

Real Estate Purchase and Sales Contract

(419 San Pedro Avenue, Texas)

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Preliminary Authorizing 2017-02-02-0052 (Urban Renewal
Ordinances: Plan); 2018-06-21-0505 (MOU)

Seller: Mireles Properties LLC
PO Box 37054
San Antonio, TX 78237-0054

Type of Entity: Texas limited liability company

Buyer: City of San Antonio, or its Assignee

Address: Neighborhood and Housing Services
Department, 1400 S. Flores Street,
San Antonio, Texas 78204
Attention: Neighborhood Improvement Bond
Program

Phone: 210-207-5460

Email: Deborah.Bell@sanantonio.gov
Jaime.Damron@sanantonio.gov

**Type of
Entity:** Texas municipal corporation

Buyer's Counsel: Edward Guzman & Jameene Williams

Address: City Attorney's Office, P.O. Box 839966, San
Antonio, Texas 78283-3966

Phone: 210-207-8994(Victoria Shum) 210-
207-2094 (Jameene Williams)

Email: Jameene.Williams@sanantonio.gov
victoria.shum@sanantonio.gov

Property: 419 San Pedro Avenue (Property ID #108696), San Antonio,
Bexar County, Texas 78212 and being more particularly
described on **Exhibit A** attached hereto and incorporated herein

Title Company: Alamo Title Company

Address: 2915 W. Bitters Rd #301
San Antonio, Texas 78248

Phone: (210) 490-1313

Fax: (210) 490-1312

Email: Nannette.williams@alamotitle.com

**Purchase
Price:** One Million One Hundred Seventy Five
Thousand and No/100 Dollars (\$1,175,000.00)

	Survey Objection Deadline
1.08. Buyer's Termination Deadline for Title and Survey Defects	10 Days after Seller's Cure Notice Deadline
1.09. Seller to Provide Buyer a new or updated Phase I ESA and Phase II ESA (only if a Phase II is recommended in the new or updated Phase I) at Seller's Expense	30 Days after the Effective Date
1.10 Buyer's Feasibility Period Opens	On the Effective Date.
1.11 End of Feasibility Period	150 Day after the Effective Date (unless extended as provided below).
Extended End of Feasibility Period as applicable under Section 7.02	Two (2) sixty 60 Day periods after End of Feasibility Period if extended as provided in Section 7.02
1.12. Closing Date	45 Days after End of Feasibility Period or Extended End of Feasibility Period, if applicable

The deadlines may be altered by the mutual agreement of the parties. The Director of the Neighborhood and Housing Services Department may consent to such changes on behalf of Buyer without further authorization of City Council.

2. Closing Documents.

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

Special Warranty Deed

IRS Nonforeign Person Affidavit

Evidence of Seller's authority to close this transaction

2.02. At closing, Buyer will deliver the following items:

Evidence of Buyer's authority to consummate this transaction

Purchase Price

2.03. The documents listed above are collectively known as the "Closing Documents." Unless otherwise agreed by the parties in writing before closing, the deed will be substantially in the form attached as **Exhibit C**.

2.04. The deed may except from warranty items reflected in Schedule B of the latest effective title commitment that have been accepted, or for which the cure has been waived, by Buyer (as provided herein). It may not except rights of parties in possession, survey-related matters, or other rights not arising out of a recorded instrument.

3. Exhibits.

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

Exhibit A—Property Description

Exhibit B—Representations

Exhibit C—Form of Deed

Exhibit D—City of San Antonio, or its Assignee Receipt of Updated ESA Phase I

Exhibit E – "As Is" Addendum to Improved Commercial Contract

4. Purchase and Sale of Property.

4.01. Subject to the terms and provisions of this agreement ("Agreement"), Seller will convey the Property to Buyer, and Buyer will purchase the Property from Seller. The purchase and sale includes (a)(i) all buildings, fixtures, structures and improvements thereon; (ii) any strips or gores between the Property and all abutting properties; (ii) all roads, alleys, rights-of-way, easements, streets, and ways adjacent to or serving the Property and rights of ingress and egress thereto, whether surface, subsurface or otherwise; (iii) and land lying in the bed of any street, road, or access way, opened or proposed in front of, at a side of or adjoining the Property, to the centerline of such street, road or access way; and (b) all of Seller's rights, titles, and interests, if any, in and to (i) all mineral interests of any kind or character pertaining

to the Property; (ii) all water rights of any kind or character pertaining to the Property; (iii) all governmental or quasi-governmental permits, approvals, authorities, licenses, consents and bonds, if any, of any kind or character pertaining to the Property, including, without limitation, development rights, grandfathered or vested rights, and other governmental permits or approvals regarding the development and improvement of the Property; (iv) all permits, contracts, drainage easements, and rights of any kind or character to receive utilities services for the Property; and (v) all other transferable rights, privileges and appurtenances belonging or in any way pertaining to the Property.

