

EXHIBIT 23

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

CHAPTER 2254. PROFESSIONAL AND CONSULTING SERVICES

SUBCHAPTER A. PROFESSIONAL SERVICES

Sec. 2254.001. SHORT TITLE. This subchapter may be cited as the Professional Services Procurement Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.002. DEFINITIONS. In this subchapter:

(1) "Governmental entity" means:

- (A) a state agency or department;
- (B) a district, authority, county, municipality, or other political subdivision of the state;
- (C) a local government corporation or another entity created by or acting on behalf of a political subdivision in the planning and design of a construction project; or
- (D) a publicly owned utility.

(2) "Professional services" means services:

(A) within the scope of the practice, as defined by state law, of:

- (i) accounting;
- (ii) architecture;
- (iii) landscape architecture;
- (iv) land surveying;
- (v) medicine;
- (vi) optometry;
- (vii) professional engineering;
- (viii) real estate appraising; or
- (ix) professional nursing; or

(B) provided in connection with the professional employment or practice of a person who is licensed or registered as:

(i) a certified public accountant;
(ii) an architect;
(iii) a landscape architect;
(iv) a land surveyor;
(v) a physician, including a surgeon;
(vi) an optometrist;
(vii) a professional engineer;
(viii) a state certified or state licensed real estate appraiser; or
(ix) a registered nurse.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 244, Sec. 1, eff. Sept. 1, 1997;
Acts 1999, 76th Leg., ch. 1542, Sec. 1, eff. Sept. 1, 1999; Acts
2001, 77th Leg., ch. 1409, Sec. 8, eff. Sept. 1, 2001.

Sec. 2254.003. SELECTION OF PROVIDER; FEES. (a) A governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:

- (1) on the basis of demonstrated competence and qualifications to perform the services; and
- (2) for a fair and reasonable price.

(b) The professional fees under the contract may not exceed any maximum provided by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1213, Sec. 14, eff. September 1, 2007.

Sec. 2254.0031. INDEMNIFICATION. A state governmental entity may require a contractor selected under this subchapter to indemnify or hold harmless the state from claims and liabilities resulting from the negligent acts or omissions of the contractor or persons employed by the contractor. A state governmental entity may not require a

contractor to indemnify or hold harmless the state for claims or liabilities resulting from the negligent acts or omissions of the state governmental entity or its employees.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.37, eff. Sept. 1, 1999.

Sec. 2254.004. CONTRACT FOR PROFESSIONAL SERVICES OF ARCHITECT, ENGINEER, OR SURVEYOR. (a) In procuring architectural, engineering, or land surveying services, a governmental entity shall:

(1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and

(2) then attempt to negotiate with that provider a contract at a fair and reasonable price.

(b) If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the entity shall:

(1) formally end negotiations with that provider;

(2) select the next most highly qualified provider; and

(3) attempt to negotiate a contract with that provider at a fair and reasonable price.

(c) The entity shall continue the process described in Subsection (b) to select and negotiate with providers until a contract is entered into.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 119, Sec. 1, eff. Sept. 1, 1997.

Sec. 2254.005. VOID CONTRACT. A contract entered into or an arrangement made in violation of this subchapter is void as against public policy.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.006. CONTRACT NOTIFICATION. A state agency, including an institution of higher education as defined by Section

61.003, Education Code, shall provide written notice to the Legislative Budget Board of a contract for professional services, other than a contract for physician or optometric services, if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds \$14,000. The notice must be on a form prescribed by the Legislative Budget Board and filed not later than the 10th day after the date the agency enters into the contract.

Added by Acts 1999, 76th Leg., ch. 281, Sec. 13, eff. Sept. 1, 1999.

Sec. 2254.007. DECLARATORY OR INJUNCTIVE RELIEF. (a) This subchapter may be enforced through an action for declaratory or injunctive relief filed not later than the 10th day after the date a contract is awarded.

(b) This section does not apply to the enforcement of a contract entered into by a state agency as that term is defined by Section 2151.002. In this subsection, "state agency" includes the Texas Building and Procurement Commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 1213, Sec. 13, eff. September 1, 2007.

SUBCHAPTER B. CONSULTING SERVICES

Sec. 2254.021. DEFINITIONS. In this subchapter:

(1) "Consulting service" means the service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee.

(2) "Major consulting services contract" means a consulting services contract for which it is reasonably foreseeable that the value of the contract will exceed \$15,000, or \$25,000 for an institution of higher education other than a public junior college.

(3) "Consultant" means a person that provides or proposes to provide a consulting service. The term includes a political subdivision but does not include the federal government, a state agency, or a state governmental entity.

(4) "Political subdivision" means:

- (A) a county;
- (B) an incorporated or unincorporated municipality;
- (C) a public junior college;
- (D) a public school district or other educational or rehabilitative district;
- (E) a metropolitan or regional transit authority;
- (F) an airport authority;
- (G) a river authority or compact;
- (H) a regional planning commission, a council of governments, or a similar regional planning agency created under Chapter 391, Local Government Code;
- (I) the Edwards Aquifer Authority or a district governed by Title 4, Water Code;
- (J) a soil and water conservation district;
- (K) a county or municipal improvement district;
- (L) a county road or road utility district;
- (M) a county housing authority;
- (N) an emergency services or communications district;
- (O) a fire prevention district;
- (P) a public health or hospital authority or district;
- (Q) a mosquito control district;
- (R) a special waste district;
- (S) a rural rail transportation district; or
- (T) any other local government or special district of this state.

(5) "State agency" has the meaning assigned by Section 2151.002.

(6) "State governmental entity" means a state department, commission, board, office, institution, facility, or other agency the jurisdiction of which is not limited to a geographical portion of the state. The term includes a university system and an institution of higher education, other than a public junior college, as defined by Section 61.003, Education Code. The term does not include a political subdivision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.44(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 17.19(11), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1035, Sec. 3, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 1266, Sec. 1.02, eff. June 20, 2003.

Sec. 2254.022. INTERPRETATION OF SUBCHAPTER. (a) This subchapter shall be interpreted to ensure:

(1) the greatest and fairest competition in the selection by state agencies of consultants; and

(2) the giving of notice to all potential consultants of the need for and opportunity to provide consulting services.

(b) This subchapter does not:

(1) discourage state agencies from using consultants if the agencies reasonably foresee that the use of consultants will produce a more efficient and less costly operation or project;

(2) prohibit the making of a sole-source contract for consulting services if a proposal is not received from a competent, knowledgeable, and qualified consultant at a reasonable fee, after compliance with this subchapter; or

(3) require or prohibit the use of competitive bidding procedures to purchase consulting services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 4, eff. June 19, 1997.

Sec. 2254.023. APPLICABILITY OF SUBCHAPTER. This subchapter applies to consulting services that a state agency acquires with money:

(1) appropriated by the legislature;

(2) derived from the exercise of the statutory duties of a state agency; or

(3) received from the federal government, unless a federal law or regulation conflicts with the application of this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.024. EXEMPTIONS. (a) This subchapter does not apply to or discourage the use of consulting services provided by:

- (1) practitioners of professional services described in Subchapter A;
- (2) private legal counsel;
- (3) investment counselors;
- (4) actuaries;
- (5) medical or dental services providers; or
- (6) other consultants whose services are determined by the governing board of a retirement system trust fund to be necessary for the governing board to perform its constitutional fiduciary duties, except that the governing board shall comply with Section 2254.030.

(b) If the governor and comptroller consider it more advantageous to the state to procure a particular consulting service under the procedures of Chapters 2155-2158, instead of under this subchapter, they may make a memorandum of understanding to that effect and each adopt the memorandum by rule. Procurement of a consulting service described in a memorandum of understanding under this subsection is subject only to Chapters 2155-2158.

(c) The comptroller by rule may define circumstances in which a state agency may procure, without complying with this subchapter, certain consulting services that will cost less than a minimum amount established by the comptroller. The comptroller must determine that noncompliance in those circumstances is more cost-effective for the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(1), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 3.14, eff. September 1, 2007.

Sec. 2254.025. EMERGENCY WAIVER. (a) The governor, after receipt of a request complying with this section, may grant a limited waiver of the provisions of this subchapter for a state agency that requires consulting services before compliance with this subchapter

can be completed because of an unforeseen emergency.

(b) A state agency's request for a waiver must include information required by the governor, including:

- (1) information about the nature of the emergency;
- (2) the reason that the state agency did not foresee the emergency;
- (3) the name of the consultant with whom the agency intends to contract; and
- (4) the amount of the intended contract.

(c) As soon as possible after the governor grants a limited waiver, a state agency shall comply with this subchapter to the extent that the requirements of this subchapter are not superfluous or ineffective because of the waiver. The agency shall include with information filed with the secretary of state for publication in the Texas Register a detailed description of the emergency on which the request for waiver was predicated.

(d) The governor shall adopt rules to administer this section.

(e) In this section, "unforeseen emergency" means a situation that suddenly and unexpectedly causes a state agency to need the services of a consultant. The term includes the issuance of a court order, an actual or imminent natural disaster, and new state or federal legislation. An emergency is not unforeseen if a state agency was negligent in foreseeing the occurrence of the emergency.

(f) This section applies to all consulting services contracts and renewals, amendments, and extensions of consulting services contracts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 5, eff. June 19, 1997.

Sec. 2254.026. CONTRACT WITH CONSULTANT. A state agency may contract with a consultant only if:

- (1) there is a substantial need for the consulting services; and
- (2) the agency cannot adequately perform the services with its own personnel or obtain the consulting services through a

contract with a state governmental entity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 6, eff. June 19, 1997.

Sec. 2254.027. SELECTION OF CONSULTANT. In selecting a consultant, a state agency shall:

(1) base its choice on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services; and

(2) if other considerations are equal, give preference to a consultant whose principal place of business is in the state or who will manage the consulting contract wholly from an office in the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 7, eff. June 19, 1997.

Sec. 2254.028. NOTICE OF INTENT: MAJOR CONSULTING SERVICES CONTRACT. (a) Before entering into a major consulting services contract, a state agency shall:

(1) notify the Legislative Budget Board and the governor's Budget and Planning Office that the agency intends to contract with a consultant;

(2) give information to the Legislative Budget Board and the governor's Budget and Planning Office to demonstrate that the agency has complied or will comply with Sections 2254.026 and 2254.027; and

(3) obtain a finding of fact from the governor's Budget and Planning Office that the consulting services are necessary.

(b) A major consulting services contract that a state agency enters into without first obtaining the finding required by Subsection (a)(3) is void.

(c) Subsection (a)(3) does not apply to a major consulting services contract to be entered into by an institution of higher

education other than a public junior college if the institution includes in the invitation published under Section 2254.029 a finding by the chief executive officer of the institution that the consulting services are necessary and an explanation of that finding.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 8, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 1266, Sec. 1.03, eff. June 20, 2003.

Sec. 2254.029. PUBLICATION IN TEXAS REGISTER BEFORE ENTERING INTO MAJOR CONSULTING SERVICES CONTRACT. (a) Not later than the 30th day before the date it enters into a major consulting services contract, a state agency shall file with the secretary of state for publication in the Texas Register:

- (1) an invitation for consultants to provide offers of consulting services;
- (2) the name of the individual who should be contacted by a consultant that intends to make an offer;
- (3) the closing date for the receipt of offers; and
- (4) the procedure by which the state agency will award the contract.

(b) If the consulting services sought by a state agency relate to services previously provided by a consultant, the agency shall disclose that fact in the invitation required by Subsection (a). If the state agency intends to award the contract for the consulting services to a consultant that previously provided the services, unless a better offer is received, the agency shall disclose its intention in the invitation required by Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 9, eff. June 19, 1997.

Sec. 2254.030. PUBLICATION IN TEXAS REGISTER AFTER ENTERING INTO MAJOR CONSULTING SERVICES CONTRACT. Not later than the 20th day after the date of entering into a major consulting services contract, the contracting state agency shall file with the secretary of state

for publication in the Texas Register:

- (1) a description of the activities that the consultant will conduct;
- (2) the name and business address of the consultant;
- (3) the total value and the beginning and ending dates of the contract; and
- (4) the dates on which documents, films, recordings, or reports that the consultant is required to present to the agency are due.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 10, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 1.30, eff. Sept. 1, 1999.

Sec. 2254.0301. CONTRACT NOTIFICATION. A state agency shall provide written notice to the Legislative Budget Board of a contract for consulting services if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds \$14,000. The notice must be on a form prescribed by the Legislative Budget Board and filed not later than the 10th day after the date the entity enters into the contract.

Added by Acts 1999, 76th Leg., ch. 281, Sec. 14, eff. Sept. 1, 1999.

Sec. 2254.031. RENEWAL; AMENDMENT; EXTENSION. (a) A state agency that intends to renew a major consulting services contract shall:

- (1) file with the secretary of state for publication in the Texas Register the information required by Section 2254.030 not later than the 20th day after the date the contract is renewed if the renewal contract is not a major consulting services contract; or
- (2) comply with Sections 2254.028 and 2254.029 if the renewal contract is a major consulting services contract.

(b) A state agency that intends to renew a contract that is not a major consulting services contract shall comply with Sections 2254.028 and 2254.029 if the original contract and the renewal contract have a reasonably foreseeable value totaling more than

\$15,000, or \$25,000 for an institution of higher education other than a public junior college.

(c) A state agency that intends to amend or extend a major consulting services contract shall:

(1) not later than the 20th day after the date the contract is amended or extended, file the information required by Section 2254.030 with the secretary of state for publication in the Texas Register if the contract after the amendment or extension is not a major consulting services contract; or

(2) comply with Sections 2254.028 and 2254.029 if the contract after the amendment or extension is a major consulting services contract.

(d) A state agency that intends to amend or extend a contract that is not a major consulting services contract shall comply with Sections 2254.028 and 2254.029 if the original contract and the amendment or extension have a reasonably foreseeable value totaling more than \$15,000, or \$25,000 for an institution of higher education other than a public junior college.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 11, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 1.31, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1266, Sec. 1.04, eff. June 20, 2003.

Sec. 2254.032. CONFLICTS OF INTEREST. (a) An officer or employee of a state agency shall report to the chief executive of the agency, not later than the 10th day after the date on which a private consultant submits an offer to provide consulting services to the agency, any financial interest that:

(1) the officer or employee has in the private consultant who submitted the offer; or

(2) an individual who is related to the officer or employee within the second degree by consanguinity or affinity, as determined under Chapter 573, has in the private consultant who submitted the offer.

(b) This section applies to all consulting services contracts and renewals, amendments, and extensions of consulting services

contracts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.033. RESTRICTION ON FORMER EMPLOYEES OF A STATE AGENCY. (a) An individual who offers to provide consulting services to a state agency and who has been employed by that agency or by another agency at any time during the two years preceding the making of the offer shall disclose in the offer:

(1) the nature of the previous employment with the agency or the other agency;

(2) the date the employment was terminated; and

(3) the annual rate of compensation for the employment at the time of its termination.

(b) A state agency that accepts an offer from an individual described in Subsection (a) shall include in the information filed under Section 2254.030 a statement about the individual's previous employment and the nature of the employment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.034. CONTRACT VOID. (a) A contract entered into in violation of Sections 2254.029 through 2254.031 is void.

(b) A contract entered into with a private consultant who did not comply with Section 2254.033 is void.

(c) If a contract is void under this section:

(1) the comptroller may not draw a warrant or transmit money to satisfy an obligation under the contract; and

(2) a state agency may not make any payment under the contract with state or federal money or money held in or outside the state treasury.

(d) This section applies to all consulting services contracts, including renewals, amendments, and extensions of consulting services contracts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 1.32, eff. June 19,

1999.

Sec. 2254.035. DIVIDING CONTRACTS. (a) A state agency may not divide a consulting services contract into more than one contract to avoid the requirements of this subchapter.

(b) This section applies to all consulting services contracts, including renewals, amendments, and extensions of consulting services contracts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.036. ARCHIVES. (a) On request, a state agency shall, after the agency's contract with a consultant has ended, supply the Legislative Budget Board and the governor's Budget and Planning Office with copies of all documents, films, recordings, or reports compiled by the consultant under the contract.

(b) Copies of all documents, films, recordings, or reports compiled by the consultant shall be filed with the Texas State Library and shall be retained by the library for at least five years.

(c) The Texas State Library shall list each document, film, recording, and report given to it under Subsection (b) and shall file the list at the end of each calendar quarter with the secretary of state for publication in the Texas Register.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 12, eff. June 19, 1997.

Sec. 2254.037. REPORTS. As part of the biennial budgetary hearing process conducted by the Legislative Budget Board and the governor's Budget and Planning Office, a state agency shall report to the Legislative Budget Board and the governor's Budget and Planning Office on any actions taken in response to the recommendations of any consultant with whom the state agency contracts during the previous biennium.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 13, eff. June 19, 1997.

Sec. 2254.038. MIXED CONTRACTS. This subchapter applies to a contract that involves both consulting and other services if the primary objective of the contract is the acquisition of consulting services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.039. COMPTROLLER'S RULES. (a) The comptroller shall adopt rules to implement and administer this subchapter. The comptroller's rules may not conflict with or cover a matter on which this subchapter authorizes the governor to adopt rules.

(b) The comptroller shall give proposed rules to the governor for review and comment before adopting the rules.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 3.15, eff. September 1, 2007.

Sec. 2254.040. PROCUREMENT BY COMPTROLLER. (a) The comptroller may, on request of a state agency, procure for the agency consulting services that are covered by this subchapter.

(b) The comptroller may require reimbursement for the costs it incurs in procuring the services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 426, Sec. 16, eff. June 18, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 1.75, eff. September 1, 2007.

SUBCHAPTER C. CONTINGENT FEE CONTRACT FOR LEGAL SERVICES

Sec. 2254.101. DEFINITIONS. In this subchapter:

(1) "Contingent fee" means that part of a fee for legal services, under a contingent fee contract, the amount or payment of which is contingent on the outcome of the matter for which the services were obtained.

(2) "Contingent fee contract" means a contract for legal services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained.

(3) "State governmental entity":

(A) means the state or a board, commission, department, office, or other agency in the executive branch of state government created under the constitution or a statute of the state, including an institution of higher education as defined by Section 61.003, Education Code;

(B) includes the state when a state officer is bringing a parens patriae proceeding in the name of the state; and

(C) does not include a state agency or state officer acting as a receiver, special deputy receiver, liquidator, or liquidating agent in connection with the administration of the assets of an insolvent entity under Article 21.28, Insurance Code, or Chapter 36, 66, 96, or 126, Finance Code.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.

Sec. 2254.102. APPLICABILITY. (a) This subchapter applies only to a contingent fee contract for legal services entered into by a state governmental entity.

(b) The legislature by this subchapter is providing, in accordance with Section 44, Article III, Texas Constitution, for the manner in which and the situations under which a state governmental entity may compensate a public contractor under a contingent fee contract for legal services.

(c) This subchapter does not apply to a contract:

(1) with a state agency to collect an obligation under Section 2107.003(b), (c), or (c-1); or

(2) for legal services entered into by an institution of higher education under Section 153.006, Education Code.

(d) This subchapter does not apply to a contract for legal services entered into by the Teacher Retirement System of Texas if the services are paid for from money that is not appropriated from the general revenue fund, including funds of a trust administered by the retirement system.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1266, Sec. 1.13, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1359, Sec. 31, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1386, Sec. 3, eff. September 1, 2007.

Sec. 2254.103. CONTRACT APPROVAL; SIGNATURE. (a) A state governmental entity that has authority to enter into a contract for legal services in its own name may enter into a contingent fee contract for legal services only if:

(1) the governing body of the state governmental entity approves the contract and the approved contract is signed by the presiding officer of the governing body; or

(2) for an entity that is not governed by a multimember governing body, the elected or appointed officer who governs the entity approves and signs the contract.

(b) The attorney general may enter into a contingent fee contract for legal services in the name of the state in relation to a matter that has been referred to the attorney general under law by another state governmental entity only if the other state governmental entity approves and signs the contract in accordance with Subsection (a).

(c) A state governmental entity, including the state, may enter into a contingent fee contract for legal services that is not described by Subsection (a) or (b) only if the governor approves and signs the contract.

(d) Before approving the contract, the governing body, elected

or appointed officer, or governor, as appropriate, must find that:

- (1) there is a substantial need for the legal services;
- (2) the legal services cannot be adequately performed by the attorneys and supporting personnel of the state governmental entity or by the attorneys and supporting personnel of another state governmental entity; and
- (3) the legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which the services will be obtained or because the state governmental entity does not have appropriated funds available to pay the estimated amounts required under a contract providing only for the payment of hourly fees.

(e) Before entering into a contingent fee contract for legal services in which the estimated amount that may be recovered exceeds \$100,000, a state governmental entity that proposes to enter into the contract in its own name or in the name of the state must also notify the Legislative Budget Board that the entity proposes to enter into the contract, send the board copies of the proposed contract, and send the board information demonstrating that the conditions required by Subsection (d)(3) exist. If the state governmental entity finds under Subsection (d)(3) that the state governmental entity does not have appropriated funds available to pay the estimated amounts required under a contract for the legal services providing only for the payment of hourly fees, the state governmental entity may not enter into the proposed contract in its own name or in the name of the state unless the Legislative Budget Board finds that the state governmental entity's finding with regard to available appropriated funds is correct.

(f) A contingent fee contract for legal services that is subject to Subsection (e) and requires a finding by the Legislative Budget Board is void unless the board has made the finding required by Subsection (e).

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.

Sec. 2254.104. TIME AND EXPENSE RECORDS REQUIRED; FINAL STATEMENT. (a) The contract must require that the contracting attorney or law firm keep current and complete written time and expense records that describe in detail the time and money spent each day in performing the contract.

(b) The contracting attorney or law firm shall permit the governing body or governing officer of the state governmental entity, the attorney general, and the state auditor each to inspect or obtain copies of the time and expense records at any time on request.

(c) On conclusion of the matter for which legal services were obtained, the contracting attorney or law firm shall provide the contracting state governmental entity with a complete written statement that describes the outcome of the matter, states the amount of any recovery, shows the contracting attorney's or law firm's computation of the amount of the contingent fee, and contains the final complete time and expense records required by Subsection (a). The complete written statement required by this subsection is public information under Chapter 552 and may not be withheld from a requestor under that chapter under Section 552.103 or any other exception from required disclosure.

(d) This subsection does not apply to the complete written statement required by Subsection (c). All time and expense records required under this section are public information subject to required public disclosure under Chapter 552. Information in the records may be withheld from a member of the public under Section 552.103 only if, in addition to meeting the requirements of Section 552.103, the chief legal officer or employee of the state governmental entity determines that withholding the information is necessary to protect the entity's strategy or position in pending or reasonably anticipated litigation. Information withheld from public disclosure under this subsection shall be segregated from information that is subject to required public disclosure.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.

Sec. 2254.105. CERTAIN GENERAL CONTRACT REQUIREMENTS. The

contract must:

(1) provide for the method by which the contingent fee is computed;

(2) state the differences, if any, in the method by which the contingent fee is computed if the matter is settled, tried, or tried and appealed;

(3) state how litigation and other expenses will be paid and, if reimbursement of any expense is contingent on the outcome of the matter or reimbursable from the amount recovered in the matter, state whether the amount recovered for purposes of the contingent fee computation is considered to be the amount obtained before or after expenses are deducted;

(4) state that any subcontracted legal or support services performed by a person who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm is an expense subject to reimbursement only in accordance with this subchapter; and

(5) state that the amount of the contingent fee and reimbursement of expenses under the contract will be paid and limited in accordance with this subchapter.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.

