

A RESOLUTION AS IT PERTAINS TO THE SALE OF  
APPROXIMATELY 40,000 SQUARE FEET OF LAND TO  
ABLE FASTENER, INC. BY THE CITY OF PORT  
ARTHUR SECTION 4A ECONOMIC DEVELOPMENT  
CORPORATION FOR \$110,000

WHEREAS, the City of Port Arthur Section 4A Economic  
Development Corporation desires to sell 40,000 square feet of land  
to Able Fastener, Inc. for \$110,000, as described in substantially  
the same form as attached hereto as Exhibit "A".

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 City Council approves the purchase  
agreement in substantially the same form as attached, with  
Exhibit "A" being a 40,000 square foot tract to be described by  
Arceneaux & Gates adjacent to a 60 foot in width street and the  
property being platted. The General Warranty Deed will be in a  
form to be approved by the City Attorney and by Guy Goodson.

Section 3. That a copy of the caption of this Resolution  
be spread upon the Minutes of the Corporation.

READ, ADOPTED AND APPROVED on this 20<sup>th</sup> day of  
August, A.D., 2008, at a Meeting of the City Council of  
the City of Port Arthur, by the following vote: AYES:

Mayor Prince; Mayor Pro Tem Chatman;  
Council members Segler, Ford, Beard, Wise  
& Henderson

NOES: None

Deloris Prince  
Mayor

ATTEST:

Terrí Hanks  
TERRI HANKS, ACTING CITY SECRETARY

APPROVED AS TO FORM:

Mark Sokol  
CITY ATTORNEY

**EXHIBIT "A"**

**TO THE RESOLUTION**

**SIMULTANEOUS CLOSING ADDENDUM  
TO  
PURCHASE AGREEMENT  
(Buyer does not own the Property)**

This is an Addendum (the "Addendum") to the Purchase Agreement (the "Purchase Agreement") including all attachments thereto between Salvation Army, a Georgia Corporation ("Seller") and City of Port Arthur Section 4A Economic Development Corporation ("Buyer") regarding that certain 7.291 acre tract of unimproved property located along the east access road of State Highway 73 and south of 9<sup>th</sup> Avenue, Port Arthur, Texas more fully described on **Exhibit "A"** to the Purchase Agreement (the "Property").

**RECITALS:**

A. Buyer is under contract with Seller to acquire the Property and to close in accordance with the Purchase Agreement.

B. Able Fastener, Inc., a Texas corporation ("Able") has previously negotiated with Seller to acquire a 40,000 square foot tract within the Property (the "Able Tract") and now wishes to acquire the Able Tract following the purchase by Buyer of the Property from Seller.

**NOW, THEREFORE, IN CONSIDERATION** of the Recitals set forth above which are fully incorporated in this Addendum as if fully set forth below and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties to this Addendum agree as follows:

**ARTICLE 1. ADDITIONAL DISCLOSURES BY BUYER**

1.1 Ownership of Property. Buyer has advised Able that Buyer does not own the Property. Although Buyer does not own the Property, Buyer represents that it has entered into the Purchase Agreement to purchase the Property from Seller. Buyer agrees to provide Able a copy of the Purchase Agreement and any attachments, addendums, amendments or modifications thereto.

1.2 Delivery of Additional Disclosure Documents. Not later than the deadlines referred to in the Purchase Agreement, Buyer shall provide to Able the following additional "Seller Disclosures":

- a) a copy of documents that have been previously provided to Buyer as "Seller Disclosures" under Article 2 of the Purchase Agreement;
- b) a copy of any current survey or any survey undertaken by Buyer;
- c) a copy of any title commitment heretofore or hereafter received by Buyer from the Escrow Holder identified in the Purchase Agreement;

- d) Copies of any inspection reports, geophysical or other studies regarding the Property that are in the possession of Buyer; and
- e) Copies of all correspondence between Buyer and Seller related to the Property.

## **ARTICLE 2. TERMS OF PURCHASE BY BUYER AND ABLE**

2.1 Able Tract. Buyer will be conveyed by General Warranty Deed the Able Tract consisting of 40,000 square feet simultaneously with the Closing of the purchase of the Property by Buyer from Seller.

2.2 Purchase Price. The purchase price of the Able Tract shall be One Hundred Ten Thousand and 00/100 Dollars (\$110,000.00) (the "Purchase Price"). The Purchase Price, less all other amounts to be credited toward the Purchase Price, shall be payable to Buyer in cash, by certified or bank cashier's checks or by wire transfer, in full upon Closing as specified in the Purchase Agreement.

2.3 Deposit. Within five (5) days of the execution of this Addendum, Able shall deposit with Port Arthur Abstract & Title Co., 2950 Turtle Creek Drive, Port Arthur, Texas 77642, (409) 727-8871 (the "Escrow Holder") cash deposit which shall be deposited into an interest-bearing account, in the amount of Five Thousand and 00/100 Dollars (\$5,000.00) (the "Deposit"). The Deposit, including interest, shall be applied as a credit against the Purchase Price at the Closing of the escrow.

