VICTORIA COMMONS MULTI-FAMILY HOUSING DEVELOPMENT AGREEMENT

between

THE CITY OF SAN ANTONIO,

THE BOARD OF DIRECTORS FOR THE INNER CITY TAX INCREMENT REINVESTMENT ZONE, CITY OF SAN ANTONIO, TEXAS

and

SAN ANTONIO HOUSING AUTHORITY

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VICTORIA COMMONS MULTI-FAMILY HOUSING DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement"), pursuant to Ordinance No. 2017- 09-21-0706 approved on the 21 day of Sept. 2017, is entered into by and between the City of San Antonio, a Texas municipal corporation in Bexar County, Texas ("City"), San Antonio Housing Authority ("Developer"), and the Board of Directors ("Board") for Tax Increment Reinvestment Zone Number Eleven, City of San Antonio, Texas, whom together may be referred as the "Parties".

BACKGROUND:

WHEREAS, in accordance with the Tax Increment Financing Act, Texas Tax Code, Chapter 311 (the "Act"), the City through Ordinance No. 93101 established Tax Increment Reinvestment Zone Number Eleven, San Antonio, Texas, known as the Inner City TIRZ ("TIRZ"), to promote development and redevelopment which would not otherwise occur solely through private investment in the reasonably foreseeable future; established the Board, and authorized the Board to exercise all the rights, powers, and duties as provided to such boards under the Act; and

WHEREAS, the City and the Board recognize the importance of their continued role in economic development; community development and urban design; and

WHEREAS, on July 22, 2016, Developer applied for TIRZ funding to facilitate public infrastructure and improvements associated with the Victoria Commons Multi-Family Housing Development ("Project"), comprising utilities, site and street improvements of approximately 215 mixed-income housing units, including public housing units at 30% of area median income, tax credit housing units at 60% of area median income and market rate housing units, located on or about 800 Cesar Chavez, San Antonio, Texas, and within the TIRZ; and

WHEREAS, on August 11, 2017, the Board approved this Development Agreement through Resolution T11 2017-08-11-01R, attached and incorporated into this Agreement as **Exhibit A** and authorizing Tax Increment Financing ("TIF") Funds to in amount not to exceed ONE MILLION, FIVE HUNDRED THOUSAND DOLLARS AND NO CENTS ($1,500,000.00), for the development of public infrastructure and public improvements of the Victoria Commons Multi-Family Housing Development; and,

WHEREAS, pursuant to said authority above, and City Ordinance No. 2017-09-21-0706 dated Sept. 21, 2017, the Parties hereby enter into a binding agreement to facilitated the development of the Victoria Commons Multi-Family Housing Development; and,

NOW, THEREFORE, in consideration of the mutual promises, covenants, obligations, and benefits contained in this Agreement, the Parties hereby agree as follows:

ARTICLE I. TERM

1.1 **TERM.** The term of this Agreement shall commence on the Effective Date and end on whichever of the following dates should occur the earliest: (i) the date Developer receives the final reimbursement for completing the Project; (ii) the date this Agreement is terminated as provided in Article X; or, (iii) termination of the TIRZ, provided that all existing warranties and warranty bonds on the Project shall survive termination of this Agreement.

ARTICLE II. DEFINITIONS

2.1 **City, Board, and Developer** – The meaning specified in the preamble of this agreement.

2.2 **Act** - The Tax Increment Financing Act of Texas Tax Code, Chapter 311 as may be amended from time to time.

2.3 **Administrative Costs** – The reasonable costs incurred directly and/or indirectly by the City for the administration of the TIF Program.

2.4 **Agreement** – This document by and among the "City", "Board", and "Developer", which may be amended from time to time, pursuant to the provisions contained herein.

2.5 **Available Tax Increment** - Tax increment as defined in the Texas Tax Code, Section 311.012 (a), contributed by each participating taxing entity to the TIF Fund, accessible to the TIRZ, and distributed in accordance with the order of priority of payment of the TIRZ.

2.6 **Board** - The Board of Directors of the Inner City TIRZ.

2.7 **Completion** – In order for public infrastructure and Public Improvements to have achieved a state of "completion" the improvement must be approved and accepted by the City or appropriate entity as evidenced by a letter of acceptance issued by an authorized official of the City or appropriate entity.

2.8 **Construction Schedule** - The specific timetable for constructing the improvements specified in and incorporated into this Agreement for all purposed in attached **Exhibit B**, which timetable may be amended from time to time pursuant to the provisions of this Agreement.

2.9 **Contract Progress Payment Request ("CPPR")** - Request, prepared in accordance with the requirements of **Exhibit C**, Contract Progress Payment Request Form, attached and incorporated herein, for reimbursement to the Developer for work completed in accordance with the Section 2.7 above and the timeline detailed in Section 2.8 above. The CPPR shall also reflect all waivers granted through any City program or incentives.

2.10 **CPPR Approval** - The acknowledgement from the City staff to the Developer that the CPPR was completed and submitted correctly.

2.11 **Effective Date** - The last date that a Party signs this Agreement.

2.12 **Finance Plan** – The Inner City TIRZ Finance Plan, as defined in the Act, and approved and amended from time to time by the Board and the City, which is incorporated by reference into this document as if set out in its entirety, for all purposes.

2.13 **Phase(s)** – The specific portion of the Project Construction Schedule which is planned to be constructed and completed.

2.14 **Project** – Shall have the meaning specified in Section 4.1 of this Agreement.

2.15 **Project Costs** - Shall have the meaning provided under Section 311.002, Tax Code, limited to expenses approved by the Board for public improvements within the TIRZ boundary, which are incurred after execution of this Agreement.

2.16 **Project Plan** – The Project Plan as defined in the Act, for the Inner City TIRZ as approved and amended from time to time by the Board and the City, and incorporated by reference into this document as if set out in its entirety, for all purposes.

2.17 **Project Site** - The real property to be developed by San Antonio Housing Authority, specifically described in attached **Exhibit D**.

2.18 **Project Status Report** – Document prepared and submitted by Developer in accordance with the requirements of this Agreement and **Exhibit E,** attached and incorporated herein, for all purposes which include quarterly updates of Project construction.

2.19 **Public Improvements** - Improvements that provide a public benefit and that are listed in Section 4.1 of this Agreement. When an improvement has both private and public benefits, only that portion dedicated to the public may be reimbursed to the City, such as, but not limited to capital costs, including the actual costs of public improvements, alteration, remodeling, repair, or reconstruction of existing buildings and structures.

2.20 **Tax Increment** – Shall have the meaning provided by Section 311.012, Tax Code and applies only to taxable real property within the TIRZ.

2.21 **TIF** – Tax Increment Financing.

2.22 **TIF Fund** - The fund created by the City for the deposit of Tax Increments for the Zone, entitled "Reinvestment Zone Number Eleven, City of San Antonio, Texas."

2.23 **TIF Unit** – The employees of the City department responsible for the management of the City's Tax Increment Financing Program.

2.24 **TIRZ** - For purposes of this agreement shall mean Tax Increment Reinvestment Zone Number Eleven, City of San Antonio, Texas, known as the Inner City TIRZ.

Singular and Plural: Words used in the singular, where the content so permits, also include the plural and vice versa, unless otherwise specified.

ARTICLE III. REPRESENTATIONS

3.1 **CITY'S AUTHORITY.** The City represents that as of the date of the execution of this Agreement, the City is a home rule municipality located in Bexar County, Texas, and has authority to carry out the obligations contemplated by this Agreement.

3.2 **BOARD'S AUTHORITY.** The Board represents that as of that date of the Board's signature to this Agreement, the TIRZ as established pursuant to City Ordinance No. 93101 has the authority to carry out the functions and operations contemplated by this Agreement.

3.3 **DEVELOPER'S AUTHORITY.** Developer represents to the City and the Board that Developer has the authority to enter into this Agreement and perform the requirements set forth herein. Developer's performance shall not violate any applicable judgment, order, law or regulation nor create the basis by which a claim may arise against the City for money or performance, any lien, charge, encumbrance or security interest upon any asset of the City or the Board, except that this Agreement shall constitute a claim against the TIF Fund only from Available Tax Increment to the extent provided herein. Developer shall have sufficient capital to perform all of its obligations under this Agreement when it needs to have said capital.

3.4 **NO INCREMENT REVENUE BONDS.** The Parties represent that they understand and agree that neither the City nor the Board shall issue any tax increment revenue bonds to cover any costs directly or indirectly related to Developer's improvement of the TIRZ under this Agreement.

3.5 **REASONABLE EFFORTS.** The Parties represent that they shall each cooperate and make reasonable efforts to expedite the subject matter hereof and acknowledge that successful performance of this Agreement requires their continued cooperation.

3.6 **ALL CONSENTS AND APPROVALS OBTAINED.** The Parties represent to each other that the execution, delivery, and performance of this Agreement does not require consent or approval of any person that has not been obtained.

3.7 **DUTY TO COMPLETE IMPROVEMENTS.** The Parties represent that they understand and agree that even after the TIRZ terminates, Developer shall ensure the successful completion of all required improvements at no additional cost to the City and/or the TIRZ in accordance with the terms of this Agreement.

3.8 **NO INTER-LOCAL AGREEMENTS.** The Parties represent to each other that they understand and agree that the City is the only participating taxing entity contributing 100% of the tax increment to the TIF Fund, and therefore, no other agreements are necessary with any other public entity to make this Agreement effective.

3.9 **DEVELOPER BEARS THE RISK.** Developer understands and agrees that any expenditure made by Developer in anticipation of reimbursement of TIF Funds shall not be, nor shall be construed to be, the financial obligations of the City and/or the TIRZ. Developer shall bear all risks associated with reimbursement, including, but not limited to: incorrect estimates of tax increment, changes in tax rates or tax collections, changes in law or interpretations thereof, changes in market or economic conditions impacting the Project, changes in interest rates or capital markets, changes in building and development code requirements, changes in City policy, and unanticipated effects covered under legal doctrine of force majeure.

3.10 **RIGHT TO ASSIGN PAYMENT.** Developer may rely upon the payments to be made to them out of the TIF Fund as specified in this Agreement and Developer may assign its rights to such payments, either in full or in trust, for the purposes of financing its obligations related to this Agreement, but the Developer's right to such payments is subject to the other limitations of this Agreement. Notwithstanding the forgoing, the City shall issue a check or other form of payment made payable to Developer.

3.11 **NOT AN OBLIGATION OF THE GENERAL FUND.** Any contribution made by Developer in anticipation of reimbursement from the TIF Fund shall never be an obligation of the City's General Fund, but are only obligations of the TIF Fund, and are subject to limitations herein.

ARTICLE IV. THE PROJECT

4.1 **PROJECT.** The Project shall consist of the development of public infrastructure and public improvements necessary to facilitate the construction of Victoria Commons Multi-Family Housing Development, approximately 215 mixed-income housing units, located on or about 800 E. Cesar Chavez, San Antonio, Texas, and within the TIRZ. Public Improvements shall be constructed by Developer and shall constitute design, construction, assembly, installation and implementation of an urban residential development, including but not limited to street curbing, sidewalks, street lighting, landscaping and other necessary street and utility improvements. The Project is anticipated to commence June 2018 and shall be completed by December 31, 2019.

4.2 **CONSTRUCTION OF PUBLIC IMPROVEMENTS.** Contracts for the construction of the Public Improvements financed through Available Tax Increment shall be competitively bid in a process consistent with Developer's procurement policies and in compliance with Chapter 252 of the Local Government Code, use prevailing wages, and be constructed by the Developer, in compliance with all applicable laws *unless:* (1) Available Tax Increment go toward financing 30 % or less of the cost for a specific public improvement, in compliance with Chapter 212 of the Local Government Code; and (2) such Public Improvements is not a building of any sort. Should Developer not competitively bid a Public Improvement, Developer must obtain written approval by the City and the Board in order to be eligible for partial reimbursement of those Project Costs not competitively bid pursuant to the regulations of Chapters 252 and 212 of the Local Government Code. Partial reimbursements to Developer in that event shall not exceed 30% of the Project Costs that would otherwise have been eligible for total reimbursements had they been competitively bid.

