

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 MEETING

AGENDA

APRIL 6, 2023 - 3:30 P.M.

CITY HALL COUNCIL 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. DECLARATION OF QUORUM
2. ROLL CALL
3. CONFLICT OF INTEREST DECLARATION
4. Consider Approval of the March 15, 2023 Meeting Minutes.
5. PUBLIC COMMENTS
6. EXECUTIVE SCESSION
  - a. Section 551.072 - Deliberation Regarding Real Property - Deliberations with the City Attorney regarding the sale, purchase, lease, or exchange or real properties.
7. NEW BUSINESS
  - a. Consider and take action on Resolution No. 2023-06, approving a sublease at 522 6<sup>th</sup> Street North to Songwriters Across Texas LLC-Big Easy Saloon #3.
  - b. Consider and take action on Resolution No. 2023-07, authorizing an incentive agreement between the Texas City Economic Development Corporation and Georgia Barzilay (Karat Creations Jewelry) for the purpose of improving existing awnings.

- c. Consider and take action on Resolution No. 2023-08, authorizing the subdivision of approximately 0.73 acres of property identified by GCAD ID 224789.
  - d. Consider and take action on Resolution No. 2023-09, leasing the EDC-owned property located at 411 6<sup>th</sup> Street to Texas City Martial Arts and Fitness.
  - e. Consider and take action on Resolution No. 2023-10, ratification of a ground lease agreement between the Texas City Economic Development Corporation and Sara Nix d/b/a Sara's Café, a Mobile Food Unit.
8. UPDATES AND REPORTS
- a. Small Business Development Center Update  
Texas City-La Marque Chamber of Commerce Update  
Texas City ISD Update
  - b. City of Texas City Staff Update
9. REQUEST AGENDA ITEMS FOR FUTURE MEETINGS
10. 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 APRIL 3, 2023, PRIOR TO 3:00 P.M., AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.

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Texas City Economic Development Corporation

**TCEDC Agenda**

**4.**

**Meeting Date:** 04/06/2023

**Submitted By:** Rhomari Leigh, City Secretary

**Department:** City Secretary

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**ACTION REQUEST (Brief Summary)**

Consider Approval of the March 15, 2023 Meeting Minutes.

**BACKGROUND**

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Attachments**

Minutes

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TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION  
BOARD OF DIRECTORS MEETING

MINUTES

MARCH 15, 2023 - 3:00 P.M.

CITY HALL COUNCIL ROOM

The Texas City Economic Development Corporation Board of Directors met March 15, 2023, at 3:00 p.m., in the City Hall Council Room, 1801 9th Avenue North, in Texas City, Texas. A quorum having been met, the meeting was called to order at 3:01 p.m. by Mark Ciavaglia with the following in attendance:

(1) DECLARATION OF QUORUM

(2) ROLL CALL

Present: Mark Ciavaglia, Chairperson  
Dedrick D. Johnson, Mayor/ Director  
Lawrence Edrozo, Director  
Bruce Clawson, Director  
Laura Boyd, Ex-Officio Member / Treasurer

Absent: Randy Dietel, Vice-Chairperson

Staff Present: Jon Branson, Executive Director of Management Services  
Kristin Edwards, Economic Development Director  
Rhomari Leigh, Board Secretary  
George Fuller, City Staff

Attendees: Tim Culp, TC-LM Advisor  
Henry Gomez, Resident

(3) CONFLICT OF INTEREST DECLARATION

There were none.

(4) Consider Approval of the January 27, 2023, and February 15, 2023, Meeting Minutes.

Randy Dietel entered the meeting at 3:11 p.m.

Motion by Director Lawrence Edrozo, Seconded by Mayor/ Director Dedrick D. Johnson

**Vote:** 4 - 0 CARRIED

(5) PUBLIC COMMENTS

There were none.

(6) NEW BUSINESS

- (a) Discussion regarding the results of the Economic Development Corporation Strategic Planning meeting held on February 15, 2023, and subsequent action.

- (b) Discussion and possible action regarding a services agreement between the City of Texas City and the Bay Area Houston Economic Partnership (BAHEP).

Motion by Mayor/ Director Dedrick D. Johnson, Seconded by Director Bruce Clawson

**Vote:** 5 - 0 CARRIED

- (c) Discussion and possible action regarding the creation of a new Economic Development Project Manager position, pursuant to direction received during the February 15, 2023, Strategic Planning meeting.

Motion by Mayor/ Director Dedrick D. Johnson, Seconded by Vice-Chairperson Randy Dietel

**Vote:** 5 - 0 CARRIED

- (d) Consider approval of a request to amend the Texas City Economic Development Corporation fiscal year 2022-2023 budget.

Motion by Mayor/ Director Dedrick D. Johnson, Seconded by Vice-Chairperson Randy Dietel

**Vote:** 5 - 0 CARRIED

- (e) Discussion regarding work conducted on overhead lighting along 6<sup>th</sup> Street, including hardwire power solution and actions following property damage.

**(7) ADJOURNMENT**

Having no further business, Mark Ciavaglia made a Motion to ADJOURN at 3:55 p.m. The meeting was adjourned.

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Board Secretary  
Texas City Economic Development Corporation

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

**TCEDC Agenda**

**7. a.**

**Meeting Date:** 04/06/2023

Discussion regarding Resolution 23-06, approving a sublease at 522 6th Street North to Songwriters Across Texas LLC-Big Easy Saloon #3.

**Submitted For:** Kristin Edwards, Economic Development

**Submitted By:** Kristin Edwards, Economic Development

**Department:** Economic Development

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**ACTION REQUEST (Brief Summary)**

Discussion regarding Resolution 23-06, approving a sublease at 522 6th Street North to Songwriters Across Texas LLC-Big Easy Saloon #3.

**BACKGROUND**

The Economic Development Corporation owns the commercial property located at 522 6th Street North in Texas City, and has dedicated significant financial support to its renovation. The property is currently leased to another leasee from the EDC, but is not currently in use.

In an effort to bring an active business into the space, the current leasee is proposing a sub-lease agreement with Songwriters Across Texas, who, if approved, would operate a restaurant/bar and music lounge in the existing space.

**ANALYSIS**

Staff recommends approval of Resolution XXXX, consenting to sublease and assumption of a lease agreement between the current leasee, the EDC, and Songwriters Across Texas LLC-Big Easy Saloon #3.

**ALTERNATIVES CONSIDERED**

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**Attachments**

- Item 2 - Draft agreement
  - SAT Business Plan
  - SAT Letter to Prospective Landlords
  - Resolution
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## CONSENT TO SUBLEASE AND ASSUMPTION OF LEASE AGREEMENT

**THIS CONSENT TO SUBLEASE AND ASSUMPTION OF LEASE AGREEMENT** (this "Agreement" or sometimes referred to herein as this "Assignment" or "Assumption") is made as of this \_\_\_\_\_ day April 2023, by and between **Vincent Mathew Pandanell**, an individual (herein called "Tenant"), **Texas City Economic Development Corporation**, a Texas non-profit corporation (herein called "Landlord"), and **Songwriters Texas, LLC d/b/a Big Easy Saloon #3**, a Texas limited liability company (herein called "Sub-Tenant").

### RECITALS

**WHEREAS**, Landlord and Tenant are the current parties to that certain Commercial Lease dated May 7, 2018 (the "Lease") covering certain premises currently located at 522 6<sup>th</sup> Street, Texas City, Texas and containing approximately 2,750 square feet (as more particularly described in the Lease, as affected hereby, and referred to in this Agreement as the "Premises").

**WHEREAS**, Tenant desires to sublease the Premises to Sub-Tenant, and Sub-Tenant desires to accept such sub-lease, upon the terms and conditions hereinafter set forth.

**WHEREAS**, the Lease does not permit Tenant to sublease the Premises without Landlord's consent, and Landlord is willing to grant such consent upon the terms and conditions hereinafter set forth but not otherwise.

**NOW, THEREFORE**, in exchange for the mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals; Defined Terms.** The above Recitals are hereby confirmed as true and correct and are reaffirmed herein. Capitalized terms used herein but not defined herein shall have the meanings given to such terms in the Lease.

2. **Sublease.** Sub-Tenant hereby accepts the sublease and assumes the prompt and complete payment and performance of all obligations, liabilities and covenants of the Lease. Sub-Tenant shall not succeed by this Agreement to any obligations, liabilities and covenants of Tenant under the Lease arising prior to the date of this Agreement, except as specifically set forth above. Sub-Tenant hereby acknowledges and agrees that it has inspected the Premises and accepts the same in its current "as-is" condition.

3. **Landlord's Consent.** Landlord hereby consents to the subleasing of the Premises to Sub-Tenant on the terms and conditions set forth in this Agreement.

4. **Representations and Warranties.** Tenant represents and warrants to Landlord and to Sub-Tenant that: (i) as of the date of this Agreement, Landlord has fully paid and performed all its obligations, liabilities and covenants under the Lease; Tenant knows of no default by Landlord under the Lease or any situations which, with notice or the passage of time, or both, would constitute a default; and Tenant has no rights of offset or defense against Landlord; (ii) Tenant has not failed to disclose to Landlord any information which, if known by Landlord, might provide grounds for Landlord to withhold its consent to the subleasing of the Premises; and (iii) Tenant has not heretofore assigned, mortgaged or otherwise transferred or encumbered, voluntarily or involuntarily, the Lease or Tenant's interest therein. In consideration of Landlord's consent to the subleasing of the Premises to Sub-Tenant on the terms and conditions set forth in this Agreement, Tenant hereby irrevocably and unconditionally releases and discharges Landlord and Landlord's officers, trustees, directors, partners, beneficiaries, mortgagees, ground lessors, joint venturers, members, stockholders, or other principals, representatives, agents, contractors and employees, disclosed or undisclosed (and their respective successors and assigns) (collectively, "Landlord Related Parties") from any and all claims, actions, causes of action, rights, demands, debts, obligations, damages, liabilities, judgments or losses of any kind whatsoever that Tenant has or may have against Landlord and/or any Landlord Related Parties arising out of or connected with any acts or omissions on the part of Landlord occurring on or before the date of this Agreement.

5. **Outstanding Amounts; Annual Reconciliation.** If any amount of rent or other sums due and payable by Tenant under the Lease is outstanding as of the date of this Agreement, then Tenant shall pay all such outstanding amounts to Landlord on or before the date of this Agreement. Landlord's consent to the Assignment is subject to payment in full of the aforementioned outstanding amounts.

6. Furniture, Fixtures, Equipment and Other Personal Property. To the extent any furniture, fixtures, equipment and/or other personal property (collectively, "FF&E") are left in the Premises by Tenant (or other owner of such FF&E) pursuant to a separate oral or written agreement between Tenant and Sub-Tenant (or such other owner of such FF&E), Landlord makes no representation or warranty as to ownership of the FF&E or Sub-Tenant's right to use the FF&E.

7. Miscellaneous. The parties hereto hereby acknowledge that the Lease as affected by this Agreement is in full force and effect and, as hereby affected, is ratified and confirmed. By entering into this Agreement, Landlord in no way waives any rights and remedies available to it with respect to any existing or future defaults under the Lease, all of which rights and remedies Landlord hereby specifically reserves. Landlord shall have the discretion to direct how payments under the Lease (as affected hereby) are applied to any then due amounts on the account for the Premises. In the event of any conflict between the terms and conditions of this Agreement and the Lease, this Agreement shall control. This Agreement shall be effective only when it is signed by all parties hereto. A party's submission of a signed Agreement for review by Landlord does not give any such party any interest, right or option.

8. Authority. Each individual executing this Agreement on behalf of a corporation, limited liability company, partnership or other business entity represents that he or she is duly authorized to execute and deliver this Agreement on behalf of such entity and agrees to deliver evidence of his or her authority to Landlord promptly upon request.

9. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together constitute a fully executed agreement even though all signatories do not appear on the same document. Delivery of an executed counterpart of this Agreement by facsimile or as an attachment to an email shall be equally effective as delivery of a mutually executed counterpart of this Agreement. This Agreement may be signed electronically. Facsimile or e-mail transmittal of original handwritten signatures and electronic signatures shall all be considered to have the same legal effect as execution and delivery of the original printed document with handwritten signatures and shall be treated in all manner and respects as the original printed document with handwritten signatures.

