

RESOLUTION NO. 07-174

**A RESOLUTION APPROVING THE RENEWAL, EXTENSION
AND MODIFIED AGREEMENT PERTAINING TO ABRAHAM
MANUFACTURING**

WHEREAS, on February 7, 2006, the City Council approved an incentive agreement between the EDC and Abraham Manufacturing as to provide a conditional grant of \$251,410 and a loan of \$299,610.76; and

WHEREAS, this project pertained to an expansion of the company's facility at 1520 Woodworth; and

WHEREAS, Abraham manufactures Church pews; and

WHEREAS, Abraham Manufacturing promised to employ 50 full time employees within 5 years, and 100 employees within 10 years; and

WHEREAS, the loan monies that EDC was to make to Abraham Manufacturing was also to be utilized to pay off the existing mortgages and grant PAEDC a priority Deed of Trust; and

WHEREAS, the actual note that was entered into was for \$289,915.40, and that the actual amount required by the PAEDC to become the senior lien holder was \$189,915.40;

WHEREAS, on January 20, 2007, there was an auto accident in the 2000 block of Hwy. 87 (Gulfway Drive) that caused several electrical transformers to be destroyed in the area; and

WHEREAS as a result of the auto accident, Abraham Manufacturing suffered several power outages and surges that damaged vital computerized equipment that had to be replaced or repaired; and

WHEREAS, due to the above events, at the March 7, 2007 the City of Port Arthur Section 4A Economic Development Board meeting, a motion was made and passed, granting Abraham Manufacturing's request to pay only the interest portion of his loan for three (3) months, starting in February 2007 and ending in April 2007; and

WHEREAS, in May 2007, Abraham Manufacturing will resume paying the full amount of his loan payment (principal and interest), and extending the term of the loan; and

WHEREAS, on March 20, 2007, the Council approved the First Amendment to the Economic Incentive Contract, as attached hereto as Exhibit "A"; and

WHEREAS, after March 20, 2007, Germer Gertz prepared the Renewal, Extension and Modification Agreement, attached hereto as Exhibit "B"; and

WHEREASA, the Board of Directors approved the Renewal, Extension and Modification Agreement on April 4, 2007; and

WHEREAS, the Renewal, Extension and Modification Agreement is being submitted to the City Council for approval.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ARTHUR:

Section 1. That the facts and opinions in the preamble are true and correct.

Section 2. That the Renewal, Extension and Modification Agreement is hereby approved in substantially the same form as attached hereto as Exhibit "B".

Section 3. That a copy of the caption of the Resolution be spread upon the Minutes of the City Council.

READ, ADOPTED AND APPROVED ON THE 10th day of April
A.D. 2007, at a Meeting of the City Council of the City of Port Arthur, Texas by the following vote:

AYES: Mayor Ortiz; Mayor Pro Tem Prince;

City Council: Lewis, Barker, Henderson, Beard, Williamson and Sinegal.

NOES: None.

Oscar Ortiz
OSCAR ORTIZ, MAYOR

ATTEST:
Evangeline Green
EVANGELINE GREEN, CITY SECRETARY

APPROVED:
Floyd Batiste
FLOYD BATISTE, EDC CEO

APPROVED AS TO FORM:
Mark Sokolow
MARK T. SOKOLOW, CITY ATTORNEY

EXHIBIT “A”

FIRST AMENDMENT
TO ECONOMIC INCENTIVE CONTRACT AND LOAN AGREEMENT
BETWEEN
THE CITY OF PORT ARTHUR ECONOMIC DEVELOPMENT CORPORATION
AND
ABRAHAM MFG., INC.

Section 5(a)(1): PAEDC shall loan Abraham the amount of \$289,915.40 to pay off existing liens on Abraham's property at 1520 Woodworth Blvd., Port Arthur, Texas, and provide \$100,000.00 in working capital according to the terms in the Amended Commercial Promissory Note contained in Amended Exhibit "A1" providing for interest to accrue at four percent (4%) per annum for the eight-seven (87) months of the loan term.

