

## ECONOMIC DEVELOPMENT AGREEMENT

This ECONOMIC DEVELOPMENT AGREEMENT by and between the CITY OF EL CAMPO, TEXAS, a Texas home-rule municipality ("City"), and Gary and Molli Bodungen as owners of Paint Perfection (the "Developer"), is entered into as of August 8, 2016.

WHEREAS, the Developer is the owner or will become the owner of appropriate property rights of that certain tract of land in the City described in Exhibit A attached hereto and incorporated herein for all purposes (the "Property"), which Property comprises the land described and referred to in the Developer's Conceptual Plan, attached hereto as Exhibit B, for the proposed development described therein (the "Project"); and

WHEREAS, the Developer and the City have determined that the development of the Property will best be accomplished through an economic development agreement, entered into pursuant to the provisions of Chapter 380, Texas Local Government Code; and,

WHEREAS, the City and the Developer agree that the provisions of this Agreement substantially advance a legitimate interest of the City;

NOW, THEREFORE, for and in consideration of the promises and the mutual agreements set forth herein, the City and the Developer hereby agree as follows:

1. The Project. The Developer intends to construct (or cause to be constructed) the Project, consisting of buildings at 107 and 109 N. Washington as described in Exhibit B.

2. Project Improvements and Job Creation. All of the improvements set forth in Exhibit B attached hereto, together with such other improvements as may be related thereto (including, without limitation, all costs incurred in connection with obtaining governmental approvals, certificates, and permits required in connection with the construction of the Improvements), shall be referred to herein as the "Project Improvements." Such Project Improvements shall be designed and constructed in accordance with the applicable ordinances of the City and other regulatory agencies with jurisdiction and total costs of construction will be submitted to the City in the amount of a minimum of \$150,000.00. The City shall have the right to review and approve all plans and specifications for the Project Improvements prior to construction.

The Project will commence in a time period not to exceed six(6) months from execution of this agreement before a certificate of occupancy is issued and will create a minimum number of jobs as specified below:

<u>Year</u>	<u>Minimum number of active Part-time Employees</u>
End of first Year 2016	2
And maintained each year	2

3. Grant Payments.

(a) In consideration of the construction of the Project Development and Job Creation in the City by the Developer, the City agrees to pay the Developer certain Grant Payments as provided in this Section. Prior to any payment, the Project Improvements and Job Creation will be verified by the City. Failure to construct and maintain the Project Improvements in accordance with City ordinances or other regulatory agency regulations or to maintain the minimum number of jobs as described above in any particular year during the term of this agreement shall result in the Developer not being entitled to the Grant Payment for that year.

(b) The Grant Payments are equal to and payable from a special fund of the City composed of the City sales taxes net of the Comptrollers collection fees (i.e., 1-percent regular sales taxes) generated and received by the City from the Project ("Project Sales Tax") during the prior calendar year. However, the first Grant Payment, on March 1, 2017, shall reflect all Project Sales Tax received by the City between the execution of this agreement and December 31, 2016; provided that the City may make Grant Payments from any lawful source available to the City therefor so long as the City's obligation does not exceed the amount of the Project Sales Tax. This agreement shall be subordinate to any pledge of the City's tax revenue with respect to the City's bonded indebtedness. State tax returns for taxes must be provided to the City to arrive at grant payment amounts.

(c) The City shall make the Grant Payments to the Developer in the amount of the accrued Project Sales Taxes, as provided herein, on March 1, 2017, and continuing each year for a period of three (3) years or to a maximum amount of \$1,800.00 on the Sales Taxes and each year for a period of five (5) years or to a maximum amount of \$10,000.00 for a total maximum amount of \$11,800.00. The Grant Payments shall terminate the earlier of i) the fifth payment as provided herein ii) the payment of the maximum amount of \$11,800.00.

5. Project Quality. As consideration in part of the City's agreement to pay the Grant Payment, the Developer agrees to construct the Project to meet applicable City standards for such developments as provided by City regulations.

