



**TEXAS ASSOCIATION OF REALTORS®
COMMERCIAL CONTRACT - UNIMPROVED PROPERTY**

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1. PARTIES: Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: City of Corpus Christi, a Texas municipal corporation

Address: 1201 Leopard St. Corpus Christi, Texas 78401

Phone: _____ E-mail: _____

Fax: _____ Other: _____

Buyer: Corpus Christi Retail Venture, LP and Corpus Christi Area Council for the Deaf, Inc.

Address: c/o 615 N. Upper Broadway, Suite 1100, Corpus Christi, Texas 78401

Phone: 361-888-9201 E-mail: awilson@miller-capital.com

Fax: 361-888-8353 Other: jdbell@wbwpc.com and sel@wbwpc.com

2. PROPERTY:

A. "Property" means that real property situated in Nueces County, Texas at 5151 McArdle Rd., CC TX Mt. Vernon Park (address) and that is legally described on the attached Exhibit "A" or as follows:

A tract of land containing **6.36** more or less acres being located at 5151 McArdle Road known as Mt. Vernon Park being legally described Mt. Vernon Unit 3, Corpus Christi, Nueces County, Texas with any and all improvements contained thereon.

See Exhibit "A" attached hereto.

B. Seller will sell and convey the Property together with:
 (1) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in ~~any minerals, utilities, adjacent streets, alleys, strips, gores, and rights of way;~~
 (2) Seller's interest in all leases, rents, and security deposits for all or part of the Property; and
 (3) Seller's interest in all licenses and permits related to the Property.

*(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)
 (If mineral rights are to be reserved an appropriate addendum should be attached.)*

3. SALES PRICE:

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

(1) Cash portion payable by Buyer at closing. \$ 1,763,801.90

(2) Sum of all financing described in Paragraph 4 \$.00

(3) Sales price (sum of 3A(1) and 3A(2)) \$ 1,763,801.90

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B. Adjustment to Sales Price: (Check (1) or (2) only.)

- (1) The sales price will not be adjusted based on a survey.
- (2) The sales price will be adjusted based on the latest survey obtained under Paragraph 6B.

(a) The sales price is calculated on the basis of \$ 6.40 per:

- (i) square foot of total area net area.
- (ii) acre of total area net area.

(b) "Total area" means all land area within the perimeter boundaries of the Property. "Net area" means total area less any area of the Property within:

- (i) public roadways;
- (ii) rights-of-way and easements other than those that directly provide utility services to the Property; and
- (iii) _____

(c) If the sales price is adjusted by more than 10 % of the stated sales price, either party may terminate this contract by providing written notice to the other party within 10 days after the terminating party receives the survey. If neither party terminates this contract or if the variance is less than the stated percentage, the adjustment to the sales price will be made to the cash portion of the sales price payable by Buyer.

4. **FINANCING:** Buyer will finance the portion of the sales price under Paragraph 3A(2) as follows:

A. Third Party Financing: One or more third party loans in the total amount of \$ N/A. This contract:

- (1) is not contingent upon Buyer obtaining third party financing.
- (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum (TAR-1931).

B. Assumption: In accordance with the attached Commercial Contract Financing Addendum (TAR-1931), Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$ N/A.

C. Seller Financing: The delivery of a promissory note and deed of trust to Seller under the terms of the attached Commercial Contract Financing Addendum (TAR-1931) in the amount of \$ N/A.

5. **EARNEST MONEY:**

A. Not later than 3 days after the effective date, Buyer must deposit \$ 10,000.00 as earnest money with San Jacinto Title Co. of CC (title company) at 520 Lawrence St., Corpus Christi, Texas 78401 (address) Shelly Grahmann (closer). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract or exercise any of Seller's other remedies under Paragraph 15 by providing written notice to Buyer before Buyer deposits the earnest money.

B. Buyer will deposit an additional amount of \$ 0.00 with the title company to be made part of the earnest money on or before:

- (i) N/A days after Buyer's right to terminate under Paragraph 7B expires; or
- (ii) N/A.

Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.

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C. Buyer may instruct the title company to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

6. TITLE POLICY AND SURVEY:

A. Title Policy:

(1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by any underwriter of the title company in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
(a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
(b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.

(2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:

- (a) will not be amended or deleted from the title policy.
 (b) will be amended to read "shortages in areas" at the expense of Buyer Seller.

(3) Within 5 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. Survey: Within 15 days after the effective date:

(1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the: (i) ALTA/ACSM Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition. Seller will reimburse Buyer \$7,036.25 (insert amount) of the cost of the survey at closing, if closing occurs.

