Regular Meeting of the:

Pampa City Commission
April 9, 2013
4:00 p.m.

City of Pampa
201 W. Kingsmill St.
P.O. Box 2499
Pampa, Texas  79066-2499
Phone: 806-669-5750
Fax: 806-669-5767
PLEDGE OF ALLEGIANCE TO TEXAS FLAG

“HONOR THE TEXAS FLAG; I PLEDGE ALLEGIANCE TO THEE; TEXAS, ONE STATE UNDER GOD, ONE AND INDIVISIBLE.
CITY OF PAMPA
CITY COMMISSION AGENDA
REGULAR MEETING

John Studebaker, Commissioner Ward 1  Brad Pingel, Mayor  Richard Morris, City Manager
Chris Porter, Commissioner Ward 2  Karen Price, City Secretary
Robert Dixon, Commissioner Ward 3  Leland Waters, City Attorney
Karen McLain, Commissioner Ward 4  Shane Stokes, Asst. City Manager

Notice is hereby given of a REGULAR MEETING of the City Commission of the City of Pampa, Texas to be held on TUESDAY, APRIL 9, 2013 at 4:00 p.m. at City Hall – City Commission Chamber, Third Floor, 201 W. Kingsmill, Pampa, Texas, for the purpose of considering the following agenda items.

All agenda items are subject to action. The City Commission reserves the right to adjourn into Executive Session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

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PUBLIC COMMENTS:
Citizens who have signed a card to speak to the City Commission will be heard at this time. In compliance with the Texas Open Meetings Act, unless the subject matter of the presentation is on the agenda, the City Staff and City Commission Members are prevented from discussing the subject and may respond only with statements of factual information or existing city policy. Citizens are limited to three (3) minutes for their presentation to the City Commission.

AUTHORIZATIONS BY CITY COMMISSION:

1. Consider approving the minutes of the March 26, 2013 regular City Commission Meeting as presented.

2. Consider adopting on second and final reading Ordinance No. 1590, an Ordinance of the City of Pampa amending the Code of Ordinance relating to Landscaping.

3. Consider approving on first reading Ordinance No. 1591, an Ordinance of the City of Pampa amending the Code of Ordinance, Chapter 8, Offenses and Nuisances by adding Article 8.05 Illicit Synthetic and Misbranded Drugs.

4. Consider adopting on second and final reading Resolution No. R13-004, a Resolution of the City of Pampa approving a grant from the Pampa Economic Development Corporation to the City of Pampa in the amount of $20,000.00 for commercial demolition to the City of Pampa.
5. Consider adopting on second and final reading Resolution No. R13-005, a Resolution of the City of Pampa approving a forgivable loan in the amount of $350,000.00 from the Pampa Economic Development Corporation to J & M Bagwell Properties LLC for renovations at the Pampa Mall.

ADJOURNMENT

CERTIFICATION

I certify that the above Agenda was posted on the outside officially designated bulletin board in front of City Hall, facing Kingsmill Street, a place convenient and readily accessible to the general public at all times and said Agenda was posted on FRIDAY, APRIL 5, 2013 BEFORE 5:00 P.M. and remain so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Karen L. Price, City Secretary

ASSESSIBILITY STATEMENT

In compliance with the Americans with Disabilities Act, the City of Pampa will provide for reasonable accommodations for persons attending City Commission meetings. To better serve you, requests should be received 24 hours prior to the meetings. Please contact Karen Price, City Secretary, at 669-5750. City Hall is wheelchair accessible. Entry is on the West side of the building.

AGENDA REMOVAL NOTICE

This public notice was removed from the official designated bulletin board at 201 W. Kingsmill Street, Pampa, Texas, City Hall on the following date and time:

Date: ________________________________  Time: ________________________________

By: ________________________________________________________________
## Agenda Item No. 1

<table>
<thead>
<tr>
<th>Item/Project:</th>
<th>Minutes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meeting Date:</td>
<td>April 9, 2013</td>
</tr>
<tr>
<td>Description:</td>
<td>Consider approving the minutes of the March 26, 2013 regular City Commission Meeting as presented.</td>
</tr>
<tr>
<td>Staff Contact:</td>
<td>Karen Price</td>
</tr>
<tr>
<td>Financial Impact:</td>
<td>N/A</td>
</tr>
<tr>
<td>Source of Funds:</td>
<td>N/A</td>
</tr>
<tr>
<td>Start/Completion Schedule:</td>
<td>Minutes effective upon approval by Commission.</td>
</tr>
<tr>
<td>Recommended Action:</td>
<td>Approve minutes of the March 26, 2013 Commission Meeting as presented.</td>
</tr>
<tr>
<td>Background/Additional Information:</td>
<td>Minutes attached.</td>
</tr>
</tbody>
</table>
CALL TO ORDER: Mayor Brad Pingel at 4:00 p.m.

PRESENT: Brad Pingel Mayor
         John Studebaker Commissioner
         Chris Porter Commissioner
         Robert Dixon Commissioner
         Karen McLain Commissioner

ABSENT: None

STAFF: Richard Morris City Manager
       Shane Stokes Asst. City Manager
       Leland Waters City Attorney
       Karen Price City Secretary
       Robin Bailey Finance Director
       Donny Hooper Public Works Director
       Kelly Rushing Chief of Police
       Kim Powell Fire Chief
       Jil Arias Engineer in Training
       Kevin Webb IT Manager
       Gayla Pickens Asst. Finance Director
       Michael Ryan Fire Marshal

VISITORS: Gary Sutherland PEDC
          Kathy Cota PEDC
          Clay Rice PEDC
          Kyle Ohsfeldt Grace Baptist Church
          Scott A. Honeyfield Parkhill, Smith & Cooper
          Eric Lopez Parkhill, Smith & Cooper
          Jason Bagwell J&M Bagwell Properties LLC
          Danny Woods Brown, Graham & Company
          Gary Brown Brown, Graham & Company
          Marie Eastham
          Logan Hudson

NEWS MEDIA: Mike Ehrle KGRO
            Sasha Heller Pampa News

INVOCATION: Kyle Ohsfeldt, Pastor, Grace Baptist Church

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PUBLIC COMMENTS: NONE

DISCUSSION:

► Notifications of six (6) Public Hearings scheduled around the state for Affordable Rental Housing – Richard Morris

AUTHORIZATIONS BY COMMISSION:

13-041

1. Consider approving the minutes of the March 12, 2013 regular City Commission Meetings as presented.
A motion was made by Commissioner Studebaker and Seconded by Commissioner McLain to approve the minutes of the March 12, 2013 regular City Commission Meeting as presented, with each Commission Member voting AYE, the motion carried.

13-042

2. Excuse the absence of Commissioner Karen McLain from the March 12, 2013 regular City Commission meeting

A motion was made by Commissioner Dixon and Seconded by Commissioner Porter to excuse the absence of Commissioner Karen McLain from the March 12, 2013 regular City Commission meeting, with each Commission Member voting AYE, the motion as carried.

13-043


A motion was made by Commissioner Studebaker and Seconded by Commissioner Porter to accept the 2012 Comprehensive Annual Financial Report (CAFR) as presented by Brown, Graham & Company, with each Commission Member voting AYE, the motion carried.

13-044


ORDINANCE NO. 1590

AN ORDINANCE OF THE CITY OF PAMPA, TEXAS, PROVIDING THAT ITS CODE OF ORDINANCES BE AMENDED BY REVISING ARTICLE 3.14 LANDSCAPING, PROVIDING FOR A POINT SYSTEM BASED ON STREET LINEAR FOOTAGE AND VALUES ASSIGNED FOR VARIOUS LANDSCAPING, PLANTINGS AND EXISTING TREES, PROVIDING FOR A LANDSCAPE REVIEW PANEL, PROVIDING A PROCESS FOR APPEALS AND VARIANCES, AND PROVIDING FOR AN EFFECTIVE DATE.

A motion was made by Commissioner McLain and Seconded by Commissioner Dixon to approve on first reading Ordinance No. 1590, an Ordinance of the City of Pampa amending the Code of Ordinance relating to Landscaping, with each Commission Member voting AYE, the motion as carried.

13-045

5. Consider approving on first reading Resolution No. R13-004, a Resolution of the City of Pampa approving a grant from the Pampa Economic Development Corporation to the City of Pampa in the amount of $20,000.00 for commercial demolition.

RESOLUTION NO. R13-004

A RESOLUTION APPROVING A GRANT BY THE PAMPA ECONOMIC DEVELOPMENT CORPORATION TO THE CITY OF PAMPA FOR DEMOLITION OF BLIGHTED COMMERCIAL PROPERTY.
A motion was made by Commissioner Studebaker and Seconded by Commissioner Porter to approve on first reading Resolution No. R13-004, a Resolution of the City of Pampa approving a grant from the Pampa Economic Development Corporation to the City of Pampa in the amount of $20,000.00 for commercial demolition, with each Commission Member voting AYE, the motion carried.

13-046

6. Consider approving on first reading Resolution No. R13-005, a Resolution of the City of Pampa approving a forgivable loan in the amount of $350,000.00 to J & M Bagwell Properties LLC for renovations to the Pampa Mall.

RESOLUTION NO. R13-005

A RESOLUTION APPROVING ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE PAMPA ECONOMIC DEVELOPMENT CORPORATION AND J&M BAGWELL PROPERTIES LLC, AND A LOAN BY THE PAMPA ECONOMIC DEVELOPMENT CORPORATION TO J&M BAGWELL PROPERTIES LLC.

PUBLIC COMMENTS

Clay Rice, Executive Director with the PEDC gave an overview of the project and explained the details of the Loan Agreement.

Marie Eastham spoke in support of the loan

Logan Hudson spoke in support of the loan

Jason Bagwell provided information to the Commission on his plan concerning the mall.

