

OPTION FOR SALE OF REAL PROPERTY

Whereas, DSW Homes, LLC is a Texas Limited Liability Company;

Whereas, DSW Homes, LLC has proposed property development of vacant lots near the Former Lamar Elementary School and;

Whereas the City of Corpus Christi seeks to have property developed for low- and moderate-income households as a primary activity to promote the community-based revitalization of the City;

Now, therefore, for and in consideration of \$100 and property maintenance, the City of Corpus Christi, hereinafter referred to as "City," hereby grants to DSW Homes, LLC, hereinafter referred to as "Optionee," an exclusive right and option to purchase the following described properties:

- 1) Lot 8, Block 6, Summit Addition Subdivision, Corpus Christi, Nueces County, Texas, located at or near 2211 Morris Street,
- 2) Lot 9, Block 6, Summit Addition Subdivision, Corpus Christi, Nueces County, Texas, located at or near at 2211 Morris Street,
- 3) Lot 10, Block 6, Summit Addition Subdivision, Corpus Christi, Nueces County, Texas, located at or near 2217 Morris Street,
- 4) Lot 11, Block 6, Summit Addition Subdivision, Corpus Christi, Nueces County, Texas, located at or near 2217 Morris Street,
- 5) Lot 12, Block 6, Summit Addition Subdivision, Corpus Christi, Nueces County, Texas, located at or near 2219 Morris Street,
- 6) Lot 13, Block 6, Summit Addition Subdivision, Corpus Christi, Nueces County, Texas, located at or near 2219 Morris Street,
- 7) Lot 18, Block 6, Summit Addition Subdivision, Corpus Christi, Nueces County, Texas, located at or near 2307 Morris Street.
- 8) Lot 19, Block 6, Summit Addition Subdivision, Corpus Christi, Nueces County, Texas, located at or near 2309 Morris Street.
- 9) Lot 20, Block 6, Summit Addition Subdivision, Corpus Christi, Nueces County, Texas, located at or near 2311 Morris Street.
- 10) Lot 21, Block 6, Summit Addition Subdivision, Corpus Christi, Nueces County, Texas, located at or near 2311 Morris Street.

Section 1. Property Maintenance

The Optionee shall maintain the described properties herein by mowing all grass and vegetation as often as necessary to maintain a height of less than 12 inches, effective upon execution of this Agreement. The Optionee shall not allow weeds or brush twelve inches or higher to grow on the described properties. Additionally, the Optionee will keep the described properties free of litter and solid waste. If such property is not maintained, the City will send notice to the Optionee of this failure. The City may cancel this Option Contract if the Optionee does not cure the failure within 30 days of receiving the notice from the City.

Section 2. Option Period

The option to purchase the property, hereinafter referred to as the "Option," shall commence upon the final execution of this contract and will expire on June 30, 2026, without notice to the Optionee.

This option may only be exercised by Optionee after the construction of single-family dwellings on Lots 1, 2, 3, 38, 39, 40, 41, and 42, Block 6, Summit Addition Subdivision, City of Corpus Christi, Nueces County, Texas, located at or near 2203 Morris Street and 715 19th Street. Upon request from the Optionee, the City may extend the option an additional year if the city has granted an extension to obtain a certificate of occupancy for a single-family dwelling.

Section 3. Purchase Price

The purchase price for the above-described properties is \$10 per lot. The consideration paid herein shall be applied against the purchase price. Consideration also includes the use of the property for low-income and moderate-income housing, with low-income and moderate-income housing being defined as properties that are sold for a price that does not exceed the New Homes HOME/Housing Trust Fund (HTF) Purchase Price Limit for 1-Unit for the Corpus Christi Metropolitan Statistical Area (MSA) established and published annually by U.S. Department of Housing and Urban Development (HUD) per 24 C.F.R. § 92.254 or rented for an amount that does not exceed the Fair Market Rent for the Corpus Christi MSA established and published annually by the U.S. Department of Housing and Urban Development (HUD) per 24 C.F.R. § 888.115. This condition is designed to maintain the integrity and purpose of the property per Texas Local Government Code 272.001(g).

