

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this "Agreement") is entered into by and between **ABE DAILY, JR.** ("Seller"), and **FORT BEND COUNTY, TEXAS**, a political subdivision of the State of Texas ("Purchaser").

Section 1. Property; Purchase Price.

(a) Property. Subject to the terms and conditions of this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, all that certain described real property, together with all improvements, including built-in items, all rights and interests appurtenant thereto (the "Property"), located in Fort Bend County, Texas, to wit:

A 47.70 acre, more or less, tract of land located in the Noel F. Roberts League, Abstract 79 in Fort Bend County Texas, described as Tract C in a Partition Deed recorded under instrument Number 9658302 of the Official Public Records of Fort Bend County, Texas; and

A 2.372 acre, more or less, tract of land located in the Noel F. Roberts League, Abstract 79 in Fort Bend County Texas, described in a Deed of Exchange of Properties recorded under instrument Number 2016011676 of the Official Public Records of Fort Bend County, Texas, both more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes.

(b) Purchase Price. The purchase price (the "Purchase Price") for the Property shall be an amount equal to One Million Two Hundred Fifty Thousand and No/100 Dollars (\$1,250,000.00).

Section 2. Inspections; Title Insurance; Title Inspection Period.

(a) Inspections. Commencing on the date of final execution of this Agreement (the "Effective Date") and continuing until the Closing Date (hereinafter defined) or earlier termination of this Agreement, Purchaser shall have access to the Property at all for the purpose of conducting all tests and inspections that Purchaser determines are relevant to its decision to acquire the Property, including, without limitation, surveys, soils, engineering, geotechnical, and environmental inspections and tests, and leak investigations. Purchaser shall be responsible for any and all costs associated with such inspections.

(b) Title Insurance. At Closing (as hereinafter defined), Seller shall furnish to Purchaser at Seller's expense an Owner's Policy of Title Insurance ("Title Policy") issued by a title company in the amount of the Purchase Price, dated as of the Closing Date, in the amount of the Purchase Price, insuring Purchaser's fee simple, good and indefeasible title to the Property, subject only to the standard printed exceptions and exclusions and the Permitted Exceptions (as hereinafter defined); provided, however, the standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements may, at Purchaser's expense, be amended to read, "shortages in area".

(c) Survey. Purchaser, at Purchaser's sole expense, will obtain a new survey, prepared in accordance with the requirements for a Category 1A, Condition III Survey under the most current edition of the Manual of Practice for Land Surveying in Texas (the "Survey") acceptable to the title company and deliver the acceptable Survey to Seller and the title company.

(d) Title Inspection Period. Purchaser shall have an opportunity to review a current commitment for title insurance provided by Seller (the "Commitment"), the Survey and any legible copies of documents evidencing exceptions in the Commitment ("Exception Documents"), and notify Seller in writing of any objections to defects, encumbrances or exceptions to title ("Title Defects"). Seller shall have no obligation to remove or cure Title Defects, except for the Liens (as hereinafter defined), which Liens Seller shall cause to be released at the Closing or affirmatively insured over by the title company. If Seller fails or elects not to cure any of Purchaser's objections, or if for any other reason Purchaser chooses not to purchase the Property, Purchaser may terminate this Agreement by delivering written notice. As used in this Agreement, the term "Permitted Exceptions" shall mean the specific exceptions in the Title Commitment that Seller has not removed pursuant to this Section and that Purchaser has not objected to or waived objection. Notwithstanding anything to the contrary in this Section 2(d), Seller does agree to discharge, at or prior to Closing, any liens encumbering the Property, including, without limitation, mortgage liens, security interests, tax liens, abstracts of judgment, environmental liens, and materialmen's and mechanic's liens (collectively, the "Liens").

Section 3. **Covenants.**

(a) **No Further Contracts or Conveyances.** Seller shall not enter into any lease or other contract or agreement, written or oral, which will be or purports to be binding upon Purchaser or the Property subsequent to the Effective Date. Further, Seller agrees that, between the Effective Date and the Closing Date, Seller will not sell, assign, convey, grant a security interest in, or otherwise encumber or dispose of, the Property or any part thereof in any manner that will survive Closing.

(b) **Other Covenants of Seller.**

(i) From and after the Effective Date, Seller shall not:

- (A) Perform any grading or excavation, construction or removal of any improvement or make any other change or improvement to the Property;
- (B) Impose any easements, covenants, conditions, or restrictions on the Property;
- (C) Institute or participate in any platting or replatting of the Property; or
- (D) Institute or participate in any annexation, zoning, dedication, or other governmental action regarding the Property.

