

AN ORDINANCE **2010-02-18-0133**

APPROVING THE PRICE, TERMS, AND CONDITIONS OF SALE BY THE SAN ANTONIO DEVELOPMENT AGENCY (SADA), ALSO KNOWN AS THE URBAN RENEWAL AGENCY OF THE CITY OF SAN ANTONIO, OF APPROXIMATELY 0.0986-ACRES OF REAL PROPERTY, AND THE STRUCTURE THEREUPON, LEGALLY DESCRIBED AS NCB 616, BLK 2, LOT 42, HISTORIC GARDENS PHASE III, BSL REPLAT, TO MS. KATHERYN FARIAS, FOR A TOTAL SUM OF \$109,000.00; AND AUTHORIZING THE EXECUTION OF ANY AND ALL DOCUMENTS BY SADA IN CONNECTION THEREWITH.

* * * * *

WHEREAS, the San Antonio Development Agency, also known as the Urban Renewal Agency of the City of San Antonio ("SADA") has offered for sale one (1) parcel of land identified as NCB 616, Blk 2, Lot 42, Historic Gardens Phase III , BSL Replat (the "Disposition Parcel"); and

WHEREAS, in accordance with Section 374.017 (g) of the Texas Local Government Code, SADA listed the Disposition Parcel for a listed sales price of \$109,000.00; and

WHEREAS, Katheryn Farias made the highest bid on the Disposition Parcel; and

WHEREAS, in accordance with Section 374.017 (a) (1), SADA has agreed to the sale of the Disposition Parcel to Katheryn Farias for a total of \$109,000.00; and

WHEREAS, the sale of the above-described parcel is now conditioned only upon the acceptance and approval by the City Council of the City of San Antonio of SADA's proposed price, terms, and conditions of sale; **NOW THEREFORE:**

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

SECTION 1. The price, terms, and conditions of sale by the San Antonio Development Agency, also known as the Urban Renewal Agency of the City of San Antonio ("SADA"), of land identified as NCB 616, Blk 2, Lot 42, Historic Gardens Phase III , BSL Replat is hereby approved as hereinafter set forth:

- (A) Sale of the above-described parcel shall be to Katheryn Farias for the total consideration of \$109, 00.00; and
- (B) Sale of said parcel shall be pursuant to the terms and conditions set forth in SADA's disposition documents (including, but not limited to, the Warranty Deed, the Contract for Sale of Land and any amendments, copies of which are attached hereto as **Attachment I**.

SECTION 2. The City Manager, or in her stead, a Deputy City Manager, an Assistant City Manager, as Assistant to the City Manager, or the Director of the Housing and Neighborhood Services Department is hereby authorized to execute any and all documents necessary to effectuate the sale of the parcel.

SECTION 3. Funds generated by this Ordinance will be deposited into Fund Number 297000001, Internal Order Number 261000000012, General Ledger Number 4903100.

SECTION 4. The sale of surplus property must be coordinated through the City's Finance Department to assure the removal of these assets from the City's financial records and to record the proper accounting transactions.

SECTION 5. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager, or the City Manager's designee, correct allocation to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 6. This Ordinance shall become effective immediately upon passage by eight (8) or more affirmative votes of the entire City Council; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

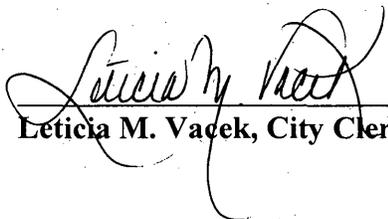
PASSED AND APPROVED this 18th day of February, 2010.

