

AN ORDINANCE 2012-12-13-1004

CONVEYING A CITY-OWNED PARCEL OF LAND
LOCATED AT 905 SOUTH FRIO STREET IN DISTRICT 5
TO SOUTH FRIO PARKING, LLC FOR THE AMOUNT OF
\$98,350.

* * * * *

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

SECTION 1. The following property is declared surplus to the needs of the City of San Antonio:

The west 223.15 feet of Lot 10, Block 100, NCB 273, San Antonio, Bexar County, Texas, located in the southeast corner of Guadalupe and Medina Streets, San Antonio, Texas., the tract being graphically depicted on **Attachment I**.

SECTION 2. The City having advertised the property for sale according to law and South Frio Parking, LLC being the successful bidder, the City Manager and her designee, severally, are authorized and directed to execute and deliver on behalf of the city a purchase and sale agreement substantially in the form attached as **Attachment II**, which is incorporated for all purposes as if fully set forth, and to consummate the transaction contemplated therein. The city manager and her designee, severally, should take all other actions necessary or convenient to effectuate the transaction, including agreeing to non-material changes to the approved form and executing all necessary or convenient ancillary instruments and agreements.

SECTION 3. Funds generated by this ordinance will be deposited into Fund 28038000, Internal Order 131000002197 and General Ledger 4502230.

SECTION 4: 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.

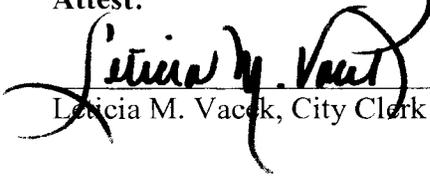
SECTION 5: The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, 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 6. This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

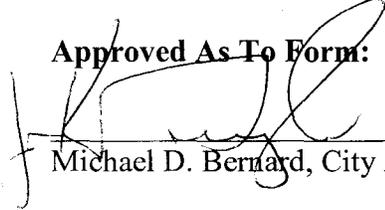
PASSED AND APPROVED this 13th day of December 2012.

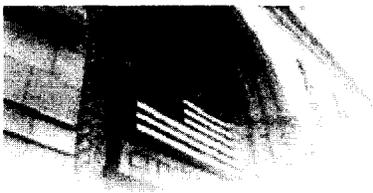
M  R
Y O
Julián Castro

Attest:

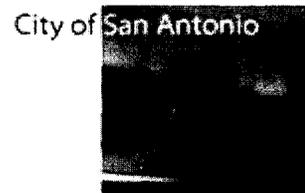

Leticia M. Vaccik, City Clerk

Approved As To Form:


Michael D. Bernard, City Attorney



Request for
COUNCIL
ACTION



Agenda Voting Results - 23A

| | | | | | | | |
|---------------------|---|--------------------|------------|------------|----------------|---------------|---------------|
| Name: | 23A, 23B | | | | | | |
| Date: | 12/13/2012 | | | | | | |
| Time: | 03:14:32 PM | | | | | | |
| Vote Type: | Motion to Approve | | | | | | |
| Description: | An Ordinance conveying a City-owned parcel of land located at 905 South Frio Street in District 5 to South Frio Parking, LLC for the amount of \$98,350.00. | | | | | | |
| Result: | Passed | | | | | | |
| Voter | Group | Not Present | Yea | Nay | Abstain | Motion | Second |
| Julián Castro | Mayor | | x | | | | |
| Diego Bernal | District 1 | | x | | | | x |
| Ivy R. Taylor | District 2 | | x | | | | |
| Leticia Ozuna | District 3 | | x | | | | |
| Rey Saldaña | District 4 | | x | | | | |
| David Medina Jr. | District 5 | | x | | | x | |
| Ray Lopez | District 6 | | x | | | | |
| Cris Medina | District 7 | x | | | | | |
| W. Reed Williams | District 8 | | x | | | | |
| Elisa Chan | District 9 | | x | | | | |
| Carlton Soules | District 10 | | x | | | | |

Attachment I



Attachment II

**Real Estate Sales Contract
(Peanut Factory Lofts)**

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Authorizing Ordinance:

Authority for Negotiated
Sale: Local Government Code § 272.001 (a)

Seller: City of San Antonio

Address: P.O. Box 839966, San Antonio, Texas 78283-3966
(Attention: Lori Houston, Center City Development
Office)

Phone: 210-207-2120

Email: lori.houston@sanantonio.gov

Type of Entity: Texas municipal corporation

Buyer: South Frio Parking, LLC

Address: 651 Red Cloud, San Antonio, Texas 78260

Type of Entity: Texas limited liability company

Property: The west 223.15 feet of Lot 10, Block 100, NCB 273, San Antonio, Bexar County, Texas, located in the southeast corner of Guadalupe and Medina Streets, San Antonio, Texas.

Title Company: Alamo Title Company

Address: 1602 N Loop 1604 W, San Antonio, TX 78248 (Attention: Chris Varley)

Phone: 495-5200

Email: Chris.Varley@alamotitle.com

Purchase Price: \$98,350

Earnest Money: \$1,000

Effective Date: The later of (A) the effective date of the Authorizing Ordinance and (B) the date a representative of the Title Company signs a receipt for this fully executed contract

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 federal or local holiday, the deadline will be extended to the next day that is not a Saturday, Sunday, or holiday. Time is of the essence.

- | | | |
|-------|------------------------------|----------------------------------|
| 1.01. | Earnest Money Deadline | 10 Days after the Effective Date |
| 1.02. | Delivery of Title Commitment | 30 Days after the Effective Date |
| 1.03. | Delivery of Survey | 20 Days after Effective Date |

| | | | |
|-------|-------------------------------|--------|---|
| 1.04. | Buyer's Objection Deadline | 20 | Days after the receipt of Title Commitment and legible copies of instruments referenced in the Title Commitment, Survey |
| 1.05. | Seller's Cure Notice Deadline | 20 | Days after Buyer's Objection Deadline |
| 1.06. | Buyer's Termination Deadline | 10 | Days after Notice of Cure Deadline |
| 1.07. | End of Inspection Period | 90 | Days after the Effective Date |
| 1.08 | Closing Date | 10days | after the Inspection Period |
| 1.09 | Closing Time | 10:00 | A.M. |

The deadlines may be altered by the mutual agreement of the parties. The Director of the Center City Development Office may agree to such changes on behalf of Seller without further authorization of City Council.

2. Closing Documents.

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

Deed Without Warranty

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."

3. Exhibits.

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

Exhibit A—Representations

Exhibit B—Form of Deed

Exhibit C—Non-Comprehensive Environmental Issues

4. Purchase and Sale of Property.

4.01. Seller will sell and convey the Property to Buyer, and Buyer will buy and pay Seller for the Property. The promises by Buyer and Seller stated in this contract are the consideration for the formation of this contract.

4.02. The Property includes all improvements situated on it, together with all right, title, and interest of Seller, if any, in and to all appurtenances, strips or gores, roads, easements, streets, and rights-of-way bounding the Land; all utility capacity, water rights, licenses, permits, entitlements, and bonds, if any, and all other rights and benefits attributable to the Land; and all rights of ingress and egress thereto (collectively, the “**Additional Interests**”); except that the Additional Interests do not include, and Seller specifically reserves, such of the following interests as Seller holds by virtue of being a municipality as opposed to the owner of the fee-simple interest in the Property: utility easements, streets, alleys, and other rights-of-way dedicated for public use..

