

## AGENDA

### SAN ANTONIO HOUSING TRUST PUBLIC FACILITY CORPORATION

A MEETING OF THE OF THE SAN ANTONIO HOUSING TRUST PUBLIC FACILITY CORPORATION BOARD OF DIRECTORS WILL BE HELD AT MUNICIPAL PLAZA, ROOM "B", 105 Main Plaza (114 WEST COMMERCE STREET), SAN ANTONIO, TEXAS 78205 ON WEDNESDAY, JANUARY 22, 2020 AT 2:00 P.M., TO CONSIDER THE FOLLOWING MATTERS:

Briefing and Possible Action on:\*

1. Approval of minutes.
2. Public comment.
3. Consideration and possible action to approve a Resolution amending the lease agreement between the Public Facility Corporation and the Foster Road GL LP due to pending sale of the **Viridian Apartments** (Montabella Pointe II) located at 5415 N Foster in Council District 2.
4. Consideration and possible action to approve a Resolution inducing the **Ridgeline Flats Apartments**, a new 349-unit mixed income affordable/market PFC structure in partnership with the NRP Group LLC, located on 26 acres of land located between IH-10 and Bitters Road on the north side of Loop 1604 in Council District 9.
5. Consideration and possible action to approve a Resolution authorizing execution of a revised Term Sheet for **Friedrich Lofts** a new 347-unit mixed income affordable/market PFC structure in partnership with Provident Realty Advisors, located on 4.04 acres at 1617/1631 East Commerce in Council District 2.
6. Consideration and possible action to approve a Resolution inducing the acquisition and rehabilitation of the **Preserve at the Port Apartments**, a 396-unit 4% Low Income Housing Tax Credit multi-family project in partnership with Integrated Realty and Streamline, located at 402 Gillmore Avenue in Council District 5, and a Memorandum of Understanding in connection therewith.
7. Consideration and possible action to approve a Resolution authorizing execution of a Memorandum of Understanding with a Pedcor Housing Corporation affiliate and a Village Capital Corporation affiliate in connection with the **Northview Apartments**, a new 156-unit 4% Low Income Housing Tax Credit multi-family project, located at 23132 US Highway 281 North in Council District 9.
8. Assistant Secretary's Report - A briefing on financials, progress of projects or grant expenditures, personnel matters and other activities which do not require Board action.

#### **\*Executive Session**

The Board reserves the right to enter into an Executive Session at any time to discuss any of the agenda items pursuant to Section 551.071 (Consultation with Attorney) or 551.072 (Deliberation Regarding Real Property).

## **DISABILITY ACCESS STATEMENT**

This meeting site is wheelchair accessible. The Accessible Entrance is located at the Trevino Alley Entrance south side. Auxiliary Aids and Services, including Deaf interpreters, must be requested forty-eight [48] hours prior to the meeting. For assistance, call (210) 207-7268 or 711 Texas Relay Service for the Deaf.

## **SAN ANTONIO HOUSING TRUST PUBLIC FACILITY CORPORATION**

### **BOARD MEMBERS:**

Council Member Roberto C. Trevino (District 1), Council Member Rebecca J. Viagran (District 3), Council Member Dr. Adriana Rocha Garcia (District 4), Council Member Shirley Gonzales (District 5), Council Member John Courage (District 9)

Posted on 01/17/2020 at 4:21pm

**San Antonio Housing Trust Public Facility Corporation**

**Agenda Memorandum**

**File Number** \_\_\_\_\_

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**Agenda Item Number:** 1

**Agenda Date:** 1-22-2020

**In Control:** San Antonio Housing Trust Public Facility Corporation

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**DEPARTMENT:** San Antonio Housing Trust Public Facility Corporation

**DEPARTMENT HEAD:** Pedro Alanis

**COUNCIL DISTRICTS IMPACTED:** Citywide

**SUBJECT:**

Approval of minutes

**SUMMARY:**

This item includes the approval of minutes from the December 10, 2019 meeting.

**SAN ANTONIO HOUSING TRUST PUBLIC FACILITY CORPORATION**  
**OFFICIAL MEETING MINUTES**  
**December 10, 2019**

- The Public Facility Corporation met in session at 11:02A.M, Municipal Plaza, Room “C”, 105 Main Plaza, San Antonio, TX 78205
- The meeting was called to order by Councilwoman Viagran and the roll was called by John Hernandez.

**PRESENT: Rebecca Viagran, Dr. Adriana Rocha Garcia, John Courage, Shirley Gonzales**  
**ABSENT: Roberto Treviño**

**Staff/Visitors Present:**

Pedro Alanis- Interim Executive Director San Antonio Housing Trust Finance Corporation; Nicole Collazo- Assistant Director San Antonio Housing Trust Finance Corporation; JD Hernandez – Asset Manager San Antonio Housing Trust Finance Corporation; Maria Bradley – Administrative Assistant, San Antonio Housing Trust Finance Corporation; Joey Guerra Jr.- Integrated Realty Group; Mark Gregg- Streamline Advisory Partners; Sam Aveidi- Integrated Realty Group; Edward Mungia- D4 Joel Pollack-Streamline Advisory Partners; Ruben Lizalde-D3; Jason Arechiga-NRP; Wesley Fonseca- NRP Group; Daryl Lange-Bitterblue Group; Caroline McDonald-Brown & Ortiz

1. **Approval of minutes-**

**MINUTES COMMISSION ACTION:**

The motion was made by Councilman Courage and seconded by Councilwoman Dr. Rocha Garcia to approve the minutes from November 8, 2019.

**AYES: 4**

**NAYS: 0**

**ABSTAIN: 0**

**The MOTION CARRIED**

2. **Citizens to be heard-None**

3. **Consideration and possible action to approve a Resolution inducing the Echo East Apartments, a new 192-unit 4% Low Income Housing Tax Credit multi-family project in partnership with Gardner Capital and the George Gervin Youth Center, Inc. located on 10 acres at approximately 301 Springgsdale in Council District 2.**

On May 22 the Finance Corporation authorized the inducement of bond financing up to \$20,000,000 in tax-exempt bonds. Gardner Capital in partnership with George Gervin Youth Center is seeking a partnership with the San Antonio Housing Trust Public Facility Corporation (SAHT PFC) to develop a \$30.6 Million, 192-unit multifamily project. The project will have all units at or below 60% of AMI and will develop on City owned land. If the resolution is approved the SAHT PFC will receive 15% of the total developer fee (estimated at \$682,308) and 45% of

the Cash Flow over 15 years (estimated at \$1,651,001). The SAHT PFC would also receive 45% of any proceeds from the sale or refinancing of the project. Councilwoman Viagran wants us to negotiate Income Averaging Rents. Additionally, Councilwoman Viagran expressed interest in reviewing the selection in the property management company.

**COMMISSION ACTION:**

The motion was made by Councilman Courage and seconded by Councilwoman Gonzales approval of the Resolution.

**AYES: 4**

**NAYS: 0**

**ABSTAIN: 0**

**The MOTION CARRIED**

**4. Consideration and possible action to approve a Resolution inducing the Northview Apartments, a new 156-unit 4% Low Income Housing Tax Credit multi-family project in partnership with Pedcor Housing Corporation and Village Capital Corporation., located on 11.2 acres at 23132 US Highway 281 North in Council District 9.**

Pedcor Housing Corporation, in partnership with the Village Capital Corporation, is seeking a partnership with the SAHT PFC to develop a 156-unit multifamily project. Mr. James Plummer recommended the approval of the attached resolution with the deletion the Memorandum of Understanding.

**COMMISSION ACTION:**

The motion was made by Councilman Courage and seconded by Councilwoman Rocha Garcia for the approval of the Resolution with the deletion of the Memorandum of Understanding.

**AYES: 4**

**NAYS: 0**

**ABSTAIN: 0**

**The MOTION CARRIED**

**5. Consideration and possible action to approve a Resolution amending the lease agreement between the Public Facility Corporation and the Foster Road GL LP due to pending sale of the Viridian Apartments (Montabella Pointe II) located at 5415 N Foster in Council District 2.**

SAHT PFC previously financed Foster Road project. The project was completed back in April 2019. NRP Group is seeking to sell to Canyon Partners, LLC. Pedro Alanis gave the board 2 options to choose: a cash option of about 1.3 million or net present value over long-term cash flow of approximately 3.3 million.

**COMMISSION ACTION:**

The motion was made by Councilman Courage and seconded by Councilwoman Rocha Garcia to table this item for discussion in January.

**AYES: 3**

**NAYS: 0**

**ABSTAIN: 0**

**The MOTION CARRIED**

**6. Consideration and possible action to approve a Resolution inducing the Ridgeline Flats Apartments, a new 349 unit mixed income affordable/market PFC structure in partnership with the NRP Group LLC, located on 26 acres of land located between IH-10 and Bitters Road on the north side of Loop 1604 in Council District 9.**

Item #6 was tabled.

**7. Consideration and possible action to approve a Resolution inducing the Beitel Creek Flats Apartments, a new 348 unit mixed income affordable/market PFC structure in partnership with the NRP Group LLC, located on 14 acres at the eastern corner of Wurzbach Parkway & Thousand Oaks, across from The Upton at Longhorn Quarry in Council District 10.**

NRP Group is seeking a partnership through a 75-year lease with the SAHT PFC to build a \$50.6 million project. The total project cost is about \$50,593,177 with a bank loan of about \$32,885,565. The developer is willing to fund \$250,000 Affordability Concession Program to buy down 34 units from 80% AMI to 60% AMI.

**COMMISSION ACTION:**

The motion was made by Councilwoman Rocha Garcia and seconded by Councilman Courage to approve the Resolution.

**AYES: 3**

**NAYS: 0**

**ABSTAIN: 0**

**The MOTION CARRIED**

**8. Assistant Secretary's Report- A bring on financials, progress of projects or grants expenditures, personnel matters and other activities which do not require Board action.**

No discussion was taken.

Councilwoman Gonzales adjourned the meeting. There being no further business, the meeting adjourned at 11:49AM.

**San Antonio Housing Trust Public Facility Corporation**

**Agenda Memorandum**

**File Number** \_\_\_\_\_

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**Agenda Item Number:** 2

**Agenda Date:** 1-22-2020

**In Control:** San Antonio Housing Trust Public Facility Corporation

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**DEPARTMENT:** San Antonio Housing Trust Public Facility Corporation

**DEPARTMENT HEAD:** Pedro Alanis

**COUNCIL DISTRICTS IMPACTED:** Citywide

**SUBJECT:**

Public comment

**SUMMARY:**

This item will allow 3 minutes each for interested speakers to address the Board.

**San Antonio Housing Trust Public Facility Corporation**

**Agenda Memorandum**

**File Number** \_\_\_\_\_

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**Agenda Item Number:** 3

**Agenda Date:** 1-22-2020

**In Control:** San Antonio Housing Trust Public Facility Corporation

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**DEPARTMENT:** San Antonio Housing Trust Public Facility Corporation

**DEPARTMENT HEAD:** Pedro Alanis

**COUNCIL DISTRICTS IMPACTED:** District 2

**SUBJECT:**

Consideration and possible action approving the sale of the Foster Road Project (also known as the Viridian Apartments) and the amendment of the lease associated therewith.

**SUMMARY:**

The PFC previously financed the Foster Road Project, an affordable/market model 321-unit transaction, with 50% of the units available to tenants whose incomes are less than 80% of the median income. An affiliate of Canyon Partners Real Estate ("Canyon") was the equity provider.

The project was constructed in April 2019 and leases have stabilized. The NRP Group seeks to sell to Canyon. NRP will continue to manage the project for Canyon. The appraised value of the project is \$52,000,000. The sales price of the project is \$52,000,000. The PFC has a right to either a 15% profit after repayment of the capital which would produce \$1,382,901 in PFC proceeds or the PFC can choose to collect 7.5% of net operating income less a deemed debt service which has a net present value of \$3,336,191 based on staff estimates.



**ISSUE:**

Staff will utilize basically the same lease structure utilized in the sale of the Baldwin.

**FISCAL IMPACT:**

The PFC will collect an annual rent revenue equal to 7.5% of NOI for the remaining life of the lease.

**RECOMMENDATION:**

Staff recommends approving the attached Resolution to authorizing the sale of the Foster Road Project.

**ATTACHMENT:**

Resolution

## CERTIFICATE FOR RESOLUTION

The undersigned officer of the San Antonio Housing Trust Public Facility Corporation, a Texas nonprofit public facility corporation created pursuant to the laws of the State of Texas (“SAHTPFC”) hereby certifies as follows:

1. In accordance with its bylaws, the Board of Directors of SAHTPFC (the “Board”) held a meeting on January 22, 2020, (the “Meeting”) of the duly constituted officers and members of the Board, at which a duly constituted quorum was present. Whereupon among other business transacted at the Meeting, a written

**RESOLUTION AUTHORIZING THE SALE OF THE LEASEHOLD INTEREST IN THE FOSTER ROAD PROJECT (ALSO KNOWN AS “THE VIRIDIAN”); APPROVAL OF THE ELECTION TO ACCEPT NET CASH FLOW RENT IN LIEU OF SALES PROCEEDS; AND AUTHORIZATION TO EXECUTE AN AMENDED AND RESTATED LEASE AGREEMENT IN CONNECTION THEREWITH; AND OTHER MATTERS IN CONNECTION THEREWITH**

(the “Resolution”) was duly introduced for the consideration of the Board and discussed. It was then duly moved and seconded that the Resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of the Resolution, prevailed and carried by a majority vote of the Board.

2. A true, full, and correct copy of the Resolution adopted at the Meeting is attached to and follows this Certificate; the Resolution has been duly recorded in the Board’s minutes of the Meeting; each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the Meeting; and the Meeting was held and conducted in accordance with the Bylaws of San Antonio Housing Trust Public Facility Corporation.

SIGNED January 22, 2020.

\_\_\_\_\_  
Nicole Collazo, Assistant Secretary

**RESOLUTION AUTHORIZING THE SALE OF THE LEASEHOLD INTEREST IN THE FOSTER ROAD PROJECT (ALSO KNOWN AS “THE VIRIDIAN”); APPROVAL OF THE ELECTION TO ACCEPT NET CASH FLOW RENT IN LIEU OF SALES PROCEEDS; AND AUTHORIZATION TO EXECUTE AN AMENDED AND RESTATED LEASE AGREEMENT IN CONNECTION THEREWITH; AND OTHER MATTERS IN CONNECTION THEREWITH**

WHEREAS, SAHTPFC previously approved financing and participation in the Foster Road Project, also known as “The Viridian” (herein so called);

WHEREAS, under that certain Lease Agreement (the “Lease”) between SAHTPFC and Foster Road GL LP (the “Tenant”), Tenant has the right to sell or otherwise transfer the leasehold interest in The Viridian (a “Sale”), and Tenant currently has a contract for such a Sale;

WHEREAS, pursuant to the Lease and that certain Limited Partnership Agreement of the Tenant (the “Partnership Agreement”), upon a Sale, SAHTPFC must elect either (a) to receive its share of any distributions of Available Cash (as defined in the Lease) and sale proceeds (collectively, “Sale Proceeds”) or (b) to forfeit its limited partnership interest in the Tenant, waive any rights it has to Sale Proceeds and instead receive Net Cash Flow Rent (as defined in the Lease) (the actions under (b), collectively, a “PFC Withdrawal”);

WHEREAS, SAHTPFC and the Tenant must amend and restate the Lease (the “Amended and Restated Lease”) in connection with the Sale in order to (a) reflect the election to effect a PFC Withdrawal and to receive Net Cash Flow Rent, (b) remove several provisions that are no longer applicable to the project, (c) reflect a new tenant, and (d) make any other changes deemed necessary and appropriate to achieve the foregoing purposes;

WHEREAS, the Board has determined that it is in the public interest and to the benefit of the citizens and residents of San Antonio for the various entities to enter into the transactions described above;

WHEREAS, this Board of Directors has reviewed the foregoing and determined that the action herein authorized is in furtherance of the public purposes of SAHTPFC;

**BE IT THEREFORE RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN ANTONIO HOUSING TRUST PUBLIC FACILITY CORPORATION, THAT:**

Section 1. The Sale, the PFC Withdrawal, and the Amended and Restated Lease are hereby authorized and approved.

