

PRELIMINARY FINANCING AGREEMENT

By and Between

CITY OF CORPUS CHRISTI, TEXAS

and

CORPUS CHRISTI RETAIL VENTURE LP

formed by

TRADEMARK PROPERTY COMPANY

and

INSTITUTIONAL MALL INVESTORS LLC

PRELIMINARY FINANCING AGREEMENT

This Agreement ("Agreement") is made and entered into as of ____, 2008 (the "Effective Date"), by and among the City of Corpus Christi, Texas, a home-rule municipal corporation (the "City") and Corpus Christi Retail Venture LP ("Developer"), formed by Trademark Property Company ("Trademark"), a Texas corporation, and Institutional Mall Investors LLC ("IMI").

RECITALS

WHEREAS, the Developer desires to redevelop Padre Staples Mall as more particularly described in the conceptual plan for the project attached hereto as Exhibit A (the "Project" as more particularly defined below), in Corpus Christi, Texas; and

WHEREAS, the City has established a program in accordance with Article III, Section 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code ("Chapter 380") under which the City has the authority to make loans or grants of public funds for the purposes of promoting local economic development and stimulating business and commercial activity within the City; and

WHEREAS, the City has concluded and hereby finds that this Agreement promotes economic development in the City of Corpus Christi and, as such, meets the requirements under Chapter 380 and the City's established economic development program, and, further, is in the best interests of the City and Developer; and

WHEREAS, the City recognizes the positive economic impact that the Project will bring to the City through development and diversification of the economy, reduction of unemployment and underemployment through the production of new jobs, the attraction of new businesses, and the additional ad valorem and sales and use tax revenue generated by the Project for the City; and

WHEREAS, the Project redevelops existing infrastructure and will make a unique contribution to the redevelopment efforts in the City, due to its magnitude, significance to the community and aesthetic quality; and

WHEREAS, the Developer will directly finance, design and construct the Project as contemplated in this Agreement; and

WHEREAS, in consideration of the renovation and redevelopment of the existing 1,000,000 square foot Padre Staples Mall, which will assist in stabilizing the existing Sales Tax Revenues and Property Tax Revenues (as defined herein) to the City and retain approximately 2,500 existing jobs located at the Project and in consideration of the potential addition of 120,000 square feet of new retail space and an estimated 135 room hotel, which create new Sales Tax Revenues and Property Tax Revenues to the City and significant job creation opportunities located at the Project, the City agrees to use such funds in order to provide the Reimbursement Amount (as defined herein) to the Developer directly in the amount described in Article IV of this Agreement; and

WHEREAS, consistent with Article III, Section 52-a of the Texas Constitution, Chapter 380 and other law, City and the Developer agree to work together to cause the public purposes of developing and diversifying the economy of the state, reducing unemployment or underemployment in the state, and developing or expanding transportation or commerce in the state; and

WHEREAS, to ensure that the benefits the City provides under this Agreement are utilized in a manner consistent with Article III, Section 52-a of the Texas Constitution, Chapter 380 and other law, the Developer has agreed to comply with certain conditions for receiving those benefits, including performance measures relating to job creation, Project operations, and the hiring of local and disadvantaged businesses for the construction of the Project; and

WHEREAS, the City and the Developer desire to enter into this Agreement for their mutual benefit;

NOW, THEREFORE:

AGREEMENT

For and in consideration of the foregoing recitals and of the mutual promises, obligations, covenants and benefits herein contained, City and the Developer contract and agree as follows:

ARTICLE I

GENERAL TERMS

Section 1.01 Incorporation of Recitals. The recitals to this Agreement are hereby incorporated for all purposes.

Section 1.02 Definitions and Terms. The terms "Agreement," "Chapter 380," "City," "Developer," "Effective Date," and "Project" shall have the above meanings, and the following terms have the following meanings:

"Base Property Tax" shall mean Three Hundred Sixty-One Thousand Nine Hundred Thirty-Nine and 27/100 Dollars (\$361,939.27), the amount of ad valorem taxes levied and collected by the City on the Property based on its use and valuation as of January 1, 2007, subject to the City's confirmation.

"Base Sales Tax" shall mean Two Million Two Hundred Fifty Thousand and No/100 Dollars (\$2,250,000.00), subject to the City's confirmation.

"City Commitment" is defined in Article IV.

"Commencement Date" shall mean the same day of the 24th month after Developer closes the purchase of Padre Staples Mall.

"Completion", as it relates to Phase I, shall mean the date the Developer has completed renovations and improvements to Padre Staples Mall with a minimum investment of private capital of not less than \$165,000,000 within twenty-four (24) months of the date that Developer closes on the purchase of Padre Staples Mall, generally as described in Exhibit B. The above described minimum investment of private capital shall be deemed Phase I. Completion, as it relates to Phase II, shall mean the date the Developer has completed renovations and improvements generally as described in Exhibits B and C with a minimum investment of private capital of not less than \$235,000,000, inclusive of the private capital invested in Phase I, within seventy-two (72) months of the date that Developer closes on the purchase of Padre Staples Mall.

"Completion Thresholds" shall mean the following two thresholds at which the Developer has achieved Completion of all or a portion of the Project. The corresponding eligible Reimbursement Amount for each Phase is as follows:

Phase I—A maximum City Commitment of Fifteen Million Dollars (\$15,000,000) present value at a six percent (6%) discount rate for the redevelopment and renovation as described in Exhibit B;

Phase II—A maximum City Commitment of Twenty-Three Million Dollars (\$23,000,000), inclusive of the Phase I City Commitment, present value at a six percent (6%) discount rate for the redevelopment and renovation generally as described in Exhibit B and C.

"Fiscal Year" shall mean the twelve consecutive month period designated by the City as its fiscal year. As of the date of this Agreement, the City's fiscal year commences on August 1 and ends on the next succeeding July 31.

"Gross Floor Area" shall mean the sum, in square feet, of the gross horizontal areas of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, but not including:

- (1) Attic space providing headroom of less than seven feet;
- (2) Basement space not used for retailing;
- (3) Uncovered steps or fire escapes;
- (4) Accessory water towers or cooling towers;
- (5) Accessory off-street parking spaces; and
- (6) Accessory off-street loading berths.

"Improvements" shall mean and include the renovation and redevelopment of the Padre Staples Mall and the retail lifestyle center addition, all as described in the Exhibits to this Agreement.

"Letter of Acceptance" shall mean a certificate of the City certifying the completion of all or a portion of the Improvements constructed by or under the supervision of the Developer in accordance with the applicable plans and regulations.

"Maximum City Commitment" shall mean the largest commitment due by the City to the Developer as determined in Article IV.

"Padre Staples Mall" shall mean the existing 1,000,000 square foot indoor shopping mall located between McArdle, South Staples, and South Padre Island Drive in Corpus Christi, Texas.

"Parties" or "Party" shall mean the City and the Developer, the parties to this Agreement.

"Project" shall mean the improvements as described herein and as constructed by the Developer upon Completion.

"Property" shall mean the real property on which the Project will be built, as described in Exhibit E attached hereto.

"Property Tax Revenues" shall mean 70% of the City ad valorem taxes generated from the Project and collected by the City in each Fiscal Year, above the Base Property Tax, during the term of this Agreement.