5. Earnest Money.

5.01. Buyer must deliver the Earnest Money in immediately available funds to Title Company and obtain Title Company’s signature before the Earnest Money Deadline for this contract to be effective. Immediately available funds are those available for use immediately upon receipt and do not include funds represented by a check or similar instrument that must clear the institution on which it is drawn. Title Company shall execute and deliver to both Buyer and Seller and Earnest Money receipt.

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. "Title Policy" means an Owner Policy of Title Insurance issued by Title Company, as agent for Underwriter, in conformity with the last Title Commitment delivered to and approved by Buyer.

6.03. *Survey.* Buyer will procure its own survey.

6.04. *Delivery of Title Commitment.* Seller must deliver the Title Commitment to Buyer by the deadlines stated in section 1.

6.05. *Buyer's Objections.* Buyer has until the Buyer's Objection Deadline to review the Survey, Title Commitment, and title instruments, and notify Seller of Buyer's objections ("Buyer's Objections"). Buyer will be deemed to have approved all matters reflected by the 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." Notwithstanding the foregoing, under no circumstances shall Buyer be required to object to any existing liens reflected in the Title Commitment.

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. At or before closing, Seller must resolve the items that are listed on Schedule C of the Title Commitment, remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date of this contract, and cure the Buyer's Objections that Seller has agreed to cure.

7. Inspection Period.

7.01. *Entry onto the Property.* Buyer may enter the Property before closing to inspect it, subject to the following:

- a. Buyer must deliver evidence to Seller that Buyer has insurance for its proposed inspection activities, in amounts and with coverages as follows:

Type

Amount

- | | |
|--|--|
| 1. Workers' Compensation | Statutory, with a waiver of subrogation in favor of City |
| 2. Employers' Liability | \$500,000/\$500,000/\$500,000, with a waiver of subrogation in favor of City |
| 3. Comprehensive General Public Liability Insurance to include (but not be limited to) coverage for the following: | For bodily injury, death, and property damage of \$1,000,000 per occurrence, \$2,000,000 general aggregate, or its equivalent in umbrella or excess liability coverage |
- (a) Operations
 - (b) Independent Contractors
 - (d) Contractual Liability
 - (e) Personal Injury Liability
 - (f) Broad Form Property Damages to include Fire Legal Liability
- b. Buyer may not unreasonably interfere with existing operations or occupants of the Property;
 - c. Buyer must notify Seller in advance of Buyer's plans to conduct tests so that Seller may be present during the tests;
 - d. If the Property is altered because of Buyer's inspections, Buyer must return the Property to its preinspection condition promptly after the alteration occurs;
 - e. Buyer must deliver to Seller copies of all inspection reports that Buyer prepares or receives from third-party consultants or contractors within three days of their preparation or receipt; and
 - f. Buyer must abide by any other reasonable entry rules imposed by Seller.

7.02. *Buyer's Right to Terminate.* Buyer may terminate this contract for any reason by notifying Seller before the end of the Inspection Period.

7.03. *Buyer's Indemnity and Release of Seller*

- a. *Indemnity.* Buyer will indemnify, defend, and hold Seller harmless from any loss, attorney's fees, expenses, or claims as a result of death or injuries to persons or damage to property arising out of Buyer's investigation of the Property, except for repair or remediation of existing conditions discovered by Buyer's inspection.
- b. *Release.* Buyer releases Seller and those persons acting on Seller's behalf from all claims and causes of action (including claims for attorney's fees and court and other costs) resulting from Buyer's investigation of the Property.

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; No Recording of Contract.

9.01. *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 contract 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 Seller's notice of the casualty (or before closing if Seller's notice of the casualty is received less than fifteen days before closing). If Buyer does not terminate this contract, Seller will convey the Property to Buyer in its damaged condition.

9.02. *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 15 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.

9.03. *No Recording.* Buyer may not file this contract or any memorandum or notice of this contract in the real property records of any county. If, however,

Buyer records this contract or a memorandum or notice, Seller may terminate this contract and record a notice of termination.

9.04. *Maintenance.* Until closing, Seller shall maintain Property in compliance with all governmental regulations affecting the Property. This requirement does not include environmental remediation.

10. Termination.

10.01. *Disposition of Earnest Money after Termination*

- a. *To Buyer.* 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.
- b. *To Seller.* If Seller terminates this contract in accordance with any of Seller's rights to terminate, Buyer will, within five days of receipt of Seller's termination notice, authorize Title Company to pay and deliver the Earnest Money to Seller.

10.02. *Duties after Termination.* If this contract is terminated, Buyer will promptly return to Seller all documents relating to the Property that Seller has delivered to Buyer and all copies that Buyer has made of the documents. After return of the documents and copies, neither party will have further duties or obligations to the other under this contract, except for those obligations that cannot be or were not performed before termination of this contract.

11. Closing.

11.01. *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 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. *Possession.* Seller will deliver possession of the Property to Buyer, subject to the Permitted Exceptions existing at closing.
- e. Buyer need not close if Seller cannot or does not deliver marketable title at closing. If Buyer does not close for want of marketable title, the earnest money is returned to Buyer.

11.02. *Transaction Costs*

- a. Buyer will pay:
 - i. the basic charge for the Title Policy;
 - ii. one-half of the escrow fee charged by Title Company;
 - iii. the costs to prepare the deed;
 - iv. the costs to record all documents to cure Title Objections agreed to be cured by Seller;
 - v. Title Company's inspection fee to delete from the Title Policy the customary exception for parties in possession;
 - vi. the additional premium for the "survey/area and boundary deletion" in the Title Policy
 - vii. the costs to obtain the Survey and certificates or reports of ad valorem taxes;
 - viii. the costs to deliver copies of the instruments described in article 1; and
 - ix. Buyer's expenses and attorney's fees.
- b. Seller will pay:
 - i. one-half of the escrow fee charged by Title Company;

- ii. the costs to obtain, deliver, and record all documents other than those to be recorded at Seller's expense;
 - iii. Seller's expenses and attorney's fees.
- c. *Ad Valorem Taxes.* Property owned by Seller is exempt under Texas Property Tax Code § 11.11. At closing property taxes will be prorated according to Texas Tax Code § 26.10. Seller assumes no responsibility for ad valorem taxes for any period, rollback or otherwise, not otherwise imposed on it by law.
- d. *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.
- e. *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.

12. Default and Remedies.

12.01. *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 may terminate this contract by giving notice to Seller on or before the expiration of the Inspection Period and have the Earnest Money returned to Buyer.

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

13. Prohibited Interests in Contracts.

13.01 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.

13.02 Buyer warrants and certifies as follows:

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

13.03 Buyer acknowledges that City's reliance on the above warranties and certifications is reasonable.

14. Dispute Resolution.

14.01 As a condition precedent to bringing any action arising out of or relating to this agreement or any aspect thereof, including an action for declaratory relief but not an action specifically excepted below, the disputants must first submit in good faith to mediation. The parties may not assert limitations, laches, waiver, and estoppel based upon attempts to mediate.

14.02. Filing suit on a claim that should be mediated hereunder waives the filer's right to demand mediation. But one party's waiver does not affect another party's right. A defendant does not waive mediation for so long as, within a reasonable time after appearing, the defendant gives written notice to the plaintiff or its counsel of intent to require compliance with this paragraph.

