STATE OF TEXAS	§	**LEVEL III CENTER CITY HOUSING**
COUNTY OF BEXAR	§	**INCENTIVE POLICY AGREEMENT**
	§	**OF THE CITY OF SAN ANTONIO**
	§	

This Center City Housing Incentive Policy Agreement (hereinafter referred to as this "Agreement") is made and entered into by and among the City of San Antonio (the "CITY"), a municipal corporation of the State of Texas, acting by and through its City Manager or his designee and ARDC Parkdale, Ltd. (hereinafter referred to as "DEVELOPER") and whom together may be referred to as the "Parties".

RECITALS

WHEREAS, DEVELOPER is engaged in an economic development project that will be located within the city limits of San Antonio that will consist of the construction of approximately one hundred ninety-six (196) housing units to be located at 3830 Parkdale St., San Antonio, TX 78229 (the "Project Site"), as more specifically described in **Exhibit A**; and

WHEREAS, once completed, the Project is anticipated to result in the investment of approximately THIRTY THREE MILLION NINE HUNDRED ELEVEN THOUSAND SIXTY-EIGHT DOLLARS AND 0 CENTS ($33,911,068.00) in land acquisition and real property improvements within the city; and

WHEREAS, DEVELOPER is seeking economic incentives from the CITY to undertake and complete the Project; and

WHEREAS, the CITY has identified funds to be made available to DEVELOPER in the form of certain fee waivers (the "Incentives") for use in undertaking and completing the Project in accordance with the terms and conditions of this Agreement; and

WHEREAS, the City Council has authorized the City Manager or his designee to enter into this Agreement in accordance with the City's Center City Housing Incentive Policy (the "Policy"), **Exhibit B**, as approved by City Ordinance No.2016-06-16-0468, passed and approved on June 16, 2016, and as amended by City Ordinance No. 2018-12-13-0996 to grant and loan certain funds as described herein and to waive certain fees; **NOW THEREFORE**:

The Parties hereto severally and collectively agree, for the consideration herein set forth, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described:

ARTICLE I. AGREEMENT PURPOSE

DEVELOPER shall undertake the Project which is anticipated to promote local economic development and to stimulate business and commercial activity in the City of San Antonio. The CITY is supporting the Project through this Agreement to provide Incentives to be used to defray costs associated with the Project.

ARTICLE II. AGREEMENT PERIOD

This Agreement shall commence upon the Effective Date listed on the signature page and shall terminate upon the earlier of: (A) the full-payment of Incentives by CITY to DEVELOPER, as limited by this Agreement and subject to funding availability; or (B) termination of this Agreement as otherwise provided herein (the "Term"). In no case shall the Term of this Agreement exceed fifteen (15) years.

ARTICLE III. PROJECT REQUIREMENTS

A. The Project.

1. Investment. DEVELOPER shall invest approximately THIRTY THREE MILLION NINE HUNDRED ELEVEN THOUSAND SIXTY-EIGHT DOLLARS AND 0 CENTS ($33,911,068.00) (the "Minimum Investment") in the Project located within the city limits of San Antonio that will consist of the construction of approximately one hundred ninety-six (196) newly constructed housing units, located at the Project Site (the "Project"). The Minimum Investment shall include, but not be limited to, expenditures in: land acquisition, design, building construction costs, engineering, public improvement costs, taxes and insurance, administrative and financing costs, and DEVELOPER fees, as described in DEVELOPER'S CCHIP Application, **Exhibit C**.

a. DEVELOPER shall reserve approximately twenty percent (20%) of the housing units as affordable housing in accordance with the CCHIP Policy. Rental rates for affordable and workforce housing units must not exceed approximately thirty percent of the gross monthly household income.

b. DEVELOPER shall ensure that all rental housing units have an average residential rent not exceeding two dollars and ninety-two cents ($2.92) per square foot, in accordance with the CCHIP Policy.

2. Construction. DEVELOPER shall commence construction and demolition, if applicable, at the Project Site on or before August 31, 2020 ("Commencement Date"), and shall use commercially reasonable efforts to complete construction no later than December 31, 2021 (the "Completion Date"), subject to Force Majeure as defined in this Agreement. The Commencement Date shall be determined by the issuance of a building permit for the Project Site and CITY's receipt of an affidavit from the general contractor for the Project attesting that construction has commenced. The Completion Date shall be determined by the issuance of a final Certificate of Occupancy for the Project Site by CITY, not to be unreasonably withheld. Failure to demonstrate progress toward the Commencement Date within 12 months of this Agreement may result in the City terminating this Agreement. No more than one extension of the Commencement Date may be approved by the CITY under this Agreement.

a. DEVELOPER shall provide written progress reports to City on the Project and Project Site on a quarterly basis from the Commencement Date through the

Completion Date (the "Construction Period"). In addition to the quarterly progress reports, should CITY request an interim progress report during the Construction Period, DEVELOPER shall provide such progress report within fifteen (15) business days.

b. DEVELOPER shall comply with all applicable Federal, State and local laws and regulations, including federal Environmental Protection Agency (EPA), Texas Department of State Health Services (TDSHS) and Texas Commission on Environmental Quality (TCEQ) rules and regulations and all other regulations and laws relating to the environment, Asbestos Containing Materials (ACM), Hazardous Substances or exposure to ACM and Hazardous Substances as applicable and shall develop and operate the Project in accordance with the terms and conditions of this Agreement.

c. No streets, sidewalks, drainage, public utility infrastructure, or other public improvements ("Public Improvements") with a lien still attached may be offered to the CITY for dedication. If any lien or claim of lien, whether choate or inchoate (collectively, any "Mechanic's Lien") is filed against DEVELOPER regarding the Public Improvements on the Project by reason of any work, labor, services or materials supplied or claimed to have been supplied by, or on behalf of, DEVELOPER, or any of its agents or Contractors, DEVELOPER shall cause the same to be satisfied or discharged of record, or effectively prevent the enforcement or foreclosure against the Project's Public Improvements by injunction, payment, deposit, bond, court order or otherwise.

d. DEVELOPER is responsible for complying with all applicable City Code provisions, including provisions of the Unified Development Code, enforced pursuant to the CITY's subdivision platting authority, and as amended, including, but not limited to, those provisions related to drainage, utilities, and substandard public street rights-of-ways for development and construction of the Project including the Public Improvements. In addition, DEVELOPER shall exercise commercially reasonable efforts to follow the Urban Neighborhood recommendations of the applicable Master Plan, if any, and shall consider incorporating low impact development strategies for water quality, storm water and drainage where appropriate for the Project. This Agreement in no way obligates City to approve any subsequent permits or requests for the Project as DEVELOPER is still responsible for acquiring all necessary permits and/or approvals as needed for the Project.

e. DEVELOPER must be in good standing with the CITY, not have any unresolved code violations with the CITY, must have remitted any taxes due to the CITY, and be free from any outstanding litigation with the CITY at the time of the Agreement.

f. DEVELOPER shall, for the Term of this Agreement, ensure that no units within the Project participate in Type 2 short term rental (as defined by City

ordinance or as amended) to include units being offered on STR platforms such as Airbnb or VRBO.

g. Should DEVELOPER, its individual partners, agents and/or assigns default in any material terms of this Agreement resulting in a termination, then the same shall be denied access to any and all City incentives in future projects.

ARTICLE IV. ECONOMIC DEVELOPMENT PROGRAM INCENTIVES

The Incentives offered by the CITY to the DEVELOPER in this Agreement shall be in compliance with the Policy in effect as of the Effective Date of the Agreement, which Policy may be amended from time to time. Should the Incentives provided in this Article exceed the maximum amount authorized in the Policy, then that award shall be automatically amended to provide only the amount authorized by the Policy.

Economic Development Program Incentives. CITY is providing DEVELOPER with Incentives in a cumulative amount of approximately, but not limited to, THREE HUNDRED FORTY SIX THOUSAND DOLLARS AND 0 CENTS ($346,000.00), as summarized in the attached CCHIP Agreement Term Sheet, **Exhibit D**.

