

AN ORDINANCE 2018-06-21-0505

AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE OFFICE OF URBAN REDEVELOPMENT SAN ANTONIO (OUR SA) FOR THE ADMINISTRATION OF ACTIVITIES RELATED TO THE 2017-2022 NEIGHBORHOOD IMPROVEMENTS BOND PROGRAM.

* * * * *

WHEREAS, on February 2, 2017, City Council, in Ordinance No. 2017-02-02-0052, approved the San Antonio Urban Renewal Plan (the “Urban Renewal Plan”); and

WHEREAS, on May 6, 2017, voters approved a \$20,000,000.00 ballot initiative that allows the City to issue bonds (the “Neighborhood Improvements Bond”) to acquire and prepare property for the private and non-profit sector development of affordable housing in twelve (12) neighborhood improvement areas designated in the Urban Renewal Plan (the “Projects”); and

WHEREAS, the Urban Renewal Plan contemplates the City will use the proceeds from the Neighborhood Improvements Bond to fund the Projects through the Office of Urban Redevelopment San Antonio (“OUR SA”); and

WHEREAS, OUR SA is an Urban Renewal Agency, as defined in Chapter 374, Texas Local Government Code (“Texas Urban Renewal Law”), established by the City and is authorized to engage in Urban Renewal Project Powers, as defined in Texas Urban Renewal Law, to carry out and implement the Projects; and

WHEREAS, the City and OUR SA have agreed upon the administration of activities for the Projects; **NOW THEREFORE:**

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

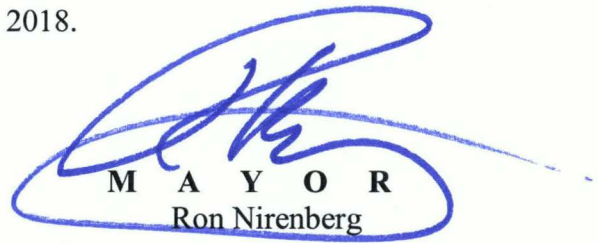
SECTION 1. The City Council hereby finds that the MOU will accomplish the purposes of the Chapter 374, Texas Local Government Code, by implementation of the Projects as set forth in the Urban Renewal Plan and is in line with both the Urban Renewal Plan and the Neighborhood Improvements Bond election ordinance.

SECTION 2. The City Manager, or her designee, is hereby authorized to execute a Memorandum of Understanding with OUR SA outlining the administration of activities related to the Projects. A copy of said agreement, in substantially final form, is attached hereto and incorporated herein for all purposes as **Attachment I**. The City Manager, or her designee, is further authorized to hereafter modify both the events listed in Exhibit “A” of Attachment I and the sequence thereto as Projects evolve and to execute one or more amendments to the Memorandum of Understanding concerning same, provided that such modifications, if any, comply with the Urban Renewal Plan, the Neighborhood Improvements Bond election ordinance, Texas Urban Renewal Law and other applicable law and is approved by the City Attorney’s Office.

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer, City of San Antonio. The Chief Financial Officer, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.


SECTION 4. This Ordinance shall become effective immediately upon passage by eight (8) or more affirmative votes of the entire City Council; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

PASSED AND APPROVED this 21st day of June, 2018.




M A Y O R
Ron Nirenberg

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Andrew Segovia, City Attorney

Agenda Item:	48						
Date:	06/21/2018						
Time:	03:15:17 PM						
Vote Type:	Motion to Appr w Cond						
Description:	Ordinance approving an agreement with the Office of Urban Redevelopment San Antonio (OUR SA) for the administration of activities related to the 2017-2022 Neighborhood Improvements Bond Program. [Peter Zanoni, Deputy City Manager]						
Result:	Failed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor			x			
Roberto C. Treviño	District 1			x			
William Cruz Shaw	District 2			x			
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4			x			
Shirley Gonzales	District 5	x					
Greg Brockhouse	District 6		x				x
Ana E. Sandoval	District 7			x			
Manny Pelaez	District 8			x			
John Courage	District 9		x				
Clayton H. Perry	District 10		x			x	

Agenda Item:	48						
Date:	06/21/2018						
Time:	03:15:40 PM						
Vote Type:	Motion to Approve						
Description:	Ordinance approving an agreement with the Office of Urban Redevelopment San Antonio (OUR SA) for the administration of activities related to the 2017-2022 Neighborhood Improvements Bond Program. [Peter Zaroni, Deputy City Manager]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x				x
William Cruz Shaw	District 2		x			x	
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5	x					
Greg Brockhouse	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				
John Courage	District 9		x				
Clayton H. Perry	District 10		x				

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06/21/2018
Item No. 48

Attachment I

MEMORANDUM OF UNDERSTANDING

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This MEMORANDUM OF UNDERSTANDING (hereinafter referred to as “MOU”) is hereby made and entered into by and between the CITY OF SAN ANTONIO (hereinafter referred to as “CITY”), a Texas municipal corporation, pursuant to Ordinance No. 2018-__-__, dated _____, 2018, and the OFFICE OF URBAN REDEVELOPMENT SAN ANTONIO, also known as the Urban Renewal Agency for the City of San Antonio and formerly the San Antonio Development Agency (hereinafter referred to as “OUR SA”), a Texas body corporate and politic, and SAN ANTONIO AFFORDABLE HOUSING, INC. (hereinafter referred to as “SAAH” and collectively with CITY and OUR SA, the “Parties”), a Texas non-profit corporation, both acting by and through each entity’s Board Chair, hereto duly authorized.

