

## ASSIGNMENT AND AMENDMENT AGREEMENT

**THIS ASSIGNMENT AND AMENDMENT AGREEMENT** (this “**Agreement**”), is made and entered into to be effective as of August 27, 2020 (the “**Effective Date**”), by and among **FRANKLIN DEVELOPMENT PROPERTIES, LTD.**, a Texas limited partnership (“**Redeveloper**” or “**Assignor**”), **SAN ANTONIO HOUSING TRUST PUBLIC FACILITY CORPORATION**, a Texas non-profit public facility corporation (“**Assignee**”), and the **CITY OF SAN ANTONIO TEXAS**, acting by and through the **URBAN RENEWAL AGENCY OF THE CITY OF SAN ANTONIO d/b/a OFFICE OF REDEVELOPMENT SAN ANTONIO** (“**City**” or “**Seller**”).

### RECITALS

**WHEREAS**, Assignor and Seller are parties to that certain Contract for Sale of Land for Private Redevelopment (the “**Purchase and Sale Agreement**”), dated as of October 3, 2019;

**WHEREAS**, Assignor desires to assign all of its right title and interest in the Purchase and Sale Agreement to Assignee, on the terms and conditions set forth in this Agreement;

**WHEREAS**, Assignee desires to accept such assignment and to assume the Purchase and Sale Agreement, on the terms and conditions set forth in this Agreement;

**WHEREAS**, Seller desires to provide its consent to such assignment; and

**WHEREAS**, Assignor, Assignee, and Seller, desire to amend the Purchase and Sale Agreement, on the terms and conditions set forth in this Agreement.

### AGREEMENT

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. **Scope of Amendment; Defined Terms.** Except as expressly provided in this Agreement, the Purchase and Sale Agreement shall remain in full force and effect. Should any inconsistency arise between this Agreement and the Purchase and Sale Agreement as to the specific matters which are the subject of this Agreement, the terms and conditions of this Agreement shall control. The term “Purchase and Sale Agreement” defined above shall refer to the Purchase and Sale Agreement as it existed before giving effect to the modifications set forth in this Agreement and the term “Agreement” as used in the Purchase and Sale Agreement shall refer to the Purchase and Sale Agreement as modified by this Agreement. All capitalized terms used in this Agreement and not defined herein shall have the meanings set forth in the Purchase and Sale Agreement unless the context clearly requires otherwise.

2. **Assignment.**

(a) Subject to the terms and conditions set forth herein, effective as of the Effective Date, Assignor hereby transfers, assigns, sells, grants, conveys and delivers to Assignee, and Assignee hereby assumes, accepts, purchases and receives from the Assignor, all Assignor’s right, title, and interest in, to, and under the Purchase and Sale Agreement.

(b) Assignee hereby agrees to perform or cause the performance of (subject to the terms and conditions of this Agreement, as amended hereby) all obligations and liabilities of Assignor as the “Redeveloper”

under the Purchase and Sale Agreement, and shall have all of the rights of Assignor against Seller as "Redeveloper" thereunder.

(c) Assignor hereby assigns, sells, conveys and transfers to Assignee all right, title and interest of Assignor in and to any and all Earnest Money and other sums, if any, paid by Assignor under the Purchase and Sale agreement, including the right to have said Earnest Money credited to the Purchase Price pursuant to the Purchase and Sale Agreement.

### 3. Seller Rights.

(a) Notwithstanding anything contained in the Purchase and Sale Agreement to the contrary, Seller agrees that Section 2 (a)(2) of Part I shall be amended to as follows:

A Deed Restriction applicable to each individual lot and improvement constructed thereon by the Redeveloper limiting the use of the Property to the use and for the purpose of providing affordable housing as set forth in the Request for Proposals for the Project (the "RFP") for a period of forty (40) years from the date of conveyance from the Seller to the Redeveloper to which the Redeveloper agrees to be bound and which the Redeveloper agrees to include in each and every purchase agreement entered into by Redeveloper with all end-buyers of lots and residences constructed on the Property and which shall also provide that a violation of the deed restriction will constitute a violation of this entire Agreement and the property conveyed in the purchase agreement shall be subject to the remedies set forth in this Agreement.

