

NOTICE: ANY SUBJECT APPEARING ON THIS AGENDA, REGARDLESS OF HOW THE MATTER IS STATED, MAY BE ACTED UPON BY THE BOARD OF DIRECTORS OF TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION.

TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION  
BOARD OF DIRECTORS ANNUAL MEETING

AGENDA

OCTOBER 11, 2017- 4:00 P.M.  
CITY HALL CONFERENCE ROOM  
1801 9th Ave. N.  
Texas City, TX 77590

PLEASE NOTE: Public comments and matters from the floor are generally limited to 3 minutes in length. If you would like to request to speak, please do so in advance of the meeting by filling out a Request To Address Commission form. All in attendance are required to remove hats and/or sunglasses (dark glasses) during meetings and to also silence all cell phones and electronic devices.

1. ROLL CALL
  
2. NEW BUSINESS
  - a. Consider and take action on election of officers and Oath of Officers.
  
  - b. Consider and take action on approving the minutes from September 20, 2017.
  
  - c. Consider and take action on Resolution No. 17-28, approving 2017-2018 fiscal year budget.
  
  - d. Consider and take action on Resolution No. 17-29, approving the actions of the board for the 2016-2017 fiscal year.
  
  - e. Consider and take action on Resolution No. 17-30, approving expenditures for a mural on 6th Street.
  
  - f. Consider and take action on Resolution No. 17-31, approving an agreement with Fetching Labs Brewery for 911 9th Street.
  
  - g. Consider and take action on Resolution No. 17-32, approving an agreement with Edifis for the Palmer Plaza.
  
  - h. Consider and take action on Resolution No. 17-33, approving debris removal on Shoal Point access roads not to exceed \$15,000.
  
3. UPDATES
  
4. BOARD COMMENTS

5. ADJOURNMENT

I, THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFY THAT THIS NOTICE OF MEETING WAS POSTED ON THE BULLETIN BOARDS AT CITY HALL, 1801 9TH AVENUE NORTH, TEXAS CITY, TEXAS, AT A PLACE CONVENIENT AND READILY ACCESSIBLE TO THE GENERAL PUBLIC AND ON THE CITY'S WEBSITE ON OCTOBER 6, 2017, PRIOR TO 5:00PM., AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.

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Justin Herter  
Board Secretary  
Texas City Economic Development Corporation

**TCEDC Agenda**

**1.**

**Meeting Date:** 10/11/2017

**Submitted By:** Rhomari Jackson-Glover, City Secretary

**Department:** City Secretary

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**ACTION REQUEST (Brief Summary)**

ROLL CALL

**BACKGROUND**

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**TCEDC Agenda**

**2. a.**

**Meeting Date:** 10/11/2017

**Submitted By:** Justin Herter, City Attorney Office

**Department:** City Attorney Office

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**ACTION REQUEST (Brief Summary)**

Consider and take action on election of officers and Oath of Officers.

**BACKGROUND**

This is an annual requirement after re-appointments and appointments of members to hold an election of officers for the year. See the roll call item for the current members and officers.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**TCEDC Agenda**

**2. b.**

**Meeting Date:** 10/11/2017

**Submitted By:** Justin Herter, City Attorney Office

**Department:** City Attorney Office

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**ACTION REQUEST (Brief Summary)**

Consider and take action on approving the minutes from September 20, 2017.

**BACKGROUND**

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Attachments**

Mins

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TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION  
BOARD OF DIRECTORS MEETING

MINUTES

September 20, 2017

4:00PM

CITY HALL CONFERENCE ROOM

The Texas City Economic Development Corporation Board of Directors met Wednesday, September 20, 2017, at 4:00pm, in the City Hall Conference Room, 1801 9th Avenue North, in Texas City, Texas. A quorum having been met, the meeting was called to order at 4:00pm by Mark Ciavaglia with the following in attendance:

(1) ROLL CALL

Present: Mark Ciavaglia, Chairperson  
Matthew T. Doyle, Mayor / Director  
Mitchell Chuoke, Director  
Laura Boyd, Ex-Officio Member / Treasurer

Absent: Harold Fattig, Vice-Chairperson  
Randy Dietel, Director

Staff Present:

Justin Herter, City Staff  
George Fuller, City Staff  
Rhomari Glover, City Staff  
James Hartshorn, City Secretary  
Ronald Plackemier, City Attorney  
Nick Finan, Management Services

Attendees: Henry Gomez

(2) NEW BUSINESS

- (a) Approve Texas City Economic Development Minutes for August 16, 2017 meeting.

Motion by Director Mitchell Chuoke, Seconded by Mayor / Director Matthew T. Doyle to approve minutes.

**Vote:** 3 - 0 CARRIED

- (b) Consider and take action on Resolution No. 17-24, ratifying expenditures to improve the TCEDC property located at 901 9th Street North.

James Hartshorn, City Secretary, stated the TCEDC recently purchased the property located at 901 9th Street North which included two separate buildings. It is proposed that the TCEDC approves an amount not to exceed \$30,000 to improve the one-story building on the corner in an effort to attract a restaurant.

Nick Finan, Management Services, stated for the record that the money for paving had been approved in a previous meeting.

Motion by Director Mitchell Chuoke, Seconded by Mayor / Director Matthew T. Doyle to approve Resolution 17-24.

**Vote:** 3 - 0 CARRIED

- (c) Consider and Take Action on Resolution No. 17-25 authorizing the TCEDC Chair to purchase Property In Trust properties in the 400 block of Martin Luther King.

Nick Finan, Management Services, stated the TCEDC has the opportunity to purchase two parcels of land from the Property In Trust group for Texas City tax foreclosed properties. Both properties are within the IBD and located on Martin Luther King and are within the 400 Block. It was decided to combine Resolutions 17-25, 17-26 and 17-27 for the vote. Resolution 17-26 would be an exchange of property with Eastman. Resolution No. 17-27 would be selling property at the intersection of Texas Ave. South and 3rd Street South to Ami Barzilay. The end result will be a pure swap of property with the City not making a profit.

Mark Ciavaglia, Chairperson, stated for the record that he was going to abstain from this vote.

Motion by Mayor / Director Matthew T. Doyle, Seconded by Director Mitchell Chuoke to approve Resolutions 17-25, 17-26 and 17-27.

**Vote:** 3 - 0 CARRIED

- (d) Consider and Take Action on Resolution No. 17-26, authorizing the TCEDC Chair to enter into an exchange of property within the 400 block of Marting Luther King for Eastman Chemical property located at Texas Av. and 3rd St. S.

This item was approved in a previous vote.

- (e) Consider and Take Action on Resolution No. 17-27, authorizing the TCEDC Chair to sell property located at the intersection of Texas Av. S. and 3rd St. S. to Ami Barzilay.

This item was approved in a previous vote.

(3) UPDATES

James Hartshorn, City Secretary, showed pictures of the three newly paved parking lots on 6th Street and at 901 9th Street. He stated the 6th Street Art Walk will be October 28, 2017, and Touch A Truck will be November 4, 2017.

Nick Finan, Management Services, stated Fetching Lab is in the process of leasing and eventually purchasing 911 9th Street to operate a brewery.

(4) BOARD COMMENTS

(5) ADJOURNMENT

Having no further business, Mark Ciavaglia made a Motion to ADJOURN at 4:20pm; The meeting was adjourned.

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Justin Herter Board Secretary  
Texas City Economic Development Corporation

Date Approved: \_\_\_\_\_

**TCEDC Agenda**

**2. c.**

**Meeting Date:** 10/11/2017

**Submitted By:** Justin Herter, City Attorney Office

**Department:** City Attorney Office

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**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 17-28, approving 2017-2018 fiscal year budget.

**BACKGROUND**

Budget will be presented by Ryan McClellan, Accountant, and James Hartshorn, Deputy Director of Management Services.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Attachments**

Res. 17-28

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**TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION**

**RESOLUTION NO. 17-28**

**A RESOLUTION ADOPTING THE TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION 2017-2018 FISCAL YEAR BUDGET; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

**WHEREAS**, at a meeting of the Board of Directors of the Texas City Economic Development Corporation, duly held on October 11, 2017, a general discussion was held concerning the proposed 2017-2018 Budget of the Texas City Economic Development Corporation.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION THAT:**

**SECTION 1:** The Board of Directors of the Texas City Economic Development Corporation hereby approves the 2017-2018 Fiscal Year Budget, for the Texas City Economic Development Corporation, as approved by the City Commission of the City of Texas City.

**SECTION 2:** A copy of said Fiscal Year 2017-2018 Budget is attached hereto as **Exhibit “A”** and made a part hereof for all intents and purposes.

**SECTION 3:** This Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 11th day of October, 2017.**

\_\_\_\_\_  
CHAIRPERSON/VICE CHAIRPERSON  
Texas City Economic Development Corporation

ATTEST:

\_\_\_\_\_  
Justin Herter  
BOARD SECRETARY  
Texas City Economic Development Corporation

**TCEDC Agenda**

**2. d.**

**Meeting Date:** 10/11/2017

**Submitted By:** Justin Herter, City Attorney Office

**Department:** City Attorney Office

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**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 17-29, approving the actions of the board for the 2016-2017 fiscal year.

**BACKGROUND**

This is an action started by our City Attorney (TCEDC's attorney) to validate the smaller items, non-budgetary in nature, or below the monetary or budgetary limit that requires Board's approval, or other items such as change orders under the allowable percentage, advertisement in newspapers, etc. and are within the line item of the budget.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Attachments**

Res. 17-29

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**TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION**

**RESOLUTION NO. 17-29**

**A RESOLUTION APPROVING THE ACTIONS OF THE OFFICERS OF THE BOARD OF DIRECTORS OF THE CITY OF TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION DURING THE 2016-2017 FISCAL YEAR; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

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**WHEREAS**, at a meeting of the Board of Directors of the Texas City Economic Development Corporation, duly held on October 11, 2017, consideration was given to approving the actions of the Officers of the Board of Directors of the Texas City Economic Development Corporation during the 2016-2017 Fiscal Year.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION THAT:**

**SECTION 1:** All of the actions taken by the Officers of the Board of Directors of the Texas City Economic Development Corporation during the 2016-2017 Fiscal Year are hereby approved.

**SECTION 2:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 11th day of October, 2017.**

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CHAIRPERSON/VICE CHAIRPERSON  
Texas City Economic Development Corporation

ATTEST:

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Justin Herter  
BOARD SECRETARY  
Texas City Economic Development Corporation

**TCEDC Agenda**

**2. e.**

**Meeting Date:** 10/11/2017

Naming new Board Secretary

**Submitted By:** Rhomari Jackson-Glover, City Secretary

**Department:** City Secretary

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**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 17-30, approving expenditures for a mural on 6th Street.