WHEREAS, the City Council of CITY (“City Council”) previously ordered an election held on December 17, 1957, pursuant to Article 1269I-3 (“Article 1269”) of Texas Civil Statutes Annotated (the statutory predecessor to Chapter 374, Texas Local Government Code, as amended (“Chapter 374” and together with Article 1269, the “Texas Urban Renewal Law”)) for the purpose of submitting to CITY’s voters a proposition adopting a resolution (the “Election Resolution”) permitting CITY to utilize Texas Urban Renewal Law; and

WHEREAS, CITY’s voters approved the foregoing measure and the Election Resolution’s related provisions, permitting CITY to exercise the powers granted by Texas Urban Renewal Law, excepting Urban Renewal Project Powers (as set forth in the Election Resolution and defined in Texas Urban Renewal Law) from CITY; and

WHEREAS, on May 6, 2017, voters approved a \$20,000,000.00 ballot initiative that allows CITY to issue bonds (the “Neighborhood Improvements Bond”) to acquire and prepare property for the private and non-profit sector development of affordable housing in twelve (12) neighborhood improvement areas designated in CITY’s Urban Renewal Plan (the “Projects”); and

WHEREAS, the Urban Renewal Plan sets forth the guidelines, area designations, and prerequisites to commencing the Projects, in which the Parties must comply to fulfill the contractual obligations related to the Neighborhood Improvements Bond; and

WHEREAS, OUR SA is an Urban Renewal Agency (as defined in Texas Urban Renewal Law) established by CITY and is authorized by the Election Resolution to engage in Urban Renewal Project Powers, as set forth in the Election Resolution and defined in Texas Urban Renewal Law, to carry out and implement the Projects; and

WHEREAS, the Neighborhood Improvements Advisory Committee (hereinafter referred to as “NIAC”) is an advisory committee established by City Council to ensure ongoing citizen feedback concerning the Projects funded with the Neighborhood Improvements Bond; and

WHEREAS, to the extent permitted by Texas Urban Renewal Law, the Urban Renewal Plan and other applicable law, CITY special purpose entities may be utilized to facilitate the development and implementation of the Projects; and

WHEREAS, OUR SA and CITY have agreed that OUR SA and CITY shall implement, perform and manage the Projects as hereinafter provided.

NOW THEREFORE, the Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. TERM

1.1 Except as otherwise provided for pursuant to the provisions hereof, this MOU shall commence on the date of execution hereof, and any Party may terminate this MOU upon providing a written thirty (30) day notice of such termination to the other Parties.

1.2 OUR SA agrees and understands that CITY projects costs for this MOU and that CITY expects to pay all obligations related to the Projects as set forth in the Urban Renewal Plan from the proceeds to be received from the issuance of bonds as part of the Neighborhood Improvements Bond, but that all obligations of CITY are subject to issuance of the bonds and appropriation of said proceeds by City Council. Accordingly, if CITY does not issue the bonds or appropriate the bond revenues to pay the obligations hereunder, then this MOU shall terminate without further action. No Party shall have any further obligations hereunder. Lack of funding is not and shall not be considered a breach of this MOU.

II. RESPONSIBILITIES

2.1 CITY and OUR SA hereby accept responsibility for the performance, in a satisfactory and efficient manner as agreed to by CITY and OUR SA and in compliance with the Urban Renewal Plan, of all services and activities set forth in this MOU.

2.2 Unless written notification by CITY to the contrary is received, the Housing Bond Administrator ("HBA") of the Neighborhood and Housing Services Department ("NHSD"), or her designee, shall be CITY's designated representative responsible for the implementation and administration of all matters pertaining to this MOU.

2.3 Except as may be hereinafter provided, OUR SA'S Board of Commissioners (the "Board") shall be responsible for the management of all matters pertaining to this MOU as reflected in Exhibit "A" attached to this MOU. Ongoing daily business communication contact for OUR SA shall be with the Board Chair or a designee thereof.

2.4 Communications between CITY and OUR SA shall be directed to the designated representatives of each as set forth in paragraphs numbered 2.2 and 2.3 hereinabove.

