

ON JUNE 24, 2024 **A CORRECTION WAS MADE** ON THIS RESOLUTION AND ORDER TO SHOW ON PAGE 2, ITEM NO. 3, KP GEORGE, COUNTY JUDGE IS AUTHORIZED TO ACCEPT THE DONATION DEED ATTACHED HERETO AS “ATTACHMENT 2” CONVEYING THE ABOVE-DESCRIBED PROPERTY AND TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY TO EFFECT THE ACQUISITION OF THE PROPERTY.

THE STATE OF TEXAS §
 §
 COUNTY OF FORT BEND §

**RESOLUTION AND ORDER AUTHORIZING ACCEPTANCE OF A DONATION OF
THE COLE THEATER FROM WILLIAM C. BUTLER**

On the 13th day of February, 2024, at a duly posted and called meeting of the Commissioners Court of Fort Bend County, Texas on motion of Commissioner McCoy, seconded by Commissioner Meyers, duly put and carried;

WHEREAS, WILLIAM C. BUTLER ("Owner"), an individual, is the owner of the Cole Theater located at 930 3rd St. Rosenberg, Fort Bend County, Texas 77471, which property is legally described as follows:

All of Lot Seventeen (17) and the south Ten Feet (10') of Lot Sixteen (16), Block Forty-Two (42), City of Rosenberg, Fort Bend County, Texas; said property being more particularly describe din Deed recorded under Clerk's File No. 2005072591 of the Official Public Records of Fort Bend County, Texas (the "Property"); and

WHEREAS, Owner desires to donate and convey the Property to the County; and

WHEREAS, Fort Bend County desires to accept said donation of the Property for the use and benefit of the County and the general public based upon the terms and conditions of the Donation Agreement attached hereto as "Attachment 1" and fully incorporated by reference herein (the "Donation Agreement"); and

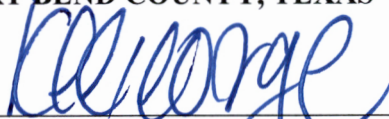
WHEREAS, pursuant to Section 81.032 of the Texas Local Government Code, the Fort Bend County Commissioners Court may accept donations and bequests of property for the purpose of performing a function conferred by law on the County and is the proper body to receive such donations on the County's behalf.

NOW THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF FORT BEND COUNTY, TEXAS the following:

1. Fort Bend County is authorized to accept the donation of the above-described Property based upon the terms and conditions of the Donation Agreement attached hereto as "Attachment 1."
2. Fort Bend County approves the Donation Agreement attached hereto.
3. KP George, County Judge, is authorized to accept the Donation Deed attached hereto as "Attachment 2" conveying the above-described Property and to execute any and all other documents necessary to effect the acquisition of the Property.
4. The Fort Bend County Clerk and/or her designees are hereby authorized to record said Donation Deed for the above-described Property in the Official Public Records of Fort Bend County, Texas at no cost.

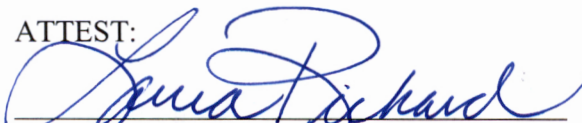
SIGNED and ENTERED this 13th day of February, 2024.

FORT BEND COUNTY, TEXAS



KP GEORGE,
COUNTY JUDGE

ATTEST:



LAURA RICHARD,
COUNTY CLERK



ATTACHMENT 1

(Donation Agreement Follows Behind)

