

**ORDINANCE NO. 2006- 14**

**An ordinance authorizing the City Manager to abandon 94 square feet of the Glasgow Street right-of-way located next to 8701 N. Navarro Street and transfer said abandoned right-of-way to the adjacent landowner, Retail Property Partners, Ltd., in exchange for said landowner's transfer of 310 square feet of Lot 1, Block 1, Northcrest Estates addition, located at 8621 N. Navarro Street, to the City of Victoria, authorizing execution of all documents necessary to effectuate said abandonment and swap of interests in real property; declaring that the City's driveway variance granted to 8701 N. Navarro Street, approved on March 7, 2000 via resolution 2000-38R, is not revocable; repealing all conflicting ordinances; providing for severability; declaring an emergency; and declaring an effective date.**

The City of Victoria (City) currently has dedicated right-of-way at the corner of Glasgow Street and Navarro Street that contains a post for a large Exxon sign that advertises the Speedy Stop at 8701 N. Navarro Street, and the City needs a corner clip from the 8621 N. Navarro Street (Subway) for a traffic signal box and sidewalk improvements for the Glasgow/Navarro traffic signal;

Both 8701 N. Navarro Street and 8621 N. Navarro Street are owned by Retail Property Partners, Ltd., a Texas limited partnership, and said partnership and the City wish to swap parts of the aforementioned properties to (1) maximize the marketability of land title for 8701 N. Navarro Street and (2) provide the City with its needed right-of-way for the aforementioned intersection improvements;

Subsections (a) and (c) of Section § 253.001 of the Texas Local Government Code provide:

(a) Except as provided by Subsection (b), the governing body of a municipality may sell and convey land or an interest in land that the municipality owns, holds, or claims as a public square, park, or site for the city hall or other municipal building or that is an abandoned part of a street or alley. A sale under this section may include the improvements on the property.

...

(c) To effect the sale, the governing body shall adopt an ordinance directing the municipality's mayor or city manager to execute the conveyance.

...

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS:

1.

On behalf of the City of Victoria, the City Manager is authorized to abandon 94 square feet of the Glasgow Street right-of-way located next to 8701 N. Navarro Street and transfer said abandoned right-of-way to the adjacent landowner, Retail Property Partners, Ltd., in exchange for said landowner's transfer of 310 square feet of Lot 1, Block 1, Northcrest Estates addition, located at 8621 N. Navarro Street, to the City of Victoria. The City Manager is further authorized to execute all documents necessary to effectuate said abandonment and swap of interests in real property, and said documents include the attached **Warranty Deeds**, with such changes to form as are approved by the City Attorney.

2.

The City Council hereby declares that the City's driveway variance granted to 8701 N. Navarro Street, approved on March 7, 2000 via resolution 2000-38R, is not revocable, with such declaration subject to completion of the aforementioned swap of right-of-way.

3.

All parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

4.

If any provision of this ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

5.

In order that the status of this property be cleared as soon as possible to provide for the construction of the proposed improvements, an emergency is declared and the requirement of Article II, § 9, of the City Charter that no ordinance shall be passed finally on the date of its first reading is suspended and this ordinance shall become effective immediately upon passage and approval by the City Council of the City of Victoria, Texas.

PASSED EMERGENCY READING, this the 19 th day of September, 2006.

AYES: **6**

NAYS: **0**

ABSTENTIONS: **0**

APPROVED AND ADOPTED, this the 19 th day of September, 2006.



ATTEST:

*Scarlet Swoboda*  
SCARLET SWOBODA, City Secretary

Distribution:   Legal Department  
                  Public Works Department

*Will Armstrong*

WILL ARMSTRONG, Mayor of the  
City of Victoria, Texas

APPROVED AS TO LEGAL FORM:

*David Atmar Smith*

DAVID ATMAR SMITH, City Attorney

Copies Sent: September 20, 2006

**General Warranty Deed**

The State of Texas  
County of Victoria

The undersigned, **Retail Property Partners, Ltd.**, a Texas limited partnership, hereinafter referred to as "Grantor," for and in consideration of the City of Victoria's execution of a deed to a 94 square foot tract of land next to Northcrest Estates Resubdivision No. 3, Resubdivision No. 1, the receipt of which is hereby acknowledged, has granted, bargained, sold, and conveyed unto the **City of Victoria**, a Texas municipal corporation (hereinafter referred to as "Grantee") whose address is City of Victoria Legal Department, P.O. Box 1758, Victoria, Texas 77902, the following described tract or parcel of land lying and being situated in Victoria County, Texas, to-wit:

Legal Description: a 310 square foot tract of land out of Lot 1, Block 1 of Northcrest Estates addition to the City of Victoria, which is more particularly described in **Exhibit "A"** and depicted in **Exhibit "B"**, which are attached hereto and incorporated herein