No disbursement of Incentives, other than fee waivers, shall be made until receipt by CITY of the following:

(a) Fully executed Agreement by all Parties; and

(b) Evidence of the issuance of a building permit from the City of San Antonio for the residential component of the Project on or prior to the Commencement Date; and

(c) A letter by the general contractor confirming commencement of construction of the project; and

(d) A letter from a qualified financial institution, Financial Controller, or Certified Public Accountant confirming DEVELOPER has funds available on deposit or under an existing credit facility or construction loan sufficient to complete the Project on or prior to the Commencement Date; and

(e) Documentation of design approval for the Project by the Historic and Design Review Commission.

A. Fee Waivers. CITY is providing DEVELOPER with City fee waivers in the approximate amount of NINETY-SIX THOUSAND DOLLARS AND 0 CENTS ($96,000.00) and SAWS impact fee waivers in an amount not to exceed TWO HUNDRED FIFTY THOUSAND DOLLARS AND 0 CENTS ($250,000.00). The Fee Waivers are administrative in nature and are effective as of the date they are issued as reflected in the attached Fee Waiver Transmittal, **Exhibit E**.

ARTICLE V. CITY OBLIGATIONS

A. In consideration of full and satisfactory performance of activities required by this Agreement, CITY will pay DEVELOPER in accordance with Article IV above.

B. CITY will not be liable to DEVELOPER or any other entity for any costs incurred by DEVELOPER in connection with this Agreement.

C. The CITY shall monitor DEVELOPER's compliance with the terms and conditions of this Agreement and regarding the progress of the Project.

ARTICLE VI. RETENTION AND ACCESSIBILITY OF RECORDS

A. DEVELOPER shall maintain the fiscal records and supporting documentation for expenditures of Incentives associated with this Agreement. DEVELOPER shall retain such records and any supporting documentation for the greater of: (1) five [5] years from the end of the Agreement period; or (2) the period required by other applicable laws and regulations.

B. DEVELOPER shall, following reasonable advance written notice from the CITY, give the CITY, its designee, or any of their duly authorized representatives, access to and the right to examine all material records related to the cost of Project (the "Records") and the expenditure of the Incentives. CITY's access to the Records will be limited to information needed to verify that DEVELOPER is and has been complying with the terms of this Agreement. Any information that is not required by law to be made public shall be kept confidential by the CITY. DEVELOPER shall not be required to disclose to the CITY any information that by law DEVELOPER is required to keep confidential. Should any good faith dispute or question arise as to the validity of the data provided, the CITY reserves the right to require DEVELOPER to obtain an independent firm to verify the information. This certified statement by an independent firm shall be provided at the sole cost of DEVELOPER. The rights to access the Records shall continue as long as the Records are retained by DEVELOPER. Failure to provide reasonable access to the Records to authorized CITY representatives shall be cause for CITY to provide notice of intent to suspend or terminate this Agreement as provided for herein, or any portion thereof, for reason of default. Notwithstanding Section A above, all Records shall be retained by DEVELOPER for a period of five (5) years after all performance requirements are achieved for audit purposes until such audits or other administrative, civil or criminal matters including, but not limited to, investigations, lawsuits, administrative inquiries and open record requests are completed.

ARTICLE VII. MONITORING

The CITY reserves the right to confirm DEVELOPER's compliance with the terms and conditions of this Agreement. The CITY will provide DEVELOPER with a written report of the monitor's findings. If the monitoring report notes deficiencies in DEVELOPER's performances under the terms of this Agreement, the monitoring report shall include a listing of requirements for the correction of such deficiencies by DEVELOPER and a reasonable amount of time in which to attain compliance. Failure by DEVELOPER to take action specified in the monitoring

report within a reasonable amount of time may be cause for suspension or termination of this Agreement, in accordance with Articles VIII and IX herein.

ARTICLE VIII. DEFAULT/CURE PERIOD/SUSPENSION

A. Notwithstanding the provisions of Chapter 2251 of the Texas Government Code, in the event DEVELOPER fails to comply with the terms of this Agreement such non-compliance shall be deemed a default. CITY shall provide DEVELOPER with written notification as to the nature of the default (the "Notice of Default") and grant DEVELOPER a sixty (60) day period from the date of CITY's written notification to cure such default (the "Cure Period"). Should DEVELOPER fail to cure the default within the Cure Period, CITY may, upon written notification (the "Notice of Suspension"), suspend this Agreement in whole or in part and withhold further payments to DEVELOPER. Such Notice of Suspension shall include: (1) the reasons for such suspension; (2) the effective date of such suspension; and, (3) in the case of partial suspension, the portion of the Agreement to be suspended.

B. In the case of default for causes beyond DEVELOPER's reasonable control, which cannot with due diligence be cured within the Cure Period, CITY may, in its sole discretion, extend the Cure Period provided that DEVELOPER shall: (1) immediately upon receipt of Notice of Default advise CITY of DEVELOPER's intention to institute all steps necessary to cure such default and the associated time frame; and (2) institute and thereafter prosecute to completion with reasonable dispatch all steps necessary to cure same.

C. A suspension under this Article VIII may be lifted only at the sole discretion of the CITY upon a showing of compliance with or written waiver by CITY of the term(s) in question.

D. CITY shall not be liable to DEVELOPER or to DEVELOPER's creditors for costs incurred during any term of suspension of this Agreement.

ARTICLE IX. TERMINATION

A. Should DEVELOPER fail to timely meet the Commencement Date for the Project in accordance with Article III.A.2 above, at CITY's sole discretion, and with 30 days notice to DEVELOPER, CITY may terminate the Agreement, in which instance any and all Incentives offered to DEVELOPER by CITY shall extinguish.

B. CITY shall have the right to terminate this Agreement for cause should DEVELOPER fail to perform under the terms and conditions herein, or should DEVELOPER fail to cure a default after receiving written notice of such default with sixty (60) days opportunity to cure. CITY may, upon issuance to DEVELOPER of written notice of termination (the "Notice of Termination"), terminate this Agreement for cause and withhold further payments to DEVELOPER. A Notice of Termination shall include: (1) the reasons for such termination; and (2) the effective date of such Termination.

C. Should CITY terminate this Agreement for cause, then CITY shall have the right to recapture any and all disbursed funds made under, as applicable, the Economic Development

Program Annual Incremental Property Tax Reimbursement, and/or any and all disbursed Incentive Loan Funds. CITY shall be entitled to the repayment of the recaptured funds within sixty (60) calendar days from the date of the Notice of Termination.

D. In addition to the above, this Agreement may be terminated by written agreement of the Parties as follows:

1. By the CITY (with the consent of DEVELOPER) in which case the two parties shall agree upon the termination conditions, including the repayment of funds and the effective date of termination; or

2. By the DEVELOPER upon written notification to CITY, setting forth the reasons of such termination, a proposed pay-back plan of all funds disbursed, and the proposed effective date of such termination.

Notwithstanding the foregoing, DEVELOPER shall not be relieved of its obligation to repay any and all disbursed funds made under this Agreement, nor shall DEVELOPER be relieved of any liability to CITY for actual damages due to CITY by virtue of any material breach by DEVELOPER of any terms of this Agreement.

E. Other Remedies Available. The City shall have the right to seek any remedy at law to which it may be entitled, in addition to termination and repayment of funds, if DEVELOPER defaults under the material terms of this Agreement and fails to cure such default within the cure period set forth above.

ARTICLE X. NOTICE

Any notice required or permitted to be given hereunder by one Party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if: (a) delivered in person to the address set forth herein below for the Party to whom the notice is given; (b) placed in the United States mail with postage prepaid, return receipt requested, properly addressed to such Party at the address hereinafter specified; (c) scanned and emailed with an original to be sent via First Class United States Mail or (d) deposited, with fees prepaid, into the custody of a nationally recognized overnight delivery service such as FedEx, addressed to such Party at the address hereinafter specified. Any notice mailed in the above manner shall be effective two (2) business days following its deposit into the custody of the United States Postal Service or one (1) business day following its deposit into the custody of such nationally recognized delivery service, as applicable; all other notices shall be effective upon receipt. From time to time, either Party may designate another address for all purposes under this Agreement by giving the other Party no less than ten (10) calendar days advance written notice of such change of address in accordance with the provisions hereof.

