

FUNDING AGREEMENT
BETWEEN THE CITY OF SAN ANTONIO'S PUBLIC WORKS DEPARTMENT AND
THE BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER ELEVEN,
CITY OF SAN ANTONIO, TEXAS FOR COSTS RELATED TO DEMOLITION AND
ENVIRONMENTAL REMEDIATION AT 223 S CHERRY ST.

This Funding Agreement ("Agreement") is entered into by and between the City of San Antonio ("City"), a Texas municipal corporation in Bexar County, Texas, acting by and through its City Manager pursuant to Ordinance No. 2020-_____, and the Board of Directors for Tax Increment Reinvestment Zone Number Eleven City of San Antonio, Texas, known as the Inner City TIRZ ("Board"), together referred as the "Parties".

BACKGROUND:

WHEREAS, the City recognizes the importance of its continued role in economic development; community development and urban design and in accordance with Chapter 311 of the Texas Tax Code (the "Act"), the City through Ordinance No. 93101, established Tax Increment Reinvestment Zone Number Eleven, San Antonio, Texas, known as the Inner City TIRZ ("TIRZ"), to promote development and redevelopment which would not otherwise occur solely through private investment; and

WHEREAS, on July 1, 2019, a Property Exchange agreement was executed between the City and 803 N. Cherry, LLC., wherein the City would take possession of a 1.69 acre site located at 803 N Cherry and 815 N Cherry Street to develop a future park and would convey a City-owned 2.0-acre property located at 223 S Cherry Street. As a condition of the property exchange, the City agreed to replat the City-owned property, demolish the City's existing traffic sign shop on the property, and attain environmental clearance; and

WHEREAS, on June 13, 2019, the City Council authorized the use of \$600,000 from the FY 2019 Inner City Incentive Fund to complete the re-platting, demolition, and environmental remediation of the sign shop property. However, due to a higher level of asbestos and hazardous building materials than was known prior to completion of the hazmat survey, as well as a newly-identified mass of concrete slabs that formed the building foundation, the cost of demolition is now higher than the original estimate; and

WHEREAS, on June 4, 2020 the Public Works Department ("PW") applied for funding from the City's Tax Increment Financing Program ("TIF") in order to secure additional funding for the demolition and environmental costs at the site in order fulfil its contractual obligations under the property exchange; and

WHEREAS, pursuant to Section 311.008 of the Act, the Board has authority to enter into agreements that the Board deems necessary or convenient to implement the Project Plan and to achieve the purposes of developing the TIRZ within the scope of those plans; and

WHEREAS, in accordance with Section 311.008 of the Act, on August 26, 2020, the Board approved Resolution T11-2020-08-26-20-01R, attached as **Exhibit A**, authorizing approval of this Agreement, which provides a funding commitment in an amount not to exceed Two Hundred Forty One Thousand Dollars and No Cents (\$241,000.00) in reimbursable TIF funds for costs related to demolition and environmental remediation at the 223 S. Cherry St. site, and authorizes said commitment to be incorporated into the TIRZ Project Plan; and

WHEREAS, pursuant to Ordinance No. 2020-_____, approved on the ____ day of _____ 2020, the Board and the City agree to enter into a binding agreement to ensure that the City is reimbursed for the demolition and environmental costs associated with the Project, described and

incorporated herein in the attached **Exhibit B**; and

NOW, THEREFORE, in consideration of the mutual promises, covenants, obligations, and benefits contained in this Agreement, the City and the Board agree as follows:

ARTICLE I. TERM

- 1.1 **TERM.** This term of this Agreement shall commence on the Effective Date of this Agreement and end on whichever of the following dates should occur the earliest: (i) the date the City receives the final reimbursement for completing the Project; (ii) the date this Agreement is terminated as provided in Article X; or, (iii) termination of the TIRZ, provided that all existing warranties and warranty bonds on the Project shall survive termination of this Agreement.

ARTICLE II. DEFINITIONS

- 2.1 **ACT** - The Tax Increment Financing Act of Texas Tax Code, Chapter 311, as may be amended from time to time.
- 2.2 **ADMINISTRATIVE COSTS** – Reasonable costs incurred directly and/or indirectly by the City for the administration of the City's Tax Increment Financing Program.
- 2.3 **AGREEMENT** – This document by and among the City and the Inner City TIRZ Board, which may be amended from time to time in accordance with Section 11.4 Amendments.
- 2.4 **AVAILABLE TAX INCREMENT FUNDS** – Is the meaning given in the Act, Section 311.012(a), contributed by each participating taxing entity to the TIF Fund and distributed in accordance with the priority of payment of the TIRZ.
- 2.5 **BOARD** – The Board of Directors of the Inner City TIRZ.
- 2.6 **CITY** – For the purposes of this Agreement and hereinafter shall mean the City of San Antonio's Public Works Department ("PW").
- 2.7 **COMPLETION** – In order for the Project to achieve a state of "Completion", demolition and environmental work must be approved and accepted by the Board as "completed" in accordance with Section 2.8 and 4.1 of this Agreement.
- 2.8 **CONSTRUCTION SCHEDULE** – The specific timetable for the demolition and environmental work specified in this Agreement, which timetable is more particularly set forth in **Exhibit C**, attached hereto and incorporated herein for all purposes and which timetable may be amended from time to time pursuant to the provisions of this Agreement.
- 2.9 **CONTRACT PROGRESS PAYMENT REQUEST ("CPPR")** – Request form prepared and submitted by City pursuant to the requirements of this Agreement and the CPPR Form, attached hereto as **Exhibit F**. The CPPR shall also include and reflect all waivers granted through any City program or incentives.
- 2.10 **EFFECTIVE DATE** - The date that is listed on the signature page of this Agreement.