4.3 **PRIVATE FINANCING.** The cost of Public Improvements and all other improvement expenses associated with the Project shall be funded by Developer's own capital or through commercial or private construction loans/lines of credit secured solely by Developer. Developer may use all, any or part of the TIRZ Property as collateral for the construction loan or loans as required for the financing of the Project, however, no property with a lien still attached may be offered to the City for dedication.

4.4 **REIMBURSEMENT.** Reimbursement of TIF Funds are subject to availability and are not intended to reimburse all costs incurred in connection with the Project or expenses incurred by Developer for performance of the obligations under this Agreement. Neither the City nor the Board can guarantee that Available Tax Increment shall completely reimburse Developer. Available Tax Increment shall constitute a source of reimbursement to Developer for construction of the Public Improvements. Total payment to Developer from the TIF Fund will not exceed ONE MILLION, FIVE HUNDRED THOUSAND DOLLARS AND NO CENTS ($1,500,000.00). Developer is eligible for reimbursement of Board approved Project Costs as of the effective date of this Agreement.

ARTICLE V. DUTIES AND OBLIGATIONS OF DEVELOPER

5.1 **COMPLIANCE.** Developer agrees to exercise supervision over the construction of the Public Infrastructure and Public Improvements of the Project; Developer shall comply and cause all its contractors and subcontractors to comply with all applicable provisions of the TIF Guidelines, the City Charter, the City Code (including the Unified Development Code such

as Universal Design and Construction requirements), and all applicable federal, state and local laws. Developer shall cooperate with the City and the Board in providing all necessary information in order to assist the City in determining Developer's compliance with this Agreement.

5.2 **DUTY TO COMPLETE.** Developer agrees to complete, or cause to be completed, the improvements described in Section 4.1 above. Developer agrees to provide, or cause to be provided, all materials, labor and services for completing the Project. Developer also agrees to obtain or cause to be obtained, all necessary permits and approvals from the City and/or all other governmental agencies having jurisdiction over the construction of improvements.

5.3 **COMMENCEMENT OF CONSTRUCTION.** From the Effective Date of this Agreement forward, Developer shall not commence any construction on the Project until the plans and specifications have been approved in writing by the appropriate City department and the requirements of all applicable federal, state, and local laws have been met. For purposes of this Section 5.3, letters of certification or acceptance issued by the City shall constitute written approval of the City and shall not be unreasonably withheld or delayed.

5.4 **PAYMENT AND PERFORMANCE BONDS.** In accordance with Chapter 2253 of the Texas Government Code, Developer shall cause its general contractor or general contractors to obtain payment and performance bonds naming the City as an additional beneficiary or obligee of the bonds for all phases of the construction of the Project. Payment and performance bonds for each phase shall be in an amount sufficient to cover the entire contract cost of the construction and completion of the Public Improvements. Developer and its contractors must wait for approval of the bonds by the City's Risk Management Department prior to construction, in order for the Public Improvements to be eligible for reimbursement. Failure to meet the City's minimum standards for these bonds prior to the commencement of construction of each Phase will be considered a breach of this Agreement. Developer shall submit evidence of payment and performance bonds as a condition of reimbursement pursuant to the requirements of the CPPR.

5.5 **SUPERVISION OF CONSTRUCTION.** Notwithstanding any other provision of this Agreement, Developer agrees to retain and exercise supervision over the construction of all improvements of the Project, and cause the construction of all public infrastructure and Public Improvements to be performed, at a minimum, in accordance with all applicable federal, state, and local laws, including, but not limited to the Unified Development Code, Universal Design, Prevailing Wage, Chapter 2258 of the Texas Government Code, the City Code, and the plans and specifications approved by the appropriate City department. Developer also agrees to provide reports including inspections of such construction and of compliance with such applicable laws and contractual requirements to the TIF Unit on a quarterly basis, or as or as requested, using the form attached as **Exhibit E**.

5.6 **DISCRETIONARY PROGRAM.** Developer agrees that the TIF program is a discretionary program and that the City and the Board have no obligation to extend TIF to Developer. Developer agrees that it has no vested rights under any regulations, ordinances or laws, and waives any claim to be exempt from applicable provisions of the current and future City Charter, City Code, City Ordinances, and City Unified Development Code, state or federal laws and regulations.

5.7 **PAYMENT OF APPLICABLE FEES.** Developer shall be responsible for paying, or causing to be paid, to the City and all governmental agencies the cost of all applicable permit fees and licenses which have not been waived and are required for construction of the Project.

5.8 **DELAYS.** Within twelve (12) months after the execution of this Agreement, Developer shall commence or cause the commencement of construction of the Project. The Project shall be completed in accordance with the Construction Schedule. If the commencement or completion of the Project is delayed by reason beyond the Developer's control, then at the reasonable discretion of the TIF Economic Development Manager, the commencement and completion deadlines set forth in this Agreement may be extended by no more than six months. In the event that Developer does not complete the Project substantially in accordance with the Construction Schedule attached herein as **Exhibit B**, then in accordance with Article XXII. Changes and Amendments of this Agreement, the Parties may extend the deadlines in the Construction Schedule, but not past the expiration of the TIRZ. If Developer fails to complete the Project in compliance with the Construction Schedule, then the City and/or the Board may exercise its authority to terminate this Agreement.

5.9 **TREE ORDINANCE.** In accordance with section 5.1 and 5.5 above, Developer shall comply and shall cause its contractors and subcontractors to comply with the City Code provisions for tree preservation, located in Chapter 35, Article IV of the City's Unified Development Code.

5.10 **INFRASTRUCTURE MAINTENANCE.** Developer shall, at its own expense, maintain or cause to be maintained all Public Improvements, not dedicated to the City until acceptance by the City as evidenced by written acceptance required by Section 2.7 above and for one (1) year after Completion. Upon acceptance of a street or drainage improvement for maintenance by the City, Developer shall deliver to the City a one-year extended warranty bond, naming the City as the obligee, in conformity with Chapter 35 of the City's Unified Development Code. The cost of repair, replacement, reconstruction and maintenance for defects discovered during the first year after Completion shall be paid by Developer or the bond company and shall not be paid out of the TIF Fund. After the expiration of the one-year extended warranty bond, the cost of the repair, replacement, reconstruction and maintenance of Public Improvements dedicated to the City shall be the responsibility of the City.

a. Developer, its agents, employees, and contractors will not interfere with reasonable use of all the Public Improvements by the general public, except for drainage retention improvements. In accordance with the Construction Schedule, Developer shall use its best efforts to dedicate (or grant a public easement) Public Improvements where applicable to the appropriate taxing entity (as determined by the City), at no additional expense to the City or TIRZ.

b. The requirements of this Agreement cannot be waived or modified in any way by an engineer, employee, or other City official or its subordinate agency with responsibility for inspecting or certifying public infrastructure. The actions of a city employee or agent do not work an estoppel against the City under this contract or the Unified Development Code.

5.11 **QUARTERLY STATUS AND COMPLIANCE REPORTS.** Developer shall submit to the City's TIF Unit Project Status Reports (See Sections 2.18 and 5.5 above) containing all the information requested, on a quarterly basis, starting on the 15th day of January, April, July and October or, as requested by the City throughout the duration of the Project, on its construction progress and construction expenses, and its compliance with all applicable laws, ordinances, and contractual requirements pursuant to the requirements of the Project Status Report Form, attached **Exhibit E**.

5.12 **REQUESTS FOR REIMBURSEMENT.** Developer shall initiate reimbursement requests of eligible Project Costs by submitting to the City's TIF Unit applicable invoices and a Contract Progress Payment Request Form, as detailed in attached **Exhibit C.**

ARTICLE VI. DUTIES AND OBLIGATIONS OF CITY AND BOARD

6.1 **NO BONDS.** Neither the City nor the Board shall sell or issue any bonds to pay or reimburse Developer or any third party for any improvements to the TIRZ property performed under the Project Plan, Financing Plan or this Agreement.

6.2 **PLEDGE OF FUNDS.** The City and the Board pledge to use Available Tax Increment, as reimbursement to Developer for approved Project Costs, up to the maximum total amount specified herein, excluding tax revenue collected after September 30, 2025, subject to the terms and conditions herein, priority of payment schedule, and termination of the TIRZ.

6.3 **CERTIFICATE OF COMPLETION.** The City and the Board shall use reasonable efforts to issue, or cause to be issued a Certificate of Completion for items satisfactorily brought to Completion by the Developer in constructing this Project.

6.4 **COORDINATION OF BOARD MEETINGS.** The City and the Board hereby agree that all meetings of the Board shall be coordinated and facilitated by the TIF Unit and all notices for meetings of the Board shall be drafted and posted by City staff, in accordance with Chapter 2, Article IX, of the City Code.

6.5 **ELIGIBLE PROJECT COSTS.** The Board shall consider for approval the Developer's request(s) for reimbursement of eligible Project Costs. Costs shall be considered eligible only if approved by the Board, incurred directly and specifically in the performance of, and in compliance with this Agreement and with all applicable federal, state and local laws.

ARTICLE VII. COMPENSATION TO DEVELOPER

7.1 **CPPR APPROVAL.** Upon completion of the Public Improvements of the Project, Developer shall submit to the TIF Unit a completed CPPR in accordance with **Exhibit C**. The CPPR shall be presented to the Board for possible reimbursement authorization.

7.2 **CORRECTIONS TO CPPR.** Should there be discrepancies in the CPPR or if more information is required, Developer will have thirty (30) calendar days upon notice by the City to correct any discrepancy or submit additional information requested. Failure to timely submit the additional information requested by the City may result in delay of Developer's requested expense reimbursement.

7.3 **MAXIMUM REIMBURSEMENT OF DEVELOPER.** Following the Board's authorization, the Developer shall receive, in accordance with the Project Plan, total reimbursements for Public Improvements of a maximum of ONE MILLION, FIVE HUNDRED THOUSAND DOLLARS AND NO CENTS ($1,500,000.00) on eligible Project Costs.

7.4 **PROCESSING OF PAYMENT REQUESTS.** Board-authorized reimbursements of Available Tax Increment Funds shall be made to Developer and shall not be unreasonably denied provided that the City has no active claim for reimbursement under this section.

7.5 **PRIORITY OF PAYMENT.** The Parties agree that the TIF Fund will reimburse Developer for Projects Costs in the order of priority of payment for the TIRZ.

7.6 **SOURCE OF FUNDS.** The sole source of the funds to reimburse Developer for Project Costs shall be the Available Tax Increment levied and collected on the real property located in the TIRZ and contributed by the Participating Taxing Entities to the TIF Fund, created and maintained by the City, for the purpose of implementing Public Improvements of the Project.

7.7 **PARTIAL PAYMENTS.** If Available Tax Increment does not exist in an amount sufficient to make payments in full when the payments are due under this Agreement, partial payment shall be made in the order of priority required by Section 7.5 above, and the remainder shall be paid as tax increment becomes available. No fees, costs, expenses or penalties shall be paid to any party on any late or partial payment.

7.8 **INVALID PAYMENTS.** If any payment to Developer is held invalid, ineligible, illegal or unenforceable under applicable federal, state or local laws, then and in that event it is the intention of the Parties that such invalid, ineligible, illegal or unenforceable payment shall be repaid in full by Developer to the City for deposit into the TIF Fund and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable payment was never contained herein.

ARTICLE VIII. INSURANCE

8.1 **APPLICABILITY.** Developer shall require that the minimum insurance requirements contained in this Article be included in all of its contracts or agreements for construction of Public Improvements where Developer seeks payment under this Agreement, unless specifically exempted in writing by the City and/or the Board.

