

## PURCHASE AGREEMENT AND LETTER OF INTENT

This Purchase Agreement and Letter of Intent ("Agreement") is by and between **The City of Bryan, Texas**, a municipal corporation situated in Brazos County, Texas (the "City") as Buyer, and **Robert Brian Lawrence as Trustee of the Robert Orr Lawrence III Family Trust** ("Seller"), to be effective as of the Effective Date (as defined in this Agreement).

### RECITALS:

A. Seller is the fee simple title owner of that certain real property described in Exhibit "A" attached to this Agreement (the "Lawrence Trust Property").

B. Seller desires to sell, and the City desires to buy, a portion of the Lawrence Trust Property for the purposes of constructing and maintaining a park for the City of Bryan. The expected acreage to be sold is approximately 61 acres, more or less (identified in this Agreement as the "Property"), and approximately identified in the drawing shown in Exhibit "B" attached to this Agreement. The Property to be sold and conveyed shall not exceed or encroach more than 1200 feet beyond the City of Bryan city limits into the Lawrence Trust Property.

C. The purchase of the Property (as described in this Agreement) by the City is being made pursuant to Section 273.001 of the Texas Local Government Code.

D. It is the Seller's and the City's intention to use the Property for a youth sports complex and parkland, including but not limited to fields for youth baseball, youth softball, youth football and youth soccer and facilities. It is the Seller's and City's intention to incorporate commercial and retail properties in and around the Property to facilitate and attract use of the youth sports complex and parkland.

### AGREEMENTS:

NOW THEREFORE, in consideration of the promises set forth in this Agreement and other good and valuable consideration, the City and Seller (collectively, the "Parties") agree as follows:

#### 1. BINDING AGREEMENT

This Agreement constitutes a binding agreement between the City and Seller for the sale and purchase of the Property subject to the terms set forth in this Agreement. The Seller agrees to sell, convey, and assign fee simple title to the Property to the City, subject to the terms and conditions of this Agreement and subject to any easements, oil and gas leases, and reservations presently of record in Brazos County, Texas, and the City agrees to purchase and accept the Property from the Seller, for the Purchase Price (defined below), and subject to terms and conditions set forth in this Agreement. Subject to the limitations set forth in this Agreement, this Agreement shall bind and inure to the benefit of the Parties and their respective successors and assigns. This Agreement supersedes all other written or verbal agreements between the Parties concerning the transaction embodied in this Agreement. No claim of waiver or modification concerning the provisions of this Agreement shall be made against a Party unless based upon a written instrument signed by such Party.

Within ten (10) days of the effective date of this Agreement, the City shall convey the earnest money payment of \$5,000 (FIVE THOUSAND DOLLARS) to the Title Company selected by the parties. The earnest money will count towards the purchase price and will be paid to the Seller at Closing. City is granted the right during the pendency of this Agreement to conduct engineering, environmental, marketing, economic, and other feasibility studies, tests, and examinations of the Property ("Feasibility Studies"). The Feasibility Studies shall be conducted during the period ending ninety (90) days following the effective date of this Agreement. The City reserves the right to terminate this Agreement, with or without cause, at any time prior to the expiration of the Feasibility Period. In the event that the City exercises this option to terminate, the parties shall instruct the Title Company to return the Earnest Money to the City, less \$100 (ONE HUNDRED DOLLARS) in non-refundable consideration, and the parties shall thereafter be relieved of any and all further obligations with respect to this Agreement. If, at the City's sole discretion, additional time is needed to complete Feasibility Studies, the City may elect to extend the Feasibility Period by an additional thirty (30) days in exchange for agreement that the non-refundable consideration is increased to \$1,000 (ONE THOUSAND DOLLARS).

## 2. INCLUSIONS IN PROPERTY

The Property. The term "Property" shall mean, collectively, the fee simple title to the Property, including buildings, structures, fixtures, or improvements, subject to an executory limitation.