(ii) From and after the Effective Date, Seller shall at Seller's sole cost and expense, comply with any and all laws, rules, regulations, ordinances, restrictive covenants, and similar matters applicable to the Property.

(c) **Further Assurances.** In addition to the obligations to be performed at the Closing, Seller and Purchaser each agrees that it will perform such other acts, and execute, acknowledge, and/or deliver such other instruments, documents, and other materials as the other may reasonably request, whether such request is before, at, or after the Closing, in order to achieve the intentions and objectives of this Agreement and effectuate the consummation of the conveyance of the Property to Purchaser as contemplated herein.

Section 4. **Seller's Representations.** Seller represents and warrants to Purchaser that the following statements are true on the Effective Date and will be true on the Closing Date:

(a) Legal Proceedings. There are no claims, litigation, condemnation, administrative action, or other legal proceedings involving or affecting any part of the Property pending to the best of Seller's knowledge.

(b) Organization and Authority. Seller has the full right, power, and authority to enter into and perform its obligations under this Agreement without the joinder or approval of any other person or entity. Seller is not prohibited from consummating the conveyance of the Property to Purchaser as contemplated in this Agreement by any law, regulation, agreement, instrument, restriction, order, or judgment. This Agreement has been, and all of the documents to be delivered by Seller at the Closing will be, authorized and executed and constitute or will constitute, as appropriate, the valid and binding obligation of Seller, enforceable in accordance with their terms.

(c) Liens. As of the Closing Date, no portion of the Property will be subject to any liens or special assessment constituting a lien thereon, and Seller has not received any notice of any such special assessment that would constitute a lien on the Property.

(d) Compliance with Laws. To the best of Seller's knowledge, the Property has been and is being operated in compliance with all laws and regulations of all governmental and regulatory authorities having jurisdiction.

(e) Notices from Governmental Authorities. Seller has not received from any governmental authority notice of any violation of any laws applicable to the Property that has not been corrected.

Seller and Purchaser expressly agree that the Property is sold on an "AS IS" basis only WITH ALL FAULTS OF ANY KIND, INCLUDING ENVIRONMENTAL (whether above, within, or under the Property). SELLER EXPRESSLY DISCLAIMS WARRANTIES, EXPRESS OR IMPLIED, AS TO THE FITNESS, ENVIRONMENTAL COMPLIANCE, AREA, CONDITION, QUALITY, QUANTITY, CHARACTER, SIZE, DESCRIPTION, MERCHANTABILITY, OR HABITABILITY OF THE PROPERTY OR OTHERWISE, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE WARRANTY DEED AND OTHER CLOSING DOCUMENTS TO BE DELIVERED HEREUNDER. PURCHASER WAIVES ALL WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE WARRANTY DEED AND OTHER CLOSING DOCUMENTS TO BE DELIVERED HEREUNDER.

Section 5. **Purchaser's Representations.** Purchaser represents that it is knowledgeable in real estate matters, specifically including property similar to the Property. Purchaser is not relying (and will not rely in the future) on any statements, facts, or representations, oral or written, except for those matters expressly set forth in this Agreement, the warranty deed and other closing documents to be delivered hereunder, or written materials to be provided by Seller to Purchaser under this Agreement.

Section 6. **Conditions To Closing.** Notwithstanding anything in this Agreement to the contrary, Purchaser shall not be obligated to consummate the purchase of the Property unless each of the following conditions is either fulfilled or waived by Purchaser, at Purchaser's sole election, in writing:

- (a) All representations and warranties made by Seller hereunder as of the Effective Date.
- (b) All covenants and obligations to be performed by Seller hereunder prior to the Closing Date shall have been satisfactorily performed in all material respects by the Closing Date.
- (c) No actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings shall be pending or threatened against Seller that would adversely affect Seller's ability to perform its obligations under this Agreement.

If any of the conditions above are not satisfied or waived in writing by Purchaser prior to the Closing Date, Purchaser may terminate this Agreement by giving written notice to Seller on or before the Closing Date, and this Agreement shall terminate, and the parties hereto shall have no further rights or obligations hereunder, except as expressly stated to survive the Closing.

Section 7. **Closing**

- (a) **Date of Closing.** The closing (the "Closing") shall take place at a time that is agreeable to both parties (the "Closing Date").
- (b) **Seller's Deliveries at Closing.** As of or prior to the Closing Date, Seller shall deliver to the title company a deed executed and acknowledged by Seller, conveying the Property to Purchaser free and clear of all claims except for the any permitted exceptions.