**BACKGROUND**

Gabriel Prusmack, the artist who painted the mural at Bay Street Park, has offered to paint a "Welcome to Texas City" mural for the cost of materials. We have permission from the owners of the building located at 518 9th Avenue North to paint the mural on the north wall of the building. The cost of materials is \$3,000.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Attachments**

Res. 17-30

Mural Location

Mural Concept

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**TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION**

**RESOLUTION NO. 17-30**

**A RESOLUTION APPROVING EXPENDITURES TO COMMISSION A MURAL ON 6<sup>TH</sup> STREET; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

**WHEREAS**, the Texas City Economic Development Corporation seeks to promote Downtown 6<sup>th</sup> Street and Texas City as a whole, and;

**WHEREAS**, a “Welcome to Texas City” mural painted on the building located at 518 9<sup>th</sup> Avenue North would beautify the 6<sup>th</sup> Street area and showcase various activities and amenities throughout Texas City.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION THAT:**

**SECTION 1:** the Board of Directors of the Texas City Economic Development Corporation approves the commissioning of a “Welcome to Texas City” mural in the amount of \$3,000.

**SECTION 2:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 11th day of October, 2017.**

\_\_\_\_\_  
CHAIRPERSON/VICE CHAIRPERSON  
Texas City Economic Development Corporation

ATTEST:

\_\_\_\_\_  
Justin Herter  
BOARD SECRETARY  
Texas City Economic Development Corporation



The Historic McKean Building  
LAW FIRM OF LINDBERGER GOGGAN  
BLAIR & SAMPSON  
LAW FIRM OF  
LYONS & PLACKEMEIER  
ATTORNEY DIANA G. BERTINI  
RIGO'S CAFE  
RAYMOND JAMES  
MUSICAL INSTRUMENTS  
EST. 1908

EXIT  
←



STOP

*Greetings*

FROM



**TCEDC Agenda****2. f.****Meeting Date:** 10/11/2017**Submitted By:** Justin Herter, City Attorney Office**Department:** City Attorney Office

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**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 17-31, approving an agreement with Fetching Labs Brewery for 911 9th Street.

**BACKGROUND**

The Mayor and city staff have been working with a brewery currently located just outside of Alvin, Texas: Fetching Labs. It has been in operation for about two years in a metal building on the owners property where they live. Fetching Lab has been interested in the property owned by TNMP in the past and utilized as their shop building behind their old billing office at 901 9th Street N. The property has been divided and the new address for the two-story shop building is 911 9th St. N. The agreement is attached for details, but in summary, the TCEDC will provide funding to improve its building to Fetching Lab's specifications at 62.5% of the cost of renovations and capped at \$250,000. The TCEDC will pay for minor immediate needs such as roof repair, asphaltting a portion of the parking lot, power washing, assistance with a painted sign, etc. Fetching Lab will pay \$5,000/month for rent, but have the option to purchase at the end of year five for the agreed upon price of \$600,000 (\$1,000/month of the rent will go toward the purchase price if Fetching Lab takes the option. The rent will be renegotiated not to exceed a 5% increase if Fetching Lab decides to continue leasing). Fetching Lab is waiting approval of a loan for their portion of the improvements.

**ANALYSIS****ALTERNATIVES CONSIDERED**

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**Attachments**

Res. 17-31  
Street View  
Term Sheet  
plat  
Survey

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**TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION**

**RESOLUTION NO. 17-31**

**A RESOLUTION APPROVING AN AGREEMENT WITH  
FETCHING LABS BREWERY; AND PROVIDING THAT THIS  
RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER  
ITS PASSAGE AND ADOPTION.**

**WHEREAS**, Fetching Lab Brewery is interested the property at 911 9<sup>th</sup> Street which is owned by the TCEDC, and;

**WHEREAS**, TCEDC will provide funding to improve the building to Fetching Labs Brewery's specifications at 62.5% of the cost of renovations and capped at \$250,000, and;

**WHEREAS**, in addition the TCEDC will pay for minor immediate needs such as roof repair, asphaltting a portion of the parking lot, power washing, assistance with a painted sign, etc., and;

**WHEREAS**, Fetching Lab Brewery will pay \$5,000/month for rent, with the option to purchase at the end of year five for the agreed upon price of \$600,000 (\$1,000/month of the rent will go toward the purchase price if Fetching Lab Brewery takes the option).

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION THAT:**

**SECTION 1:** the Board of Directors of the Texas City Economic Development Corporation approves the agreement with Fetching Labs Brewery as attached in Exhibit "A".

**SECTION 2:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 11th day of October, 2017.**

\_\_\_\_\_  
CHAIRPERSON/VICE CHAIRPERSON  
Texas City Economic Development Corporation

ATTEST:

\_\_\_\_\_  
Justin Herter  
BOARD SECRETARY  
Texas City Economic Development Corporation



## Fetching Lab Term Sheet

### TCEDC's Obligations

- TCEDC will Paint the Fetching Lab Logo on the exterior façade of the building.
- TCEDC will investigate the need for power washing the exterior façade or a portion to be painted with logo.
- TCEDC will provide up to \$250K as described below for remodeling/renovations and improvements to the building at 901 (also, known at times as 902 9<sup>th</sup> Ave N) (to become 911) 9<sup>th</sup> Street N as displayed on Exhibit A. Anything less than \$400K, the TCEDC will pay a Pro Rata Share based upon the \$250K for \$400K (62.5%). In no instance will the TCEDC pay over \$250K.
- TCEDC will repair roof up to \$3,000 in value.
- TCEDC will pay up to \$3,000 in repairs to exterior of building.
- TCEDC will reimburse up to \$3,500 for Architect's fees for schematics, bid documents, construction plans and drawings for final approval of proposal by TCEDC and the City for permits.
- TCEDC will charge a rent of \$5,000/month for the first 5 years. After 5 years, the lease will be renegotiated not to exceed a 5% increase.
  - The TCEDC will provide 3 months of no rent after FLB begins operations in new facility. The rent charges will start three months from the time Fetching Lab receives its Certificate of Occupancy.
- TCEDC will offer to sell 911 9<sup>th</sup> Street N. at the end of 5 years for no more than \$600,000. At its own discretion, the TCEDC may agree to sell the property prior to the 5-year period if Fetching Lab requests an earlier buyout.
  - \$1000/month of the \$5000/month rent to be applied towards the purchase of the building if FLB wishes to purchase the building.
- TCEDC will re-asphalt the portion of the current parking lot currently asphalted and indicated on Exhibit B.
- TCEDC will provide a shared parking easement with the property known as 901 9<sup>th</sup> Street N as indicated on Exhibit B.

- TCEDC will work with the City of Texas City to provide public parking on a portion property owned by the City and to the north of Fetching Lab across 10<sup>th</sup> Ave. N. from Fetching Lab's brewery on an as-needed basis. If Fetching Lab would like to improve the parking, it may approach the City and present plans. The City may revoke the use of the parking at any time.
- TCEDC agrees to grant Fetching Lab the first right of refusal for the one-story building at 901 (and to remain 901) 9<sup>th</sup> Street N. for \$75,000 for up to one year from the time Fetching Lab begins operations (Obtains a Certificate of Occupancy).
- TCEDC to be responsible for repair of external structural damages to include main structural and utility integrity. (ex. Roof, utilities from meter to building) during the term of the lease not caused by the tenants or its customers, vendors, or clients, etc.

#### **Fetching Lab Obligations**

- Fetching Lab will invest in the remodeling/renovations and improvements of 911 9<sup>th</sup> St. N. to become a brewery with a Tap Room.
- Fetching Lab will obtain its own financing for the remodeling/renovations and improvements not provided by the TCEDC (TCEDC agrees to provide a landlord waiver to the property in order to obtain a loan if necessary).
- Fetching Lab will provide construction oversight.
- Fetching Lab will provide a budget, plans and specifications for the entire buildout before construction begins – TCEDC must approve.
- Fetching Lab agrees to remain a brewery with the Fetching Lab name for the duration of 5 years or to pay a portion of the TCEDC's original investment pro-rata share based upon the number of years remaining on the 5 year commitment.
- Fetching Lab agrees to host events open to the general public and be involved in City events, particularly 6<sup>th</sup> Street events when appropriate.
- Fetching Lab agrees to be a member of the Texas City 6<sup>th</sup> Street Downtown Association.
- Fetching Lab will be responsible for any and all taxes and permit fees including state, city, federal, property taxes (if applicable), sales taxes, etc.

## Other Terms

- Fetching Lab must be open within 6 months or later with notification to TCEDC informing of expected delays, from the date of the agreement to include selling of beer.
  - Fetching Lab is unable to ensure that the government requirements to include TTB and TABC licensing changes will be processed in a timely manner. Additionally, any building, health code, or occupancy requirements that may be discovered during the build out process have the potential to cause delays.
- TCEDC may provide at its expense an independent contractor to review the expenditures.
- Fetching Lab will provide the first 37.5% of the cost, plus any cost over the \$400,000. TCEDC will provide the remaining cost up to \$250,000. Fetching Lab will provide a Mechanics and Material Lien release from each vendor prior to TCEDC making any payments.
- TCEDC will pay directly to each vendor its portion of the costs.
- TCEDC retains ownership of building and all improvements, fixed equipment, fixed furnishings, etc. not to include Brewing Equipment, inventory, supplies, data and anything listed in a landlord waiver; subject to buyout.
- Due to the age of the facility, if during construction a significant previously undetected building, structural, safety, or utility flaw is identified, Fetching Lab and TCEDC will meet to negotiate and agree to go forward with plans and cost solutions. TCEDC is under no obligation to pay any additional funds over those committed to in this agreement including the \$250,000.
- Fetching Lab will provide a security deposit of one month's rent (minus the \$1,000 that goes toward the purchase) of \$4,000.
- Insurance:
  - FLB will be responsible for utilities, and damages inside of the building (maintain insurance coverage at 80% of the value of the interior of the building, equipment and facilities).
  - FLB will maintain business general liability insurance to cover damages and accidents inside the facility (\$1 million separate liquor liability, \$1 million general liability per occurrence, and \$2 million

general liability aggregate and the City and TCEDC shall be named as additionally insured).

- TCEDC will maintain Insurance to cover Fire and Flood for the duration of the leasing period.
- If Fetching Lab wants Windstorm coverage, it will do so at its own expense.

