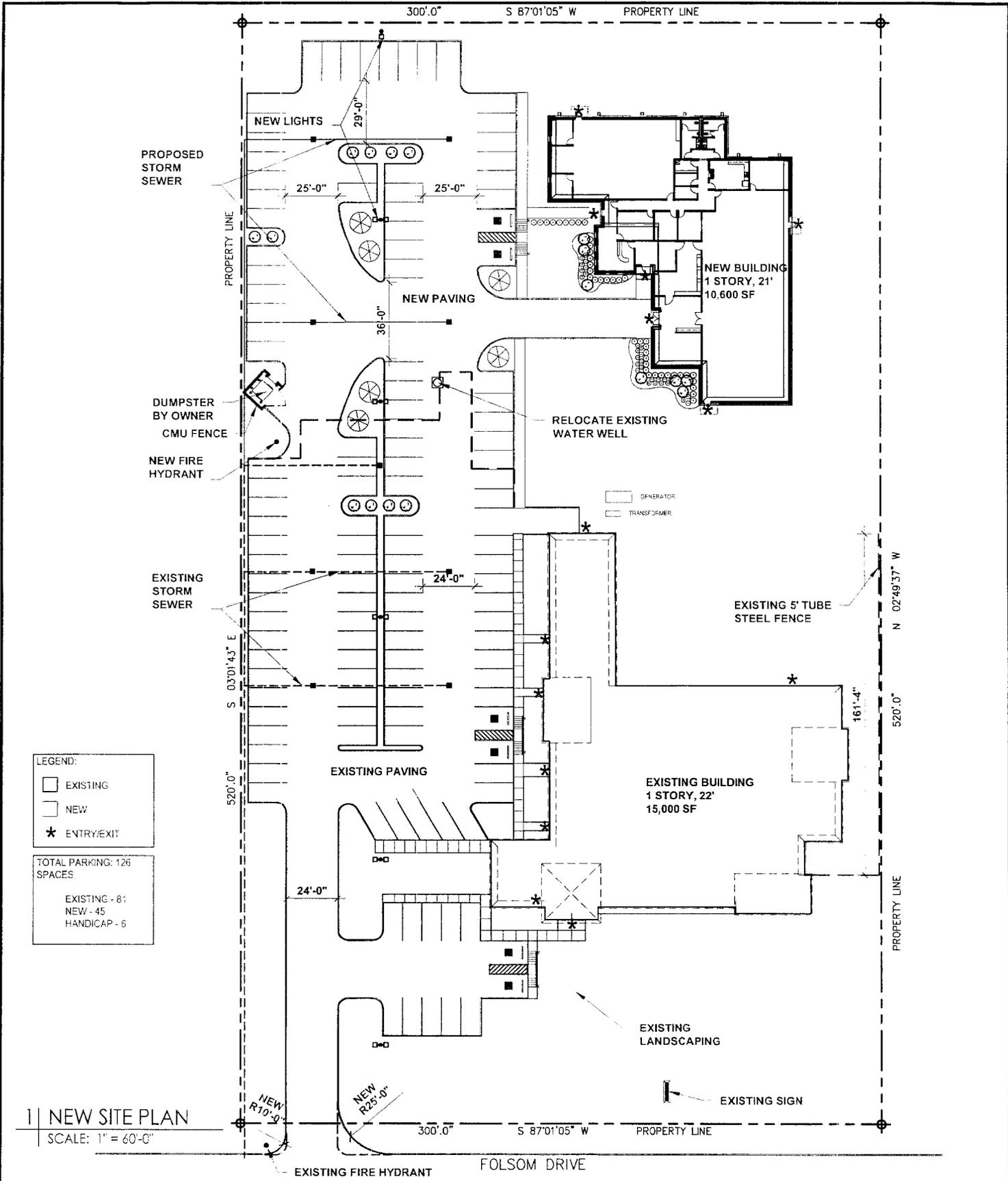


EXHIBIT "A"



A1.00
SHEET NO.

PREPARED BY:

ISSUE DATES:

JUNE 26, 2013

THIS DOCUMENT AND ALL DESIGN, DRAWINGS, SPECIFICATIONS, CONTRACTS, AGREEMENTS, INSTRUMENTS OF SERVICE, AND ANY OTHER DOCUMENTS ARE THE PROPERTY OF LONG ARCHITECTS, INC. AND IS NOT TO BE USED, IN WHOLE OR IN PART, FOR ANY OTHER PROJECT WITHOUT THE WRITTEN AUTHORIZATION OF LONG ARCHITECTS, INC.

OWNERSHIP OF DOCUMENTS

NEW OFFICE BUILDING
FOR
FOLSOM DRIVE PROPERTY, LTD

6380 FOLSOM DRIVE BEAUMONT, TEXAS

EXHIBIT "B"

LONG architects, inc.

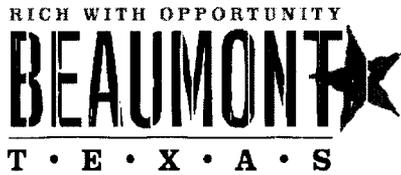
6465 cedar suite 206 | beaumont, TX 77706 • office: 409.866.3443 | fax: 409.866.3603

Fittz & Shipman
INC
Consulting Engineers and Land Surveyors
1405 COMMERCIAL COURT BEAUMONT, TEXAS
409.866-7636 FAX 409.866-7300

WDP CONSULTING ENGINEERS, INC.
1415 N. BEAUMONT AVE
BEAUMONT, TEXAS 77714
PHONE 409-866-7811
FAX 409-866-7861
STATE OF TEXAS LICENSE NO. 10000

July 29, 2014

Consider an ordinance approving the removal of one and one-half lots from the Oaks Historical District at 2345 Calder



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Chris Boone, Director of Planning and Community Development

MEETING DATE: July 29, 2014

REQUESTED ACTION: Council consider an ordinance to remove one and one-half lots from the Oaks Historical District at 2345 Calder.

BACKGROUND

Luke's Icehouse – Beaumont, Texas, L.L.C. is requesting the removal of their lots at 2345 Calder from the Oaks Historic District. The lots are occupied by a two story building that was previously used as the office for a landscaping business and then a law office. The structure is currently in need of repair. Luke's wishes to save this building, repurposing it for the expansion of their growing business. City Council voted to approve a specific use permit to expand their business to this location on June 24th in ordinance #14-028.

When the Oaks Historic District was expanded south of Calder, 2335 and 2345 Calder were included in the Oaks Historic District at the request of the previous property owner. Since then the property at 2335 Calder was removed from the district on June 5, 2007, at the request of the owner. This is the only remaining property fronting on the south side of Calder that is within the expanded historic district.

On July 14, 2014, the Historic Landmark Commission voted 5:4 to approve the applicants request.

At a Joint Public Hearing held July 21, 2014, the Planning Commission recommended 5:1 to deny the applicants request. While the painting of the building without a Certificate of Appropriateness is certainly a concern and the color chosen is also a concern to many, it should be noted that of the eighty-six (86) buildings located along Calder, between Eleventh Street and MLK, this building is one of only three buildings and one of only four properties, regulated by the Oaks Historic District. Attached is a map of this portion of Calder and the Historic District, with these properties circled. Also attached are photographs of the four properties. One is the property in question, the second is a law office, the third is the Chambers House Museum and the fourth is a parking lot. It should again be noted that property, just adjacent to 2345 Calder was also included in the Oaks Historic District until 2007, but was removed from the District upon request of the owner.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of ordinance.



2374 CALDER - COMMERCIAL



2345 CALDER - LUKES ICE HOUSE



1810 CALDER - A-1 GLASS PARKING LOT



2240 CALDER - CHAMBERS HOUSE MUSEUM



APPLICATION FOR AMENDMENT
OF THE ZONING ORDINANCE
BEAUMONT, TEXAS
(Chapter 28, City Codes)

TO: THE PLANNING COMMISSION AND CITY COUNCIL, CITY OF BEAUMONT, TEXAS

APPLICANT'S NAME AND ADDRESS: LUKE'S ICEHOUSE - BEAUMONT TEXAS, LLC *2325 Calder Ave Beaumont TX 02*

APPLICANT'S PHONE #: 409-347-8139 FAX #:

NAME OF OWNER: ALBANESE CORNIK HOLDINGS, LLC.

ADDRESS OF OWNER: P.O. Box 12410 BEAUMONT TX.

LOCATION OF PROPERTY: 2345 CALDER AVE, BEAUMONT TX 77702

LEGAL DESCRIPTION OF PROPERTY:

LOT NO. 7th EAST 1/2 OF LOT 8 OR TRACT _____

BLOCK NO. 22 PLAT _____

ADDITION AVENUE SURVEY _____

NUMBER OF ACRES 0.258 NUMBER OF ACRES _____

For properties not in a recorded subdivision, submit a copy of a current survey or plat showing the properties proposed to be changed, and a complete legal field note description.

CURRENT ZONING DISTRICT: GC-UD WITH HISTORIC OVERLAY

ZONING DISTRICT REQUESTED: GC-UD

HAS THE REQUEST BEEN MADE BEFORE? No IF SO, DATE: _____

ACTION: _____

SUBMIT A LETTER STATING REASONS FOR REQUEST.

ATTACH THE APPROPRIATE APPLICATION FEE:

LESS THAN 1/2 ACRE.....	\$250.00
1/2 ACRE OR MORE AND LESS THAN 5 ACRES.....	\$450.00
5 ACRES OR MORE.....	\$650.00

I HEREBY ACKNOWLEDGE THAT THE APPLICATION IS MADE FOR THE REQUESTED DISTRICT OR A MORE RESTRICTIVE DISTRICT.

SIGNATURE OF APPLICANT: Steve Treeford DATE: 5/23/14

SIGNATURE OF OWNER (IF NOT APPLICANT): Mike Alban

PLEASE TYPE OR PRINT AND SUBMIT TO: PLANNING DIVISION, ROOM 201
CITY HALL, 801 MAIN STREET
BEAUMONT, TX 77701
P.O. BOX 3827 77704
(409) 880-3764
FAX (409) 880-3133

FILE NUMBER: 2014-2
DATE RECEIVED: 5/27/14
RECEIPT NUMBER: _____

May 23rd, 2014

City of Beaumont

Planning & Zoning Department

Reference: Luke's Icehouse

2335 Calder

We are requesting for the property known as 2345 Calder, adjacent to 2335, to be excluded from the Historical District. While dealing with the Planning & Zoning Department, it was discovered that this may have already been done in 2007 – reference file #1887-Z. It is our opinion that this request was probably included in 2007, however 2007 records omitted all of the lots listed in the legal description needed to assure this was done. The physical address however, is included in the 2007 permit. We feel that this should have the same classification as the adjacent restaurant we are expanding.

Thank you for your assistance.

Please call with any questions.



Gary Wallace

409.284.0300

NOTICE OF PUBLIC HEARING

OR CURRENT RESIDENT

PUBLIC HEARING:

A Public Hearing will be held by the Historic Landmark Commission of the City of Beaumont on Monday, July 14, 2014 at 3:30 p.m. A Public Hearing will also be held by the City Council and the Planning Commission of the City of Beaumont on Monday, July 21, 2014 at 3:15 p.m. Both meetings will be held in the City Council Chambers located at 801 Main Street.

REQUEST:

Purpose - A request to remove the Oaks Historical District Zoning overlay from a property.

Project Information - The applicant wishes to remove the historic zoning overlay of the subject property to allow noncompliant paint colors.

Location - 2345 Calder Avenue

Applicant - Luke's Icehouse – Beaumont, Texas, LLC

NOTIFICATION:

Under State Law, all property owners as the ownership appears on the last approved tax roll of real property lying within two hundred feet (200') of the property listed under REQUEST shall be notified of this hearing.

This will be the only public hearing held on this matter. The meeting is open to the public, and you are invited to attend and be heard. Any inquiries regarding further information on this request will be answered by calling: 880-3764. Please refer to FILE# 2204-Z.

RESPONSE: See the reverse side of this notice.

PLANNING DIVISION
CITY OF BEAUMONT, TEXAS

ORDINANCE NO.

ENTITLED AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF BEAUMONT, TEXAS, AND IN PARTICULAR THE BOUNDARIES OF THE ZONING DISTRICTS, AS INDICATED UPON THE ZONING MAP OF BEAUMONT, TEXAS, BY REMOVING THE ZONING DESIGNATION OF HC (HISTORIC CULTURAL LANDMARK PRESERVATION) OVERLAY DISTRICT FOR PROPERTY LOCATED AT 2345 CALDER, BEAUMONT, JEFFERSON COUNTY, TEXAS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL AND PROVIDING A PENALTY.

BE IT ORDAINED BY THE CITY OF BEAUMONT:

Section 1.

That Chapter 28 of the Code of Ordinances of Beaumont, Texas, and in particular the boundaries of the zoning districts, as indicated upon the Zoning Map of the City of Beaumont, referred to in Section 28.01.005(b) thereof, is hereby amended by removing the zoning designation of HC (Historic Cultural Landmark Preservation) Overlay District for property located at 2345 Calder, being Lot 7 and the east ½ of Lot 8, Block 22, Averill Addition, City of Beaumont, Jefferson County, Texas, containing 0.258 acres, more or less, as shown on Exhibit "A", and the official zoning map of the City of Beaumont is hereby amended to reflect such changes.

Section 2.

That, in all other respects, the use of the property herein above described shall be subject to all of the applicable regulations of the underlying zoning district as well as those regulations contained in Chapter 28 of the Code of Ordinances of Beaumont, Texas, as amended.

Section 3.

That if any section, subsection, sentence, clause or phrase of this ordinance, or the application of same to a particular set of persons or circumstances, should for any reason be held to be invalid, such invalidity shall not affect the remaining portions of this ordinance, and to such end, the various portions and provisions of this ordinance are declared to be severable.

Section 4.

That all ordinances or parts of ordinances in conflict herewith are repealed to the extent of the conflict only.

Section 5.