14.03 Mediation must be conducted in San Antonio, Bexar County, Texas.

14.04 The party desiring relief has the burden to initiate mediation. Waiting for another party to initiate mediation does not waive the right to it.

14.05 If the parties can otherwise agree on a mediator, they may do so. Alternatively, either party may petition any court of competent jurisdiction to appoint a mediator. The only predicate issues the court need consider before appointing a mediator are whether (i) the copy of the contract before the court is authentic and (ii) the contract was duly signed and delivered by all parties to be bound to mediate. If neither of those issues is denied under oath, the court may appoint a mediator upon motion, without trial.

14.06 Mediator fees must be borne equally.

14.07. The parties need not mediate before going to court for either party to seek emergency injunctive relief.

15. Miscellaneous Provisions.

15.01 *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 ARE GOVERNED BY THE LAWS OF THE STATE OF TEXAS.** But the Texas conflicts of law rules must not be used to apply the laws of a jurisdiction other than Texas. The obligations performable hereunder by both parties are performable in San Antonio, Bexar County, Texas.

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

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

15.04 *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.**

15.05 *Modification.*

15.05.01. 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.

15.05.02 The Director of the Center City Development Office may, without further action of City Council, agree on behalf of Seller to extensions of deadlines or other non-material modifications to the rights and obligations of the parties under this Agreement.

15.06 *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.

15.07 *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 use certified mail does not defeat the effectiveness of notice actually received, but such notice is given only upon actual receipt. Address for notice may be changed by giving notice hereunder.

15.08 *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.

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

15.10 *Counterparts.* This Agreement may be executed in multiple counterparts, each of which is 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, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

15.11 *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, shall alter the rights or obligations of the parties as contained in this agreement

15.12. *Assignment.* With Seller's consent, which is not to be unreasonably withheld, Buyer may assign this contract and Buyer's rights under it only to an entity in which Buyer can, directly or indirectly, direct or cause the direction of its management and policies, whether through the ownership of voting securities or otherwise. Any other assignment is void.

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

15.14. *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.

15.15. *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.

15.16. *Confidentiality.* The parties will keep confidential this contract, this transaction, and all information learned in the course of this transaction, except to the extent disclosure is required by law or court order or to enable third parties to advise or assist Buyer to investigate the Property or either party to close this transaction.

15.17. *Waiver of Consumer Rights.* **Buyer Waives Its Rights Under The Texas Deceptive Trade Practices-Consumer Protection Act, Section 17.41 et seq. of The Texas Business and Commerce Code, A Law That Gives Consumers Special Rights and Protections. After Consultation With an Attorney of Its Own Selection, Buyer Voluntarily Consents To This Waiver.**

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

15.19. *Administrative Agreements.* The Director of the Center City Development Office may, without further council action, agree to, sign, and deliver on behalf of the City all 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.

16. Public Information.

Buyer acknowledges that this instrument is 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.

17. Known Environmental Contamination.

THE PROPERTY HAS SIGNIFICANT ENVIRONMENTAL CONTAMINATION. THE SUMMARY AT EXHIBIT C SHOWS WHAT THE ENVIRONMENTAL MANAGER OF THE ENVIRONMENTAL MANAGEMENT DIVISION OF SELLER'S CAPITAL IMPROVEMENTS MANAGEMENT SERVICES DIVISION IS AWARE OF. SELLER DOES NOT REPRESENT EXHIBIT C IS COMPREHENSIVE. BUYER ASSUMES CLEAN-UP RESPONSIBILITY FOR ALL ENVIRONMENTAL CONTAMINATION, WHETHER OR NOT DISCLOSED BY SELLER. BUYER ACKNOWLEDGES THAT IT HAD ADVICE OF COUNSEL AND FULL OPPORTUNITY TO INSPECT THE PROPERTY AND DETERMINE FOR ITSELF THE LIABILITY ASSUMED IN THIS TRANSACTION. ALL DOCUMENTS IN EXHIBIT C HAVE BEEN PROVIDED TO BUYER AND BUYER IS AWARE OF EXISTING ENVIRONMENTAL CONTAMINATION. FURTHER, BUYER HAS CONDUCTED ENVIRONMENTAL-RELATED DUE DILIGENCE ON THE PROPERTY AND NOT SHARED THE RESULTS WITH SELLER. AFTER CLOSING, BUYER MUST INDEMNIFY SELLER AND ITS OFFICERS, AGENTS, AND EMPLOYEES, AND HOLD THEM HARMLESS OF AND FROM ANY AND ALL LOSS, COST, LIABILITY OR EXPENSE ARISING FROM OR RELATING TO ENVIRONMENTAL CONTAMINATION ON THE PROPERTY ALL FEDERAL AND STATE LAWS, INCLUDING LIABILITY UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA), THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), THE TEXAS SOLID WASTE DISPOSAL ACT, THE TEXAS WATER CODE, OR ANY COMMON LAW CLAIMS. BUYER FURTHER RELEASES SELLER FROM LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY, WHETHER ARISING AS THE RESULT OF

**SELLER'S OWN NEGLIGENCE OR THE NEGLIGENCE OF
SELLER'S REPRESENTATIVES OR OTHERWISE.**

In Witness Whereof, the parties have caused their representatives to set their hands.

Seller:

Buyer:

City of San Antonio, a Texas
municipal corporation

South Frio Parking, LLC

Signature: _____

By: _____

Laura J. Wibracht, Manager

Printed

Name: _____

Date: _____

Title: _____

Date: _____

Approved as to Form:

City Attorney

Title Company Acknowledgment and Receipt

Seller: City of San Antonio

Address: P.O. Box 839966, San Antonio, Texas 78283-3966

Buyer: South Frio Parking, LLC

Address: 651 Red Cloud San Antonio, Texas 78260

Property: The west 223.15 feet of Lot 10, Block 100, NCB 273, San Antonio, Bexar County, Texas, located in the southeast corner of Guadalupe and Medina Streets, San Antonio, Texas.

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: _____

Title: _____

Date: _____

Title Company Receipt for Earnest Money

Seller: City of San Antonio

Address: P.O. Box 839966, San Antonio, Texas 78283-3966

Buyer: South Frio Parking, LLC

Address: 651 Red Cloud San Antonio, Texas 78260

Property: The west 223.15 feet of Lot 10, Block 100, NCB 273, San Antonio, Bexar County, Texas, located in the southeast corner of Guadalupe and Medina Streets, San Antonio, Texas.

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: Representations

Representations

A. Seller's Representations to Buyer

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 municipal corporation 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 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 notice of violation of any law, ordinance, regulation, or requirements affecting the Property or Seller's use of the Property.

4. *Licenses, Permits, and Approvals.* Seller has not received notice that any license, permit, or approval necessary to operate the Property in the manner in which it is currently operated will not be renewed on expiration or that any material condition will be imposed in order to obtain their renewal.

5. *Condemnation; Zoning; Land Use; Hazardous Materials.* Seller has not received 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.

6. *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.

7. *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.

8. *No Other Representation.* Except as stated above or in the notices, statements, and certificates set forth in Exhibit D, Seller makes no representation with respect to the Property.

9. *No Warranty.* Seller has made no warranty in connection with this contract.

