

Property is listed as "Impacted Area"

ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

This **ECONOMIC DEVELOPMENT PROGRAM AGREEMENT** ("Agreement") is entered into by and between the **CITY OF FORT WORTH, TEXAS** (the "City"), a home rule municipal corporation organized under the laws of the State of Texas, and **TRINITY BLUFF DEVELOPMENT, LTD.**, ("Developer"), a Texas limited partnership whose sole general partner is Trinity Bluff Development Management, LLC, a Texas limited liability company.

RECITALS

The City and Developer hereby agree that the following statements are true and correct and constitute the basis upon which the City and Developer have entered into this Agreement:

A. Developer owns approximately 13.15 acres of land on the north side the City's downtown (the "**Development Property**"). The Development Property is specifically described in **Exhibit "A-1"**, attached hereto and hereby made a part of this Agreement for all purposes. Developer intends to cause construction of a six (6)-story apartment complex comprising two separate buildings (each a "**Building**") with at least two hundred (200) residential apartment units on the Development Property and certain other improvements constructed to serve such buildings (the "**Required Improvements**"), as more specifically outlined in **Exhibit "B"**, attached hereto and hereby made a part of this Agreement for all purposes. Developer also intends to cause construction of a separate four (4)-story apartment complex on property in the vicinity of the Development Property and certain other improvements constructed to serve such complex (the "**Four-Story Development**"), but these improvements are addressed in a separate Economic Development Program Agreement executed by and between the City and Developer contemporaneously with this Agreement and do not constitute the Required Improvements for purposes of this Agreement. Developer has represented to the City that the Required Improvements will not be feasible financially without public assistance.

B. The 2006 Comprehensive Plan, adopted by the City Council on February 21, 2006 pursuant to Ordinance No. 16825-02-2006, embraces the Downtown Fort Worth Strategic Action Plan, sponsored by the City, Downtown Fort Worth, Inc. and the Fort Worth Housing Authority, which Plan encourages the promotion of public incentives to encourage downtown housing development.

C. Studies undertaken to analyze the downtown housing market in the City indicate that approximately fifty percent (50%) of all persons who lease multi-family residential units in the City's downtown will move from locations outside of the City. Additional analysis, including, but not limited to, a study by Grotta Marketing Research,

OFFICIAL RECORD
CITY SECRETARY
FT. WORTH, TEX.

indicates that the Required Improvements will significantly benefit and stimulate business and commercial activity in the City.

D. In accordance with Resolution No. 2704, adopted by the City Council on January 30, 2001, the City has established an Economic Development Program pursuant to which the City will, on a case-by-case basis, offer economic incentive packages authorized by Chapter 380 of the Texas Local Government Code that include monetary loans and grants of public money, as well as the provision of personnel and services of the City, to businesses and entities that the City Council determines will promote state or local economic development and stimulate business and commercial activity in the City in return for verifiable commitments from such businesses or entities to cause specific infrastructure, employment and other public benefits to be made or invested in the City (the "**380 Program**").

E. The City Council has determined that by entering into this Agreement, the potential economic benefits that will accrue to the City under the terms and conditions of this Agreement are consistent with the City's economic development objectives and that increased housing development in the downtown area of the City will further the goals espoused by the City and set forth in the Downtown Fort Worth Strategic Action Plan. In addition, the City Council has determined that the 380 Program is an appropriate means to achieve the construction of the Required Improvements, which the City Council has determined are necessary and desirable, and that the potential economic benefits that will accrue to the City pursuant the terms and conditions of this Agreement are consistent with the City's economic development objectives as outlined in the Comprehensive Plan. This Agreement is authorized by Chapter 380 of the Texas Local Government Code.

F. The City has determined that the feasibility of the Required Improvements is contingent on Developer's receipt of the Program Grants, as provided in this Agreement. The City's analysis is specifically based on financial information provided by Developer.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. INCORPORATION OF RECITALS.

The City Council hereby finds, and the City and Developer hereby agree, that the recitals set forth above are true and correct and form the basis upon which the parties have entered into this Agreement.

2. DEFINITIONS.

In addition to terms defined in the body of this Agreement, the following terms shall have the definitions ascribed to them as follows:

Actual Gross Collected Income means the total gross rental income, plus any gross parking and miscellaneous income, related to the Required Improvements and received in a given year by any entity.

Additional Investment means the expenditure of Construction Costs for new improvements constructed within the Impacted Area, excluding the Required Improvements and the Four-Story Development, in an amount equal to at least fifty-eight percent (58%) of the Construction Costs expended for the Required Improvements, as confirmed by the City in the Certificate of Completion issued pursuant to Section 5.1.1 of this Agreement, which Additional Investment shall be confirmed by the City from either construction reports related to such new improvements that are submitted to the City in accordance with Section 4.7.2.2 of this Agreement or, to the extent the City does not receive any such reports for some or all of such improvements, from the taxable appraised values of those improvements, as more specifically outlined in Section 5.1.2 of this Agreement.

Additional Investment Certificate has the meaning ascribed to it in Section 5.1.2.

Affordable Housing Commitment has the meaning ascribed to it in Section 4.6.

Appraisal District means the appraisal district under contract with the City to undertake appraisals for purposes of calculating the City's ad valorem property taxes which, as of the Effective Date, is Tarrant Appraisal District.

Base Grant Amount has the meaning ascribed to it in Section 5.2.1.

Building has the meaning ascribed to it in Recital A.

Central City means that area in the corporate limits of the City within Loop 820 (i) consisting of all Community Development Block Grant ("CDBG") eligible census block groups; (ii) all state-designated enterprise zones; and (iii) all census block groups that are contiguous by seventy-five percent (75%) or more of their perimeter to CDBG eligible block groups or enterprise zones, as well as any CDBG eligible block in the corporate limits of the City outside Loop 820, as more specifically depicted in the map of **Exhibit "C"**, attached hereto and hereby made a part of this Agreement for all purposes.

Central City Resident means an individual whose principal place of residence is at a location within the Central City.

Certificate of Completion has the meaning ascribed to in Section 5.1.1.

Completion Date means the date as of which a final certificate of occupancy has been issued by the City for all of the Required Improvements.

Completion Deadline means December 31, 2009.

Construction Costs means Hard Construction Costs; engineering fees; architectural fees; and other professional (including legal and the costs associated with the financing of the Required Improvements), development and permitting fees.

Development Property has the meaning ascribed to it in Recital A.

Development Property Tax Revenues means the amount of real property taxes paid by Developer to the City based on the entire taxable appraised value of the Development Property and any improvements thereon, including the Required Improvements, year *minus* the taxable appraised value of the Development Property and any improvements thereon for the 2006 tax year. The taxable appraised value of the Development Property in any given year will be established solely by the Appraisal District.

Effective Date has the meaning ascribed to it in Section 3.

Employment Commitment has the meaning ascribed to it in Section 4.4.

Fort Worth Certified M/WBE Company means a minority or woman-owned business that has received certification as either a minority business enterprise (MBE) or a woman business enterprise (WBE) by either the North Texas Regional Certification Agency (NTRCA) or the Texas Department of Transportation (TxDOT), Highway Division, and that has a principal business office located within the corporate limits of the City that performs a commercially useful function and that provides the services for which Developer is seeking credit under this Agreement.

Fort Worth Company means a business that has a principal office located within the corporate limits of the City that performs a commercially useful function and that provides the services for which Developer is seeking credit under this Agreement.

Fort Worth Construction Commitment has the meaning ascribed to it in Section 4.2.