## 3. EXCLUSIONS OF PROPERTY

a) All of the Seller's right, title and interest in and to all oil, gas, and other mineral rights, as well as water and irrigation rights running with or otherwise pertaining to the Property shall be reserved and retained by the Seller, provided that the Seller shall waive any right to use the surface of the Property for any purpose relating to the oil, gas, and mineral estate or the water estate. Nothing shall prevent the Seller from pooling or unitizing the portion of the mineral estate retained by Seller or the exploration or production of the oil, gas, or other minerals provided that such operations in no manner interfere with the surface or the subsurface support of any improvements to be constructed on the Property.

b) The City and Seller acknowledge and agree that the Property does not include any of the following: tangible personal property other than fixtures, or insurance contracts or policies.

## 4. COVENANT OF PROPERTY USE

a) The Property shall be used as parkland and a youth sports complex and similar activities including but not limited to youth baseball, youth softball, youth football and youth soccer; and shall include a reverter and an executory limitation providing that if the City fails to commence the development and construction of the designated use of the Property within five (5) years of Closing, that the Seller may, at its sole option, convey to the City a payment equal to the aggregate Purchase Price as stated in this Agreement, less any the cost of the title policy premium and the portion of the escrow fees paid by the Seller at Closing and upon the occurrence of those two conditions, the Property shall automatically revert back to the Seller. If the Seller fails to exercise this option within ten (10) years of Closing, the executory limitation and the reverter shall expire automatically. Commencement of the development and construction of the designated use shall mean the City has engaged an engineer to prepare, and who has prepared, construction drawings and plans for the designated use and/or has

engaged a contractor to do the work, has given such contractor a notice to proceed, and construction actually commences.

b) Additionally, as a condition of the Property, the City shall be precluded from building or using any ponds, pits or other water retention areas on the Property for greywater, sewage or wastewater. The condition shall not prevent the City from, at its sole option, using treated reclaimed water for irrigation purposes related to the development, maintenance, and use of the Property.

#### 5. AGRICULTURAL LEASE

Contemporaneous with the Closing of the purchase of the Property, the City agrees to lease the Property to the Seller for the purposes of an Agricultural Lease, until and when the City begins development and construction of the Property for its designated parkland use. The City may terminate the Lease when the City is ready to proceed with construction by giving 30 days' notice to Seller. The form and terms of the Agricultural Lease will be agreed to by the Parties. The lease rate will be \$10 per acre per year.

#### 6. CREATION OF PUBLIC ACCESS EASEMENT

It is the expectation of the Parties that the Property will be used by the City for a park and athletic complex and the surrounding properties will be used to facilitate the complex with commercial areas, including proposed hotel property sites. The Seller will reserve in the deed an easement across the Property for vehicular, pedestrian, and other expected modes of access to the hotel site from the public road to be designed and constructed by the City, at the City's cost. The reservation in the deed shall be for a fifty (50) foot wide right of way to be located twenty-five (25) feet from either side of the centerline of the road, which is to be designed and constructed at a later date. The final location of the access easement shall be approved by both the Seller and the Buyer. As part of the Development Agreement (defined below), the City and the Seller will agree to create a permanent public access easement for the purpose of vehicular, pedestrian and other expected traffic so that the public shall have access to the proposed hotel property sites and other commercial properties surrounding or abutting the Property. The Development Agreement shall also provide for easements necessary to bring utilities to the proposed hotel and commercial areas to be developed around the Property.

#### 7. THE DEED AND THE DEVELOPMENT AGREEMENT

In order to facilitate the development of the Property and the remainder of the Lawrence Trust Property, the parties will enter into a Development Agreement ("Development Agreement") which will set forth the parties' respective responsibilities. The Development Agreement will be executed in duplicate originals so that each party may maintain their own. At Closing, the Property shall be transferred and conveyed by the Seller's execution and delivery to the City, of a special warranty deed. If the terms of the Development Agreement and the specific boundary of the Property cannot be agreed upon by the parties prior to the Closing, either party to this Agreement may cancel this Agreement.