"Reimbursement Amount" shall mean an amount based on the Property Tax Revenues and Sales Tax Revenues, but limited to the corresponding dollar amount listed for each Completion Threshold. The Reimbursement Amount shall not include any: i) municipal ad valorem taxes generated by personal property included in the Project; ii) sales and use taxes received by the City for crime control and prevention or pursuant to Sections 4A or 4B of the Development Corporation Act; iii) hotel or motel taxes generated from the Project; and iv) utilities revenues and other fees collected by the City from the Project.

"Reimbursement Fund" shall mean the special fund created by the City as described in section 4.01 (A) of this Agreement.

"Relocations" shall mean:

(A) Each and every retailer that has relocated from an existing location within the City to the Project, if i) it operated a Retail store in the corporate limits of the City within three years immediately preceding opening of its new Retail store in the Project; and ii) it closes that store within three years immediately following opening of its new Retail store in the Project. In the event that the new store in the Project is larger than its closed store, the percentage of Gross Floor Area (as such term is defined herein) which represents the increase shall not be considered part of the Relocation but shall be treated as new store sales. In the event that the retailer's new store in the Project is smaller than its closed store, no adjustment shall be made.

(B) In the event a retailer opens an additional store, but the original store closes within the three-year period, the retailer will not be considered a Relocation if the City Council of the City determines in its reasonable discretion that either: (i) the store closure was due to

economic circumstances not related to the opening of the Project; (ii) the retailer opens a comparable store at another location elsewhere in the City; or (iii) the space vacated by the retailer is re-leased to a comparable retailer. The Developer will cooperate with the City so that no relocation retailer establishes a Retail outlet in the Project unless the retailer cooperates upon the request of its former landlord to release its former space. Notwithstanding the foregoing, a "small business retailer" may relocate to the Project and not be considered as a Relocation. A "small business retailer" is defined as a single retailer having 10 or fewer employees and not occupying a multi-tenant facility within the corporate limits of the City.

(C) The calculation of Relocations shall commence upon the Project Completion at the applicable Completion Threshold. The City and the Developer agree to seek an agreement with the Texas Comptroller of Public Accounts concerning the categorization of Sales Tax Revenues for compliance with these provisions. Alternatively, the Developer will seek to obtain actual sales information from all stores which are Relocations, and the sales and use taxes from the actual sales shall be subtracted from the total Sales Tax Revenues. The Developer agrees to exercise reasonable efforts to obtain actual sales and use tax information from each store which is a Relocation, and to provide such information to the City promptly upon the Developer's receipt thereof. In the event that the parties are unable to obtain actual sales information for the Relocation stores, the amount of sales shall be determined on a proportionate basis utilizing the Gross Floor Area of the store (excluding any increase in size from the closed location) compared to the Gross Floor Area of Retail space in the entire Project as completed on the date of such calculation.

"Retail" shall mean the use of a facility for the sale of goods to consumers, a facility for the provision of services to consumers, a facility for the sale and service of food or beverages to consumers, or a facility providing entertainment to consumers.

"Sales Tax Revenues" shall mean 70% of the City one cent sales and use taxes generated from the Project and remitted to the City by the Comptroller of the State of Texas, above the Base Sales Tax, in each Fiscal Year during the term of this Agreement, and exclusive of any sales and use taxes generated from Relocations. The Sales Tax Revenues generated by Relocations in the Project shall first be subtracted from the total City sales and use taxes so that the amount of Sales Tax Revenues to be applied toward the Reimbursement Amount will be applied only to the net new amount of Sales Tax Revenues generated by the Project.

"State Comptroller" shall mean the Comptroller of Public Accounts for the State of Texas, or such other agency responsible for collecting sales and use taxes within the State of Texas and remitting them to the City.

Section 1.03 Singular and Plural. Words used herein in the singular, where the context so permits, also include the plural and vice versa. The definitions of words in the singular herein also apply to such words when used in the plural where the context so permits and vice versa.

ARTICLE II

REPRESENTATIONS

Section 2.01 Representations of the City. The City hereby represents to the Developer that as of the date hereof:

(A) The City is a duly created and existing municipal corporation and home rule municipality of the State of Texas under the laws of the State of Texas and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Agreement.

(B) The City has the power, authority and legal right under the laws of the State of Texas and the City Charter to enter into and perform this Agreement and the execution, delivery and performance hereof (i) will not, to the best of its knowledge, violate any applicable judgment, order, law or regulation, and (ii) do not constitute a default under, or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the City under any agreement or instrument to which the City is a party or by which the City or its assets may be bound or affected.

(C) This Agreement has been duly authorized, executed and delivered by the City and, constitutes a legal, valid and binding obligation of the City, enforceable in accordance with its terms except to the extent that (i) the enforceability of such instruments may be limited by bankruptcy, reorganization, insolvency, moratorium or other similar laws of general application in effect from time to time relating to or affecting the enforcement of creditors' rights and (ii) certain equitable remedies including specific performance may be unavailable.

(D) The execution, delivery and performance of this Agreement by the City do not require the consent or approval of any person which has not been obtained.

Section 2.02 Representations of the Developer. The Developer hereby represents to the City that as of the date hereof:

(A) The Developer is duly authorized and existing and in good standing under the laws of the State of Texas, and is qualified to do business in the State of Texas.

(B) The Developer has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof, (i) have been duly authorized, and will not, to the best of its knowledge, violate any judgment, order, law or regulation applicable to the Developer, and (ii) do not constitute a default under or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the Developer under any agreement or instrument to which the Developer is a party or by which the Developer or its assets may be bound or affected.

(C) The Developer will have sufficient available funds to perform its obligations under this Agreement at the time it needs to have the funds.

(D) This Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of the Developer, enforceable in accordance with its terms except to the extent that (i) the enforceability of such instruments may be limited by bankruptcy, reorganization, insolvency, moratorium or other similar laws of general application in effect from time to time relating to or affecting the enforcement of creditors' rights and (ii) certain equitable remedies including specific performance may be unavailable.

ARTICLE III

DEVELOPER COMMITMENTS

Section 3.01 Project.

(A) Subject to acquiring the Property, obtaining financing for the construction of the Project, and the compliance of the City with the terms of this Agreement, the Developer agrees to develop and construct the Project as described herein to accomplish Completion of the Project within twenty-four (24) months from the date of Developer closing on the purchase of Padre Staples Mall, for Phase I; or within seventy-two (72) months from the date of Developer closing on the purchase of Padre Staples Mall, for Phase II. The Developer shall pay, or cause third parties to pay, all engineering, planning, accounting, architectural, legal fees and expenses, survey, testing, laboratory costs, license fees, land clearing and grading costs, advertising and other bidding costs, amounts due under construction contracts, costs of labor and material, insurance premiums, interest, carry cost, financing fees and other costs and expenses incurred in connection with the construction of such improvements, which costs as set forth in Exhibit D attached hereto are estimated to approximate \$36,904,126. The Developer shall provide reasonable evidence of expenditures of private capital by the Developer or by third parties for the improvements to the Project in the amounts required for each Completion Threshold. The City shall not be responsible for any of such costs out of its current revenues or other sources, except in accordance with payment to the Developer for the costs of the Improvements in the Reimbursement Amount as provided in this Agreement. The improvements proposed and completed for Phase I shall provide the facility as Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ certified as authorized by the U. S. Green Building Council. The improvements for Phase II, excluding the hotel, shall be Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ certified as authorized by the U. S. Green Building Council. Furthermore, Developer shall request the developer/operator of the hotel to cause the hotel to be Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ certified as authorized by the U. S. Green Building Council.

