

AN ORDINANCE 2012-05-17-0352

REVIVING AND EXTENDING THE DEADLINE OF ORDINANCE NO. 2011-09-29-0786, RELATED TO THE ACQUISITION OF APPROXIMATELY 29.416 ACRES OF PRIVATELY-OWNED VACANT REAL PROPERTY NECESSARY FOR THE DRAINAGE PROJECT LOCATED ALONG LAVEN DRIVE ON THE WEST SIDE OF ZARZAMORA CREEK DRAINAGE RIGHT-OF-WAY SOUTH OF CULEBRA ROAD IN NCBS 12002, 12003, 12004, AND 12005; AND CONVERSION OF A \$692,842 HOUSING DEVELOPMENT GRANT (HDG) LOAN INTO A GRANT, RELEASING THE LIEN AND AUTHORIZING THE EXECUTION OF A HDG GRANT AGREEMENT WITH LIFSHUTZ COMPANY.

* * * * *

WHEREAS, the City Council approved construction of Mayfield Gardens Family Apartments Project as a project to be funded with U.S. Department of Housing and Urban Development (HUD) Housing Development Grant (HDG) Program funds to provide affordable housing; and

WHEREAS, the City entered into a loan agreement with Mayfield Equities, Inc. to fund said project, in the amount of \$692,842.00 (the "Loan"); and

WHEREAS, Mayfield Equities, Inc. executed a note for the Loan amount to City and City placed a lien on the project property to secure the note; and

WHEREAS, the City desired to convert the Loan into a grant and release the lien on the project property; and

WHEREAS, Ordinance No. 2011-09-29-0786, passed and approved on September 29, 2011, authorized the acquisition of approximately 29.416 acres of privately-owned vacant real property necessary for the drainage project located along Laven Drive on the west side of Zarzamora Creek drainage right-of-way south of Culebra Road in NCBS 12002, 12003, 12004, and 12005; and

WHEREAS, Ordinance No. 2011-09-29-0786 also authorized converting the Loan into a HDG grant, releasing the lien, and execution of an HDG Grant Agreement; and

WHEREAS, it is now the desire of the City to revive and extend the deadline of Ordinance No. 2011-09-29-0786 to authorize the execution of the contract and associating actions; and

WHEREAS, it is the City Council's intention to revive and extend the deadline of Ordinance No. 2011-09-29-0786 to authorize the execution of an HDG Grant Agreement with Lifshutz Company, the successors of Mayfield Equities, Inc.; **NOW THEREFORE:**

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

SECTION 1. The City Manager and her designee, severally, are authorized and directed to accept on behalf of the City an instrument in the form attached as **Attachment I**, which is

incorporated for all purposes as if fully set forth, and to consummate the transaction contemplated therein. The City Manager and her designee, severally, should take all other actions necessary or convenient to effectuate the transaction, including agreeing to non-material changes to the approved form and executing all necessary or convenient ancillary instruments and agreements.

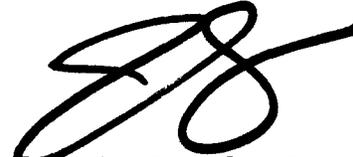
SECTION 2. The City of San Antonio will convert a \$692,842.00 Housing Development Grant (HDG) loan into a grant, releasing the lien, and authorizing the execution of a HDG Grant Agreement with Lifshutz Company. A copy of the Agreement in its substantially final form is attached hereto and incorporated herein for all purposes as **Attachment II**.

SECTION 3. Funding and payment for this Ordinance was previously authorized; therefore, there is no additional fiscal impact at this time. All expenditures will comply with the approved capital budgets for current and future fiscal years.

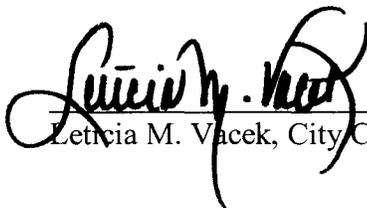
SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, SAP GL Account Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 5. This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 17th day of May 2012.

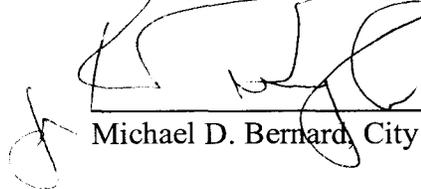

M A Y O R
Julián Castro

ATTEST:

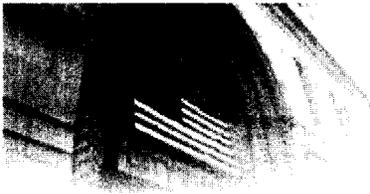


Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Michael D. Bernard, City Attorney



Request for
COUNCIL
ACTION

City of San Antonio



Agenda Voting Results - 7

Name:	7						
Date:	05/17/2012						
Time:	10:50:57 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance reviving and extending the deadline of Ordinance 2011-09-29-0786, related to the acquisition of approximately 29.416 acres of privately-owned vacant real property necessary for the drainage project located along Laven Drive on the west side of Zarzamora Creek drainage right-of-way south of Culebra Road in NCBs 12002, 12003, 12004, and 12005; and, conversion of a \$692,842.00 Housing Development Grant (HDG) loan into a grant, releasing the lien and authorizing the execution of a HDG grant agreement with Lifshutz Company. [Peter Zanoni, Assistant City Manager; Mike Frisbie, Director, Capital Improvements Management Services]						
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				
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			x	
W. Reed Williams	District 8		x				x
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				

Attachment I

Notice of Confidentiality Rights: If You Are a Natural Person, You May Remove or Strike Any or All the Following Information from Any Instrument That Transfers an Interest in Real Property Before it Is Filed for Record in the Public Records: Your Social Security Number or Your Driver's License Number.

**SPECIAL WARRANTY DEED ON CONDITION SUBSEQUENT
(AND ASSIGNMENT OF CLAIMS)**

Authorizing Ordinance:

Parcel: 13753F

Grantor: Lifshutz Companies, L.P., a Texas limited partnership

Grantor's Mailing Address: c/o Shelton and Valadez, PC, 600 Navarro, Suite 500, San Antonio, Texas 78205 (Attn: Bobby Perez)

Grantee: City of San Antonio

Grantee's Mailing Address: P.O. Box 839966, San Antonio, Texas 78283-3966 (Attention: Director, Capital Improvement Management Services)

Consideration: \$10 in hand paid and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged.