Section 2. The President, any Vice President, the Secretary, the Treasurer, any Assistant Secretary, or any of them, are hereby authorized to execute any and all documentation required for the Project, including, but not limited to, consents of SAHTPFC related to the Sale, the Amended and Restated Lease, and all other documents relating to such documents.

Section 3. The President, any Vice President, the Secretary, the Treasurer, and the Assistant Secretaries, or any of them, and, if required by the form of the document, the Secretary and any Assistant Secretary, or any of them, of SAHTPFC are authorized and directed to modify, execute and deliver any of the documents to be signed by or consented to by SAHTPFC, and any and all certificates and other instruments necessary to carry out the intent thereof and hereof. The President, any Vice President, the Secretary, the Treasurer, any Assistant Secretary, or any of them, are authorized to negotiate and approve such changes in, or additions to, the terms of any of the documents, including amendments, renewals, and extensions, as such officers shall deem necessary or appropriate upon the advice of counsel to SAHTPFC, and approval of the terms of any of the documents by such officers and this Board shall be conclusively evidenced by the execution and delivery of such documents.

Section 4. The officers of this Board, or any of them, are authorized to take any and all action necessary to carry out and consummate the transactions described in or contemplated by the documents approved hereby or otherwise to give effect to the actions authorized hereby and the intent hereof.

Section 5. The officers of this Board hereby approve the selection of Bracewell LLP as counsel to SAHTPFC for this transaction.

Section 6. If any section, paragraph, clause, or provisions of this Resolution shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution.

Section 7. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Board.

Section 8. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 9. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 10. This Resolution shall be in force and effect from and after its passage.

**San Antonio Housing Trust Public Facility Corporation**

**Agenda Memorandum**

**File Number** \_\_\_\_\_

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**Agenda Item Number:** 4

**Agenda Date:** 1-22-2020

**In Control:** San Antonio Housing Trust Public Facility Corporation

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**DEPARTMENT:** San Antonio Housing Trust Public Facility Corporation

**DEPARTMENT HEAD:** Pedro Alanis

**COUNCIL DISTRICTS IMPACTED:** District 9

**SUBJECT:**

Discussion and possible action regarding an inducement resolution concerning the application of NRP for the Ridgeline Flats, a PFC transaction to construct 349 units at the on land located between Bitters Road and IH-10, north of Loop 1604 to be known as Ridgeline Flats Apartments in partnership with NRP.

**SUMMARY:**

This project is an Affordable/Market structured financing, with the PFC owning the project and entering into a 75-year lease with the equity partnership. This will be a three-story garden-type development with surface parking.

The total project cost is \$55,800,000 with a bank loan of approximately \$36,284,669, and equity of approximately \$19,537,898. The PFC is anticipated to receive \$250,000 as a closing fee, \$25,000 per year as administrative rent, and 15% of cash flow and capital events after repayment of preferred equity funds. The project will receive no other forms of public incentives or subsidies.

**ISSUE:**

The Developer is currently willing to initially fund a \$650,000 Affordability Concession Program to buy down 35 units from the 80% to the 60% AMI level. After the funds deplete, in approximately 4 to 5 years, if the PFC seeks to continue the buy down program, it will

be required to fund the Affordability Concession Program out of cash flow. The estimated annual cost is Affordability Concession Program in year 5 is estimated \$125,000 per year.

The Affordability Concession Program will allow for forty percent (40%) of the 349 units in the project (140) will be set aside for tenants whose income is less than eighty percent (80%) of the area median income ("AMI"). In addition, another ten percent (10%) of the units (35) may be set aside for tenants whose income is less than sixty (60%) of AMI through the use of an affordability reserve.

The Board may also consider retaining the \$650,000 from the Affordability Concession Program as an additional origination fee and keep future cash flow for use in other affordable housing programs and initiatives that may target lower AMI units. This would result in the 50% of the units being set aside for tenants whose income is less than eighty percent (80%) of the area median income ("AMI").

The Board may also consider investing existing PFC funds into the development as equity partner and earning preferred returns. This would result in a greater return than keeping funds invested in our accounts at Frost Bank. For example, a \$500,000 investment may yield approximately \$850,000 if the project sells within three years vs the 1-2% return at Frost Bank.

Rent will be set at 30% of the 80% and 60% AMI numbers, as applicable, and cannot be increased above 35% of AMI, so long as the project is tax exempt.

**ALTERNATIVES:**

If the San Antonio Housing Trust Public Facility Board does not indicate approval to proceed, the affordable and market rate units will not be built and the property will remain as it is.

**FISCAL IMPACT:**

No fiscal impact, as this is a non-binding resolution

**RECOMMENDATION:**

Staff recommends approval of the Resolution

**ATTACHMENT:**

Resolution

**RIDGELINE FLATS APARTMENTS**  
**Inducement**

**CERTIFICATE FOR RESOLUTION**

The undersigned officer of the San Antonio Housing Trust Public Facility Corporation, a nonprofit public facility corporation created pursuant to the laws of the State of Texas (the “PFC”) hereby certifies as follows:

3. In accordance with the bylaws of the PFC, the Board of Directors of the PFC (the “Board”) held a meeting on January 22, 2020 (the “Meeting”) of the duly constituted officers and members of the Board, at which a duly constituted quorum was present. Whereupon among other business transacted at the Meeting, a written

**RESOLUTION INDUCING THE RIDGELINE FLATS APARTMENTS IN  
PARTNERSHIP WITH NRP, TO BE LOCATED ON A TRACT OF LAND  
LOCATED BETWEEN IH-10 AND BITTERS ROAD ON THE NORTH  
SIDE OF LOOP 1604 AND OTHER MATTERS IN CONNECTION  
THEREWITH**

(the “Resolution”) was duly introduced for the consideration of the Board and discussed. It was then duly moved and seconded that the Resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of the Resolution, prevailed and carried by a majority vote of the Board.

4. A true, full, and correct copy of the Resolution adopted at the Meeting is attached to and follows this Certificate; the Resolution has been duly recorded in the Board’s minutes of the Meeting; each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the Meeting; and the Meeting was held and conducted in accordance with the Articles of Incorporation and the Bylaws of the PFC.

SIGNED AND SEALED January 22, 2020.

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Nicole Collazo, Assistant Secretary

**RESOLUTION INDUCING THE RIDGELINE FLATS APARTMENTS IN PARTNERSHIP WITH NRP, TO BE LOCATED ON A TRACT OF LAND LOCATED BETWEEN IH-10 AND BITTERS ROAD ON THE NORTH SIDE OF LOOP 1604 AND OTHER MATTERS IN CONNECTION THEREWITH**

WHEREAS, the City Council of the City of San Antonio, Texas (the “City”), has, pursuant to the Texas Public Facility Corporations Act, Chapter 303, Texas Local Government Code, as amended (the “Act”), approved and created the San Antonio Housing Trust Public Facility Corporation, a nonstock, nonprofit public facility corporation (the “PFC”);

WHEREAS, the PFC, on behalf of the City, is empowered to finance the costs of public facilities that will provide decent, safe, and sanitary housing at affordable prices for residents of the City;

WHEREAS, NRP (the “User”), has requested that (i) the PFC finance the acquisition, construction, and equipping of a proposed 349-unit multifamily housing facility to be located on a tract of land located between IH-10 and Bitters Road on the north side of Loop 1604 and to be known as the Ridgeline Flats Apartments (the “Project”);

WHEREAS, this Resolution shall constitute the PFC’s preliminary, non-binding commitment, subject to the terms hereof, to proceed;

WHEREAS, the User has requested that the PFC create a single member limited liability company to serve as a limited partner of the User;

WHEREAS, the User has requested authorization to make all filings necessary to obtain and maintain equity and debt financing for the Project; and

WHEREAS, the Board has determined that it is in the public interest and to the benefit of the citizens and residents of San Antonio for the various entities to enter into the transactions described above so that the User may construct the Project; now, therefore,

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN ANTONIO HOUSING TRUST PUBLIC FACILITY CORPORATION THAT:**

Section 1. Subject to the terms hereof, the PFC agrees that it will

(a) cooperate with the User with respect to the Project, and, if arrangements therefor satisfactory to the User and the PFC can be made, take such action and authorize the execution of such documents and take such further action as may be necessary or advisable for the authorization, execution, and delivery of any contracts or agreements deemed necessary and desirable by the User or the PFC in connection with the Project (collectively, the “Contracts”), providing among other things for financing, acquisition, construction, equipping, and improvement of the Project; and use, operation, and maintenance of the Project, all as shall be authorized, required, or permitted by law and as shall be satisfactory to the PFC and the User;



(b) take or cause to be taken such other actions as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

Neither the State of Texas (the "State"), the City, nor any political PFC, subdivision, or agency of the State shall be obligated to pay any debt or other obligation of the user or the Project and that neither the faith and credit nor the taxing power of the State, the City, or any political, subdivision, or agency thereof is pledged to any obligation relating to the Project.

Section 2. It is understood by the PFC, and the User has represented to the PFC, that in consideration of the PFC's adoption of this Resolution, and subject to the terms and conditions hereof, the User has agreed that

(a) the User will (1) pay all Project costs which are not or cannot be paid or reimbursed from the proceeds of any debt and (2) indemnify and hold harmless the PFC and the City against all losses, costs, damages, expenses, and liabilities of whatsoever nature (including but not limited to reasonable attorneys' fees, litigation and court costs, amounts paid in settlement, and amounts paid to discharge judgments) directly or indirectly resulting from, arising out of or related to the Project, or the design, construction, equipping, installation, operation, use, occupancy, maintenance, or ownership of the Project (other than claims arising from the gross negligence or willful misconduct of the PFC or the City); and

Section 3. This Resolution shall be deemed to constitute the acceptance of the User's proposal that it be further induced to proceed with providing the Project. **Provider that neither the User nor any other party is entitled to rely on this Resolution as a commitment to enter into the proposed transaction, and the PFC reserves the right not to enter into the proposed transaction either with or without cause and with or without notice, and in such event the PFC shall not be subject to any liability or damages of any nature. Neither the User nor any one claiming by, through or under the User, nor any investment banking firm or potential purchaser shall have any claim against the PFC whatsoever as a result of any decision by the PFC not to enter into the proposed transaction.**

Section 4. The Board authorizes the negotiation of a Term Sheet setting forth the details of the Project.

Section 5. The officers of this Board hereby approve the selection of Bracewell LLP as counsel to SAHTPFC for this transaction.

Section 6. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Board.

Section 7. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 8. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Board hereby declares that this Resolution would have been enacted without such invalid provision.

Section 9. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 10. This Resolution shall be in force and effect from and after its passage.

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**San Antonio Housing Trust Public Facility Corporation**

**Agenda Memorandum**

**File Number** \_\_\_\_\_

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**Agenda Item Number:** 5

**Agenda Date:** 1-22-2020

**In Control:** San Antonio Housing Trust Public Facility Corporation

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**DEPARTMENT:** San Antonio Housing Trust Public Facility Corporation

**DEPARTMENT HEAD:** Pedro Alanis

**COUNCIL DISTRICTS IMPACTED:** District 2

**SUBJECT:**

Discussion and possible action regarding approval of a Resolution authorizing the execution of a second revised Term Sheet for the Friedrich Lofts project.

**SUMMARY:**

The Friedrich Lofts project is an Affordable/Market structured financing that was previously approved by the PFC board in 2018, with the PFC owning the project and entering into a 75-year lease with the equity partnership. This will be a 347-unit three-story garden-type development with a 771-space parking garage.

This Board originally approved a Term Sheet with Provident Realty Advisors for the Friedrich Lofts project on February 28, 2018. During this time, the developer was unable to secure equity financing based on the previously approved financial terms. After working with several equity fund providers, Provident Realty Advisors (PRA) has negotiated terms with American South Real Estate Fund. The new equity terms require a reduction in the sharing percentage from 25% each to 16.5% of both PRA and the PFC.

In contrast, to a reduced share, PRA has agreed to set aside 14 of the units at 60% of the area median income permanently in lieu of the PFC funding an affordability concession program to buy-down such units as originally agreed to in the first Term Sheet.

The total project cost is \$68,675,284 with a bank loan of approximately \$54,858,000, and equity of approximately \$10,972,284. The City previously awarded TIRZ funds of

\$1,745,000 and \$500,000 in SAWS fee waivers plus eligible City Fee Waivers. The revised PFC terms do not require any additional subsidy from the City. The PFC is anticipated to receive \$250,000 as a closing fee, \$25,000 per year as administrative rent, and 16.5% of cash flow and capital events after repayment of preferred equity funds estimated in Year 8.

**ISSUE:**

Forty percent (40%) of the 347 units in the project (140) will be set aside for tenants whose income is less than eighty percent (80%) of the area median income ("AMI"). In addition, another ten percent (10%) of the units (35) may be set aside for tenants whose income is less than sixty (60%) of AMI.

Rent will be set at 30% of the 80% and 60% AMI numbers, as applicable, and cannot be increased above 35% of AMI, so long as the project is tax exempt.

**ALTERNATIVES:**

If the San Antonio Housing Trust Public Facility Board does not indicate approval to proceed, the affordable and market rate units will not be built and the property will remain as it is.

**FISCAL IMPACT:**

No fiscal impact, as this is a non-binding resolution

**RECOMMENDATION:**

Staff recommends approval of the Resolution

**ATTACHMENT:**

Resolution  
Term Sheet

**FRIEDRICH LOFTS**

**CERTIFICATE FOR RESOLUTION**

The undersigned officer of the San Antonio Housing Trust Public Facility Corporation, a Texas nonprofit corporation created pursuant to the laws of the State of Texas (“SAHTPFC”) hereby certifies as follows:

1. In accordance with its bylaws, the Board of Directors of SAHTPFC (the “Board”) held a meeting on January 22, 2020 (the “Meeting”) of the duly constituted officers and members of the Board, at which a duly constituted quorum was present. Whereupon among other business transacted at the Meeting, a written

**RESOLUTION APPROVING A SECOND AMENDED AND RESTATED  
TERM SHEET FOR THE FRIEDRICH LOFTS APARTMENTS PROJECT; AND  
OTHER MATTERS IN CONNECTION THEREWITH**

(the “Resolution”) was duly introduced for the consideration of the Board and discussed. It was then duly moved and seconded that the Resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of the Resolution, prevailed and carried by a majority vote of the Board.

2. A true, full, and correct copy of the Resolution adopted at the Meeting is attached to and follows this Certificate; the Resolution has been duly recorded in the Board’s minutes of the Meeting; each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the Meeting; and the Meeting was held and conducted in accordance with the Bylaws of SAHTPFC.

SIGNED January 22, 2020.

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Nicole Collazo, Assistant Secretary

RESOLUTION APPROVING A SECOND AMENDED AND RESTATED  
TERM SHEET FOR THE FRIEDRICH LOFTS APARTMENTS PROJECT; AND  
OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, Friedrich Crossing, LP, a Texas limited partnership (the “Partnership”), and SAHT Friedrich Crossing LP, LLC, a Texas limited liability company and a Partnership limited partner (the “SAHT Limited Partner”), have been formed to acquire and construct a 347-unit multifamily housing facility (the “Housing Facility”) to be located on at 1617 East Commerce Street, San Antonio, Texas (the “Land,” together with the Housing Facility, the “Project”);

WHEREAS, at the request of the Partnership, San Antonio Housing Trust Public Facility Corporation (“SAHTPFC”) has agreed to (i) serve as the sole member of a limited partner of the Partnership in connection with the financing of the Project, (ii) acquire the Land (or a condominium interest on the Land) and own the Project and lease it to the Partnership pursuant to a Ground Lease (the “Ground Lease”), and (iii) serve as the general contractor for the Project;

WHEREAS, the Partnership, SAHTPFC, and Provident Realty Advisors, Inc. or an affiliate or affiliates thereof (the “Developer”) have revised the terms of their mutual relationship in a revised Term Sheet (the “Amended TS”), a copy of which has been attached hereto as Exhibit A;

WHEREAS, the Board has determined that it is in the public interest and to the benefit of the citizens and residents of San Antonio for the various entities to enter into the transactions described above so that the Partnership may construct the Project;

WHEREAS, this Board has reviewed the foregoing and determined that the action herein authorized is in furtherance of the public purposes of SAHTPFC;

BE IT THEREFORE RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN ANTONIO HOUSING TRUST PUBLIC FACILITY CORPORATION, THAT:

Section 1. The Amended TS, in substantially the form attached hereto, is hereby approved.