Four-Story Development has the meaning ascribed to it in Recital A.

Full-time Job means a job filled by one (1) individual for a period of not less than forty (40) hours per week or another measurement used to define full-time employment by Developer in accordance with Developer's then-current corporate-wide personnel policies and regulations.

Hard Construction Costs means the actual site development and construction costs, contractor fees and the costs of supplies and materials.

Impacted Area means that property that the City and Developer have agreed will likely be impacted by the Required Improvements, as more specifically depicted in **Exhibit "A-2"**, attached hereto and hereby made a part of this Agreement for all purposes.

Income Differential means the difference between the Weighted Income in a given year and the Income Threshold for that year.

Income Threshold for a given year means an amount specified for that year in **Exhibit "D"**, attached hereto and hereby made a part of this Agreement for all purposes.

M/WBE Construction Commitment has the meaning ascribed to it in Section 4.3.

Program Grants means the annual economic development grants paid by the City to Developer in accordance with this Agreement and as part of the 380 Program.

Program Initiation Year means the first full calendar year following both (i) the year in which the Completion Date occurs and (ii) the quarter for which the City certifies in an Additional Investment Certificate issued in accordance with Section 5.1.2 that at least one-half (1/2) of the Additional Investment has been made in the Impacted Area.

Program Year means a calendar year in which the City is obligated pursuant to this Agreement to pay Developer a Program Grant, beginning with the Program Initiation Year.

Records has the meaning ascribed to it in Section 4.7.

Required Improvements has the meaning ascribed to it in Recital A.

Second Operating Year means the second full year following the year in which the Completion Date occurs.

Supply and Service Spending Commitment has the meaning ascribed to it in Section 4.5.

Supply and Service Expenditures mean those local discretionary costs expended by Developer directly for the operation and maintenance of the Required Improvements.

Term has the meaning ascribed to it in Section 3.

Weighted Income means the Actual Gross Collected Income received in a given year plus 100% of the Development Property Tax Revenues received by the City in that

same year (i.e. the maximum Program Grant that could be payable in the following year pursuant to this Agreement).

3. **TERM.**

This Agreement shall be effective as of the date of execution by both parties (the “**Effective Date**”) and, regardless of the number and amount of Program Grants that may have been paid hereunder, shall expire on December 31 of the twentieth (20th) year following the year in which Completion Date occurred (the “**Term**”).

4. **DEVELOPER OBLIGATIONS AND GOALS.**

4.1. **Real Property Improvements.**

In accordance with the terms and conditions of this Agreement, Developer shall expend or cause to be expended by the Completion Date at least \$23 million in Construction Costs for the Required Improvements. The Completion Date must occur on or before the Completion Deadline. The City recognizes that Developer will request bids and proposals from various contractors and other professionals in order to obtain the lowest reasonable price for the cost of the Required Improvements. In the event that bids and proposals for the Required Improvements are below \$23 million in Construction Costs, the City will meet with Developer to negotiate in good faith an amendment to this Agreement so that Developer is not in default for its failure to expend at least \$23 million in Construction Costs, with the understanding that the City’s staff will recommend, but cannot guarantee, approval of such amendment by the City Council.

4.2. **Construction Spending Commitment for Fort Worth Companies.**

By the Completion Date, Developer shall have expended or caused to be expended with Fort Worth Companies the greater of (i) \$4,570,000.00 in Hard Construction Costs for the Required Improvements or (ii) twenty-five percent (25%) of all Hard Construction Costs for the Required Improvements, regardless of the total amount of such Hard Construction Costs (the “**Fort Worth Construction Commitment**”).

4.3. **Construction Spending Commitment for Fort Worth Certified M/WBE Companies.**

By the Completion Date, Developer shall have expended or caused to be expended with Fort Worth Certified M/WBE Companies the greater of (i) \$3,650,000.00 in Hard Construction Costs for the Required Improvements or (ii) twenty percent (20%) of all Hard Construction Costs for the Required Improvements, regardless of the total amount of such Hard Construction Costs

(the “M/WBE Construction Commitment”). Dollars spent with Fort Worth Certified M/WBE Companies shall also count as dollars spent with Fort Worth Companies for purposes of the Fort Worth Construction Commitment outlined in Section 4.2.

4.4. Employment Commitment for Central City Residents.

Throughout the Second Operating Year and each year thereafter, the greater of (i) one (1) Full-time Job on the Development Property or (ii) twenty-five percent (25%) of all Full-time Jobs on the Development Property, regardless of the total number of Full-time Jobs provided on the Development Property, shall be held by Central City Residents (the “Employment Commitment”).

4.5. Supply and Service Spending Commitment for Fort Worth Certified M/WBE Companies.

Throughout the Second Operating Year and each year thereafter, Developer will spend the greater of (i) \$30,000 in annual Supply and Service Expenditures or (ii) twenty-five percent (25%) of all Supply and Service Expenditures in a given calendar year with Fort Worth Certified M/WBE Companies (the “Supply and Service Spending Commitment”).

4.6. Affordable Housing Set-Aside.

Developer will set aside at least five percent (5%) of the residential apartments within the Required Improvements (or, following completion of the Four-Story Development and if Developer chooses, within both the Required Improvements and the Four-Story Development or the Four-Story Development only) for lease exclusively to qualifying households earning no more than 80% of the area median income at rental rates that are affordable to such qualifying households, as determined by the U.S. Department of Housing and Urban Development (the “Affordable Housing Commitment”).

4.7. Reports and Filings.

4.7.1. Plan for Use of Fort Worth Certified M/WBE Companies.

Within thirty (30) calendar days following execution of this Agreement or prior to the submission of an application by or on behalf of Developer for a permit to initiate construction of any of the Required Improvements, whichever is earlier, Developer will file a plan with the City as to how Developer intends to meet the M/WBE Construction Commitment and Supply and Service Spending Commitment. Developer agrees to meet with the City’s M/WBE Office and Minority and Women Business Enterprise Advisory Committee as reasonably necessary for

assistance in implementing such plan and to address any concerns that the City may have with such plan.

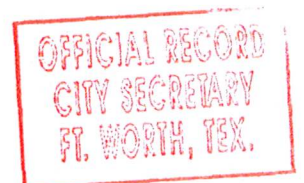
4.7.2. Construction Spending Reports Pertaining to Required Improvements.

4.7.2.1. Monthly Reports.

From the Effective Date until the Completion Date, in order to enable the City to assist Developer in meeting the M/WBE Construction Commitment, Developer will provide the City with a monthly report in a form reasonably acceptable to the City that specifically outlines the then-current aggregate Construction Costs expended by and on behalf of Developer with Fort Worth Certified M/WBE Companies for construction of the Required Improvements. Developer agrees to meet with the City's M/WBE Office and Minority and Women Business Enterprise Advisory Committee as reasonably necessary for assistance in implementing such plan and to address any concerns that the City may have with such plan.

4.7.2.2. Final Report.

Within thirty (30) calendar days following the Completion Date, in order for the City to assess whether Developer satisfied the requirements of Section 4.1 and the extent to which Developer met the Fort Worth Construction Commitment and the M/WBE Construction Commitment, Developer will provide the City with a report in a form reasonably acceptable to the City that specifically outlines the total Construction Costs and Hard Construction Costs expended by and on behalf of Developer for construction of the Required Improvements, together with supporting invoices and other documents necessary to demonstrate that such amounts were actually paid by Developer, including, without limitation, final lien waivers signed by Developer's general contractor. This report shall also include actual total Construction Costs and Hard Construction Costs expended by Developer for construction of the Required Improvements with Fort Worth Companies and Fort Worth Certified M/WBE Companies, together with supporting invoices and other documents necessary to demonstrate that such amounts were actually paid by Developer to such contractors.



