

AN ORDINANCE

2016-06-30-0512

**AUTHORIZING THE SALE AND DISPOSITION OF CITY-OWNED
PROPERTY LOCATED AT 307 DWYER AVENUE IN CITY
COUNCIL DISTRICT 1 TO LANDBRIDGE PARTNERS FOR THE
AMOUNT OF \$800,000.00.**

* * * * *

WHEREAS, the city-owned property located at 307 Dwyer, formerly known as the Dwyer Avenue Center for Transitional Housing, includes a three-story building of approximately 48,239 square feet and is located within the Central Business District and the Houston Street Tax Increment Reinvestment Zone; and

WHEREAS, In 2010, the services provided at the Dwyer Avenue Center for Transitional Housing were relocated to Haven for Hope, and the building has since been vacant; and

WHEREAS, in June of 2014, City Council approved a Public-Private Partnership (P3) for the property which included its sale and disposition; however, subsequent due diligence of the site revealed development challenges that proved cost-prohibitive for the project as a P3; and

WHEREAS, City staff is now recommending a direct sale of the property in accordance with Texas Local Government Code Section 272.001(b)(6) to Landbridge Partners ("Landbridge") who also controls the adjacent property known as Heritage Plaza allowing for a catalytic redevelopment project for the area; and

WHEREAS, Landbridge is proposing a \$50,000,000 mixed-use development that includes both the city-owned property at 307 Dwyer and the Heritage Plaza property that will include 272 market-rate housing units; and

WHEREAS, the City is requiring that Landbridge demolish the vacant building at its own cost, is placing deed restrictions on the property to require it remain housing, and is not providing SAWS impact fee waivers for the project; **NOW THEREFORE:**

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

SECTION 1. The City Council approves the disposition and sale of 307 Dwyer Avenue in the amount of \$800,000.00 to Landbridge Partners.

SECTION 2. The City Manager or her designee is authorized to execute a Purchase and Sale Agreement and other documents deemed necessary by the City Attorney for the sale and disposition of 307 Dwyer Avenue in accordance with the terms and conditions of this Ordinance. A copy of the final Agreement shall be attached to this Ordinance upon execution as **Attachment I.**

SECTION 3. Funds generated by this ordinance will be deposited into Fund 29649000, with the Internal Order and General Ledger to be determined.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

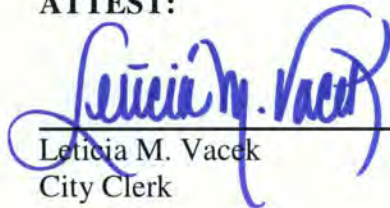
SECTION 5. This Ordinance shall become effective immediately upon its passage by eight (8) votes or more and upon ten (10) days following its passage if approved by fewer than eight (8) votes.

PASSED AND APPROVED this 30th day of June, 2016.



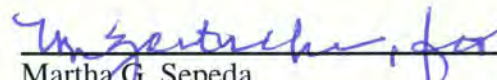
M A Y O R
Ivy R. Taylor

ATTEST:



Leticia M. Vacek
City Clerk

APPROVED AS TO FORM:



Martha G. Sepeda
Acting City Attorney

Agenda Item:	14						
Date:	06/30/2016						
Time:	09:44:35 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing the sale and disposition of City-owned property at 307 Dwyer Avenue, located in Council District 1, to Landbridge Partners for the sum of \$800,000.00. [Lori Houston, Assistant City Manager; John Jacks, Interim Director, Center City Development and Operations]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x			x	
Alan Warrick	District 2		x				
Rebecca Viagran	District 3				x		
Rey Saldaña	District 4			x			
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9	x					
Michael Gallagher	District 10		x				x

Attachment I

Real Estate Sales Contract (this “Contract”)

(307 Dwyer Ave.)

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Authorizing Ordinance: 2016-06-30-_____

Authority for Negotiated
Sale: Local Government Code § 272.001 (b)(6)

Seller: City of San Antonio

Address: P.O. Box 839966, San Antonio, Texas 78283-3966
(Attention: Director, CCDO)

Phone: 210-207-3960

Email: ramiro.gonzales@sanantonio.gov

Type of Entity: Texas municipal corporation

**Seller's
Counsel:** Orlando Ray Rodriguez

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

Phone: 210-207-8940

Email: orlando.rodriguez@sanantonio.gov

Buyer: _____

Address: _____

Phone: (____) ____ - _____

Email: _____

Type of Entity: _____

Buyer's Counsel: _____

Address: _____

Phone: (____) ____ - _____

Email: _____

Buyer's Broker: _____

Address: _____

Phone: (____) ____ - _____

Email: _____

Property: The land commonly known as The Dwyer Building, 307 Dwyer Ave., and more fully described in Exhibit A ("Land"), together with improvements to the Land ("Improvements").