B. "AS IS, WHERE IS"

THIS CONTRACT IS AN ARMS-LENGTH AGREEMENT BETWEEN THE PARTIES. THE PURCHASE PRICE WAS BARGAINED ON THE BASIS OF AN "AS IS, WHERE IS" TRANSACTION AND REFLECTS THE AGREEMENT OF THE PARTIES THAT THERE ARE NO REPRESENTATIONS, DISCLOSURES, OR EXPRESS OR IMPLIED WARRANTIES, EXCEPT FOR THE WARRANTY OF TITLE STATED IN THE CLOSING DOCUMENTS AND SELLER'S REPRESENTATIONS TO BUYER SET FORTH IN SECTION A OF THIS EXHIBIT B.

THE PROPERTY WILL BE CONVEYED TO BUYER IN AN "AS IS, WHERE IS" CONDITION, WITH ALL FAULTS. ALL WARRANTIES, EXCEPT THE WARRANTY OF TITLE IN THE CLOSING DOCUMENTS, ARE DISCLAIMED.

C. Buyer's Representations to Seller

Buyer represents to Seller that the following are true and correct as of the Effective Date and will be true and correct on the Closing Date.

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

2. *Litigation.* There is no litigation pending or threatened against Buyer that might affect Buyer's ability to perform its obligations under this contract.

Exhibit B: 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.

State of Texas }
 }
County of Bexar }

Deed Without Warranty

Authorizing Ordinance:

Statutory Authority: Local Government Code § 272.001(a)

SP No./Parcel:

Grantor: City of San Antonio

Grantor's Mailing Address: City Of San Antonio, P.O. Box 839966, San Antonio, Texas 78283-3966 (Attn: City Clerk)

Grantor's Street Address: City Hall, 100 Military Plaza, San Antonio, Texas 78205 (Bexar County)

Grantee:

Grantee's Mailing Address:

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

Property: The west 223.15 feet of Lot 10, Block 100, NCB 273, San Antonio, Bexar County, Texas, located in the southeast corner of Guadalupe and Medina Streets, San Antonio, Texas.

Grantor, for the Consideration, Grants, Bargains, and Conveys to Grantee, all of Grantor's right, title, interest, and estate, both at law and in equity, as of the date hereof, in and to the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, To Have and To Hold unto Grantee, Grantee's successors and assigns forever, **Without Any Express Or Implied**

Warranty Whatsoever, Including But Not Limited to Warranties of Title, Condition, or Character.

The Property is conveyed together with any and all improvements, structures and fixtures located thereon, and with all rights, privileges, rights of way, and easements appurtenant thereto, unless reserved unto other parties herein.

Reservations, Restrictions, Exceptions, And Conditions To Conveyance: This conveyance is explicitly subject to the following:

- A. Reservations:** None.
- B. Easements:** All recorded and unrecorded easements, whether or not open and obvious.
- C. Restrictions:** All covenants and restrictions affecting the Property.
- D. Exceptions:** All instruments affecting the Property, whether or not recorded.
- E. Conditions:** All conditions affecting the Property.

This conveyance does not relieve Grantee of any building, zoning, or other city-imposed requirements, or other land use restrictions applicable to the Property or the obligation to pay any real estate taxes that may otherwise be due.

Grantor expressly disclaims any and all warranties arising by common law, statute (including without limitation the implied warranties of § 5.023, Texas Property Code or any successor statute), or otherwise.

Setting Out The Specific Reservations And Disclaimers Does Not Imply That The Property Is Free Of Other Encumbrances Or Adverse Claims Or Conditions. Grantor Specifically Disclaims Any Such Implication.

In Witness Whereof, Grantor has caused its representative to set its hand:

Grantor:

City of San Antonio, a Texas municipal corporation

By: _____
Printed
Name: _____
Title: _____

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

Date: _____

Approved As To Form:

By: _____
City Attorney

The State of Texas }

County of Bexar }

**Before me, the undersigned authority, this instrument was this day
acknowledged by _____, of and for the City of San Antonio,
a Texas municipal corporation, on behalf of that entity in the capacity stated.**

Date: _____

Notary Public, State of Texas

My Commission Expires: _____

After Recording, Return To:

Exhibit C: Non-Comprehensive Environmental Issues

7/26/12

Environmental Studies Completed to Date

Phase I ESA

- Conducted in September 2004
- Findings
 - Three recognized environmental conditions identified on or adjacent to property
 - Historical review identified a suspect tannery facility , former gas station, and fill placement
 - Observation well located on the property; may be associated with underground tank
- Recommendations
 - Conduct Phase II Investigation to assess areas of concern for potential impacts

Phase II ESA

- Two investigations conducted
- First Investigation conducted in June 2005
- Findings (June 2005)
 - Test trenching identified construction debris on northwest corner of property and fill material over the entire site, but increasing in thickness from the NE corner (< 1 foot bgs) to the SW corner (approximately 7 feet bgs).
 - No evidence of an underground tank was identified on northwest corner
 - Test trenching identified concrete structures that could be vats on the southern property boundary and concrete foundations and beams along the western boundary
 - Soil samples were impacted with heavy metals exceeding regulatory standards
 - Groundwater was impacted with hydrocarbons exceeding regulatory standards
- Recommendations
 - Conduct further assessment to delineate impacted areas
 - Install additional wells to assess groundwater and potential off-site impacts
- Additional phase II conducted in December 2005
- EPA approved Brownfields funding to conduct both investigations
- Sampling was conducted in similar areas and additional monitoring wells installed to assess groundwater
- Findings (December 2005)
 - Soil sample results for heavy metals were inconsistent with the first investigation; sampling results were below regulatory standards, except for Lead
 - Hydrocarbon results were detected, but below regulatory standards
 - Groundwater was impacted with hydrocarbons exceeding regulatory standards

- Recommendations
 - Develop an Affected Property Assessment Report (APAR)
 - Some groundwater impacts may be a result of off-site impacts and not result of on-site activity
 - Investigate off site areas and within site to further delineate soil and groundwater impacts

Environmental Review

- Conducted in March 2011
- City considered this site for a future City facility
- No intrusive investigation conducted
- Findings
 - Tannery facility location was further defined
 - Impacts may be related to tannery operations and demolition practices
 - Eight monitoring wells located on property
- Recommendations
 - Some current data, which exceeds regulatory standards, may be subject to Texas Risk Reduction Program (TRPP)
 - Conduct an Affected Property Assessment Report (APAR), which requires further drilling and sampling across the site
 - Consider Voluntary Clean-up Program if release is determined and regulatory action is required based on investigative results

Current Status

- Brownfield grant expired
- COSA didn't pursue site development
- Identified as potential environmental concern for future development
- Further environmental studies required and possibly state coordination would be required prior to site development
- Sell property "as is"

Next Steps

- Disclose all environmental information to prospective buyers
- Recommend prospective buyers obtain a professional environmental consultant to evaluate current reports and determine next steps in regards to risk level and development requirements





LEGEND

- Approximate Site Boundary
- Monitoring Well
- VOC/Semi-VOC and TPH Contaminants Exceeding Tier 1 PCLs (For a list of exceedances, refer to Table 5B)

NOTES:

- 1.) Monitoring well locations for MW-1 and MW-2 were taken from Phase II ESA, 905 S. Frio 0.7922-Acre Tract, prepared by Pape-Dawson Engineers, dated June 16, 2005.
- 2.) Monitoring wells MW-3 through MW-7 locations were taken from Phase II Subsurface Investigation Report, 0.7922-Acre Tract 905 South Frio, prepared by ATC Associates, Inc., dated December 19, 2005.



