

AN ORDINANCE 2012 - 06 - 21 - 0481

AUTHORIZING THE ACQUISITION OF THE RED BERRY ESTATE FOR A TOTAL COST OF \$2,250,000.00 LOCATED AT 856 GEMBLER ROAD/4007 EAST INTERSTATE 10 AND 50' BY 50' WELL SITE LOCATED IN THE 800 BLOCK OF RICHLAND IN DISTRICT 2.

* * * * *

WHEREAS, agreement has been reached with Red Berry Estate, Ltd., the owner of the Red Berry Estate Mansion and acreage, to sell the property for the sum of \$2,250,000.00, **NOW THEREFORE:**

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

SECTION 1. The City Manager or her designee is authorized to complete the acquisition of the Red Berry Estate Mansion and acreage, and personal property, located at 856 Gembler Road/4007 East Interstate 10, including the 50 feet by 50 feet well site located at 827 Richland, according to the terms of the contract set forth in substantially final form as **Attachment I**. The City Manager or her designee should take all actions necessary or convenient to effectuate the transaction, including agreeing to and executing all necessary or convenient instruments and agreements.

SECTION 2. The subject property is described as follows:

1. Tract 1: Being 84.120 acre tract, being out of New City Block 10578, City of San Antonio, out of the G. Nunez Survey No. 151, Abstract No. 548, County Block 5096, Bexar County, Texas, commonly known as 856 Gembler Road and/or 4007 East Interstate 10, San Antonio, Bexar County, Texas and being more particularly detailed in **Exhibit A-2** attached hereto and made a part hereof for all purposes.

2. Tract 2: Being a 50.00' x 50.00' tract of land out of the northwest corner of that certain 66.84 acre tract of land described in deed from George A. Gembler, et al to V. E. Berry, dated December 27, 1945, recorded in Volume 2189, Page 456, Deed Records of Bexar County, Texas, out of the G. Nunez Survey No. 151, Abstract No. 548, County Block 5096, Bexar County, Texas, being out of New City Block 10577, commonly located in the 800 block of Richland, San Antonio, Bexar County, Texas, and being more particularly detailed in **Exhibit A-2** attached hereto and made a part hereof for all purposes.

SECTION 3. Funding in the amount of \$2,000,000.00 for this Ordinance is available in HUD 108 interest as part of the Fiscal Year 2012 Budget. Use of these funds is contingent upon City Council approval of reprogramming action in August 2012. Staff is authorized to acquire the Red Berry Estate Property in July 2012.

SECTION 4. Funding in the amount of \$250,000.00 for this ordinance is available in Fund 11001000, Cost Center 8002380001 and General Ledger 5201040, as part of the Fiscal Year 2012 Budget.

SECTION 5. Payment in the total amount of \$2,250,000.00 is authorized for acquisition of: 1) the Red Berry Estate and inventoried personal property in the Mansion; and 2) the well on Tract 2, and shall be encumbered with a purchase order.

SECTION 6: The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager, or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 7. This Ordinance further authorizes the Chief Financial Officer or designee to perform the appropriate financial allocations to carry out the intent of this Ordinance.

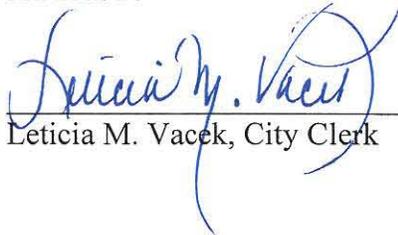
SECTION 8. This Ordinance shall be effective immediately upon passage by eight affirmative votes; otherwise, it shall be effective on the tenth day after passage.

PASSED AND APPROVED this 21st day of June, 2012.



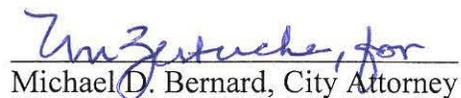
M A Y O R
Julián Castro

ATTEST:



Leticia M. Vacek, City Clerk

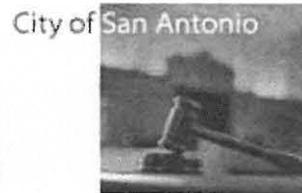
APPROVED AS TO FORM:



Michael D. Bernard, City Attorney



Request for
**COUNCIL
ACTION**



Agenda Voting Results - 29

| Name: | 29 | | | | | | |
|---------------------|---|-------------|-----|-----|---------|--------|--------|
| Date: | 06/21/2012 | | | | | | |
| Time: | 10:25:17 AM | | | | | | |
| Vote Type: | Motion to Approve | | | | | | |
| Description: | An Ordinance authorizing the acquisition of the Red Berry Estate for a total cost of \$2,250,000.00 located at 856 Gembler Road in District 2. [Pat DiGiovanni, Deputy City Manager; Mark Brodeur, Director, Center City Development] | | | | | | |
| Result: | Passed | | | | | | |
| Voter | Group | Not Present | Yea | Nay | Abstain | Motion | Second |
| Julián Castro | Mayor | | x | | | | |
| Diego Bernal | District 1 | | x | | | | |
| Ivy R. Taylor | District 2 | | x | | | x | |
| Leticia Ozuna | District 3 | x | | | | | |
| Rey Saldaña | District 4 | | x | | | | |
| David Medina Jr. | District 5 | | x | | | | |
| Ray Lopez | District 6 | | x | | | | |
| Cris Medina | District 7 | | x | | | | |
| W. Reed Williams | District 8 | | x | | | | x |
| Elisa Chan | District 9 | | x | | | | |
| Carlton Soules | District 10 | | x | | | | |

ATTACHMENT I

Real Estate Sales Contract

Red Berry Estate, Ltd./COSA

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

Authorizing Ordinance: Ordinance No. _____ dated June __, 2012, a copy whereof is attached (or to be attached once issued by the City of San Antonio) as **Exhibit E** to this

Contract.

Seller: Red Berry Estate, Ltd., a Texas Limited Partnership

Address: 3215 N. Pan Am Expressway
San Antonio, Texas 78219

Phone: 210-313-3064

Fax: ---

Email: cecilia@prioritygroup.info

Type of Entity: Texas Limited Partnership

Seller's Counsel: Susan J. Savage

Address: Hurst Savage & Vanderburg, LLP
814 W. 10th Street
Austin, Texas 78701

Phone: 512.474-8400

Fax: 512.435-0117

Email: ssavage@hsvllp.com

Seller's Broker: Priority Group Realty Company

Address: 52 Granburg Circle
San Antonio, Texas 78218

Phone: 210-738-3800

Fax: ---

Email: cecilia@prioritygroup.info

Buyer: City of San Antonio

Address: P.O. Box 839966, San Antonio, Texas 78283-
3966 (Attention: David A. McGowen, Real
Estate Manager – Downtown
Center City Development Office)

Phone: 210-207-4081

Fax: 210-207-8151

Email: david.mcgowen@sanantonio.gov

Type of Entity: Texas municipal corporation

Buyer's Counsel: Orlando Rodriguez/Nancy H. Reyes

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

Phone: 210-207-2840

Email: orlando.rodriguez@sanantonio.gov;
nancy.h.reyes@sanantonio.gov

Property: The land commonly known as **856 Gembler Road, San Antonio, Texas, and 4007 East Interstate 10, San Antonio, 78219, and a 50' X 50' water well site appurtenant thereto located in the 800 block of Richland, being more particularly detailed on Exhibit A-1 attached hereto and shown in the survey attached as Exhibit A-2 ("Land"), together with improvements to the Land ("Improvements"), all fixtures; the short term event facility rental agreements associated with the Land and Improvements ("Event Contracts"); all supply, service, maintenance, management and/or other contracts relating to the ownership or operation of the Land, the Improvements or the Event Contracts (collectively, the "Service Contracts"), and the personal property described in **Exhibit A-3** ("Personal Property").**

Title Company: Ameripoint Title, Attention: Mark Schwarz

Address: 10101 Reunion Place
Suite 250
San Antonio, Texas 78216

Phone: 210-340-2921

Fax: 210-349-9617

Email: mschwarz@ameripointtitlesa.com

Purchase Price: \$2,250,000.00

Independent Consideration: -\$10.00-

Surveyor: Jacob W. Oder, R.P.L.S.
Maverick Land Surveying Company

Survey Category: As-Is- Boundary and Improvement Survey.