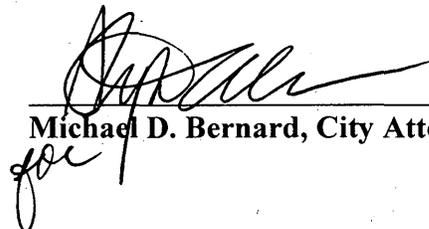


M A Y O R
Julián Castro

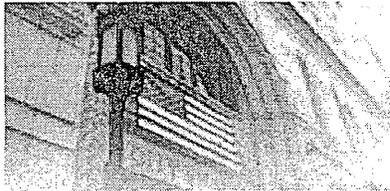
ATTEST:

APPROVED AS TO FORM:

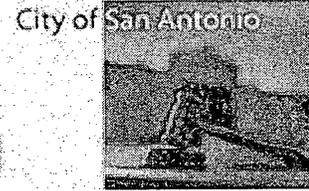


Leticia M. Vacek, City Clerk

Michael D. Bernard, City Attorney



Request for
**COUNCIL
ACTION**



Agenda Voting Results - 13

Name:	7, 8, 10, 12A, 12B, 13, 15, 16A, 16B, 18, 19A, 19B, 19C, 19D, 19E, 19F, 21, 23, 24, 26, 27A, 27B, 28, 29, 30, 32, 33, 34, 36						
Date:	02/18/2010						
Time:	03:42:40 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving the sale by the San Antonio Development Agency, also known as the Urban Renewal Agency of the City of San Antonio, of 423 Dakota, located in Council District 2, to Ms. Katheryn Farias for a total sum of \$109,000.00. [Pat DiGiovanni, Deputy City Manager/Interim Director, Center City Development Office]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x			x	
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				x
Philip A. Cortez	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
John G. Clamp	District 10		x				

ATTACHMENT I

NOTICE OF CONFIDENTIALITY RIGHTS: If you are a natural person, you may remove or strike any of 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.

WARRANTY DEED WITH VENDOR'S LIEN

Date: February 18, 2010

Grantor: Urban Renewal Agency of the City of San Antonio, also known as San Antonio Development Agency, a Texas Local Governmental Entity, by and through David D. Garza, authorized representative for and on behalf of the San Antonio Development Agency Board of Commissioners.

Grantor's Mailing Address: 1400 S. Flores Street, San Antonio, Bexar County, Texas 78204.

Grantee: Ms. Katheryn Farias, a single person.

Grantee's Mailing Address:

Consideration: Grantee's assumption of and agreement to pay, according to the note's terms, the unpaid principal and earned interest set forth on a note in the original principal sum of **ONE HUNDRED NINE THOUSAND AND 00/100THS DOLLARS (U.S. \$109,000.00)**, dated _____, executed by Grantee, and payable to the order of _____. The note is secured by an express vendor's lien and superior title retained in a deed dated _____, recorded in the real property records of Bexar County, Texas, and additionally secured by a deed of trust dated _____, from Grantee to _____, trustees, recorded in the real property records of Bexar County, Texas. As further consideration Grantee promises to keep and perform all the covenants and obligations of the grantor[s] named in that deed of trust and to indemnify, defend, and hold Grantor harmless from any loss, attorney's fees, expenses, or claims attributable to a breach or default of any provision of this assumption by Grantee. Grantor assigns to Grantee any funds on deposit for payment of taxes and insurance premiums.

Property (including any improvements): **Lot 42 in Block 2, New City Block 616, Historic Gardens Phase III, an addition in the City of San Antonio, Bexar County, Texas, according to the Amending Plat thereof recorded in Volume 9582, Page 117 of the Deed and Plat Records of Bexar County, Texas.**

Reservations from Conveyance: None.

Exceptions to Conveyance and Warranty: All existing easements, rights-of-way, restrictions, and covenants, but only to the extent they are valid and of record in Bexar County, Texas. Standby fees, taxes and assessments by any taxing authority for the year 2010 and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership.

AS A MATERIAL PART OF THE CONSIDERATION, GRANTOR AND GRANTEE AGREE THAT GRANTEE IS TAKING THE PROPERTY "AS IS" WITH ANY AND ALL LATENT AND PATENT

DEFECTS AND THERE IS NO WARRANTY BY GRANTOR THAT THE PROPERTY HAS A PARTICULAR FINANCIAL VALUE OR IS FIT FOR A PARTICULAR PURPOSE. Grantor and Grantee further agree that Grantee will not convey title to the Property within five years from the date hereof.