Raba Kistner
Engineering • Testing • Environmental
Facilities • Infrastructure

12621 West Golden Lane
San Antonio, Texas 78249
(210)699-9090 TEL
(210)699-6426 FAX
www.rkci.com
TBEPE Firm Number 3237

SOURCE: City of San Antonio (COSA), 2009, San Antonio West Orthoreimagery

**GROUNDWATER CONTAMINANT
EXCEEDANCE MAP**
VOLUNTARY CLEANUP
PROGRAM SUBMITTAL
905 SOUTH FRIO
SAN ANTONIO, BEXAR COUNTY, TEXAS

| REVISIONS: | | |
|------------|------|-------------|
| No. | DATE | DESCRIPTION |
| | | |
| | | |
| | | |
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| | | |
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| | | |
| | | |
| | | |

PROJECT No.:
ASF09-182-27

ISSUE DATE: 03-30-11
DRAWN BY: LAW
CHECKED BY: JL
REVIEWED BY: RVK

FIGURE
4

AN ORDINANCE

**CONVEYING A CITY-OWNED PARCEL OF LAND
LOCATED AT 905 SOUTH FRIO STREET IN DISTRICT 5
TO SOUTH FRIO PARKING, LLC FOR THE AMOUNT OF
\$98,350.**

* * * * *

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

SECTION 1. The following property is declared surplus to the needs of the City of San Antonio:

The west 223.15 feet of Lot 10, Block 100, NCB 273, San Antonio, Bexar County, Texas, located in the southeast corner of Guadalupe and Medina Streets, San Antonio, Texas., the tract being graphically depicted on **Attachment I**.

SECTION 2. The City having advertised the property for sale according to law and South Frio Parking, LLC being the successful bidder, the City Manager and her designee, severally, are authorized and directed to execute and deliver on behalf of the city a purchase and sale agreement substantially in the form attached as **Attachment II**, which is incorporated for all purposes as if fully set forth, and to consummate the transaction contemplated therein. The city manager and her designee, severally, should take all other actions necessary or convenient to effectuate the transaction, including agreeing to non-material changes to the approved form and executing all necessary or convenient ancillary instruments and agreements.

SECTION 3. Funds generated by this ordinance will be deposited into Fund 28038000, Internal Order 131000002197 and General Ledger 4502230.

SECTION 4: 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 5: 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 6. This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

PASSED AND APPROVED this 13th day of December 2012.

M A Y O R
Julián Castro

Attest:

Approved As To Form:

Leticia M. Vacek, City Clerk

Michael D. Bernard, City Attorney

Attachment I



Attachment II

Real Estate Sales Contract (Peanut Factory Lofts)

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Authorizing Ordinance:

Authority for Negotiated
Sale: Local Government Code § 272.001 (a)

Seller: City of San Antonio

Address: P.O. Box 839966, San Antonio, Texas 78283-3966
(Attention: Lori Houston, Center City Development
Office)

Phone: 210-207-2120

Email: lori.houston@sanantonio.gov

Type of Entity: Texas municipal corporation

Buyer: South Frio Parking, LLC

Address: 651 Red Cloud, San Antonio, Texas 78260

Type of Entity: Texas limited liability company

Property: The west 223.15 feet of Lot 10, Block 100, NCB 273, San Antonio, Bexar County, Texas, located in the southeast corner of Guadalupe and Medina Streets, San Antonio, Texas.

Title Company: Alamo Title Company

Address: 1602 N Loop 1604 W, San Antonio, TX 78248 (Attention: Chris Varley)

Phone: 495-5200

Email: Chris.Varley@alamotitle.com

Purchase Price: \$98,350

Earnest Money: \$1,000

Effective Date: The later of (A) the effective date of the Authorizing Ordinance and (B) the date a representative of the Title Company signs a receipt for this fully executed contract

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 federal or local holiday, the deadline will be extended to the next day that is not a Saturday, Sunday, or holiday. Time is of the essence.

- | | | | |
|-------|------------------------------|----|-------------------------------|
| 1.01. | Earnest Money Deadline | 10 | Days after the Effective Date |
| 1.02. | Delivery of Title Commitment | 30 | Days after the Effective Date |
| 1.03. | Delivery of Survey | 20 | Days after Effective Date |

| | | | |
|-------|-------------------------------|--------|---|
| 1.04. | Buyer's Objection Deadline | 20 | Days after the receipt of Title Commitment and legible copies of instruments referenced in the Title Commitment, Survey |
| 1.05. | Seller's Cure Notice Deadline | 20 | Days after Buyer's Objection Deadline |
| 1.06. | Buyer's Termination Deadline | 10 | Days after Notice of Cure Deadline |
| 1.07. | End of Inspection Period | 90 | Days after the Effective Date |
| 1.08. | Closing Date | 10days | after the Inspection Period |
| 1.09. | Closing Time | 10:00 | A.M. |

The deadlines may be altered by the mutual agreement of the parties. The Director of the Center City Development Office may agree to such changes on behalf of Seller without further authorization of City Council.

2. Closing Documents.

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

Deed Without Warranty

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."

3. Exhibits.

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

Exhibit A—Representations

Exhibit B—Form of Deed

Exhibit C—Non-Comprehensive Environmental Issues

4. Purchase and Sale of Property.

4.01. Seller will sell and convey the Property to Buyer, and Buyer will buy and pay Seller for the Property. The promises by Buyer and Seller stated in this contract are the consideration for the formation of this contract.

4.02. The Property includes all improvements situated on it, together with all right, title, and interest of Seller, if any, in and to all appurtenances, strips or gores, roads, easements, streets, and rights-of-way bounding the Land; all utility capacity, water rights, licenses, permits, entitlements, and bonds, if any, and all other rights and benefits attributable to the Land; and all rights of ingress and egress thereto (collectively, the “**Additional Interests**”); except that the Additional Interests do not include, and Seller specifically reserves, such of the following interests as Seller holds by virtue of being a municipality as opposed to the owner of the fee-simple interest in the Property: utility easements, streets, alleys, and other rights-of-way dedicated for public use..

5. Earnest Money.

5.01. Buyer must deliver the Earnest Money in immediately available funds to Title Company and obtain Title Company’s signature before the Earnest Money Deadline for this contract to be effective. Immediately available funds are those available for use immediately upon receipt and do not include funds represented by a check or similar instrument that must clear the institution on which it is drawn. Title Company shall execute and deliver to both Buyer and Seller and Earnest Money receipt.

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. "Title Policy" means an Owner Policy of Title Insurance issued by Title Company, as agent for Underwriter, in conformity with the last Title Commitment delivered to and approved by Buyer.

6.03. *Survey.* Buyer will procure its own survey.

6.04. *Delivery of Title Commitment.* Seller must deliver the Title Commitment to Buyer by the deadlines stated in section 1.

6.05. *Buyer's Objections.* Buyer has until the Buyer's Objection Deadline to review the Survey, Title Commitment, and title instruments, and notify Seller of Buyer's objections ("Buyer's Objections"). Buyer will be deemed to have approved all matters reflected by the 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." Notwithstanding the foregoing, under no circumstances shall Buyer be required to object to any existing liens reflected in the Title Commitment.

