

**FIRST AMENDMENT TO AGREEMENT FOR THE
DEVELOPMENT OF
TRANSITIONAL HOUSING UNITS AND PROVISION OF
SERVICES**

**PROJECT NAME: YWCA WOMEN’S LIVE AND
LEARN CAMPUS PHASE 1**

This FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (this “*Agreement*”), effective as of _____, 2024 (the “*Effective Date*”), is entered into by and between the City of San Antonio (“*CITY*”), a Texas municipal corporation, acting by and through its Director of the City’s Neighborhood and Housing Services Department (“*NHSD*”), and Young Women’s Christian Association of San Antonio, Texas (“*YWCA*”), a domestic nonprofit corporation. CITY and YWCA are sometimes referred to herein each individually as a “*Party*” and collectively as the “*Parties.*”

RECITALS

WHEREAS, the CITY and YWCA entered into that certain Agreement for the Development of Transitional Housing Units and Provision of Services effective October 5, 2023 (“Original Agreement”) setting out terms and conditions to the CITY’s provision of certain incentives to the YWCA in exchange for the development of the YWCA of San Antonio Women’s Live and Learn Campus which will provide a transitional shelter to women typically ages 18-25 and their children who are at risk of becoming homeless, fleeing domestic violence, opportunity youth, or aging out of foster care, including, without limitation, any ancillary purposes related thereto (e.g. administrative offices, navigation to post-secondary education or degree programs, childcare, schooling for the children, workforce training, health, wellness and nutrition services, case management, counseling, meals, financial literacy, and homeownership and rentership training, and/or other similar supporting services), and will typically serve households earning at or below 30% AMI for at least twenty (20) years; and

WHEREAS, the Parties wish to make certain amendments to the Original Agreement as reflected herein.

NOW, THEREFORE, in consideration of the mutual covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the Parties agree to amend the Original Agreement as follows:

The following provisions of the Original Agreement are amended and restated as follows:

SECTION I.

First recital is restated as follows:

WHEREAS, the CITY and YWCA have negotiated an agreement whereby the YWCA will cause the development and operation of the YWCA of San Antonio Women’s Live and Learn Campus (the “**Project**”) which will provide a transitional shelter to women typically ages 18-25 and their children who are at risk of becoming homeless, fleeing domestic violence, opportunity youth, or aging out of foster care, including, without limitation, any ancillary purposes related thereto (e.g. administrative offices, navigation to post-secondary education or degree programs, childcare, schooling for the children, workforce training, health, wellness and nutrition services, case management, counseling, meals, financial literacy, and homeownership and rentership training, and/or other similar supporting services), and will typically serve households earning at or below 30% AMI for at least twenty (20) years; and

SECTION II.

The following sections of Article II are restated as follows:

- 2.1 Purpose. The purpose of this Agreement is to set the terms and conditions applicable to the CITY’s provision of financial incentives to YWCA to support the construction of Phase 1 of the Project, which is in furtherance of the CITY’s goals of promoting local economic development and stimulating business and commercial activity in the CITY of San Antonio in accordance with Chapter 380 of the Local Government Code, the Strategic Housing Implementation Plan and Strategic Plan to Respond to Homelessness in San Antonio and Bexar County.

- 2.2 Project Requirements.
 - A) YWCA shall commence work on Phase 1 of the Project on or before August 31, 2023 and complete or cause completion of renovations of the improvements by December 31, 2024 and in accordance with the Work Statement and schedule, as set forth in **Exhibit “B”**.

- 2.5 YWCA shall comply with all applicable Legal Requirements, and shall develop or cause the development, and operate the Project in accordance with the terms and conditions of this Agreement.