6. Default Remedies. Any party to this Agreement that believes that the other party to this Agreement has defaulted in the performance of any condition, term, or obligation owed to that party under this Agreement shall within ten business days after discovery of said default, give written notice of the default to the defaulting party, specifying in detail the provision or provisions of this Agreement that have allegedly been breached, what specific action must be taken to cure or correct the default, and requesting that the City Council of the City provide the parties an opportunity to be heard in public session to discuss the default at the next scheduled city council meeting. The City Council, after review of such request, shall determine whether to provide the parties the opportunity to be heard in public session to discuss the default at the next scheduled city council meeting. Should the party receiving the notice fail to commence action to correct the default within the time determined by City Council and/or thereafter fail to diligently pursue the completion of the action to correct the default, or should City Council determine not to hear the matter, the party giving the notice of default may exercise other available remedies at law and in equity. Notwithstanding the foregoing, the parties hereto shall have all remedies provided at law and in equity with respect to this Agreement.

7. Separate Status. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in their respective businesses or otherwise, nor shall it cause them to be considered joint ventures or members of any, joint enterprise.

8. Construction and Interpretation.

(a) Whenever required by the context of this Agreement, (i) the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa, and (ii) use of the words "including," "such as," or words of similar import, when following any general term, statement or matter, shall not be construed to limit such statement, term or matter to specific terms, whether or not language of non-limitation, such as "without limitation," or "but not limited to," are used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest scope of such statement, term or matter.

(b) The captions preceding the text of each article and section of this Agreement are included only for convenience of reference. Captions shall be

disregarded in the construction and interpretation of this Agreement. Capitalized terms are also selected only for convenience of reference and do not necessarily have any connection to the meaning that might otherwise be attached to such term in a context outside of this Agreement.

(c) This Agreement may be executed in several counterparts; each of which shall be deemed an original. The signatures to this Agreement may be executed and notarized on separate pages, and when attached to this Agreement shall constitute one (1) complete document.

9. INDEMNIFICATION AND HOLD HARMLESS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE DEVELOPER OBLIGATES ITSELF TO THE CITY TO FULLY AND UNCONDITIONALLY PROTECT, INDEMNIFY AND DEFEND THE CITY OF EL CAMPO, ITS OFFICERS, AGENTS AND EMPLOYEES, AND HOLD IT HARMLESS FROM AND AGAINST ANY AND ALL COSTS, EXPENSES, REASONABLE ATTORNEY FEES, CLAIMS, SUITS, LOSSES OR LIABILITY FOR INJURIES TO PROPERTY, INJURIES TO PERSONS (INCLUDING THE DEVELOPER'S EMPLOYEES), INCLUDING DEATH, AND FROM ANY OTHER COSTS, EXPENSES, REASONABLE ATTORNEY FEES, CLAIMS, SUITS, LOSSES OR LIABILITIES OF ANY AND EVERY NATURE WHATSOEVER ARISING IN ANY MANNER, DIRECTLY OR INDIRECTLY, OUT OF OR IN CONNECTION HERewith, REGARDLESS OF CAUSE OR OF THE SOLE, JOINT, COMPARATIVE OR CONCURRENT NEGLIGENCE OR GROSS NEGLIGENCE OF THE CITY, ITS OFFICERS, AGENTS OR EMPLOYEES. THIS INDEMNIFICATION AND SAVE HARMLESS SHALL APPLY TO ANY IMPUTED OR ACTUAL JOINT ENTERPRISE LIABILITY.

10. Miscellaneous Provisions.

(a) Actions Performable. The City and the Developer agree that all actions to be performed under this Agreement are performable solely in Wharton County, Texas.