Earnest Money: \$30,000.00

Buyer's Liquidated Damages: \$30,000.00

County for Performance Bexar County, Texas

1. Deadlines and Other Dates.

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

| | | |
|-------|---|------------------------------------|
| 1.01. | Earnest Money Deadline | Effective Date |
| 1.02. | Delivery of Initial Title Commitment and copies of exception instruments | Done prior to Effective Date |
| 1.03. | Delivery of Survey | Done prior to Effective Date |
| 1.04. | Delivery of UCC Search | Done prior to Effective Date |
| 1.05. | Delivery of Updated Title Commitment, legible copies of new instruments referenced in the Updated Title Commitment. | 5 Days after the Effective Date |
| 1.06. | Delivery of Seller's records as specified in <u>Exhibit C</u> | Done prior to Effective Date |

| | |
|--|--|
| 1.07. Asbestos Survey Deadline | Not a Seller obligation. Buyer to perform at Buyer's election prior to expiration of the Inspection Period. |
| 1.08. Buyer's Objection Deadline- only with respect to new matters not indicated on the Initial Title Commitment, Survey or UCC Search | 5 Days after the receipt of Updated Title Commitment and legible copies of new instruments referenced in the Updated Title Commitment or in an updated Survey obtained by Buyer. |
| 1.09. Seller's Cure Notice Deadline- only with respect to new matters not indicated on the Initial Title Commitment, Survey or UCC Search | 5 Days after Buyer's Objection Deadline |
| 1.10. Buyer's Termination Deadline- only with respect to new matters not indicated on the Initial Title Commitment, Survey or UCC Search | 5 Days after Notice of Cure Deadline |
| 1.11. End of Inspection Period | Effective Date |
| 1.12. Closing Date | Parties agree to make every reasonable effort to close July 5, 2012, but in any event, no later than July 13, 2012 |
| 1.13. Closing Time | 10:00 A.M. |

The deadlines may be altered by the mutual agreement of the parties. The Director of the Capital Improvements Management Services Department may consent to such changes on behalf of Buyer without further authorization of City Council.

2. Closing Documents.

2.01. At closing, Seller will deliver the following items in a form reasonably acceptable to Buyer and Seller, and in the absence of agreement, in the form promulgated by the State Bar of Texas:

Special Warranty Deed

Bill of Sale and Assignment

IRS Nonforeign Person Affidavit

Evidence of Seller's authority to close this transaction

Notices, statements, and certificates as specified in **Exhibit D**

Other instruments reasonably requested by Title Company that do not alter Seller's obligation under this contract.

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

Evidence of Buyer's authority to consummate this transaction

Purchase Price

Other instruments reasonably requested by Title Company that do not alter Buyer's obligation under this contract.

2.03. The documents listed in this section are collectively known as the "Closing Documents."

3. Exhibits.

The following are attached to and are a part of this contract:

Exhibit A-1—Description of the Land

Exhibit A-2-a—Survey of the Land, Tract 1

Exhibit A-2-b – Survey of the Land, Tract 2

Exhibit A-3—Personal Property

Exhibit A-4—Excluded Property

Exhibit B—Representations

Exhibit C—Seller's Records

Exhibit D—Notices, Statements, and Certificates

Exhibit E—Copy of Authorizing Ordinance

Exhibit F – Form of Special Warranty Deed

Exhibit G – Form of Bill of Sale

4. Purchase and Sale, Delivery of Earnest Money.

4.01. Subject to the terms and provisions of this Agreement, Seller will convey the Property to Buyer, and Buyer will purchase the Property from Seller. The purchase and sale includes (a)(i) all buildings, fixtures, draperies, window treatments, structures and improvements thereon; (ii) any strips or gores between the Property and all abutting properties; (ii) all roads, alleys, rights-of-way, easements, streets, and ways adjacent to or serving the Property and rights of ingress and egress thereto, whether surface, subsurface or otherwise; (iii) and land lying in the bed of any street, road, or access way, opened or proposed in front of, at a side of or adjoining the Property, to the centerline of such street, road or access way; and (b) all of Seller's rights, titles, and interests, if any, in and to (i) all mineral interests of any kind or character pertaining to the Property; (ii) all utility and water rights of any kind or character pertaining to the Property; (iii) all governmental or quasi-governmental permits, approvals, authorities, licenses, consents and bonds, if any, of any kind or character pertaining to the Property, including, without limitation, development rights, grandfathered or vested rights, and other governmental permits or approvals regarding the development and improvement of the Property; (iv) all permits, contracts, drainage easements, and rights of any kind or character to receive utilities services for the Property; (v) Seller's interest in all licenses, Event Contracts, rents, and security deposits for all or part of the Property; (vi) Seller's interest in all third party warranties or guaranties, if transferable, related to the Property or any fixtures; (vii) Seller's interest in any trade names, if transferable, used in connection with the Property; and (v) all other transferable rights, privileges and appurtenances belonging or in any way pertaining to the Property. The Property shall also include all non-migratory animals on the Property owned by Seller, including but not limited to livestock, swans, ducks, peacocks, chickens, deer, and exotic animals, and feed relating to such animals. Buyer expressly acknowledges and agrees that (i) Mr. Santos J. Navarro is a caretaker currently residing at the Property (the "Caretaker") who performs general caretaking services at the Property under a verbal month to month agreement

with Seller; (ii) the services of the Caretaker shall convey with the Property, subject to and contingent upon Buyer's and Caretaker's mutual written agreement regarding Caretaker's services; (ii) all personal property of the Caretaker is specifically excluded from the sale (which includes all chickens and goats upon the Property), and Caretaker may remove his personal property from the Property upon termination of his services by the Buyer; (iii) Buyer shall provide the Caretaker with no less than sixty (60) days notice to vacate the Property and to terminate his services. The promises by Buyer and Seller stated in this contract are the consideration for the formation of this contract.

4.02. Buyer must deposit the Earnest Money with Title Company not later than the Earnest Money Deadline.

5. Interest on Earnest Money.

Buyer may direct Title Company to invest the Earnest Money in an interest-bearing account in a federally insured financial institution by giving notice to Title Company and satisfying Title Company's requirements for investing the Earnest Money in an interest-bearing account. Any interest earned on the Earnest Money will be paid to the party that becomes entitled to the Earnest Money.

6. Title and Survey.

6.01. *Review of Title.* The following statutory notice is provided to Buyer on behalf of the real estate licensees, if any, involved in this transaction: Buyer is advised that it should either have the abstract covering the Property examined by an attorney of Buyer's own selection or be furnished with or obtain a policy of title insurance.

6.02. *Title Commitment; Title Policy.* "Initial Title Commitment" means the Commitment for Issuance of an Owner Policy of Title Insurance by Title Company, as agent for Underwriter, stating the condition of title to the Land, which Initial Title Commitment was delivered to Buyer on a preliminary basis prior to the Effective Date of this Contract. "Updated Title Commitment" means the updated Commitment for Issuance of an Owner Policy of Title Insurance by Title Company, as agent for Underwriter, stating the condition of the Land. The "effective date" stated in the Updated Title Commitment must be after the Effective Date of this contract. The Updated Title Commitment must show Seller as the record title owner of the Land and the Buyer as the proposed insured. "Title Policy" means an standard form of Texas Owner's Policy of Title Insurance issued by Title Company, as agent for Underwriter, in the amount of the Purchase Price and in conformity with the last Title Commitment delivered to and approved by Buyer, insuring Buyer's fee simple

title to the Land as good and indefeasible subject to the terms of the Title Policy and the exceptions specified in it.

6.03. *Survey.* “Survey” means the boundary and improvement survey provided by Seller to Buyer concurrently with execution of this Contract, a copy of which Survey is attached as Exhibit A-2 to this Contract or such updated land title survey of the Property approved by Buyer and Seller. Buyer may update the Survey, at Buyer’s cost during the Inspection Period, and if so updated, shall deliver a copy of the updated Survey to Seller and to the Title Company prior to expiration of the Inspection Period.

6.04. *UCC Search.* “UCC Search” means reports prepared by a third party provider retained by Seller and reasonably acceptable to the Title Company, stating the instruments that are on file in the Texas secretary of state’s UCC records, the UCC records in the jurisdiction in which Seller is located, and the UCC records of the county in which the Property is located, showing as debtor Seller and all other owners of the Personal Property during the five years before the Effective Date of this contract.

6.05. *Delivery of Title Commitment, Survey, UCC Search, and Legible Copies.* Prior to the Effective Date of this Contract, Seller has delivered to Buyer the Initial Title Commitment, the Survey and the UCC Search report. Seller must deliver the Updated Title Commitment to Buyer by the deadline stated in Article 1. Seller must likewise deliver to Buyer legible copies of the instruments referenced in the Updated Title Commitment by the deadline stated in Article 1, together with readily legible copies of all documents and plats, if any, which the Updated Title Commitment specifies will be shown as exceptions on the Title Policy upon issuance. If the Property is out of a larger tract, the Commitment is not considered received by the Buyer for the purposes of this contract until the description of the Property has been provided by the Survey and the Commitment has been issued pertaining only to the Property as so described.

6.06. *Asbestos Survey.* Buyer may, at Buyer’s cost, and prior to expiration of the Inspection Period, obtain an asbestos survey of the Property, in accordance with the provisions of § 6-293 of the City Code of the City of San Antonio, Texas.