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. At or before closing, Seller must resolve the items that are listed on Schedule C of the Title Commitment, remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date of this contract, and cure the Buyer's Objections that Seller has agreed to cure.

7. Inspection Period.

7.01. *Entry onto the Property.* Buyer may enter the Property before closing to inspect it, subject to the following:

- a. Buyer must deliver evidence to Seller that Buyer has insurance for its proposed inspection activities, in amounts and with coverages as follows:

Type

Amount

- | | |
|--|--|
| 1. Workers' Compensation | Statutory, with a waiver of subrogation in favor of City |
| 2. Employers' Liability | \$500,000/\$500,000/\$500,000, with a waiver of subrogation in favor of City |
| 3. Comprehensive General Public Liability Insurance to include (but not be limited to) coverage for the following: | For bodily injury, death, and property damage of \$1,000,000 per occurrence, \$2,000,000 general aggregate, or its equivalent in umbrella or excess liability coverage |
- (a) Operations
 - (b) Independent Contractors
 - (d) Contractual Liability
 - (e) Personal Injury Liability
 - (f) Broad Form Property Damages to include Fire Legal Liability
- b. Buyer may not unreasonably interfere with existing operations or occupants of the Property;
 - c. Buyer must notify Seller in advance of Buyer's plans to conduct tests so that Seller may be present during the tests;
 - d. If the Property is altered because of Buyer's inspections, Buyer must return the Property to its preinspection condition promptly after the alteration occurs;
 - e. Buyer must deliver to Seller copies of all inspection reports that Buyer prepares or receives from third-party consultants or contractors within three days of their preparation or receipt; and
 - f. Buyer must abide by any other reasonable entry rules imposed by Seller.

7.02. *Buyer's Right to Terminate.* Buyer may terminate this contract for any reason by notifying Seller before the end of the Inspection Period.

7.03. *Buyer's Indemnity and Release of Seller*

- a. *Indemnity.* Buyer will indemnify, defend, and hold Seller harmless from any loss, attorney's fees, expenses, or claims as a result of death or injuries to persons or damage to property arising out of Buyer's investigation of the Property, except for repair or remediation of existing conditions discovered by Buyer's inspection.
- b. *Release.* Buyer releases Seller and those persons acting on Seller's behalf from all claims and causes of action (including claims for attorney's fees and court and other costs) resulting from Buyer's investigation of the Property.

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; No Recording of Contract.

9.01. *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 contract 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 Seller's notice of the casualty (or before closing if Seller's notice of the casualty is received less than fifteen days before closing). If Buyer does not terminate this contract, Seller will convey the Property to Buyer in its damaged condition.

9.02. *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 15 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.

9.03. *No Recording.* Buyer may not file this contract or any memorandum or notice of this contract in the real property records of any county. If, however,

Buyer records this contract or a memorandum or notice, Seller may terminate this contract and record a notice of termination.

9.04. *Maintenance.* Until closing, Seller shall maintain Property in compliance with all governmental regulations affecting the Property. This requirement does not include environmental remediation.

10. Termination.

10.01. *Disposition of Earnest Money after Termination*

- a. *To Buyer.* 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.
- b. *To Seller.* If Seller terminates this contract in accordance with any of Seller's rights to terminate, Buyer will, within five days of receipt of Seller's termination notice, authorize Title Company to pay and deliver the Earnest Money to Seller.

10.02. *Duties after Termination.* If this contract is terminated, Buyer will promptly return to Seller all documents relating to the Property that Seller has delivered to Buyer and all copies that Buyer has made of the documents. After return of the documents and copies, neither party will have further duties or obligations to the other under this contract, except for those obligations that cannot be or were not performed before termination of this contract.

11. Closing.

11.01. *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 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. *Possession.* Seller will deliver possession of the Property to Buyer, subject to the Permitted Exceptions existing at closing.
- e. Buyer need not close if Seller cannot or does not deliver marketable title at closing. If Buyer does not close for want of marketable title, the earnest money is returned to Buyer.

11.02. *Transaction Costs*

- a. Buyer will pay:
 - i. the basic charge for the Title Policy;
 - ii. one-half of the escrow fee charged by Title Company;
 - iii. the costs to prepare the deed;
 - iv. the costs to record all documents to cure Title Objections agreed to be cured by Seller;
 - v. Title Company's inspection fee to delete from the Title Policy the customary exception for parties in possession;
 - vi. the additional premium for the "survey/area and boundary deletion" in the Title Policy
 - vii. the costs to obtain the Survey and certificates or reports of ad valorem taxes;
 - viii. the costs to deliver copies of the instruments described in article 1; and
 - ix. Buyer's expenses and attorney's fees.
- b. Seller will pay:
 - i. one-half of the escrow fee charged by Title Company;

- ii. the costs to obtain, deliver, and record all documents other than those to be recorded at Seller's expense;
 - iii. Seller's expenses and attorney's fees.
- c. *Ad Valorem Taxes.* Property owned by Seller is exempt under Texas Property Tax Code § 11.11. At closing property taxes will be prorated according to Texas Tax Code § 26.10. Seller assumes no responsibility for ad valorem taxes for any period, rollback or otherwise, not otherwise imposed on it by law.
 - d. *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.
 - e. *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.

12. Default and Remedies.

12.01. *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 may terminate this contract by giving notice to Seller on or before the expiration of the Inspection Period and have the Earnest Money returned to Buyer.

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

13. Prohibited Interests in Contracts.

13.01 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.

13.02 Buyer warrants and certifies as follows:

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

13.03 Buyer acknowledges that City's reliance on the above warranties and certifications is reasonable.

14. Dispute Resolution.

14.01 As a condition precedent to bringing any action arising out of or relating to this agreement or any aspect thereof, including an action for declaratory relief but not an action specifically excepted below, the disputants must first submit in good faith to mediation. The parties may not assert limitations, laches, waiver, and estoppel based upon attempts to mediate.

14.02. Filing suit on a claim that should be mediated hereunder waives the filer's right to demand mediation. But one party's waiver does not affect another party's right. A defendant does not waive mediation for so long as, within a reasonable time after appearing, the defendant gives written notice to the plaintiff or its counsel of intent to require compliance with this paragraph.

14.03 Mediation must be conducted in San Antonio, Bexar County, Texas.

14.04 The party desiring relief has the burden to initiate mediation. Waiting for another party to initiate mediation does not waive the right to it.

14.05 If the parties can otherwise agree on a mediator, they may do so. Alternatively, either party may petition any court of competent jurisdiction to appoint a mediator. The only predicate issues the court need consider before appointing a mediator are whether (i) the copy of the contract before the court is authentic and (ii) the contract was duly signed and delivered by all parties to be bound to mediate. If neither of those issues is denied under oath, the court may appoint a mediator upon motion, without trial.

14.06 Mediator fees must be borne equally.

14.07. The parties need not mediate before going to court for either party to seek emergency injunctive relief.

15. Miscellaneous Provisions.

15.01 *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 ARE GOVERNED BY THE LAWS OF THE STATE OF TEXAS.** But the Texas conflicts of law rules must not be used to apply the laws of a jurisdiction other than Texas. The obligations performable hereunder by both parties are performable in San Antonio, Bexar County, Texas.