#### 8. PURCHASE PRICE

The Purchase Price is \$12,000.00 (TWELVE THOUSAND AND NO 100THS DOLLARS) per gross acre, as established by the Survey obtained pursuant to this Agreement ("Purchase Price"). At Closing the City

will pay the balance of the purchase price, less the \$5,000 in earnest money which will count towards the purchase price.

9. PROPERTY ACCESS AND INSPECTION:

Seller shall permit the City and City's agents access to the Property at reasonable times and upon reasonable notice. The City may have the Property inspected by inspectors selected by the City licensed or permitted by law to make inspections. Seller agrees not to interfere with, interrupt, or compromise any inspection conducted by the City or at the City's direction. City and its inspectors, agents or others, acknowledge that the Lawrence Trust Property is an active farm and ranch operation and agree to only use the commercial entrance to the Lawrence Trust Property and keep the property gates closed at all times. Prior to having access to the Property to conduct any inspection, the City's agents shall provide Seller with a certificate of insurance showing Commercial General Liability coverage, including workers compensation coverage, in the amounts of \$2,000,000 per occurrence and \$5,000,000 in the aggregate with Seller named as an additional insured. The City is self-insured and can provide documentation of such self-insurance in the event that City has any employees inspect the Property.

10. SURVEY AND TITLE COMMITMENT

(a) City, at City's expense, shall order a survey of the Property to be purchased under this Agreement (the "Survey"). Provided the Survey conforms to the City's and Seller's survey requirements, the field note description on the Survey shall be incorporated in this Agreement and shall be used in all documents to be delivered at Closing pursuant to this Agreement. If the City requests any changes, adjustments, or alterations to the Survey which result in additional costs, those costs shall be born by the City. The cost of the Survey shall be paid at Closing. The surveyor shall be licensed by the State of Texas and shall provide a ALTA/ACSM Land Survey which will contain at least the minimum standard detail requirements for such surveys, including but not limited to:

- i. a metes and bounds description as well as a plat showing the actual dimensions of the Property and the area contained within the Property;
- ii. the approximate location of physical access to Sandy Point Road;
- iii. outside boundary lines and identification of adjacent properties; and
- iv. location of all easements, rights of way, or other matters both of record and apparent on the ground.

(b) The City and Seller shall instruct the Title Company selected by the Parties (the "Title Company") to deliver to the City and Seller within ten (10) days after the Effective Date a title commitment ("Title Commitment") covering the Property, showing all matters affecting title to the Property, and binding the Title Company to issue to the City at Closing the Owner Title Policy. The City and Seller further instruct the Title Company to deliver as soon as practicable to the City and Seller legible copies of all instruments referenced in Schedules B and C of the Title Commitment. Within ten (10) days of receiving the Title Commitment, the City shall notify Seller in writing of any objections to Encumbrances (defined below). Any issue not raised by the City within such time shall be waived and shall become a Permitted Exception.

(c) If the Survey or the Title Commitment or any update thereof shows that any portion of the Property is subject to any lien, claim, encumbrance, reservation, restriction or other matter of

whatsoever nature other than the Permitted Exceptions ("Encumbrances"), then Seller shall, at its sole cost and expense, use commercially reasonable efforts to cure or remove such Encumbrances, prior to Closing. Seller covenants and agrees that it shall not create or place any Encumbrance on the Property following the effective date of this Agreement, except where explicitly provided for herein. In the event the Seller breaches the foregoing covenant, the Seller, at its sole cost and expense, shall cure or remove any such Encumbrances prior to Closing. The City will accept title to the Property subject to the Permitted Exceptions and at Closing the Permitted Exceptions will be listed on the Deed. The Seller shall not be required to spend in excess of \$2,000 to cure any title defect except those encumbrances securing loans to Seller and voluntarily placed against the Property by Seller.

