

Ordinance 2021-02-11-0094

ORDINANCE

2021-02-11-0094

APPROVING THE ACQUISITION OF .95 ACRES OF LAND LOCATED AT 419 SAN PEDRO AVENUE AND 425 SAN PEDRO AVENUE LOCATED IN THE NEAR WEST-FIVE POINTS NEIGHBORHOOD IMPROVEMENT AREA IN COUNCIL DISTRICT 1, BY THE CITY OF SAN ANTONIO, BY AND THROUGH THE URBAN RENEWAL AGENCY OF THE CITY OF SAN ANTONIO, DOING BUSINESS AS THE OFFICE OF URBAN REDEVELOPMENT SAN ANTONIO (OUR SA), FROM MIRELES PROPERTIES LLC AND MARQUEE INVESTMENTS LLC FOR AN AMOUNT NOT TO EXCEED \$2,000,000.00; AUTHORIZING THE SALE OF SAID .95 ACRES OF LAND TO FRANKLIN DEVELOPMENT PROPERTIES, LTD. BY THE CITY OF SAN ANTONIO, BY AND THROUGH OUR SA, FOR A SALES PRICE OF \$500,000.00 PAYABLE TO THE CITY AS PROGRAM INCOME FOR THE 2017-2022 NEIGHBORHOOD IMPROVEMENTS BOND PROGRAM; AND AUTHORIZING A CONTRIBUTION BY THE CITY OF SAN ANTONIO IN AN AMOUNT NOT-TO-EXCEED \$2,300,000.00 WITH A \$350,000.00 CONTINGENCY FOR THE REIMBURSEMENT OF AUTHORIZED EXPENSES TO FRANKLIN DEVELOPMENT PROPERTIES, LTD., A NEIGHBORHOOD IMPROVEMENT BOND PROGRAM PROJECT FUNDED BY THE 2017-2022 GENERAL OBLIGATION BOND; AND AUTHORIZING THE EXECUTION OF SAID CONTRACT AND ALL OTHER ACTIONS AS NECESSARY TO CARRY OUT THE PURPOSES OF THIS ORDINANCE.

* * * * *

WHEREAS, on May 6, 2017, voters approved the 2017-2022 Neighborhood Improvements Bond program which provided for the issuance of general obligation bonds up to \$20 million to finance the cost of the development of affordable and workforce housing in the City of San Antonio as set forth in the City of San Antonio's Urban Renewal Plan; and

WHEREAS, in compliance with Chapter 374, Texas Local Government Code, as amended ("Chapter 374") and applicable law, the Urban Renewal Plan was incorporated into the voted proposition and approved by the voters which sets forth the following permitted activities in furtherance of the City's affordable/workforce housing initiative:

- Land acquisition
- Repair and rehabilitation of buildings and other improvements
- Demolition of dilapidated/unusable structures
- Right-of-way improvements
- Extension/expansion of utilities
- Site Work
- Remediation of hazards such as asbestos or lead-based paint
- Disposition of property in the affected area
- Associated fees for the aforementioned services; and

WHEREAS, the Urban Renewal Plan serves as the legal framework for the activities to be conducted as part of the Neighborhood Improvements Bond program; and

WHEREAS, the program is designed to serve the public purpose of providing low-to-moderate income working families with a required minimum of half of the housing units serving families earning 80% of the Area Median Income (“AMI”) or less, allowing these families to eliminate the cost-burden of today’s housing and rental prices; and

WHEREAS, the City, acting by and through the Urban Renewal Agency of the City of San Antonio, doing business as the Office of Redevelopment San Antonio (“OUR SA”), has identified a property consisting of two adjoining parcels located at 419 and 425 San Pedro Avenue in the Near West-Five Points Neighborhood Improvement Area in Council District 1 and owned by Mireles Properties LLC and Marquee Investments LLC, as more particularly described in **ATTACHMENTS “1” and “2”**, which the staff has determined would be suitable for development of affordable/Workforce housing under the Neighborhood Improvements Bond Program and in accordance with the Urban Renewal Plan to be referred to as the San Pedro Project (“Project”); and

WHEREAS, the City, acting by and through OUR SA, entered into Real Estate Purchase and Sales Contracts to acquire the 2 adjoining properties at 419 San Pedro Avenue from Mireles Properties LLC for \$1,175,000.00 and 425 San Pedro Avenue from Marquee Investments LLC for \$825,000.00 for a total of \$2,000,000.00, which were executed on September 16, 2020 with the intent to purchase the parcels for the purpose of conveying the parcels to a developer for the development of affordable/workforce housing, said Real Estate Purchase and Sales Contracts being attached as **ATTACHMENTS “3” and “4”**; and

WHEREAS, staff released a Request for Proposals (the “RFP”) on October 11, 2020, advertising the Project and seeking submissions from qualified developers throughout the country with the requisite affordable housing development experience, financial capacity and capability, site plan, timeline, experience and interest in developing the Property as an affordable housing residential development; and

WHEREAS, based on the City’s standard evaluation and scoring metrics set forth in the RFP, the firm meeting the RFP’s qualifications to develop the Property for the purpose of fulfilling the goals of the Neighborhood Improvements Bond Program, in compliance with the Urban Renewal Plan and Chapter 374 of the Texas Local Government Code was identified as Franklin Development Properties, Ltd.; and

WHEREAS, staff recommended that the City, acting by and through OUR SA, purchase the Property and prepare the Project for development as permitted under the Urban Renewal Plan, Chapter 374 of the Local Government Code and applicable law, including conducting Phase I and Phase II Environmental Site Assessments; and

WHEREAS, the Project was approved by the OUR SA Board of Directors on January 13, 2021 and presented to the City’s Audit Committee on January 19, 2021; and

WHEREAS, the City Council hereby finds, based on the due diligence and recommendations of staff, that this Project will not result in any permanent involuntary residential displacement as stipulated in the Urban Renewal Plan and the acquisition of the Property is prudent and necessary to carry out the goals of the Urban Renewal Plan and the 2017-2022 Neighborhood Improvements Bond Program; and

WHEREAS, the City Council finds that the purchase price for the 419 and 425 San Pedro property of \$2,000,000.00 is reasonable; that the bid received from Franklin Development Properties, Ltd. is the highest and best responsible bid; that the sales price of the property in the amount of \$500,000.00 and the contribution of \$2,300,000.00 and \$350,000.00 for eligible reimbursable expenses are also reasonable and consistent with the purposes of the Neighborhood Improvements Bond Program, Ltd.; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council hereby authorizes the purchase of approximately .95 acres of land owned by Mireles Properties LLC and Marquee Investments LLC comprised of (2) parcels located at 419 San Pedro Avenue (NCB 769 BLK 7 Lot W IRR 143.25 FT of 5 EXC S 2 FT of W 71.63 FT, 3 EXC E IRR 8.62 FT, W IRR 143.82 FT OF 4 & 52 FT OF W 71.65 OF 5; .58 acres) which is owned by Mireles Properties LLC and 425 San Pedro Avenue (NCB 769 BLK 7 LOT 6 & 7, EXC E IRR 10.8 FT; .37 acres) which is owned by Marquee Investments LLC, (the **“Property”**), both parcels being more particularly described in **ATTACHMENTS “1” and “2”**, for the purchase price of ONE MILLION, ONE HUNDRED SEVENTY FIVE THOUSAND DOLLARS AND NO/100 (\$1,175,000.00) for the Mireles parcel and EIGHT HUNDRED, TWENTY FIVE THOUSAND DOLLARS AND NO/100 (\$825,000.00) for a total expenditure of TWO MILLION DOLLARS AND NO/100 (\$2,000,000.00) for the completion of the San Pedro Project (the **“Project”**). The purchase authorized in this Ordinance is conditioned upon the completion of Phase I and Phase II Environmental Site Assessments and a determination by the City Manager that the sites are suitable for residential development.

SECTION 2. The Real Estate Purchase and Sales Contracts for the purchase of the Property with Mireles Properties LLC and Marquee Investments LLC are a one-time capital improvement expenditure in the amount of \$2,000,000.00 for the acquisition of real property. Funding is included in the FY 2019-2024 Capital Improvements Program and funded through the 2017-2022 Neighborhoods Improvement Bond Program funds. The value of the Property was ascertained by an independent appraisal performed by Meridia Appraisal Group (Integra Realty Services).

SECTION 3. Payment is authorized in the amount of \$1,175,000.00 for a .5788-acre parcel of land Payable to Mireles Properties, LLC. Payment is in support of the Neighborhood Improvements Project using the WBS Element 23-01738-13-03-03-04 and GL Account 5209010. Funding is provided by GO Bonds and General Fund and is in the FY2021 -FY2026 Capital Improvements Program.

SECTION 4. Payment is authorized in the amount of \$825,000.00 for a .3678-acre parcel of land Payable to Marquee Investments LLC. Payment is in support of the Neighborhood Improvements Project using the WBS Element 23-01738-13-03-03-04 and GL Account 5209010. Funding is

provided by GO Bonds and General Fund and is in the FY2021 -FY2026 Capital Improvements Program.

SECTION 5. Payment is limited to the amounts budgeted in the Operating and/or Capital Budget funding sources identified. All expenditures will comply with approved operating and/or capital budgets for current and future fiscal years.

SECTION 6. The City Council hereby authorizes the sale of the Property to Franklin Development Properties, Ltd. ("Developer") for the sales price of FIVE HUNDRED THOUSAND DOLLARS AND NO/100 (\$500,000.00), which shall be used as program income for the 2017-2022 Neighborhood Improvements Bond Program. The City Council further approves the Contract for Sale of Land for Private Redevelopment with the Developer, attached hereto in substantial form as **ATTACHMENT "5"**, which is incorporated for all purposes as if fully set forth herein.

SECTION 7. The City Council authorizes contribution by the City of TWO MILLION, THREE HUNDRED THOUSAND DOLLARS AND NO/100 (\$2,300,000.00) to provide for the reimbursement to the Developer of eligible expenses relating to the development of the Property, with an additional THREE HUNDRED FIFTY THOUSAND DOLLARS AND NO/100 (\$350,000.00) approved as contingency funds for additional reimbursement of eligible expenses if necessary and at staff's discretion.

SECTION 8. The disposition of surplus property must be coordinated through the City's Finance Department to assure the removal of these assets into the City's financial records and to record the proper accounting transactions.

SECTION 9. Funds are authorized to be received from Franklin Development Properties, Ltd. to SAP Fund 29623000 Affordable Housing Bond, GL Account 4502280 Contributions from other agencies, and the budget shall be revised by increasing Internal Order 257000000004 Bond Proceeds from Sales in the amount of \$500,000.00.

SECTION 10. Payment is authorized to be encumbered and made payable to Franklin Development Properties, Ltd., in an amount not to exceed \$2,650,000.00. Payment is in support of the Neighborhood Improvements Project using the WBS Element 23-01738-13-05-02-01 and GL Account 5201140. Funding is provided by GO Bonds and General Fund and is in the FY2021 -FY2026 Capital Improvements Program.

SECTION 11. Payment is limited to the amounts budgeted in the Operating and/or Capital Budget funding sources identified. All expenditures will comply with approved operating and/or capital budgets for current and future fiscal years.

SECTION 12. The actions of City staff, acting by and through OUR SA, related to the subject matter of this Ordinance and the attachments hereto are hereby ratified and the City Manager or his designee, as well as City staff and OUR SA, are hereby authorized to execute all documents and take all necessary actions to close and finalize all transactions and to carry out the purposes of this Ordinance.

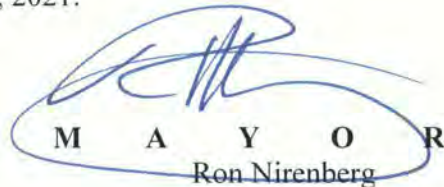
JYW
02/11/2021
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SECTION 13. Payments for the acquisition of the Property are contingent upon the availability of funds and, if applicable, the sale of future City of San Antonio General Obligation Bonds in accordance with the adopted capital budget. Payment is limited to the amounts budgeted in the Operating and/or Capital Budget funding sources identified. All expenditures will comply with approved operating and/or capital budgets for current and future fiscal years.

SECTION 14. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 15. This Ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

PASSED AND APPROVED this 11th day of February, 2021.



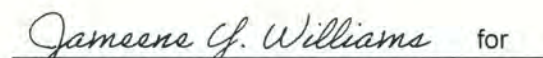
M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:



Tina J. Flores, City Clerk



Jameene G. Williams for
Andrew Segovia, City Attorney

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ATTACHMENT "1"
(419 San Pedro Avenue)



City of San Antonio

City Council

February 11, 2021

Item: 9

File Number: 21-1049

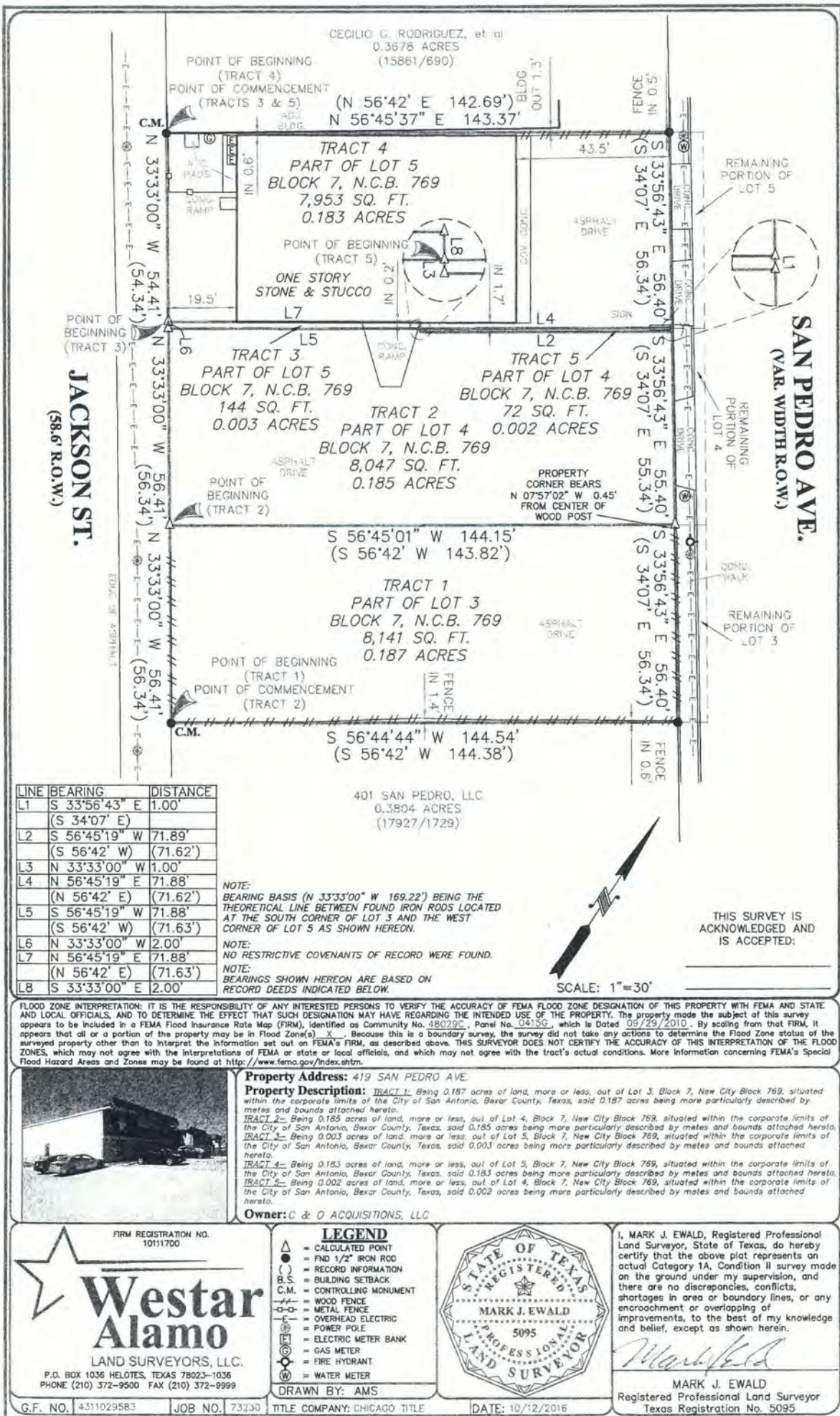
Enactment Number:

2021-02-11-0094

Ordinance approving: 1) the acquisition of .95 acres of land located at 419 San Pedro Avenue and 425 San Pedro Avenue, by the City of San Antonio, by and through the Urban Renewal Agency of the City of San Antonio, doing business as the Office of Urban Redevelopment San Antonio (OUR SA), from Mireles Properties LLC and Marquee Investments LLC for an amount not to exceed \$2,000,000.00; 2) authorizing the sale of said .95 acres of land to Franklin Development Properties, Ltd. by the City of San Antonio, by and through the OUR SA for a sales price of \$500,000.00 payable to the City as program income for the 2017-2022 Neighborhood Improvements Bond Program; and 3) authorizing the City to reimburse eligible expenses to Franklin Development Properties, Ltd in accordance with the Urban Renewal Plan in an amount not-to-exceed \$2,650,000.00 which includes a \$350,000.00 contingency for additional authorize expenses; a Neighborhood Improvement Bond Program Project funded by the 2017-2022 General Obligation Bond, located in Council District 1. [Lori Houston, Assistant City Manager; Veronica R. Soto, Director, Neighborhood & Housing Services]

Councilmember Roberto C. Treviño made a motion to approve. Councilmember Rebecca Viagran seconded the motion. The motion passed by the following vote:

Aye: 11 Nirenberg, Treviño, Andrews-Sullivan, Viagran, Rocha Garcia, Gonzales, Cabello Havrda, Sandoval, Pelaez, Courage and Perry



METES AND BOUNDS - TRACT 1

Being 0.187 acres of land, more or less, out of Lot 3, Block 7, New City Block (N.C.B.) 769, situated within the corporate limits of the City of San Antonio, Bexar County, Texas, said 0.187 acres being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found for the South corner of this 0.187 acres, same being the South corner of said Lot 3 and the West corner of the 401 San Pedro, LLC 0.3804 acres (Volume 17927, Page 1729), same also being on the northeast Right-of-Way line of Jackson St., and the **POINT OF BEGINNING**;

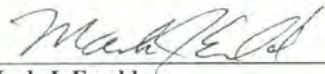
THENCE along the northeast Right-of-Way line of said Jackson St., North 33 degrees 33 minutes 00 seconds West, a distance of 56.41 feet (called 56.34 feet) to a point for the West corner of this 0.187 acres, same being the West corner of said Lot 3 and the South corner of Lot 4 of Block 7, N.C.B. 769, same also being the South corner of Tract 2 surveyed on this date;

THENCE along the line common to this 0.187 acres and said Tract 2, North 56 degrees 45 minutes 01 seconds East (called North 56 degrees 42 minutes West), a distance of 144.15 feet (called 143.82 feet) to a point for the North corner of this 0.187 acres, from which the center of a wood post bears South 07 degrees 57 minutes 02 seconds East, 0.45 feet, said point also being the East corner of said Tract 2 and on the southwest Right-of-Way line of San Pedro Ave.;

THENCE along the southwest Right-of-Way line of said San Pedro Ave., South 33 degrees 56 minutes 43 seconds East (called South 34 degrees 07 minutes East), a distance of 56.40 feet (called 56.34 feet) to a 1/2 inch iron rod found for the East corner of this 0.187 acres, same being the North corner of said 401 San Pedro, LLC 0.3804 acres

THENCE along the line common to this 0.187 acres and said 401 San Pedro, LLC 0.3804 acres, South 56 degrees 44 minutes 44 seconds West (called South 56 degrees 42 minutes West), a distance of 144.54 feet (called 144.38 feet) to the **POINT OF BEGINNING**, and containing 0.187 acres of land, more or less.

I hereby certify that these field notes were prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. A survey plat of the above described tract prepared this day is hereby attached to and made a part hereof.



Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
October 12, 2016



METES AND BOUNDS - TRACT 2

Being 0.185 acres of land, more or less, out of Lot 4, Block 7, New City Block (N.C.B.) 769, situated within the corporate limits of the City of San Antonio, Bexar County, Texas, said 0.185 acres being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod found for the South corner of Lot 3, Block 7, N.C.B. 769 and the West corner of the 401 San Pedro, LLC 0.3804 acres (Volume 17927, Page 1729), same also being the South corner of Tract 1 surveyed this same date and on the northeast Right-of-Way line of Jackson St., same also being the **POINT OF COMMENCEMENT**;

THENCE along the northeast Right-of-Way line of said Jackson St., North 33 degrees 33 minutes 00 seconds West, a distance of 56.41 feet (called 56.34 feet) to a point for the South corner of this 0.185 acres, same being the West corner of said Lot 3 and the South corner of said Lot 4, same also being the West corner of said Tract 1 and the **POINT OF BEGINNING**;

THENCE continuing along the northeast Right-of-Way line of said Jackson St., North 33 degrees 33 minutes 00 seconds West, a distance of 56.41 feet (called 56.34 feet) to a point for the West corner of this 0.185 acres, same being the West corner of said Lot 4 and the South corner of Lot 5 of Block 7, N.C.B. 769, same also being the southwest corner of Tract 3 surveyed this same date;

THENCE along the line common to said Lots 4 and 5, North 56 degrees 45 minutes 19 seconds East (called North 56 degrees 42 minutes East), a distance of 71.88 feet (called 71.63 feet) to a point for an angle corner, same being the southeast corner of said Tract 3 and the upper southwest corner of Tract 5 surveyed this same date;

THENCE along the lines common to this 0.185 acres and said Tract 5 the following courses and distances:


South 33 degrees 33 minutes 00 seconds East, a distance of 1.00 foot to a point;

North 56 degrees 45 minutes 19 seconds East (called North 56 degrees 42 minutes East), a distance of 71.89 feet (called 71.62 feet) to a point for the North corner of this 0.185 acres, same being the lower northeast corner of said Tract 5 and on the southwest Right-of-Way line of San Pedro Ave.;

THENCE along the southwest Right-of-Way line of said San Pedro Ave., South 33 degrees 56 minutes 43 seconds East (called South 34 degrees 07 minutes East), a distance of 55.40 feet (called 55.34 feet) to a point for the East corner of this 0.185 acres, from which the center of a wood fence post bears South 07 degrees 57 minutes 02 seconds East, 0.45 feet, said point also being the North corner of said Tract 1;

THENCE along the line common to this 0.185 acres and said Tract 1, South 56 degrees 45 minutes 01 seconds West (called South 56 degrees 42 minutes West), a distance of 144.15 feet (called 143.82 feet) to the **POINT OF BEGINNING**, and containing 0.185 acres of land, more or less.

I hereby certify that these field notes were prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. A survey plat of the above described tract prepared this day is hereby attached to and made a part hereof.


Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
October 12, 2016

METES AND BOUNDS - TRACT 3

Being 0.003 acres of land, more or less, out of Lot 5, Block 7, New City Block (N.C.B.) 769, situated within the corporate limits of the City of San Antonio, Bexar County, Texas, said 0.003 acres being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod found for the West corner of said Lot 5, same being the South corner of the Cecilio G. Rodriguez, et al 0.3678 acres (Volume 15861, Page 690) and the West corner of Tract 4 surveyed this same date, same also being on the northeast Right-of-Way line of Jackson St. and the **POINT OF COMMENCEMENT**;

THENCE along the northeast Right-of-Way line of said Jackson St., South 33 degrees 33 minutes 00 seconds East, a distance of 54.41 feet (called 54.34 feet) to a point for the upper southwest corner of this 0.003 acres, same being the **POINT OF BEGINNING**;

THENCE along the line common to this 0.003 acres and said Tract 4 the following courses and distances:

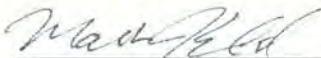
North 56 degrees 45 minutes 19 seconds East (called North 56 degrees 42 minutes East), a distance of 71.88 feet (called 71.63 feet) to a point for the upper northeast corner of this 0.003 acres;

South 33 degrees 33 minutes 00 seconds East, a distance of 2.00 feet to a point for the lower northeast corner of this 0.003 acres, same being on the line common to said Lot 5 and Lot 4 of Block 7, N.C.B. 769 and the northwest corner of Tract 5 surveyed this same date;

THENCE along the line common to this 0.003 acres and said Lot 4, South 56 degrees 45 minutes 19 seconds West (called South 56 degrees 42 minutes West), a distance of 71.88 feet (called 71.63 feet) to a point for the southwest corner of this 0.003 acres, same being the West corner of said Lot 4 and the South corner of said Lot 5, same also being the West corner of Tract 2 surveyed this same date and on the northeast Right-of-Way line of said Jackson St.;

THENCE along the northeast Right-of-Way line of said Jackson St., North 33 degrees 33 minutes 00 seconds West, a distance of 2.00 feet to the **POINT OF BEGINNING**, and containing 0.003 acres of land, more or less.

I hereby certify that these field notes were prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. A survey plat of the above described tract prepared this day is hereby attached to and made a part hereof.



Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
October 12, 2016



METES AND BOUNDS - TRACT 4

Being 0.183 acres of land, more or less, out of Lot 5, Block 7, New City Block (N.C.B.) 769, situated within the corporate limits of the City of San Antonio, Bexar County, Texas, said 0.183 acres being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found for the West corner of this 0.183 acres, same being the West corner of said Lot 5 and the South corner of the Cecilio G. Rodriguez, et al 0.3678 acres (Volume 15861, Page 690), same also being on the northeast Right-of-Way line of Jackson St., and the **POINT OF BEGINNING**;

THENCE along the line common to this 0.183 acres and said Rodriguez 0.3678 acres, North 56 degrees 45 minutes 37 seconds East (called North 56 degrees 42 minutes East), a distance of 143.37 feet (called 142.69 feet) to a 1/2 inch iron rod found for the North corner of this 0.183 acres, same being the East corner of said Rodriguez 0.3678 acres and on the southwest Right-of-Way line of San Pedro Ave.;

THENCE along the southwest Right-of-Way line of said San Pedro Ave., South 33 degrees 56 minutes 43 seconds East (called South 34 degrees 07 minutes East), a distance of 56.40 feet (called 56.34 feet) to a point for the East corner of this 0.183 acres, same being on the southeast line of said Lot 5 and on the northwest line of Lot 4, same also being the upper northeast corner of Tract 5 surveyed this same date;

THENCE along the line common to this 0.183 acres and said Tract 5, South 56 degrees 45 minutes 19 seconds West (called South 56 degrees 42 minutes West), a distance of 71.88 feet (called 71.62 feet) to a point for an angle corner of this 0.183 acres, same being the upper southwest corner of said Tract 5 and the lower northeast corner of Tract 3 surveyed this same date;


THENCE along the lines common to this 0.183 acres and said Tract 3 the following courses and distances:

North 33 degrees 33 minutes 00 seconds West, a distance of 2.00 feet to a point for an angle corner of this 0.183 acres, same being the upper northeast corner of said Tract 3;

South 56 degrees 45 minutes 19 seconds West (called South 56 degrees 42 minutes West), a distance of 71.88 feet (called 71.63 feet) to a point for the South corner of this 0.183 acres, same being the upper southwest corner of said Tract 3 and on the northeast Right-of-Way line of said Jackson St.;

THENCE along the northeast Right-of-Way line of said Jackson St., North 33 degrees 33 minutes 00 seconds West, a distance of 54.41 feet (54.34 feet) to the **POINT OF BEGINNING**, and containing 0.183 acres of land, more or less.

I hereby certify that these field notes were prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. A survey plat of the above described tract prepared this day is hereby attached to and made a part hereof.


Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
October 12, 2016



METES AND BOUNDS - TRACT 5

Being 0.002 acres of land, more or less, out of Lot 4, Block 7, New City Block (N.C.B.) 769, situated within the corporate limits of the City of San Antonio, Bexar County, Texas, said 0.002 acres being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod found for the West corner of Lot 5 of Block 7, N.C.B. 769, and the South corner of the Cecilio G. Rodriguez, et al 0.3678 acres (Volume 15861, Page 690), same also being the West corner of Tract 4 surveyed this same date and on the northeast Right-of-Way line of Jackson St. and the **POINT OF COMMENCEMENT**;

THENCE along the northeast Right-of-Way line of said Jackson St., South 33 degrees 33 minutes 00 seconds East, a distance of 56.41 feet (called 56.34 feet) to a point for the South corner of said Lot 5, same being the lower southwest corner of Tract 3 surveyed this same date and the West corner of Tract 2 surveyed this same date;

THENCE along the line common to said Tract 3 and said Tract 2, North 56 degrees 45 minutes 19 seconds East (called North 56 degrees 42 minutes East), a distance of 71.88 feet (called 71.63 feet) to a point for the upper southwest corner of this 0.002 acres, same being the lower northeast corner of said Tract 3 and an angle corner of said Tract 4, same also being the **POINT OF BEGINNING**;

THENCE along the line common to this 0.002 acres and said Tract 4, North 56 degrees 45 minutes 19 seconds East (called North 56 degrees 42 minutes East), a distance of 71.88 feet (called 71.62 feet) to a point for the upper northeast corner of this 0.002 acres, same being the East corner of said Tract 4 and on the southwest Right-of-Way line of San Pedro Ave.;

THENCE along the southwest Right-of-Way line of said San Pedro Ave., South 33 degrees 56 minutes 43 seconds East (called South 34 degrees 07 minutes East), a distance of 1.00 foot to a point for the lower northeast corner of this 0.002 acres, same being the North corner of said Tract 2;

THENCE along the lines common to this 0.002 acres and said Tract 2 the following courses and distances:

South 56 degrees 45 minutes 19 seconds West (called South 56 degrees 42 minutes West), a distance of 71.89 feet (called 71.62 feet) to a point for the lower southwest corner of this 0.002 acres;

North 33 degrees 33 minutes 00 seconds West, a distance of 1.00 foot to the **POINT OF BEGINNING**, and containing 0.002 acres of land, more or less.

I hereby certify that these field notes were prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. A survey plat of the above described tract prepared this day is hereby attached to and made a part hereof.

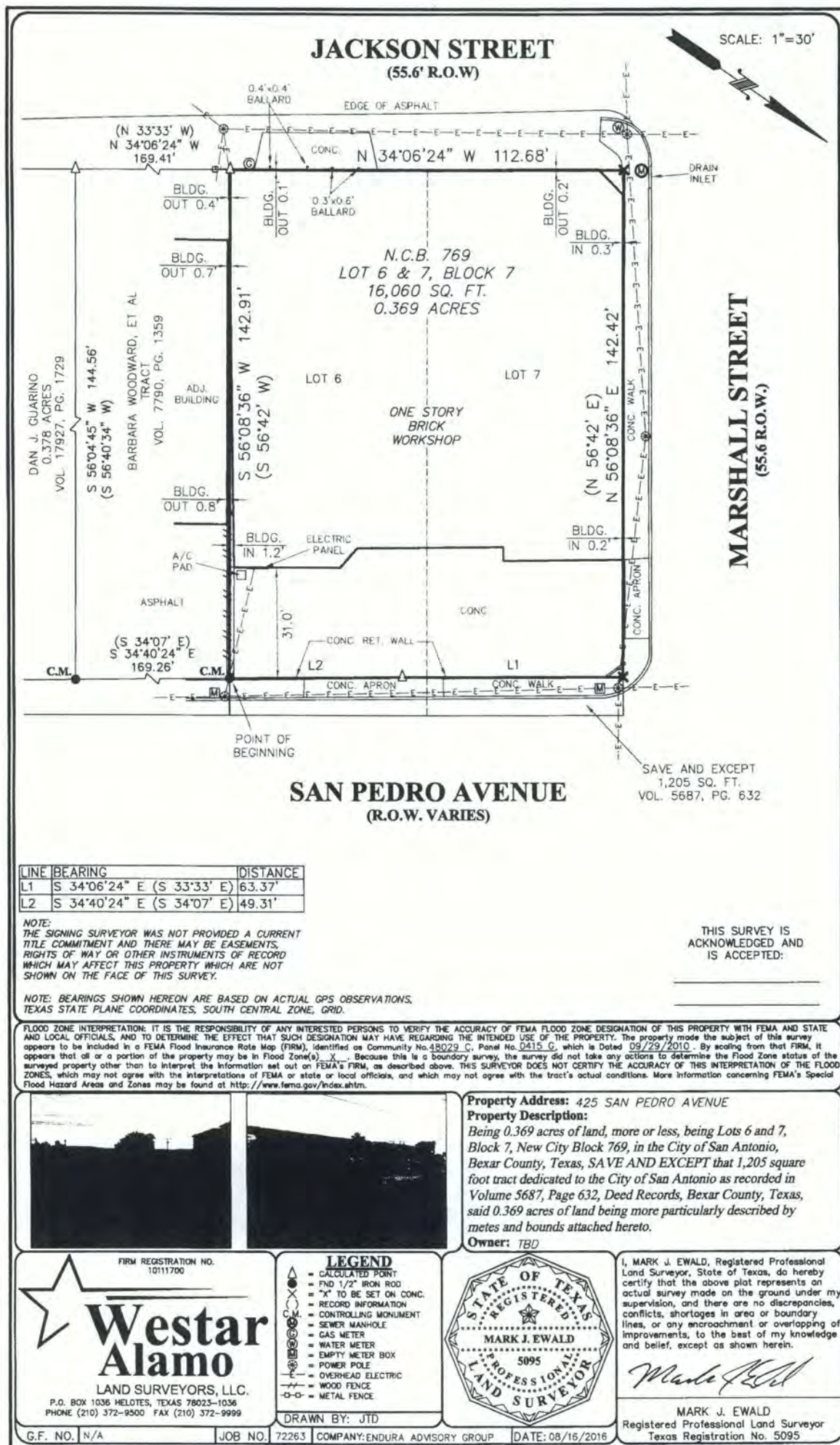


Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
October 12, 2016



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ATTACHMENT "2"
(425 San Pedro Avenue)



METES AND BOUNDS

Being 0.369 acres of land, more or less, being Lots 6 and 7, Block 7, New City Block 769, in the City of San Antonio, Bexar County, Texas, SAVE AND EXCEPT that 1,205 square foot tract dedicated to the City of San Antonio as recorded in Volume 5687, Page 632, Deed Records, Bexar County, Texas, said 0.369 acres of land being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found for the East corner of this 0.369 acres, same being the on the southeast line of said Lot 6 and on the southwest Right-of-Way line of San Pedro Avenue (Right-of-Way Varies), same also being the North corner of the Barbara Woodward, et al Tract (Volume 7790, Page 1359) and the **POINT OF BEGINNING**;

THENCE along the line common to this 0.369 acres and said Woodward Tract, South 56 degrees 08 minutes 36 seconds West (called South 56 degrees 42 minutes West), a distance of 142.91 feet to a point for South corner of this 0.369 acres, same being the West corner of said Woodward Tract and on the northeast Right-of-Way line of Jackson Street (being 55.6 feet wide);

THENCE along the East Right-of-Way line of said Jackson Street, North 34 degrees 06 minutes 24 seconds West, a distance of 112.68 feet to an "X" set on concrete for the West corner of this 0.369 acres, same being the West corner of said Lot 7 and on the northeast Right-of-Way line of said Jackson Street, same being on the southeast Right-of-Way line of Marshall Street (being 55.6 feet wide);

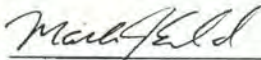
THENCE along the southeast Right-of-Way line of said Marshall Street, North 56 degrees 08 minutes 36 seconds East (called North 56 degrees 42 minutes East), a distance of 142.42 feet to an "X" cut in concrete for the North corner of this 0.369 acres, same being on the southeast Right-of-Way line of Marshall Street and on the southwest Right-of-Way line of said San Pedro Avenue, same also being on the northwest line of said Lot 7;

THENCE along the southwest Right-of-Way line of said San Pedro Avenue, the following courses and distances:

South 34 degrees 06 minutes 24 seconds East (called South 33 degrees 33 minutes East), a distance of 63.37 feet to a point for an angle corner;

South 34 degrees 40 minutes 24 seconds East (called South 34 degrees 07 minutes East), a distance of 49.31 feet to the **POINT OF BEGINNING**, and containing 0.369 acres, more or less.

I hereby certify that these field notes were prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. A survey plat of the above described tract prepared this day is hereby attached to and made a part hereof. Bearings shown herein are based on actual GPS observations, Texas State Plane Coordinates, South Central Zone, Grid.



Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
August 16, 2016



JYW
02/11/2021
Item No. 9

ATTACHMENT "3"
(Real Estate Purchase and Sales Contract – Mireles Properties LLC)

Real Estate Purchase and Sales Contract

(419 San Pedro Avenue, Texas)

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Preliminary Authorizing 2017-02-02-0052 (Urban Renewal
Ordinances: Plan); 2018-06-21-0505 (MOU)

Seller: Mireles Properties LLC
PO Box 37054
San Antonio, TX 78237-0054

Type of Entity: Texas limited liability company

Buyer: City of San Antonio, or its Assignee

Address: Neighborhood and Housing Services
Department, 1400 S. Flores Street,
San Antonio, Texas 78204
Attention: Neighborhood Improvement Bond
Program

Phone: 210-207-5460

Email: Deborah.Bell@sanantonio.gov
Jaime.Damron@sanantonio.gov

Type of Entity: Texas municipal corporation

Buyer's Counsel: Edward Guzman & Jameene Williams

Address: City Attorney's Office, P.O. Box 839966, San
Antonio, Texas 78283-3966

Phone: 210-207-8994(Victoria Shum) 210-
207-2094 (Jameene Williams)

Email: Jameene.Williams@sanantonio.gov
victoria.shum@sanantonio.gov

Property: 419 San Pedro Avenue (Property ID #108696), San Antonio,
Bexar County, Texas 78212 and being more particularly
described on **Exhibit A** attached hereto and incorporated herein

Title Company: Alamo Title Company

Address: 2915 W. Bitters Rd #301
San Antonio, Texas 78248

Phone: (210) 490-1313

Fax: (210) 490-1312

Email: Nannette.williams@alamotitle.com

Purchase Price: One Million One Hundred Seventy Five
Thousand and No/100 Dollars (\$1,175,000.00)

Independent Consideration: One Hundred and No/100 Dollars (\$100.00)

Fee: Five Thousand and No/100 Dollars (\$5,000.00)

Survey Category: Category 1A Texas Land Title Survey

1. Deadlines and Other Dates.

1.01. Earnest Money Deadline 3 Business Days after receipt of updated Environmental Site Assessment Phase I/II report ("ESA") from Seller.

1.02. Delivery of Title Commitment	15	Days after the Effective Date
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1.03. Delivery of Survey	30	Days after Effective Date
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1.04. Delivery of legible copies of instruments referenced in the Title Commitment and Survey	40 Days after the Effective Date
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1.05. Delivery of Asbestos Survey	15	Days after Effective Date
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1.06. Buyer's Title and Survey Objection Deadline	15 Days after receipt of (i) Title Commitment; (ii) Survey; and (iii) legible copies of instruments referenced in Title Commitment and Survey
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1.07. Seller's Cure Notice Deadline	15	Days after Buyer's Title and
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	Survey Objection Deadline	
1.08. Buyer's Termination Deadline for Title and Survey Defects	10	Days after Seller's Cure Notice Deadline
1.09. Seller to Provide Buyer a new or updated Phase I ESA and Phase II ESA (only if a Phase II is recommended in the new or updated Phase I) at Seller's Expense	30	Days after the Effective Date
1.10 Buyer's Feasibility Period Opens		On the Effective Date.
1.11 End of Feasibility Period	150	Day after the Effective Date (unless extended as provided below).
Extended End of Feasibility Period as applicable under Section 7.02	Two (2)	sixty 60 Day periods after End of Feasibility Period if extended as provided in Section 7.02
1.12. Closing Date	45	Days after End of Feasibility Period or Extended End of Feasibility Period, if applicable

The deadlines may be altered by the mutual agreement of the parties. The Director of the Neighborhood and Housing Services Department may consent to such changes on behalf of Buyer without further authorization of City Council.

2. Closing Documents.

2.01. At closing, Seller will deliver the following items:

Special Warranty Deed

IRS Nonforeign Person Affidavit

Evidence of Seller's authority to close this transaction

2.02. At closing, Buyer will deliver the following items:

Evidence of Buyer's authority to consummate this transaction

Purchase Price

2.03. The documents listed above are collectively known as the "Closing Documents." Unless otherwise agreed by the parties in writing before closing, the deed will be substantially in the form attached as **Exhibit C**.

2.04. The deed may except from warranty items reflected in Schedule B of the latest effective title commitment that have been accepted, or for which the cure has been waived, by Buyer (as provided herein). It may not except rights of parties in possession, survey-related matters, or other rights not arising out of a recorded instrument.