Grantee shall not sell, transfer or otherwise use or alienate any right to, or interest in the above described property (with the exception of a related Deed of Trust executed on even date), until the expiration of five (5) years from the date of this conveyance. Further, Grantee shall reside at the Property as his homestead (hereinafter "Authorized Purpose") for no less than (5) years from the date of this conveyance, and Grantee shall not sell, mortgage, or otherwise use or alienate any right to, or interest in the Property, or use the Property for purposes other than, and different from, the Authorized Purpose, until the expiration of said five (5) years.

Grantor, for the Consideration and subject to the Reservations from Conveyance and Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantees all of Grantor's undivided right, title and interest in and to the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold to Grantees and Grantees' successors and assigns forever. Grantor binds Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the Property to Grantees and Grantees' heirs, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and Exceptions to Conveyance and Warranty.

The vendor's lien against and superior title to the Property are retained until each note described is fully paid according to its terms, at which time this deed will become absolute.

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

**Urban Renewal Agency of the City of San Antonio,
also known as San Antonio Development Agency,
a Texas Local Governmental Entity**

By: _____
David D. Garza, Executive Director

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on the 18th day of February, 2010, by David D. Garza, authorized representative for the Board of Commissioners for and on behalf of the Urban Renewal Agency of the City of San Antonio, also known as San Antonio Development Agency, a Texas Local Governmental Entity.

Notary Public, State of Texas

After Recording Return to:
Cory Lime
Planning and Community Development Dept
City of San Antonio
P. O. Box 839966
San Antonio, Texas 78283-3966



PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)
ONE TO FOUR FAMILY RESIDENTIAL CONTRACT (RESALE)

NOTICE: Not For Use For Condominium Transactions

1. PARTIES: The parties to this contract are _____ (Seller) and Katherine Farias (Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. PROPERTY:

A. LAND: Lot 42 Block 2 of NCB 616 Historic Gardens Addition, City of _____ County of Bexar Texas, known as 423 Dakota (address/zip code), or as described on attached exhibit.

B. IMPROVEMENTS: The house, garage and all other fixtures and improvements attached to the above-described real property, including without limitation, the following permanently installed and built-in items, if any: all equipment and appliances, valances, screens, shutters, awnings, wall-to-wall carpeting, mirrors, ceiling fans, attic fans, mail boxes, television antennas and satellite dish system and equipment, heating and air-conditioning units, security and fire detection equipment, wiring, plumbing and lighting fixtures, chandeliers, water softener system, kitchen equipment, garage door openers, cleaning equipment, shrubbery, landscaping, outdoor cooking equipment; and all other property owned by Seller and attached to the above described real property.

C. ACCESSORIES: The following described related accessories, if any: window air conditioning units, stove, fireplace screens, curtains and rods, blinds, window shades, draperies and rods, controls for satellite dish system, controls for garage door openers, entry gate controls, door keys, mailbox keys, above ground pool, swimming pool equipment and maintenance accessories, and artificial fireplace logs.

D. EXCLUSIONS: The following Improvements and accessories will be retained by Seller and must be removed prior to delivery of possession: _____

The land, improvements and accessories are collectively referred to as the "Property".

3. SALES PRICE:

A. Cash portion of Sales Price payable by Buyer at closing \$ 3815.00
B. Sum of all financing described below (excluding any loan funding fee or mortgage insurance premium) \$ 105,185
C. Sales Price (Sum of A and B) \$ 109,000

4. FINANCING: The portion of Sales Price not payable in cash will be paid as follows: (Check applicable boxes below)

[X] A. THIRD PARTY FINANCING: One or more third party mortgage loans in the total amount of \$ 105,185 (excluding any loan funding fee or mortgage insurance premium).

(1) Property Approval: If the Property does not satisfy the lenders' underwriting requirements for the loan(s), this contract will terminate and the earnest money will be refunded to Buyer.