(B) The Developer may deem the Project complete at either of the Completion Thresholds and accept the Reimbursement Amount specified for such level of Completion Threshold, subject to the terms and conditions of this Agreement. The Developer agrees to assist the City, if so requested by the City, in the preparation of any documentation necessary for the preparation and approval of any of the documents or actions required by the City to perform any of the obligations under this Agreement. The Developer further shall prepare or cause to be prepared any preliminary architectural or engineering plans and financial data and projections reasonably necessary to perform the obligations of the City under this Agreement. The

Developer agrees to proceed in good faith towards the purchase of the Property and development of the Project. Upon Completion of the Project and during the term of this Agreement, the Developer shall maintain the property, improvements and premises in a commercially reasonable manner, comparable to the maintenance of similar retail establishments; and shall timely pay all taxes assessed against the property.

Section 3.02 Job Creation. The Developer's receipt of the Reimbursement Amount is subject to the following commitment (the "Jobs Requirement"): the Developer agrees to construct the Project and demonstrate, as to Phase I by no later than twelve (12) months after the Completion of Phase I, and, as to Phase II by no later than twelve (12) months after the Completion of Phase II, that at least the following retained and new jobs will be created by Retail establishments located or to be located within the Project during Phase I, which jobs will be made available principally to local residents residing within the City: Phase I – 2,500 retained jobs (number to be verified by the Developer) and 300 newly created jobs; Phase II – 2,800 retained jobs and 300 newly created jobs. The demonstration of satisfaction of the Jobs Requirement shall be examined at the end of the thirty-sixth (36th) month as to Phase I and at the end of the eighty-fourth (84th) month as to Phase II. The Developer shall obtain certification from its tenants or occupants as to the number of new jobs created in compliance with this provision. As used herein, the term "jobs" shall mean full-time equivalent positions providing a regular work schedule of at least 35 hours per week. Upon the request of the City, the Developer shall submit on or before the pertinent dates documentation as reasonably necessary to evidence satisfaction that the Developer has met the Jobs Requirement.

Section 3.03 Operational Requirements.

(A) The Developer's receipt of the Reimbursement Amount is subject to the following commitment (the "Operational Requirement"): the Developer agrees to maintain the Project as a Retail and/or mixed use development for the duration of the period during which the Reimbursement Amount is paid; any default in such obligation shall result in the forfeiture of the right to receive reimbursement for any of the Reimbursement Amount.

(B) In the event Relocations exceed 10% of the total Gross Floor Area of Retail space in the Project, such event shall be a default hereunder and the Developer shall forfeit the right to receive the Reimbursement Amount.

(C) Additionally, Developer's failure to complete Phase I within twenty-four (24) months from the date Developer closes on the purchase of Padre Staples Mall (a minimum private investment of \$165,000,000 for the acquisition and renovation of the existing 1,000,000 square foot mall) shall be a default hereunder and the Developer shall forfeit the right to receive reimbursement. Additionally, Developer's failure to complete Phase II within seventy-two (72) months from the date Developer closes on the purchase of Padre Staples Mall (a minimum private investment of \$70,000,000 for the construction of additional retail square footage generally as described in Exhibit C and the construction of a hotel with approximately 135 rooms) shall result in Developer's forfeiture of the right to receive reimbursement for Phase II and Developer's failure to complete a hotel of approximately 135 rooms within seventy-two (72) months from the date Developer closes on the purchase of Padre Staples Mall shall result in Developer's forfeiture of the right to receive reimbursement for the hotel.

Section 3.04 Utilization of Local Contractors and Suppliers. The Developer's receipt of the Reimbursement Amount is subject to the following commitment (the "Local Requirement"): in consideration of the Reimbursement Amount for the Improvements, the Developer agrees to exercise reasonable efforts in utilizing local contractors and suppliers in the construction of the Project with a goal of at least 30% of the total dollar amount of all construction contracts and supply agreements being paid to local contractors and suppliers. A contractor or supplier shall be considered as local if it has maintained an office or the owner has maintained his or her primary residence within the Corpus Christi MSA for at least two years. This goal shall apply to the total amount of all construction contracts and supply agreements made by the Developer in connection with the construction of the Project. The Parties acknowledge that some construction and supply agreements will be controlled by particular tenants of the Developer and not under the control of the Developer. The Developer agrees to encourage such third parties to adopt a comparable goal of 30% of their construction costs, but the City acknowledges that Developer has no legal authority in connection with such third-party contracting. The Developer agrees, during the construction of the Project and for four years after Completion, to maintain written records documenting the efforts of the Developer to comply with the Local Requirement.

Section 3.05 Utilization of Disadvantaged Business Enterprises; Small Business Initiatives.

(A) The Developer's receipt of the Reimbursement Amount is subject to the following commitment (the "DBE Requirement"): in consideration of the Reimbursement Amount for the Improvements, the Developer agrees to exercise reasonable efforts in utilizing contractors and suppliers in the construction of the Project that are determined to be disadvantaged business enterprises, including minority business enterprises, women-owned business enterprises and historically-underutilized business enterprises. In order to qualify as a business enterprise under this provision, the firm must be certified by the City, the Regional Transportation Authority or another governmental entity in the jurisdiction of the home office of the business as complying with state or federal standards for qualification as such an enterprise. The Developer agrees to a goal of 25% of the total dollar amount of all construction contracts and supply agreements being paid to disadvantaged business enterprises, with a priority made for disadvantaged business enterprises which are local. The following table shall establish the portion of a contract with a disadvantaged business enterprise which shall count towards the goal:

Disadvantaged Business Enterprises in Corpus Christi MSA	100%
Disadvantaged Business Enterprises elsewhere in Texas	80%
Disadvantaged Business Enterprises outside Texas	60%

A contractor or supplier shall be considered located in the Corpus Christi MSA if it has maintained an office or the owner has maintained his or her primary residence within the Corpus Christi MSA for at least two years. This goal shall apply to the total amount of all construction contracts and supply agreements made by the Developer in connection with the construction of the Project. The parties acknowledge that some construction and supply agreements will be controlled by particular tenants of the Developer and not under the control of the Developer. The Developer agrees to encourage such third parties to adopt a comparable goal of 25% of their construction costs, but the City acknowledges that Developer has no legal authority in connection with such third-party contracting.

(B) The Developer agrees to enter into a Fair Share Agreement with the City pertaining to the achievement of the DBE Requirement. The City and the Developer shall jointly recruit and select a person or firm to provide independent verification and monitoring of Developer's activities in connection with the above goals. Such person or firm shall be responsible for reviewing the contract information for the contracts made by Developer, verifying the eligibility of the firms identified as meeting the requirements stated above, and providing quarterly reports to the City concerning the Developer's achievement of the goals in connection with construction of the Project. The person or firm may rely upon the determination made by the City or another governmental entity as to the qualification of a contractor or supplier as a disadvantaged business enterprise. The costs of such verification and monitoring during the construction period shall be subject to the approval of and paid by Developer. Such costs shall not be subject to reimbursement as administrative expense from the Reimbursement Amount.