2.5 All references to OUR SA in the MOU, including the exhibits attached hereto, will include and address any and all related entities of OUR SA, including SAAH, and CITY will be permitted complete access to, and be provided complete cooperation from, all such related entities.

III. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

3.1 Notwithstanding anything to the contrary herein, if CITY provides federal funds to OUR SA, OUR SA shall comply with any and all applicable statutes, rules and regulations governing the permitted uses of such funds and any applicable reporting requirements thereof.

3.2 CITY and OUR SA shall observe and comply with all CITY, State and federal laws, regulations, the City Charter, ordinances and codes affecting OUR SA's operations pursuant to this MOU including the Election Resolution, the Urban Renewal Plan, and the bond ordinance authorizing the Neighborhood Improvements Bond (the "Bond Ordinance").

3.3 CITY and OUR SA covenant to never allow any public housing agency, as such entities are determined by the U.S. Department of Housing and Urban Development ("HUD"), to participate or become involved in the Projects contemplated by this MOU, unless the current City Charter is hereafter amended to permit such prospective involvement and such Projects are in compliance with Section 374.901 of the Texas Local Government Code. Participation by any public housing agency shall not be accomplished with the use of any Neighborhood Improvements Bond funds and public housing shall not be developed using Neighborhood Improvements Bond funds.

IV. LEGAL AUTHORITY

4.1 CITY and OUR SA each represent, warrant, assure and guarantee that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this MOU and to perform the responsibilities herein required.

4.2 The signers of this MOU for CITY and OUR SA each represent, warrant, assure and guarantee that he or she has full legal authority to execute this MOU on behalf of CITY or OUR SA, respectively, and to bind CITY and OUR SA, respectively, to all terms, performances and provisions herein contained.

4.3 In the event that a dispute arises as to the legal authority to enter into this MOU of either CITY or OUR SA or the person signing on behalf of CITY or OUR SA, the disputing party shall have the right, at its option, to either temporarily suspend or permanently terminate this MOU.

4.4 The Parties agree that the urban renewal activities of OUR SA constitute a public purpose as set forth in Texas Urban Renewal Law. All support and assistance provided by CITY is in exchange for the performance of activities consistent with that public purpose.

V. PERFORMANCE BY CITY

5.1 CITY, in accordance and compliance with the terms, provisions and requirements of this MOU, shall undertake the activities set forth in Exhibit "A" for which it is designated as the responsible party in conformity with all applicable State and local laws, including Texas Urban Renewal Law, the Urban Renewal Plan, and any applicable CITY plans, goals, and policies approved by CITY, as well as the City Charter and the Bond Ordinance. CITY understands and agrees that if State and local laws, including CITY plans, goals and policies are amended or revised, CITY shall comply with such amendments and provide written notification of the amendments to OUR SA pursuant to the provisions of Article XXI of this MOU. The Parties acknowledge that both the events listed in Exhibit "A" and the sequence thereto may be altered, with the prior written consent of both Parties, as Projects evolve.

5.2 CITY additionally agrees to provide all necessary CITY staffing (which shall consist of CITY-employed personnel) and technical assistance to OUR SA, as determined in CITY's sole discretion, for the Projects until all necessary tasks are satisfactorily completed and, in accordance and compliance with the terms, provisions and requirements of this MOU, shall administer, perform and provide all of the activities and services set forth in the Initial Staffing Support attached hereto as Exhibit "B" and incorporated herein for all purposes. Notwithstanding the Initial Staffing Support reflected on Exhibit "B," CITY reserves the right to increase or decrease the number of staff positions and technical assistance, and to modify job duties of any such position, at any time as determined by CITY in CITY's sole discretion.

5.2 It is expressly understood by CITY and OUR SA that this MOU in no way obligates CITY to assume any business, project or contract of OUR SA previously undertaken, currently ongoing, or prospectively initiated, unless expressly set forth in the Urban Renewal Plan.

5.3 Unless otherwise agreed in writing or as designated in Exhibit "B", CITY shall not be liable for any OUR SA costs, or portion thereof, which:

- (A) Has been paid, reimbursed or is subject to payment or reimbursement from another source;
- (B) Was incurred prior to the commencement date or subsequent to the termination date of this MOU as specified in Article I hereinabove;
- (C) Is not in strict accordance with the terms of this MOU, including all exhibits attached hereto and incorporated herein; and
- (D) Relates to projects outside the scope or areas set forth in the Urban Renewal Plan.

5.4 It is expressly agreed and understood by CITY and OUR SA that CITY will consult with OUR SA on staffing and technical assistance needed to implement this MOU but that all staffing and technical assistance decisions will be made by CITY in CITY's sole discretion.