#### 11. ADDITIONAL SURVEYS

City, at City's sole expense, shall order a Phase I environmental survey, and may order any follow up surveys necessitated by the findings of the Phase I. City agrees to require the surveyors to return the Property to substantially the same condition it was in prior to conducting its surveys, borings, or other assessments. City may, at its sole cost, engage other surveyors, inspectors, or other professionals to conduct other surveys or analyses of the Property. In the event that the City does not purchase the Property, City agrees, to the extent allowed by law, to not disclose the results of any such Phase I environmental survey to any third party without the Seller's written approval.

#### 12. CLOSING

The consummation of the purchase and sale of the Property, and execution of all related documents and agreements that constitute a condition for closing, ("Closing") shall occur on a date mutually agreeable to the parties and the Title company on or before sixty (60) days after the expiration of the Feasibility Period. At Closing, the following shall occur:

- (a) Delivery of possession of the Property by Seller.
- (b) Payment by the City of the balance of the Purchase Price.
- (c) Parties must provide evidence, satisfactory to the Title Company, of the authority of the persons executing and delivering documents at Closing to do so on behalf of the parties to this Agreement.
- (d) The proper execution and delivery by Seller of a Special Warranty Deed for the Property, on a form agreeable to the parties, which shall include the reverter and shall reserve the access easement for the proposed hotel site.
- (e) The issuance by the Title Company to the City, at Seller's cost, an owner policy of title insurance on the form prescribed by the Texas Department of Insurance. In the event that there are additional premium payments owed due to additional endorsements requested by the City, such additional premiums will be at the City's cost.
- (f) The execution by the parties of duplicate copies of a Development Agreement which provides for the rights and responsibilities of the parties respecting the development of the Property and the remainder of the Lawrence Trust Property.

(g) Execution by any lenders, lienholders, mortgagees, or other holders of a security interest affecting the Property of a partial release of such lien, mortgage, or security interest as it pertains to the Property.

(h) Issuance of a final closing statement showing the Purchase Price, Earnest Money, and the adjustments and pro-rations required herein and the allocation of income and expenses required hereby.

(i) Execution of any and all affidavits and forms reasonably and customarily required by the Title Company to be signed by the parties.

(j) Payment by Seller of the pro-rated taxes owed according to a certified tax bill obtained from the Brazos County Tax Office. The City shall pay for the cost of any roll-back taxes resulting from the change of use on or after the Closing Date.

(k) Execution of surface waivers from any companies with active leases for production of water, oil, gas, or other minerals which do not waive surface rights. The City may waive this requirement if the covenant of surface waiver from the Seller contained in the special warranty deed is sufficient to prevent any company with an existing lease from using the surface.

#### 13. REAL ESTATE BROKER

The parties hereby acknowledge and affirm that neither party is represented by a real estate broker with respect to this transaction. No party has entered into an agreement that entitles a third party to a commission of any kind related to this transaction.

#### 14. ASSIGNMENT

Neither of the Parties shall, directly or indirectly, assign this Agreement or any of its rights hereunder without the prior written consent of the City or the Seller, respectively. Any attempted assignment in violation hereof shall, at the election of the non-assigning party, be of no force or effect and shall constitute a default of the party attempting to assign the Agreement.

#### 15. REMEDIES

(a) Breach by the City: If the City shall fail or refuse to consummate the transaction in accordance with the terms of this Agreement (and Seller is not in breach of the Agreement), Seller may, by written notice to the City and the Title Company, terminate this Agreement and request that the Title Company release the Earnest Money to the Seller.

(b) Breach by Seller: If Seller shall fail or refuse to consummate the transaction in accordance with the terms of this Agreement (and the City is not in breach of the Agreement), the City may, at the City's sole option and as the City's sole and exclusive remedy, by written notice to Seller and the Title Company, terminate this Agreement and request return of the Earnest Money, including the non-refundable portion described herein.