6.07. *Buyer’s Objections.* Buyer has approved all matters reflected in the Initial Title Commitment, the Survey and the UCC Search, prior to execution of this Contract. With respect to any new or additional matters that are indicated for the first time in the Updated Title Commitment or in the updated Survey, Buyer has until the

Buyer's Objection Deadline to review such matters and to notify Seller of Buyer's objections to any of them ("Buyer's Objections"). Buyer will be deemed to have approved all new matters reflected by the updated Survey or Updated Title Commitment to which Buyer has made no Buyer's Objection by the Buyer's Objection Deadline. The matters that Buyer either approves or is deemed to have approved are "Permitted Exceptions." If Buyer notifies Seller of any Buyer's Objections, Seller has until Seller's Cure Notice Deadline to notify Buyer whether Seller agrees to cure the Buyer's Objections before closing ("Cure Notice"). If Seller does not timely give its Cure Notice or timely gives its Cure Notice but does not agree to cure all the Buyer's Objections before closing, Buyer may, as Buyer's sole remedy, on or before Buyer's Termination Deadline, notify Seller that this contract is terminated. In absence of such timely notice, Buyer will proceed to close, subject to Seller's obligations to resolve the items listed in Schedule C of the Title Commitment to the extent they pertain to the Seller, remove the liquidated liens (except for any liens which secure the payment of ad valorem taxes which are not yet due and payable), remove all exceptions that arise by, through, or under Seller after the Effective Date, and cure only the Buyer's Objections that Seller has agreed to cure in the Cure Notice. At or before closing, Seller must resolve the items that are listed on Schedule C of the Title Commitment to the extent they pertain to the Seller, remove all liquidated liens (except for any liens which secure the payment of ad valorem taxes which are not yet due and payable), remove all exceptions that arise by, through, or under Seller after the Effective Date of this contract, and cure the Buyer's Objections that Seller has agreed to cure.

6.08. *Mandatory Cure Items.* Despite any other provision of this agreement, (i) all liquidated liens disclosed in the Title Commitment (or any subsequent commitment) other than liens which secure the payment of ad valorem taxes which are not yet due and payable; (ii) all other exceptions disclosed in the Title Commitment (or any subsequent commitment) arising on or after the Effective Date of this Agreement and are not attributable to actions by Buyer; and (iii) all Buyer Objections that Seller agrees in writing to cure at or prior to Closing (collectively, the "Mandatory Cure Items"), must be satisfied, cured, or removed by Seller, at Seller's sole cost and expense, at or before Closing.

6.09. *Cross-Collateralization.* If the Property is subject to liens securing indebtedness that is also secured by liens on land other than the Property, and if the amount of the indebtedness exceeds the Purchase Price less Seller's reasonably estimated closing costs, then the following provisions shall apply: During the Inspection Period, Seller must obtain from the lienholder a binding written agreement ("Release Agreement") for the benefit of Seller and Buyer under which

the lienholder agrees to provide a release of liens covering the Property in conjunction with the Closing upon receipt of a release amount, which unless agreed otherwise by lienholder, shall be equal to the Purchase Price less Seller's reasonably estimated closing costs. The Inspection Period will be extended for not more than 90 days if necessary to obtain a Release Agreement. If the Release Agreement is not obtained within the 90 days, Buyer may terminate this Agreement and recover the Earnest Money by giving notice to Seller at any time thereafter before receiving the Release Agreement.

6.10. *Just Condemnation Value.* If Seller is unable or unwilling to cure clouds or encumbrances in the Property's title unacceptable to Buyer, Buyer may choose to condemn the Property, subject to satisfaction of all legal requirements relating to Buyer's exercise of the power of eminent domain.

7. Inspection Period.

7.01. *Review of Seller's Records.* Prior to the Effective Date, Seller has delivered to Buyer copies of Seller's records specified in **Exhibit C**, or has otherwise made those records available for Buyer's review.

BUYER ACKNOWLEDGES THAT SELLER HAS OR WILL PROVIDE IT WITH CERTAIN INFORMATION RELATING TO THE PROPERTY AND ITS OPERATION. THIS INFORMATION HAS BEEN OR SHALL BE PROVIDED BY SELLER AS A COURTESY. SELLER REPRESENTS TO BUYER THAT SELLER HAS USED REASONABLE EFFORTS TO LOCATE AND PROVIDE TO BUYER COPIES OF ALL RECORDS PERTAINING TO MATTERS LISTED IN EXHIBIT C THAT SELLER HAS ACTUAL KNOWLEDGE OF AND THAT ARE IN SELLER'S POSSESSION (PROVIDED THAT ANY INFORMATION THAT IS OF PUBLIC RECORD, BUYER IS DEEMED TO HAVE KNOWLEDGE OF). EXCEPT AS EXPRESSLY PROVIDED HEREIN TO THE CONTRARY, SELLER DOES NOT WARRANT (I) THE ACCURACY OR COMPLETENESS OF THE INFORMATION SUPPLIED OR MADE AVAILABLE BY SELLER, (II) ANY METHOD USED TO COMPILE THE INFORMATION, OR (III) THE QUALIFICATIONS OF THE PERSONS PREPARING THE INFORMATION. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 7.01 TO THE CONTRARY, THE PROPERTY INFORMATION IS PROVIDED BY SELLER WITHOUT REPRESENTATION OR WARRANTY.

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

- b. Buyer may not unreasonably interfere with existing operations or occupants of the Property and shall co-ordinate all access to the Property for all purposes with Seller's Broker. Seller may require that Seller's Broker accompany Buyer and/or its agents and employees during any entry onto the Property ; and
- d. if the Property is altered because of Buyer's inspections and Buyer does not purchase the Property, Buyer must return the Property to its preinspection condition promptly after terminating the contract.

7.03. Intentionally Deleted.

7.04. *Buyer's Right to Terminate.* Buyer may terminate this contract for any reason by notifying Seller in writing before the end of the Inspection Period. Buyer's termination is effective without City Council approval if signed by the Director of the Capital Improvements Management Services Department. If Buyer does not notify Seller in writing before the end of the Inspection Period that Buyer is terminating the Contract, Buyer shall be deemed to have waived Buyer's right to terminate this Contract pursuant to this Section 7.04.

8. Independent Consideration.

As independent consideration for this agreement, Seller acknowledges receipt from Buyer of the Independent Consideration. This sum is not a credit against the Purchase Price and is not refundable under any circumstance.

9. Representations.

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

10. Condition until Closing; Cooperation.

10.01. *Maintenance and Operation.* Buyer acknowledges that the Property or portions of the Property are from time to time leased out for public and private events, and that the management of such events are pursuant to certain event management agreements, copies of which Service Contracts that are in effect as of the Effective Date have been provided to Buyer prior to the Effective Date. Until closing, Seller will (a) maintain the Property as it existed on the Effective Date,

except for reasonable wear and tear and casualty damage; (b) operate the Property in the same manner as it was operated on the Effective Date, including continuing to market the Property for events to be held at the Property, both prior to and after Closing in which event Seller shall promptly provide Buyer with copies of all new Event Contracts entered into after the Effective Date, and all new Service Contracts entered into after the Effective Date; (c) comply with all contracts and governmental regulations affecting the Property; and (d) not transfer or dispose of any of the Personal Property, except to sell inventory, replace equipment, and use supplies in the normal course of operating the Property. Subject to the aforesaid, until the end of the Inspection Period, Seller will not enter into, amend, or terminate any contract that affects the Property other than in the ordinary course of operating the Property and will promptly give notice to Buyer of each new, amended, or terminated contract, including a copy of the contract, in sufficient time so that Buyer may consider the new information before the end of the Inspection Period. If Seller's notice is given within three days before the end of the Inspection Period, the Inspection Period will be extended for three days. After the end of the Inspection Period, Buyer may terminate this contract if Seller enters into, amends, or terminates any contract that affects the Property without first obtaining Buyer's written consent.

10.02. *Casualty Damage.* Seller will notify Buyer promptly after discovery of any casualty damage to the Property. Seller will have no obligation to repair or replace the Property if it is damaged by casualty before closing. Buyer may terminate this contract if the casualty damage that occurs before closing would materially affect Buyer's intended use of the Property, by giving notice to Seller within fifteen days after receipt of Seller's notice of the casualty (or before closing if Seller's notice of the casualty is received less than fifteen days before closing). If Buyer does not terminate this contract, Seller will (a) convey the Property to Buyer in its damaged condition, (b) assign to Buyer all of Seller's rights under any property insurance policies covering the Property, and (c) pay to Buyer the amount of the deductibles and coinsurance provisions under any insurance policies covering the Property, but not in excess of the cost to repair the casualty damage and less any amounts previously paid by Seller to repair the Property. If Seller has not insured the Property and Buyer does not elect to terminate this contract in accordance with this section, the Purchase Price will be reduced by the cost to repair the casualty damage.