VI. PERFORMANCE BY OUR SA

6.1 OUR SA, in accordance and compliance with the terms, provisions and requirements of

this MOU, shall undertake the activities set forth in Exhibit "A" for which it is designated as the responsible party in conformity with all applicable State and local laws, including Texas Urban Renewal Law, the Urban Renewal Plan, and any applicable CITY plans, goals, and policies approved by CITY, as well as the City Charter and the Bond Ordinance. OUR SA understands and agrees that if State and local laws, including CITY plans, goals and policies are amended or revised, it shall comply with them or otherwise immediately provide written notification to CITY pursuant to the provisions of Article XXI of this MOU.

6.2 OUR SA and CITY, in accordance and compliance with the terms, provisions and requirements of this MOU, shall designate respective authorized representatives including OUR SA's Board Chair, or his designee, and the City Manager, or her designee, or CITY's Neighborhood and Housing Services Director, or her designee, or the Housing Bond Administrator, or her designee, to execute any and all documents to transact business for OUR SA. The OUR SA Board Chair, or his designee, shall be available to CITY staff at all reasonable times during business hours to transact business.

6.3 Only as it pertains to Projects funded by the Neighborhood Improvements Bond and notwithstanding any other provision of this MOU, including but not limited to Exhibit "A," OUR SA shall not enter into a binding commitment to acquire any real estate or enter into any development contract without the prior written approval of City Council for said action, including, but not limited to, an option contract to purchase real estate for the Projects. Nothing herein limits OUR SA's statutory and budgeting authority to conduct its business under state law and other funding streams.

6.4 OUR SA shall not cause displacement of individuals and families to occur within any Projects undertaken pursuant to the Urban Renewal Plan.

6.5 It is understood that CITY will not reimburse OUR SA for any staffing or technical assistance it may procure related to the Projects without the prior written approval of CITY.

6.6 To the extent permitted or required by Texas Urban Renewal Law, the Urban Renewal Plan and other applicable law and with prior written approval of City Council, OUR SA may dispose of real estate acquired for the Projects to CITY-created special purpose entities to facilitate the development and implementation of the Projects. Under such circumstances, CITY will ensure that there is a contractual arrangement between CITY and the special purpose entities that imposes similar controls and safeguards upon said entity to ensure compliance with Texas Urban Renewal Law, the Urban Renewal Plan, the Bond Ordinance, and other applicable law.

6.7 OUR SA will dispose of real estate acquired hereunder in accordance with the applicable procedure required by Texas Urban Renewal Law and other applicable law. By way of example and not by limitation, when a property is to be sold to a private person, OUR SA shall advertise the property and use the competitive sealed bid process.

VII. PROCESS TO ACCOMPLISH THE PROJECTS

7.1 To efficiently and effectively implement the Urban Renewal Plan, the Parties agree to the

division of responsibilities set forth in Exhibit "A" attached hereto and incorporated herein for all purposes. The Parties further agree to observe the general sequence of events set forth in Exhibit "A" to implement the Projects.

7.2 CITY agrees to observe and comply with the procedures set forth in Exhibit "A" attached hereto and incorporated herein and shall assist and coordinate with OUR SA as necessary to accomplish the Projects.

7.3 OUR SA agrees to observe and comply with the procedures set forth in Exhibit "A" attached hereto and incorporated herein and shall assist and coordinate with CITY as necessary to accomplish the Projects.

VIII. EXPENDITURE REQUESTS

8.1 OUR SA hereby agrees to only expend funds pursuant to the public purposes as set forth in the Texas Urban Renewal Law and in accordance with the Urban Renewal Plan and the Bond Ordinance. OUR SA further agrees to not to expend funds for any activity prohibited by Texas Urban Renewal Law or the Urban Renewal Plan. In consideration of OUR SA's performance in a satisfactory and efficient manner as determined by CITY of all services and activities set forth in this MOU, CITY agrees to fund the Projects and eligible expenses reasonably incurred by OUR SA, after obtaining the approval required by Section 8.2 herein, in furtherance of the public purposes as set forth in the Texas Urban Renewal Law and in accordance with the Urban Renewal Plan and the Bond Ordinance. If requested by CITY, OUR SA shall utilize CITY's departments, CITY-created entities and CITY's on-call contractors to perform eligible activities including, without limitation, site improvements, demolition, ROW improvements, utility extension, utility expansion, lead paint remediation, asbestos remediation and other environmental remediation. Costs associated with the aforementioned services, to include the payment of an impact fee or similar fee, may be paid from proceeds from the Neighborhood Improvements Bond program in support of eligible activities under this Memorandum of Understanding and the associated Urban Renewal Plan.