Property: Approximately 29.416 acres located along Lavern Drive and the west side of Zarzamora Creek drainage right-of-way, south of Culebra Road including Lots 2-7, Block 5, NCB 12002; Lots 1-7 and the South irregular 388.55 feet of Lot 8, and the South irregular 257.51 feet of Lot 9, Block 6, NCB 12003; Lots 1-18, Block 7, NCB 12004; and Lots 1-6 and the West 62.89 feet of Lot 7, Block 8, NCB 12005 City of San Antonio, Bexar County, Texas and more particularly described in the attached **Exhibit A**.

Exceptions to Conveyance and Warranty: All reservations, restrictions, easements, mineral interests and other matters of record in Bexar County, Texas, affecting the Property and all matters that would be disclosed by an accurate on the ground survey of the Property.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty herein (the "**Permitted Exceptions**"), **grants, sells, and conveys to Grantee**, together with all and singular the rights and appurtenances thereto in anywise belonging, to have and to hold to Grantee, and Grantee's heirs and assigns forever.

Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns against every person whomever lawfully claiming or to claim the same or any part thereof, by, through, or under Grantor, but not otherwise.

Condition Subsequent:

Mayfield Equities, Inc., a Texas corporation, an affiliate of Grantor ("Mayfield"), presently owes Grantee approximately \$692,842.00 under the terms of a Housing Development Grant ("HDG") funded loan ("Loan"). Simultaneously with Grantor's delivery of this deed, Grantee is converting the Loan to a 30-day HDG grant, which will be conditioned on compliance with certain regulations of the federal Department of Housing and Urban Development, as more fully described in a Contract of even date herewith between Grantee and Mayfield. Upon conversion to a grant, the loan is extinguished. If Grantee

has not provided Mayfield with written notice of a violation of the conditions to the grant-within thirty (30) days following the date hereof, then Mayfield, Grantor and their respective partners, shareholders, principals and affiliates will have no further obligation to Grantee regarding the grant. If, after the expiration of the 30-day grant period, a judgment is entered against Grantor for repayment of some or all of the grant, Grantor has a right to re-enter and take possession of the Property as if this deed had never been delivered. To exercise the right of re-entry, Grantor must file notice of re-entry in the real property records of Bexar County, Texas and must deliver a certified copy of the recorded notice of re-entry to the City Manager of the City of San Antonio. If Grantor has not completed both such actions by December 31, 2016, this right of re-entry lapses, and Grantee's title will be secure against the assertion of any claim by or through Grantor or Grantor's heirs and assigns forever.

Property Condition. GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTEE IS EXPERIENCED IN THE OWNERSHIP, DEVELOPMENT AND/OR OPERATION OF PROPERTIES SIMILAR TO THE PROPERTY AND THAT GRANTEE INSPECTED THE PROPERTY TO ITS SATISFACTION AND IS QUALIFIED (OR EMPLOYED PERSONS WHO ARE QUALIFIED) TO MAKE SUCH INSPECTION. GRANTEE ACKNOWLEDGES THAT IT IS FULLY RELYING ON GRANTEE'S (OR GRANTEE'S REPRESENTATIVES') INSPECTIONS OF THE PROPERTY AND NOT UPON ANY STATEMENT (ORAL OR WRITTEN) WHICH MAY HAVE BEEN MADE OR MAY BE MADE (OR PURPORTEDLY MADE) BY GRANTOR OR ANY OF ITS REPRESENTATIVES. GRANTEE ACKNOWLEDGES THAT GRANTEE HAS (OR GRANTEE'S REPRESENTATIVES HAVE), THOROUGHLY INSPECTED AND EXAMINED THE PROPERTY TO THE EXTENT DEEMED NECESSARY BY GRANTEE IN ORDER TO ENABLE GRANTEE 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 GRANTEE ACKNOWLEDGES THAT GRANTEE IS RELYING SOLELY UPON ITS OWN (OR ITS REPRESENTATIVES') INSPECTION, EXAMINATION AND EVALUATION OF THE PROPERTY. GRANTEE HEREBY RELEASES GRANTOR FROM ALL RISKS, LIABILITIES, CLAIMS, DAMAGES AND COSTS RESULTING OR ARISING FROM OR RELATED TO THE OWNERSHIP, USE, CONDITION, LOCATION, MAINTENANCE, REPAIR OR OPERATION OF THE PROPERTY ATTRIBUTABLE TO THE PERIOD FROM AND AFTER THE DATE OF CLOSING. GRANTEE EXPRESSLY WAIVES (TO THE EXTENT ALLOWED BY APPLICABLE LAW) ANY CLAIMS UNDER FEDERAL, STATE OR OTHER LAW THAT GRANTEE MIGHT OTHERWISE HAVE AGAINST GRANTOR RELATING TO THE USE, CHARACTERISTICS OR CONDITION OF THE PROPERTY.

DTPA Waiver. GRANTEE WAIVES ITS RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES-CONSUMER PROTECTION ACT, SECTION 17.41 ET SEQ., BUSINESS & COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF GRANTEE'S OWN SELECTION, GRANTEE VOLUNTARILY CONSENTS TO THIS WAIVER.

GRANTEE ACKNOWLEDGES AND AGREES THAT THE TEXAS DECEPTIVE TRADE PRACTICES-CONSUMER PROTECTION ACT, SUBCHAPTER E OF CHAPTER 17 OF THE TEXAS

BUSINESS AND COMMERCE CODE, SECTIONS 17.41 THROUGH 17.63, INCLUSIVE (THE "DTPA"), IS NOT APPLICABLE TO THIS TRANSACTION, AND THAT, WITH RESPECT TO ALL ACTS OF GRANTOR, PAST, PRESENT OR FUTURE IN CONNECTION WITH THE CONTRACT, THE RIGHTS AND REMEDIES OF GRANTEE WILL BE GOVERNED BY LEGAL PRINCIPLES OTHER THAN THE DTPA.

IN FURTHERANCE OF THE FOREGOING, GRANTEE REPRESENTS THAT IT HAS KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS THAT ENABLE IT TO EVALUATE THE MERITS AND RISKS OF THE TRANSACTION ASSOCIATED WITH THIS DEED. GRANTOR REPRESENTS THAT IT IS NOT IN A SIGNIFICANTLY DISPARATE BARGAINING POSITION IN RELATION TO GRANTOR.

THE FOREGOING WAIVER IS KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY MADE BY GRANTEE, AND GRANTEE ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL IN CONNECTION WITH THE NEGOTIATIONS AND EXECUTION OF THE CONTRACT AND THIS WAIVER AND HAS HAD THE OPPORTUNITY TO DISCUSS THE FOREGOING WAIVER AND ITS MEANING WITH SUCH COUNSEL.