4.7.3. Quarterly Construction Spending Reports Pertaining to Additional Investment.

From the Effective Date until the date as of which the City confirms in an Additional Investment Certificate issued in accordance with Section 5.1.2 that the full Additional Investment has been made in the Impacted Area, within thirty (30) calendar days following the end of each calendar quarter, Developer will provide the City with a report in a form reasonably acceptable to the City that specifically outlines the total Construction Costs expended on improvements constructed within the Impacted Area during the previous quarter, together with supporting invoices and other documents necessary to demonstrate that such amounts were actually paid, including, without limitation, final lien waivers signed by the general contractor constructing such improvements.

4.7.4. Annual Employment Report.

On or before February 1 following the Second Operating Year and each year thereafter, in order for the City to assess the degree to which Developer met the Employment Commitment in the previous calendar year, Developer shall provide the City with a report in a form reasonably acceptable to the City that sets forth the total number of individuals who held Full-time Jobs on the Development Property and the total number of Central City Residents who held Full-time Jobs on the Development Property, all as of December 1 (or such other date requested by Developer and reasonably acceptable to the City) of the previous year, together with reasonable documentation regarding the residency of all such employees.

4.7.5. Quarterly Supply and Service Spending Report.

Beginning with the Second Operating Year and each year thereafter, within thirty (30) calendar days following the end of each calendar quarter, Developer will provide the City with a report in a form reasonably acceptable to the City that sets forth the then-aggregate Supply and Service Expenditures made during such calendar as well as the then-aggregate Supply and Service Expenditures made during such calendar year with Fort Worth Certified M/WBE Companies. The City will use each year's fourth quarter report to assess the degree to which Developer met the Supply and Service Spending Commitment for that year.

4.8. Audits.

The City will have the right throughout the Term to audit the financial and business records of Developer that relate to the Required Improvements and any other documents necessary to evaluate Developer's compliance with this

Agreement or with the commitments set forth in this Agreement, including, but not limited to construction documents and invoices, apartment lease agreements, apartment rental rolls and deposit records of Developer or any entity affiliated with Developer pertaining to the Required Improvements (including general ledger and bank statements) (collectively “Records”). Developer shall make all Records available to the City on the Development Property or at another location in the City acceptable to both parties following reasonable advance notice by the City and shall otherwise cooperate fully with the City during any audit.

5. CITY OBLIGATIONS.

5.1. Issuance of Certificates of Completion.

5.1.1. Pertaining to Required Improvements.

Within sixty (60) calendar days following receipt by the City of the final construction spending report pertaining to the Required Improvements, as required by Section 4.7.2.2, and assessment by the City of the information contained therein, if the City is able to verify that Developer expended or caused to be expended at least \$23 million in Construction Costs for the Required Improvements by the Completion Date and that the Completion Date occurred on or before the Completion Deadline, the City will issue Company a certificate stating the amount of Construction Costs and Hard Construction Costs expended, including amounts expended specifically with Fort Worth Companies and Fort Worth Certified M/WBE Companies, as well as the Base Grant Amount that Developer has earned pursuant to Section 5.2.1 (excluding any reductions to the Base Grant Amount imposed by Section 5.2.2) (the “Certificate of Completion”).

5.1.2. Pertaining to Additional Investment.

Within sixty (60) calendar days following receipt by the City of each quarterly construction report pertaining to the Additional Investment, as required by Section 4.7.3, and assessment by the City of the information contained therein, the City will issue a certificate stating the amount of Additional Investment that has been made in the Impacted Area during the quarter covered by such report as well as the then-aggregate amount of Additional Investment that has been made in the Impacted Area since the Effective Date (each an “Additional Investment Certificate”). If improvements have been made in the Impacted Area that are not covered by the construction reports submitted pursuant to Section 4.7.3, Developer shall provide the City with the Appraisal District’s certified taxable appraised value of such improvements. If the City confirms that such improvements were not covered by the construction reports

submitted pursuant to Section 4.7.3, the City shall include the Appraisal District's certified taxable appraised value of such improvements in the City's next Additional Investment Certificate issued in accordance with this Section 5.1.2 for purposes of tallying the then-aggregate amount of Additional Investment that has been made in the Impacted Area since the Effective Date.

5.2. Program Grants.

Developer will not be eligible to receive Program Grants under this Agreement until the Program Initiation Year. Thereafter, subject the terms and conditions of this Agreement, Developer will be entitled to receive from the City an annual Program Grant. The maximum amount of each annual Program Grant shall equal one hundred percent (100%) of the Development Property Tax Revenues received by the City in the previous calendar year. As more specifically set forth in Section 5.2.1, the percentage of Development Property Tax Revenues that serves as the basis for calculating each annual Program Grant shall be reduced for the entire Term to the extent that Developer fails to meet the Fort Worth Construction Commitment or the M/WBE Construction Commitment. In addition, as more specifically set forth in Section 5.2.2, that percentage may be reduced on an annual basis if the full Additional Investment to the Impacted Area is not achieved or a portion of the Required Improvements are converted from rental apartment units to condominiums. Finally, as more specifically set forth in Section 5.2.3, each annual Program Grant may be further reduced by a specific dollar amount if Developer fails to meet the Employment Commitment or the Supply and Service Spending Commitment in the previous year or if Developer's Weighted Income in the previous year exceeds the Income Threshold agreed to by the parties for that year.

5.2.1. Base Grant Amount.

Subject to the terms and conditions of this Agreement, including reductions imposed pursuant to the provisions of Sections 5.2.2 and 5.2.3, each annual Program Grant shall equal the Base Grant Amount. Subject to any reductions imposed pursuant to Sections 5.2.2.1 and 5.2.2.2, the "**Base Grant Amount**" of a given Program Grant shall equal the sum of the Overall Construction Percentage, plus the Fort Worth Construction Percentage, plus the M/WBE Construction Percentage, as defined in Sections 5.2.1.1, 5.2.1.2 and 5.2.1.3 respectively, multiplied by the Development Property Tax Revenues received by the City in the previous calendar year, as follows:

5.2.1.1. Completion of Required Improvements (60%).

Each annual Program Grant shall include an amount that is based on Developer's completion of the Required

Improvements by the Completion Deadline. If Developer expends at least \$23 million in Construction Costs for the Required Improvements by the Completion Date, as confirmed by the City in the Certificate of Completion, and the Completion Date occurs on or before the Completion Deadline, Developer will automatically receive sixty percent (60%) toward the Base Program Grant Percentage (the “**Overall Construction Percentage**”). In no event will the Overall Construction Percentage exceed sixty percent (60%). Notwithstanding anything to the contrary herein, if Developer fails to expend at least \$23 million in Construction Costs for the Required Improvements by the Completion Date or the Completion Date does not occur by the Completion Deadline, an Event of Default, as more specifically set forth in Section 6.1, will occur and the City shall have the right to terminate this Agreement without the obligation to pay Developer any Program Grants.