<u>If intended for CITY, to</u>:

City of San Antonio
Attn: Director
Center City Development & Operations Department
P.O. Box 839966

San Antonio, TX 78283-3966

If intended for DEVELOPER, to: ARDC Parkdale, Ltd.
Attn: Ryan Wilson
21260 Gathering Oak, Ste. 101
San Antonio, TX 78260

ARTICLE XI. SPECIAL CONDITIONS AND TERMS

A. Employment. DEVELOPER, in accordance with Chapter 2264 of the Texas Government Code, agrees not to knowingly employ any undocumented workers at the Project during the Term of this Agreement. If DEVELOPER is convicted of a violation under 8 U.S.C. Section 1324a (f), then DEVELOPER shall repay the CITY the Incentives paid under this Agreement for the tax year(s) covered under this Agreement during which such violation occurred. Such payment shall be made within 120 business days after the date DEVELOPER is notified by the CITY of such violation. The CITY, in its sole discretion, may extend the period for repayment herein. Additionally, DEVELOPER shall pay interest on the amounts due to CITY at the rate periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the CITY) as its prime or base commercial lending rate, from the date of such violation notice until paid.

ARTICLE XII. CONFLICT OF INTEREST

A. DEVELOPER shall ensure that no employee, officer, or individual agent of CITY shall participate in the selection, award or administration of a subcontract supported by funds provided hereunder if a conflict of interest, real or apparent, would be involved. Such conflict of interest would arise when: (1) the employee, officer, or individual agent; (2) any member of his or her immediate family; (3) his or her partner; or, (4) any organization which employs, or is about to employ any of the above, has a financial or other interest in the firm or person selected to perform the subcontract and the relationship calls for payments to be made to such subcontractor on terms which are greater than those which are customary in the industry for similar services conducted on similar terms. DEVELOPER shall comply with Chapter 171, Texas Local Government Code as well as the CITY's Code of Ethics.

B. City may terminate this Agreement immediately if the DEVELOPER has offered, conferred, or agreed to confer any benefit on a City of San Antonio employee or official that the City of San Antonio employee or official is prohibited by law from accepting. Benefit means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law. Notwithstanding any other legal remedies, the City may obtain reimbursement for any expenditure made to the DEVELOPER resulting from the improper offer, agreement to confer,

or conferring of a benefit to a City of San Antonio employee or official.

ARTICLE XIII. NONDISCRIMINATION AND SECTARIAN ACTIVITY

A. As a condition of entering into this Agreement, DEVELOPER represents and warrants that it will comply with the CITY's Commercial Nondiscrimination Policy, as described under Section III. C. 1. of the SBEDA Ordinance 2010-06-17-0531. As part of such compliance, DEVELOPER shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers funded in whole or in part with funds made available under this Agreement, nor shall DEVELOPER retaliate against any person for reporting instances of such discrimination. DEVELOPER shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the CITY's relevant marketplace. DEVELOPER understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of DEVELOPER from participating in City contracts, or other sanctions as provided by applicable law. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

B. None of the performances rendered by DEVELOPER under this Agreement shall involve, and no portion of the Incentives received by DEVELOPER under this Agreement shall be used in support of, any sectarian or religious activity, nor shall any facility used in the performance of this Agreement be used for sectarian instruction or as a place of religious worship.

C. DEVELOPER shall, to the best of its knowledge and belief, include the substance of this Article in all agreements entered into by DEVELOPER associated with the funds made available through this Agreement.

ARTICLE XIV. LEGAL AUTHORITY

A. Each Party assures and guarantees to the other that they possesses the legal authority to enter into this Agreement, to receive/deliver the Incentives authorized by this Agreement, and to perform their obligations hereunder.

B. The person or persons signing and executing this Agreement on behalf of each Party or representing themselves as signing and executing this Agreement on behalf of a Party, do hereby guarantee that he, she or they have been duly authorized to execute this Agreement on behalf of that Party and to validly and legally bind that Party to all terms, performances and provisions herein set forth.

C. CITY will have the right to suspend or terminate this Agreement in accordance with Articles VIII or IX if there is a dispute as to the legal authority of either DEVELOPER or the

person signing this Agreement, to enter into this Agreement, any amendments hereto or failure to render performances hereunder. DEVELOPER is liable to CITY for all Incentives it has received from CITY under this Agreement if CITY suspends or terminates this Agreement for reasons enumerated in this Article.

ARTICLE XV. LITIGATION AND CLAIMS

A. DEVELOPER shall give CITY immediate notice in writing of any action, including any proceeding before an administrative agency, filed against DEVELOPER arising out the performance of any activities hereunder. Except as otherwise directed by CITY, DEVELOPER shall furnish immediately to CITY copies of all pertinent papers received by DEVELOPER with respect to such action or claim. DEVELOPER shall notify the CITY immediately of any legal action, known to DEVELOPER, filed against the DEVELOPER or any subcontractor thereto, or of any known proceeding filed under the federal bankruptcy code to which DEVELOPER or any subcontractor is a party. DEVELOPER shall submit a copy of such notice to CITY within 30 calendar days after receipt. No Incentives provided under this Agreement may be used in the payment of any costs incurred from violations or settlements of, or failure to comply with, federal and state regulations. The above notwithstanding, DEVELOPER is not required to notify CITY of claims or litigation which arise out of DEVELOPER's operations on the Project, including, without limitation, landlord tenant disputes, personal injury actions (e.g., slip and falls), and other operational activities or relationships.

B. DEVELOPER acknowledges that CITY is a political subdivision of the State of Texas and is subject to, and complies with, the applicable provisions of the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001 *et seq.*, and the remedies authorized therein regarding claims and causes of action that may be asserted by third parties for accident, injury or death.

C. This Agreement shall be interpreted according to the Constitution and the laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this Agreement shall be in Bexar County, Texas.

ARTICLE XVI. ATTORNEY'S FEES

A. In the event DEVELOPER should default under any of the provisions of this Agreement and the CITY should employ attorneys or incur other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement on the part of DEVELOPER herein contained, DEVELOPER agrees to pay to the CITY reasonable fees of such attorneys and such other expenses so incurred by the CITY.

B. In the event CITY should default under any of the provisions of this Agreement and the DEVELOPER should employ attorneys or incur other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement on the part of CITY herein contained, CITY agrees to pay to the DEVELOPER reasonable fees of such attorneys and such other expenses so incurred by the DEVELOPER.

ARTICLE XVII. CHANGES AND AMENDMENTS

A. Except as provided below, any alterations, additions, or deletions to the terms of this Agreement shall be by amendment hereto in writing and executed by all Parties to this Agreement. Any amendments to this Agreement which change or increase any of the Incentives to be provided DEVELOPER by CITY must be approved by CITY ordinance.

B. It is understood and agreed by the Parties hereto that performance under this Agreement shall be rendered in accordance with the laws and rules governing the Economic Development Program as set forth in Texas Local Government Code Chapter 380, and the terms and conditions of this Agreement.

C. Any alterations, additions, or deletions to the terms of this Agreement required by changes in state law or regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulation.

D. DEVELOPER may be subject to administrative costs associated with requests to amend, assign or attest to the terms and conditions of this Agreement. The costs may be determined by City.

ARTICLE XVIII. SUBCONTRACTING

A. DEVELOPER shall use reasonable business efforts to ensure that the performance rendered under subcontracts entered into by DEVELOPER complies with all terms and provisions of this Agreement as if such performance were rendered by DEVELOPER.

B. DEVELOPER, in subcontracting any of the performances hereunder, expressly understands that in entering into such subcontracts, CITY is not liable to DEVELOPER's subcontractor(s).