4.02. Simultaneous Closing. It shall be a condition to Buyer's obligation to close hereunder that the closing of the transaction contemplated by this Agreement occur simultaneously with the closing of the property commonly known as 425 San Pedro by and between Marquee Investments LLC and the Buyer, upon terms acceptable to Buyer in Buyer's sole discretion. The promises by Buyer and Seller stated in this contract are the consideration for the formation of this contract.

5. Earnest Money.

5.01 Buyer shall deposit the Earnest Money with the Title Company no later than the Earnest Money Deadline. Title Company shall execute and deliver to both Buyer and Seller an earnest money receipt substantially in the form attached at the end of this Agreement.

5.02 Buyer may direct Title Company to invest the Earnest Money in an interest-bearing account in a federally insured financial institution by giving notice to Title Company and satisfying Title Company's requirements for investing the Earnest Money in an interest-bearing account. Any interest earned on the Earnest Money will be paid to the party that becomes entitled to the Earnest Money. Accrued interest is a credit against the Purchase Price at closing.

6. Title and Survey.

6.01. *Review of Title.* The following statutory notice is provided to Buyer on behalf of the real estate licensees, if any, involved in this transaction: Buyer is advised that it should either have the abstract covering the Property examined by an attorney of Buyer's own selection or be furnished with or obtain a policy of title insurance.

6.02. *Title Commitment; Title Policy.* "Title Commitment" means a Commitment for Issuance of an Owner Policy of Title Insurance by Title Company, as agent for Underwriter, stating the condition of title to the Land. The "effective date" stated in the Title Commitment must be after the Effective Date of this contract.

The Title Commitment must show Seller as the record title owner of the Land. "Title Policy" means an standard form of Texas Owner's Policy of Title Insurance issued by Title Company, as agent for Underwriter, in the amount of the Purchase Price and in conformity with the last Title Commitment delivered to and approved by Buyer, insuring Buyer's fee simple title to the Land as good and indefeasible subject to the terms of the Title Policy and the exceptions specified in it.

6.03. *Survey*. "Survey" means an on-the-ground, staked plat of survey and metes-and-bounds description of the Land, prepared by Surveyor or another surveyor satisfactory to Title Company, dated after the Effective Date, and certified to comply with the current standards and specifications as published by the Texas Society of Professional Surveyors for the Survey Category. Seller will deliver to Buyer and the Title Company a true and correct copy of Seller's most recent survey of the Property along with an Affidavit required by the Title Company for approval of the existing survey. If the existing survey is not acceptable to the Title Company, Seller, at Seller's expense, will obtain a new or updated survey acceptable to the Title Company and deliver the acceptable survey to Buyer and the Title Company within 20 days after Seller receives notice that the existing survey is not acceptable to the Title Company. Buyer will reimburse Seller one-half (1/2) of the cost of the new or updated survey at closing, if closing occurs.

6.04. *Delivery of Title Commitment and Survey*. Seller, at Seller's expense, must deliver the Title Commitment, the Survey and legible copies of instruments referenced in the Title Commitment and Survey by the deadlines stated in section 1. If the Property is out of a larger tract, the Commitment is not considered received by the Buyer for the purposes of this contract until the description of the Property has been provided by the Survey and the Commitment has been issued pertaining only to the Property as so described.

6.05. *Buyer's Objections*. Buyer has until the Buyer's Objection Deadline to review the Survey, Title Commitment, and legible copies of the title instruments referenced in them and notify Seller of Buyer's objections to any of them ("Buyer's Objections"). Buyer will be deemed to have approved all matters reflected by the Survey and Title Commitment to which Buyer has made no Buyer's Objection by the Buyer's Objection Deadline. The matters that Buyer either approves or is deemed to have approved are "Permitted Exceptions."

6.06. If Buyer notifies Seller of any Buyer's Objections, Seller has until Seller's Cure Notice Deadline to notify Buyer whether Seller agrees to cure the Buyer's Objections before closing ("Cure Notice"). If Seller does not timely give its Cure Notice or timely gives its Cure Notice but does not agree to cure all the Buyer's

Objections before closing, Buyer may, on or before Buyer's Termination Deadline, notify Seller that this contract is terminated. In absence of such timely notice, Buyer will proceed to close, subject to Seller's obligations to resolve the items listed in Schedule C of the Title Commitment, remove the liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date, and cure only the Buyer's Objections that Seller has agreed to cure in the Cure Notice.

