

# Real Estate Sales Contract

## (2017 Food Bank Sale)

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#### Authorizing Ordinance:

**Authority for Negotiated Sale:** Local Government Code § 272.001(a)

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**Seller:** City of San Antonio

**Address:** P.O. Box 839966, San Antonio, Texas 78283-3966  
(Attention: Mary Fors, East Point)

**Phone:** 207-4083

**Email:** mary.fors@sanantonio.gov

**Type of Entity:** Texas municipal corporation

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**Seller's Counsel:** Audrey Zamora

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

**Phone:** 207-2094

**Email:** [audrey.zamora@sanantonio.gov](mailto:audrey.zamora@sanantonio.gov)

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**Buyer:** San Antonio Food Bank, Inc.

**Address:** 5200 Enrique M. Barrera Parkway, San Antonio, Texas  
78227-2209

**Phone:** 337-3663

**Email:** [ecooper@safoodbnk.org](mailto:ecooper@safoodbnk.org)

**Type of Entity:** Texas non-profit corporation

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**Buyer's Counsel:** Cheri Gilbert

**Address:** 16211 La Cantera Parkway, San Antonio, Texas

**Phone:** 877-3708

**Email:** [cgilbert@ssfcu.org](mailto:cgilbert@ssfcu.org)

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**Property:** Approximately 23.05 acres out of an 89.637-acre tract in the City of San Antonio, Bexar County, Texas, as described in an instrument recorded at Volume 6696, Page 1286, Real Property Records of Bexar County, Texas, and as more particularly described on **Exhibit A**.

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**Title Company:** Alamo Title Company

**Address:** 434 N. Loop 1604 W., Suite 2208, San Antonio, Texas  
78232

**Phone:** 340-0456

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**Purchase Price:** \$250,000

**Earnest Money:** \$1,000

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**Effective Date:** The later of (A) the effective date of the Authorizing Ordinance and (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         |
| 1.01. | Buyer's Objection Deadline    | 90 Days after the Effective Date         |
| 1.02. | Seller's Cure Notice Deadline | 15 Days after Buyer's Objection Deadline |
| 1.03. | Buyer's Termination Deadline  | 10 Days after Notice of Cure Deadline    |
| 1.04. | End of Inspection Period      | 120 Days after the Effective Date        |
| 1.05. | Closing Date                  | 30 days after the Inspection Period      |
| 1.06. | Closing Time                  | 10:00 A.M.                               |

1.07. The deadlines may be altered by the mutual agreement of the parties. The Director of the East Point 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 (in the form attached hereto as Exhibit C)

IRS Nonforeign Person Affidavit

Evidence of Seller's authority to close this transaction

Any other items reasonably requested by the Title Company, whether as administrative requirements for consummating the closing of this transaction, or to issue to Buyer an owner's policy of title insurance (the "**Title Policy**"), if required by Buyer, including but not limited to (i) a customary affidavit of debts, liens and parties in possession, and (ii) a settlement statement setting forth the adjustments and costs described in Paragraph 11.02(c) of this contract.

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

Evidence of Buyer's authority to consummate this transaction

Purchase Price

Any other items reasonably requested by the Title Company, whether as administrative requirements for consummating the closing of this transaction, or to issue the Title Policy, if required by Buyer, including but not limited to a settlement statement setting forth the adjustments and costs described in Paragraph 11.02(c) of this contract.

2.03. The documents listed above are collectively known as the "**Closing Documents.**"

### **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—Form of Deed

### **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 on the terms and conditions set forth in this contract. The promises by Buyer and Seller stated in this contract and are the consideration for the formation of this contract. As further consideration for Seller's execution of this

contract and the rights granted to Buyer hereunder, Buyer will pay to Seller on or before the Earnest Money Deadline the sum of \$100.00 as “**Independent Consideration**”. The Independent Consideration will be paid to Seller in all instances, is fully earned by Seller upon the execution of this contract, and will not be applied against the Purchase Price.

4.02. The Property includes the land described on Exhibit A attached hereto and incorporated herein by this reference (the “**Land**”) and 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 in immediately available funds with the Title Company no later than the Earnest Money Deadline. If Buyer does not timely deposit the Earnest Money, then Seller may elect to terminate this contract by notifying Buyer at any time to Buyer’s deposit of the Earnest Money.

5.02. Immediately available funds are those available for use immediately upon receipt and do not include funds represented by a check or similar instrument that must clear the institution on which it is drawn.

## **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, Survey.* Buyer is responsible for procuring its own title commitment and any survey it desires.

6.03. *Buyer's Objections.* Buyer has until the Buyer's Objection Deadline to review survey and title-related matters to notify Seller of Buyer's objections to such matters ("**Buyer's Objections**"). Buyer approves all such matters to which Buyer has made no Buyer's Objection by the Buyer's Objection Deadline. The matters that Buyer approves explicitly or otherwise are "**Permitted Exceptions.**"

6.04. 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 be deemed to have waived any of Buyer's Objections which Seller has not agreed to cure in the Cure Notice and all such waived matters will be Permitted Exceptions. If Seller agrees to cure any of the Buyer's Objections in the Cure Notice and all such matters are not cured prior to closing, then Buyer will have the right to terminate this contract by notifying Seller prior to closing.

## **7. Inspection Period.**

7.01. *Entry onto the Property.* Buyer is already in possession of the Property and may perform all inspections it wishes in connection with this transaction for so long as it does not violate the lease.

7.02. *Buyer's Right to Terminate.* Buyer may terminate this contract for any reason or no reason at all, in Buyer's sole and absolute discretion, by notifying Seller before the end of the Inspection Period. The Independent Consideration is compensation to Seller for Buyer's right of cancellation and is not refundable under any circumstance.

## **8. Representations.**

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

## **9. Condemnation; No Recording of Contract.**

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 15 days after receipt of Seller's notice to Buyer (and closing will be extended, if necessary, in order to allow Buyer the benefit of the full 15-day period). 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 at closing, and (c) if the taking occurs before closing, the description of the Property will be revised to delete the portion taken.

9.02. *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.

## **10. Termination.**

### *10.01. 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, Buyer will, within five days of receipt of Seller's termination notice, authorize Title Company to pay and deliver the Earnest Money to Seller.

10.02. *Duties after Termination.* If this contract is terminated, neither party will have further duties or obligations to the other under this contract, except for those obligations that survive such termination pursuant to the express terms of this contract.

## **11. Closing.**

11.01. *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.* Buyer is already in possession of the Property under a lease and, upon closing, its possession may continue subject to the terms of the deed.

11.02. *Transaction Costs*

- a. Buyer will pay:
  - i. the basic charge for the Title Policy (if Buyer elects to purchase the Title Policy);
  - ii. one-half of the escrow fee charged by Title Company;
  - iii. the costs to prepare the deed;
  - iv. Title Company's inspection fee to delete from the Title Policy the customary exception for parties in possession, if requested by Buyer;
  - v. the additional premium for the "survey/area and boundary deletion" in the Title Policy, if requested by Buyer;
  - vi. the costs to obtain the Survey and certificates or reports of ad valorem taxes; and
  - vii. 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 record all documents to cure Title Objections agreed to be cured by Seller;
  - iii. the costs to obtain, deliver, and record all documents other than those to be recorded at Buyer's expense; and
  - iv. Seller's expenses and attorney's fees.
- 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. *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. The parties' respective obligations in this paragraph will survive the closing.
- e. Buyer need not close if Seller cannot or does not deliver good and indefeasible fee simple title at closing. If Buyer does not close for want of good and indefeasible fee simple title, the Earnest Money is returned to Buyer.

## **12. Intentionally Omitted.**

## **13. Prohibited Interests in Contracts.**

13.01 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) 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.

13.02 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.

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

## **14. Dispute Resolution.**

14.01 As a condition precedent to bringing any action arising out of or relating to this agreement 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.

14.02. 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.

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

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

14.05 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.

14.06 Mediator fees must be borne equally.

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

## **15. Miscellaneous Provisions.**

15.01 *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 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.

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

15.03 *Successors.* This Agreement 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.

15.04 *Integration.* **This Written Agreement, Together With the Contemporaneous Easement Relocation 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.**

15.05 *Modification.*

15.05.01. 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.

15.05.02 The Director of East Point 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 Agreement.

15.06 *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.

15.07 *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 upon its deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to use certified mail does not defeat the effectiveness of notice actually received, but such notice is given only upon actual receipt. Address for notice may be changed by giving notice hereunder.

15.08 *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.

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

15.10 *Counterparts.* This Agreement 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 agreement, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

15.11 *Further Assurances.* The parties must execute and deliver such additional documents and instruments as may be reasonably 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 agreement

15.12. *Survival.* The obligations of this contract that are expressly stated to survive termination of this contract or closing shall so survive, 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.

15.13. *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.

15.14. *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.

15.15 *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 to advise or assist Buyer to investigate the Property or either party to close this transaction.

15.16 *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.**

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

15.18. *Administrative Agreements.* The Director of East Point 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 agreement and may declare defaults and pursue remedies for such defaults.

## **16. 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 agreement waives an otherwise applicable exception to disclosure.

**17. Brokers' Commission.**

Buyer and Seller each represent to the other that it has not done or omitted to do anything that would incur liability for a broker's commission arising out of this transaction.

**In Witness Whereof**, the parties have caused their representatives to set their hands.

**Seller:**

**Buyer:**

**City of San Antonio**, a Texas  
municipal corporation

**San Antonio Food Bank, Inc.**, a Texas  
non-profit corporation

Signature:\_\_\_\_\_

Signature:\_\_\_\_\_

Printed  
Name:\_\_\_\_\_

Printed  
Name:\_\_\_\_\_

Title:\_\_\_\_\_

Title:\_\_\_\_\_

Date:\_\_\_\_\_

Date:\_\_\_\_\_

**Attest:**

\_\_\_\_\_  
City Clerk

**Approved as to Form:**

\_\_\_\_\_  
City Attorney

## Title Company Acknowledgment and Receipt

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**Seller:** City of San Antonio

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

**Buyer:** San Antonio Food Bank, Inc.

**Address:** 5200 Enrique M. Barrera Parkway, San Antonio,  
Texas 78227-2209

**Property:** Approximately 23.05 acres out of an 89.637-acre tract in the City of San Antonio, Bexar County, Texas, as described in an instrument recorded at Volume 6696, Page 1286, Real Property Records of Bexar County, Texas

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:\_\_\_\_\_

Printed

Name:\_\_\_\_\_

Title:\_\_\_\_\_

Date:\_\_\_\_\_

## Title Company Receipt for Earnest Money

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**Seller:** City of San Antonio

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

**Buyer:** San Antonio Food Bank, Inc.

**Address:** 5200 Enrique M. Barrera Parkway, San Antonio,  
Texas 78227-2209

**Property:** Approximately 23.05 acres out of an 89.637-acre tract in the  
City of San Antonio, Bexar County, Texas, as described in an  
instrument recorded at Volume 6696, Page 1286, Real Property  
Records of Bexar County, Texas

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

### Metes and Bounds 23.30 Acre Tract

Deed & Plat Records of Bexar County, Texas for the northeast corner of this tract being described herein;

**Thence:** along a 56 foot drainage easement the following courses and distances;

South 25°30'27" East, 225.54 to a found ½ iron rod with cap (GRE 3501) at the P.C. of a curve to the right having a radius of 871.34 feet, and an arc length of 396.02 feet passing a found ½ iron rod on the south line of a Variable Width Drainage Easement as recorded in Volume 9569, Page 192 of the Official Public Records to a found ½" iron rod with cap (GRE 3501);

South 00°15'30" East, 23.67 feet, to a found ½" iron rod with cap (GRE 3501);

South 25°45'48" East, 27.07 feet, to a found mag nail; and,

South 02°02'30" West, 673.61 feet to a found ½" iron rod at the northeast corner of Lot 3, NCB 13940, as recorded in Volume 6200, Page 228 of the Deed and Plat Records of Bexar County, Texas, for the southeast corner of this tract being described herein;

**Thence:** North 89°25'55" West, 300.04 feet along the north line of said Lot 3, to a found ½" iron rod with cap (COSA), on the east line of Lot 11, NCB 13940, a 31.78 acre tract, Norwood-RCC Subdivision, as recorded in Volume 9557, Pages 3-5 of the Deed and Plat Records of Bexar County, Texas, for a southern most corner of this tract being described herein;

**Thence:** North 00°32'54" East, 495.79 feet along the east line of said Lot 11, to a set ½" iron rod with cap (GRE 3501), for an interior corner of this tract being described herein;

**Thence:** North 89°29'00" West, 1074.99 feet along north line of said Lot 11, to the **POINT OF BEGINNING** and containing 23.30 acre of land, more or less, as surveyed on the ground by GE Reaves Engineering, Inc. on February 1, 2015.

GE Reaves Engineering, Inc.  
Gaylord E. Reaves, R.P.L.S. No.3501  
Texas Survey Firm Number 101337





## **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 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.* 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. *No Other Representation.* Except as stated above, Seller makes no representation with respect to the Property.

9. *No Warranty.* Seller has made no warranty in connection with 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, Except The Warranty Of Title In The Closing Documents, Are Disclaimed.**

**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. 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. 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. 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.**

**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 non-profit 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: Form of Deed

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**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.**

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State of Texas        }  
                             }  
County of Bexar     }

## Deed Without Warranty

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**Authorizing Ordinance:**

**Statutory Authority:** Local Government Code § 272.001(a)

**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:** San Antonio Food Bank, Inc.

**Grantee's Mailing Address:** 5200 Enrique M. Barrera Parkway, San Antonio, Texas 78227-2209

**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, more particularly described by metes and bounds and shown by survey on **Exhibit "A"** attached hereto and incorporated herein verbatim for all purposes (the "**Land**"), together with all and singular the rights, benefits, privileges, easements, hereditaments and appurtenances thereof or in

anywise appertaining thereto, and together with any and all improvements, structures and fixtures located thereon and all rights, titles, and interests of Grantor, if any, in and to any alleys, strips, or gores adjoining the Land, and any easements, rights-of-way or other interests in, on, under, or to, any land, highway, street, road, right-of-way or avenue, open or proposed, in, on, under, across, in front of, abutting or adjoining the Land, and all rights, titles and interests of Grantor in and to any awards made, or to be made in lieu thereof, and in and to any unpaid awards for damage thereto by reason of a change of grade thereof (all of the foregoing properties, rights, benefits, privileges, easements, tenements, hereditaments, appurtenances. Despite the foregoing language, Grantee receives from Grantor only such rights to public streets, alleys, or other public easements as could be passed to Grantee by a private party.

Grantor, for the Consideration, has Granted, Bargained, Sold and Conveyed, and by these presents does Grant, Bargain, Sell and Convey to Grantee the Property, 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.**

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

**A. Reservations:** Grantor reserves two easements from the conveyance by this deed:

1. A drainage easement on the land described on **Exhibit B**. Grantor may use this easement for all drainage-related purposes including detention ponds.
2. An ingress-egress easement on the land described on **Exhibit C**. Grantor may use this easement for all lawful ingress-egress between Herbert Lane and the above-described drainage easement.

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

**C. Restrictions:** All covenants and restrictions affecting the Property.

**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:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_