Section 2. The President, any Vice President, the Secretary, the Treasurer, the Executive Director, any Assistant Secretary, or any of them, are hereby authorized to execute the Amended TS, in substantially the form attached hereto.

Section 3. The President, any Vice President, the Secretary, the Treasurer, the Executive Director, any Assistant Secretary, or any of them, are authorized to negotiate and approve such changes in, or additions to, the terms of the Amended TS, including amendments, renewals, and extensions, as such officers shall deem necessary or appropriate upon the advice of counsel to SAHTPFC, and approval of the terms of any of the documents by such officers and this Board shall be conclusively evidenced by the execution and delivery of such documents.

Section 4. The officers of this Board, or any of them, are authorized to take any and all action necessary to carry out and consummate the transactions described in or contemplated by the documents approved hereby or otherwise to give effect to the actions authorized hereby and the intent hereof.

Section 5. If any section, paragraph, clause, or provisions of this Resolution shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution.

Section 6. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Board.

Section 7. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 8. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 9. This Resolution shall be in force and effect from and after its passage.

\* \* \*

**SECOND AMENDED AND RESTATED TERM SHEET FOR THE DEVELOPMENT OF**

**FRIEDRICH LOFTS APARTMENTS**

**IN THE CITY OF SAN ANTONIO, TEXAS**

**JANUARY 22, 2020**

This Term Sheet addresses the terms for the development and financing of the Property (hereafter defined). This Term Sheet is not meant to be an exhaustive document and will be replaced and superseded by definitive documentation. No legally binding obligations on either party will be created, implied or inferred until documents in final form are executed and delivered by all parties in a form acceptable to each party, in each party's sole and absolute discretion, provided that the parties agree that to the extent a business term is expressed herein, the parties agree that the definitive documents will reflect these terms. This Term Sheet replaces all previous understandings and agreements, written or oral, with respect to the Property.

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The Project will be owned by SAN ANTONIO HOUSING TRUST PUBLIC FACILITY CORPORATION, a Texas public facility corporation ("SAHTPFC"). The Land will be purchased by an affiliate of PROVIDENT REALTY ADVISORS, INC., a Texas corporation ("Provident"), and will be conveyed by the Provident affiliate to SAHTPFC. SAHTPFC will at Closing pay the Provident affiliate for the Land and simultaneously enter into a long term lease with the Tenant covering the Land and the Improvements (if any), who will be deemed to make a Prepaid Rent Prepayment to SAHTPFC of an equal amount. Tenant will be responsible for the costs of the Improvements. SAHTPFC and a Provident affiliate will be limited partners of Tenant.

**DEFINITIONS:** The following terms shall have the following meanings:

**"Assumed Debt Service"** means the hypothetical equal monthly payments of principal and interest that would be owed by the Tenant to a lender, assuming (irrespective of whether the Tenant has actually incurred any indebtedness and the actual terms of any such indebtedness) that Tenant borrowed seventy percent (70%) of the most recent purchase price for the direct or indirect transfer of the entire Lease to a party that is not an Affiliate of the Tenant (including any indirect transfer of the Lease effected by means of the direct or indirect sale of all of the equity interest in the Tenant), at a rate of interest equal to the Ten Year Treasury Rate plus three hundred (300) basis points, determined on the date of transfer and with a thirty (30) year level debt service amortization. Notwithstanding, the foregoing, prior to the first sale of the Project, when using the defined term Available Cash for Partnership Distributions, actual debt service shall be deducted from cash proceeds in lieu of the Assumed Debt Service.

**"Available Cash"** means for the applicable period, all cash proceeds realized and received by Tenant from operations (other than (i) receipts of capital contributions to Tenant, (ii) proceeds from loans to or refinancing by Tenant, or (iii) proceeds from any direct or indirect sale or assignment of the Lease



occurring after an election to effect a PFC Withdrawal, as hereafter defined) less (a) all operating costs and expenses of Tenant (and its affiliates to the extent relating to the Project), other than any expense not involving a cash expenditure (such as any amount charged for amortization or depreciation) or expenses paid to a related party; (b) the Assumed Debt Service; (c) all sums expended by Tenant (and its affiliates to the extent relating to the Project) for capital expenditures for the Project; and (d) cash reserves for working capital, capital expenditures, expenses, liabilities and other purposes as determined by Tenant after consideration of Tenant's financial position. Any of the costs, expenses and reserves contemplated in the foregoing clauses (a) through (d) may at the election of Tenant (and in such manner as Tenant shall reasonably approve) be carried forward and applied against future periods to the extent in excess of the aggregate amount of Available Cash for any current period. Available Cash must be calculated and accounted for consistently with the calculations of and accounting for distributions to Tenant's partners or owners.

**“Capital Event”** means any refinancing of the entire Project or the proposed sale of the entire Project (including any proposed assignment of the entire Lease) to a third party for consideration or of all of the interests in the Tenant Partnership to a third party for consideration.

**“City”** means City of San Antonio, Texas.

**“Closing Date”** means the date of closing for all financing for the Project.

**“Developer”** means Provident, or an affiliate of Provident.

**“Equity Partner”** means the entity or entities which are selected by Provident to contribute common equity (cash or property) to the Equity Partner and to be admitted as a limited partner to the Equity Partner, one of which will be Provident Partner. Such interest may receive a preferred return for all or a portion of its equity contribution.

**“Governing Law”** means the State of Texas.

**“Hypothetical Sale Price”** means in advance of marketing the Leasehold Estate for sale, the Tenant and SAHTPFC will determine and mutually agree upon the market value of the Project based upon an appraisal or broker opinion of value.

**“Hypothetical NOI”** means the then current period net operating income prior to the consummation of a sale of the Leasehold Estate as agreed to by the Tenant and SAHTPFC based upon an appraisal or broker opinions of value which is used in determining Hypothetical Sale Price.

**“Hypothetical Capitalization Rate”** means the market capitalization rate that is determined and agreed to by the Tenant and SAHTPFC based upon an appraisal or broker opinions of value that prospective purchasers of the Leasehold Estate are expected to utilize in determining the purchase price for the Leasehold Estate.

**“Hypothetical Distribution”** means the distribution (or proceeds) that SAHTPFC would receive from a sale if consummated by Tenant at the Hypothetical Sale Price pursuant to the payment waterfall as set forth in the Tenant's partnership agreement (the **“Partnership Agreement”**).

**“Hypothetical Available Cash”** means the Hypothetical NOI less the Assumed Debt Service.

**“Preferred Equity Contribution Partner”** means the entity selected by Provident to provide the limited partner capital for the Project in the form of preferred equity and to be admitted as a limited partner to the Tenant or another entity in the chain of ownership.

**“Provident”** means Provident Realty Advisors, Inc., a Texas corporation, or its affiliates.

**“Provident Partner”** means an affiliate of Provident, which will be a limited partner of the Tenant.

**“SAHTPFC”** means San Antonio Public Facility Corporation, a Texas Public Facility Corporation.

**“Tenant”** means Friedrich Crossing, LP, the Tenant under the Lease for the Project, which will be a single purpose Texas limited partnership, the sole General Partner of which will be Friedrich Crossing GP, LLC, (or an affiliate), and the Limited Partners of which will be the an affiliate of Provident Realty, the Equity Partner JV and an affiliate of SAHTPFC.

**Ad Valorem**

**Tax Exemption:**

SAHTPFC shall be responsible for obtaining a 100% property tax exemption for the Project and Lease. SAHTPFC shall apply for, and use good faith efforts to obtain prior to closing, a predetermination letter from the appraisal district indicating that the Project will be exempt. Shortly after the Closing Date, SAHTPFC will apply for the formal tax exemption. Pursuant to the Lease and Partnership Agreement, if the ad valorem tax exemption with respect to the Project is lost (“Loss of Tax Status Event”) (i) for any reason within the first 5 years or (ii) at any time during the Term of the Lease due to the fraud, willful misconduct or action or willful inaction of SAHTPFC or its affiliates, then as liquidated damages SAHTPFC, as Landlord, will convey the Project to Tenant (fee ownership of the Project, free and clear) and the Lease will terminate and SAHTPFC will assign its interest in the Tenant to another partner of Tenant. In the event of a Loss of Tax Status Event, prior to the transfers discussed in the prior sentence, SAHTPFC and the Tenant shall use reasonable efforts to modify the structure to allow the ad valorem tax exemption to continue. Notwithstanding the foregoing, SAHTPFC shall effectuate the aforementioned transfers within one hundred twenty (120) days following a Loss of Tax Status Event if the efforts of SAHTPFC and Tenant have not resulted in the reinstatement of a 100% ad valorem tax exemption.

**Construction:**

Tenant will contract with a joint venture made up of SAHTPFC and PRA Construction, LP, a Texas limited partnership and an affiliate of Provident (“Provident Contractors”), to construct the Improvements. Provident Contractors will receive a Contractor Fee of 5%, and any construction contract will also include a contractor’s contingency of 3% solely for the use of the joint venture. The joint venture will provide construction completion guarantees necessary to satisfy any lenders

and Equity Partners for the Project on terms acceptable to Provident Contractors in its sole discretion.

**Development Agreement:** Developer, SAHTPFC and Tenant will enter into a development agreement (“Development Agreement”) in a form acceptable to the parties, in accordance with the terms set forth herein. The Development Agreement will require the Tenant to finance and construct the Project pursuant to an approved set of plans and specifications and pursuant to an approved budget and agreed to schedule. The Project will be constructed pursuant to a fixed price contract. SAHTPFC will have a right to make changes, but at its expense once the plans are agreed to. Developer and Tenant will provide SAHTPFC with full indemnifications, reasonably qualified to the extent of SAHTPFC’s role as the Landlord. SAHTPFC will have a right to attend meetings and inspect the property and will receive monthly progress reports. All draws will require construction consultants for debt and equity approval and architect certifications.

**Developer Fee:** Developer is to receive a Developer Fee in connection with the development of the Project in an amount equal to three percent (3.0%) of the total development costs of the Project. It is anticipated twenty-five percent (25%) of the Developer Fee will be earned and paid at the construction loan closing. Seventy-five percent (75%) of the Developer Fee will be earned and paid monthly out of the loan proceeds as part of the monthly construction loan process and the final payment will be earned and paid upon issuance of the final certificate of occupancy for the Project.

**Entitlements:** Entitlements will include, without limitation, obtaining a zoning designation for the Property allowing for the intended development, construction, and operation of the Project.

**Guarantees:** Certain financial obligations will be guaranteed by Provident on terms to be negotiated by Provident and lenders and the Equity Partners. SAHTPFC will not be required to provide any financial guarantees with respect to financing or construction of the Project.

**Improvements:** Approximately 347 units of multifamily residential housing, together with all to be constructed onsite infrastructure improvements for the Project, pursuant to Plans and Specifications developed by Developer, and will include a resort style pool, fitness center, clubhouse, internet café, veteran services and other Class-A multifamily amenities.

**Lease:** Lease between SAHTPFC, as landlord, and Tenant, pursuant to which SAHTPFC leases the Property to the Tenant for a term (the “**Term**”) of 75 years (the “**Lease**”). So long as Tenant is not in default under the Lease, Tenant will be permitted under the Lease to assign its interest in the Lease without the requirement of any consent from Landlord. Landlord will not be permitted to assign its interests under the Lease in

any manner which jeopardizes the availability of exemption of the Project from ad valorem taxation or to the extent as may be prohibited in any loan documents with the lenders or any agreement between the Tenant and any Equity Partner. The rent will be (1) deemed prepaid rent at closing equivalent to the cost of Land conveyed to the PFC and (2) \$25,000 per year Administrative Fee, adjusted by the Consumer Price Index beginning in the second year (the "Administrative Fee"), to cover administrative costs to SAHTPFC (in the absence of a foreclosure or PFC Withdrawal). Notwithstanding the foregoing, the parties agree that Provident's transfer of the Land and existing improvements to SAHTPFC shall satisfy any prepaid rental requirement provided for in the Lease.

The Lease will provide that for any year the Tenant wishes to obtain a property tax exemption, it will set aside or rent 40% of the units to tenants earning less than 80% of the area median income (AMI) and 10% of the Units to tenants earning less than 60% of AMI (the "Affordable Units"). Rents for the Affordable Units will be initially set at 30% of 80% of AMI and cannot be increased above 35% of 80% of AMI.

The Lease will require the Tenant to maintain the Project as a Class A apartment project and will require renovations to the extent financially feasible, to the extent necessary to maintain the Project as a Class A apartment project. Tenant will insure the Project and will set aside an amount per door per year as determined by lenders as a reserve for replacements. Tenant will provide full indemnities to SAHTPFC. Provisions will be negotiated to help the PFC assure that the Project remains a Class A apartment project throughout the Term of the Lease, including conducting periodic needs assessments at predetermined intervals and at any point in time when there is a significant negative change in occupancy. For avoidance of doubt, the parties agree that maintaining the Project as a Class A apartment project means keeping the Project as originally designed and constructed in appropriate condition to compete with other Class A apartment projects of the same age as the Project, but does not mean adding amenities, making structural or other changes to the exterior or interior of the Project to make it consistent with newly constructed Class A apartment projects at a future date.

**Management:**

Provident will designate the property manager for the Project subject to SAHTPFC's approval of the manager, which approval shall not be unreasonably withheld, delayed or conditioned. The manager will receive a base Management Fee as follows:

Commencing with substantial completion of the first residential building, 3.0% multiplied by the effective gross income of the Project as outlined in the Management Agreement; but in no event less than \$3,500.00 per month.

**Miscellaneous Expenses:** Tenant Partnership will be responsible for and will include in the Project Budget all legal fees of SAHTPFC and Provident actually incurred in connection with the preparation, negotiation and execution of the Organization Documents, all reasonable out-of-pocket expenses, including, without limitation, all business, financial, collateral due diligence expenses, and, to the extent provided herein, all appraisal fees and all examination fees.

**Net Cash Flow Rent:** None, unless lender forecloses on the leasehold estate or there is a PFC Withdrawal (as defined below), then in an amount equal to the Post Withdrawal Percentage multiplied by the Available Cash for such period.

**Other Terms:** Tenant's Partnership Agreement will contain such usual and customary terms for limited partnership formed for the acquisition, financing, ownership, development, management, leasing and sale of the Project, including, without limitation, provisions for limitation on transfer of partnership interests, delivery of periodic financial and other reports necessary for securities laws disclaimers, accredited investor representations and compliance under the Development Agreement.

**Partnership Distributions:** Available Cash will be distributed by the Tenant Partnership to the Partners in the following order and priority:

*First* to any Preferred Equity Partner until it has received the greater of 7.0% internal rate of return (per annum compounded monthly based on actual days elapsed and a 360-day year);

*Second* to the payment of any priority capital advance(s) (to fund required cash not otherwise available), pro rata in accordance with the then outstanding principal balance of such priority capital advances, if more than one, in each case, first to the payment of then current interest set at 8%, then to the payment of accrued and unpaid interest, and then to the return of then outstanding principal balance;

*Third* to any Equity Partners, the unpaid Preferred Returns until such time such Partner's unpaid Preferred Return is reduced to zero;

*Fourth*, if from proceeds of a Capital Event, to the Equity Partners until such time as such Partner's unreturned common contribution (that is a return of capital, as defined in the Tenant's Partnership Agreement) is reduced to zero; and

*Thereafter* After payment of all preferred returns, net Available Cash shall be distributed among the Tenant's partners as follows: (i) 16.5% to SAHTPFC; and (ii) 83.5% to Provident and the other Equity Partners.