(C) The Developer agrees to use reasonable efforts to provide support for small business initiatives of the City as provided by City policies.

(D) The Developer agrees, during the construction of the Project and for four years after Completion, to maintain written records documenting the efforts of the Developer to comply with the DBE Requirement.

Section 3.06 Reimbursement Reduction.

(A) If the Developer does not satisfy the Jobs Requirement, the Local Requirement, or the DBE Requirement, the City may reduce the Reimbursement Amount. The percentage of any Reimbursement Amount reduction shall not exceed the percentage by which the Developer does not satisfy the Jobs Requirement, the Local Requirement, or the DBE Requirement, with equal weight given to each requirement and to the degree of non-compliance with each requirement. The City agrees not to reduce the Reimbursement Amount, as long as the Developer has exercised reasonable efforts to comply with the Jobs Requirement, the Local Requirement and the DBE Requirement. The Developer shall be deemed to have exercised reasonable efforts to comply with the Local Requirement and the DBE Requirement as long as the Developer keeps and provides to the City records required to be maintained under Sections 3.02, 3.04 and 3.05 documenting its reasonable compliance attempts, even if the Developer does not actually meet the compliance goals.

Section 3.07 Employment of undocumented workers. The Developer does not and agrees that it will not knowingly employ an undocumented worker.

Section 3.08 Monitoring by the City. Monitoring to determine the Developer's compliance with the terms of this Agreement for compliance purposes will be done by the City no less than twice per year during the period of construction, and on an annual basis after Completion. During the monitoring process, the City will make maximum use of any State and Federal submissions for the determination of contract compliance. Monitoring may be accomplished by City personnel or other persons designated by the City and shall include review of compliance with the Fair Share Agreement specified in Section 3.05 above, compliance with the Jobs Requirement, the Operational Requirement, the Local Requirement, the DBE

Requirement, and requirements concerning Relocations. The Developer agrees to reasonably cooperate with the City in such monitoring process.

ARTICLE IV

PROJECT FINANCING AND FUNDING

Section 4.01 Project Financing.

(A) The City hereby covenants and agrees upon the Effective Date of this Agreement to create a special fund (the “Reimbursement Fund”) for the benefit of the Developer for the purpose of paying the Reimbursement Amount. The City shall fund the Reimbursement Fund through the term of this Agreement from the following sources and in the following manner: i) with respect to the portion of the Reimbursement Amount calculated based on the Property Tax Revenues, the City shall annually fund the Reimbursement Fund from the Property Tax Revenues; and ii) with respect to the portion of the Reimbursement Amount calculated based on the Sales Tax Revenues, the City shall annually fund the Reimbursement Fund in an amount equal to the Sales Tax Revenues from the Sales Tax Revenues. The Reimbursement Fund shall always remain unencumbered by the City and segregated from all other funds of the City. Such funds are held in trust by the City for the Developer to be used in accordance with the terms hereof as long as Developer is in compliance with this Agreement. The City agrees that it will, upon Completion of the Project, with respect to the portion of the Reimbursement Amount derived from Sales Tax Revenues, make annual cash payments, and, with respect to the portion of the Reimbursement Amount calculated on the basis of the Property Tax Revenues, make annual cash payments by June 1 of each applicable year, from the Reimbursement Fund to the Developer if cash is available for such purpose under this Agreement until the Reimbursement Amount is paid in full as provided herein.

(B) The City agrees that it will make cash payments to the Developer for the Reimbursement Amount, but such cash payments shall be limited in amount to the City Commitment.

Section 4.02 City Commitment.

(A) Pursuant to its authority under Chapter 380, the City hereby agrees to pay the Reimbursement Amount to the Developer. It is intended by the parties that the Reimbursement Amount will be paid by the City solely out of the Reimbursement Fund and used to make payments to the Developer as provided in this Agreement (the “City Commitment”). The maximum amount of the City Commitment is set forth in Section 4.02(B). The City Commitment will commence upon Completion and will continue through and until the Reimbursement Amount has been paid. The City agrees that it will pay the Reimbursement Amount during the term of this Agreement, as an unconditional obligation of the City (but solely from the Reimbursement Fund), if the Project is Completed and generates the Reimbursement Amount. Such payments are not subject to any reduction, whether offset or otherwise, except pursuant to Sections 3.03 and 3.06 hereof.

(B) The Parties agree that the maximum City Commitment per Phase shall be as stated in the definition of Completion Thresholds which would be a discounted present value at

six percent (6%) for each Phase of the Project, and such obligation on behalf of the City will be limited solely to the funds deposited into the Reimbursement Fund pursuant to this Agreement. Upon such time as the City has contributed the maximum City Commitment in full, the City shall have no further obligation under this Agreement. The Parties agree that so long as the Developer has achieved the minimum Phase I private investment described in the definition of Completion above, the Developer shall be entitled to payment of the City Commitment. The Parties agree that so long as the Developer has achieved the minimum Phase II private investment described in the definition of Completion above, the Developer shall be entitled to a maximum Phase II City Commitment.

(C) The City shall determine the amount of the Sales Tax Revenues received each month by the City from the State Comptroller in cooperation with the Developer and the State Comptroller. The City and Developer agree to cooperate in any way necessary to receive information from the Comptroller necessary to determine the Sales Tax Revenue, including the filing or submittal of any forms or letters necessary to determine the incidence of local sales and use taxes. The City hereby agrees to deposit the Sales Tax Revenues portion of the City Commitment into the Reimbursement Fund, and hereby pledges such fund to the payment of the City Commitment as provided herein. The City Commitment shall be remitted to the Developer annually on or before the first day of June. The City designates this Agreement as a Revenue Sharing Agreement, thereby entitling the City to request sales tax information from the Comptroller, pursuant to section 321.3022, Texas Tax Code, as amended. Unless determined otherwise by the Texas Attorney General in writing, any information received relating to the City Sales Tax Revenue shall be considered confidential proprietary financial information not subject to immediate release to the public. The City shall seek a written opinion from the Texas Attorney General, raising any applicable exception to release, prior to any release to a third-party under the Texas Public Information Act.

(D) The City shall determine the amount of the Property Tax Revenues received annually by the City in cooperation with the Developer. The City hereby agrees to deposit from available funds in the City's General Fund an amount equal to the Property Tax Revenues into the Reimbursement Fund in accordance with Section 4.01 (A) of this Agreement, and hereby pledges such fund to the payment of the City Commitment as provided herein. The City Commitment shall be remitted to the Developer on or before June 1 of each year.

The City shall maintain complete books and records showing deposits to and disbursements from the Reimbursement Fund, which books and records shall be deemed complete if kept in accordance with generally accepted accounting principles as applied to Texas municipalities. Such books and records shall be available for examination by the duly authorized officers or agents of the Developer during normal business hours upon request made not less than five business days prior to the date of such examination. The City shall maintain such books and records throughout the term of this Agreement and store the same for four years thereafter.