(2) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the: (i) ALTA/ACSM Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.

(3) Seller will deliver to Buyer and the title company a true and correct copy of Seller's most recent survey of the Property along with an affidavit required by the title company for approval of the existing survey. If the existing survey is not acceptable to the title company, Seller, at Seller's expense, will obtain a new or updated survey acceptable to the title company and deliver the acceptable survey to Buyer and the title company within 20 days after Seller receives notice that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 20 days if necessary for Seller to deliver an acceptable survey within the time required. Buyer will reimburse Seller N/A (insert amount) of the cost of the new or updated survey at closing, if closing occurs.

C. Buyer's Objections to the Commitment and Survey:

(1) Within 15 days after Buyer receives the commitment, copies of the documents evidencing the title exceptions, and any required survey, Buyer may object in writing to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Property or constitute a defect or encumbrance to title other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If Paragraph 6B(1) applies,

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Buyer is deemed to receive the survey on the earlier of: (i) the date of Buyer's actual receipt of the survey; or (ii) of the deadline specified in Paragraph 6B.

- (2) Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.
- (3) Buyer's failure to timely object or terminate under this Paragraph 6C is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

7. PROPERTY CONDITION:

A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: None. Buyer accepts the property in its AS IS WHERE IS condition with any and all faults. See Exhibit B.

B. Feasibility Period: Buyer may terminate this contract for any reason within 120 days after the effective date (feasibility period) by providing Seller written notice of termination. *(Check only one box.)*

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

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

C. Inspections, Studies, or Assessments:

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

(2) Buyer must:

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

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(5) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.

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

9. BROKERS:

A. The brokers to this sale are:

Principal Broker: <u>The Clower Company</u>	Cooperating Broker: <u>N/A</u>
Agent: <u>George B. Clower</u>	Agent: <u>N/A</u>
Address: <u>P.O. Box 2525</u> <u>Corpus Christi, Texas 78403</u>	Address: <u>N/A</u> <u>N/A</u>
Phone & Fax: <u>361-880-4111</u> <u>361-880-4118</u>	Phone & Fax: <u>N/A</u>
E-mail: <u>austin@allenreadvisors.c</u>	E-mail: <u>N/A</u>
License No.: <u>428055</u>	License No.: <u>N/A</u>

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

Cooperating Broker represents Buyer.

B. Fees: (Check only (1) or (2) below.)
(Complete the Agreement Between Brokers on page 13 only if (1) is selected.)

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

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

Principal Broker a total cash fee of: <input checked="" type="checkbox"/> <u>4.5</u> % of the sales price. <input type="checkbox"/> <u>N/A</u>	Cooperating Broker a total cash fee of: <input type="checkbox"/> <u>N/A</u> % of the sales price. <input type="checkbox"/> <u>N/A</u>
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The cash fees will be paid in Nueces County, Texas. Seller authorizes the title company to pay the brokers from the Seller's proceeds at closing.

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

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

10. CLOSING:

- A. The date of the closing of the sale (closing date) will be on or before the later of:
 - (1) thirty (30) days after the expiration of the feasibility period.
 - N/A (specific date).
 - N/A
 - (2) 7 days after objections made under Paragraph 6C have been cured or waived.
- B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.
- C. At closing, Seller will execute and deliver, at Seller's expense, a general special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
 - (1) with no liens, assessments, or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
 - (2) without any assumed loans in default; and
 - (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.
- D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
 - (1) tax statements showing no delinquent taxes on the Property;
 - (2) an assignment of all leases to or on the Property;
 - (3) to the extent assignable, an assignment to Buyer of any licenses and permits related to the Property;
 - (4) evidence that the person executing this contract is legally capable and authorized to bind Seller;
 - (5) an affidavit acceptable to the title company stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the title company to: (i) withhold from Seller's proceeds an amount sufficient to comply applicable tax law; and (ii) deliver the amount to the Internal Revenue Service (IRS) together with appropriate tax forms; and
 - (6) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and issuance of the title policy, all of which must be completed by Seller as necessary.
- E. At closing, Buyer will:
 - (1) pay the sales price in good funds acceptable to the title company;
 - (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer; and
 - ~~(3) sign and send to each tenant in a lease for any part of the Property a written statement that:~~
 - ~~(a) acknowledges Buyer has received and is responsible for the tenant's security deposit, and~~
 - ~~(b) specifies the exact dollar amount of the security deposit~~
 - ~~(4) sign an assumption of all leases then in effect, and~~
 - (5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.
- F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

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

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

See attached Addendum to Commercial Contract - Unimproved Property attached hereto.