10. Notices. Any notice or demand under this Lease will be in writing and either served personally or sent by U.S. mail, postage prepaid, to the following addresses:

**Landlord:**

Texas City Economic Development Corporation  
1809 9th Ave. N.  
Texas City, Texas 77590  
Attn: Economic Development

**Sub-Tenant:**

Songwriters Texas, LLC d/b/a Big Easy Saloon #3  
2028 E. Ben White Blvd, Suite 425  
Austin, TX 78741  
Attn: Sherry Bayles, Manager

**[SIGNATURES ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first above written.

**TENANT:**

\_\_\_\_\_  
**Vincent Mathew Pandanell**

**SUB-TENANT:**

**Songwriters Texas, LLC d/b/a Big Easy Saloon #3,**  
a Texas limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LANDLORD:**

**Texas City Economic Development Corporation,** a Texas non-profit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

# EXECUTIVE SUMMARY SUPPORTING MUSICIANS IN THE GREAT STATE OF TEXAS

Few states have as rich a musical heritage as Texas, and we plan to keep it that way! Find out how Songwriters Across Texas and Lucky 7 Downloads are helping to keep music alive and well in the Lone Star State.

**S**ongwriters Across Texas (SAT) was created in 2012 with the goal of supporting and showcasing musical talent in the great State of Texas. Following our purchase of SAT in 2017, we have overseen management and production of this outstanding live music show for cable TV, showcasing both established artists and promising newcomers — each featured in their own exclusive half-hour episode. There are more than 75 hours of programming available featuring almost 1,000 recorded songs by such notable Texas musicians as Bob Schneider, Miss Lavelle White, A.J. Vallejo, Erin Ivey, Warren Hood, and many more.



Bob Schneider (left) and Warren Hood (right) take to the Songwriters Across Texas stage in 2019.

Our video *The Making of Songwriters Across Texas* (at [SongwritersAcrossTexas.com/tv-show](http://SongwritersAcrossTexas.com/tv-show)) highlights the motivation and dedication of the folks behind this groundbreaking TV show, as we revitalize the brand with enhanced production values and increased capital investment.

You may also like to see a short teaser video (at [SongwritersAcrossTexas.com/teaser](http://SongwritersAcrossTexas.com/teaser)) that was made to promote the TV show.

Under the SAT brand, we also produce a weekly radio show on 107.9 KFAN hosted by Karl Anderson, a highly respected fixture in the Austin music and acting community for over 25 years. SAT also supports local artists with a popular monthly event called *The Supper Club*, where we honor members of the music community for their persistent and selfless dedication to artists across Texas.

## Music Downloads = Money for Musicians

To further support the artists that appear on our TV and radio shows for the SAT brand, we encourage them to distribute their music and videos on our *Lucky 7 Downloads* website. But this premium music distribution website is not just for established local artists, we also make these powerful online benefits freely available to any and all aspiring musicians in Texas and beyond.

The primary business of Lucky 7 Downloads is to distribute awesome music and video content, and to support local musicians the best way we can: Allowing them to sell their songs and make money.

We encourage people to visit the [Lucky 7 Downloads](http://Lucky7Downloads.com) website where they can pay to download music and watch videos. We in turn are then able to share our website revenues with artists. Relative to most other popular download and streaming sites, we pay artists more per download! Not only that, but we also provide musicians with a secure, dynamic and vibrant online platform — at no cost — that they can use to promote their art and build their audiences, all from the perspective of their own individual brands.

Our strategy begins by offering retail merchants (primarily bars, pool halls, and arcades) an opportunity to share our business initiatives and sell their customers original songs available on our website, each priced at \$1.00 + sales tax. Customers can either purchase Music Packs of pre-selected songs or a Music Download Gift Certificate that can be redeemed at the *Lucky 7 Downloads* website for the full value of their purchase. Customers select from more than 21,000 songs (and growing) to download and play on their computers and mobile devices, similar to the way the *iTunes*® application works.



There are more than 21,000 songs to purchase on Lucky7Downloads.com.

# EXECUTIVE SUMMARY SUPPORTING MUSICIANS IN THE GREAT STATE OF TEXAS

## Free-to-Enter Sweepstakes Contest



Queens of Texas music: Erin Ivey (left) and Miss Lavelle White (right).

One of the ways we promote the sale of music products from independent musicians is to give our customers a number of free promotional entries to a sweepstakes contest (just like the way the *McDonald's Monopoly*® sweepstakes game promotes the sale of burgers at the fast food chain *McDonald's*®). The number of free promotional entries we give to each customer corresponds to the amount spent on the product(s) they purchase.

Customers can tell at the click of button if they have won a promotional prize in the sweepstakes contest because we have already determined which free entries are winners. On January 1 of each year, we create a finite number of free entries to the sweepstakes contest and assign a promotional prize to specific entries on a completely random basis. For the next 365 days, those entries and assigned promotional prizes are locked in place.

This means there is **no element of chance** involved in winning a promotional prize, and we are able to tell customers if they have won anything using our "Reveal All" technology built in to the software.

## Free Sweepstakes Games – No Cost and No Risk

However, for residents of Texas only, we offer an entertaining and fun alternative to simply clicking a button. We have a wide variety of free sweepstakes games that reveal — as they are being played — whether or not our customers have won a promotional prize or not. And because we know how popular our sweepstakes games are, we allow anyone to play every day for free — without buying music.

The free sweepstakes games are a sincere thank-you gesture to our customers who support our efforts to help local musicians. However, please note that purchasing **music is not required** to play the free sweepstakes games and **does not affect** the prospects of winning a promotional prize, and that **no purchase or donation** is ever required to play the free sweepstakes games.

Please enjoy a presentation video describing the role of the Lucky 7 Downloads website at the following address: [SongwritersAcrossTexas.com/info](http://SongwritersAcrossTexas.com/info).

The official rules of the free sweepstakes games are always posted clearly and prominently in every location we sell music and offer the free sweepstakes games. The official rules of the free sweepstakes games are also published online at the following URL: [Lucky7Downloads.com/Rules](http://Lucky7Downloads.com/Rules).



Guitarist, songwriter and sensational stage performer, Ginger Leigh.



For those who win a promotional prize, we have all kinds of wonderful gifts to choose from at our Prize Redemption Center (similar to the redemption centers you will find at the restaurant and entertainment chains *Chuck E. Cheese*® and *Dave & Buster's*®). Customers can select from promotional prizes ranging from Teddy Bears to T-shirts, Bags O' Silver to exclusive holiday vacations. And much more...

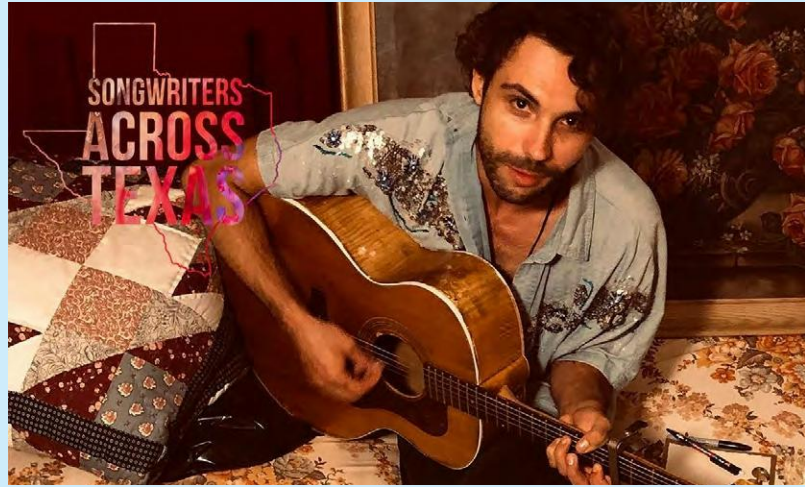
# EXECUTIVE SUMMARY SUPPORTING MUSICIANS IN THE GREAT STATE OF TEXAS

## Everyone's A Winner!

It's important to note that, while not everyone wins a promotion prize in the sweepstakes contest, no one ever loses when they buy music at the *Lucky 7 Downloads* website. Every customer keeps the music they pay for to the full value of their purchase, and can download those songs to their computers and portable devices at their own convenience. There's no time limit to redeem the Music Download Gift Certificates, or any other gift certificate for products: If a customer chooses to wait a week or a year, we will always honor the full purchase value of each Music Download Gift Certificate, and every gift certificate for other products.

We are extremely proud to be supporting local musicians in the great State of Texas. We also enjoy the loyal patronage of our customers who appreciate receiving free entries to our sweepstakes contest and the exciting sweepstakes games they pay nothing to play and risk nothing of value.

We hope this has been a helpful introduction to *Songwriters Across Texas* and *Lucky 7 Downloads*. Our overwhelming ambition is to create a platform for hard-working musicians to be heard and to help them sell their music to an admiring audience. As we go about our business, it is our sincere intention to comply with all laws in every respect, and we look forward to working with you to show our 100% commitment in that regard.



Texas songwriter, Shane Cooley, releases 50 songs during the recent lockdown.

To discover more about *Songwriters Across Texas*,  
please go to: [SongwritersAcrossTexas.com](https://SongwritersAcrossTexas.com).

To visit the *Lucky 7 Downloads* website,  
please go to: [Lucky7Downloads.com](https://Lucky7Downloads.com).

**We look forward to hearing from you if you have any questions or comments.**

For more information about *Songwriters Across Texas* or the *Lucky 7 Downloads* website,  
please write to us at the following address: **Lucky 7 Downloads LLC, PO Box 1628, Round Rock, Texas 78680.**

# SONGWriters ACROSS TEXAS LLC

2028 E. BEN WHITE BLVD. SUITE 425

AUSTIN, TX 78741

[www.songwritersacrosstexas.com](http://www.songwritersacrosstexas.com)

To Whom It May Concern:

The attached confidential Commercial Financial Responsibility Package is provided to show that we are financially strong with a large family of related entities. We intend to set up a new single-asset entity to operate each location, as we do for every bar, music lounge and restaurant/bar we own. We usually lease the properties with an option to buy. For this reason, please note that our Landlord References are under numerous company names. While checking references, please refer to the correct company name associated with the property leased or the loan, if you are checking bank/finance references.

## **Songwriters Across Texas Business Model**

To provide you with a visual description of our business model, attached is Songwriters Across Texas Executive Summary. It explains how Songwriters Across Texas supports and showcases musical talent with live music shows for cable TV and weekly radio shows/podcasts. In addition, our Lucky 7 Downloads website allows artists to distribute their music and videos to the public. We encourage people to visit the website at [www.lucky7downloads.com](http://www.lucky7downloads.com) where they can pay to download music and watch videos. Not only do we own and operate our own retail stores, but we also market to third parties. We currently have nearly 85 locations and growing. Our strategy begins by offering retail merchants, primarily bars, pool halls, and music lounges, an opportunity to share our business initiatives and sell their customers original songs available on our website. We market to third party bars through our company called Revenue Stream Solutions LLC. You can learn more and see some helpful, short videos that explain the business model at the following website: [www.revenuestreamsolutions.com](http://www.revenuestreamsolutions.com). Also, please view our white board presentation on the following link, which shows how we help other bars and how we expand our business: [www.revenuestreamsolutions.com/music-download-program](http://www.revenuestreamsolutions.com/music-download-program). One of the ways we promote the sale of music products is to give our customers a number of free promotional entries to a sweepstakes contest. They can tell at the click of a button if they have won a promotional prize. We also offer an entertaining and fun alternative to simply clicking a button. We have a wide variety of free sweepstakes games that reveal – as they are being played – whether our customers have won a promotional prize. The free sweepstakes games are a sincere thank you gesture to our customers who support our efforts to help local musicians. The sweepstakes games simulate casino games, and people love to play them and win prizes! Please note that purchasing music is not required to play the free sweepstakes games and does not affect the prospects of winning a promotional prize, and that no purchase or donation is ever required to play the free sweepstakes games.

We have recently begun expanding our business model into Arkansas, which will operate under the name “Songwriters of the Ozarks”, and we expect it to quickly grow across the state. We are also researching other states, territories, and countries, and we fully expect to expand into many other markets. If you have or know of other properties that might be a good location for us, please share the details.

Despite the pandemic, the company has averaged an annual Net Income of \$3,650,000 over the past four years, and if you take out the covid year we were shut down, our average Net Income is \$4,763,150. At a 10% cap rate, it makes the market value of the business worth \$48 million and growing. (That does not include real estate owned.) See attached Songwriters Across Texas Consolidated Balance Sheet and Profit & Loss for the past 4-years comparison.

We will not sign any guarantees, and we are not authorizing anyone to pull credit on any owner without our written consent. In lieu of a security deposit, we would prefer to pay three months' rent in advance. However, we do not want the lease payments to begin until we obtain a Certificate of Occupancy and can actually open for business.

If needed, what will the landlord contribute towards renovations or build out?

We feel this package provides ample financial information and references for prospective landlords to evaluate before signing a lease agreement with one of our entities. If you have any questions, please feel free to contact me at 512-695-8008.