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

Assignment of Claims

In addition to the conveyance of real estate addressed above, Grantor on a non-exclusive basis hereby assigns to Grantee all choate and inchoate statutory and common-law claims, if any, it may have against its predecessors in title and against any other potentially responsible person for environmental contamination of the Property now known or later found to exist; provided that the foregoing assignment shall not preclude Grantor from asserting any such assigned claim to the extent that liability is asserted against Grantor arising out of or related to any such assigned claim.

Release of Claims and Indemnity

In further consideration of the transactions of which this deed is a part, Grantor releases, acquits, and forever discharges Grantee and its officers, employees, agents, representatives, and elected officials (collectively, "Released Parties") of and from any and all claims, demands, actions, or causes of action arising from or relating to the Property, including but not limited to any dumping on or loss of use or value of the Property (collectively, "Released Claims").

In further consideration of the transactions of which this deed is a part, Grantor must indemnify the Released Parties and hold them harmless from the assertion of a Released Claim by James Lifshutz, by any person related to him in the fourth degree of consanguinity ("Related Person"), or by any entity in which James Lifshutz or a Related Person directly or indirectly owns an interest of more than five percent of any class of securities.

Lifshutz Companies, L.P.,
A Texas limited partnership

By: Lifshutz Management, LLC,
A Texas limited liability company,
Its General Partner

By: [Signature]
James G. Lifshutz, Sole Member

May 3, 2012
Date

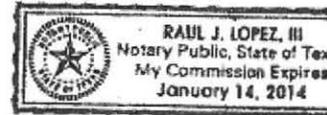
State of Texas §

County of Bexar §

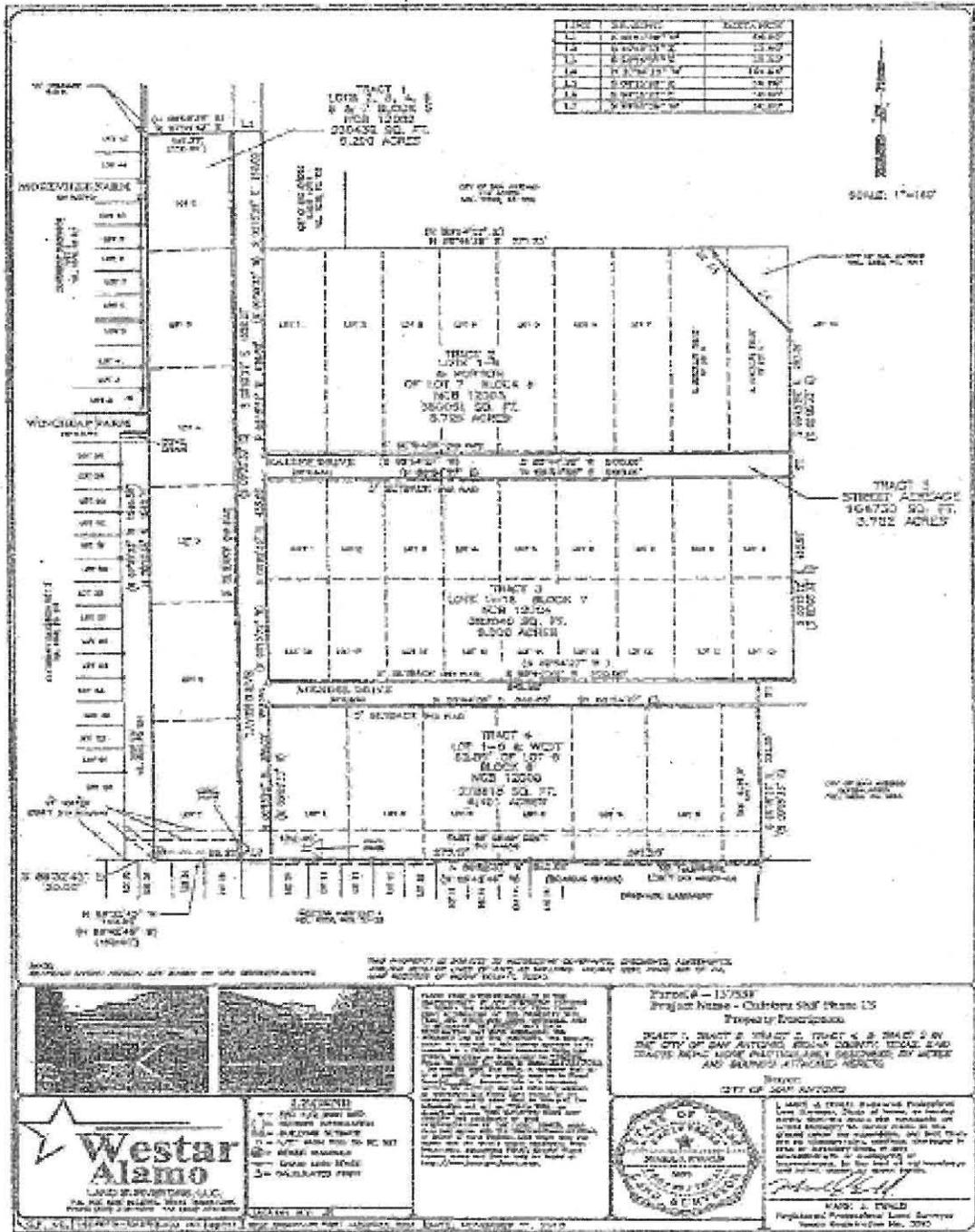
This instrument was acknowledged before me on the 3rd day of MAY by James G. Lifshutz, the Sole Member of Lifshutz Management, LLC, a Texas limited liability company, the general partner of Lifshutz Companies, L.P., a Texas limited partnership, on behalf of said limited liability company and limited partnership.