C. DEVELOPER assures and shall obtain assurances from all of its contractors where applicable, that no person shall, on the grounds of race, creed, color, disability, national origin, sex or religion, be excluded from, be denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part under this Agreement.

ARTICLE XIX. DEBARMENT

By signing this Agreement, DEVELOPER certifies that it will not award any Incentives provided under this Agreement to any party which it knows to be debarred, suspended or otherwise excluded from or ineligible for participation in assistance programs by the CITY.

ARTICLE XX. RIGHTS UPON DEFAULT

It is expressly understood and agreed by the Parties hereto that, except as otherwise expressly provided herein, any right or remedy provided for in this Agreement shall not preclude the exercise of any other right or remedy under any other agreements between DEVELOPER and the CITY or under any provision of law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy hereunder shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

ARTICLE XXI. ASSIGNMENT

A. This Agreement is not assignable by any Party without the written consent of the non-assigning Parties. Notwithstanding the foregoing, DEVELOPER may assign this Agreement to a parent, subsidiary, affiliate entity or newly created entity resulting from a merger, acquisition or other corporate restructure or reorganization of DEVELOPER. In such cases, DEVELOPER shall give CITY no less than thirty (30) days prior written notice of the assignment or other transfer. Any and all future assignees must be bound by all terms and/or provisions and representations of this Agreement as a condition of assignment. Any attempt to assign the Agreement without the notification and subsequent consent of CITY, if consent is required under this Article and whose consent will not be unreasonable withheld, shall release CITY from performing any of the terms, covenants and conditions herein. Any assignment of this Agreement in violation of this Article shall enable CITY to terminate this Agreement and exercise its rights under Article IX of this Agreement.

B. Any restrictions in this Agreement on the transfer or assignment of the DEVELOPER's interest in this Agreement shall not apply to and shall not prevent the assignment of this Agreement to a lending institution or other provider of capital in order to obtain financing for the Project. In no event, shall the CITY be obligated in any way to said financial institution or other provider of capital. The City shall only issue checks or any other forms of payment made payable to the DEVELOPER.

C. DEVELOPER may be subject to administrative costs associated with requests to amend, assign or attest to the terms and conditions of this Agreement. The costs may be determined by CITY.

ARTICLE XXII. ORAL AND WRITTEN AGREEMENTS

All oral and written agreements among the Parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement.

ARTICLE XXIII. AUTHORIZED RELIEF FROM PERFORMANCE *(Force Majeure)*

The CITY may grant temporary relief from any deadline for performance of any term of this Agreement if the DEVELOPER is prevented from compliance and performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributed to the fault or negligence of the DEVELOPER. The burden of proof for the need for such relief shall rest upon

the DEVELOPER. To obtain relief based upon *force majeure*, the DEVELOPER must file a written request with the CITY. CITY will not unreasonably withhold its consent.

ARTICLE XXIV. INCORPORATION OF EXHIBITS

Each of the Exhibits listed below is incorporated herein by reference for all purposes as an essential part of the Agreement, which governs the rights and duties of the Parties.

Exhibit A	Legal Description of Property
Exhibit B	Center City Housing Incentive Policy
Exhibit C	Developer's CCHIP Application
Exhibit D	CCHIP Agreement Term Sheet
Exhibit E	Fee Waiver Transmittal (if applicable)

Signatures appear on next page.

WITNESS OUR HANDS, EFFECTIVE as of November 25**, 2019 (the "Effective Date"):**

Accepted and executed in three duplicate originals on behalf of the City of San Antonio pursuant to Ordinance Number 2018-12-13-0996, dated December 13, 2018, and by DEVELOPER pursuant to the authority of its Managing Partner.

CITY OF SAN ANTONIO,
a Texas Municipal Corporation

Lori Houston
Assistant City Manager

ARDC PARKDALE, LTD.:

Ryan Wilson
Title: Manager

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibit A

Legal Description of Property

Kimley-Horn and Associates, Inc.
TBPLS Firm No. 10193973
601 NW Loop 410, Suite 350
San Antonio, Texas 78216

A METES AND BOUNDS
DESCRIPTION OF A
7.078 ACRE TRACT OF LAND

BEING a 7.078 acre (308,306 square feet) tract of land located in the New City Block 14445, City of San Antonio, Bexar County Texas; being all of that certain 7.051 acre tract described in instrument to The Urban Renewal Agency of the City of San Antonio d/b/a/ Office of Urban Redevelopment San Antonio (OUR SA), a Texas Local Governmental entity recorded in Document Number 20190027544 of the Official Public Records of Bexar County; and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found at the southerly line of Parkdale Drive (60 feet wide) marking the northeasterly corner of said 7.051 acre tract and the northwesterly corner of that certain 10.00 acre tract described in Document Number 20180249782 of the Official Public Records of Bexar County;

THENCE, along the westerly and southerly boundary of the said 10.00 acre tract the following two (2) courses and distances:

1. South 5°21'48" West, 349.87 feet to a 1/2-inch iron rod found for the southwesterly corner of said 10.00 acre tract;
2. South 84°27'23" East, 179.20 feet to a 1/2-inch iron rod found for the most northerly – northwesterly corner of Lot 19, Block 6, New City block 14445, Signature Ridge, Unit 2, as described in Volume 9554, Page 224 Deed and Plat Records of Bexar County;

THENCE, along the northerly boundary line of the said Lot 19, Block 6 the following seven (7) courses and distances:

1. South 5°07'06" West, 20.18 feet to a 1/2-inch iron rod found for corner;
2. in a southwesterly direction, along a non-tangent curve to the left, a central angle of 40°46'15", a radius of 422.00 feet, a chord bearing and distance of South 74°54'12" West, 293.99 feet, and a total arc length of 300.29 feet to a 1/2-inch iron rod with a plastic cap stamped "KHA" set for a point of tangency;
3. South 54°31'03" West, 61.51 feet to a 1/2-inch iron rod found;
4. in a southwesterly direction, along a tangent curve to the right, a central angle of 50°00'00", a radius of 378.00 feet, a chord bearing and distance of South 79°31'03" West, 319.50 feet, and a total arc length of 329.87 feet to a 1/2-inch iron rod with a plastic cap stamped "KHA" set for a point of tangency;
5. North 68°51'59" West, 78.51 feet to a 1/2-inch iron rod found for a corner;
6. North 75°41'29" West, 12.56 feet to a 1/2-inch iron rod with a plastic cap stamped "KHA" set for a point of curvature;
7. in a northwesterly direction, along a tangent curve to the right, a central angle of 88°23'30", a radius of 15.00 feet, a chord bearing and distance of North 31°29'44" West, 20.91 feet, and a total arc length of 23.14 feet to a 1/2-inch iron rod with a plastic cap stamped "KHA" set for a point of a reverse curve on the easterly right of way line of Datapoint Drive (60 feet wide);

THENCE, along the easterly right of way line of Datapoint Drive (60 feet wide) the following three (3) courses and distances:

1. in a northeasterly direction, along a tangent reverse curve to the left, a central angle of 3°17'50", a radius of 430.00 feet, a chord bearing and distance of North 8°17'14" East, 24.74 feet, and a total arc length of 24.75 feet to a 1/2-inch iron rod with a plastic cap stamped "KHA" set for a point of tangency;
2. North 5°17'20" East, 520.39 feet to a 1/2-inch iron rod with a plastic cap stamped "KHA" set for a point of curvature;
3. in a northeasterly direction, along a non-tangent curve to the right, a central angle of 89°58'20", a radius of 15.00 feet, a chord bearing and distance of North 50°15'19" East, 21.21 feet, and a total arc length of 23.55 feet to a 1/2-inch iron rod found for a point of tangency on the southerly right of way line of said Parkdale Drive;

THENCE, South 84°42'40" East, 535.00 feet along the southerly right of way line of said Parkdale Drive to the **POINT OF BEGINNING** and containing 7.078 acres of land in Bexar County, Texas. The basis of bearing for this description is the Texas State Plane Coordinate System Grid, south Central Zone (FIPS 4204) (NAD'83). All distances are on the Grid and shown in U.S. Survey Feet. This document was prepared in the office of Kimley-Horn and Associates, Inc. in San Antonio, Texas.