Section 4.03 Reimbursement From Other Sources. In the event that the City arranges for, and the Developer receives, reimbursement of any of the Developer's off-site infrastructure costs listed on Exhibit D from other sources, such as TxDOT or applicable trust funds established for such purposes, any such reimbursements shall be credited against the City

Reimbursement, and the sharing ratio for Property Tax Revenues and Sales Tax Revenues shall be proportionately reduced so that for the duration of this Agreement the same coverage ratios apply to the reduced amount as applied to the original amount of the City Reimbursement.

ARTICLE V

ADDITIONAL DUTIES AND RESPONSIBILITIES

Section 5.01 Amendment of Agreement. Upon the request of the Developer, the City will not unreasonably decline to amend this Agreement to provide for any reasonable changes necessary to carry forth the intent of this Agreement.

ARTICLE VI

TERM OF THE AGREEMENT AND OTHER OBLIGATIONS

Section 6.01 Term and Termination. This Agreement shall have a term (the "Term") beginning on the Commencement Date and continuing for a period until the earlier to occur of: (a) the date as of which the twenty-fifth (25th) annual payment has been received by Developer, (b) the date as of which the discounted (6.0%) present value of the cumulative incentive received by Developer equals the maximum City Commitment, or (c) the Agreement is otherwise terminated as provided herein.

ARTICLE VII

DEFAULT

Section 7.01 Default

(A) If the City does not perform its obligations hereunder in substantial compliance with this Agreement and, if such default remains uncured for a period of 60 days after notice thereof shall have been given, in addition to the other rights under the law or given the Developer under this Agreement, the Developer may enforce specific performance of this Agreement, seek a writ of mandamus to perform obligations under this Agreement.

(B) If the Developer does not perform its obligations hereunder in substantial compliance with this Agreement, and, if such default remains uncured for a period of 60 days after notice thereof shall have been given, in addition to the other rights under the law or given to the City under this Agreement, the City may terminate this Agreement and any of the obligations associated herein and the City may seek actual damages incurred by the City for any such default.

(C) Notwithstanding anything in this Agreement which is or may appear to be to the contrary, if the performance of any covenant or obligation to be performed hereunder by either Party is delayed as a result of circumstances which are beyond the reasonable control of such Party (which circumstances may include, without limitation, pending or threatened litigation, acts of God, war, acts of civil disobedience, fire or other casualty, shortage of materials, adverse weather conditions (such as, by way of illustration and not limitation, severe rain storms or

below freezing temperatures, hurricane or tornados) labor action, strikes or similar acts) the time for such performance shall be extended by the amount of time of such delay. The Party claiming delay of performance as a result of any of the foregoing "force majeure" events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven days after the claiming Party becomes aware of the same, and if the claiming Party fails to so notify the other Party of the occurrence of a force majeure event causing such delay, the claiming Party shall not be entitled to avail itself of the provisions for the extension of performance contained in this Section.

(D) Should Developer fail to redevelop and renovate the existing 1,000,000 square foot mall with a private investment of at least \$165,000,000 within twenty-four (24) months from Developer closing the purchase of Padre Staples Mall, this Agreement shall terminate without obligation of City to provide reimbursement to Developer.

(E) Should Developer fail to close on the purchase of Padre Staples Mall within ninety (90) days from the Effective Date, this Agreement shall terminate without obligation of city to provide reimbursement to Developer.

ARTICLE VIII

GENERAL

Section 8.01 Severability. If any provision of this Agreement is held to be invalid or unenforceable by any court of competent jurisdiction for any reason, such provision shall be fully severable, and the remainder of this Agreement shall remain in full force and effect. This Agreement shall be construed and enforced as if such invalid or unenforceable provision had never comprised a part of this Agreement.

Section 8.02 Indemnification. The Developer agrees to indemnify, defend and hold the City and its respective council members, board members, officers, employees and agents, harmless from any actions, suits, liens, claims, damages, expenses, losses and liabilities (including reasonable attorneys' fees and expenses) arising from or in connection with its proceedings pursuant to this Agreement, which indemnity shall survive any termination of this Agreement; provided, however, Developer shall not indemnify, defend or hold harmless if the foregoing was the result of the gross negligence or willful misconduct of the City, or its respective council members, board members, officers, employees or agents.

Section 8.03 Notice. Any notice or other communication required or permitted to be given pursuant to this Agreement shall be given to the other Party at the following address:

If to the Developer:

Corpus Christi Retail Venture, LP
Trademark Property Company
301 Commerce Street
Fort Worth, Texas 76102
ATTN: Terry Montes

w/ a copy to: Todd Hunter
Hunter & Handel, P.C.
555 N. Carancahua, Suite 1600
Corpus Christi, Texas 78478-0801

If to the City: City of Corpus Christi
1201 Leopard Street (78401)
P. O. Box 9277
Corpus Christi, Texas 78469
ATTN: City Manager

w/ a copy to: City of Corpus Christi
1201 Leopard Street (78401)
P. O. Box 9277
Corpus Christi, Texas 78469
ATTN: City Attorney

Any such notice or communication shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either Party may change the above address by sending written notice of such change to the other Party in the manner provided above. With the consent of the receiving Party, notice may be given by facsimile transmission or electronic mail.

Section 8.04 Amendments and Waivers. Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is signed by the City and the Developer.

Section 8.05 Successors and Assigns. No party shall have the right to assign its rights under this Agreement or any interest herein, without the prior written consent of the other Party, which consent will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the Developer may assign its rights and responsibilities hereunder to any entity which is related or affiliated with or a subsidiary of the Developer, Trademark or IMI and to which its rights to proceed with development of the Project are transferred. Such written consent shall not be unreasonably withheld and if such consent is not received by the Party seeking consent within thirty (30) days of their request for consent, the assignment will be deemed approved. Notwithstanding the foregoing, the City hereby consents to Developer's assignment to a lending institution of all of the Developer's rights hereunder as security for repayment of one or more loans to finance the construction or ownership of the Project or construction of the Improvements. The Developer shall give written notice of its assignment of its rights hereunder to the other Parties within five business days of the occurrence of such assignment. The foregoing notwithstanding, any assignment of the Developer's rights under this Agreement shall not release the Developer from its obligations under Section 4.01(C) hereof.

Section 8.06 Exhibits; Titles of Articles, Sections and Subsections. The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of

the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail. All titles or headings are only for the convenience of the Parties and shall not be construed to have any effect or meaning as to the agreement between the Parties hereto. Any reference herein to a Section or Subsection shall be considered a reference to such Section or Subsection of this Agreement unless otherwise stated. Any reference herein to an exhibit shall be considered a reference to the applicable exhibit attached hereto unless otherwise stated.

Section 8.07 Construction. This Agreement is a contract made under and shall be construed in accordance with and governed by the laws of the United States of America and the State of Texas, excluding conflicts of laws, as such laws are now in effect. Venue for any action arising under this Agreement shall lie in the state district courts of Nueces County, Texas.

Section 8.08 The Developer agrees to comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations related to the construction of the Project.

Section 8.09 Entire Agreement. This written Agreement represents the final agreement between the Parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the Parties. There are no unwritten oral agreements between the Parties.