(2) Financing Approval: (Check one box only)

[X] (a) This contract is subject to Buyer being approved for the financing described in the attached Third Party Financing Condition Addendum.

[] (b) This contract is not subject to Buyer being approved for financing and does not involve FHA or VA financing.

[] B. ASSUMPTION: The assumption of the unpaid principal balance of one or more promissory notes described in the attached TREC Loan Assumption Addendum.

[] C. SELLER FINANCING: A promissory note from Buyer to Seller of \$ _____, secured by vendor's and deed of trust liens, and containing the terms and conditions described in the attached TREC Seller Financing Addendum. If an owner policy of title insurance is furnished, Buyer shall furnish Seller with a mortgagee policy of title insurance.

5. EARNEST MONEY: Upon execution of this contract by all parties, Buyer shall deposit

\$ 500.00 as earnest money with _____ as escrow agent, at North American Title Co. (address). Buyer shall deposit additional earnest money of \$ _____ with escrow agent within _____ days after the effective date of this contract. If Buyer fails to deposit the earnest money as required by this contract, Buyer will be in default.

6. TITLE POLICY AND SURVEY:

A. TITLE POLICY: Seller shall furnish to Buyer at [X] Seller's [] Buyer's expense an owner policy of title insurance (Title Policy) issued by _____ (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions

Initialed for identification by Buyer [Signature] and Seller _____

(Address of Property)

- (including existing building and zoning ordinances) and the following exceptions:
- (1) Restrictive covenants common to the platted subdivision in which the Property is located.
 - (2) The standard printed exception for standby fees, taxes and assessments.
 - (3) Liens created as part of the financing described in Paragraph 4.
 - (4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.
 - (5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
 - (6) The standard printed exception as to marital rights.
 - (7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
 - (8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements. Buyer, at Buyer's expense, may have the exception amended to read, "shortages in area".

B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or the Closing Date, whichever is earlier.

C. SURVEY: The survey must be made by a registered professional land surveyor acceptable to the Title Company and Buyer's lender(s). (Check one box only)

- (1) Within 15 days after the effective date of this contract, Seller shall furnish to Buyer and Title Company Seller's existing survey of the Property and a Residential Real Property Affidavit promulgated by the Texas Department of Insurance (Affidavit). If the existing survey or Affidavit is not acceptable to Title Company or Buyer's lender(s), Buyer shall obtain a new survey at Seller's Buyer's expense no later than 3 days prior to Closing Date. If Seller fails to furnish the existing survey or Affidavit within the time prescribed, Buyer shall obtain a new survey at Seller's expense no later than 3 days prior to Closing Date.
- (2) Within _____ days after the effective date of this contract, Buyer shall obtain a new survey at Buyer's expense. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.
- (3) Within _____ days after the effective date of this contract, Seller, at Seller's expense shall furnish a new survey to Buyer.

D. OBJECTIONS: Buyer may object in writing to defects, exceptions, or encumbrances to title: disclosed on the survey other than items 6A(1) through (7) above; disclosed in the Commitment other than items 6A(1) through (8) above; or which prohibit the following use or activity: _____

Buyer must object the earlier of (i) the Closing Date or (ii) _____ days after Buyer receives the Commitment, Exception Documents, and the survey. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived. Provided Seller is not obligated to incur any expense, Seller shall cure the timely objections of Buyer or any third party lender within 15 days after Seller receives the objections and the Closing Date will be extended as necessary. If objections are not cured within such 15 day period, this contract will terminate and the earnest money will be refunded to Buyer unless Buyer waives the objections.