Section 4. Forfeiture of Consideration

If the Optionee fails to exercise this Option before its expiration or the City terminates for failure to maintain the property, the City will retain the consideration paid herein.

Section 5. Reverter Clause

The Special Warranty Deed of all lots to be sold shall include a reverter clause as follows:

Reverter

A lot reverts to the City of Corpus Christi if the grantee fails to construct a single-family dwelling for low-income or moderate-income housing on such lot and obtain a certificate of occupancy for such dwelling within two years from the date of conveyance. In this context, low and moderate-income housing is defined as properties that are sold for a price that does not exceed the New Homes HOME/Housing Trust Fund (HTF) Purchase Price Limit for 1-Unit for the Corpus Christi Metropolitan Statistical Area (MSA) established and published annually by U.S. Department of Housing and Urban Development (HUD) per 24 C.F.R. § 92.254 or rented for an amount that does not exceed the Fair Market Rent for the Corpus Christi MSA established and published annually by the U.S. Department of Housing and Urban Development (HUD) per 24 C.F.R. § 888.115. The grantee agrees to abide by these conditions, and failure to comply with any of these conditions shall result in the automatic reversion of the lot and dwelling to the City of Corpus Christi. This condition is designed to maintain the integrity and purpose of the property per Texas Local Government Code 272.001(g).

Section 6. Cost Recapture, Reverter Clause, and Covenant Running with the Land
The Special Warranty Deed for all lots of all lots to be sold shall include Cost Recapture, Reverter Clause, and Covenant Running with the Land as follows:

Cost Recapture, Reverter, and Covenant Running with the Land

The City of Corpus Christi has conveyed the lot for less than market value to be used for low-income and moderate-income housing. In this context, low-income and moderate-income housing is defined as a property that is sold for a price that does not exceed the New Homes HOME/Housing Trust Fund (HTF) Purchase Price Limit for 1-Unit for the Corpus Christi Metropolitan Statistical Area (MSA) established and published annually by U.S. Department of Housing and Urban Development (HUD) per 24 C.F.R. § 92.254 or rented for an amount that does not exceed the Fair Market Rent for the Corpus Christi MSA established and published annually by the U.S. Department of Housing and Urban Development (HUD) per 24 C.F.R. § 888.115.

Within the next ten years from the date of execution, if any of the lots described herein are sold for a price that exceeds the most recently issued New Homes HOME/HTF Purchase Price Limit established and published annually by HUD or rented for an amount that exceeds the most recently issued Fair Market Rent established and published annually by HUD, the City of Corpus Christi is entitled to recapture the costs of the land. The recaptured costs of the land shall be calculated at \$5.15 per square foot, representing the land's fair market value.

A lot reverts to the City of Corpus Christi if:

- (1) a dwelling and lot are sold for a price that exceeds the most recently issued New Homes HOME/HTF Purchase Price Limit for 1-Unit for the Corpus Christi, TX MSA as established and published by

the U.S. Department of Housing and Urban Development per 24 C.F.R. § 92.254; **or**

(2) a dwelling and lot are rented for an amount that exceeds the most recently issued Fair Market Rent as established and published by the U.S. Department of Housing and Urban Development per 24 C.F.R. § 888.115; **and**

(3) the City of Corpus Christi is not paid a cost recapture for the land value of the lot at \$5.15 per square foot within 90 days of the sale or rental. Payment can be made at 1201 Leopard St, Corpus Christ, TX 78401.

The grantee agrees to abide by these conditions, and failure to comply with any of these conditions shall result in the automatic reversion of the lot and dwelling to the City of Corpus Christi. This restrictive covenant shall run with the land and bind all subsequent owners. These covenants shall run with the land for a period of 10 years from the date of this conveyance and shall automatically expire thereafter. This condition is designed to maintain the integrity and purpose of the property per Texas Local Government Code 272.001(g).