- PFC Structuring Fee:** SAHTPFC, or one of its affiliates, will receive a structuring fee equal to \$250,000 at the closing of the Project.
- Plans and Specifications:** Each of SAHTPFC, Tenant, Lenders, and Partners will have the right to review and approve the Plans and Specifications for Project in the design development stage and once they are materially completed, such approval not to be unreasonable withheld or delayed. Once any one of SAHTPFC, Tenant, Lenders, and Equity Partners have approved the conceptual and/or schematic design for the Project, it may not object to such design Plans and Specifications, unless the subsequent Plans and Specifications materially and adversely affects the design character or value of the Project.
- Post-Withdrawal Percentage:** A percentage calculated upon the consummation of a Capital Event in connection with a PFC Withdrawal (as defined below), or any foreclosure of the Leasehold Estate, which percentage shall be equal to the quotient of (i) the Hypothetical Distribution if SAHTPFC had not effected such PFC Withdrawal, multiplied by the Hypothetical Capitalization Rate and divided by the Hypothetical Available Cash; provided, however, that (A) if, after giving effect to all distributions and other payments of proceeds in respect of such Capital Event, all of the partners of the Tenant have received an ROI (to be defined in the Partnership Agreement) with respect to their common contributions (to be defined in the Partnership Agreement) of at least 1.5, then the Post-Withdrawal Percentage shall not be less than sixteen and one-half percent (16.5%), and (B) if, after giving effect to all distributions and other payments of proceeds in respect of such Capital Event, any of the partners of the Tenant have received an ROI with respect to their common contributions of less than 1.5, then the Post-Withdrawal Percentage shall be zero percent (0%) until the five (5) year anniversary of the consummation of such Capital Event and sixteen and one-half percent (16.5%) for all periods thereafter.
- Preferred Return:** Seven percent (7%) per annum on the then unreturned balance of capital contributions of the Equity Partners (including Provident Partner).
- Prerequisites to Closing:** The Seller of the Land and the City of San Antonio must resolve all legal proceedings between them and the Seller must agree that it will not seek further incentive for the development of any adjacent land. The Developer must obtain all required historic approvals, including the City's HDRC and OHP approvals. The Parties must also be in receipt of a predetermination letter from the Bexar County Appraisal District confirming that the Project and Land, as proposed, shall be 100% exempt from ad valorem taxes.

**Project:** The Project will be the Land and Improvements to be developed by Developer.

**Project Budget:** An initial Project Budget is attached hereto as Exhibit B. The Project Budget will be finalized and approved by all parties to the transaction prior to Closing, and will include the proposed sources of funds that will be needed to develop, construct and operate the Project, and the uses on which the funds will be spent. Sources of revenue include, without limitation, rental income, capital contributions and other revenues. Project uses include all reasonable and necessary direct and hard costs incurred in connection with the Project.

**Project Financing:** SAHTPFC will provide the leasehold estate for the Project to the Tenant Partnership pursuant to the Lease. The Lease will be prepared once the Lenders are identified and will include commercially reasonable provisions required by the Lenders, which may include a requirement SAHTPFC subordinate its interests in the Project, including the leasehold and fee interests in the Project.

#### Loans

For the Project, Developer will obtain a senior loan from a senior lender to the Tenant for approximately the amount shown in the Project Budget for development of the Project to be secured by a first-lien deed of trust on the Tenant's leasehold interest in the Project, and a lien on SAHTPFC's fee interest in the Project. Developer may also obtain subordinate loans (which may be structured as mezzanine financing) from a subordinate lender for approximately the amount shown in the Project Budget which may be secured by a second-lien deed of trust on the Tenant's leasehold interest, a lien on SAHTPFC's fee interest in the Project or partnership interest in the Tenant or Equity Partner.

All financings and guarantees must be acceptable to SAHTPFC, Developer and the Tenant in their sole and absolute discretion. SAHTPFC, Equity Partners, and Developer will be provided with a right of notice and the right to cure Tenant's defaults for all financings.

The Tenant will also seek a loan from the TIRZ in which the Project is located in the approximate amount of \$1,745,000, upon terms acceptable to the TIRZ, Provident, Tenant and SAHTPFC.

#### Equity

Developer will obtain one or more Preferred Equity Contribution Partners and Equity Partners who will invest approximately the amount shown in the Project Budget. One of the Equity Partners will be Provident Partner which will make a contribution of the Land at the Agreed Value, if they have acquired the Land, and a contribution of cash as provided for in the Project Budget. Contributions from the

Equity Partners will be contributed to the Tenant, for approximately the amounts shown in the Project Budget. The Partners will be paid from Cash Flow and will at all times be subordinate to the Loans. The Equity Partners will receive a Preferred Return of 7% on their contributions and will be repaid their investment from a Capital Event before any “Promote”. Accordingly, Cash Flow splits will adjust after the payment of the Preferred Returns.

**Project Term:**

The “**Project Term**” is from commencement of Project for a period of 75 years after closing. Two years prior to the end of the Project Term, Tenant shall assist the PFC with evaluating its options upon the end of the Project Term and the reversion of the Project to the PFC. Should the City choose to sell the Project at the end of the Project Term, the Tenant shall assist the City in the sale of the Project.

**Property:**

Approximately 4.876 +/- acres for the Project to be built and operated as proposed by this Term Sheet, and shown on the parcel map attached as Exhibit A hereto. The Property will be purchased to SAHTPFC in return for pre-paid lease for the Agreed Value.

**Representations and Warranties:**

Those customarily found in credit agreements for asset-based lending transaction of this type and others appropriate to this transaction in the reasonable credit judgment of SAHTPFC and Provident, subject to limitations and exceptions to be agreed upon.

**Sale/PFC Election:**

For each Capital Event other than a sale or assignment of SAHTPFC’s interest(s) in the Lease, SAHTPFC shall have the option, but not the obligation, to waive and forgo all rights it may have to any distribution of Available Cash or payment of any purchase price arising out of such Capital Event (*i.e.*, to forfeit its entire Partnership Interest and all rights under this Term Sheet, including the right to receive the \$25,000 per year Administrative Fee) (a “**PFC Withdrawal**”), and in lieu thereof exercise the right to begin receiving Net Cash Flow Rent.

Prior to such Capital Event, Tenant shall obtain appropriate appraisals or broker's opinions of values to calculate the Hypothetical Distribution, Hypothetical Available Cash and shall provide them to SAHTPFC. In the event the terms of the Actual Sale Price is greater than the Hypothetical Sales Price by more than 5%, SAHTPFC may re-evaluate its election to make a PFC Withdrawal.

Upon Subsequent Capital Events, which are sales of the leasehold interest or the ownership interest of Tenant, SAHTPFC may elect to forgo its Net Cash Flow Rent in exchange for proceeds of the Capital Event equal to the Post Withdrawal Percentage times the Hypothetical NOI less the Assumed Debt Service divided by the Hypothetical Capitalization Rate, all for that sale.



Immediately prior to the consummation of such Capital Event, if there is a PFC Withdrawal, distribution of Available Cash shall be deemed amended to allocate the percentage ascribed to SAHTPFC therein among the other Partners on a proportionate basis in accordance with the existing percentages ascribed to them.

**Sales Tax:**

The SAHTPFC will, as General Contractor (which will subcontract with Provident Contractors), be responsible to for the purchase of materials for the construction of the Project so that the purchases will be exempt from all sales and use taxes pursuant to Applicable Law.

This instrument may be executed in several counterparts, each of which will be deemed an original and all of which will constitute one and the same instrument, and will become effective when counterparts have been signed by each of the parties and delivered to the other party; it being understood that all parties need not sign the same counterpart. The exchange of copies hereof and of signature pages by facsimile transmission (whether directly from one facsimile device to another by means of a dial-up connection or whether mediated by the worldwide web), by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means, will constitute effective execution and delivery hereof as to the parties and may be used in lieu of the original document for all purposes. Signatures of the parties transmitted by any of the foregoing methods will be deemed to be their original signatures for all purposes.

*Signature Pages Follow*

**PROVIDENT:**

**Provident Realty Advisors, Inc.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SAN ANTONIO HOUSING  
TRUST PUBLIC FACILITY  
CORPORATION:**

**San Antonio Housing Trust Public Facility Corporation**

By: \_\_\_\_\_  
Nicole Collazo, Assistant Secretary

**EXHIBIT A**  
Property

**EXHIBIT B**  
Initial Project Budget

**San Antonio Housing Trust Public Facility Corporation**

**Agenda Memorandum**

**File Number** \_\_\_\_\_

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**Agenda Item Number:** 6

**Agenda Date:** 1-22-2020

**In Control:** San Antonio Housing Trust Public Facility Corporation

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**DEPARTMENT:** San Antonio Housing Trust Public Facility Corporation

**DEPARTMENT HEAD:** Pedro Alanis

**COUNCIL DISTRICTS IMPACTED:** District 5

**SUBJECT:** Inducement Resolution for the Preserve at the Port Apartments

**SUMMARY:**

Approving a Resolution of Inducement for the Preserve at the Port Apartments transaction to include the execution of all documentation necessary to obtain the financing for such transaction; authorizing all filings and agreements with Texas Department of Housing and Community Affairs in connection with applications low income housing tax credits; and to allow other matters in connection therewith.

**BACKGROUND:**

On December 10, 2019, the Finance Corporation authorized the inducement of bond financing for this project in an amount of up to \$37,000,000 in tax-exempt bonds.

Integrated Realty, in partnership with Streamline, is seeking a partnership with the San Antonio Housing Trust Public Facility Corporation to acquire and rehabilitate the Preserve at the Port Apartments, an existing 396-unit multifamily development located at 402 Gillmore Avenue. The Project is expected to cost approximately \$55.8 million and it is expected that up to \$37,000,000 of tax exempt bonds will be issued and \$14,200,000 in tax credit equity and \$5,350,000 in state historic tax credits will be raised. This is a 4% LIHTC project which will average all units at or below 60% of the area median income.

Integrated Realty is represented by Joey Guerra, an experienced developer of all kinds of real estate in San Antonio. Streamline is represented by Joel Pollack, an experienced tax credit developer.

In the MOU, the Developer has agreed to the following requirements for the Project: (1) rents will not increase for existing tenants for two years; (2) Developer will fund a “rent bank” to assist tenants at the Project facing short-term financial crises that put them at risk for eviction; and (3) Developer has agreed it will not engage a tenant eviction company specializing in rapid evictions (for example, “Kick ‘Em Out Quick” member firms).

#### **ALTERNATIVES:**

If a resolution is not approved, TDHCA will not approve the tax credits for the Project, which will not be rehabilitated.

#### **FISCAL IMPACT:**

The San Antonio Housing Trust Public Facilities Corporation will receive 40% of the developer fee at closing (estimated at \$1,147,250) and 40% of the deferred developer fee over a 15-year period (estimated at \$689,000). After which the PFC will receive 50% of the Cash Flow. Additionally, the PFC will receive 50% of any proceeds from the sale or refinancing of the Project.

The San Antonio Housing Trust Finance Corporation will receive an issuance fee equal to 1% bond issuance at closing (estimated at \$370,000) which will remain with the Corporation.

#### **RECOMMENDATION:**

Staff recommends the board approve a Resolution of Inducement for the Preserve at the Apartments transaction to include the execution of all documentation necessary to obtain the financing for such transaction; authorizing all filings and agreements with Texas Department of Housing and Community Affairs in connection with applicant’s low income housing tax credits; and to allow other matters in connection therewith.

#### **ATTACHMENT:**

Resolution  
Memorandum of Understanding

**PRESERVE AT THE PORT APARTMENTS**

**CERTIFICATE FOR RESOLUTION**

The undersigned officer of the San Antonio Housing Trust Public Facility Corporation, a Texas nonprofit corporation created pursuant to the laws of the State of Texas (“SAHTPFC”) hereby certifies as follows:

3. In accordance with its bylaws, the Board of Directors of SAHTPFC (the “Board”) held a meeting on January 22, 2020 (the “Meeting”) of the duly constituted officers and members of the Board, at which a duly constituted quorum was present. Whereupon among other business transacted at the Meeting, a written

RESOLUTION INDUCING THE PRESERVE AT THE PORT APARTMENTS TRANSACTION, INCLUDING THE EXECUTION OF ALL DOCUMENTATION NECESSARY TO OBTAIN THE FINANCING FOR SUCH TRANSACTION; AND AUTHORIZING ALL FILINGS AND AGREEMENTS WITH TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS IN CONNECTION WITH APPLICATIONS FOR LOW INCOME HOUSING TAX CREDITS; AND APPROVING A MEMORANDUM OF UNDERSTANDING FOR SUCH TRANSACTION; AND OTHER MATTERS IN CONNECTION THEREWITH

(the “Resolution”) was duly introduced for the consideration of the Board and discussed. It was then duly moved and seconded that the Resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of the Resolution, prevailed and carried by a majority vote of the Board.

4. A true, full, and correct copy of the Resolution adopted at the Meeting is attached to and follows this Certificate; the Resolution has been duly recorded in the Board’s minutes of the Meeting; each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the Meeting; and the Meeting was held and conducted in accordance with the Bylaws of SAHTPFC.

SIGNED January 22, 2020.

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Nicole Collazo, Assistant Secretary

RESOLUTION INDUCING THE PRESERVE AT THE PORT APARTMENTS TRANSACTION, INCLUDING THE EXECUTION OF ALL DOCUMENTATION NECESSARY TO OBTAIN THE FINANCING FOR SUCH TRANSACTION; AND AUTHORIZING ALL FILINGS AND AGREEMENTS WITH TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS IN CONNECTION WITH APPLICATIONS FOR LOW INCOME HOUSING TAX CREDITS; AND APPROVING A MEMORANDUM OF UNDERSTANDING FOR SUCH TRANSACTION; AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, Port SA Redevelopment, LP, a Texas limited partnership (the “Partnership”), and SAHT Port San Antonio Preserve GP, LLC, a Texas limited liability company and its general partner (the “General Partner”), have been formed to acquire and rehabilitate an approximately 396-unit multifamily housing facility (the “Housing Facility”) located at 402 Gilmore, San Antonio, Texas (the “Land,” together with the Housing Facility, the “Project”);

WHEREAS, at the request of the Partnership, San Antonio Housing Trust Public Facility Corporation (“SAHTPFC”) has agreed to (i) serve as the sole member of the General Partner of the Partnership in connection with the financing of the Project, (ii) acquire the Land and lease it to the Partnership pursuant to a Ground Lease (the “Ground Lease”), and (iii) enter into a joint venture with the Developer to form an entity that will serve as the general contractor for the Project;

WHEREAS, the Partnership, the General Partner, SAHTPFC, and Integrated Realty Group or an affiliate or affiliates thereof (the “Developer”) have defined their mutual relationship in a Memorandum of Understanding (the “MOU”), a copy of which has been attached hereto as Exhibit A;

WHEREAS, the Partnership has requested that the San Antonio Housing Trust Finance Corporation (the “Issuer”) issue its Multifamily Housing Revenue Bonds (City Base Apartments) Series 2020 (the “Bonds”) to finance the Project (the “Bond Financing”);

WHEREAS, the Issuer will issue the Bonds in an amount not to exceed \$37,000,000 and loan such proceeds to the Partnership;

WHEREAS, in connection with the Bond Financing, the Partnership, the General Partner, and/or SAHTPFC will be required to enter into certain agreements, including but not limited to a Indenture of Trust, a Loan Agreement, a Note, a Regulatory Agreement and Declaration of Restrictive Covenants, a Leasehold Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing together with Ground Lessor Subordination and Joinder, a Servicing Agreement, and a Ground Lease (collectively, the “Bond Documents”);

WHEREAS, in connection with the financing for the Project, the Partnership, the General Partner, and/or SAHTPFC may be required to enter into a bridge loan from a lender to be determined at a later date (the “Bridge Loan”), which is anticipated to be documented in certain agreements, including, but not limited to, a Construction Loan Agreement, a Promissory Note, Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, Assignment of Leases and



Rents, a Security Agreement, assignments of various contracts, an Environmental and Hazardous Substance Indemnity Agreement, a Disbursement Agreement, various subordination and intercreditor agreements, and various closing documents and certificates relating to a bridge loan, which will be repaid from the Equity Financing as provided below (collectively, the “Bridge Documents”);

WHEREAS, the Developer, on behalf of the Partnership, will apply for approximately \$14,197,957 in low income housing tax credits (the “LIHTCs”) from the Texas Department of Housing and Community Affairs (“TDHCA”);

WHEREAS, in connection with the application for LIHTCs, it is anticipated that the Partnership, General Partner and/or SAHTPFC will be required to execute, complete and deliver various applications, agreements, documents, certificates and instruments to TDHCA (the “TDHCA Documents”);

WHEREAS, the Partnership will contribute approximately \$14,197,957 of equity to the rehabilitation of the Project, which will be contributed by a limited partner to be determined at a later date (the “Equity Financing”);

WHEREAS, in connection with the Equity Financing, the Partnership, the General Partner, and/or SAHTPFC will be required to enter into certain agreements, including but not limited to an Amended and Restated Agreement of Limited Partnership, a Development Agreement, and closing certificates (collectively, the “Equity Documents”);

WHEREAS, SAHTPFC will enter into a joint venture with the Developer to form an entity that will enter into a construction contract with the Partnership to serve as the general contractor to rehabilitate the Project (the “Construction Documents”);

WHEREAS, the members of the Board of Directors of SAHTPFC (collectively, the “Board”) and their respective offices are as follows:

<u>Name of Director/Officer</u>	<u>Position</u>
Rebecca Viagran	President and Director
Shirley Gonzalez	Vice President and Director
Roberto Trevino	Director
John Courage	Director
Dr. Adriana Rocha Garcia	Director
Nicole Collazo	Assistant Secretary

WHEREAS, the Board has determined that it is in the public interest and to the benefit of the citizens and residents of San Antonio for the various entities to enter into the transactions described above so that the Partnership may rehabilitate the Project;

WHEREAS, this Board has reviewed the foregoing and determined that the action herein authorized is in furtherance of the public purposes of SAHTPFC;

BE IT THEREFORE RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN ANTONIO HOUSING TRUST PUBLIC FACILITY CORPORATION, THAT:

Section 1. The Project, the various structures of financing contemplated for the Project, including but not limited to the Bond Financing, the Bridge Loan, the LIHTCs, and the Equity Financing are hereby approved and the TDHCA Documents, and the MOU in substantially the form attached hereto, are hereby approved.