A motion was made by Commissioner Dixon and Seconded by Commissioner Studebaker to approve on first reading Resolution No. R13-005, a Resolution of the City of Pampa approving a forgivable loan in the amount of $350,000.00 to J&M Bagwell Properties LLC for renovations to the Pampa Mall, with Mayor Pingel and Commissioners Studebaker, Porter and Dixon voting AYE and Commissioner McLain voting NAY, the motion carried.

13-047


A motion was made by Commissioner McLain and Seconded by Commissioner Studebaker to appoint the following Judge and Alternate Judges for the May 11, 2013 City of Pampa/Pampa Independent School District’s Joint General and Special Election: Nell Bailey, Election Judge and Ora Mae Hedrick and Hector Leal Alternate Election Judges, with each Commission Member Voting AYE, the motion carried.

13-048

8. Consider awarding Bids for the 2013 Water Well Project.
A motion was made by Commissioner Porter and Seconded by Commissioner Studebaker to award the Base Bid and Alternate Bid Item A1.1 in lieu of Bid Item #27 and Alternate Bid Item A1.2 in lieu of Bid Item #28 in the total amount of $1,472,649.00 to Hydro Resources Mid-Continent, Inc. of Sunray, Texas, the lowest responsible bidder, for 2013 Municipal Water Wells and Well Improvement project, with each Commission Member voting AYE, the motion carried.

13-049

A motion was made by Commissioner Studebaker and Seconded by Commissioner Porter to award the Additive Alternate Bids AA1.1, AA1.2 and AA1.3 in the total amount of $27,000.00 to Hydro Resources Mid-Continent, Inc. of Sunray, Texas, the lowest responsible bidder, for drilling of three (3) test hole for the 2013 Municipal Water Wells and Well Improvement project, with each Commission Member voting AYE, the motion carried.

13-050


A motion was made by Commissioner McLain and Seconded by Commissioner Dixon to approve the List of Disbursements dated February 29, 2013, with total disbursements being $1,634,814.54 and the amount after balance sheet and income accounts being $979,875.92, with each Commission Member voting AYE, the motion carried.

ADJOURNMENT

There being no further business on the agenda, the meeting was adjourned at 6:00 p.m. by Mayor Brad Pingel.

_________________________________________  _________________________________
Karen L. Price, City Secretary                  Brad Pingel, Mayor
AGENDA ITEM NO. 2

ITEM/PROJECT: ORDINANCE NO. 1590 – AMENDING LANDSCAPING ORDINANCE

MEETING DATE: April 9, 2013

DESCRIPTION: Consider adopting on second and final reading Ordinance No. 1590, an Ordinance of the City of Pampa amending the Code of Ordinance relating to Landscaping.

STAFF CONTACT: Donny Hooper

FINANCIAL IMPACT: N/A

SOURCE OF FUNDS: N/A

START/COMPLETION SCHEDULE: This Ordinance shall be effective April 15, 2013.

RECOMMENDED ACTION: Adopt Ordinance No. 1590 on second and final reading.

BACKGROUND/ADDITIONAL INFORMATION: Ordinance No. 1590 attached.
ORDINANCE NO. 1590

AN ORDINANCE OF THE CITY OF PAMPA, TEXAS, PROVIDING THAT ITS CODE OF ORDINANCES BE AMENDED BY REVISING ARTICLE 3.14 LANDSCAPING, PROVIDING FOR A POINT SYSTEM BASED ON STREET LINEAR FOOTAGE AND VALUES ASSIGNED FOR VARIOUS LANDSCAPING, PLANTINGS AND EXISTING TREES, PROVIDING FOR A LANDSCAPE REVIEW PANEL, PROVIDING A PROCESS FOR APPEALS AND VARIANCES, AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PAMPA, TEXAS:

Section 1.

That Sec. 3.14.003 be amended by adding the following Definitions thereto:

Existing Development. A previously developed lot or parcel on which an existing manmade structure or parking lot is located and where the construction proposed would change the existing footprint thereof.

DBH. Diameter at Breast Height. The diameter of a large existing tree measured 4.5 feet (4.5’) above ground level.

Landscape Points. A system of points used to determine the landscaping requirements of the lot or parcel, calculated based upon the Street Linear Footage and the type of plants or materials used.

Landscape Review Panel. A panel consisting of the City Director of Public Works, City Engineer and City Building Official which will hear and determine appeals.

New Development. A previously undeveloped lot or parcel on which new construction of one or more structures or parking lots is proposed.

Rebuild. An Existing Development where the construction proposed provides for demolition of an existing structure and construction of a new structure.

Street Linear Footage. The width of a lot or parcel measured in linear feet the full length of the property line located on the street right-of-way, including for corner lots, the full length of the property line located on the side street right-of-way.

That the definition of Street Yard in Sec. 3.14.003 be amended in its entirety to read as follows:

Street Yard. The area of a lot or parcel lying between the street property line and the nearest walls of a building on the lot or parcel, oriented to the adjoining street.
Section 2.

That Sec. 3.14.005 be amended in its entirety, to read as follows:

Sec. 3.14.005 General requirements

(a) Steps Required for the Approval of a Landscape Plan

(1) Calculate Points Required. Determine the number of Landscape Points required for the site using the following formulas:
   a. Existing Development: Street Linear Footage ÷ 2.0 feet = Points Required
   b. New Development and Rebuild: Street Linear Footage ÷ 1.0 feet = Points Required

(2) Determine the Landscaping Requirements. Determine the location of landscaping, plantings, quantity, type, and size of plants and/or materials needed to meet Points Required.

(3) Develop a Landscape Plan. Develop a Landscape Plan with plants and/or materials which meets or exceeds the Points Required and contains the information required by Sec. 3.14.004(b) as amended.

(4) Submit the Landscape Plan. Submit the Landscape Plan to the City Building Official for review in accordance with Sec. 3.14.004(a) as amended.

(b) Landscaping Requirements/Point System.

(1) Any combination of landscaping and plantings may be used to obtain the necessary number of Points required for the development. Different lots and landscapes will lend themselves to different types of landscaping and plantings. Creativity and diversity in landscaping are encouraged.

(2) Landscape Point Values shall be determined in accordance with the following Tables.

<table>
<thead>
<tr>
<th>Type of Plant or Material</th>
<th>Minimum Size (at time of planting)</th>
<th>Deciduous Trees</th>
<th>Evergreen Trees</th>
<th>Point Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large Tree</td>
<td></td>
<td>8-inch or greater caliper</td>
<td>22 ft. and over</td>
<td>26</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7-inch caliper</td>
<td>19-21 ft. height</td>
<td>24</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6-inch caliper</td>
<td>16-18 ft. height</td>
<td>22</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5-inch caliper</td>
<td>13-15 ft. height</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4-inch caliper</td>
<td>11-12 ft. height</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3-inch caliper</td>
<td>9-10 ft. height</td>
<td>15</td>
</tr>
<tr>
<td>Medium Tree</td>
<td></td>
<td>2-inch caliper</td>
<td>7-8 ft. height</td>
<td>12</td>
</tr>
<tr>
<td>Small Tree</td>
<td>Single Trunk: 1-inch caliper</td>
<td>5-6 ft. height</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>------------------------------------</td>
<td>-----------------------------</td>
<td>----------------</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td>Ornamental Tree</td>
<td>Multiple Trunk (minimum 3 trunks): Smallest trunk 1-inch caliper</td>
<td>5-6 ft. height</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>Large Shrub/Perennial</td>
<td>5 gallon and 24-inch height at planting</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medium Shrub/Perennial</td>
<td>3 gallon and 12-inch height at planting</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Small Shrub/Perennial</td>
<td>2 gallon and 8-inch height at planting</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Groundcover/Perennial</td>
<td>1 gallon 4-inch pots</td>
<td>1/2</td>
<td>1/4</td>
<td></td>
</tr>
<tr>
<td>Existing Small Trees</td>
<td>Less than 6-inch caliper (See Table 2)</td>
<td>13 to 20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Existing Significant Tree</td>
<td>6-inch caliper and greater (See Table 2)</td>
<td>22 to 40</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Landscaped Berm</td>
<td>Min. 30-inch height; Min. 10 ft. length, Max. 3:1 Slope</td>
<td>1 per 5 L.F.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Turf Grass</td>
<td>Very Low Water Requirement Species (ex. Buffalo, Turfallo, Bahia, Blue Grama, Centipede)</td>
<td>2 per S.Y.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Med.-Low Water Requirement Species (ex. all varieties Bermuda)</td>
<td>1 per S.Y.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Medium to High Water Requirement Species (ex. Fescue, Zoysia, Bentgrass, Bluegrass)</td>
<td>1/4 per S.Y.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alternate Methods</td>
<td>Ornamental Grass, 6-36&quot;</td>
<td>2 per pot</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cacti and Native, Drought Tolerant Shrubbery</td>
<td>3 per plant</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Wrought Iron Fencing</td>
<td>1 per 5 L.F.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Fountain</td>
<td>1 per S. F. Surface Area</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Architectural Stone (Not Gravel)</td>
<td>1 per S.Y.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TABLE 2: POINTS FOR EXISTING TREES**

Minimum Size (at time of planting)

<table>
<thead>
<tr>
<th>SIZE</th>
<th>POINTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2-inch caliper</td>
<td>13</td>
</tr>
<tr>
<td>3-inch caliper</td>
<td>16</td>
</tr>
<tr>
<td>4-inch caliper</td>
<td>18</td>
</tr>
<tr>
<td>5-inch caliper</td>
<td>20</td>
</tr>
<tr>
<td>6-inch caliper</td>
<td>22</td>
</tr>
<tr>
<td>7-inch caliper</td>
<td>24</td>
</tr>
<tr>
<td>8-inch to 10-inch caliper</td>
<td>26</td>
</tr>
<tr>
<td>10.1 inch caliper to 15 inch DBH</td>
<td>30</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>----</td>
</tr>
<tr>
<td>15.1 inch to 20 inch DBH</td>
<td>33</td>
</tr>
<tr>
<td>20.1 inch to 25 inch DBH</td>
<td>36</td>
</tr>
<tr>
<td>Over 20 inch DBH</td>
<td>40</td>
</tr>
</tbody>
</table>

(c) All landscape areas and plants or materials adjacent to pavement shall be protected with concrete berms or equivalent barriers.