Sec. 2254.106. CONTRACT REQUIREMENTS: COMPUTATION OF CONTINGENT FEE; REIMBURSEMENT OF EXPENSES. (a) The contract must establish the reasonable hourly rate for work performed by an attorney, law clerk, or paralegal who will perform legal or support services under the contract based on the reasonable and customary rate in the relevant locality for the type of work performed and on the relevant experience, demonstrated ability, and standard hourly billing rate, if any, of the person performing the work. The contract may establish the reasonable hourly rate for one or more persons by name and may establish a rate schedule for work performed by unnamed persons. The highest hourly rate for a named person or under a rate schedule may not exceed \$1,000 an hour. This subsection applies to subcontracted work performed by an attorney, law clerk, or paralegal who is not a

contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm as well as to work performed by a contracting attorney or by a partner, shareholder, or employee of a contracting attorney or law firm.

(b) The contract must establish a base fee to be computed as follows. For each attorney, law clerk, or paralegal who is a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm, multiply the number of hours the attorney, law clerk, or paralegal works in providing legal or support services under the contract times the reasonable hourly rate for the work performed by that attorney, law clerk, or paralegal. Add the resulting amounts to obtain the base fee. The computation of the base fee may not include hours or costs attributable to work performed by a person who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm.

(c) Subject to Subsection (d), the contingent fee is computed by multiplying the base fee by a multiplier. The contract must establish a reasonable multiplier based on any expected difficulties in performing the contract, the amount of expenses expected to be risked by the contractor, the expected risk of no recovery, and any expected long delay in recovery. The multiplier may not exceed four without prior approval by the legislature.

(d) In addition to establishing the method of computing the fee under Subsections (a), (b), and (c), the contract must limit the amount of the contingent fee to a stated percentage of the amount recovered. The contract may state different percentage limitations for different ranges of possible recoveries and different percentage limitations in the event the matter is settled, tried, or tried and appealed. The percentage limitation may not exceed 35 percent without prior approval by the legislature. The contract must state that the amount of the contingent fee will not exceed the lesser of the stated percentage of the amount recovered or the amount computed under Subsections (a), (b), and (c).

(e) The contract also may:

(1) limit the amount of expenses that may be reimbursed;

and

(2) provide that the amount or payment of only part of the fee is contingent on the outcome of the matter for which the services

were obtained, with the amount and payment of the remainder of the fee payable on a regular hourly rate basis without regard to the outcome of the matter.

(f) Except as provided by Section 2254.107, this section does not apply to a contingent fee contract for legal services:

(1) in which the expected amount to be recovered and the actual amount recovered do not exceed \$100,000; or

(2) under which a series of recoveries is contemplated and the amount of each individual recovery is not expected to and does not exceed \$100,000.

(g) This section applies to a contract described by Subsection (f) for each individual recovery under the contract that actually exceeds \$100,000, and the contract must provide for computing the fee in accordance with this section for each individual recovery that actually exceeds \$100,000.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.

Sec. 2254.107. MIXED HOURLY AND CONTINGENT FEE CONTRACTS; REIMBURSEMENT FOR SUBCONTRACTED WORK. (a) This section applies only to a contingent fee contract:

(1) under which the amount or payment of only part of the fee is contingent on the outcome of the matter for which the services were obtained, with the amount and payment of the remainder of the fee payable on a regular hourly rate basis without regard to the outcome of the matter; or

(2) under which reimbursable expenses are incurred for subcontracted legal or support services performed by a person who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm.

(b) Sections 2254.106(a) and (e) apply to the contract without regard to the expected or actual amount of recovery under the contract.

(c) The limitations prescribed by Section 2254.106 on the amount of the contingent fee apply to the entire amount of the fee under the contingent fee contract, including the part of the fee the

amount and payment of which is not contingent on the outcome of the matter.

(d) The limitations prescribed by Section 2254.108 on payment of the fee apply only to payment of the contingent portion of the fee.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.

Sec. 2254.108. FEE PAYMENT AND EXPENSE

REIMBURSEMENT. (a) Except as provided by Subsection (b), a contingent fee and a reimbursement of an expense under a contract with a state governmental entity is payable only from funds the legislature specifically appropriates to pay the fee or reimburse the expense. An appropriation to pay the fee or reimburse the expense must specifically describe the individual contract, or the class of contracts classified by subject matter, on account of which the fee is payable or expense is reimbursable. A general reference to contingent fee contracts for legal services or to contracts subject to this subchapter or a similar general description is not a sufficient description for purposes of this subsection.

(b) If the legislature has not specifically appropriated funds for paying the fee or reimbursing the expense, a state governmental entity may pay the fee or reimburse the expense from other available funds only if:

(1) the legislature is not in session; and

(2) the Legislative Budget Board gives its prior approval for that payment or reimbursement under Section 69, Article XVI, Texas Constitution, after examining the statement required under Section 2254.104(c) and determining that the requested payment and the contract under which payment is requested meet all the requirements of this subchapter.

(c) A payment or reimbursement under the contract may not be made until:

(1) final and unappealable arrangements have been made for depositing all recovered funds to the credit of the appropriate fund or account in the state treasury; and

(2) the state governmental entity and the state auditor have received from the contracting attorney or law firm the statement required under Section 2254.104(c).

(d) Litigation and other expenses payable under the contract, including expenses attributable to attorney, paralegal, accountant, expert, or other professional work performed by a person who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm, may be reimbursed only if the state governmental entity and the state auditor determine that the expenses were reasonable, proper, necessary, actually incurred on behalf of the state governmental entity, and paid for by the contracting attorney or law firm. The contingent fee may not be paid until the state auditor has reviewed the relevant time and expense records and verified that the hours of work on which the fee computation is based were actually worked in performing reasonable and necessary services for the state governmental entity under the contract.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.

Sec. 2254.109. EFFECT ON OTHER LAW. (a) This subchapter does not limit the right of a state governmental entity to recover fees and expenses from opposing parties under other law.

(b) Compliance with this subchapter does not relieve a contracting attorney or law firm of an obligation or responsibility under other law, including under the Texas Disciplinary Rules of Professional Conduct.

(c) A state officer, employee, or governing body, including the attorney general, may not waive the requirements of this subchapter or prejudice the interests of the state under this subchapter. This subchapter does not waive the state's sovereign immunity from suit or its immunity from suit in federal court under the Eleventh Amendment to the federal constitution.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.

SUBCHAPTER D. OUTSIDE LEGAL SERVICES

Sec. 2254.151. DEFINITION. In this subchapter, "state agency" means a department, commission, board, authority, office, or other agency in the executive branch of state government created by the state constitution or a state statute.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 7.18, eff. June 18, 2003.

Sec. 2254.152. APPLICABILITY. This subchapter does not apply to a contingent fee contract for legal services.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 7.18, eff. June 18, 2003.

Sec. 2254.153. CONTRACTS FOR LEGAL SERVICES AUTHORIZED. Subject to Section 402.0212, a state agency may contract for outside legal services.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 7.18, eff. June 18, 2003.

Sec. 2254.154. ATTORNEY GENERAL; COMPETITIVE PROCUREMENT. The attorney general may require state agencies to obtain outside legal services through a competitive procurement process, under conditions prescribed by the attorney general.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 7.18, eff. June 18, 2003.

April 16, 2010

Re: Katherine Aguilar inquiry

DRAFT

Chairman Engelken:

At our last meeting the committee requested the following information which is attached:

- 1) Garson's note/mortgage information for when he paid off his loan to the city
- 2) The professional services contract with URS
- 3) A list of the landscape material for the plaza.
- 4) Lien on the apartment building property.
- 5) Lien on the tank removal on Garson's property.
- 6) The appraisal of the triangle property.
- 7) Copy of Garson's lease
- 8) A list of items Garson owes the City

The committee also requested staff to develop an art display policy for city hall, which we will be working on.

In addition, Ms. Aguilar submitted some additional questions, which I have attached. I have numbered her questions and provided answers to her questions, either listed here or in Knox's response:

- Questions 1, 2, 3 and 5 are answered in Knox's letter.
- No money flowed out of the City.
- Question #4: URS was selected based upon their submittal. As I recall, we requested proposals from three firms and heard from two: URS and Knudson. The original contract was for \$223,900. The final contract is for \$249,300 – change orders were issue for Geotechnical services (\$6,900) and audio and wifi design (\$18,500). Both URS and Knudson have landscape architects, with Knudson being a landscape architect firm.
- Question #6: We worked with Garson Silvers because he was the owner of the property. If it had been someone else who owned the property, we would have worked with them.
- Question #7: This project was discussed in detail at numerous City Council and La Porte Development Corporation meetings. The cost/benefit was a major part of this discussion and consideration of this project.

Please let me know if you have additional questions.



DRAFT

CONFLICT OF INTEREST AFFIDAVIT

THE STATE OF TEXAS §
COUNTY OF HARRIS §

I, Ed Matuszak as a member of the City of La Porte 4B
Corporation, make this affidavit and hereby on oath state the following: I have a
substantial interest in a business entity or real property as defined in Chapter 171, Texas Local
Government Code, and a vote is to be taken or a decision is to be made that will have a special
economic effect on this business entity or real property.

The agenda item on 2-4, 2008, affecting this business entity or real
property is: WORKS FOR COMPANY ON Agenda Item 7

COMPLETE (A) OR (B): (A) The business entity is _____ (name); or
(B) The real property is located at: _____

I have a substantial interest for the following reasons: (check all which are applicable)

- ☒ I work for the company
☐ Ownership of 10% or more of the voting stock or shares of the business entity.
☐ Ownership of 10% or more or \$15,000 or more of the fair market value of the
 business entity.
☐ Funds received from the business entity exceed 10% of gross income for the
 previous year.
☐ Real property is involved and I have an equitable or legal ownership of the
 property with a fair market value of at least \$2,500.
☐ A relative of mine has a substantial interest in the business entity or real
 property that would be affected by a decision of the public body of which I
 am a member.

Upon filing of this affidavit with the City Secretary, I affirm that I will abstain from voting on any
decision involving this business entity or real property and from any further participation on this
matter by discussion or debate.

Signed this 4th day of FEBRUARY, 2008.

Ed Matuszak
Signature of Official

THE STATE OF TEXAS §
COUNTY OF HARRIS §

Before me Martha Gilet
Ed Matuszak on this day personally appeared
Ed Matuszak known to me to be the person whose name is subscribed to the
foregoing instrument and acknowledged to me that he/she executed the same for the purposes and
consideration therein expressed.

Given under my hand and seal of office this 4th day of February, 2008.
(SEAL)

Martha Gilet
Notary Public in and for the State of Texas

**MINUTES OF THE SPECIAL CALLED REGULAR MEETING OF THE DEVELOPMENT CORPORATION
BOARD OF DIRECTORS
February 4, 2008**

EXHIBIT 26

1. Call to order

President Pat Muston called the meeting to order at 6:00 p.m.

Members Present: Love, Muston, Moser, Clausen, Wise and Matuszak.

Members/Officers Absent: Chuck Engelken and Michael Dolby.

Staff Present: City Manager Ron Bottoms, Assistant City Manager John Joerns, City Secretary Martha Gillett, Assistant City Attorney Clark Askins, Main Street Coordinator Debra Dye and Economic Development Coordinator Gretchen Black.

Others Present: Mayor Porter, Russell Plank and Mrs. Plank.

2. Motion was made by Board Member Matuszak to approve the Minutes of November 12, 2007 of the Special called Regular Meeting of La Porte Development Corporation Board with noted corrections. Second by Board Member Moser. Motion carried unanimously.

Ayes: Love, Muston, Moser, Matuszak, Wise and Clausen

Nays: None

Abstain: None

Absent: Chuck Engelken

3. Russell Plank presented report of status of Port Crossing Business Park and provided the board with marketing materials. He noted there will be future efforts in enhancing the landscaping and attracting retail and other businesses.

Board member Matuszak noted some concerns with light pollution on one of the buildings. Mr. Plank noted he would drive by after he left the meeting. If changes are needed he will move in that direction.

4. Gretchen Black presented status report regarding website refurbishment. The project will be paid for by the 4b Development Board and Main Street. The City's general fund will not contribute funds to the project.

5. Gretchen Black presented status report regarding city-wide Economic Development Strategic Plan. This project will be brought back for action.

It was the consensus of the board to keep this project moving forward.

6. Gretchen Black presented status report regarding Community Branding Campaign.

It was the consensus of the board to keep this project moving forward.

7. La Porte Development Corporation to consider setting a Public Hearing date of February 25th, 2008, to consider expenditure of funds for the Sylvan Beach Shoreline Protection and Beach Re-nourishment Project.

Motion was made by Board Member Love to set a Public Hearing date for February 25, 2008 as recommended. Second by Board Member Clausen. Motion carried.

Ayes: Love, Muston, Moser, Wise and Clausen

Nays: None

Abstain: Matuszak

Absent: Engelken

8. EXECUTIVE SESSION- PURSUANT TO PROVISION OF THE OPEN MEETINGS LAW. CHAPTER 551.071

THROUGH 551.076, 551.087, TEXAS GOVERNMENT CODE, (CONSULTATION WITH ATTORNEY, DELIBERATION ATTORNEYRNEY, DELIBERATION REGARDING REAL PROPERTY, DELIBERATION REGARDING PROSPECTIVE GIFT OR DONATION, PERSONNEL MATTERS, DELIBERATION REGARDING SECURITY DEVICES, OR EXCLUDING A WITNESS DURING EXAMINATION OF ANOTHER WITNESS IN AN INVESTIGATION, DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS)

SECTION 551.071 – (ECONOMIC DEVELOPMENT)

MEET WITH CITY MANAGER AND CITY ATTORNEY TO DISCUSS JOINT VENTURE COMPLEX, GOLF COURSE, MAIN STREET ENHANCEMENTS, RETAIL DEVELOPMENTS PROPOSED SYLVAN BEACH HOTEL PROJECT AND PROJECT SCHOOL

The La Porte Development Corporation retired to Executive Session at 6:53 p.m.

The La Porte Development Corporation returned to the Special Called Regular Meeting at 8:15 p.m.

6. CONSIDERATIONS AND POSSIBLE ACTION ON ITEMS CONSIDERED IN EXCECUTIVE SESSION

There was no action taken.

7. ANNOUNCEMENTS/ADMINISTRATIVE REPORTS – J. JOERNS/ G. BLACK

LAKES OF FAIRMONT GREENS SUBDIVISION

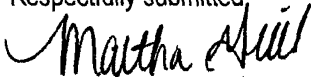
8. BOARD COMMENTS

Board Members had no comments.

9. ADJOURNMENT

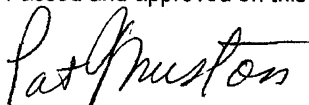
The meeting was duly adjourned at 8:24 p.m.

Respectfully submitted,



Martha Gillett,
City Secretary TRMC, CMC
La Porte Development Corporation Secretary

Passed and approved on this ^{28th} day of February, 2008.



Pat Muston, President

askins
& askins P.C.

ATTORNEYS and COUNSELORS

Knox W. Askins

Clark T. Askins

April 27, 2010

via email

Charles Engelken, Jr.
Chairman, Fiscal Affairs Committee

Daryl Leonard
Tommy Moser
Louis Rigby

Gentlemen:

You have requested my opinion on the application of conflict of interest law to directors of an economic development corporation.

I enclose a copy of page 11, paragraph 26, from "2008 Texas Conflict of Interest Laws", a manual published by the Texas Attorney General.

As you can see, the Attorney General states that Chapter 171 of the Texas Local Government Code does not apply to the directors of an economic development corporation, such as the City of La Porte Development Corporation.

Development corporations are non-profit corporations, under the Texas Non-Profit Corporation Act.

I also enclose a copy of page 6, article 5, paragraph 5.03, "Potential Conflicts of Interest", from the bylaws of the City of La Porte Development Corporation.

As you can see, the bylaws "declare" that the members of the board of directors of the development corporation are local public officials within the meaning of Texas Local Government Code Chapter 171.

Therefore, in my opinion, the directors of the City of La Porte Development Corporation are not covered public officials under Texas Local Government Code, Chapter 171. However, members of the board of directors of the City of La Porte Development Corporation are bound by the provisions of Article 5, "Potential Conflicts of Interest", Section 5.03, of the corporate bylaws.

Charles Engelken, Jr.
April 27, 2010
page 2

Yours very truly,



Knox W. Askins
City Attorney
City of La Porte

KWA:sw
Enclosures
cc: via email

Ron Bottoms
City Manager
City of La Porte

Clark T. Askins
Assistant City Attorney
City of La Porte



February 12, 2001

The Honorable Jim Solis
Chair, Committee on Economic Development
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

Opinion No. JC-0338

Re: Whether an Economic Development Board
may vote to approve funding for a business owned
by a member of the board (RQ-0279-JC)

Dear Representative Solis:

You ask whether the board of the San Benito Economic Development Corporation, created under section 4B of article 5190.6, Revised Civil Statutes, the Development Corporation Act of 1979 (the "Act"),¹ may vote to approve funding for a business owned by a member of that board. We do not know the nature of the proposed transaction, whether the funding is a loan, a grant subject to contractual restrictions, or some other transaction. Nor do we know the nature of the board member's ownership interest in the business or what kind of business it is. Accordingly, we will address the conflict of interest standards generally applicable to transactions between an economic development corporation and a member of the board. We conclude that the board of an economic development corporation may not approve a loan to a director of the corporation. *See* TEX. REV. CIV. STAT. ANN. art. 1396-2.25 (Vernon 1997). Otherwise, the corporation is not prohibited from entering into a contract or other transaction with a member of the board if it complies with the provisions of the Non-Profit Corporation Act governing transactions with directors. *See id.* art. 1396-2.30.

The purpose of the Development Corporation Act is to provide "means and measures . . . especially with respect to financing," to promote the economic welfare of the state by "the securing and retaining of business enterprises." *Id.* art. 5190.6, § 3(a)(4) (Vernon Supp. 2000). It authorizes a city, county, or conservation and reclamation district established under article XVI, section 59 of the Texas Constitution to create an industrial development corporation to act on its behalf in promoting economic development. *See id.* § 4(a); *see also id.* §§ 2(8), (13) (definitions), 3

¹SAN BENITO INDUSTRIAL DEVELOPMENT AUTHORITY INC., IDA POLICIES, *available at* <http://www.sbida.com/IDA> (last visited Nov. 29, 2000). *See also* Tex. Att'y Gen. Op. No. JC-0118 (1999) at 1 (requesting on behalf of San Benito and McAllen advice about section 4B of article 5190.6, Revised Civil Statutes).

(findings); *see generally Rayl v. Borger Econ. Dev. Corp.* 963 S.W.2d 109, 111 (Tex. App.—Amarillo 1998, no pet.). The corporation “shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of this state to nonprofit corporations incorporated under the Texas Non-Profit Corporation Act, as amended (Article 1396-1.01 et seq., Vernon’s Texas Civil Statutes),” except to the extent that its provisions are in conflict or inconsistent with the Act. TEX. REV. CIV. STAT. ANN. art. 5190.6, § 23(a) (Vernon Supp. 2000). Additional powers of the corporation are set out in the Act. *See id.* The unit of government that creates it “shall never delegate to a corporation any of such unit’s attributes of sovereignty, including the power to tax, the power of eminent domain, and the police power.” *Id.* § 22 (Vernon 1987). Pursuant to an express provision, a corporation established under section 4B “may exercise the power of eminent domain only on approval of the action by the . . . city” that created the corporation. *Id.* § 4B(j) (Vernon Supp. 2000). A development corporation’s exercise of powers is subject “at all times to the control of the governing body of the unit under whose auspices the corporation was created.” *Id.* § 23(a)(12).

Section 4B of article 5190.6 authorizes certain cities, as determined by population and other factors, to establish a development corporation to carry out projects as defined in section 4B(a)(2) of article 5190.6. *See id.* § 4B. The city may levy a sales and use tax for the benefit of the corporation, subject to voter approval. *See id.* § 4B(d). Corporations created under section 4B have the powers and are subject to the limitations of a corporation created under other provisions of article 5190.6, but to the extent of any conflict, section 4B prevails. *See id.* § 4B(b).

The governing body of the unit that created the corporation appoints its board of directors. *See id.* § 11 (Vernon 1987); *see also id.* § 6(8) (number of directors and the names of original directors are stated in the articles of incorporation). The board of a corporation created under section 4B consists of seven directors appointed by the governing body of the city for two-year terms and subject to removal by the governing body at any time without cause. *Id.* § 4B(c) (Vernon Supp. 2000).

Article 5190.6, Revised Civil Statutes, does not expressly address transactions by a development corporation in which a director has a personal financial interest. The directors of a development corporation are not subject to chapter 171 of the Local Government Code, which regulates conflicts of interest of local public officials. A “[l]ocal public official” within chapter 171 is a member of the governing body or another officer of “any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other local governmental entity.” TEX. LOC. GOV’T CODE ANN. § 171.001(a) (Vernon 1999). A corporation established under article 5190.6 “is not intended to be and shall not be a political subdivision or a political corporation within the meaning of the constitution and the laws of the state.” TEX. REV. CIV. STAT. ANN. art 5190.6, § 22 (Vernon 1987); *see* Tex. Att’y Gen. Op. Nos. JC-0109 (1999) at 2, JC-0032 (1999) at 2 (development corporations established under article 5190.6, Revised Civil Statutes, are not political subdivisions for purposes of the statute on sales of real property or the prevailing wage law). *See Central Appraisal Dist. of Erath County v. Pecan Valley Facilities, Inc.*, 704 S.W.2d 86, 89 (Tex. App.—Eastland 1985, writ ref. n.r.e.) (nonprofit corporation created to assist

a local mental health mental retardation region is not a governmental entity or agency for purpose of exemption from ad valorem tax); *see also* TEX. GOV'T CODE ANN. §§ 2253.001(1), .021(a) (Vernon 2000) (quasi-governmental authority with authority to make a public work contract is subject to statute requiring performance and payment bonds); *Transamerica Ins. Co. v. Housing Authority of City of Victoria*, 669 S.W.2d 818, 822 (Tex. App.-Corpus Christi 1984, writ ref. n.r.e.) (housing authority is a quasi-governmental entity subject to statute of limitations in performance and payment bond statute). We conclude that a development corporation created under the Act is not a political subdivision nor any other "local governmental entity" subject to chapter 171 of the Local Government Code.

However, article 5190.6 provides that corporations organized under the article "shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of this state to nonprofit corporations incorporated under the Texas Non-Profit Corporation Act, as amended (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes)," not inconsistent with article 5190.6. TEX. REV. CIV. STAT. ANN. art. 5190.6, § 23(a) (Vernon Supp. 2000). Corporations incorporated under the Texas Non-Profit Corporation Act have certain rights and privileges in connection with transactions between the corporation and its directors. Article 1396-2.25 provides that "[n]o loans shall be made by a corporation to its directors." *Id.* art. 1396-2.25(A) (Vernon 1997). If a loan is made to a director, the directors who vote for making the loan and any officers participating in making the loan, "shall be jointly and severally liable to the corporation for the amount of such loan until repayment thereof." *Id.* art. 1396-2.25(B). Thus, the board of the San Benito Economic Development Corporation may not approve a loan for a business owned by a member of the board.

A nonprofit corporation may enter into a transaction in which one of its directors has a financial interest subject to conditions designed to protect the interest of the corporation. *See id.* art. 1396-2.30. The Texas Non-Profit Corporation Act provides that a contract or transaction between a corporation and a director, or a corporation and another organization in which a director has a financial interest "is not void or voidable solely for that reason, solely because the director, officer, or member is present at or participates in the meeting of the board . . . that authorizes the contract or transaction, or solely because the director's, officer's, or member's votes are counted for that purpose," if one of the following provisions is satisfied:

(1) the material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to the board of directors, . . . and the board . . . in good faith and with ordinary care authorizes the contract or transaction by the affirmative vote of a majority of the disinterested directors or members, even though the disinterested directors or members are less than a quorum;

(2) the material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to the members entitled to vote on the contract or transaction, and the

contract or transaction is specifically approved in good faith and with ordinary care by vote of the disinterested members; or

(3) the contract or transaction is fair to the corporation when it is authorized, approved, or ratified by the board of directors

TEX. REV. CIV. STAT. ANN. art. 1396-2.30(A) (Vernon 1997). Interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors that authorizes the contract or transaction. *Id.* art. 1396-2.30(B).