8.2 **PROOF OF INSURANCE.** Prior to commencement of any work under this Agreement, Developer shall furnish copies of all required endorsements and Certificate(s) of Insurance to the City's TIF Unit, which shall be clearly labeled **"Inner City TIRZ, Victoria Commons Multi-Family Housing Development"** in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent authorized to bind coverage on its behalf. The City shall not accept Memorandum of Insurance or Binders as proof of insurance. The certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed with copies of all applicable endorsements, directly from the insurer's authorized representative to the City at the same addresses listed in Section 8.5 of this Agreement. The City shall have no duty to pay/perform under the Agreement until such certificate(s) and their endorsements has been received and approved by the City's TIF Unit. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement for the City.

8.3 **REQUIRED TYPES AND AMOUNTS.** Developer's financial integrity is of the interest to the City and the Board, therefore, subject to the Developer's right to maintain reasonable deductibles in such amounts as approved by the City, Developer and/or Developer's contractor, shall maintain in full force and effect during the construction of all Public Improvements required and any extension hereof, at the Developer's or the Developer's contractor's sole expense, the following minimum insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A– or better by the A.M. Best Company and/or otherwise acceptable to the City, in the following types and for an amount not less than the amounted listed:

TYPE	AMOUNTS
1. Workers' Compensation	Statutory
2. Employee Liability	$1,000,000 / $1,000,000 / $1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Independent Contractors c. Products/Completed Operations d. Personal/Advertising Injury e. Contractual Liability f. Explosion, Collapse, Underground g. Environmental Impairment/Impact sufficiently broad to cover disposable liability h. Damage to property rented	For Bodily Injury and Property Damage of $1,000,000 per occurrence; $2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability a. Owned/lease vehicles b. Non-owned vehicles c. Hired vehicles	Combined Single Limit for Bodily Injury and Property Damage of $1,000,000 per occurrence
5. Builder's Risk	All Risk Policy written on an occurrence basis for 100% replacement cost during construction phase of any new or existing structure.
6. Professional Liability (Claims-made basis) E & O Coverage To be maintained and in effect for no less than two years subsequent to the completion of the professional service.	$1,000,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional services.

8.4 **RIGHT TO REVIEW.** The City reserves the right to review the insurance requirements during the effective period of this Agreement and to modify insurance coverages and their limits when deemed necessary and prudent by the City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance shall the City allow modification whereupon the City may incur increased risk.

8.5 **REQUESTS FOR CHANGES.** The City shall be entitled, upon request and without expense to receive copies of the policies, declaration page and all endorsements as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy term, condition, limitation, or exclusion (except where policy provisions are established by law or regulation binding upon either of the Parties, or the underwrite of any such policies). Developer and/or Developer's contractor shall comply with any such request

and shall submit a copy of the replacement certificate of insurance to City within ten (10) days of the requested change. Developer and/or Developer's contractor shall pay any costs incurred resulting from said changes. All notices under this Article shall be given to the City at the following addresses:

City Clerk
City of San Antonio
Attn: Risk Management Dept.
P.O. Box 839966
San Antonio, TX 78283-3966

City of San Antonio
Attn: TIF Unit
1400 S. Flores
San Antonio, TX 78204

8.6 **REQUIRED PROVISIONS AND ENDORSEMENTS.** Developer agrees that with respect to the above required insurance, all insurance contract policies, and Certificate(s) of Insurance will contain the following provisions:

a. Name the City and its officers, officials, employees, volunteers, and elected representative as additional insureds as respects operations and activities of, or on behalf of, the named insured subject to this Agreement, with the exception of the workers' compensation and professional liability policies;

b. Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio if the City is an additional insured shown on the policy;

c. Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the Developer and the City; and,

d. Provide thirty (30) calendar days advance written notice directly to City at the same addresses listed in this Article of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for non-payment of premium.

8.7 **CANCELLATIONS AND NON-RENEWAL.** Within five (5) calendar days of a suspension, cancellation, non-renewal, or material change in coverage, Developer and or Developer's contractor shall provide a replacement copy of the Certificate of Insurance and applicable endorsements to City at the same address listed in Section 8.5 of this Article. City shall have the option to suspend Developer or Developer's contractor'(s) performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a breach of this Agreement and the City may exercise any and all available legal remedies.

8.8 **CITY'S REMEDIES.** In addition to any other remedies the City may have upon Developer and/or Developer's contractor for the failure to provide and maintain insurance or policy endorsements to the extent and within the time required, the City shall have the right to order Developer to stop work, and/or withhold any payment(s), which become due until Developer and/or Developer's contractor demonstrates compliance with the requirements.

8.9 **RESPONSIBILITY FOR DAMAGES.** Nothing in the Agreement shall be construed as limiting in any way the extent to which Developer and/or Developer's contactor may be held responsible for payments of damages to persons or property resulting from Developer's or its subcontractors' performance of the work covered under this Agreement.

8.10 **PRIMARY INSURANCE.** Developer's insurance shall be deemed primary with respect to any insurance or self-insurance carried by the City for liability arising under this Agreement.

8.11 **DEVELOPER'S OBLIGATION.** Developer agrees to obtain all insurance coverage with minimum limits of not less than the limits delineated under Section 8.3 of this Article from each subcontractor to Developer and Certificate of Insurance and Endorsements that names the Developer and the City as an additional insured. It is understood and agreed that the minimum insurance required is in addition to and separate from any other obligation in the Agreement. Developer and any subcontractors are responsible for all damages to their own equipment and/or property. Developer must provide the City a copy of the current proof of insurance for all projects and applicable contracts and agreements executed pursuant to Agreement.

8.12 **"ALL RISK".** At all times during the performance of construction, Developer and Developer's contractor shall maintain in full force and effect builder's **"All Risk"** insurance policies covering such construction. The Builder's Risk Policies shall be written on an occurrence basis and on a replacement cost basis, insuring 100% of the insurable value of construction improvements.

ARTICLE IX. WORKERS COMPENSATION INSURANCE COVERAGE

9.1 **APPLICABILITY.** This Article is applicable only to construction of Public Improvements, the costs for which the Developer is seeking reimbursement from the City and the Board, and is not intended to apply to the private improvements made by the Developer.

9.2 **DEFINITIONS.**

a. *Certificate of coverage ("certificate")* - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC- 81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a Phase of the Project for the duration of the project.

b. *Duration of the project* - includes the time from the beginning of the work on the Phase of the Project until the Developer's/person's work on the project has been completed and accepted by the City.

c. *Persons providing services on the Project ("subcontractor" in §406.096 of the Texas Labor Code)* - includes all persons or entities performing all or part of the services the Developer has undertaken to perform on the Project, regardless of whether that person contracted directly with the Developer and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the Project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a Project. "Services" does not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

9.3 Developer shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Developer providing services on the Project, for the duration of the Project.

9.4 Developer must provide a certificate of coverage to the City prior to being awarded the contract.

9.5 If the coverage period shown on the Developer's current certificate of coverage ends during the duration of the Phase of the Project, Developer must, prior to the end of the coverage period, file a new certificate of coverage with the City showing that coverage has been extended.

9.6 Developer shall obtain from each person providing services on a project, and shall provide to the City:

a. a certificate of coverage, prior to that person beginning work on the Phase of the Project, so the City will have on file certificates of coverage showing coverage for all persons providing services on the Project; and

b. no later than seven (7) days after receipt by Developer, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Phase of the Project.

9.7 Developer shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.

9.8 Developer shall notify the City in writing by certified mail or personal delivery, within ten (10) days after the Developer knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.

9.9 Developer shall post on the TIRZ property a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

9.10 Developer shall contractually require each person with whom it contracts to provide services on a Project, to:

a. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the Project, for the duration of the applicable Phase of the Project;

b. provide to the Developer, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project, for the duration of the applicable Phase of the Project;

c. provide the Developer, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the applicable Phase of the Project;

d. obtain from each other person with whom it contracts, and provide to the Developer:
   (i) a certificate of coverage, prior to the other person beginning work on the Project; and
   (ii) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the applicable Phase of the Project;

e. retain all required certificates of coverage on file for the duration of the applicable Phase of the Project and for one year thereafter;

f. notify the City in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and,

g. perform as required by paragraphs a-g with the certificates of coverage to be provided to the person for whom they are providing services.

9.11 By signing this Agreement or providing or causing to be provided a certificate of coverage, Developer represents to the City that all employees of Developer who will provide services on the Project will be covered by workers' compensation coverage for the duration of the applicable Phase of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self Insurance Regulation. Providing false or misleading information may subject Developer to administrative penalties, criminal penalties, civil penalties, or other civil action.

9.12 Developer's failure to comply with any of these provisions is a breach of this Agreement by the Developer which entitles the City and/or Board to declare the Agreement void and exercise all legal remedies if the Developer does not remedy the breach within ten (10) days after receipt of notice of breach from the City without necessity of the sixty (60) day cure period as set forth in Article X. of this Agreement.

ARTICLE X. DEFAULT AND TERMINATION

10.1 **TERMINATION.** For purposes of this Agreement, termination shall mean the expiration of the term as provided by Article I. Section 1.1 Term, herein.

10.2 **TERMINATION BY LAW.** If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

10.3 **TERMINATION WITHOUT CAUSE.** This Agreement may also be terminated by mutual consent and a written agreement of the Parties. In such case, the Parties shall agree upon the reason(s) of such termination, the termination conditions, any proposed pay-back plan of disbursed funds, and the proposed effective date of such termination.

10.4 **TERMINATION FOR CAUSE.** Upon written notice, which shall be provided in accordance with Article XVII. Notice, of this Agreement, each Party shall have the right to terminate this Agreement in whole or in part for cause if a Party fails to perform any terms and condition requited herein or, if a Party fails to cure a default within sixty (60) calendar days after receiving a written Notice of Default, requesting that the failure be cured. In the event the City or the Board sends a Notice of Default to the Developer, the City and the Board shall not distribute TIF funds to Developer until the Developer's Default is cured. If the default is not cured, the City and the Board shall retain all undistributed TIF funds, terminate this Agreement, and unencumber the unpaid balance under the terms of this Agreement without further Board or Council action.

10.5 **CURE.** Upon written Notice of Default resulting from a breach of this Agreement, such default shall be cured within sixty (60) calendar days from the date of the Notice of Default.

10.6 **NOTICE OF TERMINATION.** In the event that either Party fails to comply with this Agreement, such non-compliance shall be deemed a default, and this Agreement may summarily be terminated upon the issuance of a written Notice of Termination, which shall include: (1) the reasons for such termination; and (2) the effective date of such termination.

10.7 **RIGHT TO RECAPTURE TIF FUNDS.** If the Board terminates this Agreement for cause, then the TIRZ shall have the right to recapture all the disbursed TIF funds made under this Agreement and the Developer shall repay all disbursed TIF funds to the TIF Fund within sixty (60) calendar days from the date of the Notice of Termination.

10.8 **OTHER REMEDIES AVAILABLE.** The Parties shall have the right to seek any remedy in law to which they may be entitled, in addition to termination and repayment of funds, if a Party defaults under the material terms of this Agreement.

10.9 **CLOSE-OUT.** Regardless of how this Agreement is terminated, Developer shall effect an orderly transfer to City or to such person or entity as the City may designate, at no additional cost to the City, a copy of all completed or partially completed documents, records, or reports, produced as a result of or pertaining to this Agreement, regardless of storage medium, if so requested by the City, or shall otherwise be retained by Developer in accordance with Article XIV. Records of this Agreement. Reimbursements due to Developer will be conditioned upon delivery of all such copies of such documents, records, or reports, if requested by the City. Within ninety (90) calendar days of the effective date of completion, or termination or expiration of this Agreement, Developer shall submit to City and/or the Board all requests for reimbursements in accordance with Section 5.11 and Section 5.12 above through the effective date of termination. Failure by Developer to submit requests for reimbursements within said ninety (90) calendar days shall constitute a Waiver by Developer of any right or claim to collect Available Tax Increment that Developer may be otherwise eligible for pursuant to this Agreement.