5.2.1.2. Fort Worth Construction Cost Spending (20%).

Each annual Program Grant shall include an amount that is based on the percentage by which the Fort Worth Construction Commitment, as outlined in Section 4.2, was met (the “**Fort Worth Construction Percentage**”). The Fort Worth Construction Percentage will equal the product of twenty percent (20%) multiplied by the percentage by which the Fort Worth Construction Commitment was met, which will be calculated by dividing the actual Hard Construction Costs expended by the Completion Date with Fort Worth Companies for the Required Improvements by the number of dollars comprising the Fort Worth Construction Commitment, as determined in accordance with Section 4.2. For example, if the Fort Worth Construction Commitment is \$4,750,000.00 and only \$3,000,000.00 in Hard Construction Costs were expended by the Completion Date with Fort Worth Companies, the Fort Worth Construction Percentage would be 12.63%, which is $.20 \times [\$3 \text{ million}/\$4.75 \text{ million}]$, or $.20 \times .6316$, or .1263. If the Fort Worth Construction Commitment is met or exceeded, the Fort Worth Construction Percentage will be twenty percent (20%). In no event will the Fort Worth Construction Percentage exceed twenty percent (20%).

5.2.1.3. M/WBE Construction Cost Spending (20%).

Each annual Program Grant shall include an amount that is based on the percentage by which the M/WBE Construction Commitment, as outlined in Section 4.3, was met (the “**M/WBE Construction Percentage**”). The M/WBE Construction

Percentage will equal the product of twenty percent (20%) multiplied by the percentage by which the M/WBE Construction Commitment was met, which will be calculated by dividing the actual Hard Construction Costs expended by the Completion Date with Fort Worth Certified M/WBE Companies for the Required Improvements by the number of dollars comprising the M/WBE Construction Commitment, as determined in accordance with Section 4.3. For example, if the Fort Worth Construction Commitment is \$3,650,000.00 and only \$3,000,000.00 in Hard Construction Costs were expended by the Completion Date with Fort Worth Certified M/WBE Companies, the M/WBE Construction Percentage would be 16.44%, which is $.20 \times [\$3 \text{ million}/\$3.65 \text{ million}]$, or $.20 \times .8219$, or .16438. If the M/WBE Construction Commitment is met or exceeded, the M/WBE Construction Percentage will be twenty percent (20%). In no event will the M/WBE Construction Percentage exceed twenty percent (20%).

5.2.2. Base Grant Amount Reductions.

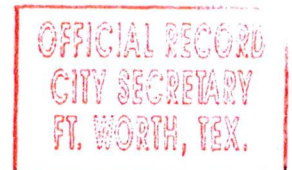
Notwithstanding anything to the contrary herein, the Base Grant Amount calculated in accordance with Section 5.2.1 for purposes of determining the amount of a given Program Grant will be reduced by the aggregate percentage calculated in accordance with Section 5.2.2.1 and 5.2.2.2, if any, as follows:

5.2.2.1. Reduction for Insufficient Additional Investment.

Notwithstanding anything to the contrary herein, at all times from the Program Initiation Year until the calendar year of the quarter for which the City issues an Additional Investment Certificate pursuant to Section 5.1.2 that confirms that one hundred percent (100%) of the Additional Investment has been made in the Impacted Area, the Base Grant Amount applicable to the Program Grant payable in the following Program Year shall be reduced by fifty percent (50%).

5.2.2.2. Reduction for Condominium Conversion.

Developer understands and agrees that Program Grants are payable under this Agreement only to the extent that the residential units located in one or both Buildings are exclusively rental apartments and not condominiums. Notwithstanding anything to the contrary herein, if any or all residential units located within one of the two Buildings are converted to



condominiums, the Base Grant Amount applicable to the Program Grant payable in the following Program Year shall be reduced by a fraction, to be expressed as a percentage, the numerator of which will equal the total square footage of the Building in which the condominium conversion has occurred and the denominator of which shall equal the aggregate total square footage of both Buildings. If a condominium conversion becomes effective on a day other than January 1 of a given year, this reduction shall be prorated in accordance with the number of days in that year prior to the date of conversion. For example, if both Buildings comprise an aggregate 300,000 square feet and any or all residential units located within one Building, which Building comprises 200,000 square feet, are converted to condominiums on October 1 of a given year, the Base Grant Amount applicable to the Program Grant payable in the following year, excluding the amount of any other reduction made pursuant to Section 5.2.2.1, shall be reduced by 50% $[(200,000 \text{ square feet}/300,000 \text{ square feet}) \times (273/365)]$, or $.667 \times .75$ and in all subsequent Program Years by 66.7%. For purposes of this Agreement, a residential unit shall be converted to a condominium on the date as of which a Declaration of Condominium(s) covering that residential unit is recorded in the Deed Records of Tarrant County, Texas. Developer agrees to provide the City with written notice of its intent to convert any of the residential units into condominiums at least ninety (90) calendar days' prior to the date of filing a Declaration of Condominium covering such units. Notwithstanding anything to the contrary herein, if any or all of the residential units located within both Buildings are converted to condominiums, the City will have the right to terminate this Agreement in accordance with Section 6.3 and the City will have no obligation to pay a Program Grant in the following Program Year or any subsequent year.

5.2.3. Annual Program Grant Reductions.

Notwithstanding anything to the contrary herein, each annual Program Grant may be reduced as follows:

5.2.3.1. Failure to Meet Employment Commitment.

If the Employment Commitment, as outlined in Section 4.4, is not met in a given year, the Program Grant payable in the following Program Year, excluding the amount of any other reductions made pursuant to this Section 5.2.3, shall be reduced by \$20,000 for each Full-time Job by which the Employment Commitment was not met.

5.2.3.2. Failure to Meet Supply and Service and Service Spending Commitment.

If the Supply and Service Spending Commitment, as outlined in Section 4.5, is not met in a given year, the Program Grant payable in the following Program Year, excluding the amount of any other reductions made pursuant to this Section 5.2.3, shall be reduced by the number of dollars in which the Supply and Service Spending Commitment was not met, multiplied by two.

5.2.3.3. Reduction for Excess Weighted Income.

Beginning with the third (3rd) year following the year in which the Completion Date occurs and subject to Section 6.2 of this Agreement, if the Weighted Income attributable to a given year exceeds the Income Threshold for that year, as set forth in Exhibit "D", the Program Grant payable in the following Program Year, excluding the amount of any other reductions made pursuant to this Section 5.2.3, shall be reduced by an amount equal to the Income Differential. For example, the Income Threshold for the third (3rd) year following the year in which the Completion Date occurs is \$3,989,030.00, as indicated on Exhibit "D". If the Weighted Income attributable to that year is \$4,000,000.00, then the Program Grant payable in the following year would be reduced by the resulting Income Differential of \$10,970.00. Notwithstanding anything to the contrary herein, if any or all residential units located within one of the two Buildings are converted to condominiums, the Income Threshold for the year in which the conversion first occurs and for each year thereafter shall be reduced by a fraction, to be expressed as a percentage, the numerator of which will equal the total square footage of the Building in which the condominium conversion has occurred and the denominator of which shall equal the aggregate total square footage of both Buildings. In addition, notwithstanding anything to the contrary herein, if the Weighted Income attributable to the eleventh (11th) full year following the year in which the Completion Date occurs or any year thereafter exceeds the Income Threshold for that year, as set forth in Exhibit "D", by more than 15%, then the City will have the right to terminate this Agreement in accordance with Section 6.2 and the City will have no obligation to pay a Program Grant in the following Program Year or any subsequent year.

5.2.4. No Offsets.

A deficiency in attainment of one commitment may not be offset by the exceeding attainment in another commitment. In other words, if in a given year Developer failed to meet the Employment Commitment by one Full-time Job, thereby triggering a \$20,000 reduction to the Program Grant payable in the following year, but exceeded the Supply and Service Spending Commitment by \$20,000, the Program Grant payable in the following year would still be reduced by \$20,000 on account of Developer's failure to meet the Employment Commitment.