- 2.7 Real Property Ownership. YWCA hereby acknowledges that the Property is or will be owned by the YWCA San Antonio Support Corporation, a domestic nonprofit corporation (“**Support Corporation**”) and the YWCA will lease (the “**Lease**”) the Property from the Support Corporation. YWCA will provide CITY a copy of the Lease, along with a valid and current Commitment for Title Insurance, wherein YWCA’s ownership interest and any and all liens and encumbrances filed against the Property are indicated. YWCA further acknowledges and agrees that the CITY is not subject to the Lease, that the Lease is not binding on the CITY, and that the CITY shall have no duties or obligations relating to the Property or Project, including the obligations of YWCA to pay rent to the Support Corporation pursuant to the terms of the Lease; that the Support Corporation shall have no recourse against the CITY for default or violations of the Lease by YWCA, regardless of the

CITY's current or future interest in the Project or Property, irrespective of any action taken by CITY under this Agreement or the Loan Documents that may result in foreclosure on the YWCA's leasehold interest in the Property by the CITY or the exercise of the CITY's rights to enforce this Agreement, or the Loan Documents, including but not limited to, actions taken to recover the loan funds from the YWCA.

SECTION IV.

The following sections of Article IV are restated as follows

- 4.1 Loan Documents. In addition to this Agreement, YWCA shall execute or shall have executed the following documents in connection with the Loan:
- (A) Amended Real Estate Lien Note payable to CITY in the amount Six Hundred Seventy Thousand and 00/100 Dollars (\$670,000.00) (the "**Lien Note**"), attached hereto as **Exhibit "C"**;
 - (B) A Leasehold Deed of Trust to be recorded against the Property in the Bexar County Clerk's Office Recordings Division in favor of CITY, attached hereto as **Exhibit "D"**, which shall secure payment of the Lien Note; and
 - (C) Declaration of Restrictive Covenant of Affordability ("**Restrictive Covenant**"), attached hereto as **Exhibit "E"**, and together with this Agreement, the Lien Note, and the Leasehold Deed of Trust are referred to as the "**Loan Documents**").

SECTION V.

The following sections of Article V are restated as follows:

- 5.3 Loan Disbursement. CITY will make the Loan Funds available to YWCA in one lump sum of Six Hundred and Seventy Thousand and 00/100 Dollars (\$670,000.00). The disbursement shall be made upon YWCA submitting documents evidencing, to CITY's satisfaction, that YWCA is prepared to commence or cause the commencement of Phase 1 of the Project in accordance with Section 2.2 (A) above.
- 5.4 The Loan Funds will be provided in the form of a 0% interest forgivable loan. If an Event of Default occurs, YWCA shall repay the CITY the amount of Loan funds that have not been forgiven, subject to verification as of the date YWCA receives CITY's notice of default, subject to the Cure Period, along with an interest rate of 0.5% of the annual remaining principal. The Loan will be forgiven, subject to verification of compliance with the terms of this agreement, in twenty (20) equal installments of Thirty Three Thousand Five Hundred and 00/100 Dollars (\$33,500.00) annually over a twenty (20) year period. Annual forgiveness of the Loan shall take effect in arrears on July 1st of each year, with the first annual

reduction to occur on July 1, 2024, and continuing regularly thereafter until the final maturity date of June 30, 2043. Once the Loan has been forgiven in full, YWCA will be released from the obligation to repay CITY the Loan.

- 5.5 Requirement to Comply with Restrictive Covenant. YWCA, its affiliated entities, successors and assigns shall comply with the Restrictive Covenant filed in the Bexar County Public Records, Recordings Division, in accordance with this Agreement for a period of twenty (20) years from the placement in service of the Project (the “*Covenant Period*”).

SECTION VI.

The following sections of Article VI are restated as follows

- 6.2 Event of Default. Any one of the following which occurs and continues shall constitute an Event of Default:

(D) YWCA fully or partially sells, conveys, disposes of, alienates, hypothecates, assigns, mortgages, pledges, transfers, or encumbers all or any part of its interest in the Property or improvements or any interest therein in violation of the other provisions of this Agreement, except as provided in this Agreement or the Lease, and for any items replaced in the ordinary course of business and any utility, telecommunications, and other easements, and the execution of lease agreements with residential tenants in the ordinary course of business after the effective date thereof, which do not require the prior written consent of the CITY).

(L) The failure of YWCA to honor its commitments under any agreement with a lien holder which results in the foreclosure of the YWCA’s interest, or the interest of any YWCA affiliated entities, in the Property. YWCA shall provide CITY with notice of the initiation of foreclosure proceedings by any lien holder within ten (10) business days of the initiation of such proceedings in writing. YWCA shall provide all lienholders against the Property written notice of the existence of the Loan Documents within ten (10) days of the date the documents are recorded in the Bexar County Clerk’s Office Recordings Division; or

SECTION VII.