§

2. **Title.** Within ten (10) days after the Effective Date of this Agreement, or as soon thereafter as completed by WFG National Title Company or other title company of County's choosing (the "Title Company"), County, at its sole cost and expense, shall cause the Title Company to issue an Owner's Title Policy Commitment or Title Report (the "Title Report"). County shall give Donor written notice on or before the expiration of ten (10) days after it receives the Title Report from the Title Company that the condition of title, as set forth in Schedule B of the Title Report is or is not satisfactory as to any encumbrance, condition, or defect not specifically mentioned in this Agreement; otherwise said condition shall be deemed to be acceptable and any objection thereto shall be deemed to have been waived for all purposes. In the event County states that the condition is not satisfactory, Donor may, if he so chooses promptly undertake to eliminate or modify all such unacceptable matters to the reasonable satisfaction of County. In the event Donor chooses not to do so within ten (10) days after receipt of written notice, at the election of County, this Agreement shall thereupon be null and void for all purposes or County may waive such objection, whereupon the parties agree to consummate the transaction provided for in this Agreement subject to all matters which affect the title thereto.
3. **Property Condition.** The Property shall be accepted in its present condition at the Closing Date subject to the terms of this Agreement.
4. **Survey.** County, at its sole cost and expense, may cause the Property to be surveyed within the Due Diligence Period (as defined below) of this Agreement. The survey shall comply with the requirements of the Texas Surveyors Association for Category 1A Surveys and contain such other information as County may reasonably request. The certificate of the surveyor shall, in the absence of fraud, gross negligence or bad faith, be binding upon the parties hereto and shall be used for purposes of (a) the property description to be included in the warranty deed to be delivered pursuant to this Agreement, and (b) any other provision of this Agreement or other documents relating to the transaction contemplated by this Agreement. The field notes, if any, prepared by the surveyor shall control any conflicts or inconsistencies with the property description in this Agreement, and such field notes shall be incorporated in this Agreement upon their completion and approval by County.
5. **Inspections.**
 - (a) At any time prior to ten (10) days before Closing, County may have the Property inspected by one or more engineers, surveyors, environmental specialists, or other inspectors selected by County. Donor shall permit reasonable access to the Property for inspection and surveying. All inspectors retained by County shall be fully insured and abide by any reasonable entry rules or requirements of Donor. The inspections shall not interfere with existing operations. County shall restore the Property to its original condition if altered due to inspections, studies, or assessments that County completes or causes to be completed.

- (b) Notwithstanding the foregoing, within ten (10) calendar days of the Effective Date of this Agreement, Donor shall obtain a quote and proposal for asbestos testing for the Property from a professional certified to conduct such testing. The quote and proposal shall include a detailed description of the manner of testing to be done and the areas of the Property to be tested. Donor shall provide this quote and proposal to County for review and approval. County, within ten (10) days of its receipt of the quote and proposal from Donor, shall make a determination as to the sufficiency of the asbestos testing to be done at the Property and shall either approve the manner of testing by evidence of a written notice to proceed or shall request additional testing to be done.
- 6. **County's Right of Termination/ Due Diligence Period.** Donor grants to County a due diligence period of One-Hundred Twenty (120) calendar days commencing upon the Effective Date of this Agreement (the "Due Diligence Period"). During the Due Diligence Period (or any extensions thereof as agreed to by the parties and/or provided below), County shall have the right and the option, at County's sole discretion, to terminate this Agreement by giving Donor written notice of County's desire to terminate this Agreement. The written notice shall be given in accordance with the notice provisions of this Agreement. Upon Donor's receipt of such notice, Donor shall immediately execute a Termination of Contract. Thereafter, neither party shall have any further obligations, claims, or liabilities against the other under this Agreement.
- 7. **Appraisal and Taxes.** In the event that Donor intends to treat this donation of the Property as a charitable donation for federal tax purposes, then Donor shall cause the Property to be appraised prior to Closing and shall submit such appraisal report to County. Within thirty (30) calendar days of the Closing Date, County shall sign IRS form 8283 for Noncash Charitable Contributions confirming the value of the donation, which shall be based on the appraised value provided in the appraisal report submitted to County by Donor. However, County makes no representation as to the extent or existence of Donor's right to claim a charitable contribution to the County. Donor will be solely responsible for compliance with the gift value substantiation requirements under the Internal Revenue Code.
- 8. **Donor's Representations and Warranties.** Donor hereby represents, warrants to, and covenants with County as of the Effective Date of this Agreement and as of the Closing Date that:
 - (a) Donor is the legal fee simple titleholder of the Property and any improvements thereon and has good, indefeasible and insurable title to the Property free and clear of all liens and encumbrances, except those exception of public record in Fort Bend County, Texas or as may be detailed in the Title Report;