8.2 Notwithstanding any other provision of this MOU, OUR SA shall not incur any expenditure and other obligation for the Projects without the prior written approval of the Housing Bond Administrator. If the expenditure is equal to or less than the sum of TWENTY-FIVE THOUSAND DOLLARS AND NO/100 DOLLARS (\$25,000.00), the prior written approval of the Neighborhood and Housing Services Director of NHSD is required. If the expenditure or obligation exceeds the sum of TWENTY-FIVE THOUSAND DOLLARS AND NO/100 DOLLARS (\$25,000.00), the prior written approval of an Assistant City Manager or Deputy City Manager, or a designee thereof, is required. If the expenditure or obligation exceeds the sum of FIFTY THOUSAND DOLLARS AND NO/100 DOLLARS (\$50,000.00), and except as provided in Section 8.3 hereof, the prior written approval of City Council is also required; provided that the approval of task orders, if any, under a CITY Job Order Contract ("JOC") shall be authorized and approved in the manner provided in the ordinance approving the JOC.

8.3 With the prior written approval of the Neighborhood and Housing Services Director and either an Assistant City Manager or Deputy City Manager, the Housing Bond Administrator

is authorized to negotiate and execute written contracts for the purchase of real property in furtherance of the public purposes as set forth in the Urban Renewal Plan; provided that: (a) the contract is made expressly assignable by the purchaser without additional consideration or fee; (b) the contract includes a provision that allows the contract to be terminated at the convenience of the purchaser or assignee; (c) the total amount of earnest money, whether refundable, non-refundable or a both, does not exceed the sum of One Hundred Thousand and No/100 Dollars (\$100,000.00); and (d) the purchase remains subject to final approval of City Council. The Housing Bond Administrator is further authorized to expend up to One Hundred Thousand and No/100 Dollars (\$100,000.00) of Neighborhood Improvement Bond funds for earnest money and/or an option fee in connection with each of the aforementioned contracts. OUR SA and CITY agree that any Neighborhood Improvement Bond funds advanced hereunder are paid on OUR SA's behalf to implement the Urban Renewal Plan. Notwithstanding the foregoing statement, all refunded earnest money and unearned option fees, if any, shall be delivered by the title company (or seller, as appropriate) directly to CITY for return to the Neighborhood Improvement Bond program and the Parties agree to cooperate to effectuate such a return of funds to CITY to be utilized in accordance with the Urban Renewal Plan.

8.4 CITY shall not be liable for any OUR SA costs, or portion thereof, which:

- (A) Has been paid, reimbursed or is subject to payment or reimbursement from another source.
- (B) Is not in strict accordance with the terms of this MOU, including all exhibits attached.
- (C) Has not been billed to CITY in accordance with the terms of this MOU within forty-five (45) calendar days following invoice to OUR SA, or termination of this MOU, whichever is earlier.
- (D) Relates to projects outside the scope or areas as set forth in the Urban Renewal Plan.

8.5 CITY shall not be liable for any OUR SA cost, or portion thereof, which is or was incurred in connection with an activity of OUR SA where:

- (A) Prior written authorization from CITY is required for the activity and such authorization was not first procured.
- (B) CITY has requested that OUR SA furnish data concerning an activity prior to proceeding further therewith and OUR SA nonetheless proceeds without first submitting the data and receiving CITY written approval thereof.

IX. MAINTENANCE OF RECORDS

9.1 OUR SA agrees to maintain records that will provide accurate, current, separate, and complete disclosure of the status of any funds received pursuant to this MOU. OUR SA further

agrees:

(A) That maintenance of said records shall be in compliance with all terms, provisions and requirements of this MOU and with all applicable federal and State regulations establishing standards for financial management; and

(B) That OUR SA's record system shall contain sufficient documentation to provide in detail full support and justification for each expenditure.

9.2 OUR SA agrees to retain, for the period of not less than four (4) years from the date of termination of this MOU and under the conditions specified by CITY, all books, records, documents, reports, and written accounting policies and procedures pertaining to the operation of programs and expenditures of funds under this MOU .

9.3 To the extent of any executory sub-contracts, OUR SA agrees to include the substance of this Article in all of its sub-contracts.

9.4 Nothing in this Article shall be construed to relieve OUR SA of:

(A) Responsibility for retaining accurate and current records which clearly reflect the level and benefit of services provided under this MOU; and

(B) Fiscal accountability and liability pursuant to this MOU and any legal requirements.

9.5 The Public Information Act, Texas Government Code Chapter 552, requires the CITY to make information available to the public. Under Texas Government Code Section 552.002(a), public information means information that is collected, assembled or maintained under a law or ordinance or in connection with the transaction of official business: 1) by a governmental body; or 2) for a governmental body and the governmental body owns the information or has a right of access to it. Therefore, if OUR SA receives inquiries regarding documents within its possession pursuant to this MOU, OUR SA shall within twenty-four (24) hours of receiving the requests forward such requests to CITY, with a copy to the City Attorney's Office as set forth in Article XXI. As OUR SA is a governmental entity subject to the Texas Public Information Act, OUR SA ultimately will be responsible for disposition of public information requests, in coordination with CITY, including the submission of any request for an opinion from the Texas Attorney General. For the purposes of communicating and coordinating with regard to public information requests, all communications shall be made to the designated public information liaison for each Party with a copy to legal counsel. Each Party shall designate in writing to the other Party the public information liaison for its organization and notice of a change in the designated liaison shall be made promptly to the other Party.