If the corporation has adopted bylaws limiting its power to enter into a transaction in which a director is interested, the corporation must comply with its bylaws. *See id.* art. 1396-2.09 (authority to adopt bylaws). In the absence of such bylaws or if such bylaws are less strict, the corporation must comply with the standards set out in the Texas Non-Profit Corporation Act.

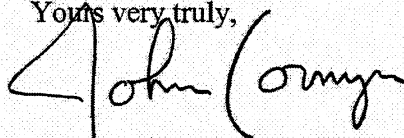
A development corporation's exercise of powers is subject "at all times to the control of the governing body of the unit under whose auspices the corporation was created." *Id.* art. 5190.6 § 23(a)(12) (Vernon Supp. 2000). The governing body is required to "approve all programs and expenditures of the corporation and annually review any financial statements of the corporation." *Id.* § 21. The corporation may not issue bonds without the approval of the governing body. *See id.* § 25. Thus, the governing body is in a position to review the corporation's decision to enter into a transaction in which a board member is financially interested and to determine whether it complies with the provisions of the Texas Non-Profit Corporation Act or with the corporation's bylaws, if they impose a stricter rule for conflicts of interest.

In summary, we conclude that the Texas Non-Profit Corporation Act prohibits the board of an economic development corporation from approving a loan to a director of the corporation. *See id.* art. 1396-2.25 (Vernon 1997). The board is not prohibited from entering into a contract or other transaction in which a member of the board is interested if it complies with the provisions of the Texas Non-Profit Corporation Act governing transactions between corporations and directors, *see id.* art. 1396-2.30, or, if the corporation's bylaws impose a stricter standard, with the latter standard. In reaching this conclusion on the conflict of interest issue, we do not address other legal issues that may be raised by the proposed transaction, nor do we express an opinion on the validity of the transaction.

S U M M A R Y

The board of an economic development corporation may not approve a loan to a director of the corporation. An economic development corporation is not prohibited by law from entering into other transactions with a member of the board or with an entity in which a board member is interested if it complies with the provisions of the Texas Non-Profit Corporation Act governing transactions between corporations and directors, or, in the event the corporation bylaws impose a stricter standard, with the bylaws.

Yours very truly,

A handwritten signature in black ink, appearing to read "John Cornyn", written over a horizontal line.

JOHN CORNYN

Attorney General of Texas

ANDY TAYLOR

First Assistant Attorney General

CLARK KENT ERVIN

Deputy Attorney General - General Counsel

SUSAN D. GUSKY

Chair, Opinion Committee

Susan L. Garrison

Assistant Attorney General - Opinion Committee

LOCAL GOVERNMENT OFFICER CONFLICTS DISCLOSURE STATEMENT

FORM CIS

(Instructions for completing and filing this form are provided on the next page.)

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This is the notice to the appropriate local governmental entity that the following local government officer has become aware of facts that require the officer to file this statement in accordance with Chapter 176, Local Government Code.

OFFICE USE ONLY

Date Received

1 Name of Local Government Officer

2 Office Held

3 Name of person described by Sections 176.002(a) and 176.003(a), Local Government Code

4 Description of the nature and extent of employment or other business relationship with person named in item 3

5 List gifts accepted by the local government officer and any family member, excluding gifts described by Section 176.003(a-1), if aggregate value of the gifts accepted from person named in item 3 exceed \$250 during the 12-month period described by Section 176.003(a)(2)(B)

Date Gift Accepted _____ Description of Gift _____

Date Gift Accepted _____ Description of Gift _____

Date Gift Accepted _____ Description of Gift _____

(attach additional forms as necessary)

6 AFFIDAVIT

I swear under penalty of perjury that the above statement is true and correct. I acknowledge that the disclosure applies to a family member (as defined by Section 176.001(2), Local Government Code) of this local government officer. I also acknowledge that this statement covers the 12-month period described by Section 176.003(a), Local Government Code.

Signature of Local Government Officer

AFFIX NOTARY STAMP / SEAL ABOVE

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

Signature of officer administering oath

Printed name of officer administering oath

Title of officer administering oath

LOCAL GOVERNMENT OFFICER CONFLICTS DISCLOSURE STATEMENT

Section 176.003 of the Local Government Code requires certain local government officers to file this form. A "local government officer" is defined as a member of the governing body of a local governmental entity; a director, superintendent, administrator, president, or other person designated as the executive officer of the local governmental entity; or an employee of a local governmental entity with respect to whom the local governmental entity has, in accordance with Section 176.005, extended the requirements of Sections 176.003 and 176.004. This form is required to be filed with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of this statement.

A local government officer commits an offense if the officer knowingly violates Section 176.003, Local Government Code. An offense under this section is a Class C misdemeanor.

Please refer to chapter 176 of the Local Government Code for detailed information regarding the requirement to file this form.

INSTRUCTIONS FOR COMPLETING THIS FORM

The following numbers correspond to the numbered boxes on the other side.

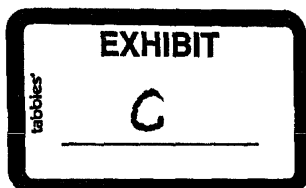
- 1. Name of Local Government Officer.** Enter the name of the local government officer filing this statement.
- 2. Office Held.** Enter the name of the office held by the local government officer filing this statement.
- 3. Name of person described by Sections 176.002(a) and 176.003(a), Local Government Code.** Enter the name of the person described by Section 176.002, Local Government Code with whom the officer has an employment or other business relationship as described by Section 176.003(a), Local Government Code.
- 4. Description of the nature and extent of employment or business relationship with person named in item 3.** Describe the nature and extent of the employment or other business relationship with the person in item 3 as described by Section 176.003(a), Local Government Code.
- 5. List gifts accepted, excluding gifts described by Section 176.003(a-1), if aggregate value of the gifts accepted from person named in item 3 exceed \$250.** List gifts accepted during the 12-month period (described by Section 176.003(a), Local Government Code) by the local government officer or family member of the officer, excluding gifts described by Section 176.003(a-1), from the person named in item 3 that in the aggregate exceed \$250 in value.
- 6. Affidavit.** Signature of local government officer.

A. U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	B. TYPE OF LOAN OMB No. 2502-0265 1. <input type="checkbox"/> FHA 2. <input type="checkbox"/> FMHA 3. <input type="checkbox"/> CONV. UNINS. 4. <input type="checkbox"/> VA 5. <input type="checkbox"/> CONV. INS. 6. FILE NUMBER: 07108752 7. LOAN NUMBER: EXHIBIT 30 B. MTG. INS. CASE NO.:
--	---

.NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked ("p.o.c.") were paid outside the closing: they are shown here for information purposes and are not included in the totals.

. NAME OF BORROWER: EAST A. DEVELOPMENT, L.P.	
ADDRESS: 1001 USENER, HOUSTON, TEXAS 77009	
. NAME OF SELLER: WADE COOPER	
ADDRESS: 2501 PINEBROOK LANE, SEABROOK, TEXAS 77586	SELLER TIN:
. NAME OF LENDER: LA PORTE ECONOMIC DEVELOPMENT CORPORATION	
ADDRESS:	
. PROPERTY LOCATION: NORTH 17FT OF LT 9, ALL OF LOTS 8,7,& 6, BLOCK 198 CITY OF LAPORTE 109 & 11 SAN JACINTO AVE TX	
. SETTLEMENT AGENT: STEWART TITLE COMPANY	CLOSER: PAM LESTER PHONE NUMBER: (713) 688-4300
ADDRESS: 9434 OLD KATY ROAD, SUITE 230 HOUSTON, TEXAS 77055	SETTLEMENT AGENT TIN: 74-0923770
PLACE OF SETTLEMENT: STEWART TITLE	PHONE NUMBER: (713) 688-4300
ADDRESS: 9434 OLD KATY ROAD, SUITE 230 HOUSTON, TEXAS 77055	. SETTLEMENT DATE Closing date: 10/29/08 Proration date: 10/29/08

J. SUMMARY OF BORROWER'S TRANSACTION		K. SUMMARY OF SELLER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER:		400. GROSS AMOUNT DUE TO SELLER:	
101. Contract sales price	295,000.00	401. Contract sales price	295,000.00
102. Personal property		402. Personal property	
103. Settlement charges to borrower(line 1400)	2,060.55	403.	
104.		404.	
105.		405.	
Adjustments for items paid by seller in advance:		Adjustments for items paid for seller in advance:	
106. City/town taxes to		406. City/town taxes to	
107. County taxes to		407. County taxes to	
108. Assessments to		408. Assessments to	
109. Maintenance to		409. Maintenance to	
110. School/Taxes to		410. School/Taxes to	
111.		411.	
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER:	297,060.55	420. GROSS AMOUNT DUE TO SELLER:	295,000.00
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:		500. REDUCTIONS IN AMOUNT DUE TO SELLER:	
201. Deposit or earnest money	100.00	501. Excess deposit(see instructions)	
202. Principal amount of new loan(s)	150,000.00	502. Settlement charges to seller(line 1400)	3,381.46
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204. Commitment Fee		504. Payoff of first mortgage loan	95,687.59
205.		505. Payoff of second mortgage loan	108,401.24
206. Option Fee	3,500.00	506. Option Fee	3,500.00
207. PAID TO SELLER	82,218.68	507. PAID TO SELLER	82,218.68
208. MTP, 08108647 -POCB 150,000.00		508.	
209.		509.	
Adjustments for items unpaid by seller:		Adjustments for items unpaid by seller:	
210. City/town taxes to		510. City/town taxes to	
211. County taxes 01/01/08 to 10/29/08	1,811.03	511. County taxes 01/01/08 to 10/29/08	1,811.03
212. Assessments to		512. Assessments to	
213. School/Taxes to		513. School/Taxes to	
214.		514. Maintenance to	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. TOTAL PAID BY/FOR BORROWER:	237,629.71	520. TOTAL REDUCTION IN AMOUNT:	295,000.00
300. CASH AT SETTLEMENT FROM/TO BORROWER:		600. CASH AT SETTLEMENT TO/FROM SELLER:	
301. Gross amount due from borrower(line 120)	297,060.55	601. Gross amount due to seller(line 420)	295,000.00
302. Less amounts paid by/for borrower(line 220)	237,629.71	602. Less total reductions in amount due seller(line 520)	295,000.00
303. CASH [X FROM] [] TO] BORROWER:	59,430.84	603. CASH [] TO] [X FROM] SELLER:	0.00



L. SETTLEMENT CHARGES

				PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION Based on \$	@	% =			
Division of Commission (line 700) as follows:					
701. \$	to				
702. \$	to				
703. Commission paid at settlement					
704.					
800. ITEMS PAYABLE IN CONNECTION WITH LOAN.					
801. Loan Origination fee	%				
802. Loan Discount	%				
803. Appraisal fee	to				
804. Credit Report	to				
805. Lender's inspection fee	to				
806. Mortgage Insurance application fee	to				
807. Assumption Fee	to				
808. Commitment Fee	to				
809. FNMA Processing Fee	to				
810. Pictures	to				
811.	to				
812.	to				
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE.					
901. Interest from	to	@ \$	/day		
902. Mortgage insurance premium for	mo. to				
903. Hazard insurance premium for	yrs. to				
904. Flood Insurance	yrs. to				
905.					
1000. RESERVES DEPOSITED WITH LENDER					
1001. Hazard Insurance	mo. @ \$		per mo.		
1002. Mortgage insurance	mo. @ \$		per mo.		
1003. City property taxes	mo. @ \$		per mo.		
1004. County property taxes	mo. @ \$		per mo.		
1005. Annual assessments (Maint.)	mo. @ \$		per mo.		
1006. School Property Taxes	mo. @ \$		per mo.		
1007. Water Dist. Prop. Tax	mo. @ \$		per mo.		
1008. Flood Insurance	mo. @ \$		per mo.		
1009. Aggregate Accounting Adjustment					
1100. TITLE CHARGES:					
1101. Settlement or closing fee	MTP, 08108647	to	STEWART TITLE	1,160.00	
1102. Abstract or title search	TAXCERT, 0810864	to	STEWART TITLE	64.95	
1103. Title examination	GTFFEE, 08108647	to	STEWART TITLE	5.00	
1104. Title insurance binder		to			
1105. Document preparation	RELEASE OF LIEN	to	RICHARD A. CROW, P.C.		100.00
1106. Notary fee		to			
1107. Attorney's fee to		to	BENJAMIN MILLER		175.00
(includes above items No.:)					
1108. Title insurance 50% to Richard A. Crow,		to	STEWART TITLE	432.60	1,884.00
(includes above items No.:)					
1109. Lender's coverage	150,000.00	\$	150.00		
1110. Owner's coverage	295,000.00	\$	2,166.60 Sur Del		
1111. Escrow fee		to	RICHARD A. CROW, P. C.	300.00	300.00
1112. Restrictions		to			
1113. Messenger Fee/Document Delivery		to	RICHARD A. CROW, P. C.	25.00	35.00
1114.		to			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES					
1201. Recording fees:	Deed \$ 25.00	Mrtg \$ 48.00	Rel. \$ 50.00	73.00	50.00
1202. City/county tax/stamps:	Deed \$	Mrtg \$			
1203. State tax/stamps:	Deed \$	Mrtg \$			
1204. Tax certificates		to	STEWART TITLE		64.95
1205.		to			
1206.		to			
1300. ADDITIONAL SETTLEMENT CHARGES					
1301. Survey		to			
1302. Pest inspection		to			
1303.		to			
1304. 2006 DELINQUENT TAXES		to	HARRIS COUNTY TAX ASSESSOR COLLECTOR		204.35
1305. 2007 DELINQUENT TAXES		to	LA PORTE CITY AND ISD		568.16
1400. TOTAL SETTLEMENT CHARGES (entered on lines 103, Section J and 502, Section K)				2,060.55	3,381.46

CERTIFICATION: I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of HUD-1 Settlement Statement.

Borrowers

I have caused or will cause the funds to be disbursed in accordance with this statement.

Sellers

Date

Settlement Agent

SEE PAGE 3 FOR SIGNATURES, IF APPLICABLE

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18: U.S. Code Section 1001 and Section 1010.

CERTIFICATION

Seller's and Purchaser's signature hereon acknowledges his/their approval of tax prorations and signifies their understanding that prorations were based on taxes for the preceding year or estimates for the current year, and in the event of any change for the current year, all necessary adjustments must be made between Seller and Purchaser; likewise any default in delinquent taxes will be reimbursed to Title Company by the Seller.



The parties have read and understood the above sentences, and recognize that the above recitations herein are material and important. The parties agree to these statements, and recognize Title Company is relying on these recitations in closing this transaction.

Title Company has deposited the earnest money that it has received in a demand deposit account that is federally insured to the maximum extent permitted by law. Demand deposit accounts are non-interest bearing pursuant to federal law, but offer immediately available funds for withdrawal after a check has cleared.

Title Company may receive other benefits from the financial institution where the funds are deposited. Based upon the deposit of escrow funds in demand deposit accounts and other relationships with the financial institution, Title Company is eligible to participate in a program offered by the financial institution whereby the title Company may (i) receive favorable loan terms and earn income from the investment of loan proceeds and (ii) receive other benefits offered by the financial institution.

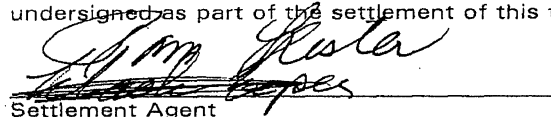
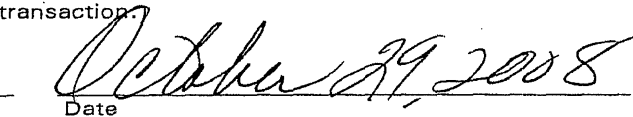
I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction.

I certify and acknowledge that I have received a copy of the HUD-1 Settlement Statement and have read and understood the disclosure state above.


Purchaser(s)/Borrower(s) 
Seller(s)

Purchaser(s)/Borrower(s) _____
Seller(s)

To the best of my knowledge, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of the funds which were received and have been or will be disbursed by the undersigned as part of the settlement of this transaction.


Settlement Agent 
Date

WARNING:

It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

Wire Transfer Report

Page 1 of 1

EXHIBIT 31

City of La Porte

Money Transfer Report
Printed on Oct 28, 2008 on 03:15 PM

Approved Transfers

Bank No	Cust No	Debit Account	Template	Beneficiary Bank Beneficiary Acct	Beneficiary Acct Name	Curr Transfer Amount	Pay Method	Status Fed Ref/Swift ID	Details
<u>Send Date: Oct 28, 2008</u>									
2008302000663	000055	0000312088 (USD) - City of La Porte Genl Oper Acct	312088	BANK ONE, N.A. 656525102	STEWART TITLE COMPANY ESCROW ACCOUN	USD 153,424.56	FW	Sent	Q
2008302000670	000056	0000312088 (USD) - City of La Porte Genl Oper Acct	312088	BANK ONE, N.A. 656525102	STEWART TITLE COMPANY ESCROW ACCOUN	USD 150,000.00	FW	Sent	Q

Total: USD 303,424.56 (2)

Approved Total: USD 303,424.56 (2)

Report Totals

	Curr	Amount	Processed
REPORT TOTAL:	USD	303,424.56	(2)

GEN 675

PROMISSORY NOTE

This Promissory Note (this "Note") is made by East A Developments, L.P., as maker, under the terms and conditions as follows:

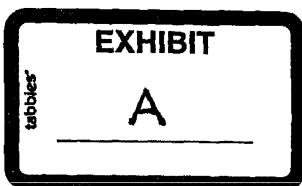
Article I DEFINITIONS

For purposes of this Note, the following defined terms shall have the meanings set forth in this Article I:

- 1.1 "*Borrower*" means East A Developments, L.P., a Texas limited partnership.
- 1.2 "*Borrower's Mailing Address*" means 1001 Usener, Houston, Harris County, Texas 77007.
- 1.3 "*Lender*" means La Porte Economic Development Corporation, a Texas non-profit corporation.
- 1.4 "*Place for Payment*" means 604 W. Fairmont Parkway, La Porte, Texas 77571.
- 1.5 "*Principal Amount*" means One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00).
- 1.6 "*Annual Interest Rate*" means Five Percent (5.00%) per year.
- 1.7 "*Maturity Date*" means the first day of the month following six (6) months after the Effective Date.
- 1.8 "*PSA*" means that certain Purchase and Sale Agreement by and between Lender and Borrower. The PSA is hereby incorporated by reference.
- 1.9 "*Effective Date*" means October 29th, 2008

Article II TERMS OF PAYMENT

2.1 Borrower promises to pay to the order of Lender the Principal Amount plus interest, compounding annually, at the Annual Interest Rate, the same being due and payable in equal monthly installments of **Six Hundred Twenty-Five Dollars and No Cents (\$625.00)**, on the first day of each month, beginning the first day of the calendar month after the Effective Date, and continuing until the Maturity Date, when the entire amount of remaining principal and accrued, unpaid interest will be payable in full.



2.2 Payments will be applied first to accrued interest and the remainder to reduction of the Principal Amount.

2.3 This Note is payable at the Place for Payment.

2.4 All unpaid amounts are due by the Maturity Date, at which time they will reach maturity. After maturity, Borrower promises to pay any unpaid principal balance plus interest at the Annual Interest Rate.

2.5 Borrower may prepay this Note in any amount at any time before the Maturity Date without penalty or premium.

2.6 This Note is secured by a deed of trust of even date herewith from Borrower to Knox Askins, trustee, (the "*Deed of Trust*") which covers the following real property (such real property being the "*Collateral Security*"):

All of Lots 6, 7, 8, 9, 10, and the West fifty-six and four tenths (56.4) feet of Lots 11, 12 and 13, in Block One Hundred Ninety-Eight (198) of TOWN OF LA PORTE, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 8, Page 16 of the Map Records of Harris County, Texas.

2.7 If Lender is obligated to indemnify Borrower under the terms of the PSA or if Lender defaults on the PSA, Borrower may elect to apply the amounts owed under the PSA to the outstanding, unpaid principal and accrued, unpaid interest, and such sums will be reduced by that amount.

Article III DEFAULT

3.1 An "*Event of Default*" exists under this Note if:

3.1.1 Borrower fails to timely pay or perform any obligation or covenant in this Note;

3.1.2 any warranty, covenant, or representation in this Note is materially false when made;

3.1.3 a receiver is appointed for Borrower or the Collateral Security;

3.1.4 any Collateral Security is assigned for the benefit of creditors;

3.1.5 a bankruptcy or insolvency proceeding is commenced by Borrower and continues for at least sixty (60) days; or

3.1.6 Borrower is dissolved, begins to wind up its affairs, or is authorized to dissolve or wind up its affairs by its governing body or persons.

3.2 If an Event of Default exists under this Note or the Deed of Trust, Lender may declare the unpaid principal balance, earned interest, and any other amounts owed on the Note immediately due.

3.3 If an Event of Default exists under this Note, before exercising any of Lender's remedies under this Note or the Deed of Trust, Lender shall first give Borrower written notice of default at Borrower's Mailing Address and Borrower will have ten (10) days after such notice is received to cure the default. In the event that this Section 3.3 conflicts with any other provision in this Note, this Section 3.3 will control.

Article IV MISCELLANEOUS

4.1 Interest on the debt evidenced by this Note will not exceed the maximum rate or amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law. Any interest in excess of that maximum amount will be credited on the Principal Amount or, if the Principal Amount has been paid, refunded. On any acceleration or required or permitted prepayment, any excess interest will be canceled automatically as of the acceleration or prepayment or, if the excess interest has already been paid, credited on the Principal Amount or, if the Principal Amount has been paid, refunded. This provision overrides any conflicting provisions in this Note and all other instruments concerning the debt.

4.2 Whenever a period of time in this Note is prescribed for action to be taken by Borrower, Borrower will be liable or responsible for, and there will be excluded from the computation of any corresponding deadline, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, government laws, regulations or restrictions or any other causes of any kind whatsoever which are beyond the reasonable control of Borrower.

4.3 The section and paragraph headings, titles and captions used in this Note are for convenience only and do not limit or amplify the provisions hereof.

4.4 Lender and Borrower each acknowledge that he has participated in the drafting of this Note, that this Note will not be construed against either party because it was the drafter, and that any rule of construction requiring that any provision of this Note be construed against a particular party because of that party's status as the drafter of the provision will be not be applicable to this Note.

4.5 When the context requires, singular nouns and pronouns include the plural.

4.6 This note will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. To the maximum extent permitted by law, venue for all purposes will be the Harris County, Texas.

EXECUTED AND EFFECTIVE AS OF THE EFFECTIVE DATE.

EAST A DEVELOPMENTS, L.P.