(c) Exclusive Remedies. The City and Seller agree that except for attorneys' fees as provided in this Agreement, the remedies provided above shall be the sole and exclusive remedies to which the Parties shall be entitled.

16. ATTORNEYS' FEES. In the event of any actual filed litigation between the Parties as a result of or arising out of this Agreement, the prevailing Party shall be entitled to recover all costs and expenses of such litigation, including reasonable attorney's fees, from the non-prevailing Party.

17. NOTICES

(a) Addresses. Except as otherwise required by law, any notice required or permitted hereunder shall be in writing and shall be given by personal delivery, or by deposit in the U.S. Mail, certified or registered, return receipt requested, postage prepaid, addressed to the Parties at the addresses set forth below, or at such other address as a Party may designate in writing pursuant hereto, or via email to the designated address, or by any express or overnight delivery service (e.g.: Federal Express), delivery charges prepaid:

To the City:  
City of Bryan  
Attn: City Manager  
Address: P.O. Box 1000, Bryan, TX 77805  
Email: [kregister@bryantx.gov](mailto:kregister@bryantx.gov)

To Seller:  
Brian Lawrence, Trustee  
Robert Orr Lawrence III Family Trust  
Address: 5289 Sandy Point Road, Bryan, TX 77807  
Email: [rbrianlawrence@yahoo.com](mailto:rbrianlawrence@yahoo.com)

with a copy to:  
Hunter Shurtleff  
Shurtleff Law Firm, PC  
409 E. 26<sup>th</sup> Street, Bryan, Texas 77803  
Email: [hunter@shurtlefflaw.com](mailto:hunter@shurtlefflaw.com)

and a copy to:  
Jay Don Watson  
Watson Law Firm  
1450 Copperfield Dr., Suite 300  
College Station, Texas 77845  
Email: [JWatson@watsonlawyers.com](mailto:JWatson@watsonlawyers.com)

(b) Effective Date of Notices. Notice shall be deemed to have been given on the date on which notice is delivered, if notice is given by personal delivery or email, and on the date of deposit in the mail, if mailed or deposited with an overnight carrier. Notice shall be deemed to have been received on the date on which the notice is received, if notice is given by personal delivery, and on the third (3rd) day following deposit in the U.S. Mail, if notice is mailed.

18. CLOSING COSTS

The City and Seller agree to pay closing costs as indicated in this Section and in the other Sections of this Agreement. At Closing, the City shall pay (a) recording fees related to the Closing, (b) one-half (1/2) of

the escrow fee, and (c) other costs to be paid by the City under this Agreement. At Closing, the Seller shall pay out of the proceeds from the sale of the Property: (a) one-half (1/2) of the escrow fee, (b) prorated ad valorem property taxes; and (c) other costs to be paid by the Seller under this Agreement. Except as otherwise provided for in this Agreement, the City and Seller will each be solely responsible for and bear all of their own respective expenses, including, without limitation, expenses of legal counsel, accountants, appraisers, and other advisors incurred at any time in connection with pursuing or consummating the transaction.

19. PRORATIONS

Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. The City shall pay for the cost of any roll-back taxes resulting from the change of use on or after the Closing Date.

20. APPROVALS

Concerning all matters in this Agreement requiring the consent or approval of any Party, the Parties agree that any such consent or approval shall not be unreasonably withheld unless otherwise provided in this Agreement.

21. ADDITIONAL ACTS

The Parties agree to execute promptly such other documents and to perform such other acts as may be reasonably necessary to carry out the terms and provisions of this Agreement.