2.4 Right of Able to Assign Purchase Agreement. Able shall have the right to assign its rights under this Addendum to a third party with the prior approval of Buyer. Buyer shall be required to obtain the approval of the City of Port Arthur, Texas prior to any such sale or transaction, and Able may be required to present financial and credit information concerning a new buyer to either Buyer or the City of Port Arthur, Texas.

2.5 Road. Buyer has acknowledged to Able that Buyer shall construct roads within publicly dedicated right-of-way in and along the Property running from its northeast corner at the intersection of the access road of State Highway 73 in a southeasterly direction along the northeast line of the Able Tract and south to a point at and beyond the southeast corner of the Able Tract for ingress and egress to the Property which roadway shall be constructed to the standards required by the City of Port Arthur, Texas, shall accommodate truck and other commercial traffic and shall be of such width as necessary for two lane commercial traffic.

2.6 Incorporation of Purchase Agreement. Except as specified in this Addendum, all terms and conditions of the Purchase Agreement are incorporated in this Addendum as if fully set forth herein with City of Port Arthur Section 4A Economic Development Corporation denominated as the "Seller" and Able Fastner, Inc. denominated as the "Buyer" as to the Able Tract for all agreements, covenants, conditions and performance specified in the Purchase Agreement.

### **ARTICLE 3. SETTLEMENT DEADLINE**

Not later than three (3) days after Buyer receives from Seller written notice to close the transaction with Seller ("Notice to Close"), Buyer shall provide to Able a copy of the Notice to Close. Except as provided herein, Able agrees that the Settlement Deadline shall be the later of the following dates: (a) the Closing Date specified in the Notice to Close; or (b) fifteen (15) days after Able's receipt of the Notice to Close. In the event the Closing between Seller and Buyer is extended based on mutual written agreement of Seller and Buyer, the closing between Buyer and Able shall concurrently be extended to correspond with such extensions as agreed upon between Seller and Buyer.

### **ARTICLE 4. REPRESENTATIONS & WARRANTIES**

4.1 Purchase Subject to Acquiring the Property. Able acknowledges that Buyer's obligations under this Addendum are conditioned upon Buyer and Seller completing the purchase and sale of the Property as required under the terms of the Purchase Agreement. Able acknowledges and agrees that Buyer makes no representations or warranties regarding the willingness or ability of the Seller to meet the Seller's obligations under the Purchase Agreement. The failure of the Seller to perform under the Purchase Agreement shall not give Able any rights against Buyer for breach of contract, damages, or any other legal or equitable claims. Able's sole remedy for the Seller's failure to perform shall be to receive a refund of the Earnest Money Deposit.

4.2 Title to the Property. Subject to the terms of Section 4.1 above, Buyer agrees to convey good and marketable title to Able at Closing by General Warranty Deed. Able agrees to be responsible for: (a) any transfer fees due as a result of completion of this transaction; (b) property taxes and assessment dues levied against the Property from and after the date of Closing as to the Able Tract; (c) any utility and other services provided to the Property from and after the date of Closing; and (d) any brokerage fees not paid under the Purchase Agreement.

4.3 No Warranties Regarding Physical Condition of Property. Able acknowledges and agrees that Buyer makes no representations or warranties of any kind or nature regarding the physical condition of the Property. To the extent any warranties available to Buyer under the terms of the Purchase Agreement with Seller are assignable, Buyer agrees to assign such warranties to Able at Closing.

### **ARTICLE 5. NON-ASSIGNABILITY**

This Addendum to the Purchase Agreement may not be assigned by Able without the prior written consent of Buyer, which consent Buyer may withhold in Buyer's sole discretion.

### **ARTICLE 6. CHANGES DURING TRANSACTION**

6.1 No Changes Prior to Evaluations & Inspections Deadline. Buyer agrees that through the inspection periods provided in Article 2.4 of the Purchase Agreement, no changes to the Purchase Agreement shall be made without the prior written consent of Able.

6.2 Changes After Evaluations & Inspections Deadline. After the inspection period provided in Article 2.4 of the Purchase Agreement any changes to the Purchase Agreement shall require the mutual consent of Buyer and Able. Able shall have all communications related to the Property directed through Buyer.

#### **ARTICLE 7. AGREEMENT TO PAY BROKERAGE FEES**

Buyer and Able agree that any and all Brokerage Fees payable relative to the purchase of the Property by Buyer from Seller due and payable to Jeff Hayes shall be paid for by Seller and Buyer pursuant to the Purchase Agreement and shall not be for the account of Able, Jeff Hayes agrees to waive any claim or right for brokerage commissions or finder's fee in connection with the sale by Buyer to Able specified in this Addendum.

**TO THE EXTENT** any terms of this Addendum modify or conflict with any provisions of the Purchase Agreement, these terms shall control.