10.03. *Condemnation.* Seller will notify Buyer promptly after Seller receives notice that any part of the Property has been or is threatened to be condemned or otherwise taken by a governmental or quasi-governmental authority. Buyer may terminate this contract if the condemnation would materially affect

Buyer's intended use of the Property by giving notice to Seller within fifteen days after receipt of Seller's notice to Buyer (or before closing if Seller's notice is received less than fifteen days before closing). If Buyer does not terminate this contract, (a) Buyer and Seller will each have the right to appear and defend their respective interests in the Property in the condemnation proceedings, (b) any award in condemnation will be assigned to Buyer, and (c) if the taking occurs before closing, the description of the Property will be revised to delete the portion taken. The provisions of this Section 10.03 shall expressly not apply to a condemnation proceeding initiated by Buyer, and Buyer expressly covenants to Seller that Buyer will not institute condemnation proceedings for the Property or any portion thereof while this Contract endures.

10.04. *Claims; Hearings.* Seller will notify Buyer promptly of any claim or administrative hearing that is threatened, filed, or initiated before closing that affects the Property.

10.05. *Cooperation.* Seller will cooperate with Buyer (a) before and after closing, to transfer the applications, permits, and licenses held by Seller and used in the operation of the Property and to obtain any consents necessary for Buyer to operate the Property after closing and (b) before closing, with any reasonable evaluation, inspection, audit, or study of the Property prepared by, for, or at the request of Buyer.

11. Termination.

11.01. *Disposition of Earnest Money after Termination*

- a. *To Buyer.* If Buyer terminates this contract in accordance with any of Buyer's rights to terminate, Seller will, within five days of receipt of Buyer's termination notice, authorize Title Company to deliver the Earnest Money to Buyer. Seller retains the Independent Consideration.
- b. *To Seller.* If Seller terminates this contract in accordance with any of Seller's rights to terminate, Buyer will, within five days of receipt of Seller's termination notice, authorize Title Company to pay and deliver the Earnest Money to Seller. Seller retains the Independent Consideration.

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

12. Allocation of Closing Costs.

12.01. Seller will pay:

- a. the basic charge for the Title Policy;
- b. one-half of the escrow fee charged by Title Company;
- c. the costs to prepare the deed, bill of sale and assignment;
- d. the costs to obtain, deliver, and record releases of all liens to be released at closing;
- e. the costs to insure around liens not released, if any;
- f. the costs to record all documents to cure Buyer's Objections agreed to be cured by Seller;
- g. Intentionally Deleted;
- h. the costs to obtain the Survey, UCC Search, and certificates or reports of ad valorem taxes;
- j. the costs to deliver copies of the instruments described in Article 1; and
- k. Seller's expenses and attorney's fees.

12.02. Buyer will pay:

- a. the additional premium for the “survey/area and boundary deletion” in the Title Policy and any other endorsements or modifications requested by Buyer.
- b. one-half of the escrow fee charged by Title Company;
- c. the costs to obtain, deliver, and record all documents other than those to be recorded at Seller’s expense, including the deed;
- d. the costs of work required by Buyer to have the survey reflect matters other than those required under this contract; and
- e. Buyer’s expenses and attorney’s fees.
- f. Costs of updating the Survey, if required by Buyer;
- g. Costs of recording the Deed.

12.03. *Ad Valorem Taxes.* Ad valorem taxes for the Property for the calendar year of closing will be prorated between Buyer and Seller as of the Closing Date according to Section 26.11 of the Texas Tax Code. If for any reason ad valorem taxes for such calendar year have not been assessed as of the Closing Date, such proration shall be calculated based upon the tax rate for the immediately preceding year applied to the latest assessed valuation of such taxing entity, which proration shall be considered final for all purposes, and not subject to adjustment.

Buyer acknowledges that a portion of the Property is currently determined by a special appraisal method that allows for appraisal at less than its market value (“agricultural value appraisal”). If Seller changes the use of the portion of the Property currently subject to the agricultural value appraisal prior to Closing, and such change results in the assessment of additional taxes for periods prior to Closing, such additional taxes shall be the obligation of Seller. Notwithstanding anything herein contained to the contrary, and in accordance with the provisions of Section 5.010 (d) of the Texas Property Code, if the transfer of the Property or if Buyer’s use of the Property after Closing results in the assessment of additional taxes for periods prior to Closing, such additional taxes shall be the obligation of Buyer, subject to Buyer’s tax-exempt status. These covenants shall not merge with the Deed to be delivered hereunder but shall survive the Closing.

12.04. *Income and Expenses.* Income and expenses pertaining to operation of the Property will be prorated as of the Closing Date on an accrual basis and paid at

closing as a credit or debit adjustment to the Purchase Price. Invoices that are received after closing for operating expenses incurred on or before the Closing Date and not adjusted at closing will be prorated between the parties as of the Closing Date, Either party hereto who is entitled to additional monies shall invoice the other party for such additional amounts as may be owing, and such amount shall be paid within ten (10) days from receipt of the invoice. This covenant shall not merge with the Deed to be delivered hereunder but shall survive the Closing.

12.05. *Prepaid Rent.* Buyer gets a credit at closing for all rent previously paid to Seller allocable to the period after closing.

12.06. *Postclosing Adjustments.* If errors in the prorations made at closing are identified within ninety days after closing, Seller and Buyer will make postclosing adjustments to correct the errors within fifteen days of receipt of notice of the errors.

12.07. *Brokers' Commissions.* Seller must pay the Commission to Broker. Seller will pay Principal Broker a total cash fee of 6% of the sales price. Each party represents to the other that no other commissions are due in respect of this transaction.

13. Closing.

13.01. *Closing.* This transaction will close at Title Company's offices at the Closing Date and Closing Time. At closing, the following will occur:

- a. *Closing Documents.* The parties will execute and deliver the Closing Documents.
- b. *Payment of Purchase Price.* Buyer will deliver the Purchase Price and other amounts that Buyer is obligated to pay under this contract to Title Company in funds acceptable to Title Company. The Earnest Money will be applied to the Purchase Price.
- c. *Disbursement of Funds; Recording; Copies.* Title Company will be instructed to disburse the Purchase Price and other funds in accordance with this contract, record the deed and the other Closing Documents directed to be recorded, and

distribute documents and copies in accordance with the parties' written instructions.

- d. *Delivery of Originals.* Seller will deliver to Buyer the originals of Seller's Records.
- e. *Possession.* Seller will deliver possession of the Property to Buyer, subject to the Permitted Exceptions existing at closing.
- f. Buyer need not close if Seller cannot or does not deliver indefeasible title at closing, subject to the Permitted Exceptions. If Buyer does not close for want of such indefeasible title, the earnest money is returned to Buyer.
- g. Buyer will receive at closing the basic title policy. Any endorsements or modifications to the basic title policy required by Buyer shall be at Buyer's request and Buyer's sole cost.

14. Default and Remedies.

14.01. *Seller's Default.* If Seller fails to perform any of its obligations under this contract or if any of Seller's representations is not true and correct as of the Effective Date or on the Closing Date ("Seller's Default"), Buyer has the following remedies:

- a. *Termination.* Buyer may terminate this contract by giving notice to Seller on or before the Closing Date and Closing Time and have the Earnest Money returned to Buyer. Seller retains the Independent Consideration.
- b. *Specific Performance.* Buyer may enforce specific performance of Seller's obligations under this contract. If title to the Property is awarded to Buyer, the conveyance will be subject to the matters stated in the Title Commitment.

14.02. *Buyer's Default.* If Buyer fails to perform any of its obligations under this contract ("Buyer's Default"), Seller may, as its sole and exclusive remedy, terminate this contract by giving notice to Buyer on or before the Closing Date and Closing Time and have the Earnest Money paid to Seller.

14.03. *Liquidated Damages.* The parties agree that just compensation for the harm that would be caused by Buyer's default cannot be accurately estimated or would be very difficult to accurately estimate and that the Earnest Money is a reasonable forecast of just compensation to Seller for the harm that would be caused by Buyer's default.

15. Miscellaneous Provisions.

15.01. *Applicable Law.* This Agreement is entered into in San Antonio, Bexar County, State of Texas. **The Construction Of This Agreement And The Rights, Remedies, And Obligations Arising Thereunder Shall Be Governed By The Laws Of The State Of Texas.** Provided, however, the Texas conflicts of law rules shall not be used to cause the application of the laws of a jurisdiction other than Texas. The obligations performable hereunder by both parties are performable in San Antonio, Bexar County, Texas.

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

15.03. *Successors.* This Agreement inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

15.04. *Integration.* **This Written Agreement Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties.**

15.05. *Modification.* This Agreement may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. Subject to the foregoing, any of the terms of this Agreement may be modified at any time by the party entitled to the benefit thereof, but no such modification, express or implied, affects the right of the modifying party to require observance of either (i) the same term or condition as it applies on a subsequent or previous occasion or (ii) any other term hereof.

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

15.07. *Notices.* Any notice provided for or permitted hereunder must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth in the preamble hereof. If the addressee is a corporation, notices must be addressed to the attention of its President. The giving of notice is complete three days after its deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to conform to the requirement that mailings be done by certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice hereunder.