Sincerely,

Bruce Craig  
President

Attachments:

Songwriters Across Texas LLC Executive Summary  
List of References-Banks Lenders & Landlords  
Reference Letters  
Songwriters Consolidated Financials-4 Year Comparison

**TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION**

**RESOLUTION NO. 2023-06**

**A RESOLUTION AUTHORIZING THE BOARD CHAIRPERSON TO ENTER INTO A SUB-LEASE AGREEMENT SONGWRITERS ACROSS TEXAS LLC-BIG EASY SALOON #3 AND VINCENT PANDANELL FOR PROPERTY LOCATED AT 522 6TH STREET NORTH; 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 April 6, 2023, a general discussion was held concerning entering into a Sub-Lease Agreement with Vincent Pandanell and Songwriters Across Texas LLC-Big Easy Saloon #3 for property located at 522 6th Street North.

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

**SECTION 1:** The Texas City Economic Development Corporation hereby approves a Sub-Lease Agreement with Vincent Pandanell and Songwriters Across Texas LLC-Big Easy Saloon #3 for property located at 522 6th Street North.

**SECTION 2:** The Chairman of Texas City Economic Development Corporation, or designee, is hereby authorized to execute the documents necessary for said agreement on behalf of the Texas City Economic Development Corporation.

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

**PASSED AND ADOPTED this 6th day of April 2023.**

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CHAIRMAN/PRESIDENT  
Texas City Economic Development Corporation

ATTEST:

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BOARD SECRETARY  
Texas City Economic Development Corporation

## TCEDC Agenda

7. b.

**Meeting Date:** 04/06/2023

agreement W/ TCEDC and Georgia Barzilay (Karat Creations Jewelry) for the purpose of improving existing awnings.

**Submitted For:** Kristin Edwards, Economic Development

**Submitted By:** Kristin Edwards, Economic Development

**Department:** Economic Development

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### **ACTION REQUEST (Brief Summary)**

Approval of Resolution No. 2023-07 authorizing an agreement between the Texas City Economic Development Corporation and Georgia Barzilay (Karat Creations Jewelry) for the purpose of improving existing awnings.

### **BACKGROUND**

The TCEDC offers assistance with the purchasing of awnings for businesses located on 6<sup>th</sup> Street, wherein the TCEDC will pay for 40 percent of the total cost of the agreed-upon design. Approximately nine years ago, Mrs. Barzilay utilized the program and installed a set of awnings at Karat Creations Jewelry, 811 6<sup>th</sup> Street. The original awning agreement required the owner to keep and maintain the awnings for a minimum five-year period.

As Mrs. Barzilay has met her obligations under the original agreement, staff is proposing to enter into a new awning agreement wherein the TCEDC would pay for 40 percent of the total cost of improving the existing awnings.

The City has received three bids for the project, with the lowest bid coming from Flite Signs, LLC in the amount of \$12,900. Should the TCEDC agree to cover 40 percent of this cost, Mrs. Barzilay would pay the full amount and receive reimbursement totaling \$5,160 from the TCEDC.

### **ANALYSIS**

Staff recommends approval of Resolution 2023-07, an agreement between the Texas City Economic Development Corporation and Georgia Barzilay (Karat Creations Jewelry) for the purpose of improving existing awnings.

### **ALTERNATIVES CONSIDERED**

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### **Attachments**

Awning improvements agreement  
Resolution

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STATE OF TEXAS  
COUNTY OF GALVESTON

**BUSINESS OWNER SIGN/AWNING AGREEMENT WITH CITY OF TEXAS CITY**

This AGREEMENT is entered into this \_\_\_ day of April, 2023, between the Texas City Economic Development Corporation (“TCEDC”) and Georgia Barzilay (“Owner”), for awnings located at 811 6<sup>th</sup> Street, Texas City, Texas, 77590.

ARTICLE I  
PURPOSE OF AGREEMENT

The purpose of this Agreement is to provide for consistent, attractive, and maintained signage/awnings for businesses within the 6<sup>th</sup> Street area of the City of Texas City. This includes the improvement of existing signage/awnings.

ARTICLE II  
AGREEMENT

TCEDC and Owner agree to enter into a mutual agreement concerning improvements to existing awnings at said location, 811 6<sup>th</sup> Street North, Texas City, Texas, 77590. Owner agrees to pay full amount (not to exceed \$12,900.00) and to receive reimbursement of forty percent (not to exceed \$5,160.00) from TCEDC upon completion of improvements.

ARTICLE III  
RIGHTS AND OBLIGATIONS OF OWNER

1. Owner shall maintain the business located at 811 6<sup>th</sup> St. N., Texas City, Galveston County, Texas (“the Property”), for a minimum five-year period.
2. Owner shall enter into a separate agreement with Flite Signs, LLC for the improvement of awnings at said location.
3. Owner shall maintain attractive appearance on the exterior of the Property for a minimum five-year period.
4. Owner shall keep and maintain the sign(s)/awnings on the Property, secured and in good repair, for a minimum five-year period, except in cases of acts of God.
5. Owner shall comply with all City Ordinances.
6. Owner shall allow the City of Texas City to place directional signage at the City’s expense that is to be maintained by the City at its expense, if the City finds it is in its best interest to promote various areas and activities in the City.

ARTICLE IV  
COORDINATION

Owner will coordinate with SELECTED VENDOR for completion of the awning repairs. Owner will coordinate with its awning vendor directly, but gain Texas City Economic Development representative's approval before installation.

ARTICLE V  
NO WAIVER OF IMMUNITY

It is expressly understood and agreed that under this Agreement the City neither waives, nor shall be deemed to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.

ARTICLE VI  
VENUE

Each party to this Agreement agrees that in any legal action brought hereunder, venue shall lie in Galveston County, Texas. The validity of this Agreement and of its terms and provision, as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas.

ARTICLE VII  
SEVERABILITY

In case any one or more of the provisions contained in the Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such fact shall not affect any other provision thereof and this Agreement shall be construed as if the stricken provision had never been contained herein.

ARTICLE VIII  
MODIFICATION

This Agreement may be amended or modified by the mutual agreement of both parties hereto in writing, such writing to be attached hereto and incorporated unto this Agreement.

ARTICLE IX  
ENTIRE AGREEMENT

This Agreement contains all commitments and obligations of the parties and represents the entire agreement of said parties. No verbal or written conditions not contained herein shall have

any force or effect to alter any term of this Agreement.

ARTICLE X  
TERMINATION/FORCE MAJEURE

This Agreement may be terminated at any time before its expiration with mutual consent of both parties. Neither party shall be responsible for damages or expected to fulfill its obligations under this Agreement should an act of God or other unforeseen catastrophe occur and cause such damage or prevent the performance of such obligation.

ARTICLE XI  
EXECUTION

This Agreement shall be executed by the duly authorized Owner and City.

Paragraph Headings

The captions, numbering sequences, titles, paragraph headings, punctuation, and organization used in this Agreement are for convenience only and shall in no way define, limit, or describe the scope or intent of this Agreement or any part of it.

Understanding, Fair Construction

By execution of this Agreement, the parties acknowledge that they have read and understand each provision, term, and obligation contained in this Agreement. This Agreement, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.

ARTICLE XII  
ASSIGNMENT

This Agreement may be assigned by the City, at City's sole option, to a corporation of the City.

ARTICLE XIII  
NOTICES

Any notices due under the provisions of this Agreement shall be made in writing and shall be addressed to the following:

**TCEDC:**

Texas City Economic Development Corporation  
Attn: Kristin Edwards  
1801 - 9<sup>th</sup> Avenue North  
Texas City, Texas 77590

(409) 739-7538 Phone

**Business:**

Georgia Barzilay, Owner  
Karat Creations Jewelry  
811 6<sup>th</sup> Street N.  
Texas City, Texas 77590

IN WITNESS WHEREOF, the parties to these presents have executed this Agreement on the date first above written.

TEXAS CITY ECONOMIC  
DEVELOPMENT CORPORATION:

By: \_\_\_\_\_  
Mark Ciavaglia, TCEDC Chair

OWNER, Karat Creations Jewelry:

By: \_\_\_\_\_  
Georgia Barzilay, Owner

**TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION**

**RESOLUTION NO. 2023-07**

**A RESOLUTION APPROVING THE AUTHORIZATION OF EXPENDITURES FOR AWNINGS FOR PROPERTY LOCATED AT 811 6TH STREET, IN LINE WITH THE 6TH STREET INCENTIVE PROGRAM AND ENTERING INTO AN AGREEMENT WITH GEORGIA BARZILAY; 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 (TCEDC), duly held on April 6, 2023, a general discussion was held concerning approval for the authorization of expenditures and entering into an agreement with Georgia Barzilay for awnings for property located at 811 6th Street, in line with the 6th street incentive program; and

**WHEREAS**, TCEDC has approved the funding program for 6<sup>th</sup> Street businesses within the 6th Street Reinvestment area for signage, awnings, paint and other exterior facial improvements; and

**WHEREAS**, the City Attorney is finalizing an "Incentive Package Agreement" for 811 6th Street, which will include awnings in a single agreement; and

**WHEREAS**, the expenses will be withdrawn from the 6<sup>th</sup> Street Incentive Program.

**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 Resolution No. 2023-07, for awnings for property located at 811 6th Street, not to exceed \$5,160.00, in line with the 6th Street Incentive Program.

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

**PASSED AND ADOPTED this 5th day of April 2023.**

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CHAIRPERSON/VICE-CHAIRPERSON  
Texas City Economic Development Corporation

ATTEST:

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BOARD SECRETARY

Texas City Economic Development Corporation

**TCEDC Agenda**

**7. c.**

**Meeting Date:** 04/06/2023

Approval of Resolution No. 2023-08 authorizing subdivision of property identified by GCAD ID 224789

**Submitted For:** Jon Branson, Management Services

**Submitted By:** Jon Branson, Management Services

**Department:** Management Services

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**ACTION REQUEST (Brief Summary)**

Approval of Resolution No. 2023-08 authorizing the subdivision of approximately 0.73 acres of property identified by GCAD ID 224789.

**BACKGROUND**

The property was acquired by the TCEDC by a Special Warranty Deed in April 2021. The former building located on the site was remediated and demolished by the TCEDC after acquisition. It has been sitting vacant since that time. The property is surrounded by residential on all sides and is catty-corner from a City park. It is the opinion of staff that subdividing the property and establishing residential homes on the new lots will add value to the tax roles and help to improve home values in the area.

**ANALYSIS**

Staff recommends approval of the subdivision of the property.

**ALTERNATIVES CONSIDERED**

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**Attachments**

Property ID 224789

Resolution

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**TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION**

**RESOLUTION NO. 2023-08**

**A RESOLUTION AUTHORIZING THE SUBDIVISION OF APPROX. 0.73 ACRES OF PROPERTY IDENTIFIED AS GCAD ID 224789, TEXAS CITY, TEXAS IN GALVESTON COUNTY; 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 April 6, 2023, a general discussion was held concerning the subdivision of property located at GCAD ID 224789, Texas City, Texas, Galveston County, For the purpose of placing residential housing on the land.

**WHEREAS**, that Mark Ciavaglia, as President of the Corporation, is hereby authorized and empowered to enter into such agreements as may be necessary to effecuate the subdivision of the property located at GCAD ID 224789, Texas City, Texas, Galveston County.

**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 subdivision of the property located at GCAD ID 224789, Texas City, Texas, Galveston County.

**SECTION 2:** The Chairperson or Vice Chairperson is hereby authorized to execute any documents necessary for the subdivision of the above described property.

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

**PASSED AND ADOPTED this 5th day of April 2023.**

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CHAIRPERSON/VICE CHAIRPERSON  
Texas City Economic Development Corporation

ATTEST:

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BOARD SECRETARY  
Texas City Economic Development Corporation

## **TCEDC Agenda**

**7. d.**

**Meeting Date:** 04/06/2023

Approval of Resolution 23-09, leasing the EDC-owned property located at 411 6th Street to Texas City Martial Arts and Fitness.

**Submitted For:** Kristin Edwards, Economic Development

**Submitted By:** Kristin Edwards, Economic Development

**Department:** Economic Development

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### **ACTION REQUEST (Brief Summary)**

Approval of Resolution 23-09, leasing the EDC-owned property located at 411 6<sup>th</sup> Street to Texas City Martial Arts and Fitness.

### **BACKGROUND**

The Economic Development Corporation owns the commercial property located at 411 6<sup>th</sup> Street in Texas City, and it is currently available for lease. Staff received an inquiry from Texas City Martial Arts and Fitness regarding available spaces for operation and recommended the location. The operators recently visited the space and determined it would be an ideal location for their business.

Pending approval by the EDC, staff recommends a three-year lease agreement between the EDC and Texas City Martial Arts and Fitness.