That any person who violates any provision of this ordinance shall, upon conviction, be punished, as provided in Section 1.01.009 of the Code of Ordinances of Beaumont, Texas.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 29th day of July, 2014.

- Mayor Becky Ames -

File 2204-Z: Request for the removal of one and one-half lots from the Oaks Historical District.

Location: 2345 Calder Avenue

Applicant: Gary Wallace for Luke's Icehouse – Beaumont Texas, L.L.C.

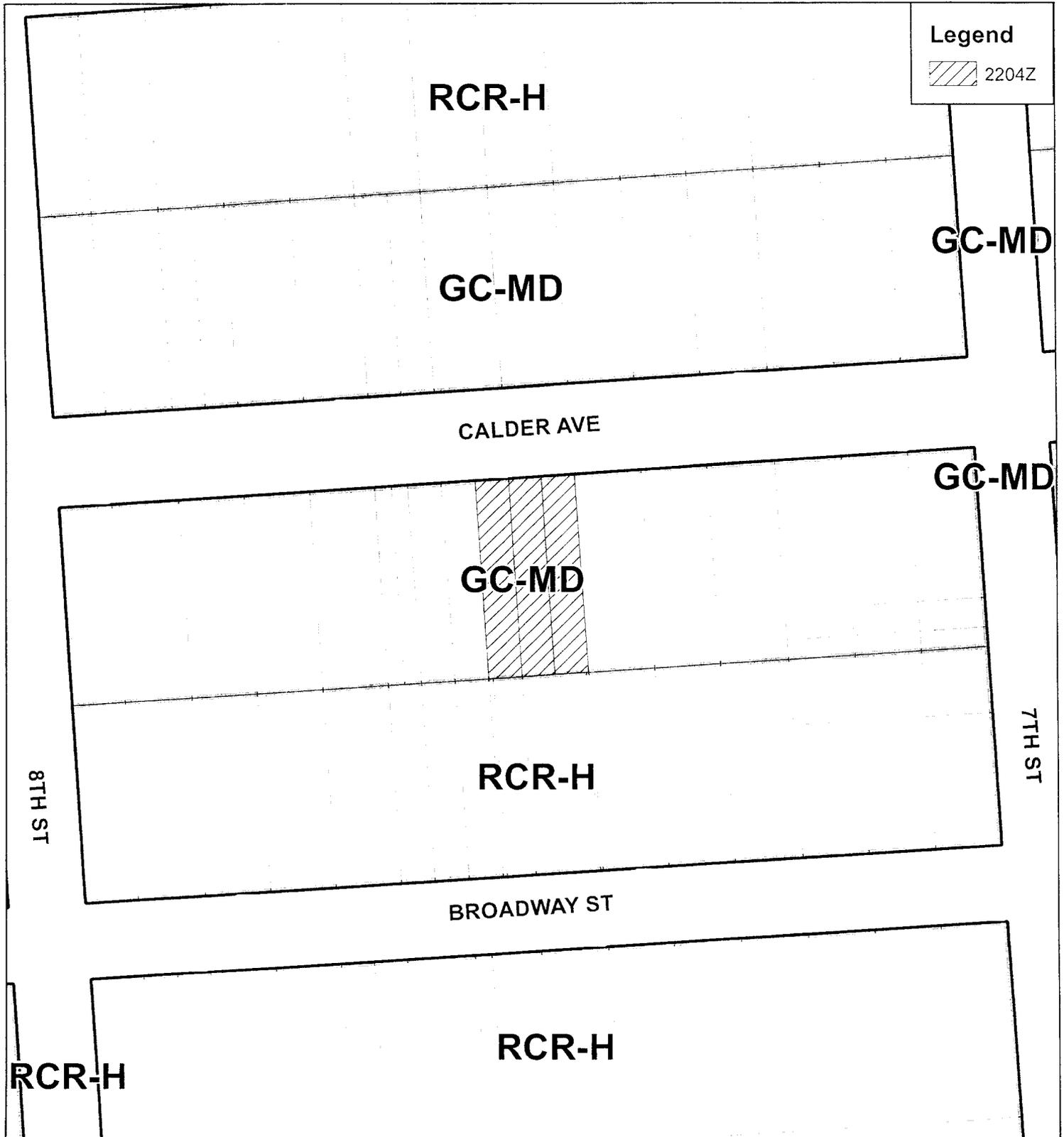
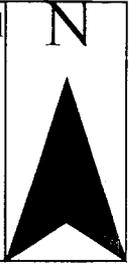
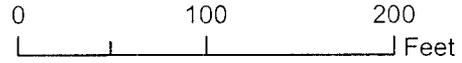
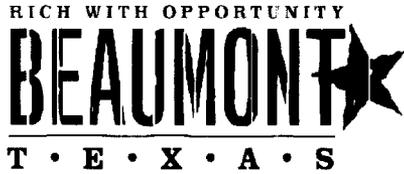


EXHIBIT "A"

July 29, 2014

Consider approving a resolution authorizing a change order to the contract with Brystar Contracting, Inc., related to the Wastewater Treatment Plant Holding Pond Project and Dredging of Ponds 1 and 2 Project



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Dr. Hani J. Tohme, P.E., Director of City Utilities 

MEETING DATE: July 29, 2014

REQUESTED ACTION: Council consider a resolution approving a change order to the contract with Brystar Contracting, Inc., related to the Wastewater Treatment Plant Holding Pond Project and Dredging of Ponds 1 and 2 Project.

BACKGROUND

The City Council approved a contract with Brystar Contracting, Inc., on March 20, 2012, in the amount of \$4,391,500.00. The contract was to clean Wastewater Treatment Plant Pond #1, convert it into a flow equalization basin, and install related piping and manholes. The contract includes Alternate Bid Item No. 2 that will clean all ponds.

The proposed change order in the amount of (\$501,899.08) will provide the adjustment of final quantities for the project and delete the cleaning of accumulated solids from Pond 2.

Previous actions include:

Resolution 12-055 in the amount of \$4,391,500.00 was passed by the City Council on March 20, 2012.

Resolution 12-105 in the amount of (\$36,550.00) was passed by the City Council on May 15, 2012.

Change Order #2 in the amount of \$9,000 was executed on June 18, 2012.

Resolution 13-129 in the amount of \$25,901.57 was passed by the City Council on June 18, 2013.

Resolution 13-192 in the amount of \$154,620.00 was passed by the City Council on September 10, 2013.

Resolution 14-044 in the amount of \$22,457.61 was passed by the City Council on February 25, 2014.

FUNDING SOURCE

Capital Program.

RECOMMENDATION

Approval of resolution.

APPROVAL OF CONTRACT CHANGE

CHANGE ORDER No. Six (6)
 DATE: July 17, 2014

PROJECT: City of Beaumont, Texas
 Wastewater Treatment Plant - Wet Weather Flow Improvements

OWNER: City of Beaumont, Texas
 801 Main Street
 Beaumont, Texas 77704

CONTRACTOR: Brystar Contracting, Inc.
 8385 Chemical Road
 Beaumont, Texas 77705

TO THE OWNER: Approval of the following contract change is requested.

Reason for Change: Final Quantity Adjust; Delete Cleaning accumulated solids from Pond 2

ORIGINAL CONTRACT AMOUNT:	\$ 4,391,500.00
Change Order No. 1	\$ (36,550.00)
Change Order No. 2	\$ 9,000.00
Change Order No. 3	\$ 25,901.57
Change Order No. 4	\$ 154,620.00
Change Order No. 5	\$ 22,457.61
THIS CHANGE ORDER	

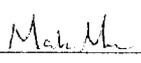
<u>Description:</u>	<u>Net Change</u>
Delete Cleaning of accumulated solids from Pond 2	\$ (501,899.08)

TOTAL AMOUNT OF THIS CHANGE ORDER: \$ (501,899.08)

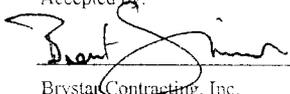
TOTAL REVISED CONTRACT AMOUNT INCLUDING THIS CHANGE ORDER: \$ 4,065,030.10

CONDITION OF CHANGE:

"Contractor acknowledges and agrees that the adjustments in contract price and contract time stipulated in this Change Order represents full compensation for all increases and decreases in the cost of, and the time required to perform the entire work under the Contract arising directly or indirectly from this Change Order and all previous Change Orders. Acceptance of this waiver constitutes an agreement between Owner and Contractor that the Change Order represents an all inclusive, mutually agreed upon adjustment to the Contract, and that Contractor will waive all rights to file a claim on this Change Order after it is properly executed."

Recommended by: _____

 Schaumburg & Polk, Inc.
 Engineer

Approved by: _____
 City of Beaumont
 Owner

Accepted by: _____

 Brystar Contracting, Inc.
 Contractor

Date: 7/16/14

Date: _____

Date: _____



CONTRACTOR'S AFFIDAVIT OF RELEASE OF LIENS

8385 Chemical Road • Beaumont, Texas 77705 • (409) 842-6768

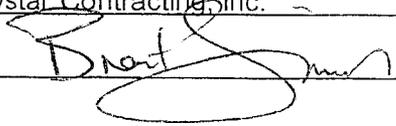
PROJECT:	<u>Wastewater Treatment Plant-Wet Weather Flow Imp</u>	PROJECT NUMBER:
OWNER:	<u>City of Beaumont</u>	
CONTRACTOR:	<u>Brystar Contracting, Inc.</u>	<u>2012190</u>
ENGINEER:	<u>Schaumburg & Polk, Inc.</u>	

The Contractor, in accordance with the Contract Documents, and in consideration for the full and final payment to the Contractor for all services in connection with the project, does hereby waive and release any and all liens, or any and all claims to liens which the Contractor may have on or affecting the project as a result of its contract(s) for the Project or for performing labor and/or furnishing materials in any way connected with the construction of any aspect of the project. The Contractor further certifies and warrants that all subcontractors of labor and/or materials for the Project, except as listed below, have been paid in full for all labor and/or materials supplied to, for, through or at the direct or indirect request of the Contractor prior to, through and including the date of this affidavit.

EXCEPTIONS:

None

CONTRACTOR Brystar Contracting, Inc.

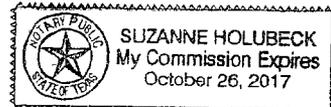
BY Brent Simmons 

TITLE Vice-President

Subscribed and sworn to before me this 15 day of July, 2014.

Notary Public: Suzanne Holubeck

My Commission Expires: 10-26-17



BRYSTAR CONTRACTING, INC.

8885 Chemical Road • Beaumont, Texas 77705 • (409) 842-6768

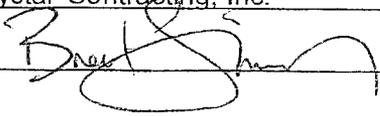
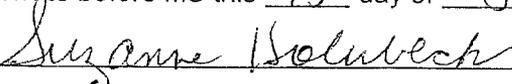
CONTRACTOR'S AFFIDAVIT OF PAYMENT OF DEBTS AND CLAIMS

PROJECT:	Wastewater Treatment Plant-Wet Weather Flow Imp	PROJECT NUMBER:
OWNER:	City of Beaumont	
CONTRACTOR:	Brystar Contracting, Inc.	2012190
ENGINEER:	Schaumburg & Polk, Inc.	

The Contractor, in accordance with the Contract Documents, hereby certifies that, except as listed below, all obligations for all materials and equipment furnished, for all work labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or his property might in any way be held responsible have been paid in full or have otherwise been satisfied in full.

EXCEPTIONS:

None

CONTRACTOR	Brystar Contracting, Inc.
BY	Brent Simmons 
TITLE	Vice-President
Subscribed and sworn to before me this	15 day of July, 2014.
Notary Public:	Suzanne Holubeck 
My Commission Expires:	10-26-17



RESOLUTION NO.

WHEREAS, on March 20, 2012, the City Council of the City of Beaumont, Texas, passed Resolution No. 12-055 awarding a contract in the amount of \$4,391,500 to Brystar Contracting, Inc., of Beaumont Texas, for the Wastewater Treatment Plant Holding Pond Project and Dredging of Ponds 1 and 2 Project; and,

WHEREAS, on May 15, 2012, the City Council of the City of Beaumont, Texas, passed Resolution No. 12-105 approving Change Order No. 1 in the amount of (\$36,550) for alternate materials related to the electrical components of the project, thereby decreasing the contract amount to \$4,354,950; and,

WHEREAS, on June 18, 2012, the City Manager executed Change Order No. 2 in the amount of \$9,000.00 to furnish all necessary supervision, labor, equipment, and insurance to complete the loading and hauling of dirt from the City of Beaumont Waste Water Treatment Plant to the dirt stockpile location on the City of Beaumont landfill in tandem dump trucks, thereby increasing the contract amount to \$4,363,950; and,

WHEREAS, on June 18, 2013, the City Council of the City of Beaumont, Texas, passed Resolution No. 13-129 approving Change Order No. 3 in the amount of \$25,901.57 to delete the bar screen mechanism, furnish and install additional concrete for aeration pads, increase Bid Item 3 for additional solids removal from Pond 1, provide for the cleaning of solids from Pond 2, and delete Alternate Bid Item No. 2, thereby increasing the contract amount to \$4,389,851.57; and,

WHEREAS, on September 10, 2013, the City Council of the City of Beaumont, Texas, passed Resolution No. 13-192 approving Change Order No. 4 in the amount of \$154,620 to provide the necessary supervision, labor, equipment, and insurance to load

and haul earthen material and construct an earthen levee sludge containment area, thereby increasing the contract amount to \$4,544,471.57; and,

WHEREAS, on February 25, 2014, the City Council of the City of Beaumont, Texas, passed Resolution No. 14-044 approving Change Order No. 5 in the amount of \$22,457.61 is required to provide the necessary supervision, labor, equipment, and insurance to install the proposed Junction Box 12 on the existing dual 42" diameter effluent pipes due to a conflict with existing electrical conduit banks, thereby increasing the contract amount to \$4,566,929.18; and,

WHEREAS, Change Order No. 6 in the amount of (\$501,899.08) is required to provide the adjustment of final quantities for the project and delete the cleaning of accumulated solids from Pond 2, thereby decreasing the contract amount to \$4,065,030.10;

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

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to execute Change Order No. 6 for additional work described above, thereby decreasing the contract amount by (\$501,899.08) for a total contract amount of \$4,065,030.10.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 29th day of July, 2014.