15.08. *Pronouns.* In construing this Agreement, plural constructions include the singular, and singular constructions include the plural. No significance attaches to whether a pronoun is masculine, feminine, or neuter. The words "herein," "hereof," and other, similar compounds of the word "here" refer to this entire Agreement, not to any particular provision of it.

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

15.10. *Mediation.* As a condition precedent to bringing any action to enforce or interpret this agreement or any aspect thereof, including an action for declaratory relief, the disputants must first submit in good faith to mediation by a mediator qualified under § 154.052, Texas Civil Practice and Remedies Code. Suit may be filed only after the sooner to occur of (i) a full day of mediation by a mediator qualified as provided above or (ii) certification by the mediator that further attempts to mediate would be fruitless. Laches, waiver, and estoppel based upon any reasonable delay relating to attempts to mediate as herein provided may not be asserted by either party hereto.

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

15.12. *Further Assurances.* The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. No such additional document(s), however, may alter the rights or obligations of the parties as contained in this agreement

15.13. *Assignment.* Buyer may assign this contract and Buyer's rights under it, only with Seller's written consent to such assignment, which consent shall not be unreasonably withheld (provided that Seller may withhold consent for any reason or for no reason at all if Buyer purports to assign this Contract and Buyer's rights under this contract to any party other than a governmental or quasi-governmental entity). This contract binds, benefits, and may be enforced by the parties and their respective heirs, successors, and permitted assigns.

15.14. *Survival.* The obligations of this contract that cannot be performed before termination of this contract or before closing will survive termination of this contract or closing, and the legal doctrine of merger will not apply to these matters. If there is any conflict between the Closing Documents and this contract, the Closing Documents will control.

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

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

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

15.18. *Administrative Agreements.* The Director of Capital Improvements Management Services ("CIMS") and the Assistant Director for Real Estate of CIMS may, without further council action, agree to, sign, and deliver on behalf of the City all consents, certificates, memoranda, estoppels, and modifications of nonmaterial rights and obligations arising under this agreement and may declare defaults and pursue remedies for such defaults.

15.19 *Time of the Essence.* Time is of the essence in this contract. The parties require strict compliance with the time for performance set forth herein.

16. Prohibited Interest in Contracts.

16.01. The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city

owned utilities. An officer or employee has a “prohibited financial interest” in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

16.02. Seller warrants and certifies as follows:

- (i) Seller and its officers, employees and agents are neither officers nor employees of the City.
- (ii) Seller has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City’s Ethics Code.

16.03. Seller acknowledges that City’s reliance on the above warranties and certifications is reasonable.

17. Public Information.

Seller acknowledges that this instrument and all documents ancillary to it are public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public. Nothing in this agreement waives an otherwise applicable exception to disclosure.

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

Buyer

Seller

City of San Antonio, a Texas
municipal corporation

Red Berry Estate, Ltd., a Texas Limited
Partnership

Signature: _____

By and Through **Red Berry General
Partner, Inc.**, a Texas Corporation, Its
General Partner

Printed
Name: _____

Signature: _____

Title: _____

Printed Name: B.J. Tidwell

Date: _____

Title: President

Date: _____

Attest:

City Clerk

Approved as to Form:

City Attorney

Ordinance Number: _____

Title Company Acceptance of Escrow and Receipt for Contract

Seller: Red Berry Estate, Ltd., a Texas Limited Partnership

Address: 3215 N. Pan Am Expressway
San Antonio, Texas 78219

Buyer: City of San Antonio

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

Tract 1: Being approximately 84.59 acre tract, being out of New City Block 10578, City of San Antonio, out of the G. Nunez Survey No. 151, Abstract No. 548, County Block 5096, Bexar County, Texas, commonly known as 856 Gemblar Road and/or 4007 East Interstate 10, San Antonio, Bexar County, Texas and being more particularly detailed in Exhibit A-2 attached hereto and made a part hereof for all purposes.

Property: **Tract 2:** Being a 50.00' x 50.00' tract of land out of the northwest corner of that certain 66.84 acre tract of land described in deed from George A. Gemblar, et al to V. E. Berry, dated December 27, 1945, recorded in Volume 2189, Page 456, Deed Records of Bexar County, Texas, out of the G. Nunez Survey No. 151, Abstract No. 548, County Block 5096, Bexar County, Texas, being out of New City Block 10577, being more particularly detailed in Exhibit A-2 attached hereto and made a part hereof for all purposes, commonly located in 800 block of Richland.

Title Company agrees to act as escrow agent according to the terms of this Contract. Further, Title Company acknowledges receipt from Buyer of three fully executed counterpart originals of the Contract on the same date, with one fully executed original Contract being returned to each of Seller and Buyer.

Ameripoint Title:

By: _____

Printed
Name: _____

Title: _____

Date: _____

Title Company Receipt for Earnest Money

Seller: Red Berry Estate, Ltd., a Texas Limited Partnership

Address 3215 N. Pan Am Expressway
: San Antonio, Texas 78219

Buyer: City of San Antonio

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

Tract 1: Being approximately 84.59 acre tract, being out of New City Block 10578, City of San Antonio, out of the G. Nunez Survey No. 151, Abstract No. 548, County Block 5096, Bexar County, Texas, commonly known as 856 Gemblar Road and/or 4007 East Interstate 10, San Antonio, Bexar County, Texas and being more particularly detailed in Exhibit A-2 attached hereto and made a part hereof for all purposes.

Property: **Tract 2:** Being a 50.00' x 50.00' tract of land out of the northwest corner of that certain 66.84 acre tract of land described in deed from George A. Gemblar, et al to V. E. Berry, dated December 27, 1945, recorded in Volume 2189, Page 456, Deed Records of Bexar County, Texas, out of the G. Nunez Survey No. 151, Abstract No. 548, County Block 5096, Bexar County, Texas, being out of New City Block 10577, being more particularly detailed in Exhibit A-2 attached hereto and made a part hereof for all purposes, commonly located in 800 block of Richland.

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

Amount: _____

Ameripoint Title

By: _____

Printed
Name: _____

Title: _____

Date: _____

Exhibit A-1

Description of the Land

Tract 1: Being approximately 84.59 acre tract, being out of New City Block 10578, City of San Antonio, out of the G. Nunez Survey No. 151, Abstract No. 548, County Block 5096, Bexar County, Texas, commonly known as 856 Gemblar Road and/or 4007 East Interstate 10, San Antonio, Bexar County, Texas and being more particularly detailed in Exhibit A-2 attached hereto and made a part hereof for all purposes.

Tract 2: Being a 50.00' x 50.00' tract of land out of the northwest corner of that certain 66.84 acre tract of land described in deed from George A. Gemblar, et al to V. E. Berry, dated December 27, 1945, recorded in Volume 2189, Page 456, Deed Records of Bexar County, Texas, out of the G. Nunez Survey No. 151, Abstract No. 548, County Block 5096, Bexar County, Texas, being out of New City Block 10577, being more particularly detailed in Exhibit A-2 attached hereto and made a part hereof for all purposes, commonly located in 800 block of Richland.

**Survey of the Land
Tract 1**

**Survey of the Land
Tract 2**

Exhibit A-3

Description of Personal Property

All personal property associated with the Land and Improvements (collectively, the "Transferred Properties"), except the excluded items specifically identified and itemized on Exhibit A-4 attached hereto and made a part hereof for all purposes (the "Excluded Property"), which Excluded Property shall not comprise part of the Property subject to the sale and which shall be removed from the Property by Seller prior to the Closing Date. The Transferred Properties include, without limitation, the following:

1. All tangible personal property and fixtures owned by Seller and situated in or attached to Land and/or Improvements, including, without limitation, all furniture, fixtures, draperies, window treatments, mechanical, plumbing, electrical and heating, ventilation and air conditioning equipment, machinery and systems (collectively, the "Personal Property"). The Personal Property shall also include all non-migratory animals on the property owned by Seller, including but not limited to livestock, swans, ducks, peacocks, deer, and exotic animals, and feed relating to such animals.
2. The rights and interests of Seller, as lessor or landlord, in and to, and existing under and by virtue of all short term event facility rental agreements associated with the Land and/or Improvements (the "Event Contracts"), together with all prepaid rents or security deposits made by the tenants under the Event Contracts (collectively, the "Deposits").
3. All of Seller's interest, in the following, to the extent they relate to the ownership, use, leasing, maintenance, service, or operation of the Land and/or Improvements: (i) all third party warranties or guaranties, if transferable; (ii) any trade names, if transferable; (iii) contracts or agreements such as employment, maintenance, service, or other contracts (the "Property Agreements"); (iv) all governmental or quasi-governmental permits, approvals, authorities, licenses, consents and bonds, if any, of any kind or character pertaining to the Land and/or Improvements, including, without limitation, development rights, grandfathered or vested rights, and other governmental permits or approvals regarding the development and improvement of the Land and/or Improvements; (v) all utility and water rights of any kind or character pertaining to the Land and/or Improvements; and (vi) all

other transferable rights, privileges and appurtenances belonging or in any way pertaining to the Land and/or Improvements.