- (b) There is no action, suit, proceeding, or claim affect the Property or any portion thereof or affecting Donor and relating to the ownership, operation, use of occupancy of the Property pending or being prosecuted in any court or by or before any federal, state, county, or municipal department, commission, board, bureau, or agency or other governmental entity or, to the knowledge of Donor, is any such action, suit, or proceeding or claim threatened or asserted;
- (c) To the best of Donor's knowledge, no attachments, executions, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or pursuant to any other debtor relief laws are contemplated or have been filed by or against Donor or the Property or are pending by or against Donor or the Property; and
- (d) To the best of Donor's knowledge, no portion of the Property contains any Hazardous Material (as hereafter defined), nor does any portion of the property violate any Hazardous Material Law (as hereinafter defined). The term "Hazardous Material" means and includes, without limitation, asbestos and any substance containing asbestos, the group of organic compounds known as polychlorinated biphenyls, flammable explosives, radioactive materials, chemicals known to cause cancer or reproductive toxicity, pollutants, effluents, contaminants, emissions or related materials and any items included in the definition of hazardous or toxic wastes, materials or substances under the Hazardous Material Laws. The term "Hazardous Material Laws" includes the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 6901, et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Section 9601-9657, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 6901 et seq., the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, et seq., the Clean Air Act, 42 U.S.C. 741, et seq., the Clean Water Act, 33 U.S.C. Section 7401, et seq., the Toxic Substances Control Act, 15 U.S.C. Section 2601-2629, the Safe Drinking Water Act, 42 U.S.C. Section 300f-300j, and all similar federal, state and local environmental statutes and ordinances now or hereafter in effect and the regulations, orders, and decrees now or hereafter promulgated thereunder.

9. **County's Representations and Warranties.** County hereby represents and warrants to and covenants with Donor as of the Effective Date of the Agreement and as of the Closing Date that:

- (a) County is a political subdivision of the state of Texas and has full authority to enter into this Agreement and consummate this transaction according to its terms and the same is fully binding on County.

- (b) County will furnish Donor and Title Company with evidence of its authority to consummate this transaction within five (5) calendar days of a written request.
10. **Closing.** Provided that all the conditions of this Agreement have been satisfied prior to or at the Closing Date, this transaction shall close at the Fort Bend County Precinct 4 Commissioner's Office located at 1517 Eugene Heimann Circle, Richmond, Texas 77469 (or other place mutually designated by the parties in writing) on or before the one hundred fiftieth (150th) calendar day from the Effective Date of this Agreement, or such date as may specified by County by not less than five (5) days advance written notice to Donor, whichever is earlier. Notwithstanding the foregoing, nothing in this Agreement shall be construed as limiting the parties' ability to extend any time-frame provided in this Agreement including the Closing Date.
- (a) Donor's Closing Matters: At the Closing, Donor shall do the following: execute, acknowledge, and deliver to County a Special Warranty Deed conveying to County good and indefeasible in fee simple absolute title to the Property, subject to all matters which affect the title to the Property and an assignment of leases without warranty if required by County. If necessary Donor will also issue, at the request of County, completion of an assignment of property information and utility rights. These include all documents, certificates and reliance letters as County may reasonably require in order to fully and completely transfer and assign to County all of Donor's right, title, and interest, in and to the Property Information, all documents and contracts related thereto, and any other permits, utility rights, and rights under utility agreements and similar rights necessary to transfer adequate utility capacity to the Property to serve or service County's intended use. Donor will also complete a Foreign Investment in Real Property Tax Act (FIRPTA) affidavit. If Donor fails to provide the necessary affidavit and/or documentation of exemption on the Closing Date, County may proceed with withholding provisions as provided by law. Donor shall also provide any additional documents that County or the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement.
- (b) County's Closing Matters. At the Closing, County shall do the following: prepare the Special Warranty Deed for Donor to execute, evidence acceptance of the Deed by executing the same, prepare the FIRPTA affidavit for Donor to execute, pay any closing costs as provided below in the form of a County check or wire transfer of funds, and provide such evidence of its authority as Donor and Title Company may request.
- (c) Closing Costs. County will pay the following Closing costs: all survey costs, recording fees for all documents including deeds and releases of liens (if any), all Title Report costs and related charges, all costs of inspection(s) as provided in Section 5 of this Agreement (including the cost of asbestos testing provided by Donor), and any other costs or fees agreed to be paid in writing by County. Donor

shall pay the following costs: any financial obligations owed directly to lienholders to ensure release of liens, recording fees for any releases, all ad valorem taxes owed for tax years 2023 and prior, prorated taxes for tax year 2024, and any other costs or fees agreed to be paid in writing by Donor. Each party shall be responsible for the payment of its own attorney's fees incurred in connection with this Agreement and all other expenses which each party incurs.