Approved as to Form:
[Signature]
City Attorney

[Signature]
Notary Public, State of Texas



After recording, please return to:
City of San Antonio
P.O. Box 879966
San Antonio, Texas 78283-2966
(Attention: Director, Capital Improvement Management Services)



METES AND BOUNDS
Parcel# - 13753F Tract 1
Project Name - Culebra 58F Phase 1B

Being 5.290 acres of land, more or less, and being Lots 2 through 7, Block 5, No. 72, New City Block 12002, situated in the City of San Antonio, Bexar County, Texas, according to the plat recorded in Volume 2222, Page 360, Deed Records, Bexar County, Texas, said 5.290 acres more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod found for the southeast corner of Lot 20 in Canterbury Subdivision Unit 3 (Volume 9558, Page 209), same being the southwest corner of the STLPI, LTD tract (Volume 6945, Page 1114) and in the North Line of Lot 35 in Western Park Unit 1 (Volume 6600, Pages 23-25), same also being the **POINT OF COMMENCEMENT**;

THENCE along the North line of Western Park Unit 1, South 89 degrees 32 minutes 43 seconds East, a distance of 50.00 feet to a 1/2 inch iron rod set for the southwest corner of this 5.290 acres, same being the southwest corner of said Lot 7 and the **POINT OF BEGINNING**;

THENCE along the line common to this 5.290 acres and said STLPI, LTD tract, North 00 degrees 10 minutes 35 seconds West (called North 00 degrees 05 minutes 33 seconds West), a distance of 1545.71 feet (called 1545.50 feet) to a 1/2 inch iron rod set for the northwest corner of this 5.290 acres, same being the southwest corner of Lot 1;

THENCE along the line common to this 5.290 acres and said Lot 1, North 87 degrees 56 minutes 47 seconds East (called North 88 degrees 06 minutes 36 seconds East), a distance of 147.77 feet (called 150.07 feet) to a 1/2 inch iron rod set for the northeast corner of this 5.290 acres, same being the southeast corner of said Lot 1 and in the West Right-of-Way of Laven Drive;

THENCE along the West Right-of-Way of Laven Drive, South 00 degrees 15 minutes 22 seconds East (called South 00 degrees 05 minutes 33 seconds East), a distance of 1552.21 feet to a 1/2 inch iron rod set for the southeast corner of this 5.290 acre, same being the northeast corner of Lot 38 in said Western Park Unit 1;

THENCE along the line common to this 5.290 acres and said Western Park Unit 1, North 89 degrees 32 minutes 43 seconds West (called North 89 degrees 42 minutes 48 seconds West), at a distance of 65.52 feet pass a 1/2 inch iron rod found for the northwest corner of said Lot 38, Western Park Unit 1 and the northeast corner of Lot 37, Western Park Unit 1, and continuing for a total distance of 149.85 feet (called 150.00 feet) to the **POINT OF BEGINNING**, and containing 5.290 acre of land, more or less.

I hereby certify that these field notes were prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. All iron rods set are 1/2 inch rebar. A survey plat of the above described tract prepared this day is hereby attached to and made a part hereof.



Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
November 11, 2010



METES AND BOUNDS
Parcel# - 13753F Tract 2
Project Name - Calbra 58F Phase 1B

Being 8.725 acres of land, more or less, and being all of Lots 1 through 7, the South irregular 388.5 feet of Lot 8, and the South irregular 257.51 feet of Lot 9, Block 6, New City Block 12003, situated in the City of San Antonio, Bexar County, Texas, according to the plat recorded in Volume 2222, Page 360, Deed Records, Bexar County, Texas, said 8.725 acres more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod found for the northwest corner of Lot 21 in Western Park Unit 1 (Volume 6600, Pages 23-25), same being the northeast corner of Lot 22 of said Western Park Unit 1 and in the South line of Tract 4, surveyed this same date, same also being the **POINT OF COMMENCEMENT**;

THENCE along the North line of Western Park Unit 1, North 89 degrees 52 minutes 37 seconds West (called North 89 degrees 42 minutes 48 seconds West), a distance of 170.49 feet to a 1/2 inch iron rod set for the southwest corner of said Tract 4, same being in the East Right-of-Way line of Laven Drive;

THENCE along the East Right-of-Way line of said Laven Drive, North 00 degrees 15 minutes 22 seconds West (called North 00 degrees 05 minutes 33 seconds West), a distance of 863.60 feet to a point for the southwest corner of said Block 6, same being the southwest corner of said Lot 1 and the southwest corner of this 8.725 acres, same also being at the intersection of the East Right-of-Way line of said Laven Drive and the North Right-of-Way line of Kaliff Drive and the **POINT OF BEGINNING**;

THENCE along the East Right-of-Way line of said Laven Drive, North 00 degrees 15 minutes 22 seconds West (called North 00 degrees 05 minutes 33 seconds West), a distance of 435.60 feet to a 1/2 inch iron rod set for the northwest corner of this 8.725 acres, same being the southwest corner the City of San Antonio 0.8609 acres (Volume 11382, Page 259);

THENCE along the line common to this 8.725 acres and said City of San Antonio 0.8609 acres, North 89 degrees 44 minutes 38 seconds East (called North 89 degrees 54 minutes 27 seconds East), a distance of 771.23 feet to a 1/2 inch iron rod set for the upper northeast corner of this 8.725 acres, same being in the South line of the City of San Antonio 7.19 acres (Volume 11382, Page 259) and the northwest corner of the City of San Antonio tract (Volume 869, Page 1094), same also being the upper northeast corner of said South irregular 388.5 feet of Lot 8;

THENCE along the lines common to this 8.725 acres and said San Antonio Tract the following courses and distances:

South 26 degrees 40 minutes 33 seconds East, a distance of 23.00 feet to a 1/2 inch iron rod set for an angle corner;

South 35 degrees 16 minutes 37 seconds East, a distance of 32.30 feet to a 1/2 inch iron rod set for an angle corner;

and,

South 37 degrees 36 minutes 15 seconds East, a distance of 164.84 feet to a 1/2 inch iron rod set for the lower northeast corner of this 8.725 acres, same being the northeast corner of said South irregular 257.51 feet of Lot 9 and in the West line of Lot 10;

THENCE along the line common to this 8.725 acres and said Lot 10, South 00 degrees 15 minutes 22 seconds East (called South 00 degrees 05 minutes 33 seconds East), a distance of 257.51 feet to a 1/2 inch iron rod set for the southeast corner of this 8.725 acres, same being the southwest corner of said Lot 10 and the southeast corner of said Lot 9, same also being in the North Right-of-Way line of said Kaliff Drive;

THENCE along the North Right-of-Way line of said Kaliff Drive, South 89 degrees 44 minutes 38 seconds West (called South 89 degrees 54 minutes 27 seconds West), a distance of 900.00 feet to the **POINT OF BEGINNING**, and containing 8.725 acre of land, more or less.

I hereby certify that these field notes were prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. All iron rods set are 1/2 inch rebar. A survey plat of the above described tract prepared this day is hereby attached to and made a part hereof.



Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
November 11, 2010



METES AND BOUNDS
Parcel# - 13753F Tract 3
Project Name - Culebra 58F Phase 1B

Being 9.000 acres of land, more or less, and being all of Lots 1 through 18, Block 7, New City Block 12004, situated in the City of San Antonio, Bexar County, Texas, according to the plat recorded in Volume 2222, Page 360, Deed Records, Bexar County, Texas, said 9.000 acres more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod found for the northwest corner of Lot 21 in Western Park Unit 1 (Volume 6600, Pages 23-25), same being the northeast corner of Lot 22 of said Western Park Unit 1 and in the South line of Tract 4, surveyed this same date, same also being the **POINT OF COMMENCEMENT**;

THENCE along the North line of Western Park Unit 1, North 89 degrees 52 minutes 37 seconds West (called North 89 degrees 42 minutes 48 seconds West), a distance of 170.49 feet to a 1/2 inch iron rod set for the southwest corner of said Tract 4, same being in the East Right-of-Way line of Laven Drive;

THENCE along the East Right-of-Way line of said Laven Drive, North 00 degrees 15 minutes 22 seconds West (called North 00 degrees 05 minutes 33 seconds West), a distance of 378.00 feet to a point for the southwest corner of said Block 7, same being the southwest corner of said Lot 18 and the southwest corner of this 9.000 acres, same also being at the intersection of the East Right-of-Way line of said Laven Drive and the North Right-of-Way line of Mendel Drive and the **POINT OF BEGINNING**;

THENCE along the East Right-of-Way line of said Laven Drive, North 00 degrees 15 minutes 22 seconds West (called North 00 degrees 05 minutes 33 seconds West), a distance of 435.60 feet to a 1/2 inch iron rod set for the northwest corner of this 9.000 acres, same being at the intersection of the East Right-of-Way of said Laven Drive and the South Right-of-Way line of Kaliff Drive and the northwest corner of said Block 7;

THENCE along the South Right-of-Way line of Kaliff Drive, North 89 degrees 44 minutes 38 seconds East (called North 89 degrees 54 minutes 27 seconds East), a distance of 900.00 feet to a 1/2 inch iron rod set for the upper northeast corner of this 9.000 acres, same being the northeast corner of said Block 7;

THENCE along the East line of Block 7, South 00 degrees 15 minutes 22 seconds East (called South 00 degrees 05 minutes 33 seconds East), a distance of 435.60 feet to a 1/2 inch iron rod set for the southeast corner of this 9.000 acres, same being the southeast corner of said Block 7 and in the North Right-of-Way line of said Mendel Drive;

THENCE along the North Right-of-Way line of said Mendel Drive, South 89 degrees 44 minutes 38 seconds West (called South 89 degrees 54 minutes 27 seconds West), a distance of 900.00 feet to the **POINT OF BEGINNING**, and containing 9.000 acre of land, more or less.

I hereby certify that these field notes were prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. All iron rods set are 1/2 inch rebar. A survey plat of the above described tract prepared this day is hereby attached to and made a part hereof.



Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
November 11, 2010



METES AND BOUNDS
Parcel# -- 13753F Tract 4
Project Name -- Calebra 58F Phase 1B

Being 6.401 acres of land, more or less, and being all of Lots 1 through 6, and the West 62.89 feet of Lot 7, Block 8, New City Block 12005, situated in the City of San Antonio, Bexar County, Texas, according to the plat recorded in Volume 2222, Page 360, Deed Records, Bexar County, Texas, said 6.401 acres more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found for the northwest corner of Lot 21 in Western Park Unit 1 (Volume 6600, Pages 23-25), same being the northeast corner of Lot 22 of said Western Park Unit 1 and in the South line of this 6.401 acres, same also being the **POINT OF BEGINNING**;

THENCE along the North line of Western Park Unit 1, North 89 degrees 52 minutes 37 seconds West (called North 89 degrees 42 minutes 48 seconds West), a distance of 170.49 feet to a 1/2 inch iron rod set for the southwest corner of this 6.401 acres, same being in the East Right-of-Way line of Laven Drive;

THENCE along the East Right-of-Way line of said Laven Drive, North 00 degrees 15 minutes 22 seconds West (called North 00 degrees 05 minutes 33 seconds West), a distance of 328.00 feet to a point for the northwest corner of this 6.401 acres, same being at the intersection of the East Right-of-Way line of said Laven Drive and the South Right-of-Way line of Mendel Drive;

THENCE along the South Right-of-Way line of Mendel Drive, North 89 degrees 44 minutes 38 seconds East (called North 89 degrees 54 minutes 27 seconds East), a distance of 842.89 feet to a 1/2 inch iron rod set for the northeast corner of this 6.401 acres, same being the northwest corner of the City of San Antonio 0.7854 acres (Volume 8690, Page 1094);

THENCE along the line common to this 6.401 acres and said City of San Antonio 0.7854 acres, South 00 degrees 15 minutes 22 seconds East (called South 00 degrees 05 minutes 33 seconds East), a distance of 333.58 feet to a 1/2 inch iron rod set for the southeast corner of this 6.401 acres, same being the southwest corner of said City of San Antonio 0.7854 acres;

THENCE along the South line of this 6.401 acres, South 89 degrees 44 minutes 38 seconds West (called South 89 degrees 54 minutes 27 seconds West), at a distance of 397.25 feet pass a 1/2 inch iron rod found for the northwest corner of Lot 16 of Western Park Unit 1, same being the northeast corner of Lot 17 of Western Park Unit 1, and continuing for a total distance of 672.42 feet to the **POINT OF BEGINNING**, and containing 6.401 acre of land, more or less.

I hereby certify that these field notes were prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. All iron rods set are 1/2 inch rebar. A survey plat of the above described tract prepared this day is hereby attached to and made a part hereof.



Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
November 11, 2010



Attachment II

CONTRACT

PROJECT NAME: MAYFIELD GARDEN APARTMENTS

**STATE OF TEXAS §
 §
COUNTY OF BEXAR §**

This CONTRACT is hereby made and entered into by and between the CITY OF SAN ANTONIO (hereinafter referred to as "CITY"), a Texas municipal corporation, acting by and through its Grants Administrator of the Office of Grants Monitoring and Administration pursuant to Ordinance No. _____ dated _____, and MAYFIELD EQUITIES, INC., (hereinafter referred to as "SUB-GRANTEE"), a Texas corporation, acting by and through its duly authorized President.