- Mayor Becky Ames -

July 29, 2014

Consider a resolution approving the appointment of Grant Peter Boston as an Assistant City Attorney II and setting his starting compensation



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Tyrone E. Cooper, City Attorney

MEETING DATE: July 29, 2014

REQUESTED ACTION: Council consider a resolution approving the appointment of Grant Peter Boston as an Assistant City Attorney II and setting his starting compensation.

BACKGROUND

Under the Charter, the City Attorney may appoint his assistants with the approval of the City Council at such compensation as set by the Council. There has been a vacancy created in the department by the resignation of Lauren Beamon. Mr. Boston is very qualified for the position. The City Attorney recommends that the appointment of Grant Peter Boston as an Assistant City Attorney II for the City of Beaumont be approved at a starting salary of \$50,000 together with all other benefits of a civilian employee.

FUNDING SOURCE

The amount necessary to pay the salary and benefits of the position are available in the City Attorney's budget.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE

CITY OF BEAUMONT:

THAT the appointment of Grant Peter Boston as Assistant City Attorney II for the City of Beaumont be and the same is hereby approved and his initial salary is established at \$50,000 annually together with all other benefits and terms and conditions of civilian employment as established by policy and budget of the City of Beaumont.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 29th day of July, 2014.

- Mayor Becky Ames -

WORK SESSION

- * Review and discuss amending the Neighborhood Empowerment Zone Abatement policies and establishing a new zone to include the Central Business District

July 29, 2014

Consider an ordinance amending the Neighborhood Empowerment Zone Abatement policies



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Chris Boone, Planning & Community Development Director

MEETING DATE: July 29, 2014

REQUESTED ACTION: Council consider an ordinance amending the Neighborhood Empowerment Zone Abatement Policies.

BACKGROUND

In an effort to encourage economic development in targeted areas of the city, in need of additional development, Neighborhood Empowerment Zones were created within the city. This Program offers economic incentives to attract redevelopment to these specified areas. Combined with the focused use of CDBG dollars and other capital investments, these economic incentives are designed to help leverage additional private investment. Specifically, the incentives currently include building fee waivers, expedited permit review, possible lien waivers and the abatement of City taxes for up to three (3) years for smaller projects and seven years (7) for projects in excess of \$5,000,000 in value. The current policy lists eligible projects as single-, multi-family residential, office, retail and restaurant uses within an approved zone. Under the proposed amended policy, hotels and meeting facilities would be added to the list of eligible projects. Attached is the proposed policy, with changes highlighted.

FUNDING SOURCE

Revenues from waived fees and liens and abated ad-valorem taxes would be forgone, but the long-term economic impact associated with new development should positively affect future budgets.

RECOMMENDATION

Approval of ordinance.

**City of Beaumont
Neighborhood Empowerment Zone
Incentive Policy**

Program Goals:

It is the City of Beaumont's goal to promote development within its Neighborhood Empowerment Zones in an effort to improve the local economy and enhance the quality of life for its citizens. Insofar as these goals are served by enhancing the value of the local tax base and increasing economic opportunities, the City of Beaumont will give consideration to providing the following incentives for development within Neighborhood Empowerment Zones.

Definitions:

A. Abatement: full or partial exemption for ad valorem taxes of eligible properties in a reinvestment zone designated as such for economic development purposes.

B. Agreement: a contractual agreement between a property owner and a taxing jurisdiction for the purpose of a tax abatement.

C. Base Year Value: the assessed value of either the applicant's real property and improvements located in a designated reinvestment zone on January 1 of the year prior to the execution of the agreement plus the agreed upon value of any property improvements made after January 1 of that year but before the execution of the agreement, and/or the assessed value of any tangible personal property located on the owner's real property on January 1 of the year prior to the abatement period covered by the agreement.

D. Facility: property improvements completed or in the process of construction which together comprise an integral whole.

E. Incremental Value: the amount of assessed value of the project that is in addition to the Base Year Value of applicant's real property at their prior location.

F. Neighborhood Empowerment Zone: is an area designated as such for the purpose of providing economic incentives, including a tax abatement, as authorized by the City of Beaumont in accordance with Texas Local Government Code Annotated Section 378 as amended.

G. Real Property: area of land defined by legal description as being owned by the person applying for a tax abatement, including any improvements thereto, which is to be

improved and valued for property tax purposes, and which is to be included in the Neighborhood Empowerment Zone.

H. Substantial Investment: a project deemed as an eligible facility under this policy, that exceeds \$5,000,000 in capital investment.

Program Policy:

It is the policy of the City of Beaumont that consideration will be provided in accordance with the guidelines, criteria and procedures outlined in this document. This policy applies to the owners of real property. Project consideration will include the potential impact of the reinvestment project on the immediate and surrounding area.

A. Authorized Facility : Neighborhood Empowerment Zone Incentives may be granted within a Neighborhood Empowerment Zone for new construction or renovation of single-family uses for investments of \$50,000 or greater and may be granted for all other uses for investment of \$75,000 or greater.

B. Eligible Property : Neighborhood Empowerment Zone Incentives may be granted for new construction or renovation of owner-occupied single-family homes, office, retail, **hotel and meeting facilities**, restaurant and multi-family residential facilities within a Neighborhood Empowerment Zone, designated by the City Council of the City of Beaumont, Texas.

C. No incentives shall be granted for development resulting from the relocation of an eligible facility from one area of the city to within the Neighborhood Empowerment Zone, excepting projects considered “Substantial Investments,” as defined herein.

Procedural Guidelines:

Any person, partnership, organization, corporation or other entity desiring that the City of Beaumont consider providing Neighborhood Empowerment Zone incentives shall be required to comply with the following procedural guidelines. No representations made herein considered binding unless and until approved by the City of Beaumont City Council.

Preliminary Application:

Applicants shall submit a completed “Application for Neighborhood Empowerment Zone Development Incentives” form for consideration of incentives to the Community Development Department of the City of Beaumont, 801 Main Street, Beaumont, Texas 77701.

Consideration of the Application:

A. The City Manager will consider requests for incentives in accordance with these policies, pursuant to Chapter 378 of the Texas Local Government Code. Additional information may be requested as needed.

B. The City Council may enter into an agreement that outlines the terms and conditions between the City and the applicant, and governs the provision of the incentives.

Inspection of the Project:

During the term of such agreement, the City of Beaumont will have the right to inspect the project facility during regular business hours to ensure compliance with the agreement and accuracy of the owner certification.

Recapture:

If a project is not completed as specified, or if the terms of the incentive agreement are not met, the City has the right to cancel or amend the incentive agreement and all previously waived fees and abated taxes shall become due to the City and liens may be reattached.

Effect of Sale, assignment or lease of property:

No incentive rights may be sold or assigned without the approval of the City Council. Any sale, assignment or lease of the property may result in execution of the recapture provision, as outlined above.

Types of Incentives Available:

Building Fee Waivers

The Building Construction Fee Waiver Program affords property owners an exemption from planning and building fees associated with new construction or renovation and occupancy of eligible facilities within the target area.

Expedited Permit Reviews:

In order to facilitate redevelopment within the Neighborhood Empowerment Zones, the Community Development Department is committed to assisting applicants through the planning and permit review process as quickly as possible.

Lien Waivers

In order to render properties with Neighborhood Empowerment Zones more marketable, the Lien Waiver Program affords property owners a release of liens attached to properties as the result of demolitions or expenditures associated with cutting high grass. Release of such liens would only be allowed in conjunction with new construction or renovation of eligible facilities within the target area.

Construction Tax Abatement

The Construction Tax Abatement Program is an economic development tool designed to provide incentives for the new construction or renovation of single-family homes, office, retail, restaurant and multi-family residential facilities within a Neighborhood Empowerment Zone. The Construction Tax Abatement Program is intended to contribute to area development by attracting additional capital and human investment to the area as well as additional residents to support economic development activities within the area.

Value of Abatements: authorized facilities may be granted a municipal tax abatement on all or a portion of the increased taxable value of eligible property over the base year value for a period not to exceed three (3) years, except as outlined below.

Tax Abatement Program Guidelines:

The eligibility requirements are as follows:

Investment	Municipal Tax Abatement	Schedule
\$50,000 & up for residential uses and \$75,000 & up for all other uses	100% or 100% of the incremental value for Substantial Investments relocating within the City	1 st Year
\$50,000 & up for residential uses and \$75,000 & up for all other uses	100% or 100% of the incremental value for Substantial Investments relocating within the City	2 nd Year
\$50,000 & up for residential uses and \$75,000 & up for all other uses	100% or 100% of the incremental value for Substantial Investments relocating within the City.	3 rd Year
\$5,000,000 or more for any eligible use	100% for new investments and the incremental value for Substantial Investments relocating within the City.	4 th Year
\$5,000,000 or more for any eligible use	100% for new investments and the incremental value for Substantial Investments relocating within the City.	5 th Year
\$5,000,000 or more for any eligible use	100% for new investments and the incremental value for Substantial Investments relocating within the City.	6 th Year
\$5,000,000 or more for any eligible use	100% for new investments and the incremental value for Substantial Investments relocating within the City.	7 th Year

Abatement Program Considerations:

A. The final valuation determined by the Jefferson County Appraisal District will be used to determine the actual yearly tax abatement exemption.

B. The tax abatement shall be granted only to the owner of the property.

C. No tax abatement exemption shall be effective until the applicant has met all of the eligibility requirements contained in the guidelines and policies, state law, and City of Beaumont codes.

D. There shall be no retroactive tax abatement exemptions – all tax abatement exemptions become effective only on or after the date the City Council approves the tax abatement agreement.

E. The applicant shall agree to hold the City of Beaumont, its agents, employees and public officials harmless and pay all attorneys' fees that are generated by any dispute regarding the tax abatement agreement.

F. Personal and or real property identified before the period covered by the abatement agreement will not be eligible for abatement.

RESOLUTION NO.

WHEREAS, in an effort to encourage development in targeted areas of the City in need of additional development, Neighborhood Empowerment Zones were created within the City; and,

WHEREAS, the program offers economic incentives to attract redevelopment to the specified areas; and,

WHEREAS, the current policy lists owner-occupied single-family homes, multi-family residential facilities, office, retail and restaurant uses as Neighborhood Empowerment Zone Incentive project properties that may be granted for new construction or renovation; and,

WHEREAS, an amendment to the policy is required to add hotels and meeting facilities to the list of eligible project properties;

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

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the Neighborhood Empowerment Zone Incentive Policy be and it is hereby amended to allow hotels and meeting facilities to be added to the list of eligible Neighborhood Empowerment Zone Incentive projects properties that may be granted for new construction or renovation;

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 29th day of July, 2014.

- Mayor Becky Ames -

July 29, 2014

Consider an ordinance establishing Neighborhood Empowerment Zone Number Five



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: ^{CSB} Chris Boone, Planning & Community Development Director

MEETING DATE: July 29, 2014

REQUESTED ACTION: Council consider an ordinance establishing Neighborhood Empowerment Zone Number Five.

BACKGROUND

Over the past few years, tremendous improvements have been made in Downtown Beaumont's public buildings, private buildings and infrastructure. However, one aspect of Downtown Beaumont's revitalization that needs further redevelopment is in its residential uses. While some new apartments and townhouses have been constructed in recent years, many more are needed to make Downtown Beaumont a vibrant, "round-the-clock" part of the city. In addition, with the coming removal of five of the six rail tracks, separating the Neches River from the rest of Downtown, there is also increasing interest in developing along the riverfront. In an effort to encourage this development, we are proposing the establishment of Neighborhood Empowerment Zone #5 to offer financial incentives to those seeking to invest in Downtown Beaumont. The zone will approximately follow the boundaries of the Central Business District, but will also extend to the Neches River.

This new zone will offer the following incentives.

- 1) A possible three (3) year, 100% municipal tax abatement for all added value for investments greater than \$50,000 for residential uses and \$75,000 for all other uses and a possible, additional four (4) year, 100% abatement for projects in excess of \$5 Million.
- 2) Building fee waivers (not including tap and meter fees).
- 3) Expedited permit review.
- 4) Lien waivers for any lien claimed by the City for demolition or high grass abatement expenditures.

Attached is a map of the proposed Zone #5.

FUNDING SOURCE

Revenues from waived fees and liens and abated ad-valorem taxes would be forgone, but the long-term economic impact associated with new development should positively affect future budgets.

RECOMMENDATION

Administration recommends approval.

ORDINANCE NO.

ENTITLED AN ORDINANCE DESIGNATING AREAS OF THE CITY OF BEAUMONT AS NEIGHBORHOOD EMPOWERMENT ZONE #5 PURSUANT TO THE TEXAS NEIGHBORHOOD EMPOWERMENT ZONE ACT (TEXAS LOCAL GOVERNMENT CODE, CHAPTER 378); PROVIDING TAX INCENTIVES; ADOPTING TAX ABATEMENT GUIDELINES AND CRITERIA; AND DESIGNATING A LIAISON TO ACT ON ALL MATTERS PERTAINING TO THE EMPOWERMENT ZONE.

WHEREAS, the City of Beaumont endeavors to create the proper economic and social environment to induce the investment of private resources in productive business and residential enterprises located in areas of the City; and

WHEREAS, to further this purpose, it is in the best interest of the City to designate such areas as Neighborhood Empowerment Zone #5 pursuant to the Texas Local Government Code, Chapter 378; and

WHEREAS, the Council finds and determines that the creation of the empowerment zone would promote the creation of affordable housing, including manufactured housing, increase economic development, increase the quality of social services, education, or public safety provided to the residents in the zone, or the rehabilitation of affordable housing in the zone; and

WHEREAS, the City Council finds and determines that the creation of the zone satisfies the requirements of the Texas Redevelopment and Tax Abatement Act, specifically Tax Code Section 312.202;

NOW, THEREFORE, BE IT ORDAINED BY
THE CITY COUNCIL OF THE CITY OF BEAUMONT:

Section 1.