Buyer expressly acknowledges and agrees that (i) Mr. Santos J. Navarro is a caretaker currently residing at the Property (the "Caretaker") who performs general caretaking services at the Property under a verbal month to month agreement with Seller; (ii) the services of the Caretaker shall convey with the Property as a component of the Transferred Properties, subject to and contingent upon Buyer's and Caretaker's mutual written agreement regarding Caretaker's services; (ii) all personal property of the Caretaker (including all chickens and goats upon the Property) is specifically excluded from this conveyance and Caretaker may remove his personal property from the Property upon termination of his services by the Buyer; (iii) Buyer shall provide the Caretaker with no less than sixty (60) days notice to vacate the Property and to terminate his services.

WITH THE EXCEPTION OF THE WARRANTIES OF TITLE, INCLUDING THE WARRANTY THAT NO LIENS EXIST ON THE TRANSFERRED PROPERTIES, SELLER HAS MADE NO AFFIRMATION OF FACT OR PROMISE RELATING TO THE TRANSFERRED PROPERTIES THAT HAS BECOME ANY BASIS OF THIS BARGAIN. AS A MATERIAL PART OF THE CONSIDERATION FOR THIS AGREEMENT AND THE PURCHASE, BUYER HEREBY AGREES TO ACCEPT THE TRANSFERRED PROPERTIES ON THE CLOSING DATE IN THEIR "AS IS", "WHERE IS" CONDITION AND WITH ALL FAULTS, AND WITHOUT REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW. AND SELLER DISCLAIMS ANY WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE WHATEVER WITH RESPECT TO THE TRANSFERRED PROPERTIES. THE PROVISIONS OF THIS PARAGRAPH SHALL NOT MERGE WITH THE BILL OF SALE; SHALL EXPRESSLY BE INCORPORATED INTO THE BILL OF SALE; AND SHALL SURVIVE CLOSING.

Exhibit A-4

Description of Excluded Property

Exhibit A-4

Description of Excluded Property

The following items are excluded and will not convey with the sale of the property. The Seller will make every effort to remove these items from the property on or before the closing. However, Buyer agrees to allow Seller up to thirty (30) after closing to remove these items from the property.

- 1) Kubota 1850 tractor w/attachments (shown below w/front loader attached)



- herbicide sprayer



- front loader (see photo above)

2) Kubota M4000 tractor w/mower attachment



- Mower attachment shown below



3) Antique tiller



4) Antique fire hose on wheels



- 5) Round table and chairs (located in the small study in the mansion)
- 6) Landlord's table and chairs (located in large study on 2nd floor of mansion)
- 7) 3 x slot machines currently located in the casino area of the mansion
- 8) All personal property of the Caretaker upon the Property.

Exhibit B

Representations

A. Seller's Representations to Buyer

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

1. *Authority.* Seller is the type of entity specified in the signature block adjacent to its name and is duly organized, validly existing, and in good standing under the laws of the state of Texas with authority to convey the Property to Buyer. This contract is, and all documents required by this contract to be executed and delivered to Buyer at closing will be, duly authorized, executed, and delivered by Seller.

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

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

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

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

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

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

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

8. *Prepaid Rent.* As of closing, Seller has received no prepaid rent except as reflected on the closing statement as a credit to Buyer.

9. *Wells.* Except for the water well on Tract 2 of the Property, to Seller's actual current knowledge, without investigation, there are no water or other wells on the property, capped or uncapped, registered or unregistered.

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

11. *No Warranty.* Seller has made no warranty in connection with this contract.

In the event Buyer has actual knowledge as of the Closing Date of any breach of the foregoing representations and warranties and Buyer proceeds with the Closing, then Buyer shall be deemed to have waived and forever released Seller from any and all claims arising out of such breach. Subject to the immediately preceding sentence, the foregoing representations and warranties shall be deemed repeated by Seller at the Closing, and such representations and warranties shall survive the Closing for a period of six (6) months. To the extent Buyer shall fail to assert a claim under the foregoing representations and warranties within six (6) months following the Closing, or in the event Buyer fails to file suit for any such claim within six (6) months following the Closing, then such claim shall be deemed to be waived and released by Buyer.

B. "As Is, Where Is"

BUYER ACKNOWLEDGES AND AGREES THAT BUYER IS EXPERIENCED IN THE OWNERSHIP AND OPERATION OF PROPERTIES SIMILAR TO THE PROPERTY AND THAT BUYER PRIOR TO THE CLOSING DATE WILL HAVE INSPECTED THE PROPERTY TO ITS SATISFACTION AND IS QUALIFIED TO MAKE SUCH INSPECTION. BUYER

ACKNOWLEDGES THAT IT IS FULLY RELYING ON BUYER'S (OR BUYER'S REPRESENTATIVES') INSPECTIONS OF THE PROPERTY AND NOT UPON ANY STATEMENTS (ORAL OR WRITTEN) THAT MAY HAVE BEEN MADE OR MAY BE MADE (OR PURPORTEDLY MADE) BY SELLER OR ANY OF ITS REPRESENTATIVES OTHER THAN THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS EXHIBIT B HEREOF. BUYER ACKNOWLEDGES THAT BUYER HAS (OR BUYER'S REPRESENTATIVES HAVE), OR PRIOR TO THE CLOSING DATE WILL HAVE, THOROUGHLY INSPECTED AND EXAMINED THE PROPERTY TO THE EXTENT DEEMED NECESSARY BY BUYER IN ORDER TO ENABLE BUYER TO EVALUATE THE CONDITION OF THE PROPERTY AND ALL OTHER ASPECTS OF THE PROPERTY (INCLUDING, BUT NOT LIMITED TO, THE ENVIRONMENTAL CONDITION OF THE PROPERTY), AND BUYER ACKNOWLEDGES THAT BUYER IS RELYING SOLELY UPON ITS OWN (OR ITS REPRESENTATIVES') INSPECTION, EXAMINATION AND EVALUATION OF THE PROPERTY. AS A MATERIAL PART OF THE CONSIDERATION FOR THIS AGREEMENT AND THE PURCHASE, BUYER HEREBY AGREES TO ACCEPT THE PROPERTY ON THE CLOSING DATE IN ITS "AS IS", "WHERE IS" CONDITION AND WITH ALL FAULTS, AND WITHOUT REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, EXCEPT ONLY THE TITLE WARRANTIES EXPRESSLY SET FORTH IN THE DEED DATED ON THE CLOSING DATE AND EXCEPT FOR THOSE LIMITED REPRESENTATIONS AND WARRANTIES EXPRESSLY PROVIDED FOR IN THIS CONTRACT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, IN CONNECTION WITH THE SALE OF THE PROPERTY TO BUYER, SELLER AND SELLER'S OFFICERS, AGENTS, EMPLOYEES, AND ATTORNEYS ("SELLER'S RELATED PARTIES") HAVE MADE NO, AND SPECIFICALLY DISCLAIM, AND BUYER ACCEPTS THAT SELLER AND SELLER'S RELATED PARTIES HAVE DISCLAIMED, ANY AND ALL REPRESENTATIONS, GUARANTIES OR WARRANTIES, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW (EXCEPT AS TO TITLE AS HEREINABOVE PROVIDED AND EXCEPT FOR THE LIMITED REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT), OF OR RELATING TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION, OF OR RELATING TO (I) THE USE, INCOME POTENTIAL, EXPENSES, OPERATION, CHARACTERISTICS OR CONDITION OF THE PROPERTY OR ANY PORTION THEREOF, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF SUITABILITY, HABITABILITY, MERCHANTABILITY, DESIGN OR FITNESS FOR ANY SPECIFIC OR A PARTICULAR PURPOSE, OR GOOD AND WORKMANLIKE CONSTRUCTION, (II) THE NATURE, MANNER, CONSTRUCTION, CONDITION, STATE OF REPAIR OR LACK OF REPAIR OF ANY IMPROVEMENTS LOCATED ON THE PROPERTY, ON THE SURFACE OR SUBSURFACE THEREOF, WHETHER OR NOT OBVIOUS, VISIBLE OR APPARENT, (III) THE NATURE OR QUALITY OF CONSTRUCTION,

STRUCTURAL DESIGN OR ENGINEERING OF THE PROPERTY, (IV) THE ENVIRONMENTAL CONDITION OF THE PROPERTY, OR THE COMPLIANCE OF THE PROPERTY WITH REGULATIONS OR LAWS PERTAINING TO HEALTH OR THE ENVIRONMENT, AND (V) THE SOIL CONDITIONS, DRAINAGE, FLOODING CHARACTERISTICS, UTILITIES OR OTHER CONDITIONS EXISTING IN, ON, OR UNDER THE PROPERTY. EXCEPT AS EXPRESSLY PROVIDED HEREIN TO THE CONTRARY, THE BUYER HEREBY EXPRESSLY ASSUMES ALL RISKS, LIABILITIES, CLAIMS, DAMAGES, AND COSTS (AND AGREES THAT SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL, OR OTHER DAMAGES) RESULTING OR ARISING FROM OR RELATED TO THE OWNERSHIP, USE, CONDITION, LOCATION, MAINTENANCE, REPAIR OR OPERATION OF THE PROPERTY. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT AND SHALL SURVIVE THE CLOSING OF THE TRANSACTION DESCRIBED IN THIS AGREEMENT. Nothing herein shall be deemed or construed as Buyer releasing Seller or any Seller's Related Parties with respect to any matters that were fraudulently concealed from Buyer.