11. Proratable Items and Rollback Taxes.

- (a) Real property ad valorem taxes shall be prorated as of the Closing, based upon actual days involved. Donor shall be responsible for all ad valorem taxes for any period prior to the Closing. In connection with the proration of both real and personal property ad valorem taxes, if actual tax figures for the year of closing are not available at the Closing, an estimated, tentative proration of taxes shall be made using tax figures from the preceding year; however, when actual taxes for the year of Closing are available, a corrected proration of taxes shall be made. If such taxes for the year of Closing increase over those for the preceding year, Donor shall pay to County a pro rata portion of such increase, computed to the Closing, and conversely, if such taxes for the year of Closing decrease from those of the preceding year, County shall pay to Donor a pro rata portion of such decrease, computed to the Closing, any such payment to be made within ten (10) days after notification by either party that such adjustment is necessary. Donor shall, on or before the Closing, furnish to County and the Title Company all information necessary to compute the prorations provided for in this paragraph. Donor will be responsible for payment of any taxes applicable to the periods prior to Closing and such obligations shall survive Closing.
- (b) To the extent possible, the amount of any adjustment described in this section shall be estimated and paid at the Closing, based upon the best information available to County and Donor at the time, and shall be adjusted as soon thereafter as may be reasonably practicable when final billings are available or when such amounts may be determined with reasonable certainty.
- (c) If this sale or County's use of the Property after Closing results in assessment of additional taxes for periods prior to Closing, the additional taxes shall be the obligation of Donor. The obligations imposed by this section shall survive Closing.

12. Remedies.

- (a) County's Remedies. In the event that Donor fails or refuses to comply in a timely manner with its obligations hereunder or is unable to do so as the result of its willful act or failure to act or, in the event that at the Closing, any of Donor's representations, warranties or covenants contained herein are not true or have been breached, or not fully satisfied as herein required, the following options shall

be available to be exercised by or on behalf of County as its sole remedies at law or in equity:

- (1) to terminate this Agreement by giving Donor timely written notice of such election prior to or at the Closing, and thereupon this Agreement shall terminate and all parties hereto or mentioned herein shall be relieved and released of all further obligations, claims and liabilities hereunder; or
- (2) to waive any defects to the title of the Property and enforce specific performance.

(b) Donor's Remedies. If County wrongfully fails to perform County's obligations pursuant to this Agreement, Donor, not being in default hereunder, may terminate this Agreement by written notice to County and Title Company (if any).

13. **Notices.** Any and all notices, requests, demands, or replies (collectively, the "Notices") required or permitted under this Agreement must be in writing and given certified mail, return receipt requested, or personally delivered to the following addresses:

County: Fort Bend County, Texas
Attn: Commissioner Dexter L. McCoy
1517 Eugene Heimann Circle
Richmond, Texas 77469
Email: DexterLMcCoy@fortbendcountytexas.gov

With copy to: Fort Bend County Attorney's Office
Attn: Jennifer L. Fox, Assistant County Attorney
401 Jackson St., 3rd Floor
Richmond, Texas 77469
Email: Jennifer.Fox@fortbendcountytexas.gov

Donor: William C. Butler
P.O. Box 1106
Rosenberg, TX 77471
Email: Bill@butlerwaddell.com

With copy to: Matthew Maresh
P.O. Box 1106
Rosenberg, TX 77471
Email: Matthew@butlerwaddell.com

Any Notices sent by electronic mail (e-mail) will only be deemed delivered upon written reply of the recipient acknowledging its receipt of the email.