X. ACCESSIBILITY OF RECORDS

10.1 Subject to applicable law, at any reasonable time and as often as CITY may deem necessary, OUR SA shall make all of its records available to CITY, HUD, or any of their

authorized representatives, and shall permit CITY, HUD, or any of their authorized representatives to audit, examine, and make excerpts and/or copies of same. OUR SA's records shall include, but shall not be limited to, the following: payroll, personnel and employment records; contracts; and invoices.

XI. RESERVED

XII. LIABILITY

12.1 OUR SA and CITY acknowledge they are each political subdivisions of the State of Texas and are subject to, and must comply with, the applicable provisions of the Texas Tort Claims Act, as set out in the Texas Civil Practices and Remedies Code and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

12.2 This MOU will be interpreted according to the Texas Constitution and the general laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this MOU shall be in Bexar County, Texas. This MOU is made and is to be performed in Bexar County, Texas, and is governed by the laws of the State of Texas.

XIII. CONFLICT OF INTEREST

13.1 CITY and OUR SA covenant that neither it nor any member of its governing bodies or of its staff presently have any personal interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this MOU. CITY and OUR SA further covenant that in the performance of this MOU, no persons having such interest shall be employed or appointed as a member of its governing bodies or of its staff.

13.2 CITY and OUR SA further covenant that no member of its governing bodies or of its staff shall possess any interest in, or use their position for, a purpose that is or gives the appearance of being motivated by desire for private gain for themselves or others, particularly those with which they have family, business, or other ties.

XIV. BOARD MEETINGS

14.1 During the term of this MOU, CITY shall provide staff assistance for the posting and recordation of all notices of meetings of the Board, including preparation of minutes, resolutions and other governing documents.

14.2 OUR SA understands and agrees that CITY representatives shall be afforded access to all Board meetings as allowed by law.

14.3. OUR SA agrees to regularly hold Board meetings in accordance with OUR SA's bylaws.

XV. CHANGES AND AMENDMENTS

15.1 Except when the terms of this MOU expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be by amendment in writing, executed by the Parties and approved by the City Council and the Board of OUR SA.

15.2 RESERVED

15.3 RESERVED

15.4 It is understood and agreed by the Parties hereto that changes in local, State and federal rules, regulations or laws applicable hereto may occur during the term of this MOU and that any such changes shall be automatically incorporated into this MOU without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. TERMINATION

16.1 "Termination" of this MOU shall mean upon a decision to terminate by either CITY or OUR SA, written notice of such, and the effective date thereof (which shall not be less than 30 days from the written notice unless Section 16.4 applies), shall be immediately provided to the other Party.

16.2 Upon receipt of written notice to terminate from CITY, OUR SA shall cancel, withdraw, or otherwise terminate any outstanding orders or subcontracts which relate to the performance of this MOU. To this effect, CITY shall not be liable to OUR SA or OUR SA's creditors for any expense, encumbrances or obligations whatsoever incurred after the effective date of termination.

16.3 Within thirty (30) calendar days after receipt of written notice to terminate, OUR SA shall submit a statement to CITY, indicating in detail the services performed under this MOU prior to the effective date of termination.

16.4 Should OUR SA violate the terms in Sections 6.3 or 18.1, such actions shall be considered a material breach of this MOU and CITY shall have the option to immediately terminate this MOU.

16.5 As set forth in Section 1.2 herein, this MOU shall terminate in the instance CITY does not issue or appropriate bond revenues to pay the obligations as set forth in this MOU.

XVII. NOTIFICATION OF ACTION BROUGHT

17.1 In the event that any claim, demand, suit, proceeding, cause of action or other action (hereinafter collectively referred to as "claim") is made or brought against OUR SA, OUR SA shall give written notice thereof to CITY within two (2) business days after itself being notified, with a copy to the City Attorney's Office as set forth in Article XXI. OUR SA's notice to CITY shall state the date and hour of notification to OUR SA of the claim; the names and addresses of those instituting or threatening to institute the claim, the basis of the claim; and the name(s) of

any others against whom the claim is being made or threatened. Written notice pursuant to this Article shall be delivered either personally or by mail in accordance with Article XXI of this MOU.

XVIII. ASSIGNMENTS

18.1 OUR SA shall not transfer, pledge or otherwise assign this MOU, any interest in and to same, or any claim arising thereunder, without first procuring the written approval of CITY. Any attempt at transfer, pledge or other assignment shall be void *ab initio* and shall confer no rights upon any third person.