Exhibit C

Seller's Records

Prior to the Effective Date of this contract, Seller has provided to Buyer copies of the following documentation relating to the Property or has otherwise made those records available for Buyer's review (collectively, the "Seller Records"):

- (a) Environmental Phase I reports;
- (b) Survey of Property;
- (c) Plans, drawings and renderings of Seller's Master Plan Concept;
- (d) Sales brochure of Property;
- (e) Event Contracts that are to occur from and after the Effective Date of this Contract; and
- (f) Pool maintenance agreement.

Exhibit D

Notices, Statements, and Certificates

The following notices, statements, and certificates, to the extent applicable, have been provided to Buyer prior to the expiration of the Inspection Period:

Notice regarding real property located adjacent to tidally influenced, submerged lands of Texas, described in section 33.135 of the Texas Natural Resources Code

Notice concerning public easements to the public beach, described in section 61.025 of the Texas Natural Resources Code

Notice concerning the bonded indebtedness of, or rates to be charged by, a utility or other special district, described in sections 49.452 and 54.016(h)(4)(A) of the Texas Water Code, with the form of notice to be used being dependent on whether the property is (1) located in whole or in part within the extraterritorial jurisdiction of one or more home-rule municipalities but is not located within the corporate boundaries of a municipality, (2) located in whole or in part within the corporate boundaries of a municipality, or (3) not located in whole or in part within the corporate boundaries of a municipality or the extraterritorial jurisdiction of one or more home-rule municipalities

Seller's disclosure of the condition of residential property, described in section 5.008 of the Texas Property Code

Condominium declaration, bylaws, and association rules, described in section 82.156 of the Texas Property Code

Resale certificate from the condominium owners association, described in section 82.157 of the Texas Property Code

Seller's disclosure of the location of pipelines under the surface of unimproved property to be used for residential purposes, described in section 5.013 of the Texas Property Code

Notice of additional tax liability for vacant land that has been subject to a special tax appraisal method, described in section 5.010 of the Texas Property Code

Notice of deed restrictions, described in section 230.005 of the Texas Local Government Code

Notice concerning underground storage tanks, described in section 334.9 of title 30 of the Texas Administrative Code as well as proof that storage tanks are currently in compliance with Texas Commission on Environmental Quality requirements

Notice concerning insulation to be installed in a new home, described in section 460.16 of title 16 of the Code of Federal Regulations

Lead-paint warning statement, described in section 745.100 et seq. of title 40 of the Code of Federal Regulations

Notice concerning asbestos, described in sections 1910.1001 and 1926.1101 of title 29 of the Code of Federal Regulations

Notice containing the sale of property located outside the limits of a municipality that the property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality, described in section 5.011 of the Texas Property Code

Notice concerning the sale of single-family residential property that is subject to membership in a property owners association, described in section 5.012 of the Texas Property Code

Notice concerning the buyer's three-day right of rescission under a contract to purchase real property if (1) the seller or the seller's agent solicits the sale at a place other than the seller's place of business; (2) the buyer submits the purchase contract to the seller or the seller's agent at a place other than the seller's place of business; and (3) the consideration payable under the purchase contract exceeds \$100; unless either (1) the buyer is represented by a licensed attorney; (2) the transaction is negotiated by a licensed real estate broker; or (3) the transaction is negotiated at a place other than the buyer's residence by the person who owns the property, as described in chapter 39 of the Texas Business and Commerce Code

Notice regarding the sale of property used or to be used as the buyer's residence if the contract does not provide for delivery of a deed from the seller to the buyer within 180 days after the final execution of the contract, described in sections 5.061-.080 of the Texas Property Code

Notice for unimproved property in a certificated service area of a utility service provider, described in section 13.257 of the Texas Water Code

Insurance notice to applicant, described in section 343.104 of the Texas Finance Code

Exhibit E

COPY OF AUTHORIZING ORDINANCE.

[TO BE ATTACHED]

Exhibit F

FORM OF SPECIAL WARRANTY DEED

Special Warranty Deed

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL 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.

Date: _____, 2012

Grantor: **RED BERRY ESTATES, LTD**, a Texas limited partnership

Grantor's Mailing Address:

3215 N. Pan Am Expressway, San Antonio, Bexar County, Texas 78219

Grantee: **CITY OF SAN ANTONIO**, a Texas municipal corporation

Grantee's Mailing Address:

P.O. Box 839966, San Antonio, Bexar County, Texas 78283-3966

Consideration: TWO MILLION TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$2,250,000.00)

Property (including any improvements): *See Exhibit A attached hereto and made a part hereof for all purposes.*

Reservations from Conveyance: NONE

Exceptions to Conveyance and Warranty:

Validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing restrictions, reservations, covenants, conditions, oil and gas leases, mineral interests, and other instruments, other than conveyances of the surface fee estate, that affect the Property; validly existing rights of adjoining owners in any walls and fences situated on a common boundary; any discrepancies, conflicts, or shortages in area or boundary lines; any encroachments or overlapping of improvements; and taxes for 2012 which Grantee assumes and agrees to pay, and subsequent assessments for 2012 and prior years due to change in land usage by Grantee or as a result of this transaction, the payment of which Grantee assumes.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, GRANTS, SELLS, AND CONVEYS to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to WARRANT AND FOREVER

DEFEND all and singular the Property to Grantee and Grantee's successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

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

EXECUTED and **EFFECTIVE** as of the ___ day of July, 2012.

GRANTOR:

RED BERRY ESTATE, LTD,
a Texas limited partnership

By: Red Berry General Partner, Inc.
A Texas corporation
General Partner

By: _____
B.J. Tidwell, President

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared B. J. Tidwell, President of Red Berry General Partner, Inc., a Texas corporation, General Partner of **RED BERRY ESTATE, LTD.**, a Texas limited partnership, on behalf of the corporation and limited partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ___ day of July, 2012.

Notary Public, State of Texas
Typed/Printed Name of Notary:

Notary Public's Commission Expires:

EXHIBIT A
DESCRIPTION OF THE PROPERTY

Tract 1: Being an approximately 84.59 acre tract, being out of New City Block 10578, City of San Antonio, out of the G. Nunez Survey No. 151, Abstract No. 548, County Block 5096, Bexar County, Texas, and being more particularly detailed in *Exhibit A-1* attached hereto and made a part hereof for all purposes; and

Tract 2: Being a 50.00' x 50.00' tract of land out of the northwest corner of that certain 66.84 acre tract of land described in deed from George A. Gemblar, et al to V. E. Berry, dated December 27, 1945, recorded in Volume 2189, Page 456, Deed Records of Bexar County, Texas, out of the G. Nunez Survey No. 151, Abstract No. 548, County Block 5096, Bexar County, Texas, being out of New City Block 10577, commonly located in the 800 block of Richland, and being more particularly detailed in *Exhibit A-2* attached hereto and made a part hereof for all purposes;

Together with (a)(i) all buildings, fixtures, structures and improvements thereon; (ii) any strips or gores between the Land and all abutting properties; (ii) all roads, alleys, rights-of-way, easements, streets, and ways adjacent to or serving the Land and rights of ingress and egress thereto, whether surface, subsurface or otherwise; (iii) and land lying in the bed of any street, road, or access way, opened or proposed in front of, at a side of or adjoining the Land, to the centerline of such street, road or access way; and (b) all of Grantor's rights, titles, and interests, if any, in and to (i) all mineral interests of any kind or character pertaining to the Land; and (ii) all utility and water rights of any kind or character pertaining to the Land.

Tract 1 and Tract 2 are collectively referred to herein as the "Land". The Land and the appurtenant rights are collectively referred to as the "Property":

Exhibit A-1
Survey – Tract 1

Exhibit A-2
Survey – Tract 2

Exhibit G

FORM OF BILL OF SALE

BLANKET CONVEYANCE, BILL OF SALE AND ASSIGNMENT

THE STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF BEXAR §

That this Blanket Conveyance, Bill of Sale and Assignment (this "Assignment") is made and executed by and between **RED BERRY ESTATES, LTD**, a Texas limited partnership ("Assignor"), and **CITY OF SAN ANTONIO**, a Texas municipal corporation ("Assignee"), pursuant to that certain Real Estate Sales Contract dated effective June __, 2012 between Assignor and Assignee (the "Purchase Contract"). Concurrently with the execution and delivery of this Assignment, Assignor is conveying to Assignee by Special Warranty Deed (the "Deed"), that certain real property situated in Bexar County, Texas, described on **Exhibit A** attached hereto and made a part hereof for all purposes (the "Land"), together with all improvements and fixtures owned by Assignor and located on the said land (the "Improvements").

