

## **PURCHASE AND SALE AGREEMENT**

This Purchase and Sale Agreement ("Agreement") is entered between the City of De Leon, a Texas Home Rule Municipality (hereinafter referred to as "Seller") and the De Leon Industrial Development Corporation, a Type A economic development corporation (hereinafter referred to as "Buyer") and is effective on the date ("Effective Date") of the last of the signatures by Seller and Buyer as parties to this Agreement.

### **Recitals**

**WHEREAS**, Seller desires to sell the property as described below (the "Property") to Buyer; and

**WHEREAS**, Seller may sell the Property to Buyer for fair market value, without seeking competitive bids, pursuant to Texas Local Gov't Code Section 272.001(b)(4) for purposes of development by an independent foundation; and

**WHEREAS**, Seller desires to promote local economic development and to stimulate business and commercial activity in the City; and

**WHEREAS**, the development of housing in De Leon is critical to economic development in the City of De Leon; and

**WHEREAS**, Seller is selling the Property to Buyer for the purpose of resale to Deissy Mariscal ("Developer"), for the construction of a single-family residential home; and

**WHEREAS**, Buyer has agreed to purchase the Property for resale to Developer as described herein;

**WHEREAS**, Seller and Buyer desire to set forth certain rights and obligations with respect to the sale of the Property and the financial incentives provided herein; and

Seller: City of De Leon  
Attn: David Denman, City Manager  
P.O. Box 318  
De Leon, TX 76444

Phone: (254) 893-2065

Fax: (325) 893-3254

Type of entity: Texas Home Rule Municipality

Seller's Attorney: Pat Chesser  
City Attorney  
501 Center Avenue

Phone: (325) 646-1895

Fax: (325) 643-9976

E-mail: [patchesserlaw@yahoo.com](mailto:patchesserlaw@yahoo.com)

Buyer: De Leon Industrial Development Corporation  
Attn: Toney Prather, President  
P.O. Box 318  
De Leon, TX 76444

Phone: (254) 893-2065  
Fax: (325) 893-3254

Type of entity: A Type A economic development corporation

Buyer's Attorney: Pat Chesser  
City Attorney  
501 Center Avenue  
Brownwood, Texas 76801

Phone: (325) 646-1895  
Fax: (325) 643-99765  
E-Mail: [patchesserlaw@yahoo.com](mailto:patchesserlaw@yahoo.com)

Title Company: Comanche County Abstract.  
106 N. Austin  
Comanche, Texas 76422

Phone: (325) 356-2564  
Fax: (325) 356-3066

Property: A 1.88 acre tract of land out of Block XXII, Central Addition to the City of De Leon, also being out of Block 14 Higginbotham Addition, Comanche County, Texas, and being the same tract of land described in a Gift Deed dated November 17, 2003 from Dema Limited Partnership to the City of De Leon and recorded in volume 836, Page 313, Official Public Records, Comanche County, Texas, more commonly known as 601 W. Almante Avenue, De Leon, Texas, and legally described on Exhibit "A" attached hereto (the "Property").

Closing Date: On or before July 14, 2023, or within 7 days after objections to title are made under paragraph 2(a) of this Agreement, and concurrent with the Buyer's closing of the sale of the Property to Developer pursuant to an Unimproved Property Contract between Buyer and Developer.

Purchase Price: \$36,000.00

Additional Consideration: Sale of the Property for the purposes described in Paragraph 9. herein.

Earnest Money: None

**NOW, THEREFORE,** in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Sale; Purchase; Resale.** Seller agrees to sell, and Buyer agrees to purchase, the Property as provided in this Agreement for the Purchase Price, which is the fair market value of the Property. Buyer agrees to sell the Property pursuant to an Unimproved Property Contract, consistent with the requirements stated in Paragraph 9. (iv) herein, to sell to Developer the Property (the "Developer Purchase Agreement").

2. **Title Insurance and Survey.**

Neither Seller nor Buyer shall furnish title insurance and/or a survey of the Property to Developer. Developer shall, at its sole cost and expense:

(a) purchase an owner policy of title insurance (the "Title Policy") issued by Comanche County Abstract (the "Title Company"), in the amount of the Sales Price, dated at or after closing, insuring Developer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the standard printed exceptions. Within 20 days after the Title Company receives a copy of this contract, the Title Company shall furnish to Developer a commitment for title insurance (the "Commitment") and, at Developer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment other than the standard printed exceptions. The Title Company is authorized to mail or hand deliver the Commitment and related documents to Developer. If the Commitment is not delivered to Developer within the specified time, the time for delivery will be automatically extended up to 15 days. Developer will have 7 days after the receipt of the latter of the Commitment or the survey to object in writing to matters disclosed in the Commitment or the survey, except for those matters specifically described in this paragraph. Developer's failure to object within the time allowed will constitute a waiver of Developer's right to object; except that the requirements in Schedule C of the Commitment will not be deemed to have been waived. Seller may, but shall not be obligated to, cure the timely objections of Developer within 20 days after Seller receives the objections and the Closing Date will be extended as necessary. If the objections are not cured by the extended Closing Date, this contract will terminate and any earnest money will be refunded to Developer unless Developer elects to waive the objections. If Developer does not object to the Commitment within the time allowed or if Developer objects but the Seller does not agree to cure all the objections and Developer elects to waive the objections, these matters shall be deemed to be Permitted Exceptions.