The following sections of Article IX are restated as follows:

- 9.1 YWCA and its affiliated entities shall maintain the fiscal records and supporting documentation for expenditures of funds directly associated with this Agreement. YWCA shall retain such records, and any supporting documentation, for five (5) years after all performance requirements are achieved for audit purposes until such audits or other administrative, civil or criminal matters including, but not limited to, investigations, lawsuits, administrative inquiries, and open records requests are completed.

SECTION VIII.

The following sections of Article XVI are restated as follows:

- 16.1 Except as provided in Section 16.2 below, any alterations, additions, or deletions to the terms of this Agreement shall be by amendment hereto in writing and executed by both parties to this Agreement and approval by the CITY Council by ordinance, if required, or as otherwise provided in this Agreement.

SECTION IX.

The following sections of Article XIX are restated as follows:

- 19.1 YWCA's Business and Conduct. YWCA (or through its affiliate entities, developer, contractor, or agent) shall perform or cause to be performed, in a satisfactory and efficient manner as determined by CITY, all work and activities set forth in this Agreement and its exhibits and Loan Documents, and shall be solely responsible for all aspects of YWCA's business and conduct in connection with the Project, including, without limitation, the following:
- (A) Quality and suitability of the Plans;
 - (B) Supervision of construction of Phase 1 of the Project;
 - (C) Qualifications, financial condition, and performance of all of Phase 1 of the Project's architects, engineers, developers, sub-developers, consultants, and suppliers contracted by YWCA;
 - (D) Conformance of construction and/or renovations done in connection with Phase 1 of the Project to the Plans, all Legal Requirements, and all requirements of this Agreement and the other Loan Documents;
 - (E) Quality and suitability of all materials and workmanship pursuant to warranty provided by the developer, contractor or other party required or deemed by law to maintain warranties pursuant to their respective trade or industry;
 - (F) Accuracy of all requests for the disbursement of Incentives and the proper application of disbursed Incentives;
 - (G) Uphold and enforce the Restrictive Covenant; and
 - (H) Perform and document all income verification requirements needed in accordance with the AMI requirements for the affordability period.

- 19.9 Performance of Work. YWCA shall ensure that its developer or affiliated entities (A) secures all appropriate permits, as required by local, state, and federal regulations or policies, for work related to the construction of Phase 1 of the Project; and (B) ensure that the work to be performed in connection with Phase 1 of the Project is performed in a timely manner and in accordance with the highest standards and customs of the trade, complies with all Legal Requirements, including those requirements of the building, electrical, fire, mechanical, and plumbing codes of CITY.

SECTION XII.

The following sections of Article XX are restated as follows:

- 20.5 YWCA, to the extent it has employees, shall obtain and maintain in full force and effect for the duration of this Agreement, at YWCA's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to doing business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), as follows:

A. YWCA is required to name dba YMCA Support Group in the insured section of the Certificate of Insurance.

B. YWCA shall, at YWCA's sole cost and expense, keep the improvements which are a part of the Property insured at all times throughout the Term against all risk of physical loss, including but not limited to, loss or damage by fire, lightning, windstorm, hail, smoke, explosion, riot, riot attending a strike, civil commotion, aircraft and vehicles, vandalism and malicious mischief, sprinkler leakage, collapse or earthquake to the extent coverage for such risks is from time to time customarily available at commercially reasonable rates in the commercial property insurance market for such improvements, in an amount not less than 100% of the full insurable value of such improvements. The term "full insurable value" shall mean the actual replacement cost (excluding foundation and excavation costs) less physical depreciation.

C.