13. SALES EXPENSES:

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

14. PRORATIONS:

- A. **Prorations:**
- (1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
 - (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
 - (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.
- B. **Rollback Taxes:** If Seller's use or change in use of the Property before closing results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of the Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.
- C. **Rent and Security Deposits:** At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

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15. DEFAULT:

- A. If Buyer fails to comply with this contract, Buyer is in default and Seller, as Seller's sole remedy(ies), may terminate this contract and receive the earnest money, as liquidated damages for Buyer's failure except for any damages resulting from Buyer's inspections, studies or assessments in accordance with Paragraph 7C(3) which Seller may pursue, or
(Check if applicable)
 enforce specific performance, or seek such other relief as may be provided by law.
- B. If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey or the commitment, Buyer may:
 - (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
 - (2) extend the time for performance up to 15 days and the closing will be extended as necessary.
- C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:
 - (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
 - (2) enforce specific performance.

16. CONDEMNATION: If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:

- A. terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration paid under Paragraph 7B(1), will be refunded to Buyer; or
- B. appear and defend in the condemnation proceedings and any award will, at Buyer's election, belong to:
 - (1) Seller and the sales price will be reduced by the same amount; or
 - (2) Buyer and the sales price will not be reduced.

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

18. ESCROW:

- A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, the title company may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of the title company from all parties.
- B. If one party makes written demand for the earnest money, the title company will give notice of the demand by providing to the other party a copy of the demand. If the title company does not receive written objection to the demand from the other party within 15 days after the date the title company sent the demand to the other party, the title company may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and the title company may pay the same to the creditors.
- C. The title company will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- D. If the title company complies with this Paragraph 18, each party hereby releases the title company from all claims related to the disbursement of the earnest money.

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- E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to the title company are effective upon receipt by the title company.
- F. Any party who wrongfully fails or refuses to sign a release acceptable to the title company within 7 days after receipt of the request will be liable to the other party for: (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- G. Seller Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur.

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

- ~~A. Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TAR-1409).~~
- ~~B. Except as otherwise provided in this contract, Seller is not aware of:
 - (1) any subsurface structures, pits, waste, springs, or improvements;
 - (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
 - (3) any environmental hazards or conditions that materially affect the Property;
 - (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
 - (5) whether radon, asbestos containing materials, urea formaldehyde foam insulation, lead based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
 - (6) any wetlands, as defined by federal or state law or regulation, on the Property;
 - (7) any threatened or endangered species or their habitat on the Property;
 - (8) any present or past infestation of wood destroying insects in the Property's improvements;
 - (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
 - (10) any condition on the Property that violates any law or ordinance.~~

~~(Describe any exceptions to (1) (10) in Paragraph 12 or an addendum.)~~

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

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

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

22. AGREEMENT OF THE PARTIES:

A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns. This contract is to be construed in accordance with the laws of the State of Texas.

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If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby.

- B. This contract contains the entire agreement of the parties and may not be changed except in writing.
- C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.
- D. Addenda which are part of this contract are: *(Check all that apply.)*
 - (1) Property Description Exhibit identified in Paragraph 2;
 - (2) ~~Commercial Contract Financing Addendum (TAR 1931);~~
 - (3) ~~Commercial Property Condition Statement (TAR 1408);~~
 - (4) ~~Commercial Contract Addendum for Special Provisions (TAR 1940);~~
 - (5) ~~Notice to Purchaser of Real Property in a Water District (MUD);~~
 - (6) ~~Addendum for Coastal Area Property (TAR 1915);~~
 - (7) ~~Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TAR 1916);~~
 - (8) Information About Brokerage Services (TAR-2501); and
 - (9) See Attached Addendum to Contract and Exhibit B.

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

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

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

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

25. ADDITIONAL NOTICES:

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

(TAR-1802) 1-1-16 Initialed for Identification by Seller _____ and Buyer SEL

- D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135 of the Texas Natural Resources Code requires a notice regarding coastal area property to be included as part of this contract.
- E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract.
- F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.
- G. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Buyer should review local building codes, ordinances and other applicable laws to determine their effect on the Property. Selection of experts, inspectors, and repairmen is the responsibility of Buyer and not the brokers. Brokers are not qualified to determine the credit worthiness of the parties.
- H. NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

26. CONTRACT AS OFFER: The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on May 18, 2016, the offer will lapse and become null and void.