Title Company: _____

Address: _____

Phone: (____) ____-____

Email: _____

Underwriter: _____

Purchase Price: \$800,000.00

Earnest Money: \$10,000.00

Escrow Amount: \$250,000.00

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

County for Performance Bexar County, Texas

1. Deadlines and Other Dates.

All deadlines in this Contract expire at 5:00 P.M. local time where the Property is located. If a deadline falls on a Saturday, Sunday, or federal or local holiday, the deadline will be extended to the next day that is not a Saturday, Sunday, or holiday. Time is of the essence.

- | | |
|---|----------------------------------|
| 1.01. Earnest Money Deadline | 10 Days after the Effective Date |
| 1.02. Delivery of Title Commitment | 20 Days after the Effective Date |
| 1.03. Delivery of Survey | 20 Days after Effective Date |
| 1.04. Delivery of legible copies of instruments referenced in the Title Commitment and Survey | 20 Days after the Effective Date |
| 1.05. Delivery of Seller's records as | 10 Days after the Effective Date |

specified in Exhibit C

1.06.	Asbestos Survey Deadline	Buyer and Seller both acknowledge receipt of documents in satisfaction of local ordinance (Chapter 6) and state statute if applicable.
1.07.	Buyer's Objection Deadline	20 Days after the receipt of the Title Commitment (and legible copies of instruments referenced in the Title Commitment, and the Survey)
1.08.	Seller's Cure Notice Deadline	10 Days after Buyer's Objection Deadline
1.09.	Buyer's Termination Deadline	10 Days after Seller's Cure Notice Deadline
1.10.	End of Inspection Period	60 Days after the Effective Date
1.11.	Closing Date	30 Days after the Inspection Period
1.12.	Closing Time	10:00 A.M.
1.13.	Demolition Completion	9 months after Closing Date
1.14.	Commencement of Construction	18 months after closing

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

2. Closing Documents.

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

Deed Without Warranty

IRS Nonforeign Person Affidavit

Evidence of Seller's authority to close this transaction

Notices, statements, and certificates as specified in Exhibit C

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

Evidence of Buyer's authority to consummate this transaction

Deceptive Trade Practices Act waiver

Purchase Price

Escrow Funds in the amount of \$250,000.00 which shall be returned to the Buyer so long as demolition is complete in accordance with Section 1.13 above.

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 D**.

3. Exhibits.

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

Exhibit A—Description of the Land

Exhibit B—Representations

Exhibit C—Notices

Exhibit D—Form of Deed

Exhibit E – Escrow Agreement for \$250,000.00 in Buyer Funds

Exhibit F – Development Conditions Letter

4. Purchase and Sale of Property.

4.01. Seller will sell and convey the Property to Buyer, and Buyer will buy and pay Seller for the Property. The promises by Buyer and Seller stated in this Contract and its exhibits are the consideration for the formation of this Contract. The Contract may be assigned by either party so as long as the other party to the Contract approves, and such assignment and approval are in writing. A party may not withhold approval unreasonably.

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

5. Earnest Money.

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

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. Escrow

6.01. *Funds.* Buyer shall provide TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00) (the “Escrow Funds”) to be placed into escrow to ensure compliance with Section 1.13 of this Contract. Should Buyer fail to comply with Section 1.13, the escrow funds shall be released to Seller and Seller shall have the right to return Buyer’s Purchase Price and terminate this Contract,

thereby, reclaiming ownership of the Property. Should Seller reclaim the Property by terminating this Contract, then Buyer shall be entitled to a return of the Purchase Price but shall have no claim to the Escrow Funds.

6.02 *Release of Funds to Buyer.* The Escrow Funds described in Section 6.01 above shall be released to Buyer upon proof of compliance with Section 1.13 of this Contract.

7. Title and Survey.

7.01. *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.**

7.02. *Title Commitment; Title Policy.* "Title Commitment" means a Commitment for Issuance of an Owner Policy of Title Insurance by Title Company, as agent for Underwriter, stating the condition of title to the Land. The "effective date" stated in the Title Commitment must be after the Effective Date of this Contract. "Title Policy" means an Owner Policy of Title Insurance issued by Title Company, as agent for Underwriter, in conformity with the last Title Commitment delivered to and approved by Buyer.

7.03. Survey.

7.03.01. "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.

7.03.02. If Seller does not object to the survey within 20 days after Buyer delivers it to Seller, the land subject to the survey automatically becomes the Land subject to this Contract, and the field notes and plat of the survey automatically becomes Exhibit A to this Contract, whether or not physically attached.

7.04. *Delivery of Title Commitment, Survey.* Seller must deliver the Title Commitment to Buyer by the deadline stated in section 1.

7.05. *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."

7.06. 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.

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

7.08. *Asbestos Survey.* Seller must deliver to Buyer an asbestos survey of the Property not later than Asbestos Survey Deadline, in accordance with the provisions of § 6-293 of the City Code of the City of San Antonio, Texas.