C. YWCA shall, at YWCA's sole cost and expense, throughout the Term, but for the mutual benefit of City and YWCA, maintain the following kinds and amounts of insurance: (a) commercial or comprehensive general public liability insurance with a broad form endorsement providing insurance against claims for bodily injury (including death), property damage occurring upon or in the Property, and contractual liability, and having limits of liability not more than the limits that are customary and reasonable for similar improvements and uses in the area in which the Property is located as reasonably determined from time to time by City, (b) worker's compensation insurance in an amount not less than the required statutory limits and including employer's liability insurance, and (c) comprehensive automobile liability insurance covering owned automobiles, automobiles under long-term lease, hired automobiles, employer's non-ownership liability,

medical payments and uninsured motorist coverage for limits not more than limits that are customary and reasonable for owners of similar buildings with similar uses in the area in which the Property is located as reasonably determined from time to time by City.

D. Except as provided in Article XXI INDEMNIFICATION, City and YWCA hereby expressly waive and release all claims against each other, and against the agents and employees of each other, for any loss or damage sustained by each other to the extent such claims are or could be insured against under any standard broad form policy of fire and extended coverage insurance, or under any fire and extended casualty insurance policy maintained by YWCA under this Agreement or required to be maintained by YWCA under this Agreement, regardless of whether such policy is in effect at the time of the loss and assuming a zero deductible in all cases. YWCA will cause the applicable insurance carriers to issue appropriate waiver of subrogation rights endorsements to all policies of insurance carried in connection with damage to the Property or any portions thereof or any personal property thereon; provided, however, that failure to obtain such endorsements shall not affect the release hereinabove given. In addition to the foregoing, all such waivers of any claim, action or cause of action shall also be effective to any person claiming by, through, or under either City or YWCA.

E. All policies of insurance provided for in this Article XX. shall name City and, all policies of insurance provided for in this Article shall name City and YWCA as insureds as their respective interests may appear. In addition, the policies of insurance provided for in this Article may also name as insureds as their interests may appear, if City so requests, any fee mortgagee. All such policies of insurance shall provide that any loss shall be payable as therein provided notwithstanding any act or negligence of YWCA or any other occupant of the Property which might otherwise result in a forfeiture of said insurance. Without limiting the generality of the foregoing provisions of this Article XX, YWCA shall obtain and maintain such policies of insurance as shall be required for City to comply with the requirements of each fee mortgagee to which City's interest in the Property is subordinate.

XIII.

The following sections of Article XXV are restated as follows:

25.1 This Agreement is not assignable without the written consent of CITY and the passage of a CITY Ordinance approving such assignment, with such consent not to be unreasonably withheld, conditioned or delayed. Any other attempt to assign the Agreement shall not relieve YWCA from liability under this Agreement and shall not release YWCA from performing any of the terms, covenants, and conditions herein. YWCA shall be held responsible for all Incentives received under this Agreement. This Article shall not be construed to prohibit YWCA from forming affiliated entities or from incorporating provisions of this Agreement into agreements between YWCA and its affiliate entities, or to any new entity created because of a merger, acquisition, or other corporate restructure or reorganization of YWCA due to financial structuring or as necessary for the completion of the Project, in such case, YWCA shall give CITY prior written notice of any changes in corporate or organizational structure and shall submit such notice for CITY to review

and confirm that such restructuring is compliant with this Article XV. Final determination shall be made by the CITY Manager's Office in consultation with the CITY Attorney's Office. The CITY reserves the right to make a final determination as to whether a change in corporate or organizational structure must be approved by CITY Council.

IX.

All other provisions of the Original Agreement not amended herein shall remain in full force and effect.

WITNESS OUR HANDS, EFFECTIVE as of _____, 2024:

Accepted and executed in two duplicate originals on behalf of the CITY of San Antonio dated _____, and YWCA pursuant to the authority of its CEO _____.

**YOUNG WOMENS CHRISTIAN ASSOCIATION
OF SAN ANTONIO, TEXAS**
a domestic nonprofit corporation

By: Francesca Rattray
FRANCESCA RATTRAY
Chief Executive Officer

Date: 8/6/24

CITY OF SAN ANTONIO,
a Texas municipal corporation

By: _____
VERONICA GARCIA
Director

Date: _____

APPROVED AS TO FORM:

By: _____
JAMEENE YVONNE WILLIAMS
Assistant CITY Attorney

ATTACHMENTS:

Exhibit "C" (Amended) Lien Note

Exhibit "D" Leasehold Deed of Trust