Section 2. The President, any Vice President, the Secretary, the Treasurer, the Executive Director, any Assistant Secretary, or any of them, are hereby authorized to execute any and all applications and term sheets required for the financing and rehabilitation of the Project, including, but not limited to, the TDHCA Documents and the MOU and all other documents relating to obtaining the Bond Financing, LIHTCs, Equity Financing, and the Bridge Loan to which the Partnership, the General Partner, and/or SAHTPFC is a party.

Section 3. The President, any Vice President, the Secretary, the Treasurer, and the Executive Director, any Assistant Secretary, or any of them, and, if required by the form of the document, the Secretary and any Assistant Secretary, or any of them, of SAHTPFC are authorized and directed to modify, execute and deliver any of the documents to be signed by or consented to by SAHTPFC, and any and all certificates and other instruments necessary to carry out the intent thereof and hereof, including, without limitation, the TDHCA Documents and all filings or other actions required by the TDHCA in connection with the LIHTCs. The President, any Vice President, the Secretary, the Treasurer, the Executive Director, any Assistant Secretary, or any of them, are authorized to negotiate and approve such changes in, or additions to, the terms of any of the documents, including amendments, renewals, and extensions, as such officers shall deem necessary or appropriate upon the advice of counsel to SAHTPFC, and approval of the terms of any of the documents by such officers and this Board shall be conclusively evidenced by the execution and delivery of such documents.

Section 4. It is understood by SAHTPFC and the Partnership and Developer have represented to SAHTPFC, that in consideration of SAHTPFC's adoption of this Resolution, and subject to the terms and conditions hereof, that the Partnership and Developer have agreed that

(a) the Partnership and Developer will (1) pay all Project costs that are not or cannot be paid or reimbursed from the proceeds of any debt and (2) indemnify and hold harmless SAHTPFC and the City against all losses, costs, damages, expenses and liabilities of whatsoever nature (including but not limited to reasonable attorneys' fees, litigation and courts costs, amounts paid in settlement, and amounts paid to discharge judgments) directly or indirectly resulting from, arising out of or related to the Project, or the design, construction, rehabilitation, equipping, installation, operation, use, occupancy, maintenance or ownership of the Project (other than claims arising from the gross negligence or willful misconduct of SAHTPFC or the City).

Section 5. This Resolution shall be deemed to constitute the acceptance of the Partnership's and Developer's proposal that it be further induced to proceed with providing the Project. **Provided that neither the Partnership nor the Developer nor any other party is entitled to rely on this Resolution as a commitment to enter into the proposed transaction, and SAHTPFC reserves the right not to enter into the proposed transaction either with or**

**without cause and with or without notice, and in such event SAHTPFC shall not be subject to any liability or damages of any nature. Neither the Partnership nor the Developer nor anyone claiming by, through or under the Partnership or the Developer, nor any investment banking firm or potential purchaser shall have any claim against SAHTPFC whatsoever as a result of any decision by SAHTPFC not to enter into the proposed transaction.**

Section 6. The officers of this Board, or any of them, are authorized to take any and all action necessary to carry out and consummate the transactions described in or contemplated by the documents approved hereby or otherwise to give effect to the actions authorized hereby and the intent hereof.

Section 7. The officers of this Board hereby approve the selection of Bracewell LLP as counsel to the General Partner and SAHTPFC for this transaction.

Section 8. If any section, paragraph, clause, or provisions of this Resolution shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution.

Section 9. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Board.

Section 10. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 11. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

This Resolution shall be in force and effect from and after its passage.

\* \* \*

EXHIBIT A

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
SAN ANTONIO HOUSING TRUST PUBLIC FACILITY CORPORATION  
AND**

**“PRESERVE AT THE PORT APARTMENTS”**

This Memorandum of Understanding (the “MOU”) is between San Antonio Housing Trust Public Facility Corporation (“SAHTPFC”), a Texas public facility corporation, and Integrated Realty Group (“Developer”), and is dated effective as of \_\_\_\_\_, 2020.

Developer is a developer of affordable housing in the State of Texas. SAHTPFC is a public facility corporation whose mission, in part, is to provide safe, decent and sanitary housing for low-income persons. Developer and SAHTPFC hereby agree to work cooperatively to develop an affordable housing to be known as “Preserve at the Port Apartments” at the following location, in accordance with the terms of this MOU:

Approximately 402 Gilmore Avenue in San Antonio, Texas

In order to accomplish this purpose, the parties agree as follows:

**AGREEMENTS:**

**A. Definitions.**

1. Class A LP — \_\_\_\_\_; being an affiliate of Developer that, to the extent permitted by applicable law, will be admitted to the Partnership.
2. Closing -- The initial closing and funding of Construction/Permanent Loan and Equity financing to the Partnership.
3. Construction/Permanent Loan — The loan identified in Section E.1 hereof for the construction of the Project.
4. Contractor — SAHTFC/\_\_\_\_\_ JV, as identified in Section F.4 hereof.
5. Developer — Integrated Realty Group, or one of its affiliates.
6. Development Fee — The fee paid to Developer in the amount set forth in Section L.1 hereof.
7. Equity — The equity financing of the Project identified in Section E.4 hereof.
8. General Partner — SAHT Port San Antonio Preserve GP, LLC, a single purpose wholly owned by SAHTPFC that will be admitted to the Partnership as general partner.

9. Guarantor — One or more affiliates of the Class A LP which will guarantee the Construction/Permanent Loan and Equity as required by the Investor LP and the lenders.
10. Investor LP —The provider of the Equity through a purchase of an investment in the Partnership entitling the Investor LP to the Tax Credits.
11. Loan(s) — the Construction/Permanent Loan, the Subordinate Loans, the Pre-Development Loan and/or the taxable bridge loan.
12. Manager — \_\_\_\_\_
13. Management Agreement — Property Management Agreement between the Partnership and Manager.
14. MOU — This Memorandum of Understanding between SAHTPFC and Developer.
15. Partnership — Port SA Redevelopment, LP, which is a Texas limited partnership formed for the purpose of owning the Project.
16. Partnership Agreement — The Amended and Restated Partnership Agreement to be entered into among the General Partner, Class A LP, and the Investor LP, to be drafted by counsel for the Investor LP.
17. Pre-Development Loan-The loan identified in Section 0.2, if any.
18. QAP — Qualified Allocation Plan for 2020 Tax Credits issued by TDHCA, or such other applicable QAP which may otherwise control.
19. Subordinate Loan(s) — The loan(s) identified in Section E.3, if any, which will be subordinate to the Construction Loan and Permanent Loan.
20. Tax Credits — Low Income Tax Credits allocated by TDHCA.
21. TDHCA — Texas Department of Housing and Community Affairs.

**B. Summary of Compensation and Fees.**

1. SAHTPFC shall receive forty percent (40%) of the Developer Fee. (See Section L.1 hereof).
2. Developer shall receive sixty percent (60%) of the Developer Fee. (See Section L.1.)
3. Contractor shall receive a general contractor fee, overhead, profit and general conditions as set forth in Section F.5.
4. Manager shall receive a Management Fee as set forth in Section G.

**C. Ownership Structure.**

1. The Partnership has been formed for the purpose of owning the Project.
2. The General Partner will become the sole general partner and will be admitted to the Partnership at Closing. To the extent permitted by applicable law as amended between the date hereof and Closing, the Class A LP will have certain control oversight and approval rights. Any such rights must be agreed to by SAHTPFC and may not, in the opinion of SAHTPFC's counsel, result in the Special LP being deemed a General Partner for exercising its rights under the Partnership Agreement (as hereinafter defined). The Class A LP's oversight and approval rights shall include but not be limited to the following:
  - (i) any change to the Operating Agreement (hereinafter defined);
  - (ii) any sale or other disposition of the Project (other than as described in Section N of this MOU);
  - (iii) any material change in the construction or development plans or budget for the Property;
  - (iv) any amendment to the Loan or Equity documents (as hereinafter defined);
  - (v) any refinancing of the Project;
  - (vi) any change in the property manager;
  - (vii) the selection of the accountants for the Partnership;
  - (viii) the annual budgets for operating and capital expenses;
  - (ix) rent increases and concessions;
  - (x) withdrawals from reserves;
  - (xi) the initiation or settlement of any lawsuits;
  - (xii) the initiation or settlement of any insurance claims;
  - (xiii) the Partnership's obtaining of any federal or state grants or subsidies; and
  - (xiv) resolutions of any issues arising with TDHCA
3. Title to the land for the Project shall be taken in the name of SAHTPFC, and SAHTPFC shall enter into a 75-year ground lease (the "Ground Lease") with the Partnership as Tenant. Funding for the acquisition of the land will come from the financing of the Project, and shall be paid to SAHTPFC in the form of an upfront Ground Lease payment. The amount of the lease payment shall be equal to the land purchase price plus any closing costs. The Ground lease shall provide for no annual

rental. The improvements, fixtures and personal property pertaining thereto shall be owned by the Partnership. Upon termination of the Ground Lease, ownership of the improvements and fixtures constituting the Project shall revert to SAHTPFC, subject to foreclosure requirements of any lenders for the Project.

**D. Due Diligence.**

1. As a condition to SAHTPFC's participation with the Project, SAHTPFC requires Developer to provide due diligence information on the Project and its proposed financing and operations as requested by SAHTPFC. Developer agrees to provide such information to SAHTPFC, including without limitation, the Tac Credit Application, the pro forma budget contemplated herein, and such other documentation as reasonably needed to obtain financing for the Project or as requested by SAHTPFC.
2. A proforma budget of the Project is attached to this MOU as Exhibit "A". SAHTPFC and Developer acknowledge that the proforma is subject to change. SAHTPFC further acknowledges that Developer shall be responsible for maintaining and updating the proforma budget, which shall be subject to review and approval by SAHTPFC.

**E. Financing.**

1. On behalf of the Partnership, Developer has applied, or shall apply, for a reservation of up to Thirty Million and NO/100 Dollars (\$37,000,000) in private activity bonds (the "Bonds") to be issued by SAHTPFC ("Issuer"). If the Partnership receives a reservation of Bonds, Developer shall be responsible for selecting the manner in which the Bonds will be sold to facilitate debt financing for the Project and negotiating the Bond financing terms on behalf of the Partnership, provided that SAHTPFC shall cooperate as reasonably necessary with respect to due diligence and underwriting requirements and shall have the right to review and approve the financing arrangements and the terms and conditions of any Bond or loan document. Any such loans, comprising the Construction Loan and Permanent Loan shall be on the terms referenced herein.
2. The Partnership will require a Construction and Permanent Loan ("Construction Loan") financed by tax-exempt bonds in the approximate amount of Thirty-Four Million Six Hundred Sixty Thousand Dollars (\$34,660,000) for the Project. The Developer shall identify sources for the Construction Loan on behalf of the Partnership and coordinate all interaction with the lender. SAHTPFC shall have the right to review, comment upon and approve the financing arrangements and the Construction Loan and the terms and conditions of any Loan documents within a reasonable period of time. SAHTPFC shall review, comment upon and approve any documents related to the Construction Loan within a reasonable period of time and shall timely execute any and all such documentation. Additional financing may be added if it is beneficial to the Project and if approved by Developer and SAHTPFC.

3. The Partnership may require a taxable bridge loan. Developer shall identify financing sources for the taxable bridge loan on behalf of the Partnership and coordinate all interaction with the lender. The General Partner and SAHTPFC shall cooperate as reasonably necessary with respect to due diligence and underwriting requirements and shall have the right to review and approve financing arrangements of the taxable bridge loan. A commitment for the taxable bridge loan shall be in place prior to Closing (as hereinafter defined). The General Partner shall timely review and comment upon any documents related to the taxable bridge loan and shall timely execute any and all such documentation.
4. The Partnership expects one or more Subordinate Loans in conjunction with the proposed financing. The Developer shall determine the pursuit of such funds and shall negotiate the terms of any such financing. The General Partner and SAHTPFC shall cooperate as reasonably necessary with respect to due diligence and underwriting requirements and shall have the right to review and approve the financing arrangements and the terms and conditions of the Subordinate Loans. The General Partner shall timely review and comment upon any documents related to the Subordinate Loans and shall timely execute any and all such documentation at Closing.
5. On behalf of the Partnership, Developer will apply for approximately One Million Three Hundred Thousand and NO/100 Dollars (\$1,300,000) annually in Tax Credits from TDHCA. The parties anticipate that the Investor LP will provide Equity in return for the benefit of the Tax Credits. Developer shall negotiate equity financing for the Project on behalf of the Partnership and coordinate all interaction with the Investor LP. SAHTPFC shall cooperate as reasonably necessary with respect to due diligence and underwriting requirements and shall have the right to review, comment upon and approve the financing arrangements of the Equity. The Equity financing documents are expected to include the Partnership Agreement. The General Partner shall timely review and comment upon any documents related to the Equity and, if acceptable, shall timely execute any and all such documentation at Closing.
6. Developer shall pay all costs and fees associated with applying for the Bonds, the Loans, and Tax Credits, which costs, along with all other pre-development costs incurred by Developer (to the extent included within the approved budget), shall be reimbursed at Closing from the proceeds of the Bonds and Equity. In the event this MOU is terminated or the transaction fails to close as contemplated herein, Developer shall be solely responsible for all costs described above and SAHTPFC and its affiliates shall have no responsibility for payment or reimbursement of such costs except as otherwise provided in Section Q.9 hereof.
7. Guarantor shall provide any guarantees that may be required in conjunction with the Loan financing or the Equity referenced above. The terms of any required guarantees must be acceptable to Guarantor in its sole discretion.



Because Developer is providing any ongoing compliance or other guaranties, Developer and SAHTPFC (or an affiliate thereof) shall enter into the Partnership Agreement, along with the Investor LP, on terms mutually acceptable to all parties, providing for Developer's right to control certain decisions of the Partnership (including, but not limited to, those which could affect Guaranty liability) and for reimbursement of sums expensed by Developer as guarantor from sources available to the Partnership as provided in the Partnership Agreement.