ARTICLE XI. INDEMNIFICATION

11.1 **TEXAS TORT CLAIMS.** Developer and the City acknowledge they are political subdivisions of the State of Texas and are subject to, and comply 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 or causes of action that may be asserted by third parties for accident, injury or death. Developer and the City shall each promptly notify the other in writing of any claim or demands that become known against them in relation to or arising out of activities under this Agreement.

ARTICLE XII. SITE INSPECTION AND RIGHT OF ENTRY

12.1 **PROJECT SITE INSPECTION.** Developer shall allow the City and the Board reasonable access to the Property Site for inspections during and upon completion of construction of the Project, and access to documents and records considered necessary to assess the Project and Developer's compliance with this Agreement. The Board and TIF Unit Staff shall be provided a right of entry onto the Project Site to conduct random walk-through inspections of the Project's Development subject to all security and Site safety requirements.

ARTICLE XIII. LIABILITY

13.1 **DEVELOPER.** As between the City, the Board, any Participating Taxing Entity, and Developer, Developer shall be solely responsible for compensation payable to any employee, contractor, or subcontractor of the Developer, and none of Developer's employees, contractors, or subcontractors will be deemed to be employees, contractors, or subcontractors of the City, the Board, or any Participating Taxing Entity as a result of the Agreement.

13.2 **CITY AND BOARD.** To the extent permitted by Texas law, no director, officer, employee or agent of the City, the Board, or any other Participating Taxing Entity shall be personally responsible for any liability arising under or growing out of this Agreement.

ARTICLE XIV. RECORDS

14.1 **RIGHT TO REVIEW.** Following notice to the Developer, the City reserves the right to conduct, at its own expense, examinations, during regular business hours, the books and records related to this Agreement (including such items as contracts, paper, correspondence, copy, books, accounts, billings and other information related to the performance of the Developer's services hereunder. The City also reserves the right to perform any additional audits relating to Developer's services, provided that such audits are related to those services performed by Developer under this Agreement. These examinations shall be conducted at the offices maintained by Developer.

14.2 **PRESERVATION OF RECORDS.** All applicable records and accounts of the Developer relating to this Agreement, together with all supporting documentation, shall be preserved and made available in Bexar County, Texas by the Developer throughout the term of this Agreement and for twelve (12) months after the termination of this Agreement, and then transferred for retention to the City at no cost to the City upon request. During this time, at Developer's own expense, may require that any or all of such records and accounts be submitted for audit to the City or to a Certified Public Accountant selected by the City within thirty (30) calendar days following written request.

14.3 **DISCREPANCIES.** Should the City discover errors in the internal controls or in the record keeping associated with the Project, Developer shall be notified of such errors and the Parties shall consult on what steps may be necessary to correct such discrepancies within a reasonable period of time, not to exceed sixty (60) days after discovery. The Board shall be informed of the action taken to correct such discrepancies.

14.4 **OVERCHARGES.** If it is determined as a result of such audit that the Board and/or Developer has overcharged for the cost of the Public Improvements, then such overcharges shall be immediately returned to the TIF Fund and become due and payable with interest at the maximum legal rate under applicable law from the date the City paid such overcharges. In addition, if the audit determined that there were overcharges of more than 2% of the greater of the budget or payments to Developer for the year in which the discrepancy occurred, and the TIF Fund is entitled to a refund as a result of such overcharges, then Developer shall pay the cost of such audit.

ARTICLE XV. NON-WAIVER

15.1 **ACTIONS OR INACTIONS.** No course of dealing on the part of the City, the Board, or the Developer nor any failure or delay by the City, the Board, or the Developer in exercising any right, power, or privilege under this Agreement shall operate as a waiver of any right, power or privilege owing under this Agreement.

15.2 **RECEIPT OF SERVICES.** The receipt by the City of services from an assignee of the Developer shall not be deemed a waiver of the covenant(s) in this Agreement against assignment or an acceptance of the assignee or a release of the Developer from further performance by Developer of the covenant(s) contained in this Agreement. No provision of this Agreement shall be deemed waived by the City unless such waiver is in writing, and approved by the City through an ordinance passed and approved by its City Council.

ARTICLE XVI. ASSIGNMENT

16.1 **ASSIGNMENT BY CITY.** The City and/or Board may assign their rights and obligations under this Agreement to any governmental entity the City creates without prior consent of Developer. If the City and/or Board assign their rights and obligations under this Agreement then the City and/or the Board shall provide Developer written notice of assignment within thirty (30) days of such assignment.

16.2 **ASSIGNMENT BY DEVELOPER.** Developer may sell or transfer it rights and obligations under this Agreement only upon approval and written consent by the Board and City Council, as evidenced by Board Resolution and City Ordinance, when a qualified purchaser or assignee specifically agrees to assume all of the obligations of the Developer under this Agreement.

16.3 **WORK SUBJECT TO AGREEMENT.** Any work or services contracted herein shall be contracted only by written contract or agreement and, unless the City grants specific waiver in writing, shall be subject by its terms, insofar as any obligation of the City is concerned, to each and every provision of this Agreement. Compliance by Developer's contractor and/or subcontractors with this Agreement shall be the responsibility of Developer.

16.4 **NO THIRD PARTY OBLIGATION.** The City and/or the Board shall in no event be obligated to any third party, including any contractor, subcontractor, or consultant of the Developer, for performance of work or services under this Agreement.

16.5 **LENDING INSTITUTIONS.** 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. Developer shall notify the City of all such assignments to a lending or other provider of capital. In no event, shall the City and/or the Board be obligated in any way to the aforementioned financial institution or other provider of capital. The City shall only issue a check or other form of payment to Developer.

16.6 **WRITTEN INSTRUMENT.** Each transfer or assignment to which there has been consent, pursuant to paragraph 16.2 above, shall be by instrument in writing, in form reasonably satisfactory to the City and the Board, and shall be executed by the transferee or assignee who shall agree in writing, for the benefit of the City and the Board, to be bound by and to

perform the terms, covenants and conditions of this Agreement. Four executed copies of such written instrument shall be delivered to the TIF Unit. Failure to obtain, the City's and Board's consent by resolution and/or ordinance, or failure to comply with the provisions herein first, shall prevent any such transfer or assignment from becoming effective. In the event the City and the Board approves the assignment or transfer of this Agreement, Developer shall be released from such duties and obligations.

16.7 **NO WAIVER.** Except as set forth in paragraph 16.3, the receipt by the City of services from an assignee of the Developer shall not be deemed a waiver of the covenants in this Agreement against assignment or an acceptance of the assignee or a release of further observance or performance by Developer of the covenants contained in this Agreement. No provision of this Agreement shall be deemed waived by the City unless such waiver is in writing, and approved by City Council in the form of a duly passed ordinance.

ARTICLE XVII. NOTICE

17.1 **ADDRESSES.** Any notice sent under this Agreement shall be written and mailed with sufficient postage, sent by certified mail, return receipt requested, documented facsimile or delivered personally to an officer of the receiving Party at the following addresses:

THE CITY
City of San Antonio
c/o City Clerk
Attn: Risk Management Dept.
P.O. Box 839966
San Antonio, TX 78283-3966

THE BOARD
Inner City TIRZ
Attn: TIF Unit
1400 S Flores
San Antonio, TX 78204

DEVELOPER
Victoria Commons Development Manager
c/o SAHA
818 S. Flores
San Antonio, TX 78204

17.2 **CHANGE OF ADDRESS.** Notice of change of address by any Party must be made in writing and mailed to the other Parties within fifteen (15) business days of such change. All notices, requests or consents under this Agreement shall be (a) in writing, (b) delivered to a principal officer or managing entity of the recipient in person, by courier or mail or by facsimile, telegram, telex, cablegram or similar transmission, and (c) effective only upon actual receipt by such person's business office during normal business hours. If received after normal business hours, the notice shall be considered received on the next business day after such delivery. Whenever any notice is required to be given by applicable law or this Agreement, a written waiver thereof, signed by the Person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XVIII. CONFLICT OF INTEREST

18.1 **CHARTER AND ETHICS CODE PROHIBITIONS.** The Charter of the City of San Antonio and the City of San Antonio Code of Ethics prohibit a City officer or employee, as those terms are defined in Section 2-52 of the Code of Ethics, from having a direct or indirect financial interest in any contract with the City. 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:

a. a City officer or employee; his or her spouse, sibling, parent, child or other family member within the first degree of consanguinity or affinity;

b. an entity in which the officer or employee, or his or her parent, child or spouse directly or indirectly owns (i) 10 percent or more of the voting stock or shares of the entity, or (ii) 10 percent or more of the fair market value of the entity; or

c. an entity in which any individual or entity listed above is (i) a subcontractor on a City contract, (ii) a partner or (iii) a parent or subsidiary entity.

18.2 **CERTIFICATION.** Pursuant to the subsection above, Developer warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. Consultant further warrants and certifies that it has tendered to the City a Contracts Disclosure Statement in compliance with the City's Ethics Code.

ARTICLE XIX. INDEPENDENT CONTRACTORS

19.1 **NO AGENCY.** All parties expressly agree that in in performing their services, the Board and Developer at no time shall be acting as agents of the City and that all consultants or contractors engaged by the Board and/or Developer respectively shall be independent contractors of the Board and/or the Developer. The parties hereto understand and agree that neither the City nor the County shall not be liable for any claims that may be asserted by any third party occurring in connection with services performed by the Board and/or Developer respectively, under this Agreement unless any such claims are due to the fault of the City.

19.2 **NO AUTHORITY.** The parties further understand and agree that no party has authority to bind the others or to hold out to third parties that it has the authority to bind the others.

ARTICLE XX. TAXES

20.1 **DUTY TO PAY.** Developer shall pay, on or before the respective due dates, to the appropriate collecting authority all applicable Federal, State, and local taxes and fees which are now or may be levied upon the TIRZ Property, the Developer or upon the Developer's business conducted on the TIRZ Property or upon any of the Developer's property used in connection therewith, including employment taxes. Developer shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Developer.

ARTICLE XXI. PREVAILING WAGES

21.1 The TIF Program is a discretionary program, and it is the policy of the City that the requirements of Chapter 2258 of the Texas Government Code, entitled "Prevailing Wage Rates," shall apply to TIF Development Agreements. Developer agrees that the Developer will comply with City Ordinance No. 71312 and its successors such as Ordinance No. 2008-11-20-1045 and will require subcontractors to comply with City Ordinance 71312 and its successors such as Ordinance No. 2008-11-20-1045 and shall not accept affidavits.

21.2 In accordance with Chapter 2258, Texas Government Code, and Ordinance No. 2008-11-20-1045, a schedule of the general prevailing rate of per diem wages in this locality for each craft or type of workman needed to perform this Agreement is included as **Exhibit F**, and made a part of this Agreement. Developer is required, and shall require its subcontractors to comply with each updated schedule of the general prevailing rates in effect at the time the Developer calls for bids for construction of a given phase.

21.3 Developer is further required to cause the latest prevailing wage determination decision to be included in bids and contracts with the Developer's general contractor and all subcontractors for construction of each Phase. The Developer shall forfeit as a penalty to the City $60.00 for each laborer, workman, or mechanic employed, for each calendar day, or portion thereof, that such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract, by Developer or any subcontractor under the Developer. The establishment of prevailing wage rates in accordance with Chapter 2258, Texas Government Code shall not be construed to relieve the Developer from his obligation under any Federal or State Law regarding the wages to be paid to or hours worked by laborers, workmen or mechanics insofar as applicable to the work to be performed under this Agreement.

ARTICLE XXII. CHANGES AND AMENDMENTS

22.1 **ORDINANCE AND ORDER REQUIRED.** Except when the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be by amendment in writing executed by the City, the Board and the Developer and evidenced by passage of a subsequent City ordinance.