Section 7. Notice of Option's Exercise

The Optionee's election to exercise this Option shall be by executing and delivering to the City the attached Real Estate Sales Contract on or before the expiration date hereof. Upon delivery of said executed sales contract, the City shall forthwith execute the same within thirty days.

Section 8. Assignability of Option

Optionee shall not assign the Option. In the event an assignment is attempted in violation of this Section, then Optionees' rights under this Option Contract shall automatically and immediately terminate without notice.

Section 9. Notice

Unless otherwise provided herein, any notice, tender, or delivery to be given hereunder by either party to the other may be effected by personal delivery in writing or by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed received as of actual receipt or three business days from mailing, whichever is earlier. Mailed notices shall be addressed as set forth below, but each party may change his or her address by written notice in accordance with this Section.

To the City:
City of Corpus Christi
Attn: Director of Planning and Community Development
P.O. Box 9277
Corpus Christi, TX 78469-9277

To the Optionee:

DSW Homes, LLC

Attn: _____

1650 E. Winding Way Dr Bldg B

Friendswood, TX 77546-5128

Section 10. Binding Effect

This Option shall be binding on the City and shall inure to the benefit of Optionee.

Remainder of page intentionally left blank; signature page to follow.

Executed this _____ day of _____, at
_____ County, Texas.

Optionee

Donald Gerratt, Chief Executive Officer
DSW Homes, LLC
1650 E. Winding Way Dr Bldg B
Friendswood, TX 77546-5128

Date

City

Peter Zanoni, City Manager
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469

Date

APPROVED AS TO FORM:

Deputy City Attorney
Buck Brice

low and moderate-income housing is defined as properties that are sold for a price that does not exceed the New Homes HOME/Housing Trust Fund (HTF) Purchase Price Limit for 1-Unit for the Corpus Christi Metropolitan Statistical Area (MSA) established and published annually by U.S. Department of Housing and Urban Development (HUD) per 24 C.F.R. § 92.254 or rented for an amount that does not exceed the Fair Market Rent for the Corpus Christi MSA established and published annually by the U.S. Department of Housing and Urban Development (HUD) per 24 C.F.R. § 888.115. This condition is designed to maintain the integrity and purpose of the properties per Texas Local Government Code 272.001(g).

3. **Title Insurance.** The Buyer, at Buyer's expense, may acquire a title insurance policy that guarantees good and indefeasible title to the Property, without exceptions to title other than the standard printed exceptions and exceptions permitted under this Contract, and that wholly insures and indemnifies Buyer against any title defects or adverse claims.
4. **Property Taxes.** The City of Corpus Christi, as the owner of this property, is exempt from local property taxes. Any taxes due after conveyance are the responsibility of the Buyer.
5. **Special Warranty Deed.** Seller will execute a Special Warranty Deed, drafted in accordance with the provisions of this Contract, conveying the Property to Buyer. Buyer must make the cash payment.
6. **Reverter Clause.** The Special Warranty Deed for all lots sold shall include a reverter clause as follows:

Reverter

A lot reverts to the City of Corpus Christi if the grantee fails to construct a single-family dwelling for low-income or moderate-income housing on such lot and obtain a certificate of occupancy for such dwelling within two years from the date of conveyance. In this context, low and moderate-income housing is defined as properties that are sold for a price that does not exceed the New Homes HOME/Housing Trust Fund (HTF) Purchase Price Limit for 1-Unit for the Corpus Christi Metropolitan Statistical Area (MSA) established and published annually by U.S. Department of Housing and Urban Development (HUD) per 24 C.F.R. § 92.254 or rented for an amount that does not exceed the Fair Market Rent for the Corpus Christi MSA established and published annually by the U.S. Department of Housing and Urban Development (HUD) per 24 C.F.R. § 888.115. The grantee agrees to abide by these conditions, and failure to comply with any of these conditions shall result in the automatic reversion of the lot and dwelling to the City of Corpus Christi. This condition is designed to maintain the integrity and purpose of the property per Texas Local Government Code 272.001(g).