That the statements and findings set out in the preamble to this ordinance are hereby, in all things, approved, determined, and adopted.

Section 2.

That the City Council hereby designates the areas set forth in Exhibit A, attached hereto and incorporated herein for all purposes, as Neighborhood Empowerment Zone #5 (herein referred to as the "zone").

Section 3.

That the City Council finds that the zone meets the qualification of the Texas Local Government Code, Chapter 378.

Section 4.

That the City Council finds that the creation of the zone benefits and is for the public purpose of increasing the public health, safety, and welfare of the persons in the City of Beaumont.

Section 5.

That the guidelines and criteria governing tax abatement agreements attached hereto as Exhibit "B" are hereby adopted. By such action the City of Beaumont elects to become eligible to participate in tax abatement.

Section 6.

That the City Council directs and designates the City Manager as the City's authorized representative, to act in all matters pertaining to the designation of the areas described herein as Neighborhood Empowerment Zone #5.

Section 7.

That this ordinance shall be effective from and after its passage as provided by law.

Section 8.

That if any section, subsection, sentence, clause, or phrase of this ordinance, or the application of same to a particular set of persons or circumstances should for any reason be held to be invalid, such invalidity shall not affect the remaining portions of this ordinance, and to such end the various portions and provisions of this ordinance are declared to be severable.

Section 9.

That all ordinances or parts of ordinances in conflict herewith are repealed to the extent of the conflict only.

PASSED BY THE CITY COUNCIL of the City of Beaumont on this the 29th day of July, 2014.

- Mayor Becky Ames -

Neighborhood Empowerment Zone #5



1 inch = 400 feet

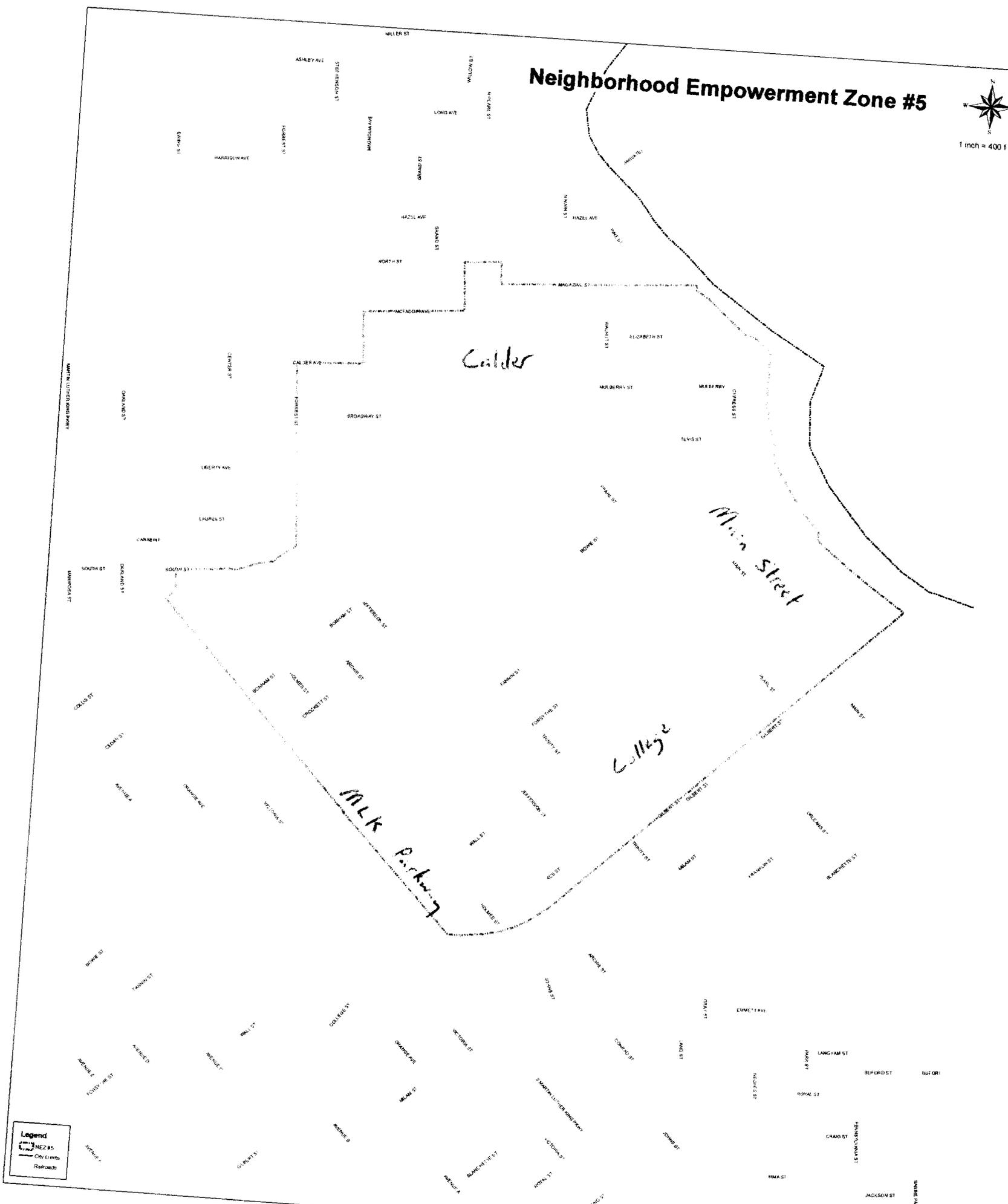


EXHIBIT "A"

This map has been produced from various sources. Every effort has been made to ensure the accuracy of this map, however, the City of Beaumont assumes no liability or damages due to errors or omissions.

EMPOWERMENT ZONE Number Five

The City of Beaumont Empowerment Zone Number Five. Said area being more fully described below as follows:

Beginning at the northwest corner of the described area, being the intersection of the centerline of Calder Ave. and the centerline of Forrest St.;

Then with the centerline of Forrest St. approximately 1300 ft. south to the intersection of the centerline of Forrest St. and the centerline of South St.;

Then with the centerline of South St. approximately 885 ft. west/southwest and west to the intersection of the centerline of South St. and the centerline of Ewing St.;

Then with the centerline of Ewing St. approximately 240 ft. south and southwest to the east right-of-way line of Martin Luther King Pkwy.;

Then with the east right-of-way line of Martin Luther King Pkwy. Approximately 3085 ft. southeast to the northern boundary of the KCS railroad;

Then with the northern boundary of the KCS railroad approximately 4015 ft. east and northeast to the west bank of the Neches River;

Then with the west bank of the Neches River approximately 2275 ft. northwest/north to the west bank of Brakes Bayou;

Then with the west bank of Brakes Bayou approximately 640 northwest to a point that would intersect with the centerline of Magazine St. if Magazine St. was extended to the east;

Then along the imaginary centerline of the extended Magazine St. and the actual centerline of Magazine St. approximately 1370 ft. west to the intersection of the centerline of Magazine St. and the centerline of N. Pearl St.;

Then along the centerline of N. Pearl St. approximately 160 ft. north to the intersection of the centerline of N. Pearl St. and the centerline of North St.;

Then along the centerline of North St. approximately 255 ft. west to the intersection of the centerline of North St. and the centerline of Willow St.;

Then along the centerline of Willow St. approximately 360 ft. south to the intersection of the centerline of Willow St. and the centerline of McFaddin Ave.;

Then along the centerline of Mcfaddin Ave. approximately 710 ft. west to the intersection of the centerline of McFaddin Ave. and the centerline of Magnolia Ave.;

Then along the centerline of Magnolia Ave. approximately 360 ft. south to the intersection of the centerline of Magnolia Ave. and the centerline of Calder Ave.;

Then along the centerline of Calder Ave. approximately 470 ft. west to the intersection of the centerline of Calder Ave. and the centerline of Forrest St. and the point of beginning.

**City of Beaumont
Neighborhood Empowerment Zone
Incentive Policy**

Program Goals:

It is the City of Beaumont's goal to promote development within its Neighborhood Empowerment Zones in an effort to improve the local economy and enhance the quality of life for its citizens. Insofar as these goals are served by enhancing the value of the local tax base and increasing economic opportunities, the City of Beaumont will give consideration to providing the following incentives for development within Neighborhood Empowerment Zones.

Definitions:

A. **Abatement:** full or partial exemption for ad valorem taxes of eligible properties in a reinvestment zone designated as such for economic development purposes.

B. **Agreement:** a contractual agreement between a property owner and a taxing jurisdiction for the purpose of a tax abatement.

C. **Base Year Value:** the assessed value of either the applicant's real property and improvements located in a designated reinvestment zone on January 1 of the year prior to the execution of the agreement plus the agreed upon value of any property improvements made after January 1 of that year but before the execution of the agreement, and/or the assessed value of any tangible personal property located on the owner's real property on January 1 of the year prior to the abatement period covered by the agreement.

D. **Facility:** property improvements completed or in the process of construction which together comprise an integral whole.

E. **Incremental Value:** the amount of assessed value of the project that is in addition to the Base Year Value of applicant's real property at their prior location.

F. **Neighborhood Empowerment Zone:** is an area designated as such for the purpose of providing economic incentives, including a tax abatement, as authorized by the City of Beaumont in accordance with Texas Local Government Code Annotated Section 378 as amended.

G. **Real Property:** area of land defined by legal description as being owned by the person applying for a tax abatement, including any improvements thereto, which is to be

improved and valued for property tax purposes, and which is to be included in the Neighborhood Empowerment Zone.

H. Substantial Investment: a project deemed as an eligible facility under this policy, that exceeds \$5,000,000 in capital investment.

Program Policy:

It is the policy of the City of Beaumont that consideration will be provided in accordance with the guidelines, criteria and procedures outlined in this document. This policy applies to the owners of real property. Project consideration will include the potential impact of the reinvestment project on the immediate and surrounding area.

A. Authorized Facility : Neighborhood Empowerment Zone Incentives may be granted within a Neighborhood Empowerment Zone for new construction or renovation of single-family uses for investments of \$50,000 or greater and may be granted for all other uses for investment of \$75,000 or greater.

B. Eligible Property : Neighborhood Empowerment Zone Incentives may be granted for new construction or renovation of owner-occupied single-family homes, office, retail, **hotel and meeting facilities**, restaurant and multi-family residential facilities within a Neighborhood Empowerment Zone, designated by the City Council of the City of Beaumont, Texas.

C. No incentives shall be granted for development resulting from the relocation of an eligible facility from one area of the city to within the Neighborhood Empowerment Zone, excepting projects considered “Substantial Investments,” as defined herein.

Procedural Guidelines:

Any person, partnership, organization, corporation or other entity desiring that the City of Beaumont consider providing Neighborhood Empowerment Zone incentives shall be required to comply with the following procedural guidelines. No representations made herein considered binding unless and until approved by the City of Beaumont City Council.

Preliminary Application:

Applicants shall submit a completed “Application for Neighborhood Empowerment Zone Development Incentives” form for consideration of incentives to the Community Development Department of the City of Beaumont, 801 Main Street, Beaumont, Texas 77701.

Consideration of the Application:

A. The City Manager will consider requests for incentives in accordance with these policies, pursuant to Chapter 378 of the Texas Local Government Code. Additional information may be requested as needed.

B. The City Council may enter into an agreement that outlines the terms and conditions between the City and the applicant, and governs the provision of the incentives.

Inspection of the Project:

During the term of such agreement, the City of Beaumont will have the right to inspect the project facility during regular business hours to ensure compliance with the agreement and accuracy of the owner certification.

Recapture:

If a project is not completed as specified, or if the terms of the incentive agreement are not met, the City has the right to cancel or amend the incentive agreement and all previously waived fees and abated taxes shall become due to the City and liens may be reattached.

Effect of Sale, assignment or lease of property:

No incentive rights may be sold or assigned without the approval of the City Council. Any sale, assignment or lease of the property may result in execution of the recapture provision, as outlined above.

Types of Incentives Available:

Building Fee Waivers

The Building Construction Fee Waiver Program affords property owners an exemption from planning and building fees associated with new construction or renovation and occupancy of eligible facilities within the target area.

Expedited Permit Reviews:

In order to facilitate redevelopment within the Neighborhood Empowerment Zones, the Community Development Department is committed to assisting applicants through the planning and permit review process as quickly as possible.

Lien Waivers

In order to render properties with Neighborhood Empowerment Zones more marketable, the Lien Waiver Program affords property owners a release of liens attached to properties as the result of demolitions or expenditures associated with cutting high grass. Release of such liens would only be allowed in conjunction with new construction or renovation of eligible facilities within the target area.

Construction Tax Abatement

The Construction Tax Abatement Program is an economic development tool designed to provide incentives for the new construction or renovation of single-family homes, office, retail, restaurant and multi-family residential facilities within a Neighborhood Empowerment Zone. The Construction Tax Abatement Program is intended to contribute to area development by attracting additional capital and human investment to the area as well as additional residents to support economic development activities within the area.

Value of Abatements: authorized facilities may be granted a municipal tax abatement on all or a portion of the increased taxable value of eligible property over the base year value for a period not to exceed three (3) years, except as outlined below.

Tax Abatement Program Guidelines:

The eligibility requirements are as follows:

Investment	Municipal Tax Abatement	Schedule
\$50,000 & up for residential uses and \$75,000 & up for all other uses	100%: or 100% of the incremental value for Substantial Investments relocating within the City.	1 st Year
\$50,000 & up for residential uses and \$75,000 & up for all other uses	100%: or 100% of the incremental value for Substantial Investments relocating within the City.	2 nd Year
\$50,000 & up for residential uses and \$75,000 & up for all other uses	100%: or 100% of the incremental value for Substantial Investments relocating within the City.	3 rd Year
\$5,000,000 or more for any eligible use	100% for new investments and the incremental value for Substantial Investments relocating within the City.	4 th Year
\$5,000,000 or more for any eligible use	100% for new investments and the incremental value for Substantial Investments relocating within the City.	5 th Year
\$5,000,000 or more for any eligible use	100% for new investments and the incremental value for Substantial Investments relocating within the City.	6 th Year
\$5,000,000 or more for any eligible use	100% for new investments and the incremental value for Substantial Investments relocating within the City.	7 th Year

Abatement Program Considerations:

A. The final valuation determined by the Jefferson County Appraisal District will be used to determine the actual yearly tax abatement exemption.