Exhibit B

Center City Housing Incentive Policy

Center City Housing Incentive Policy
Effective January 2, 2019

Section 1. Background
In spring 2011, Centro Partnership San Antonio initiated the creation of a Downtown Strategic Framework Plan. In an effort to ensure the execution of the Framework Plan, the Center City Development Office created the Center City Implementation Plan.

The Center City Implementation Plan provided recommendations on how to best implement the Downtown Strategic Framework Plan through increased public investment, creation of a housing finance strategy, coordinated management, and regulation of development. The Implementation Plan recommended that the City establish a predictable housing incentive system for housing in the Center City. Such a system would assist in normalizing land values, provide greater certainty, increase the speed of approvals, and reduce the risk associated with infill development. Therefore, the Center City Development Office developed the Center City Housing Incentive Policy (CCHIP).

The CCHIP incorporates the goals and objectives of the Implementation Plan and provides greater incentives to housing projects within targeted growth areas identified in the Downtown Strategic Framework Plan and prioritizes the Downtown Core. The Policy leverages increasing development in the Center City in order to facilitate the creation and preservation of affordable housing, incorporating recommendations developed by the Mayor's Housing Policy Task Force. The program also recognizes the need for incenting affordable housing throughout the City's Regional Centers in accordance with SA Tomorrow.

Section 2. Eligibility
The CCHIP applies to high density rental and for-sale housing projects (Projects) within the Greater Downtown Area (GDA), Regional Centers, and Transportation Corridors identified in the Via 2040 plan. Eligible Projects may receive City Fee Waivers, SAWS Impact Fee Waivers, Real Property Tax Reimbursement Grants, and infrastructure grants based on the terms outlined in the CCHIP.

Projects with an approved building permit at time of agreement execution are not eligible for CCHIP incentives. All projects must receive approval from the Historic and Design Review Commission prior to project commencement.

The CCHIP Policy was last amended by City Council on June 16, 2016. That policy revision established that properties zoned as "Single Family Residential" (e.g. "R-6," "R-5," "R-4") and "Mixed Residential" (e.g. "RM-4", "RM-5", "RM-6") are ineligible for incentives under this policy. No properties that were zoned as "Single Family Residential" or "Mixed Residential" as of June 16, 2016, are eligible for incentives under this policy. Rezoning the property to an eligible zoning type does not make the property eligible for incentives.

Properties with zoning of "Neighborhood Preservation" (e.g. "NP-8", "NP-10", "NP-15") or that allow for Manufactured Housing (e.g. "MH", "MHP", "MHC") are ineligible for incentives as of the effective date of the 2018 CCHIP policy. Rezoning the property to an eligible zoning type does not make the property eligible for incentives.

Any project receiving incentives through the CCHIP are not eligible to receive a permit through the Short Term Rental (STR) program that results in an entire housing unit being offered for rent on STR platforms such as Airbnb or VRBO.

Projects including a hotel component are not eligible for incentives through CCHIP.

Projects over the Edwards Aquifer Recharge or Contributing Zones, and projects located outside the current city limits, including the extraterritorial jurisdiction and areas of limited-purpose annexation, are not eligible for incentives through CCHIP.

Section 3. Definitions

Adaptive Reuse – The reuse of a building or structure, usually for a purpose different from the original. The term implies that certain structural or design changes have been made to the building in order for it to function in its new use.

Affordable Housing and Workforce Housing (also Affordable Unit and Workforce Unit) –

- Affordable Rental Units are reserved for households earning at or below 60% of the Area Median Income (AMI) for the San Antonio-New Braunfels metropolitan area using HUD and/or TDHCA income limits as applicable (Affordable Housing).

- Workforce Rental Units are reserved for households earning between 61% - 80% of the Area Median Income (AMI) for the San Antonio-New Braunfels metropolitan area using HUD and/or TDHCA income limits as applicable (Workforce Housing).
    a. To qualify under this policy, rents charged for affordable units and workforce units shall not exceed approximately 30% of the household's gross monthly income. Affordable rental units and workforce rental units shall demonstrate affordability for a minimum of fifteen (15) years or be qualified through a local, state, or federal affordable housing program that includes a minimum affordability term and regular compliance requirements (e.g. Housing Tax Credits, HOME, etc.).

- For-sale Units reserved for households earning at or below 120% of the Area Median Income (AMI) for the San Antonio-New Braunfels metropolitan area using HUD and/or TDHCA income limits as applicable will be deemed affordable. To qualify under this policy, homes sold to income-qualified households must be the owner's primary residence. For-sale units must demonstrate affordability to a qualified homebuyer at the time of sale and include a resale restriction for a minimum of five (5) years following the initial sale.

City of San Antonio Fee Waiver Program – A City Council adopted Policy of the City of San Antonio to promote the development and preservation of affordable housing, the rehabilitation of historic structures, and small business and industry development through the use of development fee waivers. The City of San Antonio Fee Waiver Program replaces the Inner City Reinvestment/Infill Policy (ICRIP). Fees eligible for waiver will be reviewed administratively.

Historic Rehabilitation – The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property that are significant to its historic, architectural and cultural values.

Inner City Reinvestment/Infill Policy (ICRIP) – see *City of San Antonio Fee Waiver Program.*

Market-Rate Housing – A Project in which more than 85% of the units are priced for rental or sale subject to market conditions, without temporary or permanent pricing restrictions.

Mixed-Income Housing – A Project in which at least 15% of the housing units are priced for rental or sale to households or persons at or below 80% of the Area Median Income.

Project – A rental or for-sale housing development that creates multiple housing units at a density of at least:

- 18 dwelling units per acre for adaptive reuse or historic rehabilitation projects within the Greater Downtown Area (Level 1 or Level 2 areas) or in Level 3
- 33 dwelling units per acre for multifamily projects (25 dwelling units per acre for projects consisting exclusively of for-sale housing units) outside the Central Business District (Level 2 and Level 3 areas)
- 50 dwelling units per acre for all projects in the Central Business District (Level 1 Area)

Section 4. Geographic Area

The incentives provided by the CCHIP is based on the Project's location and future land use classification within the Greater Downtown Area (GDA). Properties with a future land use classification of "Urban Low Density Residential," "Medium Density Residential," and "Parks/Open Space" in an SA Tomorrow Regional Center or Community Plan shall not qualify for incentives under CCHIP. See attached map in Exhibit A for program areas. If there is conflict between an area described and Exhibit A, then Exhibit A controls.

Projects within the Central Business District (CBD) are within the Level 1 Incentive Area, projects located in the Greater Downtown Area and outside of the CBD are within the Level 2 Incentive Area. The Level 3 Incentive Area includes properties with eligible zoning in the SA Tomorrow Regional Centers and parcels with eligible zoning that are abutting Via's Primary Transportation Corridors under the 2040 Long Range Plan.

Level 3 Incentive Areas will go into effect when City Council adopts the Land Use Plan for the corresponding Regional Center or when Via determines the route locations for primary transit corridors through Via 2040.

Section 5. Affordability Requirements

Projects in the Level 2 Area that are under 5 stories must include a minimum of 10% affordable units, and an additional 10% of units in the project must either be affordable or workforce units. . Projects in Level 3 Area must include 20% affordable units. For projects consisting of rental housing in Level 2 and Level 3, the unit mix of affordable and workforce housing units shall be comparable to the unit mix of any market-rate units provided in the same project (*for example, if 20 percent of market-rate units contain two bedrooms, 20 percent of affordable units shall also contain two bedrooms*).

All projects with for sale units are ineligible for incentives if more than half of the for sale units have an initial sale price above the Federal Housing Administration's Forward Loan Limit. (see: https://entp.hud.gov/idapp/html/hicostlook.cfm). [Note: the FHA Forward maximum loan amount differs from the maximum loan amount available through Fannie Mae/Freddie Mac loan. The FHA Forward loan amount is the maximum sale price for eligibility under this policy.]