(b) Assignability. Performance by the Developer under the terms and conditions of this agreement are deemed personal and, as such, any attempt to convey, assign or transfer those duties and obligations without the prior written approval and consent by City are void; provided, however, the Developer shall be authorized to assign or transfer its rights, duties and obligations under this Agreement to an affiliate of the Developer under common ownership and control. The Developer may assign its interests in this Agreement, but not its duties or obligations, to the Developer's financial lenders of the Project without the consent of the City and the City agrees to execute any estoppel certificates (in a form reasonably acceptable to the City) required by such

financial lenders regarding the status of this Agreement. Notwithstanding the above and without limitation, no assignment of any kind shall be valid until the City has been provided written notice thereof, including the name and contact information of the assignee.

(c) Severability. If any provision hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void; but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the Parties.

(d) Complete Agreement. This Agreement represents the complete agreement of the Parties with respect to the subject matter hereof and supersedes all prior written and oral matters related to this Agreement. Any amendment to this Agreement must be in writing and signed by all parties hereto or permitted or approved assignees.

(e) Exhibits. All exhibits attached to this Agreement are incorporated herein reference and expressly made part of this Agreement as if copied verbatim.

(f) Notice. Any notice or demand which either the City or the Developer is required to or may desire to serve upon the other, must be in writing, and shall be sufficiently served if (i) personally delivered, (ii) sent by facsimile, (iii) sent by registered or certified mail, postage prepaid, or (iv) sent by commercial overnight carrier, and addressed to:

If to the City:

City of El Campo, Texas  
315 E. Jackson  
El Campo, Texas 77437  
Attention: City Manager

or any other address or addresses which the Developer may be notified of in writing by the City;

If to the The Developer:

Gary or Molli Bodungen  
115 N. Washington  
El Campo, Texas 77437

or such other address or addresses which the City may be notified in writing by the Developer.

Such notice shall be deemed to have been served (a) four business days after the date such notice is deposited and stamped by the U.S. Postal Service, except when lost, destroyed, improperly addressed or delayed by the U.S. Postal Service, or (b) upon receipt in the event of personal service or (c) the first business day after the date of deposit with an overnight courier, except when lost, destroyed, improperly addressed or delayed by the courier, or (d) the date of receipt by facsimile (as reflected by electronic confirmation); provided, however, that should such notice pertain to the change of address to either of the parties hereto, such notice shall be deemed to have been served upon receipt thereof by the party to whom such notice is given.

(g) Force Majeure. The Developer and the City agree that the obligations of each party shall be subject to force majeure events such as natural calamity, fire or strike.

(h) Forum Selection. This Agreement and the relationship between the City and The Developer shall be governed and interpreted under the laws of Texas without regard to any conflict of laws provision. Venue for any suit arising out of any relationship between the City and The Developer shall exclusively be the appropriate court in Wharton County, Texas. The Developer specifically consents to and waives any objections to, *in personam* jurisdiction in Wharton County, Texas.

(i) Appointment of Representatives. To further the commitment of the Parties to cooperate in the implementation of this Agreement, the City and The Developer each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Developer. The initial representative for the City (the "City Representative") shall be the City Manager or his designee, and the initial representative for The Developer shall be the individual designated for notice purposes under Section 10(f) (the "Developer Representative"). The representatives shall be available at all reasonable times and places to discuss and review the performance of the parties to this Agreement and the development of the Property pursuant to the Conceptual Plan, it being understood however, that any modifications, amendments or interpretations of this Agreement shall be subject to approval by the City Council of the City.

11. Effective Date. This Agreement shall be binding and take effect only upon both parties signature hereto, attachment of all required exhibits, receipt by City of a fully executed copy hereof. For the purposes of timetables provided in this Agreement,

the Effective Date shall be the date indicated below that the Agreement is signed by the City.

12. Representation of City. The City represents and warrants to the Developer that the City is duly authorized and empowered to enter into this Agreement, subject to the terms and conditions contained herein, and has the legal authority to reimburse the Developer as provided in this Agreement. The Developer represents and warrants to the City that it has the requisite authority to enter into this Agreement and is a proper party to this Agreement.

13. Signature Warranty Clause. The signatories to this Agreement represent and warrant that they have the authority to execute this Agreement on behalf of the City and the Developer, respectively.