### **ANALYSIS**

Staff recommends approval of Resolution 23-9, a lease agreement between the EDC and Texas City Martial Arts and Fitness for 411 6<sup>th</sup> Street.

### **ALTERNATIVES CONSIDERED**

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#### **Attachments**

Draft agreement - 411 6th

TCMA Business Plan

TCMA Class Schedule

Resolution

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## COMMERCIAL LEASE

1. **Parties.** This COMMERCIAL LEASE (“Lease”) is entered into by Texas City Economic Development Corporation (“Landlord”) and Sapingkhone Kettavong d/b/a Texas City Martial Arts and Fitness (“Tenant”).

2. **Premises.** Landlord leases to Tenant, and Tenant leases from Landlord, for the term, at the rental rate, and on all the conditions in this Lease, the real property located in the City of Texas City, County of Galveston, State of Texas, containing approximately 2,250 square feet and commonly known as 411 6<sup>th</sup> Street North, Texas City, Galveston County, Texas 77590 and more specifically described as:

ABST 205 PAGE 6 S 50 FT OF LOTS 7 & 8 (7-3) BLK 158 TEXAS CITY

The real property, including the land and all improvements on it, is called the “Premises” in this Lease.

3. **Term.**

- (a) Term. The term of this Lease shall be for Three (3) Years, commencing on May 1, 2023 and ending on April 30, 2026 unless terminated earlier under any provision of this Lease.
- (b) [INTENTIONALLY DELETED].
- (c) Early Possession. If Landlord permits Tenant to occupy the Premises before the commencement date of the term, the occupancy will be subject to all the provisions of this Lease. The early possession will not advance the termination date of this Lease.
- (d) Delivery of Possession. Tenant will be deemed to have taken possession of the Premises when Landlord delivers possession of the Premises to Tenant.

4. **Rent.**

- (a) Monthly Rent. On or before the first day of each month during this Lease, Tenant pay will Landlord base monthly rent as follows:

May 1, 2023 to April 30, 2024: \$1,200

May 1, 2024 to April 30, 2025: \$1,400

May 1, 2025 to April 30, 2026: \$1,600

Rent for any period during the term that is for less than one month will be a prorated portion of the monthly installment. Rent will be payable without notice or demand and without any deduction, offset, or abatement in U.S. currency to Landlord at the address stated in Section 18 or to other persons or at other places as Landlord may designate in writing.

- (b) **Additional Charges.** This Lease is what is commonly called a “net lease,” which means that Landlord will receive the rent stated in Subsection 4(a) free and clear of any and all impositions, taxes, liens, charges, or expenses in connection with the ownership and operation of the Premises. In addition to the rent under Subsection 4(a), Tenant will pay to the appropriate parties all impositions, insurance premiums, operating charges, maintenance charges, construction costs, and any other charges, costs, and expenses that arise or may be contemplated under any provisions of this Lease during the term. All of these charges, costs, and expenses will constitute additional charges, and if Tenant fails to pay any of the additional charges, Landlord will have the same rights and remedies as otherwise provided in this Lease for the failure to pay rent. It is the intention of the parties that this Lease will not be terminable for any reason by Tenant and that Tenant will not be entitled to any abatement of or reduction in rent, except as expressly provided. Any present or future law to the contrary will not alter this agreement of the parties.
  
- 5. [INTENTIONALLY DELETED.]
  
- 6. **Use.**
  - (a) **Use.** The Premises will be used and occupied only for the purposes of maintaining and operating Texas City Martial Arts and Fitness.
  
  - (b) **Compliance with Law.** Tenant will, at its expense, comply promptly with all applicable statutes, ordinances, rules, regulations, orders, and requirements in effect during the term regulating the use by Tenant of the Premises. Tenant will not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or tend to unreasonably disturb any other tenants.
  
  - (c) **Condition of Premises.** Tenant accepts the Premises in their condition as of the date of possession under this Lease, subject to all applicable zoning, municipal, county, and state laws, ordinances, and regulations governing and regulating the use of the Premises, and accepts this Lease subject to the same terms. Tenant acknowledges that neither Landlord nor Tenant’s agent has made any representation or warranty about the suitability of the Premises for the conduct of Tenant’s business.
  
  - (d) **Insurance Cancellation.** Despite the provisions of Subsection 6(a), no use will be made or permitted to be made of the Premises that will cause the cancellation of any insurance policy covering the Premises or any building on the Premises, and if Tenant’s use of the Premises causes an increase in insurance rates, Tenant will pay the increase.
  
  - (e) **Landlord’s Rules and Regulations.** Tenant will faithfully observe and comply with the rules and regulations that Landlord makes. A copy of the rules and regulations is attached to this Lease. Landlord reserves the right to make all reasonable modifications to the rules and regulations, which will be binding once a copy of them is delivered to Tenant. Landlord will not be responsible to Tenant for the

nonperformance of any of the rules and regulations by any other tenants or occupants.

**7. Maintenance Repairs and Alterations.**

- (a) **Tenant's Obligations.** Tenant will keep in good order, condition, and repair the Premises and every part of them, structural or nonstructural, and all adjacent sidewalks, landscaping, driveways, parking lots, fences, and signs located in the areas adjacent to and included with the Premises. Landlord will incur no expense and have no obligation of any kind in connection with the maintenance of the Premises except for the repair and maintenance of the roof, and Tenant expressly waives the benefits of any statute now or later in effect that would otherwise give Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition, and repair.
- (b) **Surrender.** On the last day of the term or on any earlier termination, Tenant will surrender the Premises to Landlord in good condition, broom clean, except for ordinary wear and tear. Tenant will repair any damage to the Premises occasioned by its use or by the removal of Tenant's trade fixtures, furnishings, and equipment under Subsection 7(d)(3), which will induce the patching and filling of holes and repair of structural damage.
- (c) **Landlord's Rights.** If Tenant fails to perform its obligations under this Article, Landlord may at its option enter the Premises, after ten (10) days' written notice to Tenant, and put the Premises in good order, condition, and repair. The cost of doing so plus interest at the rate of ten percent (10%) per year will become due and payable as additional rent to Landlord together with Tenant's next rent installment.
- (d) **Alterations and Additions.**
  - (1) Tenant will not, without Landlord's written consent, make any alterations, additions, or improvements in, on, or about the Premises, except for nonstructural alterations costing less than One Thousand Dollars (\$1,000.00). As a condition of giving its consent, Landlord may require that Tenant remove any alterations, additions, improvements, or utility installations at the expiration of the term and to restore the Premises to their previous condition.
  - (2) Before commencing any work relating to alterations, additions, and improvements affecting the Premises, Tenant will notify Landlord in writing of the expected date of commencement. Landlord will then have the right to post and maintain on the Premises any notices to protect the Premises and Landlord from mechanics' liens, materialmen's liens, or any other liens. Tenant will pay, when due, all claims for labor or materials furnished to or for Tenant at or for use on the Premises. Tenant will not permit any mechanics' or materialmen's liens to be levied against the Premises for any labor or material furnished to Tenant or claimed to

have been furnished to Tenant or to Tenant's agents or contractors in connection with any work performed or claimed to have been performed on the Premises by or at the direction of Tenant.

(3) Unless Landlord requires their removal under Subsection 7(d)(1), all alterations, improvements, additions, machinery, equipment, and trade fixtures made on the Premises will become the property of Landlord and remain on and be surrendered with the Premises at the expiration of the term, with the exception of Tenant's:

**8. Insurance and Indemnity.**

- (a) Insuring Party. As used in this Article, the term "insuring party" means the party who has the obligation to obtain the insurance required under this Lease. The insuring party will be Tenant. Whether the insuring party is Landlord or Tenant, Tenant will, as additional rent for the Premises, pay the cost of all required insurance. If Landlord is the insuring party, Tenant will, within ten (10) days after demand by Landlord, reimburse Landlord for the cost of the insurance.
- (b) Liability Insurance. Tenant will obtain and maintain during the term of this Lease a policy of comprehensive public liability insurance insuring Landlord and Tenant against any liability arising from the ownership, use, occupancy, or maintenance of the Premises and all-areas insurance insuring Landlord and Tenant against any liability arising from the ownership, use, occupancy, or maintenance of the Premises and all appurtenant areas. The insurance will be in an amount of at least One Million and 00/100 Dollars (\$1,000,000.00) for injury to or death of one person in any one accident or occurrence and in an amount of at least Five Hundred Thousand Dollars (\$500,000.00) for injury to or death of more than one person in any one accident or occurrence. The insurance will further insure Landlord and Tenant against liability for property damage of at least Five Hundred Thousand and 00/100 Dollars (\$500,000.00). The limits of the insurance will have a Landlord's Protective Liability endorsement attached. If Tenant fails to obtain and maintain the insurance, Landlord may, but is not required to, obtain and maintain it at Tenant's expense.
- (c) Property Insurance. The insuring party will obtain and maintain during the term of this Lease a policy or policies of insurance covering loss or damage to the Premises, in the amount of their full replacement value, providing protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended perils (all risk), and sprinkler leakage. The insurance will provide for payment for loss to Landlord or to the holder of a first mortgage or deed of trust on the Premises. If the insuring party fails to obtain and maintain the insurance, the other party may, but is not required to, obtain and maintain it at Tenant's expense.
- (d) Insurance Policies. Insurance required under this Lease will be in companies rated

A+ AAA or better in “Best’s Insurance Guide.” The insuring party will deliver before possession to the other party copies of insurance policies or certificates evidencing the existence and amounts of the insurance with loss-payable clauses satisfactory to Landlord. No policy will be cancelable or subject to reduction of coverage or other modification except after ten (10) days’ written notice to Landlord. If Tenant is the insuring party, Tenant will, at least ten (10) days before any policies expire, provide Landlord with renewals or “binders,” or Landlord may order the insurance and charge the cost to Tenant, which will be payable by Tenant on demand. Tenant will not do or permit to be done anything that will invalidate the insurance policies referred to in Subsection 8(c). Tenant will immediately, on Landlord’s demand, reimburse Landlord for any additional premiums attributable to any act, omission, or operation of Tenant causing an increase in the cost of insurance. If Landlord is the insuring party, and if the insurance policies maintained under this Lease cover other improvements in addition to the Premises, Landlord will deliver to Tenant a written statement specifying the amount of any insurance cost increase and showing in reasonable detail how it has been computed.

- (e) Waiver of Subrogation. Tenant and Landlord each waive any and all rights of recovery against the other, or against the officers, employees, agents, and representatives of the other, for loss of or damage to the waiving party or its property or the property of others under its control, where the loss or damage is insured against under any insurance policy in force at the time of the loss or damage. Tenant and Landlord will, on obtaining the insurance policies required under this Lease, give notice to the insurance carriers that the foregoing mutual waiver of subrogation is contained in this Lease.
- (f) Hold Harmless. Tenant will indemnify, defend, and hold Landlord harmless from any and all claims arising from Tenant’s use of the Premises or from the conduct of its business or from any activity, work, or things that may be permitted or suffered by Tenant on or about the Premises. Tenant will also indemnify, defend, and hold Landlord harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Tenant’s part to be performed under this Lease or arising from any negligence of Tenant or any of its agents, contractors, employees, or invitees and from any and all costs, attorney fees, expenses, and liabilities incurred in the defense of any such claim or any action or proceeding. Tenant assumes all risk of damage to property or injury to persons on or about the Premises from any cause, and Tenant waives all claims for such damage or injury against Landlord, except where it arises from the negligence of Landlord.
- (g) Exemption of Landlord from Liability. Tenant agrees that Landlord will not be liable for injury to Tenant’s business or any loss of income or for damage to the goods, wares, merchandise, or other property of tenant, Tenant’s employees, invitees, customers, or any other person on or about the Premises. Unless it is negligent, Landlord will not be liable for injury to the person of Tenant, Tenant’s employees, agents, contractors, or invitees. These exemptions of Landlord from

liability apply whether the damage or injury is caused by or results from fire, steam, electricity, gas, water, or rain, or from the breakage, leakage, obstruction, or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning, or lighting fixtures, or from any other cause, whether the damage or injury results from conditions arising on the Premises or on other parts of the building of which the Premises are a part, or from other sources or places, and regardless of whether the cause of the damage or injury or the means of repairing it is inaccessible to Landlord or Tenant. Landlord will not be liable for any damages arising from any act or neglect of any other tenant of the building in which the Premises are located.