14. **Time.** Time is of the essence in all things pertaining to the performance of this Agreement.
15. **Obligations.** The representations and warranties herein contained shall survive Closing.
16. **Entire Agreement and Modification.** This Agreement constitutes the entire Agreement between the parties and supersedes all previous agreements, written or oral, pertaining to the subject matter of this Agreement. Unless specifically provided in this Agreement, any change to the terms of this Agreement shall be in writing and signed by each party. **IT IS ACKNOWLEDGED BY DONOR THAT NO OFFICER, AGENT EMPLOYEE, OR REPRESENTATIVE OF COUNTY HAS ANY AUTHORITY TO CHANGE THE TERMS OF THIS AGREEMENT OR ANY ATTACHED EXHIBITS THERETO UNLESS EXPRESSLY AUTHORIZED BY THE FORT BEND COUNTY COMMISSIONERS COURT.**
17. **Understanding Fair Construction.** By execution of this Agreement, the Parties acknowledge that they have read and understood each provision, term, and obligation contained herein. This Agreement, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting Party than the non-drafting Party.
18. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of Donor and County, and their respective heirs, personal representatives, successors and assigns. Except as expressly provided herein, nothing in this Agreement is intended to confer on any person, other than the parties hereto and their respective heirs, personal representatives, successors and assigns, any rights or remedies under or by reason of this Agreement.
19. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
20. **No Waiver of Immunity.** Neither the execution of this Agreement nor any other conduct of either party relating to this Agreement shall be considered a waiver or surrender by County of its governmental powers or immunity under the Texas Constitution or the laws of the state of Texas.
21. **Applicable Law and Venue.** This Agreement shall be construed according to the laws of the state of Texas. Venue for any claim arising out of or relating to the subject matter of this Agreement shall lie in a court of competent jurisdiction of Fort Bend County, Texas.

22. **Human Trafficking.** BY ACCEPTANCE OF THIS AGREEMENT, DONOR ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.
23. **Captions.** The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of the Agreement.
24. **Electronic and Digital Signatures.** The Parties to this Agreement agree that any electronic and/or digital signatures of the Parties included in this Agreement are intended to authenticate this writing and shall have the same force and effect as the use of manual signatures.
25. **Closing Date; Closing.** The closing date ("Closing Date" or "Closing") shall be the one-hundred fiftieth (150th) calendar day from the Effective Date of this Agreement or such other date as specified by the parties in writing as provided in Section 10 of this Agreement.
26. **Effective Date.** The effective date of this Agreement shall be the date that the Fort Bend County Commissioners Court executes this Agreement (the "Effective Date").

IN WITNESS WHEREOF, this Agreement may be executed in multiple counterparts (each of which is to be deemed an original for all purposes) by the parties hereto on the respective dates appearing opposite each party's signature.

{EXECUTION PAGES FOLLOW}

SIGNED AND ENTERED this 13th day of February, 2024.

FORT BEND COUNTY, TEXAS

KP George

KP GEORGE,
COUNTY JUDGE

ATTEST:

Laura Richard

LAURA RICHARD,
COUNTY CLERK



SIGNED AND ENTERED this 8th day of Jan, 2024

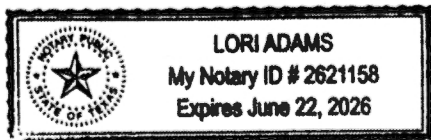
DONOR:

William C. Butler
WILLIAM C. BUTLER

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on the 8th day of January, 2024 by William C. Butler.



[Signature]
NOTARY PUBLIC IN AND FOR THE
STATE OF TEXAS

ATTACHMENT 2

(Special Warranty Donation Deed Follows Behind)

Project:
Cole Theater Donation

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DONATION DEED

Date: _____, 2023

Grantor: WILLIAM C. BUTLER

Grantor's Mailing Address:

P.O Box 1106
Rosenberg, TX 77471

Grantee: FORT BEND COUNTY, TEXAS,
a political subdivision of the State of Texas

Grantee's Mailing Address:

c/o County Judge
401 Jackson St.
Richmond, Texas 77469

Grantee's Authority: Fort Bend County, Texas, acting by and through the Fort Bend County Commissioners Court, is authorized under the Section 81.032 of the Texas Local Government Code to accept donations of property for the purpose of performing a function conferred by law on the County.

Consideration: Ten and No/100 Dollars (\$10.00) and other valuable consideration.

Property (including any improvements): All of Lot Seventeen (17) and the south Ten Feet (10') of Lot Sixteen (16), Block Forty-Two (42), City of Rosenberg, Fort Bend County, Texas; said property being more particularly described in Deed recorded under Clerk's File No. 2005072591 of the Official Public Records of Fort Bend County, Texas (the "Land").

TOGETHER WITH (a) the buildings, parking areas, improvements, and fixtures now situated on the Land (the "Improvements"); (b) all easements, hereditaments, and appurtenances belonging to or inuring to the benefit of Grantor and pertaining to the Land, if any; (c) any street or road abutting