By: GSDB Management, L.L.C.,
its General Partner

By:

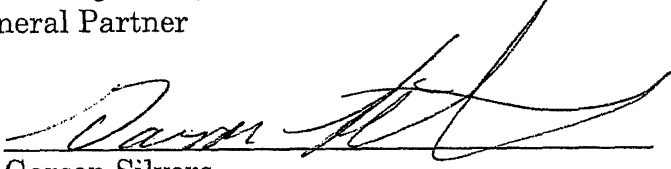

Garson Silvers,
Manager

EXHIBIT 33

6
DT
P
NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

DEED OF TRUST

THE STATE OF TEXAS

§

Know All Men By These Presents:

COUNTY OF HARRIS

§

§

October 29
THAT, this Deed of Trust ("*Deed of Trust*") is effective as of ~~September~~ 29, 2008 (the "*Effective Date*"), from EAST A DEVELOPMENTS, L.P., a Texas limited partnership (the "*Grantor*", whether one or more), to KNOX ASKINS, TRUSTEE (the "*Trustee*"), for the benefit of the La Porte Economic Development Corporation, a Texas non-profit corporation (the "*Beneficiary*"); and HLL

WHEREAS, Grantor has executed and delivered to Beneficiary that certain Note (as defined below) in conjunction with the execution of that certain Purchase and Sale Agreement by and between La Porte 5 Points Properties, L.P., Grantor and Beneficiary, dated October 29, 2008 (the "*PSA*");

WHEREAS, Grantor and Beneficiary desire to secure payment of that Note with the Property described below;

NOW, THEREFORE, in consideration of the sum of \$10.00, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY in trust unto Trustee, and his substitutes or successors, all of the following described property (the "*Property*") situated in Harris County, Texas:

All of Lots 6, 7, 8, 9, 10, and the West fifty-six and four tenths (56.4) feet of Lots 11, 12 and 13, in Block One Hundred Ninety-Eight (198) of TOWN OF LA PORTE, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 8, Page 16 of the Map Records of Harris County, Texas. D

TO HAVE AND TO HOLD the Property in trust unto Trustee, his successors in this trust and his assigns, forever, and Grantor does hereby bind Grantor, his respective heirs, legal representatives, successors and assigns, to warrant and defend the Property to Trustee, his successors and assigns, forever, against the claim or claims, of all persons whomsoever claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise, subject to the following exceptions:

EXHIBIT

B

Page 1

33-1

GF#: 07108152
21-A/RICHARD CROW
STEWART TITLE COMPANY

(i) any and all liens, encumbrances, reservations, restrictions, covenants, easements, rights of way, mineral interests and other matters, if any, of record in the County Clerk's Office of Harris County, Texas; (ii) all zoning, ordinances, regulations, restrictions, and other limitations imposed by any municipality with jurisdiction over the Property; and (iii) all matters which a survey and a physical inspection of the Property would reveal. If Grantor performs all the covenants and pays the Note according to its terms, this Deed of Trust shall have no further effect, and Beneficiary shall promptly release it.

Article I CONVEYANCE IN TRUST; PROMISSORY NOTE

1.1 Securing Payment In Trust. This conveyance is made IN TRUST to secure payment of that certain Promissory Note of even date herewith, in the principal amount of \$150,000.00, executed by Grantor, as maker, and payable to the order of Beneficiary, bearing interest and being payable as therein provided (the "Note"). To the extent that this Deed of Trust conflicts with the PSA, the PSA will control. The Agreement is hereby incorporated into this Deed of Trust by reference.

1.2 Payment of Note. The Note shall be payable at the address specified in the Note until Beneficiary gives written notice to Grantor designating another place of payment.

1.3 Application of Payments. All payments received by Beneficiary, however designated, shall be applied to the principal or interest of the Note or to expenses provided for in this Deed of Trust, or any combination of the foregoing, as directed by Beneficiary in accordance with the provisions of the Note.

Article II GRANTOR'S OBLIGATIONS

2.1 General Obligations. Grantor shall:

- 2.1.1 keep the property in good repair and condition;
- 2.1.2 pay all taxes and assessments on the property when due; and
- 2.1.3 preserve the lien's priority as it is established in this Deed of Trust;

2.2 Required Insurance Policy. Grantor shall maintain, in a form acceptable to Beneficiary, an insurance policy that:

- 2.2.1 covers all improvements for their full insurable value as determined when the policy is issued and renewed, unless Beneficiary approves a smaller amount in writing;
- 2.2.2 contains an 80% coinsurance clause;
- 2.2.3 provides fire and extended coverage, including windstorm coverage;
- 2.2.4 protects Beneficiary with a standard mortgage clause; and
- 2.2.5 provides flood insurance at any time the property is in a flood hazard area.

2.3 Insurance Policy Covenants. Grantor shall do the following things related to the above-mentioned insurance policy:

2.3.1 comply at all times with the requirements of the 80% coinsurance clause;

2.3.2 deliver the insurance policy to Beneficiary and deliver renewals to Beneficiary at least ten days before expiration; and

2.3.3 keep any buildings occupied as required by the insurance policy.

2.4 Prior Liens. If this Deed of Trust is not a first lien, Grantor shall pay all prior lien notes that Grantor is personally liable to pay and abide by all prior lien instruments.

2.5 Subsequent Liens. Grantor may obtain other liens or security interests securing the lending of money for the construction, affixation, creation, purchase, or addition of improvements of any type or nature to the Property (including, but not limited to, so called construction loans), and such other liens shall be superior to this Deed of Trust.

Article III BENEFICIARY'S RIGHTS

3.1 Successor Trustees. Beneficiary may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of Trustee, provided that Beneficiary does so in writing, provides a copy of the same to Grantor promptly upon doing so, and records the same in the Real Property Records of Harris County, Texas.

3.2 Application of Insurance Proceeds. Beneficiary may apply any proceeds received under the insurance policy either to reduce the Note or to repair or replace damaged or destroyed improvements covered by the policy.

3.3 Beneficiary Performance of Obligations. If Grantor fails to perform any of Grantor's obligations, Beneficiary may perform those obligations and be reimbursed by Grantor on demand for any sums so paid, including attorney's fees, plus interest on those sums from the dates of payment at the rate stated in the Note for matured, unpaid amounts. The sum to be reimbursed shall be secured by this Deed of Trust.

3.4 Grantor Default. If Grantor defaults on the Note or fails to perform any of Grantor's obligations and the default continues after Beneficiary gives Grantor notice of the default and the time within which it must be cured, as may be required by law or by written agreement, then Beneficiary may:

3.4.1 declare the unpaid principal balance and earned interest on the Note immediately due;

3.4.2 request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended; and

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

3.4.3 purchase the property at any foreclosure sale by offering the highest bid and then have the bid credited on the Note.

Article IV TRUSTEE'S DUTIES

4.1 Foreclosure Duties. If requested by Beneficiary to foreclose this lien, Trustee shall:

4.1.1 either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then amended; and

4.1.2 sell and convey all or part of the property to the highest bidder for cash with a general warranty binding Grantor, subject to prior liens and to other exceptions to conveyance and warranty.

4.2 Foreclosure Sale Proceeds. From the proceeds of such sale, Trustee shall pay, in this order:

4.2.1 first, expenses of foreclosure;

4.2.2 second, to Beneficiary, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;

4.2.3 third, any amounts required by law to be paid before payment to Grantor; and

4.2.4 fourth, to Grantor, any balance.

Article V GENERAL PROVISIONS

5.1 Surrender of Possession. If any of the property is sold under this Deed of Trust, Grantor shall immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.

5.2 Recitals. Recitals in any Trustee's deed conveying the property will be presumed to be true.

5.3 Election of Remedies. Proceeding under this Deed of Trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.

5.4 Superior Lien. Subject to the terms of this Deed of Trust, this lien shall remain superior to liens later created even if the time of payment of all or part of the Note is extended or part of the property is released.

5.5 Application of Payments. If any portion of the Note cannot be lawfully secured by this Deed of Trust, payments shall be applied first to discharge that portion.

5.6 Condemnation. Grantor assigns to Beneficiary all sums payable to or received by Grantor from condemnation of all or part of the property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the property. After deducting any expenses incurred, including attorney's fees, Beneficiary may release any remaining sums to Grantor or apply such sums to reduce the Note. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums.

5.7 Usury. Interest on the debt secured by this Deed of Trust shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all other instruments concerning the debt.

5.8 Context. When the context requires, singular nouns and pronouns include the plural. All pronouns include the male, female and neuter genders.

5.9 Assignment. This Deed of Trust shall bind, inure to the benefit of, and be exercised by successors in interest of all parties. Grantor may expressly assign its interest in the Property subject to the liens and obligations under the Note and this Deed of Trust, and the assignee shall assume the same, at which time, Beneficiary releases Grantor from any of the obligations under this Deed of Trust and the Note, and Grantor shall have no further obligations under the Note and this Deed of Trust.

5.10 Partial Release. Any part of the Property may be released by Beneficiary without affecting the lien hereof against the remainder of the Property.

5.11 Headings. The headings contained in this Deed of Trust are included for convenience of reference only and are in no way intended to describe, interpret, define or limit the scope intent or substance of this Deed of Trust or any provision hereof.

5.12 Governing Law. This Deed of Trust shall be governed by and construed and enforced in accordance with the laws of the State of Texas without giving effect to any conflicts-of-law rule or procedure which would refer the matter to another jurisdiction.

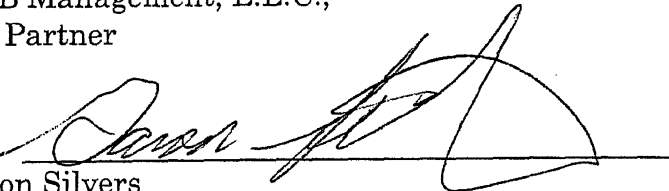
5.13 Notice. All notices, requests, demands and other communications required or permitted to be given hereunder shall be deemed to have been duly given if in writing and delivered personally or mailed first class, postage prepaid, registered or certified United States mail, to such address as provided below.

IN WITNESS WHEREOF, the undersigned executes this Agreement as of the date of the acknowledgment set forth below, but to be effective as of the Effective Date.

GRANTOR:

EAST A DEVELOPMENTS, L.P.

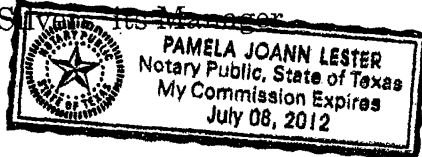
By: GSDB Management, L.L.C.,
its General Partner

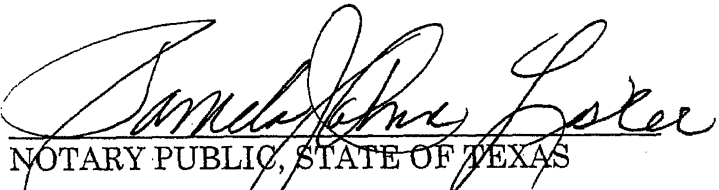
By: 
Garson Silvers
Manager

THE STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on the 29th day of October, 2008, by East A Developments, L.P., by GSDB Management, L.L.C., its General Partner, by Garson Silvers, its Manager.




NOTARY PUBLIC, STATE OF TEXAS

ADDRESS OF GRANTOR:

1001 Usener
Houston, Harris County, Texas 77007.

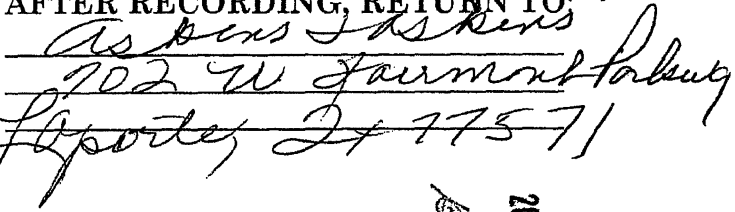
ADDRESS OF BENEFICIARY:

604 W. Fairmont Parkway
La Porte, Harris County Texas 77571

MAILING ADDRESS OF TRUSTEE:

Askins & Askins, P.C.
702 W. Fairmont Parkway
La Porte, Texas 77571

AFTER RECORDING, RETURN TO:


Askins & Askins
702 W. Fairmont Parkway
La Porte, TX 77571

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW. THE STATE OF TEXAS COUNTY OF HARRIS
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED. In the Official Public Records of Real Property of Harris County, Texas on

OCT 31 2008




Beverly L. Kaufman
COUNTY CLERK
HARRIS COUNTY, TEXAS

33-6

COUNTY CLERK
HARRIS COUNTY, TEXAS

2008 OCT 31 PM 1:14

FILED

RELEASE OF LIEN

THAT the undersigned, the legal and equitable owner and holder of that one certain promissory note hereinafter described, for and in consideration of the full and final payment of all indebtedness secured by the hereinafter lien or liens, the receipt of which is hereby acknowledged, has released and discharged, and by these presents releases and discharges, the hereinafter described property from all liens held by the undersigned securing said indebtedness, to-wit:

Date of Note: October 29, 2008
Amount of Note: \$150,000.00
Executed by: East A Developments, LP
Payable to: La Porte Economic Development Corporation
Recording References: Deed of Trust: 20080542456

Property Description:

All of Lots 6, 7, 8, 9, 10, and the West fifty-six and four tenths (56.4) feet of Lots 11, 12 and 13, in Block One Hundred Ninety-Eight (198) of TOWN OF LA PORTE, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 8, page 16 of the Map Records of Harris County, Texas.

Date: March 12, 2009.

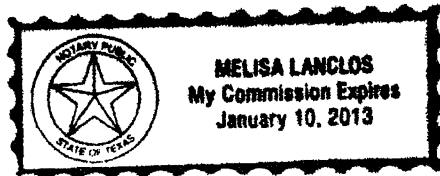
La Porte Economic Development Corporation

By: 

Ron Bottoms, Manager

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 12 day of March, 2009, by Ron Bottoms, Manager of La Porte Economic Development Corporation, a Texas non profit corporation, on behalf of said entity.



Melisa Lanclos
Notary Public, State of Texas

AFTER RECORDING RETURN TO:

PREPARED IN THE LAW OFFICE OF:

ASKINS & ASKINS, P.C.
P.O. Box 1218
La Porte, TX 77572-1218



Secure Mailbox

[SIGN OUT](#) [? HELP](#)

MESSAGES

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- [Sent Items](#)
- [Search](#)
- [Compose](#)

MY FOLDERS

[Manage Folders](#)

ACCOUNT INFO

- [Preferences](#)
- [Change Password](#)

VIEW MESSAGE

SUBJECT: 175 Wire Advice *2009032700005379*
FROM: wiretransfnotification@zbcorp.com
TO: RINEHARTP@LAPORTETX.GOV
SENT: Fri 27 Mar 2009 13:39:55 MDT
EXPIRES: Mon 06 Apr 2009 13:39:55 MDT

[Reply](#) [Reply to All](#) [Forward](#) [Delete](#) [Move to Folder ...](#) [Move](#)



Wire Confirmation

Transaction Type: Credit

Transaction Reference Number: 2009032700005379

Account Name:

CITY OF LA PORTE
GENERAL OPERATING ACCOUNT,ATTN PHYL
604 W FAIRMONT PKWY

Transaction Posting Time: ****/03/27 13:33:22

Transaction Amount:153,183.70 USD

Rate: 0.

Rate Type: Direct

Transaction Amount in Base Currency:153,183.70 USD

Debit Party Information:

*A/*****0021
JPMORGAN CHASE BANK, NA
NEW YORK, NY
Sender's Reference: 3816600086JO

Originating Party Information:

/*****5102
STEWART TITLE OF HOUSTON
ESCROW ACCT
4700 W SAM HOUSTON PKWY N STE 170
HOUSTON TX 77041-8210

Credit Party Information:

D/*****2088/

CITY OF LA PORTE

GENERAL OPERATING ACCOUNT,ATTN PHYL

604 W FAIRMONT PKWY

LA PORTE TX 77571-6215 77571

Originator To Beneficiary Information:

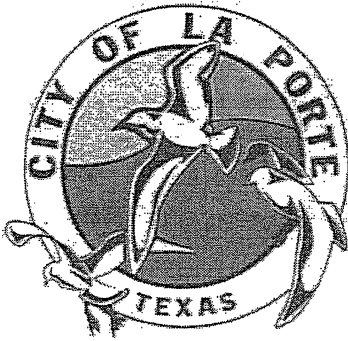
GF NO 09108323 109-117 SAN JACINTO

Additional Information:

IMAD - 0327B1QGC04C00475603271525FT01/0327L4B74B3C00208503271525FT01

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City of La Porte

Established 1892

Amegy Bank
of Texas

James W. Prickett

Senior Vice President
Commercial Lending

Amegy Bank N.A.
1401 Fairmont Parkway
La Porte, TX 77571

Tel: 713.232.5801
Fax: 713.571.5007
james.prickett@amegybank.com

July 20, 2010

Amegy Bank
1401 Fairmont Parkway
La Porte, TX 77571

24 Hour Accessline: 713.235.8810

www.amegybank.com

To Whom It May Concern:

We have engaged the CPA firm, Belt Harris Pechacek, LLLP, to perform an agreed upon procedures engagement. As a part of this engagement, please furnish directly to them the name(s) of the accountholder(s) for the following wire transfer:

- | | |
|-----------------------------------|---|
| 1) Date of Transfer: | March 27, 2009 |
| 2) Amount of Transfer: | \$153,183.70 |
| 3) Account number transferred to: | 0000312088 |
| 4) Account Name: | City of La Porte General
Operating Account |
| 5) Transaction Reference Number: | 2009032700005379 |

The accountholder(s) of the wire transfer in question are:

Originator: Stewart Title of Houston GF#1303003264

Completed by: James W. Prickett
2-27-10 James W. Prickett
Senior Vice President

Amegy Bank N.A./LaPorte Office

After completing the above information (attach additional sheets if necessary) and signing and dating your reply, please mail it directly to, Belt Harris Pechacek LLLP, c/o Stephanie E. Harris, CPA, 730 North Post Oak Rd, Suite 401, Houston, Texas 77024, in the enclosed return envelope.

Very truly yours,

Michael Dolby, Director of Finance
City of La Porte, Texas

A. U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		B. TYPE OF LOAN OMB No. 2502-0265 1. <input type="checkbox"/> FHA 2. <input type="checkbox"/> FMHA 3. <input type="checkbox"/> CONV. UNINS. 4. <input type="checkbox"/> JVA 5. <input type="checkbox"/> CONV. INS. 6. FILE NUMBER: 08108646 7. LOAN NUMBER: _____ 8. MTG. INS. CASE NO.: _____	
C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked ("p.o.c.") were paid outside the closing; they are shown here for information purposes and are not included in the totals.			
D. NAME OF BORROWER: LA PORTE ECONOMIC DEVELOPMENT CORPORATION ADDRESS: _____			
E. NAME OF SELLER: LA PORTE 5 POINTS PROPERTIES, L.P. ADDRESS: _____ SELLER TIN: _____			
F. NAME OF LENDER: _____ ADDRESS: _____			
G. PROPERTY LOCATION: ALL OF BLK 199, TOWN OF LAPORTE, VOL. 8 PG 16 MRHCT BROADWAY AND A & SAN JACINTO TX			
H. SETTLEMENT AGENT: STEWART TITLE COMPANY ADDRESS: 9434 OLD KATY ROAD, SUITE 230 HOUSTON, TEXAS 77055		CLOSER: PAM LESTER PHONE NUMBER: (713) 688-4300 SETTLEMENT AGENT TIN: 74-0923770	
PLACE OF SETTLEMENT: STEWART TITLE ADDRESS: 1900 NORTH LOOP WEST, STE 650 HOUSTON, TEXAS 77018		PHONE NUMBER: (713) 688-4300 SETTLEMENT DATE Closing date: 10/29/08 Proration date: 10/29/08	
J. SUMMARY OF BORROWER'S TRANSACTION		K. SUMMARY OF SELLER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER:		400. GROSS AMOUNT DUE TO SELLER:	
101. Contract sales price	150,000.00	401. Contract sales price	150,000.00
102. Personal property		402. Personal property	
103. Settlement charges to borrower (line 1400)	3,749.00	403.	
104.		404.	
105.		405.	
Adjustments for items paid by seller in advance:		Adjustments for items paid for seller in advance:	
106. City/town taxes to		406. City/town taxes to	
107. County taxes to		407. County taxes to	
108. Assessments to		408. Assessments to	
109. Maintenance to		409. Maintenance to	
110. School/Taxes to		410. School/Taxes to	
111.		411.	
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER:	153,749.00	420. GROSS AMOUNT DUE TO SELLER:	150,000.00
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:		500. REDUCTIONS IN AMOUNT DUE TO SELLER:	
201. Deposit or earnest money		501. Excess deposit (see instructions)	
202. Principal amount of new loan(s)		502. Settlement charges to seller (line 1400)	1,734.95
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204. Commitment Fee		504. Payoff of first mortgage loan	
205.		505. Payoff of second mortgage loan	
206.		506.	
207.		507.	
208.		508.	
209.		509.	
Adjustments for items unpaid by seller:		Adjustments for items unpaid by seller:	
210. City/town taxes to		510. City/town taxes to	
211. County taxes 01/01/08 to 10/29/08	324.44	511. County taxes 01/01/08 to 10/29/08	324.44
212. Assessments to		512. Assessments to	
213. School/Taxes to		513. School/Taxes to	
214.		514. Maintenance to	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. TOTAL PAID BY/FOR BORROWER:	324.44	520. TOTAL REDUCTION IN AMOUNT:	2,059.39
300. CASH AT SETTLEMENT FROM/TO BORROWER:		600. CASH AT SETTLEMENT TO/FROM SELLER:	
301. Gross amount due from borrower (line 120)	153,749.00	601. Gross amount due to seller (line 420)	150,000.00
302. Less amounts paid by/for borrower (line 220)	324.44	602. Less total reductions in amount due seller (line 520)	2,059.39
303. CASH [X FROM] [] TO BORROWER:	153,424.56	603. CASH [X TO] [] FROM SELLER:	147,940.61

File 08106646

L. SETTLEMENT CHARGES

		PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION Based on \$			
Division of Commission (line 700) as follows:			
701. \$	to		
702. \$	to		
703. Commission paid at settlement			
704.			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN.			
801. Loan Origination fee	%		
802. Loan Discount	%		
803. Appraisal fee	to		
804. Credit Report	to		
805. Lender's inspection fee	to		
806. Mortgage Insurance application fee	to		
807. Assumption Fee	to		
808. Commitment Fee	to		
809. FHMA Processing Fee	to		
810. Placements	to		
811.	to		
812.	to		
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE.			
901. Interest from	to	\$	/day
902. Mortgage Insurance premium for	mo. to		
903. Hazard Insurance premium for	yrs. to		
904. Flood Insurance	yrs. to		
905.			
1000. RESERVES DEPOSITED WITH LENDER			
1001. Hazard Insurance	mo. @ \$	per mo.	
1002. Mortgage Insurance	mo. @ \$	per mo.	
1003. City property taxes	mo. @ \$	per mo.	
1004. County property taxes	mo. @ \$	per mo.	
1005. Annual assessments (MIHL)	mo. @ \$	per mo.	
1006. School Property Taxes	mo. @ \$	per mo.	
1007. Water Dist. Prop. Tax	mo. @ \$	per mo.	
1008. Flood Insurance	mo. @ \$	per mo.	
1009. Assesment Accounting Adjustment			
1100. TITLE CHARGES:			
1101. Settlement or closing fee	to		
1102. Abstract or title search	to		
1103. Title examination	to		
1104. Title insurance binder	to		
1105. Document preparation	to		
1106. Notary fee	to		
1107. Attorney's fee to	to		
(includes above items No.:			
1108. Title insurance 50% to RICHARD A. CROW, to STEWART TITLE	to	166.50	1,110.00
(includes above items No.:			
1109. Lender's coverage	\$		
1110. Owner's coverage	150,000.00 \$	1,276.50 Sur Del	
1111. Escrow fee	to RICHARD A. CROW, P. C.	360.00	300.00
1112. Restrictions	to		
1113. Messenger Fee/Document Delivery	to RICHARD A. CROW, P. C.	10.00	10.00
1114. INSPECTION	to NEORA SMITH		250.00
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording fees: Deed \$ 25.00 Mrg \$ Rel. \$		25.00	
1202. City/county tax/ramp: Deed \$ Mrg \$			
1203. Sale tax/ramp: Deed \$ Mrg \$			
1204. Tax certificates	to STEWART TITLE		64.95
1205.	to		
1206.	to		
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey REIMBURSEMENT	to GAYSON SILVERS	3,247.50	
1302. Pen Inspection	to		
1303.	to		
1304.	to		
1305.	to		
1400. TOTAL SETTLEMENT CHARGES (entered on lines 103, Section 3 and 502, Section 10)		3,749.00	1,734.95

CERTIFICATION: I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of HUD-1 Settlement Statement.