5.2.5. Deadline for Payments and Source of Funds.

Each annual Program Grant payment will be made by the City to Developer on or before June 1 of the Program Year in which such payments are due. It is understood and agreed that all Program Grants paid pursuant to this Agreement shall come from currently available general revenues of the City and not directly from Development Property Tax Revenues received by the City. Developer understands and agrees that any revenues of the City other than those dedicated for payment of a given annual Program Grant in accordance with this Agreement may be used by the City for any lawful purpose that the City deems necessary in the carrying out of its business as a home rule municipality and will not serve as the basis for calculating the amount of any future Program Grant or other obligation to Developer.

6. DEFAULT, TERMINATION, SUSPENSION OF OBLIGATIONS AND FAILURE BY DEVELOPER TO MEET VARIOUS GOALS AND COMMITMENTS.

6.1. Failure to Complete Required Improvements.

If the Completion Date does not occur by the Completion Deadline, the City shall have the right to terminate this Agreement by providing written notice to Developer. If (i) Developer has not submitted the final construction spending report for the Required Improvements in accordance with Section 4.7.2.2 within thirty (30) calendar days following the Completion Deadline or (ii) the City determines that Developer did not expend at least \$23 million in Construction Costs for the Required Improvements (or such lower amount subsequently approved by the City Council pursuant to Section 4.1) as of the Completion Date, an event of default shall occur. In this event, the City shall notify Developer in writing and Developer shall have thirty (30) calendar days to, respectively, (i) submit the final construction spending report for the Required Improvements required by Section 4.7.2.2 or (ii) demonstrate to the reasonable satisfaction of the

City that the Construction Costs for the Required Improvements were \$23 million or more (or, if applicable, at least such lower amount previously approved by the City Council pursuant to Section 4.1). If the default has not been fully cured within thirty (30) calendar days of the City's written notice, the City shall have the right to terminate this Agreement immediately by providing written notice to Developer.

6.2. Termination for Excess Weighted Income.

If the City determines that the Weighted Income attributable to the eleventh (11th) full year following the year in which the Completion Date occurs or any year thereafter exceeds the Income Threshold for that year, as set forth in Exhibit "D", by more than 15%, then the City will notify Developer in writing. If Developer disagrees with the City's determination, Developer shall have fourteen (14) calendar days to provide the City with documentation to rebut such determination. If Developer does not provide the City with documentation sufficient to rebut the City's determination within such time, the City shall have the right to terminate this Agreement immediately by providing written notice to Developer.

6.3. Termination for Condominium Conversion.

If any or all of the residential units located in both Buildings are converted to condominiums, the City will have the right to terminate this Agreement immediately by providing written notice to Developer, in which case the City will have no obligation to pay a Program Grant in the following Program Year or any subsequent year. It is understood and agreed that the City shall have this termination right even if only some, and not all, residential units in both Buildings are converted to condominiums and the remainder of the residential units continue to be rental apartments. If some or all residential units in only one Building are converted to condominiums, but all residential units in the other Building continue to be rental apartments, the City will not have the right to terminate this Agreement, but Program Grants payable hereunder will be reduced in accordance with Section 5.2.2.2.

6.4. Failure to Comply with Affordable Housing Commitment.

If the City determines that Developer has not complied or is not in compliance with the Affordable Housing Commitment, the City will notify Developer in writing. If Developer disagrees with the City's determination, Developer shall have fourteen (14) calendar days to provide the City with documentation to rebut such determination. If Developer does not provide the City with documentation sufficient to rebut the City's determination within such time, the City's determination shall be deemed conclusive. In this event, notwithstanding anything to the contrary herein, (i) if the Affordable Housing Commitment was not met for an entire calendar year, Developer shall forfeit

payment of the Program Grant payable for the following Program Year, and (ii) if the Affordable Housing Commitment was not met for a portion of a calendar year, then the Program Grant payable in the following Program Year shall be reduced by a fraction, to be expressed as a percentage, where the numerator is the number of days in that calendar year in which the Affordable Housing Commitment was met and the denominator is 365.

6.5. Failure to Pay City Taxes.

An event of default shall occur under this Agreement if any City taxes on the Development Property (other than on residential condominium units located within the Required Improvements and owned by a person or entity that is unaffiliated with Developer) or arising on account of Developer's operations on the Development Property become delinquent and Developer does not either pay such taxes or properly follow the legal procedures for protest and/or contest of any such taxes. In this event, the City shall notify Developer in writing and Developer shall have thirty (30) calendar days to cure such default. If the default has not been fully cured by such time, the City shall have the right to terminate this Agreement immediately by providing written notice to Developer and shall have all other rights and remedies that may be available to it under the law or in equity.

6.6. Violations of City Code, State or Federal Law.

An event of default shall occur under this Agreement if any written citation is issued due to the occurrence of a violation of a material provision of the City Code on the Development Property or on or within any improvements thereon (including, without limitation, any violation of the City's Building or Fire Codes and any other City Code violations related to the environmental condition of the Development Property; the environmental condition other land or waters which is attributable to operations on the Development Property; or to matters concerning the public health, safety or welfare) and such citation is not paid or the recipient of such citation does not properly follow the legal procedures for protest and/or contest of any such citation. An event of default shall occur under this Agreement if the City is notified by a governmental agency or unit with appropriate jurisdiction that the Developer, a successor in interest, any third party with access to the Development Property pursuant to the express or implied permission of Developer, a successor in interest, or the City (on account of the Required Improvements or the act or omission of any party other than the City on or after the effective date of this Agreement) is in violation of any material state or federal law, rule or regulation on account of the Development Property, improvements on the Development Property or any operations thereon (including, without limitation, any violations related to the environmental condition of the Development Property; the environmental condition other land or waters which is attributable to operations on the Development Property; or to matters concerning the public health, safety or welfare). Upon the occurrence of such default, the

City shall notify Developer in writing and Developer shall have (i) thirty (30) calendar days to cure such default or (ii) if Developer has diligently pursued cure of the default but such default is not reasonably curable within thirty (30) calendar days, then such amount of time that the City reasonably agrees is necessary to cure such default. If the default has not been fully cured by such time, the City shall have the right to terminate this Agreement immediately by providing written notice to Developer and shall have all other rights and remedies that may be available to under the law or in equity.

6.7. Failure to Meet Construction Cost Spending, Supply and Service Spending, Employment and/or Affordable Housing Commitments; Additional Investment.

If (i) Developer fails to meet the Fort Worth Construction Commitment, the M/WBE Construction Commitment, the Employment Commitment or the Supply and Service Spending Commitment; (ii) the full Additional Investment to the Impacted Area is not met; or (iii) residential units in one but not both Buildings are converted from rental apartments to condominiums, such event shall not constitute a default hereunder or provide the City with the right to terminate this Agreement, but, rather, shall only serve to reduce the amount of the Program Grants that the City is required to pay pursuant to this Agreement, whether by factoring such failure into the Base Grant Amount, as provided by Sections 5.2.1 and 5.2.2; by reducing the amount of the Program Grant payment that would otherwise have been payable in a given Program Year, as provided by Section 5.2.3; or by suspending the amount or payment of the Program Grant payment that would otherwise have been payable in a given Program Year, as provided by Section 6.4.

