

**CITY OF BILOXI
AGENDA ITEM
FACT SHEET**

Item No.:

4d

Council Meeting Date:

July 5, 2016

ITEM TITLE: RESOLUTION

INTRODUCED BY: Mayor Andrew "FoFo" Gilich

CONTACT PERSON: David Nichols, CAO

GB Gerald Blessey, City Attorney & Counsel for Economic Development

SUMMARY EXPLANATION:

Resolution Authorizing Sale of Surplus Property to Charter Consulting, Ltd. and/or Its Assigns

Resolution ☒

Ordinance ☐

Public Hearing ☐

Routine Agenda ☐

Exhibits for Review

Contract ☒

Minutes ☐

Plans/Maps ☐

Deed ☐

Lease ☐

Other (Specify): Ex. A - Legal Description; Ex. B - Appraisers' Letters; Ex. C - Agreement for Purchase and Sale;
Ex. D - Legal Description; Ex. E - Appraisers' Letters; Ex. F - Agreement for Purchase and Sale;
Ex. G - Legal Description; Ex. H - Appraisers' Letters; Ex. I - Agreement for Purchase and Sale

Submittal Authorization:

Council President ☐

Mayor ☒

STAFF RECOMMENDATION: Staff recommends approval

COUNCIL ACTION: Motion By: _____ Second By: _____

Vote:	<u>Councilmember</u>	<u>Yes</u>	<u>No</u>	<u>Other</u>
	Lawrence	___	___	___
	Gines	___	___	___
	Newman	___	___	___
	Deming	___	___	___

<u>Councilmember</u>	<u>Yes</u>	<u>No</u>	<u>Other</u>
Tisdale	___	___	___
Glavan	___	___	___
Fayard	___	___	___

ACTION TAKEN:

GB/rq 070516aleg



Date: June 29, 2016

To: Mayor Andrew "FoFo" Gilich
All Councilmembers for the City of Biloxi

From: Gerald Blessey

Re: Agreements for Sale and Purchase of Surplus City Property

As City Attorney for the City of Biloxi, I have reviewed the attached contract and resolution for the City Council Agenda, to wit:

1. Agreement for Sale and Purchase by and between the City of Biloxi and Charter Consulting, Ltd. regarding O'Reilly Park Property;
2. Agreement for Sale and Purchase by and between the City of Biloxi and Charter Consulting, Ltd. regarding Lee Street Property;
3. Agreement for Sale and Purchase by and between the City of Biloxi and Charter Consulting, Ltd. regarding Old City Barn Property; and
4. Resolution Authorizing Sale of Surplus Property to Charter Consulting, Ltd. and/or Its Assigns.

(the "Contracts" and the "Resolution"). It is my opinion that the Contracts and Resolution comply with applicable Mississippi law, and I approve these Contracts as to form.

Should you have any questions, please direct to me.


Gerald Blessey, City Attorney

Attachments: Final Drafts of Contracts and Resolution described above

Resolution No. _____

**RESOLUTION AUTHORIZING LAND SALE OF SURPLUS PROPERTY TO
CHARTER CONSULTING, LTD. AND/OR ITS ASSIGNS**

WHEREAS, the City of Biloxi hereby deems a certain parcel of real property commonly referred to as the O'Reilly Park Property (Tax Parcel 1410H-06-084.00) described in Attachment "A" hereto as surplus property pursuant to Mississippi Code Section 21-17-1(2)(a), *et seq.*;

WHEREAS, pursuant to Mississippi Code Section 21-17-1(2)(b) the City commissioned at least two (2) appraisers, selected by the City and approved by the purchaser, to determine the fair market value of the property to be conveyed;

WHEREAS, the appraised fair market value according to Everette E. Ladner III was One Hundred Ninety Thousand Dollars (\$190,000.00); and according to Harry Hebert was Two Hundred Eighty-Three Thousand Dollars (\$283,000.00), making the average fair market value Two Hundred Thirty-Six Thousand Five Hundred Dollars (\$236,500.00). Copies of the appraisers' letters indicating the fair market value of said real property are attached hereto collectively as Exhibit "B";

WHEREAS, Charter Consulting, Ltd., a Mississippi corporation, and/or its Assigns ("Purchaser") has agreed to purchase from the City the property described in Attachment "A" and pay Two Hundred Thirty-Six Thousand Five Hundred Dollars (\$236,500.00) in exchange for the City conveying to Purchaser the property described in Attachment "A" pursuant to the terms of the Agreement for Sale and Purchase attached hereto as Attachment "C";

WHEREAS, the City of Biloxi hereby deems a certain parcel of real property commonly referred to as the Lee Street Property (Tax Parcel 1410G-06-001.000) described in Attachment "D" hereto as surplus property pursuant to Mississippi Code Section 21-17-1(2)(a), *et seq.*;

WHEREAS, pursuant to Mississippi Code Section 21-17-1(2)(b) the City commissioned at least two (2) appraisers, selected by the City and approved by the purchaser, to determine the fair market value of the property to be conveyed;

WHEREAS, the appraised fair market value according to Everette E. Ladner III was One Hundred Fifty Thousand Dollars (\$150,000.00); and according to Harry Hebert was Two Hundred Twenty-Five Thousand Dollars (\$225,000.00), making the average fair market value One Hundred Eighty-Seven Thousand Five Hundred Dollars (\$187,500.00). Copies of the appraisers' letters indicating the fair market value of said real property are attached hereto collectively Exhibit "E";

WHEREAS, Charter Consulting, Ltd., a Mississippi corporation, and/or its Assigns ("Purchaser") has agreed to purchase from the City the property described in Attachment "D" and pay One Hundred Eighty-Seven Thousand Five Hundred Dollars (\$187,500.00) in exchange for the City conveying to Purchaser the property described in Attachment "D" pursuant to the terms of the Agreement for Sale and Purchase attached hereto as Attachment "F";

WHEREAS, the City of Biloxi hereby deems a certain parcel of real property commonly referred to as the Old Biloxi Barn Property on Oak and Division Streets (Tax Parcels 1410H-04-078.000 & 1410H-04-078.001) described in Attachment "G" hereto as surplus property pursuant to Mississippi Code Section 21-17-1(2)(a), *et seq.*;

WHEREAS, pursuant to Mississippi Code Section 21-17-1(2)(b) the City commissioned at least two (2) appraisers, selected by the City and approved by the purchaser, to determine the fair market value of the property to be conveyed;

WHEREAS, the appraised fair market value according to Everette E. Ladner III was

Ninety-Five Thousand Dollars (\$95,000.00); and according to Harry Hebert was One Hundred Four Thousand Dollars (\$104,000.00), making the average fair market value Ninety-Nine Thousand Five Hundred Dollars (\$99,500.00). Copies of the appraisers' letters indicating the fair market value of said real property are attached hereto collectively Exhibit "H";

WHEREAS, Charter Consulting, Ltd., a Mississippi corporation, and/or its Assigns ("Purchaser") has agreed to purchase from the City the property described in Attachment "G" and pay Ninety-Nine Thousand Five Hundred Dollars (\$99,500.00) in exchange for the City conveying to Purchaser the property described in Attachment "G" pursuant to the terms of the Agreement for Sale and Purchase attached hereto as Attachment "I";

WHEREAS, the Purchaser intends to develop homes for working families in the Point Cadet area on the property being purchased, thereby creating additional jobs and taxes to the City, and providing homes near possible work places; and

NOW, THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, THAT:

SECTION ONE: The findings, statements, and conclusions contained in the preamble are hereby adopted, ratified, and incorporated herein.

SECTION TWO: The City Council for the City of Biloxi hereby approves the sale of the property described in Exhibit "A", in consideration of the gross sum of Two Hundred Thirty-Six Thousand Five Hundred Dollars (\$236,500.00), and hereby authorizes the Mayor and City Clerk to execute all documents, instruments, and all other documents necessary to effectuate the purpose and intent of this resolution, including, but not limited to, the Agreement for Sale and Purchase (attached as Exhibit "C"), deeds of conveyance, and closing statements and all other

documents necessary to effectuate the purpose and intent of this resolution.

SECTION THREE: The City Council for the City of Biloxi hereby approves the sale of the property described in Exhibit "D", in consideration of the gross sum of One Hundred Eighty-Seven Thousand Five Hundred Dollars (\$187,500.00), and hereby authorizes the Mayor and City Clerk to execute all documents, instruments, and all other documents necessary to effectuate the purpose and intent of this resolution, including, but not limited to, the Agreement for Sale and Purchase (attached as Exhibit "F"), deeds of conveyance, and closing statements and all other documents necessary to effectuate the purpose and intent of this resolution.

SECTION FOUR: The City Council for the City of Biloxi hereby approves the sale of the property described in Exhibit "G", and in consideration of the gross sum of Ninety-Nine Thousand Five Hundred Dollars (\$99,500.00), hereby authorizes the Mayor and City Clerk to execute all documents, instruments, and all other documents necessary to effectuate the purpose and intent of this resolution, including, but not limited to, the Agreement for Sale and Purchase (attached as Exhibit "I"), deeds of conveyance, and closing statements and all other documents necessary to effectuate the purpose and intent of this resolution.

SECTION FIVE: This resolution shall take effect and be in force from and after adoption.

The Parcel is the 6.49 Acre tract, south of Division St., Biloxi, MS and north side of CSX Railroad, approximately 120 Feet west of Kuhn St.—Tax Parcel 1410H-06-084.001 — as depicted below.

RESIDENTIAL TRACT
DIVISION STREET (6.49 AC)
BILOXI, MISSISSIPPI 39530



EXHIBIT
A

LADNER APPRAISAL GROUP, INC.

REAL ESTATE APPRAISERS & CONSULTANTS

1010 FORD STREET, GULFPORT, MISSISSIPPI 39507

• (228) 604-1900 • FAX (228) 604-1920

Everette E. Ladner III, MAI, SRA

Licensed Cert Gen. R. E. Appraiser GA #567

May 12, 2016

**EXHIBIT
B**

The City of Biloxi
David Nichols, CAO
140 Lameuse Street
Biloxi, Mississippi 39530

RE: Appraisal Report - Two Residential tracts
Rosetti Street (1.80 AC); Division Street (6.30 AC)
Biloxi, Harrison County, MS
Purchase Order #: 20164279-00 (2 Railroad St)

Dear Mr. Nichols:

As requested by you, an inspection has been completed of the referenced property for the purpose of estimating the current market value of the fee simple interest. In compliance with the Uniform Standards of Professional Appraisal Practice, this letter of transmittal is followed by an appraisal report in which all applicable approaches to value are used and with the value conclusion reflecting all known information about the subject property, current and projected market conditions, and other available data.

Because this is a summary format, it presents only summary discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated within this report. Ladner Appraisal Group, Inc. has not performed services as an appraiser or in any other capacity regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.

The subject property consists of two residential tracts located along the north and south sides of the railroad tracks in Biloxi, Harrison County, Mississippi. The subject property; Rosetti Street (1.80 AC) & Division Street (6.30 AC) is currently zoned RS-50 Single Family Residential, High Density (City of Biloxi). The shapes are slightly irregular but functional. The property is currently owned by the City of Biloxi.

Mr. David Nichols
May 12, 2016
Page Two

The purpose of this appraisal is to estimate the market value of the subject property as of April 29, 2016, this being the last date of inspection. Subject to the limiting conditions and certification beginning on Page 60 of this report, it is our opinion that the market value of the subject property (fee simple estate), as of the last date of inspection, April 29, 2016, was:

MARKET VALUE CONCLUSION

Appraisal Premise	Interest Appraised	Date of Value	Value Conclusion
South Parcel (1.80 AC) "AS IS"	Fee Simple	April 29, 2016	\$70,000
North Parcel (6.30 AC) "AS IS"	Fee Simple	April 29, 2016	\$190,000

(Land Value Only No Building Improvements)

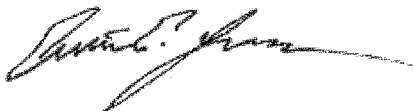
Market value will be defined in the appraisal report, but basically assumes a willing buyer-seller, both knowledgeable of the subject real estate market and with the valuation at the property's highest and best use. Along with this value estimate, current economic conditions indicate both the marketing period and exposure period to be 12 to 18 months.

This appraisal has been prepared utilizing all of the requirements set forth as Standards for Real Estate Appraisals as established for federally related transactions and the State of Mississippi. The appraisal conforms to the Uniform Standards of Professional Appraisal Practice (USPAP).

We appreciate the opportunity to provide real estate appraisal services for the City of Biloxi. After your review, should you have questions, please call.

Respectfully submitted,

LADNER APPRAISAL GROUP, INC.



Everette E. Ladner III, MAI, SRA
State-Licensed Cert. Gen. R. E. Appraiser GA 567

Phone: 228-604-1900
Fax: 228-604-1920
Email: eladner@adnerappraisal.com



Patricia C. Ladner
State-Licensed Cert. Gen. R. E. Appraiser GA 731

Phone: 228-604-1900
Fax: 228-604-1920
Email: pladner@adnerappraisal.com

POULOS-HEBERT & ASSOCIATES

2018 23rd Avenue - Gulfport, Ms. 39501
P. O. Box 7702 - Gulfport, Ms. 39506
228-864-2378 - Fax 228-864-2379
www.HebertAppr@AOL.com

Roger Poulos, MAI (1946-1995)
Harry Hebert, GAA

May 6, 2016

Mr. David Nichols
City of Biloxi
P. O. Box 429
Biloxi, MS 39533-0429

RE: Appraisal Report of a 6.49 acre tract of land located on the south side of Division Street, and a 1.98 acre site located on the NW corner of Rosetti Street and Bonner Drive, in the City of Biloxi, Harrison County, Mississippi.