Borrowers

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

Sellers

Settlement Agent

Date

SEE PAGE 3 FOR SIGNATURES, IF APPLICABLE

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18, U.S. Code Section 1001 and Section 1010.

Page 3 to be affixed to
HUD-1 Settlement Statement
File No.: 08108646

CERTIFICATION

Seller's and Purchaser's signature hereon acknowledges his/her approval of tax proration and signifies their understanding that prorations were based on taxes for the preceding year or estimates for the current year, and in the event of any change for the current year, all necessary adjustments must be made between Seller and Purchaser; likewise any default in delinquent taxes will be reimbursed to Title Company by the Seller.

The parties have read and understood the above sentences, and recognize that the above recitations herein are material and important. The parties agree to these statements, and recognize Title Company is relying on these recitations in closing this transaction.

Title Company has deposited the earnest money that it has received in a demand deposit account that is federally insured to the maximum extent permitted by law. Demand deposit accounts are non-interest bearing pursuant to federal law, but offer immediately available funds for withdrawal after a check has cleared.

Title Company may receive other benefits from the financial institution where the funds are deposited. Based upon the deposit of escrow funds in demand deposit accounts and other relationships with the financial institution, Title Company is eligible to participate in a program offered by the financial institution whereby the title company may (i) receive favorable loan terms and earn income from the investment of loan proceeds and (ii) receive other benefits offered by the financial institution.

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction.

I certify and acknowledge that I have received a copy of the HUD-1 Settlement Statement and have read and understood the disclosure state above.

By: LA PORTE ECONOMIC DEVELOPMENT CORPORATION
Purchaser(s)/Borrower(s)

Seller(s)

Purchaser(s)/Borrower(s)

Seller(s)

To the best of my knowledge, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of the funds which were received and have been or will be disbursed by the undersigned as part of the settlement of this transaction.

Settlement Agent

Date

WARNING:

It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

EXHIBIT 38

LA PORTE TAX OFFICE
PO BOX 1849

LA PORTE TX 775721849
Phone: (281) 471-5020
2/25/09

HCAD Number
024-004-099-0001

3806

LA PORTE ECONOMIC DEVELOPMENT
CORP
604 W FAIRMONT PKWY
LA PORTE, TX 77571-6215

Legal Description
151 S BROADWAY ST
LTS 1 THRU 9 BLK 199
LA PORTE

* * DELINQUENT TAX STATEMENT * *

TAX YEAR =====	BASE TAX =====	PENALTY/INT =====	OTHER +/- =====	TOTAL D =====
08 CLP	99.84	6.99	.00	106.
08 ILP	186.32	13.04	.00	199.
TOTAL 08	286.16	20.03	.00	306.
Total Due	286.16	20.03	.00	306.
Total amount due if paid during the month of February				306.
March				<u>311.</u>
April				317.

This is a statement of your delinquent REAL PROPERTY
as of 02/25/09.

ON JULY 1ST ALL UNPAID TAXES ARE TURNED OVER TO DELINQUENT TAX ATTORNE
FOR COLLECTION AND ARE ALSO SUBJECT TO AN ADDITIONAL COLLECTION
PENALTY CURRENTLY IN THE AMOUNT OF 20%, WITH THE EXCEPTION OF THE
CITY OF MORGAN'S POINT, WHICH HAS AN ADDITIONAL PENALTY IN THE
AMOUNT OF 15%. IF THIS PROPERTY IS AFFECTED BY BANKRUPTCY THE
TAX YEARS SUBJECT TO THE BANKRUPTCY IS INFORMATIONAL ONLY.

Phyllis Rinehart (A)
City of La Porte
604 W Fairmont Parkway
La Porte, TX 77571

Accepted on: Oct 28, 2008 at 02:56:04 PM
Send Date: Oct 28, 2008

Debit Bank: 175 - Amegy Bank
Debit Account: 0000312088 - City of La Porte Genl Oper
Acct

Credit Bank: 111000614 - BANK ONE, N.A.
Credit Account: 656525102 - STEWART TITLE COMPANY ESCROW
ACCOUN
4700 W SAM HOUSTON PKWY, STE 140
HOUSTON, TEXAS 77041

Debit Currency: USD - US Dollar
Debit Amount: 153,424.56
Template ID: 312088 - 1 Approvers
Originator-to- line 1 - GF#08108646
Beneficiary:
Entry Cust/User: 175LAPORTE - PHYLLIS

Credit Currency: USD - US Dollar
Credit Amount: 153,424.56

Entry
Date/Time: Oct 28, 2008 - 02:56:05 PM
Charges: Shared

Bank Trace #: 2008302000663

Cust Pending #: 000060

Addtl Approvers Required: 1

In order to submit a Money Transfer request on the account numbers described above, approval is required. Please press the print button on your browser to generate a hard copy of this wire transfer request.

INTERNATIONAL FOREIGN CURRENCY WIRE ALERT - When selecting a beneficiary bank, please ensure that you select a SWIFT code that ends in XXX. This will route your wire in the currency you select. If you select a SWIFT code that does not end in XXX, please review the target bank information displayed in addition to the beneficiary bank information. If the target bank is a domestic bank, the transfer will occur in US dollars, not your designated currency. For ANY questions concerning wires, please contact TM Customer Service at 713-235-8805.



PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into by and between LA PORTE 5 POINTS PROPERTIES, L.P., a Texas limited partnership ("Seller"), and LA PORTE ECONOMIC DEVELOPMENT CORPORATION, a Texas non-profit corporation ("Purchaser"), as of the Effective Date (as hereinafter defined).

- 1 Agreement. For and in consideration of the mutual benefits enjoyed by each of the parties to this Agreement, Seller agrees to sell and convey to Purchaser, and Purchaser agrees to purchase and accept conveyance of, the Property (as hereinafter defined) pursuant to the terms and conditions herein set forth.
- 2 The Property. The property which is the subject of this Agreement is the fee simple title in and to that certain real property, as more particularly described on Exhibit "A" attached hereto, together with all improvements, fixtures, equipment, and other personal property owned by Seller thereon, and located on or about or used in connection with said real property, if any, and all of Seller's right, title, and interest, if any, in and to all easements, tenements, hereditaments, privileges, and appurtenances in any way belonging or relating to the foregoing, including, without limitation, (i) any land to the midpoint of the bed of any highway, street, road, or avenue, open or proposed, in front of, abutting, or adjoining such land, (ii) any land lying in or under the bed of any creek, stream, bayou, or river running through, abutting, or adjacent to such land, (iii) any riparian, appropriative, or other water rights of Seller appurtenant to such land and relating to surface or subsurface waters, (iv) any oil, gas, or other minerals or mineral rights relating to such land or to the surface or subsurface thereof (v) any strips, gores, or pieces of property abutting, bounding or which are adjacent or contiguous to such land, and (vi) all easements, right-of-ways, rights of ingress, or egress and reversionary interests benefitting such land (collectively, the "Property").
- 3 Purchase Price. Seller agrees to accept and Purchaser agrees to pay as consideration for the sale of the Property (the "Purchase Price"), subject to the terms of this Agreement, an amount equal to ONE HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (\$150,000.00).
- 4 Seller's Title. Ten (10) days following the Effective Date, Seller, at its sole cost and expense, shall furnish to Purchaser a Commitment for Title Insurance covering the Property prepared by Stewart Title Company (the "Commitment"), addressed to Purchaser, pursuant to which the Title Company shall commit to issue to Purchaser a Texas Owner's Policy of Title Insurance ("Title Policy").
- 5 Survey. Purchaser acknowledges that Seller has provided its most recent survey of the Property. Any further surveys will be done at Seller's sole cost and expense.
- 6 Documents Relating to the Property. Fifteen (15) days following the Effective Date, Seller, at its sole cost and expense, shall deliver to Purchaser true and correct copies of the following documents and materials (collectively, the "Due Diligence Materials"):
 - 6.1 any existing environmental reports concerning the Property in Seller's possession or under its direction and control;
 - 6.2 copies of all tenant leases concerning the Property;
 - 6.3 copies of all service contracts related to the Property;
 - 6.4 copies of all insurance policies concerning or related to the Property; and
 - 6.5 copies of all building plans and specifications related to the property.
- 7 On-Site Inspections. Until the Closing Date or earlier termination of this Agreement, Purchaser may, at Purchaser's expense, conduct all on-site inspections of the Property determined by Purchaser to be necessary or appropriate to determine whether the Property is suitable for Purchaser's intended use, including, without limitation, the testing and inspection of the Property (and its subsurface) for any environmental contamination and for its suitability for development, the taking of ground water and core samples, soil tests, topographical and fault

studies, and all other surveys, studies, tests and analysis desired by Purchaser. Seller hereby grants to Purchaser and its designated agents or contractors the right to enter upon the Property to perform such inspections, tests, and other studies; provided, however, that (i) Purchaser shall repair any material physical damage or alteration to the Property resulting therefrom and (ii) PURCHASER SHALL INDEMNIFY, DEFEND, AND HOLD SELLER HARMLESS FROM AND AGAINST ANY DAMAGE, CLAIM, CAUSE OF ACTION, LIABILITY, COST (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES, AND COURT COSTS) OR OTHER OBLIGATION (collectively, "Entry Claims") CAUSED BY PURCHASER'S ENTRY UPON, INSPECTION OF, ALTERATION OF, TESTING OF, AND/OR DAMAGE OF THE PROPERTY, INCLUDING ANY SUCH ENTRY CLAIMS ARISING FROM THE NEGLIGENCE OF PURCHASER, PURCHASER'S AGENTS, CONTRACTORS, EMPLOYEES, OR ANY OTHER PERSON WHO IS CAUSED BY PURCHASER TO HAVE ANY CONTACT WHATSOEVER WITH THE PROPERTY, OR SUCH ENTRY CLAIMS ARISING IN STRICT LIABILITY BY ANY SUCH PERSONS. The obligation of Purchaser to indemnify Seller under this Section shall survive the Closing or the earlier termination of this Agreement.

- 8 Permitted Encumbrances. "Permitted Encumbrances" means (i) taxes and assessments for the year 2008 and later, and any taxes and assessments which may arise from the change in land ownership or usage; (ii) any matters which a survey or physical inspection would disclose; (iii) the ordinances, zoning, restrictions, and similar regulations imposed by the City of La Porte or any other federal, state, or municipal authority of competent jurisdiction; and (iv) all matters of record in the office of the County Clerk of Harris County, Texas, to the extent the same are valid, subsisting, and affect the property in question.

- 9 Warranties and Representations of Seller. Seller makes the following representations and warranties, all of which are true and correct as of the Effective Date, which shall be true and correct on the Closing Date (as hereinafter defined).

- 9.1 to the best of Seller's knowledge and belief, Seller has good, indefeasible, and insurable fee simple title in and to the Property, free and clear of all liens other than the Permitted Encumbrances;
- 9.2 to the best of Seller's knowledge and belief, Seller has not granted to any person, firm, or entity, other than Purchaser, any right to purchase the Property or any portion thereof which remains outstanding as of the Effective Date or which shall remain outstanding as of the date the same is conveyed to Purchaser, and there are no parties in possession of any portion of the Property;
- 9.3 to the best of Seller's knowledge and belief, there are no property agreements, warranties, permits, or other agreements relating to the ownership, operation or use of the Property other than those disclosed to Purchaser by Seller;
- 9.4 to the best of Seller's knowledge and belief, Seller has received no notice (and has no other knowledge) of any pending or threatened condemnation, special assessments, or similar proceedings affecting the Property;
- 9.5 Seller has full power and authority to enter into this Agreement and to assume and perform all of its obligations hereunder, and the execution and delivery of this Agreement and the performance by Seller of its obligations hereunder requires no further action or approval in order to constitute this Agreement as a binding and enforceable obligation of Seller; and
- 9.6 Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code.

- 10 Warranties and Representations of Purchaser. Purchaser makes the following representations and warranties, all of which are true and correct as of the Effective Date, and which shall be true and correct on the Closing Date (as hereinafter defined).

- 10.1 Purchaser represents and warrants to Seller that Purchaser has been duly authorized to enter into this Agreement on the terms and conditions of this Agreement, that this Agreement is fully binding and enforceable against Purchaser, and the person executing this Agreement on behalf of Purchaser has the authority to do so;
- 10.2 Purchaser is duly organized and legally existing under the laws of the State of Texas, or can legally conduct business in the State of Texas; and

- 10.3 Purchaser is represented by counsel of its own selection and is not in a significantly disparate bargaining position with Seller.
- 11 Additional Covenants of Seller. Until the Closing, Seller covenants and agrees as follows:
- 11.1 Seller shall not commit any waste of the Property and shall keep the Property in substantially the same condition as its current condition, ordinary wear and tear excepted; and
- 11.2 Seller will promptly advise Purchaser in writing of any material changes, additions, deletions, or modifications in or to any of the Due Diligence Materials to be delivered to Purchaser, and shall provide Purchaser with true, correct and complete copies of such changes, additions, deletions or modifications.
- 12 Condemnation.
- 12.1 In the event any proceeding should be commenced for the taking in condemnation or under the power of eminent domain of all or any portion of the Property (a "Condemnation Proceeding"), Seller shall promptly give to Purchaser written notice of, and full information concerning, such Condemnation Proceeding and shall thereafter keep Purchaser fully informed concerning such Condemnation Proceeding. If a Condemnation Proceeding occurs prior to the Closing, Purchaser shall have the right to terminate this Agreement. Upon any termination of this Agreement, both parties shall be released from their obligations hereunder, except as to those obligations that are expressly to survive the termination of this Agreement.
- 12.2 If Purchaser does not elect to terminate this Agreement as a result of a Condemnation Proceeding, and the Property is purchased by Purchaser while such Condemnation Proceeding is pending, then Purchaser shall be substituted for Seller as a defendant in such proceeding. In the event such Condemnation Proceeding is concluded while Seller is still the owner of the Property and Seller receives the condemnation award, then the Purchase Price for the Property shall be reduced by the amount of the condemnation award which is attributable thereto. If Seller has not received the condemnation award at the time of Closing, then the Purchase Price shall remain unchanged, and Seller shall assign to Purchaser all of the right, title and interest of Seller in such condemnation award. Seller agrees that Purchaser shall have the right, at Purchaser's expense, to participate in any Condemnation Proceeding.
- 13 Closing.
- 13.1 As used in this Agreement, the term "Cooper Property" means land in Harris County, Texas, consisting of all of Lots 6-8 and the North 18 feet of Lot 9, Block 198, Town of La Porte, as recorded in the Map Records of Harris County, Texas Volume 8, Page 16. As used in this Agreement, the term "Retail Property" means land in Harris County, Texas, consisting of the South seven (7) feet of Lot 9, all of Lot 10, the West fifty-six and four tenths (56.4) feet of Lots 11, 12 and 13 of Block 198 of the TOWN OF LA PORTE, as recorded in the Map Records of Harris County, Texas Volume 8, Page 16.
- 13.2 The consummation of the purchase and sale of the Property (the "Closing") shall take place at Stewart Title Company, 1900 North Loop West, Suite 600, Houston, Texas 77018 (the "Title Company"), at mutually agreed upon time on or before September 23, 2008 (the "Closing Date").
- 13.3 At the Closing, Seller, at its sole cost and expense, shall deliver to Purchaser (or to the Title Company in escrow for delivery to Purchaser upon consummation of the purchase and sale provided for herein) the following closing documents (collectively, the "Closing Documents"):
- 13.3.1 A Special Warranty Deed for the Property (the "Deed") executed by Seller, duly acknowledged and in form for recording, substantially in the form attached hereto as Exhibit "C", which Deed shall convey to Purchaser, subject to the Permitted Exceptions and "AS IS" condition, good, indefeasible and insurable fee simple title to the Property, free and clear of all liens, encumbrances, covenants, conditions, restrictions, right-of-ways, easements and other matters affecting title, except the Permitted Encumbrances;

- 13.3.2 the Title Insurance Policy;
- 13.3.3 Seller's affidavit in a form reasonably acceptable to Purchaser and Seller, as required by Section 1445 of the Internal Revenue Code;
- 13.3.4 possession of the Property to Purchaser in accordance with the terms of this Agreement;
- 13.3.5 consents in the form attached hereto as Exhibit "B" for the Cooper Property and Retail Property executed by East A;
- 13.3.6 evidence, in form and content satisfactory to Purchaser and the Title Company, that the persons executing the instruments delivered at Closing on behalf of Seller have the authority to bind Seller to perform its obligations set forth therein; and
- 13.3.7 Such other documents and items as are contemplated to be delivered by Seller to Purchaser at the Closing pursuant to the other provisions of this Agreement.
- 13.4 At Closing, Purchaser shall execute all documents to be executed by Purchaser and deliver to Seller (or to the Title Company in escrow for delivery to Seller) the remaining portion of the Purchase Price (less any credits to which Purchaser is entitled pursuant to the terms hereof). The failure of Purchaser to fully fulfill all of its obligations under this Section shall be an Event of Default.
- 13.5 After the Closing, neither party hereto shall have any further rights, duties or obligations to the other pursuant to this Agreement other than those arising pursuant to the provisions hereof that are expressly to survive the Closing and those arising pursuant to the documents executed and delivered at the Closing.
- 13.6 The obligation of either party is contingent upon the execution of a lease by Purchaser, as tenant, and East A, as landlord, of the Retail Property at a rental rate of \$1.00 per square foot per month, for a term of three (3) years, and under any other terms as East A and the Purchaser may agree.
- 13.7 Simultaneous with Closing, Purchaser shall loan to East A Developments, L.P. ("East A") the sum of \$150,000.00 for the purchase of the Cooper Property under the terms of the promissory note attached hereto as Exhibit "D" ("Promissory Note"). Such loan shall be secured by a lien against Cooper Property and Retail Property; such lien being evidenced by the deed of trust attached hereto as Exhibit "E" (the "Deed of Trust"). East A shall, at Closing, (i) close on the purchase of the Cooper Property from Wade Cooper (at such time all liens must be released from the Cooper Property) in accordance with the terms of that certain Commercial Contract -- Improved Property by and between East A and Wade Cooper, (ii) execute the Promissory Note and Deed of Trust, (iii) execute the consent attached hereto as Exhibit "B", (iv) execute a Special Warranty Deed in the form attached hereto as Exhibit "F", and (v) obtain a Mortgagee's Title Insurance Policy for Seller for the Cooper Property and Retail Property (which may be paid by the seller of the Cooper Property). East A's obligations under this Agreement are contingent upon Purchaser's performance of all obligations under this Agreement (including those to Seller). East A shall be subrogated to all rights of Seller under this Agreement, including any remedies, claims, offsets, and defenses, and without limiting the generality of the foregoing, may offset any sums East A owes under the Promissory Note with any sums Purchaser owes East A and/or Seller under this Agreement.

14 Closing Costs.

- 14.1 Seller agrees to pay for the cost of the Owner's title policy premium, all charges for tax certificates, all charges for the preparation and recordation of any releases or instruments required to clear Seller's title for conveyance in accordance with the provisions of this Agreement, and one-half (1/2) of any escrow fee charged by the Title Company.
- 14.2 Purchaser agrees to pay all charges for the recordation of the instruments conveying title to the Property, one-half (1/2) of any escrow fee charged by the Title Company, the costs of any recording fees which Seller is not obligated to pay above, the cost of any rollback taxes or similar fee resulting from the transfer of the Property or changed use of the Property; and all other fees payable by Purchaser under this Agreement.

- 14.3 All other costs, charges and expenses in connection with each closing shall be allocated between Purchaser and Seller as specified in this Agreement, or absent such specification, in accordance with the customary practices in Houston, Harris County, Texas.
- 15 Property Taxes. All property taxes assessed against the Property for the year 2008 and beyond are the responsibility of Purchaser.
- 16 Remedies.
- 16.1 Purchaser will be in default if any of the following occurs ("Event of Purchaser Default"):
- 16.1.1 Purchaser fails to perform any covenant in this Agreement;
- 16.1.2 any representation or warranty of Purchaser is untrue or becomes untrue; or
- 16.1.3 Purchaser (1) becomes insolvent; (2) makes a transfer in fraud of creditors; (3) makes an assignment for the benefit of creditors; (4) files a petition under any section or chapter of the Federal Bankruptcy Code, as amended, or under any similar law or statute of the United States or any State thereof; (5) is adjudged bankrupt or insolvent; or (6) becomes subject to an appointed receiver or trustee.
- 16.2 Upon the occurrence of an Event of Purchaser Default, Seller shall notify Purchaser of such default in accordance with the notice provisions of this Agreement, and Purchaser shall cure such Event of Purchaser Default within ten (10) days of the same. Upon the expiration of such ten (10) days, Seller may exercise any one or more of the following remedies to the extent they are not inconsistent:
- 16.2.1 terminate this Agreement and neither party will be further obligated hereby;
- 16.2.2 seek specific performance of any obligations of Purchaser hereunder; or
- 16.2.3 seek any relief provided at law or in equity.
- 16.3 Seller will be in default if any of the following occurs ("Event of Seller Default"):
- 16.3.1 Seller fails to perform any covenant in this Agreement;
- 16.3.2 any representation or warranty of Seller is untrue or becomes untrue; or
- 16.3.3 Seller (1) becomes insolvent; (2) makes a transfer in fraud of creditors; (3) makes an assignment for the benefit of creditors; (4) files a petition under any section or chapter of the Federal Bankruptcy Code, as amended, or under any similar law or statute of the United States or any State thereof; (5) is adjudged bankrupt or insolvent; or (6) becomes subject to an appointed receiver or trustee.
- 16.4 Upon the occurrence of an Event of Seller Default, Purchaser shall notify Seller of such default in accordance with the notice provisions of this Agreement, and Seller shall cure such Event of Seller Default within ten (10) days of the same. Upon the expiration of such ten (10) days, Purchaser may exercise any one or more of the following remedies to the extent they are not inconsistent:
- 16.4.1 terminate this Agreement and neither party will be further obligated hereby;
- 16.4.2 seek specific performance of any obligations of Seller hereunder; or
- 16.4.3 seek any relief provided at law or in equity.
- 17 Real Estate Commissions. Each party hereto represents to the other that it has not authorized any broker or finder to act on its behalf in connection with the sale and purchase hereunder and that such party has not dealt with any broker or finder purporting to act on behalf of any other party. Each party hereto agrees to indemnify and hold harmless the other party from and against any and all, losses, liens, claims, judgments, liabilities, costs, expenses or damages (including reasonable attorneys' fees and court costs) of any kind or character arising out of or resulting from any agreement, arrangement or understanding alleged to have been made by such party or on its behalf with any broker or finder in connection with this Agreement or the transaction contemplated hereby. This paragraph shall survive the Closing or any termination of this Agreement.
- 18 Notices. All notices, requests or permissions required or permitted to be given to either Purchaser or Seller under the terms of this Agreement shall be sufficient if they are in writing and mailed registered or certified mail, return receipt requested, or delivered in person, as follows:

To Purchaser: La Porte Economic Development Corporation
City of La Porte, Texas
604 W. Fairmont Parkway
La Porte, Texas 77571
Attention: Ron Bottoms, City Manager

with copy to: Askins and Askins, P.C.

702 27 W. Fairmont Parkway, LA PORTE, TX 77571
Attention: Clark T. Askins

To Seller: La Porte 5 Points Properties
1001 Usener
Houston, Texas 77007

With a copy to: Benjamin P. Miller
Attorney and Counselor at Law
4900 Woodway Drive, Suite 517
Houston, Texas 77056
Tel: 713-892-5400
Fax: 713-892-5401
bpmliller82@gmail.com

- 19 Effective Date. The "Effective Date" means the date of acknowledgment of receipt of a fully executed copy of this Agreement by the Title Company as provided below. The party offering the Agreement may withdraw the offer at any time prior to its acceptance by the party to whom this Agreement is offered.