- (c) Purchaser's Deliveries at Closing. As of or prior to the Closing Date, Purchaser shall deliver to the title company Purchaser's check or wire transfer in the amount of the Purchase Price.
- (d) Prorations; Expenses. At Closing, all taxes and other assessments affecting the Property will be prorated as of the Closing Date, and Seller shall be responsible for all such expenses for the period prior to the Closing Date. Seller and Purchaser shall each pay one-half (1/2) of the fees of the title company.
- (e) Title Policy. At Closing, Seller shall deliver (or cause the title company to deliver) to Purchaser the Title Policy.
- (f) Possession. Seller shall deliver possession of the Property to Purchaser at the Closing.

Section 8. **Default and Remedies.**

- (a) Seller's Remedies. If Purchaser fails to consummate the purchase of the Property pursuant to this Agreement or otherwise defaults on its obligations hereunder at or prior to Closing for any reason except non-satisfaction of a condition set forth herein or failure by Seller to perform hereunder, and such default is not cured by five (5) business days after receipt of written notice thereof from Seller, Seller shall be entitled, as its sole remedy, to terminate this Agreement by delivering written notice to Purchaser.
- (b) Purchaser's Remedies. If Seller fails to consummate the sale of the Property pursuant to this Agreement or otherwise defaults on its obligations hereunder for any reason except failure by Purchaser to perform hereunder, and such default is not cured by ten (10) business days after receipt of written notice thereof from Purchaser, Purchaser's sole and only remedy is to terminate this Agreement by giving Seller written notice of such election.

Section 9. **Miscellaneous.**

- (a) Governing Law. The terms and provisions of this Agreement shall be interpreted in accordance with the laws of the State of Texas applicable to contracts made and to be performed in such State without reference to the choice of law principles of such State or any other State.
- (b) Notices. Any notice pursuant to this Agreement shall be given in writing by (i) personal delivery, (ii) nationally recognized overnight delivery service with proof of delivery, or (iii) United States Mail, postage prepaid,

registered or certified mail, return receipt requested, sent to the intended addressee at the address set forth below, or to such other address as the addressee shall have designated by written notice sent in accordance herewith, and shall be deemed to have been given either at the time of personal delivery, or, in the case of overnight delivery service or mail, as of date of first attempted delivery at the address and in the manner provided herein. Unless changed in accordance with the preceding sentence, the addresses for notice given pursuant to this Agreement shall be as follows:

If to Seller: Abe Daily, Jr.

If to Purchaser: Fort Bend County, Texas
Attn: County Judge
401 Jackson Street, 1st Floor
Richmond, Texas 77469 and

With a copy to: Fort Bend County, Commissioner Precinct 3
22333 Grand Corner Drive
Katy, Texas 77494

(c) Entire Agreement. This Agreement, together with its attached exhibits, contains the entire agreement between the Parties with respect to the subject matter hereof and any prior agreements, discussions or understandings, written or oral, are superseded by this Agreement and shall be of no force or effect. No addition or modification of any term or provision of this Agreement shall be effective unless set forth in writing and signed by each of the Parties.

(d) Headings. The section or subsection headings of this Agreement are for convenience only and in no way limit or enlarge the scope or meaning of the language thereof.

(e) Partial Invalidity. If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(f) No Waiver. Except as expressly provided in this Agreement, no waiver of any right under this Agreement shall be effective for any purpose unless it is in writing and is signed by the Party hereto possessing the right, nor shall any such waiver be construed to be a waiver of any subsequent right, term or provision of this Agreement.

(g) Counterparts; Further Assurances. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. Each Party agrees to perform all such acts (including but not limited to, executing and delivering instruments and documents) as reasonably may be necessary to comply with recording requirements or to otherwise fully effectuate each and all of the purposes and intent of this Agreement.

(h) Performance Date. Time is of the essence in the performance of all obligations by the Parties hereto under this Agreement. Time periods commencing with the Effective Date shall not include the Effective Date in the calculation thereof.

Executed this ____ day of _____, 201__.

PURCHASER:

FORT BEND COUNTY, TEXAS

By: _____
Robert E. Hebert
County Judge, Fort Bend County Texas

SELLER:

ABE DAILY, JR.

By: _____

Attachments:

Exhibit A - Description of Property

EXHIBIT A

TRACT C

A Field Note Description of 47.70 Acres of Land, more or less, being the West half of a Harold Irvin Daily, et al Tracts in the Noel F. Roberts League, Abstract 79, Fort Bend County, Texas.