WHEREAS, CITY has received certain funds from the U.S. Department of Housing and Urban Development (HUD) under section 17 of the U.S. Housing Act of 1937, as amended, 42 U.S.C 1437o, as amended and the Department of Housing and Urban Development Act, 42 U.S.C. 3531, et seq., as amended for utilization in connection with its Housing Development Grant (hereinafter referred to as "HDG") Program; and

WHEREAS, the City Council has adopted a budget for such funds and has included therein the expenditure of funds for the project entitled "Mayfield Garden Apartments" (hereinafter referred to as "Project"); and

WHEREAS, CITY entered into a loan agreement with SUB-GRANTEE to fund said Project, in the amount of \$692,842.00 (hereinafter referred to as "Loan"); and

WHEREAS, SUB-GRANTEE executed a Real Estate Lien Note ("Note") for the Loan amount to CITY and CITY placed a lien on property identified as 2.899 acre tract of land being Lots 387 and 388, and a portion of Lots 386, 389, and 390, New City Block 7853, HARLENDALE ACRES TRACT NO. 2, recorded in Volume 642, Pages 328, and Replat recorded in Volume 9520, Page 156 establishing Lot 405, New City Block 7853 in the Deed and Plat Records of Bexar County, Texas (hereinafter referred to as "Property") to secure the Note; and

WHEREAS, CITY desires to convert the Loan into a grant and release the Deed of Trust, dated September 21, 1988 and recorded in Volume 4428, Pages 0743-0753 of the Deed and Plat Records of Bexar County, Texas, ("Deed of Trust") securing the Loan on the Property; and

WHEREAS, the City Council has authorized the negotiation and execution of an HDG Grant Agreement with SUB-GRANTEE; and

WHEREAS, the City Council has designated the Office of Grants Monitoring and Administration as the CITY's representative responsible for the administration and monitoring of the Project and all matters pertaining thereto; and

WHEREAS, CITY wishes to engage SUB-GRANTEE to implement and manage said Project; **NOW THEREFORE**:

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

I. TERM

1.1 Except as otherwise expressly provided for pursuant to the provisions hereof, this CONTRACT shall commence immediately upon its execution and shall terminate thirty (30) days from the date of execution of this CONTRACT.

II. RESPONSIBILITIES

2.1 Unless written notification by SUB-GRANTEE to the contrary is received, SUB-GRANTEE's President shall be SUB-GRANTEE's designated representative responsible for the management of all contractual matters pertaining to this CONTRACT.

2.2 City's Office of Grants Monitoring and Administration's Grants Administrator or his designee shall be CITY's representative responsible for the administration of this CONTRACT.

2.3 The CITY shall convert the loan into a grant in the amount of Six Hundred Ninety-two Thousand, Eight Hundred Forty-two and No/100 Dollars (\$692,842.00) and release the Deed of Trust on the Property.

III. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

3.1 SUB-GRANTEE understands that funds provided to it pursuant to this CONTRACT are funds which have been made available to CITY by the federal government under the U.S. Housing Act of 1937 and in accordance with CITY's HUD-approved Grant Application and with other specific assurances made and executed by CITY. SUB-GRANTEE, therefore, assures and certifies that it will comply during the term hereof with the requirements of the U.S. Housing Act of 1937 and with all regulations promulgated thereunder as codified as Title 24 of the Code of Federal Regulations, particularly, 24 CFR Part 850, Subparts A through F, where applicable. SUB-GRANTEE understands, however, that the U.S. Housing Act of 1937 in no way is meant to constitute a complete compilation of all duties imposed upon SUB-GRANTEE by law or administrative ruling, or to narrow the standards which SUB-GRANTEE must follow during the term hereof. Accordingly, SUB-GRANTEE understands that if the regulations and issuances promulgated pursuant to the U.S. Housing Act of 1937 are amended or revised, it shall comply

during the term hereof with them or otherwise immediately notify CITY pursuant to the provisions of Article XXIV of this CONTRACT.

3.2 SUB-GRANTEE shall observe and comply during the term hereof with all city, state and federal laws, regulations, ordinances, and codes affecting SUB-GRANTEE's operations pursuant to this CONTRACT. Specifically, SUB-GRANTEE assures and certifies that it will comply during the term hereof with section 3 of the Housing and Development Act of 1968 as amended, and with all regulations promulgated thereunder as codified as Title 24 of the Code of Federal Regulations, which may be amended or revised after execution of this CONTRACT and prior to the expiration of the term hereof.

IV. LEGAL AUTHORITY

4.1 SUB-GRANTEE represents, warrants, assures, and guarantees that it possesses the legal authority to enter into this CONTRACT, to perform its obligations herein required and to accept funds under this CONTRACT.

4.2 The signer of this CONTRACT for SUB-GRANTEE represents, warrants, assures, and guarantees that he or she has full legal authority to execute this CONTRACT on behalf of SUB-GRANTEE and to bind SUB-GRANTEE to all terms, performances, and provisions herein contained.

4.3 In the event that a dispute arises as to the legal authority to enter into this CONTRACT of either the SUB-GRANTEE or the person signing on behalf of SUB-GRANTEE, CITY shall have the right, at its option, to either temporarily suspend, or permanently terminate this CONTRACT. Should CITY suspend or permanently terminate this CONTRACT pursuant to this paragraph, however, SUB-GRANTEE shall be liable to CITY for any money it has received from CITY for performance of any of the provisions hereof.

V. PERFORMANCE BY SUB-GRANTEE AND CITY

5.1 SUB-GRANTEE, in accordance and compliance with the terms, provisions and requirements of this CONTRACT agrees that the Project shall be made available and continue to be used for affordable housing purposes serving low to moderate-income persons until September 27, 2013 pursuant to the restrictive covenant in the Correction Warranty Deed, dated September 27, 1988 and recorded in Volume 4408, page 1555 of the Deed and Plat Records of Bexar County, Texas.

5.2 Effective upon execution of this Agreement, CITY shall convert the Loan into a grant in the amount of, and not to exceed Six Hundred Ninety-two Thousand, Eight Hundred Forty-two and No/100 Dollars (\$692,842.00) and release its Deed of Trust on the Property.

VI. FURTHER REPRESENTATIONS, WARRANTIES AND COVENANTS

- 6.1 SUB-GRANTEE further represents and warrants that:
- (A) All information, data or reports hereafter provided to CITY are, shall be and shall remain during the term of this Contract complete and accurate in all material respects as of the date shown on the information, data or report, and that since said date shown, shall not have undergone any material change without written notice to CITY; and
 - (B) None of the provisions contained herein contravene or in any way conflict with the authority under which SUB-GRANTEE is doing business or with the provisions of any existing indenture or agreement of SUB-GRANTEE.