3. Exhibits.

The following are attached to and are part of this contract for all purposes as if fully set forth:

Exhibit A—Property Description

Exhibit B—Representations

Exhibit C—Form of Deed

Exhibit D—City of San Antonio, or its Assignee Receipt of Updated ESA Phase I

Exhibit E – "As Is" Addendum to Improved Commercial Contract

4. Purchase and Sale of Property.

4.01. Subject to the terms and provisions of this agreement ("Agreement"), Seller will convey the Property to Buyer, and Buyer will purchase the Property from Seller. The purchase and sale includes (a)(i) all buildings, fixtures, structures and improvements thereon; (ii) any strips or gores between the Property and all abutting properties; (ii) all roads, alleys, rights-of-way, easements, streets, and ways adjacent to or serving the Property and rights of ingress and egress thereto, whether surface, subsurface or otherwise; (iii) and land lying in the bed of any street, road, or access way, opened or proposed in front of, at a side of or adjoining the Property, to the centerline of such street, road or access way; and (b) all of Seller's rights, titles, and interests, if any, in and to (i) all mineral interests of any kind or character pertaining

to the Property; (ii) all water rights of any kind or character pertaining to the Property; (iii) all governmental or quasi-governmental permits, approvals, authorities, licenses, consents and bonds, if any, of any kind or character pertaining to the Property, including, without limitation, development rights, grandfathered or vested rights, and other governmental permits or approvals regarding the development and improvement of the Property; (iv) all permits, contracts, drainage easements, and rights of any kind or character to receive utilities services for the Property; and (v) all other transferable rights, privileges and appurtenances belonging or in any way pertaining to the Property.

4.02. Simultaneous Closing. It shall be a condition to Buyer's obligation to close hereunder that the closing of the transaction contemplated by this Agreement occur simultaneously with the closing of the property commonly known as 425 San Pedro by and between Marquee Investments LLC and the Buyer, upon terms acceptable to Buyer in Buyer's sole discretion. The promises by Buyer and Seller stated in this contract are the consideration for the formation of this contract.

5. Earnest Money.

5.01 Buyer shall deposit the Earnest Money with the Title Company no later than the Earnest Money Deadline. Title Company shall execute and deliver to both Buyer and Seller an earnest money receipt substantially in the form attached at the end of this Agreement.

5.02 Buyer may direct Title Company to invest the Earnest Money in an interest-bearing account in a federally insured financial institution by giving notice to Title Company and satisfying Title Company's requirements for investing the Earnest Money in an interest-bearing account. Any interest earned on the Earnest Money will be paid to the party that becomes entitled to the Earnest Money. Accrued interest is a credit against the Purchase Price at closing.

6. Title and Survey.

6.01. *Review of Title.* The following statutory notice is provided to Buyer on behalf of the real estate licensees, if any, involved in this transaction: Buyer is advised that it should either have the abstract covering the Property examined by an attorney of Buyer's own selection or be furnished with or obtain a policy of title insurance.

6.02. *Title Commitment; Title Policy.* "Title Commitment" means a Commitment for Issuance of an Owner Policy of Title Insurance by Title Company, as agent for Underwriter, stating the condition of title to the Land. The "effective date" stated in the Title Commitment must be after the Effective Date of this contract.

The Title Commitment must show Seller as the record title owner of the Land. "Title Policy" means an standard form of Texas Owner's Policy of Title Insurance issued by Title Company, as agent for Underwriter, in the amount of the Purchase Price and in conformity with the last Title Commitment delivered to and approved by Buyer, insuring Buyer's fee simple title to the Land as good and indefeasible subject to the terms of the Title Policy and the exceptions specified in it.

6.03. *Survey*. "Survey" means an on-the-ground, staked plat of survey and metes-and-bounds description of the Land, prepared by Surveyor or another surveyor satisfactory to Title Company, dated after the Effective Date, and certified to comply with the current standards and specifications as published by the Texas Society of Professional Surveyors for the Survey Category. Seller will deliver to Buyer and the Title Company a true and correct copy of Seller's most recent survey of the Property along with an Affidavit required by the Title Company for approval of the existing survey. If the existing survey is not acceptable to the Title Company, Seller, at Seller's expense, will obtain a new or updated survey acceptable to the Title Company and deliver the acceptable survey to Buyer and the Title Company within 20 days after Seller receives notice that the existing survey is not acceptable to the Title Company. Buyer will reimburse Seller one-half (1/2) of the cost of the new or updated survey at closing, if closing occurs.

6.04. *Delivery of Title Commitment and Survey*. Seller, at Seller's expense, must deliver the Title Commitment, the Survey and legible copies of instruments referenced in the Title Commitment and Survey by the deadlines stated in section 1. If the Property is out of a larger tract, the Commitment is not considered received by the Buyer for the purposes of this contract until the description of the Property has been provided by the Survey and the Commitment has been issued pertaining only to the Property as so described.

6.05. *Buyer's Objections*. Buyer has until the Buyer's Objection Deadline to review the Survey, Title Commitment, and legible copies of the title instruments referenced in them and notify Seller of Buyer's objections to any of them ("Buyer's Objections"). Buyer will be deemed to have approved all matters reflected by the Survey and Title Commitment to which Buyer has made no Buyer's Objection by the Buyer's Objection Deadline. The matters that Buyer either approves or is deemed to have approved are "Permitted Exceptions."

6.06. If Buyer notifies Seller of any Buyer's Objections, Seller has until Seller's Cure Notice Deadline to notify Buyer whether Seller agrees to cure the Buyer's Objections before closing ("Cure Notice"). If Seller does not timely give its Cure Notice or timely gives its Cure Notice but does not agree to cure all the Buyer's

Objections before closing, Buyer may, on or before Buyer's Termination Deadline, notify Seller that this contract is terminated. In absence of such timely notice, Buyer will proceed to close, subject to Seller's obligations to resolve the items listed in Schedule C of the Title Commitment, remove the liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date, and cure only the Buyer's Objections that Seller has agreed to cure in the Cure Notice.

6.07. *Mandatory Cure Items.* Despite any other provision of this Agreement, all liquidated liens disclosed in the Title Commitment (or any subsequent commitment); (ii) all other exceptions disclosed in the Title Commitment (or any subsequent commitment) arising on or after the Effective Date of this Agreement and are not attributable to actions by Buyer; and (iii) all Buyer Objections that Seller agrees in writing to cure at or prior to Closing (collectively, the "Mandatory Cure Items"), must be satisfied, cured, or removed by Seller, at Seller's sole cost and expense, at or before Closing.

6.08. *Cross-Collateralization.* If the Property is subject to liens securing indebtedness that is also secured by liens on land other than the Property, and if the amount of the indebtedness exceeds the Purchase Price less Seller's reasonably estimated closing costs, then the following provisions shall apply: During the Feasibility Period, Seller must obtain from the lienholder a binding written agreement ("Release Agreement") for the benefit of Seller and Buyer under which the lienholder agrees to provide a partial release of liens in conjunction with the Closing upon receipt of an amount that is equal or less than the Purchase Price less Seller's reasonably estimated closing costs. The Feasibility Period will be extended for not more than 90 days if necessary to obtain a Release Agreement, at no additional cost to Buyer. If the Release Agreement is not obtained within the 90 days, Buyer may terminate this Agreement and recover the Earnest Money and the Feasibility Period Extension Fee, if any, by giving notice to Seller at any time thereafter before receiving the Release Agreement.

6.09. *Asbestos Survey.* If any structures are located upon the property, Seller shall deliver an asbestos survey by the deadline stated in section 1. Seller will furnish an existing limited Asbestos Survey and existing Environmental Surveys to Buyer within fifteen (15) days after the Effective Date. Thereafter, if Buyer should require any other surveys, Buyer may obtain them during the Feasibility Period at Buyer's sole cost.

7. Feasibility Period.

7.01. *Entry onto the Property.* Buyer's feasibility begins upon Seller completing and providing the Buyer an updated ESA for review. At Buyer's expense,

Buyer may enter the Property before closing to inspect, conduct testing and make assessments of the Property as determined to be appropriate by Buyer, subject to the following:

- a. Buyer may not unreasonably interfere with existing operations or occupants of the Property; and
- b. if the Property is altered because of Buyer's inspections and Buyer does not purchase the Property, Buyer must return the Property to its preinspection condition promptly after terminating the contract.

7.02. *Extension.* Buyer may extend the Feasibility Period for up to two (2) sixty (60) day periods by depositing the Feasibility Period Extension Fee for each extension request with the Title Company before the End of Feasibility Period. Except as provided in section 6.08, the Feasibility Period Extension Fee is non-refundable and shall be applied to the Purchase Price at Closing.

7.03. *Buyer's Right to Terminate.* Buyer may terminate this contract for any reason by notifying Seller on or before the End of Feasibility Period or upon Buyer's compliance with section 7.02, on or before the End of Extended Feasibility Period. If Buyer elects to terminate this Agreement on or before the End of the Feasibility Period, the Earnest Money (less the Independent Consideration) shall be refunded to Buyer. If Buyer does not terminate this Agreement on or before the End of the Feasibility Period, the Earnest Money shall become non-refundable and shall be applied to the Purchase Price at Closing; provided that the Earnest Money shall be refundable after the End of the Feasibility Period under the limited exception provided for in section 6.08.

8. Representations.

The parties' representations stated in **Exhibit B** are true and correct as of the Effective Date and must be true and correct on the Closing Date.

9. Condition until Closing; Cooperation.

9.01. *Condemnation.* Seller will notify Buyer promptly after Seller receives notice that any part of the Property has been or is threatened to be condemned or otherwise taken by a governmental or quasi-governmental authority. Buyer may terminate this contract if the condemnation would materially affect Buyer's intended use of the Property by giving notice to Seller within fifteen days after receipt of Seller's notice to Buyer (or before closing if Seller's notice is received less than fifteen days before closing). If Buyer does not terminate this contract, (a) Buyer and Seller will each have the right to appear and defend their respective interests in the

Property in the condemnation proceedings, (b) any award in condemnation will be assigned to Buyer, and (c) if the taking occurs before closing, the description of the Property will be revised to delete the portion taken.

9.02. *Claims; Hearings.* Seller will notify Buyer promptly of any claim or administrative hearing that is threatened, filed, or initiated before closing that affects the Property.

9.03. *Cooperation.* Seller will cooperate with Buyer (a) before and after closing, to transfer the applications, permits, and licenses held by Seller and used in the operation of the Property and to obtain any consents necessary for Buyer to operate the Property after closing and (b) before closing, with any reasonable evaluation, inspection, audit, or study of the Property prepared by, for, or at the request of Buyer.

9.04. *Maintenance and Operation.* Until the Closing Date, Seller will (a) maintain the Property as it existed on the Effective Date, except for reasonable wear and tear and casualty damage; (b) operate the Property in the same manner as it was operated on the Effective Date; and (c) comply with all contracts and governmental regulations affecting the Property.

9.05. *Casualty Damage.* Seller will notify Buyer promptly after discovery of any casualty damage to the Property. Seller will have no obligation to repair or replace the Property if it is damaged by casualty before closing. Buyer may terminate this Agreement if the casualty damage that occurs before closing would materially affect Buyer's intended use of the Property, by giving notice to Seller within 15 days after receipt of Buyer's notice of such casualty damage from Seller. If Buyer does not terminate this Agreement, Seller will convey the Property to Buyer in its damaged condition.

10. Termination.

10.01. If Buyer terminates this contract in accordance with any of Buyer's rights to terminate, Seller will, within five days of receipt of Buyer's termination notice, authorize Title Company to deliver the Earnest Money to Buyer within three (3) business days after Buyer's termination notice to the Title Company of such termination, less the Independent Consideration. Seller retains the Independent Consideration.

10.02. If Seller terminates this contract because of Buyer's default, Buyer will, within five days of receipt of Seller's termination notice, authorize Title

Company to pay and deliver the Earnest Money, including the Independent Consideration, to Seller.

11. Allocation of Closing Costs.

11.01. Seller will pay:

- a. the basic charge for the Title Policy;
- b. one-half of the escrow fee charged by Title Company;
- c. the costs to prepare the deed;
- d. the costs to obtain, deliver, and record releases of all liens to be released at closing;
- e. the costs to insure around liens not released, if any;
- f. the costs to record all documents to cure Buyer's Objections agreed to be cured by Seller;
- g. Title Company's inspection fee to delete from the Title Policy the customary exception for parties in possession;
- h. the costs to obtain the UCC Search, and certificates or reports of ad valorem taxes and one-half (1/2) of the Survey cost.
- i. the costs to deliver copies of the instruments described in article 1; and
- j. Seller's expenses and attorney's fees;
- k. Seller's Brokers' Commissions as specified in Section 11.07.

11.02. Buyer will pay:

- a. one-half of the escrow fee charged by Title Company;
- b. the costs to obtain, deliver, and record all documents other than those to be recorded at Seller's expense;

c. the costs of work required by Buyer to have the survey reflect matters other than those required under this contract; and

d. Buyer's expenses and attorney's fees.

11.03. *Ad Valorem Taxes.* Ad valorem taxes for the Property for the calendar year of closing will be prorated between Buyer and Seller as of the Closing Date according to Section 26.11 of the Texas Tax Code. In no event is Buyer liable for any roll back taxes.

11.04. *Income and Expenses.* Income and expenses pertaining to operation of the Property will be prorated as of the Closing Date on an accrual basis and paid at closing as a credit or debit adjustment to the Purchase Price. Invoices that are received after closing for operating expenses incurred on or before the Closing Date and not adjusted at closing will be prorated between the parties as of the Closing Date, and Seller will pay its share within ten days of notice of Buyer's invoice.

11.05. *Prepaid Rent.* Buyer gets a credit at closing for all rent previously paid to Seller allocable to the period after closing.

11.06. *Postclosing Adjustments.* If errors in the prorations made at closing are identified within ninety days after closing, Seller and Buyer will make postclosing adjustments to correct the errors within fifteen days of receipt of notice of the errors.

11.07. *Brokers' Commissions.* At closing, Seller shall pay (1) Providence Commercial Real Estate Services, as Buyer's broker, a real estate brokerage fee equal to 2% of the Purchase Price; and (2) a real estate brokerage fee to Obsido Commercial, LLC, as Seller's broker, as set forth in a separate agreement between Seller and Seller's broker. Each party represents to the other that no other commissions are due in respect of this transaction. In the event of a dispute over the amount or allocation of the commissions, the Title Company may nevertheless close the transaction and deliver the deed to Buyer, holding open only the distribution of proceeds to Seller.

12. Closing.

12.01. *Closing.* This transaction will close at Title Company's offices at the Closing Date and Closing Time. At closing, the following will occur:

a. *Closing Documents.* The parties will execute and deliver the Closing Documents.

- b. *Payment of Purchase Price.* Buyer will deliver the Purchase Price and other amounts that Buyer is obligated to pay under this contract to Title Company in funds acceptable to Title Company. The Earnest Money and the Feasibility Period Extension Fee, if any, will be applied to the Purchase Price.
- c. *Disbursement of Funds; Recording; Copies.* Title Company will be instructed to disburse the Purchase Price and other funds in accordance with this contract, record the deed and the other Closing Documents directed to be recorded, and distribute documents and copies in accordance with the parties' written instructions.
- d. *Delivery of Originals.* Seller will deliver to Buyer the originals of Seller's Records.
- e. *Possession.* Seller will deliver possession of the Property to Buyer, subject to the Permitted Exceptions existing at closing and any lien and security interest in favor of Seller, if the sale is seller-financed.
- f. Buyer need not close if Seller cannot or does not deliver indefeasible title at closing. If Buyer does not close for want of indefeasible title, the earnest money is returned to Buyer.
- g. Buyer will receive at closing the basic title policy plus endorsements removing the survey exception and the exception for rights of parties in possession.

13. Default and Remedies.

13.01. *Seller's Default.* If Seller fails to perform any of its obligations under this contract or if any of Seller's representations is not true and correct as of the Effective Date or on the Closing Date ("Seller's Default"), Buyer has the following remedies:

a. *Termination.* Buyer may terminate this contract by giving notice to Seller on or before the Closing Date and Closing Time and have the Earnest Money returned to Buyer. Seller retains the Independent Consideration.

. *Specific Performance.* Buyer may enforce specific performance of Seller's obligations under this contract. If title to the Property is awarded to

Buyer, the conveyance will be subject to the matters stated in the Title Commitment.

b. Damages. Buyer may sue for its damages caused by Seller's default.

13.02. *Buyer's Default.* If Buyer fails to perform any of its obligations under this contract ("Buyer's Default"), Seller may, as its sole and exclusive remedy, terminate this contract by giving notice to Buyer on or before the Closing Date and Closing Time and have the Earnest Money, including the Independent Consideration, paid to Seller.

13.03. *Liquidated Damages.* The parties agree that just compensation for the harm that would be caused by Buyer's default cannot be accurately estimated or would be very difficult to accurately estimate and that the Earnest Money is a reasonable forecast of just compensation to Seller for the harm that would be caused by Buyer's default.

14. Miscellaneous Provisions.

14.01. *Applicable Law.* This Agreement is entered into in San Antonio, Bexar County, state of Texas. **The Construction Of This Agreement And The Rights, Remedies, And Obligations Arising Thereunder Shall Be Governed By The Laws Of The State Of Texas.** Provided, however, the Texas conflicts of law rules shall not be used to cause the application of the laws of a jurisdiction other than Texas. The obligations performable hereunder by both parties are performable in San Antonio, Bexar County, Texas.

14.02. *Severability.* If any portion hereof is determined to be invalid or unenforceable, the determination does not affect the remainder hereof.

14.03. *Successors.* This Agreement inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

14.04. *Integration.* **This Written Agreement Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties.**

14.05. *Modification.* This Agreement may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. Subject to the foregoing, any of the terms of this Agreement

may be modified at any time by the party entitled to the benefit thereof, but no such modification, express or implied, affects the right of the modifying party to require observance of either (i) the same term or condition as it applies on a subsequent or previous occasion or (ii) any other term hereof.

14.06 *Third Party Beneficiaries.* This Agreement is intended for the benefit of the parties hereto and their successors and permitted assigns only. There are no third party beneficiaries hereof.

14.07. *Notices.* Any notice provided for or permitted hereunder must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth in the preamble hereof. If the addressee is a corporation, notices must be addressed to the attention of its President. The giving of notice is complete three days after its deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to conform to the requirement that mailings be done by certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice hereunder.

14.08. *Pronouns.* In construing this Agreement, plural constructions include the singular, and singular constructions include the plural. No significance attaches to whether a pronoun is masculine, feminine, or neuter. The words "herein," "hereof," and other, similar compounds of the word "here" refer to this entire Agreement, not to any particular provision of it.

14.09. *Captions.* Paragraph captions in this Agreement are for ease of reference only and do not affect the interpretation hereof.

14.10. *Mediation.* As a condition precedent to bringing any action to enforce or interpret this Agreement or any aspect thereof, including an action for declaratory relief, the disputants must first submit in good faith to mediation by a mediator qualified under § 154.052, Texas Civil Practice and Remedies Code. Suit may be filed only after the sooner to occur of (i) a full day of mediation by a mediator qualified as provided above or (ii) certification by the mediator that further attempts to mediate would be fruitless. Laches, waiver, and estoppel based upon any reasonable delay relating to attempts to mediate as herein provided may not be asserted by either party hereto.

14.11. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this Agreement, it is not necessary to produce or

account for more counterparts than are necessary to show execution by or on behalf of all parties.

14.12. *Further Assurances.* The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. No such additional document(s), however, may alter the rights or obligations of the parties as contained in this Agreement

14.13. *Assignment.* Buyer may assign this contract and Buyer's rights under it to a third party including, but not limited to, the Office of Urban Redevelopment San Antonio ("OUR SA"), also known as the Urban Renewal Agency of San Antonio without payment of additional consideration. This contract binds, benefits, and may be enforced by the parties and their respective heirs, successors, and assigns.

14.14. *Survival.* The obligations of this contract that cannot be performed before termination of this contract or before closing will survive termination of this contract or closing, and the legal doctrine of merger will not apply to these matters. If there is any conflict between the Closing Documents and this contract, the Closing Documents will control.

14.15. *Ambiguities Not to Be Construed against Party Who Drafted Contract.* The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this contract.

14.16. *No Special Relationship.* The parties' relationship is an ordinary commercial relationship, and they do not intend to create the relationship of principal and agent, partnership, joint venture, or any other special relationship.

14.17. *Incorporation by Reference.* All exhibits to this Agreement are incorporated into it by reference for all purposes as if fully set forth.