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

Seller: City of Corpus Christi, a Texas municipal
corporation

By: _____

By (signature): _____

Printed Name: _____

Title: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____

Buyer: Corpus Christi Retail Venture LP

By: CC Retail South Texas GP LLC, its general manager

By: Institutional Mail Investors, LLC, its sole member

By: Miller Capital Advisory, Inc., its manager

By (signature):  AW

Printed Name: Richard Kobe

Title: Senior Vice President-Development

Corpus Christi Area Council for the Deaf, Inc.

By (signature): 

Printed Name: Scott E. Landreth

Title: Authorized Board Member

AGREEMENT BETWEEN BROKERS

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

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

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

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

Principal Broker: _____ Cooperating Broker: _____
By: _____ By: _____

ATTORNEYS

Seller's attorney: _____ Buyer's attorney: John D. Bell / Scott E. Landreth
Address: _____ Wood, Boykin & Wolter, PC
Address: 615 N. Upper Broadway, Suite 1100
Corpus Christi, Texas 78401
Phone & Fax: _____ Phone & Fax: 361-888-9201 & 361-888-8353
E-mail: _____ E-mail: jdbell@wbwpc.com and sel@wbwpc.com

Seller's attorney requests copies of documents, notices, and other information:
 the title company sends to Seller.
 Buyer sends to Seller.

Buyer's attorney requests copies of documents, notices, and other information:
 the title company sends to Buyer.
 Seller sends to Buyer.

ESCROW RECEIPT

The title company acknowledges receipt of:
 A. the contract on this day _____ (effective date);
 B. earnest money in the amount of \$ 10,000.00 in the form of _____ on _____.

Title company: San Jacinto Title Co. of CC Address: 520 Lawrence St., Corpus Christi, Texas 78401
By: _____ Phone & Fax: _____
Assigned file number (GF#): _____ E-mail: _____

**ADDENDUM to UNIMPROVED COMMERCIAL CONTRACT -
UNIMPROVED PROPERTY between THE CITY OF CORPUS CHRISTI
("SELLER") and CORPUS CHRISTI RETAIL VENTURE LP and CORPUS
CHRISTI AREA COUNCIL FOR THE DEAF, INC. ("BUYER"),**

Seller Provisions

1. This Contract is contingent upon final approval and majority vote from the Corpus Christi City Council no later than May 18, 2016.
2. Buyer acknowledges that the subject property is being sold in its AS IS WHERE IS condition with any and all faults per the addendum attached hereto as Exhibit B and the limited representations and warranties in the Contract.
3. Buyer, at Buyer's sole expense, shall be responsible for any and all platting and/or zoning application fees and any associated expenses related to platting or rezoning the said property.
4. If due to factors beyond Seller's control, the commitment and/or the exception documents are not delivered within the time required, either party may terminate this contract and the earnest money be refunded to Buyer, as its sole remedy.
5. In regards to Paragraph 17 – ATTORNEY FEES: the last sentence shall be modified to read as followed: "This Paragraph 17 survives termination of this Contract, however, the Seller shall not be liable for any such attorney's fees."

Buyer Provisions

1. **Rezoning of Property.** Since the current zoning of RS-6 for the Property does not allow any uses of the Property commensurate with the value agreed for the Sales Price, this Contract is contingent upon the successful rezoning of the Property to allow all uses authorized in CG-2 zoning, save and except a bar, tavern or pub, nightclub, discotheque or pool hall, or any other zoning classification agreeable and acceptable to Buyer. Buyer shall apply promptly for such zoning change and Seller agrees to join in the application as the owner in the manner required by the City's Unified Development Code.
2. **Division of Property.** Within 15 days of the receipt of the required zoning approval, Buyer shall submit a plat for the Property dividing the Property into two separate lots to be conveyed to the parties comprising the Buyer, within one lot to be comprised of approximately 4.89 acres to be conveyed at Closing to Corpus Christi Retail Venture LP,

Seller's Initial's _____, Buyer's Initial's AW SCZ

and the other lot comprised of approximately 1.47 acres to be conveyed at Closing to Corpus Christi Area Council for the Deaf, Inc.