B. The tax abatement shall be granted only to the owner of the property.

C. No tax abatement exemption shall be effective until the applicant has met all of the eligibility requirements contained in the guidelines and policies, state law, and City of Beaumont codes.

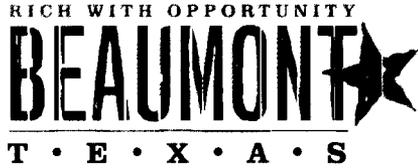
D. There shall be no retroactive tax abatement exemptions – all tax abatement exemptions become effective only on or after the date the City Council approves the tax abatement agreement.

E. The applicant shall agree to hold the City of Beaumont, its agents, employees and public officials harmless and pay all attorneys' fees that are generated by any dispute regarding the tax abatement agreement.

F. Personal and or real property identified before the period covered by the abatement agreement will not be eligible for abatement.

July 29, 2014

Consider a resolution authorizing the City Manager to execute an Earnest Money Contract for the sale of the Hotel Beaumont



City Council Agenda Item

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Dr. Joseph Majdalani, P.E., Public Works Director *JM*

MEETING DATE: July 29, 2014

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to execute an Earnest Money Contract for the sale of the Hotel Beaumont.

BACKGROUND

On February 25, 2014, City Council passed Resolution No. 14-043 accepting the bid submitted by NAI Wheeler for an annual contract for real estate broker services to list and sell City-owned property.

NAI Wheeler has secured two potential buyers who are interested in purchasing the Hotel Beaumont located at 625 Orleans Street. However, after reviewing both Earnest Money Contracts, it is in the best interest of the City of Beaumont to execute the Earnest Money Contract with Garden Street Holdings, LLC with a cash offer in the amount of \$1,175,000.00.

Garden Street Holding, LLC will deposit \$15,000.00 as earnest money to Texas Regional Title for a feasibility period of 30 days. Garden Street Holding, LLC will have the right to extend the feasibility period for one (1) additional 30 day period by paying directly to the City of Beaumont an additional \$10,000 in earnest money at least five (5) days prior to the expiration of the initial feasibility period. The initial \$15,000 and the additional \$10,000 earnest money will become applicable to the purchase price but non-refundable.

FUNDING SOURCE

Not Applicable.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute an Earnest Money Contract with Garden Street Holdings, LLC for the sale of the Hotel Beaumont. The contract is substantially in the form attached hereto as Exhibit "1" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 29th day of July, 2014.

- Mayor Becky Ames -



TEXAS ASSOCIATION OF REALTORS®
COMMERCIAL CONTRACT - IMPROVED PROPERTY

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS IS NOT AUTHORIZED.
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1. PARTIES: Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: City of Beaumont

Address: 801 North Main Street, Beaumont, TX 77705

Phone: E-mail:

Fax: Other:

Buyer: Garden Street Holdings, LLC

Address: 1130 Garden Street, Unit 200, San Jose, Ontario, CA 95406

Phone: (702) 528-6319 E-mail: sus41@planetanet.com

Fax: Other:

2. PROPERTY:

A. "Property" means that real property situated in Jefferson County, Texas at 625 Orleans Street (address) and that is legally described on the attached Exhibit A or as follows:

- B. Seller will sell and convey the Property together with:
(1) all buildings, improvements, and fixtures;
(2) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
(3) Seller's interest in all leases, rents, and security deposits for all or part of the Property;
(4) Seller's interest in all licenses and permits related to the Property;
(5) Seller's interest in all third party warranties or guaranties, if transferable, relating to the Property or any fixtures;
(6) Seller's interest in any trade names, if transferable, used in connection with the Property; and
(7) all Seller's tangible personal property located on the Property that is used in connection with the Property's operations except:
Any personal property not included in the sale must be removed by Seller prior to closing.

(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)
(If mineral rights are to be reserved an appropriate addendum should be attached.)
(If the Property is a condominium, attach Commercial Contract Condominium Addendum (TAR 1930).)

3. SALES PRICE: At or before closing, Buyer will pay the following sales price for the Property:

- A. Cash portion payable by Buyer at closing \$ 1,175,000.00
B. Sum of all financing described in Paragraph 4 \$
C. Sales price (sum of 3A and 3B) \$ 1,175,000.00

(TAR-1801) 4-1-14 Initialed for identification by Seller and Buyer Page 1 of 14

NAR Member, 140 Orleans Street, 12th Floor, Beaumont, TX 77705 Garden Street
Phone: 409.890.3300 Fax: 409.890.3301 Free Lies

4. **FINANCING:** Buyer will finance the portion of the sales price under Paragraph 3B as follows:

- A. Third Party Financing: One or more third party loans in the total amount of \$ _____. This contract:
 - (1) is not contingent upon Buyer obtaining third party financing.
 - (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum (TAR-1931).
- B. Assumption: In accordance with the attached Commercial Contract Financing Addendum (TAR-1931), Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$ _____.
- C. Seller Financing: The delivery of a promissory note and deed of trust from Buyer to Seller under the terms of the attached Commercial Contract Financing Addendum (TAR-1931) in the amount of \$ _____.

5. **EARNEST MONEY:**

- A. Not later than 3 days after the effective date, Buyer must deposit \$ 15,000.00 as earnest money with Texas Regional Title Company (title company) at 3195 Dowlen Rd., Ste 108, Beaumont, TX (address) Molly Mallet (closer). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract or exercise any of Seller's other remedies under Paragraph 15 by providing written notice to Buyer before Buyer deposits the earnest money.
- B. Buyer will deposit an additional amount of \$ _____ with the title company to be made part of the earnest money on or before:
 - (i) _____ days after Buyer's right to terminate under Paragraph 7B expires, or
 - (ii) _____
 Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.
- C. Buyer may instruct the title company to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

6. **TITLE POLICY, SURVEY, AND UCC SEARCH:**

A. Title Policy

- (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by any underwriter of the title company in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
 - (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
 - (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
- (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
 - (a) will not be amended or deleted from the title policy.
 - (b) will be amended to read "shortages in areas" at the expense of Buyer Seller.
- (3) Within 30 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. Survey: Within _____ days after the effective date

- (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the: (i) ALTA/ACSM Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition. Seller will reimburse Buyer _____ (insert amount) of the cost of the survey at closing, if closing occurs.
- (2) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the: (i) ALTA/ACSM Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.
- (3) Seller will deliver to Buyer and the title company a true and correct copy of Seller's most recent survey of the Property along with an affidavit required by the title company for approval of the existing survey. If the existing survey is not acceptable to the title company, Seller, at Seller's expense, will obtain a new or updated survey acceptable to the title company and deliver the acceptable survey to Buyer and the title company within 20 days after Seller receives notice that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 20 days if necessary for Seller to deliver an acceptable survey within the time required. Buyer will reimburse Seller _____ (insert amount) of the cost of the new or updated survey at closing, if closing occurs.

C. UCC Search:

- (1) Within _____ days after the effective date, Seller, at Seller's expense, will furnish Buyer a Uniform Commercial Code (UCC) search prepared by a reporting service and dated after the effective date. The search must identify documents that are on file with the Texas Secretary of State and the county where the Property is located that relate to all personal property on the Property and show, as debtor, Seller and all other owners of the personal property in the last 5 years.
- (2) Buyer does not require Seller to furnish a UCC search.

D. Buyer's Objections to the Commitment, Survey, and UCC Search:

- (1) Within 5 days after Buyer receives the commitment, copies of the documents evidencing the title exceptions, any required survey, and any required UCC search, Buyer may object to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Property or constitute a defect or encumbrance to title to the real or personal property described in Paragraph 2 other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date Buyer actually receives the survey; or (ii) the deadline specified in Paragraph 6B.
- (2) Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.
- (3) Buyer's failure to timely object or terminate under this Paragraph 6D is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

7. PROPERTY CONDITION:

A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing _____

B. Feasibility Period: Buyer may terminate this contract for any reason within 30 days after the effective date (feasibility period) by providing Seller written notice of termination. (Check only one box.)

(1) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less \$ 15,000.00 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the title company. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to deposit the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

(2) Not later than 3 days after the effective date, Buyer must pay Seller \$ _____ as independent consideration for Buyer's right to terminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to timely pay the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

C. Inspections, Studies, or Assessments:

(1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.

(2) Seller, at Seller's expense, will turn on all utilities necessary for Buyer to make inspections, studies, or assessments.

(3) Buyer must:
(a) employ only trained and qualified inspectors and assessors;
(b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
(c) abide by any reasonable entry rules or requirements of Seller;
(d) not interfere with existing operations or occupants of the Property; and
(e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

(4) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

(1) Delivery of Property Information: Within _____ days after the effective date, Seller will deliver to Buyer: (Check all that apply.)

- (a) a current rent roll of all leases affecting the Property certified by Seller as true and correct;
- (b) copies of all current leases pertaining to the Property, including any modifications, supplements, or amendments to the leases;
- (c) a current inventory of all personal property to be conveyed under this contract and copies of any leases for such personal property;
- (d) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
- (e) copies of all current service, maintenance, and management agreements relating to the ownership and operation of the Property;
- (f) copies of current utility capacity letters from the Property's water and sewer service provider;
- (g) copies of all current warranties and guaranties relating to all or part of the Property;
- (h) copies of fire, hazard, liability, and other insurance policies that currently relate to the Property;
- (i) copies of all leasing or commission agreements that currently relate to the tenants of all or part of the Property;
- (j) a copy of the "as-built" plans and specifications and plat of the Property;
- (k) copies of all invoices for utilities and repairs incurred by Seller for the Property in the 24 months immediately preceding the effective date;
- (l) a copy of Seller's income and expense statement for the Property from _____ to _____;
- (m) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
- (n) real & personal property tax statements for the Property for the previous 2 calendar years; and
- (o) Tenant reconciliation statements including, operating expenses, insurance and taxes for the Property from _____ to _____; and
- (p) _____

(2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: *(Check all that apply.)*

- (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer in other than an electronic format and all copies that Buyer made of those items;
- (b) delete or destroy all electronic versions of those items described in Paragraph 7D(1) that Seller delivered to Buyer or Buyer copied; and
- (c) deliver copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed.

This Paragraph 7D(2) survives termination of this contract.

E. Contracts Affecting Operations: Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.

8. **LEASES:**

A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:

- (1) any failure by Seller to comply with Seller's obligations under the leases;

- (2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
- (3) any non-occupancy of the leased premises by a tenant;
- (4) any advance sums paid by a tenant under any lease;
- (5) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
- (6) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.

B. **Estoppel Certificates:** Within _____ days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than _____ by each tenant that leases space in the Property. The estoppel certificates must include the certifications contained in the current version of TAR Form 1938 – Commercial Tenant Estoppel Certificate and any additional information requested by a third party lender providing financing under Paragraph 4 if the third party lender requests such additional information at least 10 days prior to the earliest date that Seller may deliver the signed estoppel certificates.

9. BROKERS:

A. The brokers to this sale are:

Principal Broker: <u>NonWheel, Inc. dba NAI</u>	Cooperating Broker: _____
<u>Wheeler</u>	_____
Agent: <u>Joe Y. Wheeler, III</u>	Agent: _____
Address: <u>476 Orleans Street, 12th Floor</u>	Address: _____
<u>Beaumont, TX 77701</u>	_____
Phone & Fax: <u>409.699.3000 (409) 699.3300</u>	Phone & Fax: _____
E-mail: <u>wheeler@naiwheeler.com</u>	E-mail: _____
License No.: <u>579943</u>	License No.: _____

Principal Broker. (Check only one box.)
 represents Seller only.
 represents Buyer only.
 is an intermediary between Seller and Buyer.

Cooperating Broker represents Buyer

B. **Fees.** (Check only (1) or (2) below.)
 (Complete the Agreement Between Brokers on page 14 only if (1) is selected.)

(1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.

(2) At the closing of this sale, Seller will pay:

Principal Broker a total cash fee of:	Cooperating Broker a total cash fee of:
<input checked="" type="checkbox"/> <u>3.000</u> % of the sales price.	<input type="checkbox"/> _____ % of the sales price.
<input type="checkbox"/> _____	<input type="checkbox"/> _____

The cash fees will be paid in Jefferson County, Texas. Seller authorizes the title company to pay the brokers from the Seller's proceeds at closing

NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

- C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

10. CLOSING:

- A. The date of the closing of the sale (closing date) will be on or before the later of:
(1) [x] 14 days after the expiration of the feasibility period.
[] (specific date).
(2) 7 days after objections made under Paragraph 6D have been cured or waived.
B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.
C. At closing, Seller will execute and deliver to Buyer, at Seller's expense, a [] general [x] special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
(1) with no liens, assessments, or Uniform Commercial Code or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
(2) without any assumed loans in default; and
(3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.
D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
(1) tax statements showing no delinquent taxes on the Property;
(2) a bill of sale with warranties to title conveying title, free and clear of all liens, to any personal property defined as part of the Property in Paragraph 2 or sold under this contract;
(3) an assignment of all leases to or on the Property;
(4) to the extent that the following items are assignable, an assignment to Buyer of the following items as they relate to the Property or its operations:
(a) licenses and permits;
(b) maintenance, management, and other contracts; and
(c) warranties and guaranties;
(5) a rent roll current on the day of the closing certified by Seller as true and correct;
(6) evidence that the person executing this contract is legally capable and authorized to bind Seller;
(7) an affidavit acceptable to the title company stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the title company to: (i) withhold from Seller's proceeds an amount sufficient to comply applicable tax law; and (ii) deliver the amount to the Internal Revenue Service together with appropriate tax forms; and
(8) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and the issuance of the title policy, all of which must be completed and executed by Seller as necessary.
E. At closing, Buyer will:
(1) pay the sales price in good funds acceptable to the title company;
(2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
(3) sign and send to each tenant in the Property a written statement that:
(a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
(b) specifies the exact dollar amount of the security deposit;

- (4) sign an assumption of all leases then in effect; and
- (5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.