(d) Plants with landscaped areas shall not obstruct the view between street and access drives or parking aisles near the Street Yard entries and exits, nor shall any landscaping which creates an obstruction of view be located in the radius of any curb return.

Section 3.

That Sec. 3.14.007 be amended in its entirety, to read as follows:

Section 3.14.007 Appeals and Variances

(a) Any person who believes that compliance with the landscape requirements would result in undue hardship may appeal to the Landscape Review Panel. The appeal shall be made in writing and delivered to the Director of Public Works no later than fifteen (15) days following disapproval by the City Building Official.

(b) The appeal shall stay all action taken.

(c) The appeal shall be heard and determined by the Landscape Review Panel within twenty (20) days following the appeal.

(d) If, on appeal, all issues are not resolved to the satisfaction of the person bringing the appeal and the Landscape Review Panel, then either such person or the Landscape Review Panel, or both, may request that the City Commission grant a variance to require less landscaping than that required by this article. Variances may be granted only if the aesthetic, buffering and environmental intent of this article is met. The ruling by the Commission shall be made in writing.

Section 4.

This ordinance shall be effective and enforceable on April 15, 2013.

INTRODUCED, PASSED, and APPROVED on its first reading this 26th day of March, 2013.
INTRODUCED, PASSED and APPROVED on its second and final reading this 9th day of April, 2013.

CITY OF PAMPA, TEXAS

By: _______________________________
    Brad Pingel, Mayor

ATTEST:

__________________________________
Karen L. Price, City Secretary

APPROVED AS TO FORM:

__________________________________
Leland W. Waters, City Attorney
AGENDA ITEM NO. 3

ITEM/PROJECT: ORDINANCE NO. 1591 – SYNTHETIC DRUGS

MEETING DATE: April 9, 2013

DESCRIPTION: Consider approving on first reading Ordinance No. 1591, an Ordinance of the City of Pampa amending the Code of Ordinance, Chapter 8, Offenses and Nuisances by adding Article 8.05 Illicit Synthetic and Misbranded Drugs.

STAFF CONTACT: Richard Morris

FINANCIAL IMPACT: N/A

SOURCE OF FUNDS: N/A

START/COMPLETION SCHEDULE: This Ordinance shall be effective upon its adoption and shall be enforceable ten (10) days after its publication as provided by law.

RECOMMENDED ACTION: Ordinance No. 1591 attached.

BACKGROUND/ADDITIONAL INFORMATION:
ORDINANCE NO. 1591

AN ORDINANCE OF THE CITY OF PAMPA, TEXAS, PROVIDING THAT ITS CODE OF ORDINANCES, CHAPTER 8, OFFENSES AND NUISANCES, BE AMENDED BY ADDING ARTICLE 8.05 ILLICIT SYNTHETIC AND MISBRANDED DRUGS, PROHIBITING THE SALE, PUBLIC DISPLAY FOR SALE, ATTEMPTED SALE, GIFT, BARTER, DELIVERY, POSSESSION, OR USE OF ILLICIT SYNTHETIC DRUGS AND MISBRANDED DRUGS INCLUDING “SPICE,” SYNTHETIC CANNABINOIDS, SYNTHETIC MARIJUANA, “BATH SALTS,” SYNTHETIC CATHINONES, SYNTHETIC STIMULANTS, OR OTHER MISBRANDED DRUGS, PROHIBITING THE USE OR POSSESSION OF ILLICIT SYNTHETIC OR MISBRANDED DRUG INGESTION DEVICE PARAPHERNALIA, PROHIBITING THE USE OR POSSESSION OF OTHER ILLICIT SYNTHETIC OR MISBRANDED DRUG PARAPHERNALIA, PROVIDING FOR EXCEPTIONS AND DEFENSES, PROVIDING FOR A PENALTY, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission finds that there are herbal and/or chemical mixtures that are being marketed and sold in the City of Pampa which are designed and marketed to mimic the effects of illegal substances; and

WHEREAS, although often marked “NOT FOR HUMAN CONSUMPTION,” or labeled or misbranded as otherwise innocuous products (such as plant food, incense, potpourri, bath salts, and iPod cleaner), these products are in fact designed, marketed to the buyer, and intended to be used as products that act upon and affect the human body and its systems to get the user “high” or achieve the narcotic effects of illegal substances; and

WHEREAS, products containing illicit synthetic drugs and misbranded drugs are available and are being marketed to young adults and children in the City of Pampa in small packages as alternatives to illegal substances, and further, the names and packaging of these substances appear to be designed to appeal to children and young adults to mischaracterize their intended uses and purposes and to minimize or conceal the inherent danger of these products; and

WHEREAS, the City Commission finds that illicit synthetic drugs and misbranded drugs are distributed, labeled and marketed in a way that poses dangerous consequences to the consumer; and

WHEREAS, the City Commission deems it to be in the best interests of the citizens and residents of the City of Pampa to prohibit the sale, public display for sale, attempted sale, gift, barter, delivery, possession, or use of illicit synthetic drugs and misbranded drugs;
NOW THEREFORE, BE IT ORDAINED BY THE CITY OF PAMPA, TEXAS:

Section 1.

That the findings set forth in the preamble to this Ordinance are hereby found to be true and correct and are hereby approved and adopted.

Section 2.

That the Code of Ordinances of the City of Pampa, Texas, Chapter 8, Offenses and Nuisances, is hereby amended by adding Article 8.05 Illicit Synthetic and Misbranded Drugs, to read as follows:

ARTICLE 8.05 ILLEGIT SYNTHETIC AND MISBRANDED DRUGS

Sec. 8.05.001 Covered substances

The substances, compounds, mixtures and products covered by , and which are the subjects of this Article, are:

(1) Any substance listed as a controlled substance or a controlled substance analogue as defined in Chapter 481 of the Texas Health and Safety Code (Texas Controlled Substances Act);

(2) Salvia divinorum or Salvinorum A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture, or preparation of such plant, its seeds, or extracts;

(3) [(1R, 2R, 5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]methanol, commonly known as HU-308;

(4) (6aR, 10aR)-3-(1,1-Dimethylbutyl)-6a, 7, 10, 10a-tetrahydro-6, 6,9-trimethyl-6H-dibenz[b,d]pyran, commonly known as JWH-133;

(5) (-)-2β-Carbomethoxy-3β-(4-fluorophenyl)tropane, commonly known as β-CFT, WIN-35, 428;

(6) (6aR, 10aR)-1-methoxy-6, 6, 9-trimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromene, commonly known as L-759, 633;

(7) Any aromatic plant material in granular, loose leaf or powder form, or in liquid form or as a food additive, and any herbal incense type stimulant commonly characterized or represented to be legal spice/synthetic cannabinoids/synthetic “legal” marijuana, sold under numerous brand names such as “K-2,” and “Spice.” Other common brand names may include, but are not limited to: Blaze, Blueberry Haze, Dank, Demon Passion Smoke, Genie, Hawaiian Hybrid, Magma, Mr. Nice Guy, Ninja, Nitro, Ono Budz, Panama Red Ball, Puff,
Red X Dawn, Sativah Herble Smoke, Sence, Skunk, Smoke, Ultra Chronic, Voodoo Spice, Yucatan Fire, Zohai;

(8) Any crystalline or powder product in crystalline, loose-powder, block tablet, or capsule form, or any stimulant-type product commonly characterized or represented to be bath salts/synthetic cathinones/synthetic stimulants, sold under numerous brand names such as “Bliss,” “Euphoria,” and “Super Coke.” Other common brand names may include, but are not limited to: Ivory Wave, Purple Wave, Red Dove, White Dove, Blue Silk, Zoom, Bloom, Cloud Nine, Charge +, Ocean Snow, Lunar Wave, Vanilla Sky, White Lightening, Scarface, Snow Leopard, Tranquility, Eight Ballz, Hurricane Charlie, White Rush, Pure Ivory; or

(9) Any other substance or substances similar to the above described substances which when inhaled or otherwise ingested, may produce intoxication, stupefaction, giddiness, paralysis, irrational behavior, or which, in any manner, changes, distorts, or disturbs the auditory, visual, or mental process of the user, when the substance has no other legitimate, non-narcotic purpose.

Sec. 8.05.002 Prohibition on the sale, possession or use

(a) It shall be unlawful for any person to market, publicly display for sale, package or repackage for sale any substance listed or described in Sec. 8.05.001 in such a manner as to imply or create the impression, under the “totality of the circumstances,” that the ingestion or use of the substance will result in any form of euphoria, or will mimic the effect on the human body typically associated with naturally occurring cannabinoids or any other substance listed or described in any penalty group contained in the Texas Controlled Substances Act as it now exists or as amended. A culpable mental state is not required, and need not be proved, for an offense under this subsection.

(b) It shall be unlawful for any person to knowingly possess, purchase, barter, give, display, breathe, inhale, drink, or otherwise ingest any compound, liquid, or chemical listed or described in Sec. 8.05.001 for the purpose of inducing a condition of intoxication, stupefaction, giddiness, paralysis, irrational behavior, or which, in any manner, changes, distorts, or disturbs the auditory, visual, or mental process of the user.

(c) It shall be unlawful for any person to knowingly sell or attempt to sell any compound listed or described in Sec. 8.05.001.

(d) The fact that the labeling of a product is inconsistent with the regulations of the U.S. Food and Drug Administration or other Federal or State law may be considered as an element of the “totality of the circumstances.”

Sec. 8.05.003 Prohibition on use or possession of ingestion device paraphernalia

(a) It shall be unlawful for any person to use or possess with intent to use an ingestion device to inject, ingest, inhale or otherwise introduce into the human body an illicit synthetic or misbranded drug described in Sec. 8.05.001.