14. Legal Contest. This Agreement is entered into in accordance with applicable law as understood by the Developer and the City. In the event any part, provision or paragraph thereof shall become unenforceable by reason of judicial decree or determination the parties hereto mutually agree to the extent possible to ensure that all other provisions of the agreement including the intent of the Agreement be honored and performed.

15. Stipulations Relied Upon by City. The Developer understands that the City desires to follow applicable law in all respects; that the City does not want to subject its taxpayers to the costs of litigation and damages, for which it has not set aside funds; and that the City has a legitimate interest in wanting to know if the Developer believes that a condition is unlawful or of questionable validity or otherwise judicially untested when it is accepting the benefits of this Agreement, so that the City may review the subject condition administratively to make a focused inquiry as to whether in fact it is unlawful based upon the authority provided by The Developer, and if found to be unlawful, determine whether to proceed without the condition. Accordingly, for valuable consideration, the Developer stipulates and agrees that the City has relied upon the following in approving this Agreement:

(a) Any protest to any fee, dedication, reservation, condition, or any purported exaction imposed herein shall be pursued in accordance with the procedures contained in Section 8 herein, at the time of approval, or conditional approval or no later than 60 days after the date of the subject approval.

(b) The Developer acknowledges that it understands the conditions, voluntarily accepts them, and agrees that they are lawful and constitutional in all respects.

(c) That the benefits of the City's approval to this Agreement equal or outweigh the costs of any conditions imposed upon the Developer in this Agreement.

CITY:

CITY OF EL CAMPO, TEXAS

By:

  
Randy Collins, Mayor

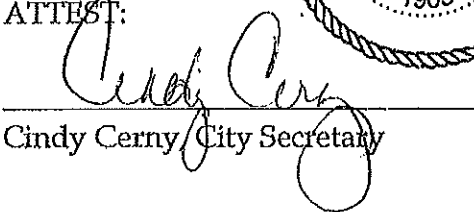
DEVELOPER:

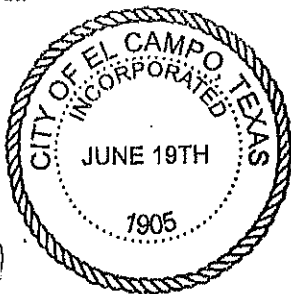
PAINT PERFECTION

By:

  
Molli Bodungen, Owner

ATTEST:

  
Cindy Cerny, City Secretary







<b>Exemptions</b>	
<b>Tax Entitles</b>	<ul style="list-style-type: none"> <li>◦ City Of El Campo</li> <li>◦ Wharton County</li> <li>◦ El Campo ISD</li> <li>◦ Hospital District</li> <li>◦ County Jr College</li> <li>◦ Fm &amp; Lr</li> <li>◦ ESD#1</li> <li>◦ ESD#4</li> <li>◦ Cons Groundwater</li> </ul>
<b>Improvement State Code:</b>	F1 - Commercial Real Property
<b>Land State Code:</b>	F1 - Commercial Real Property
<b>Productivity State Code:</b>	
<b>GEO Num:</b>	10370-001-092-00
<b>Alt Xref:</b>	10370-001-092-00
<b>Map Grid:</b>	C
<b>Map Nbr:</b>	C22
<b>Last Update:</b>	Jul 22 2016 2:20PM

**Value**

<b>Improvement Value</b>	\$71,899
<b>Land Market Value:</b>	\$7,600
<b>AG Market Value:</b>	\$0

<b>AG Value:</b>	\$0
<b>Total Market Value:</b>	\$79,499
<b>Appraised Value:</b>	\$79,499
<b>Land Acres</b>	.0872
<b>Impr Area Size</b>	4240
<b>Year Built</b>	1920

**Land Detail**

Description	Acres	Market Value
1	.0872	\$7,600

**Improvement Detail**

Description	Area Size	Year Built	Value
Commercial	1,500	1920	\$40,054
Bs2a	720	1920	\$17,528
Canopy	402	1920	\$2,685
Wh2a	520	1920	\$2,969
Wh2a	1,500	1920	\$8,563
Canopy	15	0	\$100