Dear Mr. Nichols:

In accordance with your request, I have personally inspected and appraised the above referenced property as of April 30, 2016. This report, and final opinion of market value, have been based on an inspection of the property and research into the various factors that influence value.

Briefly described Subject Property consists of two parcels of land. Parcel A is a 6.49 acre site (subject to survey), located on the south side of Division Street and north side of the CSX Railroad, approximately 120 feet west of Kuhn Street. Parcel A can be identified as Tax Parcel 1410H-06-084.001 in the City of Biloxi.

Parcel B is a 1.98 acre site (subject to survey), located on the northwest corner of Bonner Drive and Rosetti Street, in addition to the south side of CSX Railroad right-of-way and east side of Kuhn Street (if improved). Parcel B can also be identified as Tax Parcel 1410H-07-017.000, also in the City of Biloxi.

Page 2
May 6, 2016

The purpose of this appraisal is to provide my opinion of Market Value of the Fee Simple Estate of both parcels as **two separate sites**, as of the date of inspection, April 30, 2016. Fee Simple Estate is "absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat."

The analysis and results of my investigation, which are submitted within the accompanying report, are made in conformity with and subject to the Code of Professional Ethics and Standards of Professional Practice as set forth by the Appraisal Institute, and the Uniform Standards of Professional Appraisal Practice (USPAP) as specified by the Appraisal Foundation.

This appraisal is also written to conform to:

- (1) Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA);
- (2) The OCC Appraisal Standards of 12 CFR, Part 34 (12CFR34);
- (3) Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute; and
- (4) The Guidelines for Real Estate Appraisal Policies and Review Procedures adopted by the Bank Supervision Offices of the FDIC, the Board of Governors of the Federal Reserve System & the Office of the Comptroller of the Currency as of December 14, 1987.

Inherent in my value opinions is the assumption that all information and materials provided by the client, property owner, and property manager are reasonably correct. Also, the values reported herein are of land only, and represent a reasonable marketing time to any potential purchaser desiring to use the sites for their Highest and Best Use.

The sites did not show any signs of hazardous materials. However, since I am not qualified to accurately detect hazardous substances, this appraisal is made on the assumption that testing of both parcels by a qualified expert will conclude there is no evidence of any environmental problem that would result in loss of property value.

Page 3
May 6, 2016

My Appraisal Report, which follows this letter of transmittal, is intended to be a summary of all pertinent data which describes my research, analysis and conclusions. These conclusions, with full consideration to certification and limiting conditions, are the basis upon which I submit my opinion that Market Value of the Fee Simple Estate of Subject's two Parcels, as of April 30, 2016, were:

PARCEL "A":

TWO HUNDRED EIGHTY-THREE THOUSAND DOLLARS

\$283,000

PARCEL "B":

ONE HUNDRED SIXTY-FOUR THOUSAND DOLLARS

\$164,000

The value opinions expressed in this Appraisal Report are based on a reasonable market exposure time.

BECAUSE I WAS NOT PROVIDED WITH A CURRENT SURVEYS, THESE VALUE OPINIONS WOULD BE SUBJECT TO CHANGE IF THE ACTUAL SIZE, SHAPE AND DIMENSIONS OF EACH PARCEL WERE DIFFERENT THAN USED IN THIS REPORT.

Respectfully Submitted,

POULOS-HEBERT & ASSOCIATES



Harry Hebert, Appraiser
State Certified General Real Estate Appraiser: GA-141

AGREEMENT FOR SALE AND PURCHASE

THIS AGREEMENT FOR SALE AND PURCHASE (this "Agreement"), made as of the Effective Date as provided herein, by and between **CHARTRE CONSULTING, LTD.**, a Mississippi corporation, 2330 University Avenue, Oxford, MS 39655 ("Buyer"), who agrees to buy, and **the CITY OF BILOXI, MISSISSIPPI**, 140 Lameuse Street, Biloxi, MS 39530 ("Seller"), who agrees to sell, the property hereinafter described in Exhibit "A" (the "Property") according to the terms and conditions set forth below. The "Effective Date" of this Agreement is the date on which the Mayor signs and delivers this Agreement to the Buyer. Unless otherwise indicated, time is expressly made of the essence in this Agreement.

1. **PURCHASE PRICE:** The total purchase price of the Property described in Exhibit "A" is Two Hundred Thirty-Six Thousand Five Hundred and no/100ths Dollars (\$236,500.00). The purchase price shall be paid in cash at closing. The cost of appraisals that formed the basis for this Purchase Price shall be paid ½ by Buyer and ½ by Seller at Closing.

2. **DEPOSIT:**

(a) As security for Buyer's performance hereunder, Buyer shall deposit the amount of Five Hundred and 00/100 Dollars (\$500.00) with the Seller upon execution of this Agreement by cash, certified or bank check or by wire transfer (the "Deposit") within ten (10) days of the date Buyer receives this Agreement executed by the Mayor.

(b) The Deposit shall be applied as a credit to the Purchase Price due at the Closing. The failure of Buyer to timely pay the Deposit shall enable Seller to terminate this Agreement, in which event the parties hereto shall have no further rights or obligations to the other hereunder.

3. **TIME FOR ACCEPTANCE:** If this Agreement is not executed by and delivered to all parties on or before July 15, 2016, Seller's offer to sell shall be withdrawn, and this Agreement shall be deemed null and void.

4. **TITLE AND SURVEY:**

Within 30 days of acceptance, Seller shall provide, at Seller's sole cost and expense, a certificate of title prepared by an attorney upon whose certificate of title insurance may be obtained from a title insurance company qualified to do and doing business in the state of Mississippi. Seller shall, prior to closing, satisfy all outstanding mortgages, deeds of trust and special liens affecting the subject property which are not specifically assumed by Buyer herein. Title shall be good and marketable, subject only to the following items recorded in the Chancery Clerks office of said County: easements without encroachments, applicable zoning ordinance, protective covenants and prior mineral reservations; otherwise Buyer, at its option, may either (a) if defects cannot be cured by designated closing date, cancel this contract, in which case all Earnest Money deposited shall be returned; (b) accept title as is; or (c) if the defects are of such character that they can be

remedied, in the reasonable opinion of Seller, by legal action within a reasonable time, permit Seller such reasonable time to perform this curative work at Seller's expense; provided, however, if the Seller determines, in its discretion, that the expense of curing the defects would be in an amount unacceptable to Seller, then Seller may decline to take action to cure the defects; and, provided further, that in the event Buyer determines that title has defects resulting in Buyer exercising any of its above-described options (a), (b) or (c), or resulting in Seller declining to cure defects, Buyer's sole remedy shall be the return of Buyer's Deposit, and Buyer shall have no right to claim any damages from the Seller arising out of Seller's failure to deliver good and merchantable title as described above. In the event the curative work is performed by Seller, the time specified herein for closing of this sale shall be extended for a reasonable period necessary for such action. Seller represents that the property may be legally used as zoned and that no governmental agency has served any notice requiring repairs, alterations or corrections of any existing condition except as stated herein. The property is currently zoned RS-5, Single-Family Residential, High Density.

5. **DUE DILIGENCE.** From the Effective Date through one hundred twenty (120) days thereafter (the "Inspection Period"), the Buyer shall have the following rights:

(i) Buyer shall be entitled to obtain a survey (the "Survey") of the Property at Buyer's own expense. Seller shall cause the surveyors to be allowed on the Property during normal business hours.

(ii) Buyer shall be entitled to have the Property inspected for environmental damage. Seller shall cause the environmental surveyors to be allowed on the Property during normal business hours. Such inspections shall be at Buyer's own expense.

(iii) Buyer shall be entitled to conduct such other studies at Buyer's own expense to determine the feasibility of the Property for its business purposes. Seller shall cause such other persons in pursuit of such determination to be allowed on the Property during normal business hours.

Buyer shall not unnecessarily or unreasonably disturb the Property, but rather shall leave the Property in substantially the same condition as it exists upon the signing hereof; otherwise, Seller shall be indemnified by Buyer from any damages done by Buyer or any agent of Buyer.

6. **EXTENDING THE INSPECTION PERIOD.** Buyer shall have the right to extend the Inspection Period for an additional one hundred twenty (120) day period upon providing written notice to Seller as provided herein and the payment of an additional \$500.00 earnest money. The notice will be effective upon delivery of the additional earnest money deposit.

7. **TERMINATION DURING THE INSPECTION PERIOD.** Notwithstanding any provisions herein, Buyer shall be entitled to terminate this agreement at any time during the Inspection Period, or any extension thereof, and

receive the return of the Deposit. Within fourteen (14) days following receipt of said notice of termination, Seller will issue a payment to Buyer, a sum equal to the Deposit.

8. REPRESENTATION AND WARRANTIES BY SELLER. Seller represents, warrants and covenants to Buyer as follows:

(i) At the time of Closing, Seller shall have the right, title and power to convey good and marketable fee simple title to Buyer of the Property, free and clear of all encumbrances other than those matters set forth in Paragraph 4.

(ii) Prior to the Closing, Seller shall not create or permit to be created any easements, covenants, conditions or restrictions affecting any portion of the Property without the prior written consent of Buyer.

(iii) The terms of this paragraph shall survive the closing.

9. BUYER'S WARRANTIES: Buyer represents to Seller as follows:

(a) Buyer has full authority to execute, deliver and perform this Agreement and has obtained all consents of all other parties that are required for such purpose, if any.

(b) All action required pursuant to this Agreement that is necessary to effectuate the transaction contemplated herein will be taken promptly in good faith by Buyer, and Buyer shall furnish Seller with such further assurances as are reasonably required in connection with the effectuation of the Closing of this transaction.

(c) Buyer is currently in compliance with, and shall at all times during the term of this Agreement (including any extension thereof) remain in compliance with, the regulations of the OFAC of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

10. DISCLAIMERS, RELEASE AND INDEMNITY:

(a) It is understood and agreed that Seller and Seller's agents and employees have not at any time made and are not now making, and they specifically disclaim, any warranties, representations or guaranties of any kind or character, express or implied, with respect to the Property, including, but not limited to, warranties, representations or guaranties as to (a) matters of title, (b) environmental matters relating to the Property or any portion thereof, including, without limitation, the presence of Hazardous Materials (as hereinafter defined) in, on, under or in the vicinity of the Property, (c) geological conditions, including, without limitation, subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water, and

geologic faults and the resulting damage of past and/or future faulting, (d) whether, and to the extent to which the Property or any portion thereof is affected by any stream (surface or underground), body of water, wetlands, flood prone area, flood plain, floodway or special flood hazard, (e) drainage, (f) soil conditions, including the existence of instability, past soil repairs, soil additions or conditions of soil fill, or susceptibility to landslides, or the sufficiency of any undershoring, (g) the presence of endangered species or any environmentally sensitive or protected areas, (h) zoning or building entitlements to which the Property or any portion thereof may be subject, (i) the availability of any utilities to the Property or any portion thereof including, without limitation, water, sewage, gas and electric, (j) usages of adjoining property, (k) access to the Property or any portion thereof, (l) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, suitability, structural integrity, operation, title to, or physical or financial condition of the Property or any portion thereof, or any income, expenses, charges, liens, encumbrances, rights or claims on or affecting or pertaining to the Property or any part thereof, (m) the condition or use of the Property or compliance of the Property with any or all past, present or future federal, state or local ordinances, rules, regulations or laws, building, fire or zoning ordinances, codes or other similar laws, (n) the existence or non-existence of underground storage tanks, surface impoundments, or landfills, (o) any other matter affecting the stability and integrity of the Property, (p) the potential for further development of the Property, (q) the merchantability of the Property or fitness of the Property for any particular purpose, (r) tax consequences, (s) the income and expenses derived from the use and operation of the Property, (t) the existence and status of any and all residential and/or commercial tenancies (including, without limitation, any matters arising from or related to any leases or occupancy agreements affecting the use and/or operation of the Property), or (u) any other matter or thing with respect to the Property or this transaction.