3. Extension of Feasibility Period. In the event that the required zoning approval and plat approval have not been received within the Feasibility Period, the Feasibility Period shall be subject to automatic extension provided that an application for such zoning approval has been filed and remains pending or an application for such plat approval has been filed within the time prescribed above and remains pending. If extended as provided in this Section, the Feasibility Period shall expire 30 days following approval of the final plat by the Corpus Christi Planning Commission.
4. Conveyance of Separate Lots. The Closing shall occur concurrently with filing the approved plat, and Seller shall provide a separate special warranty deed for each such lot to the party designated by Buyer to acquire such lot.
5. Title Insurance. The Seller shall provide an owner policy of title insurance for each such lot in accordance with the provisions of Section 6 of the Contract. The respective party comprising Buyer shall be responsible for the cost of deletion of the survey exception and any endorsements requested by such party.
6. Credit for Council for the Deaf. The Sales Price reflects a credit for the sole benefit of the Corpus Christi Area Council for the Deaf, Inc. for an amount equal to the 29,494 square feet of the Property that currently is subject to a long-term lease in favor of the Council for the Deaf running until 2033.

Seller's Initial's _____, Buyer's Initial's AW SEL

EXHIBIT "B"

"AS-IS" PURCHASE

(A) BUYER ACKNOWLEDGES AND AGREES THAT BUYER IS PURCHASING THE PROPERTY "AS-IS" "WHERE-IS" AND "WITH ALL FAULTS" WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, EITHER EXPRESSED OR IMPLIED, OF ANY KIND, NATURE, OR TYPE WHATSOEVER FROM, OR ON BEHALF OF, SELLER. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BUYER ACKNOWLEDGES AND AGREES THAT SELLER HEREBY EXPRESSLY DISCLAIMS, ANY AND ALL IMPLIED WARRANTIES CONCERNING THE CONDITION OF THE PROPERTY AND ANY PORTIONS THEREOF, INCLUDING, BUT NOT LIMITED TO, ENVIRONMENTAL CONDITIONS, PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS, AND ALSO THE IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

(B) BUYER ACKNOWLEDGES AND AGREES THAT BUYER HAS NOT RELIED, AND WILL NOT RELY, UPON ANY REPRESENTATIONS OR WARRANTIES (ORAL OR WRITTEN) MADE BY OR PURPORTEDLY MADE ON BEHALF OF SELLER, UNLESS SUCH REPRESENTATIONS AND WARRANTIES ARE EXPRESSLY SET FORTH IN THIS AGREEMENT.

(C) EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS AGREEMENT, BUYER AGREES THAT NO REPRESENTATION BY OR ON BEHALF OF SELLER OR THE SELLER'S AGENTS HAVE BEEN MADE TO BUYER AS TO THE CONDITION OF THE PROPERTY, ANY RESTRICTIONS RELATED TO THE DEVELOPMENT OF THE PROPERTY, THE APPLICABILITY OF OR COMPLIANCE WITH ANY GOVERNMENTAL REQUIREMENTS, INCLUDING, BUT NOT LIMITED TO, ENVIRONMENTAL LAWS, OR THE SUITABILITY OF THE PROPERTY FOR ANY PURPOSE WHATSOEVER.

Seller's Initial's _____, Buyer's Initial's 

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
Corpus Christi Retail Venture LP
Corpus Christi, TX United States

Certificate Number:
2016-50910

Date Filed:
05/05/2016

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
City of Corpus Christi

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
64
purchase of Mount Vernon Park land at 5151 McArdle Road

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Wood, Boykin & Wolter, PC	Corpus Christi, TX United States		X
	Institutional Mall Investors, LLC	Skokie, IL United States	X	

5 Check only if there is NO Interested Party.

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



AFFIX NOTARY STAMP / SEAL ABOVE

John D. Bell

Signature of authorized agent of contracting business entity

Sworn to and subscribed before me, by the said John D. Bell, this the 5th day of May, 20 16, to certify which, witness my hand and seal of office.

Veronica C Salais Veronica C Salais Notary Public

Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

Certificate Number:
2016-50917

Date Filed:
05/05/2016

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Corpus Christi Area Council for the Deaf, Inc.
Corpus Christi, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Corpus Christi

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

64
purchase of Mount Vernon Park land at 5151 McArdle Road

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 AFFIDAVIT I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



Scott E. Landreth

Signature of authorized agent of contracting business entity

AFFIX NOTARY SEAL ABOVE

Sworn to and subscribed before me, by the said Scott E. Landreth, this the 6TH day of May, 20 16, to certify which, witness my hand and seal of office.

Patricia A. Sargent
Signature of officer administering oath

Patricia A. Sargent
Printed name of officer administering oath

Notary
Title of officer administering oath