(b) For the purposes of this section an Ingestion Device means any type of equipment or any type of product or material that is used or intended for use in ingesting, inhaling, or otherwise
introducing an illicit synthetic or misbranded drug into the human body, including but not limited to:

(1) a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe with or without a screen, hashish head, or punctured metal bowl;
(2) a water pipe;
(3) a carburetion tube or device;
(4) a smoking or carburetion mask;
(5) a chamber pipe;
(6) a carburetor pipe;
(7) an electric pipe;
(8) an air-driven pipe;
(9) a chillum;
(10) a bong; or
(11) an ice pipe or chiller.

Sec. 8.05.004 Prohibition on use or possession of other paraphernalia

It shall be unlawful for any person to knowingly or intentionally use or possess any item with the intent to use such item to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal an illicit synthetic or misbranded drug as described in Sec. 8.05.001.

Sec. 8.05.005 Affirmative defenses

(a) It is an affirmative defense to prosecution under this Article that person or facility is regulated under the Texas Pharmacy Act.

(b) It is an affirmative defense to prosecution under this Article that the package in which the substance is contained includes:
   (1) the name and physical address of the manufacturer of the product and each ingredient or component thereof;
   (2) the name and physical address of each distributor; and
   (3) a complete list of all ingredients and components of the product, including chemical composition, sufficient to provide full disclosure.

(c) It is an affirmative defense to prosecution under this Article that the substance is labeled in accordance with the regulations of the U.S. Food and Drug Administration or other Federal or State law.
(d) It is an affirmative defense to prosecution under this Article that a person purchased, sold, breathed, inhaled, drank, or otherwise ingested the substance under the lawful supervision of an authorized law enforcement officer to enforce or ensure compliance with this Article.

(e) It is an affirmative defense to prosecution under this Article that a person breathed, inhaled, drank, or otherwise ingested a substance described in this Article pursuant to the lawful direction or prescription of a physician or dentist licensed by the State of Texas.

Sec. 8.05.006 Penalties

(a) A violation of any provision of this Article shall be a Class C Misdemeanor punishable by a fine of up to five hundred dollars ($500.00) upon conviction in Municipal Court.

(b) Each day that a violation continues shall constitute a separate offense.

(c) In addition to the penalty described in (a) above, the City may pursue other remedies such as injunctive relief, abatement of nuisance and revocation of licenses or permits.

Section 3.

Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are declared to be severable.

Section 4.

This Ordinance shall become effective upon its adoption and shall be enforceable ten (10) days after its publication as provided by law.

INTRODUCED, PASSED, and APPROVED on its first reading this 9th day of April, 2013.

INTRODUCED, PASSED and APPROVED on its second and final reading this _____ day of April, 2013.

CITY OF PAMPA, TEXAS

By: _______________________________
Brad Pingel, Mayor
ATTEST:

______________________________
Karen L. Price, City Secretary

APPROVED AS TO FORM:

______________________________
Leland W. Waters, City Attorney
AGENDA ITEM NO. 4

ITEM/PROJECT: RESOLUTION NO. R13-004 – PEDC GRANT TO CITY OF PAMPA

MEETING DATE: April 9, 2013

DESCRIPTION: Consider adopting on second and final reading Resolution No. R13-004, a Resolution of the City of Pampa approving a grant from the Pampa Economic Development Corporation to the City of Pampa in the amount of $20,000.00 for commercial demolition.

STAFF CONTACT: Donny Hooper

FINANCIAL IMPACT: $20,000.00

SOURCE OF FUNDS: PEDC Operating Budget

START/COMPLETION SCHEDULE: Resolution effective upon its adoption.

RECOMMENDED ACTION: Adopt Resolution No. R13-004 on second and final reading.

BACKGROUND/ADDITIONAL INFORMATION: Resolution attached.
RESOLUTION NO. R13-004

A RESOLUTION APPROVING A GRANT BY THE PAMPA ECONOMIC DEVELOPMENT CORPORATION TO THE CITY OF PAMPA FOR DEMOLITION OF BLIGHTED COMMERCIAL PROPERTY

WHEREAS, the Pampa Economic Development Corporation ("Pampa EDC") has presented a request to grant $20,000 to the City of Pampa for demolition of blighted commercial property with the demolition program to be targeted toward highly visible areas around thoroughfares and parks;

AND WHEREAS, the Pampa EDC held a public hearing on March 21, 2013, at which no one spoke in opposition to the grant;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PAMPA, TEXAS:

That the grant of $20,000 by the Pampa EDC to the City of Pampa for demolition of blighted commercial property be and it is hereby APPROVED.

INTRODUCED, READ and APPROVED on its first reading this the 26th day of March, 2013.

READ, APPROVED and ADOPTED on its second and final reading on this the 9th day of April, 2013.

CITY OF PAMPA, TEXAS

By: ________________________________
    Brad Pingel, Mayor

ATTEST:

___________________________________
Karen L. Price, City Secretary

APPROVED AS TO FORM:

___________________________________
Leland W. Waters, City Attorney
# AGENDA ITEM NO. 5

**ITEM/PROJECT:** RESOLUTION NO. R13-005 – PEDC LOAN TO J&M BAGWELL PROPERTIES LLC.

**MEETING DATE:** April 9, 2013

**DESCRIPTION:** Consider adopting on second and final reading Resolution No. R13-005, a Resolution of the City of Pampa approving a Forgivable Loan in the amount of $350,000.00 from the Pampa Economic Development Corporation to J&M Bagwell Properties LLC for renovations at the Pampa Mall.

**STAFF CONTACT:** Clay Rice

**FINANCIAL IMPACT:** $350,000.00

**SOURCE OF FUNDS:** PEDC Operating Budget

**START/COMPLETION SCHEDULE:** This Resolution will be effective upon its adoption.

**RECOMMENDED ACTION:**

**BACKGROUND/ADDITIONAL INFORMATION:** Resolution and Loan Agreement attached.
RESOLUTION NO. R13-005

A RESOLUTION APPROVING ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE PAMPA ECONOMIC DEVELOPMENT CORPORATION AND J&M BAGWELL PROPERTIES LLC, AND A LOAN BY THE PAMPA ECONOMIC DEVELOPMENT CORPORATION TO J&M BAGWELL PROPERTIES LLC

WHEREAS, the Pampa Economic Development Corporation (“Pampa EDC”) has presented a request for approval of Economic Development Agreement (“the Agreement”) between the Pampa EDC and J&M Bagwell Properties LLC (“Bagwell”);

AND WHEREAS, the Pampa EDC has presented a request to make a forgivable loan of $350,000 to Bagwell for roof repair and renovation at the Pampa Mall, tied to the square footage of retail or office space leased, as part of the Agreement, upon the terms hereafter set out;

AND WHEREAS, the Pampa EDC held a public hearing on March 21, 2013 at which citizens spoke both in favor of and in opposition to the Agreement and loan;

AND WHEREAS, the Pampa EDC has requested that the City Commission approve such Agreement and loan;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PAMPA, TEXAS:

That the Agreement between the Pampa EDC and Bagwell be and it is hereby APPROVED; and

That the loan by the Pampa EDC to Bagwell in the amount of $350,000.00, bearing interest and being payable in quarterly installments of interest only until January 1, 2014, and being payable in monthly installments amortized as therein provided beginning January 1, 2014, with provisions setting forth the forgiving of $1.00 of the principal for each square foot of retail or office space leased per year to tenants relocating from outside the city limits of Pampa, for a period of 5 years, and the forgiving of $1.00 of the principal for each square foot in addition to that previously occupied for retail or office space per year leased to tenants relocating from inside the city limits of Pampa, providing for final maturity on or before 20 years from the date of the note, providing for the personal guarantee of Jason Bagwell and wife Meredith Bagwell, and providing conditions for acceleration and other terms as therein provided in copy of note attached hereto as Exhibit “A” and made a part hereof, be and it is hereby APPROVED.

INTRODUCED, READ and APPROVED on its first reading this the 26th day of March, 2013
READ, APPROVED and ADOPTED on its second and final reading on this the 9th day of April, 2013

CITY OF PAMPA, TEXAS

By: ________________________________
   Brad Pingel, Mayor

ATTEST:

___________________________________
Karen L. Price, City Secretary

APPROVED AS TO FORM:

___________________________________
Leland W. Waters, City Attorney
This Economic Development Agreement (“Agreement”) is made by and between the Pampa Economic Development Corporation, a Texas nonprofit corporation, (“Pampa EDC”) and J&M Bagwell Properties LLC (“Company”), acting by and through their respective authorized officers and governing persons.

WITNESSETH:

WHEREAS, the Company is the owner of certain real property known as the “Pampa Mall” located at 2545 Perryton Parkway, Pampa, Texas.

WHEREAS, the Company wants to repair the roof and do general renovation of the real property in order to attract new business and to create permanent jobs in Pampa, Texas.

WHEREAS, the Company had advised the Pampa EDC that a contributing factor that would induce the Company to renovate its facility to attract new business and to created permanent jobs in Pampa, Texas, would be an agreement by the Pampa EDC to provide an economic development grant and loan to the Company based upon the square footage of leased rental space.

WHEREAS, the Pampa EDC has adopted programs for promoting economic development; and

WHEREAS, the Development Corporation Act, Tex. Loc. Gov’t Code Ann. Tex. Loc. Gov’t Code Ann. §501.101 authorizes the Pampa EDC to provide economic development grants suitable for expenditures for the creation or retention of primary jobs.

WHEREAS, the Pampa EDC has determined that making an economic development grant to Company in accordance with this Agreement will further the objectives of the Pampa EDC and will benefit the Pampa EDC and the inhabitants of Pampa, Texas;

NOW THEREFORE, in consideration of the foregoing, and on the terms and conditions hereinafter set forth, the parties agree as follows:
Article I
Definitions

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

“Pampa EDC” shall mean the Pampa Economic Development Corporation, a Texas nonprofit corporation.