(b) Buyer expressly acknowledges and agrees that Seller shall sell and convey to Purchaser and Buyer shall accept the Property **"AS IS, WHERE IS, WITH ALL FAULTS."** Buyer has not relied and will not rely on, and Seller has not made and is not liable for or bound by, any express or implied warranties, guarantees, statements, representations or information pertaining to the Property or relating thereto (including specifically, without limitation, any Property information packages distributed with respect to the Property) made or furnished by Seller, or any property manager, real estate broker, agent or third party representing or purporting to represent Seller, to whomever made or given, directly or indirectly, orally or in writing. Buyer represents that it is a knowledgeable, experienced and sophisticated Buyer of real estate and that it is relying solely on its own expertise and that of Buyer's consultants in purchasing the Property and has prior to its entry into this Agreement made an independent verification of the accuracy of any documents and information provided by Seller. Buyer has or will, prior to its closing of the sales set forth in this Agreement, conduct such inspections and investigations of the Property as Buyer deems necessary, including, but not limited to, any and all financial, physical and environmental conditions thereof, and shall rely exclusively upon same. Buyer acknowledges that Seller has afforded Buyer a full opportunity to conduct such investigations of the Property as Buyer deems necessary prior to Buyer's closing of the sales set forth in

this Agreement in order to satisfy itself as to the condition of the Property, including, without limitation, the existence or non-existence or curative action to be taken with respect to any Hazardous Materials on or discharged from the Property, and will rely solely upon same and not upon any information provided by or on behalf of Seller or its agents or employees with respect thereto. Buyer assumes the risk that adverse matters, including, but not limited to, adverse physical or construction defects or adverse environmental, health or safety conditions, may not have been revealed by Buyer's inspections and investigations. Buyer hereby represents and warrants to Seller that: (a) Buyer is represented by legal counsel in connection with the transaction contemplated by this Agreement; and (b) Buyer is purchasing the Property for business, commercial, investment or other similar purpose. Buyer waives any and all rights or remedies it may have or be entitled to, deriving from disparity in size or from any significant disparate bargaining position in relation to Seller.

(c) Buyer acknowledges that prior to its entry into this Agreement, it had the opportunity to inspect the Property in order to observe its physical characteristics and existing conditions and, prior to the closing of the sales set forth in this Agreement will have the opportunity to conduct such investigation and study on and of the Property and adjacent areas as Buyer deems necessary, and Buyer hereby FOREVER RELEASES AND DISCHARGES Seller from all responsibility and liability, including without limitation, liabilities under the Comprehensive Environmental Response, Compensation and Liability Act Of 1980 (42 U.S.C. Sections 9601 et seq.), as amended ("**CERCLA**"), regarding the condition, valuation, salability or utility of the Property, or its suitability for any purpose whatsoever (including, but not limited to, with respect to the presence in the soil, air, structures and surface and subsurface waters, of Hazardous Materials or other materials or substances that have been or may in the future be determined to be toxic, hazardous, undesirable or subject to regulation and that may need to be specially treated, handled and/or removed from the Property under current or future federal, state and local laws, regulations or guidelines, and any structural and geologic conditions, subsurface soil and water conditions and solid and hazardous waste and Hazardous Materials on, under, adjacent to or otherwise affecting the Property). Buyer further hereby WAIVES (and by Closing this transaction will be deemed to have WAIVED) any and all objections and complaints (including, but not limited to, federal, state and local statutory and common law based actions, and any private right of action under any federal, state or local laws, regulations or guidelines to which the Property is or may be subject, including, but not limited to, CERCLA) concerning the physical characteristics and any existing conditions of the Property. Buyer further hereby assumes the risk of changes in applicable laws and regulations relating to past, present and future environmental conditions on the Property and the risk that adverse physical characteristics and conditions, including, without limitation, the presence of Hazardous Materials or other contaminants, may not have been revealed by its investigation.

(d) For purposes hereof, "**Hazardous Materials**" means "Hazardous Material," "Hazardous Substance," "Pollutant or Contaminant," and "Petroleum" and "Natural Gas Liquids," as those terms are defined or used in Section 101 of CERCLA, mold, mildew, biotoxins, and any other substances regulated because of their effect or potential effect on public health and the environment, including,

without limitation, PCBs, lead paint, asbestos, urea formaldehyde, radioactive materials, putrescible materials, and infectious materials.

(e) Buyer agrees to indemnify, defend and hold Seller harmless of and from any and all liabilities, claims, demands, and expenses of any kind or nature which arise or accrue after Closing and which are in any way related to the ownership, maintenance, or operation of the Property by Buyer and its successors and assigns, including, without limitation, in connection with Hazardous Materials. Buyer and Seller hereby specifically agree that Seller shall not be responsible for the prevention of mold and/or mildew or any damages, including, but not limited to, any special or consequential damages, property damage, personal injury, loss of income, emotional distress, death, loss of use, diminution or loss of value of the Property, economic damages, and adverse health effects relating to, arising from, resulting from or caused by mold and/or mildew accumulation at the Property regardless of the cause of said mold and/or mildew or when same arose.

(f) The terms and conditions of this Paragraph 10 shall expressly survive the Closing.

Buyer acknowledges and agrees that the disclaimers and other agreements set forth herein are an integral part of this Agreement and that Seller would not have agreed to sell the Property to Buyer for the Purchase Price without the disclaimers and other agreements set forth above.

11. CONVEYANCE:

Seller shall convey title to the Property by fee simple absolute, by a good and sufficient Warranty Deed (the "Deed") to Buyer. The Deed shall convey good, clear and marketable title, subject only to the matters set forth in Paragraph 4. The Deed shall be in proper form for recording and shall be duly executed, acknowledged and delivered by Seller at Closing.

12. CLOSING:

(a) Unless extended pursuant to the terms of this Agreement, the Closing of this transaction, as contemplated hereunder (the "Closing"), shall take place thirty (30) days after the expiration of the Inspection Period (the "Closing Date") at the offices of Wheeler & Wheeler, PLLC, 185 Main Street, Biloxi, MS 39530 (the "Closing Attorney"). Buyer may move the Closing Date to an earlier date provided such earlier date is agreeable with Seller. Buyer may extend the Closing Date by up to an additional fifteen (15) days upon written notice given to Seller not later than eighty-five (85) days after the Effective Date (the "Extended Closing Date").

(b) Seller shall deliver or cause to be delivered to the Buyer on the Closing Date, at Seller's sole cost and expense the Deed, in recordable form.

(c) At the Closing, Buyer shall deliver or cause to be delivered to the Seller's Closing Attorney on or before the Closing Date, at Buyer's sole cost and expense, the following:

(i) The Purchase Price and Buyer's closing costs and fees in cash by a wire transfer, same day U.S. federal funds wired for credit into the Closing Attorney's escrow account, or by certified cashier's check, which funds must be delivered in a manner to permit the Closing Attorney to deliver said funds to Seller or its designee on the Closing Date;

(ii) Such conveyance or transfer tax forms or returns, if any, as are required to be delivered or signed by Buyer by applicable state and local law in connection with the conveyance of the Property;

(iii) Evidence of the existence, organization and authority of Buyer and of the authority of the persons executing documents on behalf of Buyer reasonably satisfactory to the underwriter for the title policy; and

(iv) Any other documents required under this Agreement to be executed by Buyer.

13. **EXPENSES:** Subject to the limitations set forth in Paragraph 4, Seller shall be responsible for the payment of costs related to providing a Certificate of Title, and the Deed. Buyer shall be responsible for the cost of all title insurance premiums, expenses associated with any financing, and costs associated with any inspections, tests and investigations conducted by it or on its behalf, as well as all other closing fees and costs.

14. **TAXES:** The Seller is exempt from ad valorem taxes on real property. Seller represents that there are no ad valorem taxes due and there will be no ad valorem taxes levied on the Property for the tax year of the sale.

15. **DEFAULT:**

(a) In the event of any material default by Seller of its obligations hereunder, Buyer, following delivery of five (5) days notice to Seller to cure, shall have only the following rights and remedies:

(i) Buyer shall have the right to waive the breach, default or other closing condition and proceed to Closing in accordance with the provisions of this Agreement without a reduction in the Purchase Price; or

(ii) Buyer shall have the right to terminate this Agreement by notice to Seller, in which event the Deposit shall be refunded to Buyer, and all obligations of Buyer and Seller under this Agreement shall terminate; or

(iii) Buyer may seek specific performance.

Buyer shall have no right to recover damages from Seller.

(b) If Buyer fails to perform any of the covenants of this Agreement applicable to Buyer, Seller, following delivery of five (5) days notice to cure (except that no notice of cure shall be needed, given or exist by reason of Buyer's failure to timely close on the scheduled Closing Date or by reason of Buyer's

breach of the recordation prohibition set forth in Article 18 hereof), may retain the Deposit actually paid by Buyer as liquidated and agreed upon damages as its sole and exclusive remedy in consideration for the execution of this Agreement and in full settlement of any claims for damages, and Seller and Buyer shall be relieved of all further obligations and liability under this Agreement.

16. **ATTORNEYS FEES; COSTS:** Seller and Buyer will each be responsible for their own attorney's fees.

17. **OTHER AGREEMENTS:** No prior or present agreements or representations shall be binding upon Buyer or Seller unless included in this Agreement. No modification or change in this Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

18. **AGREEMENT NOT RECORDABLE; PERSONS BOUND:** Neither this Agreement nor any notice of it shall be recorded in any public records. A breach of this provision by Buyer shall be a material default under this Agreement. This Agreement shall bind and inure to the benefit of the parties and their successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all.

19. **TIME:** The "Effective Date" of this Agreement is the date on which the last of the parties signs the Agreement and delivers a copy thereof to the other party. Time is of the essence in this Agreement. Time periods of five (5) days or less shall be computed without including Saturday, Sunday, or national legal holidays and any time periods ending on a Saturday, Sunday, or national legal holiday shall be extended until 5:00 p.m. on the next business day.

20. **BROKER:** There are no brokers in this transaction, and no commissions are due on this sale.

21. **FINANCING:** This Agreement is an all cash transaction that is not subject to financing.

22. **NOTICES:** All notices, demands, requests, and other communications required or permitted hereunder shall be in writing. All such notices, demands, requests and other communications (and copies thereof) shall be deemed to be delivered: (a) if sent by messenger, upon personal delivery to the party to whom the notice is directed; (b) if sent by facsimile, upon electronic or telephonic confirmation of receipt from the receiving facsimile machine; (c) if sent by overnight courier, with request for next business day delivery, on the next business day after sending; or (d) whether actually received or not, two (2) business days after deposit in a regularly maintained receptacle for the United States mail, registered or certified, return receipt requested, postage prepaid addressed as follows (or to such other address as the parties may specify by notice given pursuant to this Paragraph):

If to Seller: City of Biloxi

Attn: Mayor Andrew "FoFo" Gilich
140 Lameuse Street
Biloxi, MS 39530
Tel: 228-435-6254

with copies to: Gerald Blessey, City Attorney
Gerald Blessey Law Firm
P.O. Box 4648
Biloxi, MS 39535
CELL: (228) 806-4755
Fax: (228) 388-7434
Email: blesseylaw@mc.com

with copies to: David A. Wheeler, Esquire
Wheeler & Wheeler, PLLC
P.O. Box 264
Biloxi, MS 39533
Tel: (228) 374-67720
Fax: (228) 374-6721
Email: david@wheelerattys.com

If to Buyer: Chartre Consulting, Ltd.
c/o Clarence Chapman, President
2330 University Ave.
Oxford, MS 38655
Tel: (662) 236-5080 Ext. 116
Fax: (662) 236-5089
Cell: (662) 832-4300
cwc@chartre.com

22. **ASSIGNABILITY:** Except for an assignment to an entity wholly owned by Buyer or Buyer's owners, this Agreement may not be assigned by Buyer without the prior written consent of Seller.

23. **PARAGRAPH HEADINGS:** The paragraph headings used in this Agreement are for convenience only, and shall not be used in interpreting or construing any provision of this Agreement.

24. **CONSTRUCTION OF AGREEMENT:** Each party acknowledges that all parties to this Agreement participated equally in the drafting of this Agreement and that it was negotiated at arm's length. Accordingly, no court should construe this Agreement more strongly against either party.

25. **COUNTERPARTS AND DUPLICATE ORIGINALS:** To facilitate the execution of this Agreement, any number of counterparts of this Agreement may be executed and delivered. It shall not be necessary for each party's signature to appear on each counterpart, but it shall be sufficient that each party's signature appear on one or more of the counterparts. Each of the counterparts shall be considered an original and all of them, together, shall constitute one and the same

instrument. A facsimile copy of the Agreement executed by the party shall be considered for all purposes as an original.

26. **FURTHER ACTION:** Each of the parties hereto shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of the obligations hereunder and to carry out the intent of the parties hereto.

27. **WAIVER:** The waiver by any party of a breach of any provision of this Agreement shall not operate or be construed a waiver of any other provision of this Agreement or of any future breach of the provision so waived.

28. **GOVERNING LAW:** The laws of the State of Mississippi shall govern the validity, construction, enforcement and interpretation of this Agreement. Venue for any legal action arising hereunder shall be in the appropriate court of competent jurisdiction in and for the Second Judicial District of Harrison County, Mississippi. If any provision of this Agreement is deemed unenforceable, the remaining provisions shall remain in full force and effect.