14.18. *Administrative Agreements.* The Director of Neighborhood and Housing Services Department ("NHSD") and the Assistant Director of NHSD may, without further City Council action, agree to, sign, and deliver on behalf of the City an assignment of this Agreement to OUR SA in furtherance of the City's Urban Renewal Plan, and such other consents, certificates, memoranda, estoppels, and modifications of nonmaterial rights and obligations arising under this Agreement and may declare defaults and pursue remedies for such defaults.

14.19 *1031 Transaction.* Buyer is aware that Seller intends to perform an IRC Section 1031 tax-deferred exchange. Seller requests Buyer's cooperation in such an exchange and agrees to hold buyer harmless from any and all claims, costs, liabilities,

or delays in time resulting from such an exchange. Buyer agrees to an assignment of this contract to a qualified intermediary by the Seller.

15. Prohibited Interest in Contracts.

15.01. The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

15.02. Seller warrants and certifies as follows:

- (i) Seller and its officers, employees and agents are neither officers nor employees of the City.
- (ii) Seller has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

15.03. Seller acknowledges that City's reliance on the above warranties and certifications and certifications is reasonable.

16. City Council Approval.

Closing is contingent upon approval by the City Council of the City of San Antonio. If the City Council of the City of San Antonio does not give its approval to close this transaction on or before date and time for Closing, this Agreement shall terminate without further action by the parties. Should such termination occur, the Earnest Money shall be distributed to Seller.

17. Public Information.

Seller acknowledges that this instrument and all documents ancillary to it are public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public. Nothing in this agreement waives an otherwise applicable exception to disclosure.

City of San Antonio,
a Texas municipal corporation

By: RSoto

Printed
Name: Veronica R. Soto

Title: Director

Date: 9.16.20

Mireles Properties LLC, a Texas
limited liability company

By: R. C. Mireles

Printed
Name: R. C. Mireles

Title: MGR

Date: 9/8/2020

Approved As to Form:

Jameene Williams
City Attorney

CONSENT FOR ACCESS TO PROPERTY

NAME OF PROPERTY OWNER: Mireles Properties LLC

STREET NUMBER AND STREET NAME OF PROPERTY:

419 San Pedro Avenue (Property ID #108696), San Antonio, Bexar County, Texas 78212,
NCB 769 BLK 7 LOT W IRR 143.25 FT OF 5 EXC S 2 FT OF W 71.63 FT, 3 EXC
E IRR 8.62 FT, W IRR 143.82 FT OF 4 & 52 FT OF W 71.65 OF 5

I hereby consent to officers, employees, authorized representatives of the City of San Antonio, and their contractors, subcontractors and consultants "the City" the right to enter the property and continued access and use of by, through, and on the property to perform an Environmental Site Assessment for the following purposes:

1. The taking of samples, surface and subsurface, including but not limited to soil, sediments, water, and vapor, and other solids or liquids stored or disposed of at the property as may be determined to be necessary by the City;
2. The documenting of scientific and engineering observations, including, but not limited to taking notes, recordings, photographs and surveying;
3. The drilling and finishing of boreholes for the purposes of collecting soil and groundwater samples without limitation;
4. Other inquiry actions at the property as may be necessary to determine the nature, extent and potential threat to human health, property and environment of any suspected contamination.

I am the property owner or an individual having the authority or the authorization of the property owner to sign this *Consent for Access to Property*. (If representing the owner, please attach a letter confirming that you have the authorization of the property owner to this Consent for Access to Property). I give this written permission voluntarily with the full knowledge of my right to refuse and without threats or promises of any kind.

Please indicate if you are granting access by signing this document, and providing your address telephone number(s), or e-mail address so that you may be contacted.

Mireles Properties LLC:

Name (Printed): R. C. Mireles Date: 9/8/2020

Name (Signature): R. C. Mireles

Address: Po Box 37054 SATX 78237

Email: Mirelesproperties@SBCglobal.net


Telephone Number (s): Work: 210 Other:
-744-8002

Title Company Acceptance of Escrow and Receipt for Contract

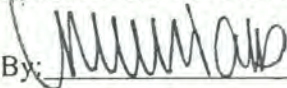
Sellers: Mireles Properties LLC
PO Box 37054
San Antonio, TX 78237-0054

Buyer: City of San Antonio or its assignee
1400 S. Flores Street
San Antonio, TX 78204
Neighborhood Improvement Bond

Property: 419 San Pedro Avenue (Property ID #108696) San Antonio, Bexar County, Texas 78212 and being more particularly described on Exhibit A attached hereto and incorporated herein

 Title Company agrees to act as escrow agent according to the terms of this Contract. Further, ~~Title Company acknowledges receipt from Buyer of three fully executed counterpart originals of the Contract on the same date, with one fully executed original Contract being returned to each of Seller and Buyer.~~

ALAMO TITLE COMPANY

By: 

Printed Name: Nannerre Williams

Title: Escrow Officer

Date: September 17, 2020

Title Company Receipt for Earnest Money

Seller: Mireles Properties LLC
PO Box 37054
San Antonio, TX 78237-0054

Buyer: City of San Antonio or its assignee
1400 S. Flores Street
San Antonio, TX 78204
Neighborhood Improvement Bond

419 San Pedro Avenue (Property ID #108696) San Antonio, Bexar County,
Property: Texas 78212 and being more particularly described on Exhibit A attached
hereto and incorporated herein

Title Company acknowledges receipt from Buyer of earnest money in the amount set forth below:

Amount: _____

ALAMO TITLE COMPANY

By: _____

Printed

Name: _____

Title: _____

Date: _____

Exhibit A: Property Description

419 San Pedro Avenue, San Antonio, TX 78212, Property ID #108696, NCB 769 BLK
LOT W IRR 143.25 FT OF 5 EXC S 2 FT of W 71.63, 3 EXC E IRR 143.82 FT OF 4 & 52
FT OF W 71.65 OF 5

Exhibit B: Representations

To the best of the seller's knowledge, seller represents to Buyer that the following are true and correct as of the Effective Date and will be true and correct on the Closing Date.

1. *Authority.* Seller is a limited liability company duly organized, validly existing, and in good standing under the laws of the state of Texas with authority to convey the Property to Buyer. This contract is, and all documents required by this contract to be executed and delivered to Buyer at closing will be, duly authorized, executed, and delivered by Seller.

2. *Litigation.* Seller has not received written notice of any litigation pending or threatened against Seller that might affect the Property or Seller's ability to perform its obligations under this contract.

3. *Violation of Laws.* Seller has not received any written notice of violation of any law, ordinance, regulation, or requirements affecting the Property or Seller's use of the Property.

4. *Condemnation; Zoning; Land Use; Hazardous Materials.* Seller has not received any written notice of any condemnation, zoning, or land-use proceedings affecting the Property or any inquiries or notices by any governmental authority or third party with respect to the presence of hazardous materials on the Property or the migration of hazardous materials from the Property.

5. *No Other Obligation to Sell the Property or Restriction against Selling the Property.* Except for granting a security interest in the Property, Seller has not obligated itself to sell the Property to any party other than Buyer. Seller's performance of this contract will not cause a breach of any other agreement or obligation to which Seller is a party or to which it is bound.

6. *No Liens.* On the Closing Date, the Property will be free and clear of all mechanic's and materialman's liens and other liens and encumbrances of any nature except the Permitted Exceptions, and no work or materials will have been furnished to the Property that might give rise to mechanic's, materialman's, or other liens against the Property other than work or materials to which Buyer has given its consent.

7. *Prepaid Rent.* As of closing, Seller has received no prepaid rent except as reflected on the closing statement as a credit to Buyer.

8. *Wells.* Seller has no actual knowledge of any water or other wells on the Property, capped or uncapped, registered or unregistered.

9. *Underground Storage Tanks.* Seller has no actual knowledge of any underground storage tanks of any kind on the Property.

10. *Property is Vacant.* There are no households, families, or individuals residing on or occupying the Property; the Property is vacant. No household, family or individual has been or will be displaced as a result of or in furtherance of this Agreement.

11. *Transaction is Voluntary.* Seller is entering into this Agreement as a voluntary act, and free from any compulsion, condemnation or threat thereof by Buyer.

As used above, "actual knowledge" (1) means only the actual knowledge of Seller's principle, ROY MIRELES, and no other person or entity including, without limitation, Seller's members, employees, agents and consultants and (2) does not include constructive, implied, imputed or inquiry notice or knowledge.

Exhibit C: Form of Deed

Notice of Confidentiality Rights: If You Are a Natural Person, You May Remove or Strike Any or All the Following Information from Any Instrument That Transfers an Interest in Real Property Before it Is Filed for Record in the Public Records: Your Social Security Number or Your Driver's License Number.

**SPECIAL WARRANTY DEED
(AND ASSIGNMENT OF CLAIMS)**

**Authorizing Ordinance
to Purchase:**

SP No./Parcel:

Grantors: Mireles Properties LLC

**Grantor's Mailing
Address:** Mireles Properties LLC
PO Box 37054
San Antonio, TX 78237-005

Grantee: City of San Antonio
Neighborhood and Housing Services Department

**Grantee's Mailing
Address (including county):** 1400 S. Flores
San Antonio, Texas 78204
Attention: Neighborhood Improvement Bond Program

\$10 in hand paid and other good and valuable
Consideration: consideration, the receipt and sufficiency of
which are hereby acknowledged.

Property: [to be inserted after receipt of title commitment and
survey]

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, **grants, sells, and conveys the Property to Grantee**, together with all and singular the rights and appurtenances thereto in anywise belonging;

To Have and To Hold the above described Property to Grantee, and Grantee's heirs and assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereto by through or under Grantor, but not otherwise.

The Property, together with any and all improvements, structures and fixtures located thereon, is conveyed "AS IS" and "WHERE IS" and with all rights, privileges, rights of way, and easements appurtenant thereto.

When the context requires, singular nouns and pronouns include the plural and plural ones include the singular.

Assignment of Claims

In addition to the conveyance of real estate addressed above, Grantor hereby assigns to Grantee all choate and inchoate statutory and common-law claims, if any, it may have against its predecessors in title and against any other potentially responsible person for environmental contamination of the Property now known or later found to exist.

Date: _____

Grantors:

Mireles Properties LLC

By: _____

Title: _____

Draft. This is only to show the agreed form of the final document. This draft is neither ready nor suitable to be signed.

THE STATE OF TEXAS §

COUNTY OF BEXAR §

This instrument was acknowledged before me by _____.

Date: _____

Notary Public, State of Texas
My commission expires: _____

THE STATE OF TEXAS §

COUNTY OF BEXAR §

This instrument was acknowledged before me by _____.

Date: _____

Notary Public, State of Texas

My commission expires: _____

Approved as to Form:

City Attorney

After recording, please return to:

City of San Antonio
Neighborhood and Housing Services Department
1400 S. Flores
San Antonio, Texas 78204
Attention: Neighborhood Improvement Bond Program

**Exhibit D: City of San Antonio, or its Assignee Receipt of Updated
ESA Phase I and/or Phase II (if required)**

**City of San Antonio, or its Assignee Receipt of
Updated ESA Phase I and/or Phase II (if
required)**

Seller: Mireles Properties LLC
PO Box 37054
San Antonio, TX 78237-0054

City of San Antonio or its assignee
1400 S. Flores Street
Buyer: San Antonio, TX 78204
Neighborhood Improvement Bond

419 San Pedro Avenue (Property ID #108696), San Antonio, Bexar County,
Texas 78212 and being more particularly described on Exhibit A attached
Property: hereto and incorporated herein.

City of San Antonio or its assignee acknowledges receipt from Sellers of updated
ESA Phase I. and/or Phase II (if required)

City of San Antonio, or its Assignee

By: _____

Printed
Name: _____

Title: _____

Date: _____


Exhibit E: "AS IS" ADDENDUM TO IMPROVED COMMERCIAL CONTRACT

This is an Addendum to the one certain Improved Commercial Contract ("Contract") to which it is attached, wherein and herein MIRELES PROPERTIES LLC is Seller and CITY OF SAN ANTONIO, OR ITS ASSIGNEE is Buyer, regarding the following described property:

**Lot W IRR 143.25 ft of 5 EXC S 2 ft of W 71.63, 3 EXC E IRR
143.82 ft of 4 & 52 ft of W 71.65 of 5; more commonly known as
419 San Pedro Avenue, San Antonio, Texas 78212; Property ID
#108696**

Accordingly, notwithstanding anything to the contrary expressed or implied in the Contract, it is agreed as follows, to-wit:

To the maximum extent permitted by applicable law and except for any warranties of title to be contained in the deed to Buyer at Closing and expressly contained in this Contract, ("Seller's Warranties"). This Contract is being entered into and this sale is made and will be made without representation, covenant, or warranty whether express or implied by Seller of any kind or character whatsoever and any such previously made are agreed to be withdrawn, disclaimed and cancelled. As a material part of the consideration for this Contract, Buyer agrees to accept the Property on an "AS IS" and "WHERE IS" basis, with all faults, defects and deficiencies, and without any representation or warranty, all of which Seller hereby disclaims and Buyer hereby waives, except for Seller's Warranties. Except for Seller's Warranties, no warranty or representation is made by Seller as to the Property's fitness for any particular purpose, safety, suitability, merchantability, design, quality, condition, operation, or income, compliance with drawings, maps, platting requirements or surveys, absence of defects, absence of hazardous or toxic substances, absence of faults, previous owners, likelihood of flooding, or compliance with laws, rules, ordinances, and regulations including, without limitation, those relating to health, safety, toxic substances, and the environment and endangered species laws. Buyer acknowledges that Buyer has entered into the Contract with the intention of making and relying upon its own investigation of the physical, environmental, economic use, compliance and legal condition of the Property in making a decision to purchase the Property, and that Buyer is not now relying, and will not now or later rely upon any representations and warranties made by Seller or anyone acting or claiming to act, by, through or under or on Seller's behalf concerning the Property, except for Seller's Warranties. The provisions of this Addendum shall survive indefinitely the closing or any earlier termination of this Contract

Initials:


and shall not be merged into the closing documents, and a provision stating the above shall, at the option of Seller, be included in the deed of conveyance.

Executed in duplicate originals of even date with the Contract.

BUYER:

CITY OF SAN ANTONIO,
a Texas municipal corporation

BY: RSoto

TITLE: Director, NHSD

DATE: 9.16.20

SELLER:

MIRELES PROPERTIES LLC, a Texas
limited liability company

BY: R.C. Mireles

TITLE: Mgn

DATE: 9/8/2020

JYW
02/11/2021
Item No. 9

ATTACHMENT “4”
(Real Estate Purchase and Sales Contract – Marquee Investments LLC)

Real Estate Purchase and Sales Contract

(425 San Pedro Avenue, Texas)

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Preliminary Authorizing 2017-02-02-0052 (Urban Renewal Plan);

Ordinances: 2018-06-21-0505 (MOU)

Seller: Marquee Investments LLC

PO Box 82653

Austin, TX 78708-2653

Type of Entity: Texas limited liability company

Buyer: City of San Antonio, or its Assignee

Address: Neighborhood and Housing Services
Department, 1400 S. Flores Street,
San Antonio, Texas 78204
Attention: Neighborhood Improvement Bond
Program

Phone: 210-207-5460

Email: Deborah.Bell@sanantonio.gov
Jaime.Damron@sanantonio.gov

**Type of
Entity:** Texas municipal corporation

Buyer's Counsel: Edward Guzman & Jameene Williams

Address: City Attorney's Office, P.O. Box 839966, San
Antonio, Texas 78283-3966

Phone: 210-207-8894 (Victoria Shum)
210-207-2094 (Jameene Williams)

Email: victoria.shum@sanantonio.gov
Jameene.Williams@sanantonio.gov

Property: 425 San Pedro Avenue (Property ID #108697), San Antonio,
Bexar County, Texas 78212 and being more particularly
described on **Exhibit A** attached hereto and incorporated herein

Title Company: Alamo Title Company

Address: 2915 W. Bitters Rd #301
San Antonio, Texas 78248

Phone: (210) 490-1313

Fax: (210) 490-1312

Email: Nannette.williams@alamotitle.com

**Purchase
Price:** Eight Hundred and Twenty Five Thousand and
No/Dollars (\$825,000)

Earnest Money: Twenty Five Thousand and No/100 Dollars (\$25,000.00)

Independent Consideration: One Hundred and No/100 Dollars (\$100.00)

Feasibility Period Extension

Fee: Five Thousand and No/100 Dollars (\$5,000.00)

Effective Date: The date a representative of the Title Company signs a receipt for this fully executed contract.

Survey Category: Category 1A Texas Land Title Survey

County for Performance Bexar County, Texas

1. Deadlines and Other Dates.

All deadlines in this contract expire at 5:00 P.M. local time where the Property is located. If a deadline falls on a Saturday, Sunday, or national holiday, the deadline will be extended to the next day that is not a Saturday, Sunday, or national holiday. A national holiday is a holiday designated by the federal government. Time is of the essence.

1.01.	Earnest Money Deadline	3	Business Days after receipt of updated Environmental Site Assessment Phase I/II report ("ESA") from Seller.
1.02.	Delivery of Title Commitment	15	Days after the Effective Date
1.03.	Delivery of Survey	30	Days after Effective Date
1.04.	Delivery of legible copies of instruments referenced in the Title Commitment and Survey	40	Days after the Effective Date
1.05.	Delivery of Asbestos Survey	15	Days after Effective Date
1.06.	Buyer's Title and Survey Objection Deadline	15	Days after receipt of (i) Title Commitment; (ii) Survey; and (iii) legible copies of instruments referenced in Title Commitment and Survey
1.07.	Seller's Cure Notice Deadline	15	Days after Buyer's Title and

			Survey Objection Deadline
1.08.	Buyer's Termination Deadline for Title and Survey Defects	10	Days after Seller's Cure Notice Deadline
1.09	1) Seller to Provide Buyer a new or updated Phase I ESA and Phase II ESA (only if a Phase II is recommended in the new or updated Phase I) at Seller's Expense; and 2) Seller to remove all hydraulic lifts in the Property at Seller's Expense	30	Days after Effective Date
1.10.	Buyer's Feasibility Period Opens		On the Effective Date
1.11	End of Feasibility Period	150	Days after the Effective Date (unless extended as provided below).
	Extended End of Feasibility Period as applicable under Section 7.02		Two (2) sixty 60 Day periods after End of Feasibility Period if extended as provided in Section 7.02
1.12.	Closing Date	45	Days after End of Feasibility Period or Extended End of Feasibility Period, if applicable

The deadlines may be altered by the mutual agreement of the parties. The Director of the Neighborhood and Housing Services Department may consent to such changes on behalf of Buyer without further authorization of City Council.

2. Closing Documents.

2.01. At closing, Seller will deliver the following items:

Special Warranty Deed

IRS Nonforeign Person Affidavit

Evidence of Seller's authority to close this transaction

2.02. At closing, Buyer will deliver the following items:

Evidence of Buyer's authority to consummate this transaction

Purchase Price

2.03. The documents listed above are collectively known as the "Closing Documents." Unless otherwise agreed by the parties in writing before closing, the deed will be substantially in the form attached as **Exhibit C**.

2.04. The deed may except from warranty items reflected in Schedule B of the latest effective title commitment that have been accepted, or for which the cure has been waived, by Buyer (as provided herein). It may not except rights of parties in possession, survey-related matters, or other rights not arising out of a recorded instrument.

3. Exhibits.

The following are attached to and are part of this contract for all purposes as if fully set forth:

Exhibit A—Property Description

Exhibit B—Representations

Exhibit C—Form of Deed

Exhibit D—City of San Antonio, or its Assignee Receipt of Updated ESA
Phase I and Phase II

4. Purchase and Sale of Property.

4.01. Subject to the terms and provisions of this agreement ("Agreement"), Seller will convey the Property to Buyer, and Buyer will purchase the Property from Seller. The purchase and sale includes (a)(i) all buildings, fixtures, structures and improvements thereon; (ii) any strips or gores between the Property and all abutting properties; (ii) all roads, alleys, rights-of-way, easements, streets, and ways adjacent to or serving the Property and rights of ingress and egress thereto, whether surface, subsurface or otherwise; (iii) and land lying in the bed of any street, road, or access

way, opened or proposed in front of, at a side of or adjoining the Property, to the centerline of such street, road or access way; and (b) all of Seller's rights, titles, and interests, if any, in and to (i) all mineral interests of any kind or character pertaining to the Property; (ii) all water rights of any kind or character pertaining to the Property; (iii) all governmental or quasi-governmental permits, approvals, authorities, licenses, consents and bonds, if any, of any kind or character pertaining to the Property, including, without limitation, development rights, grandfathered or vested rights, and other governmental permits or approvals regarding the development and improvement of the Property; (iv) all permits, contracts, drainage easements, and rights of any kind or character to receive utilities services for the Property; and (v) all other transferable rights, privileges and appurtenances belonging or in any way pertaining to the Property.