22.2 **CONSTRUCTION SCHEDULE.** Notwithstanding the above, the Construction Schedule, as detailed in **Exhibit C** may be amended, as evidenced by approval of the TIF Economic Development Manager. In the event an amendment to the Construction Schedule will result in a material change to this Agreement, then such amendment shall comply with the requirements of Section 22.1, above. No change under this section may result in an increase in the maximum contribution of the City or any other Participating Taxing Entity. Developer may rely on the determination of the TIF Economic Development Manager, whether a change in the Construction Schedule would result in a material change to the overall Project requirements.

22.3 **AUTOMATIC INCORPORATION OF LAWS.** Changes in local, state and federal rules, regulations or laws applicable to the Board's and the Developer's services under this Agreement may occur during the term of this Agreement and any such changes shall be automatically incorporated into this Agreement without written amendment to this Agreement, and shall become a part as of the effective date of the rule, regulation or law.

ARTICLE XXIII. SEVERABILITY

23.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, then said clause or provision shall not affect any other clause or provision, and the remainder of this Agreement shall be construed as if such clause or provision was never contained herein. It is also the intent of the Parties that in lieu of each invalid, illegal, or unenforceable provision, there be added as a part of this Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

ARTICLE XXIV. LITIGATION EXPENSES

24.1 **LITIGATION AGAINST THE CITY.** City policy on litigation is that, except to the extent prohibited by law, persons who are engaged in litigation or adversarial proceedings related to TIF against the City are ineligible to obtain or continue the use of TIF as principals or participants for the duration of the litigation. A principal or participant includes the TIF applicants and the TIF applicant's developers, partners, affiliates, sponsors, payroll employees, or relatives of the first degree of consanguinity. Accordingly, the City shall not consider a project proposing the use of TIF, designate a TIRZ, enter into any TIF contracts or agreements with, or authorize or make any TIF payment to persons engaged in litigation or adversarial proceedings related to TIF with the City. Ineligible persons shall be excluded from participating as either participants or principals in all TIF projects during the term of their litigation. "Person" includes an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

24.2 Under no circumstances will the Available Tax Increment received under this Agreement be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding regarding this Agreement against the City, the Board or any other public entity.

24.3 During the term of this Agreement, if Developer files and/or pursues an adversarial proceeding regarding this Agreement against the City and /or the Board, without first engaging in good faith mediation of the dispute, then at the City's and/or Board's option, all access to the funding provided for hereunder shall be withheld.

24.4 Developer, at the City's and/or Board's option, could be ineligible for consideration to receive any future funding while any adversarial proceedings regarding this Agreement against the City and/or Board remains unresolved if it was initiated without first engaging in good faith mediation of the dispute.

24.5 For purposes of this Article, "adversarial proceedings" include any cause of action regarding this Agreement filed by Developer against the City in any state or federal court, as well as any state or federal administrative hearing, but does not include Alternate Dispute Resolution proceedings, including arbitration. Nothing contained in this Article shall effect or otherwise affect the indemnity provisions contained in Article XI. above.

ARTICLE XXV. LEGAL AUTHORITY

25.1 **ALL CONSENTS AND APPROVALS OBTAINED.** Each person executing this Agreement on behalf of each Party, represents, warrants, assures, and guarantees that s/he has full legal authority to execute this Agreement on behalf of the City, the Board, and/or Developer, respectively and to bind the City, the Board, and/or Developer, to all the terms, conditions, provisions, and obligations of this Agreement.

ARTICLE XXVI. VENUE AND GOVERNING LAW

26.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.

26.2 Venue and jurisdiction arising under or in connection with this Agreement shall lie exclusively in Bexar, County, Texas. Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in Bexar County, Texas.

ARTICLE XXVII. PARTIES' REPRESENTATIONS

27.1 This Agreement has been jointly negotiated by the City, the Board and Developer and shall not be construed against a Party because that Party may have primarily assumed responsibility for the drafting of this Agreement.

ARTICLE XXVIII. CAPTIONS

28.1 All captions used in this Agreement are only for the convenience of reference and shall not be construed to have any effect or meaning as to the agreement between the Parties to this Agreement.

ARTICLE XXIX. LICENSES/CERTIFICATIONS

29.1 Developer warrants and certifies that to its knowledge, any person providing services hereunder has the requisite training, license, and/or certification to provide said services and meets the competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

ARTICLE XXX. NONDISCRIMINATION AND SECTARIAN ACTIVITY

30.1 Developer understands and agrees to comply with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X of the City Code, and further shall use reasonable efforts to ensure that no person shall, on the ground of race, color, national origin, religion, sex, age, gender (to include transgender), sexual orientation, veteran status or disability, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied access to any program or activity funded in whole or in part under Agreement.

ARTICLE XXXI. ENTIRE AGREEMENT

31.1 **NO CONTRADICTIONS.** This written Agreement embodies the final and entire Agreement between the Parties hereto and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the Parties.

31.2 **INCORPORATION OF EXHIBITS.** Each exhibit referenced below shall be incorporated herein for all purposes as an essential part of this Agreement, which governs the rights and duties of the parties, except that if there is a conflict between an Exhibit and a provision of this Agreement, the provision of this Agreement shall prevail over the Exhibit.

EXHIBIT A:	Resolution T11 2017-08-11-01R
EXHIBIT B	Construction Schedule
EXHIBIT C:	Contract Progress Payment Request Form
EXHIBIT D:	Project Site (Map and Deed)
EXHIBIT E:	Project Status Report
EXHIBIT F:	Prevailing Wages

IN WITNESS THEREOF, the Parties have caused this instrument to be signed on the date of each signature below. This agreement shall be effective on the date of the last signature below.

CITY OF SAN ANTONIO,
a Texas Municipal Corporation

for
Sheryl Sculley, City Manager
Date: 10-6-17

BOARD OF DIRECTORS
Inner City TIRZ #11

Councilman William Shaw, Presiding Officer
Date: 8/16/17

SAN ANTONIO HOUSING AUTHORITY

David Nisivoccia, President and CEO
Date: 7.26.17

ATTEST/SEAL:

Leticia Vacek, City Clerk
Date: 10-06-17

APPROVED AS TO FORM:

for
Andrew Segovia, City Attorney

EXHIBIT A

AL
8/11/17
Item #2

T11 2017-08-11-01R

RESOLUTION BY THE BOARD OF DIRECTORS ("BOARD") OF TAX INCREMENT REINVESTMENT ZONE NUMBER ELEVEN, CITY OF SAN ANTONIO, TEXAS, KNOWN AS THE INNER CITY TAX INCREMENT ZONE ("TIRZ"), AUTHORIZING THE EXECUTION OF THE VICTORIA COMMONS MULTI-FAMILY HOUSING DEVELOPMENT AGREEMENT TO PROVIDE FUNDING IN AN AMOUNT NOT TO EXCEED $1,500.000.00 IN AVAILABLE TAX INCREMENT FROM THE TIRZ FUND, FOR THE VICTORIA COMMONS MULTI-FAMILY HOUSING DEVELOPMENT LOCATED AT 800 E. CESAR CHAVEZ, SAN ANTONIO, TEXAS.

* * * * *

WHEREAS, on July 22, 2016, San Antonio Housing Authority applied for funding from the City's Tax Increment Financing Program in order to facilitate the Victoria Commons Multi-Family Housing Development, located within the TIRZ in City Council District 2; and

WHEREAS, San Antonio Housing Authority plans to construct the Victoria Commons Multi-Family Housing Development, consisting of public infrastructure and public improvements including utilities, site, and street improvements for approximately 215 mixed-income housing units, comprising public housing units at 30% of area median income, tax credit housing units at 60% of area median income and market rate housing units to be located at 800 E. Cesar Chavez, San Antonio, Texas; and

WHEREAS, in accordance with Board Resolution T11 2016-12-09-01R, attached hereto as **Exhibit A,** City staff recommends approval of the proposed Victoria Commons Multi-Family Housing Development Agreement between the City of San Antonio, the Board, and San Antonio Housing Authority; **NOW THEREFORE;**

BE IT RESOLVED BY THE BOARD:

SECTION 1: The recitals set out above are adopted in their entirety.

SECTION 2: The Board considered and hereby approves the proposed Development Agreement, as presented in substantial form, to provide funding in an amount not to exceed ONE MILLION, FIVE HUNDRED THOUSAND DOLLARS, AND NO CENTS ($1,500.000.00) in tax increment, subject to availability, for the Victoria Commons Multi-Family Development Project, located at 800 E. Cesar Chavez, San Antonio, Texas.

SECTION 3: The Board acknowledges that subsequent approval by City Council is required.

PASSED AND APPROVED this 11th day of August, 2017.

APPROVED AS TO FORM

City Councilman William Shaw
Presiding Officer

Alma Rosa Lozano
Assistant City Attorney

EXHIBIT B

VICTORIA COMMONS MULTI-FAMILY HOUSING DEVELOPMENT CONSTRUCTION SCHEDULE

- March 2018 — Construction Start
- September 2019 — Construction Completion
- September 2019 — Begin Leasing
- March 2020 — 100% Lease-up

EXHIBIT C

CITY OF SAN ANTONIO
Contract Progress Payment Request (CPPR)
Form and Requirements

Prior to submitting an invoice to request reimbursement, the developer must submit to the TIF Unit:

- **All approved Master Development Plans (MDPs), recorded plats, City approved construction plans and inspections**
- **Copies of the payment and performance bond in accordance with executed Development Agreement**
- **Proof of compliance of the Bidding Policies must accompany the invoices submitted to include, but is not limited to: Publication of request for proposals, list of bidders, rating of bidders, and reason for choosing bidder (*Please refer to City's policy on Bidding Requirements.)***
- **Letters of acceptance from City departments or other agencies certifying the public infrastructure was constructed and accepted in accordance with all applicable rules, regulations and codes.**

When submitting an invoice for reimbursement, a summary page (refer to Sample Packet, page 2) must accompany all invoices to include related project name, invoice number, period covered by invoices and phase covered by invoices. Invoices must be submitted in the categories listed in the approved Final Finance Plan Sources and Uses page. The Sources and Uses page is broken down into phases and categories on a forecasted maximum allowable cost.

Each category should have their own separate summary page (refer to Sample Packet, page 2) itemizing invoices submitted in each appropriate category. The summary page will need to include maximum allowable cost, actual invoice amount, Plat or MDP number (if applicable) and method of payment. This maximum allowable cost is the forecasted amount that was projected for each category in the phase.

A receipt and/or a cancelled check must accompany each invoice to qualify for reimbursement. The invoice must refer to the related project. The dates and amount on invoices must coincide with receipt or cancelled checks. The invoice total must calculate correctly and tie to the summary page.

Each column is defined below: (refer to Sample Packet, page 2)

- **Column A** is the category from the Sources and Uses page for projected expenses
- **Column B** is the forecasted maximum allowable cost per the Final Finance Plan
- **Column C** is the actual developer's expense
- **Column D** is the amount of prior requests
- **Column E** is the balance column. The balance is the difference between the projected expenses and the actual developer's expenses. (The balance column will be used for internal tracking purposes only.)