29. **SPECIAL PROVISIONS:** Contract is contingent upon:

- (a) Rezoning of the Property to allow Buyer to develop townhomes and zero lot line homes with least separation and minimum setbacks allowed by the City. Seller will make its best efforts, within the limits allowed by law, to assist Buyer in its efforts to re-zone any Property identified herein.
- (b) Water, sewer and all other required utility services for Purchaser are currently available to the Property in the required capacity.
- (c) Inspections to be performed at Buyer's expense within the Agreement time period may include at Buyer's discretion, a wetlands review, geotechnical/soil boring, environmental, and any other inspection deemed appropriate by Buyer. Seller agrees for Buyer to have access to property to perform all desired inspections. Results of all inspections must be acceptable to Buyer or this contract will be considered null and void and earnest money will be refunded to Buyer.
- (d) There are no other prohibitions or restrictions that would preclude Buyer from building its planned residential real estate developments on the parcels immediately after closing.
- (e) Seller must approve the plans and designs intended for each property as a prerequisite to Closing, which approval shall not be unreasonably withheld.
- (f) Buyer intends to form separate entities to proceed with the various parts of the development planned. Seller agrees for the assignment of the rights hereby for any parcel to such entity. It is understood and agreed that Chartre Consulting,

Ltd., the "Buyer" herein, will own the Buyer and its assignees until Buyer's tax credit investor is admitted. Upon the admission of the tax credit investor, Chartre Consulting, Ltd. will control the assignee via ownership of the managing member's position in that entity.

- (g) Seller understands and agrees that Closing is subject to Buyer obtaining tax credit capital commitments and other required funding to complete Buyer's budget within the allowed due diligence period, failing which the Deposit will be returned to Buyer and this Agreement will be terminated as of the end of the due diligence period, unless extended by written agreement of the Seller and Buyer.

31. **STATEMENT:** Each undersigned party to this transaction acknowledges that he/she has been duly authorized to execute this Agreement and further that they have read and understand this Option contract, and hereby acknowledges receipt of a copy of this document. When herein used the singular includes the plural and the masculine includes the feminine.

SIGNATURE PAGE FOLLOWS_____

WITNESS OUR SIGNATURES on the date specified below for each of the parties herein.

SELLER:

THE CITY OF BILOXI, MISSISSIPPI
LTD.

ANDREW "FOFO" GILLICH, Mayor

DATE: _____

STACY THACKER, Municipal Clerk

DATE: _____

BUYER:

CHARTRE CONSULTING,

C.W. Chapman, President

DATE: _____

The Parcel is the 5.08 Acre tract, south of the Kroc Center on Division St., Biloxi, MS and between Lee St. and Esters Boulevard—Tax Parcel 1410G-06-001.000 – as depicted below.

**RESIDENTIAL TRACT (5.08 ACRES)
ESTERS BOULEVARD
BILOXI, MISSISSIPPI 39530**



Residential Tract (5.08 Acres) - Esters Boulevard, Biloxi, MS

**EXHIBIT
D**

LADNER APPRAISAL GROUP, INC.

REAL ESTATE APPRAISERS & CONSULTANTS

1010 FORD STREET, GULFPORT, MISSISSIPPI 39507

• (228) 604-1900 • FAX (228) 604-1920

Everette E. Ladner III, MAI, SRA
Licensed Cert Gen. R. E. Appraiser GA #567

May 12, 2016

The City of Biloxi
David Nichols, CAO
140 Lameuse Street
Biloxi, Mississippi 39530

EXHIBIT
E

RE: **Appraisal Report**

Residential tract comprising 5.08 acres located at
Esters Boulevard, Biloxi, Harrison County, MS

Purchase Order #: 20164279-00 (1 Esters Property)

Dear Mr. Nichols:

As requested by you, an inspection has been completed of the referenced property for the purpose of estimating the current market value of the **fee simple interest**. In compliance with the "Uniform Standards of Professional Appraisal Practice," this letter of transmittal is followed by an **appraisal report** in which all applicable approaches to value are used and with the value conclusion reflecting all known information about the subject property, current and projected market conditions, and other available data.

Because this is a summary format, it presents only summary discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated within this report. Ladner Appraisal Group, Inc. has not performed services as an appraiser or in any other capacity regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.

The subject property consists of an undeveloped residential tract located along the north side of Esters Boulevard between Lee Street and Nichols Drive in Biloxi, Harrison County, Mississippi. The subject tract comprises 5.08 acres or 221,349± square feet (based on tax map). The property is rectangular shaped and generally functional. The subject tract is currently zoned "RS-5" Single Family Residential, High Density (City of Biloxi). The property is currently owned by the Salvation Army.

Mr. David Nichols
May 12, 2016
Page Two

The purpose of this appraisal is to estimate the market value of the subject property as of April 29, 2016, this being the last date of inspection. Subject to the limiting conditions and certification beginning on Page 56 of this report, it is our opinion that the market value of the subject property (fee simple estate), as of the last date of inspection, April 29, 2016, was:

MARKET VALUE CONCLUSION

Appraisal Premise	Interest Appraised	Date of Value	Value Conclusion
"AS IS"	Fee Simple	April 29, 2016	\$150,000

Market value will be defined in the appraisal report, but basically assumes a willing buyer-seller, both knowledgeable of the subject real estate market and with the valuation at the property's highest and best use. Along with this value estimate, current economic conditions indicate both the marketing period and exposure period to be 12 to 18 months.

This appraisal has been prepared utilizing all of the requirements set forth as Standards for Real Estate Appraisals as established for federally related transactions and the State of Mississippi. The appraisal conforms to the Uniform Standards of Professional Appraisal Practice (USPAP).

We appreciate the opportunity to provide real estate appraisal services for the City of Biloxi. After your review, should you have questions, please call.

Respectfully submitted,

LADNER APPRAISAL GROUP, INC.



Everette E. Ladner III, MAI, SRA
State-Licensed Cert. Gen. R. E. Appraiser GA 567

Phone: 228-604-1900
Fax: 228-604-1920
Email: eladner@ladnerappraisal.com



Patricia C. Ladner
State-Licensed Cert. Gen. R. E. Appraiser GA 731

Phone: 228-604-1900
Fax: 228-604-1920
Email: pladner@ladnerappraisal.com

EEL:kzm

POULOS-HEBERT & ASSOCIATES

2018 23rd Avenue - Gulfport, Ms. 39501
P. O. Box 7702 - Gulfport, Ms. 39506
228-864-2378 - Fax 228-864-2379
www.HebertAppr@AOL.com

Roger Poulos, MAI (1946-1995)
Harry Hebert, GAA

May 6, 2016

Mr. David Nichols
City of Biloxi
P. O. Box 429
Biloxi, MS 39533-0429

RE: Appraisal Report of a 5.16 acre parcel of land located on the north side of Esters Boulevard, between Lee Street and Nichols Drive, in the City of Biloxi, Harrison County, Mississippi.

Dear Mr. Nichols:

In accordance with your request, I have personally inspected and appraised the above referenced property as of April 30, 2016. This report, and final opinion of market value, have been based on an inspection of the property and research into the various factors that influence value.

Briefly described Subject Property consists of a 5.16 acre parcel of land, located on the north side of Esters Boulevard, between Lee Street and Nichols Drive. Subject can be identified as the south 535 feet of Tax Parcel 1410G-06-001.000 in the City of Biloxi.

The purpose of this appraisal is to provide my opinion of Market Value of the Fee Simple Estate of Subject Property, as of the date of inspection, April 30, 2016. Fee Simple Estate is "absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat."

MISSISSIPPI GULF COAST

Page 2
May 6, 2016

The analysis and results of my investigation, which are submitted within the accompanying report, are made in conformity with and subject to the Code of Professional Ethics and Standards of Professional Practice as set forth by the Appraisal Institute, and the Uniform Standards of Professional Appraisal Practice (USPAP) as specified by the Appraisal Foundation.

This appraisal is also written to conform to:

- (1) Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA);
- (2) The OCC Appraisal Standards of 12 CFR, Part 34 (12CFR34);
- (3) Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute; and
- (4) The Guidelines for Real Estate Appraisal Policies and Review Procedures adopted by the Bank Supervision Offices of the FDIC, the Board of Governors of the Federal Reserve System & the Office of the Comptroller of the Currency as of December 14, 1987.

Inherent in my value opinion is the assumption that all information and materials provided by the client, property owner, and property manager are reasonably correct. Also, the value reported herein is of land only, and represent a reasonable marketing time to any potential purchaser desiring to use the site for its Highest and Best Use.

The site did not show any signs of hazardous materials. However, since I am not qualified to accurately detect hazardous substances, this appraisal is made on the assumption that testing of the site by a qualified expert will conclude there is no evidence of any environmental problem that would result in loss of property value.

Page 3
May 6, 2016

My Appraisal Report, which follows this letter of transmittal, is intended to be a summary of all pertinent data which describes my research, analysis and conclusions. These conclusions, with full consideration to certification and limiting conditions, are the basis upon which I submit my opinion that Market Value of the Fee Simple Estate of Subject Property, as of April 30, 2016, were:

TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS

\$225,000

The value opinions expressed in this Appraisal Report are based on a reasonable market exposure time.

BECAUSE I WAS NOT PROVIDED WITH A CURRENT SURVEY, THIS VALUE OPINION WOULD BE SUBJECT TO CHANGE IF THE ACTUAL SIZE, SHAPE AND DIMENSIONS WERE DIFFERENT THAN USED IN THIS REPORT.

Respectfully Submitted,

POULOS-HEBERT & ASSOCIATES



Harry Hebert, Appraiser

State Certified General Real Estate Appraiser: GA-141

AGREEMENT FOR SALE AND PURCHASE

THIS AGREEMENT FOR SALE AND PURCHASE (this "Agreement"), made as of the Effective Date as provided herein, by and between **CHARTRE CONSULTING, LTD.**, a Mississippi corporation, 2330 University Avenue, Oxford, MS 39655 ("Buyer"), who agrees to buy, and **the CITY OF BILOXI, MISSISSIPPI**, 140 Lamcuse Street, Biloxi, MS 39530 ("Seller"), who agrees to sell, the property hereinafter described in Exhibit "A" (the "Property") according to the terms and conditions set forth below. The "Effective Date" of this Agreement is the date on which the Mayor signs and delivers this Agreement to the Buyer. Unless otherwise indicated, time is expressly made of the essence in this Agreement.

1. **PURCHASE PRICE:** The total purchase price of the Property described in Exhibit "A" is One Hundred Eighty-Seven Five Hundred and no/100ths Dollars (\$187,500.00). The purchase price shall be paid in cash at closing. The cost of appraisals that formed the basis for this Purchase Price shall be paid ½ by Buyer and ½ by Seller at Closing.

2. **DEPOSIT:**

(a) As security for Buyer's performance hereunder, Buyer shall deposit the amount of Five Hundred and 00/100 Dollars (\$500.00) with the Seller upon execution of this Agreement by cash, certified or bank check or by wire transfer (the "Deposit") within ten (10) days of the date Buyer receives this Agreement executed by the Mayor.

(b) The Deposit shall be applied as a credit to the Purchase Price due at the Closing. The failure of Buyer to timely pay the Deposit shall enable Seller to terminate this Agreement, in which event the parties hereto shall have no further rights or obligations to the other hereunder.

3. **TIME FOR ACCEPTANCE:** If this Agreement is not executed by and delivered to all parties on or before July 15, 2016, Seller's offer to sell shall be withdrawn, and this Agreement shall be deemed null and void.

4. **TITLE AND SURVEY:**

Within 30 days of acceptance, Seller shall provide, at Seller's sole cost and expense, a certificate of title prepared by an attorney upon whose certificate of title insurance may be obtained from a title insurance company qualified to do and doing business in the state of Mississippi. Seller shall, prior to closing, satisfy all outstanding mortgages, deeds of trust and special liens affecting the subject property which are not specifically assumed by Buyer herein. Title shall be good and marketable, subject only to the following items recorded in the Chancery Clerks office of said County: easements without encroachments, applicable zoning ordinance, protective covenants and prior mineral reservations; otherwise Buyer, at its option, may either (a) if defects cannot be cured by designated closing date, cancel this contract, in which case all Earnest Money deposited shall be returned; (b) accept title as is; or (c) if the defects are of such character that they can be

remedied, in the reasonable opinion of Seller, by legal action within a reasonable time, permit Seller such reasonable time to perform this curative work at Seller's expense; provided, however, if the Seller determines, in its discretion, that the expense of curing the defects would be in an amount unacceptable to Seller, then Seller may decline to take action to cure the defects; and, provided further, that in the event Buyer determines that title has defects resulting in Buyer exercising any of its above-described options (a), (b) or (c), or resulting in Seller declining to cure defects, Buyer's sole remedy shall be the return of Buyer's Deposit, and Buyer shall have no right to claim any damages from the Seller arising out of Seller's failure to deliver good and merchantable title as described above. In the event the curative work is performed by Seller, the time specified herein for closing of this sale shall be extended for a reasonable period necessary for such action. Seller represents that the property may be legally used as zoned and that no governmental agency has served any notice requiring repairs, alterations or corrections of any existing condition except as stated herein. The property is currently zoned RS-5 Single-Family Residential, High Density.

5. **DUE DILIGENCE.** From the Effective Date through one hundred twenty (120) days thereafter (the "Inspection Period"), the Buyer shall have the following rights:

(i) Buyer shall be entitled to obtain a survey (the "Survey") of the Property at Buyer's own expense. Seller shall cause the surveyors to be allowed on the Property during normal business hours.

(ii) Buyer shall be entitled to have the Property inspected for environmental damage. Seller shall cause the environmental surveyors to be allowed on the Property during normal business hours. Such inspections shall be at Buyer's own expense.