VII. MAINTENANCE OF RECORDS

7.1 SUB-GRANTEE agrees to retain and maintain, for the period of time and under the conditions reasonably specified by CITY, all books, records, documents, reports, written accounting policies and procedures, and performance records and reports pertaining to the operation of programs.

7.2 Nothing in this Article shall be construed to relieve SUB-GRANTEE of:

- (A) Responsibility for maintaining accurate and current records which clearly reflect the level and benefit of services provided under this CONTRACT; and
- (B) Liability pursuant to this CONTRACT and any applicable rules, regulations and laws.

VIII. ACCESSIBILITY OF RECORDS

8.1 At any reasonable time and as often as CITY may deem necessary during the term of this Contract, SUB-GRANTEE shall make all of its records available to CITY, HUD, or any of their authorized representatives, and shall permit CITY, HUD, or any of their authorized representatives to audit, examine, and make excerpts and/or copies of same.

IX. PERFORMANCE RECORDS AND REPORTS

9.1 As often and in such form as CITY may require during the term of this Contract, SUB-GRANTEE shall furnish CITY such performance records and reports as deemed by CITY as pertinent to matters covered by this CONTRACT.

X. MONITORING AND EVALUATION

10.1 During the term of this Contract, CITY may perform on-site monitoring of SUB-GRANTEE's performance pursuant to the terms of this CONTRACT.

10.2 During the term of this Contract, SUB-GRANTEE agrees that CITY may carry out monitoring and evaluation activities so as to ensure SUB-GRANTEE's compliance with this CONTRACT, with 24 CFR Part 850, Subpart A through F, with the program assurances and certifications executed by CITY, and with all other laws, regulations and ordinances related to the performance hereof.

10.3 SUB-GRANTEE agrees to cooperate fully with CITY in the maintenance of record-keeping systems and to provide CITY with any data determined by CITY to be necessary for its effective fulfillment of its monitoring and evaluation responsibilities.

10.4 SUB-GRANTEE agrees that it will cooperate with CITY in such a way so as not to obstruct or delay CITY in its monitoring of SUB-GRANTEE's performance and that it will designate one of its staff to coordinate the monitoring process as requested by CITY staff.

10.5 After each official monitoring visit, CITY shall provide SUB-GRANTEE with a written report of monitoring findings.

10.6 Copies of any management, or audit reports by any of SUB-GRANTEE's regulatory bodies shall be submitted to CITY within five (5) working days of receipt thereof by SUB-GRANTEE.

XI. INDEMNIFICATION

11.1 SUB-GRANTEE covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors and representatives of the CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury or death and property damage, made upon the CITY, directly or indirectly arising out of, resulting from or related to SUB-GRANTEE's activities under this CONTRACT, including any acts or omissions of SUB-GRANTEE, any agent, officer, director, representative, employee, contractor or subcontractor of SUB-GRANTEE, and their respective officers, agents, employees, directors and representatives while in the exercise or performance of the rights or duties under this CONTRACT, all without, however, waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law. The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. SUB-GRANTEE shall promptly advise the CITY in writing of any claim or demand against the CITY or SUB-GRANTEE known to SUB-GRANTEE related to or arising out of SUB-GRANTEE's activities under this CONTRACT and shall see to the investigation and

defense of such claim or demand at SUB-GRANTEE's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving SUB-GRANTEE of any of its obligations under this paragraph.

11.2 SUB-GRANTEE further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

XII. NONDISCRIMINATION

12.1 SUB-GRANTEE covenants that it, or its agents, employees or anyone under its control, will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin, handicap or familial status, in employment practices or in the use of or admission to the premises at, in or on which the Project described herein is to be performed, which said discrimination SUB-GRANTEE acknowledges is prohibited.

XIII. CONFLICT OF INTEREST

13.1 SUB-GRANTEE acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a CITY officer or employee, as those terms are 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 or entities is a party to the contract or sale: a CITY officer or employee, his parent, child or spouse, a business entity in which the officer or employee, or his parent, child or spouse owns ten percent (10%) or more of the voting stock or shares of the business entity, or ten percent (10%) or more of the fair market value of the business entity, a business entity in which any individual or entity above listed is a subcontractor on a CITY contract, a partner or a parent or subsidiary business entity.

13.2 Pursuant to the subsection above, SUB-GRANTEE warrants and certifies, and this CONTRACT is made in reliance thereon, that it, its officers, employees, and agents are neither officers nor employees of the CITY. SUB-GRANTEE further warrants and certifies that it has tendered to the CITY a Discretionary Contracts Disclosure Statement in compliance with the CITY's Ethics Code.

XIV. POLITICAL ACTIVITY

14.1 None of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, either directly or indirectly, for any political activity including, but not limited to, an activity to further the election or defeat of any candidate for public office or for any activity undertaken to influence the passage, defeat or final content of local, state or federal legislation.

XV. SECTARIAN ACTIVITY

15.1 None of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, directly or indirectly, for the construction, operations, maintenance or administration of any sectarian or religious facility or activity, nor shall said performance rendered or funds received be utilized so as to benefit, directly or indirectly, any such sectarian or religious facility or activity.

XVI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

16.1 SUB-GRANTEE certifies, and the CITY relies thereon in execution of this CONTRACT, that neither SUB-GRANTEE nor its Principals are presently debarred, suspended, proposed for debarment, or declared ineligible or voluntarily excluded for the award of contracts by any Federal governmental agency or department.

16.2 "Principals," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).

16.3 SUB-GRANTEE shall provide immediate written notice to CITY, in accordance with Article XXIV, if, at any time during the term of this CONTRACT, including any renewals hereof, SUB-GRANTEE learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

16.4 SUB-GRANTEE's certification is a material representation of fact upon which the CITY has relied in entering into this CONTRACT. Should CITY determine, at any time during this CONTRACT, including any renewals hereof, that this certification is false, or should it become false due to changed circumstances, the CITY may terminate this CONTRACT in accordance with Article XVIII relating to termination of the CONTRACT.

XVII. CHANGES AND AMENDMENTS

17.1 Any alterations, additions, or deletions to the terms hereof shall be by amendment in writing executed by both CITY and SUB-GRANTEE.