\_\_\_\_\_  
Fetching Lab Authorized  
Representative  
Date\_\_\_\_\_

\_\_\_\_\_  
Mark Ciavaglia  
TCEDC President  
Date\_\_\_\_\_

The terms outlined above are valid for 90 days from the date of the signatures or until an earnest money contract is signed, whichever is the lesser time period.



BLOCK 254 OF TEXAS CITY 3RD DIVISION VOL. 8, PG. 93, G.C.M.R.

10TH AVENUE NORTH (80' R.O.W.)

10TH STREET (UNOPENED)

LOT 1  
0.6711 ACRES  
29235 SQ. FEET

BLOCK 253 OF TEXAS CITY 3RD DIVISION VOL. 8, PG. 93, G.C.M.R.

LOT 2  
0.4142 ACRES  
18041 SQ. FEET

9TH AVENUE NORTH (100' R.O.W.)

BLOCK 251 OF TEXAS CITY 3RD DIVISION VOL. 8, PG. 93, G.C.M.R.

BLOCK 268 OF TEXAS CITY 3RD DIVISION VOL. 8, PG. 93, G.C.M.R.

BLOCK 269 OF TEXAS CITY 3RD DIVISION VOL. 8, PG. 93, G.C.M.R.

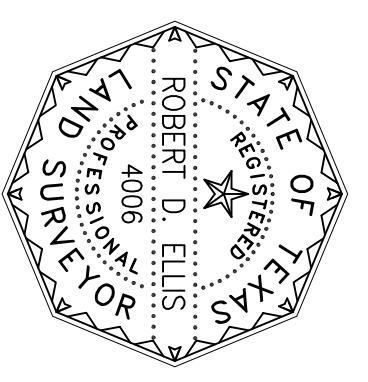
9TH STREET (100' R.O.W.)

I, Dwight Sullivan, County Clerk, Galveston County, Texas, do hereby certify that the written instrument was filed for record in my office on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ O'clock \_\_\_\_\_ M., under Galveston County Clerk's File No. \_\_\_\_\_, Galveston County Map Records.

WITNESS my hand and seal of office, at Galveston, Texas, the day and date last above written.  
Dwight Sullivan, County Clerk  
Galveston County, Texas.  
By \_\_\_\_\_ Deputy

This is to certify that I, Robert D. Ellis, a Registered Professional Land Surveyor for the State of Texas have plotted the above subdivision from an actual survey made on the ground, and that all corners have been properly marked.

Robert D. Ellis, RPLS  
Tex. Reg. No. 4006



STATE OF TEXAS )  
COUNTY OF GALVESTON )

We, Texas City Economic Development Corporation, owner of part of Blocks 252, and 253, of Texas City Third Division, do hereby make a subdivision of said property according to the lines, streets, parks, building lines and easements therein shown, and designate said subdivision as TCEDC BUSINESS PARK, and dedicate to public use, as such, the streets, parks, and easements shown thereon forever; and do hereby waive any claims for damages occasioned by the establishing of grades as approved for the streets dedicated, or occasioned by the alteration of the surface of any portion of streets to conform to such grades; and do hereby bind ourselves, our successors and assigns to warrant and forever defend the title to the land so dedicated.

WITNESS my hand in the City of Texas City, County of Galveston, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2017 AD.

by  
Mark Cavaglia, Chairman  
Texas City Economic Development Corporation

**METES AND BOUNDS DESCRIPTION**

BEING a 1.0853 acre (47,277 sq. Ft.) tract of land out of and a part of Blocks 252, and 253, of Texas City Third Division, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Volume 8, Page 93, of the Map Records of Galveston County, Texas, said 1.0853 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a capped iron rod "RD Ellis 4006" set for the northeast corner of said Block 253, same being the point of intersection of the south right of way line of 10th Avenue North (80' R.O.W.) and the west right of way line of 9th Street (100' R.O.W.);

THENCE S02°24'27"E along and with the west right of way line of said 9th Street, same being the east line of said Blocks 252, and 253, a distance of 270.00' to a capped iron rod set for the southeast corner of the tract herein described, same being the southeast corner of said Block 252, and being the point of intersection of the west right of way line of said 9th Street and the north right of way line of 9th Avenue North (100' R.O.W.);

THENCE S87°35'33"W along and with the north right of way line of said 9th Avenue North, same being the south line of said Block 252, a distance of 222.00' to a capped iron rod set for the southwest corner of the tract herein described;

THENCE N02°24'27"W, a distance of 47.00' to a capped iron rod "RD Ellis 4006" set for the most southerly northwest corner of the tract herein described;

THENCE N87°35'33"E, a distance of 85.30' to a capped iron rod "RD Ellis 4006" set for an interior corner of the tract herein described;

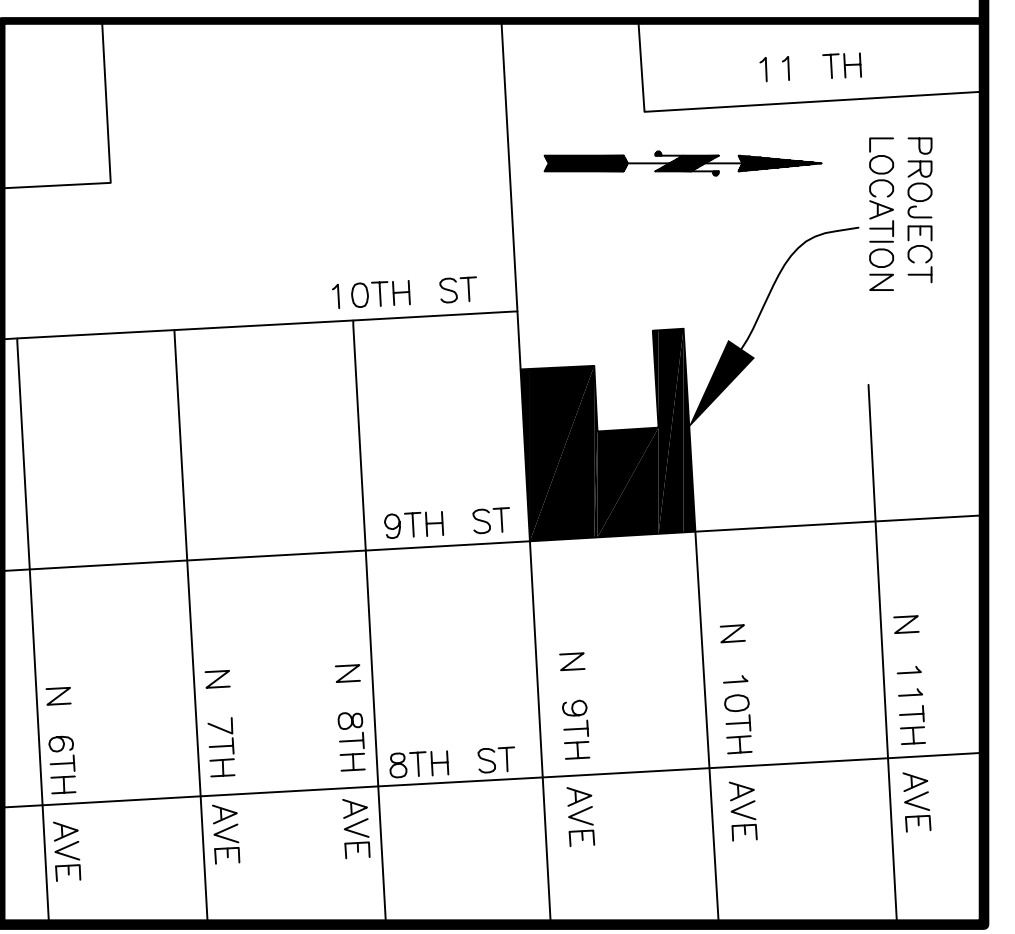
THENCE N02°24'27"W, a distance of 175.30' to a capped iron rod "RD Ellis 4006" set for an interior corner of the tract herein described;

THENCE S87°35'33"W, a distance of 133.30' to a capped iron rod "RD Ellis 4006" set for the most northerly southwest corner of the tract herein described and being in the west line of said Block 253, same being the east line of 10th Street (unopened);

THENCE N02°24'27"W along and with the west line of said Block 253, a distance of 47.70' to a capped iron rod "RD Ellis 4006" set for the northwest corner of the tract herein described, same being the northwest corner of said Block 253, and being in the south right of way line of said 10th Avenue North;

THENCE N87°35'33"E along and with the south right of way line of said 10th Avenue North, same being the north line of said Block 253, a distance of 270.00' to the POINT OF BEGINNING of the tract herein described.

Basis of Bearing: Grid North Texas State Plane Coordinate System, NAD83, South Central Zone.



VICINITY MAP (NTS)

- GENERAL NOTES:
- 1) By graphical blotting only, this subdivision lies within Zone "B", as shown on Flood Insurance Rate Map (FIRM) No. 485514 0035 C dated May 2, 1983.
  - 2) Purpose of Minor plat: to change lot configuration

STATE OF TEXAS  
COUNTY OF GALVESTON

BEFORE ME, the undersigned authority, on this day personally appeared Mark Cavaglia, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein described.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Notary Public for  
the State of Texas  
My Commission Expires \_\_\_\_\_.

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, this  
Administrative Minor Plat was approved by the City  
Engineer of the City of Texas City.

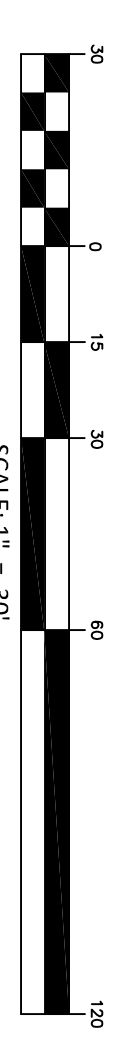
\_\_\_\_\_  
Douglas K. Kneupper, P.E.