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

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

15.04 *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.**

15.05 *Modification.*

15.05.01. 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.

15.05.02 The Director of the Center City Development Office may, without further action of City Council, agree on behalf of Seller to extensions of deadlines or other non-material modifications to the rights and obligations of the parties under this Agreement.

15.06 *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.

15.07 *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 use certified mail does not defeat the effectiveness of notice actually received, but such notice is given only upon actual receipt. Address for notice may be changed by giving notice hereunder.

15.08 *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.

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

15.10 *Counterparts.* This Agreement may be executed in multiple counterparts, each of which is 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, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

15.11 *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, shall alter the rights or obligations of the parties as contained in this agreement

15.12. *Assignment.* With Seller's consent, which is not to be unreasonably withheld, Buyer may assign this contract and Buyer's rights under it only to an entity in which Buyer can, directly or indirectly, direct or cause the direction of its management and policies, whether through the ownership of voting securities or otherwise. Any other assignment is void.

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

15.14. *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.

15.15. *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.

15.16. *Confidentiality.* The parties will keep confidential this contract, this transaction, and all information learned in the course of this transaction, except to the extent disclosure is required by law or court order or to enable third parties to advise or assist Buyer to investigate the Property or either party to close this transaction.

15.17. *Waiver of Consumer Rights.* **Buyer Waives Its Rights Under The Texas Deceptive Trade Practices-Consumer Protection Act, Section 17.41 et seq. of The Texas Business and Commerce Code, A Law That Gives Consumers Special Rights and Protections. After Consultation With an Attorney of Its Own Selection, Buyer Voluntarily Consents To This Waiver.**

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

15.19. *Administrative Agreements.* The Director of the Center City Development Office may, without further council action, agree to, sign, and deliver on behalf of the City all 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.

16. Public Information.

Buyer acknowledges that this instrument is 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.

17. Known Environmental Contamination.

THE PROPERTY HAS SIGNIFICANT ENVIRONMENTAL CONTAMINATION. THE SUMMARY AT EXHIBIT C SHOWS WHAT THE ENVIRONMENTAL MANAGER OF THE ENVIRONMENTAL MANAGEMENT DIVISION OF SELLER'S CAPITAL IMPROVEMENTS MANAGEMENT SERVICES DIVISION IS AWARE OF. SELLER DOES NOT REPRESENT EXHIBIT C IS COMPREHENSIVE. BUYER ASSUMES CLEAN-UP RESPONSIBILITY FOR ALL ENVIRONMENTAL CONTAMINATION, WHETHER OR NOT DISCLOSED BY SELLER. BUYER ACKNOWLEDGES THAT IT HAD ADVICE OF COUNSEL AND FULL OPPORTUNITY TO INSPECT THE PROPERTY AND DETERMINE FOR ITSELF THE LIABILITY ASSUMED IN THIS TRANSACTION. ALL DOCUMENTS IN EXHIBIT C HAVE BEEN PROVIDED TO BUYER AND BUYER IS AWARE OF EXISTING ENVIRONMENTAL CONTAMINATION. FURTHER, BUYER HAS CONDUCTED ENVIRONMENTAL-RELATED DUE DILIGENCE ON THE PROPERTY AND NOT SHARED THE RESULTS WITH SELLER. AFTER CLOSING, BUYER MUST INDEMNIFY SELLER AND ITS OFFICERS, AGENTS, AND EMPLOYEES, AND HOLD THEM HARMLESS OF AND FROM ANY AND ALL LOSS, COST, LIABILITY OR EXPENSE ARISING FROM OR RELATING TO ENVIRONMENTAL CONTAMINATION ON THE PROPERTY ALL FEDERAL AND STATE LAWS, INCLUDING LIABILITY UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA), THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), THE TEXAS SOLID WASTE DISPOSAL ACT, THE TEXAS WATER CODE, OR ANY COMMON LAW CLAIMS. BUYER FURTHER RELEASES SELLER FROM LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY, WHETHER ARISING AS THE RESULT OF

**SELLER'S OWN NEGLIGENCE OR THE NEGLIGENCE OF
SELLER'S REPRESENTATIVES OR OTHERWISE.**

In Witness Whereof, the parties have caused their representatives to set their hands.

Seller:

Buyer:

City of San Antonio, a Texas
municipal corporation

South Frio Parking, LLC

Signature: _____

By: _____

Laura J. Wibracht, Manager

Printed

Name: _____

Date: _____

Title: _____

Date: _____

Approved as to Form:

City Attorney

Title Company Acknowledgment and Receipt

Seller: City of San Antonio

Address: P.O. Box 839966, San Antonio, Texas 78283-3966

Buyer: South Frio Parking, LLC

Address: 651 Red Cloud San Antonio, Texas 78260

Property: The west 223.15 feet of Lot 10, Block 100, NCB 273, San Antonio, Bexar County, Texas, located in the southeast corner of Guadalupe and Medina Streets, San Antonio, Texas.

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: _____

Title: _____

Date: _____

Title Company Receipt for Earnest Money

Seller: City of San Antonio

Address: P.O. Box 839966, San Antonio, Texas 78283-3966

Buyer: South Frio Parking, LLC

Address: 651 Red Cloud San Antonio, Texas 78260

Property: The west 223.15 feet of Lot 10, Block 100, NCB 273, San Antonio, Bexar County, Texas, located in the southeast corner of Guadalupe and Medina Streets, San Antonio, Texas.

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: Representations

Representations

A. Seller's Representations to Buyer

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 municipal corporation 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 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 notice of violation of any law, ordinance, regulation, or requirements affecting the Property or Seller's use of the Property.

4. *Licenses, Permits, and Approvals.* Seller has not received notice that any license, permit, or approval necessary to operate the Property in the manner in which it is currently operated will not be renewed on expiration or that any material condition will be imposed in order to obtain their renewal.

5. *Condemnation; Zoning; Land Use; Hazardous Materials.* Seller has not received 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.

6. *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.

7. *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.

8. *No Other Representation.* Except as stated above or in the notices, statements, and certificates set forth in Exhibit D, Seller makes no representation with respect to the Property.

9. *No Warranty.* Seller has made no warranty in connection with this contract.

B. "AS IS, WHERE IS"

THIS CONTRACT IS AN ARMS-LENGTH AGREEMENT BETWEEN THE PARTIES. THE PURCHASE PRICE WAS BARGAINED ON THE BASIS OF AN "AS IS, WHERE IS" TRANSACTION AND REFLECTS THE AGREEMENT OF THE PARTIES THAT THERE ARE NO REPRESENTATIONS, DISCLOSURES, OR EXPRESS OR IMPLIED WARRANTIES, EXCEPT FOR THE WARRANTY OF TITLE STATED IN THE CLOSING DOCUMENTS AND SELLER'S REPRESENTATIONS TO BUYER SET FORTH IN SECTION A OF THIS EXHIBIT B.

THE PROPERTY WILL BE CONVEYED TO BUYER IN AN "AS IS, WHERE IS" CONDITION, WITH ALL FAULTS. ALL WARRANTIES, EXCEPT THE WARRANTY OF TITLE IN THE CLOSING DOCUMENTS, ARE DISCLAIMED.

C. Buyer's Representations to Seller

Buyer represents to Seller that the following are true and correct as of the Effective Date and will be true and correct on the Closing Date.