- 2.11 **FINANCE PLAN** – The Inner City TIRZ Financing Plan, as defined in the Act, and as approved and amended from time to time by the Board and the City, which is incorporated by reference into this document as if set out in its entirety, for all purposes.
- 2.12 **PHASE(S)** – The specific timeline and schedule for the Project’s construction and completion, as described in the Construction Schedule incorporated and attached as **Exhibit C**.
- 2.13 **PROJECT** – The City’s public improvements at 223 S. Cherry St., described in Section 4.1 of this Agreement and in attached **Exhibit B**.
- 2.14 **PROJECT COSTS** - Shall have the meaning provided by the Act, and limited to demolition and environmental work as approved by the Board within the TIRZ boundary, incurred after execution of this Agreement.
- 2.15 **PROJECT PLAN** – The Project Plan as defined in the Act, for the Inner City TIRZ as approved and amended from time to time by the Board and the City, and incorporated by reference into this document as if set out in its entirety, for all purposes.
- 2.16 **PROJECT SITE** - The site to be demolished by the City and located within the TIRZ, at 223 S. Cherry St. in San Antonio, Texas, 78206, described in attached **Exhibit D** (Map).
- 2.17 **PROJECT STATUS REPORT** – Statement(s) prepared and submitted by the City in accordance with the requirements of this Agreement, including quarterly updates and reports of compliance with laws, ordinances, and contractual requirements, and as described and attached in **Exhibit E**, attached and incorporated herein, for all purposes.
- 2.18 **PUBLIC IMPROVEMENTS** - Improvements that provide a public benefit, including but not limited to utilities, streets, street lights, water and sewer facilities, walkways, parks, flood and drainage facilities, parking facilities, demolition work, fencing and landscaping, without regard to location in or outside of the public right of way, and the categories of work included in the definition of Project in this Agreement.
- 2.19 **PUBLIC INFRASTRUCTURE** – A building, highway, road, excavation, and repair work or other project development or public improvement on the Project Site, paid for in whole or in part from public funds, without regard to whether the work is done under public supervision or direction, and the categories of work included in the definition of Project in this Agreement.
- 2.20 **TAX INCREMENT** – Shall have the meaning provided by Section 311.012 of the Texas Tax Code, and applies only to taxable real property within the TIRZ.
- 2.21 **TIF** – Tax Increment Financing.
- 2.22 **TIF FUND** - The fund created by the City of San Antonio for the deposit of Tax Increments for the Zone, entitled “Tax Increment Reinvestment Zone Number Eleven, City of San Antonio, Texas.”
- 2.23 **TIF DIVISION** – The employees of the City of San Antonio’s department responsible for the management of the City’s Tax Increment Financing Program.
- 2.24 **TIRZ** - Tax Increment Reinvestment Zone Number Eleven, City of San Antonio, Texas, known as the Inner City TIRZ.

ARTICLE III. REPRESENTATIONS

- 3.1 **CITY'S AUTHORITY.** The City represents to the Board that as of the date of the execution of this Agreement, the City is a home rule municipality located in Bexar County, Texas, and has authority to carry out the obligations contemplated by this Agreement.
- 3.2 **BOARD'S AUTHORITY.** The Board represents that as of that date of the Board's signature to this Agreement, the Board established pursuant to City Ordinance No. 93101, has the authority to carry out the functions and operations contemplated by this Agreement.
- 3.3 **AUTHORITY AND ABILITY TO PERFORM.** The Parties represent that performance hereunder shall not result in any lien, charge, encumbrance or security interest upon any asset of the City or the Board, except that this Agreement shall constitute a claim against the TIF Fund only from Available Tax Increment Funds to the extent provided herein; and the City shall have sufficient capital to perform all of its obligations under this Agreement when it needs to have said capital.
- 3.4 **COOPERATE.** The Parties represent that they shall each cooperate and provide each other all necessary information in order to assist determining compliance with this Agreement.
- 3.5 **DUTY TO COMPLETE IMPROVEMENTS.** The Parties represent that they understand and agree that even after the TIRZ terminates, the City shall ensure the successful completion of all required improvements at no additional cost to the TIRZ beyond the maximum TIRZ funding, in accordance with the terms of this Agreement.
- 3.6 **CITY BEARS RISK OF REIMBURSEMENT.** The City understands and agrees that any expenditure made in anticipation of reimbursement from the TIF Fund shall not be, nor shall be construed to be, the financial obligation of the TIRZ. The City shall bear all risks associated with reimbursement, including, but not limited to: incorrect estimates of tax increment, changes in tax rates or tax collections, changes in law or interpretations thereof, changes in market or economic conditions impacting the Project, changes in interest rates or capital markets, changes in building and development code requirements, changes in City policy, and unanticipated effects covered under legal doctrine of force majeure.