Owner / Developer: Texas City Economic Development Corporation  
1801 9th Avenue North  
Texas City, Tx, 77592  
409-948-3111

Surveyor: Ellis Surveying Services  
2805 25th Ave. N.  
Texas City, Tx, 77590  
409-938-8700  
Texas Firm Reg. No. 100340-00

MINOR PLAT OF  
TCEDC BUSINESS PARK  
BEING AN AMENDING PLAT OF  
PART OF BLOCKS 252, AND  
253, TEXAS CITY THIRD DIVISION  
CONTAINING  
1.0853 ACRES (47,277 SQ. FT.)  
AND BEING  
2 LOTS 1 BLOCK

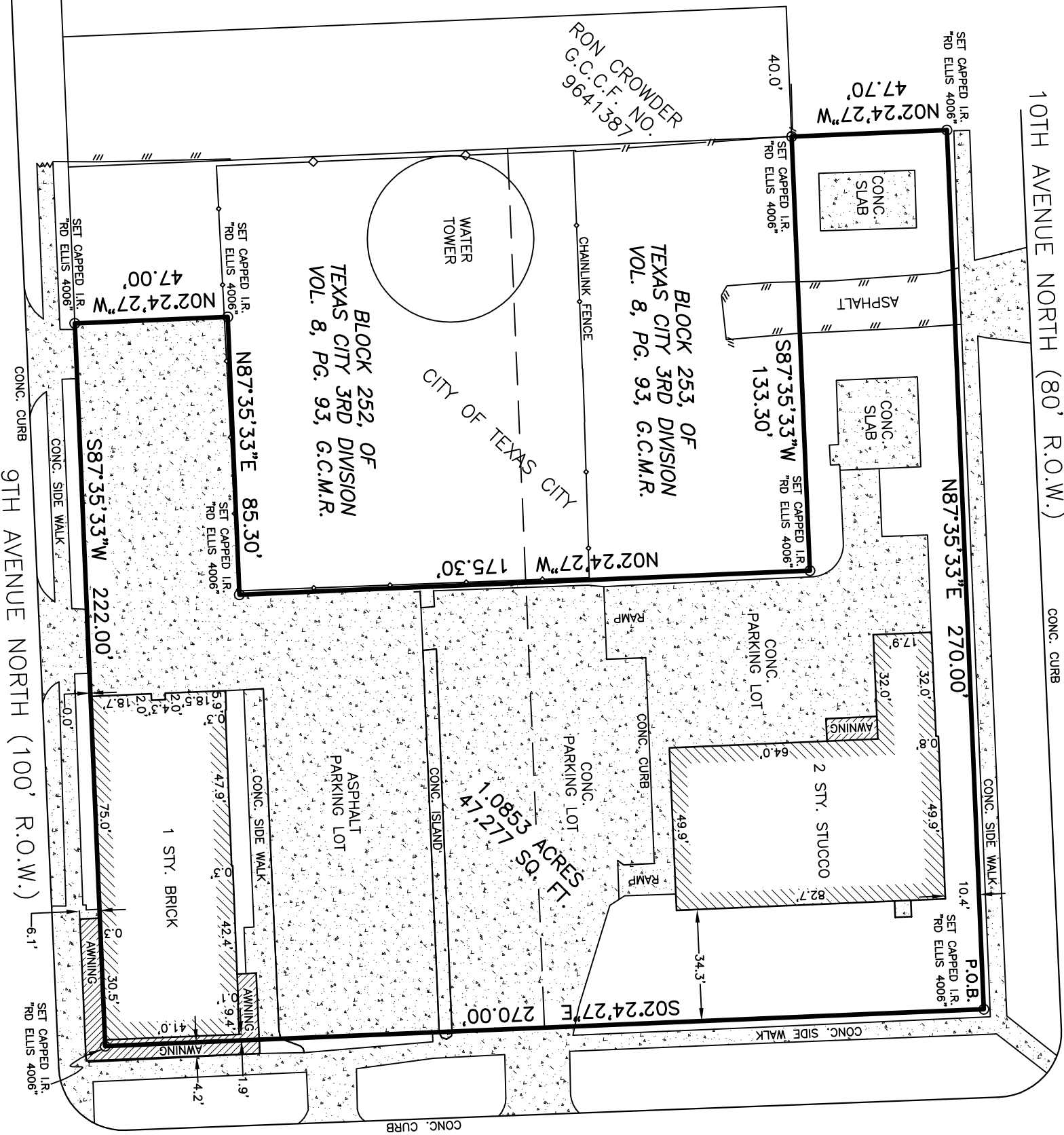
LOCATED IN THE  
CITY OF TEXAS CITY, TEXAS  
SEPTEMBER 19, 2017



10TH AVENUE NORTH (80' R.O.W.)

CONC. CURB

10TH STREET (UNOPENED)



9TH STREET (100' R.O.W.)

PURCHASER: TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION  
PROPERTY ADDRESS:

BEING a 1.0853 acre (47,277 Sq. Ft.) tract of land out of and a part of Blocks 252, and 253, of Texas City Third Division, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Volume 8, Page 93, of the Map Records of Galveston County, Texas, said 1.0853 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a capped iron rod "RD Ellis 4006" set for the northeast corner of said Block 253, same being the point of intersection of the south right of way line of 10th Avenue North (80' R.O.W.) and the west right of way line of 9th Street (100' R.O.W.);

THENCE S02°24'27"E along and with the west right of way line of said 9th Street, same being the east line of said Blocks 252, and 253, a distance of 270.00' to a capped iron rod set for the southeast corner of the tract herein described, same being the southeast corner of said Block 252, and being the point of intersection of the west right of way line of said 9th Street and the north right of way line of 9th Avenue North (100' R.O.W.);

THENCE S87°35'33"W along and with the north right of way line of said 9th Avenue North, same being the south line of said Block 252, a distance of 222.00' to a capped iron rod set for the southwest corner of the tract herein described;

THENCE N02°24'27"W, a distance of 47.00' to a capped iron rod "RD Ellis 4006" set for the most southerly northwest corner of the tract herein described;

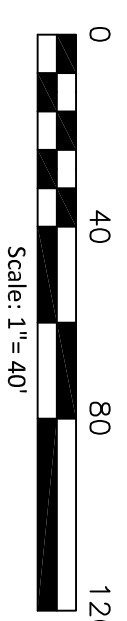
THENCE N87°35'33"E, a distance of 85.30' to a capped iron rod "RD Ellis 4006" set for an interior corner of the tract herein described;

THENCE N02°24'27"W, a distance of 175.30' to a capped iron "RD Ellis 4006" set for an interior corner of the tract herein described;

THENCE S87°35'33"W, a distance of 133.30' to a capped iron rod "RD Ellis 4006" set for the most northerly southwest corner of the tract herein described and being in the west line of said Block 253, same being the east line of 10th Street (unopened);

THENCE N02°24'27"W along and with the west line of said Block 253, a distance of 47.70' to a capped iron rod "RD Ellis 4006" set for the northwest corner of the tract herein described, same being the northwest corner of said Block 253, and being in the south right of way line of said 10th Avenue North;

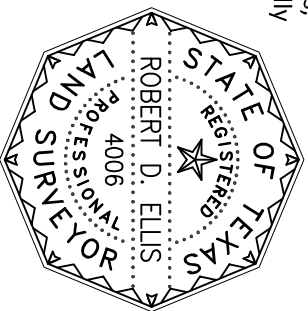
THENCE N87°35'33"E along and with the south right of way line of said 10th Avenue North, same being the north line of said Block 253, a distance of 270.00' to the POINT OF BEGINNING of the tract herein described.



**SURVEYOR NOTES:**

1. Bearings referenced to Grid North, Texas State Plane Coordinate System NAD83, Texas South Central Zone.
2. Surveyor has made no investigative or independent search for easements of record encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.
3. Except as specifically stated or shown on this plat, this survey does not purport to reflect any of the following which may be applicable to the subject tract: easements; building setback lines; restrictive covenants; subdivision restrictions; zoning or other land-use regulations; Agreements; Lease Agreements; and ownership title evidence.
4. Any declaration made hereon or herein is made to the original purchaser of the survey. It is not transferable to additional institutions or subsequent owners.

Ellis Surveying Services, LLC.  
2805 25th Ave. N. Texas City, TX 77590  
Tel: (409) 938-8700 Fax (866) 678-7685  
Texas Firm Reg. No. 100340-00



I, the undersigned, a Registered Professional Land Surveyor of the State of Texas, do hereby certify that this survey was made on the ground of the property legally described hereon and is true and correct to the best of my knowledge.

Robert D. Ellis  
Tx. Reg. No. 4006

**TCEDC Agenda**

**2. g.**

**Meeting Date:** 10/11/2017

**Submitted By:** Justin Herter, City Attorney Office

**Department:** City Attorney Office

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**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 17-32, approving an agreement with Edifis for the Palmer Plaza.

**BACKGROUND**

The Mayor and staff have been working with the Edifis group (owner of Palmer Plaza - Goodwill, Gus' and Baytown Seafood center) to improve the appearance and upgrade the property. Edifis has agreed to make changes to improve the parking, signage, landscaping and streetscape to include trees and decorative street lights, facade changes, and to include some stores that may have more of a regional draw such as a national soft goods chain. The agreement is similar to HEB's. It is a seven year term during which they will be rebated one cent of the two cents they collect for the City of Texas City, capped at \$1.6 million dollars. If the money is not generated, they do not get their portion. They only get a portion of what they generate, giving them the incentive to make sure sales are good.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Attachments**

Res. 17-32  
Street View  
Agreement

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**TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION**

**RESOLUTION NO. 17-32**

**A RESOLUTION APPROVING AN AGREEMENT WITH EDIFIS GROUP TO IMPROVE PALMER PLAZA; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

**WHEREAS**, the Edifis Group owns Palmer Plaza and desires to improve and upgrade the property, and;

**WHEREAS**, the Edifis Group has agreed to make changes to improve the parking, signage, landscaping, streetscape to include trees and decorative street lights, provide underground utilities and make facade changes, and;

**WHEREAS**, the TCEDC will enter into a seven year agreement during which the Edifis Group will be rebated one cent of the two cents of additional sales tax it produces for the City of Texas City, capped at \$1.6 million dollars.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION THAT:**

**SECTION 1:** the Board of Directors of the Texas City Economic Development Corporation approves the agreement with the Edifis Group as attached in **Exhibit "A."**

**SECTION 2:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 11th day of October, 2017.**

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CHAIRPERSON/VICE CHAIRPERSON  
Texas City Economic Development Corporation

ATTEST:

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Justin Herter  
BOARD SECRETARY  
Texas City Economic Development Corporation



STATE OF TEXAS

§

CITY OF TEXAS CITY

§

Economic Development Agreement

§

COUNTY OF GALVESTON

§

§

This Economic Development Agreement (the "Agreement") is entered into September \_\_\_\_ 2017 between **Edifis Palmer, Ltd.**, a Texas limited partnership ("*Edifis*"), and the **Texas City Economic Development Corporation**, a State approved economic development corporation (the "*TCEDC*"). Edifis and the TCEDC are sometimes referred to herein jointly as the "*Parties*" and each individually as a "*Party*."