8. Inspection Period.

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

- a. Buyer must deliver evidence to Seller that Buyer has insurance for its proposed inspection activities, in amounts and with coverages that are substantially the same as those maintained by Seller or in such lesser amounts or with such lesser coverages as are reasonably satisfactory to Seller;

- b. Buyer may not unreasonably interfere with existing operations or occupants of the Property;
- c. Buyer must notify Seller in advance of Buyer's plans to conduct tests so that Seller may be present during the tests;
- d. If the Property is altered because of Buyer's inspections, Buyer must return the Property substantially to its preinspection condition promptly after the alteration occurs;
- e. Upon termination of this Contract by Buyer and only upon written request from Seller, the Buyer must deliver to Seller copies of all inspection reports in connection with the physical property that Buyer prepares or receives from third-party consultants or contractors within one week of their preparation or receipt; and
- f. Buyer must abide by any other reasonable entry rules imposed by Seller.

8.02. *Buyer's Right to Terminate.* Buyer may terminate this Contract for any reason or no reason at all by notifying Seller before the end of the Inspection Period.

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

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

9. 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. This Section 8 shall survive the Closing or early termination of this Contract.

10. Condition until Closing; No Recording of Contract.

10.01. *Maintenance and Operation.* Until closing, 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. Buyer and Seller acknowledge the current lease ("Lease") of the Property, per City of San Antonio Ordinance 61560 (10/3/85), and Buyer agrees to continue to abide by the terms of that lease.

10.02. *Casualty Damage.* Seller will notify Buyer in writing 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. In such case, Buyer may terminate this Contract by giving notice to Seller within 15 days after receipt of Seller's notice of the casualty (or before closing if Seller's notice of the casualty is received less than fifteen days before closing). If Buyer does not terminate this Contract, Seller will convey the Property to Buyer in its damaged condition.

10.03. *Condemnation.* Seller will notify Buyer in writing 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. In such case, Buyer may terminate this Contract by giving notice to Seller within 15 days after receipt of Seller's notice to Buyer (or before closing if Seller's notice is received less than fifteen days before closing). If Buyer does not terminate this Contract, (a) Buyer and Seller will each have the right to appear and defend their respective interests in the Property in the condemnation proceedings, (b) any award in condemnation will be assigned to Buyer, and (c) if the taking occurs before closing, the description of the Property will be revised to delete the portion taken.

10.04. *No Recording.* Buyer may not file this Contract or any memorandum or notice of this Contract in the real property records of any county. If, however, Buyer records this Contract or a memorandum or notice, Seller may terminate this Contract and record a notice of termination.

11. Termination.

11.01. *Disposition of Earnest Money after Termination.*

- a *To Buyer.* If Buyer terminates this Contract in accordance with any of Buyer's rights to terminate, Seller will, within five days of receipt of

Buyer's termination notice, authorize Title Company to deliver the Earnest Money to Buyer.

- b. *To Seller.* If Seller terminates this Contract in accordance with any of Seller's rights to terminate, including Buyer's failure to comply with the Deadlines and Other Dates described in this Contract or terms and conditions outlined in the Exhibit F, Buyer will, within five days of receipt of Seller's termination notice, authorize Title Company to pay and deliver the Earnest Money to Seller. Should Seller terminate in accordance with Section 6.01 of this Contract, then the terms and conditions of the Escrow Agreement (Exhibit E) shall determine the payment of Escrow Funds to Seller.

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

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 will be applied to the Purchase Price.
- c. *Disbursement of Funds; Recording; Copies.* Title Company will be instructed to disburse the Purchase Price and other funds in accordance with this Contract, record the deed and the other Closing Documents directed to be recorded, and distribute documents and copies in accordance with the parties' written instructions.
- d. *Possession.* Seller will deliver possession of the Property to Buyer, subject only to the Permitted Exceptions existing at closing.

- e. Buyer need not close if Seller cannot or does not deliver indefeasible title at closing subject only to the Permitted Exceptions. If Buyer does not close for want of indefeasible title, the earnest money is returned to Buyer.

12.02. *Transaction Costs.*

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

- c. *Ad Valorem Taxes.* Property owned by Seller is exempt under Texas Property Tax Code § 11.11. At closing property taxes will be prorated according to Texas Tax Code § 26.10. Seller assumes no responsibility for ad valorem taxes for any period, rollback or otherwise, not otherwise imposed on it by law.
- d. *Income and Expenses.* Income and expenses pertaining to operation of the Property will be prorated as of the Closing Date on an accrual basis and paid at closing as a credit or debit adjustment to the Purchase Price. Invoices that are received after closing for operating expenses incurred on or before the Closing Date and not adjusted at closing will be prorated between the parties as of the Closing Date, and Seller will pay its share within ten days of notice of Buyer's invoice. This Section 11.02 (d) shall survive the Closing or termination of this Contract.
- e. *Postclosing Adjustments.* If errors in the prorations made at closing are identified within ninety days after closing, Seller and Buyer will make postclosing adjustments to correct the errors within fifteen days of receipt of notice of the errors. This Section 11.02 (e) shall survive the Closing or termination of this Contract.