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

2. *Litigation.* There is no litigation pending or threatened against Buyer that might affect Buyer's ability to perform its obligations under this contract.

Exhibit B: 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.

State of Texas }
 }
County of Bexar }

Deed Without Warranty

Authorizing Ordinance:

Statutory Authority: Local Government Code § 272.001(a)

SP No./Parcel:

Grantor: City of San Antonio

Grantor's Mailing Address: City Of San Antonio, P.O. Box 839966, San Antonio, Texas 78283-3966 (Attn: City Clerk)

Grantor's Street Address: City Hall, 100 Military Plaza, San Antonio, Texas 78205 (Bexar County)

Grantee:

Grantee's Mailing Address:

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

Property: The west 223.15 feet of Lot 10, Block 100, NCB 273, San Antonio, Bexar County, Texas, located in the southeast corner of Guadalupe and Medina Streets, San Antonio, Texas.

Grantor, for the Consideration, Grants, Bargains, and Conveys to Grantee, all of Grantor's right, title, interest, and estate, both at law and in equity, as of the date hereof, in and to the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, To Have and To Hold unto Grantee, Grantee's successors and assigns forever, **Without Any Express Or Implied**

Warranty Whatsoever, Including But Not Limited to Warranties of Title, Condition, or Character.

The Property is conveyed together with any and all improvements, structures and fixtures located thereon, and with all rights, privileges, rights of way, and easements appurtenant thereto, unless reserved unto other parties herein.

Reservations, Restrictions, Exceptions, And Conditions To Conveyance: This conveyance is explicitly subject to the following:

- A. Reservations:** None.
- B. Easements:** All recorded and unrecorded easements, whether or not open and obvious.
- C. Restrictions:** All covenants and restrictions affecting the Property.
- D. Exceptions:** All instruments affecting the Property, whether or not recorded.
- E. Conditions:** All conditions affecting the Property.

This conveyance does not relieve Grantee of any building, zoning, or other city-imposed requirements, or other land use restrictions applicable to the Property or the obligation to pay any real estate taxes that may otherwise be due.

Grantor expressly disclaims any and all warranties arising by common law, statute (including without limitation the implied warranties of § 5.023, Texas Property Code or any successor statute), or otherwise.

Setting Out The Specific Reservations And Disclaimers Does Not Imply That The Property Is Free Of Other Encumbrances Or Adverse Claims Or Conditions. Grantor Specifically Disclaims Any Such Implication.

In Witness Whereof, Grantor has caused its representative to set its hand:

Grantor:

City of San Antonio, a Texas municipal corporation

By: _____
Printed
Name: _____
Title: _____

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

Date: _____

Approved As To Form:

By: _____
City Attorney

The State of Texas }

County of Bexar }

**Before me, the undersigned authority, this instrument was this day
acknowledged by _____, of and for the City of San Antonio,
a Texas municipal corporation, on behalf of that entity in the capacity stated.**

Date: _____

Notary Public, State of Texas

My Commission Expires: _____

After Recording, Return To:

Exhibit C: Non-Comprehensive Environmental Issues

7/26/12

Environmental Studies Completed to Date

Phase I ESA

- Conducted in September 2004
- Findings
 - Three recognized environmental conditions identified on or adjacent to property
 - Historical review identified a suspect tannery facility , former gas station, and fill placement
 - Observation well located on the property; may be associated with underground tank
- Recommendations
 - Conduct Phase II Investigation to assess areas of concern for potential impacts

Phase II ESA

- Two investigations conducted
- First Investigation conducted in June 2005
- Findings (June 2005)
 - Test trenching identified construction debris on northwest corner of property and fill material over the entire site, but increasing in thickness from the NE corner (< 1 foot bgs) to the SW corner (approximately 7 feet bgs).
 - No evidence of an underground tank was identified on northwest corner
 - Test trenching identified concrete structures that could be vats on the southern property boundary and concrete foundations and beams along the western boundary
 - Soil samples were impacted with heavy metals exceeding regulatory standards
 - Groundwater was impacted with hydrocarbons exceeding regulatory standards
- Recommendations
 - Conduct further assessment to delineate impacted areas
 - Install additional wells to assess groundwater and potential off-site impacts
- Additional phase II conducted in December 2005
- EPA approved Brownfields funding to conduct both investigations
- Sampling was conducted in similar areas and additional monitoring wells installed to assess groundwater
- Findings (December 2005)
 - Soil sample results for heavy metals were inconsistent with the first investigation; sampling results were below regulatory standards, except for Lead
 - Hydrocarbon results were detected, but below regulatory standards
 - Groundwater was impacted with hydrocarbons exceeding regulatory standards

- Recommendations
 - Develop an Affected Property Assessment Report (APAR)
 - Some groundwater impacts may be a result of off-site impacts and not result of on-site activity
 - Investigate off site areas and within site to further delineate soil and groundwater impacts

Environmental Review

- Conducted in March 2011
- City considered this site for a future City facility
- No intrusive investigation conducted
- Findings
 - Tannery facility location was further defined
 - Impacts may be related to tannery operations and demolition practices
 - Eight monitoring wells located on property
- Recommendations
 - Some current data, which exceeds regulatory standards, may be subject to Texas Risk Reduction Program (TRPP)
 - Conduct an Affected Property Assessment Report (APAR), which requires further drilling and sampling across the site
 - Consider Voluntary Clean-up Program if release is determined and regulatory action is required based on investigative results

Current Status

- Brownfield grant expired
- COSA didn't pursue site development
- Identified as potential environmental concern for future development
- Further environmental studies required and possibly state coordination would be required prior to site development
- Sell property "as is"

Next Steps

- Disclose all environmental information to prospective buyers
- Recommend prospective buyers obtain a professional environmental consultant to evaluate current reports and determine next steps in regards to risk level and development requirements





LEGEND

-  Approximate Site Boundary
-  Monitoring Well
-  VOC/Semi-VOC and TPH Contaminants Exceeding Tier 1 PCLs (For a list of exceedances, refer to Table 5B)

NOTES:

- 1.) Monitoring well locations for MW-1 and MW-2 were taken from Phase II ESA, 905 S. Frio 0.7922-Acre Tract, prepared by Pape-Dawson Engineers, dated June 16, 2005.
- 2.) Monitoring wells MW-3 through MW-7 locations were taken from Phase II Subsurface Investigation Report, 0.7922-Acre Tract 905 South Frio, prepared by ATC Associates, Inc., dated December 19, 2005.



Engineering • Testing • Environmental
Facilities • Infrastructure

12621 West Golden Lane
San Antonio, Texas 78249
(210)699-9090 TEL
(210)699-6426 FAX
www.rkci.com
TBE Firm Number 3237

SOURCE: City of San Antonio (COSA), 2009, San Antonio West
Orthoregistry

**GROUNDWATER CONTAMINANT
EXCEEDANCE MAP**
VOLUNTARY CLEANUP
PROGRAM SUBMITTAL
905 SOUTH FRIO
SAN ANTONIO, BEXAR COUNTY, TEXAS

REVISIONS:

| No. | DATE | DESCRIPTION |
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PROJECT No.:
ASF09-182-27

ISSUE DATE: 03-30-11
DRAWN BY: LAW
CHECKED BY: JL
REVIEWED BY: RVK

FIGURE

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