F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

11. POSSESSION: Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

12. SPECIAL PROVISIONS: The following special provisions apply and will control in the event of a conflict with other provisions of this contract. *(If special provisions are contained in an Addendum, identify the Addendum here and reference the Addendum in Paragraph 22D.)*

Buyer will have the right to extend the feasibility period for one (1) additional 30 day period by paying directly to the Seller an additional \$10,000 in earnest money at least 5 days prior to the expiration of the initial feasibility period. This additional earnest money will become applicable to the purchase price but non-refundable immediately.

13. SALES EXPENSES:

- A. Seller's Expenses: Seller will pay for the following at or before closing:
- (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
 - (2) release of Seller's loan liability, if applicable;
 - (3) tax statements or certificates;
 - (4) preparation of the deed and any bill of sale;
 - (5) one-half of any escrow fee;
 - (6) costs to record any documents to cure title objections that Seller must cure; and
 - (7) other expenses that Seller will pay under other provisions of this contract.
- B. Buyer's Expenses: Buyer will pay for the following at or before closing:
- (1) all loan expenses and fees;
 - (2) preparation fees of any deed of trust;
 - (3) recording fees for the deed and any deed of trust;
 - (4) premiums for flood and hazard insurance as may be required by Buyer's lender;
 - (5) one-half of any escrow fee; and
 - (6) other expenses that Buyer will pay under other provisions of this contract.

14. PRORATIONS:

A. Prorations:

- (1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
- (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
- (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.

B. Rollback Taxes: If Seller changes the use of the Property before closing or if a denial of a special valuation on the Property claimed by Seller results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.

C. Rent and Security Deposits: At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

15. DEFAULT:

A. If Buyer fails to comply with this contract, Buyer is in default and Seller, as Seller's sole remedy(ies), may terminate this contract and receive the earnest money, as liquidated damages for Buyer's failure except for any damages resulting from Buyer's inspections, studies or assessments in accordance with Paragraph 7C(4) which Seller may pursue, or
{Check if applicable}

enforce specific performance, or seek such other relief as may be provided by law.

B. If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey or the commitment, Buyer may:

- (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
- (2) extend the time for performance up to 15 days and the closing will be extended as necessary.

C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:

- (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
- (2) enforce specific performance, or seek such other relief as may be provided by law, or both.

**as Buyers
sole
remedy.**

16. CASUALTY LOSS AND CONDEMNATION:

A. If any part of the Property is damaged or destroyed by fire or other casualty after the effective date, Seller must restore the Property to its previous condition as soon as reasonably possible and not later than the closing date. If, without fault, Seller is unable to do so, Buyer may:

- (1) terminate this contract and the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer;
 - (2) extend the time for performance up to 15 days and closing will be extended as necessary; or
 - (3) accept at closing: (i) the Property in its damaged condition; (ii) an assignment of any insurance proceeds Seller is entitled to receive along with the insurer's consent to the assignment; and (iii) a credit to the sales price in the amount of any unpaid deductible under the policy for the loss.
- B. If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:
- (1) terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer; or
 - (2) appear and defend the condemnation proceedings and any award will, at Buyer's election, belong to: (a) Seller and the sales price will be reduced by the same amount; or (b) Buyer and the sales price will not be reduced.

17. ATTORNEY'S FEES: If Buyer, Seller, any broker, or the title company is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.

18. ESCROW:

- A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, the title company may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of the title company from all parties.
- B. If one party makes written demand for the earnest money, the title company will give notice of the demand by providing to the other party a copy of the demand. If the title company does not receive written objection to the demand from the other party within 15 days after the date the title company sent the demand to the other party, the title company may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and the title company may pay the same to the creditors.
- C. The title company will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- D. If the title company complies with this Paragraph 18, each party hereby releases the title company from all claims related to the disbursement of the earnest money.
- E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to the title company are effective upon receipt by the title company.
- F. Any party who wrongfully fails or refuses to sign a release acceptable to the title company within 7 days after receipt of the request will be liable to the other party for liquidated damages in an amount equal to the sum of: (i) three times the amount of the earnest money; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- G. Seller Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent

feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur.

19. MATERIAL FACTS: To the best of Seller's knowledge and belief: *(Check only one box.)*

- A. Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TAR 1408).
- B. Except as otherwise provided in this contract, Seller is not aware of:
 - (1) any subsurface structures, pits, waste, springs, or improvements;
 - (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
 - (3) any environmental hazards or conditions that materially affect the Property;
 - (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
 - (5) whether radon, asbestos-containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
 - (6) any wetlands, as defined by federal or state law or regulation, on the Property;
 - (7) any threatened or endangered species or their habitat on the Property;
 - (8) any present or past infestation of wood-destroying insects in the Property's improvements;
 - (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
 - (10) any material physical defects in the improvements on the Property; or
 - (11) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1) (11) in Paragraph (2) or an addendum.)

20. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

- A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
- B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

21. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

22. AGREEMENT OF THE PARTIES:

- A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns. This contract is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby.
- B. This contract contains the entire agreement of the parties and may not be changed except in writing.
- C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.

D. Addenda which are part of this contract are: *(Check all that apply.)*

- (1) Property Description Exhibit identified in Paragraph 2;
 (2) Commercial Contract Condominium Addendum (TAR-1930);
 (3) Commercial Contract Financing Addendum (TAR-1931);
 (4) Commercial Property Condition Statement (TAR-1408);
 (5) Commercial Contract Addendum for Special Provisions (TAR-1940);
 (6) Addendum for Seller's Disclosure of Information on Lead Based Paint and Lead-Based Paint Hazards (TAR-1906);
 (7) Notice to Purchaser of Real Property in a Water District (MUD);
 (8) Addendum for Coastal Area Property (TAR-1915);
 (9) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TAR-1916);
 (10) Information About Brokerage Services (TAR-2501); and
 (11) Addendum One

(Note: Counsel for the Texas Association of REALTORS® (TAR) has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by TAR are appropriate for use with this form.)

E. Buyer may may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all of Buyer's obligations under this contract.

23. TIME: Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

24. EFFECTIVE DATE: The effective date of this contract for the purpose of performance of all obligations is the date the title company receives this contract after all parties execute this contract.

25. ADDITIONAL NOTICES:

- A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.
- B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.
- C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.
- D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included as part of this contract.

- E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract.
- F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.
- G. If apartments or other residential units are on the Property and the units were built before 1978, federal law requires a lead-based paint and hazard disclosure statement to be made part of this contract.
- H. Section 1958.154, Occupations Code requires Seller to provide Buyer a copy of any mold remediation certificate issued for the Property during the 5 years preceding the date the Seller sells the Property.
- I. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Buyer should review local building codes, ordinances and other applicable laws to determine their effect on the Property. Selection of experts, inspectors, and repairmen is the responsibility of Buyer and not the brokers. Brokers are not qualified to determine the credit worthiness of the parties.

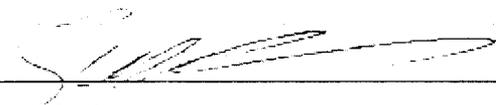
26. CONTRACT AS OFFER: The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m. in the time zone in which the Property is located, on _____, the offer will lapse and become null and void.

READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. **CONSULT your attorney BEFORE signing.**

Seller: City of Beaumont

Buyer: Garden Street Holdings, LLC

By: _____

By: 

By (signature): _____

By (signature): _____

Printed Name: Kyle Hayes

Printed Name: S. Edward McCormick

Title: City Manager

Title: Manager

By: _____

By: _____

By (signature): _____

By (signature): _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

AGREEMENT BETWEEN BROKERS

(use only if Paragraph 9B(1) is effective)

Principal Broker agrees to pay _____ (Cooperating Broker) a fee when the Principal Broker's fee is received. The fee to be paid to Cooperating Broker will be:

- \$ _____, or
- _____ % of the sales price, or
- _____ % of the Principal Broker's fee.

The title company is authorized and directed to pay Cooperating Broker from Principal Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

Principal Broker: _____ Cooperating Broker: _____

By: _____ By: _____

ATTORNEYS

Seller's attorney: _____ Buyer's attorney: _____

Address: _____ Address: _____

Phone & Fax: _____ Phone & Fax: _____

E-mail: _____ E-mail: _____

Seller's attorney requests copies of documents, notices, and other information:

- the title company sends to Seller.
- Buyer sends to Seller.

Buyer's attorney requests copies of documents, notices, and other information:

- the title company sends to Buyer.
- Seller sends to Buyer.

ESCROW RECEIPT

The title company acknowledges receipt of:

- A. the contract on this day _____ (effective date):
- B. earnest money in the amount of \$ _____ in the form of _____ on _____

Title company: _____ Address: _____

By: _____ Phone & Fax: _____

Assigned file number (GF#): _____ E-mail: _____

EXHIBIT "A"

BEING a 26,700 square feet tract of land out of Block 40 of the Original Town of Beaumont in the Noah Tevis Survey, Abstract 52, Beaumont, Jefferson County, Texas, said tract being all of Lot 201 and 202 and part of Lots 198, 199, 200 and 206 of said Block 40, and being all of the property conveyed to Harvey E. Miller by Deed dated May 17, 1981, and recorded in Vol. 2317 page 400 of the Deed Records of Jefferson County, Texas.

BEGINNING at the most Westerly or Northwest corner of Lot 201 of Block 40, of the Original Town of Beaumont, said corner being located at the point of intersection of the Northeasterly right of way line of Orleans Street and the Southeasterly right of way line of Fannin Street;

THENCE North 49° 26' East (reference bearing) along the Southeasterly right of way line of Fannin Street and along the Northwesterly line of Lots 201 and 202 of Block 40, a distance of 120.0 feet to the Northeast or most Northerly corner of Lot 202, and the most westerly corner of Lot 203 and being the most westerly or northwest corner of that certain tract conveyed to Jefferson Theatre Preservation Society by Deed dated November 11, 1976 and recorded in Vol. 2036 page 442 of the Deed Records of Jefferson County, Texas.

THENCE South 40° 34' East along the common line of Lots 202 and 203 and along the Southwesterly line of the said Jefferson Theatre Tract, a distance of 160.0 feet to the most Southerly or Southwest corner of said Jefferson Theatre Tract located in Lot 206,

THENCE North 49° 26' East along the Southeasterly line of the Jefferson Theatre Tract, a distance of 30.00 feet to a point for corner located in the dividing line between Lots 206 and 207;

THENCE South 40° 34' East along the common line between Lots 206 and 207, a distance of 50.00 feet to a point for corner located in Lot 198,

THENCE South 49° 26' West along the Northwesterly line of a tract conveyed to Rogers Brothers by Deed dated April 13, 1964 and recorded in Vol. 1384 page 175 of the Deed Records of Jefferson County, Texas, said line being parallel to and 90.00 feet Northwesterly of the Northwesterly right of way line of Forsythe Street, a distance of 150.0 feet to the most Westerly or Northwest corner of said Rogers Brothers tract, said corner being located in the Northeasterly right of way line of Orleans Street and being 90.00 feet from the Southwest corner of Lot 200,

THENCE North 40° 34' West along the Northeasterly right of way line of Orleans Street and along the Southwesterly line of Lots 200, 206 and 201 of Block 40, a distance of 210.0 feet to the PLACE OF BEGINNING and containing in area 26,700 square feet of land, more or less.

304



ADDENDUM FOR SELLER'S DISCLOSURE OF INFORMATION ON LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS AS REQUIRED BY FEDERAL LAW

CONCERNING THE PROPERTY AT 625 Orleans Street Beaumont (Street Address and City)

A. LEAD WARNING STATEMENT: Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning.

NOTICE: Inspector must be properly certified as required by federal law.

B. SELLER'S DISCLOSURE:

- 1. PRESENCE OF LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS (check one box only):
(a) Known lead-based paint and/or lead-based paint hazards are present in the Property (explain):
(b) Seller has no actual knowledge of lead based paint and/or lead-based paint hazards in the Property
2. RECORDS AND REPORTS AVAILABLE TO SELLER (check one box only):
(a) Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the Property (list documents):
(b) Seller has no reports or records pertaining to lead-based paint and/or lead based paint hazards in the Property.

C. BUYER'S RIGHTS (check one box only):

- 1. Buyer waives the opportunity to conduct a risk assessment or inspection of the Property for the presence of lead-based paint or lead-based paint hazards.
2. Within ten days after the effective date of this contract, Buyer may have the Property inspected by inspectors selected by Buyer. If lead-based paint or lead-based paint hazards are present, Buyer may terminate this contract by giving Seller written notice within 14 days after the effective date of this contract and the earnest money will be refunded to Buyer.

D. BUYER'S ACKNOWLEDGMENT (check applicable boxes):

- 1. Buyer has received copies of all information listed above.
2. Buyer has received the pamphlet Protect Your Family from Lead in Your Home.

E. BROKERS' ACKNOWLEDGMENT: Brokers have informed Seller of Seller's obligations under 42 U.S.C. 4852c to: (a) provide Buyer with the federally approved pamphlet on lead poisoning prevention; (b) complete this addendum; (c) disclose any known lead-based paint and/or lead-based paint hazards in the Property; (d) deliver all records and reports to Buyer pertaining to lead-based paint and/or lead-based paint hazards in the Property; (e) provide Buyer a period of up to 10 days to have the Property inspected; and (f) retain a completed copy of this addendum for at least 3 years following the sale. Brokers are aware of their responsibility to ensure compliance.