13. Default and Remedies.

13.01. *Seller's Default.* If Seller fails to perform any of its obligations under this Contract and such failure continues for 5 days after Buyer provides notice of same to Seller or if any of Seller's representations are not true and correct as of the Effective Date or on the Closing Date ("Seller's Default"), Buyer may elect either of the following as its sole and exclusive remedy:

- a. *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. *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 paid to Buyer.

13.02. *Buyer's Default.* If Buyer fails to perform any of its obligations under this Contract and/or its exhibits and such failure continues for 5 days after Seller provides notice of same to Buyer ("Buyer's Default"), Seller may elect the following as its remedy:

- a. *Termination.* Seller may terminate this Contract by giving notice to Buyer on or before the Closing Date and Closing Time and have the Earnest Money paid to Seller. If Buyer's Default occurs after the Closing Date, then Seller shall be entitled to the Escrow Funds in accordance with the terms and conditions of the Escrow Agreement (Exhibit E) and may determine, in its sole discretion, to refund the Purchase Price to Buyer and reclaim the Property.

14. Prohibited Interests in Contracts.

14.01. 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.

14.02. Buyer warrants and certifies as follows:

- (i) Buyer and its officers, employees and agents are neither officers nor employees of the City.

(ii) Buyer has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

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

15. Dispute Resolution.

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

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

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

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

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

15.06. Mediator fees must be borne equally.

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

16. Miscellaneous Provisions.

16.01. *Applicable Law.* This Contract is entered into in San Antonio, Bexar County, state of Texas. **THE CONSTRUCTION OF THIS CONTRACT AND THE RIGHTS, REMEDIES, AND OBLIGATIONS ARISING THEREUNDER ARE GOVERNED BY THE LAWS OF THE STATE OF TEXAS.** But the Texas conflicts of law rules must not be used to apply the laws of a jurisdiction other than Texas. The obligations performable hereunder by both parties are performable in San Antonio, Bexar County, Texas.

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

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

16.04. *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.**

16.05. *Modification.*

16.05.01. This Contract 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 Contract 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.

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

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

16.07. *Notices.* Any notice provided for or permitted hereunder must be in writing and delivered by hand, transmitted by facsimile transmission, sent prepaid for next-day delivery by Federal Express (or a comparable overnight delivery service) or 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. Notice shall be deemed given or made (as the case may be) when actually delivered to or refused by the intended recipient, or on the same day if transmitted by facsimile transmission prior to 5:00 PM local time of the recipient. Failure to use 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.

16.08. *Pronouns.* In construing this Contract, 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 Contract, not to any particular provision of it.

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

16.10. *Counterparts.* This Contract may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this Contract, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

16.11. *Further Assurances.* The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. No such additional document(s), however, shall alter the rights or obligations of the parties as contained in this Contract. This Section 15.11 shall survive the Closing.

16.12. *Assignment.* With Seller's consent, which is not to be unreasonably withheld, Buyer may assign this Contract and Buyer's rights under it. Any other assignment is void.

16.13. *Survival.* The obligations of this Contract that cannot be performed before termination of this Contract or before closing survive termination of this

Contract or closing, and the legal doctrine of merger does not apply to these matters. If there is any conflict between the Closing Documents and this Contract, the Closing Documents control.

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

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

16.16. *Confidentiality.* The parties will keep confidential this Contract, this transaction, and all information learned in the course of this transaction, except to the extent disclosure is required by law or court order or to enable third parties (including, without limitation, lawyers, accountants, consultants, lenders and their successors and/or assigns) to advise or assist Buyer to investigate the Property or either party to close this transaction.

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

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

16.19. *Replatting and Historic Designation.* Buyer acknowledges that if the Property has been subdivided without replatting, and the law requires replatting, Buyer assumes that obligation. Buyer also acknowledges that if the property is zoned such that it is a historic landmark, within a historic district, within a River Improvement Overlay District, within a Downtown district, or any other designation as applicable under City of San Antonio codes, additional review from boards, commissions, or offices such as the Historic and Design Review Commission or Office of Historic Preservation may be required for improvements to the Property.

16.20. *Administrative Agreements.* The Director of the Center City Development and Operations ("CCDO") and the Assistant Director may, without further council action, agree to, sign, and deliver on behalf of the City all consents,

certificates, memoranda, estoppels, and modifications of nonmaterial rights and obligations arising under this Contract and may declare defaults and pursue remedies for such defaults.