**RECITALS**

**WHEREAS**, the City is authorized under Chapter 380 of the Texas Local Government Code to provide Economic Development for the purpose of promoting local economic development; and

**WHEREAS**, the TCEDC Board has authorized certain economic development grants to EDIFIS in recognition of the positive economic and community benefits that will accrue to the TCEDC through EDIFIS's redevelopment of the existing improvements at the Property (herein defined) as a mixed-used commercial shopping center development; and

**WHEREAS**, the TCEDC believes that the redevelopment of the existing improvements at the Property will contribute to the economic development of the TCEDC by increasing ad valorem taxes, increasing sales tax and increasing employment; and

**WHEREAS**, this Agreement is determined to be a program for providing an Economic Development Incentive as contemplated by Chapter 380 of the Texas Local Government Code;

**NOW, THEREFORE**, in consideration of the mutual benefits described in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the TCEDC and EDIFIS agree as follows:

  
Edifis

\_\_\_\_\_  
TCEDC

**ARTICLE I.**  
**Authority**

1.1 The TCEDC's execution of this Agreement is authorized by Chapter 380 and Chapter 504 of the *Texas Local Government Code*, and constitutes a valid and binding obligation of the TCEDC subject to the condition precedent that EDIFIS completes the redevelopment of the existing improvements at Palmer Plaza (defined below), as specified herein.

1.2 EDIFIS's execution and performance of this Agreement constitutes a valid and binding obligation of EDIFIS if EDIFIS proceeds with the redevelopment of the existing improvements at the Property or portion(s) thereof, subject to the terms, provisions and conditions herein.

1.3 The TCEDC acknowledges that EDIFIS is acting in reliance upon the TCEDC's performance of their respective obligations under this Agreement in making its decision to commit substantial resources and money to redevelop the existing improvements at the Property. Notwithstanding anything to the contrary herein, the TCEDC and EDIFIS hereby acknowledge and agree that this Agreement is subject to the provisions of Subchapter I of Chapter 271, Texas Local Government Code, as amended. The TCEDC agrees that its immunity from suit is waived for the purpose of adjudicating a claim for breach of this Agreement, which is subject to the terms and conditions of Subchapter I of Chapter 271, Texas Local Government Code, as amended.

**ARTICLE 2.**  
**Definitions**

As used in this Agreement, the following words or phrases shall have the following meanings:

**"Act of Default"** or **"Default"** means failure by a Party to comply with the requirements of this Agreement, as more particularly provided in Article 8 and Article 9.

**"Affiliate"** means (1) any entity 50% or more owned or controlled by EDIFIS, or any of its principal shareholders or any trust created for their benefit, (2) any entity taking over EDIFIS's interest in this Agreement as a result of merger or consolidation, (3) any entity acquiring all or substantially all of the assets of EDIFIS, or (4) any entity which has acquired a majority of the outstanding stock of EDIFIS.

**"Certificate of Occupancy"** means the document or other notice issued by the City indicating a building or premises has been built or maintained in accordance with all applicable codes, regulations, and ordinances enforced by the City.

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Edifis

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TCEDC

**“Texas City” or “City”** means the governing municipal corporation that is legally authorized to control the area that is within the city limits of the City of Texas City.

**“Commencement Deadline”** means January 1, 2018.

**“Completion Deadline”** means December 31, 2018.

**“Effective Date”** means the date this Agreement has been signed by all Parties.

**“Event of Bankruptcy or Insolvency”** means the insolvency of a party, appointment of receiver for any part of a party’s property when such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against a party when such proceeding is not dismissed within ninety (90) days after the filing thereof.

**“Force Majeure”** is defined in Section 11.5 herein.

**“EDIFIS”** means EDIFIS PALMER, LTD., a Texas limited partnership, and its successors or assigns.

**“Palmer Plaza”** means the Shopping Center located at the northwest corner of Palmer Highway and 34<sup>th</sup> Street consisting of roughly 8.4 acres and includes the addresses 3400, 3420, and 3442 Palmer Highway of not less than 88,000 gross square feet located on the Property.

**“Maximum Refund Amount”** means \$1,600,000.00.

**“Notice”** shall have the meaning ascribed to it in Section 10.7 of this Agreement.

**“Ordinances”** means the City of Texas City Ordinances, as codified in effect on the Effective Date.

**“Parcel”** means the property presently owned by EDIFIS or its Affiliates and located generally near the northwest corner of the intersection of 34<sup>th</sup> Street and Palmer Highway (FM 1764) in Texas City, as depicted in **“Exhibit A.”**

**“Property”** shall mean the property presently owned by EDIFIS or its Affiliates and located generally near the northwest corner of the intersection of 34<sup>th</sup> Street and Palmer Highway (FM 1764) in Texas City, called Palmer Plaza as depicted in **“Exhibit A.”**

**“Property Sales Taxes”** means, for any given calendar year under this Agreement, an amount of money collected by the City and TCEDC resulting from the imposition of a two percent municipal sales tax (2.0%) (such as that presently in effect pursuant to Section 321.101(a), *Texas Tax Code*) on the sales of goods and services within the Property.

**“Shopping Center”** for the purpose of this agreement, means a commercial/retail collection of businesses of which no less than two of the following categories are tenants: (i) a national soft goods retailer, (ii) a state-wide or national grocery store, and/or (iii) a national restaurant. In addition, the Shopping Center may have other businesses to include restaurants, retail stores, offices, or professional services, located on a single parcel of land and provides parking, landscaping, lighting, and signage associated with such businesses.

**“Rebate Commencement Date”** means January 1<sup>st</sup>, 2019

**“Report”** shall mean the quarterly report provided by Edifis or from the Comptroller identifying the amount of sales tax paid to the Comptroller from each tenant at the Property, and the amount of the rebate due from the TCEDC.

### **ARTICLE 3.** **Term**

This Agreement will become enforceable upon the Effective Date and will terminate upon the earlier to occur of: (a) the seventh (7) anniversary of the Rebate Commencement Date (and final payment of Sales Tax Rebate Payments pursuant to this Agreement); (b) TCEDC’s payment of the Maximum Refund Amount to EDIFIS of \$1,600,000 prior to the seventh anniversary of the Rebate Commencement Date; or (3) earlier termination as provided herein (the **“Term”**).

### **ARTICLE 4.** **EDIFIS Performance Conditions**

Notwithstanding any provision in this Agreement to the contrary, this Agreement imposes no obligation upon EDIFIS to redevelop the Palmer Plaza, any infrastructure on the Property, or any other improvements on the Property. The following are, however, conditions that must be satisfied in order for EDIFIS to receive the Sales Tax Rebate Payments (defined below):

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Edifis

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TCEDC

4.1 The Shopping Center known as Palmer Plaza shall be operating on the Property.

4.2 EDIFIS shall remain current and paid on all property taxes for portions of the Property owned by EDIFIS or its Affiliates, subject to rights of appeal in accordance with law and subject to a right to cure any tax payment delinquency.

4.3. EDIFIS covenants and agrees to promote the city of Texas City in conjunction with promoting itself with respect to Palmer Plaza in Texas City.

4.4 **Business Signage Package.** Subject to any required government approval required for the installation of the planned signage for the Property (the "*Sign Package*") attached hereto as "Exhibit B."

4.5 **Property Improvements.** Install/Construct improvements to the Property that provide conformance with the Site Plan attached as "**Exhibit D.**"

**ARTICLE 5.**  
**TCEDC Performance Requirements**

5.1 **Sales Tax Refund.** During the Term after the Rebate Commencement Date, the TCEDC shall annually pay to EDIFIS a portion of the Property Sales Taxes generated during the prior calendar year (each a "*Sales Tax Rebate Payment*") as follows:

5.1.1 **Revenue Sharing Agreement.** The TCEDC hereby designates this Agreement as a "*Revenue Sharing Agreement*" as that term is used in Texas Tax Code Section 321.3022 (the "**Disclosure Statute**"). City shall notify the Texas Comptroller of Public Accounts (the "*Comptroller*") of such designation as necessary in order to determine the Property Sales Taxes generated within the Property and due to EDIFIS under this Agreement.

5.1.2 **TCEDC Payment.** The TCEDC agrees that it will rebate, on a quarterly basis, and after receiving the Report, confirmation from the State and any State audit adjustments, one cent (\$.01) of the sales tax revenue generated by the tenants over what is currently received by the existing tenants and received by TCEDC generated by current and future tenants at the EDIFIS Shopping Center located on the Property, over the Term of this Agreement, once the sales tax revenue is received by the TCEDC from the Comptroller (the "**Rebate**"). The TCEDC will use the amount \$80,000 shown in the Edifis proposal as the base amount of the total collected from the existing tenants to determine the incremental increase of Property Sales Tax from the tenants. The TCEDC will have thirty (30) days to make payment after receipt of the quarterly Report.

**5.1.3 Disclosure of Sales Taxes.** If there are fewer than three sales tax accounts located within the Property, the Comptroller may not disclose information regarding Property Sales Taxes without permission of those persons doing business within the Property. EDIFIS hereby agrees that if TCEDC is unable to determine the Property Sales Taxes under the Disclosure Statute, EDIFIS shall obtain and provide a release that will allow the Comptroller to disclose to the TCEDC and EDIFIS aggregated sales tax information relating to any business generating sales and use taxes within the Property (an example release form is attached hereto as "**Exhibit C**"). EDIFIS will provide a list of businesses operating on the property as they are identified by the comptroller's office for identification.

**5.2 Future Adjustments to Rebates.** Should an excess Sales Tax Rebate Payment occur in the final tax year of this Agreement, EDIFIS agrees to repay the TCEDC for any excess amount received within thirty (30) days following receipt of Notice from TCEDC providing documentation of said overpayment.

**5.3 Maximum Refund Amount.** In no event shall the cumulative total payments of Sales Tax Rebate Payments to EDIFIS exceed the Maximum Refund Amount \$1,600,000.

**ARTICLE 6.**  
**EDIFIS's Covenants, Warranties, Obligations and Duties**

EDIFIS makes the following covenants and representations to the TCEDC, and agrees to timely and fully perform the following obligations and duties, subject to the terms, provisions and conditions hereof. Any false statement contained herein or failure to timely and fully perform as required in this Agreement shall be an Act of Default by EDIFIS, subject to the cure periods set forth in Article 8 below. Failure to comply with any one covenant or representation shall constitute an Act of Default by EDIFIS, subject to the cure periods set forth in Article 8 below.

**6.1** EDIFIS is authorized to do business and is in good standing in the State of Texas and shall remain in good standing in the State of Texas during the Term of this Agreement.

**6.2** The execution of this Agreement has been duly authorized by EDIFIS, the individual signing this Agreement is empowered to execute such Agreement and bind the limited partnership, and said authorization, signing and binding effect is not in contravention of the provisions of EDIFIS's limited partnership documents.