Appraisal History



## Central Appraisal District of Wharton County

### Account Details for P071783

#### Ownership

<b>Account Number:</b>	P071783
<b>GEO Account Number:</b>	P071783
<b>ALT XREF Number:</b>	
<b>Owner Name:</b>	Fashion Trendz
<b>Owner Address:</b>	1313 Wendel St, El Campo, TX 774372142
<b>Property Location:</b>	109 N Washington El Campo
<b>Ownership Interest:</b>	1.000000
<b>Description:</b>	INV,SUP,MISC
<b>Deed Date:</b>	2012-10-25
<b>Deed Type:</b>	
<b>Page #:</b>	842
<b>Volume #:</b>	901
<b>Instrument #:</b>	
<b>Exemptions</b>	

<b>Tax Entities</b>	<ul style="list-style-type: none"> <li>◦ City Of El Campo</li> <li>◦ Wharton County</li> <li>◦ El Campo ISD</li> <li>◦ Hospital District</li> <li>◦ County Jr College</li> <li>◦ Fm &amp; Lr</li> <li>◦ ESD#1</li> <li>◦ ESD#4</li> <li>◦ Cons Groundwater</li> </ul>
<b>Improvement State Code:</b>	L1 - Personal Commercial
<b>Land State Code:</b>	
<b>Productivity State Code:</b>	
<b>Map Grid:</b>	CB
<b>Last Update:</b>	Jul 22 2016 2:20PM

**Value**

<b>Improvement Value</b>	\$11,800
<b>Land Market Value:</b>	\$0
<b>AG Market Value:</b>	\$0
<b>AG Value:</b>	\$0
<b>Total Market Value:</b>	\$11,800
<b>Appraised Value:</b>	\$11,800

<b>Land Acres</b>	.0000
<b>Impr Area Size</b>	0
<b>Year Built</b>	0

**Land Detail**

<b>Description</b>	<b>Acres</b>	<b>Market Value</b>
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**Improvement Detail**

<b>Description</b>	<b>Area Size</b>	<b>Year Built</b>	<b>Value</b>
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**Appraisal History**

\* This information is intended for reference only and is subject to change. It may not accurately reflect the complete status of the account as actually carried in Wharton County Appraisal District's database and may not be used as a basis of protest or appeal.

\*\*Values are not certified.



## Request for Consideration of Economic Development Incentives

### Paint Perfection

#### 1. Purpose

Paint Perfection, currently located in a leased building at 115 N. Washington, El Campo, Texas, has acquired the properties at 107 and 109 N. Washington. The building at 107 N. Washington, formerly a barber shop, is in a state of deterioration. The back of the shop is not sealed from the elements, has a ceiling that is falling in due to major leaks and faults in the roof, and an unstable foundation in the back portion. The building at 109 N. Washington has a downstairs that has been used as retail space and an upstairs that is vacant and in need of repair. The roof of the upstairs has leaks as well and mortar around windows is leaking and allowing moisture to seep in and into the walls downstairs. Preliminary quotes/bids on renovations are more than \$150,000 at this time and increase as new issues with the building are found.