4.02. **Simultaneous Closing.** It shall be a condition to Buyer's obligation to close hereunder that the closing of the transaction contemplated by this Agreement occur simultaneously with the closing of the property commonly known as 419 San Pedro by and between Mireles Properties LLC and the Buyer, upon terms acceptable to Buyer in Buyer's sole discretion. The promises by Buyer and Seller stated in this contract are the consideration for the formation of this contract.

5. Earnest Money.

5.01 Buyer shall deposit the Earnest Money with the Title Company no later than the Earnest Money Deadline. Title Company shall execute and deliver to both Buyer and Seller an earnest money receipt substantially in the form attached at the end of this Agreement.

5.02 Buyer may direct Title Company to invest the Earnest Money in an interest-bearing account in a federally insured financial institution by giving notice to Title Company and satisfying Title Company's requirements for investing the Earnest Money in an interest-bearing account. Any interest earned on the Earnest Money will be paid to the party that becomes entitled to the Earnest Money. Accrued interest is a credit against the Purchase Price at closing.

6. Title and Survey.

6.01. *Review of Title.* The following statutory notice is provided to Buyer on behalf of the real estate licensees, if any, involved in this transaction: Buyer is advised that it should either have the abstract covering the Property examined by an attorney of Buyer's own selection or be furnished with or obtain a policy of title insurance.

6.02. *Title Commitment; Title Policy.* "Title Commitment" means a Commitment for Issuance of an Owner Policy of Title Insurance by Title Company,

as agent for Underwriter, stating the condition of title to the Land. The "effective date" stated in the Title Commitment must be after the Effective Date of this contract. The Title Commitment must show Seller as the record title owner of the Land. "Title Policy" means an standard form of Texas Owner's Policy of Title Insurance issued by Title Company, as agent for Underwriter, in the amount of the Purchase Price and in conformity with the last Title Commitment delivered to and approved by Buyer, insuring Buyer's fee simple title to the Land as good and indefeasible subject to the terms of the Title Policy and the exceptions specified in it.

6.03. *Survey.* "Survey" means an on-the-ground, staked plat of survey and metes-and-bounds description of the Land, prepared by Surveyor or another surveyor satisfactory to Title Company, dated after the Effective Date, and certified to comply with the current standards and specifications as published by the Texas Society of Professional Surveyors for the Survey Category. Seller will deliver to Buyer and the Title Company a true and correct copy of Seller's most recent survey of the Property along with an Affidavit required by the Title Company for approval of the existing survey. If the existing survey is not acceptable to the Title Company, Seller, at Seller's expense, will obtain a new or updated survey acceptable to the Title Company and deliver the acceptable survey to Buyer and the Title Company within 20 days after Seller receives notice that the existing survey is not acceptable to the Title Company. Buyer will reimburse Seller one-half (1/2) of the cost of the new or updated survey at closing, if closing occurs.

6.04. *Delivery of Title Commitment and Survey.* Seller, at Seller's expense, must deliver the Title Commitment, the Survey and legible copies of instruments referenced in the Title Commitment and Survey by the deadlines stated in section 1. If the Property is out of a larger tract, the Commitment is not considered received by the Buyer for the purposes of this contract until the description of the Property has been provided by the Survey and the Commitment has been issued pertaining only to the Property as so described.

6.05. *Buyer's Objections.* Buyer has until the Buyer's Objection Deadline to review the Survey, Title Commitment, and legible copies of the title instruments referenced in them and notify Seller of Buyer's objections to any of them ("Buyer's Objections"). Buyer will be deemed to have approved all matters reflected by the Survey and Title Commitment to which Buyer has made no Buyer's Objection by the Buyer's Objection Deadline. The matters that Buyer either approves or is deemed to have approved are "Permitted Exceptions."

6.06. If Buyer notifies Seller of any Buyer's Objections, Seller has until Seller's Cure Notice Deadline to notify Buyer whether Seller agrees to cure the Buyer's Objections before closing ("Cure Notice"). If Seller does not timely give its

Cure Notice or timely gives its Cure Notice but does not agree to cure all the Buyer's Objections before closing, Buyer may, on or before Buyer's Termination Deadline, notify Seller that this contract is terminated. In absence of such timely notice, Buyer will proceed to close, subject to Seller's obligations to resolve the items listed in Schedule C of the Title Commitment, remove the liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date, and cure only the Buyer's Objections that Seller has agreed to cure in the Cure Notice.

6.07. *Mandatory Cure Items.* Despite any other provision of this Agreement, all liquidated liens disclosed in the Title Commitment (or any subsequent commitment); (ii) all other exceptions disclosed in the Title Commitment (or any subsequent commitment) arising on or after the Effective Date of this Agreement and are not attributable to actions by Buyer; and (iii) all Buyer Objections that Seller agrees in writing to cure at or prior to Closing (collectively, the "Mandatory Cure Items"), must be satisfied, cured, or removed by Seller, at Seller's sole cost and expense, at or before Closing.

6.08. *Cross-Collateralization.* If the Property is subject to liens securing indebtedness that is also secured by liens on land other than the Property, and if the amount of the indebtedness exceeds the Purchase Price less Seller's reasonably estimated closing costs, then the following provisions shall apply: During the Feasibility Period, Seller must obtain from the lienholder a binding written agreement ("Release Agreement") for the benefit of Seller and Buyer under which the lienholder agrees to provide a partial release of liens in conjunction with the Closing upon receipt of an amount that is equal or less than the Purchase Price less Seller's reasonably estimated closing costs. The Feasibility Period will be extended for not more than 90 days if necessary to obtain a Release Agreement, at no additional cost to Buyer. If the Release Agreement is not obtained within the 90 days, Buyer may terminate this Agreement and recover the Earnest Money and the Feasibility Period Extension Fee, if any, by giving notice to Seller at any time thereafter before receiving the Release Agreement.

6.09. *Asbestos Survey.* If any structures are located upon the property, Seller shall deliver an asbestos survey by the deadline stated in section 1.

7. Feasibility Period.

7.01. *Entry onto the Property.* Buyer's feasibility begins upon Seller completing and providing the Buyer an updated ESA for review. At Buyer's expense, Buyer may enter the Property before closing to inspect, conduct testing and make assessments of the Property as determined to be appropriate by Buyer, subject to the following:

- a. Buyer may not unreasonably interfere with existing operations or occupants of the Property; and
- b. if the Property is altered because of Buyer's inspections and Buyer does not purchase the Property, Buyer must return the Property to its preinspection condition promptly after terminating the contract.

7.02. *Extension.* Buyer may extend the Feasibility Period for up to two (2) sixty (60) day periods by depositing the Feasibility Period Extension Fee for each extension request with the Title Company before the End of Feasibility Period. Except as provided in section 6.08, the Feasibility Period Extension Fee is non-refundable and shall be applied to the Purchase Price at Closing.

7.03. *Buyer's Right to Terminate.* Buyer may terminate this contract for any reason by notifying Seller on or before the End of Feasibility Period or upon Buyer's compliance with section 7.02, on or before the End of Extended Feasibility Period. If Buyer elects to terminate this Agreement on or before the End of the Feasibility Period, the Earnest Money (less the Independent Consideration) shall be refunded to Buyer. If Buyer does not terminate this Agreement on or before the End of the Feasibility Period, the Earnest Money shall become non-refundable and shall be applied to the Purchase Price at Closing; provided that the Earnest Money shall be refundable after the End of the Feasibility Period under the limited exception provided for in section 6.08.

8. Representations.

The parties' representations stated in **Exhibit B** are true and correct as of the Effective Date and must be true and correct on the Closing Date.

9. Condition until Closing; Cooperation.

9.01. *Condemnation.* Seller will notify Buyer promptly after Seller receives notice that any part of the Property has been or is threatened to be condemned or otherwise taken by a governmental or quasi-governmental authority. Buyer may terminate this contract if the condemnation would materially affect Buyer's intended use of the Property by giving notice to Seller within fifteen days after receipt of Seller's notice to Buyer (or before closing if Seller's notice is received less than fifteen days before closing). If Buyer does not terminate this contract, (a) Buyer and Seller will each have the right to appear and defend their respective interests in the Property in the condemnation proceedings, (b) any award in condemnation will be assigned to Buyer, and (c) if the taking occurs before closing, the description of the Property will be revised to delete the portion taken.

9.02. *Claims; Hearings.* Seller will notify Buyer promptly of any claim or administrative hearing that is threatened, filed, or initiated before closing that affects the Property.

9.03. *Cooperation.* Seller will cooperate with Buyer (a) before and after closing, to transfer the applications, permits, and licenses held by Seller and used in the operation of the Property and to obtain any consents necessary for Buyer to operate the Property after closing and (b) before closing, with any reasonable evaluation, inspection, audit, or study of the Property prepared by, for, or at the request of Buyer.

9.04. *Maintenance and Operation.* Until the Closing Date, Seller will (a) maintain the Property as it existed on the Effective Date, except for reasonable wear and tear and casualty damage; (b) operate the Property in the same manner as it was operated on the Effective Date; and (c) comply with all contracts and governmental regulations affecting the Property.

9.05. *Casualty Damage.* Seller will notify Buyer promptly after discovery of any casualty damage to the Property. Seller will have no obligation to repair or replace the Property if it is damaged by casualty before closing. Buyer may terminate this Agreement if the casualty damage that occurs before closing would materially affect Buyer's intended use of the Property, by giving notice to Seller within 15 days after receipt of Buyer's notice of such casualty damage from Seller. If Buyer does not terminate this Agreement, Seller will convey the Property to Buyer in its damaged condition.

10. Termination.

10.01. If Buyer terminates this contract in accordance with any of Buyer's rights to terminate, Seller will, within five days of receipt of Buyer's termination notice, authorize Title Company to deliver the Earnest Money to Buyer within three (3) business days after Buyer's termination notice to the Title Company of such termination, less the Independent Consideration. Seller retains the Independent Consideration.

10.02. If Seller terminates this contract because of Buyer's default, Buyer will, within five days of receipt of Seller's termination notice, authorize Title Company to pay and deliver the Earnest Money, including the Independent Consideration, to Seller.

11. Allocation of Closing Costs.

11.01. Seller will pay:

- a. the basic charge for the Title Policy;
- b. one-half of the escrow fee charged by Title Company;
- c. the costs to prepare the deed;
- d. the costs to obtain, deliver, and record releases of all liens to be released at closing;
- e. the costs to insure around liens not released, if any;
- f. the costs to record all documents to cure Buyer's Objections agreed to be cured by Seller;
- g. Title Company's inspection fee to delete from the Title Policy the customary exception for parties in possession;
- h. the costs to obtain the UCC Search and certificates or reports of ad valorem taxes, and one-half (1/2) of the Survey cost;
- i. the costs to deliver copies of the instruments described in article 1; and
- j. Seller's expenses and attorney's fees;
- k. Seller's Brokers' Commissions as specified in Section 11.07.

11.02. Buyer will pay:

- a. one-half of the escrow fee charged by Title Company;
- b. the costs to obtain, deliver, and record all documents other than those to be recorded at Seller's expense;
- c. the costs of work required by Buyer to have the survey reflect matters other than those required under this contract;
- d. one-half (1/2) of the Survey cost; and
- e. Buyer's expenses and attorney's fees.

11.03. *Ad Valorem Taxes.* Ad valorem taxes for the Property for the calendar year of closing will be prorated between Buyer and Seller as of the Closing Date according to Section 26.11 of the Texas Tax Code. In no event is Buyer liable for any roll back taxes.

11.04. *Income and Expenses.* Income and expenses pertaining to operation of the Property will be prorated as of the Closing Date on an accrual basis and paid at closing as a credit or debit adjustment to the Purchase Price. Invoices that are received after closing for operating expenses incurred on or before the Closing Date and not adjusted at closing will be prorated between the parties as of the Closing Date, and Seller will pay its share within ten days of notice of Buyer's invoice.

11.05. *Prepaid Rent.* Buyer gets a credit at closing for all rent previously paid to Seller allocable to the period after closing.

11.06. *Postclosing Adjustments.* If errors in the prorations made at closing are identified within ninety days after closing, Seller and Buyer will make postclosing adjustments to correct the errors within fifteen days of receipt of notice of the errors.

11.07. *Brokers' Commissions.* At closing, Seller shall pay (1) Providence Commercial Real Estate Services, as Buyer's broker, a real estate brokerage fee equal to 3% of the Purchase Price; and (2) a real estate brokerage fee to Martha Denham/Commercial Market Exchange, as Seller's broker, as set forth in a separate agreement between Seller and Seller's broker. Each party represents to the other that no other commissions are due in respect of this transaction. In the event of a dispute over the amount or allocation of the commissions, the Title Company may nevertheless close the transaction and deliver the deed to Buyer, holding open only the distribution of proceeds to Seller.

12. Closing.

12.01. *Closing.* This transaction will close at Title Company's offices at the Closing Date and Closing Time. At closing, the following will occur:

- a. *Closing Documents.* The parties will execute and deliver the Closing Documents.
- b. *Payment of Purchase Price.* Buyer will deliver the Purchase Price and other amounts that Buyer is obligated to pay under this contract to Title Company in funds acceptable to Title Company. The Earnest Money and the Feasibility Period Extension Fee, if any, will be applied to the Purchase Price.

- c. *Disbursement of Funds; Recording; Copies.* Title Company will be instructed to disburse the Purchase Price and other funds in accordance with this contract, record the deed and the other Closing Documents directed to be recorded, and distribute documents and copies in accordance with the parties' written instructions.
- d. *Delivery of Originals.* Seller will deliver to Buyer the originals of Seller's Records.
- e. *Possession.* Seller will deliver possession of the Property to Buyer, subject to the Permitted Exceptions existing at closing and any lien and security interest in favor of Seller, if the sale is seller-financed.
- f. Buyer need not close if Seller cannot or does not deliver indefeasible title at closing. If Buyer does not close for want of indefeasible title, the earnest money is returned to Buyer.
- g. Buyer will receive at closing the basic title policy plus endorsements removing the survey exception and the exception for rights of parties in possession.

13. Default and Remedies.

13.01. *Seller's Default.* If Seller fails to perform any of its obligations under this contract or if any of Seller's representations is not true and correct as of the Effective Date or on the Closing Date ("Seller's Default"), Buyer has the following remedies:

- a. *Termination.* Buyer may terminate this contract by giving notice to Seller on or before the Closing Date and Closing Time and have the Earnest Money returned to Buyer. Seller retains the Independent Consideration.
- b. *Specific Performance.* Buyer may enforce specific performance of Seller's obligations under this contract. If title to the Property is awarded to Buyer, the conveyance will be subject to the matters stated in the Title Commitment.
- c. *Damages.* Buyer may sue for its damages caused by Seller's default.

13.02. *Buyer's Default.* If Buyer fails to perform any of its obligations under this contract ("Buyer's Default"), Seller may, as its sole and exclusive remedy, terminate this contract by giving notice to Buyer on or before the Closing Date and Closing Time and have the Earnest Money, including the Independent Consideration, paid to Seller.

13.03. *Liquidated Damages.* The parties agree that just compensation for the harm that would be caused by Buyer's default cannot be accurately estimated or would be very difficult to accurately estimate and that the Earnest Money is a reasonable forecast of just compensation to Seller for the harm that would be caused by Buyer's default.

14. Miscellaneous Provisions.

14.01. *Applicable Law.* This Agreement is entered into in San Antonio, Bexar County, state of Texas. **The Construction Of This Agreement And The Rights, Remedies, And Obligations Arising Thereunder Shall Be Governed By The Laws Of The State Of Texas.** Provided, however, the Texas conflicts of law rules shall not be used to cause the application of the laws of a jurisdiction other than Texas. The obligations performable hereunder by both parties are performable in San Antonio, Bexar County, Texas.

14.02. *Severability.* If any portion hereof is determined to be invalid or unenforceable, the determination does not affect the remainder hereof.

14.03. *Successors.* This Agreement inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

14.04. *Integration.* **This Written Agreement Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties.**

14.05. *Modification.* This Agreement may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. Subject to the foregoing, any of the terms of this Agreement may be modified at any time by the party entitled to the benefit thereof, but no such modification, express or implied, affects the right of the modifying party to require observance of either (i) the same term or condition as it applies on a subsequent or previous occasion or (ii) any other term hereof.

14.06 *Third Party Beneficiaries.* This Agreement is intended for the benefit of the parties hereto and their successors and permitted assigns only. There are no third party beneficiaries hereof.

14.07. *Notices.* Any notice provided for or permitted hereunder must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth in the preamble hereof. If the addressee is a corporation, notices must be addressed to the attention of its President. The giving of notice is complete three days after its deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to conform to the requirement that mailings be done by certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice hereunder.

14.08. *Pronouns.* In construing this Agreement, plural constructions include the singular, and singular constructions include the plural. No significance attaches to whether a pronoun is masculine, feminine, or neuter. The words "herein," "hereof," and other, similar compounds of the word "here" refer to this entire Agreement, not to any particular provision of it.

14.09. *Captions.* Paragraph captions in this Agreement are for ease of reference only and do not affect the interpretation hereof.

14.10. *Mediation.* As a condition precedent to bringing any action to enforce or interpret this Agreement or any aspect thereof, including an action for declaratory relief, the disputants must first submit in good faith to mediation by a mediator qualified under § 154.052, Texas Civil Practice and Remedies Code. Suit may be filed only after the sooner to occur of (i) a full day of mediation by a mediator qualified as provided above or (ii) certification by the mediator that further attempts to mediate would be fruitless. Laches, waiver, and estoppel based upon any reasonable delay relating to attempts to mediate as herein provided may not be asserted by either party hereto.

14.11. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this Agreement, it is not necessary to produce or account for more counterparts than are necessary to show execution by or on behalf of all parties.

14.12. *Further Assurances.* The parties must execute and deliver such additional documents and instruments as may be required to effect fully the

provisions hereof. No such additional document(s), however, may alter the rights or obligations of the parties as contained in this Agreement

14.13. *Assignment.* Buyer may assign this contract and Buyer's rights under it to a third party including, but not limited to, the Office of Urban Redevelopment San Antonio ("OUR SA"), also known as the Urban Renewal Agency of San Antonio without payment of additional consideration. This contract binds, benefits, and may be enforced by the parties and their respective heirs, successors, and assigns.

14.14. *Survival.* The obligations of this contract that cannot be performed before termination of this contract or before closing will survive termination of this contract or closing, and the legal doctrine of merger will not apply to these matters. If there is any conflict between the Closing Documents and this contract, the Closing Documents will control.

14.15. *Ambiguities Not to Be Construed against Party Who Drafted Contract.* The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this contract.

14.16. *No Special Relationship.* The parties' relationship is an ordinary commercial relationship, and they do not intend to create the relationship of principal and agent, partnership, joint venture, or any other special relationship.

14.17. *Incorporation by Reference.* All exhibits to this Agreement are incorporated into it by reference for all purposes as if fully set forth.

14.18. *Administrative Agreements.* The Director of Neighborhood and Housing Services Department ("NHSD") and the Assistant Director of NHSD may, without further City Council action, agree to, sign, and deliver on behalf of the City an assignment of this Agreement to OUR SA in furtherance of the City's Urban Renewal Plan, and such other consents, certificates, memoranda, estoppels, and modifications of nonmaterial rights and obligations arising under this Agreement and may declare defaults and pursue remedies for such defaults.

14.19 *1031 Transaction.* Buyer is aware that Seller intends to perform an IRC Section 1031 tax-deferred exchange. Seller requests Buyer's cooperation in such an exchange and agrees to hold buyer harmless from any and all claims, costs, liabilities, or delays in time resulting from such an exchange. Buyer agrees to an assignment of this contract to a qualified intermediary by the Seller.

15. Prohibited Interest in Contracts.

15.01. The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

15.02. Seller warrants and certifies as follows:

- (i) Seller and its officers, employees and agents are neither officers nor employees of the City.
- (ii) Seller has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

15.03. Seller acknowledges that City's reliance on the above warranties and certifications and certifications is reasonable.

16. City Council Approval.

Closing is contingent upon approval by the City Council of the City of San Antonio. If the City Council of the City of San Antonio does not give its approval to close this transaction on or before date and time for Closing, this Agreement shall terminate without further action by the parties. Should such termination occur, the Earnest Money shall be distributed to Seller.

17. Public Information.

Seller acknowledges that this instrument and all documents ancillary to it are public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public. Nothing in this agreement waives an otherwise applicable exception to disclosure.