20 Miscellaneous.

- 20.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Texas .
- 20.2 Time is of the essence as to all matters contained in this Agreement.
- 20.3 If the final day of any time period or limitation set out in any provision of this Agreement falls on a Saturday, Sunday, or legal holiday recognized by the United States government or the State of Texas, then and in such event the time of such period or limitation shall be extended to the next day which is not a Saturday, Sunday or such legal holiday.
- 20.4 In the event of any controversy, claim or dispute between the parties arising from or relating to this Agreement (including, but not limited to, the enforcement of any indemnity provisions), the prevailing party shall be entitled to recover reasonable costs, expenses and attorneys' fees. For all purposes of this Agreement and any other documents relating to this Agreement, the terms "attorneys' fees" or "counsel fees" shall be deemed to include paralegals and legal assistants' fees, and wherever provision is made herein or therein for the payment of attorneys' or counsel fees or expenses, such provision shall include, but not be limited to, such fees and expenses (and any applicable sales taxes thereon) incurred in any and all judicial, bankruptcy, reorganization, administrative or other proceedings, including appellate proceedings, whether such fees or expenses arise before proceedings are commenced or after entry of a final judgment.
- 20.5 This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, but such counterparts shall together constitute one and the same instrument.
- 20.6 This Agreement may not be modified or amended except by a subsequent agreement in writing signed by both Seller and Purchaser. Purchaser and Seller may waive any of the conditions herein or any of the obligations of the other party hereunder, but any such waiver shall be effective only if in writing and signed by the party waiving such condition or obligation.
- 20.7 This Agreement, including the exhibits, schedules, and attachments attached thereto (all of which shall be deemed incorporated into this Agreement by reference), constitutes the

entire agreement and understanding between the parties hereto and supersedes all prior and contemporaneous agreements and understandings of the parties in connection therewith. No statements, agreements or understandings, representations, warranties or conditions not expressed in this Agreement shall be binding upon the parties hereto, or shall be effective to interpret, change or restrict the provisions of this Agreement unless such is in writing signed by the party against whom enforcement thereof is sought. No oral agreements exist between the parties.

- 20.8 If any provision of this Agreement or application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.
- 20.9 The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or the scope or content of any of its provisions.
- 20.10 All exhibits described herein and attached hereto are fully incorporated into this Agreement by this reference for all purposes.
- 20.11 Except as expressly set forth herein or called for herein or called for in any of the instruments attached as exhibits hereto, SELLER MAKES NO OTHER WARRANTIES OR REPRESENTATIONS of any kind or character, express or implied, with respect to the Property, its physical condition, income to be derived therefrom or expenses to be incurred with respect thereto, or with respect to information or documents previously furnished to Purchaser or furnished to Purchaser pursuant to this Agreement, or with respect to Seller's obligations or any other matter or thing relating to or affecting the same, and there are no oral agreements, warranties or representations collateral to or affecting the Property except as may otherwise be expressly set forth herein. Notwithstanding anything contained herein to the contrary, this Section shall survive the Closing or any termination of this Agreement. PURCHASER ACKNOWLEDGES THAT THE CONVEYANCE OF THE PROPERTY IS SPECIFICALLY MADE "AS-IS" AND "WHERE-IS" WITH ALL FAULTS, WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED (EXCEPT AS TO TITLE AS LIMITED IN THIS AGREEMENT), INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE, HABITABILITY, SUITABILITY, TENABILITY, OR MERCHANTABILITY OR ANY OTHER WARRANTIES WHATSOEVER CONTAINED IN OR CREATED BY THE TEXAS BUSINESS AND COMMERCE CODE, UNDER THE LAWS OF THE STATE OF TEXAS, OR OTHERWISE. PURCHASER ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER SELLER NOR ANY OF ITS AGENTS HAVE MADE, AND SPECIFICALLY NEGATE AND DISCLAIM, ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, OF, AS TO, CONCERNING, OR WITH RESPECT TO, (i) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (ii) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH MAY BE CONDUCTED THEREON, (iii) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, OR (iv) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY. PURCHASER SHALL RELY SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER OR ITS AGENTS OR CONTRACTORS EXCEPT AS CONTAINED IN THIS AGREEMENT. SELLER SHALL NOT BE LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY OR THE OPERATION THEREOF, FURNISHED BY ANY PARTY

PURPORTING TO ACT ON BEHALF OF SELLER, EXCEPT AS CONTAINED IN THIS AGREEMENT.

- 20.12 Purchaser acknowledges that the Property may contain one or more underground storage tanks thereon. Purchaser shall assume all liability for such tanks, all responsibility for the removal of such tanks, and all costs associated therewith.
- 20.13 Purchaser shall not have the right to assign its interest in this Agreement without obtaining the prior written consent of Seller. Purchaser hereby agrees that any assignment by Purchaser in contravention of this provision shall be void and shall not relieve Purchaser of its obligations and liabilities hereunder.
- 20.14 This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, successors and assigns. Whenever in this Agreement a reference is made to any of the parties hereto, such reference shall be deemed to include a reference to the heirs, legal representatives, successors and assigns of such parties.
- 20.15 Purchaser is hereby notified as to the following: Seller makes no representations or warranties as to the existence of or applicability of any homeowners' associations. However, restrictive covenants governing the use and occupancy of the property and a dedicatory instrument governing the establishment, maintenance, and operation of this residential community may have been or will be recorded in the Real Property Records of the county in which the property is located. Copies of the restrictive covenants and dedicatory instrument may be obtained from the county clerk. Seller makes no representation as to whether membership may be required presently or in the future in any such homeowners' association. Seller makes no warranties or representation as to the applicability, enforceability, and/or existence of any restrictive covenants, and Purchaser acknowledges that Purchaser has not relied on any representations, warranties, and/or materials made, provided, or delivered by seller. Purchaser acknowledges that it has used its own due diligence to research and investigate any homeowners' associations and/or Restrictive Covenants, their applicability, enforceability, existence, and affect on the feasibility of any use Purchaser is contemplating.
- 20.16 Additional Notices.
- 20.16.1 Purchaser should have an abstract covering the Property examined by an attorney of Purchaser's selection, or Purchaser should obtain a title policy.
- 20.16.2 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 Purchaser to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.
- 20.16.3 Notice required by Section 13.257 of the Texas Water Code: "The real property, described in Exhibit "A", 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 you 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 Exhibit "A" of this Agreement.
- 20.16.4 If the Property is located outside the limits of a municipality, the Property may now or later be included in the extraterritorial 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, Purchaser

should contact all municipalities located in the general proximity of the Property for further information.

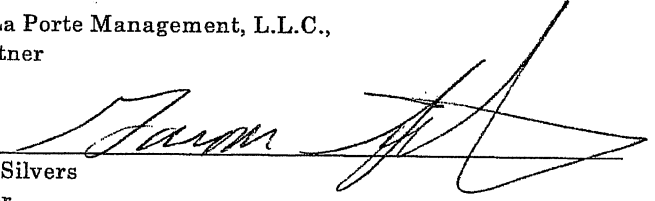
20.16.5 Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Purchaser should seek experts to perform such services. Selection of inspectors and repairmen is the responsibility of Purchaser.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date set forth below, but shall be effective as of the Effective Date.

SELLER:

LA PORTE 5 POINTS PROPERTIES, L.P.

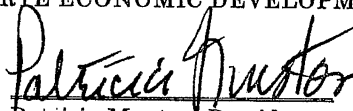
By: GSBS La Porte Management, L.L.C.,
its General Partner

By: 
Garson Silvers
Manager

Date: 10/9/08

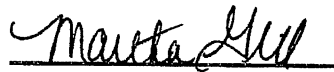
PURCHASER:

LA PORTE ECONOMIC DEVELOPMENT CORPORATION


Patricia Muston, President

Date: 9-10-08

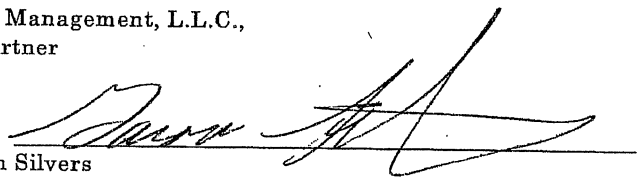
ATTEST:


Secretary of the Corporation

EAST A:

EAST A DEVELOPMENTS, L.P.

By: GSDB Management, L.L.C.,
its General Partner

By: 
Garson Silvers
Manager

Date: 10/9/08

The undersigned, as escrow agent, hereby acknowledges receipt of a fully executed original of this Agreement.

Received this _____ day of September, 2008

STEWART TITLE COMPANY

By: _____
Name: _____
Title: _____

EXHIBIT "A"

Legal Description of the Property:

TRACT 1:

Lots 1 through 9 of Block 199 of the TOWN OF LA PORTE, as recorded in the Map Records of Harris County, Texas Volume 8, Page 16

TRACT 2:

**All of Seller's right, title and interest in and to the abutting 100' wide public right
-of-way known as San Jacinto Street**



THE RESEARCH STAFF, INC.

Member of Public Record Retrievers Network
Member of Title Agents of America

THIS REPORT IS NOT TITLE INSURANCE. By acceptance of this report it is understood that the liability hereunder is limited to the amount paid for same. This report is issued for the use of and shall inure to the benefit of the party requesting same and may not be given to, or used by, any third party. **THIS REPORT IS ISSUED** with the express understanding, evidenced by acceptance of same, that the undersigned does not undertake or give or express any opinion as to the validity of the title to the property described, but is a reporting herein as to the instruments attached hereto and found of record pertaining to the said property. The information provided is guaranteed to be as accurate as reasonable care can make it as of the certification date and we assume no responsibility for updating the information unless pursuant to a specific request. **THIS REPORT IS BASED ON PUBLIC INFORMATION CONTAINED IN THE RECORDS STATED HEREIN, WHICH ARE COMPILED, MAINTAINED AND INDEXED BY THE AGENCY (ES) NAMED HEREIN. WE CANNOT INDEPENDENTLY VERIFY THE COMPLETENESS, OR ACCURACY, OF THE UNDERLYING RECORDS.** This report is not title insurance. If a policy of title insurance is purchased, any liability thereunder shall be determined solely by the terms of such policy.

**TITLE REPORT for Knox W. Askins
Askins & Askins, PX**

Client Reference	City of La Porte-Harris	Abstractor's Initials	HC/DGW
TRSI Control #	C-200- 100730	Examiner's Initials	CBW/AM
Jurisdiction	Harris County, Texas	Certification	From: 08/03/2007 To: 03/24/2010

Owner of Record Listed In Last Title Deed Is: East A. Developments, LP

SPECIAL WARRANTY DEED to East A. Developments, LP

Executed by: Wade Cooper
Executed on: 07/30/2007
Filed for record on: 08/03/2007
Recorded under: 20070477563
Remarks ▪ Vendor's Lien \$59,999.00; Released by 20070632971

SPECIAL WARRANTY DEED to LaPorte Economic Development Corporation

Executed by: East A. Developments, LP
Executed on: 10/29/2008
Filed for record on: 10/31/2008
Recorded under: 20080542457
Remarks ▪ ---

CORRECT WARRANTY DEED to East A. Developments, LP

Executed by: Wade Cooper
Executed on: 03/25/2009
Filed for record on: 03/31/2009
Recorded under: 20090131182
Remarks ▪ Correction of 20080542455

Approval: _____

Your Research Staff

5718 Hewitt ↗ Houston, Texas 77092-5125
Telephone: 713-688-3584 ↗ Facsimile: 713-688-1121
www.researchstaffonline.com

Certified: 03/24/2010
TRSI Control #: C- 100730
Page: 1/3



THE RESEARCH STAFF, INC.
Member of Public Record Retrievers Network
Member of Title Agents of America

Correct Description of Property:

All of Lots 6, 7, 8, 9, 10 and the West fifty-six and four tenths (56.4) feet of Lots 11, 12 and 13, in Block One Hundred Ninety-Eight (198) of TOWN OF LA PORTE, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 8, Page 16 of the Map Records of Harris County, Texas.

Transcribed from Client's Request

Subject to:

• **Real Property Liens**

DEED OF TRUST for \$28,916.00; due 06/30/2011

Executed by: East A. Developments, LP

Trustee: Knox W. Askins

Beneficiary: City of LaPorte Development Corporation

Executed on: 07/01/2009

Filed for record on: 07/14/2009

Recorded under: 20090310843

Remarks ▪ —

DEED OF TRUST for \$110,000.00

Executed by: East A. Developments, LP

Trustee: Frederick B. Cull

Beneficiary: Gayle Investments

Executed on: 10/17/2007

Filed for record on: 10/19/2007

Recorded under: 20070632972

Remarks ▪ —

DEED OF TRUST for \$157,000.00; due 04/01/2010

Executed by: East A. Developments, LP

Trustee: Thomas Clarke

Beneficiary: Real Property Mortgage and Investment Co., Inc.

Executed on: 03/26/2009

Filed for record on: 03/31/2009

Recorded under: 20090131183

Remarks ▪ Transfer executed on 03/26/2009, filed on 03/31/2009, under document #20090131185; Gayle Investment Company

Approval: _____

Your Research Staff

5718 Hewitt → Houston, Texas 77092-5125

Telephone: 713-688-3584 → Facsimile: 713-688-1121
www.researchstaffonline.com

Certified: 03/24/2010

TRSI Control #: C- 100730

Page: 2/3



THE RESEARCH STAFF, INC.
Member of Public Record Retrievers Network
Member of Title Agents of America

LIEN AFFIDAVIT for \$4,300.00

Filed by: Halligan's Foam Coatings of Houston, Inc.
Filed against: East A. Development, LP
Filed for record on: 10/09/2009
Recorded under: 20090463380

- **Personal Liens which may affect title**

No Abstracts of Judgment or Tax Liens (10 year search) located as of the date of this review.

- **Property Tax Information**

In Texas, all taxes are assessed in October of each year.

In Texas, all taxes are due and payable by 01/31 of each year, after which they are delinquent

CAD Account # 024-004-098-0006
Taxpayer Name East A Developments LP
Situs Address 109 San Jacinto St.
CAD Land Value \$ 7,375.00 (2009) 7,375 Square feet
CAD Imprv Value \$17,749.00 (2009) No Exemptions
Status of payment of taxes ()HAS (x)NOT been reviewed

- **Notes to Client**

Additional documents affecting title to this property are listed as follows:

- Affidavit of Completion executed on 10/07/2009, filed on 10/09/2009, under document #20090463381.
- THIS TITLE REPORT DOES NOT INCLUDE review of the status of Oil, Gas and Minerals interests.

THE RESEARCH STAFF, INC.
Control # C-100730
Certification Date: 03/24/2010

Approval: _____

Your Research Staff
5718 Hewitt → Houston, Texas 77092-5125
Telephone: 713-688-3584 → Facsimile: 713-688-1121
www.researchstaffonline.com

Certified: 03/24/2010
TRSI Control #: C- 100730
Page: 3/3

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NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY 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
WITH VENDOR'S LIEN**

20070477563
08/03/2007 RP2 \$24.00

THE STATE OF TEXAS §
COUNTY OF HARRIS §

KNOW ALL MEN BY THESE PRESENTS:

That, WADE COOPER (hereinafter called "Grantor", whether one or more), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantor this day paid and agreed to be paid by EAST A DEVELOPMENTS, L.P. (hereinafter called "Grantee", whether one or more), the receipt and sufficiency of which is hereby acknowledged, and the further consideration of the execution and delivery by Grantee of the following:

That certain promissory note ("Note") of even date herewith in the original principal balance of FIFTY-NINE THOUSAND, NINE HUNDRED NINETY-NINE AND 00/100THS DOLLARS (\$59,999.00) payable to the order of 4011 NASA ROAD 1, LTD. ("Lender"), bearing interest and being payable as therein provided, which Note is secured by a vendor's lien herein reserved, and is additionally secured by a Deed of Trust of even date herewith executed by Grantee to BENJAMIN P. MILLER, TRUSTEE, reference to which is here made for all purposes;

has GRANTED, SOLD and CONVEYED and by these presents does GRANT, SELL and CONVEY unto Grantee all of the following described real and personal property situated in Harris County, Texas, to-wit:

Land consisting of the South seven (7) feet of Lot 9, all of Lot 10, the West fifty-six and four tenths (56.4) feet of Lots 11, 12, and 13 of Block 198 of the TOWN OF LA PORTE, as recorded in the Map Records of Harris County, Texas Volume 8, Page 16 (the "Subject Property").

This conveyance is executed by Grantor and accepted by Grantee subject to all matters of record in the office of the County Clerk of Harris County, Texas and/or apparent on the ground, to the full extent same are valid and pertain to the Subject Property (the "Permitted Exceptions")

TO HAVE AND TO HOLD the Subject Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, and his, her, its or their heirs, legal representatives, successors and assigns, forever; and Grantor does hereby bind himself, herself, itself or themselves and his, her, its or their heirs, legal representatives, successors and assigns, to

GF#: 07108690
21-A/RICHARD CROW
STEWART TITLE COMPANY

WARRANT AND FOREVER DEFEND, all and singular, the Subject Property unto Grantee, and his, her, its or their heirs, legal representatives, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through and under Grantor, but not otherwise, and subject only to: (i) the Permitted Exceptions; (ii) real estate ad valorem taxes for the current year; and (iii) the liens herein described.

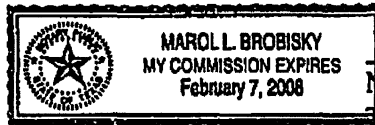
But the express vendor's lien and superior title are retained in favor of Lender and his, her, its or their heirs, legal representatives, successors and assigns upon the Subject Property until the Note and all other sums to accrue or to become payable thereunder shall have been paid in full in accordance with the face, tenor, effect and reading of the Note, whereupon this Deed shall become absolute.

EXECUTED this the 30 day of July, 2007.


"Grantor"

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

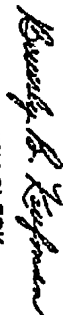
This instrument was acknowledged before me on July 30, 2007, by Wade Cooper..




Notary Public in and for
the State of Texas

ADDRESS OF GRANTEE:
1001 Usener
Houston, Texas 77009

AFTER RECORDING, RETURN TO:
Benjamin Miller
4900 Woodway Drive, Suite 517
Houston, Texas 77056

2007 AUG -3 PM 12:56
COUNTY CLERK
HARRIS COUNTY, TEXAS


FILED

AFTER RECORDING RETURN TO
STEWART TITLE
1900 NORTH LOOP WEST #650
HOUSTON TEXAS 77018

RP 048-06-1830

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL
PROPERTY BECAUSE OF COLOR OR RACE IS VOID AND UNENFORCEABLE UNDER FEDERAL LAW.
THIS STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in the number Sequence on the date and at the
clerk's office by me, and was duly RECORDED, in the Official Public Records of that Property of Harris
County Texas on

AUG - 3 2007



Brenda L. Kayman

COUNTY CLERK
HARRIS COUNTY, TEXAS

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

Special Warranty Deed

(Interest in Public Right-Of-Way)

THE STATE OF TEXAS

§

Know All Men By These Presents:

COUNTY OF HARRIS

§

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0510-8-20-090
RP

That EAST A DEVELOPMENTS, L.P., a Texas limited partnership, ("Grantors", whether one or more), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantors this day paid by LA PORTE ECONOMIC DEVELOPMENT CORPORATION, a Texas non-profit corporation ("Grantees", whether one or more), of Harris County, Texas, the receipt and sufficiency of which is hereby acknowledged, have GRANTED, BARGAINED, SOLD and CONVEYED and by these presents do GRANT, BARGAIN, SELL and CONVEY unto Grantees all of the real and personal property situated in Harris County, Texas, to wit:

lee

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All of Seller's right, title and interest in and to the 100' wide public right-of-way known as San Jacinto Street to the extent the same abuts Lots 6, 7, 8, 9, 10, 11, 12 and 13, in Block One Hundred Ninety-Eight (198) of TOWN OF LA PORTE, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 8, Page 16 of the Map Records of Harris County, Texas (the "Subject Property").

This conveyance is executed by Grantors and accepted by Grantees subject to (i) taxes and assessments for the year 2008 and later, and any taxes and assessments which may arise from the change in land ownership or usage; (ii) any matters which a survey or physical inspection would disclose; (iii) the ordinances, zoning, restrictions, and similar regulations imposed by the City of La Porte or any other federal, state, or municipal authority of competent jurisdiction; and (iv) all matters of record in the office of the County Clerk of Harris County, Texas, to the extent the same are valid, subsisting, and affect the property in question. (collectively, the "Permitted Exceptions").

RECEIVED 73-0141

THE IMPROVEMENTS, IF ANY, LOCATED UPON THE SUBJECT PROPERTY ARE CONVEYED AND ACCEPTED "AS IS", "WHERE IS", "WITH ALL FAULTS", IN THEIR PRESENT CONDITION, OF ANY KIND, WHETHER EXPRESS OR IMPLIED, OTHER THAN THE EXPRESS WARRANTIES OF TITLE MADE HEREIN. THE WARRANTIES OF HABITABILITY, SUITABILITY, TENABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER WARRANTIES WHATSOEVER CONTAINED IN OR CREATED BY THE TEXAS BUSINESS AND COMMERCE CODE, TEXAS PROPERTY CODE, UNDER THE LAWS OF THE STATE OF TEXAS, OR OTHERWISE, ARE EXPRESSLY DISCLAIMED. GRANTEE ACCEPTS ALL LIABILITY FOR ALL COSTS, LIABILITY, AND CLAIMS RELATING TO, OR RESULTING FROM, THE CONDITION OF THE SUBJECT PROPERTY, INCLUDING ANY UNDERGROUND STORAGE TANKS OR ENVIRONMENTAL HAZARDS THEREON.

TO HAVE AND TO HOLD the Subject Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantees, their heirs, administrators, successors and assigns, forever; and Grantors do hereby bind themselves, and their heirs, administrators, successors and assigns, to WARRANT AND FOREVER DEFEND, all and singular, the Subject Property unto Grantees, and their heirs, administrators, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantors, but not otherwise, and subject to the Permitted Exceptions and taxes for the current year and subsequent assessments for prior years due to change in land usage or ownership.

Except for any interest in that 100' public right-of-way known as San Jacinto Street, nothing in this Special Warranty Deed shall be construed to convey any right, title or interest in Lots 6, 7, 8, 9, 10, 11, 12 and 13, in Block One Hundred Ninety-Eight (198) of TOWN OF LA PORTE, an addition in

Harris County, Texas, according to the map or plat thereof recorded in
Volume 8, Page 16 of the Map Records of Harris County, Texas.

EXECUTED this the 29th day of October, 2008.

EAST A DEVELOPMENTS, L.P.

By: GSDB Management, L.L.C.,
its General Partner

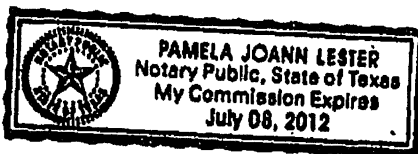
By: Garson Silvers
Garson Silvers,
Manager

"Grantors"

THE STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on this 29th day of October, 2008,
by Garson Silvers, as manager of GSDB Management, L.L.C. as general partner of
EAST A DEVELOPMENTS, L.P.