#### 2. Goal of Request

- a. Paint Perfection, owners Gary and Molli Bodungen, are committed to repairing the buildings and adding new retail space upstairs. Repairs to the downstairs facilities and roof have started. The upstairs is proposed to become The Loft at Paint Perfection, which will be approximately 1,000 of retail space added to downtown. We are committed to restoring the building while honoring the historic charm, yet modifying for energy efficiency. The downstairs renovation is costing much more than originally anticipated. The mortar in the exposed brick on the interior needs repair, and in the back of the barber shop, the concrete has to be removed and replaced, as well as the interior structure of the back be rebuilt. As a result, the decision of when to move forward on The Loft will depend on incentives that may be available.
- b. The expansion of Paint Perfection will honor the objectives of the Economic Development Agreement established by the City of El Campo in 2011 by:
  - i. Job creation: It is anticipated that initially, 2 part-time employees will be needed as the retail space of the current Paint Perfection will double with the relocation. In addition, the current location will be converted to a place for paint classes, workshop for those needed space to upcycle furniture, and paint parties. While intermittent, these events will require additional personnel and may evolve into a full-time position. Once The Loft is established, it will provide home interiors, both new and consignment, adding additional need for an employee.
  - ii. Increase in Tax Revenue: The increase in retail space will allow Paint Perfection to increase product offerings in the main store and pursue larger contracts due to increase in storage space. In addition, the sale of upcycled furniture and antiques will add additional revenue. Being able to incorporate The Loft will

provide potential for significant increase in tax revenue with sale of home interiors, lighting, and consignment.

- iii. Improvement of City's Infrastructure: The improvements to the store front, interior of the former barbershop, and development of the upstairs will improve the overall façade of downtown. In addition, adding the paint class and paint party venue at current location will provide additional services to the community. Having home interiors, antiques, and consignment opportunities for creative community members to display and sell their products will provide a venue for their creative talents and get involved in downtown.
- iv. Ensuring High Quality Developments: Owners, Gary and Mollie Bodungen, are committed to a quality renovation and restoring some the charm of the original building. Quality contractors and local businesses are being used to complete all aspects of renovation possible.
- v. Improvement of the Quality of Life in the City: Improvement to the overall façade of downtown, increased retail offering, and a place to gather socially to paint and fellowship will add to the hometown feel of the city as well.

3. Request that the following options be considered:

- a. Keeping the taxable value of the property at pre-renovation value for 5 years
- b. Waiving property tax on inventory and fixtures for 3 years



# Sales and Use Tax

Original Return for Period Ending 12/31/2016 (1612)

✓  
5098

Confirmation: You Have Filed Successfully

**Please do NOT send a paper return.**

**Print this page for your records.**

Reference Number: 1517005479  
Date and Time of Filing: 01/15/2017 02:05:30 PM

Taxpayer ID: 32058189427  
Taxpayer Name: MOLLI BODUNGEN  
Taxpayer Address: 457 WESTERN ACRES DR EL CAMPO , TX 77437 - 9609

Entered by: Molli Bodungen  
Email Address: mollibodungen@gmail.com  
Telephone Number: (979) 541-6930  
IP Address: 199.66.146.250

Credits Taken on Taxable Purchases	
Credits taken?	No
Licensed Customs Broker Exported Sales	
Sales tax refunded on exported items?	No

Loc #	Total Sales	Taxable Sales	Taxable Purchases	Subject to State Tax (Rate .0625)	State Tax Due	Subject to Local Tax	Local Tax Rate	Local Tax Due
00001	20,164	17,878	0	17,878	1,117.38	17,878	.02000	357.56
00002	19,881	19,881	0	19,881	1,242.56	19,881	.02000	397.62
Subtotal	40,045	37,759	0	37,759	2,359.94	37,759		755.18
<b>Total Tax for Locations</b>								<b>3,115.12</b>

**Total Tax Due: = 3,115.12**  
**Timely Filing Discount: - 15.58**  
**Balance Due: = 3,099.54**  
**Pending Payments: - 0.00**  
**Total Amount Due and Payable: = 3,099.54**  
*(State amount due is 2,348.14)*  
*(Local amount due is 751.40)*

### Payment Summary

State Amount: 2348.14  
Local Amount: 751.40  
Amount to Pay: \$3,099.54  
Electronic Check: \$3,099.54

Payment Reference Number: 1517005478  
Trace Number: 26059936  
Type of Bank Account: CHECKING  
Accountholder Name: Molli Bodungen Paint Perfection  
Bank Routing Number: 113123065  
Bank Account Number: \*\*\*\*\*829  
Payment Effective Date: 01/19/2017

PH 17-0202  
RH 17-0187  
01-505-820

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