18. Property sold "AS IS".

BUYER ACKNOWLEDGES AND AGREES THAT UPON CLOSING, SELLER WILL SELL AND CONVEY TO BUYER, AND BUYER WILL ACCEPT THE PROPERTY "AS IS, WHERE IS," AND "WITH ALL FAULTS." EXCEPT AS SET FORTH IN THIS CONTRACT AND EXHIBIT B, IT IS UNDERSTOOD AND AGREED THAT SELLER IS NOT MAKING AND SPECIFICALLY DISCLAIMS ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OR REPRESENTATIONS AS TO MATTERS OF TITLE, ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITIONS, AVAILABILITY OF ACCESS, INGRESS OR EGRESS, PROFITABILITY, OPERATING HISTORY OR PROJECTIONS WITH RESPECT TO THE PROPERTY, VALUATION, GOVERNMENTAL APPROVALS, GOVERNMENTAL REGULATIONS OR ANY OTHER MATTER OR THING RELATING TO OR AFFECTING THE PROPERTY. PURCHASER REPRESENTS AND WARRANTS IT HAS NOT RELIED UPON AND WILL NOT RELY UPON, ANY REPRESENTATION OR WARRANTY OF SELLER OR ANY AGENT OF SELLER; INSTEAD, BUYER WILL RELY SOLELY UPON SUCH INSPECTIONS AND INVESTIGATIONS OF THE PROPERTY AS BUYER DEEMS NECESSARY, INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF. THE PROVISIONS OF THIS SECTION SHALL SURVIVE CLOSING.

City of San Antonio,
a Texas municipal corporation

By: RSoto

Printed Name: Verónica R. Soto

Title: Director, NtSD

Date: 9.16.20

Marquee Investments LLC, a Texas
limited liability company

By: [Signature]

Printed Name: Alex Zah Rami

Title: member

Date: 09/10/2020

Approved As To Form:

Jameene Williams
City Attorney

CONSENT FOR ACCESS TO PROPERTY

NAME OF PROPERTY OWNER: Marquee Investments LLC

STREET NUMBER AND STREET NAME OF PROPERTY:

425 San Pedro Avenue (Property ID #108697), San Antonio, Bexar County, Texas 78212,
NCB 769 BLK 7 LOT 6 & 7, EXC E IRRG 10.8 FT

I hereby consent to officers, employees, authorized representatives of the City of San Antonio, and their contractors, subcontractors and consultants "the City" the right to enter the property and continued access and use of by, through, and on the property to perform an Environmental Site Assessment for the following purposes:

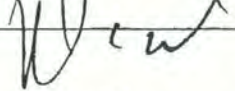
1. The taking of samples, surface and subsurface, including but not limited to soil, sediments, water, and vapor, and other solids or liquids stored or disposed of at the property as may be determined to be necessary by the City;
2. The documenting of scientific and engineering observations, including, but not limited to taking notes, recordings, photographs and surveying;
3. The drilling and finishing of boreholes for the purposes of collecting soil and groundwater samples without limitation;
4. Other inquiry actions at the property as may be necessary to determine the nature, extent and potential threat to human health, property and environment of any suspected contamination.

I am the property owner or an individual having the authority or the authorization of the property owner to sign this *Consent for Access to Property*. (If representing the owner, please attach a letter confirming that you have the authorization of the property owner to this Consent for Access to Property). I give this written permission voluntarily with the full knowledge of my right to refuse and without threats or promises of any kind.

Please indicate if you are granting access by signing this document, and providing your address telephone number(s), or e-mail address so that you may be contacted.

Marquee Investments LLC:

Name (Printed): Alex P. Alraghi Date: 09/16/2020

Name (Signature): 

Address: PO Box 81653 Austin TX 78700

Email: APEXaustin @ yahoo.com

Telephone Number (s): Work: _____ Other: _____


512-658-4333

Title Company Acceptance of Escrow and Receipt for Contract


Sellers: Marquee Investments LLC
PO Box 82653
Austin, TX 78708-2653

Buyer: City of San Antonio or its assignee
1400 S. Flores Street
San Antonio, TX 78204
Neighborhood Improvement Bond

Property: 425 San Pedro Avenue (Property ID #108697) San Antonio, Bexar County,
Texas 78212 and being more particularly described on Exhibit A attached
hereto and incorporated herein

 Title Company agrees to act as escrow agent according to the terms of this Contract.
~~Further, Title Company acknowledges receipt from Buyer of three fully executed
counterpart originals of the Contract on the same date, with one fully executed
original Contract being returned to each of Seller and Buyer.~~

ALAMO TITLE COMPANY

By: 

Printed
Name: Nannette Williams

Title: Escrow Officer

Date: September 17, 2020

Title Company Receipt for Earnest Money

Marquee Investments LLC
Seller: PO Box 82653
Austin, TX 78708-2653

City of San Antonio or its assignee
Buyer: 1400 S. Flores Street
San Antonio, TX 78204
Neighborhood Improvement Bond

425 San Pedro Avenue (Property ID #108697) San Antonio, Bexar County,
Property: Texas 78212 and being more particularly described on Exhibit A attached
hereto and incorporated herein

Title Company acknowledges receipt from Buyer of earnest money in the amount set
forth below:

Amount: _____

ALAMO TITLE COMPANY

By: _____

Printed

Name: _____

Title: _____

Date: _____

Exhibit A: Property Description

425 San Pedro Avenue, San Antonio, TX 78212, Property ID #108697, NCB 769 BLK 7
LOT 6 & 7, EXC E IRRG 10.8 FT

Exhibit B: Representations

To the best of the seller's actual knowledge, and without duty of further inquiry, seller represents to Buyer that the following are true and correct as of the Effective Date and will be true and correct on the Closing Date.

1. *Authority.* Seller is a limited liability company duly organized, validly existing, and in good standing under the laws of the state of Texas with authority to convey the Property to Buyer. This contract is, and all documents required by this contract to be executed and delivered to Buyer at closing will be, duly authorized, executed, and delivered by Seller.

2. *Litigation.* There is no litigation pending, nor has Seller received written notice of any threatened litigation against Seller that might affect the Property or Seller's ability to perform its obligations under this contract.

3. *Violation of Laws.* Seller has not received written notice of violation of any law, ordinance, regulation, or requirements affecting the Property or Seller's use of the Property.

4. *Condemnation; Zoning; Land Use; Hazardous Materials.* Seller has not received written notice of any condemnation, zoning, or land-use proceedings affecting the Property or any inquiries or notices by any governmental authority or third party with respect to the presence of hazardous materials on the Property or the migration of hazardous materials from the Property.

5. *No Other Obligation to Sell the Property or Restriction against Selling the Property.* Except for granting a security interest in the Property, Seller has not obligated itself to sell the Property to any party other than Buyer. Seller's performance of this contract will not cause a breach of any other agreement or obligation to which Seller is a party or to which it is bound.

6. *No Liens.* On the Closing Date, the Property will be free and clear of all mechanic's and materialman's liens and other liens and encumbrances of any nature except the Permitted Exceptions, and no work or materials will have been furnished to the Property that might give rise to mechanic's, materialman's, or other liens against the Property other than work or materials to which Buyer has given its consent.

7. *Prepaid Rent.* As of closing, Seller has received no prepaid rent except as reflected on the closing statement as a credit to Buyer.

8. *Wells.* Seller has no actual knowledge of any water or other wells on the Property, capped or uncapped, registered or unregistered.

9. *Underground Storage Tanks.* Seller has no actual knowledge of any underground storage tanks of any kind on the Property.

10. *Property is Vacant.* There are no households, families, or individuals residing on or occupying the Property; the Property is vacant. No household, family or individual has been or will be displaced as a result of or in furtherance of this Agreement.

11. *Transaction is Voluntary.* Seller is entering into this Agreement as a voluntary act, and free from any compulsion, condemnation or threat thereof by Buyer.

Exhibit C: Form of Deed

Notice of Confidentiality Rights: If You Are a Natural Person, You May Remove or Strike Any or All the Following Information from Any Instrument That Transfers an Interest in Real Property Before it Is Filed for Record in the Public Records: Your Social Security Number or Your Driver's License Number.

**SPECIAL WARRANTY DEED
(AND ASSIGNMENT OF CLAIMS)**

**Authorizing Ordinance
to Purchase:**

SP No./Parcel:

Grantors: Marquee Investments LLC

**Grantor's Mailing
Address:** Marquee Investments LLC
PO Box 82653
Austin, TX 78708-2653

Grantee: City of San Antonio
Neighborhood and Housing Services Department

**Grantee's Mailing
Address (including county):** 1400 S. Flores
San Antonio, Texas 78204
Attention: Neighborhood Improvement Bond Program

Consideration: \$10 in hand paid and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

Property: [to be inserted after receipt of title commitment and survey]

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, **grants, sells, and conveys the Property to Grantee**, together with all and singular the rights and appurtenances thereto in anywise belonging;

To Have and To Hold the above described Property to Grantee, and Grantee's heirs and assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereto by through or under Grantor, but not otherwise.

The Property, together with any and all improvements, structures and fixtures located thereon, is conveyed "AS IS" and "WHERE IS" with all rights, privileges, rights of way, and easements appurtenant thereto.

When the context requires, singular nouns and pronouns include the plural and plural ones include the singular.

Assignment of Claims

In addition to the conveyance of real estate addressed above, Grantor hereby assigns to Grantee all choate and inchoate statutory and common-law claims, if any, it may have against its predecessors in title and against any other potentially responsible person for environmental contamination of the Property now known or later found to exist.

Date: _____

Grantors:

Marquee Investments LLC

By: _____

Title: _____

Draft. This is only to show the agreed form of the final document. This draft is neither ready nor suitable to be signed.

THE STATE OF TEXAS §

COUNTY OF BEXAR §

This instrument was acknowledged before me by _____.

Date: _____

Notary Public, State of Texas

My commission expires: _____

THE STATE OF TEXAS §

COUNTY OF BEXAR §

This instrument was acknowledged before me by _____.

Date: _____

Notary Public, State of Texas

My commission expires: _____

Approved as to Form:

City Attorney

After recording, please return to:

City of San Antonio
Neighborhood and Housing Services Department
1400 S. Flores
San Antonio, Texas 78204
Attention: Neighborhood Improvement Bond Program

**Exhibit D: City of San Antonio, or its Assignee Receipt of Updated
ESA Phase I and Phase II**

**City of San Antonio, or its Assignee Receipt of
Updated ESA Phase I and Phase II**

Seller: Marquee Investments LLC
PO Box 82653
Austin, TX 78708-2653

Buyer: City of San Antonio or its assignee
1400 S. Flores Street
San Antonio, TX 78204
Neighborhood Improvement Bond

425 San Pedro Avenue (Property ID #108697), San Antonio, Bexar County,
Texas 78212 and being more particularly described on Exhibit A attached
Property: hereto and incorporated herein.

City of San Antonio or its assignee acknowledges receipt from Sellers of updated
ESA Phase I and, if required, Phase II.

City of San Antonio, or its Assignee

By: _____

Printed
Name: _____

Title: _____

Date: _____

JYW
02/11/2021
Item No. 9

ATTACHMENT "5"
(Contract for the Sale of Land for Private Redevelopment)

DRAFT CONTRACT FOR SALE OF LAND FOR PRIVATE REDEVELOPMENT

AGREEMENT, consisting of this Part I and Part II annexed hereto and made a part hereof (which Part I and Part II are together hereinafter call "Agreement"), made on or as of the _____ day of _____, SAN ANTONIO, TEXAS acting by and through the URBAN RENEWAL AGENCY OF THE CITY OF SAN ANTONIO d/b/a OFFICE OF URBAN REDEVELOPMENT SAN ANTONIO a public body corporate (which together with any successor public body or officer hereafter designated by or pursuant to law is hereinafter called "Agency"), established pursuant to Texas Local Government Code §374 as amended of the State of Texas (hereinafter called "Urban Renewal Act") and having its office at 1400 S. Flores, in the City of San Antonio, Bexar County, Texas, (hereinafter called "City"), State of Texas and Builder's name, organized and existing under the laws of the State of Texas, or individual(s) (hereinafter called "Redeveloper") and having an office for transaction of business at Builder's address, in the City of _____ and State of _____.

WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, the Agency has undertaken a program for the clearance and reconstruction or rehabilitation of slum and blighted areas in the City, and in this connection is engaged in carrying out urban renewal projects known as [insert project name] (hereinafter called "Project") in an area (hereinafter called "Project Area") located in the City; and

WHEREAS, as of the date of the Agreement there has been prepared and approved by the City Council of the City an urban renewal plan for the project consisting of the Urban Renewal Plan dated February 2, 2017 and approved by Ordinance No. 2017-02-02-0052, which plan, as it may hereafter be amended from time to time pursuant to law, and as so constituted from time to time is, unless otherwise indicated by the context, (hereinafter called "Urban Renewal Plan"); and

WHEREAS, a copy of the Urban Renewal Plan as constituted on the date of the Agreement has been filed in the office of the City Clerk of the City of San Antonio located at the City Hall, San Antonio, Texas; and

WHEREAS, in that certain Request for Proposal ("RFP") dated _____, the City, acting on behalf of the Agency, has offered to sell _____ lots (____) and the Redeveloper is willing to purchase these _____ (____) lots located in the Project Area identified as follows: [insert legal description], San Antonio, Bexar County, Texas], and more particularly described by metes and bounds or survey in **Exhibit "A"** attached hereto and made a part hereof and to redevelop the Property for and in accordance with the uses specified in the Urban Renewal Plan and the Agreement; and

WHEREAS, the Agency believes that the redevelopment of the Property pursuant to the Agreement and the fulfillment generally of the Agreement, are in the vital and best interest of the City and in accord with the public purposes and provisions of the applicable State and local laws and requirements under which the project has been undertaken and is being assisted;

NOW, THEREFORE, in consideration of the premises and mutual obligation of the parties hereto, each of them does hereby covenant and agree with the other as follows:

SEC. 1. SALE: PURCHASE PRICE.

Subject to all the terms, covenants, and conditions of the Agreement, the Agency will sell the Property to the Redeveloper for and the Redeveloper will purchase the Property from the Agency and pay therefore, the amount of \$[insert price] (hereinafter called "Purchase Price") to be paid in cash or by cashier's check simultaneously with the delivery of the deed conveying the Property to the Redeveloper.

SEC. 2. CONVEYANCE OF PROPERTY.

(a) Form of Deed. The Agency shall convey to the Redeveloper title to the Property by Special Warranty Deed. Such conveyance and title shall, in addition to the condition subsequently provided for in Section 704 hereof, and to all other conditions, covenants, and restrictions set forth or referred to elsewhere in the Agreement, be subject to:

- (1) All the restrictions and building requirements set forth in said Urban Renewal Plan;
- (2) A Deed Restriction limiting the use of the property for the purpose of providing affordable housing as set forth in the RFP for a period of _____ (____) years from the date of conveyance from the Agency to

the Redeveloper to which the Redeveloper and all subsequent owners agree to be bound knowing a violation of the restriction will cause the title to the property to automatically revert to the grantor; and

(3) All easements of record in the Official Public Records of Bexar County, Texas or apparent on the Property

The Special Warranty shall contain the "AS-IS, WHERE-IS, WITH ANY AND ALL FAULTS" disclaimer of representations and warranties and environmental conditions as set forth in the RFP.

(b) Time and Place for Delivery of Deed. The Agency shall deliver the Deed and possession of the Property to the Redeveloper on _____, or such earlier date as the parties may mutually agree in writing. Conveyance shall be made at the office of _____, at _____ in the City of San Antonio, Texas (hereinafter "Title Company"), and the Redeveloper shall accept such conveyance and pay to the Agency at such time and place the Purchase Price.

(c) Apportionment of Current Taxes. The portion of the current taxes, if any, on the Property which are a lien on the date of delivery of the Deed to the Redeveloper, allocable to buildings and other improvements which have been demolished or removed from the Property by the Agency, shall be borne by the Agency and the portion of such current taxes allocable to the land shall be apportioned between the Agency and the Redeveloper as of the date of delivery of the Deed. If the amount of the current taxes on the Property is not ascertainable on such date, the apportionment shall be subject to final adjustment within thirty (30) days after the date of the actual amount of such current taxes is ascertained.

(d) Recordation of Deed. The Redeveloper shall cause the Title Company to promptly file the Deed for recordation among the land records of the place in which the Property is situated. The Redeveloper shall pay all cost for recording the Deed.

(e) Title Insurance Policy. A Title Insurance Policy for the Property shall be issued by the Title Company, and Agency shall bear the cost of said title insurance policy.

(f) Future Taxes. Redeveloper agrees to pay all property taxes on the Property commencing the date title is transferred to said Redeveloper.

SEC. 3. GOOD FAITH DEPOSIT.

(a) Amount. With its response to the RFP, the Redeveloper delivered to the Agency a cashier's check payable to the Title Company in the amount of \$_____, hereinafter called "Deposit", as security for the performance of the obligations of the Redeveloper to be performed in connection with the RFP. The Deposit shall be delivered to the Title Company. Within two (2) business days after execution of this Agreement by the Agency, the Redeveloper shall deposit an additional amount of \$_____, hereinafter called "Earnest Money", with the Title Company as earnest money as security for the performance of the obligations of the Redeveloper to be performed in connection with this Agreement.

(b) Interest. Neither the Title Company, nor the Agency shall be under no obligation to pay or earn interest on the Deposit or Earnest Money, but if interest is payable thereon, such interest, shall be applied to the Purchase Price at the closing.

(c) Retention by Agency. Upon termination of the Agreement as provided in Section 703 and 704 hereof, the Deposit or the proceeds of the Deposit, if not theretofore returned to the Redeveloper pursuant to paragraph (d) of this Section, including all interest payable on such Deposit or the proceeds thereof after such termination, shall be retained by the Agency as provided in section 703 and 704 hereof.

(d) Return to Redeveloper. Upon termination of the Agreement as provided in Section 702 hereof, the Deposit and Earnest Money shall be returned to the Redeveloper by the Agency as provided in Section 702 hereof.

SEC. 4. TIME FOR COMMENCEMENT AND COMPLETION OF IMPROVEMENTS.

(a) The construction of the improvements referred to in Section 301 hereof shall be commenced in any event within [insert timeline] after the recordation of the deed as provided in Section 2(d) hereof and, except as otherwise provided in the Agreement, shall be completed within [insert timeline] after such date.

SEC. 5. TIME FOR CERTAIN OTHER ACTIONS.

(a) Time for Submission of Construction Plans. The time within which the Redeveloper shall submit "Construction Plans" (as defined in Section 301 hereof) to the Agency in any event, pursuant to Section 301 hereof, shall not be later than ___ days from the date of the Agreement. Failure by Redeveloper to provide said Construction Plans within the time stated herein shall result in the termination of the Agreement as provided in Section 703 hereof.

(b) Time for Submission of Corrected Construction Plans. Except as provided in paragraph (c) of this Section 5, the time within which the Redeveloper shall submit any new or corrected Construction Plans as provided for in Section 301 hereof shall not be later than fifteen (15) days after the date the Redeveloper receives written notice from the Agency of the Agency's first rejection of the original Construction Plans referred to in the latest such notice.

(c) Maximum Time for Approved Construction Plans. In any event, the time within which the Redeveloper shall submit Construction Plans which conform to the requirements of Section 301 hereof and are approved by the Agency shall not be later than thirty (30) days after the date the Redeveloper receives written notice from the Agency of the Agency's first rejection of the original Construction Plans submitted to it by the Redeveloper.

(d) Time for Agency Action on Change in Construction Plans. The time within which the Agency may reject any change in the Construction Plans, as provided in Section 302 hereof, shall be fifteen (15) days after the date of the Agency's receipt of notice of change.

(e) Time for Submission of Evidence of Equity Capital and/or Mortgage Financing. The time within which the Redeveloper shall submit to the Agency, in any event, evidence as to equity capital and any commitment necessary for mortgage financing, as provided in Section 303 hereof, shall be not later than ___ days after the date of written notice to the Redeveloper of approval of the Construction Plans by the Agency or, if the Construction Plans shall be deemed to have been approved as provided in Section 301 hereof, after the expiration of thirty (30) days following the date of receipt by the Agency of the Construction Plans so deemed approved. Failure by Redeveloper to provide said Evidence of Equity Capital and/or Mortgage Financing within the time stated herein shall result in the termination of the Agreement as provided in Section 703 hereof.

SEC. 6. PERIOD OF DURATION OF COVENANT ON USE.