16.21 *City Process.* Nothing in this Contract obligates the City to take any particular action(s) or make any particular decision(s) regarding sale of the Property, or regarding any issues raised by the City's consideration of a possible sale of the Property, except as stated above, whether such action(s) or decision(s) would customarily be made by the City Council, the Planning Commission or any department of the City. Nor shall this Contract be deemed to constitute any prejudgment or predetermination of any matters required or permitted to be considered as part of the City's determination whether to sell the Property, or whether to take any related discretionary action(s), including waiver of any permit requirements, costs or abbreviation of any city procedures. Seller will cooperate with Buyer to the extent allowed by law and as directed by its governing body. Buyer understands that there is no agreement or guarantee related to the outcome or approval of any application that Buyer may submit for the Property.

17. Public Information.

Buyer acknowledges that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public. Nothing in this Contract waives an otherwise applicable exception to disclosure.

18. Brokers' Commission.

Each party represents to the other that neither party dealt with any real estate broker in connection with this transaction and that no commissions are due in respect of this transaction. In case of a dispute over the amount or allocation of any commission, the Title Company may nevertheless close the transaction and deliver the deed to Buyer, holding open only the distribution of proceeds to Seller. Buyer shall hold Seller harmless from and against any claims, suits, demands or liabilities of any kind or nature whatsoever arising on account of the claim of any other person, firm or corporation to a real estate brokerage commission or a finder's fee as a result of having dealt with Buyer, or as a result of having introduced Buyer to Seller or to the Property. Seller warrants and represents to Buyer that Seller has not dealt with any real estate broker in connection with this transaction, nor has Seller been introduced to Buyer by any real estate broker. The provisions of this Section 17 shall survive the Closing and any termination of this Contract.

Seller:

City of San Antonio, a Texas
municipal corporation

By: _____

Printed
Name: _____

Title: _____

Date: _____

Approved as to Form:

City Attorney

Buyer:

Landbridge Partners

A _____

By: _____

Printed Name: _____

Title: _____

Date: _____

Title Company Acknowledgment and Receipt

Seller: City of San Antonio

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

Buyer: Landbridge Partners

Address: _____

Property:

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.

Title Company:

By: _____

Printed

Name: _____

Title: _____

Date: _____

Title Company Receipt for Earnest Money

Seller: City of San Antonio

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

Buyer:

Address:

Property:

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

Amount: _____

Title Company

By: _____

Printed

Name: _____

Title: _____

Date: _____

Exhibit A: Property Description

Exhibit B: Representations

Representations; Environmental Matters

A. Seller's Representations to Buyer

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

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

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

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

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

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

6. *No Other Obligation to Sell the Property or Restriction against Selling the Property.* Except for granting a security interest in the Property, Seller has not obligated itself to sell the Property to any party other than Buyer. Seller's

performance of this Contract will not cause a breach of any other agreement or obligation to which Seller is a party or to which it is bound.

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

8. *Personal Property.* The Property contains no personal property of Seller.

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

10. *No Warranty.* Seller has made no warranty in connection with this Contract.

The provisions of this Exhibit B, subsection (A), shall survive the Closing and any termination of this Contract.

B. "As Is, Where Is"

This Contract Is An Arms-Length Agreement Between The Parties. The Purchase Price Was Bargained On The Basis Of An "As Is, Where Is" Transaction And Reflects The Agreement Of The Parties That There Are No Representations, Disclosures, Or Express Or Implied Warranties, Except For The Warranty Of Title Stated In The Closing Documents And Seller's Representations To Buyer Set Forth In Section A Of This Exhibit B.

The Property Will Be Conveyed To Buyer In An "As Is, Where Is" Condition, With All Faults. All Warranties Are Disclaimed.

The provisions of this section B regarding the Property will be included in the deed with appropriate modification of terms as the context requires.

C. Environmental Matters

After Closing, As Between Buyer And Seller, The Risk Of Liability Or Expense For Environmental Problems, Even If Arising From Events Before Closing, Will Be The Sole Responsibility Of Buyer, Regardless Of Whether The Environmental Problems Were Known Or Unknown At Closing, unless such environmental problems were caused by Seller or on behalf of Seller during Seller's ownership, or are a direct result of Seller's gross negligence or willful misconduct (or the gross negligence or willful misconduct of other parties during actions taken on behalf of Seller). Once Closing Has Occurred, Buyer Indemnifies, Holds Harmless, And Releases Seller From Liability For Any Latent Defects And From Any Liability For Environmental Problems Affecting The Property, Including Liability Under The Comprehensive Environmental Response, Compensation, And Liability Act (CERCLA), The Resource Conservation And Recovery Act (RCRA), The Texas Solid Waste Disposal Act, Or The Texas Water Code, provided however that Buyer shall not be required to indemnify Seller if such environmental problems were caused by Seller or on behalf of Seller during Seller's ownership, or are a direct result of Seller's gross negligence or willful misconduct (or the gross negligence or willful misconduct of other parties during actions taken on behalf of Seller). Buyer Indemnifies, Holds Harmless, And Releases Seller From Any Liability For Environmental Problems Affecting The Property Arising As The Result Of Seller's Own Negligence Or The Negligence Of Seller's Representatives, unless such environmental problems were caused by Seller or on behalf of Seller during Seller's ownership, or are a direct result of Seller's gross negligence or willful misconduct (or the gross negligence or willful misconduct of other parties during actions taken on behalf of Seller). Buyer Indemnifies, Holds Harmless, And Releases Seller From Any Liability For Environmental Problems Affecting The Property Arising As The Result Of Theories Of Products Liability And Strict Liability, Or Under New Laws Or Changes To Existing Laws Enacted After The Effective Date That Would Otherwise Impose On Sellers In This Type Of Transaction New Liabilities For Environmental Problems Affecting The Property, Buyer shall not be required to indemnify Seller if such environmental problems were caused by Seller or on behalf of Seller during Seller's ownership, or are a direct result of Seller's gross negligence or willful misconduct (or the gross negligence or willful misconduct of other parties during actions taken on behalf of Seller).