**F. Design and Construction.**

1. Developer shall provide comprehensive development services to the Partnership pursuant to a Development Agreement to be entered into by the Partnership and Developer.
2. Developer has provided SAHTPFC a detailed pro forma budget for the Project, a current copy of which is attached hereto as Exhibit "A".
3. Developer has completed plans for the design of the site plan and design of the project. SAHTPFC will be provided copies of the final plans and specifications for the Project, including all construction contracts. SAHTPFC will have the right to review, comment and approve such plans, and specifications and such approval will not be unreasonably withheld.
4. In order to secure an exemption from state sales tax for the acquisition of building materials, SAHTPFC will form a joint venture to serve as the general contractor or enter into a master subcontractor agreement for the construction of the Project.
5. Contractor shall provide the Partnership a HUD-approved Lump Sum Contract or Cost Plus Contract with a "not to exceed" amount. Such agreement shall otherwise be on terms and conditions acceptable to all parties, each acting reasonably. In no event shall the amount of the general contract be less than shown in the Project proforma attached hereto. The not to exceed amount or lump sum amount, as applicable, payable to Contractor shall be an expense of the Partnership and shall be inclusive of a typical 6-2-6 construction profit (i.e., 6% builder profit, 2% overhead and 6% general conditions) all of which will be drawn on a percent complete based on the percent of work complete. The fixed price amount of the contract will also include a hard cost contingency of 5% outside of the construction contract solely for the use of Contractor or Partnership and to be drawn as needed by approved change order to complete the work as needed. Any cost savings in the development budget shall be handled in accordance with the Partnership Agreement.
6. Developer shall be responsible for obtaining all governmental approvals and permits needed in order to construct and operate the Project.
7. Developer shall guarantee to the Partnership, the Investor LP and any lender, delivery of the Project on time and within the approved budget (as it may be amended or revised from time to time with appropriate approvals).

8. The Project shall be constructed so as to comply with ADA and Section 504 requirements, as applicable under federal and state law.
9. The Partnership's financing source will require a bond from the Contractor, or one of its affiliates.
10. In no event will the Project require a contingency in excess of five percent (5%) of hard costs without the approval of Contractor.
11. Developer shall be responsible for the preparation of the construction loan draws for the Project which the General Partner will not unnecessarily delay, or withhold its approval.

**G. Management and Operation.**

Manager shall serve as the property manager ("Manager") for the Project, which will be memorialized in a management agreement (the "Management Agreement"). The amount of the Management Fee shall be Four Percent (4.00%) of effective gross income and paid as outlined in the Property Management Agreement. So long as affiliates of the Developer are the Guarantor for the transaction, Developer shall have approval rights over the selection of the Manager and any change thereto and over the form of the Management Agreement.

**H. Accounting.**

Subject to termination for reasonable cause, Developer shall provide accounting services (including but not limited to: (i) bookkeeping, monitoring reporting requirements and processing construction loan draws and change orders, and (ii) preparation of and/or coordinating preparation of cost certification, carryover, 10% test, tax returns and the Partnership's audit and audited financial statements for filing or certification by the Partnership's outside accountants,) to the Project. Any third party costs for accounting will be reimbursed by the Partnership.

**I. Supportive Services.**

Developer will identify an appropriate provider of supportive services. The scope of such supportive services shall be consistent with the committed to services in the application for the Tax Credits. The fee for such supportive services will be as shown in the final proforma. SAHTPFC shall monitor the provision of such supportive services during the Tax Credit compliance period. Developer shall be responsible for providing any evidence of supportive services which may be required for the Tax Credit application.

**J. Community Support.**

SAHTPFC and Developer shall be jointly responsible for interfacing with the local governmental officials in connection with support for the Project. The parties will consult with each other and coordinate the response to any media inquiries and/or public opposition to the Project that may arise.

**K. Tax Exemption.**

The ownership structure contemplated herein is expected to generate an ad valorem tax exemption for the Project. SAHTPFC, on behalf of the Partnership, shall work with the applicable appraisal district to obtain confirmation of the availability of such exemption. The Partnership will obtain a property tax opinion from its law firm at the time of Closing. If the exemption is (i) not able to be obtained, or (ii) subsequently terminated once received due to the action or inaction of the General Partner or SAHTPFC, the Developer shall have the right to remove the General Partner from the Partnership. In addition, if the exemption is terminated due to other than the action or inaction of the General Partner or SAHTPFC (for example, due to a change in law), SAHTPFC and the Developer agree to work together to restructure the transaction so that the Project can qualify for any applicable ad valorem exemption that may be available at such time; provided however, if the restructured transaction would yield only a partial exemption for the Project and the Developer can otherwise identify a third party that would allow a 100% ad valorem exemption for the Project, the Developer shall have the right to remove SAHTPFC in order to facilitate such 100% exemption. The provisions of this Section K shall survive termination of the MOU.

**L. Fees and Expenses.**

1. As consideration for the services of the Developer in connection with the construction and development of the Project, the Partnership shall in accordance with the Partnership Agreement, pay a fee (the "Developer Fee") of approximately Four Million Eight Hundred Ninety-Two Thousand and 00/100 Dollars (\$4,892,000.00) or such maximum amount as may be permitted by all applicable laws, rules and regulations including those of TDHCA and lender, which Developer Fee shall include any Developer's overhead but not third party expenses incurred by the Developer directly related to the Project, which third party expenses may be charged to the Project pursuant to separate reimbursement requests. The Developer's right to reimbursement pursuant to the preceding sentence shall survive termination of the MOU.

Developer will receive 60% of the Developer Fee and SAHTPFC will receive 40% of the Developer Fee, on a pro rata basis.

The obligations of the Partnership to pay the Developer Fee shall be non-recourse to the Partners of the Partnership but recourse to the assets of the Partnership.

2. The Class A LP will be entitled to receive certain fees or priority distributions for its services in such capacity as set forth in the Partnership Agreement. Such amounts shall be payable from the approved capital budget or the Partnership's net cash flow, as provided in the Partnership Agreement.
3. After payment of the Developer Fee, the General Partner and the Class A LP shall split any remaining net cash flow, refinancing and sales proceeds distribution, 50% to the Class A LP and 50% to the General Partner.
4. Neither party shall enter into any contractual relationship or agreement relating to the Project that would cause either financial or legal liability to the other, without the other party's prior written consent.

**M. Long Term Ownership.**

The General Partner, or other SAHTPFC affiliate shall have an option to acquire the Project at any time as necessary to obtain the required property tax exemption. The purchase price prior to the end of the Section 42 compliance period will be equal to the greater of (1) fair market value, (2) all indebtedness, including partner loans, plus exit taxes, or (3) an amount determined pursuant to the terms of the Partnership Agreement. The purchase price after the Section 42 compliance period will be equal to the greater of (1) fair market value and (2) all indebtedness, including partner loans, plus exit taxes. SAHTPFC or its affiliate, as applicable, shall close on acquisition of the Project within 90 days after exercise of the option.

**N. Right of First Refusal.**

The Class A LP and General Partner shall each have the right to market the property for sale at the end of the Section 42 compliance period for a price equal to at least the minimum purchase price under Section 42(i)(7)(B) of the Internal Revenue Code of 1986, as amended (the “Minimum Purchase Price”). SAHTPFC shall have the right to consummate its right of first refusal within 60 days of notice by the Class A LP or General Partner, as applicable, of a third party offer for the Project by (1) purchasing the Project at the Minimum Purchase Price or (2) purchasing the interests of the Investor LP and its affiliates in the Partnership for the amount such partner(s) would otherwise receive pursuant to a sale of the Project at the Minimum Purchase Price.

Regardless of whether SAHTPFC acquires the Project or the Partnership interests (in either case, the “SAHTPFC Acquisition”) and regardless of whether such acquisition occurs pursuant to an option or right of first refusal, the Partnership will continue or be reconstituted with the Class A LP or its affiliate such that the Class A LP or its affiliate will receive the same share of cash flow and capital proceeds as it was receiving prior to the SAHTPFC Acquisition. In addition, to the extent that the Class A LP or its affiliates continue to have guaranties with respect to the Project, the Class A LP or affiliate shall continue to have the same authority, consent, and oversight rights with respect to the Project that is had prior to the SAHTPFC Acquisition. This paragraph shall survive termination of the MOU.

All option or rights of first refusal in favor of SAHTPFC or any affiliate shall terminate in the event that the General Partner is removed from the Partnership or the ad valorem tax exemption is not able to be obtained. In addition, if the Project is sold to a third party, SAHTPFC shall cooperate as necessary to facilitate such sale, including but not limited to, executing a release or termination of its option and right and first refusal rights and conveying the land underlying the Project to the third party at no or nominal cost.

**O. Developer Expenses.**

1. To the extent that Developer has advanced sums for the benefit of the Project which have not been reimbursed, SAHTPFC may not take any action regarding the ownership, development, construction, management or finances of the Project (whether prior to or after Closing) without Developer’s prior consent. Developer shall be entitled to priority reimbursement for all bona-fide reasonable out-of-pocket pre-development costs associated with the development of the Project

(including any interest paid by Developer) upon the earlier of (i) Closing of the Construction Loan and Equity and (ii) the Project receiving any Pre-Development Loan or equity advance.

2. Developer shall have the right to identify Pre-Development Loan financing to the Partnership for reimbursement of Project expenses incurred by Developer, to be guaranteed by Developer subject to SAHTPFC's review and approval. If Developer identifies and SAHTPFC approves such a Pre-Development Loan, the Partnership shall execute loan documents evidencing the Pre-Development Loan without creating any liability to SAHTPFC or its affiliates. The fees and interest of such Pre-Development Loan shall be expenses of the Partnership.

**P. SAHTPFC Expenses.**

Developer acknowledges that, except as otherwise contemplated in Section Q.9 hereof, it is the parties' intent that SAHTPFC bear no out-of-pocket expenses in connection with the Project, provided that such reasonable expenses shall be considered Project expenses and shall be shown in the Development Budget.

**Q. Developer Covenants.**

Developer agrees that:

1. Rents will not increase for existing tenants at the Project post-renovation within two (2) years following completion of renovated Project;
2. Developer will explore funding a contribution toward eviction prevention efforts benefitting tenants within the City of San Antonio, including at the Project, who are facing short-term financial crises or difficulties that might put them at risk for eviction; and
3. Developer has agreed it will not engage or otherwise work with a tenant eviction company that specializes in accelerated evictions (for example, "Kick 'Em Out Quick" member firms).
4. Developer has agreed to ensure: (a) 10% of the total number of units in the Project will be reserved for residents making at or less than 30% of area median income for the geographic area set forth by HUD ("AMI"), and (b) the average income of residents in all the units shall not exceed 60% AMI.

**R. Miscellaneous.**

1. This MOU reflects the entire understanding between the parties and may only be amended by SAHTPFC or Developer in writing, signed by both parties. This MOU is not merely an "agreement to agree".
2. Each party hereto is prohibited from assigning any of its interests, benefits or responsibilities hereunder to any third party, without the prior written consent of

the other party, such consent not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the parties acknowledge that it is anticipated that an affiliate of Developer may perform some or all of the activities of Developer set forth in this MOU. For purposes of this MOU, any references to “Developer” shall be deemed to refer, as applicable, to any affiliate thereof that actually performs the activities of the Developer herein set forth.

3. The parties agree to execute such documents on mutually acceptable terms and do such things as may be reasonably necessary or appropriate to facilitate the development of the Project and the consummation of their agreement herein.
4. This MOU may be executed in several counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties may not have signed the same counterpart.
5. THIS MOU SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF TEXAS, EXCLUSIVE OF CONFLICT OF LAWS PRINCIPLES.
6. In case any one or more of the provisions contained in this MOU for any reason are held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision hereof, and this MOU will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
7. The parties hereto submit exclusively to the jurisdiction of the state and federal courts of Bexar County, Texas, and venue for any cause of action arising hereunder shall lie exclusively in the state and federal courts of Bexar County, Texas.
8. The subject headings contained in this MOU are for reference purposes only and do not affect in any way the meaning or interpretation hereof.
9. This MOU shall continue until terminated upon the occurrence of one of the following conditions:
  - (i) SAHTPFC and Developer sign a mutual consent to terminate this Agreement;
  - (ii) The transactions contemplated hereby are not closed by June 1, 2020;
  - (iii) Reserved;
  - (iv) SAHTPFC’ s Board of Directors and/or Developer’s Board of Managers does not approve the Project and the documents therefor;

- (v) If Developer determines that the transactions contemplated by this MOU are not feasible, Developer may terminate this MOU by delivery written notice thereof to SAHTPFC.
- (vi) Developer fails to deliver checklist items as requested by SAHTPFC;
- (vii) Either party breaches its obligations under this MOU, the non-binding party provides the breaching party notice of such fact and a 15-day opportunity to cure, and the breaching party fails to do so during such time;
- (viii) A party is ineligible to participate in the Tax Credit program pursuant TDHCA's rules (which ineligibility will also be deemed an event of default hereunder), then the other party may terminate this MOU by providing written notice thereof to the party found to be ineligible. or
- (ix) Either party files for bankruptcy protection, makes an assignment for the benefit of creditors, has a receiver appointed as to its assets or generally becomes insolvent.

Upon termination of this MOU for SAHTPFC's violation of item (viii), or (ix) above, SAHTPFC shall reimburse Developer for all of its bonafide reasonable out-of-pocket pre development costs associated with development of the Project, with interest as indicated above. Upon termination of this MOU for any other reason, neither party shall have any ongoing obligation to the other with respect to this MOU and the Project, except Developer shall indemnify and reimburse SAHTPFC for any costs and expenses occurred up through such date (but not if termination is pursuant to item (i) or (iv) above).

10. In addition, the provisions of this MOU with respect to the Project, other than those provisions which expressly survive the termination hereof, will be terminated and suspended when the General Partner is admitted to the Partnership Agreement and SAHTPFC and Developer and their affiliates, as applicable, enter into definitive agreements with respect to the governance of the Partnership and the development, construction, financing, and operation of the Project as contemplated herein.

If this MOU is terminated for any reason and neither SAHTPFC nor any of its affiliates (i) acts as General Partner in regard to the Project or (ii) acquires any ownership interest in the Project, Developer shall retain all rights to control the Project, including the right to identify any alternate general partners, guarantors, and developers and to re-apply for an allocation of tax credits for the Project. SAHTPFC agrees, upon termination of this MOU, to execute any document reasonably requested by Developer to give effect to the provisions of this paragraph. The provisions of this paragraph shall survive termination of this MOU.

11. The parties acknowledge that the General Partner, SAHTPFC and its affiliates will be represented in this transaction by Bracewell LLP ("General Partner Counsel"). All costs of General Partner Counsel will be considered costs hereunder and paid as provided herein. The Partnership, Developer, the Class A LP, and their affiliates will be represented by separate counsel whose fees will also be an expense of the

Partnership reflected in the Proforma Development Budget and will not be entitled to rely on General Partner Counsel for representation in this matter.



EXECUTED to be effective as of the date above shown.

SAN ANTONIO HOUSING TRUST PUBLIC  
FACILITY CORPORATION

By: \_\_\_\_\_  
Nicole Collazo  
Assistant Secretary

DEVELOPER:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT "A"  
PROFORMA DEVELOPMENT BUDGET  
(TO BE ATTACHED)

**San Antonio Housing Trust Public Facility Corporation**

**Agenda Memorandum**

**File Number** \_\_\_\_\_

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**Agenda Item Number:** 7

**Agenda Date:** 1-22-2020

**In Control:** San Antonio Housing Trust Public Facility Corporation

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**DEPARTMENT:** San Antonio Housing Trust Public Facility Corporation

**DEPARTMENT HEAD:** Pedro Alanis

**COUNCIL DISTRICTS IMPACTED:** District 9

**SUBJECT:** Resolution approving and authorizing execution of a Memorandum of Understanding for the Northview Apartments

**SUMMARY:**

Approving a Resolution authorizing the execution of a Memorandum of Understanding with Pedcor Development Associates, LLC and Village Capital Corporation, as developers, for the Northview Apartments; and to allow other matters in connection therewith.