All rental housing projects must have average residential rents (the average rent across all residential units) less than $2.75 per square foot ("Maximum Rent Rate"). The developer must recertify rents annually. If rents rise above the Maximum Rent Rate in the first five years of occupancy from the date a Certificate of Occupancy is issued, then all incentives under this policy must be reimbursed. If rents rise over the Maximum Rent Rate after five years of building occupancy, then the owner will no longer be eligible for ongoing tax reimbursement grants, however they will not be required to reimburse incentives already received under the policy. The Maximum Rent Rate shall adjust annually based on the percentage change in AMI.

For projects approved by the Public Facility Corporation's (PFC) Board, the PFC's adopted affordability rules and requirements govern over the affordability requirements listed above.

Section 6. Fee Waivers

All projects eligible for incentives under this policy will receive City Fee Waivers as permitted by the City of San Antonio Fee Waiver Program.

A Project within the CBD (Level 1 Area) is also eligible to receive a SAWS Impact Fee Waiver equal to 100% of the Project's SAWS water and impact fees, not to exceed $1,000,000. Projects within the GDA outside of the CBD (Level 2 Area) are eligible for SAWS fee waivers equal to 100% of the Project's SAWS impact fees, not to exceed $500,000. Projects within Level 3 are eligible for SAWS fee waivers equal to 100% of the Project's SAWS impact fees, not to exceed $250,000.

City Fee Waivers are made available on an annual basis through the City's General Fund. For Fiscal Year 2019, the amount is $2,500,000.00. Of this annual allocation, $1,000,000.00 will be made available to projects meeting the criteria herein; the actual amount available to CCHIP projects may be prorated based on the actual amount of City Fee Waivers available for the given fiscal year and may be adjusted based on demand with administrative approval by the Director of the Center City Development & Operations Department.

SAWS Fee Waivers have been made available to the City through Ordinance 2014-05-29-0363 that covers a six-year period from FY 2015 to FY 2020, in an annual amount of approximately $3,000,000.00. Of this annual allocation, $1,500,000.00 will be made available to projects meeting the criteria herein; the actual amount available to CCHIP projects may be prorated based on the actual amount of SAWS Fee Waivers available for the given fiscal year. All Fee Waivers are subject to funding availability.

Section 7. Real Property Tax Reimbursement Grant

Eligible projects will receive a Real Property Tax Reimbursement Grant (Grant) disbursed over 15 years for Level 1 projects or 10 years for projects within Level 2 and Level 3. The reimbursement grant will be a rebate of 75% of the previous year's Maintenance & Operations (M&O) portion of the City's real property tax revenue remitted to the City (approximately 62.5% of City portion of the real property tax bill, subject to change). The remaining 25% of the M&O portion of the City's tax revenue will be deposited in a fund established for the purpose of creating and/or preserving affordable housing units, to be administered by the Neighborhood and Housing Services Department. The City's real property tax increment generated as a result of the Project is the funding source of the Grant. Rebate payments through the Real Property Tax Reimbursement Grant may be requested after Project completion on an annual basis, and payments will be disbursed annually as funds become available.

If a Project is within a Tax Increment Reinvestment Zone it will receive a rebate of the previous year's real property tax increment remitted to the City over a period of time that is determined based on the Projects geographic location or type. The rebate is based on the City's participation level in the Tax Increment Reinvestment Zone where the Project is located (this includes both the debt rate and the M&O rate). Recipient must remit 25 percent of the annual property tax rebate they receive back to the City. The funds remitted back to the City will be deposited in the affordable housing fund to be administered by the Neighborhood and Housing Services Department. Recipient and project are not eligible for any tax reimbursements under this policy if 25% of funds previously remitted to the project have not been paid to City.

Additionally, if the Project qualifies for a Historic Tax Exemption or Historic Tax Credit per the Office of Historic Preservation, the Tax Rebate Grant and the Tax Credit or Exemption will be used together when possible in order to maximize the incentive.

Section 8. Infrastructure Grant

A Project qualifies for an Infrastructure Grant if the Project is located in the CBD (Level 1 Area) and at least 10% of the units qualify as affordable or workforce housing. The infrastructure grant is designed to assist with infrastructure upgrades and repairs considered typical for urban infill development, and may be used toward the following expenses:

- Water and/or sewer line repairs, upgrades, or extensions
- Electric service upgrades or repairs
- Public right-of-way improvements to include street and/or sidewalk enhancements, landscaping, and lighting
- Street-level façade improvements (for adaptive reuse or historic rehabilitation projects only)

A qualifying project will receive $10,000 for each affordable or workforce housing unit provided on site, up to a maximum of $500,000. Projects outside the CBD (Level 2 Area) are not eligible. The infrastructure grant is subject to funding availability.

Section 9. Density Bonus

Construction costs escalate as developers create height and density. Within Level 1 and Level 2 of the program area, residential density supports healthy street level retail, allows for a reduction in transportation demand, and increases property valuations and tax base, in turn generating dollars that can be used for public improvements and programs. Within Level 1 and Level 2, a density bonus of $0.10 per sq ft to the Maximum Rent Rate when the project is a "High Rise Building", as defined by the 2015 International Building Code.

Section 10. Displacement of Residents

Projects resulting in the direct displacement of residential tenants are not eligible for as-of-right CCHIP incentives.

Section 11. Additional Protections for Single Family Units

Any existing single family dwelling unit located on a property eligible for incentives may not be demolished, unless applicant demonstrates that the building is a "Dangerous Building" per Article VIII, Sec. 6-156 of the City Code. An applicant may submit a request to the Director of Development Services (or his/her designee) to request certification that the dwelling meets the definition of a "Dangerous Building". Notwithstanding the process identified above, any eligible project with a single family dwelling unit with historic designation that will be demolished as a result of the project must follow existing process in the City Code to completion (obtain a demolition permit) before the project can be eligible for incentives.

If a single family dwelling unit is present on a parcel at the time this policy is adopted and is subsequently demolished, the property will be ineligible for as of right incentives under this policy.

Section 12. Requirements for Additional Bike and Scooter Parking

A project seeking incentives under this policy must exceed the bike parking requirements from Sec. 35-526 of the Unified Development Code by 20% [See Chapter 35, Sec. 35-526 (b)(8) & (b)(9)], as well as accommodate parking for scooters on the property.

Section 12. Exceptions

Any exceptions to the CCHIP require City Council approval.

Section 13. Review and Term

The City will initiate a housing study for the CCHIP area every two years to inventory the total number of housing units, monitor the rental rates and sales values, and identify any necessary adjustments to the policy. Unless the City Council extends and or amends the terms of the CCHIP, it will expire within 2 years of the date of City Council adoption.

Section 14. Recapture Provisions

CCHIP Agreements will include a provision for the recapture of the incentives (e.g. grants and loans) in the event Agreement terms and requirements are not met. These recapture provisions will survive any subsequent assignment of the Agreement.

Section 15. Administration

The Center City Development & Operations (CCDO) Department will administer the CCHIP and any associated program fees. The CCDO Director is authorized to make non-substantive program changes as necessary for administrative purposes.

Section 16. Legal Documents

The legal documents used to officiate this policy include the CCHIP Application and the CCHIP Incentive Agreement as described in Exhibits B and C, which may be amended as necessary. The City Attorney's Office, in conjunction with the City Manager or her designee, may negotiate additional terms of the agreement as long as those terms do not change the total incentive amount. The City Manager or her designee will be the signatory of the agreement.

Exhibit C

Developer's CCHIP Application

CITY OF SAN ANTONIO
CENTER CITY DEVELOPMENT
& OPERATIONS DEPARTMENT

Center City Housing Incentive Program (CCHIP) Application

Applicant Information

Name: Lucila Diaz Title: Associate Director

Company: Franklin Development Properties, Ltd.