ARTICLE IV. THE PROJECT

- 4.1 **PROJECT.** The Project shall consist of the completion of demolition of the existing sign shop located at 223 S. Cherry St, San Antonio, Texas, 78206, in City Council District 2, and within the TIRZ. The project shall also consist of completing environmental work required to attain environmental clearance for the property. The City will provide Project oversight and complete or cause the completion of the Project, in accordance with this Agreement and no later than January 1, 2021.
- 4.2 **REIMBURSEMENT.** Reimbursement of TIRZ Funds are subject to availability and priority of payment and are not intended to reimburse all costs incurred in connection with the project or expenses incurred by City for performance of the obligations under this Agreement. The Board cannot guarantee that Available Tax Increment shall completely reimburse City. Available Tax Increment shall constitute a source of reimbursement to City for construction of the Public Improvements, namely demolition and environmental costs at the Project site. Total reimbursement to City from the TIRZ Fund will not exceed TWO HUNDRED FORTY ONE THOUSAND DOLLARS AND NO CENTS (\$241,000.00). City is eligible for reimbursement of eligible Project Costs as of the effective date of this Agreement. The Terms by which eligible

Project Costs will be reimbursed are further defined in Article IX. Reimbursement, attached hereto and incorporated herein for all purposes.

ARTICLE V. OBLIGATIONS OF THE CITY

- 5.1 **PROJECT OVERSIGHT.** The City agrees to monitor activities and provide reasonable oversight of the Project, including the management of construction of Public Infrastructure and Public Improvements. Public Works shall be the point of contact on all matters regarding the Project.
- 5.2 **COMMENCEMENT.** The City agrees and shall ensure that construction on any Phase of the Project: (i) has been approved in writing by the appropriate City department; and, (ii) the requirements of all local, State and Federal laws have been met from the effective date of the commencement of construction on the Project.
- 5.3 **WRITTEN AGREEMENT.** The City agrees that any work or services contracted under this Agreement shall be contracted only by written contract and, unless specific waiver is granted in writing by the Board, such contract shall be subject to this Agreement.
- 5.4 **COMPLIANCE.** The City agrees to ensure compliance by Project contractors and subcontractors of all applicable provisions of the Act, the TIF Guidelines, the City Charter, the City Code, (including the Unified Development Code such as Universal Design and Construction requirements), Chapters 2258 and 2253 of the Texas Government Code, and all applicable local, state, and federal laws and regulations as amended.
- 5.5 **PROJECT INSPECTION.** The City agrees to provide the Board and TIF Division access to the Project Site for inspections during and upon completion of construction of the Project, and access to documents and records considered necessary to assess the Project. The Board and TIF Division shall be provided a right of entry onto the Project Site to conduct random walk-through inspections.
- 5.6 **SUPERVISION OF CONSTRUCTION.** The City agrees to cause the performance of all construction of all Public Infrastructure and Public Improvements, at a minimum, in accordance with all Federal, State and local laws, including, but not limited to the current TIF Guidelines, the Unified Development Code, Universal Design, Prevailing Wage, Chapter 2258 and Chapter 2253 of the Texas Government Code, the City Code, and the plans and specifications approved by the appropriate department of the City. The City also agrees to provide reports including inspections of such construction and of compliance with such laws, ordinances, and contractual requirements.
- 5.7 **COMPLETION.** The City agrees to complete, or cause to be completed, the Public Improvements, in accordance with Section 2.8 and Section 4.1 of this Agreement and no later than January 1, 2021.
- 5.8 **DELAYS AND EXTENSION(S).** City is responsible for the Project's construction, which shall be completed no later than January 1, 2021. If the commencement or completion of the Project is delayed by reason(s) beyond the City's control, then at the reasonable discretion of the Director of the City's Neighborhood & Housing Services (or successor) Department, the commencement and completion deadlines set forth in this Agreement may be extended by no more than six (6) months. In the event that City does not complete the Project substantially in accordance with the Construction Schedule (or extended schedule), then, in accordance with ARTICLE XI. ASSIGNMENTS, CHANGES AND AMENDMENTS of this Agreement, the Parties may extend the deadlines in the Construction Schedule, but not past the expiration of the TIRZ. If the parties cannot reasonably reach an agreement on the extension of the Construction Schedule, or if City

fails to complete the Project in compliance with the revised Construction Schedule, other than as a result of force majeure, this constitutes a material breach.

- 5.9 **FORCE MAJEURE.** The Board may also grant temporary relief from any deadline for performance of any term of this Agreement if the City 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 of the City. The burden of proof for the need of such relief shall rest on the City. To obtain relief based on force majeure, the City must file a written request with the Board. Then, at the TIF Economic Development Manager's reasonable discretion, the deadlines set forth in this Agreement may be extended without subsequent City Ordinance.
- 5.10 **QUARTERLY STATUS AND COMPLIANCE REPORTS.** The City agrees to submit to the TIF Division written and signed Project Status Reports (see Sections 2.17 and 5.4 above) containing all required information, on the 15th day of January, April, July and October throughout the duration of the Project, or more often if requested by the Board or the TIF Division, using the form attached as **Exhibit E**.
- 5.11 **MAINTENANCE.** The City shall, at its own cost and expense, maintain or cause to be maintained all Public Infrastructure and Public Improvements, to the extent required by this Agreement.

ARTICLE VI. OBLIGATIONS OF THE BOARD

- 6.1 **ELIGIBLE PROJECT COSTS.** Costs shall be considered eligible only if approved by the Board, incurred directly and specifically in the performance of, and in compliance with this Agreement and all applicable laws.
- 6.2 **PLEDGE OF FUNDS.** The Board hereby pledges Available TIF Funds, as reimbursement to the City for approved Project Costs, up to TWO HUNDRED FORTY ONE THOUSAND DOLLARS AND NO CENTS (\$241,000.00) for the demolition and environmental remediation of the Project, located at the Project Site, subject to the terms and conditions in this Agreement, priority of payment schedule, and termination of the TIRZ.