E. TITLE NOTICES:

- (1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.
- (2) PROPERTY OWNERS' ASSOCIATION MANDATORY MEMBERSHIP: The Property is is not subject to mandatory membership in a property owners' association. If the Property is subject to mandatory membership in a property owners' association, Seller notifies Buyer under §5.012, Texas Property Code, that, as a purchaser of property in the residential community identified in Paragraph 2A in which the Property is located, you are obligated to be a member of the property owners' association. Restrictive covenants governing the use and occupancy of the Property and a dedicatory instrument governing the establishment, maintenance, and operation of this residential community have been or will be recorded in the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory instrument may be obtained from the county clerk. You are obligated to pay assessments to the property owners' association. The amount of the assessments is subject to change. Your failure to pay the

Initialed for identification by Buyer VM and Seller _____

TREC NO. 20-8

for wood destroying insects. If the parties do not agree to pay for the lender required repairs or treatments, this contract will terminate and the earnest money will be refunded to Buyer. If the cost of lender required repairs and treatments exceeds 5% of the Sales Price, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

- F. **COMPLETION OF REPAIRS AND TREATMENTS:** Unless otherwise agreed in writing, Seller shall complete all agreed repairs and treatments prior to the Closing Date. All required permits must be obtained, and repairs and treatments must be performed by persons who are licensed or otherwise authorized by law to provide such repairs or treatments. At Buyer's election, any transferable warranties received by Seller with respect to the repairs and treatments will be transferred to Buyer at Buyer's expense. If Seller fails to complete any agreed repairs and treatments prior to the Closing Date, Buyer may do so and receive reimbursement from Seller at closing. The Closing Date will be extended up to 15 days, if necessary, to complete repairs and treatments.
- G. **ENVIRONMENTAL MATTERS:** Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.
- H. **RESIDENTIAL SERVICE CONTRACTS:** Buyer may purchase a residential service contract from a residential service company licensed by TREC. If Buyer purchases a residential service contract, Seller shall reimburse Buyer at closing for the cost of the residential service contract in an amount not exceeding \$_____. Buyer should review any residential service contract for the scope of coverage, exclusions and limitations. **The purchase of a residential service contract is optional. Similar coverage may be purchased from various companies authorized to do business in Texas.**

8. **BROKERS' FEES:** All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

9. **CLOSING:**

A. The closing of the sale will be on or before February 12, 2010, or within 7 days after objections made under Paragraph 6D have been cured or waived, whichever date is later (Closing Date). If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.

B. At closing:

- (1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.
- (2) Buyer shall pay the Sales Price in good funds acceptable to the escrow agent.
- (3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents required of them by this contract, the Commitment or law necessary for the closing of the sale and the issuance of the Title Policy.
- (4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans assumed by Buyer and assumed loans will not be in default.

10. **POSSESSION:** Seller shall deliver to Buyer possession of the Property in its present or required condition, ordinary wear and tear excepted: upon closing and funding according to a temporary residential lease form promulgated by TREC or other written lease required by the parties. Any possession by Buyer prior to closing or by Seller after closing which is not authorized by a written lease will establish a tenancy at sufferance relationship between the parties. **Consult your insurance agent prior to change of ownership and possession because insurance coverage may be limited or terminated. The absence of a written lease or appropriate insurance coverage may expose the parties to economic loss.**

11. **SPECIAL PROVISIONS:** (Insert only factual statements and business details applicable to the sale. TREC rules prohibit licensees from adding factual statements or business details for which a contract addendum, lease or other form has been promulgated by TREC for mandatory use.)

12. SETTLEMENT AND OTHER EXPENSES:

A. The following expenses must be paid at or prior to closing:

(1) Expenses payable by Seller (Seller's Expenses):

(a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.

(b) Seller shall also pay an amount not to exceed \$ 5400.00 to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.

(2) Expenses payable by Buyer (Buyer's Expenses):

(a) Loan origination, discount, buy-down, and commitment fees (Loan Fees).

(b) Appraisal fees; loan application fees; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; mortgagee title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; and other expenses payable by Buyer under this contract.

B. Buyer shall pay Private Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender.

C. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.

13. PRORATIONS: Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year.

14. CASUALTY LOSS: If any part of the Property is damaged or destroyed by fire or other casualty after the effective date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.