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TCEDC

6.3 To the knowledge of EDIFIS, no litigation or governmental proceeding is pending or threatened against or affecting the Property.

6.4 There are no actions, suits or proceedings pending or, to EDIFIS's knowledge, threatened against EDIFIS affecting any portion of the Property, at law or in equity, or before or by any federal, state, municipal or other governmental court, department, commission, board, bureau, agency or instrumentality, domestic or foreign.

6.5 **Employment of Undocumented Workers.** During the term of this Agreement, EDIFIS agrees not to knowingly employ any undocumented workers and if convicted of a violation under 8 U.S.C. Section 1324a, EDIFIS shall repay the amount of the reimbursements received by EDIFIS as of the date of such violation within 120 business days after the date EDIFIS is notified by the TCEDC of such violation, plus interest at the rate of five percent (5.0%) per annum, from the date of such notice until paid. EDIFIS agrees to notify TCEDC within thirty (30) days of any charge filed against EDIFIS alleging the employment of undocumented workers under 8 U.S.C. Section 1324a.

#### **ARTICLE 7. Reporting and Monitoring**

7.1 During the Term of this Agreement, EDIFIS shall collect and maintain all records necessary for verifying its compliance with the terms and conditions of this Agreement (the "Records"). EDIFIS, during normal business hours with ten (10) business days prior notice shall allow the TCEDC reasonable access to review the Records, but the confidentiality of such Records shall be maintained by the TCEDC unless disclosure of such records and information shall be required by a court order, a lawfully issued subpoena, or at the direction of the Office of the Texas Attorney General.

#### **ARTICLE 8. EDIFIS Default and Recapture**

8.1 If ad valorem taxes for the portion of the Property on which the EDIFIS Center is located become past due and delinquent, or the occurrence of any of the following events occur, or should EDIFIS fail to substantially comply with any of the material requirements, obligations, duties, terms, conditions or warranties of this Agreement, such failure shall be considered an "Act of Default by EDIFIS" and, if not cured within ninety (90) days after written notice from TCEDC to EDIFIS, TCEDC, as its sole remedy, may terminate this Agreement and shall have the right to recapture the Rebate for the entire calendar year in which the termination occurred, to wit:

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TCEDC

a. The appointment of a receiver of EDIFIS, or of all or any substantial part of its property, and the failure of such receiver to be discharged within ninety (90) days thereafter;

b. The adjudication of EDIFIS as a bankrupt; or

c. The filing by EDIFIS of a petition or an answer seeking bankruptcy, receivership, reorganization, or admitting the material allegations of a petition files against it in any bankruptcy or reorganization proceeding.

**8.2** Notwithstanding anything contained herein to the contrary, EDIFIS shall not be liable to TCEDC for any consequential, punitive or exemplary damages.

**8.3** Notwithstanding the above, if an Act of Default by EDIFIS is such a matter that cannot be cured by reasonably diligent efforts within ninety (90) days, then such occurrence shall not be an Act of Default by EDIFIS provided that EDIFIS promptly initiates and diligently attempts to cure the same, even if the same is not cured within said ninety (90) day period.

**8.4** Any waiver granted by TCEDC to EDIFIS of an Act of Default by EDIFIS shall not be deemed to be or constitute a waiver of any other existing or future Act of Default by EDIFIS or of a subsequent Act of Default of the same act or event by EDIFIS.

**8.5** If during the Term of this Agreement, EDIFIS should discontinue substantially all of its business operations described in Article 4 above (other than as a result of fire or an act of nature) then the TCEDC shall have the right to recapture the Rebate for the entire calendar year in which such discontinuance occurs and terminate this Agreement; and, in the event of termination pursuant this Section 8.1, a bill for the total amount due, being the Rebate paid to EDIFIS during the calendar year in which such discontinuance occurs, will be sent to EDIFIS and EDIFIS agrees to pay the total amount due within ninety (90) days after receipt of the bill. Statutory penalty and interest will accrue if EDIFIS fails to timely pay the bill.

## **ARTICLE 9.** **Assignment**

Under no circumstances may the TCEDC or EDIFIS assign this Agreement without the express written consent of the non-assigning Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding anything to the contrary herein, EDIFIS may assign all or part of its rights and obligations hereunder to an Affiliate and/or third party lender advancing funds for the acquisition, construction or operation of the EDIFIS Store on the Property.

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Edifis

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TCEDC

**ARTICLE 10.**  
**Miscellaneous Provisions**

**10.1 Complete Agreement/Amendment.** This Agreement represents a complete agreement of the Parties and supersedes all prior written and oral matters related to this Agreement. This Agreement may be canceled, changed, modified or amended, in whole or in part, only by the written agreement by the Parties.

**10.2 Permitting.** The TCEDC agrees to cooperate with EDIFIS to facilitate the expeditious processing of permits, including zoning application(s), subdivision applications, plat approvals, development application(s) and building permit applications required for the EDIFIS Shopping Center and other development on the Property.

**10.3 Representations and Warranties.** The Parties represent and warrant to one another that this Agreement is within their authority, and that they are duly authorized and empowered to enter into this Agreement, unless otherwise ordered by a court of competent jurisdiction.

**10.4 Force Majeure.** All obligations of EDIFIS and TCEDC (excluding monetary obligations) shall be subject to events of "force majeure" which shall mean any contingency or cause beyond the reasonable control of a party, as applicable, including, without limitations, acts of God or the public enemy, war, riot, civil commotion, insurrection, adverse weather, government or de facto governmental action or inaction (unless caused by gross negligence or intentional action of such party), fires, explosions, floods, strikes, slowdowns or work stoppages, shortage of materials and labor.

**10.5 Binding Effect.** This Agreement will be binding on and inure to the benefit of the Parties and their respective successors and assigns.

**10.6 Termination.** If EDIFIS elects not to proceed with the redevelopment of the existing improvements at the Shopping Center as contemplated by this Agreement, EDIFIS may notify the TCEDC in writing, and this Agreement and the obligations of each party will be deemed terminated and of no further force or effect as of the date of such notice, except those that expressly survive the termination hereof, if any.

**10.7 Notice.** Any notice or other communication ("**Notice**") given under this Agreement must be in writing, and may be given: (i) by depositing the Notice in the United States Mail, postage paid, certified, and addressed to the Party to be notified with return receipt requested; (ii) by personal delivery of the Notice to the Party, or an agent of the Party; or (iii) by confirmed facsimile, provided that a copy

of the Notice is also given in one of the manners specified in (i) or (ii). Notice deposited in the mail in the manner specified will be effective two (2) business days after deposit. Notice given in any other manner will be effective only if and when received by the Party to be notified. For the purposes of Notice, the addresses of the Parties will, until changed as provided below, be as follows:

**EDIFIS:** EDIFIS PALMER, LTD.  
3939 Washington Ave., Suite 200  
Houston, Texas 77007  
Attn: S. Joshua Aruh, Principal  
josh@edifisgroup.com  
Telephone: (713) 668-7400  
Fax: (713) 668-7420

With a copy to: Rick Oshman, Esq.  
Bissinger, Oshman & Williams, LLP  
2777 Allen Parkway, Suite 1000  
Houston, Texas 77019  
roshman@bowllp.com  
Telephone: 713-524-8811

**TCEDC:** Texas City Economic Development Corporation  
Attn: President  
1801 9<sup>th</sup> Avenue  
Texas City, TX 77592  
Telephone: (409) 643-5902

With a copy to: City Attorney  
1801 9<sup>th</sup> Avenue  
Texas City, TX 77592  
Telephone: (409) 643-5926

Each Party may designate a different address at any time by giving Notice to the other Party.

**10.8 Interpretation.** In the event of any dispute regarding the interpretation of this Agreement, this Agreement will be interpreted fairly and reasonably and neither more strongly for nor against either Party based on draftsmanship.

**10.9 Relationship of the Parties.** This Agreement will not be construed as establishing a partnership or joint venture, joint enterprise, express or implied agency, or employer-employee relationship between the Parties. Neither the TCEDC, nor any of its respective past, present or future officers, elected officials, employees or agents assumes any responsibility or liability to any third party in

connection with the redevelopment of the existing improvements at Property or the design, construction or operation of any portion of the Property.

**10.10 Applicable Law.** This Agreement is made, and will be construed and interpreted, under the laws of the State of Texas and venue will lie in Galveston County, Texas. No Party to this Agreement waives or relinquishes any immunity or defense on behalf of itself, its officers, employees, agents or representatives as a result of the approval or execution of this Agreement, except as otherwise expressly set forth herein.

**10.11 Severability.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, it is the intention of the Parties that the remainder of this Agreement not be affected and it is also the intention of the Parties that, in lieu of each provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

**10.12 Paragraph Headings.** The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the paragraphs.

**10.13 No Third Party Beneficiaries.** This Agreement is not intended to nor shall it be interpreted to confer any rights, privileges or causes of action upon any third party.

**10.14 Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument. A facsimile signature will be deemed to be an original signature for all purposes.

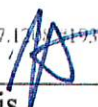
**10.15 Legal Action.** In the event that a Party initiates a cause of action in court, the prevailing party or parties shall be entitled to reasonable and necessary attorney's fees and expenses and costs of court.

**10.16 Exhibits.** The following exhibits are attached to and incorporated into this Agreement for all purposes.

- Exhibit "A": Parcel Depiction
- Exhibit "B": Sign Package
- Exhibit "C": Example of Release Form
- Exhibit "D": Improvements Package
- Exhibit "D-1": Landscaping Improvements Exhibit
- Exhibit "E": Façade Improvements

*[Signature Pages to Follow]*

062007.17001193600V12

  
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TCEDC

EXECUTED to be effective as of the \_\_\_\_ day of \_\_\_\_\_, 2017.