Pamela Joann Lester
Notary Public in and for
The State of Texas

ADDRESS OF GRANTEES:

604 W. Fairmont Parkway
La Porte, Texas 77571

AFTER RECORDING, RETURN TO:

Askins & Askins, P.C.
702 W. Fairmont Parkway
La Porte, Texas 77571

GF#: _____
21-A/RICHARD CROW
STEWART TITLE COMPANY

RP 060-78-0143

FILED

2008 OCT 31 PM 1:15

Beverly B. Kayman
COUNTY CLERK
HARRIS COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL
PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW,
THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time
stamped herein by me, and was duly RECORDED in the Official Public Records of Real Property of Harris
County, Texas on

OCT 31 2008



Beverly B. Kayman
COUNTY CLERK
HARRIS COUNTY, TEXAS

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20090131182
03/31/2009 RP2 \$32.00

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

Correction General Warranty Deed with Vendor's Lien

THE STATE OF TEXAS
COUNTY OF HARRIS

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Know All Men By These Presents:

That WADE COOPER, an individual, ("*Grantors*", whether one or more), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantors this day paid by EAST A DEVELOPMENTS, L.P., a Texas limited partnership ("*Grantees*", whether one or more), of Harris County, Texas, the receipt and sufficiency of which is hereby acknowledged, and the further consideration of the execution and delivery by Grantees of the following:

That certain promissory note ("*Note*") of even date herewith in the original principal sum of \$150,000.00 payable to the order of La Porte Economic Development Corporation ("*Lender*"), bearing interest and being payable as therein provided, which Note is secured by a vendor's lien herein reserved, and is additionally secured by a Deed of Trust of even date herewith executed by Grantees to Knox Askins, Trustee, reference to which is here made for all purposes; and in consideration of the payment of the sum above mentioned, Grantor hereby transfers, sets over, assigns and conveys unto Lender, and his heirs, administrators and assigns, the vendor's lien and superior title herein conveyed, in the same manner and to the same extent as if the Note had been executed in Grantor's favor and assigned by Grantor to Lender without recourse; have GRANTED, BARGAINED, SOLD and CONVEYED and by these presents do GRANT, BARGAIN, SELL and CONVEY unto Grantees all of the real and personal property situated in Harris County, Texas, described more particularly in Exhibit "A", attached hereto and incorporated by reference (the "*Subject Property*").

GF#: 08108323
21-A/RICHARD CROW
STEWART TITLE COMPANY

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Page -1-


RP 063-63-1071

RP 063-68-1072

TO HAVE AND TO HOLD the Subject Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantees, their heirs, administrators, successors and assigns, forever; and Grantors do hereby bind themselves, and their heirs, administrators, successors and assigns, to WARRANT AND FOREVER DEFEND, all and singular, the Subject Property unto Grantees, and their heirs, administrators, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

But the express vendor's lien and superior title are retained in favor of Lender and his heirs, administrators and assigns, upon the Subject Property until the Note and all other sums to accrue or to become payable thereunder shall have been paid in full in accordance with the face, tenor, effect and reading of the Note, whereupon this Deed shall become absolute.

EXECUTED this the 25 day of March, 2009, but to be effective as of October 29, 2008 for all intents and purposes.

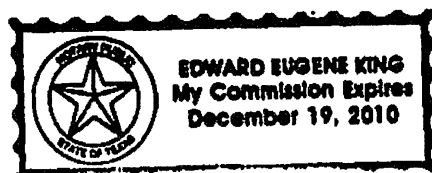

Wade Cooper

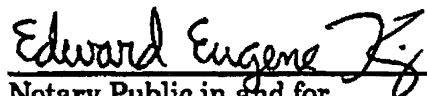
102

"Grantors"

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this 25 day of March 2009, by Wade Cooper.




Notary Public in and for
The State of Texas

ADDRESS OF GRANTEES:
1001 Usener
Houston, Texas 77006

AFTER RECORDING, RETURN TO:

Exhibit "A" to General Warranty Deed

All of Lots 6, 7, 8, and the North 18 feet of Lot 9, in Block One Hundred Ninety-Eight (198) of TOWN OF LA PORTE, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 8, Page 16 of the Map Records of Harris County, Texas, together with all improvements thereto.

RP 063-68-1073

CORRECTION RIDER

This Correction Rider is made and incorporated into and shall be deemed to amend and supplement the General Warranty Deed with Vendor's Lien dated October 29, 2008 given by Wade Cooper ("Grantor") to East A Developments, L.P. ("Grantee").

In addition to the agreements made in the General Warranty Deed with Vendor's Lien, the Grantor and Grantee further covenant and agree as follows:

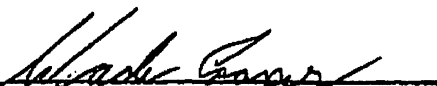
1. The General Warranty Deed with Vendor's Lien to which this correction rider is attached has been executed by Grantor for the purpose of correcting the General Warranty Deed with Vendor's Lien filed of record under Clerk's File Number 20080542455 in the Harris County Real Property Records, wherein a scrivener's error occurred in the legal description of the property. The correct legal description for the property shall read as follows:

All of Lots 6, 7, 8, and the North 18 feet of Lot 9, in Block One Hundred Ninety-Eight (198) of TOWN OF LA PORTE, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 8, Page 16 of the Map Records of Harris County, Texas, together with all improvements thereto.

2. That error or mistake has been corrected by the instrument to which this Correction Rider is attached. In all other respects, the General Warranty Deed with Vendor's Lien filed of record under Clerk's File Number 20080542455 in the Harris County Real Property Records is hereby confirmed and ratified.

By signing below, Grantor and Grantee accept and agree to the terms and provisions contained in this Correction Rider.

Grantor:


Wade Cooper

Grantee:

East A Developments, L.P.

By: GSDB Management, L.L.C.,
Its General Partner

By:


Garson Silvers
Its Manager

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1: \\Bos\clients\Bos\East A Developments LP\2009 EPMICO Refinancing\Correction Deed.wpd\081809171520

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL
PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in the Number Sequence on the date and at the time
shown or stated by me; and that it is RECORDED in the Official Public Records of Real Property of Harris
County, Texas on **SEP 24 1999**

MAR 31 2009



Lucy B. Rayman
COUNTY CLERK
HARRIS COUNTY, TEXAS

HP 063-68-1075

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20090310843
07/14/2009 RPI \$32.00

DEED OF TRUST AND SECURITY AGREEMENT

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY 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.

Date: July 1, 2009

Grantor: EAST A DEVELOPMENTS, L.P.
a Texas limited partnership

Mailing Address: 1001 Usener, Houston, TX 77007

Trustee: KNOX W. ASKINS

Mailing Address: P.O. Box 1218, La Porte, Texas 77572

Beneficiary: CITY OF LA PORTE DEVELOPMENT CORPORATION
a Texas non-profit corporation

Mailing Address: 604 West Fairmont Parkway, La Porte, TX 77571

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Note(s)

Date: July 1, 2009

Amount: \$28,916.00

Maker: EAST A DEVELOPMENTS, L.P.

Payee: CITY OF LA PORTE DEVELOPMENT CORPORATION

Final Maturity Date: June 30, 2011

Property (including any improvements):

All of Lots 6 and 7, in Block One Hundred Ninety-Eight (198) of TOWN OF LA PORTE, an addition in Harris county, Texas, according to the map or plat thereof recorded in Volume 8, Page 16 of the Map Records of Harris County, Texas.

and 8 and N 1/2 of Lot 7



D

For value received and to secure payment of the note, Grantor conveys the property to Trustee in trust. Grantor warrants and agrees to defend the title to the property. If Grantor performs all the covenants and pays the note according to its terms, this deed of trust shall have no further effect, and Beneficiary shall release it at Grantor's expense.

FILED FOR RECORD
8:00 AM

JUL 14 2009

Donna P. McDaniel

RP 066-19-1312

Grantor's Obligations

Grantor agrees to:

1. keep the property in good repair and condition;
2. pay all taxes and assessments on the property when due;
3. preserve the lien's priority as it is established in this deed of trust;
4. maintain, in a form acceptable to Beneficiary, an insurance policy that:
 - a. covers all improvements for their full insurable value as determined when the policy is issued and renewed, unless Beneficiary approves a smaller amount in writing;
 - b. contains an 80% coinsurance clause;
 - c. provides fire and extended coverage, including windstorm coverage;
 - d. protects Beneficiary with a standard mortgage clause;
 - e. provides flood insurance at any time the property is in a flood hazard area; and
 - f. contains such other coverage as Beneficiary may reasonably require;
5. comply at all times with the requirements of the 80% coinsurance clause;
6. deliver the insurance policy to Beneficiary and deliver renewals to Beneficiary at least ten days before expiration;
7. keep any buildings occupied as required by the insurance policy; and
8. if this is not a first lien, pay all prior lien notes that Grantor is personally liable to pay and abide by all prior lien instruments.

Beneficiary's Rights

1. Beneficiary may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of Trustee.
2. If the proceeds of the note are used to pay any debt secured by prior liens, Beneficiary is subrogated to all of the rights and liens of the holders of any debt so paid.
3. Beneficiary may apply any proceeds received under the insurance policy either to reduce the note or to repair or replace damaged or destroyed improvements covered by the policy.
4. If Grantor fails to perform any of Grantor's obligations, Beneficiary may perform those obligations and be reimbursed by Grantor on demand at the place where the note is payable for any sums so paid, including attorney's fees, plus interest on those sums from the dates of payment at the rate stated in the note for matured, unpaid amounts. The sum to be reimbursed shall be secured by this deed of trust.
5. If Grantor defaults on the note or fails to perform any of Grantor's obligations or if default occurs on a prior lien note or other instrument, and the default continues after Beneficiary gives Grantor notice of the default and the time within which it must be cured, as may be required by law or by written agreement, then Beneficiary may:
 - a. declare the unpaid principal balance and earned interest on the note immediately due;

- b. request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended; and
- c. purchase the property at any foreclosure sale by offering the highest bid and then have the bid credited on the note.

Trustee's Duties

If requested by Beneficiary to foreclose this lien, Trustee shall:

1. either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then amended;
2. sell and convey all or part of the property to the highest bidder for cash with a general warranty binding Grantor, subject to prior liens and to other exceptions to conveyance and warranty; and
3. from the proceeds of the sale, pay, in this order:
 - a. expenses of foreclosure, including a commission to Trustee of 5% of the bid;
 - b. to Beneficiary, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
 - c. any amounts required by law to be paid before payment to Grantor; and
 - d. to Grantor, any balance.

General Provisions

1. If any of the property is sold under this deed of trust, Grantor shall immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
2. Recitals in any Trustee's deed conveying the property will be presumed to be true.
3. Proceeding under this deed of trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
4. This lien shall remain superior to liens later created even if the time of payment of all or part of the note is extended or part of the property is released.
5. If any portion of the note cannot be lawfully secured by this deed of trust, payments shall be applied first to discharge that portion.
6. Grantor assigns to Beneficiary all sums payable to or received by Grantor from condemnation of all or part of the property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the property. After deducting any expenses incurred, including attorney's fees, Beneficiary may release any remaining sums to Grantor or apply such sums to reduce the note. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums.
7. Grantor assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and

receipts from the property. Leases are not assigned. Grantor warrants the validity and enforceability of the assignment. Grantor may as Beneficiary's licensee collect rent and other income and receipts as long as Grantor is not in default under the note or this deed of trust. Grantor will apply all rent and other income and receipts to payment of the note and performance of this deed of trust, but if the rent and other income and receipts exceed the amount due under the note and deed of trust, Grantor may retain the excess. If Grantor defaults in payment of the note or performance of this deed of trust, Beneficiary may terminate Grantor's license to collect and then as Grantor's agent may rent the property if it is vacant and collect all rent and other income and receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph first to expenses incurred in exercising Beneficiary's rights and remedies and then to Grantor's obligations under the note and this deed of trust in the order determined by Beneficiary. Beneficiary is not required to act under this paragraph, and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Grantor becomes a voluntary or involuntary bankrupt, Beneficiary's filing a proof of claim in bankruptcy will be tantamount to the appointment of a receiver under Texas law.

8. Interest on the debt secured by this deed of trust shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all other instruments concerning the debt.

9. When the context requires, singular nouns and pronouns include the plural.

10. The term "note" includes all sums secured by this deed of trust.

11. This deed of trust shall bind, inure, to the benefit of, and be exercised by successors in interest of all parties.

12. If Grantor and Maker are not the same person, the term "Grantor" shall include Maker.

13. If Grantor transfers any part of the property without Beneficiary's prior written consent, Beneficiary may declare the debt secured by this deed of trust immediately payable. In that event Beneficiary will notify Grantor that the debt is payable; if it is not paid within thirty days after notice to Grantor, Beneficiary may without further notice of demand to Grantor invoke any remedies provided in this instrument for default. Exceptions to this provision for declaring the note due on sale or transfer are limited to the following:

- a. creation of a lien or encumbrance subordinate to this deed of trust;

RP 066-19-1316

- b. creation of a purchase-money security interest for household appliances;
- c. transfer by devise, descent, or operation of law on the death of a joint tenant; and
- d. grant of a leasehold interest of three years or less without an option to purchase.

14. Grantor represents that this deed of trust and the note are given for the following purposes:

In addition to the provisions herein, Noteholder requires that all taxes due on property described herein be paid by January 15 of each and every year and that Grantor furnish to Noteholder the paid receipts of same by January 31 of each and every succeeding year thereafter until this Deed of Trust is of no further force or effect.

EXECUTED effective July 1, 2009.

EAST A DEVELOPMENTS, L.P. 201

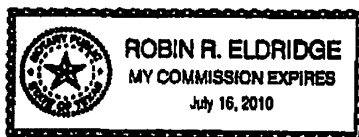
By: GSDB MANAGEMENT, L.L.C.
its General Partner

By: Garson Silvers, Manager

STATE OF TEXAS §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 8 day of July, 2009, by Garson Silvers, Manager of GSDB MANAGEMENT, L.L.C., General Partner of EAST A DEVELOPMENTS, L.P.

Robin R. Eldridge
Notary Public, State of Texas



AFTER RECORDING RETURN TO:

ASKINS & ASKINS, P.C.
P.O. Box 1218
La Porte, TX 77572-1218

PREPARED IN THE LAW OFFICE OF:

ASKINS & ASKINS, P.C.
P.O. Box 1218
La Porte, TX 77572-1218

5

41-20

RECORDING'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blackouts, additions and changes were present at the time the instrument was filed and recorded.

RP 066-19-1317

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL
PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.
THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in the Number Sequence on the date and at the time
indicated herein by me, and was duly RECORDED in the Official Public Records of Real Property of Harris
County, Texas on

JUL 14 2009



Dorothy B. Kaufman
41-2 COUNTY CLERK
HARRIS COUNTY, TEXAS

**NON-HOMESTEAD
DEED OF TRUST AND SECURITY AGREEMENT**

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY 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.

Date: October 17, 2007

Grantor: EAST A DEVELOPMENTS, LP
Grantor's Mailing Address: 1001 Usener
Houston, Texas 77009

Trustee: Frederick B. Cull
Trustee's Mailing Address: P. O. Box 550286
Houston, Texas 77255-0286

Beneficiary: GAGLE INVESTMENTS
Beneficiary's Address: P. O. Box 1405
Bellaire, Texas 77402

The Indebtedness:

Date: Of even date herewith.
Original Principal Amount: ONE HUNDRED TEN THOUSAND AND
NO/100THS DOLLARS (\$110,000.00)
Maker: EAST A DEVELOPMENTS, LP
Payee: GAGLE INVESTMENTS
Final Maturity Date: November 11, 2009

Terms of Payment: \$1,058.30 per month for 24 months as provided in the note,
with the final payment due December 1, 2009.

Property (including any improvements):

the South 7 feet of Lot Nine (9), all of Lot Ten (10), and the West 56.4 feet of Lots Eleven (11), Twelve (12), and Thirteen (13), in Block One Hundred Ninety-Eight (198) of TOWN OF La PORTE, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 8, Page 16 of the Map Records of Harris County, Texas, and commonly known as 117 San Jacinto, La Porte, Texas

NON-HOMESTEAD DEED OF TRUST AND SECURITY AGREEMENT

Page 1 of 6

GP# 01108736
21-A/RICHARD CROW
STEWART TITLE COMPANY - HOLD

41-22

Exceptions to Conveyance and Warranty:

For value received and to secure payment of the note, Grantor conveys the property to Trustee in trust. Grantor warrants and agrees to defend the title to the property. If Grantor performs all the covenants and pays the note according to its terms, this deed of trust shall have no further effect, and Beneficiary shall release it at Grantor's expense.

Grantor's Obligations:

Grantor agrees to:

1. Keep the property in good repair and condition.
2. Pay all taxes and assessments on the property when due.
3. Preserve the lien priorities as established in this deed of trust.
4. Maintain, in a form acceptable to Beneficiary, an insurance policy that:
 - a. *is issued by a carrier legally admitted to do business in the State of Texas, and under the regulation and supervision of the Texas Department of Insurance, and said policy shall contain loss payable clauses payable to the Beneficiary, showing a first lien in favor of Beneficiary.*
 - b. covers all improvements for their full insurable value as determined when the policy is issued and renewed, unless Beneficiary approves a smaller amount in writing;
 - c. contains an 80% coinsurance clause;
 - d. provides fire and extended coverage, including windstorm coverage;
 - e. protects Beneficiary with a standard mortgage clause;
 - f. provides flood insurance at any time the property is in a flood hazard area as determined in the absolute opinion of Beneficiary; and
 - i. contains such other coverage as Beneficiary may reasonably require.
5. Pay promptly when due all real estate and ad valorem taxes as well as any other assessments and charges which might be the basis for a lien against the subject property if not paid.
6. Deliver the insurance policy to Beneficiary and deliver renewals to Beneficiary at least ten days before expiration.
7. Keep any buildings occupied as required by the insurance policy; and
8. If this is not a first lien, pay all prior lien notes that Grantor is personally liable to pay and abide by all prior lien instruments.

Beneficiary's Rights

1. Beneficiary may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of Trustee.

RP 051-10-2438

2. If the proceeds of the note are used to pay any debt secured by prior liens, Beneficiary is subrogated to all of the rights and liens of the holders of any debt so paid.
3. Beneficiary may apply any proceeds received under the insurance policy either to reduce the note or to repair or replace damaged or destroyed improvements covered by the policy.
4. If Grantor fails to perform any of Grantor's obligations, Beneficiary may perform those obligations and be reimbursed by Grantor on demand at the place where the note is payable for any sums so paid, including attorney's fees, plus interest on those sums from the dates of payment at the rate stated in the note for matured, unpaid amounts. The sum to be reimbursed shall be secured by this deed of trust.
5. If Grantor defaults on the note or fail to perform any of Grantor's obligations or if default occurs on a prior lien note or other instrument, and the default continues after Beneficiary gives Grantor notice of the default and the time within which it must be cured, as may be required by law or by written agreement, then Beneficiary may:
 - a. declare the unpaid principal balance and earned interest on the note immediately due;
 - b. request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended; and
 - c. purchase the property at any foreclosure sale by offering the highest bid and then have the bid credited to the note.
6. If Grantor fails on demand to reimburse Beneficiary for the sums advanced, and such failure continues after Beneficiary gives Grantor notice of failure and the time within which it must be cured, as may be required by law or by written agreement, then Beneficiary may:
 - a. request Trustee to foreclose this lien, in which case, Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended; and
 - b. purchase the property at any foreclosure sale by offering the highest bid and then have the bid credited to the reimbursement of Beneficiary.

Trustee's Duties:

If requested by Beneficiary to foreclose this lien, Trustee shall:

1. Either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then amended.
2. Sell and convey all or part of the property to the highest bidder for cash with a general warranty binding Grantor, subject to prior liens and to other exceptions to conveyance and warranty.

3. From the proceeds of the sale, pay, in this order:
- expenses of foreclosure, including a commission to Trustee of 5% of the bid;
 - to Beneficiary, the full amount of principal, interest, attorney's fees and other charges due and unpaid;
 - any amounts required by law to be paid before payment to Grantor; and
 - to Grantor, any balance.

General Provisions

1. If any of the property is sold under this deed of trust. Grantor shall immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
2. Recitals in any Trustee's deed conveying the property will be presumed to be true.
3. Proceeding under this deed of trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
4. This lien shall remain superior to liens later created even if the time of payment of all or part of the note is extended or part of the property is released.
5. If any portion of the note cannot be lawfully secured by this deed of trust, payments shall be applied first to discharge that portion.
6. Grantor assigns to Beneficiary all sums payable to or received by Grantor from condemnation of all or part of the property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the property. After deducting any expense incurred, including attorney's fees, Beneficiary may release any remaining sums to Grantor or apply such sums to reduce the note. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums.
7. No sale under this deed of trust shall extinguish the lien created by this instrument.
8. Grantor assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the property. Leases are not assigned. Grantor warrants the validity and enforceability of the assignment. Grantor may as Beneficiary's licensee, collect rent and other income and receipts as long as Grantor is not in default under the note or the deed of trust. Grantor will apply all rent and other income and receipt to payment of the note and performance of this deed of trust assumed, and Grantor may retain the excess. If Grantor defaults in payment of the note or performance of this deed of trust assumed, Beneficiary may terminate Grantor's license to collect and then as Grantor's agent, may rent the property if it is vacant and collect all rents and other income and receipts. Beneficiary neither has nor assume any obligations as

lessor or landlord with respect to any occupant of the property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph, first to expenses incurred in exercising Beneficiary's rights and remedies, then to Grantor's obligations under the note and deed of trust assumed in the order determined by Beneficiary. Beneficiary are not required to act under this paragraph, and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Grantor becomes a voluntary or involuntary bankrupt, Beneficiary's filing a proof of claim in bankruptcy will be tantamount to the appointment of a receiver under Texas law.

9. Interest on the debt secured by this deed of trust to secure assumption shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all other instruments concerning the debt.
10. When the context requires, singular nouns and pronouns include the plural.
11. The term note includes all sums secured by this deed of trust.
12. This deed of trust shall bind, inure to the benefit of, and be exercised by successors in interest of all parties.
13. If Grantor and Maker are not the same person, the term Grantor shall include Maker. Moreover, the term Grantor shall include all Grantors, whether one or more.
14. This written loan agreement, and all other loan documents of even date, represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.
15. If in the Beneficiary's judgment, the Property has materially decreased in value, or if the Beneficiary shall, at any time, deem that the value of the Property is inadequate to secure repayment of the Indebtedness, the Beneficiary shall notify the Grantor of this fact in writing, and Grantor shall within 30 days of such notice, either provide enough additional real property to secure and collateralize the Indebtedness, or reduce the total Indebtedness by an amount sufficient to satisfy the Beneficiary that its security for the Indebtedness is adequate.
16. Grantor represents that this deed of trust and the note are given for the following purposes: purchase money indebtedness, and to pay other loan related and business expenses.

EAST A DEVELOPMENTS, LP

By: [Signature]
Garson Silvers, General Partner

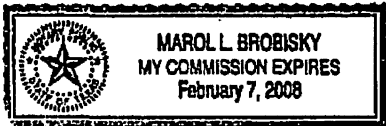
202

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF HARRIS §

SWORN to and acknowledged before me by Garson Silvers as the act and deed of EAST A DEVELOPMENTS, LP, on this the 17 day of October, 2007.

[Signature]
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS



ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, MORTGAGE, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me, and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas on

OCT 19 2007



[Signature]
COUNTY CLERK
HARRIS COUNTY, TEXAS

COUNTY CLERK
HARRIS COUNTY, TEXAS

[Signature]

2007 OCT 19 PM 12:39

FILED

15-02-01-150-22

**NON-HOMESTEAD
DEED OF TRUST AND SECURITY AGREEMENT**

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY 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.

Date: March 26, 2009

Grantor: EAST A DEVELOPMENTS, L.P.
Grantor's Mailing Address: 1001 Usener
Houston, Texas 77009

Trustee: Thomas Clarke
Trustee's Mailing Address: P.O. Box 1155
Mineola, Texas 75773

Beneficiary: Real Property Mortgage & Investment Company, Inc.
Beneficiary's Address: 4212 San Felipe, Suite 507.
Houston, Texas 77027

The Indebtedness:

Date: Of even date herewith.
Original Principal Amount: ONE HUNDRED FIFTY-SEVEN THOUSAND AND NO/100 DOLLARS (\$157,000.00)

Maker: EAST A DEVELOPMENTS, LP
Payee: Real Property Mortgage & Investment Company, Inc.
Final Maturity Date: April 1, 2010
Terms of Payment: \$1,741.21 per month for 12 months as provided in the note, with one final payment due April 1, 2010.