ARTICLE VII. NOTICE

- 7.1 **ADDRESSES.** Any notice sent under this Agreement shall be written and mailed with sufficient postage, sent by certified mail, return receipt requested, documented facsimile or delivered personally to an officer of the receiving Party at the following addresses:

THE CITY

Public Works
Attn: Razi Hosseini
114 W. Commerce
San Antonio, TX 78205

THE BOARD

Inner City TIRZ #11
Attn: TIF Division
1400 S Flores
San Antonio, TX 78204

- 7.2 **CHANGE OF ADDRESS.** Notice of change of address by either Party must be made in writing and mailed to the other Party within 5 business days of such change.

ARTICLE VIII. RECORDS

- 8.1 **RIGHT TO REVIEW.** The Board shall have the right to access records related to the Project, including but not limited to the Project's construction schedule and expenditures. At the Request of the Board, the City agrees to provide the Board and the TIF Division access to records related to the Project for examinations during regular business hours.
- 8.2 **PRESERVATION OF RECORDS.** The City shall retain, preserve, and make available to the Board all records and accounts relating to the Project and this Agreement throughout the term of this Agreement and for 12 months after the termination of this Agreement.
- 8.3 **DISCREPANCIES.** Should errors be discovered in internal controls or in record keeping associated with the Project, such discrepancies shall be corrected upon discovery or within a reasonable period of time, not to exceed 60 days after discovery. The Board shall be informed of the action taken to correct such discrepancies.
- 8.4 **OVERCHARGES.** If it is determined that the TIRZ has been overcharged for the cost of the Public Improvements, then such overcharges shall be immediately returned to the TIF Fund and become due and payable with interest at the maximum legal rate under applicable law from the date the City paid such overcharges.

ARTICLE IX. REIMBURSEMENT

- 9.1 **CPPR APPROVAL.** Upon completion by City of eligible Project Costs, City may submit to the TIF Division a completed CPPR for Board approval. Should there be discrepancies in the CPPR or if more information is required, City will have thirty (30) calendar days upon notice by TIF Division staff to correct any discrepancy or submit additional requested information. Failure to timely submit the additional information requested by the City may result in the delay of City's requested expense reimbursement.
- 9.2 **MAXIMUM REIMBURSEMENT.** Following Board approval and City Council authorization, the City shall receive in accordance with this Agreement, from the TIF Fund a total maximum reimbursement of TWO HUNDRED FORTY ONE THOUSAND DOLLARS AND NO CENTS (\$241,000.00) for eligible Project Costs.
- 9.3 **AVAILABLE TAX INCREMENT FUNDS.** The sole source of the funds to reimburse the City for Project Costs shall be the Available TIF Funds levied and collected on the TIRZ and contributed by the Participating Taxing Entities participating in the TIRZ to the fund, created and maintained by the City for the purpose of implementing the Public Improvements of the Project.
- 9.4 **REQUESTS FOR REIMBURSEMENT.** The Parties agree that all requests for reimbursement from the City shall be in accordance to Section 9.1 of this Agreement and **Exhibit F**, attached hereto.
- 9.5 **PROCESSING OF PAYMENT REQUESTS.** Board authorized reimbursements shall be made available to the City within 60 days after the deposit of the City's Tax Increment Payment to the TIF Fund, subject to availability, priority of payment and the requirements herein.
- 9.6 **PRIORITY OF PAYMENT.** The Parties agree that TIF Funds will be used to reimburse City for eligible Projects Costs in the order of priority of payment for the TIRZ.
- 9.7 **SOURCE OF FUNDS.** The Parties agree the sole source of the funds to reimburse City shall be the Available Tax Increment levied and collected on the real property located in the TIRZ and

contributed by the participating taxing entity to the TIRZ Fund.

- 9.8 **PARTIAL PAYMENTS.** If TIF Funds are not available in an amount sufficient to make payments in full when the payments are due under this Agreement, partial payment shall be made in the order of priority required by section 9.6 above, and the remainder shall be paid as TIF Funds become available. No fees, costs, expenses or penalties shall be paid on any partial or late payment.

ARTICLE X. TERMINATION

- 10.1 **TERMINATION.** For purposes of this Agreement, termination shall mean the expiration of the term as provided by Article I. Section 1.1 Term, herein. In addition, the City and/or the Board may terminate this Agreement in the following manners: (1) Termination by Mutual Consent pursuant to Section 10.2 and (2) Termination for Cause pursuant to Section 10.3.
- 10.2 **TERMINATION BY MUTUAL CONSENT.** This Agreement may also be terminated by mutual consent and a written agreement of the Parties. In such case, the Parties shall agree upon the reason(s) of such termination, the termination conditions, the proposed pay-back plan of disbursed funds, and the proposed effective date of such termination.
- 10.3 **TERMINATION FOR CAUSE.** Each Party shall have the right to terminate this Agreement in whole or in part for cause if the City fails to perform the terms and conditions herein or, if the City fails to cure a default within 60 days after receiving written notice of Default from the Board, requesting that the failure be cured.
- 10.4 **CURE.** Upon written Notice of Default resulting from a breach of this Agreement, such default may be cured within 60 days from the date of the Notice of Default.
- 10.5 **NOTICE OF TERMINATION.** In the event that Party fails to comply with this Agreement, such non-compliance shall be deemed a default and this Agreement may summarily be terminated upon the issuance of a written Notice of Termination, which shall include: (1) the reasons for termination; and (2) the effective date of Termination.
- 10.6 **RECAPTURE.** If the Board terminates this Agreement for cause, then the TIRZ shall have the right to recapture all the disbursed TIF Funds made under this Agreement and the City shall repay and deposit all TIF Funds disbursed to the City under this Agreement to the TIF Fund of the Inner City TIRZ within 60 days from the date of Notice of Termination. All recaptured funds made under this Agreement shall be deposited into the Inner City TIRZ.
- 10.7 **OTHER REMEDIES AVAILABLE.** The Board shall have the right to seek any remedy in law to which it may be entitled, in addition to termination and repayment of funds, if the City defaults under the material terms of this Agreement.