Section 7: Abraham's performance milestones are contained in the table beginning page five (5) of the Original Incentive Agreement and remain unchanged.

See attached Amended Exhibit "A1" Modified Commercial Promissory Note which provides a modification to the previously executed Commercial Promissory Note to provide for a loan extension of three (3) months and to provide for interest only payments on the first day of the months of February 2007, March 2007 and April 2007.

ATTORNEY APPROVALS

APPROVED AS TO FORM:

Guy Goodson
General Counsel for PAEDC

VERIFIED AS CONSISTANT
WITH CITY COUNCIL RESOLUTION:

Resolution Number: 07-126

Mark Sokolow
Mark T. Sokolow, City Attorney

AMENDMENT EXECUTION

CITY OF PORT ARTHUR SECTION 4A
ECONOMIC DEVELOPMENT CORPORATION

SIGNED AND AGREED TO on the ____ day of _____, 2007.

President, Richard Wycoff

Secretary, Keith Daws, Sr.

Witness

Witness

ABRAHAM MFG., INC.

SIGNED AND AGREED TO on the ____ day of _____, 2007.

ABRAHAM MFG, INC., a Texas Corp.

Signature

Print

Position

Witness

AMENDED EXHIBIT "A1"
MODIFIED COMMERCIAL PROMISSORY NOTE

Port Arthur, Texas

Effective Date: the 28th day of March, 2006.

Principal Amount: TWO HUNDRED EIGHTY-NINE THOUSAND NINE HUNDRED FIFTEEN AND 40/100 DOLLARS (\$289,915.40).

Term of the Loan: The term of the loan shall be eight-seven (87) months from effective date set forth above.

Payment Schedule: Beginning on the 1st day of October, 2006, and continuing regularly and monthly thereafter through January 31, 2007, monthly payments of principal and accrued interest shall be paid to Lender. Payments due and owing on February 1, 2007, March 1, 2007 and April 1, 2007, Maker shall pay to Lender interest only payments at the four percent (4%) per annum rate specified herein. Beginning May 1, 2007, through January 1, 2014, monthly payments of principal and accrued interest shall be paid in full.

FOR VALUE RECEIVED, the undersigned "Maker", promises to pay to Lender, at its office at P.O. Box 1089, Port Arthur, Texas, 77640-1089, or such other place or places as the holder hereof shall from time to time designate in written notice to Maker, the principal amount, in legal and lawful money of the United States of America, together with interest thereon from the date hereof until maturity at the rate of four percent (4%) per annum as detailed herein.

All past due principal and interest shall bear interest from date of maturity until paid at the rate of fifteen percent (15%) per annum, or to the maximum extent allowed by law (whichever is less) as may hereafter be in effect, payable on demand after maturity.

This note is due and payable in eighty-seven (87) monthly installments consisting of principal and accrued interest due and payable on the first date of each and every month beginning October 1, 2006 through January 31, 2007, interest only payments on the first day of each month from February 1, 2007, through April 1, 2007, and installments of principal and accrued interest due and payable on May 1, 2007, through January 1, 2014.

Any notices required or permitted to be given by the holder hereof to Maker pursuant to the provisions of this note shall be in writing and shall be either personally delivered or transmitted by first class United States mail, addressed to Maker at the address designated below for receipt of notice (or at such other address as Maker may, from time to time, designate in writing to the holder hereof for receipt of notices hereunder). Any such notice personally delivered shall be effective as of the date of delivery, and any notice transmitted by mail, in accordance with the foregoing provisions, shall be deemed to have been given to and received by Maker as of the date on which such notice was deposited with the United States Postal Service, properly addressed and with postage prepaid.

This note is also secured by and entitled to the benefits of all other security agreements, pledges, collateral assignments, deeds of trust, guaranties, mortgages, assignments, and lien instruments, if any, of any kind executed by Maker or by any other party as security for any loans owing by Maker to the Lender. Such lien instruments shall include those executed simultaneously herewith, those heretofore executed, and those hereafter executed.