“Company” shall mean J & M Bagwell Properties LLC.

“Event of Bankruptcy or Insolvency” shall mean the dissolution or termination of a party’s existence as a going business, insolvency, appointment of receiver for any part of such party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a party, including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of the party), fires, explosions or floods, strikes, slowdowns or work stoppages.

“Grant(s)” shall mean economic development grants that in the aggregate do not exceed $350,000.00

“Leased Square Footage” shall mean (1) additional square footage leased to tenants relocating within the City of Pampa (over and above square footage leased in previous location within the City of Pampa), calculated from one year from the date of the original lease and (2) square footage leased to tenants opening new business or relocating from outside the City of Pampa, calculated from one year from the date of the original lease.

“Maximum Grant Amount” shall mean $350,000.00.

“Maximum Grant/Loan Amount” shall mean $350,000.00.

“Maximum Loan Amount” shall mean $350,000.00.

“Payment Request” shall mean a written request from Company to the Pampa ECD for payment of a Grant accompanied by written evidence satisfactory to the Pampa ECD that the Company is entitled to a grant payment. Said Payment Request shall be considered on May 1st of each year.
Article II
Term

The effective term of this Agreement shall begin 60 days from March 1, 2013, being the date of the published notice of this project, said effective date May 1, 2013 (the “Effective Date”) and shall continue until the Promissory Note, attached hereto as Exhibit “A”, is paid in full, unless sooner terminated as provided herein.

Article III
Economic Development Grant/Loan

3.1 The Pampa EDC agrees to loan the Company the sum of $350,000.00. Terms of Payment (principal and interest): Interest only is payable quarterly until December 31, 2013. Beginning on January 1, 2014, the principal and interest is payable in monthly installments, until the full amount is due and payable on May 1, 2033. On the anniversary date of the Note, the annual payment will be reamortized to allow for this note to be paid in full on May 1, 2033.

The interest rate on this Note is subject to change from time to time based on changes in an index which is the WALL STREET JOURNAL BASE RATE (the "Index"). The interest rate change will not occur more often than on the anniversary date of this Note. The initial interest rate will be determined as of May 1, 2013. The interest rate to be applied prior to maturity to the unpaid principal balance of this Note will be at a rate of 1.0 percentage points over the Index, adjusted if necessary for the maximum rate limitation described below. Notwithstanding any other provision of this Note, the variable interest rate or rates provided for in this Note will be subject to the following maximum rate. NOTICE: Under no circumstances will the interest rate on this Note be more than the lesser of _______ per annum or the maximum rate allowed by applicable law. For purposes of this Note, the "maximum rate allowed by applicable law" means the greater of (a) the maximum rate of interest permitted under federal or other law applicable to the indebtedness evidenced by this Note, or (b) the "Indicated Rate Ceiling" as referred to in Article 5069-1.04 (a)(1) V.T.C.S.

Said promissory note shall be personally guaranteed by Jason Bagwell and Meredith Bagwell.

Any grants received by the Company pursuant to Article IV herein shall be credited to the principal balance owing on the loan. The Pampa EDC shall reimburse the Company if the grant payments result in an overpayment on the loan.

In the event that the Company defaults on the payment of any obligation or installment due to Pampa Economic Development Corporation under the terms of the promissory note, Pampa Economic Development Corporation shall have the right to withhold any grant payments owing to Company, under the terms of this Economic
Development Agreement between the Pampa Economic Development Corporation and J & M Bagwell Properties LLC. Pampa Economic Development Corporation shall have the right to apply any such withheld grant payments to the balance owing on this Note.

The Company shall execute a Promissory Note, in the form of the Promissory Note attached hereto as Exhibit “A”.

The Company shall execute a Deed of Trust, in the form of the Deed of Trust attached hereto as Exhibit “B”.

Article IV. Economic Development Grants

4.1 Subject to the Company’s continued satisfaction of all the terms and conditions of this Agreement and the obligation of the Company to repay the Grants pursuant to Section V. hereof, the Pampa EDC agrees to provide the Company with economic development grants (the “Grant(s)”) not to exceed in the aggregate the Maximum Grant Amount, for the creation of primary jobs in the city of Pampa, Texas. On or before May 1st of each year during the term of this Economic Development Agreement, the Company shall submit a Payment Request to the Pampa EDC, unless this Agreement ends sooner per the terms of this Agreement. Said reports shall show (1) list of all tenants at the Pampa Mall, with verification of each tenant’s lease date; (2) copy of each lease; and (3) evidence showing the number of Lease Square Footage during the preceding twelve month period. Said reports shall be sworn to and verified for accuracy by Jason Bagwell and Meredith Bagwell, individually and in their official capacity as Managers/Members of the Company.

Within 30 days of receipt of the Payment Request and reports submitted by the Company, the Pampa EDC will pay a grant to Company based upon the following:

(1) On May 1st of each year, the Company will receive a credit on the principal amount owing on the Promissory Note executed by the Company, payable to the Pampa EDC, attached hereto as Exhibit “A”, in an amount equal to $1.00 per square foot of Lease Square Footage, as defined herein. Provided however, each lease shall be limited to a credit for a period of five years following the date of the initial lease.

Article V Conditions to Economic Development Grant

The Pampa EDC’s obligation to pay the Grants hereunder shall be conditioned upon the Company’s compliance and satisfaction of each of the following conditions:

5.1 Prior to the original funding of the Note, Company shall provide the Pampa EDC with the following: (1) copy of the Company’s original Owner’s Policy of Title Insurance showing good title in the name of J & M Bagwell Properties LLC; (2)
Proof of insurance, with the Pampa EDC listed as an additional insured; (3) executed Deed of Trust, in the form on Exhibit “B”, attached hereto; and (4) Subordination Agreement, in the form on Exhibit “C” attached hereto, executed by Happy State Bank, subordinating their loan dated -----, described in Deed of Trust, dated February 2, 2013, recorded in Volume ___, Page ___ of the Official Public Records of Gray County, Texas;

5.2 Company shall, as a condition precedent to the payment of each Grant, provide the Pampa EDC with a copy of each lease at the Pampa Mall. Each lease will be eligible for a Grant, based upon the Leased Square Footage, on May 1st of each year following the expiration of one full year of occupancy, not to exceed five years.

5.2 Company shall, as a condition precedent to the payment of each Grant, provide the Pampa EDC with the applicable Payment Request accompanied by reports, invoices, receipts or other written evidence pertaining to the Company’s roof repairs and renovations at the Pampa Mall. Company shall provide proof that said renovations are in compliance with the current City Building Code and have received an engineering stamp upon completion. Said reports shall be sworn to and verified for accuracy by Jason Bagwell and Meredith Bagwell individually and in their capacity as Mangers/Members of J & M Bagwell Properties LLC.

Article VI
Termination

6.1 This Agreement shall terminate upon any one of the following: (1) by written agreement of the parties; (2) Expiration Date; (3) by either party in the event the other party breaches any of the terms or conditions of this Agreement and such breach is not cured within thirty (30) days after written notice thereof; (4) by Pampa EDC, if Company suffers an Event of Bankruptcy or Insolvency; (5) by Pampa EDC, if any taxes or assessments owed to the City or the State of Texas by Company shall become delinquent (provided, however, the Company retains the right to timely and properly protest and contest any such tax or assessment); and (6) by Pampa EDC, if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable; and (7) the singular or collective payment of the Maximum Grant Amount;

Article VII
Funding

7.1 The Grants made hereunder shall be paid solely from lawful available funds that have been appropriated by the Pampa EDC. Under no circumstances shall Pampa EDC’s obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Consequently, notwithstanding any other provision of this Agreement, Pampa EDC shall have no obligation or liability to pay any portion of the Grants unless Pampa EDC appropriates funds to make such payment during the budget year in which the Grant is payable. Further, Pampa EDC shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit
agreement made by the Company. None of the Pampa EDC’s obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

Article VIII
Miscellaneous

8.1 Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. This Agreement may not be assigned without the consent of the Pampa EDC.

8.2 Limitation on Liability. It is acknowledged and agreed by the parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the parties. It is understood and agreed between the parties that Company, in satisfying the conditions of this Agreement, has acted independently, and Pampa EDC assumes no responsibilities or liabilities to third parties in connection with these actions. Company agrees to indemnify and hold harmless the Pampa EDC from all such claims, suits, and causes of action, liabilities and expenses, including reasonable attorney’s fees, of any nature and whatsoever arising out of the Company’s performance of the conditions under this Agreement.

8.3 Authorization. Each party represents that it has full capacity and authority to grant all rights and assume all obligations that it is granted and assumed under this Agreement.

8.4 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by the United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below or on the day actually received as set by courier or otherwise hand delivered.

If intended for Pampa EDC:

Attention: President
Pampa Economic Development Corporation
P.O. Box 2398
Pampa, Texas 79066-2398

If intended for Company:

Attention:
J & M Bagwell Properties LLC
Jason Bagwell and Meredith Bagwell
314 Oak Drive
Pampa, Texas 79065
8.5 Entire Agreement. This Agreement is the entire Agreement between the parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written Agreement between the parties that in any manner relates to the subject matter of this Agreement.

8.6 Governing Law. The Agreement shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Gray County, Texas.

8.7 Amendment. This Agreement may be amended by the mutual written agreement of the parties.

8.8 Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision by added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

8.9 Recitals. The recitals to this Agreement are incorporated herein.

8.10 Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

8.11 Exhibits. Any exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

8.12 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

8.13 Contingent Upon Approval of City Commission of City of Pampa. This Agreement between the Pampa EDC and the Company is contingent upon the Pampa EDC receiving approval by the City Commission of the City of Pampa.
Executed on this March ____, 2013. The Effective Date of this Agreement shall be May 1, 2013.