22. GOVERNING LAW- JURISDICTION -VENUE

This Agreement shall be construed and the rights and obligations of the City and Seller shall be determined in accordance with the laws of the State of Texas without regard to the principles of choice of law or conflicts of law. In recognition of the benefits of having any disputes with respect to this Agreement resolved by an experienced and expert person, the City and Seller hereby agree that any suit, action, or proceeding, whether claim or counterclaim, brought or instituted by any Party on or with respect to this Agreement or which in any way relates, directly or indirectly, to this Agreement or any event, transaction, or occurrence arising out of or in any way connected with this Agreement or the Property, or the dealings of the Parties, shall be filed in the Venue of Brazos County, Texas in a court of competent jurisdiction.

23. CONSTRUCTION

The terms and provisions of this Agreement represent the results of negotiations among the Parties, each of which has been represented by counsel of its own choosing, and neither of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party whose attorney prepared the executed Agreement or any earlier draft of the same.



24. TIME OF ESSENCE

Time is of the essence of this Agreement.

25. HEADINGS AND COUNTERPARTS

The headings of this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

26. INCORPORATION OF EXHIBITS BY REFERENCE

All Exhibits to this Agreement are fully incorporated herein as though set forth at length in the Agreement. A defined term has the same meaning throughout this Agreement, may appear in this Agreement before its definition and applies to all grammatical variations of the term also shown with initial capital letters.

27. SEVERABILITY. If any provision of this Agreement is unenforceable, the unenforceable provision may be severed from this Agreement and the remaining provisions shall be kept in effect.

28. EFFECTIVE DATE

The date this Agreement is signed by the last party to sign and noted above the signatures shall be the "Effective Date" of this Agreement. It is understood that Seller will sign first, and the City will sign following approval by the City Council. If the City Council fails to approve this Agreement within thirty (30) days after signing by the Seller, the Seller's signature shall be null and void.

29. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the Parties and supersedes all prior agreements, oral or written, with respect to the subject matter in this Agreement. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

30. REPRESENTATIONS AND WARRANTIES

(a) The Parties represent and warrant that each Party has the full right, power and authority to enter into this Agreement.

(b) The Parties represent and warrant that this agreement constitutes a legal, valid, and binding obligation, enforceable against the parties in accordance with its terms.

*[signatures to follow]*

AGREED TO and EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2016, by the City of Bryan:

City of Bryan

ATTEST

\_\_\_\_\_  
Jason P. Bienski, Mayor

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

APPROVED AS TO FORM

\_\_\_\_\_  
Janis K. Hampton, City Attorney

AGREED TO and EXECUTED this 3<sup>rd</sup> day of November, 2016, by the Robert Orr Lawrence III, Family Trust:

SELLER – Robert Orr Lawrence III, Family Trust

*Robert Brian Lawrence, Trustee*

By: Robert Brian Lawrence, Trustee  
Robert Orr Lawrence III, Family Trust

## EXHIBIT A


### **Robert Orr Lawrence III Family Trust property:**

595.777 acres of land, more or less, being composed of three (3) tracts of land: TRACT ONE: Containing 463.704 acres of land, more or less, in the J. McMillan Survey, A-176, et al; TRACT TWO: Containing 72.233 acres of land, more or less, in the John Williams League, A-237, et al; and TRACT THREE: Containing 59.84 acres, more or less, in the J. McMillan Survey, A-176; all in Brazos County, Texas, as more particularly described by metes and bounds in the Amendment of Oil and Gas Lease relating to the property, recorded in Volume 12120, Page 72 et seq., of the Official Records of Brazos County, Texas.

# EXHIBIT "B"




- Legend**
- Proposed Boundary
  - Proposed Easement
  - STREETS
  - BRYAN CITY LIMITS



**City of Bryan**  
1947-1948

1 inch = 600 feet



This is a product of the City of Bryan Geographic Information System. This geospatial data product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or scientific purposes. It does not represent an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor and represents only the approximate relative location of property boundaries. The product may reflect some data otherwise available. The product is not a substitute for obtaining a survey or other professional advice about a specific property, specific question, or situation.