6.07. *Mandatory Cure Items.* Despite any other provision of this Agreement, all liquidated liens disclosed in the Title Commitment (or any subsequent commitment); (ii) all other exceptions disclosed in the Title Commitment (or any subsequent commitment) arising on or after the Effective Date of this Agreement and are not attributable to actions by Buyer; and (iii) all Buyer Objections that Seller agrees in writing to cure at or prior to Closing (collectively, the "Mandatory Cure Items"), must be satisfied, cured, or removed by Seller, at Seller's sole cost and expense, at or before Closing.

6.08. *Cross-Collateralization.* If the Property is subject to liens securing indebtedness that is also secured by liens on land other than the Property, and if the amount of the indebtedness exceeds the Purchase Price less Seller's reasonably estimated closing costs, then the following provisions shall apply: During the Feasibility Period, Seller must obtain from the lienholder a binding written agreement ("Release Agreement") for the benefit of Seller and Buyer under which the lienholder agrees to provide a partial release of liens in conjunction with the Closing upon receipt of an amount that is equal or less than the Purchase Price less Seller's reasonably estimated closing costs. The Feasibility Period will be extended for not more than 90 days if necessary to obtain a Release Agreement, at no additional cost to Buyer. If the Release Agreement is not obtained within the 90 days, Buyer may terminate this Agreement and recover the Earnest Money and the Feasibility Period Extension Fee, if any, by giving notice to Seller at any time thereafter before receiving the Release Agreement.

6.09. *Asbestos Survey.* If any structures are located upon the property, Seller shall deliver an asbestos survey by the deadline stated in section 1. Seller will furnish an existing limited Asbestos Survey and existing Environmental Surveys to Buyer within fifteen (15) days after the Effective Date. Thereafter, if Buyer should require any other surveys, Buyer may obtain them during the Feasibility Period at Buyer's sole cost.

7. Feasibility Period.

7.01. *Entry onto the Property.* Buyer's feasibility begins upon Seller completing and providing the Buyer an updated ESA for review. At Buyer's expense,

Buyer may enter the Property before closing to inspect, conduct testing and make assessments of the Property as determined to be appropriate by Buyer, subject to the following:

- a. Buyer may not unreasonably interfere with existing operations or occupants of the Property; and
- b. if the Property is altered because of Buyer's inspections and Buyer does not purchase the Property, Buyer must return the Property to its preinspection condition promptly after terminating the contract.

7.02. *Extension.* Buyer may extend the Feasibility Period for up to two (2) sixty (60) day periods by depositing the Feasibility Period Extension Fee for each extension request with the Title Company before the End of Feasibility Period. Except as provided in section 6.08, the Feasibility Period Extension Fee is non-refundable and shall be applied to the Purchase Price at Closing.

7.03. *Buyer's Right to Terminate.* Buyer may terminate this contract for any reason by notifying Seller on or before the End of Feasibility Period or upon Buyer's compliance with section 7.02, on or before the End of Extended Feasibility Period. If Buyer elects to terminate this Agreement on or before the End of the Feasibility Period, the Earnest Money (less the Independent Consideration) shall be refunded to Buyer. If Buyer does not terminate this Agreement on or before the End of the Feasibility Period, the Earnest Money shall become non-refundable and shall be applied to the Purchase Price at Closing; provided that the Earnest Money shall be refundable after the End of the Feasibility Period under the limited exception provided for in section 6.08.

8. Representations.

The parties' representations stated in **Exhibit B** are true and correct as of the Effective Date and must be true and correct on the Closing Date.

9. Condition until Closing; Cooperation.

9.01. *Condemnation.* Seller will notify Buyer promptly after Seller receives notice that any part of the Property has been or is threatened to be condemned or otherwise taken by a governmental or quasi-governmental authority. Buyer may terminate this contract if the condemnation would materially affect Buyer's intended use of the Property by giving notice to Seller within fifteen days after receipt of Seller's notice to Buyer (or before closing if Seller's notice is received less than fifteen days before closing). If Buyer does not terminate this contract, (a) Buyer and Seller will each have the right to appear and defend their respective interests in the

Property in the condemnation proceedings, (b) any award in condemnation will be assigned to Buyer, and (c) if the taking occurs before closing, the description of the Property will be revised to delete the portion taken.

9.02. *Claims; Hearings.* Seller will notify Buyer promptly of any claim or administrative hearing that is threatened, filed, or initiated before closing that affects the Property.

9.03. *Cooperation.* Seller will cooperate with Buyer (a) before and after closing, to transfer the applications, permits, and licenses held by Seller and used in the operation of the Property and to obtain any consents necessary for Buyer to operate the Property after closing and (b) before closing, with any reasonable evaluation, inspection, audit, or study of the Property prepared by, for, or at the request of Buyer.