(b) provide a survey of the Property performed by a licensed Texas surveyor.

Seller hereby represents and warrants to Buyer as follows, which representations and warranties shall survive the closing:

- a. There are no parties in possession of any portion of the property, except for a mobile home encroaching on the Property, regardless of whether such possession is permissive.
- b. Seller has complied with all applicable laws, ordinances, regulations, statutes, rules, restrictions, and covenants relating to the property, or any part thereof.

3. **Inspection Period.**



(a) Seller and Buyer agree that Seller is selling the Property to Buyer for purposes of resale to Developer pursuant to Texas Local Gov't Code Section 272.001(b)(4). Buyer and/or Developer shall have the right to enter upon the Property and conduct such inspections, tests and studies as they may deem necessary in their sole discretion.

(b) Seller understands and acknowledges that Buyer shall enter into an agreement to sell the Property to Developer pursuant to the Developer Purchase Agreement. Buyer shall obtain agreement from Developer to be solely responsible for any damages to the Property to the extent caused by inspection of the Property by Developer. Buyer shall further require and obtain agreement from Developer to repair any damage to the Property to the extent caused by Developer, its officers, employees, partners, agents or invitees, and further agree to indemnify and hold Seller harmless from and against any and all claims, liabilities or damages to the Property or against Seller to the extent caused by Developer's authorized agents', representatives' or employees' negligent or intentional acts or omissions to the extent resulting from any inspection of the Property by such parties during the Inspection Period.

(c) In the event Developer terminates the Developer Purchase Agreement prior to closing, then Seller or Buyer may terminate this Agreement by providing written notification to each other. In such event neither Seller nor Buyer shall have any further claim against the other under this Agreement.

4. **Closing.** Closing shall take place through through the Title Company concurrently with the closing between Buyer and Developer under the Developer Purchase Agreement.

(a) At the Closing, Seller shall deliver to the Title Company:

(i) a general warranty deed, in form and substance reasonably acceptable to Seller, Buyer and Developer, conveying good and indefeasible title to the Property to Buyer free and clear of any and all encumbrances, except the Permitted Exceptions.

(ii) possession of the Property in the same condition as it now is, reasonable use and wear expected, free of parties in possession and personal property, and not in violation of any applicable zoning, environmental, wetlands and other laws. Notwithstanding the foregoing, Seller shall, at its sole cost and expense, remove the mobile home encroaching on the Property;

(iii) such other documents that Buyer, Developer or the Title Company may reasonably require of Seller;

(iv) Seller shall provide access to a sewer tap for the Property, at its cost and expense.

(b) At the closing, Buyer shall deliver to Seller through Title Company:

(i) the Purchase Price in cash or immediately available funds; and

(ii) such other documents that the Title Company may reasonably require of Buyer.

5. **Taxes.** The Developer Purchase Agreement shall provide that Developer has agreed to be responsible for payment of current year taxes on the Property after the date of Closing. No taxes are owed on the Property up through the Closing Date because Seller is tax exempt. The provisions of this Paragraph 5 shall survive the Closing.

6. **Brokers' Commissions.** Buyer and Seller each represent that they have not been represented in whole or in part by a licensed Texas Real Estate broker or agent and that no commission or fee is to be paid at Closing to any real estate broker or agent.

7. **Closing Costs.**

To the extent not paid by Developer pursuant to the concurrent closing of the sale of the Property by Buyer to Developer pursuant to the Developer Purchase Agreement, Seller hereby agrees to pay and be responsible for closing costs, including, but not limited to:

- (i) ½ of the Title Company's escrow fees;
- (ii) The cost of all tax certificates relating to all taxes and other assessments incurred or arising in relation to the Property;
- (iii) all costs and expenses incurred by or on behalf of the Seller, including Seller's attorney's fees; and
- (iv) Such other incidental costs and fees customarily paid by sellers of real estate in Comanche County, Texas for transactions of a similar nature to the transaction contemplated herein.

8. **Permitted Exceptions.** Buyer acknowledges and agrees that the Property will be conveyed subject to the Permitted Exceptions as defined in Paragraph 2. above.

9. **Property Restrictions:** Seller and Buyer agree and understand that the Property is being conveyed by Seller without competitive bids pursuant to Texas Local Gov't Code §272.001(b)(4). Buyer agrees to serve as an independent foundation to have the Property developed as follows:

- (i) Buyer agrees that the Property is to be sold to Developer for the construction and development of a single family home and related uses, such sale to Developer to be closed concurrently with the sale of the Property to Buyer.