6.8. Failure to Submit Reports.

If Developer fails to submit a report as required by and in accordance with Sections 4.7.3, 4.7.4 or 4.7.5, the City's obligation to pay any Program Grant shall be suspended until Developer has provided all required reports.

6.9. General Breach.

Unless stated elsewhere in this Agreement, Developer shall be in default under this Agreement if Developer breaches any term or condition of this Agreement. In the event that such breach remains uncured after thirty (30) calendar days following receipt of written notice from the City referencing this Agreement (or, if Developer has diligently and continuously attempted to cure following receipt of such written notice but reasonably requires more than thirty (30) calendar days to cure, then such additional amount of time as is reasonably necessary to effect cure, as determined by both parties mutually and in good faith), the City shall have the right to terminate this Agreement immediately by providing written notice to Developer.

7. **INDEPENDENT CONTRACTOR.**

It is expressly understood and agreed that Developer shall operate as an independent contractor in each and every respect hereunder and not as an agent, representative or employee of the City. Developer shall have the exclusive right to control all details and day-to-day operations relative to the Development Property and any improvements thereon and shall be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, subcontractors, licensees and invitees. Developer acknowledges that the doctrine of *respondeat superior* will not apply as between the City and Developer, its officers, agents, servants, employees, contractors, subcontractors, licensees, and invitees. Developer further agrees that nothing in this Agreement will be construed as the creation of a partnership or joint enterprise between the City and Developer.

8. **INDEMNIFICATION.**

DEVELOPER, AT NO COST TO THE CITY, AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS SERVANTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, ACTIONS, COSTS AND EXPENSES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, THOSE FOR PROPERTY DAMAGE OR LOSS (INCLUDING ALLEGED DAMAGE OR LOSS TO DEVELOPER'S BUSINESS AND ANY RESULTING LOST PROFITS) AND/OR PERSONAL INJURY, INCLUDING DEATH, THAT MAY RELATE TO, ARISE OUT OF OR BE OCCASIONED BY (i) DEVELOPER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR (ii) ANY NEGLIGENT ACT OR OMISSION OR INTENTIONAL MISCONDUCT OF DEVELOPER, ITS OFFICERS, AGENTS, ASSOCIATES, EMPLOYEES, CONTRACTORS (OTHER THAN THE CITY) OR SUBCONTRACTORS, RELATED TO THE REQUIRED IMPROVEMENTS OR THE PERFORMANCE OF THIS AGREEMENT.

9. **NOTICES.**

All written notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designates in writing, by certified mail, postage prepaid, or by hand delivery:

City:

City of Fort Worth
Attn: City Manager
1000 Throckmorton
Fort Worth, TX 76102

Developer:

Trinity Bluff, Ltd.
Attn: Tom Struhs
Trinity Bluff Dev. Management, LLC
2801 Bledsoe St.
Fort Worth, TX 76107

with copies to:

the City Attorney and
Economic/Community Development
Director at the same address

with a copy to:

Brian T. McCabe
Cantey & Hanger, L.L.P.
400 West 15th St., Suite 200
Austin, TX 76701

10. ASSIGNMENT AND SUCCESSORS.

Developer may at any time assign, transfer or otherwise convey any of its rights or obligations under this Agreement to Lincoln Property Southwest, Inc. or an affiliate thereof so long as Lincoln Property Southwest, Inc. or the affiliate thereof is the owner in fee simple of the Development Property, including the Required Improvements, and with the understanding that Developer shall provide written notice to the City within thirty (30) calendar days thereafter of the name and telephone number of a contact person with Lincoln Property Southwest, Inc. or the affiliate thereof. For purposes thereof, an "affiliate of Lincoln Property Southwest, Inc." shall mean any entity under common control with, controlled by or controlling Lincoln Property Southwest, Inc. For purposes of this definition, "control" means fifty percent (50%) or more of the ownership determined by either value or vote. Otherwise, Developer may not assign, transfer or otherwise convey any of its rights or obligations under this Agreement to a new Developer of the Development Property and/or Required Improvements without the prior consent of the City Council, which consent shall not be unreasonably withheld, conditioned on (i) the prior approval of the assignee or successor and a finding by the City Council that the proposed assignee or successor is financially capable of meeting the terms and conditions of this Agreement and (ii) prior execution by the proposed assignee or successor of a written agreement with the City under which the proposed assignee or successor agrees in writing to assume all covenants and obligations of Developer under this Agreement. Any attempted assignment without the City Council's prior consent shall constitute grounds for termination of this Agreement and the Abatement granted hereunder following ten (10) calendar days of receipt of written notice from the City to Developer. Any lawful assignee or successor in interest of Developer of all rights under this Agreement shall be deemed "Developer" for all purposes under this Agreement.

11. COMPLIANCE WITH LAWS, ORDINANCES, RULES AND REGULATIONS.

This Agreement will be subject to all applicable federal, state and local laws, ordinances, rules and regulations, including, but not limited to, all provisions of the City's Charter and ordinances, as amended.

12. GOVERNMENTAL POWERS.

It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.

13. NO WAIVER.

The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

14. VENUE AND JURISDICTION.

If any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, venue for such action shall lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas -- Fort Worth Division. This Agreement shall be construed in accordance with the laws of the State of Texas.

15. NO THIRD PARTY RIGHTS.

The provisions and conditions of this Agreement are solely for the benefit of the City and Developer, and any lawful assign or successor of Developer, and are not intended to create any rights, contractual or otherwise, to any other person or entity.

16. FORCE MAJEURE.

It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement weather, governmental restrictions, regulations, or interferences, acts of the other party, its affiliates/related entities and/or their contractors, or any actions or inactions of third parties or other circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or

perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed. Notwithstanding anything to the contrary herein, it is specifically understood and agreed that Developer's failure to obtain adequate financing to complete the Required Improvements by the Completion Deadline shall not be deemed to be an event of force majeure and that this Section 16 shall not operate to extend the Completion Deadline in such an event.

17. INTERPRETATION.

In the event of any dispute over the meaning or application of any provision of this Agreement, this Agreement shall be interpreted fairly and reasonably, and neither more strongly for or against any party, regardless of the actual drafter of this Agreement.

18. CAPTIONS.

Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

19. ENTIRETY OF AGREEMENT.

This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the City and Developer, and any lawful assign and successor of Developer, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement. Notwithstanding anything to the contrary herein, this Agreement shall not be amended unless executed in writing by both parties and approved by the City Council of the City in an open meeting held in accordance with Chapter 551 of the Texas Government Code.

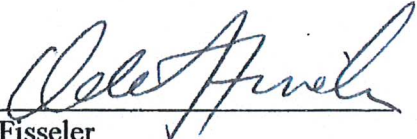
20. COUNTERPARTS.