Pursuant to the Purchase Contract, it is the desire of Assignor and Assignee for Assignor to hereby assign, transfer, and convey to Assignee the Event Contracts (as defined below); the Deposits (as defined below); the Personal Property (as defined below); the Property Agreements (as defined below), and such other property as defined and described below (collectively, the "Assigned Properties") and for Assignee to assume certain obligations with respect to the Assigned Properties.

NOW, THEREFORE, in consideration of the receipt of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged and confessed by Assignor, Assignor does hereby **ASSIGN, TRANSFER, SET OVER, and DELIVER** to Assignee, its successors and assigns, all of the Assigned Properties, as described below, to-wit:

1. All tangible personal property and fixtures owned by Assignor and situated in or attached to Land and/or Improvements, including, without limitation, all furniture, fixtures, draperies, window treatments, mechanical, plumbing, electrical and heating, ventilation and air conditioning equipment, machinery and systems (collectively, the "Personal Property"). The Personal Property shall also include all non-migratory animals on the property owned by Assignor, including but not limited to livestock, swans, ducks, peacocks, deer, and exotic animals, and feed relating to such animals. The Personal Property shall expressly not include those items identified on **Exhibit B** attached hereto and made a part hereof for all purposes (the "Excluded Personal Property"), which Excluded Personal Property shall be removed by Assignor from the Property prior to the Effective Date of this Assignment.
2. The rights and interests of Assignor, as lessor or landlord, in and to, and existing under and by virtue of all short term event facility rental agreements associated with the Land and/or Improvements, as identified on **Exhibit C** attached hereto (the "Event Contracts"), together with all prepaid rents or security deposits made by the tenants under the Event Contracts (collectively, the "Deposits"), as such Deposits are listed on **Exhibit C** attached hereto and made a part hereof.

3. All of Assignor's interest, in the following, to the extent they relate to the ownership, use, leasing, maintenance, service, or operation of the Land and/or Improvements: (i) all third party warranties or guaranties, if transferable; (ii) any trade names, if transferable; (iii) contracts or agreements such as employment, maintenance, service, or other contracts as specifically detailed on **Exhibit D** attached hereto and made a part hereof (the "Property Agreements"); (iv) all governmental or quasi-governmental permits, approvals, authorities, licenses, consents and bonds, if any, of any kind or character pertaining to the Land and/or Improvements, including, without limitation, development rights, grandfathered or vested rights, and other governmental permits or approvals regarding the development and improvement of the Land and/or Improvements; (v) all utility and water rights of any kind or character pertaining to the Land and/or Improvements; and (vi) all other transferable rights, privileges and appurtenances belonging or in any way pertaining to the Land and/or Improvements.

Assignee expressly acknowledges and agrees that (i) Mr. Santos J. Navarro is a caretaker currently residing at the Property (the "Caretaker") who performs general caretaking services at the Property under a verbal month to month agreement with Assignor; (ii) the services of the Caretaker shall convey with the Property as a component of the Assigned Properties, subject to and contingent upon Buyer's and Caretaker's mutual written agreement regarding Caretaker's services; (iii) all personal property of the Caretaker (including all chickens and goats upon the Property) is specifically excluded from this conveyance and Caretaker may remove his personal property from the Property upon termination of this services by the Assignee; (iv) Assignee shall provide the Caretaker with no less than sixty (60) days notice to vacate the Property and to terminate his services.

TO HAVE AND TO HOLD the Assigned Properties unto Assignee, its successors and assigns, forever, and Assignor does hereby bind itself, its successors and assigns, to **WARRANT AND FOREVER DEFEND**, all and singular, title to the Assigned Properties unto Assignee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof, by, through or under Assignor, but not otherwise.

EXCEPT AS EXPRESSLY PROVIDED TO THE CONTRARY IN THE PURCHASE CONTRACT, (i) GRANTOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE ASSIGNED PROPERTIES, AND THE SAME ARE ASSIGNED, SOLD AND CONVEYED TO GRANTEE IN AN "AS IS, WHERE IS" CONDITION, WITH ALL FAULTS; (ii) BY ACCEPTANCE OF THIS ASSIGNMENT GRANTEE AFFIRMS THAT GRANTOR HAS MADE NO WARRANTY THAT THE ASSIGNED PROPERTIES ARE FIT FOR ANY PARTICULAR PURPOSE; AND (iii) GRANTOR MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR STATUTORY WITH RESPECT TO THE ASSIGNED PROPERTIES, EXCEPT THAT GRANTOR REPRESENTS AND WARRANTS THAT GRANTOR HAS FULL POWER, RIGHT AND AUTHORITY TO ASSIGN THE ASSIGNED PROPERTIES. It is specifically agreed that Assignor shall not be responsible for the discharge and performance of any duties or obligations required to be performed and/or discharged in connection with the Assigned Properties after the Effective Date of this Assignment. By acceptance of this Assignment, Assignee jointly and

severally accepts and agrees to perform all of the terms, covenants, and conditions in connection with the Assigned Properties required to be performed by the owner from and after the date hereof, but not prior thereto (including, without limitation, all obligations under the Event Contracts and any obligations to credit or return Deposits described in Exhibit C to this Assignment). It is further agreed that Assignee shall not be responsible for the discharge and performance of any duties or obligations required to be performed and/or discharged in connection with the Assigned Properties prior to the date hereof, all of which shall be and remain the duties and obligations of Assignor.

Assignor shall defend, indemnify and hold harmless Assignee from and against any and all liabilities, damages, causes of action, expenses, and attorneys' fees incurred by Assignee by reason of the failure of Assignor to fulfill, perform, discharge, or observe its obligations with respect to the Event Contracts or Property Agreements arising on or before the Effective Date of this Assignment. In addition, Assignor shall defend, indemnify and hold harmless Assignee from and against any and all liabilities, damages, causes of action, expenses, and attorneys' fees incurred by Assignee asserted by Mr. Santos J. Navarro which arise prior to Closing, including, but not limited to, claims of adverse possession and/or homestead rights to the Property or any portion thereof.

Simultaneously with the execution and delivery of this Assignment, Assignor has executed and delivered to Assignee the Deed and the specific conveyances described in the recitals hereof. Nothing herein contained shall be deemed to limit or restrict the properties, assets and rights conveyed, assigned or transferred to or acquired by Assignee pursuant to the Deed.

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IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment to be executed effective as of the ____ day of _____, 2012.

ASSIGNOR:

Red Berry Estate, Ltd.,
A Texas Limited Partnership

By: Red Berry General Partner, Inc.,
a Texas Corporation,
Its General Partner

By: _____
Name: B.J. Tidwell
Title: President

ASSIGNEE:

City of San Antonio,
a Texas municipal corporation

By: _____
Name: _____
Title: _____

**EXHIBIT A TO BLANKET CONVEYANCE,
BILL OF SALE AND ASSIGNMENT**

Land Description

Tract 1: Being an approximately 84.59 acre tract, being out of New City Block 10578, City of San Antonio, out of the G. Nunez Survey No. 151, Abstract No. 548, County Block 5096, Bexar County, Texas, commonly known as 856 Gemblar Road and/or 4007 East Interstate 10, San Antonio, Bexar County, Texas and being more particularly detailed in Exhibit A-2 attached hereto and made a part hereof for all purposes.

Tract 2: Being a 50.00' x 50.00' tract of land out of the northwest corner of that certain 66.84 acre tract of land described in deed from George A. Gemblar, et al to V. E. Berry, dated December 27, 1945, recorded in Volume 2189, Page 456, Deed Records of Bexar County, Texas, out of the G. Nunez Survey No. 151, Abstract No. 548, County Block 5096, Bexar County, Texas, being out of New City Block 10577, commonly located in 800 block of Richland, being more particularly detailed in Exhibit A-2 attached hereto and made a part hereof for all purposes.

**EXHIBIT A-1 TO BLANKET CONVEYANCE,
BILL OF SALE AND ASSIGNMENT**

Description of Tract 1

**EXHIBIT A-2 TO BLANKET CONVEYANCE,
BILL OF SALE AND ASSIGNMENT**

Description of Tract 2

**EXHIBIT B TO BLANKET CONVEYANCE,
BILL OF SALE AND ASSIGNMENT**

Description of Excluded Personal Property

**EXHIBIT C TO BLANKET CONVEYANCE,
BILL OF SALE AND ASSIGNMENT**

List of Event Contracts and Deposits

**EXHIBIT D TO BLANKET CONVEYANCE,
BILL OF SALE AND ASSIGNMENT**

Description of Property Agreements