The provisions of this section C regarding the Property will be included in the deed with appropriate modification of terms as the context requires.

D. Buyer's Representations to Seller

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

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

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

Exhibit C: Notices

Notices, Statements, and Certificates

The following notices, statements, and certificates are attached for delivery to Buyer, and Buyer acknowledges receipt of the notices, statements, and certificates by executing this Contract:

Notice concerning asbestos

Exhibit D: Form of Deed

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

State of Texas }
 }
County of Bexar }

Deed Without Warranty

Authorizing Ordinance:

Statutory Authority: Local Government Code § 272.001(b)(6)

SP No./Parcel: _____

Grantor: City of San Antonio

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

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

Grantee: Landbridge Partners

Grantee's Mailing Address: _____

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

Property: All of the following real property situated within the corporate limits of the City of San Antonio, Bexar County, Texas, being described as follows: 307 Dwyer Ave., _____ acre (_____ sq. ft.) parcel out of Lots __, __ and __, Block __, NCB ____, more particularly described by metes and bounds and shown by survey on **Exhibit "A"** attached hereto and

incorporated herein verbatim for all purposes.

Grantor, for the Consideration, Grants, Bargains, and Conveys to Grantee, all of Grantor's right, title, interest, and estate, both at law and in equity, as of the date hereof, in and to the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, To Have and To Hold unto Grantee, Grantee's successors and assigns forever, **Without Any Express Or Implied Warranty Whatsoever, Including But Not Limited to Warranties of Title, Condition, or Character.**

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

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

A. Reservations: Grantor specifically reserves for itself a varying width electric and anchor easement consisting of approximately .075 of an acre more particularly described by metes and bounds and shown by survey on **Exhibit "B"** attached hereto and incorporated herein verbatim for all

B. Easements: All recorded and unrecorded easements, whether or not open and obvious.

C. Restrictions: The Property's use shall be restricted to multi-family housing. All covenants and restrictions affecting the Property, including any that can be shown to have been in place when Grantor received the property per the the Deed of Exchange recorded in Volume 3311, Page 465 of the Plat and Deed Records of Bexar County, Texas and survive the conveyance to Grantee.

D. Exceptions: All instruments affecting the Property, whether or not recorded.

E. Conditions: All conditions affecting the Property.

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

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

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

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

Grantor:

City of San Antonio, a Texas municipal corporation

By:_____

Printed
Name:_____

Title:_____

Date:_____

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

Approved As To Form:

By:_____

City Attorney

The State of Texas }

County of Bexar }

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

Date:_____

Notary Public, State of Texas

My Commission Expires:_____

After Recording, Return To:

Deed Exhibit A

Deed Exhibit B

EXHIBIT E: FORM OF ESCROW AGREEMENT

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this "Agreement") is made effective as on _____, 2016, amongst LANDBRIDGE PARTNERS, a _____ ("Escrower"), the City of San Antonio, a Texas municipal corporation ("City"), and _____, a _____ company ("Escrow Agent"), under the following circumstances:

- A. Escrower has committed through an executed Real Estate Sales Contract to demolish all structures on 307 Dwyer Ave., San Antonio, TX 78205 (the "Property") within nine (9) months of closing on the Property. To fully and unconditionally secure City's remedies under the Real Estate Sales Contract, including, without limitation, City's right to TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00), Escrower is hereby depositing TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00) ("Escrowed Funds") with Escrow Agent on behalf of City.
- B. The Escrowed Funds shall be held and administered by Escrow Agent pursuant to the terms hereof.
- C. City and Escrower desire to provide instructions to Escrow Agent regarding the release to City of the Escrowed Funds Deposit, or the return of the Escrow Funds to Escrower, as the case may be.