7. **Cost Recapture, Reverter, and Covenant Running with the Land Clause.** The Special Warranty Deed for all lots sold shall include Cost Recapture, Reverter, and Covenant Running with the Land clause as follows:

Cost Recapture, Reverter, and Covenant Running with the Land

The City of Corpus Christi has conveyed the lot for less than market value to be used for low-income and moderate-income housing. In this context, low-income and moderate-income housing is defined as a property that is sold for a price that does not exceed the New Homes HOME/Housing Trust Fund (HTF) Purchase Price Limit for 1-Unit for the Corpus Christi Metropolitan Statistical Area (MSA) established and published annually by U.S. Department of Housing and Urban Development (HUD) per 24 C.F.R. § 92.254 or rented for an amount that does not exceed the Fair Market Rent for the Corpus Christi MSA established and published annually by the U.S. Department of Housing and Urban Development (HUD) per 24 C.F.R. § 888.115.

Within the next ten years from the date of execution, if any of the lots described herein are sold for a price that exceeds the most recently issued New Homes HOME/HTF Purchase Price Limit established and published annually by HUD or rented for an amount that exceeds the most recently issued Fair Market Rent established and published annually by HUD, the City of Corpus Christi is entitled to recapture the costs of the land. The recaptured costs of the land shall be calculated at \$5.15 per square foot, representing the land's fair market value.

A lot reverts to the City of Corpus Christi if:

- (1) a dwelling and lot are sold for a price that exceeds the most recently issued New Homes HOME/HTF Purchase Price Limit for 1-Unit for the Corpus Christi, TX MSA as established and published by the U.S. Department of Housing and Urban Development per 24 C.F.R. § 92.254; **or**
- (2) a dwelling and lot are rented for an amount that exceeds the most recently issued Fair Market Rent as established and published by the U.S. Department of Housing and Urban Development per 24 C.F.R. § 888.115; **and**
- (3) the City of Corpus Christi is not paid a cost recapture for the land value of the lot at \$5.15 per square foot within 90 days of the sale or rental. Payment can be made at 1201 Leopard St, Corpus Christ, TX 78401.

The grantee agrees to abide by these conditions, and failure to comply with any of these conditions shall result in the automatic reversion of the lot and dwelling to the City of Corpus Christi. This restrictive covenant shall run with the land and bind all subsequent owners. These covenants shall run with the land for a period of 10 years from the date of this conveyance and shall automatically expire thereafter. This condition is designed to maintain the integrity and purpose of the property per Texas Local Government Code 272.001(g).

- 8. **Non-Transferable.** Prior to constructing a single-family dwelling for low-income or

moderate-income housing outlined in this agreement, the Buyer shall not transfer the property described herein. Any attempt to do so shall be null and void, and the party responsible shall be liable for any resulting damages incurred by the other party.

9. **Property Maintenance.** Upon conveyance, Buyer shall maintain the described properties by mowing all grass and vegetation as often as necessary to maintain a height of less than 12 inches, effective upon execution of this Agreement. Buyer shall not allow weeds or brush twelve inches or higher to grow on the described property. Additionally, the Buyer will keep the described properties free of litter and solid waste.
10. **Closing.** There shall be no formal closing for this transaction. Within 30 days of this Agreement's execution, Buyer will provide cash payment. Within 30 days of receipt of cash payment, Seller shall execute a Special Warranty Deed, drafted in accordance with the provisions of this Contract, conveying the Property to Buyer. Buyer will be responsible for recording the Special Warranty deed in the Real Property records of Nueces County.
11. **Survives Closing.** This Contract survives the Conveyance of the Property and the delivery of the Special Warranty Deed and other necessary documents by Seller to Buyer, and all terms and conditions remain in effect between Seller and Buyer.
12. **Property Condition.**
 - 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 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 Contract.
 - C. Except as otherwise specifically provided in this Contract, Buyer agrees that no representation by or on behalf of Seller have been made to Buyer as to the condition of the Property, any restrictions

related 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.