15. DEFAULT: If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If, due to factors beyond Seller's control, Seller fails within the time allowed to make any non-casualty repairs or deliver the Commitment, or survey, if required of Seller, Buyer may (a) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (b) terminate this contract as the sole remedy and receive the earnest money. If Seller fails to comply with this contract for any other reason, Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.

16. MEDIATION: It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will will not be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

17. ATTORNEY'S FEES: A Buyer, Seller, Listing Broker, Other Broker, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.

18. ESCROW:

- A. **ESCROW:** The escrow agent is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent.
- B. **EXPENSES:** At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, escrow agent may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of escrow agent from all parties.
- C. **DEMAND:** Upon termination of this contract, either party or the escrow agent may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the escrow agent. If either party fails to execute the release, either party may make a written demand to the escrow agent for the earnest money. If only one party makes written demand for the earnest money, escrow agent shall promptly provide a copy of the demand to the other party. If escrow agent does not receive written objection to the demand from the other party within 15 days, escrow agent may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby releases escrow agent from all adverse claims related to the disbursement of the earnest money.
- D. **DAMAGES:** Any party who wrongfully fails or refuses to sign a release acceptable to the escrow agent within 7 days of receipt of the request will be liable to the other party for liquidated damages in an amount equal to the sum of: (i) three times the amount of the earnest money; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- E. **NOTICES:** Escrow agent's notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.

19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.

20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by applicable law, or if Seller fails to deliver an affidavit to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by facsimile or electronic transmission as follows:

<p>To Buyer at: <u>c/o Broker</u></p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Telephone: () _____</p> <p>Facsimile: () _____</p> <p>E-mail: _____</p>	<p>To Seller at: _____</p> <p>_____</p> <p>_____</p> <p>Telephone: () _____</p> <p>Facsimile: () _____</p> <p>E-mail: _____</p>
---	---

22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are (Check all applicable boxes):

- Third Party Financing Condition Addendum
- Seller Financing Addendum
- Addendum for Property Subject to Mandatory Membership in a Property Owners' Association
- Buyer's Temporary Residential Lease
- Seller's Temporary Residential Lease
- Addendum for Sale of Other Property by Buyer
- Addendum Containing Required Notices Under §5.016, §420.001 and §420.002, Texas Property Code
- Addendum for "Back-Up" Contract
- Addendum for Coastal Area Property
- Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum
- Addendum for Property Located Seaward of the Gulf Intracoastal Waterway
- Addendum for Seller's Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards as Required by Federal Law
- Other (list): _____

23. TERMINATION OPTION: For nominal consideration, the receipt of which is hereby acknowledged by Seller, and Buyer's agreement to pay Seller \$_____ (Option Fee) within 2 days after the effective date of this contract, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within _____ days after the effective date of this contract. If no dollar amount is stated as the Option Fee or if Buyer fails to pay the Option Fee to Seller within the time prescribed, this paragraph will not be a part of this contract and Buyer shall not have the unrestricted right to terminate this contract. If Buyer gives notice of termination within the time prescribed, the Option Fee will not be refunded; however, any earnest money will be refunded to Buyer. The Option Fee will will not be credited to the Sales Price at closing. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

24. CONSULT AN ATTORNEY: Real estate licensees cannot give legal advice. READ THIS CONTRACT CAREFULLY. If you do not understand the effect of this contract, consult an attorney BEFORE signing.

Buyer's Attorney is: _____ Seller's Attorney is: _____

Telephone: () _____ Telephone: () _____

Facsimile: () _____ Facsimile: () _____

E-mail: _____ E-mail: _____

EXECUTED the _____ day of _____, 20____ (EFFECTIVE DATE).
(BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

X Kathryn E. Jarian _____
Buyer Seller

Buyer Seller

The form of this contract has been approved by the Texas Real Estate Commission. TREC forms are intended for use only by trained real estate licensees. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 1-800-250-8732 or (512) 459-6544 (<http://www.trec.state.tx.us>). TREC NO. 20-8, This form replaces TREC NO. 20-7.