9.04. *Maintenance and Operation.* Until the Closing Date, Seller will (a) maintain the Property as it existed on the Effective Date, except for reasonable wear and tear and casualty damage; (b) operate the Property in the same manner as it was operated on the Effective Date; and (c) comply with all contracts and governmental regulations affecting the Property.

9.05. *Casualty Damage.* Seller will notify Buyer promptly after discovery of any casualty damage to the Property. Seller will have no obligation to repair or replace the Property if it is damaged by casualty before closing. Buyer may terminate this Agreement if the casualty damage that occurs before closing would materially affect Buyer's intended use of the Property, by giving notice to Seller within 15 days after receipt of Buyer's notice of such casualty damage from Seller. If Buyer does not terminate this Agreement, Seller will convey the Property to Buyer in its damaged condition.

10. Termination.

10.01. If Buyer terminates this contract in accordance with any of Buyer's rights to terminate, Seller will, within five days of receipt of Buyer's termination notice, authorize Title Company to deliver the Earnest Money to Buyer within three (3) business days after Buyer's termination notice to the Title Company of such termination, less the Independent Consideration. Seller retains the Independent Consideration.

10.02. If Seller terminates this contract because of Buyer's default, Buyer will, within five days of receipt of Seller's termination notice, authorize Title

Company to pay and deliver the Earnest Money, including the Independent Consideration, to Seller.

11. Allocation of Closing Costs.

11.01. Seller will pay:

- a. the basic charge for the Title Policy;
- b. one-half of the escrow fee charged by Title Company;
- c. the costs to prepare the deed;
- d. the costs to obtain, deliver, and record releases of all liens to be released at closing;
- e. the costs to insure around liens not released, if any;
- f. the costs to record all documents to cure Buyer's Objections agreed to be cured by Seller;
- g. Title Company's inspection fee to delete from the Title Policy the customary exception for parties in possession;
- h. the costs to obtain the UCC Search, and certificates or reports of ad valorem taxes and one-half (1/2) of the Survey cost.
- i. the costs to deliver copies of the instruments described in article 1; and
- j. Seller's expenses and attorney's fees;
- k. Seller's Brokers' Commissions as specified in Section 11.07.

11.02. Buyer will pay:

- a. one-half of the escrow fee charged by Title Company;
- b. the costs to obtain, deliver, and record all documents other than those to be recorded at Seller's expense;

c. the costs of work required by Buyer to have the survey reflect matters other than those required under this contract; and

d. Buyer's expenses and attorney's fees.

11.03. *Ad Valorem Taxes.* Ad valorem taxes for the Property for the calendar year of closing will be prorated between Buyer and Seller as of the Closing Date according to Section 26.11 of the Texas Tax Code. In no event is Buyer liable for any roll back taxes.

11.04. *Income and Expenses.* Income and expenses pertaining to operation of the Property will be prorated as of the Closing Date on an accrual basis and paid at closing as a credit or debit adjustment to the Purchase Price. Invoices that are received after closing for operating expenses incurred on or before the Closing Date and not adjusted at closing will be prorated between the parties as of the Closing Date, and Seller will pay its share within ten days of notice of Buyer's invoice.

11.05. *Prepaid Rent.* Buyer gets a credit a closing for all rent previously paid to Seller allocable to the period after closing.

11.06. *Postclosing Adjustments.* If errors in the prorations made at closing are identified within ninety days after closing, Seller and Buyer will make postclosing adjustments to correct the errors within fifteen days of receipt of notice of the errors.

11.07. *Brokers' Commissions.* At closing, Seller shall pay (1) Providence Commercial Real Estate Services, as Buyer's broker, a real estate brokerage fee equal to 2% of the Purchase Price; and (2) a real estate brokerage fee to Obsido Commercial, LLC, as Seller's broker, as set forth in a separate agreement between Seller and Seller's broker. Each party represents to the other that no other commissions are due in respect of this transaction. In the event of a dispute over the amount or allocation of the commissions, the Title Company may nevertheless close the transaction and deliver the deed to Buyer, holding open only the distribution of proceeds to Seller.

12. Closing.

12.01. *Closing.* This transaction will close at Title Company's offices at the Closing Date and Closing Time. At closing, the following will occur:

a. *Closing Documents.* The parties will execute and deliver the Closing Documents.

