

14-07

**A RESOLUTION OF THE MAYOR
OF THE CITY OF COMMERCE TO THE
TIPITINA'S FOUNDATION**

WHEREAS, the City of Commerce (the "City") has determined that the surface estate of the real property commonly known as the former A.L. Day Elementary School Property that is generally located at 1602 Church Street, Commerce, Hunt County, Texas 75428 (the "Property") is no longer necessary for the operation of the City and that it is in the best interest of the City to dispose of the Property; and

WHEREAS, the Tipitina's Foundation ("Foundation"), an entity that has the power of eminent domain, has determined that it desires to obtain ownership of the Property; and

WHEREAS, an appraisal and a separate opinion of a certified appraiser have been examined in relation to the fair market value of the Property; and

WHEREAS, the City is of the opinion that it is in the best interests of the City to convey the Property to the Foundation; and

WHEREAS, a draft contract (the "Contract") between the City and the Foundation and a draft "Deed without Warranty" (the "Deed") transferring the Property to Tipitina's Foundation has been presented to the City for its review.

IT IS, THEREFORE, HEREBY RESOLVED that the City of Commerce issues the following findings of fact in relation to the transaction described herein:

1. The foregoing recitals are true and correct and are hereby adopted and incorporated as findings of fact.
2. The former A.L. Day Elementary School Property is no longer necessary for the operation of the City.
3. It is in the best interests of the City to convey the Property to the Tipitina's Foundation for the consideration expressed in the Contract and the Deed.

4. The agreed upon conveyance price meets or exceeds the fair market value of the Property as expressed in the written opinion of the certified appraiser.
5. This resolution supersedes any prior resolutions related to the same subject matter.

IT IS FURTHER RESOLVED that the City of Commerce does hereby authorize the sale/conveyance of the surface estate of the real property generally located at 1602 Church Street, Commerce, Hunt County, Texas 75428, commonly known as the former A.L. Day Elementary School Property, to the Tipitina's Foundation for the consideration expressed in the draft Contract and Deed on an "as is, where is, and with all faults" basis.

IT IS FURTHER RESOLVED that the City of Commerce does hereby grant to the Mayor the authority to make such changes to the final form of the Contract and to the final form of the "Deed Without Warranty" as the Mayor deems necessary and, upon the contract and Deed being finalized in forms acceptable to the Mayor, authorizes the Mayor to execute the Contract and the Deed and any additional documents necessary to consummate the conveyance of the Property to the Tipitina's Foundation on the City's behalf upon the City's receipt of the executed Contract and the consideration expressed therein from the City and upon the Mayor being satisfied that the consideration is equal to or in excess of the fair market value of the Property.

PASSED and ADOPTED this 18th day of March, 2014, by the City of Commerce by the following vote:

AYES: 4

NOES: 0

ABSENT: Council Member Sue Davis

ABSTAIN: 0

Richard Bellotto, Jr.
_____, Mayor, City of Commerce

ATTEST:

Becky Rathello