*** All invoice Payments must be accompanied by:**

- **Receipt or Cancelled Check**
- **Must Reference the Project**

*** Only those categories outlined in the approved Final Finance Plan are eligible expenses for reimbursement.**

(SAMPLE) Reimbursement for TIRZ Expenses

Project Name: **NAD Residential TIRZ**	**Period covered by this invoice:** **12/02---8/03**
Invoice#: **One (1)**	**Phase(s) covered by this invoice:** **Phases 1, 2, & 3**

	A	B	C	D	E
Section	**Activity**	**Maximum Allowable from Final Finance Plan**	**Invoices Amount**	**Prior Requests**	****Balance**
1	Construction Management	44,200	40,624	0	3,576
2	Contingency	192,500	199,215	0	-6,715
3	Driveway Approach	20,000	22,972	0	-2,972
4	Engineering Survey	50,050	50,000	0	50
5	Formation Fees	150,150	200,000	0	-49,850
6	Gas	144,375	100,000	0	44,375
7	Green Belt/Green Space	26,950	21,000	0	5,950
8	Infrastructure Cost	61,600	60,000	0	1,600
9	Legal Fees	10,000	11,500	0	-1,500
10	Organizational Cost	20,800	35,000	0	-14,200
11	Official Traffic Control Device	15,000	10,000	0	5,000
12	Parking Facilities	30,000	28,250	0	1,750
13	Project Cost	86,163	86,100	0	63
14	Public Schools	10,000	11,000	0	-1,000
15	Recreational Park Area	105,942	105,940	0	2
16	Regional Storm Water Improvements	73,344	73,444	0	-100
17	Relocation Cost	40,747	55,474	0	-14,727
18	Sanitary Sewer	35,000	65,000	0	-30,000
19	Sidewalks	47,500	67,587	0	-20,087
20	Streetscape Planting	20,000	20,000	0	0
21	Street Lights	25,000	25,105	0	-105
22	Water	19,500	19,500	0	0
	TOTAL	1,286,321	1,365,211	0	-78,890

Financing Cost does not accrue interest
**The Balance Column is used for Tracking purposes only
All Invoice Payments must be accompanied by:
Receipt or Cancelled Check
Must Reference the Project

The City of San Antonio recommends having a CPA and the Project Engineer certify invoices submitted by developers.

CERTIFICATION:

I certify that to the best of my knowledge and belief the data above and supporting documentation attached are correct and that all outlays were made in accordance with the terms of the Development Agreement, plats, & construction plans; and that payment is due and has not been previously reimbursed.

Signature of Certifying Financial Official	**Signature of Certifying Engineer**
_____	_____
Typed or printed Name and Title	**Typed or printed Name & Title**
John Doe, CPA	John Smith, Engineer
DATE: _____	**DATE:** _____

Reimbursement for TIRZ Expenses					
Project Name:		Period covered by this invoice:			
Invoice#:		Phase(s) covered by this invoice:			
	A	B	C	D	E
Section	Activity	Maximum Allowable from Final Finance Plan	Invoices Amount	Prior Requests	**Balance
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
	TOTAL				

Financing Cost does not accrue interest
**The Balance Column is used for Tracking purposes only
All Invoice Payments must be accompanied by:
Receipt or Cancelled Check
Must Reference the Project

The City of San Antonio recommends having a CPA and the Project Engineer certify invoices submitted by developers.

CERTIFICATION:

I certify, that to the best of my knowledge and belief, the data above and supporting documentation attached are correct and that all outlays were made in accordance with the terms of the Development Agreement, plats, & construction plans; and that payment is due and has not been previously reimbursed.

Signature of Certifying Financial Official

_____

Typed or printed Name and Title:

_____

Signature:_____

DATE: _____

Signature of Certifying Engineer

_____

Typed or printed Name & Title:

_____

Signature:_____

DATE:_____

(SAMPLE) Reimbursement for TIRZ Expenses

Project Name: **NAD Residential TIRZ**	**Period covered by this invoice:** **12/02---8/03**
Invoice #: **One (1)**	**Phase covered by this invoice:** **Phases 1,2, & 3**

Section 1 Site Work	Plat and/or MDP #	Maximum Allowable from Final Finance Plan	Invoice #(s)	Invoice Amount(s)	Balance	Method of Payment
Dirt Movers Inc.	00451364		1520	10,000		Ck# 2140
Dirt Movers Inc.	145246		1555	22,000		Ck# 2141
Dirt Movers Inc.	783581		1600	2,500		Ck# 2142
Dirt Movers Inc.	891771		1680	1,124		Ck# 2142
Dirt Movers Inc.	157863146		1685	5,000		Ck# 2144
Total		**44,200**		**40,624**	**3,576**	

Reimbursement for TIRZ Expenses

Project Name:	**Period covered by this invoice:**
Invoice #:	**Phase covered by this invoice:**

Section 1 Site Work	Plat and/or MDP #	Maximum Allowable from Final Finance Plan	Invoice #(s)	Invoice Amount(s)	Balance	Method of Payment
Total						

(SAMPLE) Reimbursement for TIRZ Expenses

Project Name: **NAD Residential TIRZ**	**Period covered by this invoice:** **12/02---8/03**
Invoice #: **One (1)**	**Phase covered by this invoice:** **Phases 1,2, & 3**

Section 2 **Streets & Approaches**	**Plat and/or MDP #**	**Maximum Allowable from Final Finance Plan**	**Invoice #(s)**	**Invoice Amount(s)**	**Balance**	**Method of Payment**
NAD Contractors	00451364		2020	$165,000		Ck# 2523
Total		**$192,500**		**$165,000**	**$27,500**	

Reimbursement for TIRZ Expenses

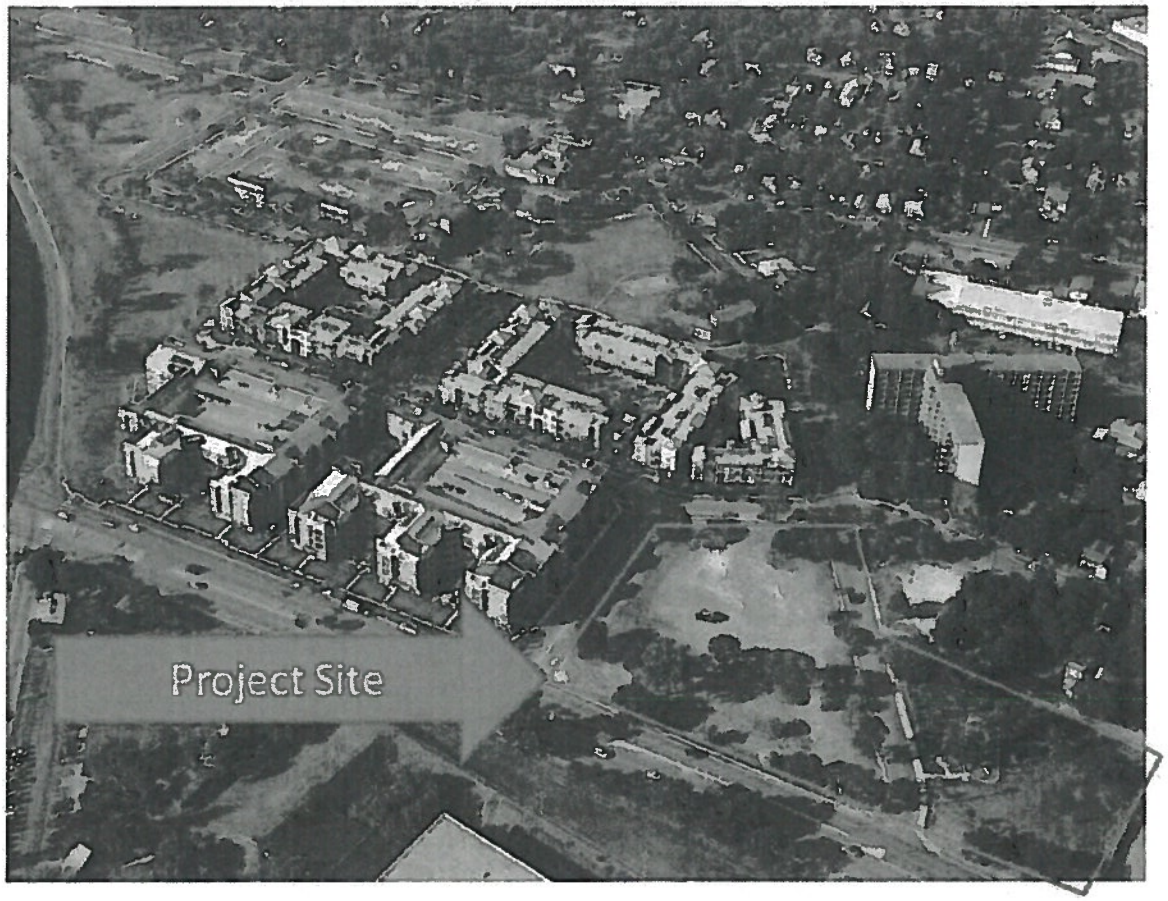
Project Name:	**Period covered by this invoice:**
Invoice #:	**Phase covered by this invoice:**

Section 2 **Streets & Approaches**	**Plat and/or MDP #**	**Maximum Allowable from Final Finance Plan**	**Invoice #(s)**	**Invoice Amount(s)**	**Balance**	**Method of Payment**
Total						

(SAMPLE) Reimbursement for TIRZ Expenses						
Project Name: **NAD Residential TIRZ**				**Period covered by this invoice:** **12/02---8/03**		
Invoice #: **One (1)**				**Phase covered by this invoice:** **Phases 1,2, & 3**		
Section 3 **Parkway**	**Plat and/or MDP #**	**Maximum Allowable from Final Finance Plan**	**Invoice #(s)**	**Invoice Amount(s)**	**Balance**	**Method of Payment**
Fast City Contractors	3574216		123	$10,000		Ck# 8989
			456	$4,500		Ck# 8989
			789	$5,500		Ck# 8989
Total		**$20,000**		**$20,000**	**$0.00**	

Reimbursement for TIRZ Expenses						
Project Name: **NAD Residential TIRZ**				**Period covered by this invoice:** **12/02---8/03**		
Invoice #: **One (1)**				**Phase covered by this invoice:** **Phases 1,2, & 3**		
Section 3 **Parkway**	**Plat and/or MDP #**	**Maximum Allowable from Final Finance Plan**	**Invoice #(s)**	**Invoice Amount(s)**	**Balance**	**Method of Payment**
Total						

EXHIBIT D



Victoria Commons Project Site

KLB 08/07/2008
Item No. 7

LT1-81-20080201405-1

SCANNED

AN ORDINANCE 2008-08-07-0634

CLOSING FOUNTAIN STREET BETWEEN SANTOS STREET AND DURANGO BLVD. WITHIN NCB 709, DISTRICT 1.

* * * * *

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

SECTION 1. Subject to the reservation below, the City finds the following right of way is no longer essential to the safe and efficient flow of traffic in the area in which the right of way is located. As an exercise of its discretion, the City Council closes, vacates, and abandons the right of way.

SECTION 2. A picture of the subject right of way is set forth at **Exhibit A**. The detailed description of the right-of-way subject to this ordinance is set forth on **Exhibit B**. Both Exhibits A and B are incorporated into this ordinance for all purposes as if they were fully set forth.

SECTION 3. This ordinance does not release any public rights in the subject tract for drainage, water and wastewater lines, electric transmission lines, communication lines of all types, or any other rights except for the right of the public to travel on the subject tract. Neither, however, does this Ordinance create any such rights that do not otherwise exist.

SECTION 4. The City Manager or her designee, severally, are authorized and directed to execute and deliver all documents and to do all other things conducive to reflect this closure, abandonment, and vacation.

SECTION 5. The affected right of way exists, if at all, by easement. The underlying fee ownership of the affected right of way by the adjacent lot owners is now unburdened by the right closed, vacated, and abandoned. For purposes of future conveyance and to better reflect their ownership generally, owners of the adjacent property may wish to replat, but no such replat impairs the rights retained by City in the affected right of way.

SECTION 6. The closure fee of $3,268.00 is waived in accordance with the 100% reduction provided under the Incentive Scorecard Program. No fiscal impact.

SECTION 7. This ordinance becomes effective 10 days after passage.

LT2-13679-536-6

PASSED AND APPROVED this 7th day of August 2008.