- b. *Payment of Purchase Price.* Buyer will deliver the Purchase Price and other amounts that Buyer is obligated to pay under this contract to Title Company in funds acceptable to Title Company. The Earnest Money and the Feasibility Period Extension Fee, if any, will be applied to the Purchase Price.
- c. *Disbursement of Funds; Recording; Copies.* Title Company will be instructed to disburse the Purchase Price and other funds in accordance with this contract, record the deed and the other Closing Documents directed to be recorded, and distribute documents and copies in accordance with the parties' written instructions.
- d. *Delivery of Originals.* Seller will deliver to Buyer the originals of Seller's Records.
- e. *Possession.* Seller will deliver possession of the Property to Buyer, subject to the Permitted Exceptions existing at closing and any lien and security interest in favor of Seller, if the sale is seller-financed.
- f. Buyer need not close if Seller cannot or does not deliver indefeasible title at closing. If Buyer does not close for want of indefeasible title, the earnest money is returned to Buyer.
- g. Buyer will receive at closing the basic title policy plus endorsements removing the survey exception and the exception for rights of parties in possession.

13. Default and Remedies.

13.01. *Seller's Default.* If Seller fails to perform any of its obligations under this contract or if any of Seller's representations is not true and correct as of the Effective Date or on the Closing Date ("Seller's Default"), Buyer has the following remedies:

a. Termination. Buyer may terminate this contract by giving notice to Seller on or before the Closing Date and Closing Time and have the Earnest Money returned to Buyer. Seller retains the Independent Consideration.

. Specific Performance. Buyer may enforce specific performance of Seller's obligations under this contract. If title to the Property is awarded to

Buyer, the conveyance will be subject to the matters stated in the Title Commitment.

b. Damages. Buyer may sue for its damages caused by Seller's default.

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

13.03. *Liquidated Damages.* The parties agree that just compensation for the harm that would be caused by Buyer's default cannot be accurately estimated or would be very difficult to accurately estimate and that the Earnest Money is a reasonable forecast of just compensation to Seller for the harm that would be caused by Buyer's default.

14. Miscellaneous Provisions.

14.01. *Applicable Law.* This Agreement is entered into in San Antonio, Bexar County, state of Texas. **The Construction Of This Agreement And The Rights, Remedies, And Obligations Arising Thereunder Shall Be Governed By The Laws Of The State Of Texas.** Provided, however, the Texas conflicts of law rules shall not be used to cause the application of the laws of a jurisdiction other than Texas. The obligations performable hereunder by both parties are performable in San Antonio, Bexar County, Texas.

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

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

14.04. *Integration.* **This Written Agreement Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties.**

14.05. *Modification.* This Agreement may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. Subject to the foregoing, any of the terms of this Agreement

may be modified at any time by the party entitled to the benefit thereof, but no such modification, express or implied, affects the right of the modifying party to require observance of either (i) the same term or condition as it applies on a subsequent or previous occasion or (ii) any other term hereof.

14.06 *Third Party Beneficiaries.* This Agreement is intended for the benefit of the parties hereto and their successors and permitted assigns only. There are no third party beneficiaries hereof.

14.07. *Notices.* Any notice provided for or permitted hereunder must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth in the preamble hereof. If the addressee is a corporation, notices must be addressed to the attention of its President. The giving of notice is complete three days after its deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to conform to the requirement that mailings be done by certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice hereunder.

14.08. *Pronouns.* In construing this Agreement, plural constructions include the singular, and singular constructions include the plural. No significance attaches to whether a pronoun is masculine, feminine, or neuter. The words "herein," "hereof," and other, similar compounds of the word "here" refer to this entire Agreement, not to any particular provision of it.

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

14.10. *Mediation.* As a condition precedent to bringing any action to enforce or interpret this Agreement or any aspect thereof, including an action for declaratory relief, the disputants must first submit in good faith to mediation by a mediator qualified under § 154.052, Texas Civil Practice and Remedies Code. Suit may be filed only after the sooner to occur of (i) a full day of mediation by a mediator qualified as provided above or (ii) certification by the mediator that further attempts to mediate would be fruitless. Laches, waiver, and estoppel based upon any reasonable delay relating to attempts to mediate as herein provided may not be asserted by either party hereto.

14.11. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this Agreement, it is not necessary to produce or

account for more counterparts than are necessary to show execution by or on behalf of all parties.

14.12. *Further Assurances.* The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. No such additional document(s), however, may alter the rights or obligations of the parties as contained in this Agreement

14.13. *Assignment.* Buyer may assign this contract and Buyer's rights under it to a third party including, but not limited to, the Office of Urban Redevelopment San Antonio ("OUR SA"), also known as the Urban Renewal Agency of San Antonio without payment of additional consideration. This contract binds, benefits, and may be enforced by the parties and their respective heirs, successors, and assigns.

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

14.15. *Ambiguities Not to Be Construed against Party Who Drafted Contract.* The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this contract.

14.16. *No Special Relationship.* The parties' relationship is an ordinary commercial relationship, and they do not intend to create the relationship of principal and agent, partnership, joint venture, or any other special relationship.