If any installment or payment of principal or interest of this note is not paid when due or any drawer, acceptor, endorser, guarantor, surety, accommodation party or other person now or hereafter primarily or secondarily liable upon or for payment of all or any part of this note (each hereinafter called an "other liable party") shall die, or become insolvent (however such insolvency may be evidenced); or if any proceeding, procedure or remedy supplementary to or in enforcement of judgment shall be resorted to or commenced against Maker or any other liable party, or with respect to any property of any of them; or if any governmental authority or any court at the instance thereof shall take possession of any substantial part of the property of or assume control over the affairs or operations of, or a receiver shall be appointed for or take possession of the property of, or a writ or order of attachment or garnishment shall be issued or made against any of the property of Maker or any other liable party; or if any indebtedness for which Maker or any other liable party is primarily or secondarily liable shall not be paid when due or shall become due and payable by acceleration of maturity thereof, or if any event or condition shall occur which shall permit the holder of any such indebtedness to declare it due and payable upon the lapse of time, giving of notice or otherwise; or if Maker or any other liable party (if other than a natural person) shall be dissolved, wound up, liquidated or otherwise terminated, or a party to any merger or consolidation without the written consent of Lender; or if Maker or any other liable party shall sell substantially all or an integral portion of its assets without the written consent of Lender; or if Maker or any other liable party fails to furnish financial information requested by Lender; or if Maker or any other liable party furnishes or has furnished any financial or other information or statements which are misleading in any respect; or if a default occurs under any instrument now or hereafter executed in connection with or as security for this note; or any event occurs or condition exists which causes Lender to in good faith deem itself insecure or in good faith believe the prospect of payment or performance by Maker or any other liable party under this note, under any instrument or agreement executed in connection with or as security for this note, or under any other indebtedness of Maker or any other liable party to Lender is impaired; thereupon, at the option of Lender, the principal balance and accrued interest of this note and any and all other indebtedness of Maker to Lender shall become and be due and payable forthwith without demand, notice of default, notice of acceleration, notice of intent to accelerate the maturity hereof, notice of nonpayment, presentment, protest or notice of dishonor, all of which are hereby expressly waived by Maker and each other liable party. Lender may waive any default without waiving any prior or subsequent default.

If this note is not paid at maturity whether by acceleration or otherwise, and is placed in the hands of any attorney for collection, or suit is filed hereon, or proceedings are had in probate, bankruptcy, receivership, reorganization, arrangement or other legal proceedings for collection hereof, Maker and each other liable party agree to pay Lender its collection costs, including court costs and a reasonable amount for attorney's fees.

It is the intention of Maker and Lender to conform strictly to applicable usury laws. Accordingly, if the transaction contemplated hereby would be usurious under applicable law, then, in that event, notwithstanding anything to the contrary herein or in any agreement entered into in connection with or as security for this note, it is agreed as follows: (i) the aggregate of all consideration which constitutes interest under applicable law that is taken, reserved, contracted for, charged or received under this note or under any of the other aforesaid agreements or otherwise in connection with this note shall under no circumstances exceed the maximum amount of interest allowed by applicable law, and any excess shall be credited on this note by the holder hereof (or, if this note shall have been paid in full, refunded to Maker); (ii) in the event that maturity of this note is accelerated by reason of an election by the holder hereof resulting from any default hereunder or otherwise, or in the event of any required or permitted prepayment, then such consideration that constitutes interest may never include more than the maximum amount allowed by applicable law, and excess interest, if any, provided for in this note or otherwise shall be canceled automatically as of the date of such acceleration or prepayment and, if theretofore prepaid, shall be credited on this note (or if this note shall have been paid in full, refunded to Maker); and (iii) all calculations of the rate of interest taken, reserved, contracted for, charged or

received under this note or under any of the other aforesaid agreements or otherwise in connection with this note, that are made for the purpose of determining whether such rate exceeds the maximum lawful rate shall be made, to the extent permitted by applicable law, by amortizing, prorating, allocating, and spreading such interest over the entire term of the loan evidenced by this note(including all renewal and extended terms).