The covenant pertaining to the uses of the Property, set forth in Section 401 hereof, shall remain in effect from the date of the Deed until the later of: a [insert number of years] year period, the period specified or referred to in the Urban Renewal Plan, or until such date thereafter on which date, as the case may be, such covenant shall terminate. The Agency shall prepare a covenant based upon the terms and conditions for the provision of affordable housing as set forth in the Redeveloper's response to the RFP and shall provide the Agency and the City reasonable access to the Property and the Redeveloper's and its successors and assigns records for the duration of the covenant to monitor and ensure compliance with the Urban Renewal Plan and this Agreement. The covenant shall be recorded contemporaneously with the Special Warranty Deed provided for in Section 2 of Part I.

SEC. 7. NOTICES AND DEMANDS.

A notice, demand, or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by certified mail, postage prepaid, return receipt requested, or delivered personally by courier; and

(i) in the case of the Redeveloper, is addressed to or delivered personally to the Redeveloper at address of Builder

(ii) in the case of the Agency, is addressed to or delivered personally to the Agency at 1400 S. Flores, San Antonio, Texas 78204, or at such other address with respect to either such party as that party may, from time to time, designate, in writing, and forward to the other as provided in this Section; with a copy to the City at City of San Antonio, Neighborhood Housing & Services Department, Attention: Housing Bond Administrator, 1400 S. Flores, San Antonio, Texas 78204.

SEC. 8. SPECIAL PROVISIONS.

All published material submitted pursuant to this development shall include the following reference:

"This development was accomplished with the assistance of OFFICE OF URBAN REDEVELOPMENT SAN ANTONIO with funding approved by the voters of the City of San Antonio for the 2017-2022 Neighborhood Improvements Bond."

SEC. 9. COUNTERPARTS.

The Agreement is executed in two (2) counterparts, which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Agency has caused the Agreement to be duly executed in name and behalf of its Chairman or Executive Director and its seal to be hereunder duly affixed and the Redeveloper has caused the Agreement to be duly executed as of the _____ day of _____, 20____.

CITY OF SAN ANTONIO, TEXAS,
acting by and through the,
URBAN RENEWAL AGENCY OF THE
CITY OF SAN ANTONIO d/b/a
OFFICE OF URBAN REDEVELOPMENT SAN ANTONIO

Title: _____

Name of Builder

(AGENCY ACKNOWLEDGEMENT)

STATE OF TEXAS }

COUNTY OF BEXAR }

BEFORE ME, the undersigned authority, on the day personally appeared _____, EXECUTIVE DIRECTOR of the Urban Renewal Agency of the City of San Antonio d/b/a Office of Urban Redevelopment San Antonio, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed and in the capacity therein stated and as the act and deed of the Urban Renewal Agency of the City of San Antonio.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of _____, 20____.

Notary Public in and for the State of Texas

(CORPORATE ACKNOWLEDGMENT)

STATE OF TEXAS }

COUNTY OF BEXAR }

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas on this day personally appeared known to me to be the person and officer whose name is subscribed to the foregoing instrument as _____ of _____ and acknowledged to me that he (or she) executed the same for the purposes and consideration therein expressed, and as the act and deed of said _____.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of _____, 20____.

Notary Public in and for the State of Texas

URBAN RENEWAL PROGRAM

TERMS AND CONDITIONS

PART II

OF

CONTRACT FOR

SALE OF LAND FOR PRIVATE REDEVELOPMENT

BY AND BETWEEN

THE CITY OF SAN ANTONIO, TEXAS, ACTING BY AND THROUGH,

URBAN RENEWAL AGENCY OF THE CITY OF SAN ANTONIO

DBA

OFFICE OF URBAN REDEVELOPMENT SAN ANTONIO

AND

Name of Builder

("Redeveloper")

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ARTICLE I. PREPARATION OF PROPERTY FOR REDEVELOPMENT

SEC. 101. Waiver of Claims and Joining in Petitions by Redeveloper. The Redeveloper hereby waives (as the purchaser of the Property under the Agreement and as the owner after the conveyance of the Property provided for in the Agreement) any and all claims to awards of damages, if any, to compensate for the closing, vacation, or change of grade of any street, alley, or other public right-of-way within or fronting or abutting on, or adjacent to, the Property which, pursuant to subdivision (a) of Section 103 hereof, is to be closed or vacated, or the grade of which is to be changed, and shall upon the request of the Agency subscribe to, and join with the Agency in any petition or proceeding required for such vacation, dedication, change of grade, and, to the extent necessary, rezoning, and execute any waiver or other document in respect thereof.

ARTICLE II. RIGHTS OF ACCESS TO PROPERTY

SEC. 201. Right of Entry for Utility Service. The Agency reserves for itself, the City, and any public utility company, as may be appropriate, the unqualified right to enter upon the Property at all reasonable times for the purpose of reconstruction, maintaining, repairing, or servicing the public utilities located within the Property boundary lines and provided for the easements described or referred to in Paragraph (a), Section 2 of Part I hereof.

SEC. 202. Redeveloper Not to Construct Over Utility Easements. The Redeveloper shall not construct any building or other structure or improvement on, over, or within the boundary lines of any easement for public utilities described or referred to in Paragraph (a), Section 2 of Part I hereof, unless such construction is provided for in such easement or has been approved by the City. If approval for such construction is requested by the Redeveloper, the Agency shall use its best efforts to assure that such approval shall not be withheld unreasonably.

SEC. 203. Access to Property. Prior to the conveyance of the Property by the Agency to the Redeveloper, the Agency shall permit representatives of the Redeveloper to have access to any part of the Property as to which the Agency holds title, at all reasonable times for the purpose of obtaining data and making various tests concerning the Property necessary to carry out the Agreement. After the conveyance of the Property by the Agency to the Redeveloper, the Redeveloper shall permit the representatives of the Agency and the City access to the Property at all reasonable times which any of them deems necessary for the purposes of the Agreement and the covenant described in Section 6 of Part I, including, but not limited to, inspection of all work being performed in connection with the construction of the Improvements. No compensation shall be payable, nor shall any charge be made in any form by any party for the access provided for in this Section.

ARTICLE III. CONSTRUCTION PLANS; CONSTRUCTION OF IMPROVEMENTS; CERTIFICATE OF COMPLETION

SEC. 301 Plans for Construction of Improvements. Plans and specifications with respect to the redevelopment of the Property and the construction of improvements thereon shall be in conformity with the Urban Renewal Plan, the Redeveloper's response to the RFP, the Agreement the Ordinance calling the Election and all applicable State and local laws and regulations. As promptly as possible after the date of the Agreement, and, in any event, no later than the time specified therefor in Paragraph (a), Section 5 Part I hereof, the Redeveloper shall submit to the Agency, for approval by the Agency, plans, drawings, specifications, and related documents, and the proposed construction schedule (which plans, drawings, specifications, related documents, and progress schedule, together with any and all changes therein that may thereafter be made and submitted to the "Agency" as herein provided, are except as otherwise clearly indicated by the context, hereinafter collectively called "Construction Plans") with respect to the improvements to be constructed by the Redeveloper on the Property, in sufficient completeness and detail to show that such improvements and construction thereof will be in accordance with the provisions of the Urban Renewal Plan, the Redeveloper's response to the RFP, and the Agreement. The Agency shall, if the Construction Plans originally submitted conform to the provisions of the Urban Renewal Plan, the Redeveloper's response to the RFP, and the Agreement, approve in writing such Construction Plans and no further filing by the Redeveloper or approval by the Agency thereof shall be required except with respect to any material change. Such Construction Plans shall in any event, be deemed approved unless rejection thereof within forty-five (45) days after the date of their receipt by the Agency. If the Agency so rejects the Construction Plans in whole or in part as not being in conformity with the Urban Renewal Plan, the Redeveloper's response to the RFP, or the Agreement, the Redeveloper shall submit new or corrected Construction Plans which are in conformity with the Urban Renewal Plan, the Redeveloper's response to the RFP, and the Agreement with the time specified therefor in Paragraph (b), Section 5 of Part I hereof after written notification to the Redeveloper of the rejection. The provisions of this Section relating to approval, rejection, and resubmission of corrected Construction Plans hereinabove provided with respect to the original Construction Plans shall continue to apply until the Construction Plans have been approved by the Agency. Provided, that in any event the Redeveloper shall submit Construction Plans which are in conformity with the requirements of the Urban Renewal Plan, the Redeveloper's response to the RFP, and the Agreement, as determined by the Agency, no later than the time specified therefor in Paragraph (c), Section 5 of Part I hereof. All work with respect to the improvements to be constructed or provided by the Redeveloper on the Property shall be in conformity with the Construction Plans as approved by the Agency. The term "Improvements", as used in this Agreement, shall be deemed to have reference to the improvements as provided and specified in the Construction Plans as so approved.

SEC. 302. Changes in Construction Plans. If the Redeveloper desires to make any change in the Construction Plans after their approval by the Agency, the Redeveloper shall submit the proposed change to the Agency for its approval. If the Construction Plans, as modified by the proposed change, conform to the requirements of Section 301 hereof with respect to such previously approved Construction Plans, the Agency shall approve the proposed change and notify the Redeveloper in writing of its approval. Such change in the Construction Plans shall, in any event, be deemed rejected, in whole or in part, unless written notice thereof is given by the Agency to the Redeveloper, setting forth such approval.

SEC. 303. Evidence of Equity Capital and Mortgage Financing. As promptly as possible after approval by the Agency of the Construction Plans, and in any event, no later than the time specified therefor in Paragraph (e), Section 5 Part I hereof, the Redeveloper shall submit to the Agency evidence satisfactory to the Agency that the Redeveloper has the equity capital and commitments for mortgage financing necessary for the construction of the Improvements.

SEC. 304. Approvals of Construction Plans and Evidence of Financing as Conditions Precedent to Conveyance. The submission of Construction Plans and their approval by the Agency as provided in Section 301 hereof, and the submission of evidence of equity capital and commitments for mortgage financing as provided in Section 303 hereof, are conditions precedent to the obligation of the Agency to convey the Property to the Redeveloper.

SEC. 305. Commencement and Completion of Construction of Improvements. The Redeveloper agrees for itself, its successors and assigns, and every successor in interest to the Property, or any part thereof, and the Deed shall contain

covenants on the part of the Redeveloper for itself and such successors and assigns, that the redevelopment of the Property through the construction of the Improvements thereon, and that such construction shall in any event begin within the period specified in Section 4 of Part I hereof and be completed within the period specified in such Section 4. It is intended and agreed, and the Deed shall so expressly provide, that without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Agreement itself, be, to the fullest extent permitted by law and equity, binding for the benefit of the community, the Agency and the City and enforceable by the Agency and/or the City against the Redeveloper and its successors and assigns to or of the Property or any part thereof or any interest therein.

SEC. 306. Progress Reports. Subsequent to conveyance of the Property or any part thereof, to the Redeveloper, and until construction of the Improvements has been completed, the Redeveloper shall make reports, in such detail and at such times as may reasonably be requested by the Agency, as to the actual progress of the Redeveloper with respect to such construction.

SEC. 307. Certificate of Completion.

(a) Promptly after completion of the Improvements in accordance with those provisions of the Agreement relating solely to the obligations of the Redeveloper to construct the Improvements (including the dates for beginning and completion thereof), the Agency will furnish the Redeveloper with an appropriate instrument so certifying. Such certification by the Agency shall be (and it shall be so provided in the Deed and in the certification itself) a conclusive determination of satisfaction and termination of the agreements and covenants in the Agreement and in the Deed with respect to the obligations of the Redeveloper, and its successors and assigns, to construct the Improvements and the dates for the beginning and completion thereof. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Redeveloper to any holder of a mortgage, or any insurer or a mortgage, securing money loaned to finance the Improvements, or any part thereof.

(b) The certification provided for in this Section 307 shall be in such form as will enable it to be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Property, including the Deed. If the Agency shall refuse or fail to provide any certification in accordance with the provisions of this Section, the Agency shall, within thirty (30) days after written request by the Redeveloper provide the Redeveloper with a written statement, indicating in adequate detail in what respects the Redeveloper has failed to complete the Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the Agency, for the Redeveloper to take or perform in order to obtain such certification.

ARTICLE IV. RESTRICTIONS UPON USE OF PROPERTY

SEC. 401. Restrictions on Use. The Redeveloper agrees for itself, and its successors and assigns, and every successor in interest to the Property, or any part thereof, and the Deed shall contain covenants on the part of the Redeveloper for itself, and such successors and assigns, that the Redeveloper, and such successors and assigns, shall:

- (a) Devote the Property to and only to and in accordance with, the uses specified in the Urban Renewal Plan and in accordance with the Redeveloper's response to the RFP; and
- (b) Not discriminate upon the basis of race, color, creed, or national origin in the sale, lease, or rental or in the use or occupancy of the Property or any improvements erected or to be erected thereon, or any part thereof.

SEC. 402. Covenants Binding Upon Successors in Interest Period of Duration. It is intended and agreed, and the Deed shall so expressly provide, that the agreements and covenants provided in Section 401 hereof shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Agreement, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Agency, its successors and assigns, and the City and any successor in interest to the Property, or any part thereof, against the Redeveloper, its successors and assigns and every successor in interest to the Property, or any part thereof. It is further intended and agreed that the agreement and covenant provided in subdivision (a) of Section 401 hereof shall remain in effect for the period of time, or until the date, specified or referred to in Section 6 Part I hereof (at which time such agreement and covenant shall terminate) and that the agreements and covenants provided in subdivision (b) of Section 401 hereof shall remain in effect without limitation as to time: Provided, that such agreements and covenants shall be binding on the Redeveloper itself, each successor in interest to the Property, and every part thereof, and each party in possession or occupancy, respectively, only for such period as such successor or party shall have title to, or an interest in, or possession or occupancy of, the Property or part thereof. The terms "uses specified in the Urban Renewal Plan" and "land use" referring to provisions of the Urban Renewal Plan, or similar language, in the Agreement shall include the land and all building, housing, and other requirements or restrictions of the Urban Renewal Plan pertaining to such land.

SEC. 403. Agency and United States Rights to Enforce. In amplification, and not in restriction of the provisions of the preceding Section it is intended and agreed that the Agency and its successors and assigns and the City and its

successors and assigns shall be deemed beneficiaries of the agreements and covenants provided in Section 401 hereof, both for and in their or its own right and also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall (and the Deed shall so state) run in favor of the Agency and the City, for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Agency or the City has at any time been remains, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate. The Agency shall have the right, in the event of any breach of any such agreement or covenant, and the City shall have the right in the event of any breach of the covenant provided in subdivision (b) of Section 401 hereof, to exercise all the rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled.

ARTICLE V. PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

SEC. 501. Interval for Requesting Transfer of Property and Assignment of Agreement. The interval within which the Redeveloper may request a transfer of the Property and assignment of the Agreement shall be between the date of the Agreement and the date for the submission of equity capital and mortgage financing set forth in Part I, Section 5(e) of the Agreement.

SEC. 502. Representations As to Redevelopment. The Redeveloper represents and agrees that its purchase of the Property, and its other undertakings pursuant to the Agreement, are, and will be used, for the purpose of redevelopment of the Property and not for speculation in land holding. The Redeveloper further recognizes that, in view of:

(a) the importance of the redevelopment of the Property to the general welfare of the community

(b) the substantial financing and other public aids that have been made available by law and by the Agency and the City, if applicable, for the purpose of making such redevelopment possible; and

(c) the fact that a transfer of the stock in the Redeveloper or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in the ownership or distribution of such stock or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, is for practical purposes a transfer or disposition of the Property then owned by the Redeveloper, the qualifications and identity of the Redeveloper, and its stockholders are of particular concern to the community and the Agency. The Redeveloper further recognizes that it is because of such qualifications and identity that the Agency is entering into the Agreement with the Redeveloper, and in so doing, is further willing to accept and rely on the obligations of the Redeveloper for the faithful performance of undertakings and covenants hereby by it to be performed.

SEC. 503. Prohibition Against Transfer of Shares of Stock; Binding Upon Stockholders Individually. For the foregoing reasons, the Redeveloper represents and agrees for itself, its stockholders, and any successor in interest of itself and its stockholders, respectively, that: Prior to completion of the Improvements as certified by the Agency, and without the prior written approval of the Agency, (a) there shall be no transfer by any party owner of 10 percent or more of the stock in the Redeveloper (which term shall be deemed for the purposes of this and related provisions to include successors in interest of such stock or any part thereof or interest therein), (b) nor shall any such owner suffer any such transfer to be made, (c) nor shall there be or be suffered to be by the Redeveloper, or by any owner of 10 percent or more of the stock therein, any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation corporate or other amendments, issuance of additional or new stock or classification of stock, or otherwise. The Agency will consider request for variances from this prohibition for the transfers made in the ordinary course of business. With respect to this provision, the Redeveloper and the parties signing the Agreement on behalf of the Redeveloper represent that they have the authority of all of its existing stockholders to agree to this provision on their behalf and to bind them with respect thereto.

SEC. 504. Prohibition Against Transfer of Property and Assignment of Agreement. Also, for the foregoing reasons the Redeveloper represents and agrees for itself, and its successors and assigns, that except only by way of security for, and only for (i) the purpose of obtaining financing necessary to enable the Redeveloper or any successor in interest to the Property, or any part thereof, to perform its obligations with respect to making the Improvements under the Agreement, and (ii) any other purpose authorized by the Agreement, the Redeveloper (except as so authorized) has not made or created, and that it will not, prior to the proper completion of the Improvements as certified by the Agency, make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or lease or any trust or power, or transfer in any other mode or form of or with respect to the Agreement or the Property, or any part thereof or any interest therein, or any contract or agreement to do any of the same, without the prior written approval of the Agency: Provided, that, prior to the issuance by the Agency of the certificate provided for in Section 307 hereof as to completion of the construction of the

Improvements, the Redeveloper may enter into any agreement to sell, lease, or otherwise transfer, after the issuance of such certificate, the Property or any part thereof or interest therein, which agreement shall not provide for payment of or on account of the purchase price or rent for the Property, or the part thereof or the interest therein to be so transferred, prior to the issuance of such certificate.

(a) The Agency shall be entitled to require, except as otherwise provided in the Agreement, as conditions to any such approval that:

(1) Any proposed transferee shall have the qualifications and financial responsibility, as determined by the Agency, necessary and adequate to fulfill the obligations undertaken in the Agreement by the Redeveloper (or in the event the transfer is of or relates to part of the Property, such obligations to the extent that they relate to such part).

(2) Any proposed transferee, by instrument in writing satisfactory to the Agency and in form recordable among the land records, shall, for itself and its successors and assigns, and expressly for the benefit of the Agency, have expressly assumed all of the obligations of the Redeveloper under the Agreement and agreed to be subject to all the conditions and restrictions to which the Redeveloper is subject (or, in the event the transfer is of or relates to part of the Property, such obligations, conditions, and restrictions to the extent that they relate to such part): Provided, that the fact that any transferee of, or any other successor in interest whatsoever to, the Property, or any part thereof, shall, whatever the reason, not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in the Agreement or agreed to in writing by the Agency) relieve or except such transferee or successor of or from such obligations, conditions, or restrictions, or deprive or limit the Agency of or with respect to any rights or remedies or controls with respect to the Property or the construction of the Improvements; it being the intent of this, together with other provisions of the Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in the Agreement) no transfer of, or change with respect to, ownership in the Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the Agency of or with respect to any rights or remedies or controls provided in or resulting from the Agreement with respect to the Property and the construction of the Improvements that the Agency would have had, had there been no such transfer or change.

(3) There shall be submitted to the Agency for review all instruments and other legal documents involved in effecting transfer; and if approved by the Agency, its approval shall be indicated to the Redeveloper in writing.

(4) The consideration payable for the transfer by the transferee or on its behalf shall not exceed an amount representing the actual cost (including carrying charges) to the Redeveloper of the Property (or allocable to the part thereof or interest therein transferred) and the Improvements, if any, theretofore made thereon by it; it being the intent of this provision to preclude assignment of the Agreement or transfer of the Property for profit prior to the completion of the Improvements and to provide that in the event any such assignment or transfer is made (and is not canceled) the Agency shall be entitled to increase the Purchase Price to the Redeveloper by the amount that the consideration payable for the assignment or transfer is in excess of the amount that may be authorized pursuant to this subdivision (4), and such consideration shall, to the extent it is in excess of the amount so authorized, belong to and forthwith be paid to the Agency.