Project Role: Developer

Address, City, ST, ZIP: 21260 Gathering Oak, Ste. 101, San Antonio, TX 78260

Phone: 210-408-3152 Fax: _____ Email: lucila@franklindev.net

Project Information

Project Owner / Developer: ARDC Parkdale, Ltd.

Other Associated Entities and Roles: San Antonio Housing Trust (Developer and GP); Franklin Development Properties, Ltd. (Developer); Franklin Family Investments, LLC (Guarantor)

Project Name: Park at 38Thirty

Project Site Address: 3800 Parkdale, San Antonio, TX

Start Date of Construction: 01/09/2020 Completion Date: 07/21/2021

Cost of public improvements: $0

Estimated total project cost: $33,911,068 (including public improvements)

Housing units planned: 196 ☒ Rentals ☐ For Sale

Housing density (units per acre): 33.6

Affordable housing units planned:

Units to be reserved for households earning ≤ 120% AMI (for-sale only): _____

Units to be reserved for households earning ≤ 80% AMI: _____

Units to be reserved for households earning ≤ 60% AMI: 196

Units to be reserved for households earning ≤ 30% AMI: _____

Target rental price per square foot: $1.00 / Target sale price per square foot: $1.00

Square feet of retail space: 0 Square feet of commercial office space: 0

Estimated number of new jobs to be created, if any: 30+

Site Information

City Council District #: 8 Current Zoning: MF40

Current Site Uses none

*Projects that must be rezoned from "Residential Single-Family" (e.g. R1-R6) are not eligible.

Bexar County Appraisal District Information (www.bcad.org)

Property ID(s)#: 551088, 551086 Total Acreage: 5.83

Current Value: Land: $ 2,900,000 Improvements: $ _____

Geographic Location

Project must be located within a parcel or parcels classified as Level 1, Level 2, or Level 3.

- ☐ Located in Level 1
- ☐ Located in Level 2
- ☒ Located in Level 3 (Note: Level 3 areas are eligible upon adoption by City Council)
- ☐ Located in a Tax Increment Reinvestment Zone (TIRZ), specifically: _____

Project Characteristics/Features

- ☐ Historic Rehabilitation
- ☐ Brownfield Redevelopment
- ☐ Adaptive Reuse
- ☐ 6+ Stories in Height
- ☐ Includes non-residential uses (retail, office)

Describe how this project will contribute to the City's sustainability goals (e.g. low impact development, renewable energy, tree canopy, waste management, etc.):

The project contributes to the City's SA Tomorrow Sustainability Plan via the following 1. the developer has mitigated to preserve a large amount of tree canopies that exceed city code requirements 2. There is a large portion of natural habitat in a 100 year flood plain that will not be disturbed. 3. The project will offer recreational fun, fitness, and learning opportunities (ie an accessible dog park, accessible nature trail, a playground, a community garden, free swim lessons over the summer, enrichment classes for children, after school care, a business center. 4. The YMCA and the San Antonio Food Bank are key partners with the Franklin Companies and help address hunger and promote healthier lifestyle

Additional Information

1. Has the project owner/developer or any of its affiliates been cited, currently under investigation, or have litigation pending for any violations of Federal, State, County and/or City laws, codes or ordinances?

   ☒ No ☐ Yes (please indicate nature/status of the violations on additional page(s))

2. SAWS Impact Fees (if seeking waiver)

   Estimate of water and sewer impact fees: $ 735,000 (must obtain written estimate from SAWS)

   Projected time to install water/sewer services: (month/year) 6 months

3. Other than City incentives, what are the funding sources for the project?

   - ☒ Equity
   - ☒ Housing Tax Credits
   - ☐ Conventional Bank Financing
   - ☐ HUD Loans
   - ☒ Other: City of San Antonio Neighborhood Improvements Bond

4. Will any residents be displaced either temporarily or permanently as a result of this development? ☒ No ☐ Yes

Exhibit D

CCHIP Agreement Term Sheet

CITY OF SAN ANTONIO
CENTER CITY DEVELOPMENT
& OPERATIONS DEPARTMENT

CCHIP Level 3 Agreement Term Sheet

Park at 38Thirty

Project Name & Location: The Park at 38Thirty is located at 3800 Parkdale within CCHIP Level 3 (Medical Center Regional Center), and Council District 8.

Project Description: Construction of 196 new apartments for a total project cost of $33,911,068. All units will be affordable to households earning at or below 60% of the Area Median Income. Construction is scheduled to commence in August 2020 and be complete by December 2021.

Project Developer & POC: Lucila Diaz, Franklin Development
210-408-3152

Project Qualifications:

- ☒ Located in CCHIP Boundary (Level 3)
- ☒ Meets Minimum Density or Height Requirements
- ☒ Meets Zoning Requirements
- ☒ Meets Affordability Requirements (as applicable)
- ☒ Meets Luxury Housing Restrictions

Incentive Package per CCHIP	Amount	Program Fees
City Fee Waiver	96,000.00	100.00
SAWS Fee Waiver • Available in FY2020	250,000.00	100.00
TOTAL INCENTIVES AND PROGRAM FEES	**$346,000.00**	**$200.00**

Program fees must be paid before execution of the final incentive agreement. All funding is subject to availability at the time of disbursement. City fee waivers are funded by the General Fund. SAWS Fee Waivers are funded through an annual SAWS credit allocation.

Quoted incentives will be reserved for this project for up to 90 calendar days pending the execution of a CCHIP Incentive Agreement. If an Agreement has not been executed within 90 days from the receipt of this term sheet, then all quoted incentives will be forfeited and made available to other projects.

Approvals:

10/25/19
Christopher Lazaro, Redevelopment Officer — Date

10/28/19
Viengsai Vongchampa, Department Fiscal Administrator — Date

Veronica Garcia
for
John Jacks, Director — Date

Exhibit E

Fee Waiver Transmittal

FEE WAIVER TRANSMITTAL
Park at 38Thirty

City Fee Estimate

PLAN FEE ESTIMATOR

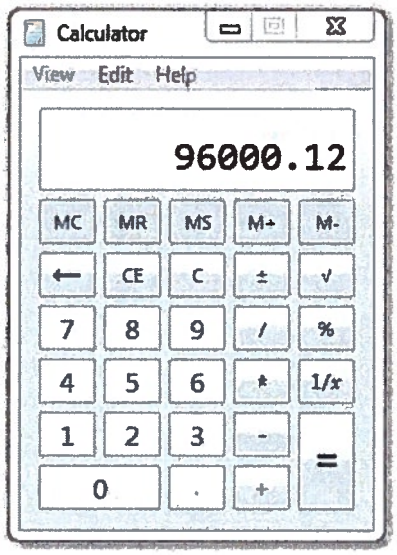
Commercial/Residential: * Commercial

Type of Work: * New

Tree Affidavit Option: * A1

# of Acres: * 6

Valuation: * 33911068



Tree Options	Description
A1	Affidavit Option 1 - Site has no protected, significant, heritage, or historic trees
A2	Affidavit Option 2 - Site has protected trees, but this work will in no way cause damage to or the destruction of said trees
P1	Permit Option 1 - Site has Rights Determination (RD aka Vested Rights)/Consent Agreement (CA)
P2	Permit Option 2 - Site has protected, significant, heritage, or historic trees that will be removed
PAID	Preservation fees paid and a previous plan has been approved for this site

Note: Although every attempt is made to ensure the accuracy of these calculations, they should be used as estimates only. For estimates on multiple commercial buildings, please call 207-0143.

Estimate Fees | Reset

Minimum Fees Due at Time of Submission:

Fee Type	Fee Amount
PLAN REVIEW FEE	$19,074.40
TREE CANOPY - COMMERCIAL	$150.00
AFFIDAVIT FEE COMMER TREE PRESERV	$1,050.00
TECH SURCHARGE	$572.23
DEV SVC SURCHARGE	$572.23
Total:	$21,418.86

Minimum Fees Due for Permit Issuance:

Fee Type	Fee Amount
PERMIT FEE BUILDING	$68,234.00
LANDSCAPE FEE	$2,125.68
TECH SURCHARGE	$2,110.79
DEV SVC SURCHARGE	$2,110.79
Total:	$74,581.26

SPECIAL CONDITIONS OF THE UTILITY SERVICE AGREEMENT

WATER SERVICE

S.C.1.00 Tract Location and Ultimate Demand.