Maker may prepay all or any part of the principal of this note before maturity without penalty. No partial prepayment shall reduce, postpone or delay the obligation of Maker to continue paying the installments herein provided on their respective due dates following any such partial prepayment until this note is fully paid.

The Maker shall be directly and primarily liable for the payment of all sums called for hereunder; and, except for notices specifically required to be given by the holder hereof to Maker pursuant to the earlier provisions of this note, Maker and each other liable party hereby expressly waive demand, presentment for payment, notice of nonpayment, protest, notice of protest, notice of intention to accelerate maturity, notice of acceleration of maturity, and all other notice, filing of suit and diligence in collecting this note or enforcing or handling any of the security therefor, and do hereby agree to any substitution, exchange or release, in whole or in part, of any security herefor or the release of any other liable party, and do hereby consent to any and all renewals or extensions from time to time, of this note, or any part hereof, either before or after maturity, all without any notice thereof to any of them and without affecting or releasing the liability of any of them. Each holder hereof, in order to enforce payment of this note by any other liable party, shall be required to first institute suit or exhaust its remedies against Maker and to enforce its rights against any security therefor prior to enforcing payment of this Note by any other liable party.

SIGNED AND AGREED TO on the ____ day of _____, 2007.

<p>ABRAHAM MFG., INC., a Texas corporation</p> <p>By: _____ Signature</p> <p>Its: _____ Position</p>	
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THE STATE OF TEXAS
COUNTY OF JEFFERSON

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ACKNOWLEDGEMENT

BEFORE ME, THE UNDERSIGNED Notary Public, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same as the act and deed of ABRAHAM MANUFACTURING, INC., a Texas corporation, for the purposes and consideration therein expressed, and the Capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the ____ day of _____, 2007.

NOTARY PUBLIC, STATE OF TEXAS

MAKERS' ADDRESS FOR RECEIPT OF NOTICE:

	ABRAHAM MFG., INC., a Texas corporation 1520 Woodworth Blvd. Port Arthur, Texas 77640 ATTN: Janice Richard
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EXHIBIT “B”

RENEWAL, EXTENSION AND MODIFICATION AGREEMENT

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF JEFFERSON §

That ABRAHAM MFG., INC. (herein called "Borrower"), being legally obligated to pay the remaining principal balance set forth in that certain Note (the "Indebtedness" and/or "Note") dated April 19, 2006, in the original principal sum of TWO HUNDRED EIGHTY-NINE THOUSAND NINE HUNDRED FIFTEEN AND 40/100 DOLLARS (\$289,915.40), being interest at the rate therein specified and payable as therein provided to the order of PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION, an economic development corporation ("Lender"), said Indebtedness being secured by a Deed of Trust (the "Deed of Trust") of even date therewith and filed for record under County Clerk's File No. 2006016040 in the Real Property Records of Jefferson County, Texas, reference being made to the Deed of Trust and the record thereof for all purposes, creating liens upon and against certain real property located in Jefferson County, Texas, hereinafter described, together with liens upon the improvements and fixtures therein described, said property being described as follows:

See Exhibit "A", attached hereto and made a part hereof by this reference;

WHEREAS, Borrower now desires to modify, renew and extend the time of payment of the indebtedness and to renew, extend and carry forward said liens on said property and all existing security interests securing payment of the Indebtedness; and

WHEREAS, Lender, the legal owner and holder of the Indebtedness and the liens securing same, in consideration of the premises and at the request of Borrower, has agreed to modify, renew and extend the time of payment of the Indebtedness as hereinafter provided;

NOW, THEREFORE, in consideration of the modification, renewal and extension by Lender of the time of payment of the Indebtedness as hereinafter set forth, the Borrower hereby modifies, renews and extends the Indebtedness, and promises to pay to the order of Lender, at 4173 39th Street, Port Arthur, Texas 77642, or such other place as Lender may designate in writing, the principal balance of the Note together with the interest thereon from the date hereof until maturity at the rate of 4.0% per annum.