Physical Address: part of property located at 8621 N. Navarro Street, Victoria, Texas

To have and to hold the above-described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee herein, its successors and assigns, forever; and the Grantors herein, do hereby bind themselves, their successors and assigns, to warrant and forever defend, all and singular the said premises unto the said Grantee herein, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

When the context requires, singular nouns and pronouns include the plural. The physical address is merely for reference purposes and shall not add or detract from the property conveyed pursuant to this instrument.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**Retail Property Partners, Ltd.**

by: \_\_\_\_\_  
Jeff Johansen, President of C.L. Thomas, Inc., a Texas corporation, the general partner of Retail Property Partners, Ltd., a Texas limited partnership, on behalf of said corporation and limited partnership

**Acknowledgment**

The State of Texas  
County of Victoria

This instrument was acknowledged before me on this \_\_\_ day of \_\_\_\_\_, 200\_\_ by Jeff Johansen, President of C.L. Thomas, Inc., a Texas corporation, the general partner of Retail Property Partners, Ltd., a Texas limited partnership, on behalf of said corporation and limited partnership.

\_\_\_\_\_  
**Notary Public**

**THE STATE OF TEXAS}**  
**COUNTY OF VICTORIA}**

Being a 310 square foot tract of land situated in the Jose Maria Carabajal Survey, Abstract No. 13, in Victoria County, Texas, same being a portion of Lot Number One (1), Block Number One (1) of Northcrest Estates an addition to the City of Victoria, Victoria County, Texas, according to the established map and plat of said addition of record in Volume 3, Page 80 of the Plat Records of Victoria County, Texas, same being a portion of a tract of land described as "Tract III" conveyed from C.L. Thomas Petroleum, Inc. to Retail Property Partners, Ltd. and dated January 1, 1994 as recorded in Volume 137, Page 275 of the Official Records of Victoria, County, Texas, said "Tract III" further being described as a 0.3415 acre tract of land by metes and bounds in Volume 21, Page 731 of the Official Records of Victoria County, Texas, said 310 square foot tract of land being more particularly described by metes and bounds as follows:

**BEGINNING** from a 5/8 inch diameter iron rod found for the northeast corner of the herein described tract and the northeast corner of the Retail Property Partners, Ltd. tract, said iron rod also being at the intersection of the South right-of-way line of Glasgow Street (80' R.O.W.) and the West right-of-way of Navarro Street (120' R.O.W.) (also known as U.S. Highway 77), said iron rod being the beginning of a curve to the left;

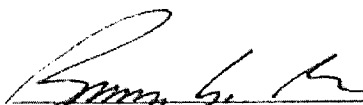
**THENCE**, continuing with the West right-of-way line Navarro Street, the East line of the Retail Property Partners, Ltd. tract and said curve to the left with a radius of 11,549.00 feet, a central angle of 00°07'27", an arc length of 25.00 feet, and a chord which bears South 04°37'05" West, a distance of 25.00 feet to a pk nail set in asphalt for the South corner of the herein described tract;

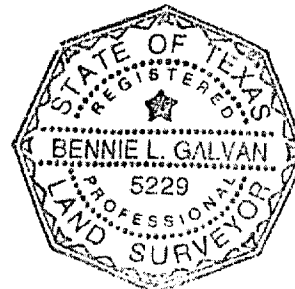
**THENCE**, North 38°58'32" West, crossing the Retail Property Partners, Ltd. tract, a distance of 36.21 feet to an "x" set in concrete for the northwest corner of the herein described tract, said "x" also being in the South right-of-way line of Glasgow Street, in the North line of the Retail Property Partners, Ltd. tract, and the beginning of a curve to the left;

**THENCE**, continuing with the South right-of-way line of Glasgow Street, the North line of the Retail Property Partners, Ltd. tract and said curve to the left with a radius of 708.04 feet, a central angle of 02°01'23", an arc length of 25.00 feet, and a chord which bears South 82°34'20" East, a distance of 25.00 feet to the **POINT OF BEGINNING, CONTAINING** within these metes and bounds 310 square feet of land more or less.

A survey drawing of even date herewith accompanies this legal description.

The foregoing Fieldnote Description is based on an actual survey made under my supervision in March 2006 and is true and correct to the best of my knowledge and belief. A survey plat of even date herewith accompanies this legal description.