M A Y O R

PHIL HARDBERGER

Attest:

City Clerk

Approved As To Form:

City Attorney

STATE OF TEXAS
COUNTY OF BEXAR } **SS.**
CITY OF SAN ANTONIO

CERTIFIED COPY

The undersigned, the City Clerk of the City of San Antonio in the State and County afore said, does by these presents certify that the attached and foregoing is a true and exemplified copy of a part of the records, papers and books in the Office of the City Clerk; and, that I am the custodian of such papers, books and records as an officer of the City of San Antonio.

Given under my hand and the official seal of the City of San Antonio, this 15th day of August, A. D. 20 08

(SEAL)

City Clerk, City of San Antonio.

CITY OF SAN ANTONIO

Exhibit A

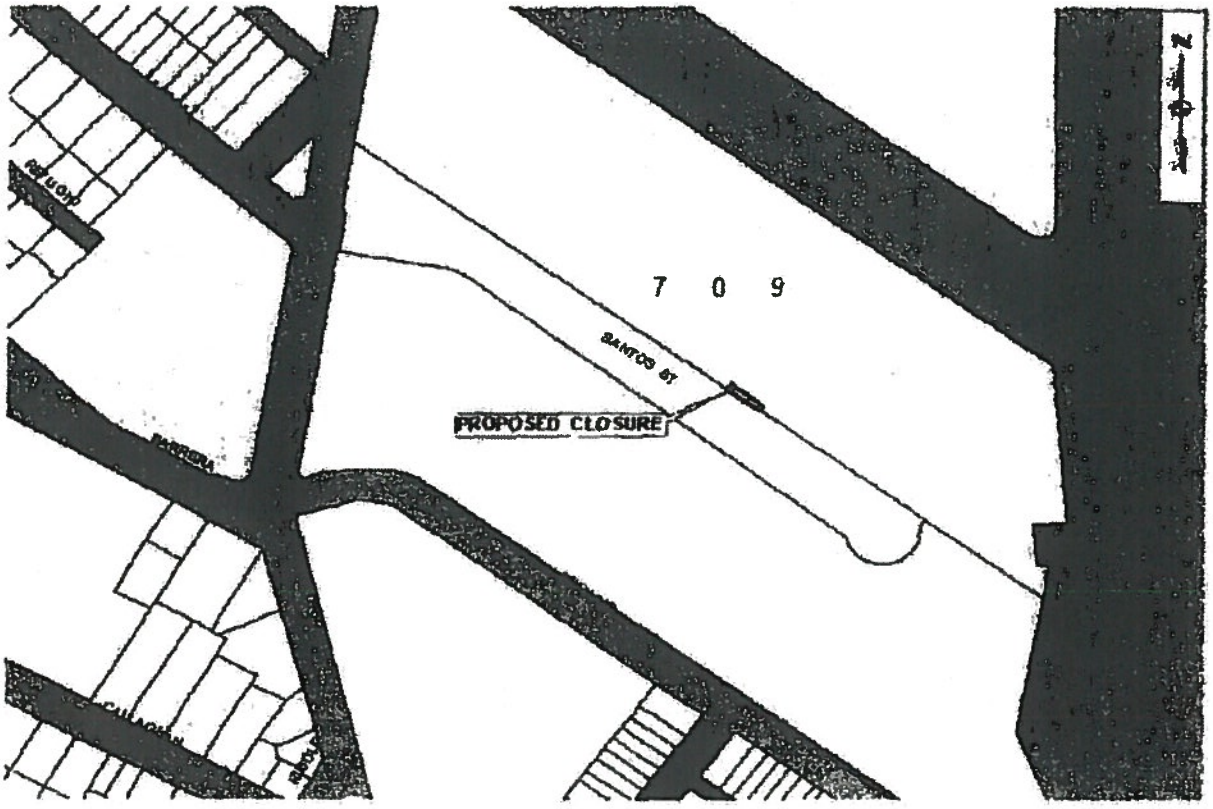


Exhibit B

Field Notes for a 0.0176 of an acre
Tract of Land

Field note description for a 0.0176 of an acre, situated in Bexar County, Texas and being out of Santos Street, a 54-foot right-of-way, as shown on plat of Victoria Courts Subdivision, Unit 1, recorded in Volume 9559, Page 112 of the Deed and Plat Records of Bexar County, Texas and being more particularly described by metes and bounds as follows:

Commencing at a ½ inch iron rod with an orange cap stamped "C&B-S.A. PROP. COR." found at the Northwesterly most corner of said Santos Street, on the Southeasterly right-of-way line of Labor Street, a 60-foot right-of-way;

Thence S 62°18'13" E across said Santos Street, a distance of 563.44 feet to a ½" iron rod with an orange cap marked "C&B-S.A. PROP. COR." found on the Northeasterly right-of-way line of Santos Street, for the Westerly most corner of this herein described 0.0176 of an acre tract and the Point of Beginning, of a point of curvature to the left;

Thence with the Northeasterly right-of-way line of Santos Street, the following calls:

With said curve to the left having a radius of 5.00 feet, an arc length of 7.88 feet, an interior angle of 90° 16' 41", a chord bearing of N 80° 36' 11" E, and a chord distance of 7.09 feet to a ½" iron rod with orange cap stamped "C&B-S.A. PROP COR. found for a corner;

N 35° 28' 20" E, a distance of 8.98 feet to a ½" iron rod with orange cap stamped "C&B-S.A. PROP COR. found, for the Northerly corner of this herein described 0.0176 of an acre tract;

S 54° 14' 59" E, a distance of 54.00 feet to a ½" iron rod with orange cap stamped "C&B-S.A. PROP COR. found, for the Easterly corner of this herein described 0.0176 of an acre tract;

S 35° 28' 20" W, a distance of 9.02 feet to a ½" iron rod with orange cap stamped "C&B-S.A. PROP COR. found, at a point of curvature to the left;

With said curve to the left having a radius of 5.00 feet, an arc length of 7.83 feet, an interior angle of 89° 43' 19", a chord bearing of S 09° 23' 19" E, and a chord distance of 7.05 feet to a ½" iron rod with orange cap stamped "C&B-S.A. PROP COR. found, for the Southerly corner of this herein described 0.0176 of an acre tract;

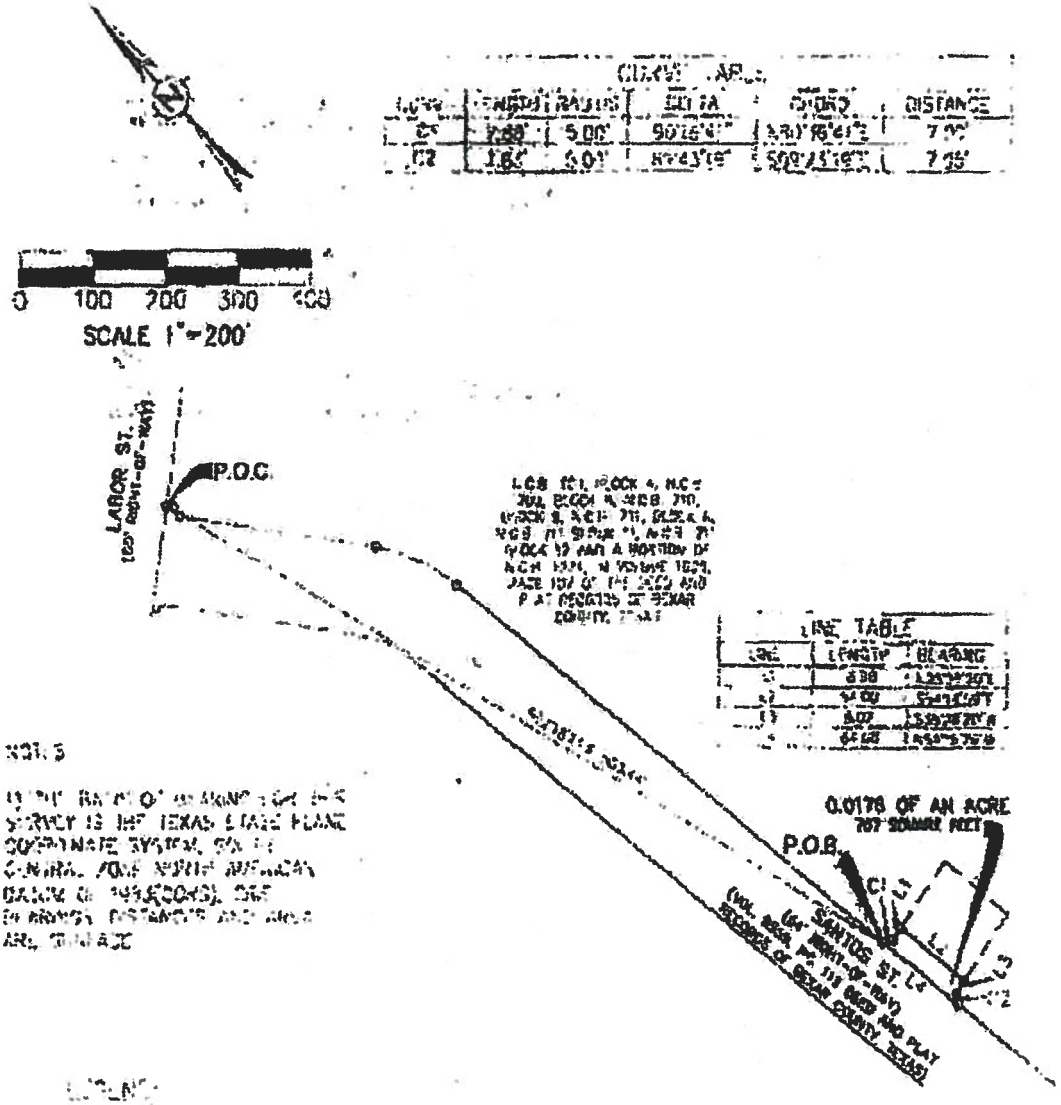
N 54° 15' 26" W, a distance of 64.00 feet to the Point of Beginning and containing 0.0176 of an acre.

The Basis of Bearing for this survey is the Texas State Plane Coordinate System, South Central Zone North American Datum of 1983(CORS), grid bearings. Distances and area are surface

I hereby certify that this Survey represents an on the ground survey on this 5th day of March, 2008.

Drew A Mawyer
Registered Professional Land Surveyor
No. 5348
S:\330138 157 DURANGO-CARLETON survey\0.01 [illegible] B.doc

STATE OF TEXAS
REGISTERED
DREW A MAWYER
5348
PROFESSIONAL
LAND SURVEYOR



CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD	DISTANCE
C1	7.88'	5.00'	90°16'41"	N80°16'41"E	7.00'
C2	7.85'	5.00'	89°43'19"	S09°43'19"E	7.05'

LINE TABLE

LINE	LENGTH	BEARING
[illegible]	6.38	[illegible]
[illegible]	5.00	[illegible]
[illegible]	6.07	[illegible]
[illegible]	6.08	[illegible]

NOTES

[illegible] THE BASIS OF BEARING FOR THIS SURVEY IS THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE NORTH AMERICAN DATUM OF 1983 (CORS). [illegible] DISTANCES AND AREA ARE SURFACE

LEGEND

[illegible] 1/2" [illegible] W/[illegible] CAP STAMPED [illegible]

STATE OF TEXAS REGISTERED DREW A. MAWYER 5348 PROFESSIONAL LAND SURVEYOR

Field note description for a 0.0176 of an acre, located in Bexar County, Texas and being out of Santos Street, a 54-foot right-of-way, as shown on plat of Victoria Courts Subdivision, Unit 1, recorded in Volume 9539, Page 112 of the Deed and Plat Records of Bexar County, Texas

Carter::Burgess Consultants in Engineering, Architecture, Construction Management and Related Services Carter and Burgess, Inc. [illegible]	**0.0176 OF AN ACRE QUITCLAIM EXHIBIT BEXAR COUNTY, TEXAS** [illegible] CAJ [illegible] DAM 3/05/08 [illegible] 310138.152	2 2

Any provision herein which restricts the sale, or use of the described real property because of race is invalid and unenforceable under Federal law

STATE OF TEXAS, COUNTY OF BEXAR

I hereby certify that this instrument was FILED in File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Real Property of Bexar County, Texas on:

SEP 1 8 2008

COUNTY CLERK BEXAR COUNTY, TEXAS

Doc# 20080201405 Fees: $36.00
09/12/2008 1:18PM # Pages 5
Filed & Recorded in the Official Public
Records of BEXAR COUNTY
GERARD RICKHOFF COUNTY CLERK

RECORDER'S MEMORANDUM
AT THE TIME OF RECORDATION, THIS
INSTRUMENT WAS FOUND TO BE INADEQUATE
FOR THE BEST PHOTOGRAPHIC REPRODUCTION
BECAUSE OF ILLEGIBILITY, CARBON OR
PHOTO COPY, DISCOLORED PAPER ETC.