Pampa Economic Development Corporation  J & M Bagwell Properties LLC

By:________________________________  By:________________________________
    Gary Sutherland, President                 Jason Bagwell

By:________________________________
    Meredith Bagwell
**Exhibit “A”**  
**Promissory Note**

**Date:** May 1, 2013

**Borrower:** J & M Bagwell Properties LLC

**Borrower’s Mailing Address:** 314 Oak Drive, Pampa, Texas 79065

**Lender:** Pampa Economic Development Corporation, a Texas non-profit corporation

**Place for Payment:** P.O. Box 2398, Pampa, Texas 79066-2398

**Principal Amount:** $350,000.00

**Annual Interest Rate:** variable rate, as described herein

**Maturity Date:** On or before May 1, 2033

**Annual Interest Rate on Matured, Unpaid Amounts:** maximum rate allowed by applicable law

**Security for Payment:** Real Property described in Exhibit “A” attached hereto

**Terms of Payment (principal and interest):** Interest only is payable quarterly until December 31, 2013. Beginning on January 1, 2014, the principal and interest is payable in monthly installments, until the full amount is due and payable on May 1, 2033. On the anniversary date of the Note, the annual payment will be reamortized to allow for this note to be paid in full on May 1, 2033.

The interest rate on this Note is subject to change from time to time based on changes in an index which is the WALL STREET JOURNAL BASE RATE (the "Index"). The interest rate change will not occur more often than on the anniversary date of this Note. The Index currently is _____ per annum. The interest rate to be applied prior to maturity to the unpaid principal balance of this Note will be at a rate of 1.0 percentage points over the Index, adjusted if necessary for the maximum rate limitation described below, resulting in an initial rate of _____% per annum. Notwithstanding any other provision of this Note, the variable interest rate or rates provided for in this Note will be subject to the following maximum rate. NOTICE: Under no circumstances will the interest rate on this Note be more than the lesser of _______ per annum or the maximum rate allowed by applicable law. For purposes of this Note, the "maximum rate allowed by applicable law" means the greater of (a) the maximum rate of interest permitted under federal or other law applicable to the indebtedness evidenced by this Note, or (b) the "Indicated Rate Ceiling" as referred to in Article 5069-1.04 (a)(1) V.T.C.S.
Any grants received by the Company pursuant to Article IV herein shall be credited to the principal balance owing on the loan. The Pampa EDC shall reimburse the Company if the grant payments result in an overpayment on the loan.

If the proceeds of a grant under the terms of an Economic Development Agreement between the Pampa Economic Development Corporation and J & M Bagwell Properties LLC are applied to the Principal Amount of this note, the unpaid principal balance will be reamortized over the remaining period of this note.

Borrowers promise to pay to the order of Lender the Principal Amount plus interest at the Annual Interest Rate. This note is payable at the Place for Payment and according to the Terms of Payment. All unpaid amounts are due by the Maturity Date. After maturity, Borrowers promise to pay any unpaid principal balance plus interest at the Annual Interest Rate on Matured, Unpaid Amounts.

This Note will become immediately due and payable at the option of the Pampa Economic Development Corporation if any of the following actions are taken by or against, or a listed event occurs in connection with J & M Bagwell Properties LLC, Jason, Borrower, or Jason Bagwell and/or Meredith Bagwell, guarantors:

1. Discontinuation of the Company’s business
2. Insolvency
3. Business failure
4. Appointment of a receiver
5. Assignment for the benefit of creditors
6. Filing of a petition in bankruptcy
7. The commencement of any proceeding under any bankruptcy or insolvency laws or any laws relating to the relief of debtors
8. Default under the terms of an Economic Development Agreement between the Pampa Economic Development Corporation and J & M Bagwell Properties LLC

The failure of the Pampa Economic Development Corporation to exercise Pampa Economic Development Corporation’s option to accelerate the maturity of this Note will not constitute a waiver of the right to exercise the option to accelerate at any other time.

In the event that J & M Bagwell Properties LLC defaults on the payment of any obligation or installment due to Pampa Economic Development Corporation under the terms of this Promissory Note, Pampa Economic Development Corporation shall have the right to withhold any grant payments owing to J & M Bagwell Properties LLC under the terms of an Economic Development Agreement, dated March ____, 2013, effective as of May 1, 2013, between the Pampa Economic Development Corporation and J & M Bagwell Properties LLC.
If Borrower defaults in the payment of this note, Lender may declare the unpaid principal balance, earned interest, and any other amounts owed on the note immediately due. Borrower and each surety, endorser, and guarantor waive all demand for payment, presentation for payment, notice of intention to accelerate maturity, notice of acceleration of maturity, protest, and notice of protest, to the extent permitted by law.

Borrower also promises to pay reasonable attorney’s fees and court and other costs if this note is placed in the hands of an attorney to collect or enforce the note. These expenses will bear interest from the date of advance at the Annual Interest Rate on Matured, Unpaid Amounts. Borrower will pay Lender these expenses and interest on demand at the Place for Payment. These expenses and interest will become part of the debt evidenced by the note and will be secured by any security for payment.

Borrower may prepay this note in any amount at any time before the Maturity Date without penalty or premium.

Interest on the debt evidenced by this note will not exceed the maximum rate or amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law. Any interest in excess of that maximum amount will be credited on the Principal Amount or, if the Principal Amount has been paid, refunded. On any acceleration or required or permitted prepayment, any excess interest will be canceled automatically as of the acceleration or prepayment or, if the excess interest has already been paid, credited on the Principal Amount or, if the Principal Amount has been paid, refunded. This provision overrides any conflicting provisions in this note and all other instruments concerning the debt.

When the context requires, singular nouns and pronouns include the plural.

J & M Bagwell Properties LLC

By: __________________________________________
    Jason Bagwell, Manager/Member

By: __________________________________________
    Meredith Bagwell, Manager/Member
For value received, we Jason Bagwell and Meredith Bagwell, jointly and severally, absolutely and unconditionally guarantee payment of this note according to its terms to the same extent as if we were makers of this note. We, jointly and severally, waive all demand and all notices, including notice of intention to accelerate the maturity, notice of acceleration of maturity, notice of nonpayment, presentment for payment, protest, notice of protest, suit, and diligence. We also jointly and severally waive any notice of and defense based on the extension of time of payment or change in methods of payment and consent to all renewals, extensions, and other adjustments in the manner of payment of this note. This is a guaranty of payment and performance, not of collection, and it is an agreement of guaranty, not of suretyship. We jointly and severally waive all requirements of law, if any, to require that any collection efforts be made against Maker or that any action be brought against Maker before resorting to this guaranty.

____________________________________
Jason Bagwell

____________________________________
Meredith Bagwell
EXHIBIT “A”

All that certain lot, tract or parcel of land lying and being situated in Gray County, Texas, and being more particularly described as follows, to-wit:

Being a tract or parcel of land out of the West One-Half (W-1/2) of Section Number One Hundred (100), Block Three (3), of I & G.N.R.R. Co. Survey, Gray County, Texas, said tract or parcel of land being more particularly described by metes and bounds as follows:

COMMENCING at the N.W. corner of the intersection of State Highway No. 70 (Perryton Parkway), a 120.0 ft. wide R.O.W., and 25th Avenue, a 60.0 ft. wide R.O.W. said COMMENCEING POINT being S 89° 12’W, 1051.9 ft. along the North R.O.W. line of said 25th Avenue, and N 00° 09’W, 4250.0 ft. along the West line of said Section 100, from the N.W. corner of said Section 100;

THENCE N 29° 44'E, along the Westerly R.O.W. line of said State Highway No 70, a distance of 124.23 ft. to the POINT OF BEGINNING;

THENCE N 29° 44'E, continuing along the Westerly R.O.W. line of said State Highway No. 70, a distance of 282.00 feet to point for corner;

THENCE, leaving the R.O.W. line of State Highway No. 70, N 60° 16’W, a distance of 150.00 ft. to a point for corner;

THENCE N 29° 44'E, a distance of 152.00 ft. to a point for corner;

THENCE S 60° 16’E, a distance of 150.00 ft. to a point for corner, said point being in the Westerly right of way line of State Highway No. 70;

THENCE N 29° 44'E, along the Westerly R.O.W. line of said State Highway No. 70, a distance of 549.00 ft. to a point for corner;

THENCE N 60° 16’W, at right angle to the said Westerly R.O.W. line of State Highway No. 70, a distance of 780.0 ft. to a point for corner;

THENCE S 29° 44’W, along a line parallel to the said Westerly R.O.W. line of State Highway No. 70, a distance of 1171.95 ft. to a point for corner;

THENCE S 00° 48’E, along a line perpendicular to the Northerly R.O.W. line of 25th Avenue; a distance of 340.52 ft. to the Northerly R.O.W. line of 25th Avenue, being point for corner;

THENCE N 89° 12’E, along the said Northerly R.O.W. line of 25th Avenue, a distance of 530.57 ft. to point for corner;
THENCE, leaving the said Northerly R.O.W. line of 25th Avenue, N 29° 44’E, a distance of 212.70 ft. to point for corner;

THENCE S 60° 16’E, a distance of 150.00 ft. to the POINT OF BEGINNING and containing 960,797.37 square feet or 22.0569 acres of land;
Deed of Trust

Date: May 1, 2013

Grantor: J & M Bagwell Properties LLC, a Texas corporation

Grantor's Mailing Address:

J & M Bagwell Properties LLC
314 Oak Drive
Pampa, Gray County, Texas 79065

Trustee: Vanessa G. Buzzard

Trustee's Mailing Address:

208 N. Russell
Pampa, Gray County, Texas 79065

Lender: Pampa Economic Development Corporation, a Texas nonprofit corporation

Lender's Mailing Address:

P.O. Box 2398
Pampa, TX 79066

Obligation

Note

Date: May 1, 2013

Original principal amount: $350,000.00
Borrower: J & M Bagwell Properties LLC
Lender: Pampa Economic Development Corporation
Maturity date: May 1, 2033
Terms of Payment: As provided in the note.