**City of Port Arthur Section 4A Economic Development Corporation**

By: \_\_\_\_\_  
President

Date: \_\_\_\_\_, 2008

By: \_\_\_\_\_  
Secretary

Date: \_\_\_\_\_, 2008

**Able Fastener, Inc.**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_, 2008

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_, 2008



# EXHIBIT "A"

**Mark Sokolow**

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**From:** "Ron Arceneaux" <[REDACTED]>  
**To:** "Mark Sokolow" <mark@portarthur.net>  
**Cc:** "Guy Goodson" <GGoodson@germer.com>; "Floyd Batiste" <fbatiste@paedc.org>  
**Sent:** Tuesday, August 26, 2008 3:04 PM  
**Attach:** OPTION 1 revd082608.pdf  
**Subject:** PAEDC Business PArk - Hwy 73

Mark,

Attached is a drawing revised to indicated the changes we discussed this morning. The street ROW is now at 60 ft. I spoke to Colleen again and we will prepare a replat of this tract to indicate the road ROWs and at least the 40,000 sqft lot. The rest of the tract may remain as an unplatted reserve and subsequently replatted as the EDC sells custom sized tracts within the development. I don't have Colleen's email address, so please forward this to her.

***ron arceneaux, pe, pls***

arceneaux & gates inc.

3501 turtle creek drive

suite 102

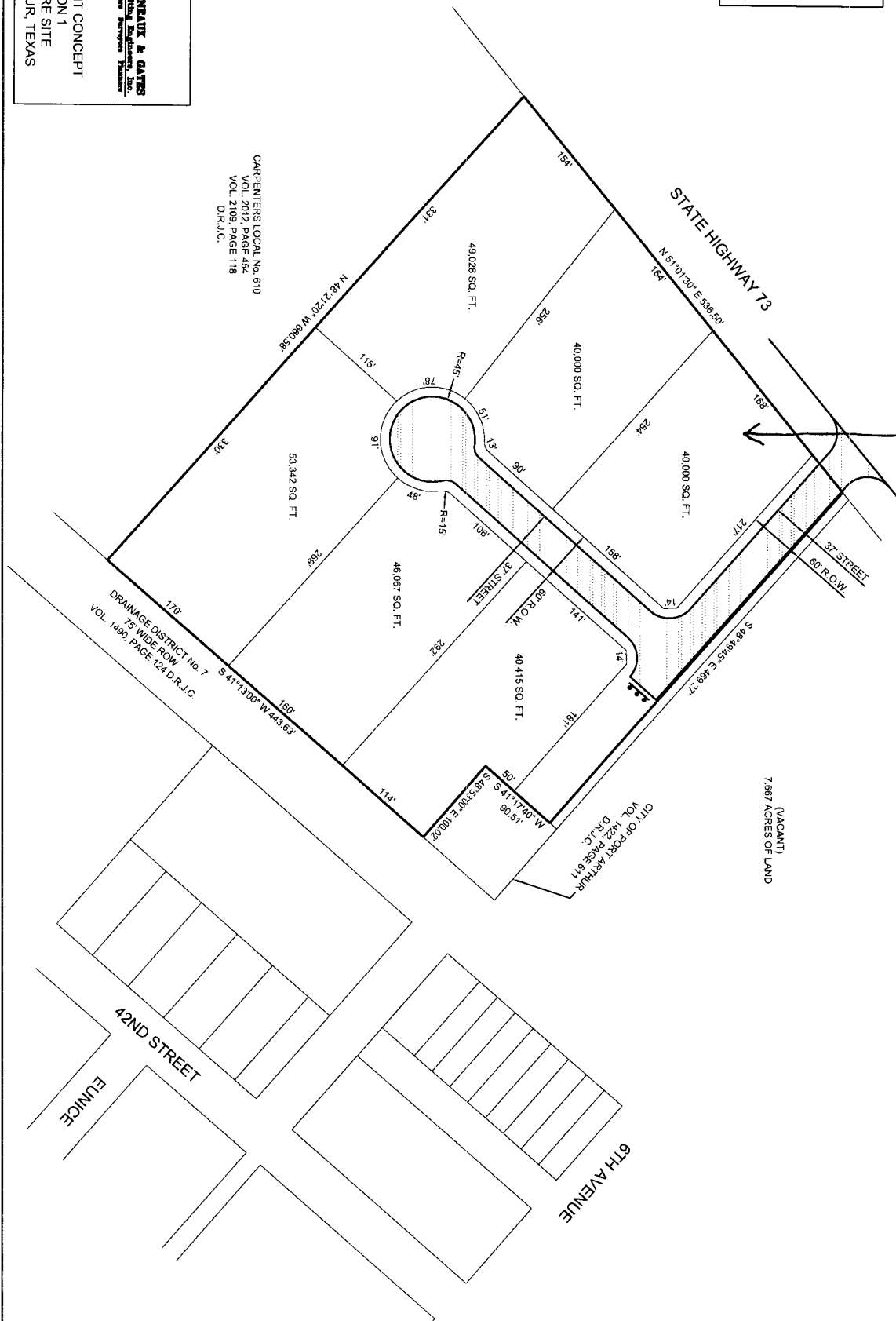
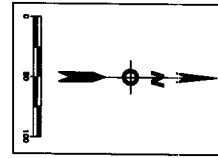
port arthur, tx 77642

409.724.7888 o

409.724.1447 f

409.284.6517 c

8/28/2008



Tract to  
be  
Sold to  
Able  
Fastener