**BACKGROUND:**

On December 10, 2019, the San Antonio Housing Trust Public Facility Corporation induced the 156-unit Northview Apartments 4% LIHTC project. The PFC will serve as the general partner of the tax credit partnership and will receive 40% of the developer fee at closing and 40% of the deferred developer fee over a 15-year period. After which the PFC will receive 45% of the Cash Flow. Additionally, the PFC will receive 45% of any proceeds from the sale or refinancing of the Project.

In connection with the Project, the San Antonio Housing Trust Facility Corporation also approved the issuance of tax-exempt bonds in an amount not to exceed \$25,000,000.

At the time of inducement a Memorandum of Understanding had not been negotiated between the parties for approval by this Board. The PFC staff and developers have negotiated a Memorandum of Understanding for your approval and authorization to execute. The Memorandum of Understanding includes an additional requirement that the

developer reserve of a minimum of 10% of all the units for residents earning at or less than 30% AMI.

**ALTERNATIVES:**

If a resolution is not approved, the Developer will not be required to reserve the 30% AMI units.

**FISCAL IMPACT:**

The PFC will receive 40% of the developer fee at closing and 40% of the deferred developer fee over a 15-year period. After which the PFC will receive 45% of the Cash Flow. Additionally, the PFC will receive 45% of any proceeds from the sale or refinancing of the Project.

The San Antonio Housing Trust Finance Corporation will receive an issuance fee equal to 1% bond issuance at closing (estimated at \$250,000) which will remain with the Corporation.

**RECOMMENDATION:**

Staff recommends the board approve a Resolution to approve the attached Memorandum of Understanding; and to allow other matters in connection therewith.

**ATTACHMENT:**

Resolution  
Memorandum of Understanding

## **NORTHVIEW APARTMENTS**

### **CERTIFICATE FOR RESOLUTION**

The undersigned officer of the San Antonio Housing Trust Public Facility Corporation, a Texas nonprofit corporation created pursuant to the laws of the State of Texas (“SAHTPFC”) hereby certifies as follows:

1. In accordance with its bylaws, the Board of Directors of SAHTPFC (the “Board”) held a meeting on January 22, 2020 (the “Meeting”) of the duly constituted officers and members of the Board, at which a duly constituted quorum was present. Whereupon among other business transacted at the Meeting, a written

#### **RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING FOR THE NORTHVIEW APARTMENTS PROJECT; AND OTHER MATTERS IN CONNECTION THEREWITH**

(the “Resolution”) was duly introduced for the consideration of the Board and discussed. It was then duly moved and seconded that the Resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of the Resolution, prevailed and carried by a majority vote of the Board.

2. A true, full, and correct copy of the Resolution adopted at the Meeting is attached to and follows this Certificate; the Resolution has been duly recorded in the Board’s minutes of the Meeting; each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the Meeting; and the Meeting was held and conducted in accordance with the Bylaws of SAHTPFC.

SIGNED January 22, 2020.

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Nicole Collazo, Assistant Secretary

RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING  
FOR THE NORTHVIEW APARTMENTS PROJECT; AND OTHER MATTERS  
IN CONNECTION THEREWITH

WHEREAS, VCCPHC-San Antonio I, LP, a Texas limited partnership (the “Partnership”), and SAHT Northview GP, LLC, a Texas limited liability company and its general partner (the “General Partner”), have been formed to acquire and construct an approximately 156-unit multifamily housing facility (the “Housing Facility”) to be located at approximately 23132 US Highway 281 North, San Antonio, Texas and known as the Northview Apartments (the “Land,” together with the Housing Facility, the “Project”);

WHEREAS, at the request of the Partnership, San Antonio Housing Trust Public Facility Corporation (“SAHTPFC”) has agreed to (i) serve as the sole member of the General Partner of the Partnership in connection with the financing of the Project, (ii) acquire the Land and lease it to the Partnership pursuant to a Ground Lease (the “Ground Lease”), and (iii) enter into a joint venture with the Developer to form an entity that will serve as the general contractor for the Project;

WHEREAS, the Partnership, the General Partner, SAHTPFC, and Pedcor Development Associates, LLC or an affiliate or affiliates thereof (the “Developer”) have defined their mutual relationship in a Memorandum of Understanding (the “MOU”), a copy of which has been attached hereto as Exhibit A;

WHEREAS, the Board has determined that it is in the public interest and to the benefit of the citizens and residents of San Antonio for the various entities to enter into the transactions described above so that the Partnership may construct the Project;

WHEREAS, this Board has reviewed the foregoing and determined that the action herein authorized is in furtherance of the public purposes of SAHTPFC;

BE IT THEREFORE RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN ANTONIO HOUSING TRUST PUBLIC FACILITY CORPORATION, THAT:

Section 1. The MOU, in substantially the form attached hereto, is hereby approved.

Section 2. The President, any Vice President, the Secretary, the Treasurer, the Executive Director, any Assistant Secretary, or any of them, are hereby authorized to execute the MOU, in substantially the form attached hereto.

Section 3. The President, any Vice President, the Secretary, the Treasurer, the Executive Director, any Assistant Secretary, or any of them, are authorized to negotiate and approve such changes in, or additions to, the terms of the MOU, including amendments, renewals, and extensions, as such officers shall deem necessary or appropriate upon the advice of counsel to SAHTPFC, and approval of the terms of any of the documents by such officers and this Board shall be conclusively evidenced by the execution and delivery of such documents.

Section 4. The officers of this Board, or any of them, are authorized to take any and all action necessary to carry out and consummate the transactions described in or contemplated by the documents approved hereby or otherwise to give effect to the actions authorized hereby and the intent hereof.

Section 5. If any section, paragraph, clause, or provisions of this Resolution shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution.

Section 6. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Board.

Section 7. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 8. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 9. This Resolution shall be in force and effect from and after its passage.

\* \* \*

EXHIBIT A

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
SAN ANTONIO HOUSING TRUST PUBLIC FACILITY CORPORATION  
AND  
DEVELOPER  
“NORTHVIEW APARTMENTS”**

This Memorandum of Understanding (the “MOU”) is between San Antonio Housing Trust Public Facility Corporation (“SAHTPFC”), a Texas public facility corporation, and VCC Developer, L.P. and PHC Developer, L.P. (“Developer”), each being an Indiana limited partnership, and is dated effective as of \_\_\_\_\_, 2020.

Developer is a developer of affordable housing in the State of Texas. SAHTPFC is a public facility corporation whose mission, in part, is to provide safe, decent and sanitary housing for low-income persons. Developer and SAHTPFC hereby agree to work cooperatively to develop affordable housing at the following location, in accordance with the terms of this MOU:

Approximately 23132 US-281, San Antonio, Texas 78258

In order to accomplish this purpose, the parties agree as follows:

**AGREEMENTS:**

**A. Affordability Requirements.**

Developer agrees to ensure:

1. 10% of the total number of units in the Project will be reserved for residents making at or less than 30% of area median income for the geographic area set forth by HUD (“AMI”), and
2. The average income of residents in all the units shall not exceed 60% AMI.

**B. Definitions.**

1. Class A LP – Northview Housing Company, LLC; being an affiliate of Developer that, to the extent permitted by applicable law, will be admitted to the Partnership.
2. Closing -- The initial closing and funding of Construction/Permanent Loan and Equity financing to the Partnership.
3. Construction/Permanent Loan – The loan identified in Section E.1 hereof for the construction of the project.



4. Contractor – SAHTPFC/VCC/PHC Contractor JV, which shall be a joint venture consisting of two (3) individual joint venturers, being that of SAHTPFC, VCC Contractor, L.P. and PHC Contractor, L.P.
5. Developer –VCC Developer, L.P., and PHC Developer, L.P., or an affiliate thereof.
6. Development Fee – The fee paid to Developer in the amount set forth in Section L.1 hereof.
7. Equity – The equity financing of the project identified in Section E.4 hereof.
8. General Partner – A single purpose entity affiliated with SAHTPFC that will be admitted to the Partnership as general partner.
9. Guarantor – One or more affiliates of the Class A LP (being either an entity and/or individuals) which will guarantee the Construction/Permanent Loan and Equity that shall be reasonably acceptable to the General Partner.
10. Investor LP –The provider of the Equity through a purchase of an investment in the Partnership entitling the Investor LP to the Tax Credits.
11. Manager – Pedcor Management Corp.
12. Management Agreement – Property Management Agreement between the Partnership and Manager.
13. MOU – This Memorandum of Understanding between SAHTPFC and Developer.
14. Partnership – VCCPHC – San Antonio I, L.P. which is a Texas limited partnership formed for the purpose of owning the project.
15. Partnership Agreement – The Amended and Restated Partnership Agreement to be entered into among the General Partner, Class A LP, and the Investor LP, to be drafted by counsel for the Investor LP.
16. Pre-Development Loan-The loan identified in Section O.2.
17. QAP – Qualified Allocation Plan for 2020 Tax Credits issued by TDHCA, or such other applicable QAP which may otherwise control.
18. Subordinate Loan(s) – The subordinate loan(s) identified in Section E.3, if any, which will be subordinate to the Construction/Permanent Loan.
19. Tax Credits – Low Income Tax Credits allocated by TDHCA.
20. TDHCA – Texas Department of Housing and Community Affairs.

**C. Summary of Compensation and Fees.**

1. SAHTPFC shall receive forty percent (40%) of the Developer Fee. (See Section L.1 hereof).
2. Developer shall receive sixty percent (60%) of the Developer Fee. (See Section L.1.)
3. Contractor shall receive a general contractor fee, overhead, profit and general conditions as set forth in Section F.5.
4. Manager shall receive a Management Fee as set forth in Section G.

**D. Ownership Structure.**

1. The Partnership has been formed for the purpose of owning the project.
2. The General Partner will become the sole general partner and will be admitted to the Partnership at Closing. To the extent permitted by applicable law the Class A LP will have certain control oversight and approval rights. Any such rights must be agreed to by SAHTPFC and may not, in the opinion of SAHTPFC's counsel, result in the Class A LP being deemed a General Partner for exercising its rights under the Partnership Agreement (as hereinafter defined).
3. The duties of the General Partner and the Class A LP shall be set forth in the Partnership Agreement.
4. Title to the land for the project shall be either: (1) held in fee simple by the Partnership; or (2) held by SAHTPFC, or one of its affiliates, and leased to the Partnership for a one-time upfront payment.

**E. Due Diligence.**

1. As a condition to SAHTPFC's participation with the project, SAHTPFC requires Developer to provide all due diligence information on the project and its proposed financing and operations.
2. A proforma budget of the project is attached to this MOU as Exhibit "A". SAHTPFC and Developer acknowledge that the proforma is subject to change. SAHTPFC further acknowledges that Developer shall be responsible for maintaining and updating the proforma budget, which shall be subject to review and approval by SAHTPFC.

**F. Financing.**

1. On behalf of the Partnership, Developer has applied, or shall, for a reservation of up to Twenty-Five Million and NO/100 Dollars (\$25,000,000) in private activity bonds (the "Bonds") to be issued by the San Antonio Housing Trust Finance

Corporation (“Issuer”). If the Partnership receives a reservation of Bonds, Developer shall be responsible for selecting the manner in which the Bonds will be sold to facilitate debt financing for the project and negotiating the Bond financing terms on behalf of the Partnership, provided that SAHTPFC shall have the right to review and approve the financing arrangements and the terms and conditions of any Bond or loan document, or any such loans comprising the Construction/Permanent Loan as referenced herein.

2. The Partnership will require a taxable bridge loan in an amount up to Ten Million and NO/100 Dollars (\$10,000,000). Developer shall identify financing sources for the taxable bridge loan on behalf of the Partnership and coordinate all interaction with the lender. The General Partner shall have the right to review and approve financing arrangements of the taxable bridge loan. A commitment for the taxable bridge loan shall be in place prior to Closing (as hereinafter defined). The General Partner shall timely review and comment upon any documents related to the taxable bridge loan and shall timely execute any and all such documentation.
3. The Partnership expects one or more subordinate loans in conjunction with the proposed financing (the “Subordinate Loan(s)”). The General Partner shall have the right to review and approve the financing arrangements and the terms and conditions of the Subordinate Loans. The General Partner shall timely review and comment upon any documents related to the Subordinate Loans and shall timely execute any and all such documentation at Closing.
4. On behalf of the Partnership, Developer will apply for up to Fifteen Million and NO/100 Dollars (\$15,000,000) in Tax Credits from TDHCA. The parties anticipate that the Investor LP will provide Equity in return for the benefit of the Tax Credits. Developer shall negotiate equity financing for the project on behalf of the Partnership and coordinate all interaction with the Investor LP. SAHTPFC shall have the right to review, comment upon and approve the financing arrangements of the Equity. The Equity financing documents are expected to include the Partnership Agreement. The General Partner shall timely review and comment upon any documents related to the Equity and, if acceptable, shall timely execute any and all such documentation at Closing.
5. Developer shall pay all costs and fees associated with applying for the Bonds, the Construction/Permanent Loan, and Tax Credits, which costs, along with all other pre-development costs incurred by Developer (to the extent included within the approved budget), shall be reimbursed at Closing from the proceeds of the Bonds and Equity. In the event this MOU is terminated, or the transaction fails to close as contemplated herein, Developer shall be solely responsible for all costs described above and SAHTPFC and its affiliates shall have no responsibility for payment or reimbursement of such costs.
6. Guarantor shall provide any guarantees that may be required in conjunction with the Construction/Permanent Loan or the Equity referenced in paragraphs E.1 and E.2 above.

Because Developer is providing ongoing compliance or other guaranties, Developer and SAHTPFC shall enter into the Partnership Agreement, along with the Investor LP, on terms mutually acceptable to all parties, providing for Developer's right to control certain decisions of the Partnership (including, but not limited to, those which could affect Guaranty liability) and for reimbursement of sums expended by Developer as guarantor from sources available to the Partnership as provided in the Partnership Agreement.

**G. Design and Construction.**

1. Developer shall provide comprehensive development services to the Partnership pursuant to a Development Agreement to be entered into by the Partnership and Developer.
2. Developer has provided SAHTPFC a detailed pro forma budget for the project, a current copy of which is attached hereto as Exhibit "A".
3. Developer shall be responsible for obtaining the services of design professionals for the design of the site plan and design of the project. SAHTPFC will be provided copies of the final plans and specifications for the project, including all construction contracts. SAHTPFC will have the right to review, comment and approve such plans, and specifications and such approval will not be unreasonably withheld.
4. In order to secure an exemption from state sales tax for the acquisition of building materials, SAHTPFC will form a joint venture with a Developer affiliate to serve as the general contractor for the construction of the project.
5. Contractor shall provide the Partnership a cost plus contract amount. Such agreement shall otherwise be on terms and conditions acceptable to all parties, each acting reasonably. In no event shall the amount of the general contract be less than shown in the project proforma attached hereto, unless revised hereafter. The not to exceed amount payable to Contractor shall be an expense of the Partnership and shall be inclusive of a typical 6-2-6 construction profit (i.e., 6% builder profit, 2% overhead and 6% general conditions) all of which will be drawn on a "percent complete basis" relative to the percent of work complete. The amount of the contract will also include a contractor's contingency of 5% solely for the use of Contractor or Partnership and to be drawn as needed by approved change order to complete the work as needed. Any unused contingency at the completion of the project will be used to pay deferred development fee; provided, however, that General Partner shall not unreasonably withhold its approval of any construction draw request involving release of contingency.
6. Developer shall be responsible for obtaining all governmental approvals and permits needed in order to construct and operate the project.
7. Guarantor shall guarantee to the Investor LP and any lender, delivery of the project on time and within the approved budget (as it may be amended or revised from time to time with appropriate approvals).

8. The project shall be constructed so as to comply with ADA and Section 504 requirements, as applicable under federal and state law.
9. Developer shall be responsible for the preparation of the construction loan draws for the project which the General Partner will not unnecessarily delay or withhold its approval.