**EDIFIS:**

**EDIFIS PALMER, LTD.,**  
a Texas limited partnership

By: Edifis Palmer GP, LLC, a Texas limited liability  
company, its general partner

By: \_\_\_\_\_  
Name: S. Joshua Aruh  
Title: Manager

Date: \_\_\_\_\_ 9/27/17

**TCEDC:**

**Texas City Economic Development Corporation,**

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

Name: Mark Ciavaglia

Title: President

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

Approved As To Form and Content:

\_\_\_\_\_  
City Attorney

## Exhibit A

Being a tract or parcel containing 8.422 acres (366,850 square feet) of land situated in the Hamlet Ferguson Survey, Abstract Number 63, Galveston County, Texas, being all of Block 117 and a portion of Block 120, Kohfeldt's Second Addition as recorded in Volume 254-A, Page 19 of the Galveston County Map Records (G.C.M.R.) and the adjoining abandoned streets and alleys thereof as recorded in Book 1787, Page 666 and in Book 2125, Page 108 both of the Galveston County Deed Records (G.C.D.R.), Galveston County, Texas; being all of that certain called 6.7241 acre tract and that certain called 1.6977 acre tract both conveyed to Weingarten Realty, Inc. by deeds recorded in Book 3275, Page 149 and Book 3303, Page 480 respectively of the Galveston County Deed Records (G.C.D.R.), Galveston County, Texas; said 8.422 acre tract being more particularly described by metes and bounds as follows (bearings are based on the record information contained in the above described deeds):


**BEGINNING** at a cut "V" in concrete set marking the intersection of the north right-of-way (R.O.W.) line of Farm to Market (F.M.) 1764 (Palmer Highway) (100-foot wide R.O.W.) as recorded in Book 693, Page 294 G.C.D.R. with the west R.O.W. line of 34th Street (60-foot wide R.O.W.) as delineated on said plat of Kohfeldt's Second Addition as recorded in Volume 254-A, Page 19 G.C.M.R., being in the east line of said Block 120, Kohfeldt's Second Addition, said cut "X" marking the southeast corner of said called 6.7241 acre tract and the herein described tract, from which the southeast corner of said Block 120 bears SOUTH, 20.00 feet;

**THENCE, WEST**, along said north R.O.W. line of F.M. 1764 (Palmer Highway) and along the south line of said called 6.7241 acre tract, a distance of 580.00 feet to a point for the southeast corner of that certain called 0.0968 acre tract conveyed to HEB Grocery Company, LP as recorded under G.C.C.F. Number 2011063654 and for the southwest corner of said called 6.7241 acre tract and the herein described tract, from which a 1-inch iron rod found marking the southwest corner of Advance Auto Parts-Palmer Hwy & Hwy 146, a plat of subdivision recorded in Volume 2006A, Page 194 G.C.M.R. bears WEST, 270.00 feet and from which a found 5/8-inch iron rod bears South 72°56'00" East, 0.29 feet;

**THENCE, NORTH**, departing said north R.O.W. line, along the west line of said called 6.7241 acre tract and along the east line of said called 0.0968 acre tract, at a distance of 70.50 feet passing a Mag Nail & Shiner stamped "Terra Surveying" found marking the northeast corner of said called 0.0968 acre tract and the most easterly southeast corner of Reserve "A" (0.4645 Acres), Texas City Starbucks, a plat of subdivision recorded in Volume 2007A, Page 154 G.C.M.R., at a distance of 254.79 feet passing a Mag Nail & Shiner stamped "Terra Surveying" found in asphalt marking the northeast corner of said Reserve "A" (0.4645 Acres) and marking the southeast corner of that certain called 6.564 acre tract conveyed to HEB Grocery Company, LP as recorded under G.C.C.F. Number 2011063654, at a distance of 505.00 feet passing the common westerly corner of said called 6.7241 acre tract and the aforesaid called 1.6977 acre tract, continuing in all, a distance of 632.50 feet to a cut "X" in concrete set marking the southerly southwest corner of Lot 1, Block 1 (7.3303 Acres), Plat of Village at Morningstar as recorded in Volume 2006A, Page 118 G.C.M.R. and marking the northwest corner of said called 1.6977 acre tract and the herein described tract;


**THENCE, EAST**, along the south line of said Lot 1, Block 1 (7.3303 Acres), Plat of Village at Morningstar and along the north line of said called 1.6977 acre tract, a distance of 580.00 feet to a point in the aforesaid west R.O.W. line of 34th Street for the southeast corner of said Lot 1, Block 1 (7.3303 Acres), Plat of Village at Morningstar and for the northeast corner of said called 1.6977 acre tract and the herein described tract, from which a found 5/8-inch iron rod bears South 38°28'09" East, 0.85 feet;

**THENCE, SOUTH**, along the west R.O.W. line of 34th Street and along the east line of said called 1.6977 acre tract, at a distance of 127.50 feet passing the common easterly corner of said called 1.6977 acre tract and the aforesaid called 6.7241 acre tract, continuing in all, a distance of 632.50 feet to the POINT OF BEGINNING and containing 8.422 acres (366,850 square feet) of land. This description is based on an ALTA/ACSM Land Title Survey and plat made by Terra Surveying Company, Inc., dated August 28, 2015, Project Number 2587-1503-S.

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**Exhibit B**  
Sign Package

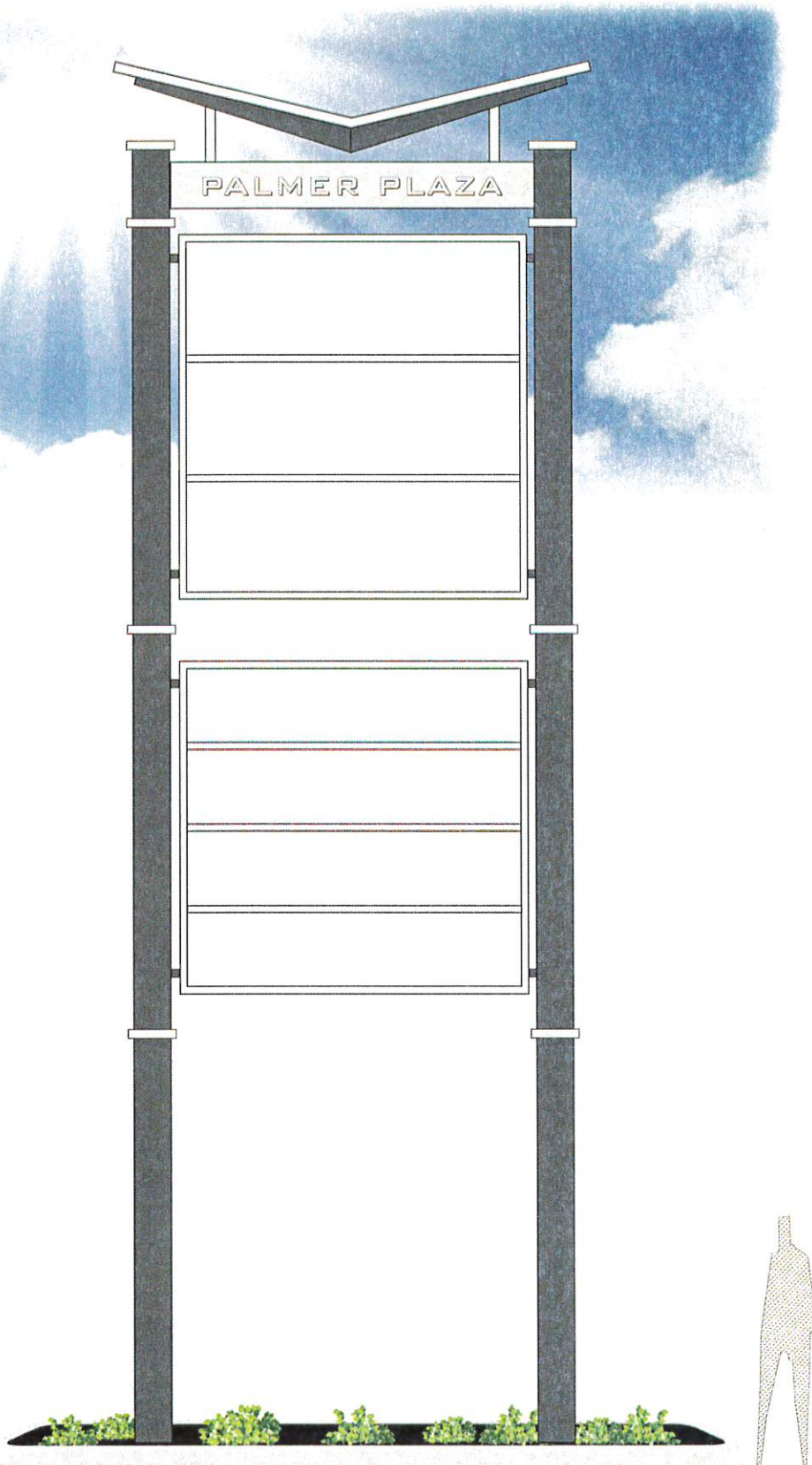
  
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# Exhibit "B"

**NOTE: REMODELED SIGNS TO MAINTAIN THE SAME OVERALL HEIGHT AND SQUARE FOOTAGE AS WHAT IS CURRENTLY EXISTING.**



**SIGN MANUFACTURING**  
 8845 KYLE CIRCLE, SUITE 100  
 DALLAS, TX 75241  
 PH: 214 847-0700  
 FAX: 214 847-0700

**CLIENT NAME:**  
 PALMER PLAZA  
**LOCATION:**  
 TEXAS CITY TX 77756

**SCALE:** 3/8" = 1'  
**LAST REVISION:** 6/14/2017

**SIGN DESCRIPTION:**  
 MANUFACTURE TWO INTERNALLY ILLUMINATED CABINETS AND RE PURPOSED WRITING  
 POLES FOR NEW PAINT AND IDENTITY CAP.