All past due principal and interest shall bear interest from date of maturity until paid at the rate of fifteen percent (15%) per annum, or to the maximum extent allowed by law (whichever is less) as may hereafter be in effect, payable on demand after maturity.

Beginning on the 1st day of October, 2006, and continuing regularly and monthly thereafter through January 31, 2007, monthly payments of principal and accrued interest shall be

paid to Lender. Payments due and owing on February 1, 2007, March 1, 2007 and April 1, 2007, Maker shall pay to Lender interest only payments at the four percent (4%) per annum rate specified herein. Beginning May 1, 2007, through January 1, 2014, monthly payments of principal and accrued interest shall be paid in full.

Except as provided in the instruments securing the Indebtedness, as renewed, extended and/or modified by this Agreement (hereinafter collectively referred to as the "Security Documents"), in the event of default in the payment of any part of the principal amount or interest on the Indebtedness as and when due, or in the event of default in the performance of any covenant, condition or agreement contained in any of the condition or agreement contained in any of the Security Documents, then Lender shall have the unconditional right, without presentment, demand, notice, notice of intent to accelerate, notice of acceleration or other action, to declare the unpaid balance of the principal amount of the Indebtedness, together with accrued and unpaid interest thereon, at once due and payable and to foreclose each lien securing the payment thereof, either under any power of sale contained in such documents or agreement or by court proceedings, as such holder may elect.

Default (a) under any other written agreement between Borrower and Lender, or (b) with respect to any indebtedness of Borrower to Lender when due, or (c) in the performance of any other obligation incurred in connection with any indebtedness for money borrowed by Borrower, if the effect of such default is to accelerate the maturity of such indebtedness or to permit the holder thereof to cause such indebtedness to become due before the stated maturity, or (d) in the payment upon maturity of any other obligation incurred in connection with any indebtedness for any money borrowed by Borrower, constitutes a default under this Agreement and under the Indebtedness, as renewed, extended, and modified.

Notwithstanding anything contained herein or in any other separate security agreement or other document executed heretofore, herewith or hereafter in connection with or related to this credit obligation (as defined or described in 12 C.F.R. 227, Regulation AA, promulgated by the Federal Reserve Board), the security for this credit obligation shall not extend to any non-possessory security interest in household goods (as defined in said Regulation AA) other than a purchase money security interest, and no waiver of any notice contained herein or therein shall be construed under any circumstances to extend to any waiver of notice prohibited by Regulation AA.

In no event shall the Security Documents secure payment of any debt that applicable law would prohibit.

All agreements and transactions between holder of the Indebtedness and Borrower, whether now existing or hereafter arising, whether contained herein or in any other instrument, and whether written or oral, are hereby expressly limited so that in no contingency or event whatsoever, whether by reason of acceleration of the maturity of the Indebtedness, prepayment, demand for payment or otherwise, shall the amount contracted for, charged or received by holder herewith from Borrower for the use, forbearance, or detention of the principal amount of interest thereon, which remains unpaid from time to time, exceed the

maximum amount permissible under applicable law, it particularly being the intention of the parties hereto to conform strictly to the laws of the State of Texas and of the United States of America, whichever is applicable. Any interest payable under the Indebtedness or under any other instrument relating to the loan evidenced hereby that is in excess of the legal maximum under applicable law shall, in the event of acceleration of maturity, prepayment, demand for payment or otherwise, be automatically, as of the date of such acceleration, prepayment, demand or otherwise, applied to a reduction of the principal amount and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of the principal amount, such excess shall be refunded to Borrower. To the extent permitted by applicable law, determination of the legal maximum amount of interest shall at all times be made by amortizing, prorating, allocating and spreading in equal parts during the period of the full stated term of the loan, all interest at any time contracted for, charged or received from Borrower in connection with the loan, so that the actual rate of interest on account of such indebtedness is uniform throughout the term thereof.