XIX. SEVERABILITY OF PROVISIONS

19.1 Provided the essential purpose of this MOU can still be accomplished, if any clause or provision of this MOU is held invalid, illegal or unenforceable under present or future federal, State or local laws, including but not limited to the City Charter, City Code, or ordinances of CITY, then and in that event it is the intention of the Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this MOU shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this MOU that is invalid, illegal, or unenforceable, there be added as a part of the MOU 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. Such additional clause(s) added to correct or modify an invalid, illegal, or unenforceable provision are not subject to the approval requirements of Section 15.1 herein, but shall be approved in writing by the Board Chair and Neighborhood and Housing Services Director.

XX. ENTIRE MOU

20.1 This MOU constitutes the final and entire MOU between the Parties hereto and contains all of the terms and conditions agreed upon. No other MOUs, oral or otherwise, regarding the subject matter of this MOU shall be deemed to exist or to bind the Parties hereto unless same be in writing, dated subsequent to the date hereof, and duly executed by the Parties.

XXI. NOTICES

21.1 For purposes of this MOU, all official communications and notices among the parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

CITY:
Director
Neighborhood and Housing Services Department
1400 S. Flores
San Antonio, Texas 78204

OUR SA:
Chair, Board of Commissioners
Office of Urban Redevelopment -
San Antonio
1400 S. Flores
San Antonio, Texas 78204

Deputy City Manager
City Manager's Office
P.O. Box 839966
San Antonio, Texas 78283

SAAH:
Chair, Board of Directors
San Antonio Affordable Housing,
Inc.
1440 S. Flores
San Antonio, Texas 78204

With Copy To:
City Attorney's Office
Attn: OUR-SA Liaison Attorney
San Antonio, Texas 78283
P.O. Box 839966
San Antonio, Texas 78283

With Copy To:
Escamilla & Poneck, LLP
Attn: Douglas A. Poneck
700 N. St. Mary's, Suite 850
San Antonio, Texas 78205

Notice of changes of address by either Party must be made in writing delivered to the other Party's last known address within five (5) business days of such change.

XXII. PARTIES BOUND

22.1 This MOU shall be binding on and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, except as otherwise expressly provided herein.

XXIII. GENDER

23.1 Words of gender used in this MOU shall be held and construed to include the other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XXIV. RELATIONSHIP OF PARTIES

24.1 Nothing contained herein shall be deemed or construed by the Parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship between the parties hereto.

XXV. LEGAL PROCEEDINGS

25.1 OUR SA agrees that under no circumstances will the funds received under this MOU be used, either directly or indirectly, to pay costs or attorney fees incurred in any institution of legal action in a court of law against the CITY or any other public entity, unless written prior permission is given by CITY.

XXVI. TEXAS LAW TO APPLY

26.1 THIS MOU SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE

LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

XXVII. CAPTIONS

27.1 The captions contained in this MOU are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this MOU.

XXVIII. COUNTERPARTS

28.1 This MOU may be executed in any number of multiple counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument. Each such counterpart shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile or other electronic transmission of any signed original document or retransmission of any signed facsimile or other electronic transmission will be deemed the same as delivery of an original.

[Signatures on the Following Page]

EXECUTED on the dates shown below to be effective as of the date of the ordinance first shown above.

CITY OF SAN ANTONIO

By: _____

Peter Zanoni

Title: Deputy City Manager

Date: _____

**OFFICE OF URBAN
REDEVELOPMENT –
SAN ANTONIO**

By: _____

Title: Chair, Board of Commissioners

Date: _____

**SAN ANTONIO AFFORDABLE
HOUSING, INC.**

By: _____

Title: Chair, Board of Directors

Date: _____

APPROVED AS TO FORM:

Assistant City Attorney

Attachments:

Exhibit "A" Division of Responsibilities

Exhibit "B" Initial Staffing Support

Exhibit "A"
Division of Responsibilities

1. Housing Bond Administrator identifies potential properties suited for redevelopment under the Urban Renewal Plan.
2. With approval of Neighborhood & Housing Services Director, Housing Bond Administrator issues Request for Information.
3. Housing Bond Administrator & Our SA Real Estate Manager reviews responses to Request for Information and performs due diligence on potential properties.
4. Housing Bond Administrator briefs Neighborhood & Housing Services Director on potential properties; Neighborhood & Housing Services Director makes recommendations.
5. Housing Bond Administrator briefs Neighborhood Improvements Advisory Committee in closed session on potential properties to purchase; Neighborhood Improvements Advisory Committee provides feedback.
6. Housing Bond Administrator briefs Our SA Board in closed session on potential properties to purchase; Board makes recommendations.
7. Bond Counsel reviews the Board's recommendations for eligibility under the Urban Renewal Plan and other applicable law.
8. Housing Bond Administrator negotiates earnest money contract with a termination option; Housing Bond Administrator obtains approval of Neighborhood & Housing Services Director and Assistant/Deputy City Manager (\$100K limit per MOU).
9. Housing Bond Administrator executes earnest money contract and receipts contract and earnest money/option fee at the title company.