NOW THEREFORE, in consideration of the mutual agreements of the parties, the parties agree as follows:

1. On or before 4 p.m. CST on _____, 2016, Escrower shall deposit into escrow the Escrowed Funds.
2. Escrow Agent shall hold, deal with and dispose of the Escrowed Funds in strict accordance with the following terms and conditions:
 - (a) Upon written notice (the "Release Letter") by City to Escrower and Escrow Agent that demolition of all structures on 307 Dwyer Ave. has not been completed within nine (9) months of closing on the Property, Escrow Agent shall, within three (3) business days after receipt of the Release Letter, release and disburse the Escrowed Funds to City in the manner set forth in the

Release Letter, without the need for confirmation by Escrower and without the right by Escrower to object to the release of the Escrowed Funds to City.

(b) Upon written proof (e.g., letter) being provided to Escrow Agent by either City or Escrower (together with written notice of such notification to all parties to this Agreement) (collectively, the "Refund Letter") Escrow Agent shall, within three (3) business days upon receipt of the Refund Letter, return and disburse the Escrowed Funds to Escrower in the manner set forth in the Refund Letter, so long, however, that written confirmation by City of its agreement to the return of the Escrowed Funds to Escrower has been received by Escrow Agent (which written communication may be in the form of an email from City's legal counsel).

(c) Escrow Agent shall invest the Escrow Deposit in an interest-bearing savings or money market account, as Escrower may direct. Any interest earned on the Escrow Deposit, after deduction of customary investment charges, shall be paid to the party entitled to the release or return of the Escrowed Funds.

(d) If the Escrowed Funds have not been fully disbursed in accordance with this Agreement within ten (10) months of the date hereof, or such other date as the Escrower and City mutually agree in writing, the Escrower and City shall provide the Escrow Agent with written instructions executed by both City and Escrower as to the disposition of the Escrowed Funds.

3. Escrower shall pay any and all fees charged by the Escrow Agent in administering the Escrowed Funds.

4. All notices or other communications hereunder shall be in writing and shall be personally delivered or sent by overnight courier (such as Federal Express), by facsimile transmission or by first class United States Mail, postage prepaid, registered or certified (return receipt requested) to the respective addresses for the parties. A notice is given on the date it is personally delivered, sent by overnight courier or facsimile transmission, or deposited with the United States Mail for delivery as aforesaid. A notice is received on the date it is personally delivered, the day after sent if

sent by overnight courier or facsimile transmission or, if sent by mail as aforesaid, on the date noted on the return receipt.

Escrower: _____

City: Center City Development & Operations Department
City of San Antonio
100 W. Houston
Frost Bank Building
Floor 19
San Antonio, Texas 78205
Attn: Director

Escrow Agent: _____

Telephone: _____
Facsimile: _____
Email: _____

5. This Agreement is being entered into in connection with the Real Estate Sales Contract and shall not (nor be deemed to) amend, modify or supersede the Real Estate Sales Contract or act as a waiver of any rights, obligations or remedies set forth therein, including, without limitation, City's right to terminate the Real Estate Sales Contract.

6. Escrow Agent is to be considered as a depository only, shall not be deemed to be a party to any document other than this Agreement, and shall not be responsible or liable in any manner whatsoever for the sufficiency, manner of execution, or validity of any written instructions, certificates or any other documents received by it, nor as to the identity, authority or rights of any persons executing the same. Escrow Agent shall be entitled to rely at all times on written instructions executed by both Escrower and City and as required hereunder, without any necessity of verifying the authority therefor.

7. Escrow Agent shall not at any time be held liable for actions taken or omitted to be taken in good faith and without gross negligence. Escrower and City agree to save and hold Escrow Agent harmless and indemnify Escrow Agent from any loss and from any claims or demands arising out of its actions hereunder other than any claims or demands arising from Escrow Agent's gross negligence or willful misconduct.

8. It is further understood by the Escrower and City that if, as a result of any disagreement between them or adverse demands and claims being made by any of them upon Escrow Agent, or if Escrow Agent otherwise shall become involved in litigation with respect to this Agreement, Escrow Agent may deposit the Escrow Deposit with a court located in Bexar County, Texas and/or in accordance with the order of a court of competent jurisdiction and in any such event, Escrower and City agree that they, jointly and severally, are and shall be liable to Escrow Agent and shall reimburse Escrow Agent on demand for all costs, expenses and reasonable counsel fees it shall incur or be compelled to pay by reason of any such litigation. Escrower and City agree between themselves that Escrower and City shall each be responsible to advance one-half of all amounts due Escrow Agent pursuant to this Section, provided that any such advance by Escrower and City as a result of any dispute or litigation between them shall be without prejudice to its right to recover such amount as damages from the breaching party.

9. In taking or omitting to take any action whatsoever hereunder, Escrow Agent shall be protected in relying upon any notice, paper, or other document believed by it to be genuine, or upon evidence deemed by it to be sufficient, and in no event shall the Escrow Agent be liable hereunder for any act performed or omitted to be performed by it hereunder in the absence of gross negligence or bad faith. Escrow Agent may consult with counsel in connection with its duties hereunder and shall be fully protected in any act taken, suffered or permitted by it in good faith and without gross negligence in accordance with the advice of such counsel.