The Borrower hereby modifies, renews and extends all liens on all collateral security the repayment of the Indebtedness and the Indebtedness until the indebtedness as so modified, renewed and extended has been fully paid and agree that such modification, extension or rearrangement shall in no manner affect or impair the Indebtedness or the lien or liens securing the same and that lien or liens shall not in any manner be waived. The Borrower hereby acknowledges the validity and continuation of the liens in the Security Documents and any security agreements as security for the payment of the Indebtedness as herein modified and rearranged.

It is the intention of the parties that this modification, renewal and extension of the Indebtedness should in its entirety conform to the Indebtedness together with the changes as set forth herein. The purpose of this instrument is simply to modify, renew and extend the time of payment of the Indebtedness and to carry forward all liens securing the same, which are acknowledged by Borrower to be valid and subsisting, and the Borrower further agrees that all terms and provisions of the Indebtedness and of the instrument or instruments creating or fixing the lien or liens securing the same shall be and remain in full force and effect as therein written, except as otherwise expressly provided herein.

PURSUANT TO THE PRECEDING PARAGRAPH EXCEPT AS SPECIFIED IN THIS AGREEMENT, ALL DUTIES, OBLIGATIONS, COVENANTS, CONDITIONS AND AGREEMENTS SET FORTH IN THAT CERTAIN ECONOMIC INCENTIVE CONTRACT AND LOAN AGREEMENT BETWEEN THE PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION AND ABRAHAM MFG., INC. ARE RATIFIED AND AFFIRMED.

THE AGREEMENT FOR THIS LOAN OR OTHER EXTENSION OF CREDIT DESCRIBED ABOVE REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES, AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

The term "Agreement for this Loan" as used above includes this Modification, Renewal and Extension Agreement, the Note and the Deed of Trust, together with all other written promises, agreements, undertakings, commitments or other documents or any combination of those actions or documents that Borrower may have signed or received with respect to the loan from Lender evidenced by the Note; but the term "Agreement for this Loan" expressly excludes any promise, promissory note, agreement, undertaking, document or commitment relating to (a) a credit card or charge card; or (b) an open-end account (as defined in Vernon's Texas Codes Annotated, Finance Code §301.001, 301.002 and 301.003) intended or used primarily for personal, family household use.

EXECUTED effective as of March ___, 2007.

BORROWER:

ABRAHAM MFG., INC.

By: _____
Its: _____

LENDER:

**PORT ARTHUR SECTION 4A ECONOMIC
DEVELOPMENT CORPORATION**

By: _____
President

ATTEST:

Secretary

STATE OF TEXAS §
 §
COUNTY OF JEFFERSON §

On this _____ day of March, 2007, before me, a Notary Public in and for said County and State, personally appeared _____, President of the PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION, who acknowledged that, with due authorization, he did sign the foregoing instrument on behalf of the PAEDC and that the same is his free act and deed individually as such officer and the free act and deed of the PAEDC.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF JEFFERSON §

On this _____ day of March, 2007, before me, a Notary Public in and for said County and State, personally appeared _____, Secretary of the PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION, who acknowledged that, with due authorization, she did sign the foregoing instrument on behalf of the PAEDC and that the same is her free act and deed individually as such officer and the free act and deed of the PAEDC.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF _____ §

On this _____ day of March, 2007, before me, a Notary Public in and for said County and State, personally appeared _____, _____ of _____, who acknowledged that, with due authorization, he did sign the foregoing instrument on behalf of _____ and that the same is his free act and deed individually as such officer and the free act and deed of _____.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

Notary Public, State of Texas

Exhibit "A"

Legal Property Description

Lots Numbered One through Eighteen, inclusive (1 thru 18, inc.) in Block Number Twenty-eight (28) of BEACHWAY ADDITION SECOND UNIT, to the City of Port Arthur, Jefferson County, Texas, as the same appears upon the map or plat thereof, on file and of record in Vol. 5 page 31 Map Records of Jefferson County, Texas.