ARTICLE XI. ASSIGNMENTS, CHANGES AND AMENDMENTS

- 11.1 **ASSIGNMENTS.** The Parties shall not transfer, pledge or assign their rights and obligations under this Agreement without first procuring written approval by the Board as evidenced by Resolution passed and approved by the Board.
- 11.2 **AUTOMATIC INCORPORATION OF LAWS.** Changes in Federal, State and local laws, rules, or regulations may occur during the term of this Agreement and any such change(s) shall be automatically incorporated into this Agreement without written amendment to this Agreement,

and shall become a part of this Agreement as of the effective date of the rule, regulation or law.

- 11.3 **INVALID PROVISION.** If any provision of this Agreement is held invalid, ineligible, illegal or unenforceable under City, State, Federal laws, then said provision and the remainder of this Agreement shall be construed as if such provision was never contained in this Agreement.
- 11.4 **AMENDMENTS.** Except when the terms of this Agreement expressly provide otherwise, any alteration, addition, or deletion that constitutes a material change to the terms of this Agreement shall be effectuated by an amendment, in writing, executed by the passage of Board Resolution and subsequent City Ordinance. For amendments that provide additional funding commitments of less than \$50,000, only Board approval shall be required. Following Board approval, the Director of Neighborhood Housing or his or her designee shall have authority to execute such amendments without further action by the San Antonio City Council.
- 11.5 **CONSTRUCTION SCHEDULE.** Notwithstanding the above, the Construction Schedule may be amended, as evidenced by approval of the Director of the City's Neighborhood & Housing Services (or successor) Department or his or her designee. In the event an amendment to the Construction Schedule as stated in section 5.8 will result in a material change to this Agreement, then such amendment shall comply with the requirements of Section 11.4, above. City may rely on the determination of the Director of the City's Neighborhood & Housing Services (or successor) Department or his or her designee, in coordination with the Office of the City Attorney, whether a change in the Construction Schedule would result in a material change to the overall Project requirements.

ARTICLE XII. NON-DISCRIMINATION

- 12.1 **NON-DISCRIMINATION.** In accordance with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X of the City Code, no person shall, on the ground of race, color, national origin, religion, sex, age, gender (to include transgender), sexual orientation, veteran status or disability, 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 under this Agreement.

ARTICLE XIII. GOVERNING LAW

- 13.1 **TEXAS LAW.** This Agreement shall be construed in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in with this in Bexar County, Texas. Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in Bexar, County Texas.

ARTICLE XIV. CAPTIONS

- 14.1 **CAPTIONS.** All captions herein are only for the convenience of reference and shall not be construed to have any effect or meaning as to this Agreement.

ARTICLE XV. ENTIRE AGREEMENT

- 15.1 **FINAL AGREEMENT.** This written Agreement embodies the final and entire agreement between the Parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the Parties.
- 15.2 **INCORPORATION AND EXHIBITS.** Exhibits referenced below are incorporated herein and shall be considered a part of this Agreement, except that if there is a conflict between an Exhibit and a provision of this Agreement, the provision of this Agreement shall prevail over the Exhibit.

EXHIBIT A - Resolution T11-2020-08-26-20-01R

EXHIBIT B – 223 S. Cherry St. Project

EXHIBIT C - Construction Schedule

EXHIBIT D - Project Site (Map)

EXHIBIT E - Project Status Report Form

EXHIBIT F - Contract Progress Payment Request Form

Signatures on the following page

EXECUTED BY THE PARTIES IN DUPLICATE ORIGINALS, each of which shall have the full force and effect of an original on this the ____ day of _____, 2020.

CITY OF SAN ANTONIO,
a Texas Municipal Corporation

BOARD OF DIRECTORS
Inner City TIRZ #11

Erik Walsh
CITY MANAGER
Date: _____

Jada Andrews-Sullivan
BOARD CHAIR
Date: _____

ATTEST/SEAL:

Tina J. Flores
CITY CLERK

Date: _____

APPROVED AS TO FORM:

Andrew Segovia
CITY ATTORNEY

EXHIBIT A

RESOLUTION T11 2020-08-26-01R

EXHIBIT B

223 S. Cherry St.

- Former City Sign Shop is located at 223 S. Cherry Street in D2
- City approved a property exchange for future site of Berkley V. & Vincent M. Dawson Park near Hays Bridge
- Requires \$241,000 for demolition and environmental prior completing exchange with 803 N Cherry, LLC.
- Site anticipated to be a future multifamily residential use.