10. This Agreement may be executed in one or more counterparts, any one of which need not contain the signature of more than one party and all of which taken together shall constitute one and the same agreement. This Agreement shall become effective when fully executed and delivered by all parties hereto, whether in one or more counterparts.

EXECUTED as of the date first written above.

ESCROWER:

Name

By: _____
Name: _____
Its: _____

Name

CITY:

Name

ESCROW AGENT:

By: _____
Name: _____
Title: _____

EXHIBIT F: DEVELOPMENT CONDITIONS



City of San Antonio

June 29, 2016

Geoff Bley
Landbridge Development, LLC
1924 Howard
San Antonio, Texas 78212

Re: Redevelopment of 307 Dwyer and 410 S. Main

Dear Mr. Bley,

This letter is intended to set out the potential terms and conditions upon which the City of San Antonio (the "City"), pending City Council approval, would proceed in a transaction involving the sale and redevelopment of City-owned real property located at 307 Dwyer to Landbridge Development, L.L.C and/or its assigns ("Landbridge").

Since the Heritage Plaza property located at 410 S. Main is currently an integral part of Landbridge's proposed redevelopment plans, the City is requesting that the owner of 410 S. Main concur with the proposed terms and conditions as described below.

In December of 2015, Landbridge provided a written offer to the City to purchase the Dwyer property for \$800,000.

Due to the geographic limitations of the Dwyer building, Landbridge's offer would provide the City with a significant opportunity to leverage its asset to revitalize an entire City block. Therefore, the inclusion of the Heritage Plaza site becomes an integral term of the proposed transaction and the City must confirm Landbridge's ability to secure the site and concur with the following terms and conditions or other such plans as approved by the City of San Antonio:

- 1) Landbridge must incur all costs related to the demolition of buildings located on 307 Dwyer and 410 S. Main (collectively, "the site"), and they must complete the demolition within 9 months from the date the City of San Antonio issues permits for the demolition of 307 Dwyer and 410 S. Main and any and all related permits including, but not limited to, street and sidewalk closure permits. Landbridge shall apply for all permits for the demolition of 307 Dwyer and 410 S. Main within thirty (30) day of closing on 307 Dwyer and 410 S. Main. Failure to meet this requirement shall cause the property at 307 Dwyer to revert

back to the City and purchasing funds, (minus liquidated damages, transaction costs and closing costs) will be returned to Landbridge;

- 2) if construction has not yet commenced within 18 months after closing, Landbridge shall submit a landscaping plan to the City, which, if approved, will be implemented by Landbridge at the Property within thirty (30) days. The landscape plan shall include, at a minimum, installing a 4 foot landscaping buffer along street frontage consisting of plantings native to San Antonio;
- 3) the overall redevelopment must produce no less than 272 new housing units;
- 4) no waiver of SAWS impact fees will be made available for the project;
- 5) City incentives for the proposed project at 307 Dwyer and 410 S. Main will include the following:
 - a waiver of eligible City development fees (approximately \$138,670)
 - a Chapter 380 agreement with a 15-year tax reimbursement grant in the approximate amount of \$3,802,952;
 - a waiver of the demolition permit fees and street/sidewalk closure fees;
- 6) no City incentives will be made available for any project including 410 S. Main that does not also include 307 Dwyer; and,
- 7) The City will require Developer to agree to liquidated damages in the amount of \$250,000 for failing to meet the demolition requirements. These funds will be deposited into an escrow account with the title company at closing and shall be returned to Landbridge, or assigns, within 10 days upon written request and evidence of completion of demolition and site clearance.

Notwithstanding anything herein to the contrary, it is specifically understood and agreed that the obligations of the undersigned are conditioned upon the execution by City and Landbridge of a written Earnest Money Contract of sale containing substantially the terms set forth herein, or other terms that are mutually acceptable. It is anticipated that the City will consider such action in June of 2016. Following approval by City Council, the Earnest Money Contract of sale will stipulate a 30 day time period for closing.

Should Landbridge and the owner(s) of 410 S. Main concur with the above parameters, please acknowledge such concurrence by signing and returning this correspondence by Wednesday, June 29, 2016.

Thank you




John Jacks
Interim Director, Center City Development & Operations Department

I, Geoff Bley, as an authorized representative of Landbridge Development, LLC, do hereby agree to the parameters of negotiation as described within this document for the purchase and redevelopment of the real property as described herein.


Geoff Bley
Landbridge Development, LLC

Title: MANAGER

I, Solomon Abdo, as property owner or representative of the property owner of 410 S. Main, do hereby acknowledge and confirm that the referenced property of which is under my control has been represented to City as being available to Landbridge or assigns for redevelopment under the above described parameters of negotiation. By signing this document, I acknowledge that the City will not entertain any incentive discussions regarding projects that include 410 S. Main other than the one proposed by Landbridge Development, LLC or assigns and outlined in this document.


Solomon Abdo
Why Pay More, LLC

Title: MEMBER