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

14.18. *Administrative Agreements.* The Director of Neighborhood and Housing Services Department ("NHSD") and the Assistant Director of NHSD may, without further City Council action, agree to, sign, and deliver on behalf of the City an assignment of this Agreement to OUR SA in furtherance of the City's Urban Renewal Plan, and such other consents, certificates, memoranda, estoppels, and modifications of nonmaterial rights and obligations arising under this Agreement and may declare defaults and pursue remedies for such defaults.

14.19 *1031 Transaction.* Buyer is aware that Seller intends to perform an IRC Section 1031 tax-deferred exchange. Seller requests Buyer's cooperation in such an exchange and agrees to hold buyer harmless from any and all claims, costs, liabilities,

or delays in time resulting from such an exchange. Buyer agrees to an assignment of this contract to a qualified intermediary by the Seller.

15. Prohibited Interest in Contracts.

15.01. The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a “prohibited financial interest” in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

15.02. Seller warrants and certifies as follows:

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

15.03. Seller acknowledges that City’s reliance on the above warranties and certifications and certifications is reasonable.

16. City Council Approval.

Closing is contingent upon approval by the City Council of the City of San Antonio. If the City Council of the City of San Antonio does not give its approval to close this transaction on or before date and time for Closing, this Agreement shall terminate without further action by the parties. Should such termination occur, the Earnest Money shall be distributed to Seller.

17. Public Information.

Seller acknowledges that this instrument and all documents ancillary to it are public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public. Nothing in this agreement waives an otherwise applicable exception to disclosure.

City of San Antonio,
a Texas municipal corporation

By: RSoto

Printed Name: Verónica R. Soto

Title: Director

Date: 9.16.20

Mireles Properties LLC, a Texas
limited liability company

By: R. C. Mireles

Printed Name: R. C. Mireles

Title: MGR

Date: 9/8/2020

Approved As to Form:

Jameene Williams
City Attorney

CONSENT FOR ACCESS TO PROPERTY

NAME OF PROPERTY OWNER: Mireles Properties LLC

STREET NUMBER AND STREET NAME OF PROPERTY:

419 San Pedro Avenue (Property ID #108696), San Antonio, Bexar County, Texas 78212, NCB 769 BLK 7 LOT W IRR 143.25 FT OF 5 EXC S 2 FT OF W 71.63 FT, 3 EXC E IRR 8.62 FT, W IRR 143.82 FT OF 4 & 52 FT OF W 71.65 OF 5

I hereby consent to officers, employees, authorized representatives of the City of San Antonio, and their contractors, subcontractors and consultants "the City" the right to enter the property and continued access and use of by, through, and on the property to perform an Environmental Site Assessment for the following purposes:

- 1.The taking of samples, surface and subsurface, including but not limited to soil, sediments, water, and vapor, and other solids or liquids stored or disposed of at the property as may be determined to be necessary by the City;
- 2.The documenting of scientific and engineering observations, including, but not limited to taking notes, recordings, photographs and surveying;
- 3.The drilling and finishing of boreholes for the purposes of collecting soil and groundwater samples without limitation;
- 4.Other inquiry actions at the property as may be necessary to determine the nature, extent and potential threat to human health, property and environment of any suspected contamination.

I am the property owner or an individual having the authority or the authorization of the property owner to sign this *Consent for Access to Property*. (If representing the owner, please attach a letter confirming that you have the authorization of the property owner to this Consent for Access to Property). I give this written permission voluntarily with the full knowledge of my right to refuse and without threats or promises of any kind.

Please indicate if you are granting access by signing this document, and providing your address telephone number(s), or e-mail address so that you may be contacted.

Mireles Properties LLC:

Name (Printed): R. C. MIRELES Date: 9/8/2020

Name (Signature): R. C. M^ol^es

Address: Po Box 37054 SATON 78237

Email: MIRELES@PROPERTIES@PSBCGLOBAL.NET

Telephone Number (s): Work: 210 Other:
-744-8002

Title Company Acceptance of Escrow and Receipt for Contract

Sellers: Mireles Properties LLC
PO Box 37054
San Antonio, TX 78237-0054

Buyer: City of San Antonio or its assignee
1400 S. Flores Street
San Antonio, TX 78204
Neighborhood Improvement Bond

Property: 419 San Pedro Avenue (Property ID #108696) San Antonio, Bexar County,
Texas 78212 and being more particularly described on Exhibit A attached
hereto and incorporated herein

CMW
Title Company agrees to act as escrow agent according to the terms of this Contract.
~~Further, Title Company acknowledges receipt from Buyer of three fully executed
counterpart originals of the Contract on the same date, with one fully executed
original Contract being returned to each of Seller and Buyer.~~