This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

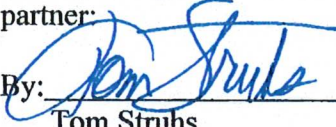
EXECUTED as of the last date indicated below:

CITY OF FORT WORTH:

**TRINITY BLUFF DEVELOPMENT,
LTD:**

By: 
Dale Fisseler
Assistant City Manager

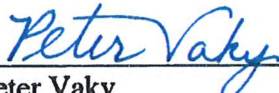
By: **Trinity Bluff Development
Management, LLC**, a Texas limited
liability company and its sole general
partner:

By: 
Tom Struhs
Manager

Date: 10/19/06

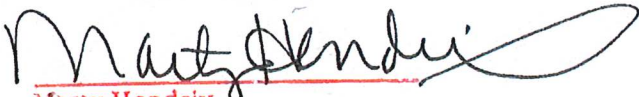
Date: 9/27/06

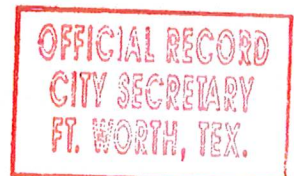
APPROVED AS TO FORM AND LEGALITY:

By: 
Peter Vaky
Assistant City Attorney

M&C: C-21586 7-25-06

Attested By:


Marty Hendrix
City Secretary



EXHIBITS

“A-1” – Legal Description and Map Depicting the Development Property

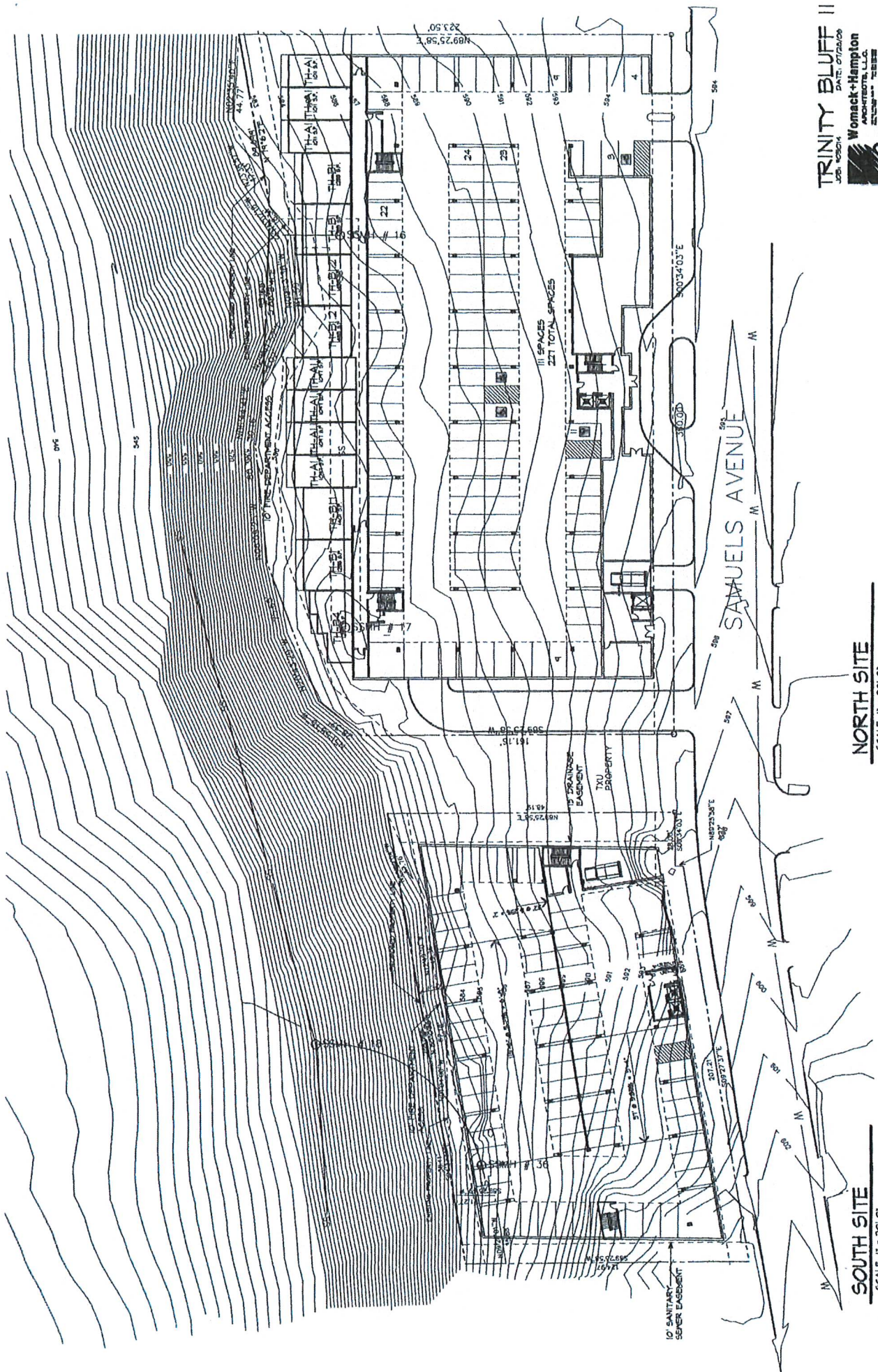
“A-2” – Legal Description and Map Depicting the Impacted Area

“B” – Depiction of Required Improvements

“C” – Map of Central City

“D” – Chart Depicting Annual Income Threshold

Exhibit B



TRINITY BLUFF II
DATE: 07/26/09
JOB: 103004
Womack+Hampton
ARCHITECTS
2222 W. 10th St., Suite 100
Oklahoma City, Oklahoma 73106
Tel: 405.763.1234

NORTH SITE
SCALE: 1" = 30'-0"

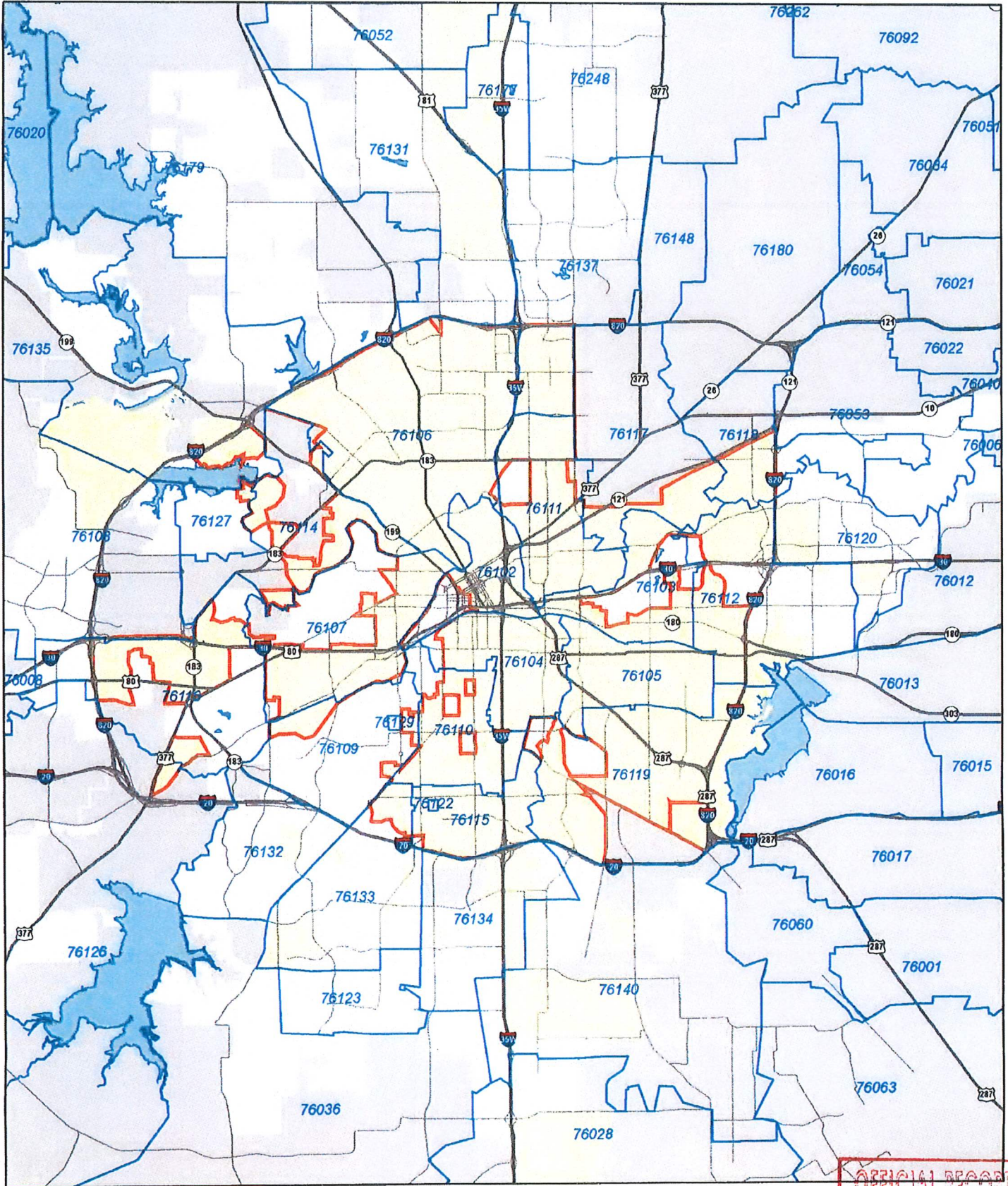
SOUTH SITE
SCALE: 1" = 20'-0"