(b) Seller agrees that Section 402 of Part II of the Purchase and Sale Agreement is amended to state as follows:

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 Seller 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. Redeveloper agrees to require each subsequent purchaser and end-buyer of lots or residences constructed on each lot to execute a restrictive covenant requiring the Property to only be used in accordance with the uses specified in the Urban Renewal Plan and in accordance with the Redeveloper's response to the RFP and, in particular, the continual use of the Property as and for the purpose of affordable housing. 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. Seller agrees that the

Declaration of Restrictive Covenants filed against the Property at the time of sale of the Property shall provide the right of the City of San Antonio to enforce all provisions of said Declaration against any and all parties to which the Declaration shall apply. Seller agrees that a default under such Declaration of Restrictive Covenants shall be a default under this Agreement and the Purchase and Sale Agreement and the damages and default provisions therein are incorporated into this Agreement by reference thereto as though set forth herein. Seller and Assignor agree that in the event of a default of the Declaration of Restrictive Covenants, damages of the City of San Antonio for breach under section 4.1 of said Declaration are and would be difficult to estimate. Therefore, the Parties agree that in the event of default under section 4.1 of the Declaration, the City shall recover as liquidated damages from the owner of the Property or party in possession of the Property at the time of default shall pay the City of San Antonio \$387 per day for each day that it does not comply with Section 4.1 of the Declaration. The Parties agree that this measurement and calculation of damages is reasonable since the amount of damages will vary in proportion to the number of days the covenant is breached, and will be proportionate to the loss of the bargain the City and Assignor made at the time this Agreement becomes effective. By way of example, if the Assignor or lessee of the Property fails to timely complete the Project in accordance with the deadlines and cure periods provided in this Agreement, they would owe the City the full \$5,655,000 the City invested in the Property, or if Assignor or lessee fails to comply with Section 4.1 for a one (1) year period from the date this Agreement becomes effective, they would owe 1/40th of the City's total \$5,655,000 investment.

(c) Seller agrees that a leasehold mortgage providing financing under the Proposed Ground Lease (defined below) to construct the Improvements relating to the Property is entitled to all of the rights available to mortgagees under Article VI of Part II of the Purchase and Sale Agreement.

(d) Sections 704 and 705 of Part II of the Purchase and Sale Agreement are hereby deleted.

#### **4. Time and Place for Delivery of Deed; Commencement of Construction.**

(a) Section 2(a)(3)(b) of Part I of the Purchase and Sale Agreement is hereby amended to provide that the Seller shall deliver the Deed and possession of the Property to Assignee on or before September 1, 2020, or such earlier date as the parties may mutually agree in writing (the "Closing").

(b) Section 4 of Part I of the Purchase and Sale Agreement is hereby amended to provide that the construction of the improvements referred to in Section 301 of Part II of the Purchase and Sale Agreement shall be commenced within ninety (90) days after the Closing, except as otherwise provided in the Purchase and Sale Agreement, and shall be completed by December 31, 2023.

#### **5. Construction Plans; Equity Capital and/or Mortgage Financing.**

(a) Seller acknowledges and agrees that all requirements to provide Construction Plans to Seller as set forth in the Purchase and Sale Agreement, including without limitation, the provisions of Section 5(a), 5(b), 5(c), 5(d) of Part I thereof, and Sections 301 and 302 of Part II thereof, have been timely satisfied, and that all such Construction Plans have been approved by Seller.

(b) Seller acknowledges and agrees that all requirements to submit evidence as to equity capital and any commitment necessary for mortgage financing to Seller as set forth in the Purchase and Sale Agreement, including without limitation, the provisions of Section 5(e) of Part I thereof, Section 303, and Section 601 of Part II thereof, have been timely satisfied.

6. **Proposed Transfer of Leasehold Interest in Property.** Seller acknowledges that Assignee intends to enter into a long-term ground lease for the entire Property (the “**Proposed Ground Lease**”) with ARDC City Base, Ltd. (the “**Proposed Ground Lessee**”). Seller agrees that it will not unreasonably withhold its approval of the Proposed Ground Lease with the Proposed Ground Lessee, provided that (i) Assignee complies with the provisions of Section 504 of Part II of the Purchase and Sale Agreement, and (ii) in connection with such Proposed Ground Lease, the Proposed Ground Lessee assumes all of the obligations of the Redeveloper under the Purchase and Sale Agreement, as amended hereby. The requirements of Section 504(a)(5) of Part II of the Purchase and Sale Agreement are hereby waived in light of the payment and performance bonds delivered to the mortgagee.