  
Bennie L. Galvan  
Registered Professional Land Surveyor  
Texas No. 5229



3.7.06

Exhibit "A"



**General Warranty Deed**

The State of Texas  
County of Victoria

The undersigned, **City of Victoria**, a Texas municipal corporation, hereinafter referred to as "Grantor," for and in consideration of Retail Property Partners, Ltd.'s execution of a deed to a 310 square foot tract of land out of Lot 1, Block 1 of Northcrest Estates addition to the City of Victoria, the receipt of which is hereby acknowledged, has granted, bargained, sold, and conveyed unto the **Retail Property Partners, Ltd.**, a Texas limited partnership (hereinafter referred to as "Grantee"), whose address is P.O. Box 1876, Victoria, Texas 77902, the following described tract or parcel of land lying and being situated in Victoria County, Texas, to-wit:

Legal Description: a 94 square foot tract of land situated in the Jose Maria Carabajal Survey, Abstract No. 13, being a portion of that land dedicated to the City of Victoria from Northcrest Estates Resubdivision No. 3, Resubdivision No. 1, an addition to the City of Victoria, according to the established map and plat of said addition of record in Volume 8, Page 53-C of the Plat Records of Victoria County, Texas and being a portion of the existing Glasgow Street right-of-way, which is more particularly described in **Exhibit "A"** and depicted with horizontal lines in **Exhibit "B"**, which exhibits are attached hereto and incorporated herein

Physical Address: part of right-of-way located next to 8701 N. Navarro Street, Victoria, Texas

To have and to hold the above-described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee herein, its successors and assigns, forever; and the Grantors herein, do hereby bind themselves, their successors and assigns, to warrant and forever defend, to the extent permitted by law, all and singular the said premises unto the said Grantee herein, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

When the context requires, singular nouns and pronouns include the plural. The physical address is merely for reference purposes and shall not add or detract from the property conveyed pursuant to this instrument.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**City of Victoria, a Texas municipal corporation**

by: \_\_\_\_\_  
Charles Windwehen, City Manager

**Acknowledgment**

The State of Texas  
County of Victoria

This instrument was acknowledged before me on this \_\_\_ day of \_\_\_\_\_, 200\_\_ by Charles Windwehen, City Manager of the City of Victoria, a Texas municipal corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public

**THE STATE OF TEXAS}**  
**COUNTY OF VICTORIA}**

Being a 94 square foot tract of land situated in the Jose Maria Carabajal Survey, Abstract No. 13, in Victoria County, Texas, said 94 square foot tract of land being a portion of that land dedicated to the City of Victoria from Northerest Estates Resubdivision No. 3, Resubdivision No. 1, an addition to the City of Victoria, Victoria County, Texas, according to the established map and plat of said addition of record in Volume 8, Page 53-C of the Plat Records of Victoria County, Texas and a portion of the existing Glasgow Street right-of-way, said 94 square foot tract of land being more particularly described by metes and bounds as follows:

**COMMENCING** from a 5/8 inch diameter iron rod found for the northeast corner of Lot 1, said iron rod also being the southeast corner of Lot 1, Block 1 of Victoria Retail Village as recorded in Volume 8, Page 140-A & 140-B of the Plat Records of said county and in the West right-of-way line of Navarro Street (130' R.O.W.) (also known as U.S. Highway 77), in a curve to the left and bears South 83°54'34" East, (basis of bearing), a distance of 250.51 feet from a point for the northwest corner of Lot 1;

**THENCE**, with East line of Lot 1, the West right-of-way line Navarro Street and said curve to the left with a radius of 11,513.98 feet, a central angle of 00°57'06", an arc length of 191.27 feet, and a chord which bears South 05°51'05" West, a distance of 191.27 feet to a 5/8 inch diameter iron rod found for the North corner of the herein described tract, said iron rod also being the **POINT OF BEGINNING**;

**THENCE**, crossing that tract of land dedicated to the City of Victoria and said curve to the left with a radius of 11,513.98 feet, a central angle of 00°03'06", an arc length of 10.39 feet, and a chord which bears South 05°21'45" West, a distance of 10.39 feet to a point for the beginning of a curve to the right;

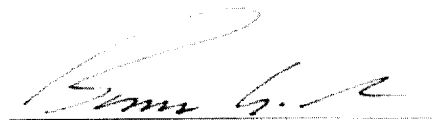
**THENCE**, continuing with said curve to the right with a radius of 15.00 feet, a central angle of 91°50'03", an arc length of 24.04 feet, and a chord which bears South 51°15'13" West, a distance of 21.55 feet to a point for the beginning of a curve to the right;

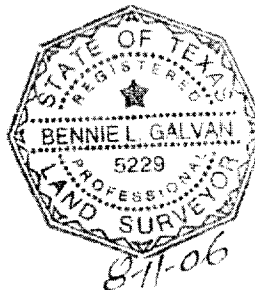
**THENCE**, continuing with said curve to the right with a radius of 623.04 feet, a central angle of 00°59'01", an arc length of 10.76 feet, and a chord which bears North 82°20'05" West, a distance of 10.76 feet to a point for the southwest corner of the herein described tract, said point being the beginning of a curve to the left;

**THENCE**, with the South line of Lot 1 and with said curve to the left with a radius of 25.00 feet, a central angle of 92°46'18", an arc length of 40.48 feet, and a chord which bears North 51°46'27" East, a distance of 36.20 feet to the **POINT OF BEGINNING, CONTAINING** within these metes and bounds 94 square feet of land more or less.