Exhibit "C"

Map of Central City

CDBG Eligible Areas & Central City



Planning Department
10/21/04 - BK



Exhibit "D"

ANNUAL INCOME THRESHOLD

Year Following the Year in which the Completion Date Occurs	Income Threshold
3	\$3,989,030
4	\$4,106,836
5	\$4,228,138
6	\$4,353,041
7	\$4,481,653
8	\$4,614,084
9	\$4,750,447
10	\$4,890,859
11	\$5,035,442
12	\$5,184,320
13	\$5,337,620
14	\$5,495,475
15	\$5,658,020
16	\$5,825,394
17	\$5,997,743
18	\$6,175,214
19	\$6,357,960
20	\$6,546,138

City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 7/25/2006

DATE: Tuesday, July 25, 2006

LOG NAME: 17BLUFF2

REFERENCE NO.: C-21586

SUBJECT:

Authorize Execution of Economic Development Program Agreements with Trinity Bluff Development, Ltd. for Downtown Residential Projects

RECOMMENDATION:

It is recommended that the City Council:

1. Authorize the City Manager to execute the attached Economic Development Program Agreements (subject to non-material final changes agreed to by the parties) with Trinity Bluff Development, Ltd. for a downtown residential project; and
2. Find that the terms and conditions of the Agreement, as outlined below, and in the recitals of the Agreement, constitute a custom-designed economic development program, as recommended by the 2006 Comprehensive Plan and authorized by Chapter 380 of the Texas Local Government Code.

DISCUSSION:

Under the proposed Economic Development Program Agreements, Trinity Bluff Development, Ltd., working with Lincoln Property Southwest, Inc. (collectively, the Developer), has committed to construct two apartment complexes on property just northeast of downtown, with approximately 490 units for lease with 5% of the apartments set aside for lease at affordable rates to qualifying households earning no more than 80% of the area median income, per HUD standards, (collectively, the Development). The two projects will be subject to the incentives available in the attached agreements.

The first of the two projects and agreements involves the construction of approximately 200 apartments with a minimum investment of \$23.0 million in two 6-story buildings (the Six-Story development) by December 31, 2009. Failure to meet the minimum investment requirement is an event of default which terminates the agreement. In addition to the investments required with this project, the Developer is required to make investments in new construction (other than these projects) within the Trinity Bluff area of the Trinity Vision TIF of at least 58% of the costs associated with constructing the Six-Story Development. For example, if only the minimum required \$23.0 million is spent on construction, then additional investments of a minimum of \$13.34 million in must be made within the Trinity Vision TIF area of the Trinity Bluff development.

The second of the two projects and agreements involves the construction of approximately 290 apartments with a minimum investment of \$26.7 million in four-story buildings that wrap around a central parking structure (the Four-Story Development) by December 31, 2011. Failure to meet the minimum investment requirement is an event of default which terminates the agreement associated with this project. In addition to the investments required with this project, the Developer is required to make investments in new construction (other than these projects) within the Trinity Bluff area of the Trinity Vision TIF of at least 58% of the costs associated with constructing the Four-Story Development. For example, if only the minimum required \$26.7 million is spent on construction, then additional investments of a minimum of \$15.486 million must be made within the Trinity Vision TIF area of the Trinity Bluff development.

In order to obtain the maximum benefit under both Agreements, Developer has committed to (i) spend a minimum of 25% of total construction costs on each project with Fort Worth companies; (ii) spend a minimum of 20% total construction costs on each project with Fort Worth certified M/WBE companies; (iii) provide the greater of two full-time jobs or 25% of all full-time jobs on each project with residents of the Central City; and (iii) spend the greater of \$30,000 per year for each for supplies and services related to the operation of the project, or 25% of all such costs with Fort Worth certified M/WBE companies. The M/WBE Advisory Committee has reviewed the proposed 20% commitment to M/WBE construction companies and is in agreement.

In return for constructing the Development and providing the desirable downtown residential units, Developer will be eligible to receive up to 20 annual economic development grants for each project. The maximum base amount of each grant shall equal the lesser of the increased real property tax revenue from the Development site and attributable to the Development or an amount totalling the maximum allowable under the agreement which limits the maximum annual income of the each project set forth on Exhibit "D" of each attached agreement.

Each program grant is subject to reduction if the construction spending, employment and supply and service spending commitments set forth above are not met. Specifically, if the minimum construction spending with Fort Worth Companies as outlined above is not met, then the base amount may be reduced by up to 20% for the entire term. The reduction will be based proportionally by the amount by which the commitment was not met with 20% being the maximum reduction. If the minimum construction spending with Fort Worth Certified M/WBE Companies as outlined above is not met, then the base amount may be reduced by up to 20% for the entire term. The reduction will be based proportionally by the amount by which the commitment was not met with 20% being the maximum reduction. In addition, if the employment commitment is not met in a given year, the following year's program grant will be reduced by \$20,000 for each job by which the commitment was not met. If the supply and service spending commitment is not met in a given year, the following year's program grant will be reduced by 2 times the amount by which the commitment was not met.

In the event that either or both of these projects are converted to condominiums (either partially or fully), the agreement governing the project that has been converted may be terminated. In addition, after the first 10 years of each agreement, if in any year income of either or both of these projects exceeds 115% of the maximum annual income for the project, as set forth on Exhibit "D" of each agreement, the agreement governing the project may be terminated.

The property covered by these agreements is located within the boundary of Tax Increment Reinvestment Zone Number 9 (Trinity River Vision TIF). Pursuant to Ordinance Number 15797, the City's annual contributions to the Trinity River Vision TIF will be reduced in an amount equal to the program grants paid pursuant to the proposed agreements.

The Trinity Bluff Development is located in COUNCIL DISTRICT 9.

FISCAL INFORMATION/CERTIFICATION:

The Finance Director certifies that this Agreement will have no effect on City funds for the 2006-2007, 2007-2008 or 2008-2009 budget years.

TO Fund/Account/Centers

FROM Fund/Account/Centers

Submitted for City Manager's Office by: Dale Fisseler (6140)

Originating Department Head: Tom Higgins (6192)

Additional Information Contact: Jay Chapa (5804)