(iii) Buyer shall be entitled to conduct such other studies at Buyer's own expense to determine the feasibility of the Property for its business purposes. Seller shall cause such other persons in pursuit of such determination to be allowed on the Property during normal business hours.

Buyer shall not unnecessarily or unreasonably disturb the Property, but rather shall leave the Property in substantially the same condition as it exists upon the signing hereof; otherwise, Seller shall be indemnified by Buyer from any damages done by Buyer or any agent of Buyer.

6. **EXTENDING THE INSPECTION PERIOD.** Buyer shall have the right to extend the Inspection Period for an additional one hundred twenty (120) day period upon providing written notice to Seller as provided herein and the payment of an additional \$500.00 earnest money. The notice will be effective upon delivery of the additional earnest money deposit.

7. **TERMINATION DURING THE INSPECTION PERIOD.** Notwithstanding any provisions herein, Buyer shall be entitled to terminate this agreement at any time during the Inspection Period, or any extension thereof, and

receive the return of the Deposit. Within fourteen (14) days following receipt of said notice of termination, Seller will issue a payment to Buyer, a sum equal to the Deposit.

8. **REPRESENTATION AND WARRANTIES BY SELLER.** Seller represents, warrants and covenants to Buyer as follows:

(i) At the time of Closing, Seller shall have the right, title and power to convey good and marketable fee simple title to Buyer of the Property, free and clear of all encumbrances other than those matters set forth in Paragraph 4.

(ii) Prior to the Closing, Seller shall not create or permit to be created any easements, covenants, conditions or restrictions affecting any portion of the Property without the prior written consent of Buyer.

(iii) The terms of this paragraph shall survive the closing.

9. **BUYER'S WARRANTIES:** Buyer represents to Seller as follows:

(a) Buyer has full authority to execute, deliver and perform this Agreement and has obtained all consents of all other parties that are required for such purpose, if any.

(b) All action required pursuant to this Agreement that is necessary to effectuate the transaction contemplated herein will be taken promptly in good faith by Buyer, and Buyer shall furnish Seller with such further assurances as are reasonably required in connection with the effectuation of the Closing of this transaction.

(c) Buyer is currently in compliance with, and shall at all times during the term of this Agreement (including any extension thereof) remain in compliance with, the regulations of the OFAC of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

10. **DISCLAIMERS, RELEASE AND INDEMNITY:**

(a) It is understood and agreed that Seller and Seller's agents and employees have not at any time made and are not now making, and they specifically disclaim, any warranties, representations or guaranties of any kind or character, express or implied, with respect to the Property, including, but not limited to, warranties, representations or guaranties as to (a) matters of title, (b) environmental matters relating to the Property or any portion thereof, including, without limitation, the presence of Hazardous Materials (as hereinafter defined) in, on, under or in the vicinity of the Property, (c) geological conditions, including, without limitation, subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water, and

geologic faults and the resulting damage of past and/or future faulting, (d) whether, and to the extent to which the Property or any portion thereof is affected by any stream (surface or underground), body of water, wetlands, flood prone area, flood plain, floodway or special flood hazard, (e) drainage, (f) soil conditions, including the existence of instability, past soil repairs, soil additions or conditions of soil fill, or susceptibility to landslides, or the sufficiency of any undershoring, (g) the presence of endangered species or any environmentally sensitive or protected areas, (h) zoning or building entitlements to which the Property or any portion thereof may be subject, (i) the availability of any utilities to the Property or any portion thereof including, without limitation, water, sewage, gas and electric, (j) usages of adjoining property, (k) access to the Property or any portion thereof, (l) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, suitability, structural integrity, operation, title to, or physical or financial condition of the Property or any portion thereof, or any income, expenses, charges, liens, encumbrances, rights or claims on or affecting or pertaining to the Property or any part thereof, (m) the condition or use of the Property or compliance of the Property with any or all past, present or future federal, state or local ordinances, rules, regulations or laws, building, fire or zoning ordinances, codes or other similar laws, (n) the existence or non-existence of underground storage tanks, surface impoundments, or landfills, (o) any other matter affecting the stability and integrity of the Property, (p) the potential for further development of the Property, (q) the merchantability of the Property or fitness of the Property for any particular purpose, (r) tax consequences, (s) the income and expenses derived from the use and operation of the Property, (t) the existence and status of any and all residential and/or commercial tenancies (including, without limitation, any matters arising from or related to any leases or occupancy agreements affecting the use and/or operation of the Property), or (u) any other matter or thing with respect to the Property or this transaction.

(b) Buyer expressly acknowledges and agrees that Seller shall sell and convey to Purchaser and Buyer shall accept the Property **"AS IS, WHERE IS, WITH ALL FAULTS."** Buyer has not relied and will not rely on, and Seller has not made and is not liable for or bound by, any express or implied warranties, guarantees, statements, representations or information pertaining to the Property or relating thereto (including specifically, without limitation, any Property information packages distributed with respect to the Property) made or furnished by Seller, or any property manager, real estate broker, agent or third party representing or purporting to represent Seller, to whomever made or given, directly or indirectly, orally or in writing. Buyer represents that it is a knowledgeable, experienced and sophisticated Buyer of real estate and that it is relying solely on its own expertise and that of Buyer's consultants in purchasing the Property and has prior to its entry into this Agreement made an independent verification of the accuracy of any documents and information provided by Seller. Buyer has or will, prior to its closing of the sales set forth in this Agreement, conduct such inspections and investigations of the Property as Buyer deems necessary, including, but not limited to, any and all financial, physical and environmental conditions thereof, and shall rely exclusively upon same. Buyer acknowledges that Seller has afforded Buyer a full opportunity to conduct such investigations of the Property as Buyer deems necessary prior to Buyer's closing of the sales set forth in

this Agreement in order to satisfy itself as to the condition of the Property, including, without limitation, the existence or non-existence or curative action to be taken with respect to any Hazardous Materials on or discharged from the Property, and will rely solely upon same and not upon any information provided by or on behalf of Seller or its agents or employees with respect thereto. Buyer assumes the risk that adverse matters, including, but not limited to, adverse physical or construction defects or adverse environmental, health or safety conditions, may not have been revealed by Buyer's inspections and investigations. Buyer hereby represents and warrants to Seller that: (a) Buyer is represented by legal counsel in connection with the transaction contemplated by this Agreement; and (b) Buyer is purchasing the Property for business, commercial, investment or other similar purpose. Buyer waives any and all rights or remedies it may have or be entitled to, deriving from disparity in size or from any significant disparate bargaining position in relation to Seller.

(c) Buyer acknowledges that prior to its entry into this Agreement, it had the opportunity to inspect the Property in order to observe its physical characteristics and existing conditions and, prior to the closing of the sales set forth in this Agreement will have the opportunity to conduct such investigation and study on and of the Property and adjacent areas as Buyer deems necessary, and Buyer hereby FOREVER RELEASES AND DISCHARGES Seller from all responsibility and liability, including without limitation, liabilities under the Comprehensive Environmental Response, Compensation and Liability Act Of 1980 (42 U.S.C. Sections 9601 et seq.), as amended ("**CERCLA**"), regarding the condition, valuation, salability or utility of the Property, or its suitability for any purpose whatsoever (including, but not limited to, with respect to the presence in the soil, air, structures and surface and subsurface waters, of Hazardous Materials or other materials or substances that have been or may in the future be determined to be toxic, hazardous, undesirable or subject to regulation and that may need to be specially treated, handled and/or removed from the Property under current or future federal, state and local laws, regulations or guidelines, and any structural and geologic conditions, subsurface soil and water conditions and solid and hazardous waste and Hazardous Materials on, under, adjacent to or otherwise affecting the Property). Buyer further hereby WAIVES (and by Closing this transaction will be deemed to have WAIVED) any and all objections and complaints (including, but not limited to, federal, state and local statutory and common law based actions, and any private right of action under any federal, state or local laws, regulations or guidelines to which the Property is or may be subject, including, but not limited to, CERCLA) concerning the physical characteristics and any existing conditions of the Property. Buyer further hereby assumes the risk of changes in applicable laws and regulations relating to past, present and future environmental conditions on the Property and the risk that adverse physical characteristics and conditions, including, without limitation, the presence of Hazardous Materials or other contaminants, may not have been revealed by its investigation.

(d) For purposes hereof, "**Hazardous Materials**" means "Hazardous Material," "Hazardous Substance," "Pollutant or Contaminant," and "Petroleum" and "Natural Gas Liquids," as those terms are defined or used in Section 101 of CERCLA, mold, mildew, biotoxins, and any other substances regulated because of their effect or potential effect on public health and the environment, including,

without limitation, PCBs, lead paint, asbestos, urea formaldehyde, radioactive materials, putrescible materials, and infectious materials.

(e) Buyer agrees to indemnify, defend and hold Seller harmless of and from any and all liabilities, claims, demands, and expenses of any kind or nature which arise or accrue after Closing and which are in any way related to the ownership, maintenance, or operation of the Property by Buyer and its successors and assigns, including, without limitation, in connection with Hazardous Materials. Buyer and Seller hereby specifically agree that Seller shall not be responsible for the prevention of mold and/or mildew or any damages, including, but not limited to, any special or consequential damages, property damage, personal injury, loss of income, emotional distress, death, loss of use, diminution or loss of value of the Property, economic damages, and adverse health effects relating to, arising from, resulting from or caused by mold and/or mildew accumulation at the Property regardless of the cause of said mold and/or mildew or when same arose.

(f) The terms and conditions of this Paragraph 10 shall expressly survive the Closing.

Buyer acknowledges and agrees that the disclaimers and other agreements set forth herein are an integral part of this Agreement and that Seller would not have agreed to sell the Property to Buyer for the Purchase Price without the disclaimers and other agreements set forth above.

11. CONVEYANCE:

Seller shall convey title to the Property by fee simple absolute, by a good and sufficient Warranty Deed (the "Deed") to Buyer. The Deed shall convey good, clear and marketable title, subject only to the matters set forth in Paragraph 4. The Deed shall be in proper form for recording and shall be duly executed, acknowledged and delivered by Seller at Closing.

12. CLOSING:

(a) Unless extended pursuant to the terms of this Agreement, the Closing of this transaction, as contemplated hereunder (the "Closing"), shall take place thirty (30) days after the expiration of the Inspection Period (the "Closing Date") at the offices of Wheeler & Wheeler, PLLC, 185 Main Street, Biloxi, MS 39530 (the "Closing Attorney"). Buyer may move the Closing Date to an earlier date provided such earlier date is agreeable with Seller. Buyer may extend the Closing Date by up to an additional fifteen (15) days upon written notice given to Seller not later than eighty-five (85) days after the Effective Date (the "Extended Closing Date").

(b) Seller shall deliver or cause to be delivered to the Buyer on the Closing Date, at Seller's sole cost and expense the Deed, in recordable form.

(c) At the Closing, Buyer shall deliver or cause to be delivered to the Seller's Closing Attorney on or before the Closing Date, at Buyer's sole cost and expense, the following:

(i) The Purchase Price and Buyer's closing costs and fees in cash by a wire transfer, same day U.S. federal funds wired for credit into the Closing Attorney's escrow account, or by certified cashier's check, which funds must be delivered in a manner to permit the Closing Attorney to deliver said funds to Seller or its designee on the Closing Date;

(ii) Such conveyance or transfer tax forms or returns, if any, as are required to be delivered or signed by Buyer by applicable state and local law in connection with the conveyance of the Property;

(iii) Evidence of the existence, organization and authority of Buyer and of the authority of the persons executing documents on behalf of Buyer reasonably satisfactory to the underwriter for the title policy; and

(iv) Any other documents required under this Agreement to be executed by Buyer.

13. **EXPENSES:** Subject to the limitations set forth in Paragraph 4, Seller shall be responsible for the payment of costs related to providing a Certificate of Title, and the Deed. Buyer shall be responsible for the cost of all title insurance premiums, expenses associated with any financing, and costs associated with any inspections, tests and investigations conducted by it or on its behalf, as well as all other closing fees and costs.

14. **TAXES:** The Seller is exempt from ad valorem taxes on real property. Seller represents that there are no ad valorem taxes due and there will be no ad valorem taxes levied on the Property for the tax year of the sale.

15. **DEFAULT:**

(a) In the event of any material default by Seller of its obligations hereunder, Buyer, following delivery of five (5) days notice to Seller to cure, shall have only the following rights and remedies:

(i) Buyer shall have the right to waive the breach, default or other closing condition and proceed to Closing in accordance with the provisions of this Agreement without a reduction in the Purchase Price; or

(ii) Buyer shall have the right to terminate this Agreement by notice to Seller, in which event the Deposit shall be refunded to Buyer, and all obligations of Buyer and Seller under this Agreement shall terminate; or

(iii) Buyer may seek specific performance.

Buyer shall have no right to recover damages from Seller.

(b) If Buyer fails to perform any of the covenants of this Agreement applicable to Buyer, Seller, following delivery of five (5) days notice to cure (except that no notice of cure shall be needed, given or exist by reason of Buyer's failure to timely close on the scheduled Closing Date or by reason of Buyer's

breach of the recordation prohibition set forth in Article 18 hereof), may retain the Deposit actually paid by Buyer as liquidated and agreed upon damages as its sole and exclusive remedy in consideration for the execution of this Agreement and in full settlement of any claims for damages, and Seller and Buyer shall be relieved of all further obligations and liability under this Agreement.