3830 Parkdale, a 7.07-acre tract inside the City of San Antonio limits, is located at the southeast corner of Parkdale Dr and Datapoint Dr, as shown in Attachment VI (the "Tract"). The tract is not located over the Edwards Aquifer Recharge or Contributing Zone and is not located within the 5-mile Awareness Zone of Camp Bullis. The proposed Tract is located inside SAWS' water CCN, inside SAWS' wastewater CCN and does not require SAWS' financial participation in the development of infrastructure through oversizing or impact fee credits, therefore, Board Action is not required.

The ultimate demand from the proposed development, on SAWS' water infrastructure, shall not exceed 115 equivalent dwelling units (EDUs) of water supply.

S.C.2.00 Infrastructure Requirements.

Water Supply to the tract will be from Pressure Zone (PZ) (1111). The flow capacity of a 12-inch main is required to supply water to the 7.07-acre Tract, in conformance with SAWS' Utility Service Regulations (USR). The Developer will be required to cap and abandon the existing unused 8-inch stub out along Parkdale Dr as shown in Attachment III. The Developer shall then connect services to the existing looped 8-inch main (Job No 5198) along Parkdale Dr. as shown in Attachment III.

S.C. 3.00 SAWS Master Plan and Oversizing Requirements.

N/A

S.C.4.00 Impact Fee Credit Eligibility.

N/A

S.C.5.00 Engineering Study Report and/or Pro-Rata Refund Eligibility.

The engineering study report "3830 Parkdale, Utility Service Agreement Engineering Report", by Kimley-Horn and Associates, Inc, dated May 2019 is included as Attachment VI.

S.C.6.00 Developer On-Site and/or Off-Site Requirements.

The Developer shall acquire any right-of-way or easements, and install all On-Site and Off-Site utility infrastructure required to serve the Tract in accordance with SAWS' USR, solely at the Developer's cost, unless otherwise stated in S.C.3.00 or S.C.4.00. Other On-Site requirements within the Tract will be determined at such time as the engineer submits an overall Utility Master Plan, and any subsequent revisions, for the Tract.

Preparer's Initials _____

DRAFT

S.C.7.00 Requirement to Install Approved Pressure Regulators and/or Booster Pumps.

The entire tract is below ground elevation of 926 feet where the static pressure will theoretically exceed 80 psi. Any service connections within the Tract, at elevations lower than this ground elevation, shall require the installation of a Pressure Reducing Valve (PRV), on the customer(s) side of the meter, rated for a maximum working pressure of no less than 300 psi, prior to a SAWS meter being installed. Installation shall be in conformance with the current Plumbing Code with Local Amendments adopted by the City of San Antonio.

S.C.8.00 Time for Water Impact Fee Assessment and Payment.

Water Impact Fees will be assessed at the rates in effect at the time of plat recordation or the latest date allowed by law. Impact fees will be collected at either the time of plat recordation or connection to the SAWS' water system, at the discretion of the Developer.

S.C.9.00 Water Impact Fee Estimates Based Upon Current Charges.

Following is an estimate of impact fees for the provision of Services contemplated under the Agreement, which are based on current impact fee rates. This estimate shall not constitute an assessment of impact fees and impact fee rates are subject to change by the San Antonio City Council.

Type of Impact Fee	EDUs	$/EDUs	Current Total
Flow Development	115	$1,188	$136,620
System Development Middle	115	$1,014	$116,610
Water Supply	115	$2,706	$311,190
Total			$564,420

S.C.10.00 Pro-Rata Charge Requirement.

Developer shall be required to pay a Pro-Rata Charge pursuant to the USR, as amended, prior to connection to the SAWS water system if Developer is tying into a main that is subject to a pro-rata refund.

DRAFT

Preparer's Initials _____

SPECIAL CONDITIONS OF THE UTILITY SERVICE AGREEMENT

WASTEWATER SERVICE

S.C.1.00 Tract Location and Ultimate Demand.

3830 Parkdale, a 7.07-acre tract inside the City of San Antonio limits, is located at the southeast corner of Parkdale Dr and Datapoint Dr, as shown in Attachment VI (the "Tract") and lies within SAWS' Middle Collection and Treatment Area (MCTA). The tract is not located over the Edwards Aquifer Recharge or Contributing Zone and is not located within the 5-mile Awareness Zone of Camp Bullis. The proposed Tract is located inside SAWS' water CCN, inside SAWS' wastewater CCN and does not require SAWS' financial participation in the development of infrastructure through oversizing or impact fee credits, therefore, Board Action is not required.

The ultimate demand from the proposed development, on SAWS' wastewater infrastructure, shall not exceed 101 equivalent dwelling units (EDUs) of wastewater discharge.

S.C.2.00 Infrastructure Requirements.

The Tract is situated within SAWS' Middle Collection and Treatment Area (MCTA) and lies within the Olmos Creek-San Antonio River Watershed. The capacity of an 8-inch gravity main at 0.40 percent minimum slope is required to provide wastewater service to the tract, in conformance with SAWS' USR. The Developer may connect a maximum of 101 EDUs of total capacity to one or a combination of the existing 12-inch gravity sewer mains (Job No 08-4501B and/or Job No DJ-4334) traversing the Tract.

S.C.3.00 SAWS Master Plan and Oversizing Requirements.

N/A

S.C.4.00 Impact Fee Credit Eligibility.

N/A

S.C.5.00 Engineering Study Report and/or Pro-Rata Refund Eligibility.

The engineering study report "3830 Parkdale, Utility Service Agreement Engineering Report", by Kimley-Horn and Associates, Inc, dated May 2019 is included as Attachment VI.

S.C.6.00 Developer On-Site and/or Off-Site Requirements.

The Developer will also be required to acquire any right-of-way and easements, install all On-Site and Off-Site utility infrastructure, and upgrade existing lift stations necessary to serve the Tract in accordance with SAWS' USR, solely at the Developer's cost, unless stated otherwise in S.C.3.00 or S.C.4.00. Other On-Site utility infrastructure requirements within the Tract will be determined at such time as the engineer submits an overall Utility Master Plan, and any subsequent revisions, for the Tract.

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S.C.7.00 Lift Stations and Force Mains.

Lift stations and force mains are only allowed by prior written supplemental agreement with SAWS. Applicable fees, as set out in the supplemental agreement, must be paid in full prior to service connection. Whenever a lift station is proposed, a Present Value analysis of the lift station vs. gravity solutions, shall be included in the Engineering Report/Study in conformance with the requirements of SAWS' USR.

S.C.8.00 Time for Wastewater Impact Fee Assessment and Payment.

Wastewater Impact Fees will be assessed at the rates in effect at the time of plat recordation or the latest date allowed by law. Wastewater Impact Fees will be collected at either the time of plat recordation or connection to the SAWS wastewater system, at the discretion of the Developer.

S.C.9.00 Wastewater Impact Fee Estimates Based Upon Current Charges.

Following is an estimate of impact fees for the provision of Services contemplated under the Agreement, which are based on impact fee rates in effect as of the Effective Date of the Agreement. This estimate shall not constitute an assessment of impact fees and impact fee rates are subject to change by action of the San Antonio City Council as permitted by law.

Type of Impact Fee	EDUs	$/EDUs	Current Total
Wastewater Collection Middle	101	$2,013	$203,313
Wastewater Treatment Dos Rios/Leon Creek	101	$651	$65,751
Total			$269,064

S.C.10.00 Pro-Rata Payment Fee Requirement.

Developer shall be required to pay a pro-rata fee pursuant to the USR, as amended, prior to connection to the wastewater system, if Developer is tapping into a main that is subject to a pro-rata refund.

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