17.2 It is understood and agreed by the parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this CONTRACT and that any such changes shall be automatically incorporated into this CONTRACT without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

17.3 SUB-GRANTEE further agrees to notify CITY of any changes in ownership of the Property occurring during the term, such notice to be provided within five (5) working days of the change.

XVIII. TERMINATION

18.1 "Termination" of this CONTRACT shall mean termination by expiration of the CONTRACT term or earlier termination pursuant to any of the provisions hereof.

18.2 CITY may terminate this CONTRACT for any of the following reasons:

- (A) Neglect or failure by SUB-GRANTEE to perform or observe any of the terms, conditions, covenants or guarantees of this CONTRACT or of any written contract or amendment between CITY and SUB-GRANTEE;
- (B) Appointment of a trustee, receiver or liquidator for all or a substantial part of SUB-GRANTEE's property, or institution of bankruptcy, reorganization, rearrangement of or liquidation proceedings by or against SUB-GRANTEE;
- (C) The entry by a court of competent jurisdiction of a final order providing for the modification or alteration of the rights of SUB-GRANTEE's creditors;
- (D) Inability by SUB-GRANTEE to conform to changes in local, state and federal rules, regulations and laws as provided for in Article III of this CONTRACT; and
- (E) Violation by SUB-GRANTEE of any rule, regulation or law to which SUB-GRANTEE is bound or shall be bound under the terms of this CONTRACT.

18.3 [Intentionally omitted.]

18.4 SUB-GRANTEE may terminate this CONTRACT for any of the following reasons:

- (A) Upon the dissolution of the SUB-GRANTEE organization, provided such dissolution was not occasioned by a breach of this CONTRACT.

18.5 Upon a decision to terminate by either CITY or SUB-GRANTEE, written notice of such, and the effective date thereof, shall be immediately provided to the other party.

18.6 Any termination of this CONTRACT as herein provided shall not relieve SUB-GRANTEE from the payment of any sum(s) that shall then be due and payable or become due and payable to CITY hereunder or as provided for at law or in equity, or any claim for damages then or theretofore accruing against SUB-GRANTEE hereunder or by law or in equity, and any such termination shall not prevent CITY from enforcing the payment of any such sum(s) or claim for damages from SUB-GRANTEE. Instead, all rights, options, and remedies of CITY contained in this CONTRACT shall be construed and held to be cumulative and no one of them shall be exclusive of the other, and CITY shall have the right to pursue any one or all of such remedies or any such other remedy or relief which may be provided by law or in equity whether or not stated in this CONTRACT.

18.7 Upon termination of this CONTRACT by CITY under paragraph number 18.2(A) SUB-GRANTEE shall be barred from future CONTRACTS with CITY absent the express written consent of the City Manager of CITY, or the City Manager's designee.

XIX. NOTIFICATION OF ACTION BROUGHT

19.1 In the event that any claim, demand, suit, proceeding, cause of action, or other action (hereinafter collectively referred to as "claim") is made or brought against SUB-GRANTEE in relation to the Project or this CONTRACT, SUB-GRANTEE shall give written notice, either personally or by mail in accordance with Article XXIV of this CONTRACT, to CITY within two (2) working days after itself being notified stating the date and hour of notification to SUB-GRANTEE of the claim, the names and addresses of those instituting or threatening to institute the claim, the basis of the claim, and the name(s) of any others against whom the claim is being made or threatened.

XX. ASSIGNMENTS

20.1 SUB-GRANTEE shall not transfer, pledge, or otherwise assign this CONTRACT, any interest in and to same, or any claim arising thereunder, without first procuring the written approval of CITY. Any attempt at transfer, pledge, or other assignment shall be void *ab initio* and shall confer no rights upon any third person.

XXI. SEVERABILITY OF PROVISIONS

21.1 If any clause or provision of this CONTRACT is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this CONTRACT shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this CONTRACT that is invalid, illegal, or unenforceable, there be added as a part of the CONTRACT a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XXII. NON-WAIVER OF PERFORMANCE

22.1 No waiver by CITY of a breach of any of the terms, conditions, covenants, or guarantees of this CONTRACT shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of CITY to insist in any one or more cases upon the strict performance of any of the covenants of this CONTRACT, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification, or discharge by either party hereto of any provision of this CONTRACT shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged.

22.2 No act or omission of CITY shall in any manner impair or prejudice any right, power, privilege, or remedy available to CITY hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

22.3 No representative or agent of CITY may waive the effect of the provisions of this Article.

XXIII. ENTIRE CONTRACT

23.1 This CONTRACT constitutes the final and entire agreement between the parties hereto and contains all of the (including all attachments hereto) terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this CONTRACT shall be deemed to exist or to bind the parties hereto unless same be in writing, dated subsequent to the date hereof, and duly executed by the parties.

XXIV. NOTICES

24.1 For purposes of this CONTRACT, all official communications and notices among the parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

CITY:

Office of Grants Monitoring and Administration
1400 S. Flores, Unit 3
San Antonio, Texas 78204
Attn: Grants Administrator

SUB-GRANTEE:

Mayfield Equities, Inc.
737 W. Mayfield Boulevard
San Antonio, Texas 78211
Attn: President

Notice of changes of address by either party must be made in writing delivered to the other party's last known address within five (5) business days of such change.

XXV. PARTIES BOUND

25.1 This CONTRACT shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, except as otherwise expressly provided herein.

XXVI. GENDER

26.1 Words of gender used in this CONTRACT shall be held and construed to include the other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XXVII. RELATIONSHIP OF PARTIES

27.1 Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship between the parties hereto.

XXVIII. TEXAS LAW TO APPLY

28.1 SHOULD ANY DISPUTE BETWEEN THE PARTIES ARISE UNDER THIS CONTRACT, THIS CONTRACT SHALL BE INTERPRETED AND CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS. VENUE AND JURISDICTION ARISING UNDER OR IN CONNECTION WITH THIS CONTRACT SHALL LIE EXCLUSIVELY IN BEXAR COUNTY, TEXAS.

XXIX. CAPTIONS

29.1 The captions contained in this CONTRACT are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this CONTRACT.

[SIGNATURE PAGE TO FOLLOW]

EXECUTED this the _____ day of _____, 2012.

CITY OF SAN ANTONIO,
a Texas municipal corporation

MAYFIELD EQUITIES, INC.

BY: _____
TADD WILLE
Grants Administrator
Office of Grants Monitoring
and Administration

BY: 

JAMES G. LIFSHUTZ
President

APPROVED AS TO FORM:

BY: _____
DENISE MONDAY
Assistant City Attorney