Contract Concerning 423 Dakota
(Address of Property)

Page 8 of 8 06-30-08

BROKER INFORMATION AND RATIFICATION OF FEE

Listing Broker has agreed to pay Other Broker 3% of the total sales price when Listing Broker's fee is received. Escrow Agent is authorized and directed to pay Other Broker from Listing Broker's fee at closing.

National Agent Network

Other Broker _____ License No. _____

represents Buyer only as Buyer's agent
 Seller as Listing Broker's subagent

Associate _____ Telephone _____

605 Brazos Ste 200
Broker's Address _____

Austin TX 78701
City _____ State _____ Zip _____

(512) 233-5114
Facsimile _____

xsellencercabty@yahoo.com
Email Address _____

Listing Broker _____ License No. _____

represents Seller and Buyer as an Intermediary
 Seller only as Seller's agent

Listing Associate _____ Telephone _____

Listing Associate's Office Address _____ Facsimile _____

City _____ State _____ Zip _____

Email Address _____

Selling Associate _____ Telephone _____

Selling Associate's Office Address _____ Facsimile _____

City _____ State _____ Zip _____

Email Address _____

OPTION FEE RECEIPT

Receipt of \$ _____ (Option Fee) in the form of _____ is acknowledged.

Seller or Listing Broker _____ Date _____

CONTRACT AND EARNEST MONEY RECEIPT

Receipt of Contract and \$ _____ Earnest Money in the form of _____ is acknowledged.
Escrow Agent: _____ Date: _____

By: _____ Email Address _____

Address _____ Telephone (_____) _____

City _____ State _____ Zip _____ Facsimile: (_____) _____



12-10-07

PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

THIRD PARTY FINANCING CONDITION ADDENDUM

TO CONTRACT CONCERNING THE PROPERTY AT

423 Dakota

(Street Address and City)

Buyer shall apply promptly for all financing described below and make every reasonable effort to obtain approval for the financing (Financing Approval). Buyer shall furnish all information and documents required by lender for Financing Approval. Financing Approval will be deemed to have been obtained when (1) the terms of the loan(s) described below are available and (2) lender determines that Buyer has satisfied all of lender's financial requirements (those items relating to Buyer's assets, income and credit history). If Buyer cannot obtain Financing Approval, Buyer may give written notice to Seller within ___ days after the effective date of this contract and this contract will terminate and the earnest money will be refunded to Buyer. **If Buyer does not give such notice within the time required, this contract will no longer be subject to Financing Approval. Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

NOTE: Financing Approval does not include approval of lender's underwriting requirements for the Property, as specified in Paragraph 4.A.(1) of the contract.

Each note must be secured by vendor's and deed of trust liens.

CHECK APPLICABLE BOXES:

A. CONVENTIONAL FINANCING:

(1) A first mortgage loan in the principal amount of \$ _____ (excluding any financed PMI premium), due in full in _____ year(s), with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Loan Fees (loan origination, discount, buy-down, and commitment fees) not to exceed _____% of the loan.

(2) A second mortgage loan in the principal amount of \$ _____ (excluding any financed PMI premium), due in full in _____ year(s), with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Loan Fees (loan origination, discount, buy-down, and commitment fees) not to exceed _____% of the loan.

B. TEXAS VETERANS LOAN: A loan(s) from the Texas Veterans Land Board of \$ _____ for a period in the total amount of _____ years at the interest rate established by the Texas Veterans Land Board.

C. FHA INSURED FINANCING: A Section 203 B FHA insured loan of not less than \$ 105,185 (excluding any financed MIP), amortizable monthly for not less than 30 years, with interest not to exceed 5.5 % per annum for the first 30 year(s) of the loan with Loan Fees (loan origination, discount, buy-down, and commitment fees) not to exceed 0 % of the loan. As required by HUD-FHA, if FHA valuation is unknown, *"It is expressly agreed that, notwithstanding any other provision of this contract, the purchaser (Buyer) shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless the purchaser (Buyer) has been given in accordance with HUD/FHA or VA requirements a written statement issued by the Federal Housing Commissioner, Department of Veterans Affairs, or a Direct Endorsement Lender setting forth the appraised value of the Property of not less than \$ 109,000. The purchaser (Buyer) shall have the privilege and option of proceeding with consummation of the contract without regard to the amount of the*

Initialed for Identification by Buyer [Signature] and Seller _____

TREC NO. 40-3

423 Dakota St.

(Address of Property)

appraised valuation. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value or the condition of the Property. The purchaser (Buyer) should satisfy himself/herself that the price and the condition of the Property are acceptable."