Property (including any improvements):

Lots Six (6), Seven (7), Eight (8), and the adjoining North 18 feet of Nine (9), in Block One Hundred Ninety-eight (198), of TOWN OF LAPORTE, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 8, page 16 of the Map Records of Harris County, Texas.

Exceptions to Conveyance and Warranty:

For value received and to secure payment of the note, Grantor conveys the property to Trustee in trust. Grantor warrants and agrees to defend the title to the property. If Grantor performs all the covenants and pays the note according to its terms, this deed of trust shall have no further effect, and Beneficiary shall release it at Grantor's expense.

GF#: 09108323
21-A/RICHARD CROW
STEWART TITLE COMPANY

Grantor's Obligations:

Grantor agrees to:

1. Keep the property in good repair and condition.
2. Pay all taxes and assessments on the property when due.
3. Preserve the lien priorities as established in this deed of trust.
4. Maintain, in a form acceptable to Beneficiary, an insurance policy that:
 - a. *is issued by a carrier legally admitted to do business in the State of Texas, and under the regulation and supervision of the Texas Department of Insurance, and said policy shall contain loss payable clauses payable to the Beneficiary, showing a first lien in favor of Beneficiary.*
 - b. covers all improvements for their full insurable value as determined when the policy is issued and renewed, unless Beneficiary approves a smaller amount in writing;
 - c. contains an 80% coinsurance clause;
 - d. provides fire and extended coverage, including windstorm coverage;
 - e. protects Beneficiary with a standard mortgage clause;
 - f. provides flood insurance at any time the property is in a flood hazard area as determined in the absolute opinion of Beneficiary; and
 - i. contains such other coverage as Beneficiary may reasonably require.
5. Pay promptly when due all real estate and ad valorem taxes as well as any other assessments and charges which might be the basis for a lien against the subject property if not paid.
6. Deliver the insurance policy to Beneficiary and deliver renewals to Beneficiary at least ten days before expiration.
7. Keep any buildings occupied as required by the insurance policy; and
8. If this is not a first lien, pay all prior lien notes that Grantor is personally liable to pay and abide by all prior lien instruments.

Beneficiary's Rights

1. Beneficiary may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of Trustee.
2. If the proceeds of the note are used to pay any debt secured by prior liens, Beneficiary is subrogated to all of the rights and liens of the holders of any debt so paid.
3. Beneficiary may apply any proceeds received under the insurance policy either to reduce the note or to repair or replace damaged or destroyed improvements covered by the policy.
4. If Grantor fails to perform any of Grantor's obligations, Beneficiary may perform those obligations and be reimbursed by Grantor on demand at the place where the note is payable for any sums so paid, including attorney's fees, plus interest on

RP 063-68-1028

- those sums from the dates of payment at the rate stated in the note for matured, unpaid amounts. The sum to be reimbursed shall be secured by this deed of trust.
5. If Grantor defaults on the note or fail to perform any of Grantor's obligations or if default occurs on a prior lien note or other instrument, and the default continues after Beneficiary gives Grantor notice of the default and the time within which it must be cured, as may be required by law or by written agreement, then Beneficiary may:
- a. declare the unpaid principal balance and earned interest on the note immediately due;
 - b. request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended; and
 - c. purchase the property at any foreclosure sale by offering the highest bid and then have the bid credited to the note.
6. If Grantor fails on demand to reimburse Beneficiary for the sums advanced, and such failure continues after Beneficiary gives Grantor notice of failure and the time within which it must be cured, as may be required by law or by written agreement, then Beneficiary may:
- a. request Trustee to foreclose this lien, in which case, Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended; and
 - b. purchase the property at any foreclosure sale by offering the highest bid and then have the bid credited to the reimbursement of Beneficiary.

Trustee's Duties:

If requested by Beneficiary to foreclose this lien, Trustee shall:

1. Either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then amended.
2. Sell and convey all or part of the property to the highest bidder for cash with a general warranty binding Grantor, subject to prior liens and to other exceptions to conveyance and warranty.
3. From the proceeds of the sale, pay, in this order:
 - a. expenses of foreclosure, including a commission to Trustee of 5% of the bid;
 - b. to Beneficiary, the full amount of principal, interest, attorney's fees and other charges due and unpaid;
 - c. any amounts required by law to be paid before payment to Grantor; and
 - d. to Grantor, any balance.

General Provisions

1. If any of the property is sold under this deed of trust. Grantor shall immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor shall

become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.

2. Recitals in any Trustee's deed conveying the property will be presumed to be true.
3. Proceeding under this deed of trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
4. This lien shall remain superior to liens later created even if the time of payment of all or part of the note is extended or part of the property is released.
5. If any portion of the note cannot be lawfully secured by this deed of trust, payments shall be applied first to discharge that portion.
6. Grantor assigns to Beneficiary all sums payable to or received by Grantor from condemnation of all or part of the property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the property. After deducting any expense incurred, including attorney's fees, Beneficiary may release any remaining sums to Grantor or apply such sums to reduce the note. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums.
7. No sale under this deed of trust shall extinguish the lien created by this instrument.
8. Grantor assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the property. Leases are not assigned. Grantor warrants the validity and enforceability of the assignment. Grantor may as Beneficiary's licensee, collect rent and other income and receipts as long as Grantor is not in default under the note or the deed of trust. Grantor will apply all rent and other income and receipt to payment of the note and performance of this deed of trust assumed, and Grantor may retain the excess. If Grantor defaults in payment of the note or performance of this deed of trust assumed, Beneficiary may terminate Grantor's license to collect and then as Grantor's agent, may rent the property if it is vacant and collect all rents and other income and receipts. Beneficiary neither has nor assume any obligations as lessor or landlord with respect to any occupant of the property. Beneficiary may exercise Beneficiary's right sand remedies under this paragraph without taking possession of the property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph, Beneficiary shall apply all rent and other income and receipts collected under this paragraph, in accordance with that certain Assignment of Rents of even date herewith from Grantor to Beneficiary, to which reference is hereby mad and such Assignment of Rents is hereby incorporated by reference. Beneficiary are not required to act under this paragraph, and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Grantor becomes a voluntary or involuntary bankrupt, Beneficiary's filing a proof of claim in bankruptcy will be tantamount to the appointment of a receiver under Texas law.
9. Interest on the debt secured by this deed of trust to secure assumption shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been

paid, refunded. On any acceleration or required or permitted prepayment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all other instruments concerning the debt.

10. When the context requires, singular nouns and pronouns include the plural.
11. The term note includes all sums secured by this deed of trust.
12. This deed of trust shall bind, inure to the benefit of, and be exercised by successors in interest of all parties.
13. If Grantor and Maker are not the same person, the term Grantor shall include Maker. Moreover, the term Grantor shall include all Grantors, whether one or more.
14. This written loan agreement, and all other loan documents of even date, represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.
15. If in the Beneficiary's judgment, the Property has materially decreased in value, or if the Beneficiary shall, at any time, deem that the value of the Property is inadequate to secure repayment of the Indebtedness, the Beneficiary shall notify the Grantor of this fact in writing, and Grantor shall within 30 days of such notice, either provide enough additional real property to secure and collateralize the Indebtedness, or reduce the total Indebtedness by an amount sufficient to satisfy the Beneficiary that its security for the Indebtedness is adequate.
16. Grantor represents that this deed of trust and the note are given for the following purposes: renewal and extension of prior business indebtedness and for additional capital to complete improvements to the subject property.

EAST A DEVELOPMENTS, L.P.

By: GSDB Management, L.L.C.,
Its general partner

By: [Signature]
GARSON SILVERS, its Manager

HARRIS COUNTY, TEXAS

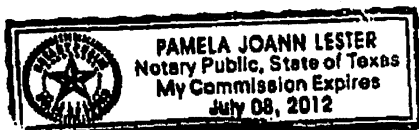
2009 MAR 31 PM 12:24

FILED

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF HARRIS §

SWORN to and acknowledged before me by GARSON SILVERS as the act and deed of EAST A DEVELOPMENTS, L.P. on this the 26 day of March, 2009.



[Signature]
Notary Public for Texas

return to:

Real Property Mtge
4212 San Felipe #509
Houston, TX 77027

RP 063-68-1081

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL
PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.
THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time
stamped herein by me, and was duly RECORDED, in the Official Public Records of Real Property of Harris
County, Texas on

MAR 31 2009



Beverly B. Kayfman
COUNTY CLERK
HARRIS COUNTY, TEXAS

TRANSFER OF NOTE

Date: March 26, 2009

Assignor: Real Property Mortgage & Investment Company, Inc.
Assignor's Mailing Address: 4212 San Felipe, Suite 507
Houston, Texas 77027

Assignee: GAGLE INVESTMENT COMPANY
Assignee's Mailing Address: PO Box 1405
Bellaire, Texas 77402-1405

Note Being Transferred:

Date: March 26, 2009
Original Principal Amount: ONE HUNDRED FIFTY-SEVEN THOUSAND AND
NO/100 DOLLARS (\$157,000.00)
Maker: EAST A DEVELOPMENTS, L.P.
Payee: Real Property Mortgage & Investment Company, Inc.
Terms of Payment: As provided in the Note
Secured by : Deed of trust of even date

Property Securing Note:

Lots Six (6), Seven (7), Eight (8), and the adjoining North 18 feet of Nine (9), in Block One Hundred Ninety-eight (198), of TOWN OF LAPORTE, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 8, page 16 of the Map Records of Harris County, Texas.

Consideration:

For ten dollars and other valuable and sufficient consideration paid, the receipt of which is hereby acknowledged.

Other Exceptions to Conveyance and Warranty:

Assignor hereby TRANSFERS, ASSIGNS, GRANTS and CONVEYS unto Assignee, an undivided 52.229% interest in and to the above promissory note, together with all liens, rights, equities, interests and superior title, held by the undersigned securing the payment thereof. There remains unpaid upon the note the principal sum of \$157,000.00 plus interest thereon from the 31 day of March, 2009. Assignee and Assignor as used in this agreement include, shall bind and shall inure to the benefit of the respective heirs, executors or administrators, successors, representatives, receivers, trustee and assigns of such parties. This assignment is without recourse.

GP#: 08108323
21-A/RICHARD TROW
STEWART TITLE COMPANY

EXECUTED this 26 day of March 2009.

Real Property Mortgage & Investment Company, Inc.

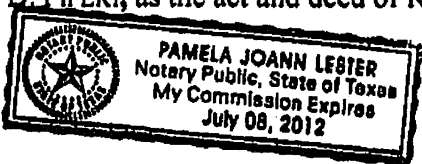
By: 
Ronald D. Piperi, PRESIDENT

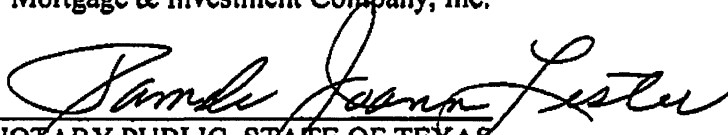
ACKNOWLEDGMENT

STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on the 26th day of March 2009, by RONALD D. PIPERI, as the act and deed of Real Property Mortgage & Investment Company, Inc.




NOTARY PUBLIC, STATE OF TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW, THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in the Public Records of the State and of the County of Harris on this day of March 2009, in the Office of the County Clerk of Harris County, Texas on

MAR 31 2009




COUNTY CLERK
HARRIS COUNTY, TEXAS

After Recording Return To:

Real Property Mortgage
4212 San Felipe #507
Houston, TX 77027

FILED
2009 MAR 31 PM 12:25
COUNTY CLERK
HARRIS COUNTY, TEXAS

20090463380
10/09/2009 RP2 \$16.00

State of Texas
County of Harris

LIEN AFFIDAVIT

Peter Halligan, owner and operator of HALLIGAN'S FOAM COATINGS OF HOUSTON, INC. appeared personally before me, the undersigned authority, and, upon oath, depose and stated:

"My name is Peter Halligan. I am the owner of Halligan's Foam Coatings of Houston, Inc. located at 10835 Sageburrow, Houston, Texas 77089. Halligan's Foam Coatings of Houston, Inc. is referred to in this affidavit as "Claimant." I have personal knowledge of the facts set forth below and am competent and authorized to make this affidavit.

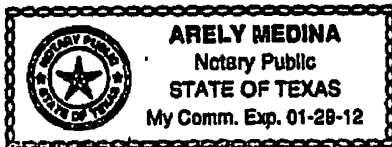
Pursuant to a contract between Claimant and EAST A. DEVELOPMENT L.P. who is the owner, or reputed owner, of the real property described in this affidavit, and whose address is 1001 Usener, Houston, Texas 77009. Claimant performed labor and supplied specially fabricated materials to improve real property located at 163 S. Broadway, LaPorte, Texas 77571. This labor may be generally described as follows: employed a unique process to apply urethane foam to create a lightweight and leak proof roofing system. A copy of this contract is attached to this affidavit, as are copies of all notices sent to East A. Development L.P. This labor was completed on July, 27 2009.

Claimant is the original contractor for the improvements for which this affidavit of completion is claimed.

After allowing all just credits and offsets, the amount of \$4300.00 remains unpaid and is due and owing under this contract. Claimant claims a lien on the following property to secure the payment of the above amount: 163 S. BROADWAY, LAPORTE, TEXAS 77571.

[Signature]
Peter Halligan

SWORN AND SUBSCRIBED TO BEFORE ME by Peter Halligan on this the 1 day of September, 2009.



[Signature]
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Return to:
Hensley & Krueger, L.P.
24 Greenway Plaza, Suite 1827
Houston, TX 77046

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that the instrument was FILED in File Number Sequence on the date and at the place stated herein by me, and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas on

OCT - 9 2009



[Signature]
COUNTY CLERK
HARRIS COUNTY, TEXAS

RECEIVED
At the time of recording, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blackouts, additions and changes were present at the time the instrument was filed and recorded.

2009 OCT - 9 PM 5:59

FILED

Summary of City Purchasing Policies and Procedures
City of La Porte
Prepared by Belt Harris Pechacek, LLLP

Purchasing Interview

Our interview with staff related to the purchasing function centered on gaining an understanding of the general process. According to our interview, purchasing is generally a collaborative effort between individual departments and the purchasing department. City purchases for different amounts follow different procedures:

- Purchases in excess of \$50,000 require a formal bidding process with a few exceptions (professional services, goods or services for which there is only one provider, etc.).
- For purchases between \$2,000 and \$50,000, the department is required to solicit three quotes.
 - Purchases between \$5,000 and \$10,000 require department director approval.
 - Purchases between \$10,000 and \$25,000 require the approval of the department director and either the City Manager or Assistant City Manager.
- Purchases under \$2,000 are made at the discretion of the individual department.

During a formal bidding process, the City sends out Requests for Proposals (RFP's). This request is advertised. The RFP's received are opened on a specific date and the selection is made. Usually, this will be the lowest bidder. The purchase then goes to Council for approval.

Items going through the quote process require the department to receive three written quotations from vendors. These quotes are then submitted to the purchasing department for issuance of a purchase order (PO).

The purchasing department then issues a PO and work proceeds. As work is completed, departments review the work and sign off on progress using a receiving report. The accounts payable (A/P) department then issues the check in the A/P system.

The A/P manager reviews each transaction, including supporting documentation, before signing off on them. A physical check is then printed. An A/P technician then matches all documentation against the check as a last review before the checks are sent out.

Summary of Written Purchasing Policy

The written purchasing policy provided to us is attached as Exhibit 1. The purchasing policy appears to conform generally to the policies and procedures related in our interview of City staff and appears reasonable when compared to other cities of the same size and staffing levels.

The written purchasing policies and procedures are unclear as to when formal, competitive, sealed bidding is required. Chapter 5, section 4 requires such bidding for "all contracts and expenditures in excess of \$15,000" (see Exhibit 1, pages 1-12). Chapter 3, Section 3, however, states "Purchases over \$25,000 shall be competitively bid" (see Exhibit 1, pages 1-6). Our interview with staff indicated a threshold of \$50,000 was being used.

Texas Local Government Code, Chapter 252, Purchasing and Contracting Authority of Municipalities (Exhibit 4), states that a "municipality may enter into a contract that requires an expenditure of more than \$50,000 from one or more municipal funds, the municipality must, with a few exceptions, use competitive sealed bidding. However, this is a maximum threshold. Lower thresholds can be set forth by cities in their own policies and procedures". Whether the threshold is \$15,000, \$25,000, or \$50,000; the City would be in compliance with Chapter 252.



**Engagement Letter for
Agreed Upon Procedures**

July 8, 2010

Honorable Mayor and City Council
City of La Porte
604 W. Fairmont Parkway
La Porte, TX 77571

We are pleased to confirm our understanding of the nature and limitations of the services we are to provide for the City of La Porte, Texas (the "City").

We will apply the agreed-upon procedures which the City has specified, listed in the attached schedule ("Exhibit A"), to analyze transactions associated with the City's 5-Points Project. This engagement is solely to assist the City for the purpose of gaining a better understanding of certain aspects of the 5-Points Project as they relate to applicable City and 4B Development Corporation policies and procedures as well as applicable State law. Our engagement to apply agreed-upon procedures will be conducted in accordance with attestation standards established by the American Institute of certified Public Accountants. The sufficiency of the procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described in Exhibit A either for the purpose for which this report has been requested or for any other purpose. If, for any reason, we are unable to complete the procedures, we will describe any restrictions on the performance of the procedures in our report, or will not issue a report as a result of this engagement.

Because the agreed-upon procedures listed in Exhibit A do not constitute an examination, we will not express an opinion on transactions associated with the City's 5-Points Project. In addition, we have no obligation to perform any procedures beyond those listed in Exhibit A.

We will submit a report listing the procedures performed and our findings. This report is intended solely for the use of the City and should not be used by anyone other than this specified party. Our report will contain a paragraph indicating that had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

You are responsible for the presentation of the requested items in accordance with the procedures listed above; and for selecting the criteria and determining that such criteria are appropriate for your purposes. You are also responsible for making all management decisions and performing all management functions; for designating an individual with suitable skill, knowledge, and /or experience to oversee the services we provide; and for evaluating the adequacy and results of those services and accepting responsibility for them.

Providing Governmental & Nonprofit Audits Scaled with Excellence

We plan to begin our procedures when the City approves the start date and unless unforeseeable conditions are encountered, the engagement should be completed within 6 weeks. At the conclusion of our engagement, we will require a representation letter from management that, among other things, will confirm management's responsibility for the presentation of the subject matter in accordance with the established criteria.

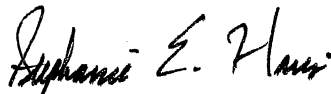
Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, travel, etc.) Our hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to the engagement which range from \$125 to \$245 per hour. We expect that a project of this nature will entail using one of our in-charge auditors (\$125 per hour), with the exception of clerical support. We estimate 168 hours will be expended on this project. Fees for our services under this agreement will not exceed \$24,600 without prior written approval.

Our invoices for these fees will be rendered each month as work progresses and are payable within 30 days. In accordance with our firm policies, work will be suspended if your account becomes 30 days or more overdue and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. Notwithstanding anything contained in this engagement to the contrary, in the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal period for fees due under this engagement agreement, the City will immediately notify us in writing of such occurrence and this agreement shall terminate on the last day of the fiscal period for which appropriations have been received or made.

Any client certified public accountant involved with assisting us shall not be prohibited from disclosure of information required to be made available by the standards of the public accounting profession in reporting on the examination of financial statements. Management understands and provides permissions to staff certificate or registration holders as required under the Rules of Professional Conduct, Texas Administrative Code, Title 22, Part 22, Chapter 501, Subchapter C, Section 501.75.

We appreciate the opportunity to assist you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. If the need for additional services arises, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter. If additional specified users of the report are added, we will require that they acknowledge in writing their responsibility for the sufficiency of procedures.

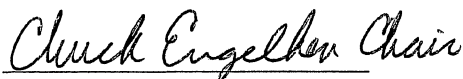
Sincerely,



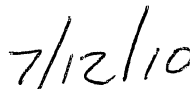
Stephanie E. Harris, CPA
Partner

RESPONSE:

This letter correctly sets forth the understanding of the City of La Porte, Texas.



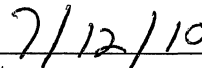
Authorized Representative



Date



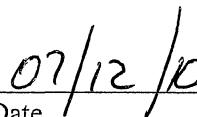
Authorized Representative




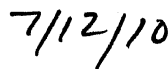
Date



Authorized Representative



Date


Mayor Pro Tem

- 1 Obtain further understanding of 5-Points Project and areas of concern through interviews of Fiscal Affairs Committee Members and Concerned Citizen, as well as by a review minutes and open records request by Citizen to further define scope.
- 2 Obtain listing of all expenditures coded to 5-Point Project as recorded on the City's and/or 4B Development Corporation General Ledger and review supporting documents/invoices against applicable policies and procedures for preparation of exhibit for final report.
- 3 Obtain copy of EDC Project plan and other applicable documents associated with advertising and approval of final project by City Council and review for compliance with applicable State Statute/By-laws.
- 4 Prepare timeline of events associated with 5-Point Project from inception to completion thru review of minutes and other interviews.
- 5 Question officials about an alleged meeting on 10/1/08 with URS to determine if there was a violation of the open meetings act.
- 6 Review the contract and resulting invoices for services as submitted by URS (Project Engineer) to the City in connection with the 5-Points Project for accuracy and compliance with the City's applicable policies and procedures.
- 7 Review process for selection of 5-Points Project Engineer and Construction Contractor for compliance with applicable State Statute.
- 8 Verify filing of Conflict of Interest by 4B Development Board Member.
- 9 Review the expenditure of funds by the 4B Development Corporation for the 5-Points Project for compliance with applicable State Statutes.
- 10 Verify proper authorization for expansion of funding for 5-Points Project.
- 11 Review transactions between the City and Developer as they relate to the following:
 - 11a Criteria used for providing loan to Developer
 - 11b Review loan documents to determine compliance with the agreement and applicable laws and regulations
 - 11c for repayment by Developer
Obtain Confirmation from the City to determine depositor of wire transfer used for repayment of loan
- 12 Review various real estate transactions between the City/4B Development Corporation and the Developer as they relate to the following
 - 12a The sale of a portion of San Jacinto St. to Developer
 - 12b Payment of property taxes on Triangle Property
 - 12c Review of evidence of payments made by City to all parties at closing on Triangle Property
 - 12d Review of Exhibit C for proper execution
 - 12e Review title history along with lien documents on property if available and timing of transactions
- 13 Prepare report
- 14 Review procedures completed and report

Exhibit A

Procedure	Est. Hours Auditor	Est. Hours Partner	Auditor Billing Rate	Partner Billing Rate	Total Cost Auditor	Total Cost Partner	Total
1	8	12	\$ 125	\$ 225	\$ 1,000	\$ 2,700	\$ 3,700
2	16		125	225	2,000	-	2,000
3	6		125	225	750	-	750
4	12		125	225	1,500	-	1,500
5	6		125	225	750	-	750
6	12		125	225	1,500	-	1,500
7	8		125	225	1,000	-	1,000
8	1		125	225	125	-	125
9	6		125	225	750	-	750
10	6		125	225	750	-	750
11a	4		125	225	500	-	500
11b	4		125	225	500	-	500
11c	2		125	225	250	-	250
12a	2		125	225	250	-	250
12b	2		125	225	250	-	250
12c	1		125	225	125	-	125
12d	4		125	225	500	-	500
12e	8		125	225	1,000	-	1,000
13	24		125	225	3,000	-	3,000
14	-	24	125	225	-	5,400	5,400
	132	36			\$ 16,500	\$ 8,100	\$ 24,600