EXHIBIT C

CONSTRUCTION SCHEDULE

EXHIBIT D

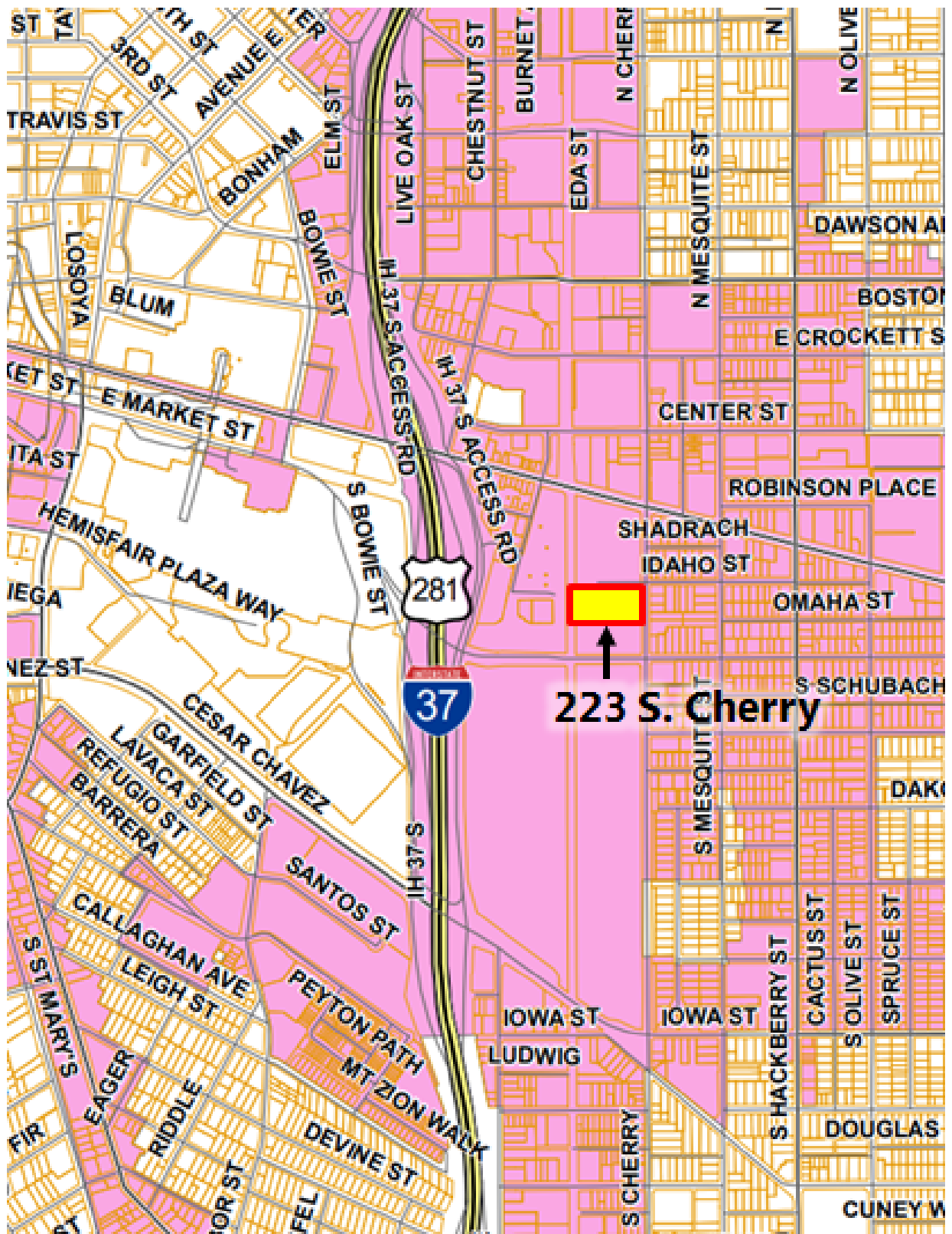


EXHIBIT E

PROJECT STATUS REPORT



CITY OF SAN ANTONIO

TAX INCREMENT REINVESTMENT ZONE

Project Status Report

Pursuant to the Development Agreement, the DEVELOPER has agreed to provide periodic reports of construction to the CITY upon reasonable request. The City requests that the Developer submit a TIRZ project status report every quarter every year until the project is complete, due by:

January 15th, for the first quarter,
April 15th, for the second quarter,
July 15th, for the third quarter and
October 15th, for the fourth quarter

At the completion of the project, the DEVELOPER shall submit a comprehensive final report.

Each quarterly report must include the following information:

- The number of Private Improvements completed (single-family and/or multi-family and commercial when applicable) and year in which they were completed
- The Public Improvements completed and costs incurred to date by year in which improvements were completed
- Indicate whether the construction is on track with the approved Final Project and Finance Plan
- If the project timeline has slipped, the Developer is to submit an updated project timeline
- The sale prices of the single-family homes completed (Please obtain and provide sales data for original sales price of every home sold.)
- Photos of: housing and commercial developments; before, during and after construction

In addition, for the City to monitor compliance with insurance requirements of the Development Agreement, the Developer must submit annually the Certificate of Insurance reflecting proof that:

- the City and its officers, employees and elected representatives are additional insureds as respects the operations and activities of, or on behalf of, the named insured contracting with the City, with the exception of the workers' compensation policy;
- the endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City of San Antonio is an additional insured shown on the policy;
- the Workers' Compensation and employers' liability policy provides a waiver of subrogation in favor of the City of San Antonio; and
- Notification to the City of any cancellation, non-renewal or material change in coverage was given not less than thirty (30) days prior to the change or ten (10) days prior to the cancellation due to non-payment of premiums, accompanied by a replacement Certificate of Insurance.

Attached is a form you may use to fulfill this reporting requirement.

TIRZ Project Progress Report (Construction)	
Name of Project: Click here to enter text.	TIRZ #: Click here to enter text.
Progress Report #: Click here to enter text.	TIRZ Term: From: Click here to enter a date. To: Click here to enter a date.
Period Covered by this Report: From: Click here to enter a date. To: Click here to enter a date.	