NOTE: HUD 92564-CN "For Your Protection: Get a Home Inspection" must be attached to this Addendum.

- D. VA GUARANTEED FINANCING: A VA guaranteed loan of not less than \$ _____ (excluding any financed Funding Fee), amortizable monthly for not less than _____ years, with interest not to exceed _____ % per annum for the first _____ year(s) of the loan with Loan Fees (loan origination, discount, buy-down, and commitment fees) not to exceed _____ % of the loan.

VA NOTICE TO BUYER: "It is expressly agreed that, notwithstanding any other provisions of this contract, the Buyer shall not incur any penalty by forfeiture of earnest money or otherwise or be obligated to complete the purchase of the Property described herein, if the contract purchase price or cost exceeds the reasonable value of the Property established by the Department of Veterans Affairs. The Buyer shall, however, have the privilege and option of proceeding with the consummation of this contract without regard to the amount of the reasonable value established by the Department of Veterans Affairs."

If Buyer elects to complete the purchase at an amount in excess of the reasonable value established by VA, Buyer shall pay such excess amount in cash from a source which Buyer agrees to disclose to the VA and which Buyer represents will not be from borrowed funds except as approved by VA. If VA reasonable value of the Property is less than the Sales Price, Seller may reduce the Sales Price to an amount equal to the VA reasonable value and the sale will be closed at the lower Sales Price with proportionate adjustments to the down payment and the loan amount.

Buyer hereby authorizes any lender to furnish to the Seller or Buyer or their representatives information relating only to the status of Financing Approval of Buyer.

[Signature]
Buyer

Seller

Buyer

Seller

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AMENDMENT TO CONTRACT CONCERNING THE PROPERTY AT

423 DAKOTA

(Street Address and City)

SAN ANTONIO, TX

Seller and Buyer amend the contract as follows: (check each applicable box)

- (1) The Sales Price in Paragraph 3 of the contract is:
A. Cash portion of Sales Price payable by Buyer at closing
B. Sum of financing described in the contract
C. Sales Price (Sum of A and B)
(2) In addition to any repairs and treatments otherwise required by the contract, Seller, at Seller's expense, shall complete the following repairs and treatments: INSTALL ALL WINDOW SCREENS, TRIM TREE ON LEFT SIDE (IF FACING) OF HOME, CLEAN UP DEBRIS (TRASH) ON LOT NEXT DOOR. ADDRESS FOR LOT IS 427 DAKOTA ST. Shampoo all carpeted areas.
(3) The date in Paragraph 9 of the contract is changed to FEB 18TH 2010, FEB
(4) The amount in Paragraph 12A(1)(b) of the contract is changed to \$
(5) The cost of lender required repairs and treatment, as itemized on the attached list, will be paid as follows: \$ by Seller; \$ by Buyer.
(6) Buyer has paid Seller an additional Option Fee of \$ for an extension of the unrestricted right to terminate the contract on or before. This additional Option Fee will will not be credited to the Sales Price.
(7) Buyer waives the unrestricted right to terminate the contract for which the Option Fee was paid.
(8) The date for Buyer to give written notice to Seller that Buyer cannot obtain Financing Approval as set forth in the Third Party Financing Condition Addendum is changed to
(9) Other Modifications: (Insert only factual statements and business details applicable to this sale.)

EXECUTED the day of (BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

Katherine E. Farias
Buyer
KATHERYN FARIAS

David D. Garza
Seller

Buyer

Seller

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