**Property (including any improvements):** As described on Exhibit “A”, attached hereto

**Prior Lien:**

Deed of Trust, dated January 30, 2013, recorded in Volume 970, Page 264 of the Official Public Records of Gray County, Texas, from J & M Bagwell Properties, LLC to Happy State Bank. Said Deed of Trust being subordinated to this Deed of Trust in a separate Subordination agreement of record in the Official Public Records of Gray County, Texas.

**Other Exceptions to Conveyance and Warranty:**

Liens described as part of the Consideration and any other liens described in the deed to Grantor as being either assumed or subject to which title is taken; validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing instruments, other than conveyances of the surface fee estate, that affect the Property; and taxes for 2013, and subsequent assessments for that and prior years due to change in land usage, ownership, or both.

For value received and to secure payment of the Obligation, Grantor conveys the Property to Trustee in trust. Grantor warrants and agrees to defend the title to the Property, subject to the Other Exceptions to Conveyance and Warranty. On payment of the Obligation and all other amounts secured by this deed of trust, this deed of trust will have no further effect, and Lender will release it at Grantor's expense.

**Clauses and Covenants**

**A. Grantor's Obligations**

Grantor agrees to-

1. keep the Property in good repair and condition;

2. pay all taxes and assessments on the Property before delinquency, not authorize a taxing entity to transfer its tax lien on the Property to anyone other than Lender, and not request a deferral of the collection of taxes pursuant to section 33.06 of the Texas Tax Code;
3. **Defend title to the Property subject to the Other Exceptions to Conveyance and Warranty and preserve the lien's priority as it is established in this deed of trust;**

4. **Maintain, at Grantor's expense—**
   
   a. liability insurance and worker's compensation insurance covering Grantor, the Property, and the operations on the Property against claims for bodily injury, death, or property damage on or around the Property;
   
   b. property insurance against loss or damage by fire, storm, gas (if gas is used on the Property), and all other hazards under a standard all-risk extended coverage endorsement for an amount equal to the original amount of the Note and other debt secured by this deed of trust or the full insurable value of the Property, whichever is less, and also insuring against other risks including flood, if the Property is in a flood hazard area, and earthquake and mud slide, if requested by Lender; the insurance will also cover loss of rents from the Property or other loss due to business interruption on the Property for the time that the Property is unavailable because of any casualty.

5. **Obey all laws, ordinances, and restrictive covenants applicable to the Property;**

6. **Keep any buildings occupied as required by the Required Insurance Coverages;**

7. **If the lien of this deed of trust is not a first lien, pay or cause to be paid all prior lien notes and abide by or cause to be abided by all prior lien instruments; and**

8. **Notify Lender of any change of address.**

**B. Lender's Rights**

1. **Lender or Lender's mortgage servicer may appoint in writing one or more substitute trustees, succeeding to all rights and responsibilities of Trustee.**

2. **If the proceeds of the Obligation are used to pay any debt secured by prior liens, Lender is subrogated to all the rights and liens of the holders of any debt so paid.**

3. **Lender may apply all insurance or condemnation proceeds that Lender receives, at Lender's discretion, either to (a) repay the debt secured by this deed of trust, whether matured or not, and in any order Lender selects or (b) repair or improve the Property in any manner Lender selects and apply any remaining proceeds to the debt secured by this deed of trust in any order Lender selects.**
4. Notwithstanding the terms of the Note to the contrary, and unless applicable law prohibits, all payments received by Lender from Grantor with respect to the Obligation or this deed of trust may, at Lender's discretion, be applied first to amounts payable under this deed of trust and then to amounts due and payable to Lender with respect to the Obligation, to be applied to late charges, principal, or interest in the order Lender in its discretion determines.

5. If Grantor fails to perform any of Grantor's obligations, Lender may perform those obligations and be reimbursed by Grantor on demand for any amounts so paid, including attorney's fees, plus interest on those amounts from the dates of payment at the rate stated in the Note for matured, unpaid amounts. The amount to be reimbursed will be secured by this deed of trust.

6. If a default exists in payment of the Obligation or performance of Grantor obligations and the default continues after any required notice of the default and the time allowed to cure, Lender may-

   a. declare the unpaid principal balance and earned interest on the Obligation immediately due;
   b. exercise Lender's rights with respect to rent under the Texas Property Code as then in effect;
   c. direct Trustee to foreclose this lien, in which case Lender or Lender's agent will cause notice of the foreclosure sale to be given as provided by the Texas Property Code as then in effect; and
   d. purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited on the Obligation.

7. Lender may remedy any default without waiving it and may waive any default without waiving any prior or subsequent default.

C. Trustee's Rights and Duties

   If directed by Lender to foreclose this lien, Trustee will-

   1. either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then in effect;

   2. sell and convey all or part of the Property "AS IS" to the highest bidder for cash with a general warranty binding Grantor, subject to the Prior Lien and to the Other Exceptions to Conveyance and Warranty and without representation or warranty, express or implied, by Trustee;

   3. from the proceeds of the sale, pay, in this order-

   a. expenses of foreclosure, including a reasonable commission to Trustee;
b. to Lender, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;

c. any amounts required by law to be paid before payment to Grantor; and

d. to Grantor, any balance; and

4. be indemnified, held harmless, and defended by Lender against all costs, expenses, and liabilities incurred by Trustee for acting in the execution or enforcement of the trust created by this deed of trust, which includes all court and other costs, including attorney's fees, incurred by Trustee in defense of any action or proceeding taken against Trustee in that capacity.

D. General Provisions

1. Grantor agrees to (a) keep at Grantor's address, or such other place as Lender may approve, accounts and records reflecting the operation of the Property and copies of all written contracts, leases, and other instruments that affect the Property; (b) prepare financial accounting records in compliance with generally accepted accounting principles consistently applied; and (c), at Lender's request from time to time, permit Lender to examine and make copies of such books, records, contracts, leases, and other instruments at any reasonable time.

2. Grantor agrees to deliver to Lender, at Lender's request from time to time, internally prepared financial statements of Grantor and each guarantor of the Note prepared in accordance with generally accepted accounting principles consistently applied, in detail reasonably satisfactory to Lender and certified to be true and correct by the chief financial officer of Grantor.

3. If any of the Property is sold under this deed of trust, Grantor must immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor will become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.

4. Recitals in any trustee's deed conveying the Property will be presumed to be true.

5. Proceeding under this deed of trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.

6. This lien will remain superior to liens later created even if the time of payment of all or part of the Obligation is extended or part of the Property is released.

7. If any portion of the Obligation cannot be lawfully secured by this deed of trust, payments will be applied first to discharge that portion.
8. Grantor assigns to Lender all amounts payable to or received by Grantor from condemnation of all or part of the Property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the Property. After deducting any expenses incurred, including attorney's fees and court and other costs, Lender will either release any remaining amounts to Grantor or apply such amounts to reduce the Obligation. Lender will not be liable for failure to collect or to exercise diligence in collecting any such amounts. Grantor will immediately give Lender notice of any actual or threatened proceedings for condemnation of all or part of the Property.

9. Grantor collaterally assigns to Lender all present and future rent from the Property and its proceeds. Grantor warrants the validity and enforceability of the assignment. Grantor will apply all rent to payment of the Obligation and performance of this deed of trust, but if the rent exceeds the amount due with respect to the Obligation and the deed of trust, Grantor may retain the excess. If a default exists in payment of the Obligation or performance of this deed of trust, Lender may exercise Lender's rights with respect to rent under the Texas Property Code as then in effect. Lender neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the Property. Lender may exercise Lender's rights and remedies under this paragraph without taking possession of the Property. Lender will apply all rent collected under this paragraph as required by the Texas Property Code as then in effect. Lender is not required to act under this paragraph, and acting under this paragraph does not waive any of Lender's other rights or remedies.

10. Interest on the debt secured by this deed of trust will not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law. Any interest in excess of that maximum amount will be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess will be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides any conflicting provisions in this and all other instruments concerning the debt.

11. In no event may this deed of trust secure payment of any debt that may not lawfully be secured by a lien on real estate or create a lien otherwise prohibited by law.

12. When the context requires, singular nouns and pronouns include the plural.

13. The term *Note* includes all extensions, modifications, and renewals of the Note and all amounts secured by this deed of trust.
14. Grantor warrants to Lender and agrees that the proceeds of the Note will be used primarily for business or commercial purposes and not primarily for personal, family, or household purposes.

15. Grantor will furnish to Lender or other holder of the Note annually, before taxes become delinquent, copies of tax receipts showing that all taxes on the Property have been paid. Grantor will annually furnish to Lender or other holder of the Note evidence of current paid-up insurance naming Lender or other holder of the Note as an insured.

16. If all or any part of the Property is sold, transferred, or conveyed without the prior written consent of Lender or other holder of the Note, Lender or other holder of the Note may, at its sole option, declare the outstanding principal balance of the Note plus accrued interest immediately due and payable. Lender or other holder of the Note has no obligation to consent to any such sale or conveyance of the Property, and Lender or other holder of the Note is entitled to condition any consent on a change in the interest rate that will thereafter apply to the Note and any other change in the terms of the Note or Deed of Trust that Lender or other holder of the Note in its sole discretion deems appropriate. A lease for a period longer than three years, a lease with an option to purchase, or a contract for deed will be deemed to be a sale, transfer, or conveyance of the Property for purposes of this provision. Any deed under threat or order of condemnation, any conveyance solely between makers, and the passage of title by reason of death of a maker or by operation of law will not be construed as a sale or conveyance of the Property. The creation of a subordinate lien without the consent of Lender or other holder of the Note will be construed as a sale or conveyance of the Property, but any subsequent sale under a subordinate lien to which Lender or other holder of the Note has consented will not be construed as a sale or conveyance of the Property.