The number of Private Improvements (single-family and/or multi-family and commercial if applicable) completed and year in which they were done

			Private Improvements							
Phases (year)			Single-Family Units		Multi-family Units		Commercial Acres and Square Feet		Other Improvements (example: day care centers)	
	<i>start date</i>	<i>end date</i>	<i>Proposed</i>	<i>Completed</i>	<i>Proposed</i>	<i>Completed</i>	<i>Proposed</i>	<i>Completed</i>	<i>Proposed</i>	<i>Completed</i>
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										

The Public Improvements completed and costs incurred to date by year (phase) in which improvements occurred

			Public Improvements										
Phases (year)			Sidewalks and Approaches	Streets	Drainage	Water	Sewer	Electrical (Line Extension)	Gas	Street Lights	Traffic Signal Light	Landscaping	Other
	<i>start date</i>	<i>end date</i>	<i>Linear Feet</i>	<i>Li.Ft.</i>	<i>Li.Ft.</i>	<i>Li.Ft.</i>	<i>Li.Ft.</i>	<i>Li.Ft.</i>	<i>Li.Ft.</i>	<i>Number</i>	<i>Number/Locati on</i>	<i>Li.Ft.</i>	
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
TOTALS													

- Is Construction on track with the approved Final Project and Finance Plan? If not, please submit an updated timeline with the actual construction and the projected buildout.
-

[Type a description of the current project status]

	Original Project Plan			Actual/Projected		
Year	Single-Family	Multi -Family	Other	Single -Family	Multi -Family	Other

Certification: I certify that to the best of my knowledge and belief, the data above is correct and that all outlays were made in accordance with the terms of the Development Agreement.	Signature of Certifying Individual:	Date:
	Type or printed Name and Title:	Click here to enter a date.
	Click here to enter name	Telephone #:
	E-mail Address:	
	Click here to enter E-mail	

EXHIBIT F

CONTRACT PROGRESS PAYMENT REQUEST



CITY OF SAN ANTONIO Contract Progress Payment Request (CPPR) Form and Requirements

Prior to submitting an invoice to request reimbursement, the developer must submit to the TIF Unit:

- **All approved Master Development Plans (MDPs), recorded plats, City approved construction plans and Inspections**
- **Copies of the payment and performance bond in accordance with executed Development Agreement**
- **Proof of compliance of the Bidding Policies must accompany the invoices submitted to include, but is not limited to: Publication of request for proposals, list of bidders, rating of bidders, and reason for choosing bidder (*Please refer to City's policy on Bidding Requirements.*)**
- **Letters of acceptance from City departments or other agencies certifying the public infrastructure was constructed and accepted in accordance with all applicable rules, regulations and codes.**

When submitting an invoice for reimbursement, a summary page (refer to Sample Packet, page 2) must accompany all invoices to include related project name, invoice number, period covered by invoices and phase covered by invoices. Invoices must be submitted in the categories listed in the approved Final Finance Plan Sources and Uses page. The Sources and Uses page is broken down into phases and categories on a forecasted maximum allowable cost.

Each category should have their own separate summary page (refer to Sample Packet, page 2) itemizing invoices submitted in each appropriate category. The summary page will need to include maximum allowable cost, actual invoice amount, Plat or MDP number (if applicable) and method of payment. This maximum allowable cost is the forecasted amount that was projected for each category in the phase.

A receipt and/or a cancelled check must accompany each invoice to qualify for reimbursement. The invoice must refer to the related project. The dates and amount on invoices must coincide with receipt or cancelled checks. The invoice total must calculate correctly and tie to the summary page.

Each column is defined below: (refer to Sample Packet, page 2)

- **Column A** is the category from the Sources and Uses page for projected expenses
- **Column B** is the forecasted maximum allowable cost per the Final Finance Plan
- **Column C** is the actual developer's expense
- **Column D** is the amount of prior requests
- **Column E** is the balance column. The balance is the difference between the projected expenses and the actual developer's expenses. (The balance column will be used for internal tracking purposes only.)

*** All invoice Payments must be accompanied by:**

- **Receipt or Cancelled Check**
- **Must Reference the Project**

*** Only those categories outlined in the approved Final Finance Plan are eligible expenses for reimbursement.**

(SAMPLE) Reimbursement for TIRZ Expenses

Project Name: NAD Residential TIRZ		Period covered by this invoice: 12/02---8/03			
Invoice#: One (1)		Phase(s) covered by this invoice: Phases 1, 2, & 3			
	A	B	C	D	E
Section	Activity	Maximum Allowable from Final Finance Plan	Invoices Amount	Prior Requests	**Balance
1	Construction Management	44,200	40,624	0	3,576
2	Contingency	192,500	199,215	0	-6,715
3	Driveway Approach	20,000	22,972	0	-2,972
4	Engineering Survey	50,050	50,000	0	50
5	Formation Fees	150,150	200,000	0	-49,850
6	Gas	144,375	100,000	0	44,375
7	Green Belt/Green Space	26,950	21,000	0	5,950
8	Infrastructure Cost	61,600	60,000	0	1,600
9	Legal Fees	10,000	11,500	0	-1,500
10	Organizational Cost	20,800	35,000	0	-14,200
11	Official Traffic Control Device	15,000	10,000	0	5,000
12	Parking Facilities	30,000	28,250	0	1,750
13	Project Cost	86,163	86,100	0	63
14	Public Schools	10,000	11,000	0	-1,000
15	Recreational Park Area	105,942	105,940	0	2
16	Regional Storm Water Improvements	73,344	73,444	0	-100
17	Relocation Cost	40,747	55,474	0	-14,727
18	Sanitary Sewer	35,000	65,000	0	-30,000
19	Sidewalks	47,500	67,587	0	-20,087
20	Streetscape Planting	20,000	20,000	0	0
21	Street Lights	25,000	25,105	0	-105
22	Water	19,500	19,500	0	0
TOTAL		1,286,321	1,365,211	0	-78,890