16. **ATTORNEYS FEES; COSTS:** Seller and Buyer will each be responsible for their own attorney's fees.

17. **OTHER AGREEMENTS:** No prior or present agreements or representations shall be binding upon Buyer or Seller unless included in this Agreement. No modification or change in this Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

18. **AGREEMENT NOT RECORDABLE; PERSONS BOUND:** Neither this Agreement nor any notice of it shall be recorded in any public records. A breach of this provision by Buyer shall be a material default under this Agreement. This Agreement shall bind and inure to the benefit of the parties and their successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all.

19. **TIME:** The "Effective Date" of this Agreement is the date on which the last of the parties signs the Agreement and delivers a copy thereof to the other party. Time is of the essence in this Agreement. Time periods of five (5) days or less shall be computed without including Saturday, Sunday, or national legal holidays and any time periods ending on a Saturday, Sunday, or national legal holiday shall be extended until 5:00 p.m. on the next business day.

20. **BROKER:** There are no brokers in this transaction, and no commissions are due on this sale.

21. **FINANCING:** This Agreement is an all cash transaction that is not subject to financing.

22. **NOTICES:** All notices, demands, requests, and other communications required or permitted hereunder shall be in writing. All such notices, demands, requests and other communications (and copies thereof) shall be deemed to be delivered: (a) if sent by messenger, upon personal delivery to the party to whom the notice is directed; (b) if sent by facsimile, upon electronic or telephonic confirmation of receipt from the receiving facsimile machine; (c) if sent by overnight courier, with request for next business day delivery, on the next business day after sending; or (d) whether actually received or not, two (2) business days after deposit in a regularly maintained receptacle for the United States mail, registered or certified, return receipt requested, postage prepaid addressed as follows (or to such other address as the parties may specify by notice given pursuant to this Paragraph):

If to Seller: City of Biloxi

Attn: Mayor Andrew "FoFo" Gilich
140 Lameuse Street
Biloxi, MS 39530
Tel: 228-435-6254

with copies to: Gerald Blessey, City Attorney
Gerald Blessey Law Firm
P.O. Box 4648
Biloxi, MS 39535
CELL: (228) 806-4755
Fax: (228) 388-7434
Email: blesseylaw@me.com

with copies to: David A. Wheeler, Esquire
Wheeler & Wheeler, PLLC
P.O. Box 264
Biloxi, MS 39533
Tel: (228) 374-67720
Fax: (228) 374-6721
Email: david@wheelerattys.com

If to Buyer: Chartre Consulting, Ltd.
c/o Clarence Chapman, President
2330 University Ave.
Oxford, MS 38655
Tel: (662) 236-5080 Ext. 116
Fax: (662) 236-5089
Cell: (662) 832-4300
cwc@chartre.com

22. **ASSIGNABILITY:** Except for an assignment to an entity wholly owned by Buyer or Buyer's owners, this Agreement may not be assigned by Buyer without the prior written consent of Seller.

23. **PARAGRAPH HEADINGS:** The paragraph headings used in this Agreement are for convenience only, and shall not be used in interpreting or construing any provision of this Agreement.

24. **CONSTRUCTION OF AGREEMENT:** Each party acknowledges that all parties to this Agreement participated equally in the drafting of this Agreement and that it was negotiated at arm's length. Accordingly, no court should construe this Agreement more strongly against either party.

25. **COUNTERPARTS AND DUPLICATE ORIGINALS:** To facilitate the execution of this Agreement, any number of counterparts of this Agreement may be executed and delivered. It shall not be necessary for each party's signature to appear on each counterpart, but it shall be sufficient that each party's signature appear on one or more of the counterparts. Each of the counterparts shall be considered an original and all of them, together, shall constitute one and the same

instrument. A facsimile copy of the Agreement executed by the party shall be considered for all purposes as an original.

26. **FURTHER ACTION:** Each of the parties hereto shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of the obligations hereunder and to carry out the intent of the parties hereto.

27. **WAIVER:** The waiver by any party of a breach of any provision of this Agreement shall not operate or be construed a waiver of any other provision of this Agreement or of any future breach of the provision so waived.

28. **GOVERNING LAW:** The laws of the State of Mississippi shall govern the validity, construction, enforcement and interpretation of this Agreement. Venue for any legal action arising hereunder shall be in the appropriate court of competent jurisdiction in and for the Second Judicial District of Harrison County, Mississippi. If any provision of this Agreement is deemed unenforceable, the remaining provisions shall remain in full force and effect.

29. **SPECIAL PROVISIONS:** Contract is contingent upon:

- (a) Rezoning of the Property to allow Buyer to develop townhomes and zero lot line homes with least separation and minimum setbacks allowed by the City. Seller will make its best efforts, within the limits allowed by law, to assist Buyer in its efforts to re-zone any Property identified herein.
- (b) Water, sewer and all other required utility services for Purchaser are currently available to the Property in the required capacity.
- (c) Inspections to be performed at Buyer's expense within the Agreement time period may include at Buyer's discretion, a wetlands review, geotechnical/soil boring, environmental, and any other inspection deemed appropriate by Buyer. Seller agrees for Buyer to have access to property to perform all desired inspections. Results of all inspections must be acceptable to Buyer or this contract will be considered null and void and earnest money will be refunded to Buyer.
- (d) There are no other prohibitions or restrictions that would preclude Buyer from building its planned residential real estate developments on the parcels immediately after closing.
- (e) Seller must approve the plans and designs intended for each property as a prerequisite to Closing, which approval shall not be unreasonably withheld.
- (f) Buyer intends to form separate entities to proceed with the various parts of the development planned. Seller agrees for the assignment of the rights hereby for any parcel to such entity. It is understood and agreed that Chartre Consulting,

Ltd., the "Buyer" herein, will own the Buyer and its assignees until Buyer's tax credit investor is admitted. Upon the admission of the tax credit investor, Chartre Consulting, Ltd. will control the assignee via ownership of the managing member's position in that entity.

- (g) Seller understands and agrees that Closing is subject to Buyer obtaining tax credit capital commitments and other required funding to complete Buyer's budget within the allowed due diligence period, failing which the Deposit will be returned to Buyer and this Agreement will be terminated as of the end of the due diligence period, unless extended by written agreement of the Seller and Buyer.

31. **STATEMENT:** Each undersigned party to this transaction acknowledges that he/she has been duly authorized to execute this Agreement and further that they have read and understand this Option contract, and hereby acknowledges receipt of a copy of this document. When herein used the singular includes the plural and the masculine includes the feminine.

SIGNATURE PAGE FOLLOWS_____

WITNESS OUR SIGNATURES on the date specified below for each of the parties herein.

SELLER:

THE CITY OF BILOXI, MISSISSIPPI
LTD.

ANDREW "FOFO" GILLICH, Mayor

DATE: _____

STACY THACKER, Municipal Clerk

DATE: _____

BUYER:

CHARTRE CONSULTING,

C.W. Chapman, President

DATE: _____

Exhibit "A"

The Parcel is the 5.08 Acre tract, south of the Kroc Center on Division St., Biloxi, MS and between Lee St. and Esters Boulevard–Tax Parcel 1410G-06-001.000 – as depicted below.

**RESIDENTIAL TRACT (5.08 ACRES)
ESTERS BOULEVARD
BILOXI, MISSISSIPPI 39530**



Residential Tract (5.08 Acres) - Esters Boulevard, Biloxi, MS

The Parcel is the 3.06 Acre tract, 311 Division St., 275 Oak St., Biloxi, MS—Tax Parcels
1410H-04-078.000 & 1410H-04-078.001 — as depicted below.

**VACANT TRACT (2.70 ACRES)
311 DIVISION STREET / 275 OAK STREET
BILOXI, MISSISSIPPI 39530**



Vacant Tract (2.70 Acres) – Biloxi, MS

EXHIBIT

G

LADNER APPRAISAL GROUP, INC.

REAL ESTATE APPRAISERS & CONSULTANTS

1010 FORD STREET, GULFPORT, MISSISSIPPI 39507

• (228) 604-1900 • FAX (228) 604-1920

Everette E. Ladner III, MAI, SRA
Licensed Cert Gen. R. E. Appraiser GA #567

May 26, 2016

EXHIBIT

H

The City of Biloxi
David Nichols, CAO
140 Lameuse Street
Biloxi, Mississippi 39530

RE: Appraisal Report

Vacant tract comprising 2.70 acres located at
311 Division Street / 275 Oak Street, Biloxi,
Harrison County, MS
Purchase Order #: 20164816-01

Dear Mr. Nichols:

As requested by you, an inspection has been completed of the referenced property for the purpose of estimating the current market value of the **fee simple interest**. In compliance with the "Uniform Standards of Professional Appraisal Practice," this letter of transmittal is followed by an **appraisal report** in which all applicable approaches to value are used and with the value conclusion reflecting all known information about the subject property, current and projected market conditions, and other available data.

Because this is a summary format, it presents only summary discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated within this report. Ladner Appraisal Group, Inc. has not performed services as an appraiser or in any other capacity regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.

The subject property consists of a vacant tract located along the south side of Division Street, west side of Oak Street, and the north side of Railroad Street in Biloxi, Harrison County, Mississippi. The subject tract comprises 2.70 acres or 117,612± square feet (based on tax map). The property is irregular shaped and generally functional. The subject tract is currently zoned "I" Industrial (City of Biloxi). The property is currently owned by the City of Biloxi.

Mr. David Nichols
May 26, 2016
Page Two

The purpose of this appraisal is to estimate the market value of the subject property as of May 23, 2016, this being the last date of inspection. Subject to the limiting conditions and certification beginning on Page 57 of this report, it is our opinion that the market value of the subject property (fee simple estate), as of the last date of inspection, May 23, 2016, was:

MARKET VALUE CONCLUSION

Appraisal Premise	Interest Appraised	Date of Value	Value Conclusion
"AS IS"	Fee Simple	May 23, 2016	\$95,000

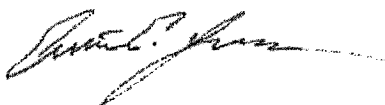
Market value will be defined in the appraisal report, but basically assumes a willing buyer-seller, both knowledgeable of the subject real estate market and with the valuation at the property's highest and best use. Along with this value estimate, current economic conditions indicate both the marketing period and exposure period to be 12 to 18 months.

This appraisal has been prepared utilizing all of the requirements set forth as Standards for Real Estate Appraisals as established for federally related transactions and the State of Mississippi. The appraisal conforms to the Uniform Standards of Professional Appraisal Practice (USPAP).

We appreciate the opportunity to provide real estate appraisal services for the City of Biloxi. After your review, should you have questions, please call.

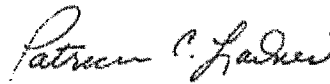
Respectfully submitted,

LADNER APPRAISAL GROUP, INC.



Everette E. Ladner III, MAI, SRA
State-Licensed Cert. Gen. R. E. Appraiser GA 567

Phone: 228-604-1900
Fax: 228-604-1920
Email: eladner@ladnerappraisal.com



Patricia C. Ladner
State-Licensed Cert. Gen. R. E. Appraiser GA 731

Phone: 228-604-1900
Fax: 228-604-1920
Email: pladner@ladnerappraisal.com

EEL:kzm

POULOS-HEBERT & ASSOCIATES

2018 23rd Avenue - Gulfport, Ms. 39501
P. O. Box 7702 - Gulfport, Ms. 39506
228-864-2378 - Fax 228-864-2379
www.HebertAppr@AOL.com

Roger Poulos, MAI (1946-1995)
Harry Hebert, GAA

May 25, 2016

Mr. David Nichols
City of Biloxi
P. O. Box 429
Biloxi, MS 39533-0429

RE: Appraisal Report of a 2.66 acre parcel of land located on the south side of Division Street, 69 feet west side of Oak Street, in the City of Biloxi, Harrison County, Mississippi.

Dear Mr. Nichols:

In accordance with your request, I have personally inspected and appraised the above referenced property as of May 23, 2016. This report, and final opinion of market value, have been based on an inspection of the property and research into the various factors that influence value.

Briefly described Subject Property consists of an "L" shaped 2.66 acre site (subject to survey), located on the south side of Division Street, north side of Railroad Street, and west side of Oak Street. Subject can be identified as Tax Parcels 1410H-04-078.000 and 1410H-04-078.001, in the City of Biloxi.

The purpose of this appraisal is to provide my opinion of Market Value of the Fee Simple Estate of Subject Property, as of the date of inspection, May 23, 2016. Fee Simple Estate is "absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat."

MISSISSIPPI GULF COAST

Page 2
May 25, 2016

The analysis and results of my investigation, which are submitted within the accompanying report, are made in conformity with and subject to the Code of Professional Ethics and Standards of Professional Practice as set forth by the Appraisal Institute, and the Uniform Standards of Professional Appraisal Practice (USPAP) as specified by the Appraisal Foundation.

This appraisal is also written to conform to:

- (1) Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA);
- (2) The OCC Appraisal Standards of 12 CFR, Part 34 (12CFR34);
- (3) Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute; and
- (4) The Guidelines for Real Estate Appraisal Policies and Review Procedures adopted by the Bank Supervision Offices of the FDIC, the Board of Governors of the Federal Reserve System & the Office of the Comptroller of the Currency as of December 14, 1987.