9. **Damage or Destruction.** If the improvements on the Premises are damaged or destroyed, partially or totally, from any cause, whether or not the damage or destruction is covered by any insurance required to be maintained under Section 8, Tenant will repair, restore, and rebuild the Premises to their condition existing immediately before the damage or destruction, and this Lease will continue in full force and effect. This repair, restoration, and rebuilding (all of which are called the “repair”) will be commenced within a reasonable time after the damage or destruction and will be diligently prosecuted to completion. There will be no abatement of rent or of any other obligation of Tenant by reason of the damage or destruction. The proceeds of any insurance maintained under Subsection 8(c) will be made available to Tenant for payment of the cost and expense of the repair; however, the proceeds may be made available to Tenant subject to reasonable conditions, including but not limited to architect’s certification of costs and retention of a percentage of the proceeds pending final notice of completion. If the proceeds are not made available to Tenant within ninety (90) days after the damage or destruction, Tenant will have the option for thirty (30) days, commencing on the expiration of the ninety-day (90-day) period, of canceling this Lease. If Tenant exercises this option, Tenant will have no further obligation under this Lease and will have no further claim against Landlord; however, Landlord will return to Tenant as much of Tenant’s security deposit as has not been applied by Landlord. Tenant will exercise the option by written notice to Landlord within the thirty-day (30-day) period. If the insurance proceeds are insufficient to cover the cost of the repair, any excess amount required to complete the repair will be paid by Tenant.

- (a) **Damage near End of Term.** If the Premises are partially destroyed or damaged during the last six (6) months of the term of this Lease, Landlord may, at its option, cancel and terminate this Lease as of the date the damage occurred by giving written notice to Tenant within thirty (30) days.
- (b) **Prorations.** On termination of this Lease under this Section, a prorated adjustment of rent based on a thirty-day (30-day) month will be made. Landlord will also return to Tenant as much of Tenant’s security deposit as has not been applied by Landlord.

10. **Real Property Taxes.**

- (a) **Payment of Taxes.** Tenant will pay all real property taxes applicable to the Premises during the term of this Lease. All payments will be made at least ten (10) days before their delinquency date. Tenant will promptly provide Landlord with satisfactory evidence that the taxes have been paid. If any taxes paid by Tenant

cover any time period before or after the term expires, Tenant's share of the taxes will be equitably prorated to cover only the time period within the tax fiscal year during which this Lease is in effect, and Landlord will reimburse Tenant to the extent required. If Tenant fails to pay any such taxes, Landlord will have the right to pay them, and Tenant will repay the amount to Landlord with Tenant's next rent installment plus interest at the rate of ten percent (10%) per year.

- (b) Definition of "Real Property Taxes." The term "real property taxes" includes any form of assessment, license fee, rent tax, levy, penalty, or tax (other than inheritance or estate taxes) imposed by any authority having the direct or indirect power to tax, including any city, county, state, or federal government, or any school, agricultural, lighting, drainage, or other improvement district, as against any legal or equitable interest of Landlord in the Premises or in the real property of which the Premises are a part, as against Landlord's right to rent or other income from the Premises, or as against Landlord's business of leasing the Premises. In addition, Tenant will pay any and all charges and fees that may be imposed by the Environmental Protection Agency or other similar government regulations or authorities.
- (c) Joint Assessment. If the Premises are not separately assessed, Tenant's liability will be an equitable proportion of the real property taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Landlord from the respective valuations assigned in the assessor's work sheets or other reasonably available information. Landlord's reasonable determination of the proportion, in good faith, will be conclusive.
- (d) Personal Property Taxes.
  - (1) Tenant will pay before delinquency all taxes assessed against and levied on leasehold improvements, trade fixtures, furnishings, equipment, and all other personal property of Tenant contained on the Premises or elsewhere. Tenant will ensure that all of its personal property is assessed and billed separately from the real property of Landlord.
  - (2) If any of Tenant's personal property is assessed with Landlord's real property, Tenant will pay Landlord the taxes attributable to Tenant within ten (10) days after receiving a written statement specifying the taxes applicable to Tenant's property.

11. **Common Areas.** When there are Common Areas, the following will apply:

- (a) Definitions. The term "Common Areas" means all areas and facilities outside the Premises that are provided and designated for general use and convenience of Tenant and other tenants and their respective officers, agents, employees, customers, and invitees. Common Areas include (but are not limited to) any pedestrian sidewalks, landscaped areas, roadways, and parking areas. Landlord reserves the right to make changes in the shape, size, location, number, and extent

of the land and improvements constituting the Common Areas. Landlord may designate additional parcels of land for use as a part of the Common Areas, and any additional land so designated will be included until the designation is revoked by Landlord.

- (b) **Maintenance.** Landlord will operate, manage, and maintain the Common Areas so that they are clean and free from accumulations of debris, filth, rubbish, and garbage. The manner in which the Common Areas are maintained, and the expenditures for the maintenance, will be at the sole discretion of Landlord, and the use of the Common Areas will be subject to reasonable regulations made by Landlord, including (but not limited to) the right to close all or part of the Common Areas to the extent legally sufficient, in the opinion of Landlord's counsel, to prevent a dedication or the accrual of rights of any person or of the public in the Common Areas.
- (c) **Tenant's Rights and Obligations.** Landlord grants to Tenant, during the term of this Lease, the license to use, for the benefit of Tenant and its officers, agents, employees, customers, and invitees, in common with the others entitled to such use, the Common Areas, subject to the rights, powers, and privileges reserved to Landlord. Storage, either permanent or temporary, of any materials, supplies, or equipment in the Common Areas is strictly prohibited. If Tenant violates this provision of the Lease, Landlord may, at its option, either terminate the Lease or, without notice to Tenant, remove the materials, supplies, or equipment from the Common Areas and place them in storage, the cost to be reimbursed by Tenant within ten (10) days after receiving a statement submitted by Landlord. All later costs in connection with the storage will be paid to Landlord by Tenant as accrued. Tenant's failure to pay these charges within ten (10) days after receiving a statement will constitute a breach of this Lease. Tenant and its officers, agents, employees, customers, and invitees will park their motor vehicles only in areas designated by Landlord for that purpose. Within five (5) days after a request from Landlord, Tenant will give Landlord a list of the license numbers assigned to its motor vehicles and those of its officers, agents, and employees. Tenant will not at any time park or permit the parking of motor vehicles, belonging to it or to others, so as to interfere with the pedestrian sidewalks, roadways, and loading areas, or in any part of the parking areas not designated by Landlord for such use by Tenant. Tenant agrees that receiving and shipping of goods and merchandise and all removal of refuse will be made only by way of the loading areas constituting part of the Premises. Tenant will repair, at its cost, all deteriorations or damages to the Common Areas caused by its lack of ordinary care.
- (d) **Construction.** Tenant, while engaged in constructing improvements or making repairs or alterations on or about the Premises or in their vicinity, will have the right to make reasonable use of the Common Areas.

12. **Utilities.** Tenant will pay for all water, gas, heat, light, power, telephone, and other utilities and services supplied to the Premises, together with any taxes. If any of those services are

not separately metered to Tenant, Tenant will pay a reasonable proportion to be determined by Landlord of all charges jointly metered with other premises.

**13. Assignment and Subleasing.**

- (a) Landlord's Consent Required. Tenant will not voluntarily or by operation of law assign, transfer, mortgage, sublease, or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or in the Premises without Landlord's written consent, which Landlord will not unreasonably withhold. Any attempted assignment, transfer, mortgage, encumbrance, or subleasing without consent will be void and will constitute a breach of the Lease. Any transfer of Tenant's interest in this Lease or in the Premises from Tenant by merger, consolidation, or liquidation, or by any later change in the ownership of fifty-one percent (51%) to any individual or entity who is not an original party to this Lease shall be deemed a prohibited assignment within the meaning of this Section.
- (b) No Release of Tenant. Regardless of Landlord's consent, no assignment or subleasing will release Tenant of its obligation to pay the rent and to perform all of its other obligations for the term of this Lease. The acceptance of rent by Landlord from any other person will not be deemed a waiver by Landlord of any provision of this Lease. Consent to one assignment or subleasing will not be deemed consent to any later assignment or subleasing.

**14. Defaults and Remedies.**

- (a) Defaults. The occurrence of any one or more of the following events will constitute a default and breach of this Lease by Tenant:
  - (1) The vacating or abandonment of the Premises by Tenant.
  - (2) The failure by Tenant to make any payment of rent or any other required payment when due, if such failure continues for three (3) days after written notice from Landlord.
  - (3) The failure by Tenant to observe or perform any of the covenants, conditions, or provisions of this Lease to be observed or performed by Tenant, other than described in Subsection 14(a)(2) above, if such failure continues for thirty (30) days after written notice from Landlord to Tenant; however, if the nature of Tenant's default is such that more than thirty (30) days are required for performance, Tenant will not be in default if Tenant commences performance within the thirty-day (30-day) period and diligently prosecutes the cure to completion.
  - (4) (i) The making by Tenant of any general assignment or general arrangement for the benefit of creditors, (ii) the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or a petition for reorganization or arrangement under

any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, it is dismissed within sixty (60) days), (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, if possession is not restored to Tenant within thirty (30) days, or (iv) the attachment, execution, or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, if the seizure is not discharged within thirty (30) days.

(b) Remedies in Default. If there is any default or breach by Tenant, Landlord may at any time, with or without notice or demand and without limiting Landlord in the exercise of any other right or remedy that Landlord may have, do any of the following:

(1) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease will terminate and Tenant will immediately surrender possession of the Premises to Landlord. Landlord will be entitled to recover from Tenant all damages incurred by Landlord because of Tenant's default, including but not limited to the cost of recovering possession of the Premises; the expense of re-leasing, including necessary renovation and alteration of the Premises, reasonable attorney fees, and any real estate commission actually paid; the worth at the time of award by the court having jurisdiction of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the amount of the rental loss for the same period that tenant proves could be reasonably avoided; and the part of the leasing commission paid by Landlord applicable to the unexpired term of this Lease. Unpaid installments of rent or other amounts will bear interest from the date due at the rate of ten percent (10%) per year. If Tenant abandons the Premises, Landlord will have the option of (i) retaking possession of the Premises and recovering from Tenant the amount specified in this Section, or (ii) proceeding under Subsection 14(b)(2).

(2) Maintain Tenant's right to possession, in which case this Lease will continue in effect whether or not Tenant has abandoned the Premises. Landlord will be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent as it becomes due.

(3) Pursue any other remedy now or later available to Landlord under the laws or judicial decisions of the State in which the Premises are located.

(c) Default by Landlord. Landlord will not be in default unless Landlord fails to perform its obligations within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to Landlord and to the holder of any first mortgage or deed of trust covering the Premises whose name and address will have been furnished to Tenant in writing, specifying how Landlord has failed to perform its obligation; however, if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance, Landlord will not be in default if Landlord commences performance within the thirty-day (30-day) period and

- diligently prosecutes the cure to completion.
- (d) **Late Charges.** Tenant acknowledges that late payment of rent and other amounts will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. These costs include but are not limited to processing and accounting charges and late charges that may be imposed on Landlord by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of rent or any other amount due from Tenant is not received by Landlord or Landlord's designee within ten (10) days after written notice that the amount is past due, Tenant will pay to Landlord a late charge equal to ten percent (10%) of the overdue amount. The parties agree that the late charge will not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of its other rights and remedies.

15. **Condemnation.** If the Premises or any part of them are taken under the power of eminent domain or sold by Landlord under the threat of the exercise of that power (all of which is referred to as "condemnation"), this Lease will terminate for the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If more than twenty-five percent (25%) of the floor area of any buildings on the Premises, or more than twenty-five percent (25%) of the land area of the Premises not covered with buildings, is taken by condemnation, either Landlord or Tenant may terminate this Lease as of the date the condemning authority takes possession by written notice within twenty (20) days after Landlord notifies Tenant of the taking or, in the absence of notice, within twenty (20) days after the condemning authority takes possession. If this Lease is not terminated by either Landlord or Tenant, it will remain in full force and effect for the rest of the Premises, except that the rent will be reduced in proportion to the floor area of the building taken within the Premises as to the total floor area of all buildings located on the Premises. If this Lease is not terminated, Landlord, at its sole cost, will as soon as reasonably possible restore the Premises to a complete unit of like quality and character as existed before the condemnation. All awards for the taking of any part of the Premises or any payment made under the threat of the exercise of power of eminent domain will be the property of Landlord, whether made as compensation for diminution of value of the leasehold or for the taking of the fee or as severance damages; however, Tenant will be entitled to any award for loss of or damage to Tenant's trade fixtures and removable personal property.

16. **General Provisions.**

(a) **Offset Statement.**

(1) Tenant will at any time on at least ten (10) days' written notice from Landlord execute, acknowledge, and deliver to Landlord a written statement (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of the modification and certifying that this Lease, as modified, is in full force and effect) and the date to which the rent, security deposit, and other charges are paid in advance, and (ii) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord, or specifying any defaults that are claimed. The statement may be conclusively relied on by any prospective purchaser or encumbrancer of the Premises.