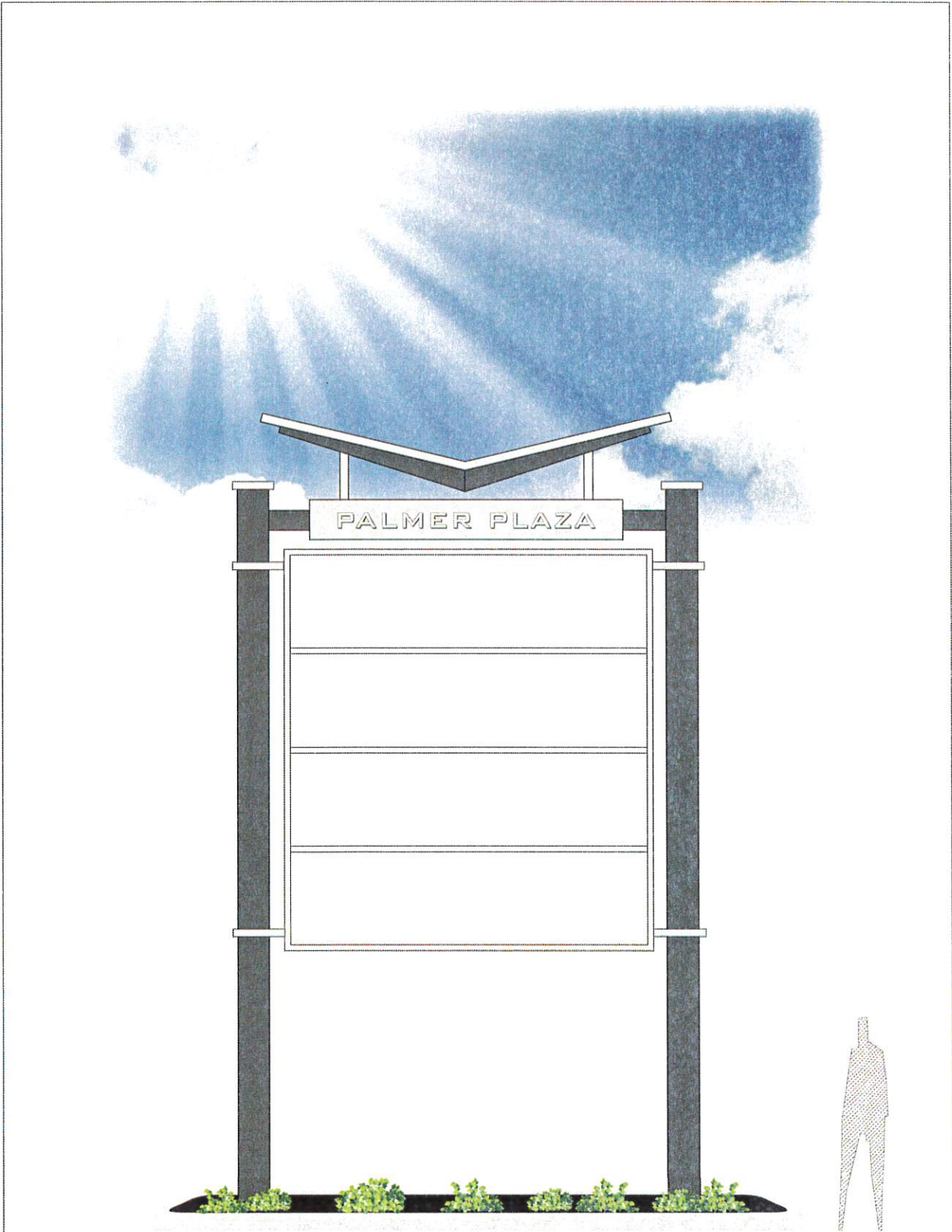
**ELECTRICAL NOTES**  
 1- See General Notes for details on electrical requirements.  
 2- All electrical work shall be in accordance with the National Electrical Code (NEC) and all applicable local codes.  
 3- All electrical work shall be performed by a licensed electrician.  
 4- All electrical work shall be done in accordance with the manufacturer's instructions.

Client Approval: \_\_\_\_\_  
 Landlord Approval: \_\_\_\_\_

DESIGNED BY:  
 TY TAYLOR



**DISCLAIMER:** This is an unperfected drawing created by VFX, LLC, submitted for your review in connection with the project being proposed or bid on for you by VFX, LLC. It shall at all times remain the property of VFX, LLC. It may only be used in connection with the project proposed by VFX, LLC and may not be used for any other purpose. These drawings may not be shown to anyone outside your organization, including but not limited to competitors or any bid process. Further, the drawings may not be reproduced, used, copied, photocopied or submitted in any fashion whatsoever without the prior written permission of VFX, LLC.



**NOTE: REMODELED SIGNS TO MAINTAIN THE SAME OVERALL HEIGHT AND SQUARE FOOTAGE AS WHAT IS CURRENTLY EXISTING.**

 <p><b>VFX MANUFACTURING</b>          3541 W. 10th St., Suite 104          Oklahoma, OK 73106          PO Box 1000          405 750 8800</p>	<p>Project Name:  <b>PALMER PLAZA</b></p> <p>Location:  <b>TEXAS CITY, TX 77590</b></p>	<p>SCALE: <b>3/8" = 1'</b></p> <p>LAST REVISION: <b>6/14/2017</b></p>	<p>SIGN DESCRIPTION:  <b>MANUFACTURE TWO INTERNALLY ILLUMINATED CABINETS AND RE PURPOSES WRITING POLES FOR NEW PAINT AND IDENTITY CAP.</b></p>	<p><b>ELECTRICAL NOTES</b></p> <p>1. All signs shall be internally illuminated with LED lighting.</p> <p>2. All signs shall be designed to meet the requirements of the International Building Code (IBC) and the National Electrical Code (NEC).</p> <p>3. All signs shall be designed to meet the requirements of the International Building Code (IBC) and the National Electrical Code (NEC).</p> <p>4. All signs shall be designed to meet the requirements of the International Building Code (IBC) and the National Electrical Code (NEC).</p>	<p>Client Approval: _____</p> <p>Landmark Foundation: _____</p>	<p>BY:  Ty Taylor</p> <p>FOR:  F&amp;S ARCHITECTS</p>
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DISCLAIMER: This is an original drawing created by F&S, submitted for your review in connection with the project being prepared or bid on for you by F&S, LLC. It shall in all cases remain the property of F&S, LLC. It may only be used in connection with the project prepared by F&S, LLC, and may not be used for any other purpose. These drawings may not be shown to anyone outside your organization, including but not limited to competitors in any bid process. Further, the drawings may not be reproduced, used, copied, duplicated or exhibited in any fashion whatsoever without the prior written permission of F&S, LLC.

Exhibit C

EXAMPLE AGREEMENT FOR DISCLOSURE OF CONFIDENTIAL TAX INFORMATION

This agreement is entered into between the City of Texas City, Texas (hereafter the "City") and \_\_\_\_\_[business name] (hereinafter the "taxpayer") for the purposes indicated herein.

I, \_\_\_\_\_, \_\_\_\_\_[title], the duly authorized agent of \_\_\_\_\_[business name], doing business at \_\_\_\_\_[Name and Address of Facility] do hereby stipulate and agree as follows:

I hereby authorize the Texas Comptroller's Office to release and disclose only that information regarding the amount of municipal sales and use tax accruing from the operation of the above referenced taxpayer's business location to the City. I understand and agree that this release will be made by the Comptroller's Office to the City on an ongoing monthly basis beginning on the date this Agreement is executed.

This Agreement waives any and all rights with respect to the parties regarding the confidentiality of tax information under Sections 111.006, 151.027, Tax Code, or other state law.

The City agrees that it will use the tax information disclosed by the Comptroller pursuant to this Agreement solely and exclusively for the purposes of calculating payments to be made pursuant to a Ch. 380 Economic Development Agreement between the City and \_\_\_\_\_ dated effective \_\_\_\_\_, 2014. The confidentiality of such records and information shall be maintained by City unless disclosure of such records and information shall be required by a court order, a lawfully issued subpoena, or at the direction of the Office of the Texas Attorney General.

This Agreement is entered into in or with regard to property located in Texas City, Galveston County, Texas and Texas law will apply to its interpretation and enforcement.

SIGNED AND AGREED TO on this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
name  
title  
On Behalf of the "City"

\_\_\_\_\_  
name  
title  
On behalf of the "Taxpayer"

  
\_\_\_\_\_  
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\_\_\_\_\_  
TCEDC

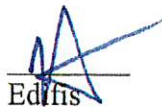
Texas Taxpayer Identification No. \_\_\_\_\_

**Exhibit D  
Improvements  
Site Plan**

Site plan needs to identify the following:

1. Significant Landscaping improvements per the pre-approved landscaping plan (Exhibit "D-1") dated June 22, 2017. (To be Completed by Jan. 1, 2018)
2. Parking Seal Coat – create uniform surface appearance. Replace striping and pavement markings. (To be Completed by Jan. 1, 2018)
3. Visually screen dumpsters and trash receptacles with solid masonry walls on three sides. (To be Completed by Jan. 1, 2018)
4. For areas adjacent to residential uses screen and buffer with solid masonry wall; subject to adjacent property owner fence location approval. (To be Completed by Jan. 1, 2018)
5. Install foundations and electrical service for 8 decorative light poles along Palmer Highway on owner property (light poles and bulbs to be provided by the City). (To be Completed by Jun. 1, 2018)
6. Underground electrical service for all buildings and signs visible from Palmer Highway. (To be Completed by Jan. 1, 2018)
7. Install sidewalk on Palmer highway; subject to TXDOT approval not to be unreasonably withheld. (To be Completed by June. 1, 2018, unless TxDoT permitting problems, then both parties will agree on a new date prior to Jan. 1, 2019)

4822-1329-7991, v. 4

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TCEDC



# Exhibit "E"



**edifis**  
INVEST | DEVELOP | FINANCE

## PALMER PLAZA REDEVELOPMENT

PALMER HWY. @ SOUTH ST.  
DALLAS CITY, TX  
FEBRUARY 27, 2017

**TCEDC Agenda**

**2. h.**

**Meeting Date:** 10/11/2017

**Submitted By:** Rhomari Jackson-Glover, City Secretary

**Department:** City Secretary

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**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 17-33, approving debris removal on Shoal Point access roads not to exceed \$15,000.

**BACKGROUND**

The road from the Gulf Coast Waste Disposal Authority to the City's property known as Shoal Point is cluttered with debris from Hurricane Harvey. We have current quotes at about \$15,000, but are waiting for the final quotes. We hope that most of the removal will be FEMA eligible and will submit with the other FEMA requests. The road needs to be cleared for inspection of spoil deposits and access by our short-term lease with NextDecade.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Attachments**

Res. 17-33

Road Map

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**TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION**

**RESOLUTION NO. 17-33**

**A RESOLUTION APPROVING DEBRIS REMOVAL FROM SHOAL POINT ACCESS ROADS DUE TO HURRICANE HARVEY; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

**WHEREAS**, at a meeting of the Board of Directors of the Texas City Economic Development Corporation, duly held on October 11, 2017, a general discussion was held concerning the removal of debris from the Gulf Coast Waste Authority's road leading to the City's property known as Shoal Point; and,

**WHEREAS**, the cost for the debris removal will not exceed \$15,000.00; and,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION THAT:**

**SECTION 1:** The Board of Directors of the Texas City Economic Development Corporation hereby approves the removal of debris from the access roads to Shoal Point for an amount not to exceed \$15,000.00.

**SECTION 2:** This Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 11th day of October, 2017.**

---

CHAIRPERSON/VICE CHAIRPERSON  
Texas City Economic Development Corporation

ATTEST:

---

Justin Herter  
BOARD SECRETARY  
Texas City Economic Development Corporation



Buffalo Fleet Texas City

Industrial Canal

Barge Canal

0.50 mi

1.00 mi

1.26 mi

Swan Lake