(5) Transferee will be required to submit to the Agency an irrevocable letter of credit, issued by a bank or lending institution, wherein the Agency is the beneficiary, or a surety bond in form and substance satisfactory to the Agency, in which the Agency is the Obligee, issued by a surety company regularly engaged in the issuance of such undertakings and on the list of surety companies approved by the United States Treasury, in an amount not to exceed ten percent (10%) of the total cost of the construction proposed by bidder as guarantee that said construction will be completed within the time specified in the Warranty Deed conveying title to the property. Said irrevocable letter of credit or surety bond shall be submitted by Transferee to the Agency on or before the date the Agency approves the transfer.

(6) The Redeveloper and its transferee shall comply with such other conditions as the Agency may find desirable in order to achieve and safeguard the purposes of the Urban Renewal Act and the Urban Renewal Plan.

Provided, that in the absence of specific written agreement by the Agency to the contrary, no such transfer or approval by the Agency thereof shall be deemed to relieve the Redeveloper, or any other party bound in any way by the Agreement or otherwise with respect to the construction of the Improvements, from any of its obligations with respect thereto.

SEC. 505. Information As to Stockholders. In order to assist in the effectuation of the purposes of this Article V and the statutory objectives generally, the Redeveloper agrees that during the period between execution of the Agreement and completion of the Improvements as certified by the Agency, (a) the Redeveloper will promptly notify the Agency of any and all changes whatsoever in the ownership of stock, legal or beneficial, or of any other act or transaction involving or resulting in any change in the ownership of the respective business, which includes ownership of such stock or in the relative distribution thereof, or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, of which it or any of its offices have been notified or otherwise have knowledge or information; and (b) the Redeveloper shall, at such time or times as the Agency may request, furnish the Agency with a complete statement, subscribed and sworn to by the President or other executive officer of the Redeveloper, setting forth all of the stockholders of the Redeveloper and the extent of their respective holdings, and interest, all as determined or indicated by the records of the Redeveloper, by specific inquiry made by any such office, of all parties who on the basis of such records own 10 percent or more of the stock in the Redeveloper, and by such other knowledge or information as such officer shall have. Such lists, data, and information shall in any event be furnished the Agency immediately prior to the delivery of the Deed to the Redeveloper and as a condition precedent thereto, and annually thereafter on the anniversary of the date of the Deed until the issuance of a certificate of completion for all the Property.

ARTICLE VI. MORTGAGE FINANCING; RIGHTS OF MORTGAGEES

SEC. 601. Limitation Upon Encumbrance of Property. Prior to the completion of the Improvements, as certified by the Agency, neither the Redeveloper nor any successor in interest to the Property or any part thereof shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Property, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Property, except for the purposes of obtaining (a) funds only to the extent necessary for making the Improvements and (b) such additional funds, if any, in an amount not to exceed the Purchase Price paid by the Redeveloper to the Agency. The Redeveloper (or successor in interest) shall notify the Agency in advance of any financing secured by mortgage or other similar lien instrument, it proposes to enter into with respect to the Property, or any part thereof, and in any event it shall promptly notify the Agency of any encumbrance or lien that has been created on or attached to the Property, whether by voluntary act of the Redeveloper or otherwise. For the purposes of such mortgage financing as may be made pursuant to the Agreement, the Property may, at the option of the Redeveloper (or successor in interest), be divided into several parts or parcels, provided that such subdivision, in the opinion of the Agency is not inconsistent with the purposes of the Urban Renewal Plan and the Agreement and is approved in writing by the Agency.

SEC. 602. Mortgagee Not Obligated to Construct. Notwithstanding any of the provisions of the Agreement, including but not limited to those which are or are intended to be covenants running with the land, the holder of any mortgage authorized by the Agreement (including any such holder who obtains title to the Property or any part thereof as a result of foreclosure proceedings, or action in lieu thereof, but not including (a) any other party who thereafter obtains title to the Property or such part from or through such holder or (b) any other purchaser at foreclosure sale other than the holder of the mortgage itself) shall in no wise be obligated by the provisions of the Agreement to construct or complete the Improvements or to guarantee such construction or completion nor shall any covenant or any other provision in the Deed be construed to so obligate such holder: Provided, that nothing in this Section or provision of the Agreement shall be deemed or construed to permit or authorize any such holder to devote the Property or any part thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided or permitted in the Urban Renewal Plan and in the Agreement.

SEC. 603. Copy of Notice of Default to Mortgagee. Whenever the Agency shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper in its obligations or covenants under the Agreement, the Agency shall at the same time forward a copy of such notice or demand to each holder of any mortgage authorized by the Agreement at the last address of such holder shown in the records of the Agency.

SEC. 604. Mortgagee's Option to Cure Defaults. After any breach or default referred to in Section 603 hereof, each such holder shall (insofar as the rights of the Agency are concerned) have the right, at its option, to cure or remedy such breach or default (or such breach or default to the extent that it relates to the part of the Property covered by its mortgage) and to add the cost thereof to the mortgage debt and the lien of its mortgage: Provided, that if the breach or default is with respect to construction of the Improvements, nothing contained in this Section or any other Section of the Agreement shall be deemed to permit or authorize such holder, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the Improvements (beyond the extent necessary to conserve or protect Improvements or construction already made) without first having expressly assumed the obligation to the Agency, by written agreement satisfactory to the Agency, to complete, in the manner provided in the Agreement, the Improvements on the Property or the part thereof to which the lien or title to such holder relates. Any such holder who shall properly complete the Improvements relating to the Property or applicable part thereof shall be entitled, upon written request made to the Agency, to a certification or certifications by the Agency to such effect in the manner provided in Section 307 of the Agreement, and any such certification shall, if so requested by such holder, mean and provide that any remedies or rights with respect to recapture of or reversion or revesting of title to the Property that the Agency shall have or be entitled to because of failure of

the Redeveloper or any successor in interest to the Property, or any part thereof, to cure or remedy any default with respect to the construction of the Improvements on other parts or parcels of the Property, or because of any other default in or breach of the Agreement by the Redeveloper or such successor, shall not apply to the part or parcel of the Property to which such certification relates.

SEC. 605. Agency's Option To Pay Mortgage Debt or Purchase Property. In any case, where subsequent to default or breach by the Redeveloper (or successor in interest) under the Agreement, the holder of any mortgage on the Property or part thereof:

(a) has, but does not exercise the option to construct or complete the Improvements relating to the Property or part thereof covered by its mortgage or to which it has obtained title, and such failure continues for a period of sixty (60) days after the holder has been notified or informed of the default or breach; or

(b) undertakes construction or completion of the Improvements but does not complete such construction within the period as agreed upon by the Agency and such holder (which period shall in any event be at least as long as the period prescribed for such construction or completion in the Agreement), and such default shall not have been cured within sixty (60) days after written demand by the Agency so to do, the Agency shall (and every mortgage instrument made prior to completion of the Improvements with respect to the Property by the Redeveloper or successor in interest shall so provide) have the option of paying to the holder the amount of the mortgage debt and securing an assignment of the mortgage and the debt secured thereby, or, in the event ownership of the Property (or part thereof) has vested in such holder by way of foreclosure or action in lieu thereof, the Agency shall be entitled, at its option, to a conveyance to it of the Property or part thereof (as the case may be) upon payment to such holder of an amount equal to the sum of: (i) the mortgage debt at the time of foreclosure or action in lieu thereof (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings); (ii) all expenses with respect to the foreclosure; (iii) the net expense, if any (exclusive of general overhead), incurred by such holder in and as a direct result of the subsequent management of the Property; (iv) the costs of any Improvements made by such holder; and (v) an amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence.

SEC. 606. Agency's Option To Cure Mortgage Default. In the event of a default or breach prior to the completion of the Improvements by the Redeveloper, or any successor in interest, in or of any of its obligations under, and to the holder of, any mortgage or other instrument creating an encumbrance or lien upon the Property or part thereof, the Agency may at its option cure such default or breach, in which case the Agency shall be entitled, in addition to and without limitation upon any other rights or remedies to which it shall be entitled by the Agreement, operation of law, or otherwise, to reimbursement from the Redeveloper or successor in interest of all costs and expenses incurred by the Agency in curing such default or breach and to a lien upon the Property (or the part thereof to which the mortgage, encumbrance, or lien relates) for such reimbursement: Provided, that any such lien shall be subject always to the lien of (including any lien contemplated, because of advances yet to be made, by) any then existing mortgages on the Property authorized by the Agreement.

SEC. 607. Mortgage and Holder. For the purposes of the Agreement: The term "mortgage" shall include a deed of trust or other instrument creating an encumbrance or lien upon the Property, or any part thereof, as security for a loan. The term "holder" in reference to a mortgage shall include any insurer or guarantor of any obligation or condition secured by such mortgage or deed of trust.

ARTICLE VII. REMEDIES

SEC. 701. In General. Except as otherwise provided in the Agreement, in the event of any default in or breach of the Agreement, or any of its terms or conditions, by either party hereto, or any successor to such party, such party (or successor) shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of such notice. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be provided in Article VII of Part II.

SEC. 702. Termination by Redeveloper Prior to Conveyance. In the event that the Agency does not tender conveyance of the Property, or possession thereof, in the manner and condition and by the date, provided in the Agreement, and any such failure shall not be cured within thirty (30) days after the date of written demand by the Redeveloper, then the Agreement shall, as its sole option, be terminated by written notice thereof to the Agency, and except with respect to the return of the Deposit and Earnest Money as provided in Paragraph (d), Section 3 of Part I hereof, neither the Agency nor the Redeveloper shall have any further rights against or liability to the other under the Agreement.

SEC. 703. Termination by Agency Prior to Conveyance. In the event that:

(a) prior to conveyance of the Property to the Redeveloper and in violation of the Agreement

(i) the Redeveloper (or any successor in interest) assigns or attempts to assign the Agreement or any rights therein, or in the Property, or

(ii) there is any change in the ownership or distribution of the stock of the Redeveloper or with respect to the identity of the parties in control of the Redeveloper or the degree thereof; or

(b) the Redeveloper does not submit Construction Plans, as required by the Agreement, or evidence that it has the necessary equity capital and mortgage financing, in satisfactory form and in the manner and by the dates respectively provided in the Agreement therefor; or

(c) the Redeveloper does not pay the Purchase Price and take title to the Property upon tender conveyance by the Agency pursuant to the Agreement;

then the Agreement, and any rights of the Redeveloper, or any assignee or transferee, in the Agreement, or arising therefrom with respect to the Agency or the Property, may be: (i) terminated by the Agency, in which event, as provided in Paragraph (c), Section 3 of Part I hereof, the Deposit and Earnest Money shall be retained by the Agency as liquidated damages and as its property without any deduction, offset, or recoupment whatsoever, and neither the Redeveloper (or assignee or transferee) nor the Agency shall have any further rights against or liability to the other under the Agreement; or (ii) the Agency may pursue specific performance of this Agreement; and/or (iii) the Agency may pursue any other rights or remedies available at law or equity.

SEC. 704. Revesting Title in Agency Upon Happening of Event Subsequent to Conveyance to Redeveloper. In the event that subsequent to conveyance of the Property or any part thereof to the Redeveloper and prior to completion of the Improvements as certified by the Agency:

(a) the Redeveloper (or successor in interest) shall default in or violate its obligations with respect to the construction of the Improvements (including the nature and the dates for the beginning and completion thereof), or shall abandon or substantially suspend construction work, and any such default, violation, abandonment, or suspension shall not be cured, ended or remedied within three (3) months or six (6) months, if the default is with respect to the date for completion of the Improvements) after written demand by the Agency so to do; or

(b) the Redeveloper (or successor in interest) shall fail to pay real estate taxes or assessments on the Property or any part thereof when due, or shall place thereon any encumbrance or lien unauthorized by the Agreement, or shall suffer any levy or attachment to be made, or any materialman's or mechanic's lien, or any other unauthorized encumbrance or lien to attach and such taxes or assessments shall not have been paid, or encumbrance or lien removed or discharged or provision satisfactory to the Agency made for such payment, removal, or discharge, within ninety (90) days after written demand by the Agency so to do; or

(c) there is, in violation of the Agreement any transfer of the Property or any part thereof, or any change in the ownership or distribution of stock of the Redeveloper, or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, and such violation shall not be cured within sixty (60) days after written demand by the Agency to the Redeveloper then the Agency shall have the right to re-enter and take possession of the Property and to terminate (and revert in the Agency) the estate conveyed by the Deed to the Redeveloper, it being the intent of this provision, together with other provisions of the Agreement, that the conveyance of the Property to the Redeveloper shall be made upon and that the Deed shall contain, a condition subsequent to the effect that in the event of any default, failure, violation, or other action or inaction by the Redeveloper specified in subdivisions (a), (b) and (c) of this Section 704, failure on the part of the Redeveloper to remedy, end or abrogate such default, failure, violation or other action or inaction within the period and in the manner stated in such subdivisions, the Agency at its option may declare a termination in favor of the Agency of the title and of all the rights and interests in and to the Property conveyed by the Deed to the Redeveloper and that such title and all rights and interests of the Redeveloper and any assigns or successors in interest to and in the Property, shall revert to the Agency: Provided, that such condition subsequent and any revesting of title as a result thereof in the Agency

(1) Shall always be subject to and limited by and shall not defeat, render invalid or limit in any way

(i) the lien of any mortgage authorized by the Agreement, and (ii) any rights or interest provided in the Agreement for the protection of the holders of such mortgages; and

(2) Shall not apply to individual parts or parcels of the Property (or, in the case of parts or parcels leased, the leasehold interest on which the Improvements to be constructed thereon have been completed in accordance with the Agreement and for which a certificate of completion is issued therefor as provided in Section 307 hereof.

In addition to and without in any way limiting the Agency's right to re-entry as provided for in the preceding sentence, the Agency shall have the right to retain the Deposit, as provided in Paragraph (d) Section 3 of Part I hereof, without any deduction, offset or recoupment whatsoever, in the event of a default, violation or failure of the Redeveloper as specified in the preceding sentence.

SEC. 705. Resale of Reacquired Property; Disposition of Proceeds. Upon the revesting in the Agency of title to the Property or any part thereof as provided in Section 704, the Agency shall, pursuant to its responsibilities under State law, use its best efforts to resell the Property or part thereof (subject to such mortgage liens and leasehold interests as in Section 704 set forth and provided) as soon and in such manner as the Agency shall find feasible and consistent with the objectives of such law and of the Urban Renewal Plan to a qualified and responsible party or parties (as determined by the Agency) who will assume the obligation of making or completing the Improvements or such other improvements in their stead as shall be satisfactory to the Agency and in accordance with the uses specified for such Property or part thereof in the Urban Renewal Plan. Upon such resale of the Property, the proceeds shall be applied:

(a) First, to reimburse the Agency, on its own behalf and that of the City, for all costs and expenses incurred by the Agency, including but not limited to salaries of personnel, in connection with the recapture, management and resale of the City Property or part thereof (but less any income derived by the Agency from the Property or part thereof in connection with such management); all taxes, assessments and water and sewer charges with respect to the Property or part thereof (or, in the event the Property is exempt from taxation or assessment or such charges during the period of ownership thereof by the Agency, an amount, if paid, equal to such taxes, assessments, or charges (as determined by the City assessing official) as would have been payable if the Property were not so exempt); any payments made or necessary to be made to discharge any encumbrances or liens existing on the Property or part thereof at the time of revesting of title thereto in the Agency or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Redeveloper, its successors or transferees; any expenditures or liens due to obligations incurred with respect to the making or completion of the Improvements or any part thereof on the Property or part thereof and any amounts otherwise owing the Agency by the Redeveloper and its successor or transferee; and

(b) Second, to reimburse the Redeveloper, its successor or transferee, up to the amount equal to (1) the sum of the purchase price paid by it for the Property (or allocable to the part thereof) and the cash actually invested by it in making any of the Improvements on the Property or part thereof, less (2) any gains or income withdrawn or made by it from the Agreement or the Property.

Any balance remaining after such reimbursements shall be retained by the Agency as its property.

SEC. 706. Other Rights and Remedies of Agency; No Waiver by Delay. The City and Agency shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this Article VII, including also the right to execute and record or file among the public land records in the office in which the Deed is recorded a written declaration of the termination of all the right, title, and interest of the Redeveloper and (except for such individual parts or parcels upon which construction of that part of the Improvements required to be constructed thereon has been completed, in accordance with the Agreement, and for which a certificate of completion as provided in Section 307 hereof is to be delivered and subject to such mortgage liens and leasehold interests as provided in Section 704 hereof) its successors in interest and assigns, in the Property and the revesting of title thereto in the Agency: Provided, that any delay by the City and Agency in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Article VII shall not operate as a waiver of such rights or to deprive it or limit such rights in any way (it being the intent of this provision that the Agency should not be constrained (so as to avoid the risk of waiver, laches or otherwise) to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver in fact made by the City and Agency with respect to any specific default by the Redeveloper under this Section be considered or treated as a waiver of the rights of the Agency with respect to any other defaults by the Redeveloper under this Section or with respect to the particular default except to the extent specifically waived in writing.

SEC. 707. Enforced Delay in Performance for Causes Beyond Control of Party. For the purposes of any of the provisions of the Agreement, neither the City, Agency nor the Redeveloper, as the case may be, nor any successor in interest, shall be considered in breach of, or default in, its obligations with respect to the preparation of the Property for redevelopment, or the beginning and completion of construction of the Improvements, or progress in respect thereto, in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God, acts of the public enemy, acts of the federal government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the City or Agency with respect to the preparation of the Property for redevelopment or of the Redeveloper with respect to construction of the Improvements, as the case may be, shall be extended for the period of the enforced delay as determined by the Agency: Provided, that the party seeking the benefit of the provisions of this Section shall, within ten (10) days after the beginning of any such enforced

delay have first notified the other party thereof in writing and of the cause or causes thereof and requested an extension for the period of the enforced delay.

SEC. 708. Rights and Remedies Cumulative. The rights and remedies of the parties to the Agreement whether provided by the Agreement, shall be cumulative and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other party. No waiver made by either party with respect to the performance or manner or time thereof, or any obligation of the other party or any condition to its own obligation under the Agreement shall be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

SEC. 709. Party in Position of Surety With Respect to Obligations. The Redeveloper, for itself and its successors and assigns and for all other persons who are or who shall become, whether by express or implied assumption or otherwise, liable upon or subject to any obligation or burden under the Agreement, hereby waives, to the fullest extent permitted by law and equity, any and all claims or defenses otherwise available on the ground of its (or their) being or having become a person in the position of a surety, whether real, personal or otherwise or whether by agreement or operation of law, including, without limitation on the generality of the foregoing, any and all claims and defenses based upon extension of time, indulgence, or modification of terms or contract.

ARTICLE VIII. MISCELLANEOUS

SEC. 801. Conflicts of Interests; Agency Representatives Not Individually Liable. No member, official, or employee of the Agency or the City shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of the Agency or City shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach by the Agency or City or for any amount which may become due to the Redeveloper or successor or on any obligations under the terms of the Agreement.

SEC. 802. Equal Employment Opportunity. The Redeveloper, for itself and its successors and assigns, agrees that during the construction of the Improvements provided for in the Agreement:

(a) The Redeveloper will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Redeveloper will take affirmative action to insure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

(b) The Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of the Redeveloper, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

SEC. 803. SBEDA. The Redeveloper agrees to comply with the Small Business Economic Development Utilization Plan as determined by the City for the Project, as more particularly described in the City's Ordinance No. 2016-05-19-0367 as may be amended.

SEC. 804. Insurance Requirements. The Redeveloper agrees to maintain minimum insurance coverage during the construction of improvements on the Property and in the amounts specified by the City. Such insurance shall name the Agency and the City as additional insureds to the required policies.

SEC. 805. Modifications to Agreement. In the event the Redeveloper requests any change in or modification of the Agreement, said Redeveloper shall be required to submit to the Agency an irrevocable letter of credit, issued by a bank or lending institution wherein the Agency is the beneficiary or a surety bond in form and substance satisfactory to the Agency, in which the Agency is the Obligatee, issued by a surety company regularly engaged in the issuance of such undertakings and on the list of surety companies approved by the United States Treasury, in an amount not to exceed ten percent (10%) of the total cost of the construction proposed by bidder as guarantee that said construction will be completed within the time specified in the Warranty Deed conveying title to the property. Said irrevocable letter of credit or surety bond shall be submitted to the Agency by Redeveloper on such date as the Agency specifies in writing.

SEC. 806. Provisions Not Merged With Deed. None of the provisions of the Agreement are intended to or shall be merged by reason of any deed transferring title to the Property from the Agency to the Redeveloper or any successor in interest and any such deed shall not be deemed to affect or impair the provisions of the Agreement.

SEC. 807. Titles of Articles and Sections. Any titles of the several parts, Articles and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.