10. Housing Bond Administrator and Neighborhood & Housing Services Director brief City Council in Executive Session on property under contract.
11. With Neighborhood & Housing Services Director approval, Housing Bond Administrator issues RFP/RFQ with specifics for development (which may include disposition terms, manner and method thereof); Bond Counsel to review for eligibility under Urban Renewal Plan and other applicable law.
12. City-created scoring committee scores developer responses.
13. Housing Bond Administrator briefs Neighborhood & Housing Services Director on developer scores; Neighborhood & Housing Services Director makes recommendations.
14. Housing Bond Administrator briefs Neighborhood Improvements Advisory Committee in closed session on developer scores in relation to purchase of property; Neighborhood Improvements Advisory Committee provides feedback.
15. Housing Bond Administrator briefs Our SA Board in closed session on developer scores; Board makes recommendations.
16. Bond Counsel reviews developer proposal to determine eligibility under Urban Renewal Plan and other applicable law.
17. Housing Bond Administrator, with assistance from the City Attorney's Office, negotiates developer contract including disposition; Our SA's attorney reviews and approves contract; Bond Counsel reviews and approves contract.
18. Housing Bond Administrator briefs Neighborhood & Housing Services Director on developer contract; Neighborhood & Housing Services Director approves.
19. Housing Bond Administrator briefs Our SA Board on developer contract; Board approves.

20. Housing Bond Administrator and Neighborhood & Housing Services Director brief City Council in Executive Session on developer contract in relation to purchase of property.
21. Our SA Board and Developer finalize and execute contract, conditioned on receipt of City Council approval.
22. The project (i.e., purchase contract and development/disposition contract) is taken to City Council (A Session); City Council issues final approval.
23. Housing Bond Administrator & Our SA Real Estate Manager coordinate site improvements in accordance with Texas Urban Renewal Law (Permitted Activities in Urban Renewal Plan), except that no funds may be incurred for site improvements until the Neighborhood & Housing Services Director is satisfied, in her discretion, that the developer has obtained all necessary funding, involuntary displacement of residents has not and will not occur, and the project is ready to proceed in earnest.
24. Upon completion of site improvements, Housing Bond Administrator briefs Neighborhood & Housing Services Director; Neighborhood & Housing Services Director approves disposition contract execution.
25. Upon completion of site improvements, Housing Bond Administrator briefs Our SA Board; Board approves disposition contract execution.
26. Our SA conveys property to developer in a form approved by CAO, Our SA's attorney and Bond Counsel; Proceeds returned to bond program.
27. Developer constructs affordable housing with City oversight.
28. City monitors compliance of affordability restrictions and Urban Renewal Plan.

Exhibit "B"
Initial Staffing Support

CITY will assist OUR SA by providing CITY staff support and other technical assistance, as determined in CITY's sole discretion, for the operation and management of OUR SA in all aspects of the Projects. Initial staffing provided by CITY will be as follows:

Hiring up to three (3) program staff related to the implementation of the Neighborhood Improvements Bond to perform work related to the identification and evaluation of potential properties for acquisition, negotiation of contracts with option to purchase, issuing RFPs and evaluation of development proposals, and implementation of development contracts.

The first of the three (3) positions will serve as the team lead for the implementation of the Neighborhood Improvements Bond program and will manage staff within the division. The position is responsible for successful implementation of the five-year, \$20 million program including: due diligence activities related to subject properties within the program, development of requests for proposals and other submittals to the City, review and analysis of proposals/submittals, contract development, coordination of the Neighborhood Improvements Advisory Committee, coordination with OUR SA, ongoing outreach with community residents, and other project management duties as needed. The position will require regular interaction with multiple City departments, City Council office staff, OUR SA, and residents. The position will report to the Director of Neighborhood and Housing Services.

The remaining two (2) positions will serve as team members in the successful implementation of the five-year, \$20 million Neighborhood Improvements Bond program. These staff will assist with tasks related to the program, including: due diligence activities related to subject properties within the program, development of requests for proposals and other submittals to the City, review and analysis of proposals/submittals, contract development, coordination of the Neighborhood Improvements Advisory Committee, coordination with the Office of Urban Redevelopment San Antonio (OUR SA), and ongoing outreach with community residents. The position will also require regular interaction with multiple City departments, City Council office staff, OUR SA, and residents. The position will report to the manager of the division.

Salaries and the costs associated with the creation and administration of these positions will be paid from proceeds from the Neighborhood Improvements Bond program in support of eligible activities under this Memorandum of Understanding and the associated Urban Renewal Plan.