17. This deed of trust binds, benefits, and may be enforced by the successors in interest of all parties.

18. If Grantor and Borrower are not the same person, the term Grantor includes Borrower.

19. Grantor and each surety, endorser, and guarantor of the Obligation waive, to the extent permitted by law, all (a) demand for payment, (b) presentation for payment, (c) notice of intention to accelerate maturity, (d) notice of acceleration of maturity, (e) protest, (f) notice of protest, and (g) rights under sections 51.003, 51.004, and 51.005 of the Texas Property Code.

20. Grantor will not have any recourse liability for repayment of the principal and interest of the Note or the performance of any covenants and agreements of Grantor in this Deed of Trust. The sole remedy of Lender or other holder of the Note in the event of a default by Grantor under the Note or this Deed of Trust will be to foreclose the liens and security interests granted in this Deed of Trust, and Lender or other holder of the Note will not be entitled to any personal judgment against Grantor.
21. Grantor agrees to pay reasonable attorney's fees, trustee's fees, and court and other costs of enforcing Lender's rights under this deed of trust if this deed of trust is placed in the hands of an attorney for enforcement.

22. If any provision of this deed of trust is determined to be invalid or unenforceable, the validity or enforceability of any other provision will not be affected.

23. The term Lender includes any mortgage servicer for Lender.

24. Grantor represents that this deed of trust and the Note are given for the following purposes:

The Note represents THREE HUNDRED AND FIFTY THOUSAND DOLLARS ($350,000.00) in cash that Lender advanced to Grantor on this day at Grantor's request and that Grantor acknowledges receiving.

J & M Bagwell Properties LLC, a Texas corporation,

_________________________________________________
Jason Bagwell, Manager/Member

_________________________________________________
Meredith Bagwell, Manager/Member
STATE OF TEXAS  )
COUNTY OF GRAY   )

This instrument was acknowledged before me on ____________________, 2013, by Jason Bagwell, as a Manager/Member of J & M Bagwell Properties LLC, a Texas corporation, on behalf of said corporation.

__________________________
Notary Public, State of Texas
My commission expires:

__________________________

STATE OF TEXAS  )
COUNTY OF GRAY   )

This instrument was acknowledged before me on ____________________, 2013, by Meredith Bagwell, as a Manager/Member of J & M Bagwell Properties LLC, a Texas corporation, on behalf of said corporation.

__________________________
Notary Public, State of Texas
My commission expires:

__________________________

PREPARED IN THE OFFICE OF:
Buzzard Law Firm, P.C.
208 N. Russell St.
Pampa, TX 79065
Tel: (806) 665-7281
Fax: (806) 669-0972

AFTER RECORDING RETURN TO:
Pampa Economic Development Corporation
P.O. Box 2398
Pampa, TX 79065
EXHIBIT “A”

All that certain lot, tract or parcel of land lying and being situated in Gray County, Texas, and being more particularly described as follows, to-wit:

Being a tract or parcel of land out of the West One-Half (W-1/2) of Section Number One Hundred (100), Block Three (3), of I & G.N.R.R. Co. Survey, Gray County, Texas, said tract or parcel of land being more particularly described by metes and bounds as follows:

COMMENCING at the N.W. corner of the intersection of State Highway No. 70 (Perryton Parkway), a 120.0 ft. wide R.O.W., and 25th Avenue, a 60.0 ft. wide R.O.W. said COMMENCING POINT being S 89° 12’W, 1051.9 ft. along the North R.O.W. line of said 25th Avenue, and N 00° 09’W, 4250.0 ft. along the West line of said Section 100, from the N.W. corner of said Section 100;

THENCE N 29° 44’E, along the Westerly R.O.W. line of said State Highway No 70, a distance of 124.23 ft. to the POINT OF BEGINNING;

THENCE N 29° 44’E, continuing along the Westerly R.O.W. line of said State Highway No. 70, a distance of 282.00 feet to point for corner;

THENCE, leaving the R.O.W. line of State Highway No. 70, N 60° 16’W, a distance of 150.00 ft. to a point for corner;

THENCE N 29° 44’E, a distance of 152.00 ft. to a point for corner;

THENCE S 60° 16’E, a distance of 150.00 ft. to a point for corner, said point being in the Westerly right of way line of State Highway No. 70;

THENCE N 29° 44’E, along the Westerly R.O.W. line of said State Highway No. 70, a distance of 549.00 ft. to a point for corner;

THENCE N 60° 16’W, at right angle to the said Westerly R.O.W. line of State Highway No. 70, a distance of 780.0 ft. to a point for corner;

THENCE S 29° 44’W, along a line parallel to the said Westerly R.O.W. line of State Highway No. 70, a distance of 1171.95 ft. to a point for corner;

THENCE S 00° 48’E, along a line perpendicular to the Northerly R.O.W. line of 25th Avenue; a distance of 340.52 ft. to the Northerly R.O.W. line of 25th Avenue, being point for corner;

THENCE N 89° 12’E, along the said Northerly R.O.W. line of 25th Avenue, a distance of 530.57 ft. to point for corner;
THENCE, leaving the said Northerly R.O.W. line of 25th Avenue, N 29° 44’E, a distance of 212.70 ft. to point for corner;

THENCE S 60° 16’E, a distance of 150.00 ft. to the POINT OF BEGINNING and containing 960,797.37 square feet or 22.0569 acres of land;
EXHIBIT “C”

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

Subordination of Lien

Date: May 1, 2013

Subordinating Party: Happy State Bank

Subordinated Lien

Date: January 30, 2013

Grantor: J & M Bagwell Properties LLC

Beneficiary: Happy State Bank

Note Secured by Subordinated Lien: This Deed of Trust secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise. In addition to the note, this Deed of Trust secures all future advances made by Lender to Grantor whether or not the advances are made pursuant to a commitment. This Deed of Trust secures, in addition to the amount specified in the Note, all future amount Lender in its discretion may loan to Grantor, together with all interest thereon.

Recording information: Volume 970, Page 264 of the Official Public Records of Gray County, Texas

Superior Lien

Date: May 1, 2013

Borrower: J & M Bagwell Properties, LLC
Lender: Pampa Economic Development Corporation

Note Secured by Superior Lien: Note dated May 1, 2013, in the original principal amount of $350,000.00

Recording information: Volume ___, Page ____ of the Official Public Records of Gray County, Texas

Property (including any improvements): more particularly described in Exhibit “A” attached hereto.

Subordinating Party is the owner and holder of the Subordinated Lien, which is a lien against the Property.

For value received, Subordinating Party subordinates the Subordinated Lien against the Property to the Superior Lien and agrees that the Subordinated Lien will remain subordinate to the Superior Lien regardless of the frequency or manner of renewal, extension, change, or alteration of the Superior Lien or the Note Secured by Superior Lien.

When the context requires, singular nouns and pronouns include the plural.

Happy State Bank

By: ___________________________
STATE OF TEXAS

COUNTY OF GRAY

Before me, on this day personally appeared __________________________, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that __________________ executed the same as the act of Happy State Bank, as its _____________________, for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of ______________, 2013.

Notary Public, State of Texas
My commission expires:

PREPARED IN THE OFFICE OF:

BUZZARD LAW FIRM PC
208 N. Russell St.
Pampa, TX 79065
Tel: (806) 665-7281
Fax: (806) 669-0972

AFTER RECORDING RETURN TO:

Pampa Economic Development Corporation
808 W. Frances
Pampa, TX 79065
EXHIBIT “A”

All that certain lot, tract or parcel of land lying and being situated in Gray County, Texas, and being more particularly described as follows, to-wit:

Being a tract or parcel of land out of the West One-Half (W-1/2) of Section Number One Hundred (100), Block Three (3), of I & G.N.R.R. Co. Survey, Gray County, Texas, said tract or parcel of land being more particularly described by metes and bounds as follows:

COMMENCING at the N.W. corner of the intersection of State Highway No. 70 (Perryton Parkway), a 120.0 ft. wide R.O.W., and 25th Avenue, a 60.0 ft. wide R.O.W. said COMMENCING POINT being S 89° 12’W, 1051.9 ft. along the North R.O.W. line of said 25th Avenue, and N 00° 09’W, 4250.0 ft. along the West line of said Section 100, from the N.W. corner of said Section 100;

THENCE N 29° 44’E, along the Westerly R.O.W. line of said State Highway No 70, a distance of 124.23 ft. to the POINT OF BEGINNING;

THENCE N 29° 44’E, continuing along the Westerly R.O.W. line of said State Highway No. 70, a distance of 282.00 feet to point for corner;

THENCE, leaving the R.O.W. line of State Highway No. 70, N 60° 16’W, a distance of 150.00 ft. to a point for corner;

THENCE N 29° 44’E, a distance of 152.00 ft. to a point for corner;

THENCE S 60° 16’E, a distance of 150.00 ft. to a point for corner, said point being in the Westerly right of way line of State Highway No 70;

THENCE N 29° 44’E, along the Westerly R.O.W. line of said State Highway No. 70, a distance of 549.00 ft. to a point for corner;

THENCE N 60° 16’W, at right angle to the said Westerly R.O.W. line of State Highway No. 70, a distance of 780.0 ft. to a point for corner;

THENCE S 29° 44’W, along a line parallel to the said Westerly R.O.W. line of State Highway No. 70, a distance of 1171.95 ft. to a point for corner;

THENCE S 00° 48’E, along a line perpendicular to the Northerly R.O.W. line of 25th Avenue; a distance of 340.52 ft. to the Northerly R.O.W. line of 25th Avenue, being point for corner;

THENCE N 89° 12’E, along the said Northerly R.O.W. line of 25th Avenue, a distance of 530.57 ft. to point for corner;
THENCE, leaving the said Northerly R.O.W. line of 25th Avenue, N 29° 44’E, a distance of 212.70 ft. to point for corner;

THENCE S 60° 16’E, a distance of 150.00 ft. to the POINT OF BEGINNING and containing 960,797.37 square feet or 22.0569 acres of land;