Section 8.10 Approval by the Parties. Whenever this Agreement requires or permits approval or consent to be hereafter given by either Party, the Parties agree that such approval or consent shall not be unreasonably withheld or delayed.

Section 8.11 Additional Actions. The Parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be duly executed as of the ____ day of _____, 2008.

**CORPUS CHRISTI RETAIL VENTURE
LP**

By: TRADEMARK PADRE, L.P.,
a Texas limited partnership
its General Partner

By: TP Genpar, LLC,
a Texas limited liability company
its General Partner

By: 
Name: Amy Montesi
Title: President/CEO

CITY OF CORPUS CHRISTI, TEXAS
A home-rule municipal corporation

By: 
George Noe, City Manager

ATTEST:

No. 2008-081 AUTHORIZED
BY COUNCIL 03/25/08
AC
SECRETARY AK


Armando Chapa, City Secretary

Approved as to form: _____


R. Jay Reinking
First Assistant City Attorney
For City Attorney

EXHIBIT A Project Conceptual Plan

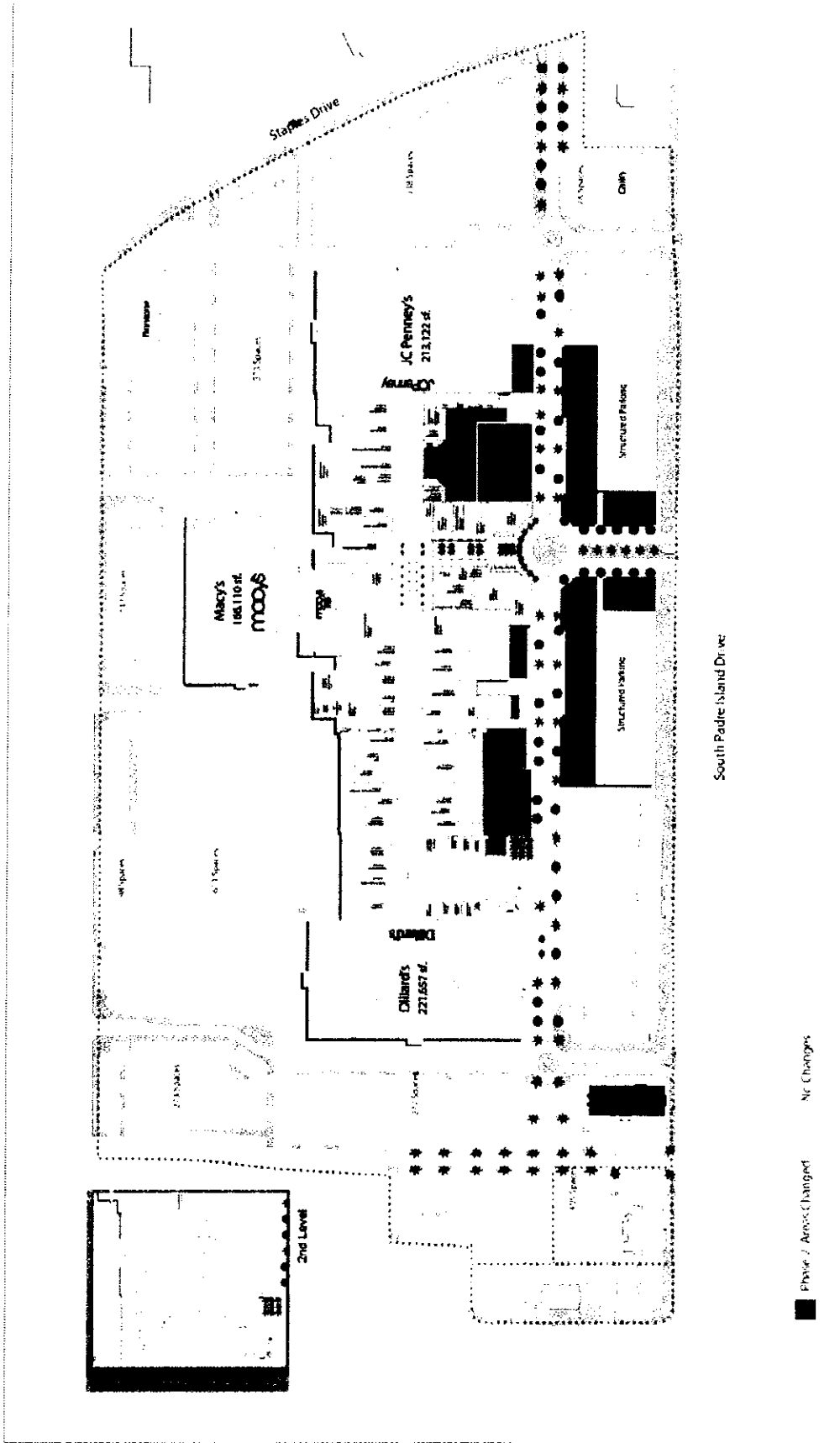


Exhibit B
Padre Staples Phase 1
Infrastructure and Amenities Improvements

Current Renovations

In addition to the completion of the approximate \$11M current ongoing renovation, which includes new imported ceramic tile, new acoustical tile and painted hard gypboard ceiling, an arched gypboard ceiling in the Center Court, a new ground floor state-of-the-art seven unit food court, a new safe family bathroom and a new curved entry element with floor to ceiling insulated storefront accented with custom stone borders. Trademark will transform the mall into a relaxed, casual experience with a resort feel by adding the following:

A. Entry Court

The new Entry Court with its outdoor lifestyle component is an important element to the projects transformation. A portion of the existing roof will be removed and the entry will be widened. Plans will incorporate shaded outdoor walkways, public seating and an interactive fountain. Additionally, this area will be enhanced with a variety of planters with tropical vegetation. Other Entry Court improvements could include a lighted tenant directory, overhead twinkle lights and individual tenant blade signs. The Entry Court will lead into Center Court and be separated by a floor to ceiling glass curtain wall. This large glass wall will not only enhance the outdoor feel of Center Court, it will showcase the visual appeal from SPID, especially at night. The pedestrian transition from the entry court to the Center Court will be facilitated with automatic sliding glass doors on both sides of the curtain wall, which could be left open as the weather permits to further enhance the indoor-outdoor feel. A new landscaped circular drive and drop-off area will be constructed to make access safer and more convenient and creating a sense of arrival. A valet drop-off may be added for use during peak customer times. The budget will include entry design, consultation and other related soft costs.

B. Public Art

Public art (commissioned and acquired) – primarily sculptures, murals and other unique artistic features and architectural elements will be positioned throughout the project. The budget will also include procurement consultation and installation services.

C. Center Court/Transition Court/West Court

Center Court will not only be illuminated with the addition of the glass curtain wall, windows or clerestory glass will be added above the tenant's storefronts, increasing natural light. Soft seating areas will be added. A water element will be added to create a sense of place. This water feature could be converted for seasonal displays such as Santa and the Easter Bunny or a weekend jazz concert. A coffee bar/cafe may be recruited, incorporating seating to provide a place to gather. New planting areas and pots may contain palm trees or other tropical vegetation to enhance the resort feel. New trash receptacles and benches will be added. New retail merchandising units will be purchased and be consistent throughout the project. At the transition Court, two new 48" escalators will be installed replacing the existing 24", facilitating easier access to the second

level. New lighting will be added enhancing the ambiance. The existing skylights will be replaced. In the West Court, the oval opening will be completed and enhanced with upgraded finishes and the skylights will be replaced. New glass handrails encompassing the oval will be installed similar to those found in other Class A venues. Escalators and elevators will be located by the food court allowing an open area for commerce or gathering in the West Court. Soft seating areas will be added. The budget includes design, consultation and related soft costs.