Inherent in my value opinion is the assumption that all information and materials provided by the client, property owner, and property manager are reasonably correct. Also, the value reported herein is of land only, and represents a reasonable marketing time to any potential purchaser desiring to use the site for its Highest and Best Use.

The site did not show any signs of hazardous materials. However, the site's current use as an open storage area infers that possibility. Since I am not qualified to accurately detect hazardous substances, this appraisal is made on the assumption that testing of the site by a qualified expert will conclude there is no evidence of any environmental problem that would result in loss of property value.

Page 3
May 25, 2016

My Appraisal Report, which follows this letter of transmittal, is intended to be a summary of all pertinent data that describes my research, analysis and conclusions. These conclusions, with full consideration to certification and limiting conditions, are the basis upon which I submit my opinion that Market Value of the Fee Simple Estate of Subject Property, as of May 23, 2016, was:

ONE HUNDRED FOUR THOUSAND DOLLARS

\$ 104,000

The value opinion expressed in this Appraisal Report IS based on a reasonable market exposure time.

BECAUSE I WAS NOT PROVIDED WITH A CURRENT SURVEY, THIS VALUE OPINION WOULD BE SUBJECT TO CHANGE IF A CURRENT SURVEY REVEALED A DIFFERENT SIZE, SHAPE AND DIMENSIONS USED IN THIS REPORT.

Respectfully Submitted,

POULOS-HEBERT & ASSOCIATES



Harry Hebert, Appraiser
State Certified General Real Estate Appraiser: GA-141

AGREEMENT FOR SALE AND PURCHASE

THIS AGREEMENT FOR SALE AND PURCHASE (this "Agreement"), made as of the Effective Date as provided herein, by and between **CHARTRE CONSULTING, LTD.**, a Mississippi corporation, 2330 University Avenue, Oxford, MS 39655 ("Buyer"), who agrees to buy, and **the CITY OF BILOXI, MISSISSIPPI**, 140 Lameuse Street, Biloxi, MS 39530 ("Seller"), who agrees to sell, the property hereinafter described in Exhibit "A" (the "Property") according to the terms and conditions set forth below. The "Effective Date" of this Agreement is the date on which the Mayor signs and delivers this Agreement to the Buyer. Unless otherwise indicated, time is expressly made of the essence in this Agreement.

1. **PURCHASE PRICE:** The total purchase price of the Property described in Exhibit "A" is Ninety Five Thousand and no/100ths Dollars (\$95,000.00). The purchase price shall be paid in cash at closing. The cost of appraisals that formed the basis for this Purchase Price shall be paid ½ by Buyer and ½ by Seller at Closing.

2. **DEPOSIT:**

(a) As security for Buyer's performance hereunder, Buyer shall deposit the amount of Five Hundred and 00/100 Dollars (\$500.00) with the Seller upon execution of this Agreement by cash, certified or bank check or by wire transfer (the "Deposit") within ten (10) days of the date Buyer receives this Agreement executed by the Mayor.

(b) The Deposit shall be applied as a credit to the Purchase Price due at the Closing. The failure of Buyer to timely pay the Deposit shall enable Seller to terminate this Agreement, in which event the parties hereto shall have no further rights or obligations to the other hereunder.

3. **TIME FOR ACCEPTANCE:** If this Agreement is not executed by and delivered to all parties on or before July 15, 2016, Seller's offer to sell shall be withdrawn, and this Agreement shall be deemed null and void.

4. **TITLE AND SURVEY:**

Within 30 days of acceptance, Seller shall provide, at Seller's sole cost and expense, a certificate of title prepared by an attorney upon whose certificate of title insurance may be obtained from a title insurance company qualified to do and doing business in the state of Mississippi. Seller shall, prior to closing, satisfy all outstanding mortgages, deeds of trust and special liens affecting the subject property which are not specifically assumed by Buyer herein. Title shall be good and marketable, subject only to the following items recorded in the Chancery Clerks office of said County: easements without encroachments, applicable zoning ordinance, protective covenants and prior mineral reservations; otherwise Buyer, at its option, may either (a) if defects cannot be cured by designated closing date, cancel this contract, in which case all Earnest Money deposited shall be returned; (b) accept title as is; or (c) if the defects are of such character that they can be

remedied, in the reasonable opinion of Seller, by legal action within a reasonable time, permit Seller such reasonable time to perform this curative work at Seller's expense; provided, however, if the Seller determines, in its discretion, that the expense of curing the defects would be in an amount unacceptable to Seller, then Seller may decline to take action to cure the defects; and, provided further, that in the event Buyer determines that title has defects resulting in Buyer exercising any of its above-described options (a), (b) or (c), or resulting in Seller declining to cure defects, Buyer's sole remedy shall be the return of Buyer's Deposit, and Buyer shall have no right to claim any damages from the Seller arising out of Seller's failure to deliver good and merchantable title as described above. In the event the curative work is performed by Seller, the time specified herein for closing of this sale shall be extended for a reasonable period necessary for such action. Seller represents that the property may be legally used as zoned and that no governmental agency has served any notice requiring repairs, alterations or corrections of any existing condition except as stated herein. The property is currently zoned I Industrial.

5. **DUE DILIGENCE.** From the Effective Date through one hundred twenty (120) days thereafter (the "Inspection Period"), the Buyer shall have the following rights:

(i) Buyer shall be entitled to obtain a survey (the "Survey") of the Property at Buyer's own expense. Seller shall cause the surveyors to be allowed on the Property during normal business hours.

(ii) Buyer shall be entitled to have the Property inspected for environmental damage. Seller shall cause the environmental surveyors to be allowed on the Property during normal business hours. Such inspections shall be at Buyer's own expense.

(iii) Buyer shall be entitled to conduct such other studies at Buyer's own expense to determine the feasibility of the Property for its business purposes. Seller shall cause such other persons in pursuit of such determination to be allowed on the Property during normal business hours.

Buyer shall not unnecessarily or unreasonably disturb the Property, but rather shall leave the Property in substantially the same condition as it exists upon the signing hereof; otherwise, Seller shall be indemnified by Buyer from any damages done by Buyer or any agent of Buyer.

6. **EXTENDING THE INSPECTION PERIOD.** Buyer shall have the right to extend the Inspection Period for an additional one hundred twenty (120) day period upon providing written notice to Seller as provided herein and the payment of an additional \$500.00 earnest money. The notice will be effective upon delivery of the additional earnest money deposit.

7. **TERMINATION DURING THE INSPECTION PERIOD.** Notwithstanding any provisions herein, Buyer shall be entitled to terminate this agreement at any time during the Inspection Period, or any extension thereof, and

receive the return of the Deposit. Within fourteen (14) days following receipt of said notice of termination, Seller will issue a payment to Buyer, a sum equal to the Deposit.

8. REPRESENTATION AND WARRANTIES BY SELLER. Seller represents, warrants and covenants to Buyer as follows:

(i) At the time of Closing, Seller shall have the right, title and power to convey good and marketable fee simple title to Buyer of the Property, free and clear of all encumbrances other than those matters set forth in Paragraph 4.

(ii) Prior to the Closing, Seller shall not create or permit to be created any easements, covenants, conditions or restrictions affecting any portion of the Property without the prior written consent of Buyer.

(iii) The terms of this paragraph shall survive the closing.

9. BUYER'S WARRANTIES: Buyer represents to Seller as follows:

(a) Buyer has full authority to execute, deliver and perform this Agreement and has obtained all consents of all other parties that are required for such purpose, if any.

(b) All action required pursuant to this Agreement that is necessary to effectuate the transaction contemplated herein will be taken promptly in good faith by Buyer, and Buyer shall furnish Seller with such further assurances as are reasonably required in connection with the effectuation of the Closing of this transaction.

(c) Buyer is currently in compliance with, and shall at all times during the term of this Agreement (including any extension thereof) remain in compliance with, the regulations of the OFAC of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

10. DISCLAIMERS, RELEASE AND INDEMNITY:

(a) It is understood and agreed that Seller and Seller's agents and employees have not at any time made and are not now making, and they specifically disclaim, any warranties, representations or guaranties of any kind or character, express or implied, with respect to the Property, including, but not limited to, warranties, representations or guaranties as to (a) matters of title, (b) environmental matters relating to the Property or any portion thereof, including, without limitation, the presence of Hazardous Materials (as hereinafter defined) in, on, under or in the vicinity of the Property, (c) geological conditions, including, without limitation, subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water, and

geologic faults and the resulting damage of past and/or future faulting, (d) whether, and to the extent to which the Property or any portion thereof is affected by any stream (surface or underground), body of water, wetlands, flood prone area, flood plain, floodway or special flood hazard, (e) drainage, (f) soil conditions, including the existence of instability, past soil repairs, soil additions or conditions of soil fill, or susceptibility to landslides, or the sufficiency of any undershoring, (g) the presence of endangered species or any environmentally sensitive or protected areas, (h) zoning or building entitlements to which the Property or any portion thereof may be subject, (i) the availability of any utilities to the Property or any portion thereof including, without limitation, water, sewage, gas and electric, (j) usages of adjoining property, (k) access to the Property or any portion thereof, (l) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, suitability, structural integrity, operation, title to, or physical or financial condition of the Property or any portion thereof, or any income, expenses, charges, liens, encumbrances, rights or claims on or affecting or pertaining to the Property or any part thereof, (m) the condition or use of the Property or compliance of the Property with any or all past, present or future federal, state or local ordinances, rules, regulations or laws, building, fire or zoning ordinances, codes or other similar laws, (n) the existence or non-existence of underground storage tanks, surface impoundments, or landfills, (o) any other matter affecting the stability and integrity of the Property, (p) the potential for further development of the Property, (q) the merchantability of the Property or fitness of the Property for any particular purpose, (r) tax consequences, (s) the income and expenses derived from the use and operation of the Property, (t) the existence and status of any and all residential and/or commercial tenancies (including, without limitation, any matters arising from or related to any leases or occupancy agreements affecting the use and/or operation of the Property), or (u) any other matter or thing with respect to the Property or this transaction.

(b) Buyer expressly acknowledges and agrees that Seller shall sell and convey to Purchaser and Buyer shall accept the Property **"AS IS, WHERE IS, WITH ALL FAULTS."** Buyer has not relied and will not rely on, and Seller has not made and is not liable for or bound by, any express or implied warranties, guarantees, statements, representations or information pertaining to the Property or relating thereto (including specifically, without limitation, any Property information packages distributed with respect to the Property) made or furnished by Seller, or any property manager, real estate broker, agent or third party representing or purporting to represent Seller, to whomever made or given, directly or indirectly, orally or in writing. Buyer represents that it is a knowledgeable, experienced and sophisticated Buyer of real estate and that it is relying solely on its own expertise and that of Buyer's consultants in purchasing the Property and has prior to its entry into this Agreement made an independent verification of the accuracy of any documents and information provided by Seller. Buyer has or will, prior to its closing of the sales set forth in this Agreement, conduct such inspections and investigations of the Property as Buyer deems necessary, including, but not limited to, any and all financial, physical and environmental conditions thereof, and shall rely exclusively upon same. Buyer acknowledges that Seller has afforded Buyer a full opportunity to conduct such investigations of the Property as Buyer deems necessary prior to Buyer's closing of the sales set forth in

this Agreement in order to satisfy itself as to the condition of the Property, including, without limitation, the existence or non-existence or curative action to be taken with respect to any Hazardous Materials on or discharged from the Property, and will rely solely upon same and not upon any information provided by or on behalf of Seller or its agents or employees with respect thereto. Buyer assumes the risk that adverse matters, including, but not limited to, adverse physical or construction defects or adverse environmental, health or safety conditions, may not have been revealed by Buyer's inspections and investigations. Buyer hereby represents and warrants to Seller that: (a) Buyer is represented by legal counsel in connection with the transaction contemplated by this Agreement; and (b) Buyer is purchasing the Property for business, commercial, investment or other similar purpose. Buyer waives any and all rights or remedies it may have or be entitled to, deriving from disparity in size or from any significant disparate bargaining position in relation to Seller.

(c) Buyer acknowledges that prior to its entry into this Agreement, it had the opportunity to inspect the Property in order to observe its physical characteristics and existing conditions and, prior to the closing of the sales set forth in this Agreement will have the opportunity to conduct such investigation and study on and of the Property and adjacent areas as Buyer deems necessary, and Buyer hereby FOREVER RELEASES AND DISCHARGES Seller from all responsibility and liability, including without limitation, liabilities under the Comprehensive Environmental Response, Compensation and Liability Act Of 1980 (42 U.S.C. Sections 9601 et seq.), as amended ("**CERCLA**"), regarding the condition, valuation, salability or utility of the Property, or its suitability for any purpose whatsoever (including, but not limited to, with respect to the presence in the soil, air, structures and surface and subsurface waters, of Hazardous Materials or other materials or substances that have been or may in the future be determined to be toxic, hazardous, undesirable or subject to regulation and that may need to be specially treated, handled and/or removed from the Property under current or future federal, state and local laws, regulations or guidelines, and any structural and geologic conditions, subsurface soil and water conditions and solid and hazardous waste and Hazardous Materials on, under, adjacent to or otherwise affecting the Property). Buyer further hereby WAIVES (and by Closing this transaction will be deemed to have WAIVED) any and all objections and complaints (including, but not limited to, federal, state and local statutory and common law based actions, and any private right of action under any federal, state or local laws, regulations or guidelines to which the Property is or may be subject, including, but not limited to, CERCLA) concerning the physical characteristics and any existing conditions of the Property. Buyer further hereby assumes the risk of changes in applicable laws and regulations relating to past, present and future environmental conditions on the Property and the risk that adverse physical characteristics and conditions, including, without limitation, the presence of Hazardous Materials or other contaminants, may not have been revealed by its investigation.