For Connection Begin at the Southeast corner of the J.H. Williams, Jr., et al Tract and the Northeast corner of the Daily call 95.4 Acre Tract; said corner being in the West line of the Nettie S. Mayes call 50 Acre Tract recorded in Volume 274, Page 470 of the Deed Records of Fort Bend County, Texas and said corner being the Northeast corner of a 0.505 Acre Tract; THENCE, South 00deg.35'40" West, 25.03 feet to the Southeast corner of said 0.505 Acre Tract; THENCE, North 89deg.24'20" West, 648.36 feet to a Northeast corner of and PLACE OF BEGINNING for this 47.70 Acre Tract;

THENCE, South 3880.16 feet to the Southeast corner of this tract;

THENCE, Southwesterly along the Brazos River with the following courses and distances:

South 31deg.45'20" West, 22.67 feet to a point ;
South 32deg.27'10" West, 350.5 feet to a point;
South 47deg.57'50" West, 136.35 feet to a point;
South 36deg.13'30" West, 214.0 feet to the Southwest corner of this tract;

THENCE, North 01deg.48'40" West, 142.47 feet to an angle point;

THENCE, North 00deg.39'50" West, 487.62 feet to an angle point;

THENCE, North 00deg.32'40" West, 843.54 feet to an angle point ;

THENCE, North, 3807.44 feet to the Northwest corner of said 95.4 Acre Tract and the Southwest corner of the Harold I. Daily, et al 0.505 Acre Tract recorded in Volume 912, Page 668 of the Deed Records of Fort Bend County, Texas, for angle point;

THENCE, North 00deg.07'10" West, 440.71 feet to the Northwest corner of this tract; said corner being the Northwest corner of said 0.505 Acre Tract and in the South right-of-way line of Sanders Road;

THENCE, North 89deg.08'50" East, 50.0 feet along the South right-of-way line of Sanders Road to the Northerly Northeast corner of this tract; THENCE, South 00deg.07'10" East, 440.15 feet to the Southeast corner of said 0.505 Acre Tract; THENCE, North 88deg.30' East, 122.49 feet to corner; THENCE, South 02deg.38'40" East, 972.75 feet to corner; THENCE, South 89deg.24'20" East, 230.61 feet to the place of beginning and containing 47.70 Acres of Land, more or less.

TRACT F

A Field Note Description of 14.915 Acres of Land, more or less, being the East half of the call Harold Irvin Daily, et al call 29.83 Acre Tract (FOURTH: (1.)) recorded in Volume 419, Page 334 of the Deed Records of Fort Bend County, Texas, in the Noel F. Roberts League, Abstract 79, Fort Bend County, Texas.

SECOND SCHEDULE

HENRY STEINKAMP, INC.

Texas Licensed Surveying Firm No. 10005000
 Land Boundary & Topographic Surveying
 909 Fifth Street
 Rosenberg, Texas 77471
 Telephone/Fax 281.342.2241
 email: schodek@yahoo.com

EXHIBIT B

Franklin R. Schodek
 Registered Professional Land Surveyor

James L. Syptak, Sr.
 Registered Professional Land Surveyor

January 20, 2016

A Field Note Description of a 2.372 Acre Tract of Land, being the remainder of the Northwest corner of the Harold Daily 72.644 Acre Tract Two (FBC 2008040083), and being in the Noel F. Roberts League, Abstract No. 79, Fort Bend County, Texas.

Beginning at a 1/2 inch iron pipe found (in 2009) in the South right-of-way line of Sanders Road (Saunders Road) (50 feet wide at this point) marking the Northeast corner of the original call John Williams 35 Acre Tract (Volume 76, Page 525; Deed Records); said corner also marking the Northwest corner of the Riverbank Investments, Inc. call 52.71 Acre Tract (FBC 2006086205); said corner having a coordinate value of N=13800472.740, E=2932348.580; and the Northeast corner of said 5.75 Acre Tract;

THENCE, South 88deg.11'47" West, along the South line of said Sanders Road, 878.94 feet to a point marking the Northeast corner of and **place of beginning** for this tract;

THENCE, South 05deg.03'22" East, 1300.66 feet to a point for the Southeast corner of this tract;

THENCE, South 88deg.50'17" West, 75.17 feet to an iron rod marking the Southwest corner of this tract;

THENCE, North 05deg.03'22" West, 863.01 feet to an iron rod for angle point;

THENCE, South 86deg.12'27" West, 23.39 feet to a point for corner;

THENCE, North 02deg.24'41" West, 436.84 feet to a point for the Northwest corner of this tract;

THENCE, North 88deg.07'16" East, along the South line of said Sanders Road, 78.35 feet to the place of beginning and containing 2.372 Acres of Land.

Signed:



Registered Professional Land Surveyor No. 1535

NOTE: Not a field survey, based on available information and field survey by our Firm dated September 14, 2009 and updates.