(2) Tenant's failure to deliver the statement on time will be conclusive on Tenant (i) that this Lease is in full force and effect, without modification except as may be represented by Landlord, (ii) that there are no uncured defaults in Landlord's performance, and (iii) that not more than one (1) month's rent has been paid in advance.

(3) If Landlord wants to finance or refinance all or any part of the Premises, Tenant will deliver to any lender designated by Landlord any financial statements of Tenant reasonably required by the lender. The statements will include the past three (3) years of Tenant's financial statements. All financial statements will be received by Landlord in confidence and will be used only for the purposes stated in this Article.

- (b) Landlord's Interests. The term "Landlord" as used in this Lease means only the owner or owners at the time in question of the fee title or a tenant's interest in a ground lease of the Premises. If there is any transfer of the title or interest, Landlord (and in case of any later transfers, the grantor) will be relieved from and after the date of the transfer of all liability for Landlord's obligations to be performed, provided that any funds in the hands of Landlord or the grantor at the time of the transfer, in which Tenant has an interest, will be delivered to the grantee. The obligations contained in this Lease to be performed by Landlord will be binding on Landlord's successors and assigns only during their respective periods of ownership.
- (c) Severability. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, will in no way affect the validity of any other provision.
- (d) Interest on Past-Due Obligations. Except as expressly provided in this Lease, any amount not paid to Landlord when due will bear interest at ten percent (10%) per year from the due date. Payment of interest will not excuse or cure any default by Tenant under this Lease.
- (e) Time of Essence. Time is of the essence in this Lease.
- (f) Headings. Article and paragraph headings are not a part of this Lease's terms.
- (g) Entire Agreement; Amendment. This Lease contains the entire agreement between the parties. All understandings, discussions, and agreements previously made between the parties, written or oral, are superseded by this Lease, and neither party is relying on any warranty, statement, or representation not contained in this Lease. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification.
- (h) Waivers. No waiver by Landlord of any provision of this Lease will be deemed a waiver of any other provision or of any later breach by Tenant of the same or any

other provision. Landlord's consent to or approval of any act will not be deemed to make unnecessary the obtaining of Landlord's consent to or approval of any later act by Tenant. The acceptance of rent by Landlord will not be a waiver of any preceding breach by Tenant, other than Tenant's failure to pay the particular rent accepted, regardless of Landlord's knowledge of the preceding breach when the rent was accepted.

- (i) Recording. Tenant will not record this Lease in any public records. Any such recordation will be a breach of this Lease.
- (j) Holding Over. If Tenant remains in possession of the Premises or any part of them after the term expires with Landlord's express written consent, the occupancy will be a tenancy from month to month at a rental rate in the amount of the last monthly rent plus all other charges payable, and on the terms applicable to month-to-month tenancy.
- (k) Cumulative Remedies. No remedy or election under this Lease will be deemed exclusive, but instead will, wherever possible, be cumulative with all other remedies at law or in equity.
- (l) Covenants and Conditions. Each provision of this Lease performable by Tenant will be deemed both a covenant and a condition.
- (m) Binding Agreement; Governing Law. Subject to any provisions restricting assignment or subleasing by Tenant and subject to the provisions of Subsection 16(b), this Lease and all of its terms, provisions, and covenants will apply to, be binding on, and inure to the benefit of the parties and their respective successors and assigns. This Lease will be governed by and interpreted under the laws of the state where the Premises are located, regardless of any conflict-of-law rules.
- (n) Subordination.
  - (1) At Landlord's option, this Lease will be subordinate to any ground lease, mortgage, deed of trust, or any other hypothecation for security now or later placed on the real property of which the Premises are a part and to any and all advances made on the security and to all renewals, modifications, consolidations, replacements, and extensions. Despite this subordination, Tenant's right to quiet possession of the Premises will not be disturbed if Tenant is not in default and as long as Tenant pays the rent and observes and performs all the provisions of this Lease, unless this Lease is otherwise terminated under its terms. If any mortgagee, trustee, or ground lessor elects to have this Lease prior to the lien of its mortgage, deed of trust, or ground lease, and gives written notice to Tenant, this Lease will be deemed prior to the mortgage, deed of trust, or ground lease, whether this Lease is dated before or after the date of the mortgage, deed of trust, or ground lease or the date of its recording.

- (2) Tenant will execute any documents required to effectuate the subordination or to make this Lease prior to the lien of any mortgage, deed of trust, or ground lease, and failing to do so within ten (10) days after written demand will make, constitute, and irrevocably appoint Landlord as Tenant's attorney in fact and in Tenant's name, place, and stead to do so.
- (o) Attorney Fees. If either party brings an action to enforce the terms of this Lease or declare rights under it, the prevailing party in the action, at trial or on appeal, will be entitled to reasonable attorney fees to be paid by the losing party as fixed by the court. The term "prevailing party" means the party that has succeeded on a significant issue in the litigation and achieved a benefit with respect to the claims at issue, taken as a whole, whether or not damages are actually awarded to that party.
- (p) Landlord's Access. Landlord and its agents will have the right to enter the Premises at reasonable times for the purpose of inspecting them, showing them to prospective purchasers or lenders, and making alterations, repairs, improvements, or additions to the Premises or to the building of which they are a part as Landlord may deem necessary or desirable. Landlord may at any time during the last one hundred twenty (120) days of the term place on or about the Premises any ordinary "For Sale or Lease" signs, all without rebate of rent or liability to Tenant.
- (q) Auctions. Tenant will not place any auction sign on the Premises or conduct any auction on the Premises without Landlord's written consent.
- (r) Merger. The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation of the Lease, will not cause a merger and will, at Landlord's option, terminate any or all existing subtenancies or may, at Landlord's option, operate as an assignment to Landlord of any or all subtenancies.
- (s) Corporate Authority. If Tenant is a corporation, each individual executing this Lease on behalf of the corporation represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of the corporation in accordance with a duly adopted resolution of its board of directors or in accordance with its bylaws, and that this Lease is binding on the corporation.
- (t) Landlord's Liability. If Landlord is a limited partnership, the liability of the partners under this Lease will be limited to the assets of the partnership. Tenant and its successors and assigns waive all rights to proceed against any of the partners, or the officers, shareholders, or directors of any corporate partner of Landlord except to the extent of their interest in the partnership. The term "Landlord," as used in this Article, means only the owners at the time in question of the fee title or its interest in a ground lease of the Premises, and if there is any transfer of the title or interest, Landlord (and in case of any later transfer, the grantor) will be relieved from all liability for Landlord's obligations to be performed, provided that any funds in the hands of Landlord or the grantor at the time of the transfer, in which

Tenant has an interest, will be delivered to the grantee. The obligations contained in this Lease to be performed by Landlord will be binding on Landlord's successors and assigns only during their respective periods of ownership.

- (u) Lien. Landlord is granted an express contractual lien, in addition to any lien provided by law, and a security interest in all property of Tenant found on the Leased Premises to secure compliance by Tenant with all terms of this Lease.

17. **Performance Bond.** At any time Tenant either wants to or is required to make any repairs, alterations, improvements, or utility installation, under Subsection 7(d) or Section 9 or otherwise, Landlord may at its sole option require Tenant, at Tenant's sole cost and expense, to obtain and provide to Landlord a lien and completion bond in an amount equal to one and one-half (1½) times the estimated cost of the improvements, to insure Landlord against liability for mechanic's and materialmen's liens and to insure completion of work.

18. [INTENTIONALLY DELETED].

19. [INTENTIONALLY DELETED].

20. **Notices.** Any notice or demand under this Lease will be in writing and either served personally or sent by U.S. mail, postage prepaid, to the following addresses:

**Landlord:**

Texas City Economic Development Corporation  
1809 9th Ave. N.  
Texas City, Texas 77590  
Attn: Economic Development

**Tenant:**

Sapingkhone Kettavong

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first above written.

**LANDLORD:**

**Texas City Economic Development Corporation,**  
a Texas non-profit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TENANT:**

\_\_\_\_\_  
Sapingkhone Kettavong d/b/a Texas City Martial Arts and Fitness

# Texas City Martial Arts and Fitness

## Overview

Texas City Martial Arts and Fitness is a community-driven martial arts school and fitness gym which focuses on supporting local interconnectivity and health. It caters to both adults and youth through building true confidence through the knowledge in the mind, honesty in the heart, and strength in the body. Our school empowers our students through Martial Arts Training.

Karate is a great way for kids to become disciplined, get fit, and learn to stand up for themselves, all while having fun! Confidence and self-respect comes with self discipline.

Our curriculum focuses on character development far beyond the importance of self-defense.

We teach our young students how to respect their elders, how to be accountable, how to focus and how to stay in shape in a fun and exciting atmosphere. We empower our adult students with the self-confidence to overcome anxieties and trauma, in an environment that fosters inclusion and social belonging.

We also support our local Police Department with a safe and comfortable place to train at our school, free of charge. The Texas Police Department is welcome to use the school as needed for their training during the day time, as our karate classes are in the evenings.

Texas City Martial Arts has been in business for many years. The founder, Grandmaster Richard Cazares, owned the building where we are currently located. Last year he sold the building alongside his decision to formally retire. He passed its ownership over to us to continue the art and the financial responsibilities of the school. We are searching for a new place and with the help of many parents and Officer Diego Reyes, we found that the 411 6th Street building would be a perfect fit to relocate the school. It's a great location with plenty of parking spaces for all the police vehicles to park when they have training to complete.

As a pre-established business, we are continuing Texas City Martial Arts from where the Grandmaster left off. Our budget varies from the number of students we have now and the number of students is growing as we continue our school. We currently bring in about \$2,500 a month on average. We are advertising at local schools and businesses to bring in more students. Our monthly membership price is \$129 per month with a \$45 registration fee.

We had about 19 students at the beginning of this year. We now have 23 and more who we anticipate will be signed up by next week. During COVID the school lost a number of students, and we anticipate many of them will return as well. Additionally, we have school T-shirts, uniforms, and sparring gear for sale at the school to bring in income.

We, along with our instructors, are senior black belt students. We volunteer to teach and pass on the knowledge and art. We are committed to continuing our martial arts school to help our community and everyone be the best they can be.

# Texas City Martial Arts and Fitness

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
<b>5:15 PM</b> <b>6:00 PM</b>	Little Ninja		Little Ninja		Open Gym		Karate Class <b>1 PM</b>
<b>6:00 PM</b> <b>6:45 PM</b>	Beginner Class	Beginner Class	Beginner Class	Beginner Class	Sparring		Arnis Class <b>2 PM</b>
<b>6:45 PM</b> <b>7:30 PM</b>	Intermediate Class	Advanced & Adult Class	Intermediate Class	Advanced & Adult Class			
<b>7:45 PM</b> <b>8:30 PM</b>		Arnis (Stick Fighting Class)		Arnis (Stick Fighting Class)			

\* Sunday class is to be announced by the instructor

**\$129.00 per month**

**\$45.00 registration fee**

**Private lessons available (\$20 per session)**

**\$25.00 for School T-shirts**

**\$45.99 for Uniforms with Logos**

**\$217.94 Sparring Gear set + Carrying Bag**

School T-shirt is recommended for open gym and sparring.

1325 6th St.  
Texas City, TX 77590  
(409)948-3656

**TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION**

**RESOLUTION NO. 20-24**

**A RESOLUTION AUTHORIZING THE CHAIRPERSON OR VICE-CHAIRPERSON TO ENTER INTO A LEASE AGREEMENT WITH AIR PRODUCTS AND CHEMICALS, INC; 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 (TCEDC), duly held on August 27, 2020, a general discussion was held in concerning authorizing the Chairperson or Vice-Chairperson to enter into a Lease Agreement with Air Products and Chemicals, Inc for roughly 20 acres of land located on Bay Street; and

**WHEREAS**, the lease will extend two (2) to three (3) years with rent set at about \$5,000.00 per acres.

**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 signing of an agreement with Air Products and Chemicals, Inc.

**SECTION 2:** The Chairperson or Vice-Chairperson is hereby authorized to execute any documents necessary for the agreement with Air Products and Chemicals, Inc.

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

**PASSED AND ADOPTED this 27th day of August 2020.**

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CHAIRPERSON/VICE CHAIRPERSON  
Texas City Economic Development Corporation

ATTEST:

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BOARD SECRETARY  
Texas City Economic Development Corporation

**TCEDC Agenda**

**7. e.**

**Meeting Date:** 04/06/2023

Ratification of a ground lease agreement between the Texas City Economic Development Corporation and Sara Nix d/b/a Sara’s Café, a Mobile Food Unit.