10. **Representations and Covenants.**

- (a) Seller represents and covenants that:
  - (i) Seller has authority to enter into this Agreement;
  - (ii) no other person has any interest in or claims against the Property (other than as reflected by the title commitment);
  - (iii) Seller has obtained all necessary governmental approvals, consents and authorizations, and has complied with all applicable federal, state and local laws in connection with the execution and delivery of this Agreement and the performance of Seller's obligations hereunder;



- (iv) Seller will not hereafter encumber the Property.
- (b) Buyer represents that it has authority to enter into this Agreement.

The only representations made by any party concerning the Property and this Agreement are as set out in this Agreement.

11. **Property Sold "AS IS."**

- (a) Buyer represents that as of the Closing Date that it:
  - (i) will have made all investigations as Buyer deems necessary or appropriate and;
  - (ii) will be relying solely upon Buyer's inspection and investigation of the Property for all purposes whatsoever, including, but not limited to, the determination of the condition of the structures, improvements, soils, subsurface, drainage, surface and groundwater quality, and all other physical characteristics; availability and adequacy of utilities; compliance with governmental laws and regulations; access; encroachments; acreage and other survey matters and the character and suitability of the Property.
- (b) Buyer acknowledges and agrees that the Property and the improvements located thereon are being purchased and will be conveyed "AS IS" with all faults and defects, whether patent or latent, as of the Closing.
- (c) Buyer further acknowledges and agrees there have been no representations, warranties, guarantees, statements or information, express or implied, pertaining to the Property or the improvements, its condition, or any other matters whatsoever, made to or furnished to Buyer by Seller or any employee or agent of Seller, except as specifically set forth in this Agreement.
- (d) The general warranty deed to Buyer shall include the following language:

**GRANTOR IS CONVEYING THE PROPERTY "AS IS" AND HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO: (A) THE VALUE, NATURE, QUALITY, OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE IMPROVEMENTS, WATER, SOIL, AND GEOLOGY; (B) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH GRANTEE MAY CONDUCT THEREON; (C) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; (D) THE EXISTENCE IN, ON, OR UNDER THE PROPERTY OF HAZARDOUS MATERIALS. GRANTEE ACKNOWLEDGES THAT GRANTOR HAS ADVISED GRANTEE TO CONSULT WITH ITS OWN PROFESSIONALS AND EXPERTS WITH EXPERIENCE IN EVALUATING THE CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, REGARDING THE PRESENCE OF HAZARDOUS OR TOXIC SUBSTANCES, AND THAT GRANTEE WILL BE RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND IS NOT RELYING ON**

**ANY INFORMATION OR REPRESENTATION THAT GRANTOR HAS SUPPLIED OR MADE CONCERNING THE PROPERTY.**

12. **Remedies.** If Buyer defaults in the provisions of this Agreement and fails to cure such default not later than ten (10) days after written notice describing the nature of the default is delivered by Seller to Buyer, Seller's sole remedy shall be to terminate this Agreement. If Seller defaults in the provisions of this Agreement and fails to cure such default not later than ten (10) days after written notice describing the nature of the default is delivered by Buyer to Seller, Buyer's sole remedy shall be to terminate this Agreement.

13. **Notices.** Any notice required by or permitted under this Agreement must be in writing and will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, electronic mail, or other commercially reasonable means, in which case the notice will be deemed effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

14. **Miscellaneous.**

(a) **Entireties.** This Agreement contains the entire agreement of the parties pertaining to the Property.

(b) **Modifications.** This Agreement may only be modified by a written document signed by both parties.

(c) **Assignment.** Buyer may not assign its rights under this Agreement to any entity without the express written consent of Seller.

(d) **Time is of the Essence.** Time is of the essence with respect to the performance by the parties of their respective obligations hereunder.

(e) **Governing Law.** This Agreement shall be construed under and in accordance with the laws of the State of Texas; and venue for any action arising from this Agreement shall be in Comanche County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

(f) **Counterparts.** This Agreement may be executed by the parties hereto in separate counterparts; each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

(g) **Non-Business Day.** If the final date of any period provided herein for the performance of an obligation or for the taking of any action falls on a Saturday, Sunday, or holiday, then the end of such period shall be extended to the next business day.

(h) **Zoning.** Seller assumes no obligation to change the current zoning on the Property.



(i) **Survival of Covenants.** The provisions of Section 11, above, as well as any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the Closing shall survive.

(j). **Severability.** The provisions of this Agreement are severable. If a court of competent jurisdiction finds that any provision of this Agreement is unenforceable, the remaining provisions will remain in effect without the unenforceable parts.

(k) **Ambiguities Not to Be Construed against Party Who Drafted Contract.** The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this Agreement.

(l) **No Third-Party Beneficiaries.** There are no third-party beneficiaries of this Contract.

(m) **No Special Relationship.** The parties' relationship is an ordinary commercial relationship, and they do not intend to create the relationship of principal and agent, partnership, joint venture, or any other special relationship.

Signed and Agreed on the dates indicated below.

SELLER:

BUYER:

**CITY OF DE LEON, TEXAS**

**DE LEON INDUSTRIAL DEVELOPMENT  
CORPORATION**

By: Jan Grisham  
Jan Grisham, Mayor

By: Toney Prather  
Toney Prather, President

Date: 7/11/2023

Date: 7/11/23