F. CERTIFICATION OF ACCURACY: The following persons have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Buyer: Garden Street Holdings, LLC Date: 7-17-14
Seller: City of Beaumont Date:
Other Broker: Listing Broker: KenWheeler, Inc. dba NAI Wheeler

The form of this addendum has been approved by the Texas Real Estate Commission for use only with similarly approved or promulgated forms of contracts. Such approval relates to this contract form only. TREC forms are intended for use only by trained real estate licensees. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not suitable for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 512-936-3000 (http://www.trec.texas.gov)

NOTICE TO PURCHASERS

The real property described below, which you are about to purchase, is located in Jefferson County Drainage District No. 6. The District has taxing authority separate from any other taxing authority and may, subject to voter approval, issue an unlimited rate of tax in payment of such bonds. As of this date, the rate of taxes levied by the District on real property located in the District is 22.0587 cents on each \$100 of assessed valuation.

The total amount of bonds that have been approved by the voters and which may be issued by the District (excluding refunding bonds and any bonds or portion of bonds payable solely from revenues received or expected to be received pursuant to a contract with a governmental entity) is \$0; however, contract revenue refunding bonds have been approved by the District's Board in the following original amounts Series 2003 - \$4,995,000. The aggregate initial principal amount of all bonds of the District payable in whole or part from taxes (excluding refunding bonds and any bonds or portion of bonds payable solely from revenues received or expected to be received pursuant to a contract with a governmental entity) that have been previously issued is \$0; however, the current principal amounts of contract revenue refunding bonds outstanding are as follows: Series 2003 Contract Revenue Refunding Bonds - \$950,000. The contract revenue refunding bonds are serviced through taxes collected for maintenance and operating. Funds from maintenance and operating are transferred to debt service for annual installments toward payment of the contract revenue refunding bonds. No separate tax is collected for contract revenue refunding bonds.

The District does not impose a standby fee.

The purpose of this District is to provide drainage or flood control facilities and services within the District through the issuance of bonds payable in whole or in part from property taxes. The cost of these utility facilities is not included in the purchase price of your property, and these utility facilities are owned or to be owned by the District.

The legal description of the property which you are acquiring is as follows:

See Exhibit A

Date

(Seller)

PURCHASER IS ADVISED THAT THE INFORMATION SHOWN ON THIS FORM IS SUBJECT TO CHANGE BY THE DISTRICT AT ANY TIME. THE DISTRICT ROUTINELY ESTABLISHES TAX RATES DURING THE MONTHS OF SEPTEMBER THROUGH DECEMBER OF EACH YEAR, EFFECTIVE FOR THE YEAR IN WHICH THE TAX RATES ARE APPROVED BY THE DISTRICT. PURCHASER IS ADVISED TO CONTACT THE DISTRICT TO DETERMINE THE STATUS OF ANY CURRENT OR PROPOSED CHANGES TO THE INFORMATION SHOWN ON THIS FORM.

The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or prior to execution of a binding contract for the purchase of the real property described in such notice or at closing of purchase of the real property.

7-17-14
Date


(Buyer)

THE STATE OF TEXAS *
COUNTY OF *

This instrument was acknowledged before me on , by

Notary Public, State of Texas

THE STATE OF TEXAS *
COUNTY OF *

This instrument was acknowledged before me on , by

Notary Public, State of Texas

After recording, return to:



Information About Brokerage Services

Before working with a real estate broker, you should know that the duties of a broker depend on whom the broker represents. If you are a prospective seller or landlord (owner) or a prospective buyer or tenant (buyer), you should know that the broker who lists the property for sale or lease is the owner's agent. A broker who acts as a subagent represents the owner in cooperation with the listing broker. A broker who acts as a buyer's agent represents the buyer. A broker may act as an intermediary between the parties if the parties consent in writing. A broker can assist you in locating a property, preparing a contract or lease, or obtaining financing without representing you. A broker is obligated by law to treat you honestly.

IF THE BROKER REPRESENTS THE OWNER:

The broker becomes the owner's agent by entering into an agreement with the owner, usually through a written - listing agreement, or by agreeing to act as a subagent by accepting an offer of subagency from the listing broker. A subagent may work in a different real estate office. A listing broker or subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first. The buyer should not tell the owner's agent anything the buyer would not want the owner to know because an owner's agent must disclose to the owner any material information known to the agent.

IF THE BROKER REPRESENTS THE BUYER:

The broker becomes the buyer's agent by entering into an agreement to represent the buyer, usually through a written buyer representation agreement. A buyer's agent can assist the owner but does not represent the owner and must place the interests of the buyer first. The owner should not tell a buyer's agent anything the owner would not want the buyer to know because a buyer's agent must disclose to the buyer any material information known to the agent.

IF THE BROKER ACTS AS AN INTERMEDIARY:

A broker may act as an intermediary between the parties if the broker complies with The Texas Real Estate License Act. The broker must obtain the written consent of each party to the transaction to act as an

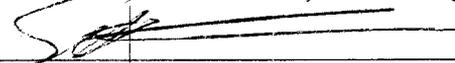
intermediary. The written consent must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. The broker is required to treat each party honestly and fairly and to comply with The Texas Real Estate License Act. A broker who acts as an intermediary in a transaction:

- (1) shall treat all parties honestly;
- (2) may not disclose that the owner will accept a price less than the asking price unless authorized in writing to do so by the owner;
- (3) may not disclose that the buyer will pay a price greater than the price submitted in a written offer unless authorized in writing to do so by the buyer; and
- (4) may not disclose any confidential information or any information that a party specifically instructs the broker in writing not to disclose unless authorized in writing to disclose the information or required to do so by The Texas Real Estate License Act or a court order or if the information materially relates to the condition of the property.

With the parties' consent, a broker acting as an intermediary between the parties may appoint a person who is licensed under The Texas Real Estate License Act and associated with the broker to communicate with and carry out instructions of one party and another person who is licensed under that Act and associated with the broker to communicate with and carry out instructions of the other party.

If you choose to have a broker represent you, you should enter into a written agreement with the broker that clearly establishes the broker's obligations and your obligations. The agreement should state how and by whom the broker will be paid. You have the right to choose the type of representation, if any, you wish to receive. Your payment of a fee to a broker does not necessarily establish that the broker represents you. If you have any questions regarding the duties and responsibilities of the broker, you should resolve those questions before proceeding.

Real estate licensee asks that you acknowledge receipt of this information about brokerage services for the licensee's records.


 Buyer, Seller, Landlord or Tenant
 Garden Street Holdings, LLC

7-17-14
 Date

Texas Real Estate Brokers and Salespersons are licensed and regulated by the Texas Real Estate Commission (TREC). If you have a question or complaint regarding a real estate licensee, you should contact TREC at P.O. Box 12188, Austin, Texas 78711-2188 . 512-936-3000 (<http://www.trec.texas.gov>)

(TAR-2501) 10-10-11

TREC No. OP-K

NAI Wheeler, 470 Orleans Street, 12th Floor Beaumont, TX 77701
 Phone: 409-899-3300

Fax: 409-899-3301 Erica Goss

Garden Street

Produced with ZipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com



Information About Brokerage Services

Before working with a real estate broker, you should know that the duties of a broker depend on whom the broker represents. If you are a prospective seller or landlord (owner) or a prospective buyer or tenant (buyer), you should know that the broker who lists the property for sale or lease is the owner's agent. A broker who acts as a subagent represents the owner in cooperation with the listing broker. A broker who acts as a buyer's agent represents the buyer. A broker may act as an intermediary between the parties if the parties consent in writing. A broker can assist you in locating a property, preparing a contract or lease, or obtaining financing without representing you. A broker is obligated by law to treat you honestly.

IF THE BROKER REPRESENTS THE OWNER:

The broker becomes the owner's agent by entering into an agreement with the owner, usually through a written - listing agreement, or by agreeing to act as a subagent by accepting an offer of subagency from the listing broker. A subagent may work in a different real estate office. A listing broker or subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first. The buyer should not tell the owner's agent anything the buyer would not want the owner to know because an owner's agent must disclose to the owner any material information known to the agent.

IF THE BROKER REPRESENTS THE BUYER:

The broker becomes the buyer's agent by entering into an agreement to represent the buyer, usually through a written buyer representation agreement. A buyer's agent can assist the owner but does not represent the owner and must place the interests of the buyer first. The owner should not tell a buyer's agent anything the owner would not want the buyer to know because a buyer's agent must disclose to the buyer any material information known to the agent.

IF THE BROKER ACTS AS AN INTERMEDIARY:

A broker may act as an intermediary between the parties if the broker complies with The Texas Real Estate License Act. The broker must obtain the written consent of each party to the transaction to act as an

intermediary. The written consent must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. The broker is required to treat each party honestly and fairly and to comply with The Texas Real Estate License Act. A broker who acts as an intermediary in a transaction:

(1) shall treat all parties honestly;

(2) may not disclose that the owner will accept a price less than the asking price unless authorized in writing to do so by the owner;

(3) may not disclose that the buyer will pay a price greater than the price submitted in a written offer unless authorized in writing to do so by the buyer; and

(4) may not disclose any confidential information or any information that a party specifically instructs the broker in writing not to disclose unless authorized in writing to disclose the information or required to do so by The Texas Real Estate License Act or a court order or if the information materially relates to the condition of the property.

With the parties' consent, a broker acting as an intermediary between the parties may appoint a person who is licensed under The Texas Real Estate License Act and associated with the broker to communicate with and carry out instructions of one party and another person who is licensed under that Act and associated with the broker to communicate with and carry out instructions of the other party.

If you choose to have a broker represent you, you should enter into a written agreement with the broker that clearly establishes the broker's obligations and your obligations. The agreement should state how and by whom the broker will be paid. You have the right to choose the type of representation, if any, you wish to receive. Your payment of a fee to a broker does not necessarily establish that the broker represents you. If you have any questions regarding the duties and responsibilities of the broker, you should resolve those questions before proceeding.

Real estate licensee asks that you acknowledge receipt of this information about brokerage services for the licensee's records.

Buyer, Seller, Landlord or Tenant
 City of Beaumont

Date

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(TAR-2501) 10-10-11

TREC No. OP-K

NAI Wheeler, 470 Orleans Street, 12th Floor, Beaumont, TX 77701
 Phone: 409-899-3300

Fax: 409-899-3301

Erica Goss

Garden Street

**ADDENDUM ONE TO
COMMERCIAL CONTRACT-IMPROVED PROPERTY**

This ADDENDUM ONE TO COMMERCIAL CONTRACT-IMPROVED PROPERTY is incorporated into and made a part of that certain Commercial Contract-Improved Property (the "Contract") between **The City of Beaumont** ("Seller"), and **Garden Street Holdings, LLC** ("Buyer"), regarding the sale and purchase of the Property described in Exhibit A of the Contract commonly referred to as "Hotel Beaumont" and located at 625 Orleans, Beaumont, Texas (the "Property"). In the event of any conflict between this Addendum One and those of the Contract, this Addendum One shall govern and control.

1. SELLER AND BUYER AGREE THAT THE PROPERTY IS BEING SOLD TO BUYER AND WILL BE CONVEYED BY SELLER TO BUYER IN ITS "AS-IS" "WHERE-IS" CONDITION, WITH ALL FAULTS AND SUBJECT TO ALL RISKS ASSOCIATED WITH OWNERSHIP OF THE PROPERTY, AND WITHOUT WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, EXCEPT FOR THE SELLER'S SPECIAL WARRANTY OF TITLE. WITHOUT IN ANY WAY LIMITING THE GENERALITY OF THE FOREGOING, THE SALE OF THE PROPERTY WILL BE WITHOUT ANY WARRANTY REGARDING THE CONDITION, SUITABILITY, FITNESS OR QUALITY OF THE PROPERTY, OR THE PRESENCE OF ANY DEFECTS OR CONDITIONS, WHETHER KNOWN OR UNKNOWN TO SELLER, AND SELLER AND SELLER'S AGENTS, EMPLOYEES, ATTORNEYS, CONTRACTORS AND AFFILIATES (COLLECTIVELY, "SELLER'S RELATED PARTIES") EXPRESSLY DISCLAIM ANY WARRANTY, OF OR RELATING TO: (I) THE USE, INCOME POTENTIAL, EXPENSES, OPERATION, CHARACTERISTICS OR CONDITION OF THE PROPERTY OR ANY PORTION THEREOF, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF SUITABILITY, HABITABILITY, MERCHANTABILITY, DESIGN OR FITNESS FOR ANY SPECIFIC PURPOSE OR A PARTICULAR PURPOSE, OR GOOD AND WORKMANLIKE CONSTRUCTION; (II) THE ENVIRONMENTAL CONDITION OF THE PROPERTY AND THE PRESENCE OR ABSENCE OF OR CONTAMINATION BY HAZARDOUS MATERIALS OR THE COMPLIANCE OF THE PROPERTY WITH ALL REGULATIONS OR LAWS RELATING TO HEALTH OR THE ENVIRONMENT, INCLUDING, BUT NOT LIMITED TO, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED, 42 U.S.C. § 9601 ET SEQ., THE RESOURCE CONSERVATION AND RECOVERY ACT, AS AMENDED, 42 U.S.C. § 6901 ET SEQ., THE OIL POLLUTION ACT 33 U.S.C. § 2701 ET SEQ., AND THE TEXAS SOLID WASTE DISPOSAL ACT TEX. HEALTH & SAFETY CODE ANN. § 361 ET SEQ.,