D. Environmental Graphics

Padre Staples will feature an environmental graphics program that will brand the project more broadly and visually enhance the shopping and pedestrian experience. Investments in environmental graphics can make a large impact. Environmental graphics will include: a sophisticated logo that can be repeated on signs and architectural features throughout the project and include main center signage; projection blade signage, tenant directories; way-finding signage directing shoppers within the project and seasonal banners. The budget will include design and other soft costs.

E. Food Court/Palm Court/Second Level/Children's Play Area

New 24" escalators would be installed at the main entrance to the food court allowing easy access to the second level. An elevator would be installed across from the food court and lead directly to the pedestrian bridge leading to the garage. A new freestanding food court unit may be installed inside the new entry element and will be ideal for a sushi restaurant or a smoothie bar, again keeping with the resort feel. An opening will be made in the food court ceiling creating openness and connectivity to the second level. The opening will be accented by glass hand rails. Skylights will be installed to increase natural light above the Food Court and second level. An indigenous element will be added in the center of the Food Court and may include an aquarium. All new chairs and tables will be provided. A unique addition will be the Palm Court, an outdoor area shaded by palm trees with generous outdoor seating. A beach themed children's play area will be constructed upstairs and will be surrounded by retail space to support children oriented retailers. New retail space will be built overlooking the food court. A community room will be added for use for civic events and meetings of community organizations and non-profits. New family friendly, ADA compliant restrooms will be installed. The management office will be relocated to this area. An information booth will be added in the common area to resemble a "concierge" similar to those found at an upscale resort hotel. All design and other related soft costs will be in the budget.

F. Special Paving

Paving upgrades will be made throughout the project, including brick, cobblestones, concrete pavers or raised textured crosswalks. All design, fabrication and other related soft costs would also be included in the budget.

G. Architectural Lighting

Pedestrian level lighting upgrades will include up-lighting, landscape lighting, twinkle lights and wall sconces in key areas. All lighting design consultation and other related soft cost would also be included.

H. Custom Architectural Fixtures / Furnishings

Design details not easily categorized in other areas are very important to create the proper ambiance and pedestrian experience. Examples of architectural features/fixtures include: architectural building and garden ornaments, landscape/garden amenities, public seating, bike racks, drinking fountains/bubblers, clocks, flagpoles, trash receptacles, mobile retail and food carts, movable kiosks, ornamental grilles and screens, security call boxes, ornate grates, valet stations, decorative manhole covers, building plaques, etc. All design, fabrication and related soft costs would also be included in the budget.

I. Landscaping

Upgraded landscaping would include special vegetation of all types (e.g.. Specimen trees, shrubs, varietals, flowers, ground cover), upgraded seasonal planting programs, upgraded irrigation, stones, paving and other bedding embellishments, soils, mulch, drainage and retaining walls / features and curbing. All design, consultation and other related soft costs would also be included in the budget.

J. Traffic Improvements

Traffic improvements will occur in several areas. First, a raised median will be installed on Staples, from SPID to McArdle. This will protect left hand turns and reduce conflict points. Additionally, a mid-block traffic signal will be installed aligned with a new main drive in the approximate area north of JC Penney's. Access points will be consolidated. Access off of SPID frontage road will be improved by consolidating access points and the inclusion of acceleration and deceleration lanes. A new main drive will be constructed from SPID to the Entry Court. This drive will be lined with landscaping and will be the visual center of the project and the main focal point. The seven access points along McArdle will be consolidated, again reducing access points. Pedestrian access may be improved from the bus stop across the street, encouraging mass transit.

K. Parking Lot/Exterior Improvements

Enhanced site lighting will increase the visual appeal of the center and provide increased security. Landscaped areas will soften the feel of the parking lot and create pervious areas, reducing water run-off. Exterior facing, tenant- ready restaurants will be constructed on the north side of the project, creating energy and activity. Exterior painting, trim replacement/modification and power washing will be done as needed to freshen up dirty and dated areas. The majority of the existing mechanical systems will be replaced with energy efficient systems and include geothermal or other "Green" systems. The majority of the existing parking lot will be removed and replaced with a new surface and re-striped. Sections of the roof will be replaced as needed over the next two years. ADA (American Disability Act) upgrades will be made and will include automatic entrances and ADA compliant restrooms. New energy efficient vestibules will be installed at permanent entry ways. All design, consultation and other related costs would also be included in the budget.

L. Macy's

Macy's Ground floor will be expanded into the common area and existing lease space to add approximately 17,000 square feet. Macy's will also commit to a major interior renovations.

- ❖ Total Projected investment to complete Phase 1 will exceed \$165M and Trademark will commit to investing at least \$15M on items A-K within 24 months of closing.

Exhibit C
Padre Staples Phase 2
Capital Improvements

Additions and Reprogramming of Additional Space

Trademark believes that over 6 years it can continue to build on the momentum that completion of Phase 1 will afford. Below are items that Trademark will commit to pursue:

M. Vacant Adjacent Restaurant Acquisition

Potentially purchase and redevelop and potentially expand an adjacent restaurant which will include with new site lighting, landscaping and parking.

N. Two Level Bookstore Addition

Potentially build an additional approximate 25,000 to 35,000 square foot bookstore that will front the main street and may connect to the food court and 2nd level of the mall. Demolition of existing mall space, service court and relocating utilities will be required.

O. Additional Space Recapture

Endeavor to recapture and demolish existing space into new tenant ready space with a service corridor. Approximately half of the new space will front the new main street and approximately half will face the interior of the mall. Interior and exterior spaces will share the common service corridor leading to an exterior service court. Converting the additional space to more traditional retail space could improve sales materially.

P. New Addition

Potentially construct additional space and recapture existing exterior vacant space to connect the face of the existing mall and front new Main Street. This would require the demolition of approximately 9,000 square feet of existing under-utilized space and the addition of approximately 20,000 square feet of new space. We also anticipate an approximate 130 to 145 room hotel. Additional new retail and restaurants of 65,000 square feet are contemplated and would most likely require new structured parking. Approximately 10,000 to 15,000 square feet of office above retail is also contemplated.