AFTER RECORDING RETURN TO:
Return to: Mike Browne
San Antonio Development Agency
418 S. Santa Rosa St.
San Antonio, Texas 78207

1482096

WARRANTY DEED

THE STATE OF TEXAS X
X KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR X

That the URBAN RENEWAL AGENCY OF THE CITY OF SAN ANTONIO, of the County of Bexar, and State of Texas, for and in consideration of the sum of TEN AND NO/100---------- DOLLARS ($10.00), to it in hand paid by the grantee herein named, the receipt of which is hereby acknowledged, have GRANTED, SOLD AND CONVEYED, and by these presents do GRANT, SELL AND CONVEY unto the CITY OF SAN ANTONIO, P.O. Box 9066, San Antonio, Texas of the County of Bexar, and State of Texas, all of the following described real property in Bexar County, Texas, to-wit:

Lot 29, New City Block 708, Durango Park, situated within the corporate limits of the City of San Antonio, Bexar County, Texas, according to plat thereof recorded in Volume 7800, Page 145, Deed and Plat Records of Bexar County, Texas.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtances thereto in anywise belonging, unto the said grantee, its successors and assigns forever; and Grantor does hereby bind itself, its successors and assigns forever; and Grantor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

This Deed is made and executed upon and is subject to certain express conditions and covenants, said conditions and covenants being a part of the consideration for the property hereby conveyed and are to be taken and construed as running with the land and upon the continued observance of which and each of which, with the sole exception of covenants numbered FIRST and THIRD, the continued existence of the estate hereby granted shall depend, and the Grantee hereby bind itself and its successors, assigns, grantees, and lessees forever to these covenants and conditions, which covenants and conditions are as follows:

FIRST: The Grantee shall devote the property hereby conveyed only to the uses specified in the applicable provisions of the URBAN RENEWAL PLAN or approved modifications thereof;

SECOND: The Grantee shall pay real estate taxes or assessments on the property hereby conveyed or any part thereof when due.

THIRD: The Grantee agrees for itself and any successor in interest not to discriminate upon the basis of race, color, or national origin in the sale, lease, or rental or in the use or occupancy of the property hereby conveyed or any part thereof or of any improvements erected or to be erected thereon or any part thereof.

PRC 15-87 0204764 0800273 $5.00 Y 01 07042

The covenants and agreements contained in the covenant numbered FIRST shall run for a 25-year period from the date of this Deed. The covenant numbered SECOND and THIRD shall remain in effect without any limitation as to time.

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The Grantor shall be deemed a beneficiary of covenants numbered FIRST through THIRD, and the United States, shall be deemed a beneficiary of the covenant numbered THIRD, and such covenants shall run in favor of the Grantor and the United States for the entire period during which such covenants shall be in force and effect, without regard to whether the Grantor and the United States is or remains an owner of any land or interest therein to which such covenants relate. As such a beneficiary, the Grantor in the event of any breach of any such covenant, and the United States in the event of any breach of the covenant numbered THIRD, shall have the right to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach, to which beneficiaries of such covenant may be entitled.

Executed this 13th day of October, A.D. 1987.

URBAN RENEWAL AGENCY OF THE CITY OF SAN ANTONIO

BY: David D. Garza
Chairman

ATTEST:

Elvia C. Fernandez
Secretary

STATE OF TEXAS X
X
COUNTY OF BEXAR X

BEFORE ME, the undersigned authority, on this day personally appeared David D. Garza and Elvia C. Fernandez, Chairman and Secretary, respectively, of the URBAN RENEWAL AGENCY OF THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, known to me to be the persons and officers whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed and in the capacity therein stated and as the act and deed of the URBAN RENEWAL AGENCY OF THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS.

GIVEN UNDER MY HAND AND SEAL of office, this 13th day of October, 1987.

Michael O. Browne
Notary Public in and for Bexar County, Texas.

NOTARY PUBLIC STATE OF TEXAS

MICHAEL O. BROWNE
Notary Public, State of Texas
My Commission Expires 10/13/88

Any provision herein which restricts the sale, rental or use of the described real property because of color or race is invalid and unenforceable under Federal Law.
THE STATE OF TEXAS
COUNTY OF BEXAR
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED, in the Official Public Records of Real Property of Bexar County, Texas on

OCT 16 1987

COUNTY CLERK BEXAR COUNTY, TEXAS

1987 OCT 15 PM 12 06

COUNTY CLERK BEXAR CO.

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EXHIBIT E

CITY OF SAN ANTONIO
TAX INCREMENT REINVESTMENT ZONE
Project Status Report

Pursuant to the Development Agreement, the DEVELOPER has agreed to provide periodic reports of construction to the CITY upon reasonable request. The City requests that the Developer submit a TIRZ project status report every quarter every year until the project is complete, due by:

January 15th, for the first quarter,
April 15th, for the second quarter,
July 15th, for the third quarter and
October 15th, for the fourth quarter

At the completion of the project, the DEVELOPER shall submit a comprehensive final report.

Each quarterly report must include the following information:

- The number of Private Improvements completed (single-family and/or multi-family and commercial when applicable) and year in which they were completed
- The Public Improvements completed and costs incurred to date by year in which improvements were completed
- Indicate whether the construction is on track with the approved Final Project and Finance Plan
- If the project timeline has slipped, the Developer is to submit an updated project timeline
- The sale prices of the single-family homes completed (Please obtain and provide sales data for original sales price of every home sold.)
- Photos of: housing and commercial developments; before, during and after construction

In addition, for the City to monitor compliance with insurance requirements of the Development Agreement, the Developer must submit annually the Certificate of Insurance reflecting proof that:

- the City and its officers, employees and elected representatives are additional insureds as respects the operations and activities of, or on behalf of, the named insured contracting with the City, with the exception of the workers' compensation policy;
- the endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City of San Antonio is an additional insured shown on the policy;
- the Workers' Compensation and employers' liability policy provides a waiver of subrogation in favor of the City of San Antonio; and
- Notification to the City of any cancellation, non-renewal or material change in coverage was given not less than thirty (30) days prior to the change or ten (10) days prior to the cancellation due to non-payment of premiums, accompanied by a replacement Certificate of Insurance.

Attached is a form you may use to fulfill this reporting requirement.

TIRZ Project Progress Report (Construction)	
Name of Project:	**TIRZ #:**
Progress Report #:	**TIRZ Term:** **From:** **To:**
Period Covered by this Report: **From:** **To:**	

The number of Private Improvements (single-family and/or multi-family and commercial if applicable) completed and year in which they were done

			Private Improvements							
Phases (year)			Single-Family Units		Multi-family Units		Commercial Acres and Square Feet		Other Improvements (example: day care centers)	
	start date	*end date*	*Proposed*	*Completed*	*Proposed*	*Completed*	*Proposed*	*Completed*	*Proposed*	*Completed*
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										

The Public Improvements completed and costs incurred to date by year (phase) in which improvements occurred

			Public Improvements										
Phases (year)			Sidewalks and Approaches	Streets	Drainage	Water	Sewer	Electrical (Line Extension)	Gas	Street Lights	Traffic Signal Light	Landscaping	Other
	start date	*end date*	*Linear Feet*	*Li.Ft.*	*Li.Ft.*	*Li.Ft.*	*Li.Ft.*	*Li.Ft.*	*Li.Ft.*	*Number*	*Number/Location*	*Li.Ft.*	
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
TOTALS													

- Is Construction on track with the approved Final Project and Finance Plan? If not, please submit an updated timeline with the actual construction and the projected buildout.

	Original Project Plan			Actual/Projected		
Year	Single-Family	Multi -Family	Other	Single -Family	Multi -Family	Other

Certification: I certify that to the best of my knowledge and belief, the data above is correct and that all outlays were made in accordance with the terms of the Development Agreement.	Signature of Certifying Individual:	Date:
	Type or printed Name and Title:	Telephone #:

EXHIBIT F

General Decision Number: TX150016 01/02/2015 TX16

Superseded General Decision Number: TX20140016

State: Texas

Construction Types: Heavy and Highway

Counties: Atascosa, Bandera, Bastrop, Bell, Bexar, Brazos, Burleson, Caldwell, Comal, Coryell, Guadalupe, Hays, Kendall, Lampasas, McLennan, Medina, Robertson, Travis, Williamson and Wilson Counties in Texas.

HEAVY (excluding tunnels and dams, not to be used for work on Sewage or Water Treatment Plants or Lift / Pump Stations in Bell, Coryell, McClennon and Williamson Counties) and HIGHWAY Construction Projects

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of $10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/02/2015

* SUTX2011-006 08/03/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving and Structures)	$ 12.56	
ELECTRICIAN	$ 26.35	
FORM BUILDER/FORM SETTER		
Paving & Curb	$ 12.94	
Structures	$ 12.87	
LABORER		
Asphalt Raker	$ 12.12	
Flagger	$ 9.45	
Laborer, Common	$ 10.50	
Laborer, Utility	$ 12.27	
Pipelayer	$ 12.79	
Work Zone Barricade Servicer	$ 11.85	
PAINTER (Structures)	$ 18.34	
POWER EQUIPMENT OPERATOR:		
Agricultural Tractor	$ 12.69	
Asphalt Distributor	$ 15.55	
Asphalt Paving Machine	$ 14.36	
Boom Truck	$ 18.36	
Broom or Sweeper	$ 11.04	
Concrete Pavement Finishing Machine	$ 15.48	
Crane, Hydraulic 80 tons or less	$ 18.36	
Crane, Lattice Boom 80 tons or less	$ 15.87	
Crane, Lattice Boom over 80 tons	$ 19.38	
Crawler Tractor	$ 15.67	
Directional Drilling Locator	$ 11.67	
Directional Drilling Operator	$ 17.24	
Excavator 50,000 lbs or Less	$ 12.88	
Excavator over 50,000 lbs	$ 17.71	
Foundation Drill, Truck Mounted	$ 16.93	
Front End Loader, 3 CY or Less	$ 13.04	
Front End Loader, Over 3 CY	$ 13.21	
Loader/Backhoe	$ 14.12	
Mechanic	$ 17.10	
Milling Machine	$ 14.18	
Motor Grader, Fine Grade	$ 18.51	
Motor Grader, Rough	$ 14.63	
Pavement Marking Machine	$ 19.17	

Reclaimer/Pulverizer.....$ 12.88
Roller, Asphalt.....$ 12.78
Roller, Other.....$ 10.50
Scraper.....$ 12.27
Spreader Box.....$ 14.04
Trenching Machine, Heavy....$ 18.48

Servicer.....$ 14.51

Steel Worker
Reinforcing.....$ 14.00
Structural.....$ 19.29

TRAFFIC SIGNAL INSTALLER
Traffic Signal/Light Pole
Worker.....$ 16.00

TRUCK DRIVER
Lowboy-Float.....$ 15.66
Off Road Hauler.....$ 11.88
Single Axle.....$ 11.79
Single or Tandem Axle Dump
Truck.....$ 11.68
Tandem Axle Tractor w/Semi
Trailer.....$ 12.81

WELDER.....$ 15.97

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or

"UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION