

ORDINANCE **2019-11-14-0965**

AUTHORIZING THE NEGOTIATION AND EXECUTION OF A REPAYMENT AND LOAN CONVERSION AGREEMENT AND ANCILLARY DOCUMENTS AMONG THE CITY OF SAN ANTONIO, 210 DG, AND THE SAN ANTONIO HOUSING TRUST PUBLIC FACILITIES CORPORATION ("SAHT PFC") FOR THE REPAYMENT OF \$75,000.00 TO THE CITY AND THE CONVERSION OF A \$950,000.00 ECONOMIC DEVELOPMENT LOAN BALANCE TO THE SAHT PFC TO BE APPLIED TO TWO HOUSING DEVELOPMENT PROJECTS IN EQUAL AMOUNTS FOR THE PROVISION OF A COMBINED 18 AFFORDABLE HOUSING UNITS AT THE BROOKWOOD AND ST. JOHN'S SEMINARY HOUSING DEVELOPMENTS.

* * * * *

WHEREAS, 210 DG received a Center City Housing Incentive Policy ("CCHIP") Agreement under the City's "as-of-right" incentive policy to undertake and complete a housing development project on 700 W. Houston (the "Property"); and

WHEREAS, the incentives under the CCHIP included an interest bearing \$968,000.00 repayable economic development loan which 210 DG used for preliminary site work on the Property; and

WHEREAS, due to the purchase of the Property by an unaffiliated third-party, 210 DG was unable to complete the project and subsequently fell into default of the terms of the CCHIP; and

WHEREAS, in order to repay the City, 210 DG has proposed a \$75,000.00 cash payment and the conversion of the remaining outstanding loan balance of \$950,000.00 to a forgivable loan to be applied to two 210 DG housing developments, Brookwood and St. John's Seminary for 18 affordable housing units; and


WHEREAS, as a condition of the loan conversion, 210 DG and SAHT PFC would agree to apply the outstanding loan balance to the Brookwood and St. John's projects resulting in 9 affordable housing units in each development to be leased to families at or below 30% of median income for the duration of the ten (10) year loan term; **NOW THEREFORE:**

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

SECTION 1. The City Council approves the terms and conditions of a Repayment and Loan Conversion Agreement among the City, 210 DG and San Antonio Housing Trust Public Facility Corporation. The City Manager or designee is authorized to execute this Agreement, a copy of which, in substantial final form is set out in **Exhibit A**, and any other ancillary agreements deemed necessary by the City Attorney in consultation with the City Manager to effectuate the purpose of this Agreement. A copy of the fully executed agreement will be substituted for **Exhibit A** upon receipt of all signatures.

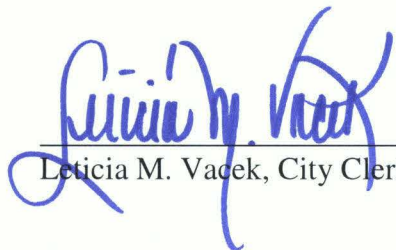
SECTION 2. This Ordinance shall be effective immediately upon passage by eight (8) affirmative votes; otherwise it shall be effective on the tenth day after passage.

PASSED AND APPROVED this 14th day of November, 2019.



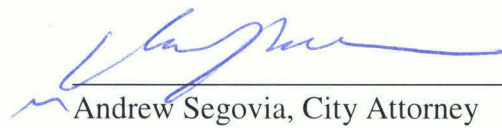
M A Y O R
Ron Nirenberg

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Andrew Segovia, City Attorney

Agenda Item:	18 (in consent vote: 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15A, 15B, 16, 17, 18, 19, 20, 21, 25, 26, 27, 28, 29)						
Date:	11/14/2019						
Time:	09:55:45 AM						
Vote Type:	Motion to Approve						
Description:	Ordinance requiring the inclusion of 9 affordable housing units in the St. John's Seminary development and 9 affordable housing units in the Brookwood Senior Apartments, each to be reserved for households earning up to 30 percent of the Area Median Income (AMI), and approving a forgivable loan in the amount of \$950,000.00 to facilitate the 18 affordable housing units. [Lori Houston, Assistant City Manager; John Jacks, Director, Center City Development & Operations]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x				
Jada Andrews-Sullivan	District 2		x				
Rebecca Viagran	District 3		x				x
Adriana Rocha Garcia	District 4		x				
Shirley Gonzales	District 5		x				
Melissa Cabello Havrda	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				
John Courage	District 9		x			x	
Clayton H. Perry	District 10		x				

RR
11/14/19
Item No. 18

EXHIBIT A

DRAFT AGREEMENT

STATE OF TEXAS

§

REPAYMENT AND

§

LOAN CONVERSION

§

AGREEMENT OF THE

COUNTY OF BEXAR

§

CITY OF SAN ANTONIO

This Repayment and Loan Conversion Agreement (hereinafter referred to as this "Agreement") is made and entered into by and between the City of San Antonio, a municipal corporation of the State of Texas, (hereinafter referred to as "Lender"), acting by and through its City Manager or his designee, 210 DG and Mission DG (jointly hereinafter referred to as "Borrower") and the San Antonio Housing Trust Public Facility Corporation ("SAHT PFC"), together referred to as the "Parties".

WHEREAS, pursuant to that certain Center City Housing Incentive Policy ("CCHIP") Agreement between Lender and Borrower ("**Exhibit A**"), Borrower was to undertake and complete an economic development project consisting of the redevelopment of real property located at 700 W. Houston St. (the "Project Site"), which the City incentivized to include a repayable loan of \$968,000.00 plus interest which, to date, is calculated to be approximately \$1,024,933.00 (the "Loan Funds"); and

WHEREAS, following the sale of the Project Site to an unaffiliated third-party, Lender fell into default of the terms of the CCHIP and proposed to the City a repayment of approximately \$75,000.00 in cash and the conversion of the outstanding loan balance of approximately \$950,000.00 (the "Loan Balance"), into a forgivable loan to provide an affordable housing component to two residential development projects, Brookwood and St. John's Seminary, of which Borrower has a partial ownership interest and is in partnership with SAHT PFC to complete; and

WHEREAS, the Lender has agreed to convert the Loan Balance into a forgivable loan to be applied to Brookwood and St. John's Seminary through SAHT PFC, with a guaranty of payment upon default from Borrower, which will be partially forgiven annually under the terms of this Agreement; and

WHEREAS, Borrower has acknowledged the debt owed under the CCHIP and agrees to be bounded by the terms of this Agreement in order to repay such debt; and

WHEREAS, SAHT PFC has agreed to accept, through this Agreement, the Loan Balance as consideration to provide a cumulative eighteen (18) affordable housing units as further described in this Agreement, to the Brookwood and St. John's Seminary projects; **NOW THEREFORE**:

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

SECTION 1. AGREEMENT PURPOSE

The Loan Funds that were provided under the CCHIP Agreement were provided through Lender's Chapter 380 Economic Development Grant and Loan program. The Loan Funds were provided specifically to promote state or local economic development and to stimulate business and commercial activity in the municipality. The conversion of the Loan Balance under the terms of this Agreement to a forgivable loan serves the same purpose.

SECTION 2. PROJECT REQUIREMENTS

A. Borrower shall repay Lender SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) prior to December 31, 2019 as a partial payment toward the outstanding Loan Funds.

B. Borrower and Lender have agreed to apply the outstanding Loan Balance which Lender is entitled to receive repayment for under the terms of the CCHIP, to two current projects that Borrower has a partial ownership interest in for the purpose of securing eighteen (18) affordable housing units in the projects for the term of this Agreement. The two projects are described as follows:

1. Brookwood – The Brookwood Senior Apartments will provide 197 senior housing units in City Council District 6. Under the terms of this Agreement, Borrower and SAHT PFC shall ensure that no less than nine (9) units are leased to individuals or families at or below 30% of the AMI at tax credit rents.

2. St. John's Seminary - The St. John's Seminary project will provide 228 housing units in City Council District 3. Under the terms of this Agreement, Borrower and SAHT PFC shall ensure that no less than nine (9) units are leased to individuals or families at or below 30% of the AMI at tax credit rents.

C. The Brookwood project shall be completed before _____, 2020 and in no case later than _____, 202_ ("Completion Date").

D. The St. John's Seminary project shall be completed before _____, 2020 and in no case later than _____, 202_ ("Completion Date").

E. Borrower shall notify Lender when each project, Brookwood and St. John's Seminary, has received its Certificate of Occupancy ("C of O"). The date of issuance of the C of O shall serve as the date upon which Borrower shall begin offering and marketing the affordable housing units to individuals or families fitting the criteria of this Agreement.

F. Borrower shall execute a Guarantee to Lender that, in the case of default under the terms of this Agreement, Borrower shall be solely responsible for and repay all unforgiven portions of the Loan Balance owed to Lender.

G. Borrower shall comply with all applicable laws and regulations, and shall develop and operate the projects in accordance with the terms and conditions of this Agreement.

SECTION 3. ECONOMIC DEVELOPMENT PROGRAM LOAN CONVERSION

A. **Economic Development Program Loan.** Borrower acknowledges its debt to the Lender of ONE MILLION TWENTY-FOUR THOUSAND NINE HUNDRED THIRTY-THREE DOLLARS AND 0 CENTS (\$1,024,933.00) under the terms and conditions of the CCHIP Agreement and Lender's right to collect said debt from Borrower. As consideration for Lender's agreement to forego collection of the outstanding debt, Borrower has agreed to convert the obligation to repay Lender the Loan Funds into an obligation to provide affordable housing units as described in Sections 2(B)(1) and (2) above for the Term described in Section 5 below and under the terms and conditions of this Agreement.

B. **Loan Apportionment.** Lender and Borrower have agreed to apportion the outstanding Loan Balance as follows:

1. Brookwood – upon written acknowledgement and approval of the encumbrance of the debt by SAHT PFC, the Brookwood project shall be encumbered with an outstanding loan balance of FOUR HUNDRED SEVENTY-FIVE THOUSAND DOLLARS AND 0 CENTS (\$475,000.00) owed to Lender by Borrower; and

2. St. John's Seminary – upon written acknowledgement and approval of the encumbrance of the debt by SAHT PFC, the St. John's Seminary project shall be encumbered with an outstanding loan balance of FOUR HUNDRED SEVENTY-FIVE THOUSAND DOLLARS AND 0 CENTS (\$475,000.00) owed to Lender by Borrower.

C. **Repayment of Loan.** Execution of this Agreement by Borrower and SAHT PFC suffices as an acknowledgement that the debt currently owed and due to Lender by Borrower serves as the consideration for Borrower's obligation to perform under the terms and conditions of this Agreement. Borrower is obligated to pay Lender the total amount so advanced by the Lender under the CCHIP Agreement; however, Lender and Borrower have agreed to convert the debt into a forgivable loan which will be forgiven in portions annually as follows:

1) Twelve (12) months following issuance of the C of O and proof that no less than a cumulative amount of eighteen (18) units are available for lease in accordance with Sections 2(B)(1) and (2), Lender shall forgive FORTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS AND 0 CENTS (\$47,500.00) for each project; and

2) Annually thereafter, on the anniversary of the date upon which the C of O was issued and following Borrower providing proof that no less than eighteen (18) units are available for lease in accordance with Sections 2(B)(1) and (2), Lender shall forgive FORTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS AND 0 CENTS (\$47,500.00) for each project.

It is the intent of this Agreement that the annual loan forgiveness be applied for the Term of this Agreement, allowing for Borrower to repay Lender the total outstanding Loan Balance and, thereby, meet any and all obligations to Lender.

D. **Unconditional Obligation to Repay the Program Loan.** The obligations of Borrower to repay the Loan Funds to Lender are absolute and unconditional, irrespective of any defense or any rights of set-off, re-coupment or counterclaim it might otherwise have against the Lender. Should Borrower fail to meet the obligations of this Agreement, Lender shall have the right to seek repayment under the CCHIP Agreement for the Loan Funds.

C. **Prepayment.** Should Borrower repay the total amount of the outstanding Loan Funds prior to the expiration of the Term of this Agreement, no penalty for such payment shall be applied and any and all obligations of this Agreement shall be extinguished.

SECTION 4. LOAN DEFAULT AND LENDER'S REMEDIES

A. **Loan Default Events.** Any one of the following which occurs and continues shall constitute a Loan Default Event:

1. Failure of Borrower to observe and perform in any material respect any covenant, condition or agreement on its part required to be observed or performed under this Agreement following the expiration of thirty (30) days written notice to cure; and/or

3. The dissolution or liquidation of Borrower or the filing by Borrower of a voluntary petition in bankruptcy, or failure by Borrower to promptly cause to be lifted any execution, garnishment or attachment of such consequence as will impair Borrower's ability to carry on its obligations under this Agreement; and/or

4. The commission by Borrower of any act of voluntary or involuntary bankruptcy under any state or federal law; and/or

5. The admittance of Borrower, in writing, of its inability to pay its debts generally as they become due, or a receiver, trustee or liquidator of Borrower shall be appointed in any proceeding brought against Borrower and shall not be discharged within ninety (90) days after such appointment.

B. Remedies to Lender upon a Loan Default Event. Should Borrower cause or allow a Loan Default Event to occur and it shall be continuing:

1. Lender, by written notice to Borrower, shall declare the unpaid balance of the Loan Funds payable under SECTION 3(C) and 3(D) of this Agreement, and due immediately; and

2. Lender shall have access to and may inspect, examine and make copies of the books and records and any and all accounts, data and federal income tax and other tax returns of Borrower; and

3. Lender may take whatever action at law or in equity as may be necessary or desirable to collect the Loan Funds and other amounts then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of Borrower under this Agreement.

C. Attorneys' Fees and Expenses. In the event Borrower should default under any of the provisions of this Agreement and the Lender should employ attorneys or incur other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement on the part of Borrower herein contained, Borrower agrees to pay to the Lender reasonable fees of such attorneys and such other expenses so incurred by the Lender.

D. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY HERETO BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES (IN TORT, CONTRACT OR OTHERWISE) UNDER OR IN RESPECT OF THIS AGREEMENT.

SECTION 5. AGREEMENT PERIOD

This Agreement shall commence upon its execution and shall only terminate upon full and final payment from Borrower of the outstanding Loan Funds or upon the retiring of the debt by Lender in accordance with the terms and conditions of this Agreement.

SECTION 6. RETENTION AND ACCESSIBILITY OF RECORDS

A. Borrower shall maintain the fiscal records and supporting documentation necessary to validate the obligations of Borrower under this Agreement. Borrower shall retain such records, and any supporting documentation, for the greater of: (1) Five [5] years from the end of the Agreement period; or (2) the period required by other applicable laws and regulations.

B. Borrower shall following reasonable advance written notice from the Lender, give the Lender, its designee, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, audit reports, reports, files, documents, written or photographic material, videotape and other papers, things, or property belonging to or in use by Borrower pertaining to the Loan Funds (the "Records"). The Lender's access to Borrower's books and records will be limited to information needed to verify that Borrower is and has been complying with the terms of this Agreement. Any information that is not required by law to be made public shall be kept confidential by Lender. Borrower shall not be required to disclose to the Lender any information that by law Borrower is required to keep confidential. Should any good faith dispute or question arise as to the validity of the data provided, the Lender reserves the right to require Borrower to obtain an independent firm to verify the information. This certified statement by an independent firm shall be provided at the sole cost of Borrower. The rights to access the Records shall continue as long as the Records are retained by Borrower. Failure to provide reasonable access to the Records to authorized Lender representatives shall give the Lender the right to suspend or terminate this Agreement as provided for in Section 15 and 16 below, or any portion thereof, for reason of default. All Records shall be retained by Borrower for a period of five (5) years after all performance requirements are achieved for audit purposes until such audits or other administrative, civil or criminal matters including, but not limited to, investigations, lawsuits, administrative inquiries and open record requests are completed.

SECTION 7. MONITORING

A. Lender reserves the right to confirm Borrower's compliance with the terms and conditions of this Agreement. Lender will provide Borrower with a written report of the monitor's findings. If the monitoring report notes deficiencies in Borrower's performances under the terms of this Agreement, the monitoring report shall include a listing of requirements for the correction of such deficiencies by Borrower and a reasonable amount of time in which to attain compliance. Failure by Borrower to take action specified in the monitoring report may be cause for suspension or termination of this Agreement, in accordance with Sections 13 and 14 herein.

B. Borrower shall provide to Lender a statement with reasonable supporting information evidencing the creation of and filling of the number of jobs required by this Agreement.

SECTION 8. CONFLICT OF INTEREST

Borrower shall use reasonable business efforts to ensure that no employee, officer, or individual agent of Borrower shall participate in the selection, award or administration of a subcontract supported by funds provided hereunder if a conflict of interest, real or apparent, would be involved. Such conflict of interest would arise when: (1) the employee, officer, or individual agent; (2) any member of his or her immediate family; (3) his or her partner; or, (4) any organization which employs, or is about to employ any of the above, has a financial or other interest in the firm or person selected to perform the subcontract and the relationship calls for payments to be made to such subcontractor on terms which are greater than those which are customary in the industry for similar services conducted on similar terms. Borrower shall comply with Chapter 171, Texas Local Government Code as well as the City's Code of Ethics.

SECTION 9. NONDISCRIMINATION AND SECTARIAN ACTIVITY

A. Borrower shall ensure that no person shall, on the ground of race, color, national origin, religion, sex, age or handicap, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied access to any program or activity funded in whole or in part with funds made available under this Agreement.

B. None of the performances rendered by Borrower under this Agreement shall involve, and no portion of the funds received by Borrower under this Agreement shall be used in support of, any sectarian or religious activity, nor shall any facility used in the performance of this Agreement be used for sectarian instruction or as a place of religious worship.

C. Borrower shall include the substance of this Section 9 in all agreements associated with the funds made available through this Agreement.

SECTION 10. LEGAL AUTHORITY

A. Each party assures and guarantees to the other that they possesses the legal authority to enter into this Agreement, to receive/deliver the funds authorized by this Agreement, and to perform their obligations hereunder.

B. The person or persons signing and executing this Agreement on behalf of each party or representing themselves as signing and executing this Agreement on behalf of a party, do hereby guarantee that he, she or they have been duly authorized to execute this Agreement on behalf of that party and to validly and legally bind that party to all terms, performances and provisions herein set forth.

C. Lender will have the right to suspend or terminate this Agreement in accordance with Sections 13 and 14 herein if there is a dispute as to the legal authority, of either Borrower or the person signing this Agreement, to enter into this Agreement, any amendments hereto or failure to render performances hereunder. Borrower is liable to Lender for any money it has received from Lender for performance of the provisions of this Agreement if Lender suspends or terminates this Agreement for reasons enumerated in this Section 10.

SECTION 11. LITIGATION AND CLAIMS

A. Borrower shall give Lender immediate notice in writing of any action, including any proceeding before an administrative agency, filed against Borrower arising out the performance of any subcontract hereunder. Except as otherwise directed by Lender, Borrower shall furnish immediately to Lender copies of all pertinent papers received by Borrower with respect to such action or claim. Borrower shall notify the Lender immediately of any legal action filed against the Borrower or any subcontractor, or of any proceeding filed under the federal bankruptcy code. Borrower shall submit a copy of such notice to Lender within 30 calendar days after receipt. No funds provided under this Agreement may be used in the payment of any costs incurred from violations or settlements of, or failure to comply with, federal and state regulations. The above notwithstanding Borrower is not required to notify Lender of claim litigation which arise out of Borrower's operations on the project, including without limitation, landlord tenant disputes, personal injury actions (slip and falls), and other operational activities or relationships.

B. Lender and Borrower acknowledge that Borrower is a political subdivision of the State of Texas and is subject to, and complies with, the applicable provisions of the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001 et. seq., and the remedies authorized therein regarding claims and causes of action that may be asserted by third parties for accident, injury or death.

C. This Agreement shall be interpreted according to the Constitution and the laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this Agreement shall be in Bexar County, Texas.

SECTION 12. CHANGES AND AMENDMENTS

A. Any alterations, additions, or deletions to the terms of this Agreement shall be by amendment hereto in writing and executed by both parties to this Agreement upon Lender approval and authorization of Borrower.

B. It is understood and agreed by the parties hereto that performances under this Agreement shall be rendered in accordance with the laws and rules governing the Economic Development Program as set forth in Texas Local Government Code Chapter 380, and the terms and conditions of this Agreement.

C. Any alterations, additions, or deletions to the terms of this Agreement required by changes in state law or regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulation.

SECTION 13. SUSPENSION

A. Notwithstanding the provisions of Chapter 2251 of the Texas Government Code, in the event Borrower fails to comply with the terms of any agreement with the Lender, Lender shall provide Borrower with written notification as to the nature of the non-compliance. Lender shall grant Borrower a sixty (60) day period from the date of the Lender's written notification to cure any issue of non-compliance under such agreement. Should Borrower fail to cure any default within this period of time, the CITY may, upon written Notice of Suspension, suspend this Agreement in whole or in part and commence actions to accelerate the due date of the repayment of the Loan Funds. Such Notice of Suspension shall include: (1) the reasons for such suspension; (2) the effective date of such suspension; and, (3) in the case of partial suspension, the portion of the Agreement to be suspended.

B. In the case of default for causes beyond Borrower's reasonable control, which cannot with due diligence be cured within such sixty (60) day period, the Lender may, in its sole discretion, extend the cure period provided that Borrower shall: (1) immediately upon receipt of Notice of Suspension advise Lender of Borrower's intention to institute all steps necessary to cure such default and the associated time frame; and (2) institute and thereafter prosecute to completion with reasonable dispatch all steps necessary to cure same.

C. A suspension under this Section may be lifted only at the sole discretion of the Lender upon a showing of compliance with or written waiver by Lender of the term(s) in question.

SECTION 14. TERMINATION

A. Lender shall have the right to terminate this Agreement for non-compliance, in whole or in part, at any time before the date of completion specified in Section 5 of this Agreement whenever Lender determines that Borrower has failed to comply with any term of this Agreement with the Lender. Lender will provide Borrower with written notification as to the nature of the non-compliance, and grant Borrower a sixty (60) day period from the date of the Lender's written notification to cure any issue of non-compliance under this Agreement. Should Borrower fail to cure any default within this period of time, the Lender may, upon issuance to Borrower of a written Notice of Termination, terminate this Agreement in whole or in part and accelerate the repayment of the loan. Such notification shall include:

(1) the reasons for such termination; (2) the effective date of such termination; and, (3) in the case of partial termination, the portion of the Agreement to be terminated.

B. In the case of default for causes beyond Borrower's reasonable control, which cannot with due diligence be cured within such sixty (60) day period, Lender may, in its sole discretion, extend the cure period, provided that Borrower shall: (1) immediately upon receipt of Notice of Termination advise Lender of Borrower's intention to institute all steps necessary to cure such default and the associated time frame; and (2) institute and thereafter prosecute to completion with reasonable dispatch all steps necessary to cure same.

C. Notwithstanding any exercise by Lender of its right of suspension under this Agreement, or of early termination pursuant to this Agreement, Borrower shall not be relieved of repayment of Loan Funds under this Agreement or any liability to Lender for actual damages due to Lender by virtue of any breach by Borrower any agreement with Lender and this Agreement.

SECTION 15. RIGHTS UPON DEFAULT

It is expressly understood and agreed by the Parties hereto that any right or remedy provided for in this Agreement shall not preclude the exercise of any other right or remedy under any other agreements between Borrower and the Lender or under any provision of law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy hereunder shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

SECTION 16. NON-ASSIGNMENT

This Agreement is not assignable without the written consent of Lender and the passage of a City Ordinance approving such assignment. Any other attempt to assign the Agreement shall not relieve Borrower from liability under this Agreement and shall not release Borrower from performing any of the terms, covenants and conditions herein. Borrower shall be held responsible for all funds received under this Agreement.

SECTION 17. ORAL AND WRITTEN AGREEMENTS

All oral and written agreements between the Parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement.

SECTION 18. AUTHORIZED RELIEF FROM PERFORMANCE (*Force Majeure*)

Lender may grant temporary relief from performance of this Agreement if the Borrower is prevented from compliance and performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributed to the fault or negligence of the Borrower. The burden of proof for the need for such relief shall rest upon the Borrower. To obtain release based upon *force majeure*, the Borrower must file a written request with the Lender. Should Lender grant temporary relief to Borrower, it shall in no case relieve Borrower from any repayment obligations as specified in this Agreement.

Signatures appear on next page.

WITNESS OUR HANDS, EFFECTIVE as of _____, 2019:

Accepted and executed in two duplicate originals on behalf of the City of San Antonio pursuant to Ordinance Number 2019-11-14-____, dated November 14, 2019, and 210 DG pursuant to the authority of its _____.

210 DG

a _____

CITY OF SAN ANTONIO,
a Texas Municipal Corporation

Name
Title:

Erik Walsh
CITY MANAGER

ATTEST:

Name: _____
Title: _____

Leticia Vacek
CITY CLERK

Acknowledged by:

SAN ANTONIO HOUSING TRUST
Public Facility Corporation

APPROVED AS TO FORM:

Name:
Title:

Andrew Segovia
CITY ATTORNEY

ATTACHMENTS:

Exhibit A CCHIP Agreement between the City of San Antonio
Exhibit B Guaranty of Payment