**Exhibit D
IMPROVEMENTS**

	<u>Phase 1</u>	<u>Phase I & II</u>
On-site Infrastructure		
Parking	\$2,967,040	\$12,789,820
Utilities/Sitework/Site Lighting	1,384,700	2,473,700
Interior/Exterior Public Improvements	11,935,081	12,903,081
Total Onsite Infrastructure	\$16,286,821	\$28,166,601
Off-site Infrastructure		
Traffic Signal/Median/Auxillary Lanes	\$915,000	\$915,000
Total Onsite Infrastructure	\$915,000	\$915,000
Project Amenities		
Hardscapes/Streetscapes	\$368,689	\$2,095,319
Fountains/Site Amenities	3,473,297	5,145,173
Public Art	122,000	582,033
Total Project Amenities	\$3,963,986	\$7,822,525
	\$21,165,807	\$36,904,126

Exhibit E
PROPERTY DESCRIPTION

Exhibit 2A

Legal description of the land:

FIELDNOTES FOR 59.402 Acres, more or less, (2,587,543 square feet) being all of LOTS ONE (ONE) AND TWO (2A), BLOCK ONE, (1), PADRE STAPLES MAP, a Subdivision of the City of Corpus Christi, Nueces County, Texas, a map of which is recorded in Volume 52, Pages 123-125, Map Records of Nueces County, Texas; and all of LOT B 3, MT VERNON SUBDIVISION UNIT NO. 1, a Subdivision of the City of Corpus Christi, Nueces County, Texas, a map of which is recorded in Volume 51, Page 104, Map Records of Nueces County, Texas; and all of LOT D, MT VERNON SUBDIVISION UNIT 3, a Subdivision of the City of Corpus Christi, Nueces County, Texas, a map of which is recorded in Volume 51, Page 92 and 93, Map Records of Nueces County, Texas, said 59.402 acre tract being more fully described by metes and bounds as follows:

BEGINNING at a 5/8th inch iron rod found on the southwest right-of-way of McArdle Road, a public roadway, on the east corner of a 7.245 acre tract, designated as a Public Park on the map of Mt. Vernon Subdivision Unit 3, a map of which is recorded in Volume 19, Page 64, Map Records of Nueces County, Texas, same being the north corner of Lot 2A, and of this tract;

THENCE, South 60 deg. 59 min. 30 sec. East, along the southwest right-of-way of said McArdle Road, a distance of 564.00 feet to a drill hole found for the east corner of said Lot 2A, and a corner of this tract;

THENCE, North 29 deg. 00 min. 30 sec. East, a distance of 6.00 feet to a drill hole found by the north corner of Lot 1A, and for a corner of this tract;

THENCE, South 60 deg. 59 min. 30 sec. East, continuing along the southwest right-of-way of said McArdle Road, a distance of 930.92 feet to the north corner of a right-of-way conveyed to the City of Corpus Christi for street purposes as shown on deed recorded in Volume 1773, Page 548, Deed Records of Nueces County, Texas, and a corner of this tract;

THENCE, South 60 deg. 13 min. 58 sec. East, along the southwest boundary of said right-of-way conveyed to the City of Corpus Christi, a distance of 365.77 feet to a drill hole found on the west boundary of South Staples Street, a 100 foot wide public roadway, for the beginning of a non-tangent curve to the right whose radius point bears South 75 deg. 59 min. 59 sec. West, a distance of 1218.11 feet and having a central angle of 15 deg. 50 min. 51 sec., a radius of 1218.11 feet, a tangent length of 169.54 feet, and an arc length of 336.92 feet;

THENCE, with said non-tangent curve to the right, along the west right-of-way of said South Staples Street, an arc length of 336.92 feet to a drill hole found for a corner of this tract;

THENCE, South 01 deg. 50 min. 50 sec. West, continuing along the west boundary of said South Staples Street, a distance of 370.86 feet to a drill hole found for the point of curvature of a circular curve to the right whose radius point bears north 88 deg. 09 min. 10 sec. West, a distance of 1665.41 feet, and having a central angle of 14 deg. 45 min. 21 sec., a radius of 1665.41 feet, a tangent length of 215.65 feet and an arc length of 428.91 feet;

THENCE, along said curve to the right, continuing along west right-of-way of said South Staples Street, an arc length of 428.91 feet to a 1 inch iron pipe found for the east corner of Block J, Mt. Vernon Shopping Center, a map of which is recorded in Volume 24, Page 6, Map Records of Nueces County, Texas, and for a corner of this tract;

THENCE, North 60 deg. 56 min. 45 sec. West, along the northeast boundary of said Block J, a distance of 241.76 feet to a 5/8th inch iron rod found for the north corner of said Block J, same being an interior corner of this tract;

THENCE, South 29 deg. 03 min. 15 sec. West, a distance of 183.40 feet to a 5/8th inch iron rod found on the northeast right-of-way of South Padre Island Drive, also known as State Highway No. 358, for the west corner of said Block J, same being the lower south corner of said Lot 1A and of this tract;

THENCE, along the northeast right-of-way line of said South Padre Island Drive as follows:

North 60 deg. 56 min. 45 sec. West, 118.88 feet to a concrete monument;

North 65 deg. 14 min. 15 sec. West, 200.50 feet to a concrete monument;

North 60 deg. 57 min. 30 sec. West, at 1278.14 feet pass the west corner of said Lot 1A and the south corner of Lot B 3, in all a total distance of 1696.13 feet to a 5/8th inch iron rod found for the south corner of said Lot B 3, Mt. Vernon Subdivision Unit No. 1, a map of which is recorded in Volume 50, Page 113, Map Records of Nueces County, Texas, same being the west corner of said Lot B 3 and of this tract;

THENCE, North 29 deg. 02 min. 30 sec. East, a distance of 420.76 feet to a 5/8th inch iron rod found at the southwest line of said 1 of 2A, for the east corner of said 1 of B 1, the north corner of said 1 of B 2 and an interior corner of this tract;

THENCE, North 60 deg. 57 min. 30 sec. West, at 145.14 feet pass a 5/8th inch iron rod found for the south corner of said Lot D, and the west corner of Lot 2A, in all a total distance of 286.76 feet to a 5/8th inch iron rod found at the west corner of said 1 of D and of this tract;

THENCE, North 29 deg. 02 min. 30 sec. East, a distance of 166.26 feet to a 5/8th inch iron rod found for the north corner of said Lot D, and for a corner of this tract;

THENCE, South 60 deg. 59 min. 30 Sec. East, a distance of 141.62 feet to a 5/8th inch iron rod found at the east corner of said Lot D, same being the south corner of the aforementioned 7.245 acre tract, and the beginning of a circular curve to the right whose radius point bears South 59 deg. 44 min. 14 sec. East, a distance of 3911.83 feet and which has a central angle of 04 deg. 35 min. 44 sec., a radius of 3911.83 feet, a tangent length of 156.96 feet and an arc length of 313.76 feet;

THENCE, along said curve to the right, along the common boundary of said Lot 2A, and said 7.245 acre tract an arc length of 313.76 feet to a 5/8th inch iron rod found for the point of curvature of a reverse curve to the left whose radius point bears North 55 deg. 08 min. 30 sec. West, a distance of 2783.83 feet, and having a central angle of 05 deg. 51 min. 00 sec., a tangent distance of 142.24 feet and an arc length of 284.23 feet;

THENCE, along said curve to the left, continuing along the common boundary of said Lot 2A, and said 7.245 acre tract, an arc length of 284.23 feet to a 5/8th inch iron rod found for the point of tangency;

THENCE, North 29 deg. 00 sec. 30 min. East, a distance of 19.00 feet to the POINT OF BEGINNING, said containing 59.402 Acres (2,587,543 square feet) of land, more or less.

BEING the same land shown on the ALTA/ACSM Land Title Survey last revised December 24, 2003, prepared by Urban Engineering under Job No. 17576.A3.