7. **Rights to Reimbursement.** Seller confirms that the amount of eligible reimbursement is \$4,200,000, and that there will be no City contingency. Seller acknowledges that the Proposed Ground Lessee will actually cause the contemplated project to be constructed and will incur the construction costs thereof. Proposed Ground Lessee will submit requests for reimbursement to Declarant who will submit them to Seller. Upon reimbursement by Seller to Declarant, Declarant will loan the reimbursed amount to the Proposed Ground Lessee.

8. **Assignor’s Continued Obligations.** Notwithstanding this Agreement, Assignor agrees to remain liable for all of the obligations of the Redeveloper under this Agreement.

9. **Seller’s Option.** Section 605(b)(i) of Part II of the Purchase and Sale Agreement is hereby amended to read as follows: “(i) all mortgage debt held by all superior mortgage debt holders 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);”.

10. **Assignor’s Representations.** Assignor has the power and authority to execute, deliver, and perform this Agreement. This Agreement has been duly executed and delivered by Assignor and constitutes a valid and binding obligation of Assignor, enforceable against Assignor in accordance with its terms. Assignor represents that the making, execution, delivery and performance of this Agreement, and Assignor’s compliance with the terms contained herein, will not violate or constitute a breach of any agreement, instrument or restriction to which Assignor is a party or by which Assignor is bound.

11. **Assignee’s Representations.** Assignee has the power and authority to execute, deliver, and perform this Agreement. This Agreement has been duly executed and delivered by Assignee and constitutes a valid and binding obligation of Assignee, enforceable against Assignee in accordance with its terms. Assignee represents that the making, execution, delivery and performance of this Agreement, and Assignee’s compliance with the terms contained herein, will not violate or constitute a breach of any agreement, instrument or restriction to which Assignee is a party or by which Assignee is bound.

12. **Acknowledgment of and Consent to Assignment.** Seller hereby consents to (i) the assignment of the Purchase and Sale Agreement by Assignor to Assignee set forth in Section 1(a), and (ii) the assumption of the Purchase and Sale Agreement by Assignee set forth in Section 1(b).

13. **Miscellaneous.**

(a) *Entire Agreement.* The Purchase and Sale Agreement, this Agreement, and the documents to be delivered thereunder and hereunder constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

(b) *Expenses.* All costs and expenses incurred in connection with this Agreement and the transactions contemplated hereunder shall be paid by the party incurring such costs and expenses.

(c) *Amendments and Waivers.* No amendment, modification, waiver, replacement, termination, or cancellation of any provision of this Agreement will be valid, unless the same shall be in writing and signed by all parties. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

(d) *Successors and Assigns.* This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, legal representatives, successors, and assigns, as set forth in the Purchase and Sale Agreement as amended hereby.

(e) *Further Assurances.* The parties hereto agree to take such further actions and execute and deliver such other documents, certificates, agreements, and other instruments as may be reasonably necessary to carry out the intent and purposes of this Agreement.

(f) *Governing Law.* This Agreement, and the rights of the parties hereto, shall be governed by, and construed in accordance with, the internal laws of the State of Texas, without regard to any applicable conflicts of law principles or rules of any jurisdiction.

(g) *Specific Performance.* The parties hereto agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity. Each party hereto (a) agrees that it shall not oppose the granting of such specific performance or relief and (b) hereby irrevocably waives any requirements for the security or posting of any bond in connection with such relief.

(h) *Headings; Captions.* The headings and captions contained in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

(i) *Severability.* If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify the Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

(j) *Counterparts.* This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

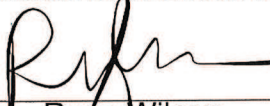
(k) The parties jointly participated in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement must be construed as if drafted jointly by the parties and no presumptions or burdens of proof may arise favoring any party by virtue of the authorship of any of the provisions of this Agreement. The recitals to this Agreement are incorporated herein as an integral part hereof and will be considered as substantive and not prefatory language.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective as of the Effective Date.


**ASSIGNOR:**

FRANKLIN DEVELOPMENT PROPERTIES, LTD.

By:   
Name: Ryan Wilson  
Title: Authorized Rep

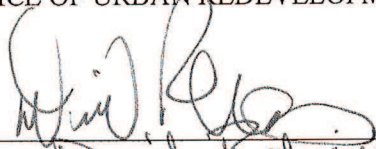
**ASSIGNEE:**

SAN ANTONIO HOUSING TRUST PUBLIC FACILITY CORPORATION

By:   
Pedro A. Alanis  
Assistant Secretary

**SELLER:**

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

By:   
Name: David Rodriguez  
Title: Chairman