ALAMO TITLE COMPANY

By: *Nannerre Williams*

Printed
Name: *Nannerre Williams*

Title: *Escrow Officer*

Date: *September 17, 2020*

Title Company Receipt for Earnest Money

Seller: Mireles Properties LLC
PO Box 37054
San Antonio, TX 78237-0054

Buyer: City of San Antonio or its assignee
1400 S. Flores Street
San Antonio, TX 78204
Neighborhood Improvement Bond

419 San Pedro Avenue (Property ID #108696) San Antonio, Bexar County,
Property: Texas 78212 and being more particularly described on Exhibit A attached
hereto and incorporated herein

Title Company acknowledges receipt from Buyer of earnest money in the amount set forth below:

Amount: _____

ALAMO TITLE COMPANY

By: _____

Printed
Name: _____

Title: _____

Date _____

Exhibit A: Property Description

419 San Pedro Avenue, San Antonio, TX 78212, Property ID #108696, NCB 769 BLK
LOT W IRR 143.25 FT OF 5 EXC S 2 FT of W 71.63, 3 EXC E IRR 143.82 FT OF 4 & 52
FT OF W 71.65 OF 5

Exhibit B: Representations

To the best of the seller's knowledge, seller represents to Buyer that the following are true and correct as of the Effective Date and will be true and correct on the Closing Date.

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

2. *Litigation.* Seller has not received written notice of any litigation pending or threatened against Seller that might affect the Property or Seller's ability to perform its obligations under this contract.

3. *Violation of Laws.* Seller has not received any written notice of violation of any law, ordinance, regulation, or requirements affecting the Property or Seller's use of the Property.

4. *Condemnation; Zoning; Land Use; Hazardous Materials.* Seller has not received any written notice of any condemnation, zoning, or land-use proceedings affecting the Property or any inquiries or notices by any governmental authority or third party with respect to the presence of hazardous materials on the Property or the migration of hazardous materials from the Property.

5. *No Other Obligation to Sell the Property or Restriction against Selling the Property.* Except for granting a security interest in the Property, Seller has not obligated itself to sell the Property to any party other than Buyer. Seller's performance of this contract will not cause a breach of any other agreement or obligation to which Seller is a party or to which it is bound.

6. *No Liens.* On the Closing Date, the Property will be free and clear of all mechanic's and materialman's liens and other liens and encumbrances of any nature except the Permitted Exceptions, and no work or materials will have been furnished to the Property that might give rise to mechanic's, materialman's, or other liens against the Property other than work or materials to which Buyer has given its consent.

7. *Prepaid Rent.* As of closing, Seller has received no prepaid rent except as reflected on the closing statement as a credit to Buyer.

8. *Wells.* Seller has no actual knowledge of any water or other wells on the Property, capped or uncapped, registered or unregistered.

9. *Underground Storage Tanks.* Seller has no actual knowledge of any underground storage tanks of any kind on the Property.

10. *Property is Vacant.* There are no households, families, or individuals residing on or occupying the Property; the Property is vacant. No household, family or individual has been or will be displaced as a result of or in furtherance of this Agreement.

11. *Transaction is Voluntary.* Seller is entering into this Agreement as a voluntary act, and free from any compulsion, condemnation or threat thereof by Buyer.

As used above, "actual knowledge" (1) means only the actual knowledge of Seller's principle, ROY MIRELES, and no other person or entity including, without limitation, Seller's members, employees, agents and consultants and (2) does not include constructive, implied, imputed or inquiry notice or knowledge.

Exhibit C: Form of Deed

Notice of Confidentiality Rights: If You Are a Natural Person, You May Remove or Strike Any or All the Following Information from Any Instrument That Transfers an Interest in Real Property Before it Is Filed for Record in the Public Records: Your Social Security Number or Your Driver's License Number.

**SPECIAL WARRANTY DEED
(AND ASSIGNMENT OF CLAIMS)**

**Authorizing Ordinance
to Purchase:**

SP No./Parcel:

Grantors: Mireles Properties LLC

**Grantor's Mailing
Address:** Mireles Properties LLC
PO Box 37054
San Antonio, TX 78237-005

Grantee: City of San Antonio
Neighborhood and Housing Services Department

**Grantee's Mailing
Address (including county):** 1400 S. Flores
San Antonio, Texas 78204
Attention: Neighborhood Improvement Bond Program

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

Property: [to be inserted after receipt of title commitment and
survey]

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, **grants, sells, and conveys the Property to Grantee**, together with all and singular the rights and appurtenances thereto in anywise belonging;

To Have and To Hold the above described Property to Grantee, and Grantee's heirs and assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereto by through or under Grantor, but not otherwise.

The Property, together with any and all improvements, structures and fixtures located thereon, is conveyed "AS IS" and "WHERE IS" and with all rights, privileges, rights of way, and easements appurtenant thereto.

When the context requires, singular nouns and pronouns include the plural and plural ones include the singular.