Financing Cost does not accrue interest

**The Balance Column is used for Tracking purposes only

All Invoice Payments must be accompanied by:

Receipt or Cancelled Check

Must Reference the Project

The City of San Antonio recommends having a CPA and the Project Engineer certify invoices submitted by developers.

CERTIFICATION: I certify that to the best of my knowledge and belief the data above and supporting documentation attached are correct and that all outlays were made in accordance with the terms of the Development Agreement, plats, & construction plans; and that payment is due and has not been previously reimbursed.	Signature of Certifying Financial Official _____ Typed or printed Name and Title <u>John Doe, CPA</u> DATE: _____	Signature of Certifying Engineer _____ Typed or printed Name & Title <u>John Smith, Engineer</u> DATE: _____
--	--	---

Reimbursement for TIRZ Expenses

Project Name:		Period covered by this invoice:			
Invoice#:		Phase(s) covered by this invoice:			
Section	A Activity	B Maximum Allowable from Final Finance Plan	C Invoices Amount	D Prior Requests	E **Balance
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
TOTAL					

Financing Cost does not accrue interest

**The Balance Column is used for Tracking purposes only

All Invoice Payments must be accompanied by:

Receipt or Cancelled Check

Must Reference the Project

The City of San Antonio recommends having a CPA and the Project Engineer certify invoices submitted by developers.

CERTIFICATION: I certify, that to the best of my knowledge and belief, the data above and supporting documentation attached are correct and that all outlays were made in accordance with the terms of the Development Agreement, plats, & construction plans; and that payment is due and has not been previously reimbursed.	Signature of Certifying Financial Official _____ Typed or printed Name and Title: _____ Signature: _____ DATE: _____	Signature of Certifying Engineer _____ Typed or printed Name & Title: _____ Signature: _____ DATE: _____
--	---	---

(SAMPLE) Reimbursement for TIRZ Expenses

Project Name: NAD Residential TIRZ	Period covered by this invoice: 12/02---8/03
Invoice #: One (1)	Phase covered by this invoice: Phases 1,2, & 3

Section 1	Plat and/or MDP #	Maximum Allowable from Final Finance Plan	Invoice #(s)	Invoice Amount(s)	Balance	Method of Payment
Site Work						
Dirt Movers Inc.	00451364		1520	10,000		Ck# 2140
Dirt Movers Inc.	145246		1555	22,000		Ck# 2141
Dirt Movers Inc.	783581		1600	2,500		Ck# 2142
Dirt Movers Inc.	891771		1680	1,124		Ck# 2142
Dirt Movers Inc.	157863146		1685	5,000		Ck# 2144
Total		44,200		40,624	3,576	

Reimbursement for TIRZ Expenses

Project Name:	Period covered by this invoice:
Invoice #:	Phase covered by this invoice:

Section 1	Plat and/or MDP #	Maximum Allowable from Final Finance Plan	Invoice #(s)	Invoice Amount(s)	Balance	Method of Payment
Site Work						
Total						

(SAMPLE) Reimbursement for TIRZ Expenses

Project Name:				Period covered by this invoice:		
NAD Residential TIRZ				12/02---8/03		
Invoice #: One (1)				Phase covered by this invoice: Phases 1,2, & 3		
Section 2	Plat and/or MDP #	Maximum Allowable from Final Finance Plan	Invoice #(s)	Invoice Amount(s)	Balance	Method of Payment
Streets & Approaches						
NAD Contractors	00451364		2020	\$165,000		Ck# 2523
Total		\$192,500		\$165,000	\$27,500	

Reimbursement for TIRZ Expenses

Project Name:				Period covered by this invoice:		
Invoice #:				Phase covered by this invoice:		
Section 2	Plat and/or MDP #	Maximum Allowable from Final Finance Plan	Invoice #(s)	Invoice Amount(s)	Balance	Method of Payment
Streets & Approaches						
Total						

(SAMPLE) Reimbursement for TIRZ Expenses

Project Name: NAD Residential TIRZ			Period covered by this invoice: 12/02---8/03			
Invoice #: One (1)			Phase covered by this invoice: Phases 1,2, & 3			
Section 3 Parkway	Plat and/or MDP #	Maximum Allowable from Final Finance Plan	Invoice #(s)	Invoice Amount(s)	Balance	Method of Payment
Fast City Contractors	3574216		123	\$10,000		Ck# 8989
			456	\$4,500		Ck# 8989
			789	\$5,500		Ck# 8989
Total		\$20,000		\$20,000	\$0.00	

Reimbursement for TIRZ Expenses

Project Name: NAD Residential TIRZ			Period covered by this invoice: 12/02---8/03			
Invoice #: One (1)			Phase covered by this invoice: Phases 1,2, & 3			
Section 3 Parkway	Plat and/or MDP #	Maximum Allowable from Final Finance Plan	Invoice #(s)	Invoice Amount(s)	Balance	Method of Payment
Total						