EACH AS MAY BE AMENDED FROM TIME TO TIME, AND INCLUDING ANY AND ALL REGULATIONS, RULES OR POLICIES PROMULGATED THEREUNDER ("ENVIRONMENTAL LAWS"); AND (III) THE SOIL CONDITIONS, DRAINAGE, FLOODING CHARACTERISTICS, UTILITIES OR OTHER CONDITIONS EXISTING IN OR ON THE PROPERTY; AND (IV) THE AVAILABILITY OF PARKING OR THE ABILITY TO GET ANY REQUIRED APPROVAL FROM ANY GOVERNMENTAL AUTHORITY REGARDING BUYER'S INTENDED DEVELOPMENT PLANS FOR THE PROPERTY. BUYER HEREBY AGREES TO ACCEPT THE PROPERTY SUBJECT TO ALL RISKS, LIABILITIES, CLAIMS, DAMAGES AND COSTS, INCLUDING ANY LIABILITY WITH RESPECT TO ENVIRONMENTAL LAWS (AND AGREES SELLER SHALL NOT BE LIABLE TO BUYER FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR OTHER DAMAGES) RESULTING OR ARISING FROM OR RELATED TO THE PROPERTY OR THE USE, CONDITION, LOCATION, MAINTENANCE, REPAIR OR OPERATION THEREOF. IN CONSUMMATING THE PURCHASE OF THE PROPERTY, BUYER IS NOT RELYING ON ANY REPRESENTATIONS OR STATEMENTS (ORAL OR WRITTEN) WHICH MAY HAVE BEEN MADE OR MAY BE MADE BY SELLER OR SELLER'S RELATED PARTIES, AND IS RELYING SOLELY UPON BUYER'S OR BUYER'S REPRESENTATIVES' OWN PHYSICAL INSPECTION OF THE PROPERTY. BUYER EXPRESSLY WAIVES, TO THE EXTENT ALLOWED BY LAW, ANY CLAIMS UNDER FEDERAL, STATE OR OTHER LAW (INCLUDING, BUT NOT LIMITED TO COMMON LAW, WHETHER SOUNDING IN CONTRACT OR TORT, AND ANY AND ALL ENVIRONMENTAL LAWS) THAT BUYER MIGHT OTHERWISE HAVE AGAINST SELLER RELATING TO THE CONDITION OF THE PROPERTY. BUYER FURTHER ACKNOWLEDGES THAT THIS PROVISION IS A MATERIAL INDUCEMENT TO SELLER TO CONSUMMATE THE PURCHASE AND SALE OF THE PROPERTY. THE PROVISIONS OF THIS SECTION SHALL SURVIVE CLOSING. BUYER AGREES THAT THE FOREGOING DISCLAIMER OR SIMILAR DISACLAIMER MAY BE INCLUDED IN THE DEED DELIVERED BY SELLER TO BUYER AT CLOSING AND SHALL ALSO BE INCLUDED IN A CERTIFICATE DATED AS OF THE CLOSING AND REFLECTING THE FOREGOING, AND TO BE EXECUTED BY BUYER AT CLOSING.

2. The form of Special Warranty Deed to be delivered by Seller to Buyer at Closing shall be in substantially the form attached hereto as Exhibit "A" and incorporated herein by reference.

3. If Buyer elects to terminate the Contract and not close, then Buyer shall provide Seller at the time Buyer terminates the Contract copies of any new Survey of the Property obtained by Buyer and any environmental reports, inspection reports, feasibility studies, title opinions, assessments, appraisals and similar due diligence reports obtained by Buyer from any third party in connection with Buyer's due diligence investigation and examination of the Property.

4. A copy of any notice given by Buyer to Seller shall simultaneously be sent to Seller's attorney, as follows:

Lance Fox
Creighton, Fox, Johnson & Mills, PLLC
3535 Calder, Suite 310
Beaumont, TX 77706
Phone: (409) 833-0062
Fax: (409) 833-0084
Email: lcf@cfjmlaw.com

[Signature page follows this page.]

SIGNED by Seller on this _____ day of _____, 2014.

SELLER: **The City of Beaumont**

By: _____
Kyle Hayes, City Manager

SIGNED by Buyer on this _____ day of _____, 2014.

BUYER: **Garden Street Holdings, LLC**

By: _____
Name: *S. Edward McComick* _____
Title: *Manager* _____

EXHIBIT "A"

FORM OF SPECIAL WARRANTY DEED

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

SPECIAL WARRANTY DEED

Date: _____, 2014

Grantor: **THE CITY OF BEAUMONT, TEXAS**, a municipal home rule city and political subdivision of the State of Texas

Grantor's Mailing Address: 801 Main Street
Beaumont, TX 77701

Grantee: _____

Grantee's Mailing Address: _____

Consideration: \$10.00 cash and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

Property: All of Grantor's interest in that certain tract of land containing approximately 26,700 square feet, more or less, out of Block 40 of the Original Townsite of Beaumont in the Noah Tevis Survey, Abstract 52, Beaumont, Jefferson County, Texas, as more particularly described on **Exhibit "1"** attached hereto, together with all improvements, fixtures, and personal property, and all of Grantor's rights, titles, interests, licenses, privileges, hereditaments and appurtenances, if any inuring to the benefit of the Property including, without limitation, all right, title and interest of Grantor and to all adjacent streets, alleys, rights of way, and easements, if any, benefiting and/or burdening the Property.

Reservations from and Exceptions to Conveyance and Warranty:

1. Permitted Encumbrances. This Special Warranty Deed is subject to (i) any and all valid and subsisting easements, rights-of-ways, conditions, covenants, restrictions, reservations, exceptions and other encumbrances and matters filed of record, (ii) all building and land use ordinances, laws, regulations and restrictions by municipal or other governmental authority applicable to the Property, and (iii) any other rights in or encumbrances on the Property which are evident by a physical inspection or survey of the Property.
2. Taxes. Taxes and assessments for the current year are prorated as of the Effective Date above, and Grantee assumes the payment of such taxes and assessments after this Effective Date.

3. **"AS-IS" Conveyance, No Warranties.** As a material part of the Consideration for this Special Warranty Deed, Grantor and Grantee acknowledge and agree that Grantee is taking the Property **"AS IS, WHERE IS, WITH ALL FAULTS,"** with any and all latent and patent defects and that there is no warranty by Grantor that the Property has a particular financial value or is fit for a particular purpose. Grantee acknowledges and stipulates that Grantee is not relying on any representation, statement, agreement, inducement or other assertion with respect to the condition of the Property (to include, without limitation, the environmental or physical condition) but is relying solely on Grantee's examination of the Property. Grantee takes the Property with the express understanding and stipulation that **there are no express or implied warranties or representations by Grantor of any kind. Grantee's acceptance of the Property is at the sole risk and liability of Grantee with respect to i) the present status and condition of the Property, ii) the suitability, fitness or acceptability of the Property for Grantor's purposes and iii) the right of Grantee to access the Property or to ingress and egress to and from the Property.** Further, Grantee acknowledges and stipulates that it has had access to the Property to conduct its own investigation and assessment and is well aware of the condition of the Property.
4. **Release and Indemnity.** Grantee, for itself and its successors and assigns, i) **agrees and covenants not to sue** Grantor's Related Parties (as defined below) for any and all Claims (as defined below), and ii) **agrees to acquit, release and forever discharge and to defend, indemnify and hold harmless** Grantor's Related Parties from any and all Claims, in both cases, that arise out of or relate to, in any way, the condition, ownership, use, maintenance or operation of the Property at any time, whether before, on or after the Date above no matter how or when caused, whether known or unknown, that are asserted or made by any person or entity, whether public or private, under any Law, provided, however, Grantee's obligation to defend, indemnify and hold harmless the Grantor Related Parties is limited to Claims arising from existence of and conditions that exist on the Property whether known or unknown, and Grantee is not obligated to defend, indemnify and hold harmless the Grantor Related Parties from their own intentional acts, negligence, recklessness or other willful misconduct. As used herein, the term "Law" shall mean any statute, law, rule, regulation or ordinance, whether federal, state or local, whether at law or equity, whether by statute, common law, administrative or regulatory proceeding or otherwise, whether based on the negligence, gross negligence, strict liability, willful misconduct or other conduct of any party hereto or otherwise, to include without limitation and by way of example only, the Comprehensive Environmental Response, Compensation, and Liability Act, the Resources Conservation and Recovery Act, the Clean Air Act, the Safe Drinking Water Act, and the Clean Water Act, or similar or counterpart state statutes. As used herein, the term "Claims" shall mean any and all losses, damages, claims, causes of action, cross-claims, counterclaims, rights of contribution or indemnity, rights of reimbursement, liens, suits, liabilities, demands, payments, expenses, costs and fees, to include without limitation and by way of example only, attorneys' and expert witness fees, court costs, civil or criminal penalties or fines, taxes and any other charges of any kind or nature whatsoever. The term "Grantor's Related Parties" shall include Grantor and its affiliates, subsidiaries, employees, officers, directors and agents and their respective representatives, successors and assigns. Any Claims not herein released or discharged by Grantee are irrevocably assigned by Grantee to Grantor.
5. **Assumption of Responsibility.** Grantee, for itself and its successors and assigns, **assumes, undertakes and accepts any and all responsibilities, obligations, risks and liabilities**, if any, for i) the environmental and/or physical condition of the Property whether existing, created or set in place before, on or after the Date above, whether known or unknown, no matter how or when caused, whether based on past, present or future conditions, operations, activities or events, arising under or related to any Law, and ii) the assessment, remediation, removal, transportation disposal treatment or other disposition of any and all pollutants, contaminants, wastes, materials and substances in, on or under the Property or which are related to or arising from the Property at any time, whether before, on or after the Date above, whether hazardous or not, that is or may be required under any Law.

The release, indemnity and assumption of responsibility obligations, as set forth in paragraphs 4 and 5, above, are hereinafter referred collectively as "Grantee Obligations."

Grantor, for the Consideration and subject to the Reservations from and Exceptions to Conveyance and Warranty, and subject to and conditioned upon Grantee's acceptance and agreement to undertake the Grantee Obligations as set forth above, grants, sells and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and its successors and assigns forever. Grantor binds Grantor and Grantor's successors and assigns to warrant and forever defend title to the property unto Grantee, Grantee's successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, subject to the Reservations, subject to the Reservations from and Exceptions to Conveyance and Warranty and Grantee Obligation, when the claim is by, through, or under Grantor but not otherwise.

The parties acknowledge and agree that i) any recitals set forth above are incorporated herein for all purposes, ii) the captions beside the numbered paragraphs of this instrument are for convenience only and will not limit, enlarge, modify, or otherwise affect this Special Warranty Deed, and iii) when the context requires, singular nouns and pronouns include the plural.

This Special Warranty Deed is made effective as of the Date above.

Grantee and Grantor acknowledge and agree that the reservations, covenants, restrictions and obligations contained in the Reservations from and Exceptions to Conveyance and Warranty, and in the Grantee Obligations, as set forth in this Special Warranty Deed: i) are reasonable in their purpose, ii) touch and concern the Property, iii) shall run with the land making up the Property, and iv) shall be binding on Grantee, and its successors and assigns, forever.

[Signature pages follow.]

Grantor:

The City of Beaumont, Texas

By: _____
Kylie Hayes, City Manager

STATE OF TEXAS

COUNTY OF JEFFERSON

§
§
§

This instrument was acknowledged before me on _____, 2014 by Kylie Hayes, City Manager of THE CITY OF BEAUMONT, TEXAS, a municipal home rule corporation and political subdivision of the State of Texas, as the act and deed and on behalf of said City.

Notary Public, State of Texas

[Signature page continues.]

[Special Warranty Deed Signature Page (cont.)]

Grantee:

By: _____

Name: _____

Title: _____

STATE OF TEXAS

§
§
§

COUNTY OF JEFFERSON

This instrument was acknowledged before me on this ____ day of _____, 2014 by _____ as _____ of _____ a _____, on behalf of and as the act and deed of said entity.

Notary Public in and for the
State of Texas

EXHIBIT "I"
PROPERTY DESCRIPTION

BEING a 26,700 square foot tract of land out of Block 40 of the Original Town of Beaumont in the Noah Tevis Survey, Abstract 52, Beaumont, Jefferson County, Texas, said tract being all of Lot 201 and 202 and part of Lots 198, 199, 200 and 206 of said Block 40, and being all of the property conveyed to Harvey E. Miller by Deed dated May 17, 1961, and recorded in Vol. 2317 page 400 of the Deed Records of Jefferson County, Texas.

BEGINNING at the most Westerly or Northwest corner of Lot 201 of Block 40, of the Original Town of Beaumont, said corner being located at the point of intersection of the Northeastery right of way line of Orleans Street and the Southeastery right of way line of Fannin Street;

THENCE North 49° 26' East (reference bearing) along the Southeastery right of way line of Fannin Street and along the Northwesterly line of Lots 201 and 202 of Block 40, a distance of 120.0 feet to the Northeast or most Northerly corner of Lot 202, and the most westerly corner of Lot 203 and being the most westerly or northwest corner of that certain tract conveyed to Jefferson Theatre Preservation Society by Deed dated November 11, 1976 and recorded in Vol. 2036 page 442 of the Deed Records of Jefferson County, Texas.

THENCE South 40° 34' East along the common line of Lots 202 and 203 and along the Southwesterly line of the said Jefferson Theatre Tract, a distance of 160.0 feet to the most Southerly or Southwest corner of said Jefferson Theatre Tract located in Lot 206,

THENCE North 49° 26' East along the Southeastery line of the Jefferson Theatre Tract, a distance of 30.00 feet to a point for corner located in the dividing line between Lots 206 and 207;

THENCE South 40° 34' East along the common line between Lots 206 and 207, a distance of 50.00 feet to a point for corner located in Lot 198,

THENCE South 49° 26' West along the Northwesterly line of a tract conveyed to Rogers Brothers by Deed dated April 13, 1964 and recorded in Vol. 1384 page 175 of the Deed Records of Jefferson County, Texas, said line being parallel to and 90.00 feet Northwesterly of the Northwesterly right of way line of Forsythe Street, a distance of 150.0 feet to the most Westerly or Northwest corner of said Rogers Brothers tract, said corner being located in the Northeastery right of way line of Orleans Street and being 90.00 feet from the Southwest corner of Lot 200,

THENCE North 40° 34' West along the Northeastery right of way line of Orleans Street and along the Southwesterly line of Lots 200, 206 and 201 of Block 40, a distance of 210.0 feet to the PLACE OF BEGINNING and containing in area 26,700 square feet of land, more or less.