**H. Management and Operation.**

Pedcor Management Corp. or such other Developer designated affiliate shall serve as the property manager (“Manager”) for the project, which will be memorialized in a management agreement (the “Management Agreement”). The amount of the Management Fee shall be Three Percent (3.00%) of effective gross income and paid as outlined in the Property Management Agreement.

**I. Accounting.**

Subject to termination for reasonable cause, an affiliate of Developer shall provide accounting services to the project including but not limited to: (i) bookkeeping, monitoring reporting requirements and processing construction loan draws and change orders, and (ii) preparation of and/or coordinating preparation of cost certification, carryover, 10% test (if applicable), tax returns and the Partnership’s audit and audited financial statements for filing or certification by the Partnership’s outside accountants. The amount of the accounting services fee shall be one and half percent (1.50%) of effective gross income and paid as outlined in the Management & Accounting Services Agreement.

**J. Supportive Services.**

Developer will identify an appropriate provider of supportive services. The scope of such supportive services shall be consistent with the committed to services in the application for the Tax Credits. The fee for such supportive services will be as shown in the final proforma. SAHTPFC shall monitor the provision of such supportive services during the Tax Credit compliance period. Developer shall be responsible for providing any evidence of supportive services which may be required for the Tax Credit application.

**K. Community Support.**

SAHTPFC and Developer shall be jointly responsible for interfacing with the local governmental officials in connection with support for the project. The parties will consult with each other and coordinate the response to any media inquiries and/or public opposition to the project that may arise.

**L. Tax Exemption.**

The ownership structure contemplated herein is expected to generate an ad valorem tax exemption for the project. SAHTPFC, on behalf of the Partnership, shall work with the applicable appraisal district to obtain confirmation of the availability of such exemption. The General Partner will obtain a property tax opinion from a recognized law firm at the time of Closing.

**M. Fees and Expenses.**

1. As consideration for the services of the Developer in connection with the construction and development of the project, the Partnership shall, in accordance with Partnership Agreement and the Development Services Agreement, pay a fee (the "Developer Fee") of approximately Four Million Thirty Eighty Thousand and NO/100 Dollars (\$4,038,000) or such maximum amount as may be permitted by all applicable laws, rules and regulations including those of TDHCA and lender, which Developer Fee shall include any Developer's overhead charged to the project.

Developer will receive 60% of the Developer Fee and SAHTPFC will receive 40% of the Developer Fee.

The obligations of the Partnership to pay the Developer Fee shall be non-recourse to the Partners of the Partnership but recourse to the assets of the Partnership.

2. The Class A LP will be entitled to receive certain fees or priority distributions for its services in such capacity as set forth in the Partnership Agreement. Such amounts shall be payable from the approved capital budget or the Partnership's net cash flow, as provided in the Partnership Agreement.
3. After payment of the Developer Fee, the General Partner's fee, if any, and any other priority net cash flow payments established in the Partnership Agreement (to include a payment to the Investor LP of 10% of the remaining net cash flow), the General Partner and the Class A LP shall split any remaining net cash flow, refinancing and sales proceeds distribution, 50% to the Class A LP and 50% to General Partner after full repayment of any accrued but unpaid additional soft letter of credit fees from 50% of cash flow.
4. Neither party shall enter into any contractual relationship or agreement relating to the project that would cause either financial or legal liability to the other, without the other party's prior written consent.

**N. Long Term Ownership.**

The General Partner, or other SAHTPFC affiliate shall have an option to acquire the project at any time as necessary to obtain the required property tax exemption. The purchase price prior to the end of the Section 42 compliance period will be equal to the greater of (1) fair market value, (2) all indebtedness, including partner loans, plus exit taxes, or (3) an amount necessary to provide the Investor LP with an 15.00% internal rate of return taking into account, tax recapture/penalties/interest, if any, and the fair market value of the Class A LP's partnership interest. The purchase price after the Section 42 compliance period will be equal to the greater of (1) fair market value and (2) all indebtedness, including partner loans, plus exit taxes.

**O. Right of First Refusal.**

The Class A LP shall have the right to market the property for sale at the end of the Section 42 compliance period for fair market value. SAHTPFC shall have the right to consummate its right

of first refusal within 60 days of notice by the Class A LP of a third party offer for the project by (1) purchasing the project or (2) purchasing each partner's interest in the partnership for the amount such partner would otherwise receive pursuant to such third party sale under the Partnership Agreement.

**P. Developer Expenses.**

1. To the extent that Developer has advanced sums for the benefit of the project which have not been reimbursed, SAHTPFC may not take any action regarding the ownership, development, construction, management or finances of the project (whether prior to or after Closing) without Developer's prior consent. Developer shall be entitled to priority reimbursement for all bona-fide reasonable out-of-pocket pre-development costs associated with the development of the project (including any interest paid by Developer) upon the earlier of (i) Closing of the Construction/Permanent Loan and Equity and (ii) the project receiving any pre-development loan or equity advance.
2. Developer shall have the right to identify Pre-Development Loan financing to the Partnership for reimbursement of project expenses incurred by Developer, to be guaranteed by Developer. If Developer identifies such a Pre-Development Loan, Developer shall execute loan documents evidencing the Pre-Development Loan on behalf of the Partnership without creating any liability to SAHTPFC or its affiliates. The fees and interest of such Pre-Development Loan shall be expenses of the Partnership.

**Q. SAHTPFC Expenses.**

Developer acknowledges that it is the parties' intent that SAHTPFC bear no out of pocket expenses in connection with the project, provided that such reasonable expenses shall be considered project expenses and shall be shown in the Development Budget.

**R. Miscellaneous.**

1. This MOU reflects the entire understanding between the parties and may only be amended by SAHTPFC or Developer in writing, signed by both parties. This MOU is not merely an "agreement to agree."
2. Each party hereto is prohibited from assigning any of its interests, benefits or responsibilities hereunder to any third party, without the prior written consent of the other party, such consent not to be unreasonably withheld, conditioned or delayed.
3. The parties agree to execute such documents on mutually acceptable terms and do such things as may be reasonably necessary or appropriate to facilitate the development of the project and the consummation of their agreement herein.
4. This MOU may be executed in several counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one agreement

binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

5. THIS MOU SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF TEXAS, EXCLUSIVE OF CONFLICT OF LAWS PRINCIPLES.
6. In case any one or more of the provisions contained in this MOU for any reason are held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision hereof, and this MOU will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
7. The parties hereto submit exclusively to the jurisdiction of the state and federal courts of Bexar County, Texas, and venue for any cause of action arising hereunder shall lie exclusively in the state and federal courts of Bexar County, Texas.
8. The subject headings contained in this MOU are for reference purposes only and do not affect in any way the meaning or interpretation hereof.
9. This MOU shall continue until terminated upon the occurrence of one of the following conditions:
  - (i) SAHTPFC and Developer sign a mutual consent to terminate this Agreement;
  - (ii) The transactions contemplated hereby are not closed by March 31, 2021;
  - (iii) The terms of the Construction/Permanent Loan and Equity financing for the project are unacceptable to SAHTPFC, in its reasonable discretion, and SAHTPFC provides Developer notice of such fact and a 30-day opportunity to provide financing terms that are acceptable to SAHTPFC and Developer, but Developer does not do so;
  - (iv) SAHTPFC's Board of Directors and/or Developer's General Partner (or such applicable affiliate of Developer) does not approve the project and the documents; however, in either event, Developer shall indemnify and reimburse SAHTPFC for any costs and expenses occurred up through such date;
  - (v) Developer fails to deliver Checklist items as required herein;
  - (vi) Either party breaches its obligations under this MOU, the non-binding party provides the breaching party notice of such fact and a 15-day opportunity to cure, and the breaching party fails to do so; or



- (vii) Either party files for bankruptcy protection, makes an assignment for the benefit of creditors, has a receiver appointed as to its assets or generally becomes insolvent.

Upon termination of this MOU for SAHTPFC's violation of item (vii) above, SAHTPFC shall reimburse Developer for all of its bonafide reasonable out of pocket pre development costs associated with development of the project, with interest as indicated above. Upon termination of this MOU for any other reason, neither party shall have any ongoing obligation to the other with respect to this MOU and the project.

- 10. In addition, the provisions of this MOU with respect to the project, other than those provisions which expressly survive the termination hereof, will be terminated and suspended when the General Partner is admitted to the Partnership Agreement and SAHTPFC and Developer and their affiliates, as applicable, enter into definitive agreements with respect to the governance of the Partnership and the development, construction, financing, and operation of the project as contemplated herein.

If this MOU is terminated for any reason and neither SAHTPFC nor any of its affiliates (i) acts as General Partner in regard to the project or (ii) acquires any ownership interest in the project, Developer shall retain all rights to control the project, including the right to identify any alternate general partners, guarantors, and developers and to re-apply for an allocation of tax credits for the project. SAHTPFC agrees, upon termination of this MOU, to execute any document reasonably requested by Developer to give effect to the provisions of this paragraph. The provisions of this paragraph shall survive termination of this MOU.

- 11. The parties acknowledge that, the General Partner, SAHTPFC and its affiliates will be represented in this transaction by Bracewell LLP ("General Partner Counsel"). All costs of General Partner Counsel will be considered costs hereunder and paid as provided herein. The Partnership, Developer, the Class A LP, and their affiliates will be represented by separate counsel whose fees will also be an expense of the Partnership reflected in the Proforma Development Budget and will not be entitled to rely on General Partner Counsel for representation in this matter.

EXECUTED to be effective as of the date above shown.

SAN ANTONIO HOUSING TRUST PUBLIC  
FACILITY CORPORATION

By: \_\_\_\_\_  
Nicole Collazo  
Assistant Secretary

VCC DEVELOPER, L.P.

By: Pedcor Development Associates, LLC  
Its General Partner

By: Pedcor Investments, A Limited  
Liability Company,  
Its Manager

By: \_\_\_\_\_  
Thomas G. Crowe  
Executive Vice President

PCC DEVELOPER, L.P.

By: Pedcor Development Associates, LLC  
Its General Partner

By: Pedcor Investments, A Limited  
Liability Company,  
Its Manager

By: \_\_\_\_\_  
Thomas G. Crowe  
Executive Vice President

**EXHIBIT "A"**  
**PROFORMA DEVELOPMENT BUDGET**  
**(TO BE ATTACHED)**

**San Antonio Housing Trust Public Facility Corporation**

**Agenda Memorandum**

**File Number** \_\_\_\_\_

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**Agenda Item Number:** 8

**Agenda Date:** 1-22-2020

**In Control:** San Antonio Housing Trust Public Facility Corporation

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**SUBJECT:** A briefing on financials, progress of projects or grant expenditures, personnel matters and other activities which do not require Board action.

# Assistant Secretary's (Executive Director's) Report

As of January 22, 2019

A briefing on financials, progress of projects or grant expenditures, personnel matters and other activities which do not require Board action.

## Financial Report

From October 1, 2019 through December 31, 2019, the *Public Facility Corporation* earned \$1,153,529.02 in revenues sourced from surplus cash flow on existing developments, administrative fees, application fees and earned interest. The *Finance Corporation* earned \$234,873.13 in revenues sourced from bond issuance fees as well as earned interest.

PFC & FC Revenues					
FY 2020 Forecast	Q1 Revenues <i>Oct - Dec</i>	Q2 Revenues <i>Jan - Mar</i>	Q3 Revenues <i>Apr - June</i>	Q4 Revenues <i>July - Sept</i>	% of Forecast
\$3,222,079	\$1,388,402	TBD	TBD	TBD	43%

It is the policy of the Public Facility Corporation and the Finance Corporation to provide 25% of all revenues to the San Antonio Housing Trust Foundation 501(c)(3) to support operations on a quarterly basis. The Foundation through the annual budget process (adopted in September 2019) budgeted \$437,128 from the Public Facility Corporation contributions and \$198,757 from Finance Corporation contributions to support staff operations and programs through this 25% contribution.

Corporation Contributions to Foundation						
Corporation	Foundation Operating Budget	Q1 25% Payment <i>Oct - Dec</i>	Q2 25% Payment <i>Jan - Mar</i>	Q3 25% Payment <i>Apr - June</i>	Q4 25% Payment <i>July - Sept</i>	% of Operation Budget*
PFC Revenues	\$437,128	\$288,382	TBD	TBD	TBD	65%
FC Revenues	\$198,757	58,718	TBD	TBD	TBD	29%

\*Revenues from the Corporations exceeding the Foundation Budget are available for distribution in line with Foundation RFA priorities.

## Operational Update

### Underwriting Guidelines

The NALCAB Assessment recommended the Trust:

1. establish written financial and policy underwriting criteria
2. ensure that at least one staff member has the capacity to financially underwrite projects
3. existing staff of the SAHTF should be afforded training opportunities in order to meet the evolving needs of the organization

Towards this effort, I have taken the following actions to implement interim changes in operations until a formal financial and underwriting policy is adopted. They include:

- Reviewed existing policy actions created by board action since the PFC policies and procedures manual was implemented on March 2, 2010.
- Implemented Interim PFC and FC application intake procedures to ensure a more thorough review of development proposals (*see attached*)

- Revised our document transfer protocol, established a project checklist, and improved digital and hard copy record keeping
- Implemented a three-tiered review of financials to include the asset manager, legal counsel, and Interim Executive Director
- Provided in-house training for our current Asset Manager, as well as, budgeted operational funds for professional development courses in multi-family rental development analysis as part of the positions training plan.

I believe these interim steps provide for a meaningful project specific assessment which allows staff to recommend, deny, or negotiate stronger terms on behalf of the Trust while serving in the best interest of the public. I anticipate bringing forth formalized underwriting guidelines by March 2020.

### *Contract Monitoring*

The NALCAB Assessment recommended the Trust:

1. establish an internal compliance function to ensure the covenants are monitored in a manner that most effectively meets the agency's mission and policy priorities.
2. establish a Comprehensive List of Existing Covenants:
3. establish an Internal Monitoring Function

Toward this effort, I have

- created a new position under the direction of the Assistant Director, the **Contract Officer**, responsible for coordinating, monitoring, and analyzing contracts with external agencies, entities related to residential housing activities, professional services, vendors, grant and loan awardees, and housing corporation partnerships.
- required the position to create a Contract Administration Plan (CAP) on each awardee and partnership to ensure tracking of contractual obligations. Staff just completed a round of interviews for the new Contract Officer position this past Friday.
- verified that PFC and FC agreements have the appropriate executed contracts with stipulations containing adequate recourse to compel partners to meet affordability and financial obligations to the Corporations.

**Attachment I**  
**Interim Application Instructions**  
**Public Facility Corporation and Finance Corporation**

# SA Housing Trust PFC & FC Application Instructions

To apply please send the

1. One hard copy application packet and \$3,000 application fee to:

SA Housing Trust, Attn: Executive Director 2515 Blanco Rd, San Antonio TX 78201

2. Provide a secured digital ftp or shared dropbox site to transfer a digital copy of the application

## Applicant Checklist for Inducement Consideration

- Executive Summary
- Development Resume w/ Senior Management Team Bio
- Team (Engineering/Architectural Firm, Legal Counsel, Environmental Consultant, etc...)
- Primary Point of Contact and Identify Signature Authority
- Company History/Company Values/Awards & Recognition
- List of Current Active Developments
- Proposed Development Organization Chart
- Financial Structure (LIHTC, Affordable/Market, HUD 221(d)4, HUD 202, Freddie, etc...)
- Preliminary Target Market Analysis
- Site Description/Survey/Map/Photos
- Phase I ESA
- Conceptual Renderings (Color)
- Land Appraisal
- Sales Contract (or evidence of site control)
- Proposed Unit Mix, Rents, Bedrooms/Bath, Size
- Development Budget and Proposed Capital Stack (In Excel)
- 15 Year **DETAILED** Proforma with waterfall projections (In Excel)
- Other items may be requested following initial staff review or after inducement to include:
  - Lender Appraisal and Market Study*
  - Lender and/or Syndicate Commitment Letters*
  - Articles of Incorporation/Bylaws (as appropriate)*
  - Phase II ESA & Environmental Mitigation Plan (if necessary)*