**Submitted For:** Kristin Edwards, Economic Development

**Submitted By:** Kristin Edwards, Economic Development

**Department:** Economic Development

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**ACTION REQUEST (Brief Summary)**

Ratification of a ground lease agreement between the Texas City Economic Development Corporation and Sara Nix d/b/a Sara’s Café, a Mobile Food Unit.

**BACKGROUND**

The Economic Development Corporation operates a Food Truck Park at 718 6<sup>th</sup> Street North in Texas City, with four (4) available spaces for lease. A Mobile Food Unit or “food truck” operated by John-Michael William Nix d/b/a Sara’s Café has submitted a development application for review by Kim Golden, Director of Planning and Engineering, and Kristin Edwards, Director of Economic Development and has been approved to utilize one (1) space at the Food Truck Park.

On Thursday, March 30, EDC Chair Mark Ciavaglia and Mr. Nix signed a six-month lease, commencing on April 1, 2023 and concluding on September 30, 2023.

**ANALYSIS**

Staff recommends the ratification of a ground lease agreement between the Texas City Economic Development Corporation and Sara Nix d/b/a Sara’s Café.

**ALTERNATIVES CONSIDERED**

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**Attachments**

Signed lease agreement - Saras Cafe  
Resolution

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## GROUND LEASE

1. **Parties.** This GROUND LEASE (“Lease”) is entered into by the Texas City Economic Development Corporation (“Landlord”), and Sara Nix d/b/a Sara’s Cafe (“Tenant”).

2. **Premises.** Landlord is the owner of unimproved real property (“Property”) located at 718 - 6th Street North, Texas City, Texas 77590, and containing approximately 13,750 square feet as depicted on Exhibit “A” attached hereto. Landlord desires to lease to Tenant a portion of the Property as depicted on Exhibit “A” of approximately 250 square feet (herein “Premises”), for the term, at the rental rate, and on all the conditions in this Lease.

3. **Term.**

- (a) Term. The term of this Lease shall be for a six (6) month period commencing on April 1, 2023 and concluding on September 30, 2023 (“Initial Term”). After the Initial Term, the Lease will renew on a month-to-month basis unless terminated earlier under any provision of this Lease. Otherwise, either Party may terminate this Lease with ninety (90) days prior written notice.
- (b) Delay in Commencement. [INTENTIONALLY DELETED]
- (c) Early Possession. If Landlord permits Tenant to occupy the Premises before the commencement date of the term, the occupancy will be subject to all the provisions of this Lease. The early possession will not advance the termination date of this Lease.
- (d) Delivery of Possession. Tenant will be deemed to have taken possession of the Premises when Landlord delivers possession of the Premises to Tenant.

4. **Rent.**

- (a) Monthly Rent. Tenant will pay to Landlord as monthly rental for the use and occupancy of the Premises during the Term, beginning on the Commencement Date, without deduction, setoff, prior notice, or demand, the sum of TWO HUNDRED FIFTY AND 00/100 DOLLARS (\$250.00) per month. The Rent will be payable in advance on the first (1st) day of each month in equal monthly amounts (“Monthly Rent”). If this Ground Lease begins on a date other than the first or last day of the month, the rent will be prorated. Any amount of Rent not paid when due will bear interest at the annual rate of five percent (5%) (“Default Rate”), payable from the date the cure period expires until paid. If Tenant does not timely pay the Monthly Rent by the first (1st) day of any month under this Ground Lease, then, in addition to all other rights and remedies available to Landlord, a late charge equal to five percent (5%) will be assessed and

will be immediately due and payable by Tenant to Landlord for each late payment.

- (b) For purposes of this Lease, the obligations of Tenant in ¶ 4(a) shall be defined at "Rent."
- (c) **Additional Charges.** This Lease is what is commonly called a "net lease," which means that Landlord will receive the rent stated in Subsection 4(a) free and clear of any and all impositions, taxes, liens, charges, or expenses in connection with the ownership and operation of the Premises. In addition to the rent under Subsection 4(a), Tenant will pay to the appropriate parties all impositions, operating charges, maintenance charges, construction costs, and any other charges, costs, and expenses that arise or may be contemplated under any provisions of this Lease during the term. All of these charges, costs, and expenses will constitute additional charges, and if Tenant fails to pay any of the additional charges, Landlord will have the same rights and remedies as otherwise provided in this Lease for the failure to pay rent. It is the intention of the parties that this Lease will not be terminable for any reason by Tenant and that Tenant will not be entitled to any abatement of or reduction in rent, except as expressly provided. Any present or future law to the contrary will not alter this agreement of the parties.
- (d) Landlord will continue to provide two (2) electrical services and one (1) water meter to the Property. Tenant expressly agrees that Landlord is not, nor will be, required to furnish to Tenant any water, sewer, gas, heat, electricity, light, power, or any other facilities, equipment, labor, materials, or services of any kind, that are not available to the Property other than those aforementioned. Tenant shall pay or cause to be paid promptly when due all charges for water, electricity, sanitary sewer, dumpster or any other utility services furnished to the Property.

**5. Security Deposit.**

Tenant will pay or has paid to Landlord a Security Deposit ("Security Deposit") in the amount of Four Hundred Dollars (\$400.00) as security for the performance of Tenant's obligations under this Ground Lease. Landlord may apply any or all of the Security Deposit toward the payment of any sum or the performance of any obligations that Tenant fails to timely pay or perform. The Security Deposit will not be considered an advance payment of Rent or a measure of Landlord's damages on Tenant's default under this Ground Lease.

**6. Use.**

- (a) Use. During the Term, Tenant may use the Premises and any

Tenant G.N

Landlord MSC

Improvements constructed on the Property for temporary parking and the operation of a mobile food unit. ("Permitted Use").

- (b) Compliance with Law. Tenant will, at its expense, comply promptly with all applicable statutes, ordinances, rules, regulations, orders, and requirements in effect during the term regulating the use by Tenant of the Premises. Tenant shall not violate any health, building, sign, parking law, ordinance, or regulation of any governmental authority applicable to Tenant's use of and business operations on the Premises, including but not limited to any and all permits or licenses as required by the Galveston County Health District and the City of Texas City. If required by a governmental authority solely by reason of Tenant's use of the Property, Tenant will make repairs, improvements, and alterations as long as they are completed in conformity. Tenant will not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or tend to unreasonably disturb any other tenants.
- (c) Condition of Premises. Tenant accepts the Premises in its current condition as of the date of possession under this Lease, subject to all applicable zoning, municipal, county, and state laws, ordinances, and regulations governing and regulating the use of the Premises and accepts this Lease subject to the same terms. Tenant acknowledges that neither Landlord nor Tenant's agent has made any representation or warranty about the suitability of the Premises for the conduct of Tenant's business.
- (d) Insurance Cancellation. Despite the provisions of Subsection 6(a), no use will be made or permitted to be made of the Premises that will cause the cancellation of any insurance policy covering the Premises or any building on the Premises, and if Tenant's use of the Premises causes an increase in insurance rates, Tenant will pay the increase.
- (e) Landlord's Rules and Regulations. Tenant will faithfully observe and comply with the rules and regulations that Landlord makes. A copy of the rules and regulations is attached to this Lease. Landlord reserves the right to make all reasonable modifications to the rules and regulations, which will be binding once a copy of them is delivered to Tenant. Landlord will not be responsible to Tenant for the nonperformance of any of the rules and regulations by any other tenants or occupants.

## 7. Maintenance Repairs and Alterations.

- (a) Tenant's Obligations. Tenant will keep in good order, condition, and repair the Premises and every part of them, structural or nonstructural, and all adjacent sidewalks, landscaping, driveways, parking lots, fences, and signs located in the areas adjacent to and included with the Premises. Landlord will incur no expense and have no obligation of any kind in

connection with the maintenance of the Premises and Tenant expressly waives the benefits of any statute now or later in effect that would otherwise give Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition, and repair.

- (b) Surrender. On the last day of the term or on any earlier termination, Tenant will surrender the Premises to Landlord in good condition, broom clean, except for ordinary wear and tear. Tenant will repair any damage to the Premises occasioned by its use or by the removal of Tenant's trade fixtures, furnishings, and equipment under Subsection 7(d)(3), which will induce the patching and filling of holes and repair of structural damage.
- (c) Landlord's Rights. If Tenant fails to perform its obligations under this Article, Landlord may at its option enter the Premises, after ten (10) days' written notice to Tenant, and put the Premises in good order, condition, and repair. The cost of doing so plus interest at the rate of ten percent (10%) per year will become due and payable as additional rent to Landlord together with Tenant's next rent installment.
- (d) Alterations and Additions.
  - (1) Tenant will not, without Landlord's written consent, make any alterations, additions, or improvements in, on, or about the Premises. As a condition of giving its consent, Landlord may require that Tenant remove any alterations, additions, improvements, or utility installations at the expiration of the term and to restore the Premises to their previous condition.
  - (2) Before commencing any work relating to alterations, additions, and improvements affecting the Premises, Tenant will notify Landlord in writing of the expected date of commencement. Landlord will then have the right to post and maintain on the Premises any notices to protect the Premises and Landlord from mechanics' liens, materialmen's liens, or any other liens. Tenant will pay, when due, all claims for labor or materials furnished to or for Tenant at or for use on the Premises. Tenant will not permit any mechanics' or materialmen's liens to be levied against the Premises for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or to Tenant's agents or contractors in connection with any work performed or claimed to have been performed on the Premises by or at the direction of Tenant.
  - (3) Unless Landlord requires their removal under Subsection 7(d)(1), all alterations, improvements, additions, machinery, equipment,

and trade fixtures made on the Premises will become the property of Landlord and remain on and be surrendered with the Premises at the expiration of the term.

8. **Insurance and Indemnity.**

- (a) Insuring Party. As used in this Article, the term “insuring party” means the party who has the obligation to obtain the insurance required under this Lease. The insuring party will be \_\_\_\_\_. Whether the insuring party is Landlord or Tenant, Tenant will, as additional rent for the Premises, pay the cost of all required insurance. If Landlord is the insuring party, Tenant will, within ten (10) days after demand by Landlord, reimburse Landlord for the cost of the insurance.
- (b) Liability Insurance. Tenant will obtain and maintain during the term of this Lease a policy of comprehensive public liability insurance insuring Landlord and Tenant against any liability arising from the ownership, use, occupancy, or maintenance of the Premises and all-areas insurance insuring Landlord and Tenant against any liability arising from the ownership, use, occupancy, or maintenance of the Premises and all appurtenant areas. The insurance will be in an amount of at least One Million and 00/100 Dollars (\$1,000,000.00) for injury to or death of one person in any one accident or occurrence. The limits of the insurance will have a Landlord’s Protective Liability endorsement attached. If Tenant fails to obtain and maintain the insurance, Landlord may, but is not required to, obtain and maintain it at Tenant's expense.
- (c) Property Insurance. [INTENTIONALLY DELETED]
- (d) Insurance Policies. Insurance required under this Lease will be in companies rated A+ AAA or better in “Best’s Insurance Guide.” The insuring party will deliver before possession to the other party copies of insurance policies or certificates evidencing the existence and amounts of the insurance with loss-payable clauses satisfactory to Landlord. No policy will be cancelable or subject to reduction of coverage or other modification except after thirty (30) days’ written notice to Landlord. If Tenant is the insuring party, Tenant will, at least thirty (30) days before any policies expire, provide Landlord with renewals or “binders,” or Landlord may order the insurance and charge the cost to Tenant, which will be payable by Tenant on demand.
- (e) Hold Harmless. Tenant will indemnify, defend, and hold Landlord harmless from any and all claims arising from Tenant’s use of the Premises or from the conduct of its business or from any activity, work, or things that may be permitted or suffered by Tenant on or about the

Premises. Tenant assumes all risk of damage to property or injury to persons on or about the Premises from any cause, and Tenant waives all claims for such damage or injury against Landlord, except where it arises from the negligence of Landlord.

- (g) Exemption of Landlord from Liability. Tenant agrees that Landlord will not be liable for injury to Tenant's business or any loss of income or for damage to the goods, wares, merchandise, or other property of tenant, Tenant's employees, invitees, customers, or any other person on or about the Premises..

9. [INTENTIONALLY DELETED]

10. **Real Property Taxes.** [INTENTIONALLY DELETED]

11. **Common Areas.** [INTENTIONALLY DELETED]

12. **Utilities.** Rent is inclusive of electricity, water and refuse. Tenant will be responsible for the proper disposal of all wastewater.