- D.** Buyer releases Seller from any claims it may have against the Seller now or in the future under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. §§ 9601 et seq. as amended; the Resource Conservation and Recover Act, 42 U.S.C.A. §§ 6901 et seq. as amended; the Texas Solid Waste Disposal Act, Tex. Health & Safety Code §§ 361.001 et seq. as amended; any other analogous state or federal statute; and common law arising from the environmental conditions of the Property or the presence of hazardous substances, solid wastes, or any other pollutants or contaminants on the Property.
13. **Broker's Commission.** Seller and Buyer have not commissioned a Broker to represent their interests, and neither are responsible for any brokerage or real estate commissions in connection with this Contract. Any costs associated with services to either party are the responsibility of the party that contracted the services.
14. **Essential.** Time is of the essence in closing this transaction.
15. **Effective Date.** The effective date of this Real Estate Sales Contract is the date on which the Contract is signed by the Seller.
16. **Governing Law and Venue.** This Agreement is subject to all federal, State, and local laws, rules, and regulations. The applicable law for any legal disputes arising out of this Agreement is the law of the State of Texas, and such form and venue for such disputes is the appropriate district, county, or justice court in and for Nueces County, Texas.
17. **Supersedes previous agreements.** This Contract constitutes the only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Contract.
18. **Counterparts:** Multiple original copies of this contract may be executed, and the execution of this contract may be through the execution by the parties of separate counterparts. All of the original copies of this contract together shall constitute one agreement, binding on all of the parties hereto notwithstanding that the parties hereto may or may not be signatories to the same counterpart. Each of the undersigned parties authorizes the assembly of one or more original copies of this contract, such that each such original copy of this contract shall consist of (i) the

body of this contract and (ii) counterpart signature pages and acknowledgment pages which collectively include all of the signatures and acknowledgments of the parties hereto. Each such contract shall constitute one original of this contract.

19. **Assignment:** Buyer shall not assign this Contract. Seller shall not assign this Contract. In the event an assignment is attempted, in violation of this Section, then Buyer's rights under this Contract shall automatically and immediately terminate without notice.
20. **Breach of Contract.** Buyer's failure to develop the conveyed parcels for low-income or moderate-income housing as defined herein constitutes a breach of contract. Seller has all remedies in law for a breach of contract.
21. **Government Function.** This Agreement is to perform a governmental function solely for the public benefit, and the City does not waive its immunity by entering into and performing its obligations under the Agreement.
22. **Deed Amendment.** Upon request from Buyer, Seller will file an amended Special Warranty Deed if Buyer has started construction of a single-family dwelling but will be unable to obtain a certificate of occupancy within 2 years of the conveyance. The amended Special Warranty Deed will provide an additional year to obtain a certificate of occupancy prior to reversion.

Seller

City of Corpus Christi

Jeff H. Edmonds, P.E., Director of Engineering Services

THE STATE OF TEXAS §

COUNTY OF NUECES §

This instrument was acknowledged before me on _____,
202__, by Jeff H. Edmonds, P.E., Director of Engineering Services of the City of Corpus
Christi, a Texas municipal corporation, on behalf of said corporation.

Notary Public in and for the State of Texas

APPROVED AS TO LEGAL FORM THIS _____ DAY OF _____,
202_____.

Assistant City Attorney
City Legal Department

Buyer

DSW Homes, LLC.

Donald Gerratt, Chief Executive Officer

THE STATE OF TEXAS §

COUNTY OF _____ §

This instrument was acknowledged before me on _____,
202___, by Donald Gerratt, Chief Executive Officer of DSW Homes, LLC.

Notary Public in and for the State of Texas