Assignment of Claims

In addition to the conveyance of real estate addressed above, Grantor hereby assigns to Grantee all choate and inchoate statutory and common-law claims, if any, it may have against its predecessors in title and against any other potentially responsible person for environmental contamination of the Property now known or later found to exist.

Date: _____

Grantors:

Mireles Properties LLC

By: _____

Title: _____

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

THE STATE OF TEXAS §

COUNTY OF BEXAR §

This instrument was acknowledged before me by _____.

Date: _____

Notary Public, State of Texas
My commission expires: _____

THE STATE OF TEXAS §

COUNTY OF BEXAR §

This instrument was acknowledged before me by _____.

Date: _____

Notary Public, State of Texas

My commission expires: _____

Approved as to Form:

City Attorney

After recording, please return to:

City of San Antonio
Neighborhood and Housing Services Department
1400 S. Flores
San Antonio, Texas 78204
Attention: Neighborhood Improvement Bond Program

**Exhibit D: City of San Antonio, or its Assignee Receipt of Updated
ESA Phase I and/or Phase II (if required)**

**City of San Antonio, or its Assignee Receipt of
Updated ESA Phase I and/or Phase II (if
required)**

Seller: Mireles Properties LLC
PO Box 37054
San Antonio, TX 78237-0054

City of San Antonio or its assignee
1400 S. Flores Street
Buyer: San Antonio, TX 78204
Neighborhood Improvement Bond

419 San Pedro Avenue (Property ID #108696), San Antonio, Bexar County,
Texas 78212 and being more particularly described on Exhibit A attached
Property: hereto and incorporated herein.

City of San Antonio or its assignee acknowledges receipt from Sellers of updated
ESA Phase I. and/or Phase II (if required)

City of San Antonio, or its Assignee

By: _____

Printed
Name: _____

Title: _____

Date: _____

Exhibit E: "AS IS" ADDENDUM TO IMPROVED COMMERCIAL CONTRACT

This is an Addendum to the one certain Improved Commercial Contract ("Contract") to which it is attached, wherein and herein MIRELES PROPERTIES LLC is Seller and CITY OF SAN ANTONIO, OR ITS ASSIGNEE is Buyer, regarding the following described property:

**Lot W IRR 143.25 ft of 5 EXC S 2 ft of W 71.63, 3 EXC E IRR
143.82 ft of 4 & 52 ft of W 71.65 of 5; more commonly known as
419 San Pedro Avenue, San Antonio, Texas 78212; Property ID
#108696**

Accordingly, notwithstanding anything to the contrary expressed or implied in the Contract, it is agreed as follows, to-wit:

To the maximum extent permitted by applicable law and except for any warranties of title to be contained in the deed to Buyer at Closing and expressly contained in this Contract, ("Seller's Warranties"). This Contract is being entered into and this sale is made and will be made without representation, covenant, or warranty whether express or implied by Seller of any kind or character whatsoever and any such previously made are agreed to be withdrawn, disclaimed and cancelled. As a material part of the consideration for this Contract, Buyer agrees to accept the Property on an "AS IS" and "WHERE IS" basis, with all faults, defects and deficiencies, and without any representation or warranty, all of which Seller hereby disclaims and Buyer hereby waives, except for Seller's Warranties. Except for Seller's Warranties, no warranty or representation is made by Seller as to the Property's fitness for any particular purpose, safety, suitability, merchantability, design, quality, condition, operation, or income, compliance with drawings, maps, platting requirements or surveys, absence of defects, absence of hazardous or toxic substances, absence of faults, previous owners, likelihood of flooding, or compliance with laws, rules, ordinances, and regulations including, without limitation, those relating to health, safety, toxic substances, and the environment and endangered species laws. Buyer acknowledges that Buyer has entered into the Contract with the intention of making and relying upon its own investigation of the physical, environmental, economic use, compliance and legal condition of the Property in making a decision to purchase the Property, and that Buyer is not now relying, and will not now or later rely upon any representations and warranties made by Seller or anyone acting or claiming to act, by, through or under or on Seller's behalf concerning the Property, except for Seller's Warranties. The provisions of this Addendum shall survive indefinitely the closing or any earlier termination of this Contract

Initials:

RM

and shall not be merged into the closing documents, and a provision stating the above shall, at the option of Seller, be included in the deed of conveyance.

Executed in duplicate originals of even date with the Contract.

BUYER:

CITY OF SAN ANTONIO,
a Texas municipal corporation

BY: RSoto

TITLE: Director, NHSD

DATE: 9.16.20

SELLER:

MIRELES PROPERTIES LLC, a Texas
limited liability company

BY: R.C. Mireles

TITLE: Mgn

DATE: 9/8/2020