(d) For purposes hereof, "**Hazardous Materials**" means "Hazardous Material," "Hazardous Substance," "Pollutant or Contaminant," and "Petroleum" and "Natural Gas Liquids," as those terms are defined or used in Section 101 of CERCLA, mold, mildew, biotoxins, and any other substances regulated because of their effect or potential effect on public health and the environment, including,

without limitation, PCBs, lead paint, asbestos, urea formaldehyde, radioactive materials, putrescible materials, and infectious materials.

(e) Buyer agrees to indemnify, defend and hold Seller harmless of and from any and all liabilities, claims, demands, and expenses of any kind or nature which arise or accrue after Closing and which are in any way related to the ownership, maintenance, or operation of the Property by Buyer and its successors and assigns, including, without limitation, in connection with Hazardous Materials. Buyer and Seller hereby specifically agree that Seller shall not be responsible for the prevention of mold and/or mildew or any damages, including, but not limited to, any special or consequential damages, property damage, personal injury, loss of income, emotional distress, death, loss of use, diminution or loss of value of the Property, economic damages, and adverse health effects relating to, arising from, resulting from or caused by mold and/or mildew accumulation at the Property regardless of the cause of said mold and/or mildew or when same arose.

(f) The terms and conditions of this Paragraph 10 shall expressly survive the Closing.

Buyer acknowledges and agrees that the disclaimers and other agreements set forth herein are an integral part of this Agreement and that Seller would not have agreed to sell the Property to Buyer for the Purchase Price without the disclaimers and other agreements set forth above.

11. CONVEYANCE:

Seller shall convey title to the Property by fee simple absolute, by a good and sufficient Warranty Deed (the "Deed") to Buyer. The Deed shall convey good, clear and marketable title, subject only to the matters set forth in Paragraph 4. The Deed shall be in proper form for recording and shall be duly executed, acknowledged and delivered by Seller at Closing.

12. CLOSING:

(a) Unless extended pursuant to the terms of this Agreement, the Closing of this transaction, as contemplated hereunder (the "Closing"), shall take place thirty (30) days after the expiration of the Inspection Period (the "Closing Date") at the offices of Wheeler & Wheeler, PLLC, 185 Main Street, Biloxi, MS 39530 (the "Closing Attorney"). Buyer may move the Closing Date to an earlier date provided such earlier date is agreeable with Seller. Buyer may extend the Closing Date by up to an additional fifteen (15) days upon written notice given to Seller not later than eighty-five (85) days after the Effective Date (the "Extended Closing Date").

(b) Seller shall deliver or cause to be delivered to the Buyer on the Closing Date, at Seller's sole cost and expense the Deed, in recordable form.

(c) At the Closing, Buyer shall deliver or cause to be delivered to the Seller's Closing Attorney on or before the Closing Date, at Buyer's sole cost and expense, the following:

(i) The Purchase Price and Buyer's closing costs and fees in cash by a wire transfer, same day U.S. federal funds wired for credit into the Closing Attorney's escrow account, or by certified cashier's check, which funds must be delivered in a manner to permit the Closing Attorney to deliver said funds to Seller or its designee on the Closing Date;

(ii) Such conveyance or transfer tax forms or returns, if any, as are required to be delivered or signed by Buyer by applicable state and local law in connection with the conveyance of the Property;

(iii) Evidence of the existence, organization and authority of Buyer and of the authority of the persons executing documents on behalf of Buyer reasonably satisfactory to the underwriter for the title policy; and

(iv) Any other documents required under this Agreement to be executed by Buyer.

13. **EXPENSES:** Subject to the limitations set forth in Paragraph 4, Seller shall be responsible for the payment of costs related to providing a Certificate of Title, and the Deed. Buyer shall be responsible for the cost of all title insurance premiums, expenses associated with any financing, and costs associated with any inspections, tests and investigations conducted by it or on its behalf, as well as all other closing fees and costs.

14. **TAXES:** The Seller is exempt from ad valorem taxes on real property. Seller represents that there are no ad valorem taxes due and there will be no ad valorem taxes levied on the Property for the tax year of the sale.

15. **DEFAULT:**

(a) In the event of any material default by Seller of its obligations hereunder, Buyer, following delivery of five (5) days notice to Seller to cure, shall have only the following rights and remedies:

(i) Buyer shall have the right to waive the breach, default or other closing condition and proceed to Closing in accordance with the provisions of this Agreement without a reduction in the Purchase Price; or

(ii) Buyer shall have the right to terminate this Agreement by notice to Seller, in which event the Deposit shall be refunded to Buyer, and all obligations of Buyer and Seller under this Agreement shall terminate; or

(iii) Buyer may seek specific performance.

Buyer shall have no right to recover damages from Seller.

(b) If Buyer fails to perform any of the covenants of this Agreement applicable to Buyer, Seller, following delivery of five (5) days notice to cure (except that no notice of cure shall be needed, given or exist by reason of Buyer's failure to timely close on the scheduled Closing Date or by reason of Buyer's

breach of the recordation prohibition set forth in Article 18 hereof), may retain the Deposit actually paid by Buyer as liquidated and agreed upon damages as its sole and exclusive remedy in consideration for the execution of this Agreement and in full settlement of any claims for damages, and Seller and Buyer shall be relieved of all further obligations and liability under this Agreement.

16. **ATTORNEYS FEES; COSTS:** Seller and Buyer will each be responsible for their own attorney's fees.

17. **OTHER AGREEMENTS:** No prior or present agreements or representations shall be binding upon Buyer or Seller unless included in this Agreement. No modification or change in this Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

18. **AGREEMENT NOT RECORDABLE; PERSONS BOUND:** Neither this Agreement nor any notice of it shall be recorded in any public records. A breach of this provision by Buyer shall be a material default under this Agreement. This Agreement shall bind and inure to the benefit of the parties and their successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all.

19. **TIME:** The "Effective Date" of this Agreement is the date on which the last of the parties signs the Agreement and delivers a copy thereof to the other party. Time is of the essence in this Agreement. Time periods of five (5) days or less shall be computed without including Saturday, Sunday, or national legal holidays and any time periods ending on a Saturday, Sunday, or national legal holiday shall be extended until 5:00 p.m. on the next business day.

20. **BROKER:** There are no brokers in this transaction, and no commissions are due on this sale.

21. **FINANCING:** This Agreement is an all cash transaction that is not subject to financing.

22. **NOTICES:** All notices, demands, requests, and other communications required or permitted hereunder shall be in writing. All such notices, demands, requests and other communications (and copies thereof) shall be deemed to be delivered: (a) if sent by messenger, upon personal delivery to the party to whom the notice is directed; (b) if sent by facsimile, upon electronic or telephonic confirmation of receipt from the receiving facsimile machine; (c) if sent by overnight courier, with request for next business day delivery, on the next business day after sending; or (d) whether actually received or not, two (2) business days after deposit in a regularly maintained receptacle for the United States mail, registered or certified, return receipt requested, postage prepaid addressed as follows (or to such other address as the parties may specify by notice given pursuant to this Paragraph):

If to Seller: City of Biloxi

Attn: Mayor Andrew "FoFo" Gilich
140 Lameuse Street
Biloxi, MS 39530
Tel: 228-435-6254

with copies to: Gerald Blessey, City Attorney
Gerald Blessey Law Firm
P.O. Box 4648
Biloxi, MS 39535
CELL: (228) 806-4755
Fax: (228) 388-7434
Email: blesseylaw@me.com

with copies to: David A. Wheeler, Esquire
Wheeler & Wheeler, PLLC
P.O. Box 264
Biloxi, MS 39533
Tel: (228) 374-67720
Fax: (228) 374-6721
Email: david@wheelerattys.com

If to Buyer: Chartre Consulting, Ltd.
c/o Clarence Chapman, President
2330 University Ave.
Oxford, MS 38655
Tel: (662) 236-5080 Ext. 116
Fax: (662) 236-5089
Cell: (662) 832-4300
cwc@chartre.com

22. **ASSIGNABILITY:** Except for an assignment to an entity wholly owned by Buyer or Buyer's owners, this Agreement may not be assigned by Buyer without the prior written consent of Seller.

23. **PARAGRAPH HEADINGS:** The paragraph headings used in this Agreement are for convenience only, and shall not be used in interpreting or construing any provision of this Agreement.

24. **CONSTRUCTION OF AGREEMENT:** Each party acknowledges that all parties to this Agreement participated equally in the drafting of this Agreement and that it was negotiated at arm's length. Accordingly, no court should construe this Agreement more strongly against either party.

25. **COUNTERPARTS AND DUPLICATE ORIGINALS:** To facilitate the execution of this Agreement, any number of counterparts of this Agreement may be executed and delivered. It shall not be necessary for each party's signature to appear on each counterpart, but it shall be sufficient that each party's signature appear on one or more of the counterparts. Each of the counterparts shall be considered an original and all of them, together, shall constitute one and the same

instrument. A facsimile copy of the Agreement executed by the party shall be considered for all purposes as an original.

26. **FURTHER ACTION:** Each of the parties hereto shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of the obligations hereunder and to carry out the intent of the parties hereto.

27. **WAIVER:** The waiver by any party of a breach of any provision of this Agreement shall not operate or be construed a waiver of any other provision of this Agreement or of any future breach of the provision so waived.

28. **GOVERNING LAW:** The laws of the State of Mississippi shall govern the validity, construction, enforcement and interpretation of this Agreement. Venue for any legal action arising hereunder shall be in the appropriate court of competent jurisdiction in and for the Second Judicial District of Harrison County, Mississippi. If any provision of this Agreement is deemed unenforceable, the remaining provisions shall remain in full force and effect.

29. **SPECIAL PROVISIONS:** Contract is contingent upon:

- (a) Rezoning of the Property to allow Buyer to develop townhomes and zero lot line homes with least separation and minimum setbacks allowed by the City. Seller will make its best efforts, within the limits allowed by law, to assist Buyer in its efforts to re-zone any Property identified herein.
- (b) Water, sewer and all other required utility services for Purchaser are currently available to the Property in the required capacity.
- (c) Inspections to be performed at Buyer's expense within the Agreement time period may include at Buyer's discretion, a wetlands review, geotechnical/soil boring, environmental, and any other inspection deemed appropriate by Buyer. Seller agrees for Buyer to have access to property to perform all desired inspections. Results of all inspections must be acceptable to Buyer or this contract will be considered null and void and earnest money will be refunded to Buyer.
- (d) There are no other prohibitions or restrictions that would preclude Buyer from building its planned residential real estate developments on the parcels immediately after closing.
- (e) Seller must approve the plans and designs intended for each property as a prerequisite to Closing, which approval shall not be unreasonably withheld.
- (f) Buyer intends to form separate entities to proceed with the various parts of the development planned. Seller agrees for the assignment of the rights hereby for any parcel to such entity. It is understood and agreed that Chartre Consulting,

Ltd., the "Buyer" herein, will own the Buyer and its assignees until Buyer's tax credit investor is admitted. Upon the admission of the tax credit investor, Chartre Consulting, Ltd. will control the assignee via ownership of the managing member's position in that entity.

- (g) Seller understands and agrees that Closing is subject to Buyer obtaining tax credit capital commitments and other required funding to complete Buyer's budget within the allowed due diligence period, failing which the Deposit will be returned to Buyer and this Agreement will be terminated as of the end of the due diligence period, unless extended by written agreement of the Seller and Buyer.

31. **STATEMENT:** Each undersigned party to this transaction acknowledges that he/she has been duly authorized to execute this Agreement and further that they have read and understand this Option contract, and hereby acknowledges receipt of a copy of this document. When herein used the singular includes the plural and the masculine includes the feminine.

SIGNATURE PAGE FOLLOWS_____

WITNESS OUR SIGNATURES on the date specified below for each of the parties herein.

SELLER:

THE CITY OF BILOXI, MISSISSIPPI
LTD.

ANDREW "FOFO" GILLICH, Mayor

DATE: _____

BUYER:

CHARTRE CONSULTING,

C.W. Chapman, President

DATE: _____

STACY THACKER, Municipal Clerk

DATE: _____

Exhibit "A"

The Parcel is the 3.06 Acre tract, 311 Division St., 275 Oak St., Biloxi, MS—Tax Parcels
1410H-04-078.000 & 1410H-04-078.001 — as depicted below.

**VACANT TRACT (2.70 ACRES)
311 DIVISION STREET / 275 OAK STREET
BILOXI, MISSISSIPPI 39530**



Vacant Tract (2.70 Acres) – Biloxi, MS