13. **Assignment and Subleasing.**

- (a) Landlord's Consent Required. Tenant will not voluntarily or by operation of law assign, transfer, mortgage, sublease, or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or in the Premises without Landlord's written consent, which Landlord may withhold for any reason. Any attempted assignment, transfer, mortgage, encumbrance, or subleasing without consent will be void and will constitute a breach of the Lease. Any transfer of Tenant's interest in this Lease or in the Premises from Tenant or change in the ownership will be deemed a prohibited assignment within the meaning of this Section.
- (b) No Release of Tenant. Regardless of Landlord's consent, no assignment or subleasing will release Tenant of its obligation to pay the rent and to perform all of its other obligations for the term of this Lease. The acceptance of rent by Landlord from any other person will not be deemed a waiver by Landlord of any provision of this Lease. Consent to one assignment or subleasing will not be deemed consent to any later assignment or subleasing.
- (c) Tenant is assigned to space "A" as shown in Exhibit A.

14. **Defaults and Remedies.**

- (a) Defaults. The occurrence of any one or more of the following events will

constitute a default and breach of this Lease by Tenant:

- (1) The vacating or abandonment of the Premises by Tenant.
- (2) The failure by Tenant to make any payment of rent or any other required payment when due, if such failure continues for three (3) days after written notice from Landlord.
- (3) The failure by Tenant to observe or perform any of the covenants, conditions, or provisions of this Lease to be observed or performed by Tenant, other than described in Subsection 14(a)(2) above, if such failure continues for thirty (30) days after written notice from Landlord to Tenant; however, if the nature of Tenant's default is such that more than thirty (30) days are required for performance, Tenant will not be in default if Tenant commences performance within the thirty-day (30-day) period and diligently prosecutes the cure to completion.

(b) Remedies in Default. If there is any default or breach by Tenant, Landlord may at any time, with or without notice or demand and without limiting Landlord in the exercise of any other right or remedy that Landlord may have, do any of the following:

- (1) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease will terminate, and Tenant will immediately surrender possession of the Premises to Landlord.
- (2) Maintain Tenant's right to possession, in which case this Lease will continue in effect whether or not Tenant has abandoned the Premises. Landlord will be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent as it becomes due.
- (3) Pursue any other remedy now or later available to Landlord under the laws or judicial decisions of the State in which the Premises are located.

(c) Default by Landlord. Landlord will not be in default unless Landlord fails to perform its obligations within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to Landlord and to the holder of any first mortgage or deed of trust covering the Premises whose name and address will have been furnished to Tenant in writing, specifying how Landlord has failed to perform its obligation; however, if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance, Landlord will not be in default if Landlord

commences performance within the thirty-day (30-day) period and diligently prosecutes the cure to completion.

- (d) **Late Charges.** Tenant acknowledges that late payment of rent and other amounts will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. These costs include but are not limited to processing and accounting charges and late charges that may be imposed on Landlord by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of rent or any other amount due from Tenant is not received by Landlord or Landlord's designee within ten (10) days after written notice that the amount is past due, Tenant will pay to Landlord a late charge equal to ten percent (10%) of the overdue amount. The parties agree that the late charge will not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of its other rights and remedies.

15. **Condemnation.** [INTENTIONALLY DELETED]

16. **General Provisions.**

- (a) **Offset Statement.** [INTENTIONALLY DELETED]
- (b) **Landlord's Interests.** [INTENTIONALLY DELETED]
- (c) **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, will in no way affect the validity of any other provision.
- (d) **Interest on Past-Due Obligations.** Except as expressly provided in this Lease, any amount not paid to Landlord when due will bear interest at ten percent (10%) per year from the due date. Payment of interest will not excuse or cure any default by Tenant under this Lease.
- (e) **Time of Essence.** Time is of the essence in this Lease.
- (f) **Headings.** Article and paragraph headings are not a part of this Lease's terms.
- (g) **Entire Agreement; Amendment.** This Lease contains the entire agreement between the parties. All understandings, discussions, and agreements previously made between the parties, written or oral, are superseded by this Lease, and neither party is relying on any warranty, statement, or representation not contained in this Lease. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification.

- (h) Waivers. No waiver by Landlord of any provision of this Lease will be deemed a waiver of any other provision or of any later breach by Tenant of the same or any other provision. Landlord's consent to or approval of any act will not be deemed to make unnecessary the obtaining of Landlord's consent to or approval of any later act by Tenant. The acceptance of rent by Landlord will not be a waiver of any preceding breach by Tenant, other than Tenant's failure to pay the particular rent accepted, regardless of Landlord's knowledge of the preceding breach when the rent was accepted.
- (i) Recording. Tenant will not record this Lease in any public records. Any such recordation will be a breach of this Lease.
- (j) Holding Over. If Tenant remains in possession of the Premises or any part of them after the term expires with Landlord's express written consent, the occupancy will be a tenancy from month to month at a rental rate in the amount of the last monthly rent plus all other charges payable, and on the terms applicable to month-to-month tenancy.
- (k) Cumulative Remedies. No remedy or election under this Lease will be deemed exclusive, but instead will, wherever possible, be cumulative with all other remedies at law or in equity.
- (l) Covenants and Conditions. Each provision of this Lease performable by Tenant will be deemed both a covenant and a condition.
- (m) Binding Agreement; Governing Law. Subject to any provisions restricting assignment or subleasing by Tenant and subject to the provisions of Subsection 16(b), this Lease and all of its terms, provisions, and covenants will apply to, be binding on, and inure to the benefit of the parties and their respective successors and assigns. This Lease will be governed by and interpreted under the laws of the state where the Premises are located, regardless of any conflict-of-law rules.
- (n) Subordination. [INTENTIONALLY DELETED]
- (o) Attorney Fees. If either party brings an action to enforce the terms of this Lease or declare rights under it, the prevailing party in the action, at trial or on appeal, will be entitled to reasonable attorney fees to be paid by the losing party as fixed by the court. The term "prevailing party" means the party that has succeeded on a significant issue in the litigation and achieved a benefit with respect to the claims at issue, taken as a whole, whether or not damages are actually awarded to that party.
- (p) Landlord's Access. Landlord and its agents will have the right to enter the Premises at reasonable times for the purpose of inspecting and making

alterations, repairs, improvements, or additions to the Premises as Landlord may deem necessary or desirable.

(q) [INTENTIONALLY DELETED]

(r) [INTENTIONALLY DELETED]

(s) Corporate Authority. If Tenant is a corporation, each individual executing this Lease on behalf of the corporation represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of the corporation in accordance with a duly adopted resolution of its board of directors or in accordance with its bylaws, and that this Lease is binding on the corporation.

17. **Performance Bond.** [INTENTIONALLY DELETED]

18. [INTENTIONALLY DELETED]

19. **Notices.** Any notice or demand under this Lease will be in writing and either served personally or sent by U.S. mail, postage prepaid, to the following addresses:

**Landlord:**

Texas City Economic Development Corporation  
Attn: Kristin Edwards  
1809 9<sup>th</sup> Ave. N.  
Texas City, Texas 77590  
Tel: (409) 948-3111

**Tenant:**

John-Michael William Nix and Sara Nix d/b/a Sara's Cafe  
2415 1/2 Avenue N  
Texas City, Texas 77590  
Tel: (713) 820-2106

The parties have executed this Lease at the place and on the dates specified below.

**LANDLORD:**

Texas City Economic Development Corporation

By: Mark Ciavaglia  
Name: Mark Ciavaglia  
Title: Chairman  
Effective Date: 3/30/23  
Executed at: 8:20 am

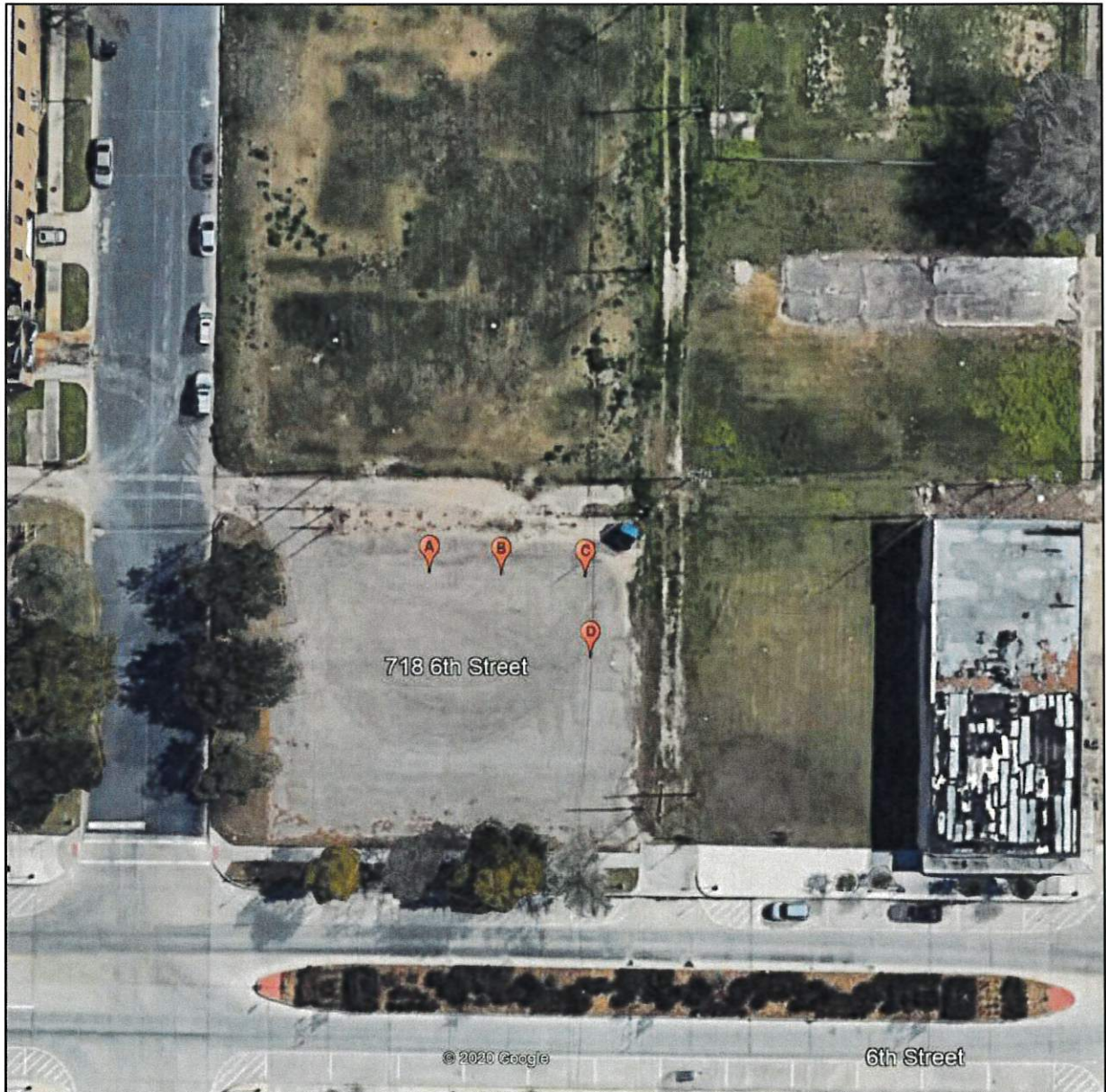
**TENANT:**

Sara Nix d/b/a  
Sara's Cafe

Sara Nix  
Sara Nix



EXHIBIT A – PROPERTY LOCATED AT 718 6<sup>TH</sup> STREET





**TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION**

**RESOLUTION NO. 2023-10**

**A RESOLUTION AUTHORIZING THE BOARD CHAIRPERSON TO ENTER INTO A GROUND LEASE WITH JOHN-MICHAEL WILLIAM NIX D/B/A SARA'S CAFÉ, A MOBILE FOOD UNIT FOR PROPERTY LOCATED AT 718 6TH STREET NORTH; 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 April 6, 2023, a general discussion was held concerning entering into a ground lease with John-Michael William Nix d/b/a Sara's Café, a Mobile Food Unit, for property located at 718 6th Street North; and

**WHEREAS**, it is recommended that the TCEDC enter into a ground lease with John-Michael William Nix d/b/a Sara's Café, a Mobile Food Unit for property located at 718 6th Street North,

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

**SECTION 1:** The Texas City Economic Development Corporation hereby approves the Board Chairperson to enter into a Ground Lease with John-Michael William Nix d/b/a Sara's Café, a Mobile Food Unit, for property located at 718 6th Street North.

**SECTION 2:** The Chairman of Texas City Economic Development Corporation or designee is hereby authorized to execute the documents necessary for said agreement on behalf of the Texas City Economic Development Corporation.

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

**PASSED AND ADOPTED this 6th day of April 2023.**

\_\_\_\_\_  
CHAIRMAN/PRESIDENT  
Texas City Economic Development Corporation

ATTEST:

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BOARD SECRETARY  
Texas City Economic Development Corporation