A survey drawing of even date herewith accompanies this legal description.

The foregoing Fieldnote Description is based on an actual survey made under my supervision in August 2006 and is true and correct to the best of my knowledge and belief. A survey plat of even date herewith accompanies this legal description.

  
Bennie L. Galvan  
Registered Professional Land Surveyor  
Texas No. 5229



**Exhibit "A"**

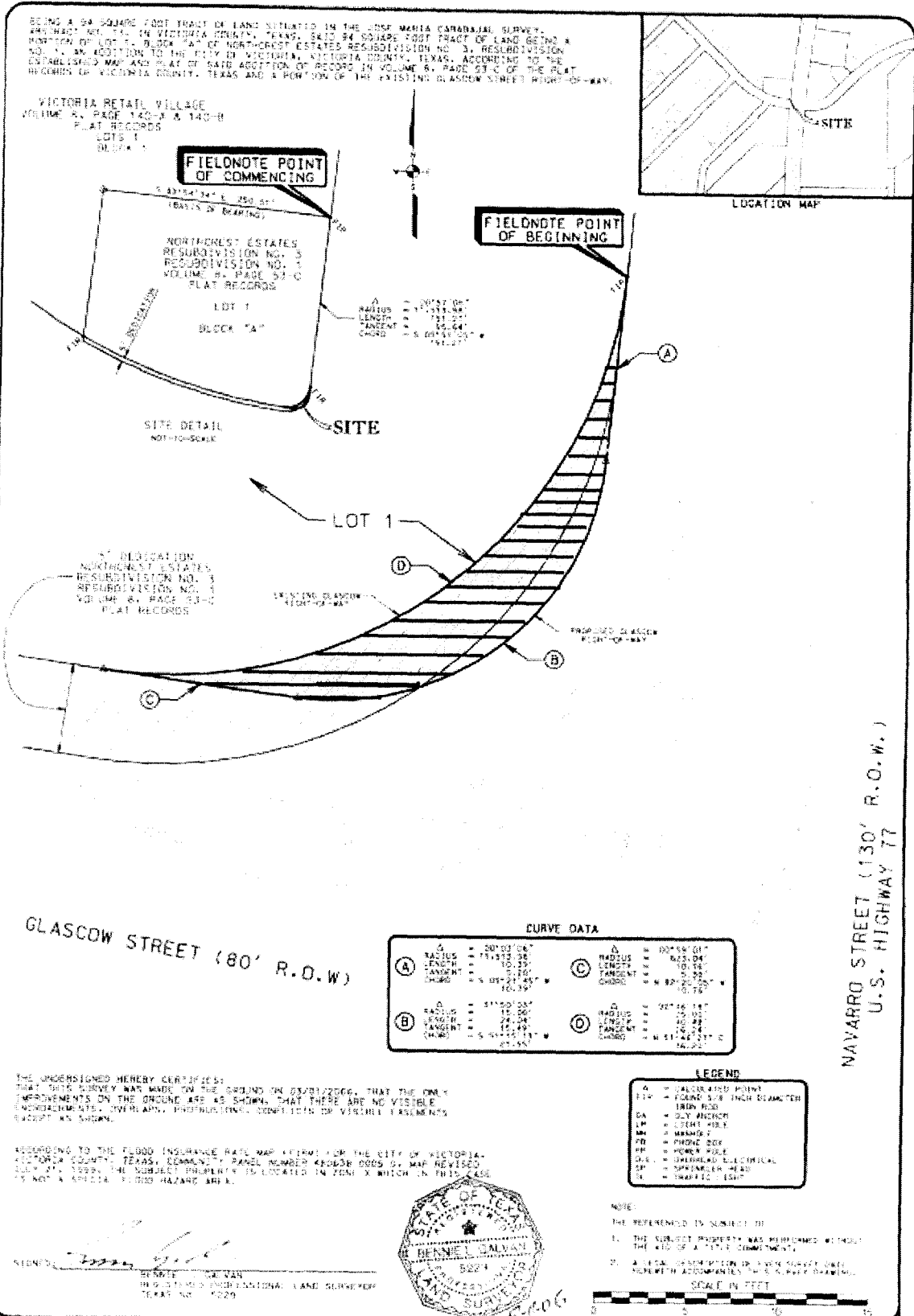


Exhibit "B"